MULTINATIONAL FEDERALISM AND VALUE PLURALISM

The Spanish Case

FERRAN REQUEJO

Multinational Federalism and Value Pluralism

Can federalism be a fair and workable way of arranging multinational societies within a revised liberal-democratic tradition?

In the past, traditional political approaches have addressed the question of political pluralism without seriously considering national pluralism—an attitude that has misrepresented and impoverished the discussions about, and the institutional practices of, multinational democratic federations. The book presents a theoretical model of federalism based on Isaiah Berlin's concept of value pluralism and on the analysis of federal democracies. It then provides a critical analysis of the current Spanish territorial model and suggests four potential future scenarios for this model based on federal patterns.

Multinational Federalism and Value Pluralism explores the possibilities for the democratic accommodation of national pluralism through federalism. It will interest students and researchers of federalism and nationalism, as well as those with a particular interest in the politics of contemporary Spain.

Ferran Requejo is Professor of Political Science at the Universitat Pompeu Fabra in Barcelona. His main fields of research are theories of democracy, federalism, multinational democracies, political theory and political liberalism after the Second World War. In 1997 he was awarded the Rudolf Wildenmann Prize and in 2002 he received the Ramon Trias Fargas Prize.

Routledge Series in Regional and Federal Studies (Formerly The Cass Series in Regional and Federal Studies)

Series Editor: John Loughlin, Cardiff University

This series brings together some of the foremost academics and theorists to examine the timely subject of regional and federal studies, which since the mid-1980s have become key questions in political analysis and practice.

In Search of Urban Gargantuas
Edited by Bernard Jouve and Christian Lefevre

10. Region, State and Identity in Central and Eastern Europe
Edited by Kataryna Wolczuk and Judy Batt

11. Ethnicity and Territory in the Former Soviet Union
Edited by James Hughes and Gwendolyn Sasse

12. New Borders for a Changing Europe
Cross-Border Cooperation and Governance
Edited by James Anderson, Liam O'Dowd and Thomas M. Wilson

13. Regional Interests in Europe
Edited by Jörg Mathias

14. Multinational Federalism and Value Pluralism
The Spanish Case
Ferran Requejo

Multinational Federalism and Value Pluralism

The Spanish case

Ferran Requejo

Routledge
Taylor & Francis Group

LONDON AND NEW YORK

To all those who love Shakespeare's and Berlin's plays

And to Teresa, over and over again

Contents

Acknowledgements

Introduction

As flies to wanton boys are we to th' gods; they kill us for their sport…
  Tis the time's plague when *madmen* lead the *blind*

<div align="right">(added emphases)</div>

These lines are said by the Earl of Gloucester in Shakespeare's *King Lear* (Act 4, scene 1), perhaps the play which makes the fewest moral concessions regarding the limitations and self-deceptions of the human condition and political power. These deceptions are related to the unavoidable distance that exists between what ideologies say they are doing and what the institutions of government really do. On the one hand, in the contemporary world, some of these? ideologies have driven many people to behave as if they were *mad*. This is the case of certain kinds of nationalism, especially when they have been articulated with fascism or communism. Rulers as well as someof the ruled acted literally like mad people in the totalitarian states of the twentieth century. On the other hand, some 'Enlightened' ideologies, mainly liberalism and socialism, have often been afflicted with a form of blindness when they dealt with national phenomena. In multinational democracies, many members of the ruling class have been *blind* to internal national pluralism while state nationalism has been accepted without question. The former, the mad, have acted and still act against democratic values, rules and practices. The latter, the blind, act within these same values, rules and practices, but they often interpreted them in a biased way that distances them from the ideals of justice and impartiality associated with liberal democracies.

Fortunately, in the western world, liberal democracies have been able to reinforce themselves in relation to different kinds of totalitarism.

They have made it possible for humankind to attain the highest degree of liberty and tolerance in history. At the beginning of the twenty-first century, it is precisely this achievement that allows a refinement and a better implementation of liberal-democratic values. In other words, it permits a better implementation of their rights, institutions and procedural rules in relation to questions that have been disregarded or largely excluded from the democratic debate. One of these questions is the relationship between democracy and national pluralism in societies that have increasingly become more culturally diverse and globalized. Another is the revision of federalism in these societies.

In this book, I would like to address the democratic accommodation of national pluralism through federal rules. The key question addressed is: can federalism be a fair and workable way of articulating multi-national societies according to revised liberal-democratic patterns? In recent years, scholarly discussion on this issue has undergone a change. Nowadays, the answer to this question is much more complex than the one that traditional political liberalism and federalism used to give us. These two political approaches usually addressed the question of political pluralism without seriously

including national pluralism in the discussion, a theoretical attitude that has often misrepresented and impoverished the moral discussions and the institutional practices of democratic liberalism and federalism.

This book collects and updates some of my recent works which have appeared in other publications. It includes three parts and some final, independent essay-like remarks. Part I considers some of the theoretical aspects linked to the relationship between political liberalism and multinational democracies. The approach is theoretical and partly philosophical. After presenting the general issue of democracy in multinational contexts and *value pluralism,* which I present as the most appropriate philosophy for political liberalism in these contexts (Chapter 1), I deal with political legitimacy in nationally diverse democracies through different elements: the normative pluralism of democracies, the two main liberal approaches to this issue, and the relationship between moral universalism and particularism. This part ends with a remark on Rawls' and Habermas's perspectives in relation to national pluralism, and with a defence of some elements of Kantian philosophy, approached from a value pluralist perspective (Chapter 2). Part II introduces federalism as a potential way of accommodating societies which are also plural from a national perspective. First, I analyse the basic types of federal agreements and how I believe federalism has been misused in present-day federations (Chapter 3), and second, I offer the model of *plural federalism* as an alternative way of accommodating multinational societies through a renewed liberal-democratic approach (Chapter 4). Part III presents a critical analysis of the current Spanish *Estado de las Autonomías* as a practical example of the flaws described in Parts I and II (Chapter 5), and four scenarios for its potential development in the near future (chapter 6). Finally, I make some remarks—in an independent and essay-like approach based on some elements of current genetics and palaeontology—regarding the reasons why human beings sometimes go *mad* or develop a kind of political *blindness* when they think as members of a 'particular' group even when they use supposed 'universal' concepts and values.

This work, the original title of which was *When the Blind Lead the Mad,* was awarded the Ramon Trias Fargas Prize (Barcelona, September 2002). I would like to thank the Fundació Trias Fargas for this award and John Loughlin for his comments and suggestions. I would also like to thank the scholars I have met in different political science and political theory meetings at the Pompeu Fabra University (Barcelona), McGill University, Mont-Tremblant, and Saint-Marc-sur-le-Richelieu (Canada), New South Wales University (Australia), Princeton, Edinburgh, Oslo, Grenoble, Colegio de Mexico and Veracruz (Mexico) who made comments about different parts of this book. And thanks to Teresa Colomer, Xavier and Laura for everything.

Part I
Political liberalism and multinational democracies

Theoretical aspects

1
The quality of democracy in multinational contexts

Je hay toute sorte de tyrannie, et la parliere, et l'effectuelle.
  (I detest all kinds of tyranny, those of words and those of facts)
                              Montaigne, *Essais,* Book III, Chapter VIII

Federalism is designed to prevent tyranny without preventing governance.

                              Daniel Elazar, *Exploring Federalism,* 1987

In certain liberal-democratic federations (or regionally decentralized polities) there is a coexistence between various *national groups*. Among the *national* characteristics of these groups living together in a given polity, we can mention the fact that their members recognize themselves as such because they share some cultural patterns. They also share some sense of historical distinctiveness in relation to other groups. They are situated in a more or less clear territory, and display a will to maintain their distinctiveness in the political sphere. When there are different national groups living together within the same federation (or regional state), we call it a multinational federation (or a multinational regional state). This, for example, is the case in Belgium, Canada, India or Spain. These are multinational federations or regional decentralized polities with institutional and regulatory challenges distinct from those faced by uninational federations such as the Germany, Austria or Australia.[1]

In the first section of this chapter, I will briefly outline certain analytical and moral elements pertaining to the current revision of liberal-democratic legitimacy within multinational contexts which are relevant to democratic federalism. The second section is mainly concerned with the notion of *value pluralism* as political theory of political liberalism. I understand value pluralism as a theory of the structure of moral normativity in liberal democracies. I defend the greater suitability of value pluralism over its rival theories when one is attempting to revise democratic liberalism from the perspective of the cultural and national pluralism.

Political liberalism and multinational democracies: some analytical and moral shortcomings

Analytical aspects

The disconnection between differing types of theoretical analyses

We could say, in general terms, that there has been little connection between the analyses of federalism, democracy and the various types of nationalism. On the one hand, in comparative federal studies, the distinction is not always made between federal systems that are democratic and non-democratic, or between those which are uninational or multinational. And on the other hand, analyses of nationalism do not usually assess relations with democracy in any great depth, while theories of democracy—particularly those of a more philosophical character—have not paid significant attention to the analysis of federal systems or empirical multinational realities.

National pluralism and democracy

Although we may say that *cultural pluralism* is a general trend of current liberal democracies, *national pluralism* is certainly not. It is a reality that is not shared by all democracies. However, despite the fact that national pluralism is a question related with the quality of some democracies, only in recent times has it received sufficient attention in democratic theory. At least three normative and institutional questions must be addressed in these democracies: the constitutional recognition and regulation of national pluralism and minority rights, the self-government of minority national entities and the institutional framework of the polity.

National pluralism and federalism

In comparing the political make-up of *federal democracies,* we do not find a great many multinational democratic federations. Basically there is Canada, Belgium, India and—to a lesser extent—Spain (which is not, technically speaking, a federation). Faced therefore with these cases, we need to be particularly careful in making judgements, avoiding inferences that are based on limited information, and refraining from generalized conclusions. The basic issue here is that of how to *accommodate* in the public sphere diverse national realities within the same federal democracy. Distinct national groups are habitually characterized by real and perceptible differences (demographic, linguistic, income-related, cultural, in civil law, etc.) which have consequences for their self-perception, and the ways in which this does not correspond to that of other groups. We also need to bear in mind other factors such as whether or not populations with distinct national identities are territorially intermixed, and the importance of 'dual national identity' in relation to the 'federated entity' and the 'federation'.

Normative and national pluralism

In all liberal democracies and federations, decision-makers often find themselves faced with a plurality of competing legitimizing goals and criteria based on different functional or moral perspectives (liberal, democratic, national, technical, etc.). Efficiency, stability, political participation or liberal protection of individual and collective rights and liberties are classical competing goals in all federal democracies that present more complex and intermixed relations in multinational federations than in uninational federations.

National pluralism, globalization and supra-state polities (e.g. the European Union)

Stateless nations like Quebec, Catalonia, Flanders, the Basque Country or Scotland illustrate the overlap between globalization and national pluralism in western democracies.[2] In the European context, there are some difficulties in the empirical and theoretical analysis when we are dealing with concepts like democratic accountability in the supra-state decision-making networks or the notion of *European Citizenship* (Maastricht 1992, European Convention 2002–2003). Federalism is directly influenced by these supra-state processes. In fact, in liberal-democratic theories, citizenship has been developed and approached from the perspective of the state. Diluting the state monopoly of the principle of territoriality and the competitive dualism between state and non-state nation-building processes are likely two prerequisites for implementing not only a new institutional and democratic accommodation of national pluralism in a more globalized economic and political context, but also a revision of the unitarian-secessionist duality in nation-building processes.

Moral aspects

Globalization and cultural and national pluralism constitute the two main challenges for present-day liberal democracies and federalism. (For the relationship between democratic liberalism and nationalism, see also Nodia 1992; Tamir 1993; Miller 1995; Smith 1995; Caney *et al.* 1996; Canovan 1996; Keating 1996; MacCormick 1996; Norman 1996; McKim and McMahan 1997; Guibernau 1999; Requejo 1999a; Kymlicka 2001; Requejo 2001a.; Tierney 2004) Both are important for federalism. In general terms, the question of multiculturality and, more directly, the question of multinationality has posed a new agenda of issues for democratic debate. These issues are no longer limited to the language of individual rights and notions of liberty, equality and pluralism in the same way as traditional political liberalism has developed these notions. In fact, we can say that this new agenda has implied the discussion of key elements for a *special theory* of democratic legitimacy and federalism in multinational contexts that overcomes the traditional approach of seeing national minority rights as unjust, discriminatory and morally arbitrary.

Among the cultural and moral biases that the traditional approach usually displays, the following stand out.

Inequality versus difference

Traditional liberal-democratic theories have usually considered public sphere justice from the perspective of the paradigm of equality (equality versus inequality), in detriment to the paradigm of difference (equality versus difference). In multinational societies it is the concept of equality itself which becomes more plural than in uninational societies. If cultural and national differences are ignored or marginalized, minorities will not be equally treated in relation to majorities, and they will lose recognition and self-respect. In fact, these minorities are treated unequally even when their civil, political and social rights of citizenship are guaranteed. The juxtaposition of the two paradigms of equality and difference is fundamental in the case of national movements which are historical and territorial. It implies a new approach to the notions of dignity and pluralism themselves. The political accommodation of national minorities is now becoming increasingly recognized by most scholars as a claim that must be taken into account within 'just' multinational democracies.

The 'monist' conception of the 'demos'

One of the questions that has never been resolved by the different liberal theories of democracy is that of the *demos* to which they refer. In the majority of liberal-democratic conceptions it is something that is implicitly defined beforehand as the nation-state. We know that in the empirical world, the *demos* of the democratic systems, including that of federations, have not been usually established from the procedural rules of liberal democracies, but from a historical process full of wars, conquests, annexations, exterminations or marginalizations of whole peoples, and so on, which are a long way from being sound bases for liberal-democratic legitimization. Moreover, these bases usually justify the constitutional rules in universal and impartial terms, despite the implicit and unavoidable assumption of particular cultural values linked to a specific democracy and to the pretended 'national' interest of its *demos*. Under this perspective, the challenge of multinational democracies is 'one polity, several *demoi*'. In fact, theories of democracy have traditionally been theories of the democratic *state,* and they have usually been conceived as based on a uniform *demos*. Multinational democracies show the need to revise, for moral as well as for functional reasons, some of the traditional 'stateist' assumptions that the hegemonic national groups have often imposed under some homogenizing versions of the notions of 'democratic citizenship' and 'popular sovereignty'.

The marginalization of the 'ethical' dimension

Within the theories of democratic legitimacy, the existence of at least three dimensions of practical rationality has tended to stand out: the pragmatic (or instrumental), the 'ethical' and the 'moral'. The first is directed towards the satisfaction of goals and objectives. In the political sphere it is characterized by negotiation and compromise, and its main values or guiding principles are effectiveness, efficiency and stability. From this perspective, a

federal agreement that satisfied all the parties involved according to the ethical and moral perspective, but which was unstable, could not be described as a good agreement. 'Ethical' rationality is linked to the interpretation of specific cultural values and identities that provide a framework for an unavoidable particularist normativity, whether it be a special normative set of values or a specific interpretation of a more general (or 'universal') normativity. This is a rationality which is prescriptively characterized by contextual interpretation. This ethical accommodation must be taken into account when regulating the symbols, institutions, self-government or the mechanisms of representation in a multinational federation. If this regulation is mainly based on the cultural components of only one of the national collectivities and excludes or marginalizes the others, it would also be difficult to call it a good federal accommodation. This implies that almost all citizens of the federation feel 'comfortable' in terms of identity (and self-esteem) regardless of the national collectivity they feel they mainly belong to: the federation or one of the member states. Finally, 'moral' rationality is aimed at the 'impartial' and equitable resolution of conflicts by means of a number of principles that aspire to 'universal' recognition regardless of the context in which they are applied. A good federal agreement needs to incorporate a clearly liberal-democratic *moral* dimension. In other words, a dimension that respects and guarantees transcultural human rights, as well as the other principles of the rule of law (the principles of legality, constitutionality, the separation of powers, frequent and competitive elections, civil liberties, etc.).

Liberal-democratic theories have tended to consider normative regulations from the perspective of pragmatic and moral rationalities. The ethical considerations of a historical and linguistic nature, among others, that influence national identities have tended either to be marginalized or relegated to the private sphere (territorial minority national identities), or have simply been accepted implicitly as a kind of hermeneutic horizon of the public sphere (majority or hegemonic national identities). The political institutions have not been culturally neutral, but leaned towards the identities and cultural patterns of the national majority or hegemonic groups. A minimal conclusion is that from liberal premises there has been a tendency to accept and defend from the public sphere, an implicit form of state communitarianism of a 'national' nature.

The defence of the nation-building process in all liberal democracies

All liberal democracies have, in practice, defended and continue to defend cultural particularisms of a linguistic, historical, etc, nature. In multinational democracies, there is a coexistence of different nation-building processes which are at least partially competitive among themselves. There will probably be political consequences for a notion of nation-building based on the application of a 'universalistic' legitimizing language to a particular state group that itself possesses a plurality of national groups (see Linz 1993).[3]

To sum up, the debate that has taken place since the early 1990s has shown the cultural limits of traditional liberal theories and the partiality of the theoretical interpretations and practical applications of values such as freedom, equality, autonomy, pluralism or dignity in multinational federalism. In reality, we always argue from the position of cultural

inheritances that have facets of both a universal and particular kind, and which fashion the individual identities that, in large part, come to us preformed. Understood from this point of view, the majority of claims made by stateless democratic nationalisms (i.e. Catalan, Scottish or Quebecois) represent a deepening of the universal suppositions of political liberalism, and particularly of the values of equality, liberty and pluralism. The key task is to understand that, in a multinational democracy, a plural set of public spheres coexist, as well as different processes of nation-building. This is an idea that affects current discussions of whether federalism, or some of its variants, offers an adequate framework from which to proceed to a practical and constitutional accommodation for multinational polities in which diverse processes of nation-building share the same arena. In this way, the political and constitutional regulation of this specific kind of pluralism thus becomes a demand of liberal and federal normativity themselves at the beginning of the twenty-first century.

Value pluralism and political legitimacy

Value pluralism: two analytical strategies and four kinds of theories

Let us start with two observations of a more general nature. First, when one is attempting to 'improve' liberal democracies, both ethically and functionally, in relation to cultural and national pluralism, two strategies may be used:

- In the first, we may place ourselves within the theoretical tradition of political liberalism in order to be able to point out the limits, biases, prejudices and partial interpretations that it displays both in its ethical and anthropological aspects and in its constitutional and institutional aspects—such as federalism. This perspective allows us to carry out a theoretical revision in order to refine liberal values themselves and the legitimation of democracies as well as permitting us to put forward a number of proposals for practical reform that are more suitable for refining liberal values.[4]
- In the second, we may use liberal tradition as one of many possible approaches in order to build democratic polities that go beyond western liberalism and which are more in tune with the normative, linguistic, historical and cultural diversity of contemporary societies.

In terms of political theory, the first strategy attempts to create a liberal theory of cultural and national pluralism. The second strategy is designed to produce a more ambitious multicultural theory of democracy and political liberalism.[5] Second, it is possible to identify four general types of theory, including liberalism, in relation to how they understand the internal structure of moral normativity—in other words, its basic ontology:

- monist theories
- culturally pluralist theories
- pluralist theories without fully rank-ordered values (value pluralism)
- pluralist theories with fully rank-ordered values.

By *monist theories* I mean those that defend that only one way of life is the best—a way of life that is based on a value that is considered to be a priority and which is preferable to any other way of life. Moral monism normally understands its position to be (1) the most 'rational' or 'human', (2) of universal application, both for the members of any given collective and for humanity as a whole, and (3) based on a conception of 'human nature', which is given a moral-ontological superiority over any differences of a cultural and national origin that individuals or groups display. According to these kinds of theories, the good life cannot be lived differently from that which is defended: there are no equivalent good ways of life (for example, Plato or usual interpretations of monotheistic religions).

In contrast, *culturally pluralist theories* establish the impossibility of any anthropology (or ethics) that fails to take into account the cultural characteristics that define individuals and groups. Inevitably, any conception of the good way of life will depend more on the particular cultures of a given group of individuals than on any characteristics that may be shared by all of them. Humanity itself and its moral answers are plural. Cultures, and their particular 'centres of gravity' (Herder), are normally understood here to mean autonomous, global, separate, valuable, static and more or less homogeneous groups that should be preserved by each collective (ex. Vico, Herder).

On the other hand, *pluralist theories without fully rank-ordered values,* or value pluralism, defend the existence of a multiplicity of heterogeneous values that cannot be reduced to a single value, nor to a permanent and universal order of priority for all individuals and for all cases (I. Berlin is obviously the main reference here).[6]

Finally, *pluralist theories with fully rank-ordered values* accept both the heterogeneity of a series of values that cannot be reduced to a single value, and the possibility of establishing a permanent and universal priority of these heterogeneous values for all individuals (for example, the lexicographical priority between Rawls' two principles). In this sense, these theories refer once again to a kind of conception of human nature and 'rationality'. It is important to point out that political liberalism has mainly been based, philosophically speaking, both on monist principles and on pluralist principles with or without a fixed ranking of values. These positions are logically mutually exclusive in philosophical terms.

From now on, we will place ourselves in the first strategy (mentioned above) and value pluralism. On the one hand, the reason for adopting the first strategy of the internal revision of liberalism is based on our general interest in the revision and reform of liberal federalism in multinational contexts. The general objective is twofold: improve the normative perspective of liberalism when there is more than one national *demos* within a single democracy, and establish a more suitable institutionalization for the accommodation of national pluralism than that offered by traditional federalism. In general terms, and using the main western multinational democracies as our reference point (Canada, Belgium, United Kingdom and Spain), it appears that disagreement on what is meant by a liberal democracy in a multinational context is not so much related to different ways of life, but to issues regarding the national identity of individuals.

On the other hand, the reason for adopting value pluralism as a meta-ethical perspective of political liberalism is based on its greater ability to provide a version of political liberalism that is more sensitive to the goods, values and identities of national

and cultural pluralism. This version contrasts with the monist *philosophia perennis* that has so influenced the moral and political philosophy from classical Greece until our era.[7] In principle, this base permits a more open and less dogmatic position when establishing any kind of dialogue or deliberation than that permitted by alternative theories—a dialogue which is preceded by the difficulty in finding a language that is morally neutral and acceptable to all (Berlin 1976). Moreover, value pluralism accepts the inevitability of disagreement in those practical situations in which a series of values that are both desirable but contradictory coincide; values which cannot be synthesized, nor easily prioritized.[8] Finally, this greater theoretical prudence of value pluralism means, in principle, that it is interested in practical experiences and in comparative politics (for example, in the institutions and practices of federalism).[9]

The perspective of value pluralism also brings us closer to the typical cases of rational undecidability in the moral world and to the dilemmas and rivalry of moral values that are so attractively dramatized in Greek and Shakespearian tragedies. Tragedies are usually beyond the boundaries of human languages. In these tragedies we never completely understand the motives of characters whose actions are not totally decidable from a rational point of view. But these characters must act and with their doubts, questions with many answers and actions they force the spectators' most insecure side of their character to participate in the action. We are faced with an *agonist* plurality that at times will be 'tragic', not only because it represents some kind of loss, but also because we cannot avoid some negative consequences, whatever we decide to do. Tragedies such as Euripides' *Medea* or Shakespeare's *King Lear,* to mention but two of my favourites, reinforce individuals' moral perspective, the awareness of the limitations of their rational systems (monists or pluralists), and the possibility to become better moral thinkers when they perceive the difficulty of obtaining clear answers to what is happening on stage.[10]

Moreover, and despite the 'objectivity' of Berlin's conception of values, men and women are historical beings that transform themselves, partly because of decisions they have taken. From a more epistemological standpoint, value pluralism also relates to the *modern* attitude of the humanists of the sixteenth century—an attitude which is more sceptical, tolerant and concerned with the practical aspects of human existence than that of the more 'systematic' theorization of Cartesian and Hobbesian philosophies of the following century, which influenced contemporary moral and political thought.[11]

When one is situated in the first strategy, value pluralism perspective, the first condition will be to show if there is or is not any compatibility between political liberalism and value pluralism. Berlin himself warns that there is no logical link between them. Following the Berlinian path itself, this leads us to the existence or not of some kind of normative priority for liberty (previously defined) in political liberalism. I believe that Berlin's arguments in favour of compatibility are not totally conclusive, but they are more persuasive when we are dealing with the political and practical dimensions of value pluralism in diverse cultural and national societies.

One of Berlin's most important contributions is to understand that the universal contents of morality generates unavoidable conflicts among its values.[12] As it is well known, value pluralism makes 'harmonious' moral and political projects, even those of a liberal character, not only impracticable but also incoherent.[13] Berlin's answer to the link between value pluralism and liberalism is negative liberty. This approach has been

criticized in several ways. I will mention but two for their potential relevance for multinational societies: the criticisms of Charles Taylor and John Gray.

On the one hand, Charles Taylor has emphasized some relevant difficulties in the conceptual separation between negative and positive liberties, even when we consider more sophisticated versions of negative liberty (exercise concept) than those that associate it to a mere absence of interference from outside sources (opportunity concept). In the *opportunity concept* of freedom one individual is considered free regardless of what he/she does in that sphere. It is included in classical Hobbes' and Bentham's approaches. In the *exercise concept,* freedom is linked to some activated human capacity, such as autonomy or self-rule. In this concept, the lack of outside interference is just a condition but not a sufficient requirement of freedom. Following a similar path of J.S. Mill, Taylor (1985) defends a qualitative approach about what practices deserve a higher moral status in any consideration about freedom. Non-interference does not work as a workable discriminatory criterion among negative liberties. Negative and positive liberties can not but interfere (in education, for example).[14]

On the other hand, John Gray (2000) observes that autonomy cannot be considered as a 'fundamental' value of liberalism from the perspective of value pluralism—because there are valuable ways of life that are not autonomous but stem from tradition—nor can negative liberty be considered but one value among others. Moreover, negative liberties are also diverse and incommensurable and they can be ordered and combined in different ways. By the same token, according to Gray, it is not possible to maintain that liberal democracy is the only legitimate model of political organization but simply one of many. So, strictly speaking, it would be a matter of choosing between liberalism and value pluralism.

Nevertheless, what seems is not acceptable in practice, after a certain basic level of morality has been achieved and the 'universal evils' have been avoided (slavery, torture, etc.), is to oblige individuals and groups to accept specific ways of life when they reject them. Although in theoretical terms we cannot have a conclusive defence of the priority of negative liberties (and perhaps a clear criteria of demarcation), they can be usually presented as the moral (and internally potentially agonic) basic layer of liberal politics.

A second related but different question will be if there are other models of political organization, apart from liberal democracy, which are able to ensure the kind of individual freedom represented by dissidence and diversity. This is a more empirical than logical question. There are different positions and internal dissidence in all cultures. It seems that is not legitimate to use 'culture' to justify the repression of internal dissidence. Authors such as Taylor, Gray (and Parekh) are right to urge us to pay attention to certain values and ways of life ignored by liberal tradition. Many of them display moral virtues that liberalism is *blind* to or barely sees, and whose presence is not only acceptable but desirable in democracies which show more normative and institutional sensitivity to cultural and national pluralism. In any case, value pluralism is a perspective that

- warns about the *plural* and *agonist* nature of morality and politics, (something that Kantist, Utilitarian and other monist theories try to avoid—I think uselessly)
- highlights that legitimizing criteria in politics are not always related to a universal and non-contextual *moral* perspective, but to some particular and contextual *ethical* perspective

• illustrates that these legitimizing criteria are based not only on *values*—even when functional values are included, such as efficiency and stability—but also on partial collective *interests* and particular national and cultural *identities.*

The conclusion is that it is more difficult to be persuaded of the practical possibility of pluralism and dissidence within a regime in which negative individual freedom, even in its 'opportunity concept', and an *exit* from the dominant ways of life of a society are not guaranteed (see Weinstock 1997; Crowder 1998).[15] Negative liberty belongs to the historical and organizational core of these kind of democracies. Value pluralism highlights the fact that liberal democracies represent a historical, institutional and practical sedimentation of institutions, procedural rules and decision-making processes, which has shown its practical compatibility with those objectives. In any case, the adoption of the perspective of value pluralism as the base for the moral structure of political liberalism favours the adoption of a less arrogant attitude by the defenders of the latter than what normally occurs with monist and fully rank-ordered pluralist theories within the liberal tradition.

Linguistic pluralism and political legitimacy

Current democratic practice has an epistemological reference point in the *linguistic turn* of contemporary philosophy, most especially that which starts with the pragmatic linguistics of Wittgenstein in *Philosophische Untersuchungen* (1951).

In general terms, the philosophy of language in the first three decades of the twentieth century insisted that thinking about rationality effectively meant, in large part, thinking about language. In contrast with earlier periods of the 'philosophy of conscience', it is now maintained that there is no 'essence' to discover, but rather that there are linguistic 'objectivizations' of experience. A second stage to the linguistic focus on rationality, particularly from the time of Wittgenstein's revision of his earlier work (*Tractatus*) offers us a new *pragmatic turn:* the concept of *logical form* in language—which we never comprehend—gives way to the *rules* of *language games,* a differentiated group of uses and forms of life with which, as individuals, 'we open ourselves to the world'.

It is this latter period of the philosophy of language that is of particular relevance to the political sphere. Epistemologically, the emphasis is now on contextualization and cognitive plurality. This, then, dilutes the idea of a single founding rationality. We could say that plurality and contextualization explode within the very interior of the discourse of scientific and normative traditions: there is neither a single language, nor is there—in the languages existing—the same 'logical form'. Obviously, contextualizing the different theoretical approximations, as well as underlining their plurality, does not imply the admittance of an epistemological or moral relativism of a 'post-modern' character, but rather, it questions the claims of the 'foundational uniqueness' in certain contemporary democratic theories.[16]

I would like to emphasize here two facets of democratic legitimacy, namely the conviction that there is no political theory, not even political tradition, that may attribute such legitimacy exclusively to itself, and the recognition of the relationship that exists between different kinds of *narrative* political languages and the construction of personal and collective identities.[17]

a) Legitimizing normativity is not just the morality of values. As we mentioned earlier, the normativity of democracies includes the pragmatic, ethical and moral dimensions. Faced with this normative pluralism, the main political theories (liberalism, conservatism, socialism, communitarianism, nationalism, etc.) have tended to choose one particular element or a combination of them by means of a plurality of philosophical approaches (deontological, consequentialist, particularist, perfectionist, etc.). In this way, each one of these theories tends to

- give priority to a number of specific questions on political legitimation
- use a particular conceptual framework
- concentrate on specific goods, values, interest and identities
- propose specific solutions for questions that have been selected as most relevant in the political sphere: individual freedom and the limitation of power; social equality and the criticism of capitalism; the development of civic virtue and legitimized links with the political community; political stability and social cohesion based on shared feelings, values and customs; or the recognition and promotion of different identities considered as priorities by the individuals of any given group.
- interpret in a different way, marginalize or fail completely to take into account the questions, concepts, values and institutional references defended by rival theories.[18]

The absence of one single theory of democratic legitimacy situates us within normative plurality. This is a question that has been analysed, among others, in history and linguistics studies by Q. Skinner (1988, 1991, 2001) and J. Pocock (1984, 1985). Language always structures that which we wish to emphasize on the basis of certain rules situated beyond the simple wishes of the interlocutors. Understanding a political theory implies understanding the key outstanding questions, and the *speech acts* that are used in any given context (Pitkin 1972:XII-XIV; Searle 1995: chs 1–5). Here we understand legitimizing political languages more as context than as text. Each of the great traditions of political theory—liberalism, socialism, republicanism, conservatism, cultural pluralism—in emphasizing certain issues within the political sphere, use a whole series of specific conceptual and analytical tools that construct a given *narrative* on political relations, and propose given attitudes or solutions in order to provide answers to those issues that each theory has selected as being of greatest importance in the public arena.

Each one of those political traditions draws a *veil of silence* over a significant part of the areas emphasized by other political traditions. We find ourselves faced with what are, in effect, partial theories that on the one hand underline, and simultaneously foster, specific aspects of democratic legitimacy; but on the other hand, detract from or even hide from view other aspects of this legitimacy when such aspects turn out to be alien to the 'rules' (Wittgenstein) of their particular narrative.

