

Gudrun M. Grabher
Ursula Mathis-Moser (Ed.)


new academic press

Regionalism(s)

A Variety of Perspectives from
Europe and the Americas

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edited by
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Foreword

Over the course of the past two decades, the University of Innsbruck has established several Centers for Area Studies as part of its International Services: the Canadian Studies Centre, the Center for Inter-American Studies, the Interdisciplinary France Focus, the Italian Center, and the Russian Center. Their objective is to support and intensify scientific cooperation in all disciplines. Since each of them, by its very nature, focuses on a specific area or region, they jointly organized a conference on the highly topical issue of "Regionalism(s)" in November 2013, with renowned speakers representing and/or discussing specific aspects of one particular region. The volume at hand presents the proceedings of that conference.

The concept 'region' plays a major role in a number of different disciplines, from geography to sociology, from law to political science, from economics to history. The papers collected in this volume shed light on the complexity of this issue from multiple perspectives. Not only do the approaches vary in regard to scholarly discipline — legal, political, historical, sociological, geographical, political —; the authors come from different countries and continents and thus represent different scholarly traditions, different academic conventions, and different cultural backgrounds.

In her profound introductory essay, *Anna Gamper* provides a legal perspective on the topic, dealing with the vast range of meanings of region, from small territory to macroregion. An expert in Constitutional Law, *Gamper* stresses the necessity to differentiate between regions in federal states on the one hand, and regions within unitary states with a decentralized administration on the other, and discusses the challenges that are to be faced. The book is then divided into three sections. The first one, titled "Case Studies of Regionalism(s) in Europe on a National Level," offers perspectives from Italy, France, and Russia. In his essay about "Italy's Odyssey between Federalism and Regionalism," *Jens Woelk*, professor of Comparative Constitutional Law, draws a detailed and subtle picture of the long and complicated process of implementing the federalization reform in Italy, diagnosing a rather gloomy prospect for regionalism in Italy in view of the current economic and political problems the country is facing. In his analysis of the history and situation in France, professor of Public Law *Jacques Fialaire* convincingly demonstrates that France, unlike a number of European states, has been more than hesitant to adapt to regionalism

with various forms of institutional asymmetry. He argues that, on the one hand, a strong preference for the unitary centralized model accounts for this reluctance. On the other hand, it is a lack of constitutional framework that prevents regionalism from progressing to a different level. He concedes, however, that some progression can be noticed in regard to individual overseas entities. *Natalia Zubarevich*, a professor of Geography at Moscow University, ventures a new and interesting strategy to deal with Russia's regions. Rather than sticking to the traditional geographical division of Russia into 83 regions, she proposes a concept of four Russias, basing her approach on the center-periphery model, which she deems useful to describe the internal heterogeneity of her country. In the second part of the book we are confronted with three different perspectives on "Regionalism(s) on a European Level and Cross-Border Cooperations." Political scientist *Doris Dialer*, who is a MEP Media & Policy Advisor in the European Parliament, offers her inside knowledge of the regional policy power of the EP and analyzes the role and contribution of institutions. The Treaty of Lisbon, as she argues, has not only increased the parliamentarization of the EU but is also an important foundation for enhancing the regional policy power of the EP in the next legislative period. The emphasis of *Clemens Lammerskitten's* essay is on the work of the Congress of Local and Regional Authorities of the Council of Europe in the field of regional democracy. Himself a Member of Parliament of Lower Saxony, he identifies three texts as major instruments — the draft of the "European Charter of Regional Self-Government" (1977), the "Declaration of the Reference Framework of Regional Democracy 2009" and the "European Charter of Local Self-Government" (1985) — and analyzes their impact on the improvement of regional self-government in the context of the Council of Europe. A political scientist by training, *Matthias Fink* has been representing the Land Tyrol within the Joint Office of the European Region of Tyrol — South Tyrol — Trentino since 2010. In his essay he deals with this political project and illustrates how the three *Länder*, having obtained the necessary legal basis, develop cross-border projects and coordinate common initiatives.

The three essays in the third and last part of the book leave Europe behind and cross the Atlantic Ocean, heading towards the Americas. With a paper each on South America, the USA, and Canada, this section contains perspectives on regionalism(s) on both the Northern and the Southern continent, again, however, with a special focus in each case. In the first of these essays the focus is on Brazil, or rather Southern Brazil, to be more precise. *Virginia Etges*, professor of Human

Geography in Brazil, perceives a significant progress in the discussion of territorial development processes having taken place in the first decade of this century. This discussion has given special attention to the local and regional dimensions. A movement towards regional development, in the sense of the social construction around common interests in a territory, has also occurred in Southern Brazil. However, as *Etges* argues, this development has been challenged by global forces and the hegemonic interests of large organizations. Nevertheless, as she convincingly demonstrates, regionalizing forces have not only been strengthened in their organizational structure but have also found ways and means to counterbalance the global forces. Both in a national and a global context, historian *Robert Tinkler* takes a closer look at one of the most peculiar of all U.S. regions, the South. As difficult as it is to define the American South, as undeniable is the lasting impact of the Euro-Americans' efforts to subordinate African Americans in this region. Even today, as *Tinkler* points out, this legacy is central to the American South. But he also elaborates on the immigrant experiences of South Asians and Latinos, and the changes that the 20th and the 21st centuries have brought about. Last, but not least, we get insight into a very specific region of Canada, namely Quebec. In her essay, professor of Sociology *Elke Winter* discusses regionalism(s) in connection with Canada's multiculturalism and demonstrates how it (they) influence federal policy and vice versa. She reaches the (surprising) conclusion that under the Conservatives multiculturalism has come very close to resembling Québécois interculturalism.

As this brief overview has made evident, the emphasis here is indeed on the *variety* of perspectives on regionalism(s). In view of the numerous and innumerable regions worldwide, this volume offers but a small eclectic portion of the vast manifestations of 'region'. In regard to scholarly disciplines, it is mind-boggling, navigating us between different perspectives, methods, and scientific terminologies. In terms of practical experience, it is an eye-opener, revealing the genesis from theoretical conceptions to down-to-earth realities. Rather than confusing the readers, however, we hope that this collection of essays will invite them to join us on this mental journey through European and American regions, through geographical, legal, political, historical, cultural, and sociological considerations and argumentations of what is and makes a 'region,' so that we may return home to our own region with an enriched, even though perhaps challenged, notion of what defines the territories we inhabit.

Gudrun M. Grabher/Ursula Mathis-Moser

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Approaching the Complexity of 'Region'

Regions and Regionalism(s): An Introduction

Abstract: Regionalism, once described as the “little brother” of federalism, has traditionally been linked to the notion of a nation state. Especially in the 1970s, regionalism became the epitome of the various processes following the political demands for a “renaissance of the regions” as autonomous or even independent entities. Today, regionalism assumes a plethora of different meanings, as the term “region” itself can be deployed in diverse contexts and thus range from a small territory to a macroregion of the world. In constitutional terms, a distinction must be made in particular between regions of federal or quasi-federal states and decentralized administrative units within unitary states. The intermediate position of regions, however, exposes them to serious risks, since their autonomy depends on national constitutions, which are themselves bound to inter- or supranational law and rather seek to tackle the present crisis by endorsing centralizing measures. Pleading principles such as closeness to the citizens, subsidiarity, and multiculturalism, regions in Europe increasingly respond to these challenges by cooperating with each other and the EU level across national borders, while others even demand full independence.

I. Polymorphism in Regional Design

As early as in 1970 Ivo Duchacek wrote: “Federalism has now become one of those good echo words that [...] may mean all things to all men [...]. We see the term applied to almost any form of pluralism and cooperation within and among nations” (190). This is, however, also – and probably even more – true for the term “regionalism.” Once described as the “little brother” of federalism (Häberle 445), regionalism today is as polymorphic as the word region itself. The different connotations of regions and regionalism have little more in common than the original meaning of the Latin *regio*, namely a certain

¹ I am grateful to Univ.-Ass. Dr. Maria Bertel for her assistance in editing the footnotes and in-text citations.

territory demarcated from other territories.² This implies territorialism,³ but also pluralism and diversity, since regions need to be distinguishable from each other alongside characteristics that allow the recognition of a territory as a peculiar region. Whether these features have a more topographic, cultural, economic, social, political or legal nature or whether they combine all of them, neither affects the basic definition of the term "region" nor that of "regionalism."

Regionalism stands for a territorial division based on regions in whatever sense, but it also stands for the advocacy of the particularity of regions. Particularities entail the question of how they should be treated. Awareness of *the* regional does not emerge merely within a respective territory, but usually outside as well – sometimes mingled with approval, but often also with suspicion or even refusal. In reaction to this, regions usually strengthen their efforts to protect their particularities, which stimulates the idea of regional identity and thus furthers the political dynamics of regionalism.

Though regions in the most common sense have existed since the beginning of history, the political idea behind regionalism is much younger. It mainly dates back to the end of the 19th century and, following the emergence of nation states, became more prominent in the 20th century (cf. Ribhegge; Wiedmann, *Idee* 23). Especially in the 1970s, regionalism was the epitome of the various processes following the political demands for a "revolution" or "renaissance" of the regions as autonomous or even independent entities.⁴ Regionalism, however, does not just apply to the relationship between central governments and regions within nation states. Regions in the historical, geographic, cultural, or economic sense are not necessarily grouped along national borders. For some decades, and increasingly so, regionalism has thus gained an additional cross-border dimension: An early step in this direction was taken by the Council of Europe in 1980 when the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities was opened for signature.⁵ In 2013, Protocol no 3 to this Convention, which encourages regions to establish Euroregional cooperation groupings, entered into force.⁶ Another remarkable step was taken in 2006 when the EU regulation 1082/2006 on European Groupings of Territorial

2 Details are given by Gamper, *Regionen* 69.

3 See, most recently, Burgess 197.

4 For further reference, see Gamper, *Regionen* 74, fn 312.

5 So far, 38 states have ratified the Convention (in force since 22 December 1981).

6 So far, six states have ratified the Protocol (in force since 1 March 2013).

Cooperation was passed, which enables neighboring regions that form part of EU member states to cooperate in areas which fall into their common interest (EU Official Journal L 210 of 31 July 2006, as amended by EU Official Journal L 347 of 20 Dec. 2013). Although this development clearly indicates both that regional borders may cross national borders and that transnational interregional activities need to be formalized by granting regions the right to establish themselves as legal persons within a legal framework, due respect is still paid by these instruments to national sovereignty and by the enabling of national legislation that must be heeded by "Euroregional" activities.⁷

Depending on the respective concept of "region," regionalism thus has many and changing faces. It follows an either more static or a more dynamic approach, since it implies either the development of or towards regionalization or a status where a distinctive regional identity already exists. In all cases, regionalism advocates the distinctiveness of a territory, irrespective of whether this concerns very small territories, including city states (Slack and Chattopadhyay 18 ff), or macroregions that do not just transcend national borders but comprise nation states as a whole.

II. The Legal Dimension

A) *Regionalism and Federalism*

Among the different types of regions and regionalisms, some are more distinctive than others. These are the regions that are legally recognized as "regions." Again, however, their legal status is not at all uniform. They are, on the contrary, highly heterogeneous both with regard to their legal basis and legal position entrenched therein. Regionalism accordingly ranges from modest attempts to divide a state into administrative units to the full-fledged status of constituent states within federal systems or to the establishment of interregional groupings whose primary foundation is entrenched in international or EU law. Some regions are recognized by law, even though there is little regional "tradition" as a background. Such examples can particularly be found in middle and Eastern European states where regions are usually established as decentralized units of national administration with a view to gain access to the EU cohesion funding (Filippetti and

⁷ With regard to restrictions imposed on the EGTC, see Obwexer 47.

Reggi 339). Other regions may be absolutely denied legal recognition, even though they exist in a cultural, geographic or economic sense. Where regions become the components of a federal system, they are regions in either sense: They usually possess a full-fledged extra-legal identity of their own, but they are also constitutionally recognized.

In the following, the varying types of regions as they are recognized by law shall be analyzed from a comparative perspective. Regionalism, too, varies with the type of region and may thus reach a legal dimension or remain on a merely political level, transcend national borders or keep its strategic role vis-à-vis the central government. Where regions have gained the most advanced position under national law, namely where they are the constituent units of federal states, regionalism turns into federalism. Whether federalism is just a very particular subspecies of regionalism or whether it constitutes a species of its own depends on the definition that is used. Some scholars argue that the idea of federalism – as an organizational compromise between the principles of unity and diversity – is not limited to regions, but also extends to local communities or even to nation states that are assembled in confederal contexts.⁸ However, as regards the most classical and widespread variant of federalism, i.e. the federal state composed of territorial units, regionalism seems to be an appropriate generic term. In this context, at any rate, it seems advisable to use regionalism as the more general and federalism as the more specific term. In Belgium, however, three linguistic communities – the Dutch-speaking, French-speaking, and German-speaking communities – are components of the federal system as are the regions, which shows that, in exceptional cases, “federalism without regions” is possible (cf. Lépine 311-333).

B) *The Constitutional Status of Regions*

1. *Concepts*

Regions in individual federal states bear different names, such as “states,”⁹ “territories,”¹⁰ “provinces,”¹¹ “*Länder*,”¹² or “cantons”;¹³

8 For further reference, see Pernthaler, *Staatslehre* 288.

9 As in the United States, Australia, and India.

10 As in Canada and Australia.

11 As in Canada and South Africa.

12 As in Austria and Germany.

13 As in Switzerland.

more generically, they are often called the "constituent states" (Pernthaler, *Staatslehre* 294-295; Starck 42-43) or "constitutional regions" (Wiedmann, "Abschied" 545-548; Palermo and Santini 9-11). The terminology is misleading since "state" is the usual indication for the federal state as a whole and/or just for the federal tier. "Territories" or "provinces" are terms also used for the territorial subdivisions in many decentralized unitary states. A "constitutional region," finally, indicates a region which has a constitutional status. Such regions, therefore, are not merely entrenched in any piece of national legislation, but in the national constitution.¹⁴ Accordingly, their status is much better protected than that of "ordinary regions," since the constitution would have to be amended in order to abolish these regions or change their present status. It is, however, not just the constitutional entrenchment of a region that is important, but the kind of constitutional status they are endowed with. Even unitary constitutions may include provisions on the establishment of regions. But in most of these cases regions are just vaguely mentioned as possible decentralized units of national administration while their organizational and functional details need to be spelt out by ordinary legislation.¹⁵

In contrast, "constitutional regions" in the technical sense are not merely mentioned in the Constitution. Their status is fully provided for by constitutional law and may only be altered via constitutional amendment. In order to speak of federal or quasi-federal systems, moreover, the status of "constitutional regions" requires certain standards (Watts, *Systems* 9; Häberle 445-454): Regions must have autonomous competences of their own under which they can both enact and execute law on the basis of adequate financial resources, and they must be able to substantively participate in federal policy-making. In legal terms, this means that the constitution must provide for a distribution of competences which allows regions a share in both legislative and executive powers, including the competence to enact their own regional constitutions, their direct or indirect representation in federal (ordinary and constitutional) law-making as well as a system of fiscal federalism enabling them to finance the exercise of their powers.

¹⁴ States with unwritten constitutions where no such differences exist are mostly unitary states; devolution in the UK has not created constitutional regions according to the standards used here (see below). In Belgium, part of the distribution of competences is regulated by a special law that ranks between an ordinary and a constitutional law.

¹⁵ In Europe, this is the case in Bulgaria, Croatia, the Czech Republic, Finland, France, Greece, Hungary, the Netherlands, Poland, Slovakia, Slovenia, Sweden, and Romania.

Where these standards are provided and protected by federal constitutional law, "constitutional regions" – in the true sense of the word – constitute the component entities of a federal state. Not all of them should be called "constituent states," though. This term alludes to the classical "originalist" theory of federalism, according to which only those states are federal states which were historically founded through the agreement of formerly independent states ("coming-together federation"). It cannot be applied to cases where regions acquired their full-fledged constitutional status via the decentralization of a formerly unitary constitution, being established as the component parts of a new "holding-together federation." As the prototypes of federal states, namely the United States and Switzerland, influenced the "originalist" tradition, theories of federalism for a long time focused on "coming-together" federations. Only in more recent times, when cases of "holding-together federations" and "quasi-federations," where regions had only gradually approached the status of constituent states, became more frequent, has less emphasis been put on the "originalist" genesis of a federal state (Gamper, *Regionen* 60-68; Häberle 427). Accordingly, it is considered possible for a unitary state to transform into a federal state via constitutional amendment. The requirement, however, is that such "constitutional regions" hold their position not only at the discretion of the federal level, but that they can themselves substantively partake in all procedures that concern their future status, namely federal constitutional amendment procedures.

Applying the term "states" to the constituent units of federal systems has been inherent in US federalism, which was founded through the ratification of the new federal constitution by 13 states that had previously formed a confederacy. Due to this historical prototype, a major part of scholars on federalism argues that the constituent units of federal states partake in the quality of "statehood" as well as the federal state, even though it is a limited kind of "component statehood."¹⁶ Fewer scholars advocate a restriction of statehood for the compound state as such or a replacement of the concept of "statehood" by the concept of "law," as maintained by the Kelsenian School of Legal Positivism.¹⁷ Constitutions differ, however, whether they recognize regions as "states" or not. Particularly in those quasi-federal systems where regions gained their status through the decentralization of a formerly unitary constitution, such as in Italy or

16 For further reference, see Pernthaler, *Staatslehre* 294-295.

17 For further reference, see Pernthaler, *Staatslehre* 296-297; Gamper, *Regionen* 54-58.

Spain, the respective constitution still reserves the term "state" – and related terms, such as, e.g., "parliament" – for the state as a whole.

Another term that was crucial to the older theory of federalism, even though its meaning was both ambiguous and misleading, is "sovereignty." Scholars have expressed different views on whether either the federal state as a whole, the constituent units or both of them should be called "sovereign" (Pernthaler, *Staatslehre* 295; Gamper, *Regionen* 51-54). Again, the term is deeply rooted in the "originalist" theory, according to which a federal state can only emanate from an agreement concluded by "sovereign" states that retain this quality to some extent even after the federal state was founded.

Both of these examples show that the categories inherent in the older theory of federalism are inadequate to describe the status of those regions that emerged after a process of decentralization, even though their constitutional status might be as full-fledged and well-protected as that of any "constituent state" of an "original" federal system.¹⁸ Why, however, should it be impossible for a theory of federalism to consider such regions as well as the original constituent states of a federal system, especially when a constitution expressly establishes a "federal state"? Art. 1 of the Belgian Constitution, for example, calls Belgium "a federal state which is composed by communities and regions." Although Belgium formerly was a unitary state and although its constitution – which has been in force since 1831 – had a unitary character, a transformation process took place in the second half of the 20th century which established Belgium as a "holding-together federation" (Poirier 344-377).

It thus appears that the essential distinction need not be drawn between "original" and "derivative" component regions of either "coming-together" or "holding-together" federal states, but that this much rather concerns the kind of constitutional status regions are endowed with. Thus, the difference between "constitutional regions" in the aforementioned sense and any other kind of region is crucial. The relevant question in this context is, therefore, whether regions approach the constitutional status or not; whether they emerged from processes of decentralization or whether they jointly set up a federal state, is less significant.

¹⁸ For concrete examples, see P. Russell 11.

2. *Distribution of Competences*

A first essential element of this standard is a distribution of competences under which powers are shared between the federation and the regions (Watts, "Conclusions" 322; Watts, *Systems* 83-93). Sharing means that regional powers are not just delegated to the regions by a discretionary decision of an all-powerful federal government, but that they must be divided between the federation and the regions under the umbrella of the federal constitution, that cannot be amended without substantive regional involvement. Both legislative and executive powers must be distributed. It is, however, particularly vital for "constitutional regions" to be able to enact their own primary legislation and not just to implement and execute federal laws, which requires adequate institutions such as regional parliaments (cf. Gamper, *Regionen*). Their legislative competences must also include a constitution-making power so that regions may enact their own constitutions, which, like all pieces of regional law, must nevertheless observe the federal constitution. Legislative powers enable regions to make their own policies, which, according to the principle of subsidiarity, would be especially important in areas that are of particular concern to them and that they could tackle most efficiently amongst all levels of government. Easy to state *in abstracto*, it is much more difficult, however, to realize subsidiarity in the concrete form of a distribution of competences, since the latter usually emanates from political deals between both levels of government and normally follows a static concept that hardly allows for flexible "competence-switching" according to temporary notions of subsidiarity.¹⁹

Executive powers usually comprise both administrative and judicial powers, although there are some federal states in which the judiciary is reserved for the federal level.²⁰ But even in a case where the judiciary is divided, levels are usually much less separate from one another than, e.g., with regard to their legislative functions (Saunders 365-368): Channels of instances may involve both levels, including apex or constitutional courts that are needed as independent umpires between the federation and the regions, particularly when competence conflicts arise (Watts, *Systems* 9).

¹⁹ However, several federal constitutions entrench the central powers, provided that there is "need" for a uniform rule, which to some extent at least reflects the subsidiarity principle.

²⁰ For examples, see Saunders 365-366.

In most federal states, federal competences are enumerated, while the residuary competence lies with the regions. While this appears region-friendly at first glance, suggesting that a primary and general competence had belonged to the regions until federal powers were "subtracted," it need not necessarily turn out to be so (Gamper, *Regionen* 105-107; Watts, "Conclusions" 328). In truth, enumerated federal powers often are the most powerful and large in number, so that there may be very little that is left to the regions' residuary power. In many cases, however, the federation and the regions do not just have exclusive powers, but they share powers that are also enumerated, e.g. allowing the federation to enact framework legislation, while it is left to the regions to implement and execute them. Very much depends on the interpretation of competences: Hardly any federal constitution contains explicit rules as to how competences should be interpreted (Gamper, *Regeln* 31-35), so that much discretion is given to (usually constitutional) courts whose interpretation may turn out to be rather more centralistic or region-friendly (Schneider 14); this is not the least influenced by the selection of judges, who may or may not have a regional background (Gamper, "Regions" 110-111).

3. *Participation at the Federal Level*

Apart from the need to have powers of their own which they exercise at their own discretion, it is also vital for regions to partake in federal policy-making. In terms of constitutional law, this implies regional representation in the processes of federal legislation, including federal constitutional law-making. With very few exceptions, regions are not directly and individually involved in such processes, but are represented by bodies such as federal second chambers and/or other, more informal committees where regional representatives are assembled (Saunders 356). While the US and Swiss models of a federal second chamber establish a system of perfect bicameralism where the second chamber is as powerful as the first chamber so that it may successfully veto any bill passed by the first chamber, a majority of federal states follows an imperfectly bicameral system where the second chamber is weaker than the first chamber (Gamper, "Theory" 1315; Leunig 295). Inefficient representation of regional interests, however, does not only arise from lacking veto rights; it is also a problem where second chambers, though they are constitutionally conceived to work as regional representations, in truth represent other interests, such as those of political parties. This has led to much criticism not only calling such chambers into question, but challenging

the principle of federalism as such.²¹ It has also led to the establishment of alternative bodies that, often at the informal level, seek to counteract the inefficiencies of the formally responsible bodies (cf. Saunders 376).

Apart from purely representative bodies, regions partake in all kinds of intergovernmental relations with each other, with the federation and other possible levels of government, particularly the local level. For this purpose, intergovernmental conferences, liaison offices, inter-state agreements or constitutional obligations to cooperate and mutually consider each other can frequently be found in federal systems (Saunders 375-378). Whether they operate efficiently in practice or remain cumbersome mechanisms mainly depends on the political framework. Intergovernmental relations are particularly important in the system of European multi-level governance, where regions need to represent their interests not only at the national, but also at the EU level.

4. *Financial Resources*

Adequate financial resources are indispensable for the exercise of regional competences (Watts, *Systems* 9; Shah 392). A crucial question, however, is whether these resources derive from autonomous regional taxes or whether regions receive their revenues mainly from federal transfers. In many federal states, systems of financial equalization have been established which allow regions partly to levy their own taxes and partly share revenues from taxes levied by other tiers with them. Financial equalization is particularly important, though also controversial in countries with big economic asymmetries between regions, since this requires the richer regions to support the poorer regions, which often raises tensions between them.

Regions may be involved in fiscal federalism in highly different ways (Shah 371-392). The intergovernmental nature of financial equalization makes it important to cooperate with other tiers formally or informally: While federal states are normally designed as dual systems of government, local government comes into play when financial resources need to be distributed among all tiers of a multilevel state.²² Competition between the tiers or between the regions themselves

21 The intrinsic relationship between the territorial roles of second chambers and federalism is emphasized by M. Russell 105-117; Luther 29.

22 The involvement of local government in fiscal arrangements is stressed by Steytler 418 ff.

when they struggle for financial resources may enhance the innovative potential and competitiveness of regions, but may also increase political and economic tensions between them.

Moreover, the financial and economic crisis threatens federal systems, since crises tend to promote centralizing measures for reasons of coherence and efficiency. Especially in EU member states, regions have recently been put to veritable tests as to whether they are able to contribute sufficiently to the national endeavors to cope with the crisis without losing their financial and budgetary autonomy.

C) *Constitutional Regions, Federalism, and Quasi-Federalism*

Regions that fall into the category of “constitutional regions” can be found in “classical” federal states such as the United States, Canada, Germany, Switzerland, or Austria. Some such regions, however, can also be found in states which are on the brink of federal states, namely strongly decentralized unitary or so-called “quasi-federal” states. Their regions have legislative powers of their own, even though some of the other characteristics may, to some extent, fall short of the usual standards. Illustrative examples are the Italian regions and Spanish autonomous communities which possess both legislative and executive powers, alongside the necessary governmental and parliamentary structures, as well as financial resources of their own. In both cases, second chambers based on territorial representation exist. And yet, a substantive constitutional autonomy and a political culture where these second chambers operate as regional representations are lacking. Still, however, these structural differences to “original” constituent regions of federal states are not striking. It is thus not surprising that both the Conference of European Regions with Legislative Power (REGLEG) and the Conference of European Regional Legislative Assemblies (CALRE) also include the Italian and Spanish regions.

III. Asymmetric Regionalism

In particular cases, constitutional regions have a strongly asymmetric status – either in comparison to that of constitutional regions in general or to the otherwise unitary character of the state they belong

to.²³ One case in this context relates to “devolution,” which is a highly peculiar form of regionalism “invented” in the United Kingdom (Jeffery 433-446). In 1998 and the following years, power was devolved to Scotland, Wales, and Northern Ireland (Northern Ireland Act 1998, Scotland Act 1998, Government of Wales Act 1998/2006). While England still remains outside the decentralization process (Jeffery 435), these three regions received primary or at least secondary legislative powers and established their own legislative assemblies. Nevertheless, the United Kingdom is far from being a federal state: The Westminster Parliament retains its overall competence to legislate in devolved competences,²⁴ even though it has developed a “soft” practice that this will happen only with regard to Scotland if the Scottish Parliament has given its consent (*Sewel Convention*).²⁵ The House of Lords, moreover, is no regional second chamber, so that the three regions have no particular representation of their own when Acts of Parliament are passed. Indeed, members from Scotland, Wales, and Northern Ireland sit in both Houses and may partake even in those legislative processes that concern England only.²⁶ They do not, however, constitute a chamber vested with veto rights. Thus, the very essence of federalism, i.e. regions with the power to substantively influence federal law-making, including federal constitutional law-making, has never been part of the UK’s devolution system.

Moreover, devolution in the UK is an example of “asymmetric” regionalism. Asymmetries are less typical of “classical” federal states,²⁷ while they can much more frequently be found in quasi-federations with a formerly unitary constitution. The unitary character of “classical federalism” stems from the concept of a federal compact concluded between states that claim an identical legal status after the federal state was founded (Palermo, “Asymmetrie” 10). This is illustrated, e.g., by the equal number of two senators that represent the 50 states in the US Senate, even though the states differ widely from each other when it comes to territorial size, population number, economic growth, etc.

23 For a comparative perspective, see Palermo, Zwilling, and Kössler; Palermo et al.

24 See Sec. 5 para. 6 Northern Ireland Act 1998, Sec. 28 para. 7 Scotland Act 1998, Sec. 107 para. 5 Government of Wales Act 2006.

25 See Bowers.

26 For the so-called “West Lothian Question,” see Leyland 206-207.

27 Asymmetries are inherent in federal systems in so far as federalism is the very principle that enables diversity between regions (Palermo, “Asymmetrie” 9). However, asymmetric regionalism as described here means the differences inherent in the regional design itself, not those that derive from it. Nevertheless, even classical federal states cannot claim a totally homogeneous design of their respective federal system (see, with examples, Palermo et al.; Pernthaler, “Föderalismus” 26-28; and Burgess 21).

Nevertheless, such "factual" asymmetries between regions may initiate the decentralization of originally unitary states. By granting a "constitutional status" to just one particular region, while other regions either do not exist or are denied this status, even unitary states may recognize regionalism in a very specific manner, though all other parts of the country are organized according to a strictly centralistic concept. Examples of such regions can particularly be found in geographically dislocated areas such as islands: Madeira and the Azores thus have a constitutional status while Portugal is an otherwise unitary state. The same applies to the Faroe Islands and Greenland with regard to Denmark and to Åland with regard to Finland. In other cases, a particular historical identity based on the multiethnic and multicultural character of certain territories, such as in the case of Vojvodina (Serbia), are decisive for the establishment of strong autonomous regions within otherwise strictly unitary states. In all of these cases, however, the state as a whole does not become a "holding-together-" or "quasi-federation," but remains a unitary state. A counterexample to unitary states with both exceptional and asymmetric regionalism is set by the UK, since, as mentioned before, the majority of the UK's regions partakes in devolution so that it is only England that has been left out.

IV. Regionalism, Secession, and Minority Protection

Significant asymmetries between regions can, however, put the state compound at risk, since, as a second step, full independence may be desired by the autonomous region, while other parts of the country may feel neglected in their regional identities. To some extent, this was the case in Italy and Spain where some regions have a special status in contrast to other regions. Unlike the aforementioned examples, however, these states became thoroughly regionalized and thus lost their formerly unitary character, even if some of these regions still have a more privileged status than others (Palermo, "Italy" 193-194; de Witte 203-204).

Even in countries which were fully or predominantly regionalized, secession has recently appeared on the political agenda: While the Basque country has traditionally claimed independence for a long time, Catalonia has recently announced its wish for independence as well, even though it already enjoys a special autonomy; part of its statute, including the concept of a Catalanian "nation," was, however, declared unconstitutional by the Spanish Constitutional Court (STC

031/2010, 28 June 2010). A similar situation applies to the UK where the Scottish government intends to hold a referendum on independence for Scotland, which is the region with the highest degree of autonomy within the UK, on 18 September 2014. Regionalism thus gets a new meaning in these parts of Europe, since regions do not only strive for a certain degree of autonomy within a nation state, but seek independence. "Secessionist regionalism" threatens nation states as they are normally not willing to accept independence for part of their territory. It is thus remarkable that the UK Government agreed to the referendum on Scottish independence, although franchise for that referendum will be basically restricted to Scottish voters and not be given to all UK citizens.²⁸ Whether other states that are threatened by secessionist tendencies, such as, most recently, Ukraine, will strive for a compromise with regard to regionalism in order to prevent secession or rather fear that regionalism might be a first step towards further secession differs from case to case.

Surely, regionalism is a particularly useful tool in multinational states²⁹ and in states where certain regions are predominantly populated by national minorities. Regionalism offers the possibility to accommodate multicultural societies provided that they are divided on a territorial basis (Bosset, Gamper, and Öhlinger 448-449). Where multicultural societies have no territorial roots, but evenly populate the nation state's territory as a whole, however, regionalism does not serve multicultural purposes. Even in states where national minorities constitute the majority of a regional population, regionalism cannot replace individual or collective minority rights that are granted on a person-oriented, non-territorial basis. However, regionalism is a most interesting option for the political accommodation of minorities as it vests them both with autonomy and participatory powers at the central level. The situation is nevertheless different from classical federal states where the notion of "constituent peoples" is clearly distinct from the notion of a "minority," even though the numbers of "constituent citizens" may vary considerably from one region to another. In particular, regions where a national minority constitutes a majority within the regional population need to observe the rights of those other groups that form part of the multicultural society. South Tyrol is a best-practice example of a region where the rights of three different groups of Italian citizens, namely the German-speaking,

28 See the Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland of 15 October 2012, particularly paragraph 9.

29 For concrete examples, see Kössler.

Italian-speaking, and Ladin-speaking, compose a highly intricate structure which is both person- and territory-oriented (cf. Woelk, Palermo and Marko).

V. Risks and Challenges

Apart from the reluctance of nation states to acknowledge regions as "constitutional regions," fearing negative consequences for national cohesion, regionalism is slowed down or even threatened by several other centralizing tendencies, although an "era of federalism" and a European "epicentre" of federalization were proclaimed not long ago (P. Russell 13-16). In recent years, centralization has been particularly accelerated by the economic and financial crisis, which instigates even federal states to seriously reduce regional autonomy in order to stabilize the overall national budget.

Regional systems are frequently criticized as "expensive," while centralism is advocated for at least alleged reasons of economy and efficiency. In return, regions plead their innovative and creative potential, the efficiency inherent in the subsidiarity principle as well as their closeness to citizens whose regional identity and affiliation must be protected. Certain tendencies in multilevel systems such as the European Union, however, put the existence of regions at stake: While even nation states are increasingly concerned about their loss of power vis-à-vis the European Union, which, again, is accelerated by the financial and economic crisis, regions have even more reason to fear that they are regarded as dispensable intermediate levels. Their influence at the EU level is still small compared to that of other – political or economic – players: Even though they have recently gained a slightly better status through the Lisbon Treaty, which explicitly mentions regions with legislative powers,³⁰ they are denied direct approach to instruments of subsidiarity monitoring and subsidiarity action as well as all other privileges entrusted to member states only. Nor did the Lisbon Treaty alter the status of the Committee of Regions, which remains a merely consultative auxiliary body and does not only represent regional, but also local authorities whose interests not infrequently differ from those of regions that, at least in federal or strongly decentralized states, supervise local government. Even in an EU context, it is thus still the national government regions have to

³⁰ See Art. 6 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality.

appeal to first and foremost (Gamper, "Regions" 129; Panara and de Becker 306-315).

Nevertheless, regionalism is not just a concern for national governments. Regions may be older than the nation state to which they belong; they may grow in terms of ethnicity, cultural characteristics, or economy. But they do not grow along national borders in all cases or they may even have existed before such borders were drawn. Regions thus have increasingly become interested in cooperating across national borders and even constituted trans-regional "compound" regions of their own. As mentioned before, this has been facilitated by legal instruments developed both by the Council of Europe and the European Union. An even further step is the establishment of "macroregions,"³¹ which, according to the EU Committee of Regions, "are not an extra institutional tier within the European Union, but a network, a *modus operandi* or, rather, a form of joint action that involves various European, national, regional and local players, various policies and various funding programmes."³² In this case, the term "region" acquires quite a different dimension as it neither applies to a certain territorial subdivision of a nation state nor to a transregional compound region composed of parts of nation states. Rather, macroregions may be composed of nation states as a whole. While such regions are still very far from obtaining any kind of status that would be comparable to that of a nation state, the type of "macroregionalism" is not altogether new: Nation states and their boundaries have not been set in stone, but they are a rather youngish phenomenon. Processes of centralization and decentralization, pervasive throughout history, have never depended on or stopped at nation state borders, but are natural ingredients of any kind of multilevel governance.³³ Regions will thus remain players in these processes, even though in different, highly innovative frameworks of regionalism. Whether regions around the world actually prove themselves as best-practice models that overcome rather than reinvent borders, that reconcile conflicts between unity and diversity both within and across states and thus contribute to peace and economic stability, remains to be seen.

31 See generally on that term Ortino 280-283.

32 Opinion of the Committee of the Regions on "Territorial Cooperation in the Mediterranean through the Adriatic-Ionian Macro-Region" (own-initiative opinion) 2012/C 9/03.

33 See also, most recently, the Charter for Multilevel Governance, which was adopted by the Committee of the Regions on 3 April 2014.

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**Case Studies of Regionalism(s) in Europe
on a National Level**

2001. Italy's Odyssey between Federalism and Regionalism

Abstract: Italy 'invented' an innovative regional system in its 1948 Constitution. Except for the five regions with special autonomy, however, full implementation suffered from delays and opposition by the central government; as a consequence, the 'emancipation' of the regions was a long, gradual, and controversial process which, in the end, led to a form of 'cooperative regionalism.' In 2001, Italy adopted a major constitutional reform aimed at making its regional system more efficient through federalization. More than ten years later, however, further reform seems necessary. This paper will assess the long implementation process of the federalization reform, which has not only been characterized by delays and serious difficulties but, more recently, has also been negatively affected by the impact of the economic crisis. To make matters worse, there is neither a consensus nor a clear systemic approach regarding the reform of territorial governance. Thus, in the current difficult political and economic situation of the country and due to various scandals in the regions, the general prospects for regionalism in Italy are rather gloomy.

I. 2001: A Turning Point and the Start of an Uncertain Journey

2001 marks a turning point in the relations between the center and the periphery in Italy. In this year, an important constitutional reform was adopted with the aim of providing a new framework for these relations. In fact, the reform has re-written the 5th Title (*titolo quinto*) of the second part of the Italian Constitution ("Regions, Provinces, Municipalities"). As a consequence, the regions had to adopt new basic laws (Regional Statutes), but many of them did so only after considerable delay. After more than a decade, implementation of the reform is nearly complete, yet the initial enthusiasm regarding its potential of change has evaporated. There is even debate about the necessity of a new reform aimed at revising some points, addressing several unresolved issues, and changing controversial or unclear provisions. On the whole, the main objective of the reform, a "federalization" of the country, has not been reached. This is partly

due to manifold problems and delays in the implementation process, but also due to contrasting views about the very sense of regionalism (or federalism) for Italy.

The reform and its partial implementation (as well as some minor corrections) have produced a federal constitutional framework around a centralist political culture.¹ The rich regions of the North continue to demand more autonomy, while the poorer regions of the South are worried that further federalization will widen the economic gap between the two halves of the country even more. Politically, Italy similarly remains a deeply divided country, even more so after the last general election in February 2013.² However, “after the reform” is not exactly the same as “before the reform” since changes have, indeed, occurred. Hence, the central issues are how the imperfect implementation of the reform can be improved, how likely this is to happen, or whether or not it can be achieved. This paper will try to give answers to these questions by illustrating characteristic features of Italian regionalism and by analyzing its evolution in the last decade. After a brief characterization of the evolution of Italy’s regional system, the implementation process of the constitutional reform will be assessed in order to identify structural elements which permit an evaluation of recent events and offer perspectives for future development.

1 Duration as well as uncertainty about its itinerary have led the author to associate the implementation process with a long journey with unclear destination: an odyssey. The combination with the date of the constitutional reform has provoked the allusion to Stanley Kubrick’s monumental film *2001. A Space Odyssey*. Certain absurdities in both the film and in the (implementation of the) reform have cemented this choice. An excellent reconstruction of the many contradictions of the (implementation of the) reform is offered by Palermo and Wilson.

2 As a result of the general elections for the XVII legislature, the votes were substantially split between the center-left and the center-right coalitions, both at around 29 percent, with the new anti-establishment “Five Star Movement” reaching 25 percent (in the Chamber). Due to the slight advantage of the center-left coalition and a majority bonus of seats provided by the electoral law, the center left coalition obtained a clear majority in the Chamber, but not in the Senate. A government could be formed only by agreement on an overarching coalition between center-left and center-right (“wide consensus” government, *larghe intese*). The government under Enrico Letta (Democratic Party) was nominated by President Napolitano on 28 March 2013; it survived a split of Berlusconi’s party with three ministers remaining in the government (*Nuovo Centro Destra*), but was substituted on 22 February 2014 by a new one led by Matteo Renzi (Democratic Party).

