

## Belgium\* (*Kingdom of Belgium*)

ANDRÉ LECOURS

### *1 history and development of federalism*

Belgium is a small – 32,545 km<sup>2</sup> – West European democracy with a population of just over 10 million. The country's defining political feature is its multilingual character. Belgium's northern half, Flanders, is home to the bulk of the country's Dutch-speakers (almost 6 million; referred to as "Flemish") while the south, Wallonia (3.3 million), is French-speaking. This linguistic picture is complicated by the presence of a tiny German-speaking population in the southeast (70,000 people) and by Brussels (1 million), which is located north of the linguistic frontier but is predominantly French. Tensions between linguistic groups have been a central feature of Belgian politics since the late nineteenth century but they are superimposed on and intersect with two other fundamental divisions in this complex state – religion and class. The perennial *problème communautaire*, as expressed through nationalist/regionalist politics, was the motor for the recent federalization of the Belgian state.

The territories of present-day Belgium were detached from the Dutch kingdom and made into an independent state in 1830 by a French-speaking bourgeoisie who opposed the linguistic and religious policies of King William I of Orange. Belgium was created as a strongly centralized unitary state which operated, despite the absence of any formal constitutional provision specifying language use, almost completely in French. This situation proved unacceptable to a Flemish traditional lower-bourgeoisie who saw Belgium as a bilingual and bi-

cultural nation. It is in this context that the Flemish Movement emerged and struggled to achieve Dutch equality with French. Despite opposition from French-speaking elites, formal-legal equality was achieved in 1898 with the De Vriendt-Coremans law, although French remained the dominant language.

The Flemish Movement then proceeded to seek official bilingual status for Flemish-speaking provinces, but these claims, especially those pertaining to the south, met with staunch opposition from French-speakers. In this context, the Flemish Movement re-directed its activism away from the larger Belgian framework to the northern part of the country for which it now sought monolingual status. This goal was largely accomplished in the 1930s with language laws that instituted territorial monolingualism. French-speaking elites formed the Walloon Movement to counter the claims of the Flemish Movement. Their first reaction was to call for a return to the Belgium of 1830 but as the Flemish Movement became increasingly powerful, they switched strategy, abandoning French-speakers in Flanders, and later in Brussels, to focus on Wallonia where French was dominant.

The *problème communautaire* became increasingly acute after World War II when a series of issues, ranging from the status of King Leopold III to school funding, pitted the two linguistic communities against one another. Politicians attempted to defuse this tension by strengthening territorial monolingualism through new linguistic legislation. Laws passed in 1962–63 created four linguistic regions: monolingual Flanders, monolingual Wallonia, bilingual Brussels, and a German-speaking area. A series of censuses determined linguistic borders and the *communes* (municipalities) were fitted into their ‘proper’ language region. The border was then ‘frozen’ in 1963 by abandoning the census as an adjusting tool and enforcing administrative unilingualism,

all in the hope of increasing homogenization.

This strategy proved a failure as tension continued to mount in the 1960s with the newly formed community parties Volksunie (Flemish nationalist), Rassemblement Wallon (Walloon regionalist) and Front Démocratique des Francophones (Brussels-based) applying considerable political-electoral pressure on the traditional parties (Christian-Democrat, Socialist, Liberal). Forced to become more militant on community issues, the traditional political parties developed linguistic wings and, in the 1970s, split upon linguistic grounds. Indeed, a peculiarity of the Belgian political system is its party system: there are no national parties in Belgium; they are all language-specific. As a consequence of Belgium's consociational arrangements, this transformation led to a further dichotomization of political *and* social life. For example, trade unions, although officially unified and presenting a common front to public authorities, have developed different language working groups. Voluntary associations and many other civil society organizations have also adopted bipolar structures.

The federalization of Belgium occurred step by step – there were constitutional-institutional reforms in 1970, 1980, 1988 and 1993. The main reason for the incremental nature of the process was that Flemish and Francophone parties favoured different federal models. The Flemish side advocated a bipartite federalism structured around the two major linguistic/cultural communities. Francophone leaders argued for tripartite federalism in which both Wallonia and Brussels would be, along with Flanders, constituent units. It should be noted that these constitutional changes also arose from the negotiations that are a necessary element of coalition governments, which are characteristic of Belgian federal politics.