In purely descriptive terms, the inevitable and desirable linguistic and normative pluralism which exists in the democratic legitimation processes may be seen as *nine linguistic and normative poles* from which the main political traditions have conceived the political legitimacy in liberal democracies (regardless of the perspective and the internal theoretical focus adopted):[19] the liberal (L) (sphere of individual rights, separation of private and public spheres, limitation and legal control of power), the democratic (D) (equality of citizenship, participation and 'popular' control of power), the

socio-economic (S-E) (production and distribution of goods and services), the social order (O-S) (internal peace and external security), the national (N) (collective identity/ies as political unit/ts), the cultural (C) (religious, linguistic, ethnic, etc.), the federal (Fd) (territorial self-rule and central shared-rule), the functional (Fn) (stability, efficiency, efficacy), and the post-materialist (P) (environment, peace, etc.)- Each pole in Figure 1 synthesizes a *general type* of questions, concepts, values, institutions and references that the theories usually develop, combine (and marginalize) in different ways.

The edges and the diagonals of the base of the pyramid illustrate the relations and tensions between two of its poles—for example, the classic clash between the liberal and democratic normative perspectives which has been developed in some of the political theories of the nineteenth and twentieth centuries. Other relationships have been developed theoretically much more recently.[20] There are also tensions within each normative pole (between liberties and equalities within the liberal pole, for example, and even between liberties themselves).[21] So, the pyramid illustrates, on the one hand, the *agonistic* character of the moral, ethical and instrumental normativity in liberal democracies and, on the other hand, the not so 'liberal' nature of this normativity in western societies. Finally, this also allows us to distinguish between 'wider' and 'narrower' theories of democracy, depending on whether they embrace more or less normative poles in their conception of political legitimacy - a question which is not related to the 'strong' or 'weak' nature of some of the normative poles considered in these theories.[22]

This normative and linguistic complexity, which is present in the legitimization processes of present-day democracies, also endorses the adoption of the theoretical perspective of value pluralism simply for Aristotelian reasons of ethical and epistemological 'prudence'. None of these theories—'liberal' or 'republican'—is able to synthesize these normative poles; none is superior in all theoretical and practical aspects of morality and political legitimation to give it the right to be the only voice for the development of a 'well-ordered society'. This is a question which, as Berlin also argued, liberalism might incorporate into its theory, put into practice through the pluralisation of its normative and institutional bases, and allow more space for 'modus vivendi' type agreements, especially in those societies which are culturally and nationally more plural.

b) The second facet, the interrelation between narrative and identity, has also been emphasized since the late 1980s by writers as disparate as Walzer (1987), Rorty (1989), Taylor (1989) or Arendt (1993). The central point is the role of beliefs and values in the construction of modern identities through a narrative conception of identity, situated beyond the abstract and individualistic conceptions of a more formal character, which are usual in standard approaches to democratic liberalism. This interrelation concerns both the particular identities that define what we are—and which in large measure we do not choose—and the ways of theorizing about such identities that modern times have given rise to (Mitchell 1980; Hinchman and Hinchman 1997).

Narrative conforms to an inevitable and essential trait in human life. It is a trait which, on a normative level, emphasizes the need to accommodate the 'ethical' dimension of practical rationality within the 'moral' rules of democracies. In this way, the very sense of progress will be related to the theoretical narrations coming to us through the interrelation with others who always belong to specific groups, and that construct the

referential frameworks from and within which we orientate ourselves, morally speaking, in an increasingly interrelated world. These frameworks are always unfinished, and always reveal their particular historical, dynamic and contextual character, however much their language might be filled with terms that aim to be semantically more definitive or 'universal'. In fact, theoretical revision and practical reformism form a part, as Protagoras very well understood, of the morally ever-perfectible character of democracy.
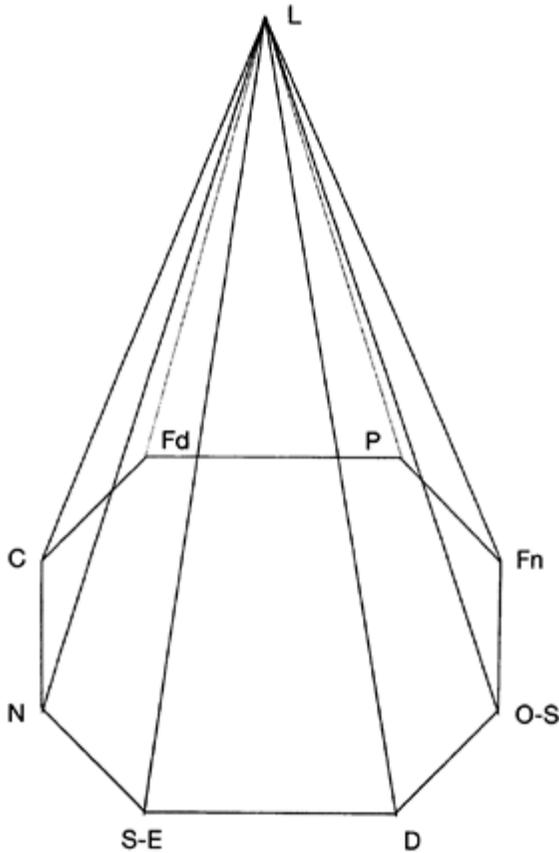
Figure 1 Legitimizing normative poles in liberal democracies

Sometimes 'progress' means illuminating and transforming the darker side of humanity's emancipatory revolutions. At the beginning of the twenty-first century, the analytical importance of the two facets of democratic legitimacy outlined above lies in the ability to evaluate more precisely both the different theories of political legitimacy, and their practical results. We know that the liberal tradition has been (and, we would add, fortunately so) the hegemonic tradition in this process of construction. But we also know that liberal democracies are historical 'products' that, in practice, have been constructed and conceived by the state. Modern theories of democracy are, fundamentally, theories of the democratic *state*. The inherent *'stateism'* of such theories

is a characteristic that can hardly be 'neutral' when it comes to considering pluralism in the institutional concretion, or when proceeding to evaluate it on the basis of emancipatory terms suggested by contemporary political theories, and most especially by theories that are rooted in liberalism.

2
Democratic legitimacy and national pluralism

This history may not be the most delightful to hear,
since there is no mythology in it.

<p align="right">Thucydides, History of the Peloponnesian War, I</p>

To know a language is to know the things which may be
done with it, so that to study a thinker is to see what he
attempted to do with it.

<p align="right">J.G.A.Pocock, Politics, Language and Time, 1971</p>

In this chapter, I present some key issues of liberal-democratic legitimacy in multinational polities from a philosophical perspective. The first and second sections focus, respectively, on the two most important general approaches within the current discussion of democratic liberalism in multinational contexts (the so-called liberalism 1 and 2), and on a revision of universalism and particularism in these contexts. The third section analyses some shortcomings of Rawls' and Habermas's theories when applied to multinational democracies. Finally, the fourth section offers a review of some elements of Kantian philosophy as a way to establish an updated liberal approach to political legitimacy in multinational democracies. This approach fits again with the value pluralism perspective.

Two liberal approaches

One of the central points in current revisions of democratic liberalism within multinational contexts, like Belgium, Canada, the United Kingdom or Spain, is based on the practical consequences that have been brought about by the 'stateism' of empirical democracies and its inherent nationalism,. Here we usually find ourselves faced with a contrast between liberal theory and liberal practice. In fact, *in practice,* all liberal democracies have been nationalist realities. Nevertheless, in some of the *theoretical* liberal democratic conceptions of greater influence, the relationship between liberalism and nationalism has been presented as a relationship between irreconcilable positions. This is based on comprehending the two as representing general political positions that are founded on values, concepts and internal logic that are simply in contrast: any attempt to reconcile the two perspectives would be condemned to failure. Yet this is a notion that is becoming increasingly obsolete, particularly in contemporary circumstances presided

over as they are by globalization and national pluralism. In the present-day context, the debate is no longer between *democratic liberalism* on the one hand, and *nationalism* on the other, but rather it is between two basic and essential ways of understanding democratic liberalism and nationalism themselves or, if we prefer, between two different variants of democratic liberalism when it comes up against globalization and national pluralism (liberalism 1 and 2).

In relation to the 'national question', the first variant defends a concept based, essentially, on individual rights of a 'universal' kind, on a 'non-discriminatory' idea of equality for all citizens, and on a series of procedural mechanisms that regulate institutional principles and the collective processes of decision-making. It is a form of political liberalism that distrusts the very notion of *collective rights,* suspecting such a concept of bringing authoritarian risks in its wake (liberalism 1). The second variant adds to these elements those of the protection and development, in the public and constitutional spheres, of specific cultural and political 'differences' for distinct national groups living within the same democracy. It holds that the absence of political and constitutional recognition and of broad-ranging self-government, results in a discriminatory bias against national minorities and in favour of national majorities, and that this thereby violates the principle of equality (liberalism 2). According to this position, the first variant of political liberalism provides incentives to restricting minority national differences to the private sphere, all the while accepting the national cultural characteristics of the majority (language, history, traditions, etc.) as an implicit 'common' reality within the public sphere of the polity.[1]

Liberalism 2 has tended to emphasize the fact that the language, markedly universal, in favour of the individual rights of the citizens, of equality and of non-discrimination used by those in favour of liberalism 1, has—in practice—led to discrimination and marginalization of national characteristics not coinciding with those of the majority or hegemonic national groups within the polity. For the minority nations, the price to pay for equality of citizenship often has been a situation of inequality in terms of linguistic and cultural personality in the public sphere. In other words, citizenship does not come at the same cultural price for each and every one of the different national groups within liberal democratic polities. According to this approach, rights, institutions and the procedural rules included in the *moral minims* aimed at by liberalism 1 have implied, in fact, the acceptance in practice of a whole series of *collective* and *particular* rights and values. These are certainly far removed from the *cultural neutrality* and *universal* language usually claimed by the state in defence of the supporters of this version of democratic liberalism.

If one of the traditional criticisms levelled at political liberalism—and made both from conservative and socialist positions—was that of the contrast between the ideas described in liberal theory, and what was actually carried out by those polities calling themselves 'liberal', then at the present time such criticism broadens from purely *social or socio-economic* components to include the *cultural* components that are to be found in liberal democracies. In more philosophical terms, we could say that the narrative set out by liberalism 1 does not bear sufficiently in mind what exactly is implied by the *linguistic* dimensions referred to earlier in this discussion. And this, then, damages certain aspects of the emancipatory project laid out by this version of political liberalism.

On the other hand, what is demanded in multinational contexts by liberalism 2 is, specifically, the possibility to realize more clearly the values of liberty, equality and individual dignity, which form the core part of contemporary liberalism's emancipatory project, by means of an effective accommodation of the different national realities living together within the same democracy. That is, in order to improve multinational democracies in both an *ethical* and *moral* sense, there would have to be the inclusion, in the practical regulation of those abstract values, of the different national collective identities that go to making up the individuality of the citizens within one and the same polity. This is a question that is often concealed in the conception of a basic national public sphere assumed by liberalism 1, under culturally homogenizing concepts such as 'national sovereignty', 'popular sovereignty' or 'citizen equality'.

I think that the step from liberalism 1 to liberalism 2 may presuppose a broadening of pluralism with the aim of including certain cultural and national dimensions that, up to now, have been undervalued or greatly marginalized in the liberal and democratic traditions of contemporary political thought. This is a broadening that, in fact, is facilitated by the very same 'universalist' language used by the narrative of the liberal tradition. It aims at widening the semantic content of certain liberal notions such as those of pluralism, equality or liberty, and—at the same time—at undermining the limitations and biases of its manifestations based on the *stateism* and *nationalism* maintained in practice by liberal democracies. In other (and more post-modern) words, while liberalism 1 is well placed at the moment of accommodating the first of the two facets on narration mentioned in Chapter 1—the non-existence of monopolies within languages as regards the democratic legitimacy of western societies—liberalism 2 sets out the second consideration and, what is more, connects it to the first: the inevitably constructed character of any individual or collective identity. In this way, we could say that liberalism 1 tends to move with more ability in the area of *semantic* reflections, since these do not question the power relations within the linguistic context in which such reflections ought really to be situated, while liberalism 2 places itself within an area that is more fully the domain of linguistic *pragmatics,* since it questions the basic uniqueness and homogeneity of that context.[2]

In essence, then, the defence of national differences and its *politics of recognition* within the political sphere presupposes a more precise version of a form of universalism capable of exercising a more open and critical role in relation to existing and globalized realities (for analyses of democracies and globalization, see Archibugi and Held 1995; Axtmann 1996; Resnick 1997). It is in this sense that I believe in the importance of a universalism that is not understood as a closed conquest, or as one which has been attained from values interpreted purely in the light of one type of narrative, but rather as a never-ending perspective that allows for the combating of the 'pathologies' which sometimes accompany various different types of (state and non-state) nationalism. In reality, we always argue from the position of cultural inheritances that include both a universal and particular kind that, in large part, come to us preformed. Adopting a true 'cosmopolitan' position in a multinational context would mean making the moral stance adopted an increasingly *general* one, and to do so not on the basis of 'tolerance', but rather of *respect* for the plurality of hermeneutic frameworks of reference.

Understood from this point of view, the majority of claims made by minority

democratic nationalisms (i.e. Catalan, Scottish or Quebecois) represent a deeping of the universal suppositions of political liberlism, and particularly of the values of equality, liberty and pluralism.[3] In a multinational democracy, the key task is to understand that a plural set of public spheres coexist, as well as different processes of nation-building. In this way, the political and constitutional regulation of this specific kind of pluralism thus becomes a demand of liberal and federal legitimacy themselves at the beginning of the twenty-first century.

Universalism and particularism in multinational democracies

The consideration of the biases and analytical shortcomings pointed out in the first chapter—the monist conception of the *demos,* the marginalization of the ethical dimension of practical rationality, the exclusion of the paradigm of difference and the existence of nation-building processes in all democracies—involves a revision of the role of normative universality in democratic legitimation and of its relation with values of a more particular nature. This means that it is no longer pertinent to consider as mutually exclusive the contrast between a form of universalism based on egalitarian components of human 'dignity' and a form of particularism based on the cultural elements that individuals acquire through processes of socialization.

In a pluralist society, while universalist values are part of the identities of particular individuals, particular national and cultural values influence the concept of dignity itself. Therefore, the often accurate criticisms that liberal universalism has regularly directed at particularist positions, in so far as they lean towards conservatism and a lack of clear decision-making references, should be complemented with the no less accurate criticisms of culturally rooted particularism aimed at traditional universalism: lack of realism in relation to the normative links that individuals maintain with the groups and collectivities that they belong to and, above all, in relation to the practical inevitability of defending a set of specific cultural particularities in the name of this alleged universalism.

On the other hand, the distinction between universalist and particularist normativities should itself be distinguished from the application of the two kinds of normativity. In the processes of democratic legitimation, neither does universality coincide with impartiality, nor particularity with partiality (see Parfit 1984; Nagel 1991; Stocker 1992; Miller 1995: ch. 3). In other words, it is essential to bear in mind the distinction between an *impartial way* of putting into practice both a universalist normativity and a particularist normativity based on the uniform implementation of the norms and criteria for all the individuals and groups of the collective; and a *partial way* of carrying out this implementation by directing it at specific persons and groups that make up the collective.[4]

Thus it is possible to establish the existence of four possible combinations between these two pairs of concepts. Table 1 synthesizes the relationship between the different types of legitimizing normativity (universal or particular) and their ways of application (impartial or partial) in plurinational democracies.

In the case of multinational democracies like Belgium, Canada, the United Kingdom or Spain, the perspective of liberalism 1, which is to *filter* those cultural particularisms that are incompatible with the universalism of 'loyalty to humanity' (Rorty 1997), must be

complemented by the perspective of liberalism 2 in order to *departicularize* national stateist biases that hegemonic cultural groups have imposed on all the citizens of the polity. In this way, multinational democracies display plural forms of national identity that are basic for the different forms in which individual dignity and self-esteem are expressed.

These kinds of theoretical and practical revisions will have consequences for political philosophy. If not only 'morality', but also the *ethicities* are relevant for the political legitimacy in multinational democracies, we may say that this favours the flexibilization of the Kantian perspective, as it has been traditionally interpreted, towards a more Humean or Hegelian approach.[5] However, I believe that Kant's work offers more sensitive interpretations for the pluralism of national identities, above all when one questions the implicit liberal stateism that dominates the 'constructivist' (Rawls) and 'reconstructivist' (Habermas) versions of Kantism and adopts a theoretical perspective closer to value pluralism (McCarthy 1994; see also Klosko 1993, 1997).

Rawls, Habermas and multinational democracies: some analytical remarks

Both Rawls and Habermas may be included in the paradigm of democratic liberalism. But each does so from the two different components of the expression: liberalism in Rawls' case, and the democratic tradition in Habermas's case. A fact that is not 'neutral' when one attempts to establish normative 'foundations' for liberal democracies or to regulate different types of pluralism.

Both authors defend a contractualist and procedural conception that establishes that liberal-democratic legitimacy should be based on the consent of the citizens exercised from individualist bases. This is a form of consent that seeks to combine justice and democratic stability

Table 1 Type of legitimizing normativity in plurinational democracies

		Universalist normativity Legitimation based on values, interests and identities linked to the 'dignity' of any human being in the polity	Particularist normativity Legitimation based on values, interests and identities linked to the cultural 'differences' of collectives or specific groups in the polity
	Impartial Uniform application of rules and criteria to all	Legitimation of individual 'human rights' of a civic participatory,	National (territorial) collectivities: political recognition plus	Cultural groups (without territorially) (immigrants,

Ways of applying the normativity	individuals and groups	socio-economic and cultural nature in a specific polity (Kantian, perfectionist and utilitarian theories)	national self-governments (states, minority national collectivities); legitimation of specific rights and values (individual and collective), regulation of political institutions and internal policies of the national collectivities	religious, etc.); legitimation of specific rights and values
		(Liberalism 1)	(Liberalism 2)	(Liberalism 1 and 2)
	Partial Application of rules and criteria in favour of specific individuals and groups	Legitimation of internal policies of positive discrimination (gender, social class, language, etc.) (Transitory policies) (Permanent policies)		

from rationally legitimizable principles. This implies an establishment of 'moral' foundations of the public sphere, which can no longer be based on *modus vivendi* type agreements or on the exclusivity of pragmatic or ethical dimensions of practical rationality. The aim is to establish public foundations for justice that incorporate stability through the coherence between the rights, institutions and the practical processes of collective decision-making. What interests us here is to see to what extent this theoretical effort is able to articulate democratic legitimacy in multinational polities.

Rawls and national pluralism

'In the beginning there was John Rawls', or at least it seems that way sometimes. In general terms, I believe that in relation to cultural pluralism movements, Rawls' conception is well suited for single-issue movements.[6] It offers possibilities of adaptation for some of the demands of immigrant movements, but it is not very well suited for movements that combine the features of territoriality and self-government, or, in other words, when it is applied to minority nations and indigenous movements.

As many authors have pointed out, Rawls' conception seems to be designed for societies with a very low level of political and social conflict (see Neal 1993; Lund 1996). But what happens when more or less permanent conflicts emerge in relation to the

identity of citizenship, in the limited terms in which Rawls conceives it? It would seem that we should opt for one of the following courses of action.

First, abandon our belief in a theoretical foundation of citizenship in liberal democracies in favour of a more pragmatic approach. Agreements in the public sphere are possible, but they should be based on real agreements closely linked to a position of modus vivendi. In our case, this would involve preventing conflicts between groups of distinct national identity by means of empirical agreements. These agreements would not be based on 'strong' normative criteria, but would be the result of the relative strength and the negotiating capacity of the political actors involved.

Second, abandon the quest for 'neutrality' by establishing a 'perfectionist' model of citizenship which favours, among other things, state nationalism. From this position, the organizational rights and principles of the public sphere can be justified from the premises of a 'superior or integrative national identity', in detriment to the non-state national identities. These rights and principles can be also justified from a number of 'universalist' premises that present any national identity, including that which the state itself represents, as something remote from the 'cosmopolitan and enlightened' perspective that should be the basis of any 'truly liberal society'.

Third, defend a limited liberal citizenship, restricted normatively to the defence of property rights and negative individual liberties, in that it defends the rights of the individual against interference by the public powers and other citizens, without worrying about which kind of identity should be imposed in practice.

Fourth, revise the agreement proposed in the public sphere (the principles of justice) by attempting to combine the different normalizing elements (liberal, democratic, national, social, etc.) into the idea of citizenship, despite being aware that this might cause conflicts when it is put into practice. In this way one does not attempt to avoid conflict between the different normative perspectives of the idea of citizenship. On the contrary, one actively promotes the establishment of suitable institutional and procedural mechanisms designed to channel and solve any conflict that may arise.

It seems that Rawls has to choose between readapting the principles of justice to make them suitable for the normative demands of national pluralism, or abandoning his fundamentalizing or neutrality aspirations.[7] None of the so-called theories of justice is capable of bringing together in a single theory all the legitimizing poles that make up the normative base of the liberal democracies. From the point of view of political legitimacy, it can be said that philosophical ideas of justice do not do what they want to do, they do what they can.

One of the most attractive aspects of Rawls' theory is the fact that he, better than other rival theorists, synthesizes some of the most important normative traditions that have appeared in the modem era. But it continues to display shortcomings when, as occurs with some types of cultural pluralism, it has to deal with facts and values that are alien to its premises. Rawls has admitted that his *Theory of Justice* leans too much towards a 'comprehensive' doctrine. As is well known, moreover, Rawls uses 'neutrality' in relation to conceptions of good as the core of his political liberalism. In his latest work—and in his reply to Habermas (Rawls 1993, 1995)—the starting point is the pluralism of these conceptions. This constitutes an irreversible characteristic of the political culture of democracies. This fact, according to Rawls, implies the neutrality of the political sphere,

above all concerning 'constitutional essentials' and 'matters of basic justice'. The first refers to the rights, liberties and rules of the institutional game, while the second refers to the distributive matters related to the principle of difference and equality of opportunities of his earlier work (Rawls 1993: 227–30). One of the main differences between *Political Liberalism* and his even better known *Theory of Justice* is the increasing importance of the category of 'citizen' as opposed to that of 'person'. What is now important when establishing the *principles of justice* in a 'well-ordered' society is, above all, to establish a 'political' conception.[8] Thus, we are faced with a more political and less ethical presentation of those principles. This change seems to suggest from the start that there will be more opportunities to link national pluralism to the principles of justice. At the very least, these opportunities seem greater than those suggested by the more individualistic and traditional focus of his earlier work. It seems that an 'ethical' dimension should be added to the most moral perspective included in the principles of *Theory of Justice* (TJ). We can ask if in *Political Liberalism* (PL) he maintains a more favourable attitude to the regulation of cultural pluralism and, especially, to national pluralism.

At first, it would seem he does, especially with the importance that concepts like 'burdens of judgement', 'overlapping consensus' or 'reasonable pluralism' now have. The notion of reasonably pluralism, for example, implies that distinct groups may coincide, reasonably, on fundamental questions, although this may be for different reasons and as long as they accept the conditions of generality, recognition of the consequences in the public sphere, and of reciprocity with other conceptions (Rawls 1993:48–66). The importance of the 'reflective equilibrium' of TJ is fundamental here to achieve the independent and 'free-standing' intersubjectivity to which it aspires (Rawls 1993:144–54). On the other hand, the 'ethical' dimension that appears in the 'burdens of judgement' of reasonability has normative relevance in that it contemplates the hermeneutic context of individuals, even when the independence of the principles of the public sphere from all conceptions of good continues to be maintained (Rawls 1993:54–58). In this way, we may move from the ethical to the public sphere by means of the notion of reasonability.

Could we find a place, for example, for national group rights as prerequisites for a true 'politics of recognition' in the *overlapping consensus* of a multinational state that adopted the perspective of *Political Liberalism?* Without moving away from Rawls' conception this should be regulated, from the logic of the 'least advantaged members of society' included in the 'principle of difference', or from a new list of 'primary goods' which are necessary to develop a full sense of citizenship.

The first path is, I believe, possible in order to regulate some group rights and the positive discrimination policies demanded by some single-issue movements, as long as it is taken into account that different kinds of disadvantages require different kinds of rights. But this first path does not appear to be suitable for movements of a territorial and permanent nature which demand self-government, as is the case of national movements. The second path, the enlargement of primary goods, seems at first sight to be more promising, if the semantic sense of ideas such as self-esteem and self-respect is enlarged. However, the existence of different societies will also probably imply a different list of primary goods. In our case, it would imply that the linguistic and cultural characteristics

that make up national identities should be integrated into the principles that regulate the public sphere of multinational democracies. This is absent in Rawls' theory.[9]

It seems clear that PL is not very favourably inclined towards the consideration of differentiated rights in the notion of democratic citizenship, or towards the implementation of institutional reforms in favour of specific territorial minorities. In the same way that cultural identities did not constitute one of the 'primary goods', the regulation of specific rights and arrangements of an institutional nature for non-hegemonic national groups is not included in the 'constitutional essentials'. When dealing with the regulation of minorities, Rawls tells us that the only reasons that are relevant are those that the rest can accept from the perspective of reasonability. In the same way as in TJ, the degree of conflict within the society which Rawls seems to have in mind is remarkably low. It would appear that the concept of what is reasonable must drive a form of citizens' civic-mindedness that would result in the principles of justice being accepted by all the *demos* of the polity. Nonetheless, Rawls considers that these groups—which never include those hegemonic groups that do not need specific regulations—may refer to their particular conceptions as long as this is done in support of the ideal of public reason. In other words, an inclusive conception of this reason is maintained. But in this new stage of Rawls, we neither move away from a very limited conception of the public sphere, which is quite a heavily 'shielded' conception when dealing with the disagreements of this sphere, nor do we go very far beyond intuition in the notion of what is reasonable. The latter seems to cut across a number of preordered positions in terms of values, interests and identities. The final result is a legitimizing conception of the status quo that does not seem very interested in offering a revised framework for pluralism such as those of a troubled national character present in democracies, such as Belgium, Canada or Spain.

I believe that the limitations in Rawls' work in relation to national pluralism can be better understood if we take both TJ and PL as a theory of the state. In fact, it is the latest classic theory of the state of the liberal tradition. And as such, it seems logical that it should encounter difficulties when from its own premises it attempts to tackle the international sphere—'Law of Peoples' (Rawls 1999)—or it has to deal with a kind of pluralism whose processes of nation-building conflict with those supported by the state. The latter is not questioned but implicitly accepted. Rawls' work continues to display too many implicit assumptions of a specific kind of liberal communitarianism, which restricts his notion of pluralism. Implicit assumptions which affect both the 'prejudices' of a utilitarian nature in the notion of rationality, and the prejudices of a stateist nature in the notion of what is reasonable.[10] Moreover, it seems that modus vivendi type agreements must continue to be excluded from a true fundamentation of democratic legitimacy. But it is difficult to conclude that primary goods do not defend on each specific cultural context.

On this issue Rawls seems to look down on the rest from a self-styled position of 'privilege', as one who has reached a decision on the legitimacy of the *demos* in terms of an implicit state nationalism. Regardless of the thickness of the 'veil of ignorance' that is drawn over the individuals of the original position, they will either be *noumenic* individuals who accept a shared national culture that is unquestioned, but whose agreed principles will be valid in their totality only for this culture; or they will be individuals

who avoid all cultural references, something which will, in fact, produce a set of principles of justice that will be insufficient as a practical base for democratic legitimacy in a multinational polity. Put another way, either one assumes the cultural particularity of the established contract, or the ethical incompleteness of the principles of justice.

In any case, in Rawls' theory, the national pluralism of the *demos,* far from being understood as a transversal context in which different conceptions of good coexist, seems to be subsumed as part of the comprehensive nature of these conceptions. The general conclusion is that this second version of Rawls' theory also fails to offer a suitable conceptual reference point for understanding and articulating multinational societies in the liberal-democratic constitutional framework. It is a theory that is better at tackling other kinds of multicultural phenomena, but which fails when faced with multinational democracies. Following Rawls' perspective, for example, the consideration of the territorial division of powers will be closer to the logic of subsidiarity than to the logic of federalism (see Chapter 3; see also Requejo 1998a). In fact, Rawls' conception is not necessarily conceived from the point of view of federal suppositions, and even less from the point of view of multinational federations. In this case, in the regulation of territorial questions, Rawls' well-ordered society will fulfil 'pragmatic' criteria of efficiency and 'moral' criteria of unitarian democratic logic, rather than 'ethical' criteria of the defence and promotion of specific national groups that do not coincide with the hegemonic groups of the state. Considerations of national identities are excluded from the 'veil of ignorance'.

I believe that Rawls' theory displays, to a certain extent, a kind of 'American liberal communitarianism' that fails to take sufficiently seriously the conceptual changes that the linguistic swing implies for contemporary rationality. In contrast with Habermas's conception, Rawls fails to give enough attention to the relationship between linguistic pragmatic dimensions (the acts of speech) and political pragmatic dimensions (the overlapping consensus). In other words, while Rawls stresses the *moral* and *strategic* components of practical rationality, the liberal perspective that is defended in this volume also asserts the *ethical* components of this rationality. If in politics the main challenge of ethics is its applicability, it cannot be reduced to a simple question of 'principles' which are based only on the moral and strategic components of practical rationality. Or in more philosophical terms: the inclusion of the *ethical* components of practical rationality in the 'political fundamendation' of liberal democracies will help to *denoumenize* the theoristic excesses from Rawls' conception, still present in PL. This is the case, for example, of the inclusion of more pragmatic than semantic references to the symbolic and sentimental world of the national identities that affect, although not exclusively, the understanding that many citizens have of themselves and of the collectives that they want to belong to (see Habermas 1994; McCarthy 1994).[11]

If in the name of abstraction and universality we abandon core aspects of human self-identity, the result will be an impoverished anthropology of democratic citizenship and moral impartiality, incapable of explaining or regulating essential aspects of the political life of empirical citizens (not that of the stylized *noumenic* individuals of philosophical constructions). And it seems clear that if the cultural components of national identity are one of the fundamental ingredients of individuality for the majority of citizens, a liberal political organization based on the recognition and respect for individuality should

include identity in the concept of citizenship, and not just in the 'liberality' of the society. The same liberal ideas of individual dignity, self-respect and self-esteem should not be excluded from that identity. Neither are non-state nationalisms *per se* contradictory to liberalism, nor has the latter been 'neutral' with respect to state nationalism. What is normatively contradictory is the fact that democratic liberalism fails to include the plural nature of national identities in the constitutional rules of the game. One of the current tasks of liberal political theory is to offer effective answers to the link between state and non-state national identities. To do so it must offer a revised conception of its individualist and universalist premises which goes beyond the implicit stateism of traditional political liberalism. To live in an increasingly plural society in cultural terms will be one of the essential *values* of the liberal democracies of the future.

Having reached this point, we can see if Habermas's insistence on reasonability characterized by dialogue, and on the need to articulate the three components of practical rationality, provides a more fruitful base for the legitimization of liberal multinational democracies.

Habermas and national pluralism

The 'democratic' roots of Habermas's conception led him to defend a wider notion of the public sphere than that which we find in Rawls. Rawls' 'liberal' limits, when he establishes an overlapping consensus that is uncontaminated by comprehensive conceptions, give way in Habermas to confidence in the intersubjective deliberation of any question that affects the public sphere. Coming from the democratic tradition, Habermas is located close to the 'positive' perspective of political liberalism. Now, the 'transcendental' condition is that the 'principle of discourse' is obeyed. The latter serves as Rawls' concept of what is 'reasonable', but from stronger epistemological premises. It is the main principle in order to arrive at a truly 'moral' foundation, a long way also from the modus vivendi agreements negotiated between given interests, values and identities. In Habermas's perspective, what one must do is accept as valid—not as true—only those norms that those affected may agree to their participation in the construction of a rational discourse based on conditions of impartiality, absence of coercion, equality and inclusion.[12]

In Habermas's conclusions there are at least two aspects which are relevant to the discussion of constitutional democracies in multinational contexts. On the one hand, the legitimate solution to the question of 'reasonable pluralism' in complex contemporary societies must come from judicial norms. In other words, it must come from the institutional product that expresses mutual recognition in a society in which individuals, in practice, do not have direct contact with each other. Because of this, democratic constitutional rules will be necessary. But those rules will also need to be permeable for the 'communicative' vitality that is expressed in the non-institutional public sphere (civic organizations). On the other hand, the normative validity of the public sphere must be capable of articulating the 'ethical' and 'moral' dimensions so that neither of them cancels out the other. Here, the key point is the construction of a public sphere capable of including the ethical identities that are involved in the process of collective decision-making. The crucial thing is not to preserve a series of moral rules that are

uncontaminated by ethicity, but to ensure that those groups with distinct identities have access to the public sphere where communicative logic exists, so that it can later become a right based on constitutionally established procedural rules (Habermas 1992:156; 1996).