II. Looking Back: An Innovative Asymmetrical Approach and Gradual Regional "Emancipation"

From the time of Italian unification in 1871 until 1948, Italy had had a unitary form of government. Regions had been introduced in the 1920s as statistical units; during fascism the provinces were the important intermediate entities between the state and the local level. It was only with the Republican Constitution of 1948 that an innovative, but also feeble, experiment with regionalization was conducted.³

However, not all regions were to be treated equally. From the very beginning, Italian regionalism was characterized by its asymmetrical design, both in the matter of constitutional law and in terms of the implementation of powers transferred to the regions. Despite constitutional provisions for one standard regional design for the whole country (articles 114 et seq. Const.), only five special or autonomous regions were established (Art. 116). All five were situated at the periphery: three in the Alpine arch in the North with linguistic minority groups, namely Aosta Valley, Trentino-South Tyrol, and Friuli-Venezia Giulia; plus the two main islands of Sicily and Sardinia. Among the reasons for establishing the special regions were international obligations imposed by the peace treaty between Italy and the Allied Powers after the Second World War and fears about a possible secession of these peripheral areas. Each of the five regions has been established with a special statute, which is essentially a basic law that has full constitutional authority.

In the face of the challenge of peripheral regions with secessionist aspirations, the constitutional experiment was to make a compromise between a federal and a unitary system. The regionalization of the whole country was meant to provide a comprehensive framework in order to avoid too great an asymmetry between the mentioned "special" areas and the rest of the territory. However, this innovative two-track regional design, laid out in the Constitution of 1948, was not fully developed until the 1970s,⁴ and it took until 1972 for the ordinary

3 This section corresponds in large parts to the reconstruction given in the brief summary of the evolution of Italy's regional system in the first part of Palermo and Woelk, "Italy Takes the Slow Boat to Federalism".

4 This is reminiscent of the much debated "English question" in the United Kingdom today: Despite devolution in Northern Ireland, Scotland, and Wales, England has remained a centralized and unitary entity.

regions to actually be invested with their devolved legislative powers.⁵ In addition, the whole regional system was intended to function according to a dualist approach, with a strict separation between the national and the regional sphere of powers. This theoretical approach of two separate spheres operating in parallel was far from the practical reality, in which a powerful center effectively continued to control the slow start and gradual increase of regional activities. The dualistic conception also revealed itself to be an obstacle to effective regional participation at the central level, which had not been foreseen in the original constitutional design.

Since the early 1970s, a permanent increase in the regional powers has gradually narrowed the gap between the so-called ordinary and special regions. Interference by the central government continued even after the transfer of powers from the state; the ministerial bureaucracy tried to delay or to obstruct the transfer of powers to the regions and their effective use by the latter.⁶ Thus, the path towards regional emancipation has been neither straightforward nor coherent. It has been strongly influenced by shifting political priorities and the Constitutional Court. In the absence of constitutionally guaranteed institutional representation of regional interests at the central level, the regions did (and do) not have any other choice than to challenge national laws in the Constitutional Court. These conflicts and the Constitutional Court rulings emphasizing cooperation and consultation led to the gradual empowerment of the regional level and to a system that can be described as "co-operative regionalism."⁷ Thus, a holistic vision, which is necessary to make the system work and to bridge the conceptually separated spheres of government as well as to

5 The North-South divide is reflected in the regional structure, which is based on entities established for statistical reasons in the 1920s. Eight of these 15 ordinary regions are in the North: Piedmont, Emilia-Romagna, Liguria, Lombardy, Marches, Tuscany, Veneto, and Umbria. Two are considered to be divided between North and South: Lazio (Latium) and Abruzzo. The other five are in the South: Apulia, Basilicata, Calabria, Campania, and Molise.

6 Examples of this centralist culture in which the state retained active powers in the regional spheres of competence are the reservation of remnants of central powers in transferred areas (*ritagli di competenze*), justified by a need to protect the "national interest," as well as a state power of giving directions in the administrative sphere exercised by the central government vis-à-vis the regional administrations (*funzione di indirizzo e coordinamento*).

7 The case law of the Constitutional Court is based upon an unwritten constitutional "principle of loyal co-operation," which the Court considers fundamental to the relations between state and regions and from which concrete obligations of cooperation and procedures of consultation have been derived.

resolve political controversies,⁸ has been gradually developed by the Constitutional Court. Based on this, a series of major reforms of the public administration and the system of local self-government were adopted in the decade between the late 1980s and the late 1990s. Modernizing the public sector and strengthening the legitimacy of the municipal level through the direct election of mayors,⁹ these reforms also had the effect of encouraging the more active regions: They started to actively develop their potential for self-government. Initially, the general devolution of powers was primarily seen as a means for reducing expenditure by the national government. But especially for the rich and industrialized Northern regions, political demands for more self-governance became an absolute priority and were also echoed by the government in Rome. Compared to some decades ago, the whole environment had changed due to a combination of external factors, such as the end of the Cold War, the consequences of globalization and of the European internal market, as well as the effects of European integration ("Europe of the Regions"), and of internal ones, such as the radical transformation of the political landscape and in particular pressures by a federalist — and on occasion secessionist — political party, the Northern League.¹⁰ Steps toward federalism were seen as a logical consequence by many

8 This is related in particular to the frequent controversies between the central government under Christian Democratic control and the "red belt" of regions in Central Italy (Tuscany, Umbria, and Emilia-Romagna), traditionally controlled by the (former) Communist party.

9 The most important legal reforms were the Law on Local and Provincial Self-Government (L. 142/1990, *Ordinamento delle autonomie locali*) and the Law on Direct Elections of the Mayor and the Provincial President as well as Presidents of the Municipal and Provincial Assemblies (L. 81/1993). In 2000, various provisions regarding local government were gathered in a Unified Text on Local Government (D. Lgs. 18/08/2000, n. 267).

10 In this context, the consequences of the collapse of the political party system in the early 1990s cannot be overlooked, as it caused the Christian Democrats and the Socialists, who had ruled the country until then in varying formations, to practically disappear. The old political class appeared largely compromised and involved in corruption scandals in the early 1990s (uncovered in the Tangentopoli/Bribesville trials in Milan). The resulting void was filled by the Northern League (reaching a peak of 20 percent in the 1996 elections) and by Silvio Berlusconi's new formation of "Forza Italia," while the former Communists and center-left forces gradually transformed into the "Democratic Party."

making federal reform a political issue;¹¹ however, such a change would require constitutional reform.

The collapse of the old political system in the early 1990s helped to increase the pace of change and a budgetary crisis made the introduction of a number of vital structural reforms even more urgent. The Italian Parliament established a bicameral commission in order to elaborate reform proposals to be subsequently approved in the formal constitutional amendment procedure.¹² Although agreement was reached on a number of important issues, in the end, political controversies provoked by the center-right opposition parties headed by Silvio Berlusconi led to the failure of this ambitious project and constitutional reform remained a mirage.

In parallel and on the level of ordinary legislation, some non-constitutional parts of the (prospective) reform had been realized by a package of laws and decrees known as the Bassanini reforms. These shifted a number of competencies to the regions, reduced supervision and control in a number of areas, and introduced the subsidiarity principle as a general parameter for the allocation of administrative functions. With the Bassanini reforms, the evolution of the system in practice had been formalized: away from "dual regionalism" and towards a model of "executive regionalism."¹³

Although this meant further integration and, at least in theory, the flexible allocation of powers according to subsidiarity and efficiency criteria, these sub-constitutional reforms did not (and could not) resolve the problem of regional participation at the central level. An

11 The North-South divide also widened in the early 1990s. Until then, there had been an unwritten agreement between the North and the South allowing Italy to devalue the Lira as a means of maintaining its competitive footing with other European countries. The economically depressed and dependent South, for its part, used public expenditure as a means of stimulating consumption. When Italy wanted to enter the European Monetary Union, pressure to reduce the public debt and overall public expenditure increased. The collapse of the North-South pact undermined the equilibrium between Northern and Southern regions on regional expenditure and tax policy.

12 The so-called *bicamerale* was established by Const. Law n. 1/1997 in January 1997. Composed of 35 Members of the Chamber and 35 Senators it worked until May 1998 under the chairmanship of Massimo D'Alema (Parlamento italiano, "Commissione parlamentare").

13 Referring to the formula of "executive federalism" characterizing the German federal system, this concept implies the asymmetrical distribution of functions with legislative powers predominantly exercised at the central (federal) level and administrative powers predominantly exercised by the regions (*Länder*), autonomously and under their own responsibility. For Italy, this meant a conceptual shift from a system based on parallel and separated spheres towards an integrated one characterized by a functional distribution of powers according to subsidiarity.

intergovernmental channel of participation, established according to the rules of "cooperative regionalism," the Standing Conference of State and Regions, was formalized and extended. The transfer of administrative competences was to be accompanied by the involvement of the Standing Conference in fundamental decisions regarding the implementation of these competences, but it essentially remained a consultative body to the government.¹⁴

III. Greater Efficiency through Federalization? The Constitutional Reform of 2001

The process culminated in the adoption of a reform package in 1999 and 2001: Three distinct constitutional amendments considerably increased regional powers, in particular those of ordinary regions.¹⁵ The first reform introduced the direct election of regional presidents (following the positive experience of directly elected mayors). It also strengthened the regions' constitutional autonomy, as the basic regional laws are now to be enacted by the ordinary regions themselves through a special procedure transforming them into self-determined "Basic Laws." By introducing into positive law what had been changed through the previous case law of the Constitutional Court, the second reform of 2001 updated the constitutional provisions concerning relations between the central government and the regions (5th Title of the second part of the Constitution). A separate constitutional law contained minor adaptations concerning the autonomous regions, which continue to operate under their special constitutional "umbrella," i.e. the respective Autonomy Statute.

The reform declares all component units of the Italian Republic to be equal – municipalities, metropolitan cities, provinces, regions, and the state (represented by the central government). This conceptual equality of all territorial units is quite unusual for a federal system, in which federated entities ("states") usually relate to the federal level, as both are vested with legislative powers, while other territorial entities,

14 The involvement of the Standing Conference is now mandatory "in all decision-making processes of regional, interregional and supraregional interest," Art. 9 para. 1 lit a) L. 59/1997. On the Standing Conference and its role cf. Pizzetti; Ruggiù; and, in English, Woelk, "What it Means to Be Special."

15 Constitutional Law 1/1999 regarding the ordinary regions and their systems of government, Constitutional Law 2/2001 containing some adaptations for special regions, and Constitutional Law 3/2001 profoundly amending articles 114-133 of the Italian Constitution regulating the relations between the state and the regions.

such as municipalities, are traditionally within the sphere of competence of the federated entities. In Italy, the competence in regard to municipalities has been exercised by the state and not by the regions (with the important exception of the autonomous regions and provinces). The declaration of formal equality shall express the concept of functional spheres rather than hierarchical levels of government.¹⁶ The two-track asymmetrical system – involving ordinary and autonomous regions – is confirmed by the constitutional reform; even further differentiation is now possible upon the request of single ordinary regions and its approval by Parliament.¹⁷ With the exception of some minor issues and details, the autonomous regions are not conceptually considered; the reform clearly concentrated on the ordinary regions. The reform amendments aimed at raising their level of autonomy and responsibility and at reducing the gap between them and the autonomous regions.

In order to achieve these objectives, the reform drastically changes the distribution of legislative and administrative powers between the state and the regions. The Constitution now lists all legislative powers of the state as well as the fields of concurrent legislation in Art. 117 Const. Now, the regions are vested with residual powers. Administrative powers are no longer connected in parallel with legislative ones, but rather distributed in a flexible manner (according to the criteria of “subsidiarity, differentiation and proportionality,” Art. 118). Preventive control of regional legislation and administrative acts as well as the Government’s Commissioner, a kind of prefect, have been abolished by the reform (Arts. 124, 125, and 127). The new provision for fiscal federalism shall allow for partial financial autonomy of sub-national entities (Art. 119). Also, in accordance with a multilevel system of territorial governance, all regions must establish a consultative body for the representation of local authorities within their territories (Art. 123).

As the constitutional reform of 2001 did not create a chamber of regional representation in the Italian Parliament, the Standing Conference of State and Regions remains the main channel for

16 Art. 114 Const. However, despite the formally declared equality of the five categories listed, so far no metropolitan city has been established and, recently, the abolition of provinces has been discussed as an option to save money by streamlining territorial government.

17 Art. 116 Const., in particular para. 3. Again, not even the Northern regions, which might profit from the provision, have forwarded such a request for more and differentiated autonomy to the Parliament.

communication.¹⁸ The direct election of the presidents of the regions considerably strengthened the Standing Conference politically; it increasingly evolved its general function of liaison and consultation. It is often consulted with regard to specific issues and the delegation of functions, and before the adoption of governmental regulations and decrees; in a number of cases, consultation even takes the form of an "agreement" (*accordo* or *intesa*) between the central government and the regional level, i.e., with legal nature compared to mere political or gentlemen's agreements (cf. Woelk, "What It Means to Be Special").

IV. One Step Forward and Two Steps Back: The Implementation Process

After the adoption of the constitutional amendments, it took nearly a decade to complete the reform. The reason was, above all, political: Especially during the five years of Berlusconi's government (2001-2006), there was not much interest in the progression of the implementation of the reform, as the center-right majority soon adopted a 'counter reform,' which, however, did not pass a referendum in June 2006.¹⁹ Although some amendments came into effect immediately, such as the new distribution of legislative powers, the new lists of powers were found to be incomplete and to contain many overlaps, giving rise to an enormous increase in the number of controversies between the regions and the state. The Constitutional Court had to face the fundamental task of redefining the competencies. Frequently, this provided a rationale for expanding the role of the central government through the assumption of jurisdiction over cross-cutting issues instead of over narrow jurisdictional matters, and the interpretation of the central government as the guardian of national interests (cf. Bin).

18 As a transitional solution, Art. 11 Const. Law 3/2001 envisaged the participation of representatives of regional and local bodies in the respective parliamentary commissions on regional affairs; however, the necessary parliamentary regulations for this integration of the commissions have never been adopted (cf. Bifulco).

19 The constitutional reform of the 5th Title was adopted by the center-left coalition in spring 2001, just before general elections. Although Berlusconi's center-right coalition won the elections and the new Berlusconi government opposed the reform, the referendum on 7 October 2001 confirmed it. In June 2006, the center-right government was defeated a second time when voters rejected the constitutional reform adopted by the center-right majority in a referendum. For a detailed reconstruction see the annual country reports on Italy in the German Yearbook on Federalism: cf. Palermo and Woelk, "Italiens Föderalismusreform"; Palermo and Woelk, "Italien auf dem Weg zum Föderalismus"; Palermo and Woelk, "Pause oder Stillstand"; and Palermo and Woelk, "Weder Beschleunigung noch Abkürzung."

A second group of reform provisions required further detailed legislation, especially in the field of fiscal federalism. Unfortunately, the center-right coalition government under then Prime Minister Silvio Berlusconi, elected immediately after the approval, did not show any interest in implementing the reform inherited from the previous government. Thus, only two statutes of implementation were adopted in 2003 and 2005, respectively,²⁰ and the issue of financial relations remains unresolved.

In addition, Berlusconi's government – including the right-wing Northern League, which sought more radical results – presented its own, more far-reaching constitutional counter-reform. This proposal affecting 53 articles of the whole Constitution was finally adopted by the center-right coalition's majority in Parliament in November 2005. However, its entry into force was prevented when 61 percent of the voters opposed it in a referendum in June 2006. This referendum took place just after Berlusconi's government had lost the general elections. Thus, the successor government under Romano Prodi and the center-left majority attempted to complete the implementation of the 2001 reform.

However, even the regions themselves were neither eager to nor diligent in capitalizing on the new opportunities, and the process of passing their new basic laws has been painfully slow. Federalism in Italy should have come about step by step, starting with the approval of a new basic law by each region, and by each region taking full advantage of the opportunities to move forward with the reform making full and efficient use of the new powers. The long delay in the adoption of the regional basic laws shows that regional politicians did not seize this opportunity and did not assume their responsibilities. While the economic and political gap between Southern and Northern regions has, at best, not diminished, the Northern League continues to demand solutions for "the Northern question." However, further differentiation – a possible way out of this dilemma – has not yet been

20 La Loggia Act (L. 131/2003) and Buttiglione Act (L. 11/2005); the latter has been reformed by L. 234/2012, which regulates the internal consequences of Italy's membership in the EU with regard to decision-making procedures as well as responsibilities for the implementation of EU Law.

actively proposed, although positively foreseen in the Constitution since the reform of 2001.²¹

European integration offers opportunities, but also potential risks for regions. The reform and subsequent legislation have recognized and strengthened the role of regions in the decision-making process through the possibility of influencing the Italian position in negotiations in Brussels, as well as regarding the autonomous implementation of EU law (Art. 117 para. 5 Const.). The Standing Conference is regularly consulted on EU matters.²² Most Italian regions have engaged in interregional networking and cross-border cooperation and opened a representation office in Brussels.²³ The open borders as well as access to structural funds are certainly huge advantages for a peripheral territory. However, the difficulties in regional participation in the European decision-making process cannot be overlooked: Apart from the general problems of small regions regarding their limited capacity and resources for active engagement, participation at the national level often remains unsatisfactory, as any presentation of a regional position first requires a majority among the 20 regions. Thus, it is hardly possible, in particular for autonomous regions, to represent or defend specific interests. Furthermore, the rules of the internal market and the imperative of a uniform application of EU Law run the risk of limiting the sphere of regional differentiation and autonomous decisions.²⁴

On the whole, after the reform, Italy can best be described as a “devolutionary asymmetric federal system in the making” (Palermo and Woelk, “Italy Takes the Slow Boat”). The term *devolutionary* is appropriate because powers have been transferred from the central

21 Article 116.3 Const. offers the possibility of “upgrading” the powers of single ordinary regions in a bilateral procedure with the state. Despite some debate and proposals, this procedure has not been used until now. Since early 2013, all three Northern regions, Piedmont, Lombardy, and Veneto, have had a President from the Northern League and there has been talk of establishing a “macroregion”; so far, no institutional proposal has been made.

22 Regions have no direct voice in the preliminary subsidiarity-control procedure introduced by the Treaty of Lisbon (Prot. No. 2); the two chambers of the Italian Parliament participate in it.

23 See e.g. the activities of a Euroregion established between South Tyrol, Trentino, and Austrian Tyrol: Since 1995, there has been a joint representation office in Brussels; in June 2011, a cross-border entity was established in the legal form of a European Grouping of Territorial Cooperation (EGTC) (cf. *Europaregion Tirol-Südtirol-Trentino*). For the activities of Italian regions, see Woelk, “Die Europafähigkeit der italienischen Regionen.”

24 Although the situation at the EU level has much improved compared to the original federal (or regional) “blindness,” the regional level is still far from being an equally considered element in the multilevel governance structure of the EU.

government to the regions; *asymmetric* reflects that there remain two distinct types of regions and the implementation of the reform differs among the regions; and *federalism in the making* is best explained by the unfinished process of implementation; in addition, even after the reform of 2001, the term *federal* does not appear in the Constitution.

V. A Long, Winding, and Rocky Road: The Constitutional Court and Fiscal Federalism

Although the reform of 2001 has brought improvements for ordinary regions, these have often been limited by the case law of the Constitutional Court. The poor quality of legislative drafting has produced an enormous increase in the controversies between state and regions, requiring the Constitutional Court to assume the role of final arbiter regarding the concrete shape of the reform. However, for the sake of clarity and legal certainty, the Court often prefers a line of continuity with the principles developed in its own case law before the reform, which, at least partly, annulled its effects.

This approach and its consequences are best illustrated by the landmark judgment 303/2003, which significantly corrected the new distribution of competencies, shifting balances back in favor of the state. In this case, the Constitutional Court applied the principles of flexible allocation of administrative functions in article 118 Const. to the distribution of legislative competencies in order to clarify their assignment in the concrete case. Thus, the criteria governing the allocation of functions in the administrative sphere (subsidiarity, differentiation, and proportionality) also determine the distribution of legislative powers, at least in controversial cases (Const. Court, judgment 303/2003, confirmed by judgment 6/2004; Bartole 578). In addition, the Constitutional Court did not treat matters which are not expressly listed as – new – residual powers of the regions, but qualified those matters as exclusive or concurrent powers – depending on their relations with other listed matters. Thereby the three criteria “borrowed” from administrative decentralization were used again and the historical evolution was also taken into account (Const. Ct. judgments 303/2003, 362/2003, and 370/2003).

This orientation and the interpretation of many state competencies as wide “cross-cutting clauses” rather than narrow “subject matters” contribute to the further reduction of regional legislative powers, since the state can continue to influence regional competence matters in

these areas, in particular where these are related to fundamental rights.²⁵ Regarding the exercise of concurrent powers, the determination of fundamental principles reserved for the state has often been controversial and has narrowed regional competence areas considerably.

The next step in Italy's federalization process was the so-called fiscal federalism reform, which introduced new rules in inter-governmental financial relations between state, regions, and municipalities in order to finally implement article 119 of the Constitution (as reformed in 2001). Greater clarity as to financial and fiscal autonomy was certainly necessary, considering the new legislative and administrative powers as a consequence of the constitutional reform. In accordance with the principles contained in Art. 119, both ordinary and special regions are required to review their financial relationships with the central government. Put simply, the so-called "fiscal federalism reform" (framework law no. 42 of 2009) is supposed to provide all regions with more autonomy as far as revenue and expenditure are concerned. Back in 2001, sub-national entities were provided with a number of new functions and, as a consequence, also required financial means to properly perform these. To this end, Art. 119 guarantees all territorial entities financial autonomy with regard to revenues and expenditure. All details have been specified in a series of governmental decrees (by-laws) whereby the central government is vested with responsibility.

The implementation of fiscal federalism according to Art. 119 Const., which only started in 2009 (i.e. eight years after the constitutional reform), aims at narrowing the gap between ordinary and autonomous regions, although it does, in principle, not apply to the latter.²⁶ Special regions negotiated bilaterally about how to participate in this new financial framework. As frontrunners, Trentino and South Tyrol signed a financial agreement defining new rules with the central government on 30 November 2009. In a nutshell, these rules consolidate the calculation of the province's participation share of 9/10 guaranteed in the autonomy statute. Consolidating the principle of derived finance, this guarantee links all provincial revenue to fiscal capacity. The agreement also provides for additional powers; the fact

25 Protection of the Environment (Const. Court, judgments 407/2002 and 536/2002), Protection of Competition (14/2004), of the private law system (359/2003), and of minimum standards concerning civil and social rights applicable in the entire territory of the state (judgments 282/202 and 88/2003).

26 Law 42/2009 on fiscal federalism does not apply to autonomous regions (Art. 27). See Palermo, Parolari, and Valdesalici; and Alber, Valdesalici, and Zwilling.

that these are not covered by additional financial resources, is seen as a contribution to the state budget.²⁷ Again, the differentiated and bilateral approach has been used to maintain the special and asymmetric situation. However, without regard for their different situations, the autonomous regions are increasingly criticized in the media for enjoying “financial privileges.”

Overall, the whole fiscal federalization process in Italy is still a work in progress, with the recent austerity measures nearly putting its implementation on hold, depriving sub-national entities of financial means, and favoring a recentralization trend, common to most fiscal reform processes in European states (cf. Alber and Valdesalici).

VI. Caught between Scylla (Spending Review) and Charybdis (Scandals and Lack of Consensus)

In the past few years, Italian regionalism has come under considerable strain. Threats to all regions came from drastic financial cuts and unilateral intervention by Mario Monti’s government in 2012 in the name of general consolidation of public finances (known in Italy as “spending review”).²⁸ The restrictive and interventionist fiscal policy already started under the Berlusconi government and is mainly a response to the pressure from international financial markets as well as to concrete requests by the EU Commission in the wake of the Euro-crisis. These severe austerity measures have often been adopted unilaterally (i.e. without proper consultation). Emblematic is the issue of the provinces.

In fact, a total reorganization of the provinces as well as drastic financial cuts regarding the “costs of politics” were announced by the Monti Government as one element of the financial restructuring of public budgets and state finances. This was justified with the

27 The “Milan Agreement” of November 2009 shall update the guarantees in the Autonomy Statute (in particular a flexible quota on top of the 90 percent guarantee of taxes raised in the provinces), regulate the financial relations, shield the provinces from central interference and – through the transfer of additional functions without resources – keep them out of any general fiscal equalization (cf. Valdesalici). The State-Budget Law 2010 (Law no. 191/2009) has confirmed the agreement and modified the 6th Title of the Autonomy Statute for Trentino-South Tyrol accordingly.

28 After the economic and financial crisis had hit and Italy’s public debt had become the target of financial speculation, Silvio Berlusconi resigned and Mario Monti was nominated as head of a “government of experts” in November 2011. This move and an austerity-oriented program were to calm the nervous markets and to regain credibility for Italy. See an overview of these measures in Alber and Zwilling.

international conditions which Italy has to fulfill as a result of the financial crisis, but also with the Italian public debate about the enormous waste and abuse of public money by superfluous and unproductive institutions. The general indignation at scandals in many regions was used by Mario Monti for severe unilateral correction measures vis-à-vis regions, provinces, and municipalities.

The provinces have faced strong criticism for some time already. Although their usefulness as an intermediate level of government without legislative powers is increasingly contested by many, their number has increased in the last decade (from 93 to 107). According to the governmental plans, the number of provinces should have been reduced by 50 percent by means of dissolution or merging with neighbors; at the same time the ten metropolitan cities were meant to be finally established.²⁹ In these metropolitan cities, which should have become operational on 1 January 2014, the position of metropolitan mayor should have unified the functions of a mayor with those of the president of a province. The new and larger provinces are intended to have fewer powers and will only have a president and an assembly; provincial governments are no longer established. These measures, which were to be implemented according to "objective" parameters (population and size of territory),³⁰ have been heavily criticized from all sides. Significant local identities, historical traditions or animosities (*campanilismo*) have not been considered at all; some provinces were established only a few years ago in order to permit a separation from an unpopular main city.³¹ Final decisions were to be adopted by the regional assemblies. The discussion on reorganization within the regions had just begun when, in July 2013, the Constitutional Court annulled the governmental provisions as unconstitutional, since the planned measures were considered a

29 D. P. R. 5.11.2012, no. 188, urgent measures regarding provinces and metropolitan cities (*Disposizioni urgenti in materia di Province e Città metropolitane*). However, the governmental decree was not converted into ordinary legislation by Parliament. Regarding the legitimacy of the planned dissolution of numerous provinces cf. Napoli; Fabrizzi; and Pirozzoli. On the metropolitan cities, see also Deodato. Before, in December 2011, Art. 23 of *Decreto legge* 201/2011 ("Salva Italia") had "emptied" the provinces of their administrative functions; in July 2012, Art. 17 of *Decreto legge* 95/2012 ("Spending Review") had introduced the territorial reorganization.

30 For the new organization of the provinces two criteria should have been applied for the dissolution or merger: In the future, provinces should count a minimum of 350,000 inhabitants and have a territory of at least 3,000 km² (later reduced to 2,500 km²). Emilia-Romagna, Lombardy, and Tuscany are the regions mostly affected by the planned reorganization measures.

31 For instance, the provinces Monza and Brianza, Barletta-Andria-Trani, and Fermo were established only in 2004 and became operational only after the elections in 2009.

radical transformation of the entire system and could thus not be carried out by governmental measures based upon "necessity and urgency."³² However, in order to avoid new elections due in a number of provinces, a provision in the "Stability Act" of 2013 allowed for these provinces to be commissioned: Currently, the normative chaos has reached new heights, since more than one third of the Italian provinces are without an elected government, but commissioned.

Due to their constitutional autonomy, the autonomous regions do not have any obligation to implement the provincial reorganization. However, in Sardinia, four new provinces were dissolved after a referendum;³³ in Sicily, the abolition of provinces was decided by the new assembly after the elections of October 2012.³⁴ Aosta Valley and the autonomous provinces of Trento and Bolzano each consist of only one province.

The example of the abolition of provinces shows that short- and medium-term financial reasons prevail(ed) over the need for a systemic approach to a (more comprehensive) reform of territorial government and governance. This has worsened in the wake of the economic and financial crisis. The provinces may be superfluous and expensive intermediate territorial entities, but their abolition was decided unilaterally by the government according to purely statistical criteria and had to be corrected several times, not least because the constitutional impact of the abolition had not been adequately considered.³⁵ This is certainly not a masterpiece of legislation for a "government of experts" or "technicians." Thus, the provinces continue to exist (apart from Sicily), while the metropolitan cities, introduced in the Constitution by the reform of 2001, still await their establishment despite the declared aim of efficiency gains through concentration and rationalization.

32 Constitutional Court judgment 220/2013. The resulting chaotic normative situation is efficiently illustrated by Fabrizio; see also the brief reflections by Staiano.

33 The four provinces established in 2010 are Olbia-Tempio, Ogliastra, Medio Campidano, and Sulcis Iglesiente.

34 A reduction from currently nine to five provinces was already under discussion once before: Trapani, Syracuse, Ragusa, and Enna were to be dissolved; in addition, there are three large city areas, namely Messina, Catania, and Palermo. A regional law of Sicily on reorganization was adopted on 19 March 2013.

35 Because the provinces are defined in Art. 114 of the Constitution, a constitutional amendment is necessary to abolish them definitely. Since it is difficult to abolish municipalities, the Monti government also introduced a number of measures forcing smaller and smallest municipalities to merge or cooperate – again, in a very centralist and exclusively efficiency-oriented approach.

Thus, more than a decade after the constitutional reform, the position of regions is much stronger, but they are still without a "voice," i.e. without effective means of participation at the central level. The political role of the regions has visibly increased through directly elected presidents (referred to as "governors" in the media) and the exercise of their own powers without preventive control (although this has led to an explosion of controversies with the central government before the Constitutional Court). Yet, the regions still have a minimal impact on national politics.

The austerity-driven emergency and urgency measures by the Monti government did not only limit regional autonomy in terms of regional powers and finance. For the autonomous provinces Bolzano/South Tyrol and Trento, they also raised doubts regarding the effectiveness of important parts of the Milan Agreement, which had been considered an important bilaterally agreed-upon safeguard for the special autonomy of the two provinces. Now, only three years later, the (financial) autonomy of these two provinces has been limited considerably despite the guarantees through the Stability Pact measures; in addition to new conditions, the new quantification parameters appear disproportionate and not in line with those criteria which the government and autonomous provinces had agreed upon in the Milan Agreement. In the two provinces, this development is observed with great concern as it raises serious questions regarding the reliability of agreements with the central government.³⁶ It also confirms that special autonomies are not considered adequately, which raises systemic questions regarding the sustainability of two distinct categories of regions.³⁷ However, these questions cannot be reduced to their financial dimension, but have to be seen in the broader context of the territorial governance of the whole country.

At the regional level, the situation is not promising. The regions have not been able to capitalize on their strengthened position. The recent intense pressure on all regional budgets due to the spending

³⁶ The provinces try to defend themselves: In the context of the financial cuts via decree by the Berlusconi government (D. P. R. 138/2011), the Italian Constitutional Court rejected two government complaints against the Budget Laws 2011 of the autonomous provinces; judgments 323/2011 and 2/2012. See the analysis by Alber and Zwilling 306-308; for the change from Berlusconi to Monti, see Alber and Zwilling 297-298.

³⁷ The different situations in the five special regions also have to be taken into account: While Aosta Valley and Trentino/South Tyrol make ample and active use of their special autonomy, the other autonomous regions do so much less. Centrifugal forces are growing: In South Tyrol, right-wing opposition parties of the German language group won seats on a platform advocating a referendum for independence in the last provincial elections (October 2013).

reviews has considerably weakened their situation and maneuverability. Even worse, adding to the general crisis of Italy's political system are scandals about the (ab)use of public money for personal matters in numerous regions, which have made the regional political class appear unreliable, incapable, and without legitimacy. They have led to the resignation of the Presidents of Sicily, Lazio, and Lombardy and to regional elections in these three regions.³⁸

VII. Ithaca not yet on the Horizon: Prospects for Regionalism in Italy

2001 marked the start of a federalization process, but thirteen years later the promised objective remains at best incomplete and seems now stuck completely. The main reasons are opposing interests and tactics in party politics, regional inertia regarding the use of new powers and political options, the conservative attitude of the Constitutional Court, and, recently, the centralist approach of the Monti government with unilateral spending cuts and fiscal measures. However, federalization seems to be sliding backwards without a comprehensive, systemic alternative. With the reform of 2001, a quasi-federal constitutional framework has been created in a political context which is – at least for the majority of the country – clearly unitary and centralist in expectations and electoral behavior.

Italy remains a divided country: geographically, economically, and politically. It is thus extremely difficult to reach a political consensus for meaningful decentralization. If reforms are adopted, the center might still obstruct their (full) implementation or instead seek to adopt a counter-reform, especially after – frequent – government changes, as the implementation of the reform of 2001 illustrates. The economic and financial crisis has worsened the situation not only due to the lack of resources, but also with its emphasis on short-term emergency or “technical” measures.

Any reform of Italy's regional system has to take into account the continuous strength (and resistance) of the center dominated by nationally organized political parties and a powerful bureaucratic

38 In 2013 in Piedmont, the regional elections of 2010 were contested and the Regional Administrative Court recently decided that they were seriously flawed, questioning the legitimacy of the current regional government. Elections were held on 25 May 2014 and won by a center-left with Sergio Chiamparino, former mayor of Turin, becoming directly elected president of the region. Regarding the political class in the regions and its delegitimization, see Cerruto; for the dissolution of the assemblies and new elections, see Coduti.

apparatus in the ministries vis-à-vis a regional level which is still relatively weak in political and administrative terms and without effective means or a voice in central decision-making.

Thus, up to the present, Italy's regional system seems caught in a *status quo*-trap: On the one hand, there is no serious interest in true reform by the political class concentrated in Rome and assisted by the ministerial bureaucracy. On the other hand, the political class in the regions was not able or willing to start a bottom-up process. But even if the current pressures from different sides were sufficient to trigger a reform process, it is by no means clear where it might lead. Recent announcements point to another reform of the 5th Title.³⁹ Although this would certainly offer the chance of addressing some of the problems of the 2001 reform, it might mean recentralization rather than a strengthening of the regions. Furthermore, a radical reform of Italy's perfect bicameral system is being discussed (as it was many times before), with the possible options of abolishing the Senate altogether or transforming it into a Chamber of Regions (and Municipalities). Upon taking office, the new head of government, Matteo Renzi, has made proposals for constitutional reform which are currently discussed in Parliament (August 2014).⁴⁰ However, a holistic, systemic vision of territorial governance is still lacking in the current debate. Without clear objectives, Italy's federalism odyssey is likely to continue in the foreseeable future.

39 In June 2013, a group of 35 experts was nominated by the president for exploring options of constitutional reform. They produced an interesting document in which, among other issues, the necessity of overcoming the perfect bicameral system as well as a disentanglement of legislative competences were stressed; see Commissione di esperti, "Relazione finale." However, these proposals have not been taken up as such after the change of government.

40 In contrast to the current Senate, the new representative body shall not be directly elected nor the number of its members reduced in order to save costs. Out of 100 members, 95 shall be elected by the regional councils among their members plus one mayor from each region; the remaining five members will be senators appointed for life-time by the Italian President. Whether regions and municipalities should be represented side by side in this new "territorial" chamber, as was proposed by the new head of government, Matteo Renzi, upon taking office (22 February 2014), is a matter of controversy. Those who are against the participation of mayors stress that municipalities, in contrast to the regions, do not have legislative powers. The traditions and vested interests of the municipal level are nevertheless strong, which makes their representation probable. For the text of the constitutional reform bill, see Atto Senato 1429, XVII Legislatura. An impressive series of amendments (more than 7,000) have been proposed by the opposition in order to block or at least delay the adoption of the constitutional reform; see the documentation of the legislative process on the website of the Italian Senate, which includes links to the different amended versions of the reform bill (cf. "DDL S. 1429 – XVII Legislatura").

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Regionalism and Decentralization in France: Appeal and Limitations of Institutional Asymmetry

Abstract: Although the political-administrative systems in some bigger European states have adapted to regionalism with forms of institutional asymmetry, there has been considerable resistance against this development in France since the 19th century. Institutional asymmetry can be understood as "the choice of subjugating a sub-state territory to a particular organization, distinct from that which governs the territories of the same type"¹ (Dehousse 283). A priori, it is the total opposite of the "unitary centralized model à la française" (Fialaire, *Subsidiarité* 11). In France, the progression of regionalism with institutional asymmetry clashes with institutional barriers. Furthermore, international law has not yet penetrated French law sufficiently. Currently we can observe a kind of regionalism that is "tamed" by the national policy of town and country planning, and an influence on regional institutions of state and communal institutional forms. We can identify a slow progression of institutional asymmetry, mainly through what is effectively an autonomy accorded to individual overseas entities (New Caledonia, French Polynesia), on the basis of the principle of "legislative specialty." Political pressure in favor of institutional differentiation is currently reinforcing the position of the regions. But the lack of constitutional guarantees remains.

I. Introduction

Even beyond the effects of the distinction between federal systems, regionalized states and unitary states, a diversification of local and regional institutions has been taking place in Europe. The French system, which has long been characterized by a strong centralism and has influenced institutional figures in neighboring states such as Spain and Italy, has a unique position within contemporary Europe. It is still opposed to a possible evolution of regions gaining greater regulatory authority or even additional legislative power to adapt to regional

¹ Unless indicated otherwise, all citations have been translated by the author.

realities of national standard (cf. Pasquier, *La capacité politique* 28). This article proposes that this obstacle, insurmountable in a framework of statutory uniformity, could be overcome by adopting a way of "institutional asymmetry." The concept of "institutional asymmetry" is borrowed from geometry – asymmetry being the reverse of symmetry, meaning the lack of a "regular distribution of parts, or similar objects, on either side of a central axis" (as defined in the French dictionary *Le Petit Robert. Dictionnaire de la langue française* 2000). "Institutional asymmetry" currently means "a tension between exemption law, admitting political regionalism, and general law, which is more restrictive" (Fialaire, *Subsidiarité* 21). Hence, "institutional asymmetry" is the opposite of traditional French political centralism. While the political-administrative systems in some larger European states have embraced various forms of institutional asymmetry, there is resistance against this development in France. The peculiar characteristics of the French model with its Napoleonic imprint are not the only explanation. Other historical factors are also of importance. The effect of the unwritten principle of territorial uniformity, which is deeply rooted in the French republic institutions, results in the same legal prescriptions for each class of local or regional authorities. What kind of freedom is there for forms of institutional asymmetry, adapted to the diversity of the regional territories?

This article takes a comparative law perspective, and, more specifically, investigates regional institutions by comparing the standards for these institutions among several European states. This approach is meant to help define the specific role of the regions in the French legal system. However, it is beyond the scope of this paper to "seize something that goes beyond a compared confrontation of technical terms" (Constantinesco 192). Therefore, this article will compare the powers of French regions and their counterparts in Europe to the legal systems of various countries oriented on "the formal representation of ideas or knowledge about a phenomenon" (Van der Helm and Meyer 141). With the aid of examples from other countries, this article aims to explore possibilities to establish in France a differentiation between standards for regional territories that rely on permanent foundations (cf. Fialaire, *Subsidiarité*).

II. Regionalism in France: A Turbulent History

The word 'regionalism' appeared in France in 1815, coined by Benjamin Constant under the monarchic government, who wrote, "Separation

and equilibrium of powers in the central institutions and the existence of intermediary and representative institutions in the periphery are altogether guarantees for the freedom and security of citizens" (Constant 204). A few decades later, it was taken up again in 1874-1875 under the republican government but was defined rather vaguely. This term is indeed loaded with history: The regionalist movements, which are considered the seed of dissolution of the national unity, have been fought since the French Revolution at the end of the 18th century. Modernity is expressed through a *tabula rasa* of the institutions of the *Ancien Régime* in order to uniformly create an administrative map of France, thereby extinguishing earlier provincial assemblies of the constituencies and the provincial parliaments.² However, the move towards centralization did not begin with the Revolution; starting in the 17th century, the absolutist monarchy also created policies with the goal of a "systematic sapping of the regional autonomies" (Deyon, *L'État* 77).³ At the same time, the French language became the national language, ruling out local and regional languages as dissidents. At the beginning of the 19th century, regionalism merged with the affirmation of reactionary ideas, reinforced by the nostalgic devotees of the *Ancien Régime*: According to Deyon, "[i]n 1815 the ultra-monarchists demanded the return to ancient provinces" (*Régionalismes* 83). By the 1850s, the regionalist ideas, which were defended by utopian socialists, had only spread in exclusive circles (cf. Proudhon).