Crises in relations between linguistic groups were crucial in jump-starting the federalization process when it appeared to be stalled. In the mid-1980s, the trigger came when the Mayor of Voeren (Fourons in French), a small municipality of 4,000 people which had been moved from Wallonia to Flanders in 1963, refused to use Dutch in formal proceedings as the law prescribed. The Voeren episode led to the constitutional revision of 1988 and a compromise over Brussels which was made into a federated unit as Francophone parties wished. In exchange, Flemish parties obtained protection of the minority Flemish population of Brussels and agreement that the city's borders would be limited to the existing 19 *communes*. In the early 1990s, it was the decision by left-wing Flemish parties to oppose an arms sale to Saudi Arabia, which would have benefited Walloon industries, that triggered a community crisis. This conflict led to the 1993 reform and the formal transformation of Belgium into a federal state.

## *2 constitutional provisions relating to federalism*

The peculiarity of Belgian federalism is that it involves two different types of constituent units: Communities and Regions (Articles 2 and 3). There are three Communities (Flemish, French and German) and three Regions (Flanders Wallonia and Brussels). This intriguing feature has to be understood in the context of the Flemish Movement's historical struggle for cultural/linguistic preservation and the more recent fight of the Walloon Movement for economic autonomy. The Communities were created in 1970 and immediately provided with institutions (except for the German-speaking Community which was fully institutionalized in 1983). They have power over

language, culture, education and *matières personnalisables*, Belgian constitutional jargon for social services such as health care (but not health care insurance which is part of federal jurisdiction) which involve direct contact between state-provider and citizen.

Although the Regions are clearly territorial units, the Communities are linked to individuals and language more than territory, which makes them one of the most complicated elements of Belgian federalism. Their membership is determined in reference to the constitutional distinction between the language regions (Article 4), and their existence stems from the Flemish objective to acquire cultural autonomy. Consequently, Dutch-speakers in Brussels belong to the Flemish Community as do those living in Flanders. Similarly, French-speaking residents of Brussels are members of the French Community just like Walloons. There are, however, exceptions to the idea of language-based Communities. Indeed, the substantial francophone minority in Flanders does not belong to the French Community, and the same is true for the (rare) Dutch-speakers of Wallonia. In other words, the “person-bound” Communities have not introduced sub-nationalities among the Belgian population.

Regions are territorial units that were formed in response to Walloon concerns over their region’s economy. Flanders and Wallonia established institutions in 1980 – more than 10 years after the 1970 constitutional reform outlined the intention to create Regions – and Brussels did so in 1988. The Regions have power over regional economic development, urban planning, the administration of provinces and *communes*, housing, public works, water, energy, transportation, the environment and job training. (As well, an agreement has recently been signed to transfer power over international trade and agricultural policy to the Regions.) In 1980, the Flemish Region and Community merged their institutions. This means that the two entities still exist from

a constitutional point of view in Flanders, but there is a common Flemish government and Parliament (with certain exceptions relating to Brussels), thereby further accentuating the asymmetry of Belgian federalism.

The federal government retains power over financial and monetary policy, justice, social security (employment insurance, pensions, and so on), some aspects of health care (eg., insurance, which represents approximately 90 per cent of the health budget), some public corporations, national defence and the direction of international relations (although the Regions and Communities can conclude international treaties, with some limitations). Overall, decentralization was quite substantial; in fact, Regions and Communities administer over 40 per cent of the national budget, although these financial resources are allocated by the central state.

The 1993 reform instituted two fundamental changes to central institutions and their relationships with Communities and Regions. The first change was the re-definition of the composition and role of the Senate. The new Belgian Senate includes different categories of Senators: 40 are directly elected; 21 are drawn from the Community Councils (10 from both the Flemish and French Community Councils and one from the Council of the German-speaking Community); and 10 more are appointed by Senators from the two previous categories. In most cases (*lois ordinaires*), the Senate can examine a bill and suggest modifications which may or may not be accepted by the House of Representatives. The Senate also has the power to initiate legislation but the House has final say. For issues relating to international relations and the structure of the state (*lois bicamérales*), bills have to be approved by both the House and the Senate on equal footing. For community questions (*lois votées à majorité spéciale*), the legislative process involves a special procedure that necessitates majority support within each

parliamentary linguistic group (Flemish and French) both in the House and in the Senate as well as a two-thirds majority in each of the two chambers. Membership in a parliamentary linguistic group is decided by the linguistic regime of the constituency where a parliamentarian has been elected. The formal existence of these groups stems from Article 43 of the constitution.

The second change brought by the 1993 reform was the introduction of direct elections in the Flemish and Walloon Parliaments where members were previously drawn from the House of Representatives. The Flemish Parliament now has 118 directly elected members and six other members drawn from the Flemish group in the Brussels Parliament. The Capital Region's Parliament, which has had directly elected representatives since 1988, has 75 representatives – 65 French-speakers and 10 Dutch-speakers. The French Community Council is composed of all members of the Walloon Parliament plus 19 French-speaking members of the Brussels Parliament. The German-speaking Community has directly elected its 25 members since 1983. As a consequence of this change, the number of federal House members was lowered to 150; they remain directly elected using a proportional representation system (Article 62).