Regarding this question Habermas, in his reply to Taylor (1992; see also Tully 1994), defends a non-neutral liberalism in cultural matters. A liberal politics of recognition depends on the right to one's own culture as a basic element of individual identity—an identity that is largely formed through dialogue, and which requires the recognition of others. Certainly, political decisions are in many cases impregnated with *ethicity,* whether the decision-makers and philosophers like it or not. Nevertheless, I think that Habermas's criticism of Taylor in that 'Liberalism 2', as Taylor (1992) formulates it, would question the individualistic nucleus of the modern understanding of liberty is not well founded, at least in the case of a multinational democracy. There is a permanent haziness in Habermas concerning two questions: first, why proceduralism is equivalent in practice to accepting the institutional political process of liberal democracies and no other democratic conceptions, and second, what the unity of the subjects of the discourse should be. Concerning this second question, and in the same way as occurs in Rawls' PL, the universal pretension of the communitarian reference from which Habermas considers pluralism is questionable.

In general terms, Habermas's attempt to link cultural pluralism with a theory of democracy is also better suited for the case of immigrant peoples in a single-nation state than for the case of a multinational polity. Behind the 'constitutional patriotism' (and behind Rawls' 'overlapping consensus'), one can make out a society with few territorial tensions of a national nature. The choice of recognition through dialogue does not appear to include the nations of multinational democracies on equal terms. The latter are not situated in the sphere of pure particularist ethicity, but constitute a cultural framework of universal and particular references which build up collective identity that demand recognition in the public sphere. In fact, national pluralism is closer to the contrast that exists between different states, each one equipped with its own constitution, than between different comprehensive conceptions of good.

In the kind of society of which Habermas seems to be thinking, it is easier to fall back on the classic liberal separation between culture and politics in the public sphere. But few advances are made in the normative and institutional consideration of troubled multinational realities like Belgium, Canada or Spain in which what is being discussed is a suitable constitutionalization of the national differences that coexist in a territory. (The examples of Switzerland and the United States, sometimes used by Habermas (1992:642), are more appropriate for 'constitutional patriotism' as they are not basically impregnated with competitive national pluralism in their different processes of nation-building.) In a multinational state, constitutional regulation includes symbolic, institutional and representational powers for aspects of foreign policy, among others, that are not included through a regulation of the rights of participation and communication established in terms of a uniform *national* citizenship. Constitutionalism must, in this case, use elements of 'pluripatriotism', something which, in my view, implies the constitutional recognition of national pluralism of *that* specific democracy.

I therefore do not question the existence of a common political framework in

multinational societies, but the fact that this framework must be based on the perspective of uninational democracy from which Habermas seems to be approaching the question when issues such as state symbols or the representation of the different nations that make up the state in international spheres are addressed. In a western multinational state, it is simpler to agree on the 'basic normative nucleus' of the society than in a state with another type of cultural pluralism (immigration, for example; see Habermas 1996:237–76), but it is more difficult to reach agreement in the symbolic, institutional and representational spheres of the state's public sphere. While in the first instance what is being discussed is the political *integration* of the cultural plurality of the citizenry, in the second instance what is being sought is a satisfactory constitutional *accommodation* between different national realities taken from an equal footing.

Habermas is confident that the mere existence of deliberative mechanisms, and their correspondence with institutional practice will lead democracies towards a minimization of conflict and greater 'justice' in results. This is one of the main mysteries in his conception. Another mystery is the establishment of a *liberal* democracy through the principle of discourse (Rawls 1995:166). In fact, the deliberative model is also congruent with other more 'substantive' forms of democracy. Habermas enlarges the understanding of some pluricultural phenomena of modern democracies, especially that of immigrant peoples. But we continue to be stalled conceptually in the stateist bases of 'communitarianism' from which this conception is constructed, a fact that means it fails again when it comes up against the multinational democracies.

In Habermas there seems to be a complementary and pre-established harmony between the individual and collective dimensions of ethical and moral autonomy. There continues to be a tendency towards the traditional 'democratic' vision in the notions of deliberative politics and juridical proceduralism that subsumes the concept of political self-determination in that of individual autonomy.

The monism of the *demos* is replaced here by a moral proceduralism that is not unrelated to the homogenizing logic of the traditional democratic concepts of popular sovereignty and citizenship. Collective rights, for example, continue to be considered without questioning those collective rights that refer to the state as a particular group. Despite Habermas's (1994) insistence that a conception of rights nowadays supposes a politics of recognition as a condition of intersubjectivity, citizenship and equality are still considered in basically uniform terms. In the conception of the 'deliberative public sphere' we do not move away from the stateist perspective of democracy and its implicit nationalism. Although this sphere is capable of overcoming the conflict between universality and particularity, through the association of the validity of the assertions and the correctness of the norms to the establishment of reasoned agreements, it cannot easily question the hegemonic cultural assumptions of the state in the regulation of its proceduralism.

The conclusion that must be drawn is that the relative failures of Rawls and Habermas to establish liberal-democratic foundations for multinational polities is due to the limitations of the intellectual traditions from which they stem. McCarthy (1994) correctly points out that while Rawls' reflections stem from the 'liberal' objective, present since the religious wars of the sixteenth and seventeenth centuries, to create a model of toleranee, the reflections of Habermas hark back to the historical origins of the

'democratic' construction of a deliberative public sphere of the eighteenth and nineteenth centuries (McCarthy 1994; Klosko 1997). In both cases, the questions and basic concepts of their theories stem from both sides of the expression 'liberal democracy'. These are contractualisms that do not question who should be the subjects of the contract, and which establish 'moral points of view' that are culturally loaded with state *ethicity*.[13] These theories display a *stateist* perspective which selects and impoverishes the kinds of pluralism under consideration and which, more crucially, avoids dealing with the contentious issue of the pre-eminence of the particularism of a state *demos,* while turning a blind eye to any internal national pluralism. On this point, although we can say that Habermas's positions are closer than Rawls' to Taylor's criticisms, both positions leave these criticisms practically intact as far as multinational democracies are concerned.

Democratic legitimacy and national pluralism: a Kantian approach

A possible alternative route to establish a form of liberalism that is sensitive to national pluralism consists in recovering the link between liberty and rationality which is developed in Kant's critical approach. Paradoxical though it may seem, it may be possible to say that, despite Rawls' and Habermas's references to Kant's work, the latter may provide a good alternative route to the limits of the former two, if it is conceived in more value pluralist and Hegelian terms than is normally the case.[14] This is possible with reference not only to the 'historical writings' of his last period, but also to the notion of regulative idea, developed in the *Transcendental Dialectics* of the first Critique, and to liberty as a postulate for practical reason.[15]

My proposal consists of considering value pluralisn and the recognition of human dignity as ideas of Kantian *reason*. The potential of both concepts for multinational democracies can be visualized in two steps.

The first step is to remember that the problems posed by Kantian reason cannot be unequivocally resolved (antimonies, paralogisms), nor can they be rejected (KRV, AV11).[16] The ideas of reason are not 'invented' problems (KRV, B 386), but the basis of questions that we are unable to answer with certainty, and which it is not 'rational' to abandon for supposedly rigorous positions. These ideas are not knowledge, nor can they be knowledge. They are not measured in 'categories' because reason (*Vernunft*) does not constitute, but orders (B 671), regulates (B 672) and globalizes (B 814, B 730). Therefore, unlike understanding (*Verstand*) which refers to data, reason is discursive (B 359).[17]

This is a theoretical framework that allows one to escape from the tendency displayed by liberal political philosophy to approach democratic legitimacy in terms of 'understanding' and to overly separate the descriptive and normative levels as far as the consideration of democratic institutional practices is concerned. Anticipating the considerations of later philosophers, Kant established that the unity of reason presupposes that the whole precedes the individual parts (KRV 673). Despite not referring to objectivity as sensitivity or understanding (B 670), reason not only works 'at dusk', or in other words, *after* understanding, but also precedes, regulates and directs it (B 708). In this way, as far as the consideration of human dignity and value pluralism (included

which is linked to national pluralism) are concerned, universality should make way for 'generality': reason is not a cognitive skill, but a thinking skill. His ideas 'show' (Wittgenstein) the ideal of finding principles and laws that are increasingly *general* for the refinement of the normative perspectives of multinational democracies.

The second step in Kant's reformulation of the normative bases of liberal democracies in multinational contexts involves observing that Kant's reasoning regulates not objects, but subjectivity. And in this subjectivity, political liberty can also be understood as a process and a developmental framework for the ethical dimensions of the collectives to be constitutionally accommodated. Political mediation does not occur between subjectivities and an abstract universality, but the former and a series of generalities which are legitimized in universalist and particular terms. The key concept (or proposition) is liberty (negative and positive; individual and collective).

From this perspective it is easier to include the 'ethical' dimension inherent in national pluralism in the rules and institutions of 'justice' of the liberal tradition. The incorporation of *ethicity* in these rules and institutions gives them greater reflexivity to regulate individual and collective constitutional rights, by adapting them to specific contexts.[18] In the case of multinational realities, this means articulating the political liberty of the different *demoi* within the 'moral' rules of liberal democracies. In other words, it means constitutionalizing a concept of complex political liberty that includes individual and collective perspectives of the ethical and moral dimensions of practical rationality.[19] These dimensions may enter into conflict, in the same way as individual rights do. It is not a question of ignoring these conflicts, but of institutionalizing the constitutional procedural rules to resolve them.

A complex form of political liberty as a proposition for practical reason favours an increasingly 'better' articulation between the ethical and moral dimensions of practical rationality in these rules. A theoretical attitude based on general principles and on the articulation of ethical and moral regulations within constitutional rules situates us before the perspective of a constant reformism on the road to achieving 'better' regulations for liberal-democratic normativity itself.

Modern democracy established that dissent is not incompatible with the progress and stability of a political collectivity. What has to be done now, from the perspective of a liberal politics of recognition for national identities is, on the one hand, pluralize the notion of pluralism as it is put into practice by the first liberal conceptions of modern democracy and, on the other hand, to break the *cultural and national monism* adopted by state nationalisms in their conception of the democratic *demos.[20]*

In this way, value pluralism and Kantian philosophy allows the national pluralism to be regarded as a value worth protecting, and not as a simple fact that has to be lived with. Normative and institutional progress towards 'democratically advanced societies' involves a better constitutional accommodation of the historical and national collectivities that exist in the state within the symbology, institutions and the procedural rules of multinational democracies.[21] In the next chapter we will discuss if federalism may be a good way for this accommodation.

Part II
Multinational democracies and federalism

3
Federalism, federations and national pluralism

In political and philosophical theories as well as in persons, success discloses faults and infirmities which failure might have concealed from observation.

John Stuart Mill, *On Liberty,* 1859

An article should be inserted expressly guarantying the tranquillity of the States against internal as well as external dangers.

James Madison, *Letter to George Washington,* 16 April 1787

The question concerning whether *federalism* is a promising road to take to achieve the political accommodation of *national pluralism* within a liberal democracy remains an open one. This question has received an increasing research interest in recent years in the fields of political theory and comparative studies. Almost none of the multinational federations (or multinational regional states) is free from structural problems. Canada, India and Spain, to mention only three, have yet to achieve a satisfactory constitutional articulation which is acceptable to all parties in the cases of Quebec, Kashmir, Punjab, the Basque Country or Catalonia. This is in spite of the doses of constitutional asymmetry built into these cases.[1]

In this second part of the book, I link value pluralism with multinational federations. The objective is to discuss whether a revised form of federalism from the perspective of value pluralism is adequate to establish a just and workable way to accommodate national pluralism. Obviously, to ask about federalism's chances is to ask a wider question than just to ask about federations. The existence of other kinds of federal agreements (confederations, federacies, associated states, etc.) allows us to respond differently regarding the possibilities of political accommodation that each one offers in relation to multinational societies. If it seems convenient to revise some of the theoretical bases of democratic liberalism in multinational societies, it will also probably be convenient to revise the kind of federalism linked to this democratic liberalism.

Despite the fact that it is important to bear in mind that the logic of federalism is not only applicable to federations, I will concentrate on the case of multinational liberal-democratic federations. After considering some general questions related to a number of elements of cultural pluralism, the management of national diversity, and the concealment of federalism in contemporary federations (this chapter), I consider the theoretical bases of *plural federalism,* from a value pluralist perspective, to be a more adequate model for accommodating multinational societies (in Chapter 4).

Types of cultural pluralism

Is the term 'multicultural' suitable for an analysis of the pluralism of present-day democracies? I believe that the answer is 'no'. This is because the concept of multiculturalism covers a number of very distinct phenomena that require different theoretical and empirical treatment. It is a confusing concept in descriptive terms, and one that is not very useful in explanatory or normative terms. I think that before discussing normative or institutional questions it is necessary to differentiate between the main kinds of 'multicultural' phenomena present in democratic societies at the end of this century.[2]

The 1980s and 1990s saw the emergence of a number of new political and social movements, such as the feminisms and the ecologists, or those which defend the rights of sexual minorities or immigrants. At the same time, a number of other political movements, such as those representing national minorities, have reappeared. Each one of these movements constitutes a series of challenges to the theory and especially to the institutional practice of liberal democracies. A common feature of the different cultural pluralism movements has been both a criticism of some of the tenets that the liberal democracies have long taken for granted, and a defence of a *collective dimension* neglected in the theoretical presuppositions of traditional liberalism. However, the differences between these movements are as significant as the similarities. We shall now consider some of these similarities and differences with the aid of a number of discriminatory criteria: temporality, territoriality, basic political aims, and the demand for or lack of collective representation and self-government.

The first criterion is temporality, that is to say, the transitory or permanent nature of the different cultural pluralism movements in relation to the claims they make, whether these be rights, institutions or procedural principles to be included in the democratic rules of the game. As a result, the movements that centre their attention on a single issue are normally *transitory* because their claims are temporary and last only until they achieve equality with the rest of society with respect to a perceived inequality. This is the case, for example, of specific egalitarian rights or of positive discrimination policies promoted by some feminist organizations or certain sexual minorities. On the other hand, many of the claims of nationalist movements, or of immigrant or indigenous peoples, are of a *permanent* nature. They are usually collective claims designed to maintain or develop *specific* cultural characteristics (such as religion, language, customs) considered valuable in themselves.

The second criterion is territoriality. While some movements link their claims to groups scattered all over a state, others are centred on collectives which are mainly found in one specific territory. The former include movements which defend a single issue or immigrant groups, while the latter include mainly the non-state nationalisms.

The third criterion concerns the political objectives pursued by the different movements. These objectives can be classified into two aspects: cultural and political. The first aspect depends on whether the ultimate goal is to include in the concept of democratic citizenship certain cultural aspects that until that moment have been excluded, increasing the scope of the classic concept of political equality; or whether it is to

incorporate certain cultural aspects that *differentiate* certain citizens from others, creating what is usually called a 'differentiated citizenship'. The first case involves an extension of the concept of citizenship to mean a set of rights and duties which are common to all citizens. The second case also involves an extension of the concept of citizenship, but this extension will now be based on the normalization of a set of specific cultural rights which instead of including all the citizens of the state, are aimed at one specific group. In this case the concept of democratic citizenship must include a series of group differences, in contrast with the traditional vision of citizenship as a uniform status for all individuals. The majority of feminist claims, for example, belong to the first category, whereas some aspects of nationalist movements or of immigrant groups (exemptions from dress, or food codes, religious holidays, etc.) belong to the second category.[3] The second aspect of this criterion depends on whether the political objective is the egalitarian and effective *integration* of specific collectives into the political system when they have been poorly integrated in practical terms, or whether what is being pursued is the *political differentiation* of these collectives within the institutional framework of the state.[4]

Finally, the fourth and fifth discriminatory criteria for cultural pluralism movements are those related, on the one hand, with the demand for or lack of collective representation in democratic institutions and, on the other hand, with the demand for or lack of political self-government. At one end we find the majority of single-issue movements, which have not made either of these two claims, and at the other end we find a number of the nationalist and indigenous movements, which have traditionally expressed their preference for both claims. In contrast to the former, these last two movements make claims for political representation and self-government from both empirical and normative standpoints.

The joint application of these criteria allows us to distinguish at least four basic types of movement within present-day cultural pluralism: single issue, non-state nationalist, immigrant, and indigenous movements. These four types of cultural pluralism movements present qualitative differences that must be treated differently in more refined versions of twenty-first-century liberal democracies. Table 2 summarizes this proposed typology.[5] I will tackle the concepts of citizenship and federalism in the sections that follow from the perspective of non-state nationalist movements (second row of the table) and their relationship with liberal-democratic premises.[6]

Political liberalism and national pluralism: how should national diversity be managed?

One may say that multinational states are faced with two very different, albeit interdependent, questions: First, they must decide *what* they will do with the national diversity that exists within them, and second, they must decide *how* they will implement what they have decided. Regarding the first question, it is possible to identify two very different approaches when dealing with the multinationality of a state. On the one hand, one may opt to attempt to *eliminate* national diversity, in a radical or more gradual way. On the other hand, one may try to *accommodate* this diversity in existing institutions and decision-making processes. The answer to the second question obviously depends on

which approach (elimination or accommodation) one decides to adopt. From the perspective of comparative politics, it is well known that the mechanisms used to eliminate national diversity (among them genocide, forced displacement, assimilation or secession) would not be very

Table 2 Four types of cultural pluralism movements

Cultural pluralism movements	Temporality	Territoriality	Group rights Individual /collective use			Federal solutions	Isolation within the constitutional framework
			Political aims	*Representation in the state*	*Self-government*		
Single issue (e.g. feminist, sexual minorities)	Transitority	No	Individual equality for members the group + egalitarian political integration	No	No	Not applicable	No
Non-state nationalism (multinational polities)	Permanent	Yes	Cultural differences + political differentiation	Yes/no	Yes	Plural federalism	No
Immigrant	Permanent	No	Cultural differences + egalitarian political integration	No	No	Not applicable	No
Indigeous	Permanent	Yes	Cultural differences + political differentiation	Yes/no	Yes	Federacies	Yes

successful at accommodating it, and, conversely, consociational democracy and some forms of federalism, as we will see, would be unlikely to succeed in eliminating national diversity (see Lijphart 1995; O'Leary and McGarry 1995).

Until quite recently, the history of most modern states, including liberal-democratic ones, has been characterized by attempts to eliminate any national diversity within them. In some of these states these attempts have been characterized by more repressive and violent methods (forced displacement and genocide) than in others (cultural assimilation).[7] In reality, most modern states were uncomfortable with the idea of national diversity within their territory, not only because this was seen as a source of instability and conflict, but also because national minorities were seen as an obstacle for the diffusion of the 'rational' ideals of the Enlightenment.[8]

However, this does not mean that these states did not defend a form of national identity. As many studies on nationalism have shown, all states were involved in processes of nation-building, and in most cases almost all have tried to impose the identity of the majority group on the minorities that exist within the state. Useful nation-building tools for constructing and imposing this majority national identity were, and still are, industrialization, education, the imposition of a single language, the 'reconstruction' of the history of the state which is presented as that of a unitary collective over the centuries, sport and the media (newspapers, radio and television). Modernization was the

key word, and it was believed that this would eradicate any internal national diversity (see Gellner 1983).

It became increasingly clear, however, that these nation-building efforts by the state did not always achieve their objectives. In fact, many states appeared to realize suddenly that there were national minorities within their territories that were not willing to join the nation-building process of the majority. They also realized that some of these minorities were beginning to become involved in their own nation-building processes. The presence of these national minorities was still seen by most people as an anti-modernist element and as an example of the lack of a sense of progress in the elite of the national minority. However, the fact that many of these national minorities were to be found in some of the most consolidated democracies in the world probably contributed to the idea that other solutions were necessary in order to guarantee the stability of the states where different national groups with their own nation-building projects coexisted. Arend Lijphart (1984) argues that some states, such as Belgium, accepted consociative institutional mechanisms in order to channel the demands of the different national groups within them.[9] Other scholars, however, prefer more territorially based solutions, such as federalism, to accommodate the internal national diversity of a democracy because they believe it offers a 'protective shield for national minorities' that would otherwise be under constant pressure from the national majority.[10]

The recent debate between political liberalism and national pluralism is helping to achieve two things: first, a better understanding of the cultural limitations of the liberal tradition, both in normative theory and in the institutional practices of democracies, including federalism; and second, to realize better and without the cultural and ideological biases of yesteryear, the very same 'universal' values of democratic liberalism.

The first aspect highlights and corrects the tendency of the liberal-democratic tradition to treat cultural differences as particularist trends or deviations. In a similar vein as other political theories, political liberalism starts from a specific set of questions, concepts and values which are only laterally relevant when dealing with some cultural phenomena of a plural nature, such as the political accommodation of multinational states. Cultural questions related to identities cannot be reduced to the usual approaches on individual political rights, or the values of pluralism, liberty or equality in the way that they have been approached by traditional democratic liberalism. Regarding cultural issues, what is sometimes wrong in this tradition is not what it says, but what it does and does not say because it takes them for granted: the 'stateist' cultural assumptions included in the nation-building processes led by state institutions, that impregnates the symbols, languages, institutions, decision-making processes, powers, etc., of liberal-democratic states. Faced with the liberal versions that defend a laissez-faire approach to cultural matters, experience indicates that the state has not been, nor can be, culturally neutral. As has already been mentioned, in order to guarantee the most impartial implementation of the rights of citizenship in the 'moral' rules of democratic systems, it seems necessary to make an 'ethical' interpretation, in intercultural terms, of those rights.

To demand an intercultural interpretation does not imply the promotion of a multicultural equidistance or an ethical relativism, but to advocate an optimization between plural normativities that breaks with the traditional versions of liberal

universalism that, in practice, have led to a biased selection of the kind of pluralism under consideration. Otherwise, liberal universalism may be resistant to decisive aspects of pluralism when it puts into practice 'ethical' aspects of a cultural nature that are denied access through the front door of theoretical fundamentation. In my opinion, and given the inevitable agglomeration of particularities that cultural pluralism entails, this requires a greater acceptance of modus vivendi type agreements in the regulation of collective rights and values of democracies. Liberal democracy is neither unique, nor can it be fixed from abstract conceptions independent of the actors involved in cultural pluralism.

The second aspect of the debate between political liberalism and cultural pluralism—the refinement or improvement of the values of democratic liberalism—highlights the emancipating nature of liberalism when it combats the existing tendency in all societies to think that there is only one way of being rational and moral (Berlin), both in the private sphere (personal relations, sexual practices, types of family, etc.), and in the public sphere of different liberal-democratic models. At the same time, it corrects the tendency to deal with universal values using simple evaluative scales. The revision of liberal-democratic normativity, with the aim of proceeding towards a more impartial implementation of its own premises in multinational contexts, entails paying more attention to the cultural components of individuality in the 'moral' rules of each political association. This is a revision that encourages greater normative 'negotiation' and 'recognition' among different cultural traditions and which a federalism that is to be suitable for those contexts cannot afford to ignore. In this sense, multinational states show a complex form of national identity that is difficult to legitimize in terms of a monist stateist nationalism. The normative and institutional movement towards 'advanced democratic societies' implies, in the case of multinational states, a better accommodation of different national identities with historical and territorial bases in the symbols, institutions and representational and participatory mechanisms of the different political collectives in which individuals are situated. And this refers to a reformulation of federal agreements in multinational societies.

Federalism, federal agreements and federations

Referring to the elements that have been outlined previously, we can now ask ourselves the following question: is the federal system an effective model for the accommodation of multinational societies according to (revised) liberal-democratic patterns?

Federalism has traditionally been viewed as one of the most ideal institutional devices by which to territorially organize those political groups characterized by a high degree of social complexity. Daniel Elazar (1987:6; 1991:XIV), one of the most renowned scholars of federalism, observed that more than one-third of all countries make use of some kind of *federal agreement* for their territorial organization, even going so far as to talk of a worldwide 'federal revolution'. However, this does not mean that all these countries are federal states or federations in a strict sense. In a more recent study, Ronald Watts (1999:4) has argued that only 13 per cent of current states are, in fact, federal. In order to understand this difference better, it is necessary to distinguish, according to current literature on the subject, between federalism, federal agreements and federations (De

Villiers 1995; Watts 1999: ch. 1; Griffiths and Neremberg 2002).

F*ederalism* is a fundamentally normative concept which refers to the territorial organization of a political community and in which there are two spheres of government that combine the principles of *self-rule plus shared-rule* or, in other words, the principles of self-government and shared government. The basic idea is that different political communities join together through the establishment of a pact. *Federal agreements,* on the other hand, suppose a much more descriptive concept and, above all, a wide range of institutional practices. Current comparative politics identifies four basic types of federal agreements: regional states, symmetrical federations, asymmetrical federal agreements and confederations. Other, less common, varieties of federal agreements are leagues, condominiums, or functional agencies with shared tasks.

The four basic types of federal agreement

Regional states

In regional states, the two-tier territorial organization is the result of a constitutionally guaranteed process of political decentralization of a formerly unitarian state. Unlike the majority of historical federations (United States, Switzerland, Germany) which were formed by the addition of formerly independent units, in regional states there is a single political centre that decentralizes at a given moment. This process of decentralization does not affect all the regions of the state. In other words, the sum of the regions which are the object of the decentralization process is not equivalent to the whole territory of the state. Moreover, regionalization involves only the legislative and executive powers and does not usually affect the judicial system. Neither are there mechanisms that permit those regions that are endowed with political self-government to participate in the reform of the constitution, possess large fiscal resources of their own, or make their own economic decisions. An example of a regional state is Italy since the Second World War.

Symmetrical federations

These are the best known and most studied manifestations of federalism. Broadly speaking, from a comparative perspective, it is usually admitted that symmetrical federations display five characteristics. First, there is the existence of a two-tier government, both tiers of which have legislative, executive and judicial powers with respect to their own competences. Furthermore, in order to exercise these powers, the federated units have fiscal autonomy. Second, there are mechanisms that channel the participation of the federated units in decision-making processes at the federal level. Although the type of participation varies from country to country, there is usually a second chamber whose representatives are elected according to territorial criteria. Third, because of the two-tier government structure, there is always the possibility of conflict due to competences. It is for this reason that federations have some kind of institutional arbiter, usually a supreme court or a constitutional court, whose job includes the resolution of these conflicts. Fourth, the agreement on which the federation is based

cannot be reformed unilaterally. In other words, any constitutional reform must have the consent of both the federation and the majority of the federated units. The fifth and last characteristic that a federation displays is the existence of mechanisms that facilitate and promote communication and co-operation both vertically (between the federal level and the federated units) and horizontally (between the federated units themselves).

These federations are called symmetrical due to the high degree of uniformity that exists in the relations between the federated units, and above all, between the federal government and the federated units. The classic example of a symmetrical federation is the US federation, which was created in 1787 to replace a previous confederate structure. The success of this transformation has made the US federation an extremely influential model for the territorial organization of a number of countries all over the world. Not all federal agreements, however, are characterized by this kind of symmetrical relationship.

Asymmetrical federal agreements

Here we must distinguish between *asymmetrical federations* on the one hand, and *specific asymmetrical agreements* on the other.

Asymmetrical federations

Asymmetrical federations are not very different from symmetrical federations as regards their institutional structure. They differ in the type of relations that the federated units maintain among themselves and, above all, the relations between the central power or, in other words, the federal government, and the federated units. Whereas in symmetrical federations these relations are of an extremely uniform nature, in asymmetrical federations they are comparatively heterogeneous. There are many reasons for adopting these de jure or constitutional asymmetries, but they are always based on de facto differences that exist in the society of the federation.

The concept of asymmetry, initially developed by Charles Tarlton (1965), has been the subject of renewed interest from scholars only since the mid-1980s and it is hardly surprising that this has occurred in democratic countries that display national differences in the composition of their populations (Canada, India, Belgium and Spain). It is often said that the introduction of asymmetrical elements in the territorial organization of a state may be useful when one is establishing juridical and constitutional recognition of the de facto differences that exist in multinational societies.

Before dealing with specific asymmetrical agreements, I would like to make two comments about the concept of asymmetry. First, all federations display de facto differences among their federated units. It is for this reason that it is common to distinguish between *political asymmetry* and *constitutional asymmetry* (Webber 1994; Watts 1999:63; Requejo 2001b). In each federation, the federated units display differences of population, territory, economic resources, natural resources, etc. These differences may be of political significance as they may affect the weight of a federated unit within the federation. In this sense, the comparative studies have shown that great disparities with respect to the political asymmetries within a federation tend to produce yet greater instability. This is the case, for example, of a federation in which one of the

federated parts contains more than half the overall population. Constitutional asymmetries, on the other hand, are not present in all federations, and refer to the differences of status or self-government for each federated part. It involves carrying out the principle of division of powers in a way that is not uniform for all the sub-units. A specific example of constitutional asymmetry can be found in the case of the Canadian federation, in which the province of Quebec has powers in the area of immigration policy. Another far more general example, and one that allows for a characterization of the state as that of an asymmetrical federation, is that constituted by the Belgian federation subsequent to the 1993 reform.

The second aspect to bear in mind when speaking of asymmetry is the distinction between constitutional asymmetry and asymmetry produced by the exercise of self-government. The federal guarantee of having a certain level of self-government is, in itself, a potential generator of diversity among the federated sub-units. Nevertheless, this should not be confused with constitutional asymmetry, which is a diversity established within the *gateway mechanisms,* that is, the federation's rules of play, and not only within the *outlet mechanisms,* that is, in the different results produced by the exercise of self-government. Differences based on the exercise of self-government are common to all federations, whether these be asymmetrical or not, and even to regional decentralized states. In this way, if the federated sub-units have political competence, for example, in the question of environmental policy, it is obvious that their policies could well differ greatly, one from another. In the case, for instance, of reducing levels of urban traffic, certain federated sub-units might give priority to the construction of cycle lanes, others might promote the use of public transport, while others still might decide to do nothing at all. This kind of diversity is intrinsic to the liberal working of the federal system, and is the result of the practical exercise of the political self-government by the different sub-units of the federation.[11]

Specific asymmetrical agreements

Here it is necessary to distinguish between *federacies* and *associate states.* Both federal practices normally link a small territory with a much bigger one, while respecting a high degree of self-government for the former, which has extremely restricted influence on the affairs of the latter. The difference between them lies in the fact that while in the case of *federacies,* this agreement cannot be dissolved without the consent of both parties; in *associate states* either signatory may cancel the agreement unilaterally, provided it respects the procedures that were laid down when the agreement was established.

Confederations

While federations are the result of an agreement that has a constitutional tradition, confederations are set up through an international accord between previously independent states that decide to join together in order to achieve a number of specific common objectives. These objectives often include closer economic integration or the reinforcement of military security. Consequently, confederations do not 'constitute' a new state, but depend totally on the member states in order to function. Decisions taken

at the confederal level have only an indirect effect on the citizens of the states in the confederation. Also, unlike what usually happens in federations in terms of their relations with the federated units, the member states of confederations can always leave the confederal accord if they so desire, as long as they respect the procedures established for this. Table 3 summarizes current examples of these four main types of federal agreements. (For an explanation of why Spain is in the column of regional states, see pp. 81–84.)

Federalism and federations: the history of two concealments

The history of modern federations is the history of two concealments of classic federalism. The latter is understood here, in contrast to Elazar not as a theory that is 'designed to achieve some degree of political *integration* based on a combination of self-rule and shared rule', (but more generally as one that is 'designed to achieve some degree of political *agreement* based on' Elazar 1987:84, added emphases).[12] Federal logic has been concealed first by modern processes of state-building and second by processes of nation-building promoted by the states. As the consequences for federalism of the latter have been amply commented on, I will briefly deal with the former.