The rebirth of the regionalist movement at the end of the 19th century was not supported within the 3rd Republic, since the movement following the philosophy of Charles Maurras based the latter's apologia of a "historic and conservative provincialism" (Masson 406) on a specific past view. Through this glorification of the rural lifestyle, an outdated idealism appeared, which was spread by the newspaper *l'Action française* and was diametrically opposed to the movement aiming at entrenching republican institutions in France which built on centralization. Subsequently, this resulted in the discredit of all forms of regionalism. The diffusion of regionalist ideas had certainly become more pacifistic at the beginning of the 20th century; the claim for autonomy based on identity (Deyon, *Régionalismes* 84) coexisted with the aspirations for liberty of initiatives in favor of regional bodies as well as the mutual and cooperative movement, supported by the *Fédération régionaliste de*

2 In the province of Berry, this type of collegian institution was previously experimented with during the reign of Louis XVI (Mestre 119).

3 In the provinces regulated like *pays d'élection*, the kingdom "let these assemblies sink into oblivion by no longer convening them" (Deyon, *Régionalismes* 77).

France, a pressure group created in 1900 (Deyon, *Régionalismes* 83). In essence, regionalism, where it claimed to steady any political autonomy of the provinces as opposed to the capital, did not find its place in a republic which symbolically embodied a national unity and which was locally rooted in communal institutions. It was, therefore, discredited.

III. Regionalism, a Counter-Culture

France only saw the reappearance of a moderate form of regionalism during the 1950s: Following a phase of the union of progressive parties as a "reaction against the regionalism of the collaboration government of Vichy" (Mény, *Centralisation* 56) this "rehabilitated regionalism" turned the region into the "natural frame of regional planning" (Deyon, *Régionalismes* 85). However, the institutional framework established during the 1960s and 1970s was far removed from the regionalist ideas that were advancing, due to a lack of representative elective bodies. In progressive political movements, the options recommending an institutional rupture remained politically marginal compared to the chief opinions of the principal decision-makers, elected on a local level or members of the official state bodies (cf. Servan-Schreiber; Rocard). More classical ideas resurfaced as soon as they competed for national political power, for instance in the common schedule for the union of the progressive parties adopted in 1972. From the 1970s onwards there was a growing resistance which questioned both the cultural uniformization caused by the monopoly of the French language as a traditional characteristic of the French republican institutions,⁴ and the liberal socio-economic model, which built upon the mobility of workers who claimed the freedom of living and working in their home region. From this, it can be seen that only very few movements, such as the local "Alsace d'abord" and the national "Mouvement Européen-France," which promoted the creation of a Federal Europe, avowed themselves in favor of regional power.

In the 1980s and 1990s, an increase in so-called "territorialized" public politics could be observed. The regions which had become full territorial entities now had contractual partnerships with the state and subregional entities. Yet, regionalism seemed to be suffocated by

4 This monopoly can be traced back to the French Revolution. A law of 1793 (2nd Thermidor, Year 2 of the Republic) states that "in all parts of the French Republic, teaching is only in the French language."

administrative technocracy. It was only at the beginning of the 2000s that regionalism reappeared through voices in favor of regional normative power (Chavrier, *Le pouvoir normatif* 21). The reference, in the Constitution, to the regions as a category of local authorities dates back to a constitutional amendment passed in 2003.

A) *Theoretical Basis*

The question of regionalism is specific to France, due to the history of the public institutions of this country. Instead of adhering to the unambiguous layman's understanding of regionalism as "politics whose goal it is to guarantee the regions a level of political autonomy" (*Dictionnaire de la langue française*), French historiography prefers to account for the regional fact by a number of criteria, especially political, geographic, and human, as well as linguistic ones.

A more progressive version of regionalism exists in political science, which conceives a region as "a space of mobilization" in rebellion against state-construction (Pasquier, "Région" 423). In this sense, the concept of "regional political capacity" has been developed; it is understood as "a complex process of defining the interests, the organization and the coordination of collective action that allows institutions and groups of public and/or private actors to regulate collective problems in fragmented and fluid contexts of action: the regional spaces" (Pasquier, *La capacité politique* 28-29).

From a legal perspective, the concept of decentralization is defined by the *doctrine française*,⁵ which is based on four generally acknowledged characteristics: a limited autonomy in conformity with the unitary sovereign state; local powers exercised by their own organs (which, ideally, are elected); one or more competences at local levels; supervision over the local authorities by state organs. The idea of a state which accepts a decentralized organization has existed in the French constitution since 2003,⁶ yet the political autonomy is contradictory to the administrative nature of decentralization.

The quest for regionalism in France tends to dissolve in the context of a decentralized administrative organization. According to François Burdeau, it is characterized as follows:

5 A first definition can be found in the *Répertoire Béquet* of administrative law, authored by Maurice Hauriou and published in 1891.

6 One part of Art. 1 of the Constitution, added in 2003, reads, "The organization [of the French Republic] is decentralized."

- Decentralization extends the local autonomy without questioning the unity of the state.
- Modifications of the administrative local system of government have almost always respected the pre-existing administrative geographical map.
- Every inferior/lower level was actually seen as a model for the superior/higher level. (209)

Burdeau also mentions the prohibition for a regional authority to exert hierarchical control on any local authority (209). The French Constitution has prohibited this power since 2003.

By permitting only an administrative decentralization which respects the exclusive competence of the unitary state in its exertion of the initial normative power, the French system does not dissociate what would relate to a specific regional autonomy from a local autonomy framed by the law and the authorities of the state. The legal theory of decentralization *à la française* states, along these lines, that “in the unitary state, not only do the territorial entities have no proper domain in which they can decide their competence as they please, since in all domains this competence comes from the state laws on which they are dependent, but, apart from that, they have no legal guarantee of the maintenance of the competences or rights that they have on account of the state law” (Carré de Marberg 488). In other words, French law has long ignored the emergence of regionalism because this movement disturbs the classically established legal categorizations and threatens the concept of decentralization.

The differences increase if one considers the growth of regional claims. On the one hand, decentralization leads to a progressive loosening of control of the state and an increasing degree of local autonomy without particular consideration of the regional level. On the other hand, regionalism promotes political rights whose expression comes into conflict with the unitary character of the state, which stands for the centrality of the institutions and of political citizenship. Institutional asymmetry can be understood as “the choice of subjugating a territory [inside the national territory] to a particular organization, distinct from that which governs the territories of the same type” (Auby 21). This option is present in Europe in unitary states like the United Kingdom, where one estimates that “asymmetry is at the heart of devolution,” which “is a form of asymmetric regionalization” (De Berranger 71). “Devolution” in the UK is “a process of transfer of legislative and/or executive power from a high political authority (parliament, government) to a lower subordinated authority, elected on a geographical basis and within a legal framework set by the

Parliament of Westminster" (De Berranger 71). One also finds it in federal states like Germany, inasmuch as there is "no homogeneity or uniformity in territorial or functional divisions" within the *Länder* (Kada 16). Yet, it is a priori the total opposite of the "decentralized unitary model à la française" (Cole 183). In the European landscape, the notion of "institutional asymmetry" has taken on a form that has, for a very long time, been rejected at the center of the French institutional system. At a reunion in Bordeaux in 1978, the Congress of Local and Regional Authorities of the Council of Europe pleaded for the recognition of a "right to regional self-government" as "an essential element of the right to difference" (Deyon, *Régionalismes* 11).

Regionalism finds no favorable field of application in the French legal system because it goes against an "imperative of uniformity of the law," expressing itself through the "uniformity of categories of territorial entities" (Faure 61). Furthermore, France has not enshrined institutional asymmetry in its system, as opposed to countries such as the United Kingdom, Spain, or Belgium. It seems to be the case that the weight of territorial uniformity pushes the issue of institutional asymmetry to the margin of the French territorial organization. Yet, the voices in favor of institutional asymmetry differentiating the regions remain present in a context of economic globalization which increases the differentiation between regional territories. Even if this ambition is faced with obstacles, the situation does not seem to be static, as will emerge from the subsequent arguments.

B) Territorial Uniformity and Regional Institutions

The French political administrative system remains, in principle, hostile towards both federalism and the consecration of a 'regionalized state.' The fact that French institutions leave little room for the consideration of regionalist aspirations clearly situates France in the category of "unitary but decentralized states, inside of which the territorial entities have only administrative competences" (Deyon, *Régionalismes* 24-25). The progression of regionalism in France clashes with institutional barriers. Furthermore, the penetration of international law is still not sufficient enough for it.

1. *Constitutional Principles vs. Regionalism and Institutional Asymmetry*

The French Constitution remains behind other institutional systems in Europe, which recognize several aspects that are beneficial to the development of regionalism and institutional asymmetry:

1. Entrenchment of regions in the supreme norm. An enumeration of such regions can be found in the Italian Constitution (Art. 131). In contrast, the recent constitutionalization of the regional collectivities in France in 2003 does not include an enumeration of French regions (of ordinary law) in the supreme norm.⁷

2. Specific rights of regional authorities. For instance, the proclamation in Art. 2 of the Spanish Constitution of 1978 promotes the unity of the Spanish nation alongside the recognition and guarantee of the "right to autonomy for the nationalities and regions of which it is composed" (Kada 18). We find no equivalent in France, where the French constitutional jurisprudence has enshrined "a legal concept of the French people, distinguished from the peoples of the overseas regions, [only them] being given the right to free self-determination" (Renoux and De Villiers 436).

3. Some cultural rights according to territorial and linguistic criteria, such as those for the three communities defined in Art. 2 of the Belgian Constitution. This option appears to be totally opposed to the French political system, in which the principles of indivisibility, equality, and secularity announced in Art. 1 of the Constitution rule out "the recognition of specific rights to the benefit of ethnic, linguistic or religious minorities" (Genevois 412). Indeed, Art. 75-1 of the Constitution, which states that "the regional languages belong to the French heritage," is only of suggestive value. Moreover, the French constitutional jurisprudence sanctions the norms "that lead to the fact that the essential conditions of the application of a law organizing the exertion of a public liberty depend on decisions of territorial entities and thus, cannot be the same everywhere in the whole territory" (Const. Court N°84-185 36 DC). This rule is strictly applied, since the constitutional court partially sanctioned an organic law in regard to an overseas territory which reserved for the state only "fundamental guarantees of public liberties" (Const. Court N°96-373 DC). The constitutional status of the public liberties in France therefore

7 As a consequence of Art. 72 al. 1 of the Constitution (from the Constitutional law of 28 March 2003), the region is among those territorial entities which have a constitutional basis.

contributes to the uniformization of the legislation in regard to territorial entities.

4. The sharing of normative power between the state and the regions. This sharing can be found in the Italian Constitution (Art. 117), which (Art. 122) states that "the electoral system, ineligibility cases, and incompatibility of the president and of other members of the regional executive as well as of regional consultants are dependent on a regional law." Nothing like this exists in the French legal and judicial systems, which admit that "all legal dispositions about Local Authorities powers may be modified by the legislative assembly" (Faure 493). Hence, there is a lack of statutory autonomy for French territorial entities (Fialaire, "Local Autonomy" 581).

5. A participation in national law-making. This principle, which is inherent to the federal system, is also found in several constitutions of unitary states. For instance, the "power of participation in functions and affairs of the state" was given to the Portuguese autonomous regions of the Azores and Madeira, and concerns "an intervention in the elaboration of political/administrative statutes, legislative initiative, participation in the preparation of monetary policy, etc." (Delcamp 311). Of course, bicameralism in France guarantees the existence of an assembly, the Senate, which "ensures the representation of the territorial entities of the Republic" (Art. 24 al. 4 Const.). However, its electoral legitimacy results from indirect universal suffrage, a list system that is used at the departmental level (and not the regional level), a device validated by the Constitutional Court stating that "the Constitution does not require that each category of local authority should have its own representation" (Renoux and De Villiers 502).

6. Statutory powers specific to the regions, such as those granted to the provinces of the Netherlands for purposes of spatial planning and urbanism. "The provincial estates establish guidelines for the provincial territory [...], which guide the permanent deputation [provincial body], when they decide about urban planning" (Delcamp 285). With the French constitutional revision of March 2003, Art. 72 al. 3 of the Constitution has added to the preexisting principle of free administration a comment in favor of territorial entities according to which territorial entities "have a statutory power for the exertion of their competences." Yet, the admission of this regulatory power that is valid for all territorial entities has no significant impact, since the governmental authorities continue to hold the legal regulatory power in matters of regional administration. During the debate about the constitutional revision of 2003, a proposition by Paul Girod, member of

the second House of Parliament (Senate), which introduced a category of "territorial laws" (*lois à vocation territoriale*), was rejected. The French regions, therefore, do not have an autonomy comparable to their equivalents in other European states because autonomy implies a regulatory power for the regional authorities.

2. *The Limited Impact of International Law*

It is worth mentioning that the recognition of cultural and linguistic identities in France is reduced by the non-granting of the corresponding rights created by international law (the European Charter for Regional or Minority Languages has not been ratified by France). The Constitutional Court has declared that this international convention does not comply with the Constitution, according to which (1) the preamble of the Charter recognizes that "everyone has the unalienable right to use a regional or minority language in one's private and public life"; and (2) some articles of the Charter stand in contrast to the principles of indivisibility of the Republic, of equality in front of the law, and of the uniqueness of the French people, namely those that claim that "collective rights are recognized for any group that is defined by a community of origin, culture, language or belief" (Const. Court N°99-412 DC). The question whether the aspirations for regional autonomy on the background of institutional asymmetry would not benefit from the defense of the rights protected by the European Convention of Human Rights (EHR Court) has no definite answer, considering the limits introduced by the EHR Court to the application of the policy of "non-interference" (Fialaire, Mondielli, and Graboy-Grobesco 462). The EHR Court estimates that "the interference in the exertion of the right to association for a petitioning political party [in the case at hand the nationalist Basque party] can pass as 'necessary in a democratic society' for 'the defense of the order' in the sense of article 11 of the Convention" (EHR Court, *Parti nationaliste basque*). The expression of demands in favor of regional identities can be regulated when it threatens law and order.

3. *Administrative Organization Schemes Ignore Regionalism*

A closer look at the French administrative institutions will confirm the weak resonance of regionalist ideals. The level of regional administration in France includes aspects stemming from pragmatic configurations adopted after World War II. The delimitation of the French regions was the result of a process of harmonization of the administrative state districts (cf. Regulatory Act [*décret*] of 2 June 1960).

Nevertheless, no specific regional model of governance exists in France, since:

1. Regionalism is "tamed" by national land development policies. A French particularity is the existence of regional administrative districts, divisions of state territory whose areas coincide with the territories of the regional local authorities. Far from being an affirmation of regionalist convictions, the motive is technical administrative rationalization, the exact opposite of institutional asymmetry. In the 1950s, the geographer Jean-François Gravier demonstrated to the French leaders the ardent need of a national land development policy. The regional administrative district of the state was dedicated to the territorial ramifications of this policy, which focuses on compensating for the economic and social regional disequilibria. After an experimental phase beginning in 1956 with the creation of program regions (*regions de programme*), this creation was generalized via decree on 14 March 1964 with the institutionalization of the prefect of the region, a civil servant whose task is, according to this regulation, "to implement governmental policy on economic development and territorial planning in his constituency." But regionalist aspirations are given a voice through the collective instances – e.g. via the regional development committees, created in 1964, where professional partners, local elected officials, and other qualified persons meet – even if these authorities only have a consultative function.

2. A careful integration of the regional bodies into the system of decentralization: from regional public institutions (1972) to regions that are territorial entities according to ordinary law (1986).

Whereas the regionalization movement gained momentum in central Europe in the 1960s-1970s, political variations slowed down its emergence in France. A reform project led to the transformation of the regions into territorial entities and to a restructuring of the second chamber of Parliament (the Senate) into an assembly with a corporative basis in accordance with the ideas expressed by General De Gaulle, first president of the 5th Republic, in a speech in March 1968. However, this project failed because it was rejected by a negative referendum on 27 April 1969. A commentator wrote that "this popular rejection has weighed heavily on the regionalist idea since the subsequent governments hesitated to launch a new reform" (Verpeaux 18). This explains why the idea of establishing regions as territorial collectivities was abandoned by the French government for some time. The Act of 5 July 1972 only created "regional public institutions" with missions which were narrowly confined to economic and social

development. Any regional autonomy was denied, as regional public bodies were regarded as mere groups of *départements*. The technocratic model (i.e. the "mechanical" subsumption of *départements* instead of "natural" regions) remained dominant.

However, a social and intellectual effervescence progressed with an increasing adherence to the idea that "the forms of technocratic regionalization of the 1960s needed an increase of democracy" (Mény, "La place de la région" 41). The law of 2 March 1982 made a little headway by granting the regions the quality of territorial collectivities as well as a deliberative assembly, put into place through a universal and direct election, and an executive elected by this assembly.⁸

4. *The Prominence of the State and Communal Institutional Forms*

The strongest indications of the "banalization" of the regional institution in France emerge if we consider the strong influence of the state and communal institutional forms. The region presents itself, above all, as an undifferentiated territorial collectivity whose organization, to some extent, takes over the communal "matrix" as well as the state architecture. This does not favor institutional asymmetry. The entirety of territorial entities is subject to a statute book (entitled *General Code of Local Communities*), which is applied to both the organization of regional deliberative assemblies and the recognition of an indirectly elected monocratic executive. Where the organization of regional deliberative assemblies is concerned, rules constructed on the basis of the long-standing practice of municipal councils have been extended to regional councils through a kind of legal mimicry. But for rare exceptions closely connected to a special status (for instance the status of Corsica Island), "in regional French institutions, the executive tends to be a presidential model, copied from the communal organization" (Fialaire, "Règles constitutionnelles" 327). This mimicry can be found in the general missions created by ordinary law on territorial entities. As Bertrand Faure emphasizes, "all proper responsibilities of the regional executive power are welded together into an organic unity: the mayor and the respective president of the departmental and regional assembly; these combine the political authority with the administrative direction of services" (Faure 223).

The economic, social, and environmental regional councils (ESERC), consultative assemblies with a general vocation, resemble their nation-

8 This puts into practice one of the 110 propositions of *François Mitterrand*, who was elected president in 1981.

nal counterparts in several respects, namely (1) as representative bodies of the important activities of the country; (2) as consultative organs for the executive authorities; (3) through a status that "combines a parliamentary appearance with the reality of an administrative institution" (Renoux and De Villiers 812); and (4) through the entrenchment of a uniform national legislative and regulatory framework which gives a detailed status to the members of the ESERC. However, the administrative institutions are only a prolongation of the political system. The main reason for preventing regional autonomy still is that original normative power is exclusively a monopoly of the state. Whether progress is possible at the margins remains to be seen.

IV. The Slow Progression of Institutional Asymmetry

The French institutions seem to have reached a turning point since the attachment to territorial uniformity has a petrifying effect, reducing the ambitions of the successive territorial reforms carried out in the last 30 years. It is no longer a taboo to break the dogma of uniformity in order to engage in an "institutional asymmetry." French politics now openly place this question on the agenda: "Why not privilege modes of organization differentiated through the aspirations and capacities of the territories that make up the State?" (Kada 129).

Certain authors believe that the reforms carried out since the 2000s already represent a step towards "institutional pluralism" (Auby, Auby, and Noguellou 34). In addition to this, one recognizes that "the principles of uniformity and republican indivisibility are shaken by a movement of institutional and political differentiation, increasingly appearing in public territorial action" (Pasquier, "Région" 423).

A) *The Relaxation of the Unwritten Principle of Territorial Uniformity*

Regionalism and institutional asymmetry are able to connect more closely with each other through several special statuses accorded to the overseas territorial entities. More problematic is the application of the right of local experimentation, which was constitutionalized in 2003.

One example of this trend is the evolution of the status of Corsica. This status, which is partially inspired by the institutional frame applied to Italian regions (Auby, Auby, and Noguellou 152), creates an executive council which reports to the Assembly of Corsica, which in turn can give a vote of no confidence against the council (Deyon, *Régionalismes* 90). Said status is "tailored" through a law issued on 13 May 1991, according to which Corsica is transformed into a special "territorial collectivity of the Republic." A part of the doctrine expresses the hope to see "a promise of a veritable autonomy-association of Corsica: autonomy due to the competences and the domains of initiative reserved for the collectivity, association because the exercise of these responsibilities remains subordinated to a large extent to the resources coming from taxes and the State budget" (Deyon, *Régionalismes* 90).

The relative autonomy of the overseas regions demonstrates the application of the principle of "statutory identity." The French Constitution (Art. 73 al. 1) creates an equilibrium, as it states that "in the overseas *départements* and regions, the [national] laws and regulations are fully applicable" and that "they can be adapted according to characteristics and constraints particular to these entities." A regional autonomy with a "variable geometry" is possible in the light of (1) the admission of an abrogatory regime by the Constitution (Art. 73 al. 3), according to which these entities "can be entitled, depending on the case, either through the law or through regulations, to establish for themselves rules applicable to their territory, in a confined number of fields which are subject to the law or regulations"; and (2) the possibility of a modification of status, by means of "the creation, through law, of a collectivity substituting an overseas *département* and an overseas region, or the institution of a unique deliberative assembly for these two entities," all of this becoming possible through a referendum (Art. 73 al. 6).

This situation concerns several islands – Martinique and Guadeloupe in the Caribbean Sea, La Réunion in the Indian Ocean – as well as French Guiana in South America. The assimilation principle is also applied to other islands, which are called "collectivities of overseas" (COM) – Saint Barthélemy and Saint Martin in the Caribbean Sea, Saint-Pierre et Miquelon in the North Atlantic. After statutory transformations, new overseas entities called "unique territorial collectivities" are beginning to form, such as Guiana and Martinique after referendums organized in 2010, while Mayotte Island was incorporated in the group of overseas *départements* in 2010. In fact, in the reforms concerning these overseas entities, what counts is the

consideration of eligibility to stay in the group of “ultra-peripheral regions” where European law is applied and European funds can be distributed. These regions do not wish to be downgraded to the category of “ultramarine pays and territories,” which are outside of European law.

The broadest forms of regional autonomy against the background of institutional asymmetry are the “regimes of legislative specialty.” They ensure the effective autonomy of overseas entities, despite the fact that, formally, only a small number of territorial entities are incorporated into the category of “autonomous entities” by the Constitution (Art. 74 al. 2). The Constitution effectively enables the adoption of a proper status for these entities, through organic laws which “consider the proper interests of each of them within the Republic” (French Constitution, Art. 74).

The term *libre gouvernement* (self-government), in French parlance,⁹ is an expression of this intensification of decentralization since it also led to the introduction of the term *loi de pays*. But these acts remain administrative regulations, which are controlled by the administrative High Court, the Conseil d’État, and not by the Constitutional Court, in agreement with the Constitution.¹⁰ In effect, the term “self-government” finds its full application only in the status of New Caledonia on the basis of the special title XIII of the Constitution.

Beyond this, an important legal evolution is taking place in relation to the status of French Polynesia, which resides in the capacity to intervene in the domain of the national Parliament.¹¹ Without a doubt, this status of autonomy, determined by Art. 74 of the Constitution as well as by the organic law in charge of implementing it, permits the autonomous region to profit from a transfer of competence larger than the other decentralized entities of the Republic, namely the territorial entities indicated by title XII of the Constitution. Constitutional jurisprudence validates this process of increasing regional autonomy. While the members of the opposition in parliament claim that the distribution in regions of New Caledonia is based on ethnic considerations, which runs counter to the principle of equality, the Constitutional Court has validated this special cartography, viewing it

9 Art. 1 of the Organic Act about the Autonomous Statute of French Polynesia speaks about “self-government” for the administration of this entity.

10 As the disposition of Art. 74 al. 2 of the Constitution.

11 Art. 140 of the Organic Act of 27 February 2004 (Statute of French Polynesia) describes the *lois du pays* as legal acts.

as legitimate with regard to "the particular organization of the overseas territory" (Const. Court N°85-196 DC, 63).

More globally, the jurisprudence of the European Court of Human Rights gives us a standard of comparison in its interpretation of the concept of *corps législatif* ("legislative body"), which is part of Art. 3 of the additional protocol n°1 to the ECHR. This qualification, which is the key to the determination of the field of guarantees connected to the exertion of citizenship, was applied by the ECHR to the Italian regional councils (78)¹² and to the Spanish autonomous communities.¹³ In the UK, however, the European Court has estimated that "the metropolitan councils of the counties cannot be considered a part of the legislative body of the United Kingdom" on the grounds that "they have no power of basic decision-making, and the competences which have been delegated to them are defined through the Parliament of the UK and are exercised under the ultimate control of the Parliament" (Alexandru 9). According to this logic, the Congress of New Caledonia has exclusively obtained this qualification of "legislative body" among the French infra-state entities.¹⁴

In France, some are beginning to hope that the statuses of the overseas territorial entities could serve as "laboratories of experience" which are transposable to metropolitan territorial entities (for instance, Mélin-Soucramanien 6). The legal conditions of such a transposition are made possible by constitutional jurisprudence, which has allowed the creation of categories of territorial entities with a unique exemplar since 1982 (Const. Court, N°82-138 DC 41). What remains to be done is to spread out the resources of institutional innovation, up until now little used outside the overseas entities and thus limited to the establishment of the ad hoc status of *métropoles*.¹⁵ Since 2003, Art. 72-1 of the Constitution has submitted the adoption of a particular status for a continental territorial entity to the success of a referendum. The issue appears uncertain, as 7 April 2013 saw the negative outcome of a referendum which rejected the fusion of the two Alsatian *départements* into a unique territorial entity. The referendum on 6 July 2003 regarding the fusion of the two Corsican *départements* in the special Corsican collectivity also resulted in a negative outcome.

12 HER Court, 1 July 2004, *Santoro c/ Italy*, n°36681/97.

13 HER Court, 7 January 2001, *Federación Nacionalista Canaria c/ Spain*, n°566118/00.

14 HER Court, 11 January 2005, n°66289/01.

15 The government bill regarding the modernization of the territorial public action and affirmation of *métropoles* (Art. 20) stipulates the creation of the "Métropole de Lyon," which substitutes the actual urban community and also the Département du Rhône.

B) A Constitutional Regime of Local Experimentation, Barely Favoring Institutional Asymmetry

Since the Constitutional revision in 2003,¹⁶ a right to local experimentation has been established in France, based on two possible foundations. The first is the normative experimentation which abrogates the principle of equality. Art. 37-1 of the Constitution, which emerged from this revision,¹⁷ stipulates that "the law and regulations can comprise, for a limited object and a limited duration, dispositions of an experimental nature." The limitations (of object and of duration) can be explained through the concern of bringing into accordance this framework of normative abrogation with the principle of equality of the citizens before the law. The second is the exertion of a right to experimentation inside a legislative or regulative pre-established standard framework, issued from Art. 72 al. 4 of the Constitution (revised in 2003). This entails that a "power of abrogation to legislative dispositions on an experimental basis is granted to all territorial entities and their divisions" (Fialaire, "Commentaire" 47). The legislator is therefore permitted to temporarily give regional authorities the possibility to abrogate the rules of the common law on an experimental basis.

A normative experimentation could be executed on the basis of the dispositions of the *loi LRL* of 13 August 2004, validated by the Constitutional judge.¹⁸ Competences in the fields of economic development, management, and administration of the European funds were transferred to the regions on an experimental basis and for a limited period of time. However, while the Region of Alsace was given experimental status in 2004, which allowed the region to directly administer their investment programs financed through European funds, the *départements* have also been admitted to this experiment for the management of the loans of the European Social Fund. Institutional asymmetry is thus permitted for some time, but it is bound to disappear at the end of the process of experimentation.

This right to experimentation stipulated in Art. 72 of the Constitution also has its limitations. Experimentation is not allowed to endanger "either the exertion of an individual freedom or of a

¹⁶ Constitutional Law n°2003-276 of 28 March 2003.

¹⁷ The purpose was to make the Constitutional Court case law impossible, which had invalidated a habilitation given by the Parliament to the Corsican Assembly to adopt abrogatory regulations (Constitutional Court, n°2001-454 DC, 17 January 2002).

¹⁸ Art. 1, 44 and 70 of this act (Constitutional Court, N° 2004-503 DC, 12 August 2004).

fundamental right," which are the limits settled in Art. 72 al. 4. Its conditions of practice make it more of a "right to demand experimentation" than a "right to experimentation." The paradox is emphasized by a part of the doctrine which consists of "according an abrogatory regime with regard to regional situations" and at the same time "imposing uniformity and the prism of equality inside uniformity, because after the period of experimentation [with a duration of five years], one must either refrain from the experience or generalize it for the whole of the national territory" (Domenach 56).¹⁹ It shows that institutional asymmetry is not destined to prosper in favor of the right to experimentation. The essential prevention lies in the temporary character of the exertion of this right. Moreover, the eligibility for this right, which is liable to the discretionary appreciation of the legislator, is open in the same way to all categories of territorial entities without any special conditions reserved for regions. The analysis of the other institutional innovations which have arisen through the Constitutional reform of March 2003 leads to the same conclusions. Specifications of any kind, which would allow a region of metropolitan France "to break ranks" by reaching a status enshrining "institutional asymmetry," remain highly constrained.²⁰ How can one, therefore, apart from the periphery of the French territory, conceive "a differentiation of norms between regional territories that rests upon permanent bases?" (Fialaire, *Subsidiarité* 11).

C) *The Political Pressure in Favor of Institutional Differentiation that Could Reinforce the Position of the Regions*

A closer examination reveals "a growing confusion in the disposition of competences" among the territorial entities, and "the absence of a subordination between the different levels of regional administration has contributed to this disorder" (Deyon, *Régionalismes* 91). Based on this argumentation, a new kind of regionalist movement has recently emerged in France whose aims can only be partially understood in terms of institutional asymmetry.

One of the directions this has taken tries to examine only the exertion of regional competences. At this level, institutional asymmetry

¹⁹ This skepticism is largely shared by various legal writers (Chavrier, *Le pouvoir normatif* 82; Fialaire, "Commentaire" 47; Crouzatier-Durand 97).

²⁰ For instance, see the regulation about the consultation of electors on the subject of the creation or modification of statute for a specific territorial entity (Constitution, Art. 72-1 al. 3 issued from the 2003 revision).

is more accessible by legislation (for instance, the region "Île-de-France" obtains considerable competences in matters of public transport). Furthermore, a growing institutional asymmetry can only be generated through a possible advance of normative regional power. Only a constitutional revision would permit that.

One particular solution remains predominant in France: The region is a banalized, intermediary collectivity which does not constitute a level of its own between the state and the infra-regional entities. The concept of a "leading community" (already included in the Constitution since 2003), which allows local powers to coordinate local public action, could perhaps form the basis of further developments. However, the result is not a right of regional authorities to issue regulations, because the legal framework is too restrictive. To explain this, we may consider two factors. The first is that this concept is established as a simple arrangement. The principle that prohibits any control of a regional administrative level over another remains dominant.²¹ The second is that in order not to disrupt the principle of absoluteness of the competences of public authorities, the function of a leader (i.e. the regional authority designated as the "leading community") "can only apply to the process of implementation of the competence and not to the renunciation of its exertion" (Lefebvre 50). Any law which tends to "give a decisive power for determining global action" to the community leader, will be sanctioned by the constitutional court.²²

We are far away from the Italian institutional system, which places in the domain of regional law "the proclamation of principles of coordination of municipalities and provinces between them and with the region, in order to reach an efficient system of regional governments serving the economic and social development" (Cavallo Perin and Romano 20).

It is also necessary to address factual considerations. Despite a relatively consensual discourse, which highlights the strategic missions of the regions, in practice, their role as "leaders" of the territorial entities involved in economic development activities (becoming effective with the *loi LRL* of 13 August 2004), is disputed. More ambitiously, the reform project currently taking place wants to ensure that the regions have a leading role in strategic domains.²³ This reform

21 Constitution, Art. 72, al. 5 (issued from the 2003 revision).

22 Constitutional Court, N°2008-567 DC, 24 July 2008, *Contrats de partenariat*.

23 Art. 3 of the government bill about the modernization of the territorial public action and affirmation of *métropoles*.

will also enshrine new "institutional asymmetries," which result from special dispositions about regions which are the places of *métropoles* created by future law. Can one get from the legislative initiative to a possible constitutional reform?

Since 2011, the Association of the Regions of France have increased their lobbying, including representatives elected on a regional level (Chavrier, "La vocation" 93), in favor of giving normative power to the regions, even if it is without an autonomous legislative function: It would consist in the allocation of governmental enforcement powers to execute national acts. This would put an end, in favor of the regions, to the denial of justice, which "leads to the fact that the territorial entities cannot ask for admission of their right to execute laws" (Faure 32). Therefore, Arts. 21 and 37 of the Constitution would need to be changed and completed by an adjunction in the legislative domain to Art. 34.²⁴ An institutional asymmetry to the benefit of certain regions is imaginable here, along the lines of the model of "executive devolution" applied in Wales, whose framework has granted the Welsh Assembly administrative powers. A more modest and realistic advance is promoted by the project of territorial legal reform currently under way, which aims to render the regional schemata of economic development in continental France (Fialaire, "Planification" 80) prescriptive. Here, the attempt is to reduce a situation of institutional asymmetry, ensuring for the metropolitan regions the same powers in planning issues as those that are already granted to overseas regions.

The observation has been the same for the last twenty years, showing the discrepancy between the uniform dominant position of the rights of the French regions and the diversity of expressions of regionalism. Despite some constitutionalized innovations since 2003, institutional asymmetry has progressed only modestly. The debate remains open insofar as it has been shown that "the unitary character of the State implies neither a total uniformity of intermediary structures nor an absence of consideration of particularities of one or more specific regions" (Ziller 168).

In France, there is still considerable resistance against the affirmation of a principle of autonomy which grants "a right of difference to each territorial community" (Vandelli 78). Due to this, pragmatism predominates over current French Cartesian thought, which states that "[...] institutional constraints, which dictate their

²⁴ This solution would be to insert into Art. 34 of the Constitution the domains of a possible application of state laws through regional regulations.

modes of action, are not a threat to the efficacy of regional policies” (Dupoirier 62).

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Four Russias: Rethinking the Post-Soviet Map¹

Abstract: Instead of one Russia or 83 regions, we distinguish four. The First Russia is a land of big cities concentrating 31 percent of the population with the highest level of education and income, as well as a more modernized life style. The Second Russia is a region of mid-sized cities which have preserved their industrial profile and values from Soviet times. The Third Russia is the vast peripheral territory of villages and small towns that are home to more than a third of Russia's population. The Third Russia lives off the land and is indifferent to politics. The name Fourth Russia could be given to the less developed republics, which are home to less than six percent of the population. The geographical proportion is stably skewed towards a patriarchal behavior model, where educated and modernized Russians in the big cities demanding a change in the rules of the game are more than balanced out by the Russians living in rural areas and small or medium-sized industrial towns of the Second Russia, whose population is sometimes capable of protest when faced with a wage crisis or with the prospect of losing their jobs.

I. Introduction

Russia has traditionally been conceptualized as a single entity, albeit divided into many heterogeneous regions. When such heterogeneity is taken into account, it is usually considered in terms of economic inequality, employment, salary levels, standard of living, demographic situations, and so on. In order to make more clarifying distinctions, geographers use the method of typology. Some of their categories are obvious: the huge federal cities of Moscow and St. Petersburg; the oil, gas and metal-rich regions that provide foreign currency reserves for the whole country; and the less developed regions. Two thirds of Russia's 83 regions, however, show little variation in economic and

¹ A similar version of this paper was originally published on 29 March 2012 by *OpenDemocracy* and is available at <<http://opendemocracy.net/od-russia/natalia-zubarevich/>>. It is reprinted here, with slight modifications, with the permission of Natalia Zubarevich.

social indicators. The traditional geographical division – the Volga region, the Urals, Siberia – is not very helpful either because the Volga region, for example, is very diverse in terms of economic development and way of life. The problem with the traditional division between the ethnic republics and the so-called “Russian regions” is that the less developed republics of the northern Caucasus and of southern Siberia are very different from wealthy Tatarstan and the strongly russified Karelia and Khakasia republics, in both of which only about 10% of the population belong to the nominal ethnic group.

Things become much less elusive if instead of *one* Russia (or 83 regions) we propose *four*. Russia’s modernization, as will be argued, can be more accurately interpreted through the center-periphery model, according to which the country’s population can be divided into three roughly equal parts (cf. Friedmann). A small yet distinct fourth part can be added to them. The center-peripheral model explains the hierarchical settlement pattern in which settlements are arranged from the most modernized urban areas to patriarchal rural areas. Center-periphery distinctions are also typical of other countries, especially of those characterized by a ‘catching-up development,’ but they have their own peculiarities in Russia, where the largest cities are very far ahead of all the rest, and industrial cities face diverse issues, but most importantly, there is a vast deteriorating and depopulating periphery. There are arguments that for a better understanding of Russia and where it is going we need to think not geographically, using the traditional division of the regions, but from another point of view, by using the center-periphery model. The center-periphery model can be used to describe Russia’s internal heterogeneity. The populations of metropolitan areas, mid-sized cities, small towns, and rural areas display different modernization potentials and employ different adaptation strategies in times of economic and political change. Political changes that have been under way since December 2011, as well as the regional elections held in 2013, have once again demonstrated that there are different Russias.

The First Russia

The First Russia includes first of all the big cities with a population of over or close to one million, concentrating 21 percent of Russia’s inhabitants. More than one in five Russians lives in the fourteen cities with populations of around a million or more. In fact, one in nine lives in Moscow and St. Petersburg, and this has a significant effect on the political climate. The federal cities – Moscow and St. Petersburg – are

at the top of this group. The advantages of life in the two 'federal' cities are obvious; they are at the heart of the post-industrial economy, with a high level of economic development. Moscow's economic indicators are all considerably higher than those of St. Petersburg. Moscow's gross regional product translates in terms of spending power (PPP) as \$ 47,000 per capita and St. Petersburg's as \$ 22,000 PPP, both of which are comparable with the developed world. Both cities have the highest concentration of middle-class inhabitants – up to 40 percent of city residents, the most educated population (39-43 percent of city residents over the age of fifteen have a higher education), as well as the most diverse labor market and the highest paid jobs, higher shares of small business employees, and widespread Internet access. The point is that the inhabitants of both cities have a higher standard of living than those elsewhere. However, the population in these two cities is aging, with about 25 percent of inhabitants of pensionable age. The federal cities, especially Moscow as the capital, incorporate the financial and human resources of the entire country. Political transformation is particularly rapid here; protest sentiments and demands for regime modernization are also on the rise. The election data also point in this direction: The opposition candidate won 27 percent of the vote in the Moscow mayoral election, and less than half of Muscovites voted for Putin in the 2012 presidential election. The results of this election were marred by greater electoral fraud in St. Petersburg; nevertheless, the protest potential is strong.

The last twenty years have also brought change to the other Russian 'millionaire' cities. The pace of transformation is faster in Yekaterinburg and Novosibirsk, since their being macroregional centers of the Urals and Siberia works to their advantage. These cities also experience a more rapid transformation from an industrial to a post-industrial economy. After losing their Soviet role as centers of heavy engineering in the 1990s, they were the first to reinvent themselves as major service industry centers, attracting more migrants and creating more modern high-paying jobs. Yekaterinburg, for example, is now known for its high-quality education, luxury goods, and contemporary culture. Social conditions and political preferences change more slowly in cities with a population of a million that retain their Soviet industrial profile (Omsk, Ufa, Volgograd). For example, Volgograd is struggling with modernization because of its industrial legacy. This city, industrialized in the Soviet period, looks like one enormous industrial zone stretching for 70 kilometers along the Volga. Most of its massive plants are no longer profitable, but they have not been closed. Also, Volgograd was never a center of regional government, and its

cultural heritage is only a thin veneer. The city's poor urban environment and the industrial mindset of its population have slowed its development, but it is now belatedly gaining momentum.

