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**WHEN ASYMMETRY GETS CHALLENGED:
REGIONAL GOVERNMENTS' REACTIONS TO
ASYMMETRICAL EMPOWERMENT IN CANADA AND
SPAIN**

ANGUSTIAS MARÍA HOMBRADO MARTOS

Licenciada en Ciencias Políticas y de la Administración

Departamento de Ciencia Política y de la Administración

Facultad de Ciencias Políticas y Sociología

Universidad Nacional de Educación a Distancia

Director de la tesis: JOSÉ ANTONIO OLMEDA

Codirector: CÉSAR COLINO

DEPARTAMENTO DE CIENCIA POLÍTICA
Y DE LA ADMINISTRACIÓN
FACULTAD DE CIENCIAS POLÍTICAS Y SOCIOLOGÍA
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ANGUSTIAS M. HOMBRADO MARTOS

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DIRECTOR DE LA TESIS: JOSÉ ANTONIO OLMEDA (UNED)

CODIRECTOR: CÉSAR COLINO (UNED)

*Meinen Doktorvätern, für ihre
Unterstützung in allen Fragen der
Promotion und darüber hinaus.*

*To the person who did not want to be
singled out, for she is the one who truly
deserves it.*

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1. INTRODUCTION: REACTIONS TO ASYMMETRY AND REGIONAL GOVERNMENTS

1.1. EMPIRICAL PUZZLE, THEORETICAL DEBATES AND GAP IN THE LITERATURE

As the first decade of the 21st century came to a close, there has been a resurgence of secessionist movements and demands in multinational/plurinational countries that had seemingly succeeded in implementing some form and degree of asymmetrical autonomy in previous years. In Canada, for instance, the question of Quebec's independence remains far from settled despite the wide variety of asymmetrical mechanisms in place, and despite the fact that Quebecers have already voted twice against separating from the rest of Canada. Thus, after nearly ten years of federalist governments in Quebec, the issue was brought back onto the governmental agenda after the *Parti Quebecois* (PQ) regained power in 2012.

The quest for independence has also been a priority for the latest nationalist governments of Scotland and Catalonia, and it is gaining momentum in the *Veneto* region of Northern Italy, too. In the first case, the Scottish Nationalist Party (SNP) majority government which resulted from the 2011 regional elections held a referendum on independence in September 2014, in which close to 45 percent of Scottish people voted in favour of Scotland becoming an independent country. Around the same time, rising secessionist forces in Catalonia both at popular and elite levels galvanised into a pseudo-referendum

held in early November 2014. Formally organised by civil society organisations, this public consultation also enjoyed plenty of institutional support from the Catalan government. Afterwards, the traditionally moderate nationalist *Convergencia i Unio* (CiU) and the more radical *Esquerra Republicana de Catalunya* (ERC) agreed on a road-map towards a unilateral declaration of independence by 2017. Finally, the residents of Venice, influenced by the Scottish and Catalan experiences overwhelmingly backed the proposal to separate from Italy in an online petition held in March 2014 which, in turn, led to the foundation of the ‘*Veneto Si*’ party. As a softer version of the old-established ‘*Lega Nord*’, it has pledged to give the people the chance to vote on independence in a formal and binding referendum to be held in the near future.

Paradoxically, the revival of secessionist movements and their claims seem to have generated a declining and not an increasing willingness on the part of other regional governments to tolerate the granting of asymmetrical concessions as a way of accommodation strategy for those regions harbouring pro-independence impulses. Arguably, the traditional bad reputation of asymmetry within more quiescent regions intensifies when an explicit temporal and logical connection is made between asymmetry and secessionism, so that it becomes harder to digest that troublesome regions are rewarded and manage to extract some profit from the state by threatening to secede. Nonetheless and significantly for the purposes of this investigation, when analysed systematically and empirically the opposition to asymmetry is not circumscribed to periods of secessionist fever, nor is it voiced or acted upon with the same intensity by all relevant actors throughout the whole country.

In fact, great variation exists between asymmetrically decentralized countries and over time in their capacity to enact and implement asymmetry; some of them have also proven to be more or less prepared to accommodate minority demands for asymmetrical autonomy depending on the type of demand as well as on the region where such demands originate (McGarry 2005). As an illustration of these differences, France has been relatively hostile towards asymmetry; in contrast, the scheme of asymmetrical devolution has remained largely stable in the United Kingdom, while the process of narrowing the

distance between ordinary regions and special-status ones in Italy was delayed for several decades since the approval of the constitution. The position of Spain as regard asymmetry can be best described as ambivalent in light of the evolution of its process of decentralisation: The original asymmetrical framework in favour of Catalonia, the Basque Country and Galicia was soon overturned by resymmetrising trends that came somehow to dominate the process afterwards (Pradera 1993; Corcuera 1994; Moreno 1997; Maiz 1999; Aja 2003; Blanco Valdés 2005). Finally, Canada has been largely reluctant to write down in the constitution any enhanced powers for Quebec or its recognition as a distinct society, but it has been far more flexible when dealing with other forms of non-constitutional asymmetry (Caron & Larofest 2009; Lecours 2004).