The current challenge facing multinational federations may be summed up as a liberal, democratic and national challenge to achieve polity-building. A challenge that must tackle the implicit conceptual and institutional biases associated with stateist and nationalist monism usually present in democratic federations. The question, in short, is whether it is possible to combine, in the same federation, the perspective of a *federal union* of different national collectives and the more *confederal* perspective that tends to predominate in the national constituent units. This is a question that cannot be answered in abstract terms; we must refer to institutional practice and case analysis.

Broadly speaking, federalism is a notion that is unrelated, historically or morally, to any regulation of national pluralism. Both institutional and normative analyses of federalism have been dominated, moreover, by the historical example of the United States. This is an empirical case that is not historically linked to national pluralism. If we remain within

Table 3 Some examples of federal agreements in contemporary democracies

Regional states	Symmetrical federations	Asymmetrical federal agreements			Confederations
		Asymmetrical federations	Federacies	Associated states	
• Italy	• South Africa	• Belgium	•	• France—	• Commonwealth
• Portugal	• Germany	• Canada	Denmark—	Monaco	of Independent
• Spain*	• Argentina	• India	Faröe	• India—	States
• UK	• Australia	• Malaysia	Islands	Bhutan	• Caribbean
	• Austria		• Finland—	• Italy—San	community

	• Brazil • United States • Mexico • Switzerland		Aaland Islands • UK—Jersey	Marino • Netherlands—Antilles • New Zealand—Cook Islands • Switzerland Liechtenstein	
* with federal trends					
Source: own elaboration from Watts (1999) and Elazar (1991)					

the orbit of American federalism, the answer to the question about the possibilities of accommodating multinational societies seems to be basically a negative one. The reasons are both historical and organizational. It is fundamentally a uninational model that avoids the basic question, unanswered in democratic theory, about who the people are, and who decides who they are. In my view, it is practically impossible from these presuppositions to accommodate the different *demoi* of a multinational society within the constitutional rules of the game.

On the other hand, the history of federalism, or more accurately, the history of federations, has been characterized chiefly by the development of symmetrical models. Fundamentally, these models have been linked to uninational entities and to their processes of nation-building, and they have encountered problems when attempting to accommodate distinct national realities within the liberal-democratic scheme of things. Such models have not shown themselves to be a particularly promising path to follow when there are coexisting or juxtaposed processes of nation-building within the same polity. Symmetry stimulates uniformity in the 'rules of entry' to a given political system. This is a fact which makes it particularly difficult to achieve real accommodation, when what the pluralism of national minorities wishes to achieve is that *recognition of multinationality* be established by these very 'rules of entry', and that the rules should also regulate minority *national self-government.* The symbolic, institutional and policy-making challenges that multinational societies represent to the notion of federalism are, by and large, significantly different from the challenges represented by uninational societies. In addition to the search for common positions within the federation, what multinational societies are mainly preoccupied with is establishing 'liberal' institutions and mechanisms of protection, on a constitutional scale, that safeguard the minority national *demoi* from the decisions taken by the majorities.

It is well known that, in contrast to some of the pre-modern federal agreements (cities, leagues, provinces, etc.), the theory and practice of modern federalism have developed in parallel to the theory and practice of the evolution of the state and its territorial element. This is obviously not a 'neutral' question in the case of multinational societies which becomes clearer under the perspective of value pluralism than under the perspective of

monist and fully rank-ordered theories. Although this affects the federations more than federalism itself, the situation of the former may, I believe, be described in terms of the overshadowing or the concealment of its internal logic.

Despite the fact that the contribution of contemporary federations to the process of state-building (sometimes based on previous confederations) has been usually regarded as an alternative to the process of creation of centralized states—first with absolutism and then with democratic Jacobinism—federations still share a centralization process with these states which is incorporated into the idea of a common or general authority that demands loyalty from all the individuals within a fixed territory. This in turn defines, first, the notion of subject and, subsequently, that of citizen. In federations it is true that 'sovereignty' and government become plural when faced with the monism of the sovereignty of the king or the people in centralized states. However, when a 'central' or 'national' government is established, a form of collective monism may be reintroduced, the people of the whole federation, in competition with the diverse subjects of the federal agreement.

How much this phenomenon affects each federation is an empirical question, but it is of crucial importance for multinational federations. In descriptive terms, the existence of the latter not only indicates that there are a number of different nations within a polity, but also indicates, in a value pluralist vein, that these nations have their own ways of interpreting history, valuing their languages, customs and traditions, or of understanding what is or should be their political, economic, cultural, etc., role in the present and future. These interpretations are likely to be different from those of other national collectives within the polity. They will all be plural, but their plurality will not be identical.

In modern federations it would appear that the tension between the liberal and democratic logics has been 'nationally' resolved in favour of the latter. Moreover, the fact that the first and most influential modern federation was the United States of America—which was built on strong uninational foundations and with a powerful Supreme Court acting as politics-maker for its practical development—is not unconnected with an evolution of federations that is far removed from the most 'confederal' logic of the polities of classic federalism (which in the modern era survived, albeit briefly, in the Netherlands and Switzerland). At the end of the day it would seem that most federations, instead of refuting Bodin's theory that their existence is impossible if one wishes to maintain indivisible state sovereignty, only refute the thesis of indivisibility but not that of a hierarchy which favours statehood or unity in contrast to the diversity of its component parts. Rather than centralization, which as we know is open to a wide range of practical interpretations, this partial evaporation of classic federalism is the product of state political unity.

This first concealment of classic federalism by the state or, in other words, this stateist swing of federalism by a number of federations based on the unity of a territorial *demos* is present in the main conceptions of contemporary liberalism and federalism.[13] This situation is reinforced by the second concealment of federalism: the consequences of the powerful presence of a single dominant state nationalism in federations. One result of all this has been the difficulties experienced by classic federations in contexts in which 'the national *demos*' is not regarded as a single or predominant entity by large groups of citizens. This is a problem that has yet to be resolved by traditional liberalism and

constitutionalism.

Naturally, the above does not imply the assimilation of federal state-building processes into the processes of centralized state-building, nor does it ignore the important differences that exist between the two processes and the possible repercussions for the practical functioning of the political system or the political culture of a given collective. In fact, as has been widely recognized, both processes represent two conceptions of democracy: the Jacobin conception fought the federal agreements existing in Europe in the name of democracy. Neither does the above imply any dismissal of the teachings of comparative politics on the instability of confederations in contemporary times. Rather it is a matter of highlighting the problems that federations will have—albeit fewer than centralized states—to develop the normative and constitutional consequences of the existence of a plurality of *demos* (or *demoi*) within the same federal democracy, in contrast to the more frequent stateist conception of a single *demos* (and despite the fact that the latter will be described as an internally 'plural' reality in terms of language, culture and so on: Requejo 2001c).[14]

In relation to whether it is probable that a multinational state can be articulated satisfactorily with federal agreements, or with some regional models of political decentralization, my answer is that it is difficult to expect such a thing if we remain within the institutional framework of regional states or symmetrical federations. The latter have shown that they have capacity to create and consolidate a uninational reality, but their institutionalization in multinational contexts has tended to be much more precarious in terms of legitimation. In fact, pluralism considered in the classical theories of federalism was not related to cultural pluralism. I believe that a possible escape route towards a more stable federal regulation in societies with multinational *demos* is provided by the introduction of confederal and asymmetrical agreements that break with the stateist nationalism of the traditional uninational federations (for an empirical general perspective see Elazar 1991; Burgess and Gagnon 1993). The question is still if there are some kind of federal agreements capable of articulating states with complex territorial and national identities, from a liberal perspective of *political recognition*. This is currently one of the most important challenges of federalism (see Jeffery and Savigear 1991; Milne 1991; Seidle 1994; Webber 1994; Boismenu 1996; Burgess 1996; MacCormick 1996; a first reference on the concept of asymmetrical federalism is in Tarlton 1965).

Federalism is neither decentralization nor subsidiarity

Before dealing with my proposal of plural federalism for multinational democracies, I would like briefly to point out two general considerations that are sometimes confused in the debate about federalism in some states of the European Union: the difference between federalism and the processes of decentralization and subsidiarity.

Decentralization

As many scholars have often pointed out (Elazar, Watts, McRoberts) when dealing with

the legitimacy of states with federal structures, there are at least two different perspectives in the analyses of comparative politics which are, to say the least, mixed up: non-centralization and decentralization. This is a distinction that goes a long way beyond its apparent academic nature, as it is able to provide a framework, at least to a certain extent, for more pluralist or monist conceptions of the *demos* in the principles and rules of the game of the different federal models.

In the liberal tradition, the basic nucleus of the federations is linked to a principle of territorial separation of powers. This principle, originally associated with a constitutional agreement of centralization and non-centralization of specific functions is clearly different from other organizational principles that also work in democracies such as participation or efficiency. It is true that in other policies such as education, public health, social services, etc., the central governments of the federations have been taking over functions that until that moment had been the responsibility of the member states. The increase in the number of concurrent powers in some federations is well known, especially after the creation of the welfare states. However, despite the tendencies displayed by some federal states towards 'co-operative', 'organic', 'executive' models, the liberal federations maintain the perspective that, regardless of the way that the powers are divided between the constituent units and the federation, their operation cannot be broken without mutual agreement and that the original pact is drawn up between the different units on equal terms . Decentralization, on the other hand, consists of the dispersion of power from a central power to other centres, starting from the consideration of a single political unit. Obviously, decentralization supposes the existence of a centralized structure before any constituent agreement can take place. The *demos* is here regarded in more monist terms than in the traditional federal perspective. We may say that the uniqueness of the *demos* is closer to *democratic* than to *liberal* logic in this case. The first displays a greater tendency towards standardizing use of the notion of 'democratic citizenship'.[15] Depending on the dominant perspective adopted, we will find different practical consequences, especially in the symbolic and institutional spheres, which are fundamental for the recognition of the national pluralism of a liberal-democratic system.

In principle, traditional universalist normativity offers a good foundation for the legitimacy of the decisions of the central power of a federation and for those of the federated units, each one within its own sphere. However, in the event of conflict between the two levels, it is a normativity that, once it has passed through the filter of stateism, offers bigger advantages to the federation as it presents its policies impregnated with 'common democratic values', such as the 'absence of discrimination based on territory' for all the citizens of the federation. The demands for recognition or for greater self-government can then be presented as 'particularist interest' on the part of the federated units. Thus, from the perspective of traditional democratic federalism, the federated units will have difficulty explaining to the citizens of other territories that the recognition, that is to say, the respect and guarantee of its national collective specificity, is not contradictory to equality of citizenship, but only to the standardizing interpretations that are made of it. Or when establishing that the lack of recognition of multinationality within the framework of the state is precisely the discrimination against national identity in favour of another identity, which is also national and consequently particular, shielded

in universalist language. In other words, it is a conceptual framework in which it is difficult to integrate the perspective that a uniform treatment of distinct realities is a long way from promoting equality that constitutes one of the foundations of liberal-democratic universalism. In fact, the pretended cultural neutrality of the majority of declarations concerning rights has promoted standardizing versions of state nation-building.

Subsidiarity

In the European context, from the moment that Maastricht became part of the symbolic landscape, the term 'subsidiarity' has appeared intermittently in this landscape in relation to the European institutions and to the territorial sub-units of the member states. It is a term that can be used in different meanings. Its most common meaning is that which links it to an organizational and territorial principle in the sense that a collective decision, or at least its implementation, should be carried out in a sphere that is as close as possible to the citizen. Subsidiarity has thus been understood to mean a technical distribution of powers between different administrative levels and designed to guarantee the highest possible efficiency in the global system and greatest proximity to the citizen.

As has been said, federal organization, in its original liberal tradition, is linked to the territorial division of powers, and not to obtaining the highest possible efficiency of a system which considers itself to be unique and unitary, or to obtaining the greatest possible degree of proximity to the citizen in terms of political decision-making. The division of powers is the starting pistol for federalism, not the finishing line. To question or to subordinate this division to a form of 'efficiency' which is supposedly related with subsidiarity, or even in favour of 'democratic' criteria that homogenize the citizens of a collectivity that is unquestioned is to continue to reason in monist or unitarian terms. Or at least in nationalist monist terms.

At first, subsidiarity may appear to be a principle that is close to federal philosophy, and thus should be characterized by a decentralizing urge and be favourably disposed towards local autonomy. But on closer inspection, the hasty association between subsidiarity and federalism is based on serious conceptual confusion that may have grave practical repercussions. In fact, subsidiarity may result in the erosion of the federal principle (Noël 1998; see also Brown-John 1988; Lemieux 1996). What is more, this erosion may be particularly serious in the case of multinational federations, especially when there is vagueness in or a poor development of the 'federal' structures, as is the case of the present-day Spanish 'estado de las autonomías'. It can be said that the differences between the principles of subsidiarity and federalism are not to be found in what we are looking at, but in *how* we look at it. Even a possible territorial organization characterized by a high degree of municipal decentralization, like that which exists in some Nordic countries, is a long way from the true spirit of federalism. As a matter of fact, in those states in which the federal principle has an important role to play, subsidiarity does not fit in very well. Subsidiarity may be useful as an organizational principle for a variety of levels of self-government conceived either in *functional terms* of efficiency or economies of scale. It may also be useful as a *democratic* principle, not necessarily linked to efficiency, to take decision-making closer to the citizen of a *demos* that is conceived in unitarian terms. But it is not useful in designing the political

articulation of multinational realities when these consider themselves to be distinct *demos*. Only *a few* federal models or agreements are going in the right direction. Also in this case, *democratic* and *liberal* logics follow different paths to the normative and institutional principles of western democracies.[16]

4
Plural federalism

> The simple point which I am concerned to make is that where ultimate values are irreconcilable, clear-cut solutions cannot, in principle, be found.
>
> Isaiah Berlin, 'Introduction' to *Five Essays on Liberty,* 1969

> No doctrine which inspires a movement or a party has ever to my knowledge been refuted by argument—it expires as a result of changes in the world.
>
> Isaiah Berlin, *To Nora Beloff,* 1988

The most standardizing frameworks of uninational federations do not seem the most suitable principles for a political accommodation of multinational realities, especially when the number of federated units is high in relation to the number of national collectivities living in the same federation. Culturally speaking, the 'tyranny of the majority' has also shown its perverse effects in its lack of recognition of the internal national pluralism of some polities. The intergroup regulations of a multinational state require constitutional guarantees of negative liberal liberty at the collective level or, in Kymlicka's terms, the regulation of a number of institutional *external protections*—constitutional rights, veto powers in upper chambers, composition and powers of Supreme or Constitutional Courts, a clear and decentralized division of powers, etc.—that accompany the lack of *internal restrictions* in intra-group relations. The collective rights and values of national minorities must be recognized at the same level as the collective rights and values of the majorities, which have usually been recognized in traditional constitutionalism.[1]

It is for these reasons that I propose a model of *plural federalism*—in which certain asymmetrical or confederal regulations are also included—as a better model for multinational realities. This would be, in effect, a symbolic, institutional and decision-making model based on the kind of *value pluralism* mentioned earlier.

Multinational federalism and value pluralism

Unlike other phenomena associated with cultural pluralism (immigration, indigenous groups), it is sometimes possible to observe a harmony or similarity between the moral values and ways of life of the members of the different national collectives within

western democracies. This is a kind of pluralism that is rather the product of characteristics and relations related to the history, culture, territory and, above all, power, of these collectives. Inevitably, and also unlike other cultural movements, both majority and minority national collectives are the product of processes of nation-building that will to a certain extent have to compete with each other, when they try to make collective decisions within the same territory (division of powers, use of political symbols, institutions, presence in the international arena, languages, national holidays, educational curricula, etc.).

Using value pluralism as the theoretical perspective of multinational liberal federations has at least two advantages over rival theoretical perspectives. First, concerning political liberalism, it allows one to investigate and constitutionally define individual and collective freedom as well as mutual recognition between different collectives or national *demoi* in a more open way. From the beginning, fewer things will be left off the political agenda and the dialogue between the different parties will not be based on deductive theories that also display theoretical biases and a lack of information regarding the most relevant aspects of specific political legitimacy. In this way, for example, the legitimacy of collective liberty will not be the exclusive preserve of the state as a collective subject. Value pluralism will also promote the practical perspective of reaching agreements between players who are more sceptical of the potential of the theories, but who do not wish to damage a minimal normative nucleus that they like to be more open to cultural interpretation than in other manifestations of liberalism and constitutionalism. (*Stateism* is a position that is also present in liberalism and most minority nationalisms: see Tamir 1993; Miller 1995; Canovan 1996; Norman 1996).

Second, regarding federalism, value pluralism allows for an easier recovery of the liberal and federal logic of the pact when establishing the content of self-government, shared rule and reform processes by diverse national collectives that are unable to show any kind of normative hierarchy between them.[2] This makes it easier to occasionally change the constitutional rules when neither the national federated units nor the federation is in exclusive possession of their unilateral interpretation. These units may display a form of symmetry when they aspire to state-building and nation-building that goes beyond that which federations have enjoyed until the end of the twentieth century.[3]

Both aspects refer to the predominance of freedom, both individual and collective in this case, in value pluralism as a perspective of federal liberalism. There are obviously other basic values and principles of a legitimizing nature (the different interpretations of political equality, respect for minorities, constitutionalism, etc.). However, in the case we are dealing with here, collective freedom plays a similar role to Berlin's negative individual freedom in order to guarantee that undesired external coercion is avoided, adding the positive participatory dimension that defines the shared-rule of federations. Once again, 'improving' the practical functioning of federal democracies of liberal origin involves doing so both in an ethical sense which affects how one interprets the legitimizing values and principles, among which is freedom in multinational contexts, and in a functional sense of governance, that is of results and effective conflict management. Or, put another way, borrowing Lincoln's phrase, which has been quoted by Elazar (1987:86), improving federalism means improving the way it judges individuals (plus national collectives and the federations themselves, I would add) 'warts

and all'.[4] Nevertheless, both objectives (improving normativity and governance) may in practice turn out to be contradictory. It will then be necessary, if it is possible in federations, to adopt some kind of balanced solution based on procedures that reflect the accommodation of the national pluralism of the polity.

The increasing complexity of an ever more plural and globalized world demands greater complexity from *federal agreements* in democratic polities. One of the historical advantages that the majority of different types of federal agreement display, including federations, is their potential flexibility and adaptability to different specific realities. In fact, comparative politics since the end of the Second World War shows that adaptability is an essential requirement for the stability and success of established federal agreements (see Elazar 1991; Burgess and Gagnon 1993; Watts 1995, 2002; Kincaid 2002). This adaptability also extends to the group of multinational federations that, despite sharing certain common traits, also display important differences of a historical, cultural, constitutional and party-political nature. My intention is simply to argue a kind of federalism according to value pluralist lines, in order to improve the quality of multinational federations that includes five aspects related to *liberalism 2*: a more complex notion of equality that takes national differences into account; a pluralist conception in national terms of the *demos* of the federation; the incorporation of the 'ethical' dimension of practical rationality; the accommodation of a variety of nation-building processes which are partially competitive; and the combination of universal and particular legitimizing normativities.

Plural federalism

Essentially, plural federalism based on value pluralism includes three basic types of federal agreement:

• An explicit and satisfactory *constitutional and political recognition* acceptable to the main political actors of the *national pluralism* of the 'federation'.
• The establishment of a series of agreements, usually of an asymmetrical or confederate nature when necessary or when there is larger number of federated units than minority nations, for a high degree of national self-government of the minority nations of the federation. The aim of these agreements is the political defence and development of such national collectives, both in relation to the federation and in relation to the international arena.
• A *multinational* regulation of the *shared rule* of the federation and in its reform processes (including potential clauses of constitutional national secession with clear procedural rules), which is able to accommodate the national pluralism of the polity.

The first type of agreement is based more on the perspective of the *constitutional recognition* of *multinationality,* that is to say, it is not necessarily linked to federalism, while the other two are more concerned with the *national self-government* of (some) federated units and the *shared government* of the federation.[5]

The application of these three types of federal agreement covers five basic areas: the symbolic-linguistic, the institutional, the area of responsibilities and powers, the fiscal-

economic and the international. In this way, the interrelationship of the three agreement types with the five areas of application gives rise to fifteen possible intersections. In the symbolic-linguistic area, for example, the first two types of agreement (regulation of multinationality at a federal level, and asymmetrical or confederal agreements) include questions such as the regulation of plurilingualism in the name of the federation, in the currency, in personal identity documents (passports, etc.), the question of *international* representation for *national* sports teams, the use of flags and anthems within the various national territories, linguistic regulation pertaining to civil and property registers and so on. Other intersections between types of plural federal agreement and areas of regulation would be asymmetrical regulations in institutional and responsibility spheres. This could require specific regulations such as the electoral and political-party system, second chambers that regulate national minority parliamentarians' right of veto on given issues, and a specialized and symmetrical bicameralism, as well as the potential role of multinationality in the process of constitutional reform. Regulation of the composition of Supreme or Constitutional Courts and the federalization of the judicial power would also have to be addressed.[6]

The specific regulations in these fifteen intersections will vary from one multinational federation to another. However, as the basic aim of plural federalism is the political accommodation of diverse national collectivities in a single and high quality democracy, it will require in all cases, the articulation of rules and procedures based on political guarantees for the recognition and national self-government of the minority national groups. It is aimed more at maintaining the unity of multinational societies already in existence than at paving the way for new ones to develop.[7] Flexibility is one of the advantages of classic federalism. At this stage it would be appropriate to consider some of the conclusions drawn from the analyses of comparative federalism.

First, comparative politics shows us that multinational federations have normally been reluctant to permit explicit recognition of national pluralism in their constitutional agreements. In fact, this recognition is less common in these federations than the regulation of high degrees of self-government in some federated units. The reason for this may be related to the monism, which is a feature of the stateist and nationalist conception of the polity also in contemporary federal tradition. The political collective, the 'federal union', is normally understood to be a unit rather than an expression of national plurality.[8] A fact that has repercussions for the constitutionalization of the internal rules of federal systems, as well as the interpretation of liberal freedom (negative and positive), more in individual than group terms.

Second, the debate of recent years has shown that formal equality of citizenship based on an identical formulation of civic, political and social rights fails to guarantee the recognition of multinationality and therefore its political accommodation. Citizenship is not available at the same cultural price, in terms of self-esteem and self-image, for all the citizens of the federation. Moreover, in some cases (Canada, Spain) the hegemonic nationalisms of the federation tend often to deny their multinational character in favour of a pluricultural and plurilinguistic conception of a federation that is often considered uninational.

Third, in spite of the difficulty of producing uncontroversial and comparable indices of the level of non-centralization and decentralization of different federations, the results of

comparative and case studies show a lesser gradient for multinational federations in the differences of self-government than in federations in general. The same results also show higher levels of constitutional asymmetry (De Villiers 1995; Stepan 1999; Watts 1999: chs 3, 4, 6, 8; 2002). The interpretation of what 'should be' the level of self-government of a national collective within a multinational federation is a question for the political debate of each specific case. However, a federated self-government, which in this case is a federated *national* self-government, should have sufficient symbolic, institutional, legislative, executive, judicial and financial resources to proceed to a set of hegemonic liberal-democratic policies of nation-building. If this is not the case, it will not be possible to ensure the correct treatment of the collective freedom within the federation. This includes responsibilities, for example, in the spheres of foreign affairs or, if applicable, immigration policy.

Fourth, there is agreement among most analysts of federalism regarding the importance of intergovernmental relations and of the institutions that guarantee the participation of federated units for the smooth functioning of the federation. In the same way that the principles of 'co-operation' and 'subsidiarity' may attack the logic of the federal division of powers (see Bermann 1994; Rubin and Feeley 1994; Bertelsmann Commission 2000), a wholly confederal approach in the relationship between the federated units and the central power or a very competitive relationship between the units themselves is often an informal but permanent threat to the continuity of the federation. As far as multinational states are concerned, it is easier to develop a 'federalism of trust' (or to minimize a 'federalism of distrust') if both the rules of participation of the national collectives in the institutions of the union and the possibility of changing them including secession as one of the potential outcomes of the collective right of self-determination. Both aspects represent manifestations of the collective freedom of national units in federations.

Fifth, as far as multinational federations are concerned, in addition to the advantages associated with the competition between federated units, it is necessary to consider the advantages associated with the accommodation of different nation-building processes. Both these advantages, however, may not always be compatible in practice. The flexibility of a federal system depends on its ability to adapt the balance between the self-government of the federated units and the level of co-operation and presence of the federation in these units according to the evolution of political life. In fact, all federations include mechanisms of co-operation between the two levels of government, for reasons related to the unity of the federation and for reasons based on shared responsibilities. By the same token, to introduce the possibility of constitutional 'horizontal agreements' between federated unities in specific areas (education, environment, culture, areas of foreign or fiscal policy, etc.) represents another example of this flexibility to adapt federalism to liberal-democratic objectives in contexts of cultural or national pluralism. In multinational federations it seems convenient, however, to establish a division of powers that will ensure a high degree of self-government for those units which display specific national characteristics.[9]

Sixth, participation in the union may be achieved through various classic techniques and institutions of federalism: consociational processes and institutions; a second chamber which defends minority rights through, for example, the right of veto for minorities; a supreme or constitutional court whose composition and functions include

the national pluralism of the federation, etc. On the other hand, the case of constitutional reform on the initiative of the different national collectives and, above all, the right to self-determination represent a bigger rupture for federations taking into account the aversion of federal constitutionalism towards the same concept of national pluralism and towards the self-determination right for any collective other than the state itself. However, although the debate of recent years on this latter question has produced arguments, of a mainly functional nature, based on the stability and the governance of the system, this debate also seems to indicate that there is no definitive normative argument that discourages the regulation of this right in the case of multinational federations (including secession clauses).[10]

Furthermore, even the important decision taken by the Supreme Court of Canada in 1998 (Secession Reference) endorses the legitimacy of the 'peoples' of a multinational federation to propose a change to the constitution, as well as the duty of the other members to enter into a process of negotiation which either readjusts the federation through changes in the politics of recognition of multinationality or the division of powers, results in secession, or establishes a result somewhere between the two. The Court's Reference also establishes the need for a series of procedural rules that do not impede the development of the reform process (simplified amending procedure). As we know, the Supreme Court indicates four inherent principles in the Canadian constitution and its reform process—federalism, democracy, the rule of law and constitutionalism, and the protection of minorities—adding, also in a value pluralist token, that none of them predominates over the others and that in this kind of federation the juridical framework can never be considered closed.

In this way, in accordance with this Reference, the mere existence of a series of self-governments and federal agreements cannot by itself be seen as sufficient guarantee and expression of the democratic freedom of a multinational collective. This all seems to indicate that it is probably not a good idea for the basic rules of democratic states that affect collectives, including federal ones, to be the same for uninational and for multinational liberal democracies. This is an issue that has been sometimes rejected by traditional democratic constitutionalism when interpreting notions of freedom, equality and pluralism, and when it arbitrarily equates the democratic polity with a single national *demos*. In fact, the Reference establishes the legitimacy of the *right of self-determination* for the peoples of a multinational federation. We can say, moreover, that this right is regulated from a *federal* rather than from a *nationalist* perspective: unilateral decisions from both sides are constitutionally forbidden; the obligation to negotiate must be implemented according to institutional and procedural rules.[11] And we also can say that the Canadian Court has taken an hermeneutic path from the formal and written regulations of the *federation* to the unwritten values of *federalism*.

Obviously, a good democratic accommodation for multinationality cannot simply consist of a mere adaptation of a 'formal model', but also requires political content and constitutional regulation stemming from the notion of *multinationalism*. When the national reality of a federation is asymmetrical, the regulation of federal asymmetries does not in itself constitute a guarantee of accommodation for the factual national asymmetries. Such regulation represents a necessary precondition to constitutional accommodation, but in itself cannot guarantee conditions of sufficiency for such

accommodation. Notwithstanding this fact, however, we could say that, based on the social and historical conditions in multinational societies, in the absence of constitutional regulations on the recognition of *multinationality,* and without asymmetrical or confederate regulations in the field of self-government, it is particularly difficult to obtain a satisfactory federal resolution of the 'national question'—or the different 'national questions'—in terms of liberal-democratic demands for a reality that is both plural and complex.

On the other hand, the rigidity of the procedures of constitutional reform often hinders the operation of institutions and the creation of new political decision-making procedures within federations, especially those which can only be applied to some of the federated entities. In this case, instead of using formal reform procedures it may be better to establish general mechanisms such as 'opting in' and 'opting out',[12] which do not need constitutional reforms and which can be established without damaging the economic and fiscal equilibrium of the federated units, whether the latter display specific national characteristics or not. In this way, the relationship between the federal power and the different federated entities will probably end up including more asymmetrical mechanisms than those which are formally recognized in the legal framework of the federation.[13]

In general terms we might say that *liberal, democratic, functional* and *national* logics and values are, on the whole, desirable for the quality of a multinational democratic federation; but they are not always univocal, nor do they always attempt to achieve the same aims. Liberal protections of individual rights and liberties, democratic participation, efficiency or stability are competing goals in classical federal polities. In multinational federations we face additional challenges whose final objective is to form a 'better democratic union', avoiding the sometimes unintended culturally biased or perverse consequences linked to traditional *liberalism 1* approaches. In multinational contexts, the basic demand is that values of liberty, equality and individual dignity be allowed to be developed in a more careful manner, and that these values should be implemented through the effective accommodation of the different national realities coexisting within one and the same democracy.[14]

To sum up, what is needed in multinational federations is a new form of constitutionalism in which the right to self-determination embodies the collective freedom of the national groups both in its negative aspect of the defence of the collective personality, and in its positive aspect of participation in a general decision-making process that may result in different constitutional results following negotiation with the other members of the federation.

This does not question the potential virtues of federalism in multinational democracies (see Linz 1993, 1997; Simeon and Conway 2001). These processes may be regulated implementing difficult rules to be achieved in the case of secession (time, majorities, referenda, economic imbalances, etc.) in order to avoid or decrease functional problems or non-reasonable blackmail uses by political elites (see Norman 2001). As we saw in previous chapters, no political theory of democracy or justice is able to synthesize this complexity of perspectives and theoretical and practical levels. That is why it is crucial to ensure the equality of the positions of power among the parties to the negotiation. The linguistic and normative pluralism of this negotiation, the different logics or types of

rationality that govern the normative questions and issues associated with governance, as well as the different uses of the language that will probably participate in the negotiation mean that the agreements to be reached will inevitably be of the modus vivendi type, at least partially, even when the legitimizing language, rights, institutions and processes will be strictly liberal-democratic.[15] Obviously, from this perspective the configuration of the reform procedures and the results will vary according to the specific characteristics of each multinational federation (history, economy, political leadership, the existence of supra-state entities such as the European Union, international relations, etc.). The answers will be plural, but never definitive. Nevertheless, in this way it is possible to safeguard an interpretation of collective freedom that is closer to national pluralism and to the logic of the kind of federalism concealed by contemporary federations.[16] The experimental nature of federalism continues to be one of its biggest advantages in this case.

If comparative federalism teaches us anything it is the desirability of establishing normative and institutional frameworks which are appropriate for each specific case. But in order to do this it is also desirable to overcome the conceptual and practical barriers and biases which the combination of traditional political liberalism and federalism has created in contemporary constitutionalism. From a theoretical standpoint, I believe that to adopt a perspective of value pluralism makes it easier to find ways to establish a political accommodation of national pluralism in contemporary liberal democracies. Therefore, I think it would be accurate to say of Berlin what Nelson Riddle, who in 1959 arranged the songs of George Gershwin for a record by Ella Fitzgerald, said of the New York composer: 'He wrote tomorrow's music yesterday'.

Part III
Plural federalism and the Spanish *Estado de las Autonomías*

5
The Spanish *Estado de las Autonomías*

Freedom is expensive not because it is scarce. It is scarce because it must be won.

Joan Salvat-Papasseit, *In my Own Words,* 1919

'Always' is a word that has no value in politics. Manuel Azaña, *Defence of the Autonomy of*

Catalonia, 1932

The regional model of the 1978 Constitution

In general terms, it can be said that Spain has displayed a mosaic of frustrated processes of state and non-state nation-building in contemporary times. The construction of an inclusive and legitimized notion of Spanish nation has never been a fully successful outcome of Spanish nationalism in the stateless nations (Catalonia, the Basque Country and to a lesser extent in Galicia). On the other hand, the non-state nationalisms, especially Catalonia and the Basque Country, have been unable to consolidate a nation-building process based on their own state or federal structures. Up until the post-Franco period, the contemporary Spanish state model was based on the French model: the existence of two administrative levels—that of the central power and that of the municipal level with a very low degree of autonomy—articulated from an extremely centralized conception of the state. All historical attempts, some of a very moderate nature, to articulate the state from more 'regionalized' premises failed for different reasons: First Republic (1873); the 'Mancomunitats' of the Restoration period at the beginning of the twentieth century; the 'integral' state of the Second Republic (1931–1939).