Patterns of employment have changed in all Russian 'millionaire' cities: The proportion of white collar workers has risen, there are more medium-sized businesses, and even in the public sector there is more demand for staff with high qualifications. These cities are the first to adopt the capital's consumer lifestyle, although salaries are substantially lower than those in Moscow. It is in these cities that one can find the middle class, the 'angry urbanites' who took to the streets in December 2011. The smaller cities are much less active – their middle class is not large enough to make a difference. However, change is just a question of time; objectively speaking, the "grapes of wrath" are ripening: Migration in Russia is directed towards the largest cities, the only difference being that greater Moscow and St. Petersburg, as well as its contiguous Leningrad region, attract migrants from all over the country (60 percent and 20 percent respectively of all net migration in Russia, while regional cities rely on an influx from their own regions for their growth, mostly consisting of young people going into higher education). The increasing concentration of active and well-educated citizens in the big cities is tolling the death knell of the 'power vertical.'

If cities with a population of over 500,000 (but less than a million) are added to this category, the number of people living in large cities reaches 31 percent. Practically all cities with populations over 500,000 are regional centers, which helps them concentrate regional resources, especially human capital. On the whole, city size and high human capital concentration are key modernization factors. However, when compared to 'millionaire' cities, those with a population of over 500,000 change more slowly, especially if their inhabitants have lower income and education levels, and higher percentages are employed in the public and industrial sectors. But even here, differences are vast. If big money turns up, as in Tyumen and Krasnodar, they can transform themselves very quickly. Krasnodar, a city of 750,000 people, languished for decades in the shadow of 'millionaire' Rostov-on-Don, but since 2000 it has been rapidly developing not only its leisure facilities, with chains of restaurants and bars, but also its business services and higher education sector. At the end of the 2000s Krasnodar was ahead of all the big cities in Russia in per capita investment and residential development. An obvious factor here is the seepage into the regional capital of some of the funds allocated for the 2014 Sochi Winter Olympics, but there is another, more long-term

reason: Life in the South is cheaper and more comfortable, making it attractive to investors. Tyumen, with a population of around 600,000, is another example of a successful 'tax harvest,' in this case from the two main oil and gas producing areas (the Yamalo-Nenets and Khanty-Mansi autonomous districts). The results are similar, from the rapid development of higher education to a mushrooming of leisure and shopping centers. Both cities have rural hinterlands to swell their populations, they are politically very passive, and their local government is much more authoritarian than in other regions, but their universities are expanding and forging new urban dwellers who will soon be demanding both good jobs and freedom of choice.

About 9 percent of Russians live in cities with populations between 250,000 and 500,000; most of these cities are also regional capitals. In Russia, being a capital makes for more sustainable city development, but in most cases such cities lack the financial and human resources to modernize. This is a transition zone between the First and the Second Russia, where the situation varies enormously from city to city, from the academic hothouse that is Tomsk with its academic specialization (one person in five is a student), independent TV channels, and a flourishing cultural life, to the much more traditional centers of some republics.

The crises of the last twenty years have shown that cities with a population of over 250,000 tend to be more stable, which makes size a significant factor when one tries to predict the impact of a further period of crisis. So the boundaries of the First Russia will vary according to the criteria used: If one is talking about the dynamics of change, then it stops at the 'half-a-million' cities; if the criterion is stability, then it is towns with a population of over 250,000.

The share of large-city residents in Russia's population is steadily growing as a result of migration. It is in the large cities that Russia's 50 million Internet users are concentrated, as well as the Russian middle class that is demanding change. This group's activism is founded not on a fear of imminent crisis, but the scary prospect of a long Putinist stagnation which will put the brakes on social mobility. The stimulus for protest in this First Russia is not an economic crisis or a collapse of the price of oil, but rather moral repugnance.

The Second Russia

The Second Russia encompasses smaller cities and towns with populations between 20,000 and 250,000. Approximately 30 percent of

Russia's population live there. Not all of these towns have retained their industrial profiles during the post-Soviet era, but the Soviet values and way of life are still strong there. They have large numbers of blue-collar workers and public sector employees, most of them in lower grades. There is usually little in the way of small business, because of either low consumer spending power or a high level of cronyism. There are, of course, exceptions; in Magnitogorsk, for example, there is a wide variety of small businesses, but they are critically dependent on its famous iron and steel works: If the steel workers' wages fall, demand for services drops.

A study by the Independent Institute for Social Research (Zubarevich, "Russlands Parallelwelten") shows that industrial towns, even the more successful ones, are losing their attraction for residents. During times of economic growth, wages there have risen more slowly than in regional centers; the government has been quick to raise the public sector and managerial salaries on the back of enormous oil revenues, but the industrial sector has been unable to increase its wage bill to the same extent. During the 2009 economic crisis wages also went down faster because of the slump in industry. As a result, the population numbers in the vast majority of cities and towns in Second Russia are falling rapidly, as young people move to the larger cities and the capital for educational opportunities as well as more appropriate jobs, and rarely come back. The location of mid-sized towns, both industrial and post-industrial, is crucial. If they are close to large population centers, then their future is secure: They will gradually be absorbed into the conurbation, and sustainable enterprises will emerge to service the metropolitan market. Towns situated on main arterial roads also have a more promising future: All the towns on the Moscow-Minsk motorway, the road to Europe, are gradually being transformed into logistics and handling centers for the Moscow agglomeration. But if a town is less fortunately located, it inevitably shrinks.

The 2009 economic crisis hit metallurgic and heavy engineering company towns particularly hard. The government's main response was to protect jobs at any cost, regardless of the companies' viability. There was widespread recourse to reduced working hours and work creation programs, and despite a huge fall in production, employment levels were maintained thanks to large injections of government finance. A long-term support strategy, based on economic diversification, was not successful. The main result of all this was a proliferation of putative 'complex investment plans' in which municipal councils listed economic and production sectors that were

ripe for development, but did not specify whom they expected to invest in them. Most of the federal money allocated to company towns went to Togliatti, where the government not only extended enormous credit to Lada car manufacturer AvtoVaz, but took on the entire social infrastructure and unemployment benefit bill of the town. The major industrial center Nizhny Tagil was helped in other ways: The government effectively gifted 20 billion rubles to the Uralvagonzavod industrial complex, a subsidiary of the state-owned corporation, and forced another state-owned company to provide it with orders for railway carriages. Other one-company towns received small amounts, and then the crisis began to pass. The complex investment plans mostly remained on paper.

Those living in Second Russia are dissatisfied with the political situation in the country as well. The results of the 2011 State Duma elections showed that the number of votes cast for United Russia in many industrial towns were as low as they were in larger regional centers (29-38 percent). But in the presidential election, Second Russia voted for Putin, since people living there prize stability in the form of secure employment and wages. They remember the 1990s well: During that period, many enterprises went out of commission for a long time, and wages were not paid for months. Second Russia mainly protests against job cuts and low wages. Liberal ideals of political modernization are unlikely to take hold here unless they are accompanied by strong social policies. The inhabitants of industrial Russia see themselves as the breadwinners for the entire country, which enabled the Kremlin's propaganda machine to pit them against the inhabitants of First Russia. In fact, some liberals helped to exaggerate the differences between the two. The results of the presidential election, especially in the Urals, provide more evidence of political cleavage.

Should a new crisis arise, it is this Second Russia that will be hit the hardest, since its old problems have not been resolved and the last crisis confirmed that the industry is declining faster than other economic sectors. There are few alternative sources of work in these towns, and the local population suffers from a lack of mobility and low qualifications. Even if a new economic crisis does spark mass protests, Second Russia will be fighting for work and wages, increasing the pressure on the federal and regional authorities to make concessions, but will remain indifferent to the issues that rally the middle class. The Russian government recognizes the danger of social protest in Second Russia and will probably be able to calm the situation through

economic and administrative measures for as long as the federal budget can afford it.

The Third Russia

The Third Russia is the vast peripheral territory of villages, semi-urban villages, and small towns that are home to a third of Russia's population. The third Russia lives off the land and is indifferent to politics; the agricultural calendar is not affected by changes at the top. Depopulated small towns and semi-urban villages with an elderly population are scattered across the country, but there is a higher concentration in Central Russia and the north-west, industrial areas in the Urals and Siberia. Villages are most common in the South of Russia and the North Caucasus, where 27 percent of the country's rural population are concentrated. The southern 'Russian village' is still a viable demographic unit that survives thanks to the intensive exploitation of the fertile black earth on its residents' individual smallholdings. Large-scale agribusiness is expanding in the most profitable and non-labor intensive areas of production (grain, sunflower oil), depriving many locals of work, and young people are flooding out of the villages and into the towns.

Third Russia is represented by the traditionalist and extremely passive rural periphery and semi-urban villages as well as by small towns of less than 20,000 people, which cumulatively account for 36 percent of Russia's population. The lowest educational and mobility levels can be found here. Employment in the public sector and in agriculture predominates; involvement in the shadow economy is high. The periphery does not care much about politics and always votes for the regime. Moreover, Third Russia is rapidly depopulating. Local conflicts are caused by ethnic clashes and mostly occur in the southern regions, where they cannot spread over extensive territory and are quickly quelled by the authorities.

The borders between the three Russias are blurred and rather tentative. It is quite evident that population concentration is not the sole factor in determining the pace of modernization. In other regions, the only villages that survive are those on the outskirts of cities; their population is younger, more mobile, and better off, since many of them commute to the city for work. The fastest transformation of rural areas is happening within the boundaries of the Moscow agglomeration, where a lot of new jobs are not connected with agriculture. And even in the villages around Moscow, many people have come

from other regions, and migrants are always more energetic and adaptable. In the depopulated peripheral areas, the situation is more depressing. In the Pskov region, for example, 40 percent of the female population are pensioners. Those among this rural population who are still active earn a living by gathering mushrooms, berries, and pine cones for their nuts, and by fishing. On Sakhalin, there are villages where no legal jobs are available, yet people do not move away – the fishing season, when the salmon come up the river to spawn, feeds them for the whole year. Involvement in the shadow economy teaches people independence from the state, and those who are dependent – pensioners, public sector workers – have no energy or resources to either leave or protest. The potential protest power of the Third Russia is minimal, even if a crisis should bring delays in the payment of pensions and wages.

The Fourth Russia

The three previous Russias have been defined by using the center-periphery model, which explains social variations by the position in a hierarchy of settlement from the most modernized large cities to the patriarchal rural periphery. This model is perfectly valid for most of the country, but we need to abandon it to define the Fourth Russia. This name can be given to the less developed republics of the northern Caucasus and, to a lesser extent, southern Siberia (the Tyva and Altai republics), which are home to less than 6 percent of the country's population. They substantially differ from the rest of the country since they are at an earlier urban transition stage, the demographic transition there is still in progress, birthrates are high, the clan structure endures, and ethnic and religious tensions run high. The center-periphery gradient is much weaker here: The cities have not yet digested the growing migration from the rural areas; an urban lifestyle and values are just being formed here; and the modernized urban segment of society is small and grows slowly, since some of the educated and competitive young people leave for the bigger Russian cities. But Fourth Russia is not homogeneous either. More urbanized North Ossetia and Adygea, where ethnic Russians predominate, are substantially more socially modernized than Chechnya. There is one developing agglomeration – Mahkachala has a population of 580,000, or almost a million if one counts its built-up suburbs, and it continues to expand at a rapid pace. However, this agglomeration has very few educated middle-class residents. In this Fourth Russia, the rural population is rising in number, and in contrast to other regions, it is

still young. Young people actively migrate from the villages to regional population centers, but few of them find work there. To get a job they need help from their clan, who will either buy them a legal public sector job, or help them to find one in the shadow economy. The Fourth Russia is also the most corrupt, with fierce fighting between clans for power and resources, as well as numerous ethnic and religious conflicts. It must be said that the population of the cities of the North Caucasus is undoubtedly less traditional in its thinking, but not to the extent of creating a trend towards modernization in the whole region.

The Fourth Russia will not break away, no matter how much this is presented as a threat, or a promise. The overwhelming majority of people in the northern Caucasian republics consider themselves Russian citizens. However, the region has many problems, and federal politics has an enormous role to play in their solution. At first glance, the policy seems to consist in flinging more money at places where there is unrest. From 2010 till 2013, the republics of the northern Caucasus, which are home to five percent of Russia's population, received 10.6 percent of all federal government subsidies given to the Russian regions, with more than a third of this sum going to Chechnya. But since federal aid to less developed areas is not spent rationally and transparently, it breeds more corruption, which remains a significant issue not only in the Caucasus, but in other regions as well. The problems of the Caucasus can only be solved by governmental reform in Russia as a whole.

II. The Socioeconomic and Political Situation: Impact on the Four Russias

The Four Russias model is based on long-term factors and is very stable, since the proportional relationships between the categories are slow to change. However, certain short-term factors and development trends, which can be divided into national and regional ones, will affect the situation in the nearest future.

Russia's economic problems have escalated, triggering economic stagnation. In 2013, industrial output stagnated and even decreased in one third of the regions. Investment has also decreased – both across the country (1.4 percent) and in 50 percent of the regions. The industrial cities of Second Russia have been affected most strongly by this economic hardship and investment decline, causing tensions to

escalate. Regional budgets are also facing mounting problems. In the period from January to October 2013, regional budget revenues increased by only one percent, not adjusted for inflation. Stagnation has resulted from a 15 percent decrease in the corporate profit tax, which is a major source of revenue for the developed regions. Additionally, a seven percent decrease in federal transfers (subsidies) has primarily affected the regions with middle and low levels of development. At the same time, regional budget expenditures have risen by five percent in compliance with the executive order on salary increases for public sector employees. Federal budget transfers are only sufficient to cover a third of all salary increases. As a result, 60 percent of the regions have budget deficits and are forced to borrow more money. Federal subjects and municipalities have accumulated an aggregate debt that exceeds 27 percent of their tax and non-tax revenues. Regions are forced to lower investment and utility spending, which leads to increased utility charges, which in turn are causing social tensions in cities across the country.

However, these measures prove inadequate for balancing budgets. Schools and hospitals – primarily in rural areas and small towns – are being closed down to lower budget spending. Budget deficits caused this process to accelerate in 2013, since public sector job cuts allow regional governments to reduce spending. These cuts will have the strongest impact on the rural periphery (Third Russia) and small towns (part of Second Russia). They have the largest shares of public sector employees. Finding another job after being laid off is difficult, but those living in the peripheral areas and small towns are not accustomed to resorting to political protests – they opt for personal survival strategies such as labor migration, retirement, and tending to their vegetable gardens.

Demographic factors will produce mixed results. Due to the age distribution patterns in Russia, the number of working-age people is declining, a trend which will peak in the second half of the 2010s, reaching 600,000–800,000 a year. As economic problems multiply, this fact will help to cushion the impact of unemployment, especially in the aging industrial cities of Second Russia. Moreover, the number of people aged 20-25 will drop by almost a third due to the birthrate decline in the 1990s, which in turn means there will be fewer people to take part in political protests, since young people tend to be more active participants. However, a substantial and steady stream of young Russians is leaving small towns and rural areas for large urban agglomerations and regional centers in search of job and educational opportunities. This migration flow will in part compensate for the

decline in the numbers of young people in First Russia, while accelerating the aging of Second and Third Russia. The use of information technology is also rising. Russia already has over 50 million Internet users, and the fastest growth is observed in small and mid-sized towns. This means that the information space that is not controlled by the state increasingly covers Second Russia. Yet, the role of the Internet as an alternative source of information should not be overstated, since federal television channels remain the main source of information for both Second and Third Russia, even for its Internet users. These nationwide trends present a general picture, while many developments are specific to individual regions and cities.

The elections that took place in 2012-2013 highlighted the regional factors which affect political change. The most obvious factor is the emergence of charismatic opposition leaders capable of attracting and mobilizing a broad spectrum of a diverse electorate. This is the least predictable factor: While such leaders have emerged in Moscow and Yekaterinburg, they have not appeared in other cities with populations of a million. Political change is more likely to happen in the regions and cities where there are strong competing elite factions that have economic resources and influence, since their struggle is capable of transforming the political field and molding new leaders. The capacity of regional and local governments is equally important. Weak and unpopular governors and mayors cause protests to intensify. Such executives abound, since the capacity of regional governments has generally deteriorated as a result of the manipulated mayoral elections and the appointment of governors. This situation is bound to affect future elections.

Objective factors such as human capital matter as well, since areas with higher concentrations of educated people express stronger protest sentiments. Putin received less than half of all votes cast during the last presidential election in the academic science towns (*naukogrady*) among the Moscow suburbs, which matches his poor performance in the capital. Geographical location also plays a role, as large central cities in internationally well-connected regions are voting against the current regime in greater numbers. Thus, Putin won less than half of the votes in Kaliningrad, Vladivostok, and Yuzhno-Sakhalinsk, all of which are cities whose more mobile, globally active citizens have had a chance to observe how people in other countries live and therefore are more mistrustful of official propaganda. This same phenomenon can be seen in the EU border republic of Karelia, where the opposition candidate won the mayoral election in the regional capital in 2013.

Path dependence is another significant factor. In Russia, it is exemplified by the greater independence of those living along the eastern frontiers in the areas which have been receiving large numbers of migrants for some time now. It is also of significance for how long a region has been urbanized and whether there exists an urban culture. On the other end of the spectrum are the more agrarian south and its large cities, which firmly support stability and the current regime. Since the political situation is shaped by a combination of multiple nationwide and region-specific factors, the prediction of change is exceedingly difficult.

III. Prospects and Political Priorities for the Four Russias

Political change in First Russia's largest cities is impossible unless several regional factors are present at the same time. In addition to Moscow, the case of Yekaterinburg confirms the validity of this observation. The city is the Urals' macroregional center with a strong regional identity and developed urban culture, home to competing elite factions that possess substantial economic resources. The city's economy is undergoing rapid change, becoming increasingly post-industrial. Two successive appointments of weak governors from outside the region were another factor which contributed to the emergence of a new opposition leader in Yekaterinburg. However, for a variety of reasons, the same did not come to pass in other cities with a population of a million. These cities lack a sufficient number of educated people who share modern values, the elite groups there are weak and have limited resources, and regional identity is diluted. Even in St. Petersburg, which boasts a population of five million, the scale of the protests cannot be compared to that of Moscow, since many of the city's highly educated residents have left for Moscow or emigrated overseas during the last twenty-five years. St. Petersburg's opposition movement is splintered and unable to come to an agreement. Nevertheless, grassroots organizations are on the rise in all of the large cities, since they attract more modernized human capital, although not always at the same speed. The diffusion of innovations is inevitable – protest sentiments will spread, however slowly, from the capital to other cities.

Tensions are escalating in Second Russia's industrial towns, particularly in the Northern Urals and the Northwest. The economic downturn will impact Second Russia the most (as was the case during the 2009 economic crisis), which may trigger social protests. However,

since residents of industrial towns cannot organize themselves effectively, short-lived unrest does not seriously threaten the Russian authorities. As long as such flare-ups are rare, they can be extinguished through financial infusions. In all likelihood, the authorities will have the means to continue in this manner; therefore, large-scale protest from Second Russia should not be expected. Will First Russia support socioeconomic protests in industrial towns, given the fact that the two Russias do not share common values? Will it be possible to integrate two different goals – political liberalization and social support of the unemployed and low-wage workers? Right now, First and Second Russia are speaking different languages. The non-industrial towns of Second Russia are not likely to protest. In these towns, the loss of public sector jobs will lead to greater labor migration. People have used this adaptation strategy for a number of years. It helps to reduce social and political tensions.

Third Russia will remain quiet as a grave, except for the local ethnic conflicts in the Russian regions which are home to a large North Caucasus minority. Such conflicts tend to break out in southern villages and small towns and are contained through tried-and-true carrot and stick strategies. However, as the public is becoming increasingly xenophobic and Russian authorities are strengthening their anti-immigrant rhetoric, such conflicts might possibly spread to larger towns – into Second and First Russia. It is hard to predict the scale of this diffusion of innovations.

In the underdeveloped republics of Fourth Russia, the laborious transition from the traditional to a more modern society will continue along with increased violence and religious conflicts. The situation in the North Caucasus somewhat resembles the early stage of modernization and urbanization in the ethnically Russian regions of the Russian Empire at the start of the 20th century. Whether Dagestan and some other republics will actually explode is hard to predict, but the tensions will continue to rise. In fact, the policies of the federal government exacerbate the problem, since the federal authorities are buying the loyalty of local elites through massive federal subsidies, their lax control over expenditures increases corruption, and they opt for harsh, heavy-handed measures in their struggle against new religious groups. If the explosion in the North Caucasus does happen, it will unify the rest of the country against 'the internal enemy.' The wave of xenophobia will briefly erase borders between the three Russias, while the regime is bound to gain strength as a result of Russian nationalism and the preference for the use of force in solving conflicts.

For now, the Kremlin has chosen to channel political protest downward, allowing the disgruntled segments of the population to let off steam through mayoral and gubernatorial elections. This tactical decision carries strategic consequences, as it will lead to increased electoral competition between interest groups at all levels and will gradually produce new regional political leaders. Despite its high costs under the guise of populism, political manipulations, and electoral fraud, democratization from the bottom will eventually create a vector of positive political change. In addition to fair elections, Russia desperately needs decentralization – a two-stage decentralization that will first delegate authority and resources to the regions and then further down to the municipalities. Large cities, that is to say, modernized First Russia, stand to gain the most from it. Yet decentralization, too, comes at a great cost, as it will inevitably lead to territorial economic inequality and will create a political patchwork of territorial units ranging from principality- and khanate-like regions to modernized large cities. However, large cities are not breaking up the country but act as the driving force of its modernization.

IV. Rethinking the Post-Soviet Map

If one were to draw such a map, it would show not the territory of Russia, half empty and badly developed, but its population, which is much more concentrated. So, every fifth Russian lives in a city of over a million inhabitants. If one adds to these the cities that are home to more than half a million people, then almost a third of the population lives in a large city. This is a distinct population – more educated, young, and mobile, with a high concentration of middle-class citizens and a very distinct quality of life with a more developed infrastructure and Internet access, where old feudal ties to a single place of employment are disappearing. The size of this modernized population group is growing through migration to the big cities.

Perhaps the traditional geographic map with its little circles for towns confuses us all. We should keep in mind a different map, with the enormous Moscow agglomeration (13 percent of the population, or one Russian in every eight) and a dozen other large agglomerations. A map drawn according to population rather than territory (called an anamorphosis) would show that our country has a pretty large proportion of educated, mobile, and well-paid city dwellers. This is an electorate which will not remain silent for long, as the Moscow protests on Bolotnaya Ploshchad and Sakharov Prospect have shown.

It is nevertheless a minority. Until recently, it seemed that the proportion was stably skewed towards a patriarchal behavior model, where the 20-30 percent of educated and modernized Russians in the big cities demanding a change in the rules of the game were more than balanced out by the more than one third of Russians living in rural areas and small towns. Between them were the medium-sized cities and towns of the Second Russia, whose population was sometimes capable of protest if incited by losing their jobs and wages at times of crisis, but the Kremlin knew how to deal with them. I suppose that, sooner or later, First Russia will shift the balance.

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Regionalism(s) on a European Level and Cross-Border Cooperations

The Regional Policy Power of the EU Parliament after the European Elections 2014

Abstract: The Treaty of Lisbon was hailed as the “treaty of parliaments” because it significantly strengthened not only the powers of the European Parliament (EP) but also those of national as well as regional parliaments. Using a ‘neo-institutionalist’ approach, this contribution places institutions rather than the pursuit of national or regional interests at the heart of the analysis of the regional policy power of the EP, which is mainly concentrated in the REGI Committee. From this perspective, such “power” is to be analyzed and evaluated in terms of legislative competency, budgetary responsibility, opportunities for political control, the functioning of cooperations, and the capacity to communicate regional policy. Regardless of their political orientation, maintaining a connection with EU citizens and “debating Europe” remains a high priority of the Members of the EP. Beyond the indisputable success story of the EP, the public image of the only democratically elected EU body is rather lacking, as is indicated by the steadily declining election polling figures since 1979. Yet, the Treaty of Lisbon has significantly increased the parliamentarization of the EU institutional system and offers a promising starting point for further enhancing the regional policy power of the EP in the legislative period 2014-2019.

I. Introduction

The regional policy power of the European Parliament has thus far garnered only marginal scholarly attention. This is also the case with its Committee on Regional Development (REGI) being responsible for regional and cohesion policy (Kramer 15). On the other hand, with an expanded role as a co-legislator, the EP has been actively shaping EU regional policy. Each revision of the Treaties, most notably the Lisbon Treaty, has seen an increase in power of the EP in relation to the

Council and the European Commission (EC). Even the Treaty of Lisbon¹ reinforces the role of the European Parliament as a legislator. From now on, the co-decision procedure, which puts the EP on equal footing with the Council barring a few exceptions, becomes the 'ordinary legislative procedure.' It has been extended to new areas, which have increased in number from 44 to 85. The most significant fields of extension are freedom, security and justice, the coordination of social security for migrant workers, structural funds, culture, European administration, and amendments to the Statute of the Court of Justice, among others (Mayoral 2). Through the REGI Committee, the EP exercises its legislative, supervisory, and budgetary powers concerning regional policies. On a practical level, the REGI works closely with other EU bodies. Annex VI "Powers and Responsibilities of Standing Committees" of the EP Rules of Procedure 2014² charges the REGI Committee with the task of maintaining close relations with the Committee of Regions (CoR), interregional cooperation organizations, as well as local and regional authorities. This paper examines the structure, functions, and role of the REGI Committee in shaping the regional policy power of the EP. To this avail, a special focus is placed on the relations with the CoR.

Beyond the indisputable success story of the EP, the public's image of the only democratically elected EU body is rather lacking, as represented by the steadily declining election polling figures since 1979. Contrary to this trend, the turnout in the 2014 elections has slightly increased to 43.9 percent in comparison to 43 percent in 2009.

The lack of trust in EU institutions goes hand in hand with the lack of knowledge. Thus, the goal of the EP communication campaign for the 8th European parliamentary elections 2014 was to raise awareness of the fact that the decisions of the EP have an impact on the daily lives of people by increasing the promotion of political debate on a regional and local level. Hence, the communication campaign of the EP was emphasizing the strengthening of parliamentary powers accomplished by the Lisbon Treaty, and, in doing so, fostering awareness for the enhanced regional policy power and its implications for EU citizens.

1 The Treaty of Lisbon was signed on 13 December 2007 by representatives of the 27 EU Member States. It completely reformulates the "Treaty on European Union" (TEU) and the Treaty establishing the European Community (renamed the "Treaty on the Functioning of the European Union," or TFEU). After ratification by the Member States, it entered into force on 1 December 2009. On the development of the Treaties, see *Treaty of Lisbon*.

2 Art. 232 TFEU states that the EP shall adopt Rules of Procedure, which are the EP's internal organizational and operational rules. Cf. European Parliament, "Rules of Procedure."

Advancing a 'neo-institutionalist' approach, this paper places institutions rather than the pursuit of national or regional interests at the heart of the analysis of the regional policy power of the EP mainly concentrated in the REGI Committee. Under this viewpoint, such a "power" is to be analyzed and evaluated in terms of legislative competency, budgetary responsibility, opportunities for political control, the functioning of cooperations, and the capacity to communicate regional policy. Furthermore, the qualitative approach featured here largely rests upon dossiers of the internal documentation of the EP and so-called "grey literature," informally published reports of the secretariat of the REGI Committee.

II. Basic Treaty Novelties

As institutionalist scholarship suggests, the European project has witnessed a gradual *parliamentarization* while the successive gain of competencies of the EP does not only reflect a shift of powers within the institutional system of the EU, but rather leads to perceiving the EU as a political system *sui generis* composed of distinct levels of governance, which are characterized by subsidiarity (Hix and Høyland 12 ff). The general subsidiarity principle defined in Art. 5.3 TEU is now extended to the regional and local level. This idea is detailed in Protocol (N. 2) to the Lisbon Treaty, "On the application of the principles of subsidiarity and proportionality," which highlights regional and local governments and stresses that the impact assessment of legislative proposals should now take into account all levels of government. As far as EU policies are concerned, the new consolidated Treaties involve significant changes for all common EU policies. However, this article will only assess regional policies. In this context, the scope of the work of the REGI Committee responsible for structural and cohesion policies has substantially changed, particularly at the legislative, executive, and financial levels. Regional policy for the area of economic, social, and territorial cohesion now falls under the category of competencies shared between the Council and the EP.

A) *Power Balancing and Parliamentarization*

The Lisbon Treaty has turned the EP into a legislator on equal terms with the Council as regards Structural Funds and the Cohesion Fund (Art. 177 TFEU). Thus, in EU regional policy, the former co-decision procedure under Art. 251 of the Treaty establishing the European Community (TEC) has been replaced by the ordinary legislative procedure defined in Art. 294 of the Treaty of the Functioning of the European Union (TFEU). This considerably increases the competencies of the REGI Committee, as it enables its MEPs to table amendments to all proposals of the Commission and/or the common positions of the Council. In all phases of legislative work, the Parliament and the REGI Committee are at eye level with the Council.

When it comes to scrutinizing the budgetary realm, the EP has seen its powers considerably increased, as the adoption of the annual budget now underlies a legislative procedure that resembles co-decision (Art. 314 TFEU). Given that the former distinction between 'compulsory expenditure' and 'non-compulsory expenditure' has now disappeared, the two branches of budgetary authority, the EP and the Council, must jointly decide on the whole EU budget. The Treaty of Lisbon has also formalized a new annual budgetary procedure and consolidates the seven-year Multiannual Financial Framework (MFF) in the TFEU. Implementing regulations relating to the European Regional Development Fund (ERDF) and all other instruments of regional and cohesion policies now remain to be adopted by co-decision (Art. 178 TFEU).

In concrete terms, the change of legislative procedure has been especially important for the decisions on the General Regulation on Structural Funds after 2013 and on the setup of a new Cohesion Fund, but also on all other regulations on funds and on the European Grouping of Territorial Cooperation. Thus, the legislative role of the Parliament and the whole decision-making procedures of regional and cohesion policies have become therewith more transparent and democratic (Kramer 5-6). The newly added passerelle clause allows an extension of the co-decision mechanism if the Council comes up with a unanimous decision to do so together with the EP. Although this mechanism allows the expectation of future extensions of the co-decision procedure without a preceding treaty change, in every case, all EU Member States must be in agreement before such a clause may be activated. Specifically, and under certain conditions, passerelle clauses make it possible to switch from the special legislative

procedure to the ordinary legislative procedure in order to adopt an act in a given policy area, or to turn from voting by unanimity to qualified majority voting in a given policy area (e.g. regional policy).

Additionally, the controlling powers of the EP can be described as rather far-reaching. Not only is the EP entitled to establish temporary committees of inquiry, to appoint the Commission, to receive petitions from citizens, to elect the European Ombudsman, to put oral or written questions to the Commission and to the Council, etc. Moreover, the Commission is responsible to the Parliament, which may vote on a motion of censure entailing the resignation of the Commission as a body (Art. 17 TEU). Yet, it can be argued that the EP has only gained a status of full equality in terminological terms, especially as the Lisbon Treaty did not establish a direct right of initiative vis-à-vis the Commission, but only amended the indirect right of initiative of the EP (Art. 225 TFEU).

B) Enlarged Scope: Territorial Cohesion

A second major alteration of the Lisbon Treaty in the field of regional policies which enhances the competencies of the REGI Committee is Art. 3.3 TEU, which explicitly recognizes territorial cohesion and solidarity among EU Member States as a general objective, in addition to economic and social cohesion.³ It thus expands the scope of the Union's action in terms of economic and social cohesion by adding territorial cohesion. The Treaty does not only require national governments to strengthen territorial aspects of their policies, but also puts a new focus on regional and local actors in the definition and implementation of regional policy. Hence, in its definition of "cohesion policy," the Lisbon Treaty (Art. 174 TFEU) provides an even more elaborate definition of regions deserving particular attention in the framework of regional policy: "Among the regions concerned, particular importance shall be paid to rural areas, areas affected by industrial transition and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."

As a consequence, recent tendencies to limit regional and cohesion policies to only the poorest areas of the EU should be considered

³ All three aspects of cohesion policy are cited as areas of shared competency between the EU and the Member States (Art. 4.2c TFEU).

inconsistent with the Lisbon Treaty. Thus, due to the economy crisis, EU funding programs are even more important for Local and Regional Authorities (LRAs). In fact, the Treaty does not provide for a regional policy, only for measures designed to reinforce economic, social, and territorial cohesion. Neither the concept of territorial cohesion nor its implications for the implementation of common policies have been clearly defined. Nevertheless, it is already apparent that the introduction of the territorial dimension into cohesion policy will affect the future of regional policy in a strict sense and, to a certain extent, all the financial instruments with a structural aim.

C) *Upgrade Multilevel Parliamentary Field*

The Treaty of Lisbon was hailed as the “treaty of parliaments” because it significantly strengthened not only the powers of the EP itself, but also those of national as well as regional parliaments within the EP. In the horizontal dimension, relations among National Parliaments (NPs) have intensified, as Art. 12 TEU introduces a new collective role for National Parliaments in the scrutiny of EU legislation. For the first time, national parliamentary bodies have the opportunity to comment on European draft legislation independently from their governments. Protocol Nr. 1 “On the Role of National Parliaments in the European Union” as well as Articles 6 and 7 of Protocol Nr. 2 on subsidiarity and proportionality lay down the detailed rules of this new *ex ante* monitoring process.

Under these rules, National Parliaments must receive draft legislative acts at the same time as the EP and the Council. Then, normally within eight weeks from the date of transmission of a legislative proposal, National Parliaments – or any chamber of a National Parliament – can issue a reasoned opinion if they consider draft legislation not to comply with the principle of subsidiarity. Each National Parliament has two votes. In the case of a bicameral parliamentary system, each of the two chambers has one vote.

If the compliance of a draft legislative act with the subsidiarity principle is contested by a third of the votes allocated to National Parliaments (a simple majority concerning proposals which fall under the ordinary legislative procedure), the proposal has to be re-examined. The EP will receive not only the reasoned opinion of the National Parliaments, but also the reaction of the Commission. If on the basis of these documents, under the ordinary legislative procedure, the Parliament indeed determines the proposal to be

incompatible with the principle of subsidiarity by a simple majority of its Members (and the Council by a majority of 55 percent of its Members), it is abandoned. In general, it will be a challenge to develop the consulting process between the Regional and National Parliaments and the EP in order to be able to comply with the provisions of the Lisbon Treaty. Moreover, previous experiences have shown that many Parliaments wish to convey their views not only on the question of subsidiarity, but also on the substance of legislative proposals. Therefore, the evaluation of these comments will present another challenge (Kramer 9-10).

In the horizontal dimension, as a consequence, relations among NPs have intensified. From the vertical perspective, relations between National Parliaments (individually and as a group) and the EP have also intensified to a point where they may be characterized as constituting a "multilevel parliamentary field" (cf. Crum and Fossum). According to this approach, the EP and the NPs form a combined system of representation in which European citizens have some of their concerns represented at the national level and some at the supranational level. According to Nicolaidis' (2013) concept of democracy, multilevel parliamentarism should not lead to a quasi-federal state but rather establish a governance regime aiming at managing pluralistic forms of democracies. Adapting a constructivist approach to the concept of a "multilevel parliamentary field," Buzogány (17 ff) argues that interaction and learning processes triggered by inter-parliamentary networks have played an increasingly important role in shaping national and regional scrutiny mechanisms. At the same time, the new procedure not only empowers domestic parliamentary actors but also leads to publicity gains through the increased politicization and discussion of EU politics within their respective national/regional public spheres.

III. The Regional Development Committee (REGI)

Although the EP has increasingly attracted institutionalist and scholarly attention in recent years, committees are still relatively understudied despite their crucial role in the European legislative process. The acquisition of new powers by the EP via the Treaty of Lisbon has cemented their status as the legislative backbone of the EP (Yordanova 253 ff; Dialer 147 f; cf. Whitaker).

The REGI Committee was established in 2008 in the 6th parliamentary term (2004-2009) by splitting the former Committee on Regional Policy, Transport, and Tourism into two new committees: the Committee on Regional Development (REGI) and the Committee on Transport and Tourism (TRAN). Thus, the REGI Committee is a relatively new institution by parliamentary standards, but with its 43 standing members and 40 substitutes it is the ninth-largest committee at the beginning of the legislative period 2014-2019.

The EP comprises twenty standing committees and two sub-committees, the Committee on Human Rights (DROI) and the Committee on Security and Defence (SEDE). Committees differ in size, power, and prestige, and it is difficult to draw clear demarcations between their competencies. The Committee on Foreign Affairs (AFET) with 71 standing members and the Committee on Environment, Public Health, and Food Safety (ENVI) with 68 are the largest ones, closely followed by the Committee on Industry, Research, and Energy (ITRE) with 67 and the Committee on Civil Liberties, Justice, and Home Affairs (LIBE) with 59 standing members. The majority of the Members of the EP (MEP) serve on one committee as a full member and on another as a substitute. The allocation of membership, chairs, and vice-chairs is determined by the *D'Hondt* system⁴ of proportional representation, whereby the political groups choose posts according to their size. Multiple memberships are possible because the number of available committee seats 924 by far exceeds the number of parliamentarians (751)⁵ (Corbett, Jacobs, and Shackleton). The composition of the committees shall, as far as possible, reflect the composition of the EP.

4 The *D'Hondt* system is a method typically used to allocate seats to political parties in a Parliament. It uses the formula $V / (s + 1)$, where V is the number of votes received, and s the number of seats already allocated to the party.

5 According to the Lisbon Treaty (Art. 14.2 TEU), the number of MEPs shall not exceed 751, including the president, after the European Elections of 2014.

Table 1: The EP Committee System in the 8th Legislative Period (Status quo: July 2014)⁶

No.	Committee on	Abbr.	MEPs	Chair	Political Group	State
1	Foreign Affairs	AFET	71	Elmar Brok	EPP	DE
1a	Human Rights	DROI	30	Elena Valenciano Martínez-Orozco	S&D	ES
1b	Security and Defence	SEDE	30	Anna Elzbieta Fotyga	ECR	PL
2	Development	DEVE	30	Linda McAvan	S&D	UK
3	International Trade	INTA	41	Bernd Lange	S&D	DE
4	Budgets	BUDG	41	Jean Arthuis	ALDE	FR
5	Budgetary Control	CONT	30	Ingeborg Gäßle	EPP	DE
6	Economic and Monetary Affairs	ECON	50	Roberto Gualtieri	S&D	IT
7	Employment and Social Affairs	EMPL	55	Thomas Händel	GUE/ NGL	DE
8	Environment, Public Health, and Food Safety	ENVI	68	Giovanni La Via	EPP	IT
9	Industry, Research, and Energy	ITRE	67	Jerzy Buzek	EPP	PL
10	Internal Market and Consumer Protection	IMCO	40	Vicky Ford	ECR	UK
11	Transport and Tourism	TRAN	50	Michael Cramer	Greens/ EFA	DE
12	Regional Development	REGI	43	Iskra Mihaylova	ALDE	BL
13	Agriculture and Rural Development	AGRI	45	Czesław Adam Siekierski	EPP	PL
14	Fisheries	PECH	24	Alan Cadec	EPP	FR
15	Culture and Education	CULT	31	Silvia Costa	S&D	ES
16	Legal Affairs	JURI	25	Pavel Svoboda	EPP	CZ
17	Civil Liberties, Justice, and Home Affairs	LIBE	59	Claude Moraes	S&D	UK
18	Constitutional Affairs	AFCO	25	Danuta Maria Hübner	EPP	PL
19	Women's Rights and Gender Equality	FEMM	35	Iratxe García Pérez	S&D	ES
20	Petitions	PETI	34	Cecilia Wikström	ALDE	SE

6 My own table, based on the data given on the official EP website at European Parliament, "Committees," *European Parliament*, Web, 19 July 2014 <www.europarl.europa.eu/committees/en/full-list.html>.