Sensitivity to the protection of the French-speaking minority is reflected in the federal executive where there must be an equal number of Dutch- and French-speaking ministers (Article 99). The Prime Minister is exempt from that rule and is most often Flemish. The other component of Belgium's dual federal executive, the monarch (currently Albert II), does not have a linguistic personality *per se*; his symbolic significance lies in his embodiment of a Belgian nation irrespective of cultural/linguistic differences.

Belgian politicians have always been reluctant to give substantial power to the judiciary in the political system. However, the federalization of the state left them no choice but to create a

court (*Cour d'arbitrage*) that would control the constitutionality of laws with respect to the division of power among the federal government, Regions and Communities. The scope of the *Cour* remains quite narrow in other matters: it can rule only on the principles of equality (Article 10), non-discrimination (Article 11), and freedom in the area of education (Article 24). Its composition is guided by the idea of linguistic parity and resistance to the “government of judges.” Thus, the *Cour* includes 12 judges, half of whom are Dutch-speakers and the other half French-speakers, and also half are professional judges and half are ex-politicians who are not necessarily trained in the law. There are two Presidents, one from each linguistic group, working on the basis of an alternating effective presidency.

The procedure for amending the Belgian constitution is complex. The federal Parliament must be dissolved, an election held, and only then can the newly constituted Parliament hold a vote on the proposed constitutional revision. In order to pass, the proposal must receive support of a two-thirds majority in each chamber. This procedure is somewhat antiquated; it was devised when Belgium was a unitary state and, as a consequence, does not involve the constituent units or even include references to linguistic groups. Ironically, the legislative process, as it relates to community issues (*lois votées à majorité spéciale*), offers more protection for the minority linguistic group than the amending formula of the constitution.

Two constitutional provisions deserve mention for their significance to political accommodation in multilingual (or multi-ethnic) societies and federalism in Belgium. The first provision is the ‘alarm-bell’ procedure designed further to protect French-speakers. This procedure allows a federal parliamentary linguistic group, if it can present a list with the signatures of three-quarters of its members, temporarily to stop a legislative initiative it fears



threatens its Community or endangers Community relations (Article 54). The legislative text is then sent back to the Cabinet (where there is linguistic parity) which can amend it, accept it as is (in this case it needs to show how the legislation would not have the negative consequences foreseen by the motion's backers), or simply resign. The alarm-bell procedure complements the legislative mechanism of 'special laws' and the principle of executive parity. It is also used in the bilingual Region of Brussels where it protects the Flemish minority.

The second provision gives Regions and Communities power in the area of international cooperation, including treaty-making power on matters falling within their respective jurisdictions (Article 167). The units must keep the federal government informed of their international activity; in fact, if the national Cabinet has any objections to a specific treaty, it can send the matter to a conciliation body made up of members from all governments (*la conférence interministérielle de la politique étrangère*) which gives a consensual decision either to stop the treaty or let it go ahead. If a consensus cannot be reached, the federal government can suspend the treaty-making process, although only if it clashes with Belgium's international obligations or involves foreign countries with which Belgium has bad or no diplomatic relations. Despite these control mechanisms, Belgium's constituent units have great power in international relations which can perhaps be seen as either pushing the federal logic to its ultimate conclusion, or as presaging a more decentralized, compartmentalized form of political organization.

Another important institution in this context is the "Concertation Committee," a multilateral body composed of the federal Prime Minister, five federal ministers, and six members of the federated governments (1980 *Ordinary Act of Institutional Reforms*, Article 31). This body is equally divided between French- and Dutch-speakers. Its role is to solve so-called "conflicts of

interest,” that is, actions by one order of government in the federation that can have an adverse impact on another order. It does not review the legality but the actual advisability (*opportunité*) of an executive or legislative measure. The potentially “injured” executive can refer the matter to the Committee, which freezes the proposed measure for up to 60 days while it attempts to find a compromise. Legislative assemblies can also, upon a vote of three-quarters of their members, submit the legislative bill of another assembly to the Concertation Committee. If no solution emerges within the 60 days, the challenged legislative measure can be adopted.