The territorial model included in the 1978 Spanish Constitution evolves in very different environmental conditions from those of past periods: first, the move from an authoritarian state to a fully liberal-democratic one, second, the construction of a welfare state, and third, the process of European integration.[1] The result is the *Estado de las Autonomías,* a new model that establishes a number of sub-state self-governing 'autonomous communities' based on a process of variable geometry that determines the configuration of each 'autonomy'.

Despite the fact that the Spanish case often appears classified as a 'federal' state (Elazar 1991; Watts 1995), there are many arguments that would suggest that perhaps it would be more appropriately situated in the group of 'regional' states. It is not an

'incomplete federation' or a federal state despite its lack of 'shared-government' rules (see Agranoff 1995; Moreno 1995, 1997; Aja 1999). It is in fact a highly decentralized state when compared with other regional states, and which has one important thing in common with federations: decentralization is designed for all the territorial subunits and not only for some of them. The total of territories which enjoy constitutionally guaranteed political autonomy—currently seventeen autonomous communities plus two cities in North Africa: Ceuta and Melilla—practically make up the whole of the territory of Spain.

The most important issue to be resolved by the territorial model is, however, quite different: the political accommodation of a multinational reality.[2] This has been a never-resolved issue in the Spanish contemporary history.

Among the elements that distance the current Spanish model from standard federations are the following:

- *Constituent units.* The 'autonomous communities' (AC) are not constituent entities. The Spanish Constitution (SC) establishes 'the indissoluble unity of the Spanish Nation' (Art. 2) and the 'Spanish people' as subject of the 'National sovereignty' (Art. 1). Some of the AC did not even exist before the 1978 Constitution.
- *Division of powers.* The decentralization of legislative powers is unclear. The central power maintains its hegemony through the so-called *'leyes de bases* and *leyes orgánicas* (basic framework and constitutional laws), which are the same throughout the state and which they can be developed in a centralizing way in many areas (education, local power, civil servants, universities, etc.). We may find overlappings between the regulations of central and 'autonomous' powers in the majority of subjects without clear procedural rules of 'shared government'.
- *Judicial power.* Unlike the legislative and executive powers, the *Estado de las Autonomías* has had practically no effect on the structure of the judiciary, which continues to be that of a centralized state.
- *Constitutional Court.* This is an institution of the state and not an organ of the central power. However, the AC are not involved in the appointment of its magistrates, which are appointed only by the parliament, the judiciary and government of the central power.
- *Senate.* The upper chamber is not linked to the federated units. The majority of the senators are elected by the 'provinces', a set of administrative divisions which date back to the nineteenth century. The AC play no role in the legislative power of the 'federation'.
- *Taxation.* The *Estado de las Autonomías* is a long way from any model of fiscal federalism. Almost all taxes are collected by the central power, which later returns an amount equivalent to that which the AC need in order to finance the powers that they have. The Basque Country and Navarre are the exceptions to this rule as they enjoy an asymmetrical fiscal agreement with the central power, which is based on a number of 'historical rights', which are regulated under terms which are even more confederal than federal. By means of the so-called 'economic agreement' *(concierto económico),* these two communities collect taxes and pass on a specific amount of money to the central power to pay for the services that the latter provides for the community.
- *European Union.* The AC are not considered to be political actors in relation to the principal institutions of the European Union, in contrast to the federations of the EU

(especially Belgium and Germany). The central government has resisted against giving any important role for AC in relation to European issues.
• *Constitutional reform.* The AC do not participate in the process of constitutional reform. This is in the hands of the central parliament and of the citizens of the state through referenda.

The general conclusion is that the current Spanish *Estado de las Autonomías* does not have important elements (institutional and procedural) that usually define the 'federations'. In fact, the Constitution includes more asymmetrical elements than genuinely federal elements. However, most of these asymmetrical elements have not been developed in post-constitutional political and legislative practice. Despite the fact that the AC possess a high degree of autonomy in some areas, the practical characteristics of the model have been predominantly developed on a regionalizing perspective.

The Spanish Constitution establishes two basic ways of achieving self-government depending on whether the communities in question have enjoyed autonomy in the past (Second Republic).[3] In this way, a transitory asymmetry of powers is established to achieve the highest level of self-government.[4] However, the final design for the distribution of powers is of a potential symmetrical nature, if the AC wish to achieve the highest level of self-government, with the exception of the regulation of certain differences (called *hechos diferenciales:* own languages, insularity, civil law, historical rights, etc.). This complex constitutional design becomes even more complicated when one establishes the possibility that the central power can devolve powers to certain communities.[5] On the other hand, the most asymmetrical legal characteristic is the economic agreement enjoyed by the Basque Country and Navarre, which is based on the so-called 'historical rights' that predate the 1978 Constitution.[6]

It is possible to identify four phases in the development of the Spanish *Estado de las Autonomías* between 1978 and 2004.

Constituent phase (1978–1981)

The constituent phase corresponds to the negotiation of the Constitution and the *estatutos de autonomía* (constitutional laws) of the communities possessing national characteristics. The articulation of the state's multinationality does not take the form of a 'constitutional solution' as this question had not been solved politically during the period of political transition. The result could be described as a procedural framework for decentralization, which may develop in a variety of ways. The latter have been characterized by the generalization of the autonomous communities which are not specifically defined in the Constitution—and by the fact there are many of them (seventeen communities plus Ceuta and Melilla, which also have a 'statute of autonomy').

Autonomous agreement phase (1981–1992)

During the 1980s the main political parties with representation in all the state (UCD, PSOE, PP) signed two pacts concerning issues relating to autonomies (1981, 1992).[7] Centralism comes to dominate autonomous development through the passing of the *leyes de bases* and *leyes orgánicas* by the central political institutions (universities, civil

servants, local governments, education and so on). One of the consequences of this was the increasing process of judicialization of autonomous development during the first half of the 1990s, which resulted in the Constitutional Court playing an intense and leading role. The final result of this period was the establishment of a homogenizing model of political development, inspired in part by the German model, that is at present far from being consolidated.

Parliamentary agreements with Basque and Catalan nationalist parties (1993-2000)

This phase, involving the parliamentary agreements with the Basque and Catalan nationalist parties (PNV, CiU)[8], is a period marked by the main political parties' lack of an absolute majority (PSOE between 1993 and 1996, PP 1996-2000) forcing them to look for support from other parties in order to guarantee the stability of the central government. This is a phase characterized by bilateral agreements between the two main non-state nationalist parties and the governing Spanish party (PSOE or PP). Nevertheless, the confusion between decentralization and multinationality that characterized the two preceding phases has still to be resolved. This confusion provides the setting for the two basic perspectives from which the autonomous model is perceived by different political actors: decentralization and multinational perspectives.

Decentralization perspective

Spain is conceived as a single national reality divided into seventeen AC which also permits the regulation of a number of structural 'differences'. In this situation it is suggested that the most suitable thing to do is to make use of those federal techniques that are most effective for the functioning of a multilevel political and administrative organization, but which has a homogeneous base. Uniformity and symmetry are the most suitable procedures here, legitimized from the premises of a specific interpretation of concepts such as equality and democratic citizenship.

Multinational perspective

Spain is conceived as a society made up of diverse nations that should be constitutionally recognized and politically articulated between each other. Here political suitability depends on formulas that can articulate the diversity of national characteristics in the state in a variety of ways. This makes it convenient to introduce legal asymmetries or agreements of a confederal nature in the areas relating to the symbols, institutions and powers.[9]

Absolute majority of the Popular Party (PP) (2000–2004)

In this stage, the PP established some agreements with the main opposition party in the central parliament (PSOE), such as an anti-terrorist policy and a fiscal agreement for all the AC except the Basque Country and Navarre. Regarding the 'national question', the

main elements have been: attempts to recentralize some policies (i.e. education, universities); an increasing of the political and social 'split' in the Basque Country along nationalist lines (with very polarized elections to the Basque parliament in 2001; the reform of the Spanish law of political parties—which has made *Batasuna* an illegal organization;[10] the presentation of the 'Ibarretxe Plan' in the Basque parliament by the Basque government: the proposal to begin a process to establish a new agreement of 'free association with the state', supposedly based on the current legal framework;[11] a parliamentary pact in the Catalan parliament between CiU and the PP in order to support the minority government of the former, but which has failed to produce any changes regarding the political recognition of national pluralism and the Catalan self-government; and an increasing nationalistic discourse (use of political symbols, legitimatory language, etc.) and a centralizing set of policies by the Spanish central government.[12]

The question of the national identities

One of the main difficulties when one tries to bring these two mentioned perspectives together—the decentralization and the accommodation of a multinational state—is the use that the word 'nation' implies in the expression 'Spanish nation'. This use works on two levels, which I may call the *primary* and *secondary* sense in the use of the concept of 'nation'.

The primary level is that which defines the national identity of each and every citizen interpreted in terms of distinctive criteria of affinity used in comparative politics (language, culture, differentiated history, desire to have a political self-government and so on). Despite the existence of mixed identities that can be classified on a continuous scale, the *primary* use of the term nation implies four basic types of identity: Spanish, Catalan, Basque and Galician. In this primary sense, to see oneself as having a 'Spanish' national identity shows the affinity that is shared by citizens of, for example, Zaragoza, Seville or Madrid (and some of the citizens of Galicia, Catalonia and the Basque Country), but which distinguishes them from the 'national' affinities, also in the primary sense, of citizens of the latter three collectives. This primary sense of a Spanish nation, that is shared by the majority of the citizens of the Spanish state, but is a long way from being 'common to all Spaniards' (as the 1978 Constitution says) constitutes what we may call the 'hidden nationality' in the arguments about the multinational nature of the Spanish reality. In descriptive terms, one cannot regard Catalonia, Galicia and the Basque Country as mere sub-units of a Spanish nation which, understood in this primary sense, does not exist as a common point of reference for all citizens.

The *secondary* use of the Spanish 'nation' is that which regards Spain as a 'nation of nations', and which attempts to incorporate all the citizens of the state regardless of what their dominant national affinity, understood in the primary sense, may be. The expression 'nation of nations' is not very precise. Paradoxically, it is even acceptable to the state and non-state nationalist forces alike as long as it is not defined. On the one hand, Spanish nationalism, in its different versions and nuances, usually prefers the first part of the expression, that of the nation (sometimes written with a capital N as it appears in the Constitution) but uses it exclusively in the primary sense of the word although it refers to

all the citizens of the state, forgetting the secondary sense. At the same time, this nationalism restricts the second sense of the expression, the nations, to Catalonia, the Basque Country and Galicia, excluding the primary sense of Spanish nation mentioned before. This is a kind of nationalism that tolerates these three 'nations' in different ways, which range from considering them as an interesting but always subordinate part of the 'Spanish nation', to considering that it is better to ignore them as much as possible, while wishing they did not exist at all. On the other hand, Catalan, Basque and Galician nationalisms, also with their own versions and nuances, prefer the second sense of the expression 'nation of nations'. The nations, also understood in a rather confused way when it comes to deciding if they include the Spanish nation in its primary sense, while they tolerate the first term, the nation, as best as they can. Here the Spanish nation is considered in its secondary sense either as something fictitious, rhetorical and artificially constructed from an unreal state nationalism, or as an existing but largely irrelevant reality that, moreover, hinders the recognition and self-government of the minority nations in the primary sense.

The conclusion is that the expression 'nation of nations' is very confusing when the two types of nationalism mix the primary and secondary senses of the term 'nation' when they refer to Spain. This confusion is also implicit in the constitution,[13] which hinders the construction of a secondary notion of the Spanish nation that is acceptable to all the citizens of all the national *demoi*.[14] Or, in other words, under the present circumstances it is very difficult to combine the notions of citizenship and a secondary Spanish nation from the recognition of the primary multinationality of the state. To this kind of difficulty we must add the existence of the seventeen territorial units of the current model. These units are subsumed in a regional model with federalising features that has failed to develop the potential asymmetries that existed in the Constitution of 1978. These asymmetries would be better suited to regulate the *recognition* of the pluralism of national identities, modulating different ways to belong to the polity.[15] I think that without asymmetrical regulations that include national rights in the symbolic, institutional and power spheres, it is more than likely that the secondary sense of the Spanish nation will be an unresolved matter within the Spanish democratic system for a long time to come.

The *Estado de las Autonomías,* a quarter of a century later

When one sets out to make an assessment of the Spanish *Estado de las Autonomías* more than twenty years after the 1978 Constitution was written, one should ideally compare the original aims and objectives of this territorial model with the practical results that it has achieved during this period. However, one immediately comes up against an obstacle: the lack of clarity inherent in the objectives of this autonomic model. A decontextualized reading of the constitutional text fails to reveal the objectives it pursues. This lack of clarity, however, is both indicative of the nature of this Constitution and useful for evaluating the future limits and possibilities of a model for the territorial distribution of political power which is unique in the world of comparative politics.

The Spanish state's failure during the nineteenth and twentieth centuries to

accommodate the different national realities that exist within it is well known. Even in the most restricted sense, such as that embodied in expressions like the 'Catalan problem' or the 'regional problem' which are present in the declarations and treatises of different political leaders and intellectuals, or in the manifestos of the main Spanish political parties during the early decades of the twentieth century, one may at the very least detect one fact: that there was an unresolved territorial problem which affected some 'regions' and not others. As has already been pointed out, the failure to resolve this issue could be described as the failure of a general process of Spanish nation-building to integrate its different national realities into an articulated concept of a Spanish nation. Citizens in Catalonia, the Basque Country and Galicia have traditionally been too weak to impose a plurinational articulation of the Spanish state, but they have at the same time been strong enough (mainly to resist the imposition of the uniformist and homogenizing model of a Spanish nation that presides over the rest of the state (mainly in Catalonia and the Basque Country).

Things were not so different as far as this issue is concerned during the years of political transition immediately following the end of Franco's dictatorship. It was logical for the discussions prior to the writing of the Constitution to be chiefly concerned with the establishment of a liberal-democratic system similar to those which already existed in other European countries. But there was a diversity of positions regarding how to resolve national questions which went from traditional Castilian 'Spanishism' to an undefined form of federalism which had a better idea of what it wanted to avoid than what it wanted to achieve. The result is well known: a series of more or less explicit constitutional regulations of a unitarian nature for the Spanish nation alongside a number of much more ambiguous regulations regarding the right to self-government of a number of 'nationalities and regions' which the constitutional text neither mentions nor describes. The result is a model which is very difficult to develop, but which is 'flexible' regarding the precise content of what is possible within these clear limits.

In my view, the biggest design fault of the Spanish Constitution is that it attempts to tackle two distinct issues at the same time: the decentralization of the state and the accommodation of its multi-nationality. Both issues are convenient objectives to be regulated in the constitutional and policy-making framework, but they can hardly be established through the same procedural rules when they deal with very different targets.

When we ask ourselves if the same political solutions are suitable for regulating the decentralization of a state and for accommodating its multinationality, the answer we receive from the main models of comparative politics, as has been also mentioned, is basically negative. Broadly speaking, it can be demonstrated that 'regional' models (e.g. Italy) or 'symmetrical' federations (the United States, Germany)—in other words, those in which all the member states of the federation have a very similar relationship with the central power—are highly suitable for regulating models of decentralization for uninational states.

However, it can also be shown that they are unsuitable for articulating multinational realities. In order to carry out this latter articulation, models of asymmetrical federalism, e.g. Belgium since 1993, or elements of a confederal nature, seem much more suitable, at least as far as the regulation of key aspects such as the symbolic, institutional, distribution of powers or the foreign representation of the different nations that make up the state are

concerned. Decentralizing a state is not the same as accommodating the distinct national identities that coexist within it. In this case, 'self-government' is not the same as 'more powers'. The list of the latter could be increased while the 'discomfort' of the minority national identities would remain due to the fact that wide recognition and development of their national specificity had not been established. This is the current situation of Quebec in relation to Canada. Despite the fact that the Canadian federation is a much more decentralized state than autonomic Spain, Quebec's national identity is not properly articulated within the nature of Canadian federalism.

Despite being a successful decentralizing model, the political regulation of the internal national pluralism continues to be an unresolved question in the Spanish constitutional model. The present-day *Estado de las Autonomías* is obviously an improvement in relative terms, when it is compared with the constitutional regulations of Spain's contemporary history. However, this relative improvement is unable to conceal serious shortcomings in the regulation and fit of its national realities, in symbolic, institutional and self-government terms. It can be said that the *Estado de las Autonomías* worked relatively well when it had to *decentralize* the previous authoritarian state, but it is a model that blurs the landscape when through it one tries to create a rosy picture of the *recognition* and the political *accommodation* of the multinational character of the state. It is somewhat contradictory to treat the different national *demoi* as though they were just 'Spanish autonomous regions' like others. The conclusion is that something essential, not just procedural, has been badly resolved in the current Spanish political system.

The fact that the Spanish Constitution of 1978 fails to regulate multinationality should not prevent us from positively evaluating the way it regulates other aspects, such as the recognition of and the mechanism to guarantee citizens' civil, democratic and social rights or most public institutions. In general terms, I believe that it was a good agreement in order to definitively leave behind the dictatorship and the most retrograde aspects of Spanish political culture. This was especially commendable if we remember the political context during the second half of the 1970s in which the transition took place: a process of political reform directed by elites that had emerged under Franco, latent threats of military coups—which were later put into practice—the lack of a culture of democratic negotiation among the political actors, the weakness of the opposition, both at the state level and at the level of the national minorities. For the first time in its history, if we do not count the unstable Republican experience of the 1930s, the 1978 Constitution has succeeded in situating the Spanish state unequivocally within the group of western liberal democracies. It has made it possible for Spain to become a member of the European Union, as well as facilitating the modernization of Spanish society and the structures of the state itself. It has also made it possible to decentralize the state politically in clear contrast with the highly centralized structures of the former regime.

However, despite these and other merits that the present Constitution can claim, it is possible to state equally forcefully that it was conceived with severe limitations, both in terms of the recognition of national pluralism, and in terms of the dimension of self-government of the stateless minority nations. What many citizens of Catalonia, the Basque Country and Galicia demand in terms of political recognition and accommodation is not possible according to the basically 'regional' premises on which the present-day autonomic model has been developed since 1978. Despite the undeniable progress that

the *Estado de las Autonomías* represents in comparison with past territorial models—which is not surprising given Spain's unfortunate history in liberal and democratic terms—current autonomic regulation may be seen as a milestone on the road towards effective national pluralist recognition and self-government, but cannot be considered as the end of that road. Ideally, it would be necessary for another model to be structured along multinational and value pluralist lines.

The new context of the European Union changes most of the rules of the game that apply to intergovernmental relations between the member states of the Union (see Teasdale 1993; Loughlin 2000). In practical terms, this new framework represents a set of opportunities and a number of threats for the government of the minority nations. The Catalan, Basque and Galician political classes are faced with the challenge of ensuring that both aspects increase the self-government of their countries and their presence in an increasingly internationalized world. The challenge is to think globally and with one's eyes on the future in order to know how to act effectively in the present. This moves us to discuss the potential scenarios for the coming years.

6
Future scenarios for Spanish multinational democracy

> Many Catalans are interested in Catalonia, but they do not believe in it. They do exactly the opposite to what they do with religion and the afterlife: they believe in them, but they are not interested in them.
>
> J. Pla, *Unrelated Notes*

> It is only simple conceptions which take hold of a people's mind. A false but clear and precise idea always has more power in the world than one which is true but complex.
>
> Alexis de Tocqueville, *Democracy in America,* 1835

Four potential scenarios for Spanish multinational democracy: plural federalism in Spain

Taking the two first types of agreement of *plural federalism* in order to accommodate in the political sphere a multinational polity—the recognition or absence of the national pluralism of the state at the constitutional level, which we will represent with the values 1 or 0 respectively; and the degree of self-government of the national minorities, which we will indicate on a scale of 1 to 4 (where 1=the present situation of Spanish stateless nations and 4=sovereignty comparable to that of the small states of the EU, like Denmark, Finland, Austria, etc.)—we may establish four scenarios for a future political accommodation of the Spanish democracy (the term *scenario* refers here to "potential futures" of a political system):

• the regional-autonomic (0, 1)
• the federal-uninational (0, 2)
• the federal-multinational (plural federalism) (1, 3)
• the sovereignty-association or *partnership* (1, 4).

These are scenarios that always require some form of agreement. We will not therefore, deal with the 'independence' of the national minorities of the state or an evolution towards a unitary state (which would be the fifth and sixth scenarios).

Regional-autonomic scenario (0, 1)

Obviously, this future scenario is the one that offers the most continuity in relation to the

current constitutional and statutory situation. It is a highly undefined and ambiguous framework which has defined its development, first from a preferred concept of a 'Spanish nation' and an idea of 'popular sovereignty' which were developed from the uniform premises of a single Spanish *demos,* and second, from a regionalizing perspective, established by a group of seventeen autonomous communities plus two North African cities (Ceuta and Melilla). We have to remember that the asymmetrical elements included in the Constitution have not been developed in post-constitutional political and legislative practice. Consequently, in this scenario, the multinational nature of the Spanish state would continue unrecognized constitutionally due to a preferred concept of a Spanish nation and, above all, because of the establishment of a single subject of sovereignty, the 'Spanish people' (Articles 1 and 2 of the 1978 Spanish Constitution). Nevertheless, this situation would not be irremediable as the autonomous communities, including those of the stateless nations, would be able to obtain a number of specific powers as well as being able to modify certain institutions and decision-making mechanisms (finance, modification of shared competences according to guidelines laid down by the Constitutional Court itself, modifications to the *leyes de bases* and *leyes orgánicas,* presence in representation to the EU, Senate, etc.).

Federal-uninational scenario (0, 2)

This is a scenario that is based on the development of the federal potential of the *Estado de las Autonomías* and is derived from the characteristics of traditional federalism. As in the last scenario, the perspective of a single *demos* would be maintained along with a plurality of 'distinctive features' (languages, civil law, regional privileges, insularity, etc.) within a 'pluricultural', albeit uninational, conception of the state's political collective. Among the spheres and institutions that could change with this scenario are the justice system, which has been virtually unaffected by the *Estado de las Autonomías;* the Senate; the foreign representation of the autonomous communities before the EU, following the practice of other federations such as Belgium and Germany; and taxation, which would have to respond to a two-tier fiscal system (this is almost non-existent for fifteen of the seventeen autonomous communities, both for collection of taxes and for the duality of political responsibilities involving public spending). Therefore, for example, the judicial system could be structured federally with two-tier territorial courts, that of the federation and that of the federated units, in which the latter would have their own supreme courts that would act as final courts of appeal. The new judicial system would be developed symmetrically or, in other words, homogeneously, for all the federated units. The Senate, on the other hand, which is a very devalued institution at present, would become a genuine chamber of territorial representation, something which it is not at the moment and which, although if it were established along fundamentally symmetrical lines, it would see its institutional function increased in the spheres of representation, legislation, co-ordination and accountability. Finally, apart from the treatment of the current asymmetrical fiscal situation in the Basque Country and Navarre, the fiscal model would be developed symmetrically for the other federated units. So, this federal development would be based on symmetrical criteria for the 'federated units', with a number of asymmetrical exceptions (economic agreement in the territories enjoying

specific agreements, civil law, bilingualism in some collectives, etc.).

Federal-multinational scenario (plural federalism) (1, 3)

Here the multinationality of the state would be explicitly recognized at the constitutional level and self-government of the national minorities would be developed accordingly. (It is the model described in Chapter 4 as *plural federalism*.)

The following is a synthetic example of plural federalism for Spain that I think would much better regulate the multinationality of this state than the current model of the *Estado de las Autonomías*. Table 4 summarizes some examples of the potential intersections of the kinds of agreements and areas of application mentioned in Chapter 4. For simplicity, I only mention some elements of the three main kinds of agreements of plural federalism (constitutional recognition of the national pluralism of the polity, the national self-government of the

Table 4 Plural federalism: politics of recognition and self-governing powers

	Linguistic-symbolic sphere	Institutional sphere	Powers sphere/fiscal sphere/ international sphere
Regulation of the plurinational character of the state	Constitutional recognition of the plurinational character of the state Plurilinguism: • Official name of the state • Coins and bank notes • Personal identification documents (passport, driving license, etc.) • Official documents • Stamps Symbols that reflect the plurinational character of the state (anthem, flags)	Plurilinguism in the federal parliament (documents and oral speeches) Plurilinguism in the institution of the monarchy or the presidential republican institution	Inclusion of the plurinationality and plurilinguism in the educational curricula of the whole state (primary and secondary education) Creation of departments for the study of linguistic and cultural minorities at the public universities Plurilinguism in the policies of the federation addressed to all the citizens of the state Plurilinguism in the state's embassies and consulates Plurinationality in the state's foreign policies related to language and culture

| Asymmetrical or confederal regulations of the sub-units' self-government (federal and international level) | Economic and civil law registers | One electoral district for the sub-units of the national minorities in federal elections (including supra-federal elections, i.e. EU) Only two administrative levels in the sub-unit of the national minority: substate and local Possibility of horizontal federal agreements among the sub-units of the federation Senate: • veto right for the members of the national minorities in specific areas • symmetrical bicameralism Constitutional Court: composition with a special presence of the national minorities of the state | Own national sport selections and Olympic committees Representation of the national minorities in international sport competitions Specific representation in international organisations (EU, Council of Europe) Specific representation in UNESCO Specific representation in the international arena (embassies and consulates) Exclusive legislation and policies with regard to local power, civil law, electoral regulations, linguistics, culture, universities, infrastructure, education, immigration, social security, telecommunications |
| Symmetrical regulations | Federalization of the judicial power | | Fiscal federalism (legislation, taxation and spending) Foreign policy with regard to the exclusive powers of the sub-units |

subunits and the 'shared' federal government) and I consider the three last basic areas also previously mentioned (powers, fiscal and international) altogether in the third column of Table 3.[1]

The fundamental question for the regulation of the areas already mentioned in a multinational polity is, above all, a question of application. It is a question of a more practical than theoretical nature, which must be accompanied by modus vivendi agreements between the political actors involved in each specific case, according to value pluralist lines (especially in values of particular nature). In Spain's case, a potential great advantage of the present situation compared with past historical experiences is the

existence of the EU.[2]

Sovereignty-association or partnership scenario (1, 4)

This scenario is the one that breaks most radically away from the 1978 constitutional framework. Unlike the previous scenario, which is still an agreement including the Spanish state, here the process depends exclusively on decisions taken by the national minority collectives. The final self-government of the latter would be equivalent to that of the states of the European Union, with the exception of agreements of a common or confederal nature with the Spanish state for specific issues (passport, defence, a number of issues involving foreign representation and taxation, and so on) in the same way as some *associate states* and *federacies* of comparative politics are regulated.[3]

To sum up, in the first two scenarios, the degree of self-government of the Spanish autonomous communities could be increased. This would be as true for those that display national characteristics as for those that do not. This could be achieved by means of existing decentralization mechanisms within the present constitution. The second scenario, moreover, could bring about a modernization of a number of important aspects of the political system as it would introduce the competitive and co-operative logics inherent in traditional federalism. Another advantage of this second scenario would be the marginalization of one of the most perverse components of the current system: the fact that the practical functioning of the territorial system depends on the electoral composition of the central parliament (existence or absence of absolute majorities). Nevertheless, these first two scenarios continue to treat the accommodation of a multinational reality as a mere process of decentralization, even though this process is carried out using techniques borrowed from federalism.

I believe that in the absence of a constitutional recognition of internal national pluralism and a degree of self-government that includes the pre-eminence of the national minorities in the symbolic, institutional and powers spheres of their territories, it will be difficult to achieve a 'federal solution' for the Spanish national issue (or issues) and to resolve the biggest shortcoming of the Spanish democracy: the political and constitutional accommodation of its internal national pluralism. These objectives could be only achieved according to the general patterns of the third or fourth scenarios described earlier. Given the demographic, social, historical and cultural characteristics of the Spanish society (including that of the minority stateless nations), I think that the third scenario (plural federalism) offers a good base for obtaining a just and workable polity in the coming years.[4]

Final comment

Is it possible to go beyond the limits of the present Spanish autonomic model without modifying the 1978 Constitution? Or, in other words, are its constitutional ambiguities open not to a regional interpretation, but a multinational one?

When one tries to find new ways of increasing self-government without carrying out constitutional reform, two initial options appear. The first is to make use of the Constitution's much-quoted Article 150.2. This allows the central power to transfer

'competences derived from state powers' to the autonomous communities. Having said that, this is a way which, apart from being uncertain and neither directed nor controlled by the institutions of the minority nations, is designed for any one of the seventeen autonomous communities of the Spanish state. This fact might well mean that the perspective of decentralization would prevail over that of multinational articulation. Although this option might increase the degree of self-government in a number of powers, key aspects regarding the recognition of symbols, institutions and the representation of Catalan, Basque and Galician national realities abroad would continue to go unresolved.

The second option consists in exploring the possibility of two constitutional provisions: the first additional provision in combination with the second transitory provision. The first additional provision refers to the 'historical rights' of the *fuero* territories (special regulations enjoyed, basically, by the Basque Country and Navarre) while the second recognizes asymmetrical access to autonomy for those communities which endorsed statutes of autonomy in the past. These were, precisely, Catalonia, the Basque Country and Galicia. The combination of both provisions has made some scholars consider the possibility of extending the scope of 'historical rights' to Catalonia and Galicia, as a way of legitimizing an extension of asymmetrical regulations to these nationalities (Herrero de Miñón 1998). This does, however, stretch the rules considerably from a juridical point of view. The second transitory provision, for example, only regulates different ways of gaining autonomy, not different ways of exercising it.

The framework of the European Union

After the Maastricht Treaty (1992), the European Convention (2002–2003) and the probable subsequent approval of a European 'Constitution', the image of the EU as a union with some federalizing elements, in contrast with that of a series of intergovernmental relations of a purely economic nature, has been reinforced. The EU may be characterized as the construction of a set of political and also fragmented sovereignties led by a pragmatic rationality from the executive institutions of the state members. It is some kind of post-modern union, with no established final design, and that goes beyond the European framework symbolized by the Westphalia agreement. Maastricht represented a first important turning point in the construction of the EU (see McKay 1997, 2001).[5] The treaty recognized for the first time both a concept of European citizenship and the role of the regions. Two elements to add to the other more visible of the single currency, common foreign and security policies, the internal market and social cohesion. This was the beginning of a new political framework that gave shape to new potential ways of overcoming the implicit stateism of liberal democracies when it tries to find a place for distinct national realities of the continent. It is true that these formulations were timid and vague. But their very existence indicates a movement towards a political, and not merely economic, formulation of the foundations of the Union from premises that were no longer exclusively based on the state.

Before the introduction of the Charter of Rights in the European 'Constitution', the rights under the notion of European citizenship were very limited. So, the first thing that

must be said about 'European citizenship' is that it was a vague concept. It was characterized by a constant dualism: its falling back on the different notions of citizenship of the member states, and the will to establish a status common to all the citizens of the Union, independent of which state they belong to.[6] In Maastricht, it was established that this citizenship consisted of issues of low political profile (freedom of movement between and residence in the states of the Union, participation in municipal and European elections in the state of residence, right to protection from the diplo-matic and consular authorities of any member state in other countries, right of petition before the European parliament and access to the Ombudsman).[7] The 'constitutional' inclusion of the Charter of Rights represents a second turning point in the process of political integration. However, from these foundations, the notion of European citizenship will continue to be basically a question of the member states (Bauböck 1994; Resnick 1994; Keating 1996, 1998).