Table 2: Strength of the Political Groups in the REGI Committee (2014-2019)⁷

Political Group	REGI MEPs
EPP (European People's Party) S&D (Progressive Alliance of Socialists and Democrats)	13
S&D (Progressive Alliance of Socialists and Democrats)	12
ALDE (Alliance of Liberals and Democrats for Europe)	4
ECR (European Conservatives and Reformists)	3
GUE/NGL (Confederal Group of the European United Left / Nordic Green Left)	3
EFD (Europe of Freedom & Democracy)	3
NI (Non-Inscrits = non-attached MEPs)	3
Greens/EFA (Greens / European Free Alliance)	2

When one examines the committee composition and assignments in the 8th legislative term, the composition of the EP committee is largely proportional to the partisan composition of the plenary. However, not all committees are representative of the EP in terms of policy preferences (Yourdanova 275). As of July 2014, the 22 committees range from a high of 71 members for the Foreign Affairs Committee (AFET) and 43 for the REGI Committee, down to 25 for the Legal Affairs Committee (JURI) and 24 for the Fisheries Committee (PECH). The number, responsibilities, and size of the committees were initially decided on during the July plenary session, in Strasbourg, of a newly elected Parliament.

A) Role and Responsibilities

As previously mentioned, it is in the parliamentary committee where the legislative work of the EP (apart from voting in plenary) is carried out and where individual MEPs can play a vital role. The task of parliamentary committees is to prepare the work of the plenary. This traditional parliamentary task is of particular importance in a Parliament of the dimensions and competencies of the EP. The committees organize their work following the Rules of Procedure and

⁷ My own table based on the data retrieved from the REGI Committee website: European Parliament, "REGI: Regional Development," *European Parliament, Web*, 19 July 2014 <www.europarl.europa.eu/committees/en/regi/members.html>.

the different practices and customs developed. The coordinators are an important organ of the committees. The political groups elect one among the members of the committee as coordinator. The coordinators' meeting is called by the Chair when necessary and primarily discusses procedural issues and nomination of rapporteurs. In general, its proposals have to be ratified by the full committee (EP 2009, 54).

Since its establishment, the competencies of the REGI Committee have been expanded; it has continuously developed its activities and relations with other institutions and EU Member States. It is the leading committee in the EP for most of the cohesion legislative package – five out of eight instruments – for the period of 2014-2020. It shapes the position of the EP on the European Regional Development Fund (ERDF) as well as the Cohesion Fund. The REGI Committee is closely affiliated with the Committee on Budgets (BUDG) to ensure that the cohesion policy has the means requested to achieve its goals. Hence, the change of the legislative procedure has been especially important for the decisions on the General Regulation of Structural Funds after 2013 and on the setup of a new Cohesion Fund. This is indeed a huge step forward for the efforts of the Regional Committee to mainstream the concept of cohesion in all EU policies (Kramer 7).

Through REGI, the EP has been very active in exercising its power of scrutiny, supervising the work of the EC and the correct management of the funds in general (EP 54). It assesses the impact of other Union policies on economic and social cohesion and coordinates the Union's structural instruments. According to the EP Rules of Procedure, the competencies of the REGI Committee can be divided into two categories:

- *specialized* (vertical): related to financial and structural instruments of the Union's cohesion and regional policies, including the urban dimension. The vertical competencies include relations with other bodies or organizations active in the field of cohesion policy, especially the Committee of the Regions (CoR).
- *cross-cutting* (horizontal): These competencies, established in Annex VI of the EP Rules of Procedure, cover two areas, namely assessing the impact of other Union policies on economic and social cohesion and the coordination of the Union's structural instruments.

Table 3: Annex VI of the EP Rules of Procedure

XII. Committee on Regional Development

Committee responsible for:

1. the operation and development of the Union's regional development and cohesion policy, as established in the Treaties;
2. the European Regional Development Fund, the Cohesion Fund, and the other instruments of the Union's regional policy;
3. assessment of the impact of other Union policies on economic and social cohesion;
4. coordination of the Union's structural instruments;
5. the urban dimension of the cohesion policy;
6. outermost regions and islands as well as trans-frontier and interregional cooperation;
7. relations with the Committee of the Regions, interregional cooperation organizations, and local and regional authorities.

Source: European Parliament, "Rules" 143.

In addition, according to the EP Rules of Procedure, the REGI Committee is permitted to organize hearings with experts on a particular subject or to assess the impact of the EU's regional policy. Hearings can also be held jointly by two or more committees. Most committees organize regular hearings, as they allow them to exchange views with experts and hold discussions with NGOs on key issues. For instance, the REGI Committee organized a hearing on "Cohesion Policy and Demographic Change" on 18 December 2013, and, more recently, one on "The Reform of the European Union Solidarity Fund" on 22 January 2014.

The REGI Committee is also entitled to go on 'missions.' For instance, according to the REGI newsletter, eleven REGI members were sent on a delegation trip to the border regions of Sardinia (Santa Teresa di Galura, Capo Comino, and Olbia) and Corsica (Figari airport and Bonifacio) from 15-17 July 2013 ("Reginews" 4). Its objective was to visit projects of cross-border cooperation between France and Spain, implemented by their respective border regions with the financial support from the EU Structural and Cohesion Funds. The thematic focus of this delegation was the place of islands in the EU Cohesion Policy and the Mediterranean dimension of EU territorial cooperation policy.

B) Cooperation with the Committee of the Regions (CoR)

The provisions for the local and regional entities in EU policy decision-making require a close cooperation between the EP, especially the REGI Committee and the CoR, to assure a continuous and effective consultation of local and regional governments. In order to use the practice of regional participation to its fullest, multilevel dialogue should be stepped up significantly (Kramer 10). Art. 15 TFEU reinforces the idea of good governance and requires the EP to ensure participation and political debate on EU issues in civil society. The Committee of the Regions (CoR) is an advisory body that assists the Council and the Commission and is composed of representatives of regional and local bodies. It gives voice in EU policy development and EU legislation to the various regions and their citizens (Mayoral 10). The CoR represents Regional and Local Authorities (LRA) of the 28 EU Member States. Since Lisbon, the mandate of the CoR has been extended from four to five years and its President's term of office from two to two and a half years, bringing it in line with the other European institutions and thus raising its ability to influence political decisions. The CoR has 353 members and 353 alternate members who must hold elected office or be politically accountable to an elected assembly.

The EP regularly consults the CoR, which was established in 1994 (legal basis is Art. 265 ECT and Rule 118 of the Rules of Procedure). Annex VI of the Rules of Procedure broadly charges the REGI Committee with the task of maintaining relations with the CoR. Thus, REGI has made an effort to intensify the working relations with this important advisory body and to explore possibilities of enhancing cooperation concerning issues such as:

- the right of consultation (where it says that it can be further improved);
- the relations between the CoR and other EP committees;
- REGI participation in the "OPEN DAYS – European Week of Regions and Cities";⁸
- other possible fields of cooperation such as the provision of territorial impact assessments by the CoR of EU common policies on the situation of the regions and on territorial development.

8 The OPEN DAYS, co-organized by the EC – DG Regio and the Committee of the Regions (CoR), are the key annual event for national, regional, and local authorities to showcase and discuss EU cohesion policy management, results, and prospects. They bring together over 6,000 participants from all across the EU. Over 200 European regions and cities actively participate in the yearly event.

The CoR structures its work around six commissions, which specialize in the following areas: citizenship, governance, institutional, and external affairs (CIVEX), territorial cohesion policy (COTER), economic and social policy (ECOS), education, youth, culture, and research (EDUC), environment, climate change, and energy (ENVE), and natural resources (NAT). Each commission has approximately 100 members and is supported by a secretariat. A seventh commission (CFAA) advises the Bureau on administrative and financial questions. Four political groups are represented at the CoR: the European People's Party (EPP), the Party of European Socialists (PES), the Alliance of Liberals and Democrats for Europe (ALDE), and the European Alliance (EA). There are also several non-attached members.

CoR commission members prepare draft opinions and hold conferences and seminars focused on their areas of competence. Opinions are given to the Council and the EC in the cases of mandatory consultation established by the Treaty, voluntary consultation, and on its own initiative. The consultation of the CoR is obligatory on economic, social, and territorial cohesion and on Structural Funds (Arts. 175, 177, and 178 TFEU). The Committee may also consult the CoR on any other matter as they see fit. When one of the three main institutions consults the CoR (whether on a mandatory or voluntary basis), it may set it a time limit of at least one month, after which the absence of an opinion cannot prevent them from taking further action. As a general rule, the CoR may issue an opinion whenever it sees fit and/or when the Council, Commission, or Parliament is consulting the second advisory body, the European Economic and Social Committee (EESC).⁹

C) *Communicating with EU Citizens*

In addition to the enhanced cooperation of the REGI Committee with the CoR, the parliamentary communication function is even more essential for a sufficient input legitimacy of the EP. The EP is often perceived as a very complex institution and political system. Such a perception easily gives rise to a sense that EU citizens do not feel empowered, that the gap between Brussels and the regions is growing

⁹ The European Economic and Social Committee was established in 1957, giving Europe's interest groups, trade unionists, employers, farmers, etc. a formal say in EU legislative proposals. It has 353 members, drawn from economic and social interest groups across Europe. Members are nominated by national governments and appointed by the Council of the European Union for a renewable five-year term.

and that the popularity deficit is increasingly accompanied by deficits in terms of information and voter turnout. In this respect, European integration has become a communication challenge as well as a political one. Hence, "go local" has been a key principle guiding the communication activities of the EP in recent years. They strive to organize local events in the regions together with national delegations, associations, regional parliaments/assemblies, and the EC or EP information offices in the 28 Member States. They also inform citizens directly and via national and regional media of decisions taken by the EP, and promote the Parliament and its activities. Most EP information offices are housed alongside the representation offices of the Commission in so-called "Houses of Europe."

EP information offices act as small-scale EP 'embassies' and are part of the Directorate-General of Communication (DG COMM). In the context of the "go local" approach of the EP's communication strategy, regional discussion fora with MEPs specifically aim at reaching out to regions where a certain EU legislative topic is of particular relevance to citizens. Cross-border fora contribute to the establishment of a European public sphere. All EP information offices offer a wide range of activities for young people and first-time voters (e.g. Euroscola).

Regardless of the different political orientations of the MEPs, the participation of citizens in the democratic process of the Union is a shared concern. Yet, the EP remains the only institution where the people are directly represented. The EP is convinced that the right to vote is an essential element in developing a spirit of being European citizens. As a means to help increase voter turnout, the EP – together with the CoR – will endeavor to mobilize LRAs by making a big push to inform citizens about Europe and the 2014 European elections. Local and regional authorities are not at all isolated or 'provincial' actors, but have become strong partners in multilevel governance, decentralization, and subsidiarity. Given the fact that around two-thirds of EU legislation is put into practice at the sub-national level, Local and Regional Authorities are responsible for implementing and communicating the majority of EU policy.

IV. Perspectives

Since the description of the evolution of the EP as a transition from "fig-leaf to co-legislature" (Corbett, Jacobs, and Shackleton 3), the EP has come a long way in what is, historically speaking, a short period of

time. The Treaty of Lisbon has significantly increased the parliamentarization of the EU institutional system and offers a promising starting point for enhancing the regional power of the EP and its REGI Committee even further.

In practice, EP regional policy attacks on all fronts: targeting energy efficiency, improvement in transport and Internet links to far-flung regions, promoting e-health and innovation, and implementing measures to protect the environment and prevent climate change. The policy covers investment in small and medium-sized enterprises, and mobilizes cultural and creative industries. This shows that it is genuinely difficult to draw up clear demarcation lines and exclusive fields of competence. In an effort to improve the implementation and efficiency of regional policy, the synergy of national and European policies has to be increased. On the basis of the concept of a "multilevel parliamentary field," the idea of organizing joint debates on political (and budgetary) priorities between national parliaments and the EP could be put forward by the REGI Committee (Kramer 10).

European regions are facing unprecedented challenges these days, coping with high levels of debt and unemployment rates. The sense of disengagement among European citizens is increasing. Thus, establishing a connection with EU citizens and 'debating Europe' remains a high priority for the newly elected Members of the EP. They have strong relations to the regions and cities in their constituencies, allowing them to stay in touch with the concerns of the citizens they represent and to take into account the regional impact of EU legislation. This puts them in a position to bring these 'regional' views to the heart of the EU. Last but not least, the CoR and LRAs in regions and capital cities in EU Member States continue to function as important allies in communicating the enhanced regional policy power of the EP.

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Regionalism and Cross-Border Cooperation in Europe from the Perspective of the Council of Europe

Abstract: According to Art. 2 para. 1b of the Statutory Resolution CM/Res(2011)2, the Congress of Local and Regional Authorities of the Council of Europe shall "submit proposals to the Committee of ministers in order to promote local and regional democracy." This article therefore gives a general overview of the work done by the Congress in the field of regional democracy. Two instruments are deserving of special attention in the context of congressional activities: the draft of the "European Charter of Regional Self-Government" from 1977 and the "Declaration of the Reference Framework of Regional Democracy 2009." In addition to tracing the genesis of these two texts within the last twenty years, this article places particular emphasis on the "European Charter of Local Self-Government" from 1985 as a benchmark for the improvement of regional self-government. Finally, the existing instruments of transfrontier cooperation and the synergies created with the policies of the European Union will be examined in the context of the Council of Europe.

I. The Work of the Congress on Regionalism

In order to understand the role of the Council of Europe (CoE) in respect to regionalism and cross-border cooperation, two preliminary remarks should be made. The first remark refers to the partition of roles within the Council of Europe. This international organization was founded in 1949 on the basis of an international treaty; therefore, it has a strong intergovernmental structure, in which the most powerful position is held by the Committee of Ministers. Another constituent part of its institutional set is the Parliamentary Assembly, which, however, does not consist of elected representatives from the 47 member states. Directly elected members hold a seat in the Congress of Local and Regional Authorities, a political body of 318 representatives with advisory functions. From this institutional functioning follows that the Congress can pass political resolutions if it intends to develop core elements of regional self-government, but that

it needs the consent of the Committee of Ministers to obtain a legally binding character of its position for the member states.

The second remark concerns the fact that the Congress is not only a body of regional representatives; it is composed of 159 members with a local mandate and 159 members with a regional mandate. Many of the regional representatives have local mandates, too, which underpins the importance of local accountability of the Congress members and the “local content thinking.” When dealing with regional self-government affairs, the Congress always has to take into consideration this “double bind structure” of its members and have a close look at the interdependencies between local and regional self-government. Thus, regionalism in the context of the Congress always has to reflect the implications of regional self-government decisions for local self-governance.

II. The Discussion on the Draft European Charter of Regional Self-Government

When the Congress took up activities in 1994 – the same year in which the Committee of Regions within the European Union became operational –, a very ambitious project was started to strengthen regional self-government throughout CoE member states: the creation of a European charter of regional self-government. Members of the Congress were convinced that regional entities in their countries needed a legally binding instrument which contained the core elements of regional autonomy concerning the powers and institutions of regions, financial competencies, relations with the state and with international bodies, as well as other essential elements of regional self-government.

To prepare this Charter, the Congress already had a precedent at its disposal: the European Charter of Local Self-Government (Local Charter) – a Council of Europe treaty from 1985 which entered into force on 1 September 1988 and which, since the ratification by San Marino and Monaco in 2013, has been ratified by all 47 member states. As a result of more than 20 years of intra-European negotiations, the Local Charter had become an amalgamation of rules of local self-government within the 23 member states of 1985. The basic principles enshrined in Art. 2 to Art. 11 of the Charter thus reflect the common understanding of the member countries that these principles may guarantee a proper functioning of local self-government in full respect

of the core values of the Council of Europe: democracy, rule of law, and protection of human rights.

From 1994 on, the Congress tried to transpose these ideas to *regional* self-government. However, there were at least two major differences which were perceived from the very beginning of the drafting of a regional charter compared to its local counterpart. First of all, if local authorities exist in all member states, independent of the national frames of ensuring local self-governance, this is not the case with regional self-governance. Federated states like Germany, Belgium, Austria, or Switzerland have regions (*Länder* and *Kantone*) with a very strong internal position guaranteed by their constitutions. Others, like Spain or Italy, have regions with special status and asymmetric autonomy. Regions in the United Kingdom or in France have very limited powers and financial resources at their disposal, and the Dutch provinces are simply administrative units with some planning powers within the multilevel governance system. As a result, the playing field for regional self-government differs very much throughout CoE member states.

The second element is linked with the accession of the eastern European countries to the Council of Europe from 1991 onwards, starting with Czechoslovakia and Poland. The organization of their territorial administration was characterized by a long socialist tradition with practically no experience in self-governance, neither at the local nor at the regional level. Nevertheless, these countries strongly supported the draft of a legal regional instrument of self-government, since they regarded it as a helpful tool for giving a clear structure to their territorial administration with different levels of responsibilities and for complying with European standards (although these standards were far from unanimously accepted). However, opponents of a legally binding mechanism – typically the larger western European states – referred to their internal constitutional provisions of national unity and clearly shared the conviction that such an instrument guaranteeing core elements of regional autonomy to their regions could be – in the long run – harmful to national cohesion. The federal government of Germany argued that the German *Länder*, given their strong internal constitutional position, did not need a European instrument which would necessarily concentrate only on the lowest common denominator.

The political climate of that time was not favorable for the implementation of such a regional charter, either. Strengthening regional self-government was not a core priority on the political

agenda in some member states, particularly in the United Kingdom and in France, which are characterized by a strong commitment to safeguard national unity. From their perspective, all legal instruments which could help regional self-government entities to gain stronger autonomy in key areas of national policy could potentially endanger the cohesion of the nation state and undermine the leadership of the central government. Another important aspect is linked with the developments on the level of the European Union, starting with the introduction of the Euro as a common currency in 1999. In the first decade of the 21st century, the European Union started a vast project with the aim of improving the institutional and organizational framework of the Union. The process ended in 2009 with the adoption of the Treaty of Lisbon, which, for the first time in the history of the EU, made a reference to local and regional self-government in Art. 4 para. 2 of the TEU.

In spite of the signals from member states that a European charter setting up rules of regional self-government would not automatically get the consent of the Committee of Ministers, the Congress succeeded in adopting the Draft European Charter of Regional Self-Government in 1997 with the full support of the Parliamentary Assembly. The progress of this document can be followed in detail in Recommendation No. 34 of the Congress and the respective explanatory memorandum (cf. CLRAE, "Explanatory Report"), presented by its rapporteur, Peter Rabe, in the 4th Plenary Session of the Congress (Strasbourg, 3-5 June 1997), as well as in the Parliamentary Recommendation No. 1349 on the Draft Regional Charter of 1997.

It is important to emphasize once again that in order to take political or legal effect which is valid for the entire Council of Europe, recommendations of the Congress need the consent of the Committee of Ministers. However, years of negotiations between the sub-organs of the Council of Europe made it clear that member states did not comply with the initiative to adopt a binding legal instrument concerning regional self-government. Instead, they decided to prepare guidelines on core elements of regional self-government, modeled on the approved Draft Charter, but without legally binding effects on the member countries. The first step in this process was the adoption of the "Helsinki principles" on regional democracy by the ministers responsible for local and regional government in Helsinki in 2002 (cf. Conference of European Ministers, "Helsinki Declaration") – a collection of core elements to be respected if regional self-government were to be installed. In 2005 in Budapest, the ministers entrusted the Steering Committee of Local and Regional Affairs

(CDLR), an advisory body to the Committee of Ministers set up with officials from the correspondent ministries, with the production of a detailed report on developments, innovations, and relevant topics in the field of regional democracy (cf. Conference of European Ministers, "Budapest Declaration"). After deciding to keep the issue of regional self-government "under review" in Valencia in 2007 (cf. Conference of European Ministers, "The Valencia Declaration"), at the next session in Utrecht in 2009, the ministers reached a political agreement and adopted the Reference Framework for Regional Democracy (cf. Conference of European Ministers, "The Utrecht Declaration"). The last conference of ministers of Local and Regional Affairs up to date was held in Kiev in 2011, wherein the ministers committed themselves to "taking continued and new initiatives in the future" in their member states to "strengthen good governance, capacity building and citizens' democratic participation at local and regional level" (Conference of European Ministers, "Kyiv Declaration" 2). The Utrecht Declaration was the compromise that all national governments could politically support. As a result of this line-up of ministers' conferences, the regional self-government policy of the Congress today has one single reference document as a political basis: the Reference Framework for Regional Democracy.

III. The Utrecht Reference Framework for Regional Democracy

The final declaration adopted in Utrecht, including the Reference Framework for Regional Democracy, was the result of roughly 15 years of negotiations on developing a legal instrument of regional self-government and has become a non-binding document of the Council of Europe. The declaration mentions key challenges to be met with regard to regional democracy, in the common interest of the member countries. In this respect, the ministers agreed upon principal elements concerning the implementation of the Framework. Member states have identified 13 challenges of common interest in total:

1. *Managing the impact of the current financial/economic crisis*
2. *Addressing the low level of democratic participation in public life at local and regional level*
3. *Reducing the complexity and cost of the current system of local and regional government and enhancing its efficiency*
4. *Enhancing the capacity for and quality of governance in local and regional communities or authorities*
5. *Addressing the impact of demographic/migration trends*

6. *Improving access to public services delivered at local and regional level*
7. *Making it easier for local and regional authorities to co-operate across frontiers*
8. *Addressing territorial inequalities between and within local and regional authorities*
9. *Addressing the growing divide between rural and urban areas*
10. *Strengthening social cohesion and acting against the increase of political and religious radicalisation*
11. *Fighting corruption in local and regional authorities*
12. *Addressing the growing impact of the digital divide on citizen participation*
13. *Addressing the expansion of big conurbations at the expense of medium/small sized cities and villages. (Conference of European Ministers, "The Utrecht Declaration" 17)*

Most of the needs and expectations addressed in the Utrecht Declaration have certainly remained of special concern to this day. Therefore, the Reference Framework for Regional Democracy can still be regarded as a valuable basis for current discussions about regionalism in the context of the Council of Europe. However, it could be further developed with regard to two points. Firstly, the consequences of the financial and economic crisis could be foreseen in their full extent in 2009. In addition, their wider impacts on regional self-government were not entirely predictable. Secondly, the discussion process in important European regions concerning the topics of decentralization, autonomy, separatism, and independence has reached a new dimension after the Utrecht conference. Different developments in different regions of CoE member states show large-scale attempts to address new forms of devolution, autonomy, or secession. The Congress has as of the time of writing neither evaluated these tendencies nor found a common position to address the consequences of these political developments towards the policy of regional self-government, incorporated within the Framework of Regional Democracy.

There are nevertheless some elements of the Framework that are of special importance for the work of the Congress in the field of regionalism. The first main point of the document refers to the regional structure: "Regional authorities are territorial authorities between the central government and local authorities. This does not necessarily imply a hierarchical relationship between regional and local authorities. Where regional authorities exist, the principle of regional self-government shall be recognised in domestic legislation

and/or by the constitution, as appropriate" (Conference of European Ministers, "Reference Framework" 17).¹ The second sentence reflects the reality in many member states of the Council of Europe; regional entities do not always have a hierarchical relationship with bodies of local self-government, or as the Draft Regional Charter of 1997 formulates it in its Art. 4: "[The member states of the Council of Europe are] convinced that the principle of subsidiarity is a major contribution to the development of democracy in Europe on the basis of the equal legitimacy of the different levels of authority: local, regional, national, and European" (CLRAE, "Recommendation 34" 4).

For elected representatives coming from local self-government bodies, this "equal legitimacy" is of considerable importance and therefore needs the special attention of the Congress as a whole. Concerning the powers of regional authorities, the Framework contains the following definition: "Regional self-government denotes the legal competence and the ability of regional authorities, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own responsibility, in the interests of the regional population and in accordance with the principle of subsidiarity" (Conference of European Ministers, "Reference Framework" 5).² When we compare this wording with Art. 3 of the European Charter of Local Self-Government, some interesting differences can be noticed. First of all, the scope of regional action is restricted to "a share of public affairs," whereas the Local Charter has "a substantial share" in mind. In addition, the principle of subsidiarity is directly addressed in the Framework, in contrast to the Local Charter. In the understanding of the Framework, the principle

[...] is designed to make sure that decisions are taken as close as possible to citizens by ensuring that action to be taken at a higher level is justified in the light of the possibilities available at national, regional or local level. The principle was devised in order to bring the places where decisions are taken closer to citizens and prevent seats of power from being unduly remote. The principle of subsidiarity has no effect on the actual existence of powers, but makes it possible to determine whether or not an existing power may be exercised, and comes into play only where

1 See also Helsinki principles A1.1 and A1.3 (Conference of European Ministers, "Declaration of Helsinki" 6).

2 See also Helsinki principles A1.2, B1.1, B1.2, B1.3, B1.4 (Conference of European Ministers, "Declaration of Helsinki" 6).

there are rival powers. (Conference of European Ministers, "Reference Framework" 15)

It might be useful to compare these provisions of the Framework with Art. 5 of the "Treaty on European Union" (European Union, "Treaty on European Union" [Consolidated Version 11] and Art. 1 of Protocol No. 2 on the application of the principle (European Union, "Treaty on European Union. Protocol [No. 2]" 206). The commitment that decisions shall be taken "as close as possible to citizens" is to be found both in the texts of the Council of Europe and in the first consideration of Protocol No. 2. This general comparison also highlights that the Framework's definition of powers and competencies of the regions is more detailed and concrete than that of the Local Charter, which may help its practical application.

The principle of social and territorial cohesion is one of the fundamental elements of the Framework, which states that "[s]ocial welfare and public health shall be among the areas of activity of regional authorities, which shall also be responsible for promoting social cohesion in the region. Balanced development of the territory shall constitute a major objective of any action by regional authorities affecting the territorial organisation of the region" (Conference of European Ministers, "Reference Framework" 18). The Utrecht Declaration defines this as the tally of the principle of equity among citizens, keeping in mind that the objective of territorial cohesion is to ensure citizens' equitable and optimal conditions in terms of access to public services, competitiveness, sustainable development, and the quality of life throughout the country (Conference of European Ministers, "Reference Framework" 16).

Concerning the topic of regional loyalty, the results of the Utrecht conference have made clear that "[t]he autonomy of the component entities is, however, liable to endanger the structure of the State. All the entities must therefore observe 'federal' loyalty and, when exercising their powers and responsibilities, refrain from taking steps that can jeopardize the overall structural balance and harm the interests of other component entities" (Conference of European Ministers, "Reference Framework" 16). In this context, the Framework contains quite a detailed argumentation on the relationship between the central and the regional level:

The relationship between regional authorities and central government shall be based on the principle of mutual loyalty and equal dignity and shall entail respect for the unity, sovereignty, and territorial integrity of the state. [...] Regional self-government

necessarily entails compliance with the rule of law and the respect of the territorial organisation of every state whether in relations between central government and regional authorities, relations between regional authorities and other territorial authorities or relations between regional authorities and citizens. [...] Regional authorities shall take all appropriate measures to ensure fulfilment of the obligations arising from the Constitution or the law. [...] The exercise of regional self-government shall contribute to the central government's economic and social cohesion objectives and to central government activities aimed at achieving comparable living conditions and balanced development throughout the national territory, in a spirit of solidarity between regional authorities. (CLRAE, "Recommendation 240" 3)

Obviously, this part of the Framework has been of great significance for member states and reflects the concerns mentioned before in the context of the Draft Regional Charter. Nevertheless, with regard to the intention of the member states to maintain "regional loyalty" and protect national integrity, it might have been reasonable to adopt a legal instrument for this in the form designed in the Draft Regional Charter of 1997, because the Congress members affirmed "[...] that recognition of regional self-government entails loyalty towards the State to which the regions belong, with due regard to its sovereignty and territorial integrity" (CLRAE, "Recommendation 34" 5). Member countries will, however, only be allowed to control the regions' compliance with this principle if the Council of Europe adopts a legally binding instrument on regional self-government. The use of this simple wording in the Framework is hardly a suitable tool to achieve this.

Of particular interest for the work of the Congress is provision no. 1.d of the Framework on links with central authorities, concerning regional involvement in international affairs: "In so far as the constitution and/or the law enable it, regional authorities and/or their representative bodies shall be represented or consulted, through appropriate bodies and/or procedures, with regard to international negotiations of the state and the implementation of treaties in which their competences or the scope of regional self-government are at stake" (CLRAE, "Reference Framework" 19).³ In this regard, the Framework goes far beyond the Local Charter and grants regions the right to

³ See also Helsinki principles B3.1 to B3.3 (Conference of European Ministers, "Helsinki Declaration" 7).

partake, through appropriate bodies or procedures, in European or international activities of the state, not only when regional powers are at stake, but also in all cases where the scope of regional self-government is involved. This provision may be of special use for those Council of Europe member states which are part of the European Union.

Concerning financial matters, the principles set in the Framework regarding resources, financial equalization, transfers, and borrowing are greatly inspired by similar provisions in the Local Charter from 1985. However, in some respects, the Framework goes even further. For instance, it stipulates that "any transfer of competence to regional authorities shall be accompanied by the transfer of corresponding financial resources" (CLRAE, "Recommendation 240" 4). This connectivity principle is particularly important when a state devolves power to regional entities, which infers the obligation of the state to transfer the necessary financial resources at the same time.

After this general description of its main elements, the question may arise: What is the practical importance of the Reference Framework for Regional Democracy? The answer can be found in the monitoring procedure of the Congress, which regularly covers both the local and the regional dimensions of democracy. The aim of the monitoring work is to verify if member states are complying with the principles of the Local Charter and the Reference Framework. Nevertheless, the difference between these two instruments in this context is remarkable. The Reference Framework is not a legally binding instrument; therefore, there exists no "legal scoreboard" within the monitoring work of the Congress concerning the functioning of regional democracy. The practical consequences become immediately obvious when we study the monitoring reports: The role of local democracy will always be more detailed, more representative, and thus politically more convincing. Regarding local democracy, the Congress is able to practice an article-by-article monitoring and provide a clear structure for the monitoring reports. All these positive effects are less visible in the regional democracy monitoring because of the lack of a clear legal instrument, and therefore, less input can be given on the concerns of the states with regard to the improvement of the protection and promotion of regional democracy in Congress recommendations.

IV. Other Instruments of the Congress with Relevance to Regional Self-Government

A) The European Charter of Local Self-Government

The Congress action in the field of regional democracy is not limited to the question of whether it would be possible to adopt – in the future – a new legally binding instrument on regional democracy. The lack of actually matching instruments also means that the Congress has to operate with the set of existing possibilities. An important tool in this respect is the European Charter of Local Self-Government from 1985. It applies to

[...] all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe. (CLRAE, "European Charter")

According to this, if national legislation defines different types of territorial entities as a "local category," the Charter will also apply to them. For instance, this is the case in Ukraine, where regions (*oblasts*) and districts (*rayons*) are defined by the Ukrainian Constitution as "local authorities." Insofar, the Local Charter is also applicable to these entities. Despite that, Ukrainian *oblasts* have huge territories and nearly two million inhabitants on average; therefore, it is quite obvious that the Local Charter is hardly an adequate instrument to treat regional self-government under these circumstances and can thus only serve as a crutch for guaranteeing democracy at the regional level.

B) Monitoring

An additional instrument of the Congress with relevance to regional democracy is the monitoring work. The Statutory Resolution CM/Res(2011)2, which defines the role, the function, the composition, and the tasks of the Congress, stipulates in Art. 2 para. 3: "The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states

and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented." On this basis, the Congress has considerably extended its monitoring work in the last three years. The idea is to monitor each member state every five years. One of the basic principles of the monitoring work is that all member states are subject to monitoring missions, not only countries with deficiencies in the functioning of local and regional democracy. Through frequent field missions, the Congress also ensures a high degree of topicality by concentrating on topics of current and special concern. Furthermore, the monitored member state is expected to closely cooperate with the Congress delegation, which underlines the political importance of the mission, as well as with associations of local and regional authorities in order to detect strengths and weaknesses in democracy at a sub-national level. Following the missions, a political discussion of the monitoring results takes place in the Congress Plenary, alongside with the adoption of recommendations to the Committee of Ministers. After the approval of the monitoring reports, a post-monitoring process is to be carried out. Finally, the implementation of the monitoring recommendations shall be followed up by the responsible national stakeholders and the Congress within the framework of the ongoing political dialogue which has been established with the authorities of the member state.

The effects of this procedure on the Congress policy in the field of localism and regionalism are considerable. The monitoring work provides a permanent overview of developments on the regional level in all member states. Congressional recommendations are not only helpful for one individual state. This method of monitoring allows for the detection of horizontal elements (e.g. powers, structures, finances, staff provisions), as well as for the identification of general problems, needs, and circumstances which characterize regional democracy in many member countries. In addition to this general approach, concrete examples from recent monitoring reports of the Congress highlight issues which seem to be of special concern for the functioning of regional democracy. For instance, in its monitoring reports of October 2013, the Congress recommended to Ukraine to "transfer the competences of the administrations in districts and regions to elected representatives in order to establish an administration under their responsibility" (CLRAE, "Recommendation 348"). It advised Albania to consolidate the institutions of the regional level and reform the system of regional finances (CLRAE, "Recommendation 349"), and recommended to Hungary to strengthen the position

of the counties (CLRAE, "Recommendation 341"). In the Congressional report of March 2013, Georgia was advised to continue regional development efforts, which would ensure a certain degree of continuity with regard to its existing strategy and policies, and Italy was advised to develop and implement equalization procedures in order to achieve a functional system of local and regional funding.

C) *Thematic Recommendations*

Monitoring reports are a treasure trove for detecting the strengths and weaknesses of the functioning of local and regional democracy in member states. They also serve as a fundament to develop thematic reports within sectors of special interest for the Congress. Some of these are the reports on "Regions and territories with special status in Europe" (October 2013), "The governance of macro-regions in Europe" (October 2012), and "The situation of Roma in Europe: a challenge for local and regional authorities" (October 2011). One of the most important and relevant reports is currently in preparation: a report on the trends of regionalization in Europe. The document will give a résumé of the crisis and will concentrate on identifying procedures and instruments to overcome its negative effects on local and regional democracy. Given the extraordinary diversity of regional self-government structures in the member states of the Council of Europe, there are always propositions for special thematic reports. The priorities of the Congress in this respect are set according to its core values: democracy, rule of law, and the protection of human rights at the local and the regional level.

D) *Networks and Cooperation*

Another important instrument of the Congress for advancing its regionalism policy is the network with regional stakeholders, for instance through institutionalized cooperation with the Committee of the Regions of the European Union and the CALRE Conference – a conference of the parliaments of regions with legislative powers. A cooperation agreement with the Assembly of the European Regions is in preparation; its official signing is scheduled for the 16th Session of the Congress (Strasbourg, 25-27 March 2014).⁴ The Congress also

⁴ See the results of the first meeting in the Abridged Report CDDG(2014) of 11 March 2014.

maintains close contacts to the RegLeg group – regions with legislative powers – as well as to other inter-regional European organizations.

E) The Work of the Parliamentary Assembly in the Field of Regionalism

This overview of instruments of the Congress with relevance to regional self-government is not complete without a note on the work of the Parliamentary Assembly of the Council of Europe (PACE). An important reference document is the 2007 report on “Regionalisation in Europe,” presented by Lluís Maria de Puig, which contains several findings that are of particular relevance to the regionalism policy of the Congress. This report points out that “[the Parliamentary Assembly] is aware of the problems that the process of establishing new states can involve, including conflicts of all kinds, division within societies, struggles between minorities and the majority, between different minorities, between neighbouring countries and the risk of profound destabilisation of the European project” (Parliamentary Assembly, “Regionalisation” A.16). According to the position of the Assembly, these situations must be resolved through democratic processes such as elections, referendums, or constitutional and institutional reforms within the framework of an institutionalized sub-state power – in application of the principles of subsidiarity, federalism, regionalism, and self-government – and with the participation and ultimate decision of the citizens (Parliamentary Assembly, “Regionalisation” A.17-18).

F) The Group of Independent Experts

Last but not least, the Group of Independent Experts on the European Charter of Local Self-Government makes a significant contribution to the work of the Congress by giving not only practical support to the monitoring process, but also thematic advice regarding core issues of the Charter. The experts of the Group, who specialize in local and regional democracy issues, aid the work of the statutory committees of the Congress, providing legal assistance in line with its political mission.

The coexistence of all these different instruments described in this paper puts the Congress in a convenient but nevertheless ambiguous position. On the one hand, the Council of Europe has 47 member countries with a broad range of internal local and regional government

structures. There are member states with a long tradition in local self-government, some of which, like the northern European countries, have a strong commitment to those values. On the other hand, several states have only taken the path of local and regional self-government during the last twenty years. From this follows that some countries have settled legislation in the field of local and regional democracy and are committed to improve their systems step by step. Others had to install a completely new set of legislation in these sectors within a few years – and they often had to partially roll back reforms because the results did not fit together. In addition, the international financial and economic crisis of 2008 has seriously altered the economic and social frame of local and regional actions. It is conceivable that elementary values of the Council of Europe have been damaged by the effects of the crisis and need to be carefully restored. Taking all of these considerations into account, it can be concluded that today there exists no single model of regionalism of the Congress. However, the benchmark text on local self-government provides helpful orientation: Although the Council of Europe has not adopted any legally binding instrument concerning regional democracy until now, the Local Charter is a useful legal element for improving democracy at the regional level. In addition, particular emphasis has been put on the monitoring process and the instruments which were developed out of the monitoring procedures. The regionalism policy of the Congress relies on the Reference Framework for Regional Democracy from 2009. This document is close enough to the Local Charter to be appropriate for a coherent approach of the Congress both to local and regional democracy. The text also gives leeway to take into account the specific interests of regions, particularly those with legislative powers. For these reasons, at the moment, there are no general drafts of instruments planned to be prepared and presented by the Congress in order to improve regional democracy within member states. The monitoring activities of the Congress will continue and will thus serve as a permanent basis for the development of specific thematic instruments. After the presentation of the guideline report on trends of regionalization in 2014, it is likely that an inventory of the state of regionalism within Council of Europe member countries will be drawn up, in light of the recent developments on the regional level, which will require special attention from the Congress, including all topics linked with decentralization, secession, and independence. In this respect, the Congress will not hesitate to take action, corresponding to the Kiev commitments of the Conference of Ministers of Local and Regional Affairs from 2011, which call for new initiatives to boost and develop regional democracy.

V. Transfrontier Cooperation

Concerning the existing legal instruments of the Council of Europe on transfrontier cooperation, the situation seems to be much easier than in the field of regional democracy. The main legal component in this regard is the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, signed in Madrid in 1980, and the additional protocols to the agreement from 1993, 1998, and 2009. The Reference Framework for Regional Democracy counts as a relevant document in this context as well, particularly its chapter on “national and international relations,” which states that “[...] regional authorities shall be entitled to form associations and to undertake activities of interregional cooperation in matters within their competences and within the framework of the law. Regional authorities may also be members of international organisations of regional authorities” (Conference of European Ministers, “Reference Framework” 26).⁵ Furthermore, the national legislation and the activities of local and regional entities concerning transfrontier cooperation are ideally analyzed in the monitoring report of the member state, or at least in the explanatory memorandum of the report.

The international conferences in macro-regions also play an important role in developing and maintaining effective cross-border cooperation. Members of the Bureau of the Congress regularly participate in these conferences. The 4th Black Sea Summit of the Assembly of European Regions (Rize, 4 October 2013) and the conference on “Cross-Border Urban and Rural Integrated Areas – Challenges and Chances” (Liège and Maastricht, 7-9 November 2013), organized by the Euroregion of Maas-Rhine, were held in 2013 – just to mention some examples. In addition, several thematic reports of the Congress tackled the issue of transfrontier cooperation. Apart from the report on “The Governance of Macro-regions in Europe” (October 2012), already mentioned above, another important reference document is the recommendation on “Transfrontier Co-operation in Europe” (CLRAE, “Recommendation 270”), which summarizes the political claims of the Congress with respect to cross-border cooperation. It addresses a set of propositions to the Committee of Ministers, in order to support and facilitate transfrontier cooperation

⁵ See also Helsinki principles B.6, B7.1, B7.2, 17 (Conference of European Ministers, “Declaration of Helsinki” 8).

through the conclusion of inter-state agreements, and by setting up the necessary legal and administrative frames.