### *3 recent political dynamics*

The 2003 federal elections confirmed the trends set by the 1999 elections: the Liberal parties secured a majority of seats while the Christian parties were left out of the federal government for only the second time in nearly 40 years. The government is formed by a Liberal-Socialist coalition. The 2003 elections also saw a collapse of the Green parties and advances for the Flemish far-right nationalist party Vlaams Blok. There were changes in the party system for these elections: the Parti Social Chrétien has become the Centre Démocrate Humaniste; the Flemish Christian Democrats are now called Christelijk Democratisch en Vlaams (CD&V); the Francophone Liberals now operate within an umbrella organization called Mouvement réformateur; finally, the left-wing Flemish nationalist Volksunie has exploded and one of its fragments, Spirit, has joined with the Flemish Socialists which are themselves renamed Socialistische Partij Anders. The recent elections further confirmed a now well-established

convention of Belgian politics: despite the split of the traditional parties along linguistic lines, parties from the same ideological family are part of, or left out of, the federal government together.

The key issues facing Belgian federalism stem from the ‘community question.’ At the top of the agenda is social security. Belgium is a decentralized federation, but most social policy programs remain with the federal government. In Flanders, there is strong push for the ‘federalization’ of social policy. The rationale for this position is that the wealthier Flanders indirectly subsidizes the poorer Wallonia through social programs. Or, according to the rhetoric of Flemish nationalism, every Flemish family pays for a new car for every Walloon family every year! This discourse is indicative of the low level of inter-community solidarity in Belgium. For their part, Francophones resist any move towards the ‘splitting up’ of social security. There are many reasons for this position. At the most basic level, such a change would negatively affect the well-being of Walloons. Walloons also argue that they contributed to the development of Flanders in the late nineteenth and during the first half of the twentieth century as southern Belgium was the industrial powerhouse of the country, and that any money transfer from Flanders now is only a just return.

The Flemish push to federalize social security leaves Walloons especially bitter since many from the older generation have been left in ill-health from working in heavy industries and therefore need strong social programs. Finally, for Francophones (not only in Wallonia but also in Brussels), the federalization of social security means the end of Belgium since it would leave the federal government with virtually no meaningful powers. The success of Francophone parties in resisting the federalization of social security is far from guaranteed since they are in a position

of political weakness in Belgium. The most likely scenario is a gradual federalization of the many component programs of the social security system.

At this juncture in Belgian politics, the issue of social security is inseparable from the broader question of Belgium's political future. Flemish leaders view institutional reforms as just additional steps towards increased autonomy, the creation of a confederal model, or perhaps even the dissolution of the Belgian state into a new continental political order such as the "Europe of Regions." This vision is opposed by Francophones who tend to see each constitutional revision as the final one, and resist any further decentralization. However, in 2001, Francophone parties agreed to the 'federalization' of agriculture, foreign trade, parts of foreign aid as well local and provincial law in exchange for increased funding for the Communities. This newest package of constitutional reforms known as the Lambermont or Saint-Polycarpe Agreement also involved more fiscal autonomy for the Regions, and changes in the complex institutional structure of the Brussels Region designed to prevent the extremist Vlaams Blok from ever paralysing that political system (the so-called Lombard Accord).

A continuing controversy involves the 120,000 or so Francophones living in Flanders, close to the linguistic border or on the periphery of the Brussels Region. These French-speakers enjoy "linguistic facilities" – which means access to municipal services, a very important issue in Belgium because the municipality is often the point of contact between citizens and federal services – the exact status of which has already been at the centre of several other controversies. For Flemish parties, the facilities are temporary and transitional measures, and the ultimate fate of these Francophone populations is assimilation into the dominant Flemish culture. Francophone parties denounce this position and view linguistic facilities as permanent fixtures.

These polarized positions give the issue of the French-speaking minority in Flanders the potential to cause acute conflict in present-day Belgian politics.

Another source of tension in Belgium politics comes from the Vlaams Blok, a far-right Flemish nationalist party that opposes immigration and rejects the Belgian political framework. The Vlaams Blok is politically isolated from the other parties which generally refer to it as non-democratic or, in the case of Francophone parties, as fascist. The Vlaams Blok replies by arguing that the efforts of the traditional parties to silence its voice, in cahoots with the media and other social actors, demonstrates the lack of democracy in Belgium. Instead, it presents itself, in a typically populist fashion, as a champion of democracy that supports referendums, parliamentary reforms and the like. The Vlaams Blok favours the splitting up of social security but denies that this shows a lack of concern for Francophones; on the contrary, it argues, such a change would serve to make them more responsible which would prove helpful in the long run.

The Vlaams Blok's goal of creating an independent Flemish state is, however, an unlikely outcome for a number of reasons: (1) Brussels, with its large Francophone majority, would be too hard to swallow but impossible to forgo for historical and symbolic reasons; (2) secession would most likely be unwelcome by Belgium's European partners; (3) the Flemish fully control their regional institutions and can wield much power at the national level as a result of their numerical majority; and (4) attachment to Belgium, among both Flemish- and French-speakers, remains substantial, despite, or perhaps because of, the massive decentralization process engineered by its elites.

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### *Notes*

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