On the other hand, Maastricht also began to regard 'regions' as legitimate political actors, in contrast to past community clauses that stem from the treaty of Rome. From the moment that the Committee of Regions was created, the European regions began to enjoy a timid representation within the institutional framework of the EU for the first time. This committee has little real power as yet. It is still not an elected camera and has only advisory functions. Moreover, regions share the representation with municipalities on the committee, and the well-known principle of subsidiarity, also introduced in Maastricht, may not necessarily be applicable to the case of the state sub-units. (In the EU, subsidiarity is usually understood as a principle which applies only to the relations between member states and Brussels.) Actually, the practical implementation of this committee between 1992 and 2003 has disappointed not only the initial expectations of the European stateless nations, but also the expectations of the 'strong' European regions.

To dilute the state monopoly and the dualism between nationalisms are two necessary conditions for the institutional articulation of a 'liberal politics of recognition' on a European scale. The EU partially dilutes the importance of the state as an organization, as well as the bipolarity that characterizes the traditional competition between the process of nation-building in multinational states.

The future political construction of Europe might probably include federalizing features, of both a symmetrical and an asymmetrical nature. Minority nations in multinational polities such as the United Kingdom, Belgium or Spain will also have to situate their struggle for recognition and self-government within the framework of the EU, probably through asymmetrical mechanisms and common European networks. There is no doubt that the dilution of stateism that has characterized the European order since Westphalia will be a slow process full of breakthroughs and setbacks, but I believe that the chances are good that in the second half of the next century European regulation of national pluralism and of an effective European citizenship will be two parts of the same process.[8] But, as always, when one is dealing with political processes, nothing is certain. It is therefore important that those organizations that make Europeanism a central part of their political programmes, and which work towards pluralism and the recognition of national identities, are ruled by up-to-date elites that are able to tackle the new problems that arise with new concepts and attitudes, for the very good reason that 'art begins where imitation ends'.

Final remarks

Federalism for primates…that strive not to be so

> The brain of this foolish-compounded clay, man…
> > Shakespeare, *Henry IV,* Part 2, Act 1, scene 2

> Our thoughts are ours, their ends none of our own
> > Shakespeare, *Hamlet,* Act 3, scene 2

I would finally like to follow a path that will take me away from the main contents of this book and which is somewhat risky: to understand the practical behaviour of human beings through the findings of some recently created sciences, namely genetics and palaeontology. I believe that these disciplines deserve more attention from political scientists, social scientists in general and political philosophers. The theoretical interest in taking this path lies in pointing out a number of ontological and epistemological questions that should be taken into account when one attempts to 'improve' western liberal democracies and federalism. These questions are usually absent from the moral concepts associated with big words like justice, equality, liberty, democracy, etc.

The backdrop to this final reflection is an idea put forward some decades ago by C. Schmitt (1985:12–17) and more recently by C. Mouffe (1993: chs 1, 7 and 8): any reflection on political power is irreducible to economics and ethics. Both approaches forget what characterizes political power, whether it is democratic or not: the 'vertical' relationship that exists between minorities that take collective decisions and the majorities they govern, together with the set of ideas, institutions and procedures that attempt to legitimize these decisions.

I will state my position now: I believe that there is an excess of individualism, moralism and stateism in most of the political theories that appeared with the Enlightenment when they talk about liberties and democracy. This prevents them from properly understanding a number of issues. Furthermore, these concepts create a relatively narrow vision of how to understand the practical expression of a such values as equality, liberty and pluralism in increasingly complex contemporary democracies. From an 'evolutionary' perspective of liberal democracies, I believe it is better for us to stay on the playing field laid out by the ideas of the Enlightenment, above all by political liberalism, but it will be necessary to revise some of its concepts and implicit ideas with a view to refining them ethically and in order to reduce the gap between what liberal democracies say and what they really do. In order to do this, we must think more deeply, avoiding, for example, the impoverished moralistic or economic theoretical attitudes that are present in most western political theories. On the other hand, liberal-democratic

federalism has, I believe, sufficient empirical and comparative resources to produce institutions that are better adapted to a world characterized by globalization and cultural and national pluralism than those displayed by contemporary federations. Again, if it is necessary to revise the political liberalism that underpins democracies, it is more than likely that we also need to revise the normative and institutional bases of liberal federalism.

Let us begin by having an inevitably quick and partial look at some of the current scientific theories related to human beings. This will confirm the anthropological image of a group of primates that feel uncomfortable with being so. In other words, primates who strive not to be so (at least part of the time).

Some pretty strange creatures: genetic hardware and cultural (technological and linguistic) software as the bases of human behaviour

Darwin's theory continues to be the blueprint for scientific analysis of evolution: neither genetic variations nor natural selection appear to pursue any specific objective. In fact, the majority of the evolutionary lines that achieved the highest level of complexity of their period ultimately became extinct. According to the history of some of these evolutionary lines, greater intelligence is no guarantee of survival. Survival is often controlled by a set of factors that are outside biology, such as climatic changes, continental drift or even the impact of meteorites on the planet. These factors mean that nature is largely powerless to discriminate between successful or failed changes. This means that it is possible to reconstruct evolution along rational patterns, but it also means that the results depend on too many factors to be predictable. Explanation and prediction are not symmetrical here either.

In fact, we human beings, the *homo* genus, are a pretty strange bunch of primates. Primates first appeared 65 million years ago and there are now about 180 different species, including the only example of the *homo* genus that has survived: the 'young' *homo sapiens,* which very probably appeared in Africa only about 150,000 or 200,000 years ago.

The evolution of humankind, which began in the Great Rift Valley of Africa and is sometimes called the East Side Story, seems to have been based, fundamentally, on competition between groups for natural resources and territory. According to the latest archaeological and genetic studies, in spite of the variety of results produced by genetic, environmental and cultural differences over this period of time, primates in human groups display three basic features: *competitiveness, territoriality* and *group sociability,* to which a fourth, *hierarchism,* may be added when there is a large number of individuals in the group. We are not 'blank slates' (Pinker 2002) when we are born. Taking into account the factors that modern genetics indicates influence evolution, it would seem that neither *mutations* (which increase the diversity of existing species), nor *natural selection* (which, until quite recently, differentiated between individuals), nor *genetic drift* (which measures the consequences of chance in intergenerational genetic frequencies), nor *migrations,* have succeeded in altering to any significant extent the importance of the three features mentioned above. Therefore, as we shall see, it would seem that any

'improvement' for human collectives in ethical or political terms must come from technical and cultural transmission (which until now has operated mainly on a group level). And history also shows us that some of these innovations have been failures, above all those of a practical (moral and political) nature and it would therefore be advisable to learn why some have been successful and others have ended up on the 'evolutionary' scrap heap.

Over the past 2.5 million years, we humans, by which I mean the different species genera of *homo,* have developed a number of characteristics. Among them larger brains, a longer period of development before adulthood, an omnivorous diet, a change of ecological niche and greater social complexity. This has taken place during climatic and geological changes that have sometimes been decisive in evolutionary terms. Among these characteristics there are two that stand out: technology and an articulate and symbolic language that would generate a number of practical products, among them moral codes and forms of political organization, such as theoretical products like political theories and mechanisms to legitimize social organization. Technology and language are two of the most fundamental creations and are unique to our genus. They have allowed us to emancipate ourselves, at least partially, from nature.

Throughout our evolution, compared with which the time which has elapsed between the Neolithic revolution and the present day is just a 'moment' of some 10,000 years, we humans have developed an 'operative intelligence', an abstract and instrumental technology capable of imposing our will on other species by means of the creation and use of stone tools. This technical capacity to produce tools displayed by the *homo* genus combined with a strategy to conquer new territories and an incipient form of social structure able to control and manage the tensions and aggressiveness that appear between individuals of different groups. In other words, the development of technology—which for the Palaeolithic period is usually divided into four 'modes' or distinct, progressively more developed techniques of tool manufacture—seems to be closely linked to an increasingly developed instrumental rationality and, in all likelihood, to greater social complexity. Our evolution has made us more able to compete against the relatively inexorable rule of nature that geneticists sometimes sum up with the phrase 'mutation proposes, natural selection disposes'. But we should not forget that, in addition to our condition as primates, we have spent 99.6 per cent of our existence as hunter-gatherers.

On the other hand, ethology (the study of behaviour) has shown the existence of genetic influence on our behaviour. Like other animals, we humans accumulate a kind of philo-genetic knowledge which is specific to our species. This is very difficult to measure as it is not easy to separate it from individuals' cultural and contextual influences. However, the point I want to make here is that this does not represent any kind of determinism because in complex beings like humans the decisive factor is decision-making in contexts which are always different and which also include the, often unpredictable, reactions of other humans. These decisions are obviously not in our genes. But it is precisely the genetic information, together with ontogenetic, or learnt, knowledge, which is much more complex in our case than in other animals or primates, and which we transmit in the form of cultural guidelines, which allows us to choose between a variety of alternative options. Surprisingly, it is this genetic base or substratum that gives us our 'freedom' of action. Biologism is not a good source of intellectual clues.

But we may say, in contrast to Kant in his *Critique of Practical Reason,* that far from there being in the human world a gulf between necessity and freedom (third antinomy), we are wired with what could be called a form of *genetic hardware* that frames and constitutes one of the bases for freedom and practical rationality in humankind.

Therefore, two conclusions that seem to enjoy general acceptance nowadays are that technology underpins human rationality and that there is a genetic base for our behaviour. A base that appears to have evolved—possibly hand in hand with social evolution—to the point where mechanisms of co-operative and even altruistic behaviour are displayed by individuals of a group, alongside clearly selfish behaviour. Consequently, Hobbes' anthropological image—a state of permanent conflict between members of a group of human beings in the absence of coactive rules—appears to be too simple, according to what modern ethology and genetics teaches us. In the same way, Kant's anthropological theory, which has had great influence on the development of enlightened moral and political ideas, both liberal and socialist, also makes the mistake of exaggerating the distance that exists between the 'animal world' and the 'human world'. This exaggeration places these two worlds in almost insuperable opposition. The perspectives of Hume and Hegel and Kant's historical writings are more easily articulated with present-day evolutionist and genetic theories (we will come back to them in relation to Kant's notion of *unsociable sociability*).

The second feature which is exclusive to humans is an articulate and symbolic language. It would appear that this developed after the beginning of stone technology. The exact moment of its appearance is still disputed by specialists: some time during the long period after *homo habilis* and before *homo sapiens*. According to most contemporary palaeontologists, before the latter appeared a developed symbolic language already existed among human groups. Some researchers associate it with the ancient *homo ergaster* between 1.8 million and 1.4 million years ago (and others even with the earlier *homo habilis*). Whenever language first appeared, it is fair to say that with it humans acquired a first-rate competitive advantage. It is probable that with it came moral, 'political' and religious ideas as well as increasingly complex 'ideological' concepts that included an awareness of the inevitability of death and the prediction of future events and reactions in nature and of other humans. A plausible hypothesis is that there was a watershed in this evolution at the time of the recently proposed *homo antecesor* of 'only' 400,000 years ago. This coincided with a number of decisive technical and cultural changes such as the second significant increase in the size of the brain (the first took place in the time of *homo ergaster*), the controlled production of fire, the use of weapons and the hunting of large mammals, the first burials, the appearance of clothing and adornments, and possibly an increase in the level of social complexity (research at Schöningen and Atapuerca suggests that humans before *homo sapiens* and Neanderthal people had a more complex society than had been thought). We do not know what brought about these changes, but their repercussions on later techniques and on language was crucial both for the evolution of human societies and for ways of legitimizing the social structures they developed.

If we limit ourselves to the most recent example of our species, *homo sapiens*—whose presence in Europe covers only the past 40,000 years—it seems certain that during the first period different groups established alliances and relations among themselves, and

that they shared a whole series of symbols and myths that gave them a collective identity which went beyond that of their immediate group. It would also appear, according to archaeological remains of the past 20,000 years, that as groups became larger and more self-sufficient there was a process of localization during which artistic and ornamental expression became more diversified. That which before had been a common cultural patrimony in times of greater scarcity, was gradually replaced by different groups that developed their own 'cultural' patterns. This cultural diversification has become more marked over time and can now be seen in the approximately 6000 languages that are currently spoken on the planet, all of which display a similar degree of complexity. (It is worth pointing out the similarity between the current map of genetic differences of our species, of which there are few, and the map of linguistic families revealed by the research of Greenberg, Ruhlen and Cavalli-Sforza, among others.) This underlines the importance of 'cultures' in human behaviour or, to put it another way, the importance of being able to acquire and transmit knowledge from one generation to another. This is something that we share with other species of animals, but which in our case is multiplied by the complexity and efficacy of human languages. Here the 'human market' offers a remarkable variety of *cultural softwares*.

It would seem to be easier, therefore, to work with cultural software than with genetic hardware when one is attempting to 'improve' the ethical and political behaviour of human beings. But the slowness and ambiguity of social 'progress' never ceases to surprise. It has taken over 200 generations for us to move from slave societies to the defence and protection of human rights. Moreover, these rights have only been partly enforced since the beginning of the twentieth century—the century of greatest technical progress and also of two massively destructive world wars.

We now know that the action of genetic mutations is very slow, and that the effects of natural selection and genetic drift on the human species will be small in the future. In other words, human genetic *hardware* is unlikely to change very much. But there is little doubt regarding the growing influence of cultural factors on the 'evolution' of the species. This fact creates new challenges and poses new questions for the restricted (and fortunate) world of contemporary democracies. Here it has often happened that what appeared to be better has proved to be the enemy of good. One of the reasons for this lies in the attitudes of some misinformed or oversimplified moralisms that have claimed to know and then to put into practice their form of justice in human collectives.

The Sophists of classical Greece, Nietzsche and Wittgenstein warned us of the fact that humans tend to become fascinated, spellbound, by the products that we generate with our languages. Even to the point that we believe that the concepts that we have created are more real than the reality that defines us or surrounds us. This is a distinction that is often difficult to establish as we inevitably 'see' and think through our linguistic spectacles ('We think with our mouths,' the Surrealists used to say).

In practical terms, this can be seen through the repercussions that some 'moral' ideas have had on the history of human societies. Repercussions that have been for good and for evil. Sometimes these ideas have contributed to the development of a more fully human life; one that is freer from natural constraints and from unjustified cultural hierarchies created by people themselves. Some of these ideas have been fundamental for the decisive processes which have liberated many individuals, whether they were

historical processes of a more revolutionary or of a more gradual nature. Let us recall, once again, the legitimizing and transforming force that, for example, human rights have today. But, on other occasions, this fascination for our own ideas has hidden or denied most of the rest of the reality that defines us, causing enormous deceptions. We are all familiar with the mirages that have been 'seen' by a group of 'enlightened ones' who have claimed to know and establish, once and for all, how to achieve good and justice for human collectives. The result has been a group of 'spellbound' people rushing towards some kind of revolutionary abyss. What is more, the very same ideas can often be used to defend peace and legitimize war at the same time. Therefore, when we are formulating theories it is important never to forget the risk of falling under linguistic spells, nor the ambivalence of theoretical concepts. This is especially important if we wish to introduce ever-increasing amounts of rationality and morality into the practices of human organizations and, on the other hand, if we wish to take more advantage of the critical gap offered by languages that will never coincide with the reality of which they are speaking.

Nowadays we are at the beginning of what will probably turn out to be another technological revolution. Once more, technology is a step ahead of morality and democratic theory. After the technological revolutions carried out in the Pliocene and Pleistocene by different types of hominids, and those that took place during the Holocene epoch (mainly the Neolithic and Industrial revolutions), we are now faced with a revolution of information and communication technologies. All the former cases created new inequalities among human groups, and it is likely that this will happen again now. Nowadays, however, the latest technological revolution is giving us an already globalized world in which we can act, for the first time, on a planetary scale and, on the other hand, its results seem to indicate that it is possible to modify, also for the first time, the biological world that has constrained us for hundreds of thousands of years (transgenic foodstuffs, genetic engineering, cloning, etc.). Both of these phenomena are full of new possibilities (and new risks) as we attempt to achieve material and moral advances for the peoples that inhabit every corner of the planet.

Technology and language are, therefore, what most set us apart as a species, and our 'group' use and development of them have had 'political' repercussions until the present day. One of the greatest paradoxes of humankind is that the thing which has driven us to be rational through the evolution of technology and language is the same thing that has motivated us to fight for resources and territory 'in a human way'; or, to put it another way, to systematically eliminate each other. This is a paradox that we would be wise to keep in mind when, with our more recent ideas, we begin to move into the spheres of morality and political theory. In this sense, it would once again be wrong to forget or deny the existence of the competitiveness, territoriality, group sociability and, at times, hierarchy which have determined the behaviour of human groups until now just because we have become 'globalized domesticated animals'. That would be the best way to improve the morality of our groups. It is always more intelligent to begin by explicitly recognizing our primate ancestry instead of trying to deny it by means of a series of ethical concepts and categories that are always ambivalent, plural and on the whole mutually contradictory. It is also advisable to accept the instrumental basis that, for the last 2.5 million years, has characterized most of our rationality when this has been

oriented towards action, as well as the risk of becoming spellbound and the practical ambivalence of our linguistic products, above all those related to more abstract concepts used in the theories and processes of political legitimation.

Neither are we angels (fortunately), nor is there only one way of expressing good. The key is controlling, anticipating and resolving the conflicts caused by our atavistic biological constitution, rather than trying to behave either as though this does not exist, or by basing our behaviour on single theoretical concepts, albeit 'enlightened' ones, of what constitutes just societies. I believe that the moral progress of collectives is shaped more by a wish to avoid evil than to achieve good. It is easier to agree on and establish the limits of the former. The latter is inevitably much more plural for a series of diverse collectives in terms of their interests, values and identities. Moreover, this is just as true for globalization as it is for cultural pluralism. In short, 'cosmopolitanism' is more acceptable if it is more firmly based on empirical realities. In other words, it would be more feasible and desirable if we enlarged the reference of our collectives rather than attempting to use global or universal planetary models. Civilization can be described as first, the replacement of war between groups by their mutual accommodation within agreed moral and political rules, mainly regarding what should be avoided, and based on equity between them, second, the creation of increasingly wide and distinct liberal-democratic practices, and third, the action of global law courts in the event of conflict. These three points are only a reality at the state level as we enter the third millennium. In fact we are only just beginning the job. For instance, the strengthening of the United Nations, a more cultural interpretation of human rights, the eradication of inequality and poverty at an international level, the equitable political accommodation of national and cultural pluralism in democratic states, the process of political integration like the European Union, and the creation of international law courts are all steps in the right direction.

Political 'progress' and federal democracies

The existence of liberal democracies is an evolutionary sophistication in the collective organization of our species. Within them, federal democracies are a sophistication of a sophistication. Despite the fact that there is an important political tradition which perceives federalism as non-territorial and closer to society than to the state (several forms of Catholicism, socialism and anarchism), in what follows we will concentrate on the form of political federalism which has been developed in contemporary states, as this is the subject of this book. The sophistication of liberal-democratic federations is the result of their duality in the division of powers or, in other words, of the principle of dual territoriality and of the pluralisation of the notion of sovereignty.

It is well known that political organizations can be perceived in different ways. One of them is to understand them as ends in their own right. Another, more common, way is to see them in more instrumental terms. In other words, as the creation of a set of rules and institutions which pursue one or more specific objectives: peace and security within a group or between groups; greater efficiency in the attainment and production of resources; the achievement of values such as liberty, equality and plurality, etc.

Democratic federalism is no exception here.

In its most elaborate versions, democratic federalism has combined a fascination for ideas and moral values with practical and empirical sensitivity when organizing political structures for different groups of individuals who are far from being only moral and rational. Its most typical manifestation is that of a pact between collectives which combines a 'shared-government' for all the members of the federation (which are normally distinct territorial units) plus a 'self-government' for each member of the pact. In this way, it has also been possible to use federalism both as an end in its own right and as an instrument for the attainment of other objectives (peace, security, liberty, the control of power, etc.). In the nineteenth century, it was sometimes used, mainly based on political theories dating from the Enlightenment, as one more 'ism' which worked together with other 'isms' to create a more just and emancipated human society. In the context of Spain, for example, this was the case of Pi y Margall, who used federalism along with democracy, republicanism or socialism as one more element of a political programme designed to free society from those unacceptable injustices and hierarchies present in nineteenth-century societies. Looking back over a century later, these were progressive ideas for the time, despite being somewhat naive in that they failed to address the many contradictions inherent in their approach (a new system for the economy and for social relations which would presumably be more just and efficient; a form of political participation which would encourage public interest and an increase in the citizens' 'republican values'; a federal structure which would foment permanent understanding between groups with distinct national identities and so on).

Since then, thinking on federalism has become appreciably more complex in theoretical terms and considerably more critical in terms of its practical results and in relation to different political objectives. In fact, the great federal century was not the nineteenth but the twentieth. At the end of the nineteenth century only a few countries were structured along federal lines (the United States, Switzerland, Canada and the special cases of Germany and a number of formally federal Latin American states). At the beginning of the twenty-first century, however, around 40 per cent of humanity lives within federal or quasi-federal systems on all five continents. In contrast with the small number of federations of the preceding century, the empirical reality of democratic federalism in the twentieth century has been much more plural, both in normative and institutional terms. Comparative analyses reveal a wide variety of federations in terms of their historical background, level of centralization, fiscal systems, regulation of the processes of constitutional reform, degree of competitiveness or co-operation between different levels of government, level of constitutional asymmetry of some of the federated units, the composition and functions of the institutions of the 'shared government' (second chambers, consociational practices), or the uninational or multinational character of the societies or *demoi* that they regulate.

Nowadays, we know a lot more about the possibilities, limits and variations of federalism than the Founding Fathers of the first contemporary federation (1787) could have imagined. Moreover, it is well known that, in the world of political theory, when our knowledge of different realities increases or, to put it another way, when we possess a number of relatively sound conclusions inferred from empirical and comparative analysis, scepticism regarding the putative magical solutions offered by a single political

system in any place or at any time tends to increase. Federalism is no exception in this. It is not a panacea that will solve any kind of territorial dispute. Theoretical progress often consists in both refining normative values and consolidating practical conclusions as well as increasing scepticism towards uncontrasted generalizations. In fact, one of the biggest functional advantages of democracies is their constant experimentation. An advantage that is shared and pointed out by its supporters, from Protagoras to Rorty, and which is very common in federally structured democracies.

It could be said that in present-day democracies two challenges and one analytical turn stand out. On the one hand, democracies face two important practical challenges: globalization and cultural pluralism. Neither is new. Nevertheless, the fact that they are omnipresent and on the list of 'unresolved issues' makes them much more important than they were in the past. As I have already said, present-day globalization facilitates the search for institutions and decision-making processes that are efficient, dynamic and flexible on a world scale. The basic objectives are socio-economic as well as political and cultural: an economy which is dedicated to the welfare of its people, an extension of the use of technologies and democratic practices, global ecological awareness, and so on. A set of objectives that are often difficult to bring together but which are beginning to be shared by a number of western democracies and which, among other phenomena, parallel the emergence of supra-state organizations such as the European Union, NAFTA or MERCOSUR.

Cultural pluralism, on the other hand, is about the desire of specific collectives to preserve and promote their own cultural or national characteristics through their explicit recognition in the democratic rules of the game, the regulation of group rights and the development of their own governments. This is the case, for example, of immigrant groups, of minority nations such as Quebec, Catalonia or Scotland, of indigenous peoples, above all throughout the American continent. These groups are unable to find suitable organizational and institutional responses even in liberal democracies. Liberal and democratic normativity is becoming increasingly complex: emancipation involves significantly more dimensions now than only a few years ago. Nowadays, one observes that the foundations of liberal-democratic normativity affect specific values and interests as well as the cultural identities of the different human collectives. These two phenomena, or practical challenges—globalization and cultural pluralism—expand the concept of what is meant by emancipative politics in comparison with that which is defended by traditional political theories, including those which are rooted in the individualist, stateist and universalist positions of traditional democratic liberalism. This diversification must inevitably affect federalism.

Finally, since the early 1990s an important change has taken place in academic circles regarding how we define or should define liberal democracies and federalism. The debate is as much about how the classic values of liberty, equality and pluralism should be interpreted in different contexts as about what are or could be the most suitable institutions, decision-making processes and constitutional reforms for this new interpretation of these values. Therefore, a revision of traditional liberal and democratic theories is currently taking place. The latter were defined by, and in the interests of, the state as the paramount political organization of the modern world. As I have argued on other occasions, modern theories of democracy have usually been theories of the

democratic *state*. These states have seldom questioned that they were sovereign political units, that could legitimately instigate nation-building processes throughout their territory, and that they should establish uniform relations with their citizens, who were also considered as a block, or a specific *demos,* in relation to other state groups or *demoi.* Hegel knew that the only entities that truly 'governed themselves' were not individuals or nations, but states. Today, however, a number of limitations of these premises or conceptual prejudices have been uncovered. For example, the 'injustice' of some practices carried out in democratic states based on liberal premises has been exposed. These practices include policies of cultural assimilation or those involving the express prohibition that minority nations or indigenous peoples may carry out their own nation-building processes, while national hegemonic groups in any democracy on the planet have done and continue to do just that.

The traditional association of political federalism with state nationalisms has meant that the former has often been regarded more favourably by the nationalisms of consolidated uninational states (United States, Germany) than by the nationalisms of plurinational states (Spain), or by the nationalisms of minority stateless nations (Quebec, Catalonia). Somewhat surprisingly, analysts of federalism and analysts of nationalisms have rarely met. In effect, there are few bibliographical links between them. Theoretical interests, research questions, the conceptual and analytical tools of both types of analysis are usually quite different. However, this unfortunate separation is not the most serious analytical drawback or deficiency in this area. What is more serious is the retainment of a number of concepts and theoretical perspectives that are not justified, but which are not questioned because they are so well established. For example, the notion, which is still dominant in some kinds of nationalism, that the state and the nation are made for each other.

In stark contrast with what some theories of an enlightened nature would have us believe, the kind of rationalist universalism towards which our legitimizing symbolic languages propel us has contrasted throughout history with the, sometimes violent, practical group behaviour of our species. As we have seen previously, technology and language have made us less subject to natural selection. Nowadays we have the capacity to save the lives of most people who would have died a little while ago. But 'technical and cultural selection' have also made it easier for us to more effectively exterminate our rivals (or for them to exterminate us). One should not forget either that despite the fact that the legitimizing discourse used by democratic liberalism often uses concepts and values that are supposed to be universal, states are still particular groups which tend to behave as such. Broadly speaking, more than sociability what most characterizes us as *homo sapiens,* and even as *homo* as a species, is perhaps Kant's paradoxical concept of 'unsociable sociability' *(Idea of a universal history in a cosmopolitan sense).* We are happy to be sociable up to a point, above all in relation to individuals or groups who are distinct from ourselves. The degree of acceptance of the political framework is related to a form of antagonism in the social disposition of the citizens. *Unsociable sociability* is also present in the ambiguity of the use of legitimizing political languages.

However, faced with the less than satisfactory record of human behaviour throughout our history, a cosmopolitan approach which is tinged with a universalist discourse always seems attractive, above all if it is combined with a determined support for the

development of a series of values and political structures that help to free us from the primatial burdens of the Pleistocene, which are all too evident in the political domination of territory, in our competitive group-based socialization and in the hierarchical nature of the majority of our social organizations. The question, however, is whether we are, once again, encouraging a renewed optimism similar to that of Pi y Margall's time. A kind of optimism which is more aware of and attentive to the ideal expectations created by the language used than to the analysis of the factual realities that we are trying to change.

The values and perspectives of the Enlightenment continue to have a strong emancipative impulse. But political realities are still particular and group based however much some legitimizing languages try to deny it. Democracies and their legitimizing languages should be refined *ethically* so as to narrow the gap between what they say and what they really do. This is not achieved through top-down moral theories, based on 'principles of justice', whatever form these may take, and which have been based on inevitably impoverished descriptions of the characteristics of contemporary individuals and societies. When in democratic countries the main objective is an increase in social complexity and ethical criteria which are both desirable in theory and mutually exclusive in practice, it is usually more prudent—in the Aristotelian sense—to reform reality with bottom-up theories. In other words, theories that start with measures of an inductive nature and use trial and error methods. To sum up, the issue, in my opinion, is to accommodate 'more universally' the distinct particularities that coexist in a democracy and on the international stage.

It seems to me that nationalisms and states, whether we like it or not, will continue to be around for a considerable time in the future of politics, in federations and even in organizations like the European Union. Regarding this point, one thing that remains to be seen is if federal democratic tradition, with its institutional techniques, its decision-making processes and its possible reforms is able to come up with any answers for liberal and democratic accommodation when several national groups coexist in the same democracy, and supra-state and supra-national organizations such as the European Union are being created.

At the present time, the answers to these questions are neither quick nor clear. In fact, as Watts (1999:2) has said, in the world of federalism we have learnt as much from its successes as from its pathologies and failures. At present there are some 480 federated units in the world. I tend to think that the federal tradition has sufficient resources to successfully address the practical processes of democratic accommodation that will be a key feature of the immediate political future in relation to the two points mentioned above. The increasing diversity and complexity of today's world demands political solutions that are ever more interrelated and based on autonomous units. This, in turn, paves the way for federalism. But these are answers which should come from the empirical and practical spheres rather than from only the sphere of ideas. We know that the democratization of societies and the practical expression of values such as liberty, equality, pluralism or dignity have more dimensions than the social and the economic. They also include, at the very least, gender, cultural, ecological, technological and national dimensions. All of them have displayed and continue to display nowadays overwhelming inequalities of power and autonomy. This is a theoretical perspective which is also present in the political philosophy of value pluralism defended in this book.

From a liberal-democratic perspective, it is possible to see how nationalisms, whether they be majority or minority, can be combined both with democratic and undemocratic aims and perspectives. But the idea that nationalism and democracy are inherently contradictory is a very out-of-date theory nowadays, as well as being deliberately harmful in practice in view of the nationalism promoted by all the empirical democracies. Nation-building processes, as well as being inevitable, are very necessary to put liberal and democratic values into practice. Think of languages, education, or welfare states. The key thing is to make sure that these processes are liberal-democratic, and that their mutual accommodation when several of them coexist in the same political organization is liberal-democratic as well.

It may well be that the history, customs, etc. of any given group are only of interest to the group itself. But we will never make citizens truly cosmopolitan if we fail to ensure, for example, that their cultural and national particularities are accommodated and allow, on the other hand, that other national and cultural particularities are critically taken for granted. Both in the normative and in the institutional and self-government spheres, the 'evolution' of democratic liberalism is also far from having reached the 'end of history'. Nevertheless, it is quite clear that the revision of inherited ideas is a necessary condition in order to bring us closer to democracies with greater ethical content, which will allow us to be less dependent on some theoretical conceptions that blur the landscape and on the biological background that is still present in our behaviour.

Notes

1
The quality of democracy in multinational contexts

1 To this basic distinction between uninational and multinational federations, there is sometimes juxtaposed another distinction that turns out to be highly relevant to the significance of the regulatory and institutional quality of liberal democracies within the context of cultural pluralism: that related to the existence of indigenous minorities, sometimes referred to as 'national' groups (First Nations). This is the case for Brazil, the United States or, once again, Canada. In this chapter, we shall be considering federalism only in relation to the first distinction made. In all of this volume, the terms *multinational* and *plurinational* will be used in an interchangeable way.

2 The terms *stateless nations* and *minority nations* will be used in a interchangeable way.

3 In the field of political thought, for a criticism of colonial and imperialist 'liberal' legitimation in the writings of thinkers like Locke and Mill, see Parekh (1995). For a broader discussion of multiculturalism and liberal democracy, see also Young (1990), Taylor (1992), Raz (1994b), Spinner (1994), Tully (1994), Kymlicka (1995), Williams (1995), Carens (2000), Kymlicka and Norman (2000). For a panoramic analysis of the concept of democratic citizenship within the ambit of political theory, see Norman and Kymlicka (1994) and Kymlicka and Norman (2000).

4 The debate of recent years between political liberalism and cultural pluralism, among other things, prompts one to (1) maintain that the 'well-ordered society' should include not only political and economic issues (freedoms and resources), but also issues involving political accommodation (cultural rights, recognition and, where relevant, the institutions of self-government and shared rule); (2) distrust those moral theories or theories of 'justice' which are strongly deductive in nature (top-down theories) when one is dealing with heterogeneous values, interests, identities and contexts. Even if we accept that justice is the main objective to achieve in the public arena—which is by no means clear—there appears to be no rational and uncontroversial way to establish its 'principles' or its rules of priority.