Cross-border cooperation is a good example of the complementarity of actions between the Council of Europe and the European Union. The legal texts developed by the Council of Europe gave the impetus to adopt the Regulation (EC) No. 1082/2006 on a European grouping of territorial cooperation on the level of the European Union. This document provided the legal framework for creating the "Macroregional Strategy for the Alpine Region," including the area of Innsbruck, as well as the frames for many other European regions. The Congress shares the view that it is necessary to enlarge the scope of cooperation between regions within and outside the Union, in order to guarantee the wider effects of the EU transfrontier cooperation policy (cf. EU, "Executive Summary"). In this respect it supports the facilities of cross-border cooperation in the framework of the European Neighbourhood and Partnership Instrument.

The most recent activity of the Congress in this field was the report on "Prospects for Effective Transfrontier Co-operation in Europe," presented by Breda Pecan at the 25th Congress Session (Strasbourg, 29-31 October 2013). In Resolution No. 363 (2013), adopted as part of the report, it was decided to organize a conference in 2014, involving the main European actors working on transfrontier cooperation issues. The aim of the conference would be the adoption of an action plan to establish a pool of expertise, coordinate research in this area, and develop capacity building and training programs – with the review of the practical implementation in 2017. The Governance Committee of the Congress was entrusted with appointing a thematic spokesperson to follow this issue, coordinating the work with national associations of local and regional authorities and the national delegations on this issue, as well as to follow and contribute to the work of the intergovernmental sector on facilitating cross-border cooperation (cf. CLRAE, "Resolution 363"). These goals set in the Resolution oblige Congress members to work continuously in the field of cross-border cooperation in the next years. The Conference on Transfrontier Cooperation, to be organized in Strasbourg on 16-17 September 2014, will certainly be a decisive tool to make progress in the practical improvement of the transfrontier cooperation policy of the Congress.

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EGTC “European Region Tyrol – South Tyrol – Trentino” as the Legal Basis and Driving Force of Territorial Cooperation

Abstract: The Statute of the European Grouping of Territorial Cooperation (EGTC) “European Region Tyrol – South Tyrol – Trentino” obtained legal character as per Art. 5(1) of the EGTC regulation after its inscription in the register of the Presidency of the Italian Council of Ministers on 13 September 2011. At the time of its creation, the common EGTC of these three regions was the 21st such grouping in Europe, the second in Italy, and the first in Austria. After roughly 20 years, the political project “European Region Tyrol – South Tyrol – Trentino” obtained the necessary legal basis with the help of this new European legal instrument.² The EGTC takes the practical cooperation regarding its scope of action to a new level. The three *Länder* of the European Region want to seize this opportunity to develop their cross-border projects qualitatively and quantitatively. Additional tasks concerning the implementation and coordination of common

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- 1 The author is a collaborator of the *Land Tyrol* in the Secretariat-General of the “European Region Tyrol – South Tyrol – Trentino” in Bolzano. This article reflects the personal views of the author and in no way represents or implicates the view of the *Land Tyrol*, of the EGTC “European Region Tyrol – South Tyrol – Trentino,” or of the autonomous provinces of Bolzano – South Tyrol and Trento. This article was published in print as Matthias Fink, “Functional and More? New Potential for the European Grouping of Territorial Cooperation – EGTC,” *EURAC Arbeitsheft*, trans. Dhana Irsara and Helen Ampt, ed. Alice Engl and Carolin Zwilling (Bolzano/Bozen: EURAC, 2014), and is reprinted here, in a slightly modified version, by the permission of Matthias Fink.
 - 2 The relevant legal bases for the creation and operation of the EGTC “European Region Tyrol – South Tyrol – Trentino” are: Regulation (EC) No. 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC), Official Journal L 210, 31 July 2006; Italian National Law No. 88 dated 7 July 2009 (Community Law 2008), *Gazzetta Ufficiale* 161/2009; Law No. 6 of the Autonomous Province of Bolzano – South Tyrol dated 19 July 2011, *Bollettino Ufficiale-Amtsblatt* 30/I-II; Law No. 10 of the Autonomous Province of Trento dated 19 July 2011, *Bollettino Ufficiale-Amtsblatt* 30/I-II; the Tyrolean EGTC Law, *Landesgesetzblatt* 55/2010, the document of inception of the EGTC “European Region Tyrol – South Tyrol – Trentino” (agreement and association articles dated 14 June 2011, rules of order dated 13 October 2011, accounting order dated 13 October 2011), the announcement of inception in the Official Journal of the European Union dated 4 October 2011 (Official Journal S 190), and the announcement of the publication of agreement and association articles in the Official Journal of the Italian Republic, *Gazzetta Ufficiale* 271/2011.

initiatives are assigned to the joint office of the European Region in Bolzano, which serves as the Secretariat-General of the EGTC.

I. "European Region Tyrol – South Tyrol – Trentino": The Long Road from Informal Exchanges to the EGTC

The EGTC "European Region Tyrol – South Tyrol – Trentino" is a highlight of the collaboration between the three regions, which are home to 1.7 million people and three distinct languages (German, Italian, and Ladin).³ The historical union of Tyrol, South Tyrol, and Trentino in the County of Tyrol up until the First World War, as well as the many common interests and challenges that exist due to similar biogeographic and economic conditions, have created strong cultural, economic, and social ties between the three regions. The distinctive ambition of the regions to collaborate on a transnational level led to different interregional collaboration efforts, which include cooperation under the Association of the Alpine States (ARGE Alp), the biennial *Dreier-Landtag* (joint sessions of the three regional parliaments), common sessions of the three regional governments, and meetings between the three regional presidents (*Landeshauptleute*).

The idea of a European Region emerged at the beginning of the 1990s in an atmosphere of global political change, which saw the collapse of Communism, the reunification of Germany, and the development of the European Economic Community into the European Union (EU). With the dispute settlement declaration of the South Tyrolean question (*Südtirolfrage*) at the UN in 1992 and the admission of Austria into the EU in 1995, a new chapter in the relations between Austria and Italy began. The three parts of the historical Tyrol were now united in the European common market. The removal of border controls in 1998 and the introduction of a common currency, the Euro, in 2002 further simplified the exchange between Tyrol, South

3 The population with migration background is not considered here because the central element of the European Region is the bridge function of territory between the Italian and the German language areas. The Federal *Land* of Tyrol has a population of 722,038 inhabitants (census 2013) that is exclusively German-speaking ("Bevölkerung in Tirol"). South Tyrol has a population of 505,067 (census 2011) with 62.3 percent belonging to the German-speaking group, 23.4 percent to the Italian-speaking group, and 4.1 percent to the Ladin-speaking group according to the language group census (Autonome Provinz, "Demografisches Handbuch" 118). Trentino has a population of 524,826 Italian speakers and about 8,500 Ladin speakers ("Trentino-Alto Adige").

Tyrol, and Trentino, which allowed the three regions to grow even closer.

Politically, the idea of the European Region was officially approached in the first session of the *Dreier-Landtag* in 1991. In 1994, the first conferences of the three regional parliaments took place. The creation of a European Region started to take shape with the establishment of a joint EU representation in Brussels in 1995, a series of regional exhibitions, and, last but not least, the presence of the "European Region Tyrol – South Tyrol – Trentino" at the Expo 2000 in Hannover. When one compares the five European Regions – "Regio Bodensee," "Europaregion Tirol-Südtirol-Trentino," "Europaregion Salzburg," "CENTROPE," and "Zukunftsregion Südost" – in which Austria participated in 2005 (Bauer-Wolf, "Europaregionen" 2), the Austrian land use planning conference found that the "European Region Tyrol – South Tyrol – Trentino" possesses strong historical influences, that functional interconnections exist, and that a dominating common traffic problem is widely perceived. In other words, the Brenner connection united the three regions. Nevertheless, despite the high number of cooperation projects which were characterized by actual, experienced interconnection on cultural, political, and economic levels, the organizational structures of cooperation between the three regions were, comparatively, not particularly distinct.

From the beginning, the three regions have undertaken initiatives to establish steady structures by employing the concept of the European Region, and have worked towards juridification of their cooperation. Yet, despite clear statements of intent from all three parties, it had not been possible to institutionalize the cooperation between Tyrol, South Tyrol, and Trentino until the enactment of Regulation (EC) No. 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation (EGTC), since Italy has not yet ratified the additional protocols of the Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities of the Council of Europe. Furthermore, even if ratification were to occur, Italy would not be expected to implement Art. 5 of the additional protocol (Schroeder and Ehlötzky 73), on the basis of which it would be possible to create institutions of public law. The actions of such institutions of public law, within their legal order, have the same legal effects as intrastate measures of territorial communities. However, since Austria has also explicitly expressed reservations about the employment of Art. 5 of the additional protocol during the ratification process (Maier 461), rapid

implementation of cooperation under the Madrid framework convention seems unlikely. Due to the difficulties mentioned above, cross-border cooperation in the European Region began without an explicit basis of international law.⁴ The three regions Tyrol, South Tyrol, and Trentino met on an informal basis and agreed upon topics and projects according to the relative competences of each region, or by delegating them to private sector administration. This form of cooperation ultimately worked because it was politically endorsed.

With the EGTC regulation, which was completed during the Austrian Presidency of the Council of the European Union in 2006, the opportunity to institutionalize cross-border cooperation between territorial communities and authorities in the form of an EGTC was created. An EGTC can improve territorial cohesion: Obstacles to cooperation can be eliminated, the inefficiency of structures based on detours and loopholes can be overcome, and the judicial non-commitment or uncertainty of cooperation can be removed. The Lisbon Reform Treaty finally put territorial cohesion on the same level with economic and social cohesion, highlighting in particular the due consideration of rural and disadvantaged areas as well as mountain regions.

Herein, great potential for cooperation within the framework of the European Region was seen. On the occasion of the "Commemorative Year 2009,"⁵ under the motto "History Meets Future," the political decision to establish an EGTC and institutionalize cooperation between Tyrol, South Tyrol, and Trentino was made unanimously by the three regional governments on 15 October 2009, and by the *Dreier-Landtag* on 29 October 2009. The first step was to establish the Joint Office of the European Region in Bolzano, which was completed by

4 Before Austria became a member of the European Union, the so-called *accordino* (Italian for "small agreement") was of significance for economic cooperation in the region Tyrol – South Tyrol – Trentino. The *accordino* is a regional agreement from 1949 between Austria and Italy on the basis of the Gruber-De Gasperi or Paris Agreement to facilitate the exchange of goods between the Austrian *Länder* Tyrol and Vorarlberg on one side and the Italian region Trentino – South Tyrol on the other. It mitigated economic disadvantages stemming from the political separation in 1918, and traditional flows of trade were preserved. The agreement included unlimited export and import of agricultural products, and established that finished goods were exempt from duty.

5 The "Commemorative Year 2009" was the bicentenary of the famous Tyrolean uprising against the reign of Napoleon, led by Andreas Hofer. Between 20 February 2009 (the anniversary of Andreas Hofer's death) and 20 February 2010, more than one hundred cultural projects were realized on both sides of the Brenner Pass. The Commemorative Year was also supposed to find answers to the question of how South Tyrol, Trentino, and the *Land* Tyrol appear today, what we can learn from the heroes of the past, and which tasks need to be tackled ("Geschichte trifft Zukunft").

the end of 2009 and presented to the general public during the visit of Johannes Hahn, the European Commissioner for Regional Policy. As early as October 2010, the authorization application for the Bolzano-based EGTC "European Region Tyrol – South Tyrol – Trentino" could be signed and sent to Rome.

This initiated the complex Italian authorization process,⁶ which required the participation of a large number of public authorities who had to deliver "a statement of conformity." The public authorities included four ministries and two departments of the presidency of the Council of Ministers, as well as other authorities who "are eventually responsible for the areas the EGTC wants to be active in" (Greco and Marchesi 99).

The Italian government verified the request and demanded some amendments that concerned details and not, as assumed by the media, the fundamental question of the institutionalization of the European Region. Only the resistance of the central Italian government to the term "Euroregion" in the denomination of the EGTC proved to be a greater hurdle. These misgivings were eventually resolved with reference to the EGTC "Eurorégion Alpes Méditerranée – Euroregione Alpi Mediterraneo," previously endorsed by Rome (Greiter 85). In the meantime, the Tyrolean provincial government, the responsible authority according to the Austrian division of competences, authorized the participation of the *Land* Tyrol in the EGTC on the basis of a cooperative resolution from 29 March 2011, as per Art. 2 of the Tyrolean EGTC law. On 28 April 2011, the presidency of the Italian Council of Ministers authorized the participation of South Tyrol, and Trentino in the EGTC together with the *Land* Tyrol. Consequently, the three *Landeshauptleute* (governors) of Tyrol, South Tyrol and Trentino could sign the convention on the establishment and the statute of the EGTC at Castel Thun in the Province of Trento on 14 June 2011. After the passing of the necessary authorization laws by the *Landtage* (regional governments) of South Tyrol and Trentino on 19 July 2011, joining registration in the Italian EGTC was requested. With the registration on 13 September 2011, the EGTC obtained legal personality. Already one month later, on 13 October 2011, the constituent assemblies of the EGTC executive board and assembly took place at Castle Tyrol in South Tyrol.

⁶ A tabular overview of the complex authorization process in Italy with the stages: (1) preparation – layout and constituent act; (2) national authorization of EGTC-participation; (3) foundation of the EGTC; (4) acquisition of legal personality, can be found in Greco and Marchesi 113-116.

II. EGTC: Opportunities and Barriers for the European Region

The EGTC has legal personality (based on Union Law) and the most extensive legal and contractual capacity that can be conferred on legal persons according to the national law of the member states, as per Art. 1(4) of the EGTC regulation (Obwexer 52). The sphere of influence of the EGTC is, of course, limited by special EGTC norms on the one hand and by the division of competences in the national framework on the other. The EGTC regulation specifies in Art. 2 that the purpose of the EGTC is to further the economic and social cohesion of its members, while Art. 7(4) of the regulation further specifies and entirely excludes the transfer of sovereign tasks. Since the laws of the host country also apply to EGTCs, the Bolzano-based EGTC "European Region Tyrol – South Tyrol – Trentino" falls under the Italian "Community Law 2008," which mainly draws up the necessary regulations for the establishment and control of the EGTC. Art. 46 of the Italian Community Law 2008 states that the EGTC has legal personality in Italy according to Public Law, that it is not profit-oriented, and that the conferral of tasks to the EGTC must have the sole aim of economic and social cohesion, as already dictated by the EGTC regulation. However, the Italian Community Law also provides that, apart from administration and the participation in EU programs, the organization of other specific actions of territorial cohesion can be assigned to the EGTC, provided that such actions are in line with the aim of reinforcing economic and social cohesion, as well as with the international commitments of the nation (Greco and Marchesi 95). However, the opportunities for national limitations on the areas of responsibility of the EGTC are constrained by the EGTC regulation, which prescribes the content of Art. 6 of the EFRE regulation (EC) No. 1080/2006 as a minimum framework for the activities of the EGTC.⁷ This covers a vast sphere of activities, ranging from the support of entrepreneurial activities to regional development and the expansion of cooperation in areas such as health, tourism, and education (Obwexer 54).

The constitutional divisions of competences in Austria and Italy set a further fundamental limitation to the capacity of the EGTC to act. Its members, the *Land* Tyrol and the two autonomous provinces Bolzano-South Tyrol and Trento, can independently cooperate in the EGTC only in areas in which they have competence according to the national legal

⁷ Regulation (EC) No. 1080/2006 of the European Parliament and the Council dated 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No. 1783/1999, Official Journal 2006 L 201/1, as amended by Official Journal 2010 L 132/1.

order. Since the 2001 constitutional reform, the Italian constitution has provided an exhaustive list of national competences favoring the regions in Art. 117. The article also includes the possibility of competence delegation and is therefore a blanket clause similar to Art. 15 of the Austrian *Bundes-Verfassungsgesetz* (Constitutional Law) (Fink 64).

Two facts in particular are fundamental to cooperation in the European Region: the competences listed in the Statutes of Autonomy of South Tyrol and Trento and the corresponding implementing regulations, as well as the freedom of action, which was extended to the private-sector administration in the *Land* Tyrol. The right to be active as a private entity and use any opportunity or tool of Private Law to fulfill public tasks, sanctioned by Art. 17 of the *Bundes-Verfassungsgesetz* (Maier 461), is held by every local authority endowed with sovereign rights, and is widespread in Austria. This right is largely employed for cooperation across borders and separated from the project level. In practice, this allows a local energy generator from Tyrol to work with local energy generators from South Tyrol and Trentino within the framework of the European Region. Likewise, for many years, there has been an agreement between the hospital operators of the University Hospital of Innsbruck and the Province of South Tyrol regarding the treatment of South Tyrolean patients who need the services of an academic institution due to scientific-technological requirements and/or the complexity of their treatment.⁸

The intersection of different fields of activity that arises from the limitations of the EGTC regulation and the Italian Community law, as well as from the national division of competences, accounts for a considerable potential field of activity in the EGTC "European Region Tyrol – South Tyrol – Trentino." Furthermore, the collaboration in the European Region has traditionally been broadly envisioned in its joint declaration made in Innsbruck on 15 October 2009 during the session of the governments of all three members, which also affects the EGTC. The following vast aims of the EGTC "European Region Tyrol – South Tyrol – Trentino" are defined in Art. 5(2) of the agreement:

8 This is in line with Art. 7 of the decree of the Italian President of the Republic dated 26 January 1980, D.P.R. No. 197. Separate conventions with university hospitals and public or private hospitals in Austria can be made for medical services. On 31 December 1998, there were 16 agreements of this kind between South Tyrol and health centers in Austria (Autonome Provinz, "Landesgesundheitsplan" 69).

- a) *reinforcement of economic, social, and cultural relations between the populations of its members;*
- b) *support of the territorial development of its members in the areas of their respective competences, with particular emphasis on the following areas of cooperation:*
 - i) *education*
 - ii) *culture*
 - iii) *energy*
 - iv) *sustainable mobility*
 - v) *health*
 - vi) *research and innovation*
 - vii) *economy*
 - viii) *alpine farming and environment*
- c) *reinforcement of coordination with regard to the joint participation in programs of European Territorial Cooperation and other thematic programs of the EU;*
- d) *representation of the interests of the EGTC at joint and national institutions;*
- e) *attendance to further specific issues of territorial cooperation in the areas of collaboration, with or without financial aid from the EU. (EVTZ 8-9; trans. by Fink)*

The tasks for achieving the aims of the EGTC are defined in Art. 6 of the agreement and statute, and are equally broad. The vast catalogue of aims and tasks of the EGTC permits a continuous intensification of territorial cooperation without the need to amend the constituent treaties. Since a subsequent amendment of the agreement or statute would require the same complex Italian administrative procedure as the establishment of the EGTC did (Greco and Marchesi 100), the existing setup guarantees the required margin of growth of the EGTC.

III. EGTC: A Classic Structure with Innovative Elements

Like any legal entity, the EGTC "European Region Tyrol – South Tyrol – Trentino" acts through its institutions. In addition to the institutions already defined by the EGTC regulation, namely the assembly and the director (who is denominated "president" in the EGTC "European Region Tyrol – South Tyrol – Trentino"), Art. 15 of the EGTC statute also constitutes an executive board, a secretary-general, and a council of auditors. The assembly consists of twelve members. It determines the

budget on the basis of Art. 11(1) of the EGTC regulation, and the statute gives the assembly a guideline function. The operational decisions are made by an executive board consisting of the three regional presidents. The presidency is held in rotation for a period of 24 months by one of the three regional presidents, and the rotation sequence is determined by the three regions. The president represents the EGTC externally in line with the EGTC regulation. The founding president was the regional president of South Tyrol, Luis Durnwalder.⁹ The administrative office of the EGTC is the joint office of the European Region, which is directed by the secretary-general. The position of the secretary-general is also held in rotation and falls to the member who also holds the presidency. The first secretary-general was Birgit Oberkofler Berger. The council of auditors, that consists of one expert per member, was also appointed when the EGTC started its official activity.

Apart from the typical elements of intergovernmental cooperation, such as a rotating presidency, the *Länder* Tyrol, South Tyrol, and Trentino have embedded two fundamental innovative elements in the EGTC. These are the equal participation of the *Landtage* (regional governments) in the assembly and the use of a qualified majority for decisions made by the institutions. The assembly,¹⁰ which determines the budget and guidelines of the EGTC, consists of the regional presidents and another member of each regional government, as well as the president of the *Landtag* (regional parliament) and a member of the *Landtag*, in accordance with Art. 16(1). The three regional governments and *Landtage* are therefore represented by six members each. The three *Landeshauptleute* and the three presidents of the *Landtag* are represented by default, whereas the other six members are appointed by the regional presidents and the presidents of the *Landtag*. It is incumbent upon the three *Länder* to arrange the

⁹ Since 10 October 2013, Günther Platter, *Landeshauptmann* of Tyrol, has been president of the EGTC.

¹⁰ Due to the elections of the provincial assemblies in South Tyrol and Trentino on 26 October 2013, the new members of the assembly are in a state of nomination. Prior to the elections, the former members of the assembly were: for Tyrol, regional president Günther Platter (Austrian People's Party ÖVP), member of the provincial government Bernhard Tilg (ÖVP), president of the *Landtag* Herwig van Staa (ÖVP), and vice-president of the *Landtag* Gabi Schiessling (Social Democratic Party of Austria SPÖ); for South Tyrol, regional president Luis Durnwalder (South Tyrolean People's Party SVP), Ladin member of the provincial government Florian Mussner (SVP), president of the *Landtag* Mauro Minniti (Il Popolo della Libertà PdL), and vice-president of the *Landtag* Julia Unterberger (SVP); for Trentino, regional president Lorenzo Dellai (Union for Trentino UPT), member of the provincial government Franco Panizza (Trentino Tyrolean Autonomist Party PAT), president of the *Landtag* Bruno Dorigatti (Democratic Party PD), and the speaker of the Council of Minorities, Franca Penasa (Lega Nord).

nomination process. Tyrol and South Tyrol have nominated representatives of the majority party in the *Landtag* throughout, whereas in Trentino, the political majority and the council of the minority parties in the *Landtag* have agreed to grant the opposition the right of proposal for the nomination of the second representative of Trentino's *Landtag* in the assembly of the EGTC. After the constituent meeting of the EGTC assembly, the result was as follows: Six representatives came from a German-, two from an Italian-, and one from a Ladin-speaking background; three representatives were female and nine were male; ten representatives came from the ruling party and two from the opposition.¹¹ The assembly of the EGTC thus reflects the variety of language groups in the European Region. A literally supraregional element is the required two-thirds majority stipulated in Art. 17(4) and Art. 16(3) of the statute. Since unanimity is only required in a few areas in the agreement and statute of the EGTC,¹² the resolutions of the two major EGTC institutions only require a qualified majority to pass. Nevertheless, all decisions during the constituent assembly have thus far been made unanimously.

IV. EGTC: Launching Concrete Projects

The field of activity of the EGTC "European Region Tyrol – South Tyrol – Trentino" is extremely broad. During the joint assembly of the three regional governments at Thun Castle on 14 June 2011, energy, health, research, education, culture, economy, agriculture, the environment, and the "Green Brenner Corridor" were suggested as the focal points of the EGTC.

11 Apart from the representative of the Council of Minorities, Franca Penasa (Lega Nord), nominated by the Trentinian *Landtag*, the South Tyrolean president of the *Landtag* Mauro Minniti (Popolo della Libertà Pdl) was also a member of the opposition. According to Art. 48(3.1) of the special statute for the Autonomous Region of Trentino – South Tyrol, for the first thirty months of activity in the South Tyrolean *Landtag*, its president is chosen by the representatives of the German language group, for the following period, the president is chosen by the representatives of the Italian language group. Since both representatives of the Italian coalition partner Democratic Party (PD) are members of the provincial government, according to the system of proportional representation by language group, the member of the opposition Mauro Minniti was elected president of the *Landtag* on 18 May 2011.

12 Unanimity is required for new members of the assembly, the transfer of EGTC tasks to one or more members, amendments to the agreement and the statute (assembly), the determination of yearly membership fees (executive board), and the dissolution of the EGTC (assembly).

Before the constituent assemblies, the three *Länder* agreed to allocate € 100,000 each to the activities of the EGTC in 2012. More than two-thirds of the total of € 300,000 are used to finance projects. The working plan for 2012 included the first tangible projects. In the field of energy, the energy alliance between Tyrol, South Tyrol, and Trentino was discussed. Together with energy companies in Tyrol, South Tyrol, and Trentino, a common concept for the expansion of the autonomy of the European Region in the energy sector will be developed, with a quick fusion of the regions' power supply lines as the target goal. The consent of TERNA, the Italian national operating company for power lines, to the planned fusion of power lines at the Brenner Pass provides the necessary impetus for the energy alliance. Without more security in the regional power supply system, the expansion of renewable sources of energy is difficult.

Apart from the establishment of an online presence in the form of the *Europaregion* website, additional communication in the form of press releases is created regularly in cooperation with the press offices of the regions. A monthly information program is broadcast on several regional television channels and radio stations in cooperation with the Autonomous Region Trentino – South Tyrol. The EGTC also edited a first common book on the history of the three regions, as well as a film about safety on the ski slopes for beginners. In the year 2012, the EGTC organized several symposia to exchange knowledge in major areas and to highlight opportunities for further joint projects, among them the educational forum for teacher training in Bolzano and the stronger integration of the European Region into the European Forum Alpbach, an interdisciplinary platform and discussion forum with an international audience in the fields of science, politics, business, and culture.¹³ The traditional Tyrol Day at the beginning of the forum has developed into a common day of the European Region.

Another important function of the EGTC is the coordination of projects which are supported by the regional administrations and, in contrast to the EGTC's own projects, are financed independently by the three regional governments. The implementation of the resolutions made by the *Dreier-Landtag*, which last met on 20 March 2011 to celebrate its 20th anniversary, is also part of this function. The Tyrolean Museum Day, a yearly meeting of museum experts and

¹³ The European Forum Alpbach dates back to 1945 and takes place every August in the Tyrolean village of Alpbach. In 2014, roughly 4,000 visitors from 64 different countries participated in 60 podium discussions and 75 break-out sessions ("Getting New Projects Starting [sic]").

managers of Tyrol, South Tyrol, and Trentino,¹⁴ for example, is a project coordinated by the EGTC. The EGTC also supports existing projects such as the Euregio Environmental Award by promoting them on its website.

On a European level, the EGTC "European Region Tyrol – South Tyrol – Trentino" is included in the EGTC platform, which is managed by the Committee of Regions. The platform is a rallying point for political decision-makers and administration experts from all existing EGTCs, but also from those still in the process of development. Members of the EGTC expert group, associations, and other experts or stakeholders are also invited to participate (cf. "European Grouping of Territorial Cooperation"). The EGTC "European Region Tyrol – South Tyrol – Trentino" makes use of the platform to exchange experiences with other EGTCs, as well as to establish contact with the Committee of Regions. The visit by Mercedes Bresso, president of the Committee of Regions, to the general secretariat of the EGTC in Bolzano on 5 July 2012, as well as a meeting of experts in cooperation with the European Academy in Bolzano on 20 April 2012, especially aimed at EGTCs in areas populated by minorities, evolved from this. In the field of European programs, the EGTC gained its first concrete experiences through participation as project partner and as associated partner in the Interreg Programme Italy-Austria. The EGTC also works on calls for thematic programs of common interest in a joint participation with several partners (universities, enterprises, business clusters), for example with its participation in the Interreg project *Pro-Green* in the energy sector.

V. EGTC: Advantages are Expected – Efficiency is Demanded

For the first time in history, Tyrol, South Tyrol, and Trentino are in possession of a permanent instrument, the EGTC, for the establishment of cross-border projects. This institutionalized form of inter-regional cooperation offers numerous advantages, ranging from coordinated decision-making processes on the yearly budget for project implementation to operational incentives. The advantages of the EGTC as a new form of organization for the "European Region Tyrol – South Tyrol – Trentino" can be divided into three categories:

¹⁴ On 26 March 2010 the Tyrolean Museum Day was re-established as a forum for exchange for professionals working in the arts and culture sector by the regional ministers of Tyrol, South Tyrol, and Trentino ("Gesamttiroler Museumstag").

Political-Strategic Advantages:

- *progress of the European Region political project*
- *resistance of cooperation structure despite political changes*
- *raising the population's awareness of the European Region*
- *a meeting place for decision-makers in the European Region*
- *role model for public institutions in the European Region which want to employ the same legal form for common structures (e.g. research associations between universities, transnational retirement homes managed by several municipalities)*

Legal Advantages:

- *legal personality*
- *joint legal capacity*

Operational Advantages:

- *efficient supervision of programmes and projects, more programme and project support, more planning security for initiatives*
- *the EGTC's own transnational projects, e.g. energy and environment funding in the framework of Interreg research*
- *creation of knowledge about transnational initiatives and ideas, exchange of know-how*
- *creation of a structure for the qualitative expansion of activities towards sizeable projects. (Greiter 88; trans. by Fink)*

In any case, the efficiency of the EGTC extends beyond mere cooperation agreements between the *Länder* or regions because of its sustainability, which derives from the institutionalized forms of cooperation (Bauer-Wolf, "Regionale Kooperationsstrukturen" 12).

Disadvantages which result from the institutionalization of European Regions as EGTCs are difficult to conceive. However, already existing well-functioning bi- or multi-lateral initiatives should not be duplicated by newly established EGTCs, since this would result in parallel structures. In addition, a take-over of existing successful initiatives or projects by newly established EGTCs might be perceived as a threat by established institutions. When a project is selected, it is therefore important to pay due attention to whether the aim can be achieved better under the sponsorship of the EGTC. This imperative of

efficiency was expressly included in Art. 3(3) of the EGTC statute. Projects of the EGTC therefore have to fulfill the following criteria: a) uniform project management in cooperation with all members, b) increase in efficiency, c) potential savings through central handling, d) better visibility of cooperation, and e) possible access to funding.

With the EGTC, an instrument created by Community law, the three regions have seized the opportunity to put their long-standing cooperation on a uniform juridical level. In such a politically controversial European Region as the three parts of the historical Tyrol, the EGTC implies a necessary orientation towards Europe and the future. The EGTC offers a stable framework for intense cooperation in the European Region. Now the legal framework needs to be filled with real projects and measures and the EGTC has to be established, step by step, as a stimulator of territorial cooperation between the three regions and as a promoter of diversified scientific, economic, and social support for cross-border cooperation.

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Regionalism(s) in the Americas

The Regional Dimension: Theoretical Considerations and Practical Experience in Southern Brazil

Abstract: The first decade of this century was characterized by a significant progress in the discussion of territorial development processes. The local and regional dimensions received special attention in this debate since they adopt different meanings vis-à-vis the globalizing forces, which tend to homogenize production processes and territories at the same time. In contemporary South America, a strong movement towards "regional development" can be observed, a term which is understood as the social construction around common interests in a given territory. At the same time, hegemonic interests of large organizations, such as the Initiative for the Integration of Regional Infrastructure in South America (IIRSA), leave their marks on the territory. However, with the strengthening of the regions through their organizational structure, such as the Regional Development Councils and Inter municipal Consortia (COREDES) in southern Brazil, the regionalizing forces have increasingly been counterbalancing the global ones, which has resulted in a remarkable socio-territorial movement.

I. Introduction

The 1990s marked the reintroduction of an important geographical concept among geographers and researchers of related fields: the concept of territory. This happened in the context of important discussions related to regional development, particularly in Latin America.

Territory is more than simple physical space. It is also shaped by the work of generations of people, as well as by political, economic, and social struggles. Moreover, territory is related to the technological level reached by a society, and, above all, it is shaped by the type of social organization that has been created. The closer this social organization is to a 'territorial perspective' (to be elaborated later on), the better will be the relationship between society and nature, a

relationship characterized by the respect for and the integrity of all life forms, including humans.

This paper begins with a general discussion about the meaning of territory, followed by an examination of the significance of the local and regional dimensions in territorial development, and concludes with an analysis of the respective initiatives and practices in southern Brazil.

II. Territory

According to Milton Santos (1996), territorial arrangements cannot be understood only on the basis of the static and contiguous structures of a territory, which are referred to as the "horizontal dimension" in accordance with the traditional definition of a region. Apart from these structures, discontinuous but interlinked factors such as regulatory flows and other superior driving forces (global or national) also influence a territory. These factors make up the "vertical dimension," which affects the overall functioning of the society and the economy. A territory is composed of these two dimensions at the same time, which is why it is crucial to consider both of them when we define a framework for analyzing the concept of territory.

Santos (1996) adds that centripetal as well as centrifugal forces, which act at different levels, to different extents, and to different degrees of intensity, shape a territory, contrasting and converging at the same time. Centripetal forces result from economic processes as well as from social progress. In terms of territorial organization, they are factors of convergence acting in an aggregative way. They create a tendency towards homogenization and agglomeration, and are also relevant for urban-rural relations where they act in a cohesive way. Centrifugal forces, on the other hand, are considered to be factors of territorial disaggregation. Through the centrifugal forces regions become more and more subordinate to external control. These centrifugal forces may contribute to a dissolution of existing structures, as it happened in the past with traditional structures, but they can also cause a regional restructuring. Among these forces are factors such as international trade, industrial demand, the supply of international capital, public policies as defined in national or foreign metropolises, etc., which contribute to a rise in local tensions.

Centripetal forces are related to the horizontal dimension and centrifugal forces to the vertical dimension. However, centrifugal

forces always affect centripetal forces in a substantial way. These centrifugal forces occur on various scales, from the global to the local. In order to explain the local one, its interrelation with superior scales (regional, national, global) must be considered. Solidarity based practices at the local level, which are created by the centripetal forces, are constantly disturbed by centrifugal forces and therefore must be reaffirmed again and again.

Territory has to be seen as something that is in process, something between the past and the immediate future. It must be considered an arena where different forces are at work, a place of clashes between the vertical and the horizontal dimension, between the state and the market, between the economic and the social use of resources.

It is in this respect that Santos (1996) rates today's territories as 'nervous' and 'unstable.' He concludes that the current socio-economic and political crisis faced by Brazil as a nation results from this characteristic of territories as a product of socio-economic, political, and cultural processes. This crisis is partly due to the rapid changes of norms and the global competition for greater surplus value, which in fact increases the instability of a territory from the top to the bottom. For the economic sector this produces order, but for all other social agents who are unable to organize themselves, it produces disorder. As a consequence, territorial management, planning, and decision-making are less frequently the responsibility of the political sector, but are increasingly managed by the economic sector. Santos considers it alarming that the needs of transnational enterprises trump governments, be they at the national, the state, or the local level.

The goals of an important initiative, the Initiative for the Integration of Regional Infrastructure in South America (IIRSA), created during the First Meeting of South American Presidents in 2000, confirm the statements made by Santos. By serving only the interests of the economic sector to accelerate flows of commodities to the global consumption centers, this initiative aims to 'integrate' the continent through the establishment of 'integration hubs' as gateways to the global markets.

III. The Significance of the Local and Regional Dimensions

Today, several scholars understand the local and regional dimensions as synonymous. In our view, this has led to serious misinterpretations

of reality, since these terms refer to two different approaches, which must be properly explained.

According to Carlos Brandão et al. (2006), the territorial dimension of development regained relevance in the 1990s, while at the same time a certain trivialization occurred, in particular in regard to a clearer differentiation between the scales. Spurred by international literature and applied policies around the world, the question of how to reach sustainable development was moved to the local level. Although the potential of endogenic assets and the need for voluntarism was, and still is, at times exaggerated, a consensus has emerged that the local level is most suitable to structure and unleash the community's potentials to achieve a truly sustainable development.

This theoretical approach suggests that we have the possibility to consolidate a new pattern of development, built entirely at the local level, only dependent on the will of entrepreneurial agents who mobilize its endogenous potential. These conceptions claim that all intermediate scales between local and global will become senseless. (Brandão et al. 1996, trans. by Etges)

The authors reiterate that many important actions can be taken and promoted locally. But the local scale faces a number of limitations that must be taken into account in development policies. The reality around the world has shown that development policies with bigger and better results are precisely those that reflect the multi-scale nature of the problems to be faced rather than neglecting any scale per se. In the current phase of capitalism, the organization of the productive forces highlights an immanent tension between 'globalizing' and 'regionalizing' forces. Recent papers discuss the persistence of the region as a category of analysis. According to Ester Limonad (2004),

[w]e must remember that the region, despite all the adjectives that follow, before anything else is a social construction that serves political interests, even in the case of a functional or natural area. This is the case although there is no means to define a sharp dividing line that allows scientists to describe where a region A ends and a region B begins, because space is an expression of continuities and discontinuities of physical and social structures. Therefore, the question that has haunted social thinking for decades in geography, planning and land management must be raised again: How do we define a region, or, how do we regionalize? (Limonad 57; trans. by Etges)

According to Roberto Corrêa (1997), the differentiation between areas results from both natural and social processes, which provide the basis for the possibility to speak of regions:

In our view the differentiation between areas is not associated with the idea of singularity, which we understand as connected to the concept of place, but to the idea of particularity, understood as mediation between the universal (general processes arising from globalization) and the singular (the maximum specification of the universal). (Corrêa 191; trans. by Etges)

In this context, the region acquires a new meaning by territorializing the particularity of the general process of capitalist accumulation. Apart from a socio-economic formation, or "socio-spatiality" in the words of Milton Santos (1996), this particularity also expresses the movement against globalization. More than in any other period of history, a tension has risen to the forefront: the tension between the particular and the whole, between the regional and the global.

The process of globalization, which defines territories around the world, has at least two faces: the territorial interests of hegemonic actors on the one hand, and the provision of opportunities for regional actors on the other. For the latter, an opportunity is opened to acquire knowledge which enables them to react and overcome passivity. Thus, according to Santos (1996), the regional dimension opens up a possibility of resistance against the perverse process of globalization. Regional actors, understood as various forms of organization of civil society (municipalities, associations, small businesses, NGOs, etc.), are the horizontal dimension of the process, the dimension of territorial contiguity in a space he calls banal, the space of every-day life. But this is the potential context for the emergence of regions.

Santos (1996) adds that currently areas are integrated vertically, a process which is strongly promoted everywhere. International loans are made available to poorer countries in order to foster the establishment of modern networks in the service of capitalism. But areas can also join horizontally to rebuild the base of common life as well as to create local and regional standards, such as the Regional Councils for Development (COREDES) described in section 4.2, which can ultimately affect national and global standards. The region – regardless of its size – may be the place where resistance of civil society emerges spontaneously. This stresses the need for a systematic

knowledge of reality based on analytical tools to deal with territory, questioning its constitution in every specific historical moment.

From the discussion above, it becomes evident that the regional level is the most suitable to promote a development towards sustainability. The local scale (here understood as the municipality), however, is too weak to handle larger challenges, such as e.g. investments in health or transport infrastructure, or confrontations with powerful global forces. New territorial arrangements are aided by a new move towards regionalization, embodied in organizations like the Regional Councils for Development (COREDES) and the inter-municipal consortia in southern Brazil. At this point, it is necessary to ask again: What is a region? From a political and administrative point of view, it is no big problem to define and map regions. However, according to Boisier (1999), for a region to become real, it has to be socially constructed by its common bonds and its own cultural, economic, and political identity. Such a pattern would allow the community to deal with shared challenges. To construct a region with a social perspective means to empower it with the capability of self-organization (e.g. participation in decision-making and democratization), turning a segmented society which lacks territorial identity into an organized, cohesive, and identity-conscious society. It should be able to concentrate on shared political projects, in other words, it should be the agent of its own development. In this context, the state is needed – not in order to hand out centralizing decisions, but to facilitate debates and encourage the regions to organize themselves. In other words, the state should not present its territories as rare and valuable items on the global market, but must acknowledge its regions as full of potential, and promote them as the expression of the cultural and historical legacy of generations which has made them unique and valuable.

IV. Practical Experience in South America and Southern Brazil

A) *The IIRSA in South America*

The Initiative for the Integration of Regional Infrastructure in South America (IIRSA), which originated from ideas of the 1990s, resulted in a changing perception of Brazil's international identity. It was assumed that the initiative would reinforce a "South American" identity which would replace the concept of "Latin America," one that had steadily

lost its function in the post-Cold War period. In this vision of the formation of a South American bloc led by Brazil, the process of integrating space through infrastructural development is seen as an important step towards the realization of this ambitious goal (Couto 2006).

Figure 1: The Initiative for the Integration of Regional Infrastructure in South America (IIRSA)



Source: IIRSA, "Agenda de implementación consensuada 2005 – 2010," available at <iirsa.org>.

The IIRSA aims at the development of the basic infrastructure in the fields of transport, communication, and energy in South American regions within the next ten years. The general goal is to establish the foundation for a greater integration of the subcontinent in terms of global trade and social issues. South America has been subdivided into axes of integration and development, which are meant to serve as a

framework for the discussion and evaluation of projects of infrastructure and integration. With the creation of the IIRSA, Brazil proposed the expansion of its territorial planning methodology to the entirety of South America, a move which was, and still is, accompanied by a hierarchical set of infrastructure projects.

According to Leandro Couto (2006), the establishment of Mercosur was deliberately restricted to purely commercial issues. The physical integration of South America during the era of president Cardoso (1994-2003) allotted a reduced role to the government by delegating the initiation and execution of this process to the regional development agencies and the private sector. According to Couto, this has created several ambiguities: One of them relates to the delegation of executive functions to multilateral agencies, e.g. the Andean Development Corporation, the Inter-American Development Bank, and the Fund for the Development of the River Plate Basin (FONPLATA). At the same time, it draws attention to the absence of the Brazilian Development Bank (Banco Nacional de Desenvolvimento Economico e Social —BNDES), the second largest investment bank in the world and a key player in the promotion of Brazilian industry. Yet, it allows the presence of the Inter-American Development Bank, wherein the North American influence tends to be felt strongly.

Since 2004, beginning during the era of the Lula government, Brazilian diplomacy has become more active in its attempt to restructure the IIRSA as a tool for Brazil's South America strategy. Indeed, the purpose is to ensure that the projects do not merely become big export corridors, but that they generate regional development instead. Before the realization of possible oceanic connections between regions, the initiative started to focus on the development of the interior of the continent, emphasizing the importance of projects initiated to stimulate regional development. However, due to insufficient dissemination of information, the initiative is generally ignored in contemporary South American society.

In this context, it is necessary to point out another aspect that has recently emerged: the role of BNDES in financing the Program for Accelerated Growth (PAC), created during the Lula government in 2007. Aiming at an acceleration of Brazil's economic growth, the program, according to analysts, is meant to strengthen Brazil's position in South America, since most of the investments are directed toward transport infrastructure and power generation. However, social and environmental sustainability as well as the regional dimension have been neglected in this program.

B) The Regional Councils for Development (COREDES)

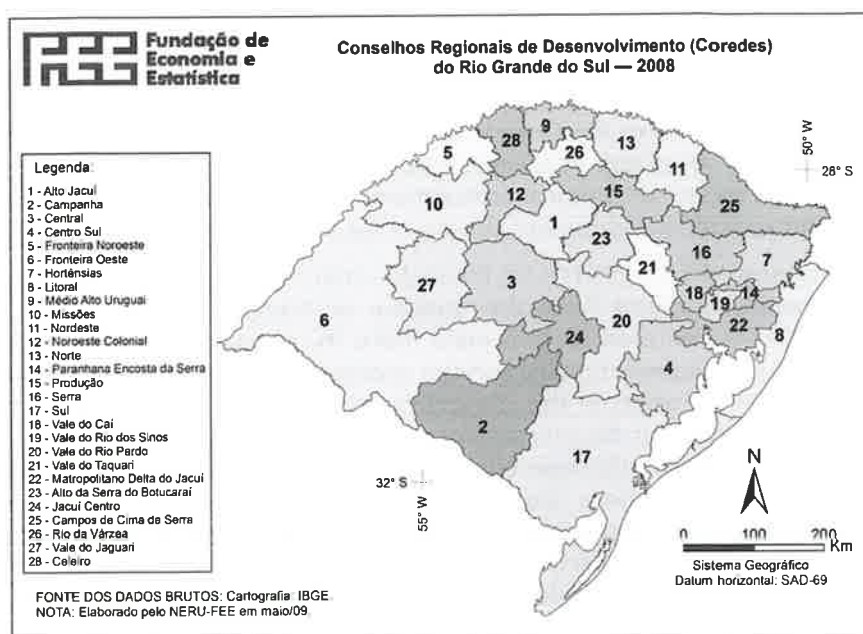
Created in 1991, the Regional Councils for Development (COREDES) were legally established by Law No. 10.283, of October 17, 1994, and regulated by Decree No. 35.764, of December 28, 1994, issued by the state government of Rio Grande do Sul. These councils were founded to promote social and economic partnerships by creating a pluralistic and open space for political articulation of local and sectoral interests around specific development strategies for the regions (COREDES).

Supported by ILPES/ECLAC through a training program and backed by financial support from the Ministry of Integration, the work of COREDES is centered on two main tasks: the preparation of strategic regional development plans, and the coordination of the annual public consultation process in the respective region, through which people define priorities for the investment of public resources. Participation is valued as crucial in this new conception of planning. For Markus Brose (2001), it is even more important than the result itself. Apart from offering political representation, participatory planning involves multi-sectoral and interdisciplinary interaction, thus facilitating the emergence of more creative and sustainable solutions adjusted to the respective social reality.

The councils are discussion forums with the intention to promote regional development through a number of tasks, such as the assessment of regional needs and potentials for the formulation and implementation of public policies, the development of strategic plans for regional development, the maintenance of a permanent space for democratic participation and citizenship, the regionalization of the state budget, the systematic monitoring of the actions of the state and federal governments in the region, and support of the actions of the state government with the aim of fostering greater participation in national decisions (COREDES).

The establishment of COREDES occurred in the context of various efforts to strengthen the democratization and decentralization process in the country and to encourage the role of civil society, as it is stated in the state constitution of Rio Grande do Sul of 1989. Currently, there are 28 COREDES in Rio Grande do Sul. Despite some difficulties, they have proved themselves to be authorities by involving various representatives of civil society, organizing the process of participatory planning, and promoting discussions on the development of regions.

Fig. 2.: The 28 COREDES and Their Distribution



Source: Fundação de Economia e Estatística (FEE), available at fee.tche.br/.

C) The Intermunicipal Consortia

Currently, Brazil is experiencing significant institutional innovations in municipal associations. Various arrangements, such as joint consortia of municipalities along river courses, trigger institutional learning. Intermunicipal consortia stress the importance of the law, which regulates the standardization of contracts for the institutionalization of public consortia and programs meant to encourage the joint management of public services.

Tasks, services, and activities of supralocal interest require joint actions of municipalities, involving political forces, financial resources, and management capacities, in order to seek solutions for 'interwoven' problems. Such joint actions that transcend boundaries, competences, and individual jurisdiction may be an approach that can enhance the dialogue between institutions and administrative levels (Brandão et al. 2006). Brandão et al. point out that new territorial categories reinforce

the emergence of local associative processes, such as municipal associations, facilitating various tasks and projects in different areas. For municipalities which do not have the size or population density for the provision of public services, the establishment of consortia allows the use of economies of scale, which present an alternative solution to many problems (e.g. waste disposal and water supply). Frequently, these forms of cooperative intermunicipal associations are born from the need to solve practical problems.

If we concentrate only on horizontal arrangements in Brazil, it can be observed that these gain even greater importance if we consider the recent changes, such as the strengthening of municipalities in the constitution of 1988. The following proliferation of the number of municipalities was accompanied by the recognition of various difficulties: Many municipalities showed great administrative weaknesses, insufficient and/or low-skilled technical staff, and a greatly weakened financial situation. In this context, the intermunicipal associations present themselves as an alternative means to overcome difficulties related to the provision of public goods and services. (Brandão et al. 148; trans. by Etges)

According to Maria Cruz (2006), the small municipalities do not have sufficient resources for the implementation of services of greater complexity or lack the financial means to support these initiatives. Likewise, many municipal tasks transcend municipal territory, which creates the necessity to discuss their potential synergies with neighboring municipalities. In this context, numerous municipalities have developed policy innovations by experimenting with new forms of service delivery and organization as well as joint activities. A broad discussion about the possibilities of partnerships between the municipalities has begun and problems and solutions are now discussed jointly. As highlighted by Maria Amorim (2006):

Public consortia partnerships are formed by two or more federal entities, to carry out objectives of common interest in any area. The members discuss ways to promote regional development, how to manage waste disposal, sanitation, health care, and food supply in the region as well as the realization of new urban development projects. Today hundreds of consortia already operate in Brazil. In regard to the health sector alone, 1,969 municipals participate as partners in various consortia. However, a clear legislation for the consortia is still absent, leaving the established ones without clear rules and legal certainty and

retarding the formation of new partnerships. (Amorim 2; trans. by Etges)

Amorim (2006) further states that there are ample possibilities for joint action of the consortia of municipalities, ranging from small specific actions to long-term programs with a strong influence on the fate of municipalities. Consortia vary widely in their projected structure in terms of duration, goals, and expected impact. From a legal and etymological point of view, a consortium is a union or association of two or more units of the same nature. It is not an end in itself; it is rather an instrument, a way to jointly solve problems or to achieve common goals. Due to the agreements between municipalities, mayors are no longer dependent only on the resources of their own municipality and are thus able to realize programs and adequately provide public services. The joint use of resources allows to accomplish desired results which are unachievable for a municipality acting alone.

The basis of a consortium is the equal relationship between the municipalities involved, an arrangement which preserves the autonomy of the local governments and does not permit a hierarchical subordination of one partner to another or the managing entity. Each consortium has its own characteristics, arising from the peculiarities of and problems in a particular region (Zanella Filho 2010). Consortia are predominantly created in the sectors of health, education, transport, environment, and agriculture, where the problems to be addressed involve more than one municipality. The individual municipal administration can use the consortium as a tool to reinforce its efforts and to avoid the inefficient distribution of financial, human, and material resources. Using this approach can maximize the efficiency of municipal resources.

In Rio Grande do Sul, 21 intermunicipal consortia have already been institutionalized, while a large number of initiatives are currently undergoing the process of institutionalization. Among them, several arise from the need to reorganize small municipalities in order to meet the demands of the current reality and to overcome the limits imposed by extreme fragmentation (territorial, social, economic, political).

The following discrepancy becomes evident: All the efforts to emancipate the municipalities, which is seen as the only way to enhance local development, are constrained by the process of fragmentation, which is happening not only in terms of territory but also in terms of social, economic, and political interests. This may jeopardize the promises that once guaranteed support for the creation

of new municipalities. The need to rethink the territorial base is particularly urgent in small municipalities which have only just begun the process of municipal creation. As they are trying to form new alliances in order to build a new territorial and political base, their new territorial base must be resilient enough to withstand external political pressures, particularly with regard to their planning of combined action in strategic areas such as infrastructure, health, and education. This drives small municipalities to rally around common goals and hopes, as well as to create regions in order to be able to deal with the growing number of challenges and demands which originate from the needs and aspirations of the population.

In summary, it can be said that the intermunicipal consortia arise from the need to form a new political and territorial base that is strong enough to weather any political confrontation. Through joint planning and activities, the municipalities are able to develop their respective regions more efficiently.

V. Concluding Remarks

Milton Santos (1996) argues that the global order imposes everywhere its one and only 'rationality' — in the sense of the hegemonic power of the vertical dimension. Every region responds to this according to its own rationality. However, for the promotion of regional development under the current circumstances, it is necessary to recognize the horizontal dimension of the process as crucial. We therefore need to conduct an in-depth analysis of the regions, identify their potential, and create instruments to reach social cohesion around common interests of the population involved. In addition, we need to develop ways of representing the wishes of the majority, derived from participatory processes, to allow a new form of territorial management. It is thereby essential to ensure that governments are committed to the horizontal, not to the vertical dimension. They must identify the real potential of territories and encourage their use in a way that makes them resilient against the forces of globalization. This is the path which society in southern Brazil has been following over the course of the last two decades. With the establishment of the Regional Councils for Development, the realization of participatory budgets and the help of intermunicipal consortia, the foundation has been laid for a real commitment of society as a whole, and the regions in particular, to make decisions in the territorial sense as described above.

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The U.S. South in National and Global Contexts

Abstract: Perhaps the most self-conscious of U.S. regions historically, the American South defies definition. Understanding the U.S. South involves discovering its relationship to the United States as a whole as well as to a changing global context. Issues related to the efforts of Euro-Americans to subordinate African Americans have powerfully shaped the South over the centuries. Today, even in an increasingly globalized South, the legacy of the Southern past remains central to the region.

I. Defining the American South

Scholars and laypeople alike have long sought to define the U.S. South, a somewhat mysterious stepchild of America. Relative to the rest of the nation, the South traditionally has been poorer, more rural, less industrial, more politically and religiously conservative, and more racially torn. For many non-southern Americans, the South exists as a convenient negative reference, "an object lesson, a morality tale, about what America was or was not, [...] or most certainly should not be" (Griffin 57). Southerners, on the other hand, often defend their region as slower-paced, more family-oriented, more hospitable, more faithful to the Bible and the U.S. Constitution than the rest of the United States. Clearly, observers disagree about the South, which can be expected when identity comes into play, and especially when individuals seek to explain a group to which they belong and which they value. Any effort to define the South or to list its supposed traits, positive or negative, necessarily involves generalizations that fail to capture nuances or internal conflicts and inconsistencies. Acknowledging that fact, this paper will consider a historically-based definition of the South and suggest how, despite changes over time and similarities to the rest of the United States, the South maintains a distinct regional identity.

Of the definitions offered for the South, some focus on cultural practices, such as what anthropologists call foodways, using cuisine to demarcate the region. The South, some would say, is where folks eat

grits (a corn-based hot cereal consumed for breakfast) or where one can obtain a meal of really good barbecue. Southerners themselves debate whether the barbecue should be pork or beef, in what kind of sauce it should be prepared, and even how the word should be spelled (Reed 138-146). One might suggest defining the South by the area that formed the Confederate States of America during the U.S. Civil War from 1861 to 1865. This better describes the South than grits or barbecue consumption, but it leaves out Delaware, Kentucky, Maryland, and Missouri, which were not part of the Confederacy, but whose residents have traditionally identified as Southern. A still better definition, then, includes those four states along with the former Confederate states (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia). What unites this region as the South, despite its internal differences, is its common history of slavery and a kind of racial domination more virulent and violent than the very real racial oppression practiced elsewhere in the United States. To define the South, then, we need to focus on that history of slavery and its aftermath – a history shaped by global as well as national forces.

II. Slavery and Cotton Shape the South

In the 16th and 17th centuries, international competition for colonies began the process that gave birth to the South. Various European powers – Spain, France, the Netherlands, Britain, even Sweden – vied for North American soil along the Atlantic coast between about 24 and 40 degrees latitude. The British eventually won most of that area by the early 17th century, and these colonies quickly came to serve the mercantilist agenda of the British Empire.

The development of Britain's southern North American colonies followed a very different path from those in New England or the Mid-Atlantic region. Staple-crop agriculture in southern colonies made the difference – tobacco near Chesapeake Bay; rice and indigo in both Carolinas and Georgia. Long before it became fashionable to talk about globalization, African slavery in the southern colonies of British North America – and indeed throughout the Caribbean and much of Latin America – existed to provide the raw materials for products demanded by emerging bourgeois consumer societies in Europe. Early modern capitalism – global in scale – nurtured and depended upon slavery (Oakes 40-79). Northern colonies had no such major cash crops. And although all the British North American colonies in the 17th

and 18th centuries – including the New England and Mid-Atlantic colonies – used unfree labor, only the southern colonies enslaved large numbers of Africans. From Maryland and Delaware southward, economic production depended almost entirely on the work of African slaves. The southern colonies became slave societies, defined as those in which slavery is the dominant labor system rather than just one form of labor among many.

If global forces created slavery, national considerations also contributed to the rise of a South distinct from a North. The southern colonies – officially known as states after they declared independence from Great Britain in 1776 – were slave societies while northern colonies and states were societies in which slavery was merely one form of labor – and a weak one at that – among others. That fact created the two regions, North and South. White societies in the two regions consequently differed from each other. In a 1785 letter to a French nobleman, the Virginian Thomas Jefferson contrasted stereotypes of Southern and Northern whites. Northerners, he asserted, were “cool,” “sober,” and “laborious.” He also stated that they were “jealous of their own liberties, and just to those of others.” Southerners, by contrast, were “fiery,” “voluptuary,” and “indolent.” Perhaps to atone for labeling his fellow southerners in rather negative terms, he observed that they were also “generous,” an early suggestion of Southern hospitality. Yet at the same time, Jefferson, the slaveholder who declared all men were created equal, said that Southerners were “zealous for their own liberties, but trampling on those of others” (Jefferson, “Letter to Chastellux” 387). Although Jefferson attributed these personality traits to climatic differences, the more direct influence was the presence or absence of the kind of personal domination represented by slavery.

At the U.S. Constitutional Convention of 1787, delegates recognized sectional differences based on slavery. While some Northern delegates balked at any special privileges for slaveholders, Southern delegates, particularly from South Carolina and Georgia, demanded – and ultimately received – various constitutional protections for slave property. These included provisions allowing for the return of runaway slaves from free states, permitting 60 percent of a state’s slave population to count in determining its representation in the U.S. House of Representatives, and continuing the importation of slaves into the United States until at least 1808. So different did the interests of Northerners and Southerners appear that a Pennsylvania delegate suggested that, “instead of attempting to blend incompatible things,” the North and South “take a friendly leave of each other” (Morris 216).

But delegates made compromises over slavery in the new Constitution, and the United States remained a nation that blended increasingly incompatible slave labor and free labor systems.

As the 19th century dawned, North-South distinctions sharpened. First, slavery declined in, and eventually disappeared from, the states north of Delaware. Inspired in part by the liberal ideals of the American Revolution, by 1804 every Northern state had either abolished slavery or enacted laws to end the institution gradually. Second, even as it faded in the North, slavery sank its roots deeper into Southern soil, thanks largely to the development of the cotton gin. Invented in 1793 by Eli Whitney, a Connecticut Yankee working as a teacher on a Georgia plantation, the gin (short for “engine”) was originally a simple machine that separated the cotton fibers from the sticky green seeds of the plant – a procedure necessary to prepare the cotton for the market. The gin performed this task fifty times more efficiently than could a typical person working simply with his or her hands. Because cotton could be processed more easily, more farmers and planters (a term applied to those owning twenty or more slaves) began growing the crop – especially because the burgeoning British textile industry demanded the fleecy white fiber. Cotton became the nation’s single largest export during the antebellum period, and the South became the world’s dominant cotton supplier by the mid-1820s (Kolchin 95; Wright 90-91). Again, as during the colonial period, global forces reinforced the distinction of the South as a slave society.

With the spread of the Cotton Kingdom, slavery expanded westward, aided by the U.S. government’s policy of removing American Indian nations from agriculturally desirable lands in the South, a policy instituted by President Andrew Jackson, himself a Southern slaveholder. Over time, the numbers of the enslaved dramatically increased from roughly 700,000 individuals in 1790 to 3.9 million in 1860, when slaves made up more than a third of the overall population in the South.

Slavery shaped the South in myriad ways beyond economics in the decades preceding the Civil War. For instance, although the series of religious revivals known collectively as the Second Great Awakening made evangelical Protestantism the dominant mode of religious understanding and expression throughout the nation by the 1830s, Southern and Northern forms of evangelicalism took on distinctive tones because of slavery. Whereas Northern evangelicals championed social reform movements, including abolitionism, Southern evangelicals mounted a strong Bible-based defense of slavery (Finkelman 31-

32). In the mid-1840s, slavery-based conflicts among evangelicals divided each of the two largest U.S. Protestant denominations, Methodist and Baptist, along North-South lines (Mathews 160-162). Even non-slaveholding whites, who outnumbered slaveholding whites by 3 to 1 in 1860, generally supported the institution of slavery, even if they sometimes resented planter power. Some non-slaveholders dreamed of owning slaves themselves one day, and all whites benefited from a system that created a social class lower than the poorest white (Watson 276).

By 1860, the political differences between North and South had reached a fever pitch. Back in 1820, angry congressional debates over how to deal with slavery in the vast Louisiana territory purchased from France ended with a congressional compromise. That compromise included a provision which established a line to divide the remaining territory into slave and free areas. Former president Thomas Jefferson, in retirement at Monticello, his beloved mountaintop estate in Virginia, found the debate alarming. "[L]ike a fire-bell in the night, [it] awakened and filled me with terror," he wrote. ~~The compromise would not be~~ the end of it. "A geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper," he confided to a Northern congressman (Jefferson, "Letter to John Holmes" 568). Jefferson was right. Questions about the status of slavery in federal territories – from Texas and Kansas all the way to California – dominated American politics from the late 1840s through the secession crisis of 1860-61, laying the foundation for the U.S. Civil War that followed.

In 1861, inspired by the fear that newly-elected president Abraham Lincoln and his Republican party might threaten the existence of slavery, most of what we call the South tried to form a new nation, the Confederate States of America. Significantly, four Southern slave states (Delaware, Kentucky, Maryland, and Missouri) did not join the Confederacy, and numerous white Southerners in Confederate states opposed the war against the Union. Pro-Union Virginians even created the state of West Virginia, which the Union admitted in 1863 (Tinkler 78-81). Typically, these Confederate dissidents were non-slaveholders who lived in non-plantation districts, but they were rarely overtly antislavery in sentiment. Rather, they did not consider the Lincoln administration a threat, or they simply did not consider this war to be their fight.

After four bloody years of struggle – and the loss of a total of at least 620,000 soldiers from both North and South – the Confederate national experiment ended. Many Southern whites sought to explain their defeat by emphasizing that they had fought for high constitutional principles and not for the preservation of slavery, an explanation that became known as the Lost Cause (cf. for instance Blight). The war also brought legal freedom and promised new rights and political opportunities to African Americans. During the postwar Reconstruction period, black men voted and nearly 1,500 of them held political office in the region. Southern states sent two African Americans to the U.S. Senate and fourteen to the U.S. House, the first blacks ever to serve in Congress (Hine, Hine, and Harrold 285).

Still, the next few decades witnessed struggles over African American citizenship rights, which included extralegal violence against blacks by white vigilante organizations such as the Ku Klux Klan as well as by lynch mobs. By the 1890s, white supremacists had the upper hand and Southern state laws defined blacks as legally inferior to whites. ~~African American men could not vote in any significant numbers (and~~ black women, when they received the vote along with all American women in 1920, also found Southern laws usually blocked them from the polls). Also, so-called Jim Crow laws separated whites from blacks in public spaces – including theaters, parks, schools, and railroad cars – and relegated African Americans to inferior places in each. Some Southern institutions, such as state-supported medical and law schools, excluded African American faculty and students altogether.

Economically, the post-Civil War South remained overwhelmingly dependent on cotton. Overproduction of the commodity lowered its price dramatically in the late 19th century, which led to the increased indebtedness of farmers, white and black, across the region. The level of rural poverty, already high because the vast majority of former slaves lacked land or capital, climbed. More and more Southern agricultural workers toiled as tenant farmers or sharecroppers for a smaller pool of landowners. During the 1880s, some rural Southerners found new opportunities when textile manufacturing took off in the South. Several factors attracted Southern entrepreneurs and Northern financiers to textiles in the region: the proximity to cotton crops, the availability of rivers for water power, and a large pool of potential labor in the form of rural whites willing to work for lower wages than Northerners. By the 1920s, the American textile industry, which had been pioneered in New England, was mainly located in the South (Hall et al. 3-43, 197).

III. The Impact of World War II on Southern and National Race Relations

World War II planted seeds that transformed racial relations in the South. The military service of African Americans – such as airmen who trained at Tuskegee Institute, a historically black college in Alabama – raised expectations that their social and political conditions would improve after the war. As a black newspaper put it, Americans needed a Double Victory during the war – over fascism abroad and over racism at home (Hine, Hine, and Harrold 473).

War veterans gave a boost to the civil rights movement that blossomed in the 1950s and 1960s. Nate Jones, a black Mississippian farmer whose wartime service in the U.S. navy gave him “a little taste of freedom” away from the Jim Crow South, risked violence from white supremacists when he returned home to push for voting rights as a member of a local chapter of the National Association for the Advancement of Colored People (NAACP) (Crosby 266-267). Leading Mississippi’s statewide NAACP from 1954 to 1963 was Medgar Evers, a black infantry veteran of the 1944 Normandy campaign. Inspired by his fight against Nazi oppression in Europe, Evers worked tirelessly against racial discrimination in voting and public accommodations in his home state before an assassin’s bullet took his life in June 1963 (Dittmer 1-2, 78-89).

The efforts of Jones and Evers – and of countless other individuals, women and men – helped bring real change to the South. Two other Southerners became most identified with codifying change for blacks in national law. The nonviolent demonstrations led by the Reverend Martin Luther King, Jr., an African American native of Georgia, and the political skills of President Lyndon B. Johnson, a white Texan, capped a long campaign to pass meaningful civil rights legislation. The Civil Rights Act of 1964 banned racial discrimination in employment and public accommodations, and the Voting Rights Act of 1965 cleared many obstacles from the paths of blacks seeking to vote. Voter registration among African Americans dramatically rose: The number of registered blacks in Mississippi, for instance, soared 695 percent between 1960 and 1966, one year after the law’s passage. African Americans began seeking office in larger numbers and emerged victorious in numerous local, state, and congressional contests. In 1970, Parren Mitchell, a Maryland Democrat, became the first black person elected to the U.S. House from a Southern state since the end of the 19th century; two years later, two African Americans from the

Deep South, Barbara Jordan of Texas and Andrew Young of Georgia, also won congressional seats, with many other Southern black elected officials joining them in subsequent years.

Even with enormous civil rights advances for African Americans by the mid-1960s, not everything for blacks changed for the better. Racial discrimination, even if not legal, persisted in the South, and attempts at racial integration often encountered resistance from whites who feared erosion of their long-held higher status. Whites left the city limits of Atlanta, for instance, in huge numbers in the decade after the passage of the Civil Rights Act, and its public schools lost most of their white students (Sokol 176-177). The dream of harmonious, racially-integrated life preached by Martin Luther King and others had not been fully fulfilled.

Many whites outside the South also resisted black social and political progress. By the 1960s, Northern and West Coast urban centers had experienced increased African American population growth, especially during and after both World Wars, as Southern blacks seeking job opportunities and improved lives moved to cities such as Chicago, Detroit, Los Angeles, and Oakland. Although legal segregation did not exist there, whites found ways to discriminate against African Americans. Unwritten rules about public spaces often governed blacks' ability to live freely in these urban areas. In 1919, a white mob stoned Eugene Williams, a young black man, as he accidentally emerged from Lake Michigan onto one of Chicago's informally whites-only beaches. He drowned as a result, and a four-day race riot followed (Hine, Hine, and Harrold 381). Still other forms of discrimination, nonviolent yet debilitating, emerged in the non-Southern states. For instance, while home ownership became increasingly common for white Americans during the mid-20th century, many banks refused mortgages to blacks or even for homes in neighborhoods with any black residents, a practice known as redlining. Also, housing deeds routinely included so-called restrictive covenants, which forbade the sale of dwellings to members of certain groups, usually blacks, a practice not outlawed nationwide until 1968 (Coates 58, 65). While white families throughout the United States could build up wealth in real estate over time thanks to the mortgage industry, African Americans clearly faced enormous barriers in doing the same thing. Some blacks did establish themselves in integrated neighborhoods or in enclaves of middle-class black homeowners, but African Americans more often lived in poorly-maintained public housing projects or rental properties they could never own.

Non-Southern whites sometimes expressed attitudes traditionally associated with Southern whites. When George Wallace, the strongly pro-segregation governor of Alabama, resisted a federal court order to allow black students to enroll in his state's flagship university in 1963, he received more than 50,000 congratulatory telegrams from outside the South. That led him to believe, according to one observer, that all Northern whites "hate black people, all of them...They're all Southern! The whole United States is Southern!" (Carter 6). The following year, Wallace demonstrated his popularity outside the South by winning significant numbers of votes in Democratic presidential primary races in Wisconsin (33.8 percent) and Indiana (29.8 percent) (Tarr 406-407).

The Southern "race problem" had arguably become a national one by the 1960s, if not well before, something many white Americans realized only when poor blacks rioted in the face of police brutality and poverty in non-Southern locations such as the Watts section of Los Angeles in 1965 (Schulman 118-121). So even as blacks achieved successes in the 1960s with the end of legal segregation and the achievement of voting rights in the South, they certainly did not enjoy opportunities truly equal to those of whites in the North and West. Forty years after the Watts riots, education writer Jonathan Kozol noted that "[t]he percentage of black children who now go to integrated public schools is at its lowest level since 1968. If you took a photograph of the classes I visit in New York, Chicago or St. Louis, it would look exactly like a class from Alabama in the 1940s" (Karnasiewicz). Events have demonstrated, in short, that the South is not an exception to a national norm of excellent race relations; the national norm itself has instead involved special privileges for whites and discrimination against African Americans.

IV. The South and the Post-World War II Global Economy

In addition to stimulating genuine, if incomplete, progress on African American civil rights in the South, the Second World War also wrought economic change in the region. In the early 1940s, the U.S. War Department located air, army, and naval bases in the South, where mild winters permitted the training of recruits year-round. War industries – shipbuilding and aircraft manufacturing, for example – expanded in the region as well. Urban populations swelled, too, as Southerners moved from farms and small towns to take up defense-related jobs in cities like Dallas, Mobile, and Atlanta. In the postwar period, Southern leaders built on wartime economic growth to

intensify industrialization and take the region further from its traditional reliance on agriculture. In 1959, the state of North Carolina pioneered high-tech economic development with the creation of a business and industrial hub known as Research Triangle Park, or RTP for short. Anchored by three major universities (Duke University, the University of North Carolina, and North Carolina State University), RTP attracted capital from parts of the United States outside the South, including major companies such as IBM. Throughout the South, postwar Southern businessmen and community boosters became adept at enticing Northern manufacturers to the region. They did so mainly by touting the traditionally low wages and hostility to labor unions in the South.

In addition to looking to the North, Southerners also solicited business from European and Asian companies. From the 1970s onward, the South lured foreign investment with the same promises of weak labor unions and low wages that had attracted Northern capital. Southern state and local governments also offered generous tax incentives to attract non-U.S. companies. Overall, foreign-owned companies employed one-eighth of Southerners working in the manufacturing sector in 2005 (Cobb 1). The impact of the global economy was not, however, uniformly positive for the South, with the textile industry in particular facing competitive pressure during the last quarter of the 20th century from lower-wage developing nations. For example, over 82,000 North Carolina textile workers, or 28 percent of the total, lost their jobs between 1973 and 1986. Another 100,000 textile jobs disappeared from the state between 1997 and 2002 (Glass and Kress). These developments intensified Southern desires for European and Asian firms to locate in the region.

South Carolinians succeeded early in bringing foreign investment to their state. A 1973 survey found fifty foreign-owned companies already operating in or building facilities there. By 1977, South Carolina boasted at least \$ 1.7 billion in non-U.S. investment, much of it around the city of Spartanburg, where foreign-owned companies employed 1,500 non-Americans and 4,500 Americans (Maunula 176-177). Michelin North America, today a \$ 7.25 billion division of the French tire company, began producing tires in the state in 1975 and has been headquartered in South Carolina since 1988. By 2013, it had five facilities in South Carolina. According to Michelin's website, the company also manufactures and carries out research in several other southern states, including Alabama, Georgia, Kentucky, and North Carolina ("Who We Are"). South Carolina also attracted a BMW plant, where automobiles first rolled off the line in 1994. Inspired by that

example, other Southern states also sought out non-U.S. auto companies. Now Mercedes, Honda, and Hyundai operate in Alabama, and Nissan is the second largest private employer in Mississippi (Cobb 2; Greenhouse). Another major European corporation to put down roots in the South is Airbus, which operates a flight simulator facility in Miami and an engineering research program in Mobile, Alabama. In early 2013, the company began construction on a final assembly plant for its A320 jetliner. This plant, also in Mobile, is located on the site of Brookley Field, which began as a supply and maintenance base for aircraft during World War II according to the official website, *Brookley Aeroplex* ("History"). In short, from World War II on, the South has become more industrial, more urban, and more linked into the global economy. In those respects, it has come to resemble other urban, industrial areas of the nation.

V. Differing Immigrant Experiences: South Asians and Latinos

Economic development has brought the South new immigrants, who face something of a challenge from those used to seeing the world in white and black. White western Europeans, not surprisingly, appear to have experienced few problems. The assimilation of German and French employees in South Carolina, for example, has been relatively easy. These immigrants have blended almost effortlessly into South Carolina's white world, where they are distinguished as "different" only when they honor some of their national traditions: The communities near BMW and Michelin are home to lively Oktoberfest and Bastille Day celebrations, and a Swiss-German delicatessen in Spartanburg reputedly serves the tastiest sausages and best beer in the South (Maunula 177). Two other immigrant groups, South Asians and Latinos, present more of a challenge to the white majority of the South. Their differing experiences speak to how white Southerners are – or are not – adjusting to new residents (and altering their own racial views) as labor forces flow across national borders.

South Asian Indians arrived in the South in significant numbers beginning in the 1960s, often as operators of small hotels and motels or as highly skilled engineers and scientists in high-tech industries. Where might they fit into a society where skin color affects social acceptance by the majority population of the region? A 1991 movie, *Mississippi Masala*, plays with racial boundaries in a romantic tale about an Indian immigrant woman and an African American man. Despite interracial stresses, love, of course, wins out in the film. In the

real world, moving to the South caused trepidation for some South Asians. Sita Sharma, who arrived in the Research Triangle Park area of North Carolina in the late 1960s, noted in an interview that "[t]he image of the South when I moved here wasn't good" (Subramanian 194). It was, after all, a time when images of often violent white resistance to civil rights supporters appeared in newspapers and on television screens around the world. But another South Asian who moved to North Carolina in 1986, a psychiatry professor at Duke University, reported positive experiences. He recalled that "[w]e moved into a predominantly white neighborhood but felt no racism at all. I thought the South would have been more hostile to foreigners but it was not so because the growth of the RTP has changed peoples' [sic] attitudes, made them more open" (Subramanian 194).

The rather cosmopolitan environment of the Research Triangle Park certainly accounts at least in part for the acceptance of South Asians by white Southerners, but not entirely. Even in distinctly non-cosmopolitan settings, such as the small city of Greenwood, South Carolina, whites have been friendly to South Asians. Public schools in Greenwood became racially integrated in 1970 (fifteen years after the *Brown v. Board of Education* implementation decision called for school desegregation), and the blending of students from the town's separate black and white high schools into a single school spawned a racially motivated riot. Afterwards, to reduce racial tension, the school's student government adopted a new policy concerning membership on the student council. For each grade level, there would be four elected representatives: a black female, a white female, a black male, and a white male. In the late 1970s, when a male student of South Asian background wished to run for the council, the question arose: Was he white or black? A school administrator decided to treat him as white. Outside of the cosmopolitan and tolerant RTP, why might that decision have been made? It reflects, one could argue, a tradition among many white Southerners to divide the world not so much between black and white but between black and non-black. That is, some groups of non-European origin can be "honorary" whites, especially if they are middle class and not present in numbers large enough to threaten native white power (Burton 48). South Asians appear to have achieved such status.

One measure of acceptance in the South is political success, and here there is more evidence for the honorary white status of South Asians. It is striking that the only two U.S. states that have ever elected governors of South Asian ethnicity are Southern ones. But it is also noteworthy that these politicians – Bobby Jindal of Louisiana (who

assumed office in 2008) and Nikki Haley of South Carolina (who assumed office in 2011) – are American-born children of Indian immigrants, converts to Christianity (Jindal's parents are Hindus, while Haley's are Sikhs), and conservative Republicans. In their life stories and politics, Governors Jindal and Haley have adapted themselves so as not to pose a threat to the Southern white cultural mainstream.

For Latino immigrants to the South, often very recent arrivals in the region, acceptance has not been as easy as for South Asians. Before the 1990s, most Latinos in the South lived in Texas (which has long had a large Mexican American community, stretching back to the 1830s when the state formed part of Mexico) and Florida (home to a thriving Cuban community since the Castro revolution in 1959 as well as to other Latin Americans who have arrived in recent decades). In 2000, 32 percent of Texans and 16.8 percent of Floridians were Latinos. While many families of Latin origin have lived in those two states for generations, the Latino population in the rest of the South generally consists of recent immigrants. Since 1990, the Latino population of the South has ~~grown from very few individuals to significant minorities~~, often fueled by immigration from Mexico as workers driven by economic crises at home sought employment in the booming economy of Bill Clinton's America. During the 1990s, the Latino population of North Carolina, for example, grew by 394 percent, the largest Latino increase recorded in any Southern state. At the city level, the decade saw even steeper climbs in Latinos' numbers. The Latino population of Charlotte, North Carolina, for example, increased 622 percent during that decade, and Fayetteville, Arkansas, saw the number of its Latino residents shoot up an astounding 1,630 percent. Still, the overall Latino population of most Southern states was relatively low by 2000. In Georgia, the Southern state with the third highest percentage of Latinos behind Texas and Florida, Latinos accounted for only 5.3 percent of the population. In North Carolina, despite the large Latino growth over the previous decade, persons of Latin American ethnicities made up just 4.7 percent of the state's population (*Arnold School of Public Health*).

Despite their relatively small numbers, to many native white Southerners Latinos represent multiple threats. The fact that some proportion of Latinos arrived in the United States as undocumented persons and had poor English skills, if any, seemed to portend the growth of a shadowy, alien, even criminal presence that could not be assimilated like the German workers in South Carolina or middle-class, English-speaking South Asians had been (Lacy). Initially, many Latino immigrants worked in the fields tending and harvesting crops, but they have also found employment in construction, manufacturing, and

various service sector jobs. As one example, Latinos make up 75 percent of the labor force in Arkansas' poultry processing plants (Striffler 153). Opponents of the immigrants frequently charge that they are taking jobs from American workers, yet many Latino immigrants often perform the lowest-paying jobs in the American economy, ones that employers had been unable to easily fill. Then, too, issues related to dark skin color complicate Latinos' reception by whites in the South.

Southern states – and, indeed, non-Southern states such as Kansas and Arizona – have adopted laws decidedly hostile to Latinos. Some limit undocumented immigrants' access to employment and various social services. A Georgia statute, enacted in 2011, allowed state law enforcement officials to check the immigration status of anyone who could not show identification and then turn over to federal authorities those who were allegedly in the country illegally (Bluestein). It also contained a provision making those transporting undocumented persons – including a U.S. citizen simply driving someone to the grocery store – guilty of a crime. Although a federal court later blocked the implementation of these aspects of the law, the constitutionality of such laws remains to be determined (Shahshahani). Meanwhile, the animus of many Southern legislators against Latinos, whether legally in the United States or not, seems clear.

VI. The South: Still Southern?

The South of the early 21st century is surely not the same as that of 200, 100, or even 50 years ago. Still, despite the concern of many native Southerners about the loss of the South they knew, one changed by industrialization, urban growth, immigration from abroad, and the arrival of Northerners heading for warmer climates, there are signs that an older South is still alive. The South, for instance, continues to be the least urbanized and the poorest U.S. region. A recent federal study shows that 84 percent of the nation's persistently poor counties (those with at least 20 percent of their populations living in poverty from 1980 to 2011) are Southern, clustered in Appalachia or in former high-slave Deep South areas ("Geography of Poverty").