5 An example of the contrast between these two intellectual strategies may be found in the 1997 debate between B.Parekh and W.Kymlicka in *Constellations,* 4, 1.

6 Information about Berlin and his work is available at www.wolfson.ox.ac.uk/berlin/

7 Berlin (1998) insists that monism is in the base of any extremism; the classical reference is Berlin (1969). See also Galipeau (1994), Gray (1995) and Ignatieff (1998: list of errors available at www.wolfson.ox.ac.uk).

8 As Berlin (1954) also stresses, in politics it will always be important to know that there are 'regions' in which gardeners obtain better results than botanists.

9 Value pluralism is perfectly compatible with partial orderings of values and goods established for specific subjects and contexts. That is, value pluralism is compatible with particularly, not fully, rank-ordered values. This is one of the potential functions for practical processes of deliberative democracy.

10 From a complementary psychological perspective, see for example Harold Bloom's analysis of *Macbeth:*

> The enigma of *Macbeth,* as a drama, always will remain its protagonist's hold upon our terrified sympathy. Shakespeare surmised the guilty imaginings we share with Macbeth, who is Mr Hyde to our Dr. Jekyll…. Clearly the ironies of *Macbeth* are not born of clashing perspectives but of divisions in the self— in Macbeth and in the audience.
>
> (Bloom 1998:523, 535)

From a more 'objective' perspective, that links political order to facts rather than to thoughts, there is the famous Euripides' *Suppliants Maidens* passage:

> There are three classes of citizens: some are rich and useless, always with a passion for more; others, the have-nots, lack means of livelihood…; of the three parts, the one in the middle saves the city and preserves whatever order the city has.

For an analysis of Ancient Greek tragedies, see Nussbaum (1986).

11 Similarly, Stephen Toulmin (1990, 2001) reminds us, at the beginning of the modern age, Montaigne turns out to be nearer the linguistic pluralism of Wittgenstein than the more systematic authors of the seventeenth and eighteenth centuries.

12 This refers to the classic discussion on the incomparability, incommensurability and incompatibility of values. I do not develop this point here (see Taylor 1982; Raz 1986; Barry 1990; Galston 1991; Raz 1994a; Gray 1995: ch. 2; Walzer 1995).

13 Other criticisms of monist and culturally pluralist positions as partial and incoherent in Gray (1995: ch. 9) and Parekh (2000: chs 1 and 2). In this latter work the author says:

> Historically speaking liberalism began, at least in the English-speaking world, as a doctrine stressing the contingency of and abstracting away ethnic, religious, cultural and other differences. Not surprisingly it faces acute structural difficulties getting these differences back into its views of man and politics.
>
> (Parekh 2000:346; see also Parekh 1993)

14 Obviously, here we would need the always difficult question of establishing some kind of rank-ordering of human wants, as well as to decide about some potential transcultural requirements of these wants at the moment of protecting negative

liberties in different 'backgrounds understandings' (see Taylor 1985). Berlin is certainly not a systematic thinker. In his theory there is a constant lack of determination about the theoretical status of 'values', between a Herderian-Hegelian perspective of self-transformation within specific cultures and a Kantian perspective where values are similar to the categories of the *Trancendental Analytics* of the first Critique. However, I think it is more adequate to talk about values and criteria than about 'principles' which suggest a fully rank-ordered theoretical perspective not very sensitive to contextual trends in specific societies. Normative values and criteria are semantically closer to a Kantian *general* perspective than to a *universal* one. I develop this point in Chapter 2 in this volume.

15 Gray (2000) coherently recommends to go from Kantian to Hobbesian legitimizing patterns in politics. What is needed it is not a set of common values in society but a set of common institutions that are able to deal with rival values and interests. In fact, he says, the liberal state was born from the search for a *modus vivendi* agreement. He also insists that Hobbes did not necessarily need to defend an absolutist perspective in order to maintain peace, in contrast with C.Schmitt's criticism on Hobbes' theory for being 'too liberal' when it maintains the distinction between the society and the state (see Gray 2000: ch. 4). However, I think that the limits for any legitimate practical polity are led by the need to protect the value of negative liberty that Berlin had in mind. Under this perspective, liberalism still maintains the *practical* 'negative' legitimizing strength based on avoiding evil rather than achieving good in institutions and practical life, that is present in Berlin's and (partially) in J.S.Mill's approaches. This is something more than coexistence (see also Oakeshott 1975).

16 Pitkin (1972) has stressed that is not possible to establish a clear distinction between political thought and the language in which it is expressed. See a 'sample'—in the statistical sense—of the *pragmatic turn* represented by the Wittgenstein in the comparison of the following passages (T: *Tractatus;* PU: *Philosophische Untersuchungen*): T 4.021, 4.022, 4.023—PU 23, 24, 291, 610; T 4.024—PU 199, XI2p; T 4.03—PU 105, 107, 116; T 5.5563—PU 97, 102; T 6.412, 6.13—PU 77; T 651—PU 84, 85, 87; T 6.53, 6.54, 7—PU 109, 122, 123, 125, 128, 133, 309.

17 This relationship seems to be independent of the fact that such languages hold within them concepts of a more universal or more particular vocation. The term 'identity' refers here both to the characteristics that singularize an individual or a group in relation to other individuals or groups, as well as to 'auto-referential' (narrative) characteristics established by both types of entity.

18 In addition to this *omission strategy,* Charles Taylor has rightly pointed out Berlin's intention in 'Two Concepts of Liberty' against what we can call the *redefinition strategy:*

> [to] try to finesse the clash between liberty and some other goal -solidarity, justice, social harmony, equality—by telling ourselves that these other goals are internal to the definition of freedom, properly understood…. This kind of fudging goes back to Plato, at least …Conflict is finessed by redefinition.

(Taylor 2001:114–115)

19 This chapter deals only with the inevitability of pluralism and not its desirability in present-day democracies. For treatment of this issue, see Parekh (2000).

20 For example, the tensions between the democratic and social, or between the liberal and national perspectives. Depending on the values, questions, etc. under consideration we may also place the theories, the political players, the discourse, etc. on the pyramid like a topographical map. Nevertheless, to take value pluralism as the most promising metapolitical perspective in relation to political liberalism is just a theoretical consideration whose practical application should be evaluated carefully as they include many other normative and contextual factors. It would be inconsistent to deduce from value pluralism that every single political decision should be taken according to the principles only decided by the corresponding decision-maker (governments, parliaments, courts, etc.). It is likely that such a practice would introduce elements of arbitrariness and political and juridical insecurity which some principles such as the defence of 'human rights', constitutionalism and the rule of law attempt to avoid. For example, in many contexts to defend the 'decisionism of the judges' would in all probability have extremely negative consequences for the functioning and the very normativity of liberal democracies. What one should do is regard value pluralism as a conception of existing democratic liberalism that introduces more open attitudes to the change of perspective than rival meta-conceptions when one has to take decisions about questions related to cultural and national pluralism. This would probably influence the attitudes and practices of both political decision-makers and public opinion. However, the practical starting point should be located in the political, cultural and institutional reality that already exists in liberal democracies. Here, value pluralism is a promising way to refine the liberal-democratic normativity in multinational contexts and to reform its political institutions and decision-making processes.

21 This is something not developed in some fully rank-ordered theories such as Rawls'.

22 For example, Habermas's conception of democracy would be a 'strong' conception in relation to the democratic pole due to its insistence on increasing deliberative and participatory practices, and also a relatively 'wide' conception because it really deals with the liberal, democratic and social poles.

2
Democratic legitimacy and national pluralism

1 As Walzer and Taylor do, we call these two variants liberalism 1 and liberalism 2. It is certainly not without significance that, in multinational polities, the supporters of *liberalism 1* are the majority in Ottawa, Toronto, London or Madrid, whereas the supporters of *liberalism 2* are more likely to be found in cities such as Montreal,

Edinburgh or Barcelona.

2 Obviously, the possible conflicts that might arise between values and rights of a *collective* nature and those of an *individual* sort—a distinction that is often less than clear in reality—will have to be resolved through institutional mechanisms similar to those which resolve conflicts that arise in the area of individual rights themselves.

3 See the analysis by Keating (2001) and Loughlin (2001) for an approach in a similar vein on current minority democratic nationalisms.

4 This latter type of implementation can be observed in policies of positive discrimination or affirmative action directed at different social groups according to their gender, social class, language, etc. Moreover, this implementation may be of a transitory nature in order to achieve *equality* with the rest of the collective or of a permanent nature in order to protect and develop the cultural differences of the minority group in relation to the majority of the collective.

5 The Humean vindication of morality versus the universality of Kantism has been pointed out by Williams (1985); see also Tamir (1993: ch. 5).

6 Okin (1989, 1994), for example, has rightly pointed out the possibilities of Rawls' theory when we are dealing with gender inequalities, despite its inherent ambiguities regarding the relationship between families and the public sphere.

7 I have dealt with the impossibility of combining the diverse legitimizing logics of political liberalism in a single theory in Requejo (1994).

8

> First, the priority of right means (in its general meaning) that the ideas of the good used must be political ideas, so that we need not rely on comprehensive conceptions of the good but only on ideas tailored to fit within the political conception. Second, the priority of right means (in its particular meaning) that the principles of justice set limits to permissible ways of life: the claims that citizens make to pursue ends transgressing those limits have no weight. The priority of right gives the principles of justice a strict precedence in citizens' deliberations and limits their freedom to advance certain ways of life.
>
> (Rawls 1993:209)

A critical version from the perspective of political legitimization is in Klosko (1993).

9 Nevertheless, I am frankly sceptical of the possibilities of establishing 'synthetic' theories of justice; attempting something akin to locating Taylor's 'politics of recognition' within Rawls' conception and categories. I am more in favour of establishing an *overlapping consensus* between different normative conceptions (not only for justice) as partial fundamentals of equally partial aspects of liberal democracies. The 'agonistic' normativity and the institutional complexity of the latter goes beyond the possibilities of general theories (of democracy, justice, etc.). The very existence of different underlying logics to the various ethical, moral and pragmatic normativities, and the existence of the liberal, democratic, social, national, postmaterialist traditions makes the consideration of a series of *overlaps,* of practical and partial mosaics, more plausible than theoretical and global normative

designs. Especially if what one is trying to do is to arrive at effective conclusions of applicability in the institutional spheres and of the practical decision-making processes.

10 On this point, Rawls seems to follow in the footsteps of Locke when the latter introduces particular cultural elements of an ethical nature (Christian and Utilitarian) which were characteristic of English society in the seventeenth century when it was legitimizing the expropriation of Native American lands by European settlers. From 'egalitarian' premises one arrives at non-egalitarian political conclusions (see Parekh 1995; see also Taylor 1989: chs 23 and 24).

11 However, Habermas's (1994) approach presents its own problems, especially regarding his *Esperanto* concept of 'post-nationalism' or 'constitutional patriotism'.

12 For a schematized representation of the principle of discourse, see Habermas (1992: chs 3 and 4) and Alexy (1996).

13 Both have exchanged accusations of defending very 'non-neutral' conceptions of the public sphere. Rawls continues, according to Habermas, to consider himself as judge and implicated in the conditions of the original position, or in the recent attempt to achieve an independent free-standing morality, while Habermas, according to Rawls, continues esconced in Kant's comprehensive ethical perspective that 'contaminates' the moral that he advocates for the public sphere (Rawls 1995:170–80; Habermas 1996:65Z94, 95–127, 327).

14 Hegel described the state as 'the effectiveness of the ethical idea' (Wirklichkeit der sittlichen Idee, *Grundlinien des Philosophie der Rechts,* S. 1257 RPh). The three components of this definition refer to three theoretical notions: a truly implementation *(werken);* to carry out a concept *(Idee)* in a suitable way; and belonging to public customs *(sittlichen)*. This is a 'technical' definition within Hegel's work that we may 'translate' considering the state as that institution that permits the practical expression of rationality in human relations. The person isolated of contractualist conceptions is a non-existent abstraction. In the real world, humans are always members of a particular society; (civil) societies that are left to their own 'selfish' devices would bring about the dissolution of *ethicity* itself. It is the state which permits the reconciliation between subjectivity and generality. From this perspective, a form of practical rationality that has fewer constitutional structures would also result in a state with less liberty. The very complexity of the three dimensions of practical rationality, whose implementation demands the existence of the state, means that it is never fully realized. However, the refinement or normative 'progress' of democratic states towards greater optimization between the three dimensions of rationality implies the need to articulate plural *ethicities* that coexist within it and which have traditionally been marginalized. The incorporation of the particular 'ethical' dimensions in the regulation of a policy of recognition represents a step forward in the refinement of the 'moral' rules of constitutional liberal-democratic states.

15 The 'ideas of reason' of the first critique (KRV) *show,* although they cannot *say* (Wittgenstein), the ideal of finding ever more general laws and principles. The propositions of practical reason (liberty, among them), developed in the second critique (KPV), are necessary but undemonstrable requirements of morality. It is a

single reason with two uses based on their own interests (B 715, B 826).

16 Metaphysics, condemned by positivist attitudes, is understood here in terms of disposition (KRV, AXI). (The references come from *The Critique of Pure Reason*.) See Kant's famous passage on the distinction between 'Understanding' (scientific truths) as an island and 'Reason' (metaphysics) as the ocean that surrounds it (KRV B295). I have developed this point from a critical perspective in relation to the work of Habermas, in Requejo (1991: ch. 2).

17 Later critics have pointed out that the dimension that seems to vanish in Kant's approach is that of historicity. The habitual lack of historical considerations in liberal theories that are based on the perspective of 'dignity' (liberalism 1) corresponds to the blurring of historicity in Kant's work. This was strongly criticized by the Frankfurt School (Horkheimer, Adorno). The contrast that exists in Kant's work between the *universalization* of customs and the *anthropology* of these same customs which reduces the informative importance of their conception. I believe that Kantian dialectics are more fruitful if they are read in the context of Kant's own historical writings, which are closer to the attitudes of Aristotelian ethics and to Wittgenstein's linguistic pragmatics, and more favourable to the establishment of *general criteria* than to *universal principles* in the political sphere.

18 In multinational states one may see some of the 'ethical' consequences of the 'original dispositions' of *unsociable human sociability*. This is reflected in politicians' attitudes and in their use of language. Constitutional rights do not end at understanding; they are also to be found in the contextual and ethical relations between understanding and reason.

19 This concept is related to the regulation of 'external protections' suggested by Kymlicka (1995).

20 'Pluralizing pluralism' will involve here two things: the incorporatation of marginalized national pluralisms into the constitutional rights and rules, and the establishment of practical solutions that take into account the individuals that make up that plurality. In negative terms, this pluralization will allow the threat of emotive and anti-liberal forms of state and non-state nationalisms and the risk of undesirable cultural assimilation of an anti-liberal nature to be minimized.

21 The expression 'establish a democratically advanced society' appears in the introduction to the present Spanish constitution (1978) next to clearly *stateist* references to a single, sovereign and indivisible Spanish nation (Art. 1 and 2).

3
Federalism, federations and national pluralism

1 In contrast, Belgium is a recent case of asymmetrical federation (with 'confederal' trends) which seems to offer a workable accommodation of its internal national pluralism.

2 For example, when we consider if it is appropriate to formalize certain cultural group

rights within the concept of citizenship in democratic systems. A very bad approach is to set group rights and values against individual rights and values. First, because many group rights demanded by present-day movements for cultural pluralism—which the liberal-democratic tradition has tended to ignore—are still rights that are exercised individually. And second, because the liberal tradition in its defence of 'individual' rights has often implicitly favoured specific group rights to the detriment of others. I prefer the analytical use of the term 'group rights' to the more common 'collective rights' for reasons of accuracy. Collective rights include a wide variety of rights that are not specifically group rights, such as these of an associative and trade unionist nature; those related to public goods (e.g. ecological rights) etc. In historical terms, we can say that liberal democracies are entering a fourth stage in the regulation of rights after the civil, political and social stages (see Spinner 1994; Kymlicka and Norman 2000; Parekh 2000).

3 The claim that feminist or gay rights movements are 'single issue' movements may seem misleading as they sometimes address a broad range of social issues. Moreover, to regard them as a form of 'cultural pluralism' may also be controversial. Certainly, there are reasons to support both criticisms. However, I think that it is better that they are included when we are dealing with the revision of the traditional meaning of 'democratic citizenship' based on a non-unitarian or homogeneous concept of political equality.

4 In general terms, egalitarian political integration rather than political differentiation has been a characteristic of immigrant movements. From a normative perspective, this is more than a contingent feature of most immigrant movements in liberal democracies. From an empirical perspective this is a temporary aspect that could change in the near future. Political integration does not mean cultural assimilation. However, as different authors have pointed out, there are normative reasons based on the articulation of historical processes with the concept of democratic citizenship that exclude immigrants from specific-group participation in the institutional framework of the state. I do not develop these statements here.

5 Obviously, regarding typologies we can say something similar to what was said about dictionaries or watches before the atomic era: none is perfect, but it is better to have one than not to have one. As has usually happened with other typologies, there are some groups that do not fit into this typology (i.e. African Americans or the Amish). However, on the one hand, this typology goes a step beyond other proposals like Kymlicka's differentiation between 'multinational' and 'polytechnic' situations. On the other hand, its five criteria are complementary in relation to the voluntary and ascriptive criteria pointed out by Spinner (1994) as distinguishing between different forms of cultural pluralism. The most important thing, as these two authors have rightly pointed out, is to realize that these cultural movements present qualitative and not only quantitative differences, and that these differences must also be treated differently in the normative and institutional spheres of current liberal democracies.

6 The two last columns of Table 2 focus on the suitability of federal solutions and on the potential constitutional isolation of these different movements. These two columns refer to the second part of this volume.

7 In this volume I will not deal with those practices that one does not a priori associate with the functions of a liberal-democracy, such as genocide and the forced displacement of ethnic groups. Nor will I address the question of secession.

8 As John Stuart Mill wrote in his 'Considerations on Representative Government':

> Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilized and cultivated people…than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation in the general movement of the world.

9 In a study that has become a classic in theories of democracy, Lijphart (1984) breaks down the model of *consociational democracy* into eight elements: the existence of large coalitions in the executive power; the formal and informal separation of powers; symmetrical bicameralism and the representation of minorities; multi-party systems; multidimensional party systems; proportional representation; decentralization or federalism; and a written constitution in which the minorities have the power of veto.

10 The theory and practice of consociational democracy has been challenged by critics and defenders of cultural pluralism alike. On the one hand, its critics believe that consociational democracy fails to defuse potential conflicts between different national groups. On the contrary, they believe it encourages allegiance to the hegemonic national group and the creation of new conflicts. The defenders of cultural pluralism, on the other hand, have criticized consociational democracy because it fails to take sufficiently into account that the citizens of minority nations may be demanding the recognition of special group rights, and not only the institutional protection of a number of demands (Kymlicka 1989:200). Other authors have argued that consociational democracy may be a useful institutional device to deal with non-territorial diversity (religious diversity, for example), but would be less successful when faced with cultural diversities of a territorial nature, as in the case of minority nations. Finally, there are some writers that argue that consociational democracy may be a necessary, but insufficient, condition in order to obtain a certain level of stability in the context of multinational states and would have to be complemented with federalism. The relationship between consociationalism and federalism is discussed in Elazar (1987; see also Lijphart 1995).

11 See Webber (1994), Peeters (1995) and Fossas and Requejo (1999) for the cases of Canada, Belgium and Spain, respectively; see also Agranoff (1999).

12 The term 'integration' is ambiguous when it refers to the link between the parties, and encourages one to think of a 'strong' permanent agreement.

13 Think, for example, of the analyses of federalism as an instrumental, subsidiary, transitory element, or one that is associated with the decentralization of the political system, in the works of J.S.Mill or K.C. Wheare. For a synthetic analysis of current federations, see the chapters by J.Kincaid, N.Michaud, R.Watts and J.McGarry in Griffiths and Neremberg (2002).

14 It is difficult not to notice the gulf that exists between the political theories of democratic liberalism and the analyses of federalism and decentralization. Nowadays, as we have mentioned in previous chapters, there continues to be a deep split between democratic theory and the analyses of the structures, actors and procedures of the processes of federalization. Theories of democracy, especially those with a philosophical base, have not tended to consider federalism as one of the central objects of reflection. This is an absence that can be found in both 'liberal' democratic theories and in those of a 'republican' nature. Generally speaking, in the analyses of democratic legitimacy, it is possible to identify at least four groups of theories that, in my opinion, should synthesize some of its elements when one tackles the legitimacy or suitability of the processes of federalization and decentralization. First, the classical theories of liberal-democratic legitimacy, above all from Rawls' work onwards and the subsequent argument between more 'liberal', 'communitarian' and 'deliberative' conceptions of democracy. This is a tradition that has, in general, been less than attentive to the analyses of federalism and decentralization. Second, the theories related with cultural pluralism, above all those linked to the relation between liberalism and nationalism. Third, theories of practical rationality and its relation to different types of political legitimation. Finally, the conceptions of decentralization and federalism, which had not, also in general, shown themselves to be particularly inclined towards the normative discussion of democratic legitimacy until a few years ago.

15 Despite the possibility of carrying out comparative empirical studies between true federal states and decentralized states, the discussion about liberal-democratic legitimacy, by which I mean liberal legitimacy and democratic legitimacy, in multinational federal states requires separate consideration of both kinds of legitimacy. The reason for this lies in the different perspective that is adopted in the regulation of a more 'liberal than democratic politics of recognition' of the national collectives when this is approached from the liberal standpoint of the division-collaboration of powers, already present in the Federalist Papers and closer to non-centralization, or from the much more unitarian standpoint of the democratic tradition, which is closer to decentralization and subsidiarity.

16 I have developed the contrast between liberal and democratic logic in Requejo (1994: chs 5 and 6). For a revision of the *Federalist Papers,* see Abbott (1996); see also Sanders (1997) and Stark (1997).

4
Plural federalism

1 In Rawlsian terms: there are many sizes and shades of 'veils of ignorance', but there is no single 'meta-veil' to decide from the outside which one is more suitable. The 'primary goods' do not seem to be independent of the context. Moreover, the 'reflective equilibrium' always takes us back to contexts which produce veils of

ignorance and negotiations about which primary goods should be taken into account. In a multinational state, culture and history are partially shared. But sharing them does not automatically mean that national collectivities reconstruct their position in this culture and history in the same way. In these reconstructions, different rational and sentimental elements are present in the transition from the 'I' to the different 'we' in which identities are constructed. Identities that contextualize our 'moral autonomy'. In other words, Hegel within Kant (see Rorty 1997).

2 Federalism is also a dynamic perspective that allows take into account Taylor's criticism on Berlin's approach: he (Berlin) seems to have stated the conflict of goods as though it were written into the goods themselves. Whereas I think it arises from the complexity and limitations of human life' (Taylor 2001:117). Values and their agonistic relationships are historical. This allows a renewal of political pacts and 'contracts' within democratic politics that are in the base of a normative and institutional renewal of federalism. As Colin Walters (1999) argues, 'Berlin liked to remain people that when they most believed they know where they are going, that is when they are likeliest to be wrong'.

3 As it has been already mentioned, this does not prevent one from recommending caution regarding possible conclusions about multinational federalism given the small number of existing cases in comparative politics, of cases of mixed peoples, as well as the biases and mutual differences displayed by the majority of theoretical approaches to nationalism, federalism and liberalism.

4 Berlin (1998) points out that the feeling of belonging to a nation is totally natural and cannot be condemned or criticized in itself. However, his form of 'pathological extremism that may lead to unimaginable horrors' is absolutely incompatible with value pluralism (see 'Pluralism' in Berlin 1998). Faced with the insistence on the value of the equality of democratic traditions, both Berlin (1969) and Elazar (1987: ch. 3) coincide in considering freedom (negative for the former) as the most important value for liberal democracies and liberal-democratic federalism, respectively.

5 This is not, therefore, a question of comparing a global federal model of an essentially 'asymmetrical' character with another (also global) model of a symmetrical kind. Rather, it is an issue of combining both types, and—in the case of nationally plural polities—assessing the territories in which they are to be applied (see McRoberts 1997; Fossas and Requejo 1999; McGarry 2002).

6 In this sense, for the analysis of multinational federations the main contraposition is not between 'centralized/decentralized' federations, nor between 'symmetrical/asymmetrical' or between 'coming together/holding together' federations (Linz 1997; Stepan 1999), but, simply, between uninational and multinational federations. The same institutions, state rights, or powers in the domestic and in the international arena do not fit in these two later cases. As the main liberal-democratic objectives differ in uninational and multinational federations, the most likely situation is that they need different constitutional arrangements in the spheres of rights, institutions and powers. In Chapter 5 I offer an exemplification of this model for the Spanish case. An analysis of foreign policy in some federations is in Michaud (2002).

7 In this institutional design is important to experiment the degree of political
recognition and practical national self-government finally achieved by the national
federated units according to different institutional patterns: the party system in the
federation and in the federated entity, the presidential-parlamentarian system of
government, the congruence or not of the majorities in the lower and upper
chambers, the system of appointment of the members of the supreme or
constitutional courts, etc. An important question for the discussion in the years to
come is secession: should there be constitutional regulation of procedural
mechanisms that would allow for national groups to secede from a multinational
federation? This includes questions such as the majority required in such cases, rules
of procedure, the time-scale involved, possible economic compensations, etc. In
principle, it would seem that there is no moral superiority implicit in maintaining the
unity of a federation. The fact of sharing liberal-democratic values does not, in
itself, indicate anything about the wish of national groups to live together within the
same polity. In relation to national secession, see Margalit and Raz 1994; Philpott
1995; MacCormick 1996; Buchanan 1997; McKim and McMahan 1997; Lehning
1998; Moore 1998; Norman 2001).

8 An exception is Ethiopia, whose constitution states that: 'We the Nations,
Nationalities and Peoples of Ethiopia…ratified the Constitution of the Federal
Republic of Ethiopia', defining these terms as 'a group of people who have or share
a large measure of common culture, or similar customs, mutual intelligibility of
language, belief in a common or related identity, and who predominantly inhabit an
identifiable contiguous territory' (see Tewfik 2001).

9 Scharpf (1995:28), in an analysis of the relation between federal policy-making and
multi-party systems, has insisted that 'the joint-decision structure resembles a trap
which, under its own decision rules, cannot be changed by the actors who are caught
in it'.

10 Here I am obviously referring to liberal-democratic federal processes in which
individual freedom must be guaranteed (see Tully 1994; McCormick 1996;
Buchanan 1997; McKim and McMahan 1997; McRoberts 1997; Gibbins and
Laforest 1998; Moore 1998; Beiner 1999; Kymlicka and Norman 2000; Guibernau
and Hutchinson 2001). Federalism has often successfully managed national
conflicts. However, there are conflicts where secession seems unavoidable (Israel-
Palestine, East Timor) (see Gurr 2000; Hechter 2000).

11 This right of self-determination has been partly overshadowed by the clarity Act
(Bill C-20 adopted by the Canadian federal government (June 2000). This Act
interprets in a non-value pluralist and debatable way the requirements of clarity
mentioned but not developed in the Seccesion Reference.

12 *Opting in* procedural mechanisms consists on the establishment by the federal
government of specific programmes and is a decision of the federated entities to take
part or not in them. In *opting out* procedures, some federated entities might decide
not to take part in a federal programme, receiving the payments that the central
government would have spent in the federated unity if it took part in that
programme. Canada has implemented these procedures in several areas in recent
times. As Watts points out:

in recent decades far-reaching changes in the structure and operation of the Canadian federation have come through the impact of fiscal circumstances and the normal interactions of the policies of federal and provincial governments rather than through formal constitutional amendment…What is more, such incremental non-constitutional adaptation may be much easier to achieve when the higher stake deliberation of mega-constitutional politics are avoided.

(Watts 1999:122–123)

13 This seems to be more likely, however, in the areas related with self-government than with the areas related with the recognition of multinationality. In any case, the practical rationality of these more informal procedures is an empirical question in which it is important to distinguish between those procedures that are designed to carry out the *decentralization* of the federation and those designed to *accommodate the multinationality* of the federation. In some cases, these two objectives cannot be achieved by means of the same federal techniques. This duality of objectives has been confused in some practical processes of devolutionary multinational federations. For an analysis of the Spanish case, see Requejo (1999b, 2000).

14 In Rawlsian terms, it is something that must be included in the 'constitutional essentials' and 'basic justice' of society. Berlin himself pointed out that nationalism springs, quite often, from a sense of outraged and wounded human dignity, and from the desire for recognition. He also stressed that the demand to be treated as an equal is at the core of the social and national revolutions and represents the modern version of recognition—'violent, dangerous, but respectable and fair': Berlin, 'Rabindranath Tagore and the Consciousness of Nationality' (1961), in Berlin (1996).

15 According to Elster (1998), when the parties are a long way from reaching a consensus, the process may include two kinds of verbal exchange: argumentation and strict negotiation as well as one non-verbal act—voting. Concerning the main subject of this chapter, all three elements will take place, the first and second among the elites and the first and the third among the citizens. In this latter case, the argumentation would appear to be decisive when discussing the existence or not of deficiencies in the recognition of the national pluralism of the federal democracy as well as the advisability or not of changing the federal rules of the game (referenda), while the strict negotiation will be the job of the elites in power at the time.

16 This position implies the predominance of the principle of equality between national groups when one is attempting to guarantee their collective freedoms over the principle of formal equality of the sub-units of the federation (see Webber 1994; Fossas 2001). An analysis on the debate about the language, constitutionality and the issue of a 'clear majority' in the Clarity Act in Rocher and Verrelli (2001).

5
The Spanish *Estado de las Autonomías*

1 Public spending went from 23 per cent to 48 per cent in the 1972–2002 period. Spain joined the European Community in 1986.
2 In practical terms, to classify or not a specific political system as a federation is not a crucial issue to analyse it. However, I think that is important to maintain these differences in conceptual discussions.
3 Second transitory clause. This was the case of Catalonia, the Basque Country and Galicia.
4 Apart from the three 'historical' communities, Andalucia also achieved the highest level of autonomy, following the clauses of Art. 151 of the SC (quick process). The rest of the AC followed the 'slow way' (Art. 143).
5 Art. 150.2 is used by the devolution of powers in the cases of the community of Valencia and the Canary Islands.
6 First additional clause of the Spanish Constitution. An analysis of 'historical rights', in Herrero de Miñón (1998).
7 UCD: Unión del Centro Democrático (centrist); PSOE: Partido Socialista Obrero Español (centre-left); PP: Partido Popular (conservative).
8 PNV: *Partido Nacionalista Vasco* (Basque Nationalist Party: nationalist, centre-right); CiU: *Convergència i Unió* (Convergence and Union: 'federal' coalition of two Catalan nationalist parties—*Convergència Democràtica de Catalunya* and *Unió Democràtica de Catalunya,* both centre-right).
9 This perspective is currently being designed by the two parties that have been governing Catalonia in coalition between 1980 and 2003. In 1997, both the CDC (Convergència Democràtica de Catalunya) and UDC (Unió Democràtica de Catalunya) drew up internal documents on how to express the multinationality of the state institutionally: 'Per un nou horitzó per a Catalunya' (CDC); 'La sobirania de Catalunya i l'estat plurinacional' (UDC). In Catalonia, the concept of 'shared sovereignty' takes sometimes as its point of historical reference the situation of the Spanish territories before the process of centralization carried out by the Bourbon dynasty from the eighteenth century onwards, after the War of Succession, which was lost by Catalonia (1714). In 1998, ETA declared an unilateral ceasefire. Almost at the same time, the 'Declaration of Lizarra' was signed by the Basque nationalist parties (September 1998), as well as the 'Declaration of Barcelona' (July 1998) followed by the declarations of 'Vitoria and Santiago (1998, 1999) signed by the main nationalist parties of Catalonia, the Basque Country and Galicia (Convergència Democràtica de Catalunya, Partido Nacionalista Vasco, Bloque Nacional Gallego). The nationalist forces of these three 'historical nations' have pointed out the need to proceed towards a reform and a reappraisal of the Spanish constitution in multinational terms. The concepts of self-government and 'shared sovereignity', which until now had been left out of the debate, have been given new impetus in the

political arena.

10 Batasuna (nationalist, extreme left organization which supports ETA terrorist attacks).

11 Ibarretxe is the 'Lehendakari', president of the Basque Government. The first step (general framework) of this plan was presented in the Basque Parliament in September 2002. See Instituto Vasco de Administracíon Pública (2003). For a comparison between the Basque Country within the Spanish *Estado de las Autonomías* with the development of the US federal system, see López Aranguren (2002).

12 The general direction of these policies has been to try to recentralize some areas, such as education, universities, labour, supporting a renewed Spanish nationalism non-present in the Spanish political arena since predemocratic times.

13 This is the case of the well-known Article 2:

> The Constitution is based on the indissoluble unity of the Spanish Nation, common and indivisible homeland of all Spaniards, and recognizes and guarantees the right to autonomy of the nationalities and regions that it is composed of and the solidarity between all of them.
>
> <div align="right">(translated by the author)</div>

14 In the early 1930s, Azaña, the president of the Spanish Second Republic, was already defending that

> in order to solve this, it is not enough to change the political system; we must change the politics of the system…the last state in the peninsula that was part of the old Catholic monarchy which succumbed under the weight of the despotic, absolutist Crown was Catalonia, and there is no doubt that the defender of Catalan liberties could reasonably say that he was the last defender of Spanish liberties …the assimilatory policies of the Spanish state really began in the nineteenth century. The policies of the kings of the House of Austria were not assimilatory; but the liberal, parliamentary and bourgeois politics of the 19th century were.
>
> <div align="right">(Azaña 1977 [1932]: 34–35, translated by the author)</div>

15 One case is the distinction between 'nationalities and regions' expressed in Article 2 of the current Spanish Constitution, but which is not reflected in the rest of the text as it is subsumed in the general notion of 'autonomous communities'.

6
Future scenarios for the Spanish multinational democracy

1 Plural federalism attempts to improve the articulation of the moral, ethical and pragmatic dimensions of practical rationality. In the symbolic and linguistic sphere

this affects questions like the content and use of flags, anthems, etc. or the regulation of plurilingualism. In the Spanish case, another example within this sphere is something as simple as the inclusion of the four state languages on the coinage, whether this be the Spanish or the EU coinage, or identity cards, passports, and so on. This is something that is very easy to regulate and would represent a tangible example of a movement towards an equality of the notion of citizenship in its facet of national identity, as well as a pluralist sense of the Spanish nation in its *secondary* sense. With the institutional sphere I insist on the establishment of asymmetrical mechanisms in the upper chamber of the central parliament, such as the right of veto on certain uses for the representatives of the minority nations. This seems to me a mechanism that should be introduced even if the seventeen autonomous communities were reduced in number. I believe that this is a procedural mechanism that is preferable to reducing the number of senators from the autonomous communities of the national collectives in relation to the number of senators of other communities, or to the mechanism of fixing a series of spheres in which those senators were not allowed to vote as they would be dealing with questions that the autonomous communities that they belonged to had exclusive powers to control. The establishment of material spheres is always a dangerous ground given the increase in concurrent or shared powers in present-day states. Other questions in the institutional sphere would be the broadcasting of autonomous television stations throughout the territory of the state (or EU), or plurilingualism on private TV stations.

2 This is a framework that means that Spain even has a relative advantage in relation to other multinational realities, such as Canada, which are more evolved democratically, but also more polarized: see Karmis and Gagnon 1996; MacCormick 1996; McRoberts 1997; Gibbins and Laforest 1998. For the Canadian case and asymmetry, see also Milne 1991; Lenihan *et al.* 1994; Milne 1994; Seidle 1994; Webber 1994; Vipond 1995; Boismenu 1996; Burgess 1996. For the relationship between asymmetry and equality, see Webber 1994; Fossas 1999.

3 The already mentioned 'Ibarretxe Plan', presented in the Basque Parliament by the president of the Basque government (2002–2003) in order to establish a 'free association' between the Basque Country and Spain, seems to be placed between the third and fourth scenarios described earlier. A discussion about this 'Plan' is in Instituto Vasco de Administracíon Pública (2003).

4 I do not develop this point here (see Requejo 1998b, 1999b). I would like just to make one remark: if any of the Spanish autonomous communities that do not display national characteristics wished to obtain a degree of self-government similar to that proposed in the model of plural federalism for the minority nations there would be no reason in liberal-democratic terms for this not to happen. What I consider unacceptable from a liberal-democratic perspective is to limit the degree of self-government of the minority nations with the reasoning that other autonomous communities would demand the same treatment or that they do not wish for or are unable to manage it.

5 Ironically, we may ask about what is the difference between the EU and *homo economicus.* On the one hand, there is a clear theoretical notion of the latter,

although almost everyone accepts that he does not really exist. On the other hand, it is difficult to deny the existence of the former, although no one really knows what it is. The classical theories of state and of international relations are unable to describe it. Traditional federalism is not an adequate structural model either. It is easier to say what the EU *is not* than what it is. It is not an international organization, nor is it a collection of intergovernmental relations. But it is not a federation, or a state of states, or a multinational state either.

6 Treaty of Maastricht, Section I, Common Provisions, Art. A, Art. B. See D'Oliveira 1994; Everson and Preuss 1995; Martiniello 1995; Jaúregui 1997; Preuss and Requejo 1998; Loughlin 2000.

7 Treaty of Maastricht, Section II, second part, Arts 8, 8A, 8B, 8C, 8D. This low profile is reinforced by the low level of internal immigration of European citizens.

8 See the analysis and proposals made by the *Catalan Convention on the Future of the European Union*—a process developed during 2002 and 2003 in which more than 300 people took part as representatives of the Catalan society (associations, universities, unions, political parties, etc.). This Convention was an initiative of the Catalan Parliament. It was organized in eight different workshops (simplification of the Treaties, European Constitution, division of powers, institutional design, democratic legitimation, stateless nations and regions, Catalan language and linguistic pluralism, globalization and foreign policy). The process was led by a commission of scholars who prepared the initial papers for discussion in the workshops. The conclusions of the Catalan Convention have been summarized in the document *80 Proposals for a New Europe,* Patronat Català pro-Europa, Generalitat de Catalunya, 2003 (www.convenciocatalana.org).

References

Abbott, P. (1996) 'What's New in the Federalist Papers?', *Political Research Quarterly,* 49, 3:525–545.

Agranoff, R. (1995)'Asymmetrical and Symmetrical Federalism in Spain', in B.De Villiers (ed.) *Evaluating Federal Systems,* Cape Town and Dordrecht: Juta and Martinus Nijhoff.

Agranoff, R. (ed.) (1999) *Accommodating Diversity: Asymmetry in Federal States,* Baden-Baden: Nomos.

Aja, E. (1999) *El Estado autonómico: Federalismo y hechos diferenciales,* Madrid: Alianza.

Alexy, R. (1996) 'Discourse Theory and Fundamental Rights', *Ratio Juris,* 3, 209–235.

Archibugi, D. and Held, D. (1995) *Cosmopolitan Democracy,* Cambridge: Polity.

Arendt, H. (1993) *Between Past and Future,* Harmondsworth, UK: Penguin.

Axtmann, R. (1996) *Liberal Democracy into the Twenty-First Century,* Manchester and New York: Manchester University Press.

Azaña, M.(1977 [1932])'Defensa de la autonomía de Cataluña', *Discursos Parlamentarios,* Madrid: Cortes Constituyentes de la República.

Barry, B. (1990) *Political Argument,* Berkeley, CA: University of California Press.

Bauböck, R. (ed.) (1994) *From Aliens to Citizens,* Aldershot: Avebury.

Beiner, R. (ed.) (1999) *Theorising Nationalism,* Albany, NY: State University of New York Press.

Berlin, I. (1954) 'Realism in Politics', *Spectator,* 193:774–776.

Berlin, I. (1969) *Four Essays on Liberty,* Oxford: Oxford University Press.

Berlin, I. (1976) *Vico and Herder: Two Studies in the History of Ideas,* London: Hogarth Press.

Berlin, I. (1996 [1953]) 'The Sense of Reality', *Studies and Ideas and their History,* London: Chatto & Windus.

Berlin, I. (1998) 'My Intellectual Path', *New York Review of Books,* 14 May: 53–60.

Bermann, G. (1994) 'Taking Subsidiarity Seriously: Federalism in the European Community and the United States', *Columbia Law Review,* 94, 2:331–455.

Bertelsmann Commission (2000) *Disentanglement 2005,* Berlin: Bertelsmann Foundation Publishers.

Bloom, H. (1998) *Shakespeare: The Invention of the Human,* London: Fourth Estate.

Boismenu, G. (1996) 'Perspectives on Quebec-Canada Relations in the 1990's: Is the Reconciliation of Ethnicity, Nationality and Citizenship Possible?', *Canadian Review of Studies on Nationalism,* 23, 1–2:99–109.

Brown-John, C.L. (1988) *Centralizing and Decentralizing Trends in Federal States,* Lanham, MD: University Press of America.

Buchanan, A. (1997) 'Theories of Secession', *Philosophy and Public Affairs,* 26, 1:31–61.

Burgess, M. (1996) 'Ethnicity, Nationalism and Identity in Canada-Quebec Relations: The Case of Quebec's Distinct Society', *Journal of Common-wealth and Comparative Politics,* 34, 2:46–64.

Burgess, M. and Gagnon, A. (eds) (1993) *Comparative Federalism and Federation,* Toronto: University of Toronto Press.

Caney, S., George, D. and Jones, P. (eds) (1996) *National Rights, International Obligations,* Boulder, CO: Westview Press.

Canovan, M. (1996) *Nationhood and Political Theory,* Cheltenham: Elgar.

Carens, J. (ed.) (1996) *Is Quebec Nationalism Just? Perspectives from Anglophone Canada,* Montreal: McGill-Queen's University Press.

Carens, J. (2000) *Culture, Citizenship and Community,* New York: Oxford University Press.

Crowder, G. (1998) 'John Gray's Pluralist Critique of Liberalism', *Journal of Applied Philosophy,* 15, 3:287–98.

De Villiers, B. (ed.) (1995) *Evaluating Federal Systems,* Cape Town and Dordrecht: Juta and Martinus Nijhoff.

D'Oliveira, H.U. (1994) 'European Citizenship: Its Meaning, Its Potential', in R.Dehousse (ed.) *Europe after Maastricht: An Ever Closer Union?,* Munich: Law Books in Europe.

Elazar, D. (1987) *Exploring Federalism,* Tuscaloosa, AL: University of Alabama Press.

Elazar, D. (1991) *Federal Systems of the World,* London: Longman.

Elster, J. (1998) 'Introduction', in J.Elster (ed.) *Deliberative Democracy,* Cambridge: Cambridge University Press.

Everson, E. and Preuss, U. (1995) *Concepts, Foundations, and Limits of European Citizenship, Diskussionspapier 2/95,*Bremen: Zentrum für Europäische Rechtspolitik.

Fossas, E. (1999) 'Asimetría y plurinacionalidad en el Estado Autonómico', in E Fossas and F.Requejo (eds) *Asimetría Federal y Estado Plurinacional: El debate sobre la acomodación de la diversidad en Canadá, Bélgica y España,* Madrid: Trotta.

Fossas, E. (2001) 'National Plurality and Equality', in F.Requejo (ed.) *Democracy and National Pluralism,* London: Routledge.

Fossas, E. and Requejo, F. (eds) (1999) *Asimetría Federal y Estado Plurinacional: El debate sobre la acomodación de la diversidad en Canadá, Bélgica y España,* Madrid: Trotta.

Gagnon, A. (2001) 'The Moral Foundations of Asymmetrical Federalism: A Normative Exploration of the Case of Quebec and Canada', in A. Gagnon and J. Tully (eds) *Multinational Democracies,* Cambridge: Cambridge University Press.

Galipeau, C. (1994) *Isaiah Berlin's Liberalism,* Oxford: Clarendon Press.

Galston, W. (1991) *Liberal Purposes: Goods, Virtues and Diversity in the Liberal State,* Cambridge: Cambridge University Press.

Gellner, E. (1983) *Nations and Nationalism,* London: Basil Blackwell.

Gibbins, J. and Laforest, G. (eds) (1998) *Beyond the Impasse,* Montreal: Institute for Research in Public Policy.

Gray, J. (1995) *Isaiah Berlin,* London: HarperCollins.

Gray, J. (2000) *Two Faces of Liberalism,* Cambridge: Polity-Blackwell.

Griffiths, A. and Neremberg, K. (eds) (2002) *Handbook of Federal Countries,* Montreal: McGill-Queen's University Press.

Guibernau, M. (1999) *Nations without State,* Cambridge: Polity.

Guibernau, M. and Hutchinson, J. (2001) *Understanding Nationalism,* Cambridge: Polity.

Gurr, T. (2000) *People versus States,* Washington, DC: US Institute of Peace.

Habermas, J. (1992) *Faktizität und Geltung,* Frankfurt: Suhrkamp.

Habermas, J. (1994) 'Struggles for Recognition in the Democratic Constitucional State', in C.Taylor (ed.) *Multiculturalism: Examining the Politics of Recognition,* Princeton,

NJ: Princeton University Press.

Habermas, J. (1996) 'Vernünfig versus 'Wahr' oder die Moral der Weltbilder', 'Kampf um Anerkennung im Demokratischen Rechtsstaat', *Die Einbeziehung des Anderen,* Frankfurt: Suhrkamp.

Hechter, M. (2000) *Containing Nationalism,* Oxford: Oxford University Press.

Herrero de Miñón, M. (1998) *Derechos históricos y Constitución,* Madrid: Taurus.

Hinchman, L. and Hinchman, S. (ed.) (1997) *Memory, Identity, Community: The Idea of Narrative in the Human Sciences,* Albany, NY: State University of New York Press.

Ignatieff, M. (1998) *Isaiah Berlin: A Life,* London: Chatto & Windus.

Instituto Vasco de Administración Pública (IVAP)(2003) *Estudios sobre la propuesta política para la convivencia del Lehendakari Ibarretxe,* Oñati: IVAP.

Jaúregui, G. (1997) *Los nacionalismos minoritarios y la Union Europea,* Barcelona: Ariel.

Jeffery, C. and Savigear, P. (1991) *German Federalism Today,* New York: St Martins Press.

Karmis, D. and Gagnon, A. (1996) 'Fédéralisme et identités collectives au Canada et en Belgique: des itinéraires différents, une fragmentation similaire', *Revue Canadienne de Science Politique,* 29, 3:435–468.

Keating, M. (1996) *Nations Against the State: The New Politics of Nationalism in Quebec, Catalonia and Scotland,* London: Macmillan.

Keating, M. (1998) *State and Regional Nationalism: Territorial Politics and the European State,* New York: Harvester Wheatsheaf.

Keating, M. (2001) 'Nations without States: Minority Nationalism in the Global Era', in F.Requejo (ed.) *Democracy and National Pluralism,* London: Routledge.

Kincaid, J. (2002) 'lntroduction', in A. Griffiths and K. Neremberg (eds) *Handbook of Federal Countries,* Montreal: McGill-Queen's University Press.

Klosko, G. (1993) 'Rawls' Political Philosophy and American Democracy', *American Political Science Review,* 87, 2:348–359.

Klosko, G. (1997) 'Political Constructivism in Rawls' Political Liberalism', *American Political Science Review,* 91, 3:635–646.

Kymlicka, W. (1989) *Liberalism, Community, and Culture,* Oxford: Clarendon Press.

Kymlicka, W. (1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights,* Oxford: Clarendon Press.

Kymlicka, W. (ed.) (2001) *Politics in the Vernacular,* Oxford: Oxford University Press.

Kymlicka, W. and Norman, W. (eds) (2000) *Citizenship in Diverse Societies,* Oxford: Oxford University Press.

Lehning, P. (ed.) (1998) *Theories of Secession,* London: Routledge.

Lemieux, V. (1996) 'L'analyse politique de la decentralization', *Canadian Journal of Political Science,* 29, 4:661–680.

Lenihan, D., Robertson, G. and Tassé, R. (1994) *Reclaiming the Middle Ground,* Montreal: Institute for Research in Public Policy.

Lijphart, A. (1984) *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries,* New Haven, CT: Yale University Press.

Lijphart, A. (1995) 'Multiethnic Democracy', in M.Lipset (ed.) *The Encyclopedia of Democracy,* London: Routledge.

Linz, J. (1993) 'State Building and Nation Building', *European Review,* 1, 4: 355–369.

Linz, J. (1997) 'Democracy, Multinationalism and Federalism', working paper 103, Madrid: Instituto Juan March.

López Aranguren, E. (2002) *Relaciones intergubernamentales en los estados*

autonómicos y federal: Éstudio sobre los Estados Unidos, el Estado español y el País Vasco, Oñati: Instituto Vasco de Administración Pública.

Loughlin, J. (2000) 'Regional Autonomy and State Paradigm Shifts', *Regional and Federal Studies,* 10, 2:10–34.

Loughlin, J. (2001) *Subnational Democracy in the European Union: Challenges and Opportunities,* Oxford: Oxford University Press.

Lund, W. (1996) 'Politics, Citizens and the Good Life: Assessing Two Versions of Ethical Liberalism', *Political Research Quarterly,* 3:479–504.

McCarthy, T. (1994) 'Kantian Constructivism and Reconstructivism: Rawls and Habermas's, *Ethics,* 105:44–63.

MacCormick, N. (1996) 'Liberalism, Nationalism and the Post-sovereign State', *Political Studies,* 44:553–567.

McGarry, J. (2002) 'Federal Political Systems and the Accommodation of National Minorities', in A.Griffiths and K.Neremberg (eds) *Handbook of Federal Countries,* Montreal:McGill-Queen's University Press.

McKay, D. (1997) 'On the Origins of Political Unions: The European Case', *Journal of Theoretical Politics,* 9, 3:279–296.

McKay, D. (2001) *Designing Europe: Comparative Lessons from the Federal Experience,* Oxford: Oxford University Press.

McKim, R. and McMahan, J. (eds) (1997) *The Morality of Nationalism,* Oxford: Oxford University Press.

McRoberts, K. (1997) *Misconceiving Canada: The Struggle for National Unity,* Toronto: Oxford University Press.

Margalit, A. and Raz, J. (1994) 'National Self-Determination', in J.Raz (ed.) *Ethics in the Public Domain: Essays in the Morality of Law and Politics,* Oxford: Clarendon Press.

Martiniello, M. (ed.) (1995) *Migration, Citizenship and Ethno-National Identities in the European Union,* Aldershot: Avebury.

Michaud, N. (2002) 'Federalism and Foreign Policy: Comparative Answers to Globalization', in A. Griffiths and Neremberg (eds) *Handbook of Federal Countries,* Montreal: McGill-Queen's University Press.

Mill, J.S. (1985 [1859]) *On Liberty,* London: Penguin Classics.

Mill, J.S. (1994) 'Considerations on Representative Government', in J.Gray (ed.) *On Liberty and Other Essays,* Oxford: Oxford University Press.

Miller, D. (1995) *On Nationality,* Oxford: Clarendon Press.

Milne, D. (1991) 'Equality or Asymmetry: Why Choose?', in R.Watts and D.Brown (eds) *Options for a New Canada,* Toronto: University of Toronto Press.

Milne, D. (1994) 'Exposed to the Glare: Constitutional Camouflage and the Fate of Canada's Federation', in L.Seidle (ed.) *Seeking a New Canadian Partnership,* Montreal: Institute for Research in Public Policy.

Mitchell, W.J.T. (ed.) (1980) *On Narrative,* Chicago: University of Chicago Press.

Moore, M. (ed.) (1998) *National Self-determination and Secession,* New York: Oxford University Press.

Moreno, L. (1995) 'Ethnoterritorial Concurrence and Imperfect Federalism in Spain', in B.de Villiers (ed.) *Evaluating Federal Systems,* Cape Town and Dordrecht: Juta and Martinus Nijhoff.

Moreno, L. (1997) *La federalización de España: poder político y territorio,* Madrid: Siglo XXI.

Mouffe, C. (1993) *The Return of the Political,* London: Verso.

Nagel, T. (1991) *Equality and Partiality,* New York: Oxford University Press.

Neal, P. (1993) 'Vulgar Liberalism', *Political Theory,* 21, 4:623–642.

Nodia, G. (1992) 'National and Democracy', *Journal of Democracy,* 3, 4:3–22.

Noël, A. (1998) 'The Federal Principle, Solidarity and Partnership', in J.Gibbins and G.Laforest (eds) *Beyond the Impasse,* Montreal: Institute for Research in Public Policy.

Norman, W. (1996) 'The Ideology of Shared Values: A Myopic Vision of Unity in Multi-Nation State', in J.Carens (ed.) *Is Quebec Nationalism Just? Perspectives from Anglophone Canada,* Montreal: McGill-Queen's University Press.

Norman, W. (2001) 'Secession and (Constitutional) Democracy', in F. Requejo (ed.) *Democracy and National Pluralism,* London: Routledge.

Norman, W. and Kymlicka, W. (1994) 'Return of the Citizen: A Survey of Recent Work on Citizenship Theory', *Ethics,* 104:352–381.

Nussbaum, M. (1986) *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy,* Cambridge: Cambridge University Press.

Oakeshott, M. (1975) *Hobbes on Civil Association,* Oxford: Blackwell.

Okin, S.M. (1989) *Justice, Gender and the Family,* New York: Basic Books.

Okin, S.M. (1994) 'Political Liberalism: Justice and Gender', *Ethics,* 105: 23–43.

O'Leary, B. and McGarry, J. (1995) 'Regulating Nations and Ethnic Communities, in A.Breton, G.Galeotti, P.Salmon and R.Wintrobe (eds) *Nationalism and Rationality,* Cambridge: Cambridge University Press.

Parekh, B. (1993) 'The Cultural Particularity of Liberal Democracy', in D.Held (ed.) *Prospects for Democracy: North, South, East, West,* Cambridge: Polity.

Parekh, B. (1995) 'Liberalism and Colonialism: A Critique of Locke and Mill', in J.Nederveen Pieterse and B.Parekh (eds) *The Decolonization of Imagination: Culture, Knowledge and Power,* London: Zed Books.

Parekh, B. (2000) *Rethinking Multiculturalism: Cultural Diversity and Political Theory,* London: Macmillan.

Parfit, D. (1984) *Reasons and Persons,* Oxford: Clarendon Press.

Peeters, P. (1995) 'Federalism: A Comparative Perspective: Belgium Transforms from a Unitary to a Federal State', in B. de Villiers (ed.) *Evaluating Federal Systems,* Cape Town and Dordrecht: Juta and Martinus Nijhoff.

Philpott, D. (1995) 'In Defence of Self-Determination', *Ethics,* 105:352–385.

Pinker, S. (2002) *The Blank Slate: The Modern Denial of Human Nature,* London: Allen Lane.

Pitkin, H. (1972) *Wittgenstein and Justice: On Significance of Ludwig Wittgenstein for Social and Political Thought,* Berkeley, CA: University of California Press.

Pocock, J.G.A. (1971) *Politics, Language and Time: Essays on Political Thought and History,* New York: Atheneum.

Pocock, J.G.A. (1984) 'Verbalising a Political Act', in M.Shapiro (ed.) *Language and Politics,* Oxford: Basil Blackwell.

Pocock, J.G.A. (1985) *Virtue, Commerce and History,* Cambridge: Cambridge University Press.

Preuss, U. and Requejo, F. (eds) (1998) *European Citizenship, Multi culturalism and the State,* Baden-Baden: Nomos.

Rawls, J. (1993) *Political Liberalism,* New York: Columbia University Press.

Rawls, J. (1995) 'Reply to Habermas's, *Journal of Philosophy,* 92, 3: 132–180.

Rawls, J. (1999) *The Law of Peoples,* Cambridge: MA, Harvard University Press.

Raz, J. (1986) *The Morality of Freedom,* Oxford: Oxford University Press.

Raz, J. (1994a) *Ethics in the Public Domain,* Oxford: Clarendon Press.

Raz, J. (1994b) 'Multiculturalism: A Liberal Perspective', *Dissent,* winter: 67–79.

Requejo, F. (1991) *Teoría Crítica y Estado Social: Neokantismo y Socialdemocracia en Jürgen Habermas,* Barcelona: Anthropos.

Requejo, F. (1994) *Las Democracias: Democracia antigua, Democracia liberal y Estado del Bienestar,* Barcelona: Ariel.

Requejo, F. (1998a) 'European Citizenship in Plurinational States: Some Limits of Traditional Democratic Theories—Rawls and Habermas's, in U.K.Preuss and F.Requejo (eds) *European Citizenship, Multiculturalism, and the State,* Baden Baden: Nomos Verlag.

Requejo, F. (1998b) *Federalisme, per a què? L'acomodació de la diversitat en democracies plurinacionals,* València: Tres i Quatre.

Requejo, F. (1999a) 'Cultural Pluralism, Nationalism and Federalism: A Revision of Citizenship in Plurinational States', *European Journal of Political Research,* 35, 2:255–286.

Requejo, F. (1999b) 'La acomodación "federal" de la plurinacionalidad. Democracia liberal y Federalismo Plural en España', in E.Fossas and Requejo (eds) *Asimetría Federal y Estado Plurinacional: El debate sobre la acomodación de la diversidad en Canadá Bélgica y España,*Madrid: Trotta.

Requejo, F. (2000) 'El liberalismo político en estados plurinacionales: Rawls y Habermas y la legitimidad del federalismo plural', in Jean-François Prud'homme (comp.), *Demócratas, Liberales y Republicanos,* Mexico: El Colegio de Mexico.

Requejo, F. (ed.) (2001a) *Democracy and National Pluralism,* London: Routledge.

Requejo, F. (2001b) 'Political Liberalism in Multinational States: The Legitimacy of Plural and Asymmetrical Federalism—The Case of Spain' , in A-G.Gagnon and J.Tully (eds) *Multinational Democracies,* Cambridge: Cambridge University Press.

Requejo, F. (2001c) 'Federalism and National Groups', *International Journal of Social Sciences,* 161:41–49.

Resnick, P. (1994) 'Toward a Multinational Federation: Asymmetrical and Confederal Alternatives', in L.Seidle (ed.) *Seeking a New Canadian Partnership,* Montreal: Institute for Research in Public Policy.

Resnick, P. (1997) *Twenty-first Century Democracy*, Montreal: McGillQueen's University Press.

Rocher, F. and Verrelli, M. (2003) 'Questioning Constitutional Democracy in Canada: From the Canadian Supreme Court Reference on Quebec Secession to the Clarity Act', in A.Gagnon, M.Guibernav and T.Rocher (eds), The conditions of diversity in multinational democracies, IRPP, Montreal 2003:207–235 .

Rorty, R. (1989) *Contingency, Irony and Solidarity,* Cambridge: Cambridge University Press.

Rorty, R. (1997) 'Justice as Larger Loyalty', in R.Bontekoe and M. Stepaniants (eds) *Justice and Democracy: Cross-Cultural Perspectives,* Honolulu, HI: University of Hawaii Press.

Rubin, E. and Feeley, M. (1994) 'Federalism: Some Notes on a National Neurosis', *UCLA Law Review,* 41:903–952.

Sanders, L. (1997) 'Against Deliberation', *Political Theory,* 25, 3:347–376.

Scharpf, F. (1995) 'Federal Arrangements and Multi-Party Systems', *Australian Journal of Political Science,* 30 (special issue): 27–39.

Schmitt, C. (1985) *The Crisis of Parliamentary Democracy,* trans. E.Kennedy, Cambridge: MA: MIT Press.

Searle, J. (1995) *The Construction of Social Reality,* New York: The Free Press.

Seidle, L. (ed.) (1994) *Seeking a New Canadian Partnership,* Montreal: Institute for

Research in Public Policy.

Simeon, R. and Conway, D.P. (2001) 'Federalism and Management of Conflict in Multinational Societies', in A.Gagnon and J.Tully (eds) *Multinational Democracies,* Cambridge: Cambridge University Press.

Skinner, Q. (1988) 'Language and Social Change', in J.Tully (ed.) *Meaning and Context,* Princeton, NJ: Princeton University Press.

Skinner, Q. (1991) 'Who are "we"? Ambiguities of the Modern Self', *Inquiry,* 34, 2:133–153.

Skinner, Q. (2001) *Renaissance Virtues,* Cambridge: Cambridge University Press.

Smith, A. (1995) *Nations and Nationalisms in a Global Era,* Cambridge: Polity.

Spinner, J. (1994) *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State,* Baltimore, MD: Johns Hopkins University Press.

Stark, A. (1997) 'Limousine Liberals, Welfare Conservatives', *Political Theory,* 25, 4:475–501.

Stepan, A. (1999) 'Federalism and Democracy: Beyond the U.S. Model', *Journal of Democracy,* 10, 4:19–34 .

Stocker, L. (1992) 'Interest and Ethics in Politics', *American Political Science Review,* 86:369–380 .

Tamir, Y. (1993) *Liberal Nationalism,* Princeton, NJ: Princeton University Press.

Tarlton, C. (1965) 'Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation', *Journal of Politics,* 27, 4:861–874.

Taylor, C. (1982) 'The Diversity of Goods', in A.Sen and B.Willians (eds) *Utilitarism and Beyond,* Cambridge: Cambridge University Press.

Taylor, C. (1985) *Philosophical Papers II: Philosophy and the Human Sciences,* Cambridge: Cambridge University Press.

Taylor, C. (1989) *Sources of the Self: The Making of the Modern Identity,* Cambridge: MA: Harvard University Press.

Taylor, C. (1992) 'The Politics of Recognition', *Multiculturalism and the 'Politics of Recognition',* Princeton, NJ: Princeton University Press.

Taylor, C. (2001) 'Plurality of Goods', in R.Working, M.Lilla and R.Silvers (eds) *The Legacy of Isaiah Berlin,* New York: New York Review of Books.

Teasdale, A. (1993) 'Subsidiarity in Post-Maastricht Europe', *The Political Quarterly,* 64, 2:87–197.

Tewfik, H. (2001) 'Ethiopia: The Challenge of Many Nationalities', *Federations,* 1, 5:8–9.

Tierney, S. (2004) *Constitutional Law and National Pluralism,* Oxford: Oxford University Press.

Toulmin, S. (1990) *Cosmopolis: The Hidden Agenda of Modernity,* Chicago: University of Chicago Press.

Toulmin, S. (2001) *Return to Reason,* Chicago: University of Chicago Press.

Tully, J. (1994) *Strange Multiplicity: Constitutionalism in an Age of Diversity,* Cambridge: Cambridge University Press.

Tully, J. (2001) 'lntroduction', in A.Gagnon and J.Tully (eds) *Multinational Democracies,* Cambridge: Cambridge University Press.

Vipond, R. (1995) 'From Provincial Autonomy to Provincial Equality (Or Clyde Wlls and the Distinct Society)', in J.Carens (ed.) Is *Quebec Nationalism Just? Perspectives from Anglophone Canada,* Montreal: McGill-Queen's University Press.

Walters, C. (1999) 'Tracking Romanticism, Root and Branch', *Washington Times,* 14 March: B6.

Walzer, M. (1987) *Interpretation and Social Criticism,* Cambridge: MA: Harvard University Press.

Walzer, M. (1995) 'Are there Limits to Liberalism?', *New York Review of Books,* 19 October.

Watts, R. (1995) 'Contemporary Views on Federalism', in B. de Villiers (ed.) *Evaluating Federal Systems,* Cape Town and Dordrecht: Juta and Martinus Nijhoff.

Watts, R. (1999) *Comparing Federal Systems,* 2nd edn, Montreal: McGillQueen's University Press.

Watts, R. (2002) 'The Distribution of Powers, Responsibilities and Resources in Federations', in A.Griffiths and K.Neremberg (eds) *Handbook of Federal Countries,* Montreal: McGill-Queen's University Press.

Webber, J. (1994) *Reimagining Canada: Language, Culture, Community, and the Canadian Constitution,* Montreal: McGill-Queen's University Press.

Weinstock, D. (1997) 'The Graying of Berlin', *Critical Review,* 11:481–501.

Williams, B. (1985) *Ethics and the Limits of Philosophy,* Cambridge: MA: Harvard University Press.

Williams, M. (1995) 'Justice towards Groups', *Political Theory,* 23, 1:67–91.

Young, M.I. (1990) *Justice and the Politics of Difference,* Princeton, NJ: Princeton University Press.

Index