Also, the essential composition of the Southern population has changed little during the last few decades. Most migration involving the South, it turns out, consists of individuals moving from one part of the South to another rather than newcomers arriving from other U.S.

regions or foreign countries. Southern-born persons remain in the majority throughout the region with few exceptions – even in large cities such as Atlanta, Charlotte, Houston, and Dallas (Burton 34-35). Immigration from Mexico has actually declined rather dramatically in the post-2000 period, but African Americans, who began leaving the South for the North and West Coast around World War I, are returning in larger numbers (Burton 36-39). All of this suggests that the South is still largely “Southern” in that its residents are mainly Southern-born whites and African Americans, even if it contains new minorities from other parts of the world, not only Europeans, Latin Americans, and South Asians, but also East Asians and Africans (for examples, cf. Guthrie-Shimizu; Olsson; Reimers).

A disturbing continuity in Southern life involves race: Slavery and Jim Crow still cast long shadows across the South. The South is not alone in having a record of anti-black discrimination, as examples of Northern redlining, restrictive covenants, and poorly integrated schools demonstrate. Yet the South’s legacy of forced bondage, extralegal violence, legal segregation, and abridged voting rights constitutes a significant difference of degree, if not of kind, compared to the racial heritage of the rest of the nation.

That legacy helps to explain the shift during the last 50 years of most white Southern voters from the Democratic party to the Republican party, while the vast majority of blacks moved from the Republican to the Democratic party. Many Southern whites abandoned, and Southern blacks embraced, the Democrats in presidential elections after Democratic president Lyndon Johnson signed the Civil Rights Act of 1964. Johnson’s signature on the Act marked the culmination of a series of cautious but more pro-civil rights decisions by Democratic presidents going back to Franklin Roosevelt in the 1930s. But, as a result, Johnson lost five Deep South states in the 1964 presidential election to conservative Republican Barry Goldwater, who opposed the Act. It was the first time a Democratic presidential candidate had lost any of those states since 1876. Since 1964, Republicans, once the party of civil rights, have increasingly dominated Southern politics as successors to the old Jim Crow Democrats (Burton 45-46; Goldinger 176-203). In that role, they have, for instance, championed various efforts that, critics charge, block access to the polls, such as requiring a potential voter to show photographic identification. Because poor people (including many blacks) often do not have driver’s licenses or passports, this provision makes casting a ballot difficult or inconvenient. Currently, six of the eight U.S. states with strict

photographic identification requirements for voters are Southern (Chokshi).

The South today, then, despite clear changes over time (e.g. greater industrialization and urbanization), retains some essential characteristics. Most notably, legacies of slavery and racial oppression persist and account for, it can be argued, pockets of high poverty, white acceptance of South Asians but disdain for Latinos, and the political affiliations of most Southerners, white and black. Of course, as noted at the outset, definitions of the South, including the one presented here, involve generalizations and smoothed-over differences. The South is, and has been, multiple and even conflicting things all at once: slave and free, pro-Confederate and anti-Confederate, urban and rural. The South has special meaning for those who value it, whether a black woman returning from California to her family's Mississippi home, a white man imagining his ancestor's Confederate glory, or a Bostonian claiming racism as a Southern phenomenon while living in a city with its own racial challenges. As we ponder the meaning of the South, perhaps it is worth returning to Thomas Jefferson's list of Southern attributes. Will Southerners exemplify the generosity that Jefferson identified as a defining Southern trait? Or will its majority zealously guard their own liberties while trampling on the rights of others? One hopes that as we move deeper into the 21st century, Southerners heed the lessons from the historical South and choose to embrace their better, more generous selves.

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The Curious Side-Effects of "Reform by Stealth": How Québécois Interculturalism Influences Canadian Multiculturalism

Abstract: This paper examines the relationship of Canada's two dominant nation-building projects over the past forty years. It also shows how Canadian regionalisms impact multiculturalism at the federal level. I first demonstrate Canadian multiculturalism's strong reliance on Québécois nationalism as a catalyst and contrast-conception until the early 2000s. I then argue that, in recent years, the Conservative federal government has been silently reducing the importance of Canadian multiculturalism in ways that resemble the agenda of its Western predecessor, the Reform Party. Surprisingly, multiculturalism under the Conservatives is characterized by features that are more and more akin to those of Québécois interculturalism.

I. Introduction¹

Acclaimed political scientist Yasmeen Abu-Laban has recently argued that the current Canadian government under Stephen Harper is implementing an agenda which she identifies as "reform by stealth." Specifically, she contends that "there is a reformulation of multiculturalism policy in ways that are sensitive to the platform once advanced by the Reform Party" (150). The Reform Party is the predecessor of Harper's Conservative Party of Canada. It was known for its vocal rejection of "lax" immigration control, multiculturalism, and "special treatment" for Quebec.

The Reform Party, which originated in 1987 as a Western Canada-based socially conservative protest party, expanded eastward during the 1990s. Its outspoken anti-immigration stance, which resonated with some sections of the electorate, was credited with seducing the federal Liberals into weakening their commitment to both multiculturalism and liberal immigration policies (Abu-Laban and Gabriel 69). The

¹ The author gladly acknowledges funding received for this research from the Social Sciences and Humanities Research Council of Canada.

party's platform in 1996-1997, for example, took a clear stance against multiculturalism: "The Reform Party of Canada stands for the acceptance and integration of immigrants to Canada into the mainstream of Canadian life. [...] It opposes the current concept of multiculturalism and hyphenated Canadianism pursued by the Government of Canada. We would end funding of the multiculturalism program and support the abolition of the Department of Multiculturalism" (Griffith 8). This agenda only changed after the Reform Party broadened its base first by becoming the Canadian Alliance in 2000, and then by merging, under the leadership of Stephen Harper, with the Progressive Conservative Party of Canada in 2003.

Abu-Laban concedes that the Harper Conservatives have so far "steered a distinctive course from the Reform Party insofar as they never [...] overtly attacked multiculturalism or sought its elimination as policy or discourse" (156). Nevertheless, by reconfiguring other policies associated with multiculturalism, such as immigration and citizenship, as well as redirecting certain priorities and funding with implications for multiculturalism, the current agenda "chips away at multicultural symbolism, and (re)entrenches social inequality" (Abu-Laban 151). In this sense, "reform by stealth" reduces the initial aim of multiculturalism, namely the equal participation of Canada's ethno-cultural minorities. The reform by stealth agenda only includes them "on the terms of those in power" (Abu-Laban 151).

Abu-Laban's evaluation of the current situation is supported by Andrew Griffith, who surprised Canadians by going public with his experience as former Director General of Citizenship and Immigration of Canada's Citizenship and Multiculturalism Branch. Although Griffith avoids taking a strong political stance, he predicts that the cumulative impact of internal administrative reforms over the past couple of years will change multiculturalism in a way that is "closer to the original Reform Party objective of 1996-97 [which aimed at] abolishing multiculturalism and strengthening a strong, common narrative of citizenship" (Griffith 100).

By examining the relationship of Canada's two dominant nation-building projects over the past forty years, in this paper, I will add an important nuance to Abu-Laban's and Griffith's interpretation of multiculturalism under the Conservatives, namely its resemblance to Québécois interculturalism. As such, my paper will also show how Canadian Western and Eastern regionalisms impact multiculturalism at the federal level. Specifically, I will emphasize the strong reliance of multiculturalism on Québécois regional nationalism as a catalyst and

contrast-conception until the early 2000s, as well as its recent metamorphosis into an ideology characterized by features that are more and more akin to those of Québécois interculturalism. This metamorphosis takes place under the leadership of a party whose predecessor, the Reform Party, was the product of a regional dissatisfaction with federal politics. Quebec's interculturalism, in turn, has also been impacted by federal multiculturalism, as well as by immigration within a context of minority nationhood. The theoretical perspective adopted here presumes that ethnic and national groups are the outcome of historical and ongoing processes of construction, and that these constructions, which are highly relational, also impact the groups' nation-building projects, including the preferred type(s) of diversity management (Winter, *Us, Them and Others* ch. 5).

Building on a series of empirical studies (cf. Winter, *Us, Them and Others*; Winter, "Becoming Canadian"; Winter, "Rethinking Multiculturalism"), this paper constructs a narrative of the semantic and political relations between multiculturalism and interculturalism within ~~nation-building projects in Canada and Quebec~~. A caveat: The concepts of multiculturalism and interculturalism are international and polyvalent (cf. Meer and Modood). Here, I will only treat them within the limits of the Canadian context.

The paper is divided into three parts. In the first section, I trace the impact of Québécois nationalism upon expressions of Canadian multiculturalism over the past forty years. I then show how interculturalism developed as an alternative sub-state model of pluralism and immigrant integration against the backdrop of multiculturalism at the federal level. In the third section, I examine the curious re-definition of Canadian multiculturalism under Stephen Harper's Conservative government since 2006.

II. Québécois Nationalism as a Catalyst for Canadian Multiculturalism

Even before its foundation as a country in 1867, Canada was populated by at least three collectivities: Aboriginal peoples, French settlers, and British colonizers. Large-scale immigration in the early 20th century reinforced another form of ethnic diversity arising from immigration. In the 1930s, with the proliferation of ethnic diversity becoming more and more noticeable, the metaphor of the Canadian mosaic emerged (Day 150). The social-normative context, however, remained racist and

exclusionary as Canada's self-understanding as a British society did not change until after the Second World War.

Canada's changing attitude towards ethnocultural diversity in the 1960s was prompted by two interrelated developments: The first was the rise of French Canadian, or more specifically Québécois regional nationalism in the 1960s, which asked for more political accommodation.² The emergence of a new collective identity in Quebec transformed the former dualism of linguistically defined French and English Canadians into a territorial opposition between Quebec and the rest of Canada (ROC). Within this context, Canada's so-called ethnic groups emerged, namely first and second generation immigrants of predominantly European origin. The second development that prompted the emergence of multiculturalism within the Canadian context was these groups' demands that their cultural rights were not to be forgotten in the social and political struggle among Canada's British and French "founding nations."³

In response to these groups' cultural and political claims, in 1971, Canadian Prime Minister Pierre Eliot Trudeau famously declared "multiculturalism within a bilingual framework" (House of Commons 8545) not only an official state policy but also the essence of Canadian identity. He thereby swiftly turned multiculturalism from a strategy of resistance into a state policy. While this policy certainly had empowering effects, it also tamed and circumscribed legitimate forms of minority claims-making. Over the years, a strong collaboration between ethnic associations and the government became one of the cornerstones of Canadian multiculturalism (McAndrew, Helly, and Tessier 50).

Both Francophones in Quebec and Aboriginal peoples opposed the policy, which they saw as a cooptation strategy undermining their own claims for rights and recognition. They also rejected multiculturalism as a political strategy aiming at the cooptation of immigrants into a white English-speaking majority. In fact, there was a widespread impression among French-speaking elites in Quebec that multi-

2 The term 'French Canadians' refers to Canadians who, regardless of their geographical location, trace their background to French settlers. In the 1960s, French Canadians, who still form the demographic majority in the province of Quebec, started developing a specifically Québécois "national" identity which excludes French Canadians outside of Quebec and, in principle, includes all residents of the province regardless of ethnic or linguistic background.

3 This perspective neglects the struggles of Canada's Aboriginal peoples: Inuit, Métis, and "Indians." After a successful fight against assimilation in 1969, the latter group emerged on the political stage as the Assembly of First Nations in 1982 (Dickason 310).

culturalism was a deliberate effort to thwart Quebec's thrust towards greater independence (cf. G. Rocher). Quebec subsequently developed its own policy of interculturalism, which will be discussed further below.

Over time, the legal arrangements accommodating Canada's minority nations – Aboriginal peoples and the Francophones of Quebec – as well as ethnic groups of immigrant origin became "three vertical silos," whose policies pertaining to these distinct groups were disconnected from each other normatively, legally, and administratively (Kymlicka, "Ethnocultural Diversity" 39).

In the decade after its announcement, multiculturalism focused on symbolic rather than on material matters: It provided Canadians of immigrant origin with a normative and institutional framework that allowed them to identify with the Canadian nation. Due to changes in immigration policy, Canada's demographic composition started to include more "visible minorities"⁴ from non-European countries of origin, and in the 1980s, multiculturalism shifted its focus from heritage issues to anti-discrimination and equity issues. In 1982, multiculturalism was enshrined in the Canadian Charter of Rights and Freedoms and, in 1988, made law through the Canadian Multiculturalism Act.

In the early 1990s, multiculturalism became increasingly associated with integration and citizenship (cf. Kymlicka and Norman). Reacting to a wave of criticism, in 1993, the incoming federal Liberals under Prime Minister Jean Chrétien placed the Multiculturalism Program within a newly-created department of Canadian Heritage (overseen by a Secretary of State, a junior minister not represented in the Cabinet), reduced multiculturalism funding from 27 million CAD in the early 1990s to 18.7 million CAD in 1996-1997 (Abu-Laban and Gabriel 15), and initiated a fundamental review of the program. When the new guidelines were finally announced in 1997-1998, they had abandoned the language of ethnocultural communities, subsumed the expression of ethnocultural diversity under the notion of shared Canadian identity (Canadian Heritage 2), and altered the funding scheme from funding for ethnic associations to project-based funding (McAndrew, Helly,

⁴ The term "visible minorities" was first introduced in the 1995 Employment Equity Act, which required employers to increase the representation of four designated groups: women, individuals with disabilities, Aboriginal peoples, and "visible minorities." The category is an ambiguous construct, since "visibility" refers sometimes to skin color (e.g. blacks), sometimes to cultural belonging and/or religion (e.g. Arabs and South Asians), and sometimes to the nationality of origin (e.g. Chinese). What unites these different categories is that their bearers are considered non-white.

and Tessier 68). Hence, commentators concluded that the new guidelines "dilute[d] multiculturalism in Canada and diminish[ed] the role and ability of Canada's ethnocultural communities to contribute to the national enterprise" (Kordan 138). The new program was said to show "a decided lack of interest [on behalf of the Government of Canada] in engaging Canada's ethnocultural groups in a full and equal partnership" (Kordan 140).

Astonishingly, however, public support for multiculturalism merely dipped in the first half of the 1990s and then rose again (Winter, *Us, Them and Others* 18). This paradox is poignantly summarized by Karim Karim: "As the bureaucratic target for anti-multiculturalism attacks has shrunk, Canada is increasingly described as a multicultural country in current dominant discourses" (Karim 454).

Overlooked by Karim is the "coincidence" that the 1990s were also the period of one of the most crucial conflicts between Canada's two linguistically defined "founding nations," a conflict that was highlighted by the Quebec referendum on sovereignty in 1995. The 1995 referendum evolved as the political climax of a number of unresolved issues between Canada's French-speaking (predominantly living in the province of Quebec) and English-speaking populations since the 1960s. It was the second referendum on sovereignty (the first one took place in 1980) and was defeated by the extremely narrow margin of 50.6 percent No-votes to 49.4 percent Yes-votes.

Surprisingly, the Quebec referendum did not lead to a downturn of multiculturalism, but rather the opposite was the case: Public support for multiculturalism, at its lowest in 1995, rebounded quickly in the following years. The potential scenario of Quebec seceding and the growing number of immigrants "from all over the world" within Canada produced a situation in which English Canadians were in desperate need of rethinking their national identity beyond expressions of monoculturalism (cf. Resnick). Even in government discourses, multiculturalism regained its prominence in the second half of the 1990s, although it was dubiously lauded as enhancing Canada's economic competitiveness (Abu-Laban and Gabriel 117).

In 1995, the publication of Will Kymlicka's influential book *Multicultural Citizenship* gave academic authority to the widely shared impression that the multicultural rights demanded by immigrant groups and ethnic associations are, in fact, fundamentally different from the "self-government rights" claimed by the French Canadians in Quebec and, in a less threatening way, by First Nations. This distinction was increasingly used to distance ethnic groups of immigrant origin

from the potentially secessionist intentions of minority nations – and thus to liberate them from the stigma of causing social fragmentation (Winter, *Us, Them and Others* ch. 8).

Kymlicka's scholarly distinction was forcefully underlined by the country's experience with the so-called "ethnic vote" in the 1995 Quebec referendum on sovereignty. While Quebec's premier had to resign over his xenophobic comments on referendum night, 95 percent of Quebec's non-French-speaking population did indeed vote against separation (as opposed to only 40 percent of Francophones). The voting pattern in the 1995 referendum was a powerful example of both the "destructive" potential of a minority nation demanding self-government on the one hand, and the "unifying" pan-Canadianism expressed by Canadians of immigrant origin on the other.⁵

In my analysis of representations of multiculturalism in mainstream media discourses during the 1990s (cf. Winter, *Us, Them and Others*), I have argued that the conflict between Canada's and Quebec's projects of nation-building has helped to consolidate multiculturalism as part of a pan-Canadian national identity. This was achieved by rendering the accommodation of immigrants relatively harmless and inclusive in opposition to Quebec's allegedly "ethnically oppressive" nationalism. I demonstrate that a semantic shift took place in the second half of the 1990s, which is best described by the following change in representations: The logic of "multiculturalism should/should not be implemented because ethnic groups are *like* the French Canadians in Quebec" was replaced by "multiculturalism can be implemented because the members of ethnic groups are *unlike* the French Canadians in Quebec" (Winter, *Us, Them and Others* ch. 8).

Initiated by the federal government under Liberal leader Jean Chrétien, the image of multiculturalism that started to dominate in the 1990s is a far cry from Canada as a "community of communities," as it was famously described by Progressive Conservative Prime Minister Joe Clark in 1980 (Madison, Fairfield, and Harris 96). Rather, the new multiculturalism is profoundly civic, individualist, and neoliberal. It is no longer constructed as a natural extension of the collective accommodation of French Canadians' ethnocultural and linguistic diversity as it was until the mid-1990s, when ethnic groups were constructed as being *like* the French Canadians. Rather, multi-

⁵ It should be noted that First Nations within Quebec were also united in their opposition to a separate Quebec. On 24 October 1995, the Cree held a separate referendum on the issue. They voted 93.6 percent to stay within Canada (Wherrett 5-6).

culturalism is now constructed in opposition to and through rejection of Quebec's allegedly old-fashioned, backward, individual-rights-oppressing "ethnic nationalism." Put differently, towards the end of the 1990s, multiculturalism as a dominant representation of a pan-Canadian national identity becomes consolidated, but this consolidation comes at the price of "containing" Québécois nationalism and dissociating multiculturalism from most types of group rights.

III. Canadian Multiculturalism as a Backdrop to Québécois Interculturalism

Quebec's attempts to establish itself as a "host society" for immigrants can be traced back to its "Quiet Revolution" in the 1960s and the creation of the Quebec Ministry of Immigration in 1968. At the time, it was felt that a solution was needed to stem what some considered an Anglicization of francophone and allophone⁶ immigrants and their children. Quebec's reaction to the 1969 Official Languages Act (which implemented English and French as official languages at the federal level) and to the 1971 Multiculturalism Policy was to enforce its binational vision of Canada. In the 1970s, a series of language laws were adopted: In 1974, Bill 22 made French the only official language in Quebec. In 1977, Bill 101 (or the Charter of the French Language) enforced the Francization of businesses, restricted the use of public signage in languages other than French, and denied access to publicly funded English schools to children whose parents were not educated in English in Canada.

Quebec's position on immigration and integration policies developed further after the 1978 Cullen-Couture Agreement, which provided Quebec with some autonomy in the selection of its immigrants. It became more formally articulated in the years leading up to the first (failed) referendum on independence in 1980, when the Quebec government started to promote a more inclusive definition of membership in the Québécois nation based on French Canadian culture and language within a territorial state.

6 In Canada and especially in Quebec, it is commonplace to differentiate between Anglophones, Francophones, and Allophones, whereby "Allophones" refers to individuals whose native language is neither English nor French.

The concept of interculturalism emerged in the early 1980s.⁷ It is argued to be an approach to immigration and integration that differs from multiculturalism. The latter is (falsely) seen as postulating the equality of all cultures and civilizations within the same nation and therefore as inadvertently promoting segregation and ethnic ghettoization within the Canadian "mosaic" (cf. Nugent). Rather than maximizing the representation of ethnocultural minorities within state institutions, as requested by the Canadian Multiculturalism Act (1988), interculturalism encourages the convergence of immigrant cultures with that of the French Canadian majority. Hence, the preferred metaphor for interculturalism is not a mosaic but a tree into which various rootstocks are grafted: A solid Québécois core culture is to be enriched by the contributions from minority cultures (cf. Pietrantonio, Juteau, and McAndrew).

Being rooted in the consciousness of a subordinate group, "interculturalism concerns itself with the interests of the majority culture (whose desire to perpetuate and maintain itself is perfectly legitimate) as much as it does with the interests of minorities and immigrants" (Bouchard 438). It is particularly sensitive to the minority status of the French language and culture in Canada and on the North American continent, strives to avoid "all forms of socio-cultural fragmentation, marginalization and ghettoization" (Bouchard 463), and places "emphasis on interactions, connections between cultures, the development of feelings of belonging, and the emergence of a common culture" (Bouchard 464). As such, interculturalism concentrates on both promoting Quebec's dominant culture and French language to the immigrants, as well as on raising the acceptance of immigrant cultures within the dominant society. This two-way street of interaction – hence *interculturalism* rather than *multiculturalism* – is argued to render the integration process between the cultures harmonious.

Put more schematically, the principle underlying Quebec's ideology of interculturalism – convergence – describes a model where immigrants are said to be full members of Quebec's society. It is based on a reciprocal "moral contract" between the state and newcomers: The state offers to support the immigrant in his/her integration efforts. In exchange, the immigrant must take on the responsibility to integrate successfully. In other words, Québécois interculturalism can be

⁷ The first articulation of Québécois interculturalism is usually associated with the Government of Quebec's action plan *Autant de façons d'être Québécois* in 1981 (cf. Symons). For a genealogy of this concept in Quebec, see Labelle et al.

summed up as: (i) a society in which French is the common language of public life; (ii) a secular, democratic society where participation and the contribution of everyone are expected and encouraged; (iii) a pluralist society open to multiple contributions within the limits imposed by the respect for fundamental democratic values and the necessity of intercommunity exchange (Gagnon and Iacovino 30).

The ideological differences between multiculturalism and interculturalism set aside, in practice, the programs and policies of immigration and integration in Quebec have by and large followed the developments of immigration and multiculturalism at the federal level: the selection process abroad, the integration programs for the newly-arrived (information sessions, settlement aid), language training, work programs, etc. Also, as explained above, multiculturalism policy is far from promoting ethnic segregation and situates diversity clearly within the framework of "unity." As such, it could be argued that, in comparison to multiculturalism, interculturalism merely places a stronger emphasis on the language and culture of the host society – which comes as the unavoidable side-effect of being a linguistic minority within Canada and on the North American continent. However, compared to the underlying "unity in diversity" concerns of multiculturalism, the emphasis of interculturalism on convergence also reveals a much stronger desire for societal integration (*faire société*). Situated within the context of liberalism, globalization, and non-sovereignty/minority nationhood, this societal integration is difficult to achieve (cf. Labelle). Not only have Quebec's strict language policies remained contentious, the notion of a "moral contract" between the host society and newcomers is currently being tested in heated debates on secularism, or *laïcité*.⁸

For example, in March 2006, a debate on the "reasonable accommodation" of religious minorities was kick-started through "the Kirpan affair": the question whether a Sikh student could wear his ceremonial dagger at school or whether it was to be banned as a weapon. The debate included a number of incidents involving clashes, controversies, and accommodations between members of religious minority groups (mostly Sikhs, Muslims, and Jews), and the members of Quebec's Francophone society, which had overthrown much of its conservative Catholic culture during the Quiet Revolution of the 1960s. In one notorious incident, the municipal council of Hérouxville developed a code of conduct instructing prospective immigrants that

8 I use both words interchangeably here as I do not have the space to explain their different connotations.

they would not tolerate certain practices such as the stoning of women (cf. Potvin; Bilge; Stasiulis).

Realizing the volatility of the issue, the Liberal Quebec government created the Consultation Commission on Accommodation Practices Related to Cultural Differences. The commission was chaired by two acclaimed academics, Charles Taylor and Gérard Bouchard. It had the vast mandate to conduct an extensive public consultation on this topic. When, in May 2008, the commission released its final report, it recommended, among other things, that the government strengthen Quebec's secularism (*laïcité ouverte*), promote interculturalism (the integration of newcomers into a French-speaking majority society), and encourage the dejudicialization of the handling of accommodation requests (cf. Bosset).

The responses of the government to these recommendations were lukewarm (cf. Leroux). They included the insertion of a clause ensuring the primacy of equality between men and women over freedom of religion in the preface to the Quebec Charter of Human Rights and Freedoms (adoption of Bill 63) in 2008, the introduction of a *Declaration of the Common Values of Quebec Society*, which must be signed by prospective immigrants as part of their application procedure since January 2009, and the introduction (and adoption "in principle" by Quebec's National Assembly in 2011) of Bill 94, *An Act to Establish Guidelines Governing Accommodation Requests within the Administration and Certain Institutions*, which requires Muslim women (or other people wearing facial veils or masks) to uncover if working in the public sector or requiring services from government officials. Quebec's National Assembly voted unanimously to reject the recommendation of the Bouchard-Taylor commission to remove the crucifix in the National Assembly.

Most recently, a Parti Québécois minority government (September 2012 – April 2014) stirred up debates with the proposition of a Quebec Charter of Values (Bill 60), which, among other things, would have prohibited public-sector employees from wearing "ostentatious" religious objects such as kippahs, turbans, hijabs, and larger-than-average crucifixes. The ban would have applied to all civil servants, including teachers, doctors, nurses, and police officers, potentially threatening their employment in the case of non-compliance. There was no doubt that the Parti Québécois aimed at scoring points with Quebec's "old stock" Francophones and their ambiguous position on religion: secular and anti-clerical on the one hand, while clinging to symbols of Catholicism as part of their culture on the other. This

political strategy, however, failed miserably. Campaigning on the issue of the so-called Quebec Charter of Values, the Parti Québécois was overwhelmingly defeated in the Quebec provincial elections of April 2014.

The point that I want to underline here is not that Quebec's conceptualization of a pluralist society is less liberal or more "ethnically rooted" than that of other Canadian provinces or multiculturalism policy at the federal level. Readers are reminded of the abolishment of faith-based family arbitration through (Christian, Jewish, and other) religious mediators in Ontario, which was a reaction to a public outcry over so-called "sharia tribunals" (cf. Razack). In other words, in an era where Islam is said to have "killed" support for multiculturalism in a number of Western countries (cf. Liddle), the accommodation of religious expressions in the public space remains contentious in Canada, Quebec, and elsewhere. Rather, it is important to underline that Québécois interculturalism operates in the context of cultural insecurity among Franco-Québécois citizens (cf. Bouchard and Taylor) and in the context of a strong public discourse that aims to reclaim the place of the French Canadian majority in Quebec's institutions. The emphasis on the French language and on (an admittedly biased expression of) secularism must be understood within this context. Whether or not this context is sufficient to lend legitimacy to both remains an ongoing debate.

IV. Is Canadian Multiculturalism Turning into Interculturalism?

At the federal level, several measures were adopted in response to the narrow victory of the anti-separation campaign in the 1995 Quebec referendum on sovereignty. One of them was a call for the Supreme Court of Canada to rule on the legality of a unilateral declaration of independence. In August 1998, the Court ruled that Quebec could not unilaterally secede from Canada. The ruling was followed by the adoption of the Clarity Act in June 2000, which defined strict ("clear") rules for a future referendum on Quebec sovereignty. Predictably, interpretation of the Clarity Act has largely been determined by political positions along nationalist lines: For some, "debate is ended and democracy, even as the court defined it, is stifled" (Rocher and Verrelli 233). For others, the Act ensures Canada's viability as a united nation-state (cf. Ryan).

Another measure was the implementation of a "sponsorship program" (1996-2004), a large-scale campaign which was to promote national unity and to raise the profile of the federal government, particularly in the province of Quebec. This effort consisted in unprecedented financial support for Canada Day celebrations, the distribution of Canadian flags, and self-promotion of federal services (cf. Turp). While the sponsorship program (1996-2004) was touted as a means of fostering national unity and boosting the federal image among Francophone Canadians, critics of the campaign accused the federal government of attempting to undermine Québécois nationalism by promoting itself as the sole legitimate national body (cf. Labelle and Rocher). It was later revealed that federal efforts to promote national unity had exceeded the boundaries of the law. In what became known as the sponsorship scandal, widespread corruption was uncovered in the operations of the program.

In January 2006, after twelve years of Liberal federal government, the newly created Conservative Party (founded in 2003) was elected to power, winning two minority governments (2006 and 2008) and a majority in 2011. Interestingly, these political developments and the weakening of public support for multiculturalism in Canada ("Part 6: Editorial") went hand in hand with receding nationalism in Quebec. Between 2003 and 2012, the (non-separatist) Liberal Party was in power in Quebec. Between 2012 and 2014, the Parti Québécois governed the province as a minority government, but failed to be re-elected on 7 April 2014, when the Quebec Liberal Party won a landslide majority of 70 seats. In the federal election of 2011, the Bloc Québécois was reduced to four seats.

After their election in 2006, the federal Conservatives started out by wooing French Canadians in Quebec, who, in response to anger over the Liberals' sponsorship scandal, had voted for them in large numbers (Lawlor and Bélanger 293). For example, in November 2006, the Canadian House of Commons passed a motion – introduced in a surprising political move by Conservative Prime Minister Stephen Harper – which recognized that "the Québécois form a nation within a united Canada" (Harrison and Friesen 82). While this motion did not satisfy those aiming for independence or even just more autonomy, it was a surprising move by a Prime Minister who, in the late 1980s, had helped to build the Reform Party, which had made itself known (and popular with some) through its outspoken stance against multiculturalism, bilingualism, and special rights for Quebec.

Ultimately, however, the strategy of the Conservatives to broaden their electoral base with voters from Quebec was unsuccessful. In the 2011 federal election, the New Democratic Party won an astounding 58 seats of the province's 75 seats, while the Conservatives took six. In the following years, attempts by the Conservatives to win electoral support among French Canadians receded. Between 2011 and 2013, Conservative Minister of Foreign Affairs, John Baird, got entangled in a language controversy because he ordered unilingual English business cards (Beeby, "John Baird Must Dump Business Cards") and only disposed of them after being ordered to do so by the federal commissioner of official languages (Beeby, "Business Cards Are Finally Going Bilingual").

With respect to multiculturalism, the Conservatives have pursued an ambiguous strategy. As underlined in the introduction of this paper, they have refrained from attacking multiculturalism policy directly (Abu-Laban 156). In fact, due to his successful outreach to "ethnic voters," Jason Kenney, who served as Minister of Immigration, Citizenship, and Multiculturalism from 2008 to 2013, has become known as "Minister for Curry in a Hurry." Kenney retained the multiculturalism portfolio even after a cabinet shuffle in July 2013, when he became Minister for Employment and Social Development, and Chris Alexander took over the position as Minister for Citizenship and Immigration.

Contrary to the Liberals before them, the Harper Conservatives also issued a number of apologies for historical injustices, such as the Chinese head tax (1835-1923) and the 1914 Komagata Maru incident (which included the refusal of granting citizenship to formally British subjects arriving from India). In 2009, they created the Paul Yuzyk Multiculturalism Award, thereby "appropriating multiculturalism as a Conservative, rather than Liberal, initiative" (Griffith 41). Even Prime Minister Harper is famously on record for endorsing multiculturalism at the televised party leader's debate before the federal election:

We (the Conservative Party/Government) favour multiculturalism. [People who come here] want to belong to this country. [...] They also at the same time will change our country, and we show through multiculturalism our willingness to accommodate their differences [...] so they're more comfortable. That's why we're so successful integrating people as a country. I think we're probably the most successful country in the world in that regard. (Stephen Harper on 12 April 2011, qtd. in Siddiqui)

Tom Flanagan calls this the “fourth sister approach”: After successfully courting the traditional Tories of Ontario and Atlantic Canada (merging the two conservative parties in 2003) and unsuccessfully trying to win over French Canadians in Quebec, the Harper Conservatives directed their attention to first- and second-generation immigrants, who traditionally constituted a stronghold for Liberal votes. As election results have shown, using this strategy and others, Conservatives have been able to win a number of seats in ethnically diverse electoral districts (Payton, “Ethnic Riding”).

Despite these initiatives, a closer look at multiculturalism as a nation-building project under the Conservatives is warranted. At the administrative level, in October 2008, the Conservatives transferred the multiculturalism program from the Department of Canadian Heritage to the Department of Citizenship and Immigration Canada (CIC).⁹ CIC usually deals with the short-term aspects of immigration, settlement, and citizenship acquisition. Multiculturalism, by contrast, used to address “long-term issues and thus included all Canadians, whether first generation or long-established, whether minority (e.g. Ukrainian Canadians, black Canadians) or majority (traditional European groups)” (Griffith 10). By removing multiculturalism from Canadian Heritage – which deals, as the name indicates, with Canadian traditions and history –, multiculturalism is no longer positioned at the national core, concerned with all Canadians, including the dominant group, its culture, values, and *relations* with ethnocultural minorities. Rather, situated within CIC, multiculturalism is given a more peripheral meaning. It is cast uniquely as a “minority affair,” specifically one that aims at addressing short-term issues related to the transition from immigrant to citizen.

Citizenship, however, is increasingly pushed back and cast as the “first prize” at the end of integration (Winter, “Becoming Canadian” 20). It is also increasingly defined in terms that are traditionally associated with English Canadian culture and values. The number of initiatives taken to emphasize the importance of the British monarchy in the Canadian national identity, for example, has been accelerating since the coming to power of the Conservatives: It is highlighted in the new 2009 citizenship study guide and was underlined in July 2011 by the replacement of modern artworks by Quebec painter Alfred Pellán

⁹ The transfer did not only affect the multiculturalism program. Between 2008 and 2013, the Government of Canada introduced an enormous number of changes to policies affecting immigration, temporary entry to Canada, and citizenship, which some scholars hold to be unprecedented in terms of pace and scope (Alboim and Cohl iv). For reasons of space, these changes cannot be dealt with here.

with a portrait of Elizabeth II in the lobby of the Department of Foreign Affairs. In the same year, the government restored the word “royal” in front of the names of Canada’s navy and air force, reviving designations that had been discarded in the 1960s. The government also ordered all Canadian embassies and missions abroad to display a portrait of the Queen.

Furthermore, the acquisition of English or French language skills has received much attention, not only at the level of immigrant selection but also at the level of citizenship, where applicants now have to pass a standardized language test as a prerequisite for their application. While language skills are foremost seen as a potential of successful economic integration, it is difficult to deny – especially in Canada – that language also has a cultural connotation. How else could we interpret the fact that, since June 2010, standardized language tests have become mandatory for skilled immigrant applicants regardless of whether they are native English and French speakers? In the words of Canada’s Minister for Multiculturalism: “We wanted them to learn our languages and adapt to our way of life” (Kenney).

Indeed, the shifting orientation of multiculturalism suggested by the aforementioned administrative changes is confirmed in both government discourse (Winter, “Rethinking Multiculturalism”) and at the level of programming. For example, there was a *de facto* cut in multiculturalism spending. Since 2007, roughly 5 million CAD of the yearly multiculturalism budget have been left unspent. In the years 2009-2010 and 2010-2011, more than 50 percent of program funding lapsed (Griffith 107). This was caused by a change in the priorities of the multiculturalism program and a slowly reacting bureaucracy, which failed to alert and properly advise ethnic associations. Priorities shifted from “accommodation to integration and social cohesion, the abandonment of [anti-]racism and [anti-]discrimination, [and] greater consideration of faith-based communities” (Griffith 27).

Taken together, these changes seem to produce an astonishing side-effect: While the importance of Québécois nationalism in Canadian political debates has diminished, the vision of multiculturalism entertained by the Conservative Party of Canada is conceptually much closer to Quebec’s pluralist model of interculturalism than the interpretations of multiculturalism by previous governments. To recall, the original idea of interculturalism was to insist that newcomers should integrate into the national, cultural, and linguistic identity of the host society, as opposed to Canadian

multiculturalism, which was seen as undermining the special status of French Canadians in Canada.

Canadian multiculturalism under the Conservatives seems to be moving in that direction. Its current incarnation resembles a policy of immigrant integration which strongly "concerns itself with the interests of the majority culture (whose desire to perpetuate and maintain itself is perfectly legitimate)" (Bouchard 438). The reader will recall this phrase, used by Gérard Bouchard to describe Québécois interculturalism. Multiculturalism under the Conservatives is also very sensitive to linguistic integration and strives to avoid all forms of socio-cultural fragmentation or ghettoization. Immigrants must take on the responsibility to integrate successfully, their socio-economic participation is expected, the development of a unified national identity is encouraged, and cultural contributions, while welcome, must remain within the limits of liberal democratic values such as the supremacy of the law, the division of powers, a secular state, as well as respect for gender equality. In sum, the parallels with the notion of cultural convergence are obvious. Indeed, several astute commentators confirm that "Canadian multiculturalism has slowly grown closer to Quebec interculturalism" (Bouchard 463; Griffith 78).

V. Conclusion

In this paper, I concur with Yasmeen Abu-Laban and Andrew Griffith in that the governing Conservative federal government is silently changing the definition of Canadian multiculturalism. While this is not the first time that there has been a change in the orientation of Canada's multiculturalism policy, it was never before so close, conceptually and practically, to Québécois interculturalism. It is ironic that this redefinition is taking place under the auspices of a Prime Minister who has helped to build a party that strongly rejected bilingualism and special rights for Quebec. In fact, the Reform Party scorned federal policies of compromise and diversity accommodation. Instead, it insisted on the need for creating a strong sense of one unified national identity. This sense of unity is also at stake in interculturalism, albeit at a regional level.

Regionalisms impact federal policy and vice versa. In Canada, nation-building and diversity management are highly interdependent. It is widely accepted that the need to address Québécois nationalism was one important factor that brought about Canada's multiculturalism

within a bilingual framework. Furthermore, in the late 1990s, it was yet again Québécois nationalism that helped to consolidate multiculturalism as a pan-Canadian identity. Compared to the threat of separatism, the demands of immigrants and ethnic associations for multicultural accommodation started to be viewed as the lesser of two evils, even by English Canadian nationalists and staunch critics of multiculturalism.

This attitude, however, changed in the first decade of the 21st century. With Québécois regional nationalism somewhat "contained" (e.g. through the Clarity Act) and somewhat receding (e.g. the Liberal Quebec government from 2003-2012), at the federal level, priorities have changed. The newly created Conservative Party no longer has to address issues of national unity. While its leaders continue to frame multiculturalism in neoliberal terms as the Liberals did (cf. Kymlicka, "Neoliberal Multiculturalism"), they also concentrate on shaping Canadian policies in accordance with conservative values, such as patriotism, the monarchy, and the military (cf. McKay and Swift; Ivison). In the second half of the 20th century, these values were more important in regional than in federal politics. This changed, however, when the Harper Conservatives came to power in 2006. Within their conception of multiculturalism, the preference for an English Canadian dominant culture is no longer downplayed or denied. On the contrary, following to some extent the agenda of the Reform Party and its traditional base in Western Canada, the federal Conservatives have not abolished multiculturalism – which, due to high immigration and naturalization numbers, would likely be political suicide – but enacted a strong common narrative of shared citizenship in which multiculturalism only plays a minor role. Specifically, they entertain a discourse in which shared Canadian citizenship is portrayed as being in need of protection (cf. Winter, "Becoming Canadian"). This representation mimics the cultural anxiety of Quebec's French Canadian population: While Québécois nationalists fear the weakening of French language and culture through the influx of anglophone and allophone immigrants, the federal Conservatives portray so-called Canadian values as being threatened by immigration from anti-democratic and war-torn countries. In both cases, the response is a reduction of pluralist rights and an emphasis on the dominant (provincial/national) language(s) and culture.

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