Non-uniform responses to asymmetry can also be found from region to region within a single country. Thus, for instance, the more extensive self-government granted to Scotland in the late 1990s as compared to Wales seems to have triggered some inter-regional resentment between the two of them, but English regions have not engaged in a similar race for autonomy despite some signs that made some authors fear such an outcome (Giordano & Roller 2004; Hazell 2004). The reform of the Statute of autonomy of Catalonia in 2006 was followed by similar processes of reform in other regions as well as complaints tabled by other regional governments before the Spanish Constitutional Court; yet, a third group of Spanish regions pursued neither strategy¹. It seems, therefore, that under-empowered regions can be affected differently by asymmetry, so that their responses have differed accordingly. But how much difference does actually exist in reactions to asymmetry? Are there any substantive differences in reactions to asymmetry? Why do some regions seem to be more accommodative than others? Since studies of asymmetrical federalism and decentralisation have largely focused on the broad picture of the system, little

¹ In the light of these developments, Tudela (2010) has concluded that resymmetrisation is not as widespread as it was initially thought of.

attention has been paid to these questions which remain unaddressed and unanswered in the literature.

For many years, academics and policy makers alike have been preoccupied with whether or not secessionist demands can be controlled, managed and accommodated by deepening federalism or through asymmetrical self-empowerment². Yet, episodes such as those presented in the previous paragraphs unveil an enduring research problem, namely, we have very limited knowledge about the real impact and implications of asymmetry for countries where it has been established, or the actual inter-territorial and intergovernmental dynamics that unfold around the issue of asymmetry. Besides, the somehow conflicting judgements offered by scholars and politicians on the matter have only served to stress this research problem.

In broad terms, asymmetry has been approached from an optimal design perspective or as part of a general description of the means employed by different countries to accommodate the claims of minority nations within their institutional and political framework. Attempts have also been made to explain demands for asymmetry through models that privilege socio-cultural and historic factors, which have in turn led to rather deterministic arguments about the necessary congruence between society and state. But other key issues about the role of asymmetry either contributing to sustain the stimulus for unity in the face of the pressures of separatism, or instead undermining internal harmony and effectiveness have received little attention outside political theory³.

In this connection, advocates of asymmetry have portrayed it as an accommodating solution in plurinational settings, likely to satisfy minority nations by granting them special status and/or enhanced powers while holding

² See, for example, Brancati (2006; 2009).

³ This is, in fact, the dominant approach in the literature on asymmetrical federalism, as revealed by a look at works by some of the leading scholars (Gagnon 2001; 2010; Kymlicka 1998; Requejo 2001; 2005).

the country together (Burgess & Gress 1999; Fossas & Requejo 1999; Keating 1998; 2004; McGarry 2005; 2007; Stepan 1999). Yet, far from being a panacea or something without risks, asymmetrical empowerment may turn into a deferring illusion that minority nations could use as a laboratory where to get familiar with the resources of power and its exercise and ready for the eventual foundation of their own separate state in the future (Cox & Frakland 1995; Hale 2004; Lapidus 1999; Walker 2003). Other authors have also noted that the conferral of asymmetrical powers is often followed by resymmetrising dynamics and trends, which create a characteristically unstable institutional framework (Giordano & Roller 2004; Hazell 2004; Lecours 2004; Moreno 2001; Watts 1999). In their view, and as a result, the destabilising effects of asymmetry exist even before (and regardless of) the actual materialisation of its disintegration potentials and they have to do, first and above all, with the fact that asymmetry is prone to highlight inter-regional comparisons and rivalries, to encourage competitive and confrontational relations among territories and to trigger an escalation of demands for self-government from both specially empowered and the rest of regions (Wolff 2010; Zuber 2010).

A first step towards resolving this apparent contradiction in the literature consists of acknowledging that supporters and detractors tend to apply different criteria and measures to determine the virtues and vices of asymmetry. Specifically, asymmetry has been generally recommended on normative grounds and, by definition, normatively-driven assessments prioritise moral values –such as justice- over aspects of institutional stability; the latter being germane to practically-oriented research. As for most empirical studies dealing with the effects of asymmetry, their main weakness lies in being primarily descriptive. As a consequence, they have neglected the quest for proper casual relations, deriving at best incomplete and ambivalent conclusions from the very presence or absence of asymmetry in different contexts. In fact, however, we can only be certain that granting special powers to a territory at a given moment in time cannot be properly regarded as the (exclusive or main) cause of either the (permanent or temporary) survival of the state or its break-up later on (Martínez-Vázquez 2002; Watts 2004).

A more analytically-oriented perspective has recently emerged that tries to explain ‘asymmetrisation’ and ‘resymmetrising’ dynamics using a process-tracing approach to account for the pendulum-like evolution of systems swinging from asymmetry to symmetry (Lecours 2004, Moreno 2001), or an actor-centred approach to model relations between actors representing both the central government and the regional ones as a set of nested games (Congleton 2014; Congleton et al 2003; Mitin 2003; Zuber 2010). Yet, by focusing on the general evolution and development of the system this approach has somewhat overlooked that opposition to asymmetry and pressures for more symmetry do not always take place –at least not in the same form and with the same strength– everywhere. Ultimately, this approach has led to rather circular and only partially satisfactory arguments about counter-asymmetry tendencies being inherent to asymmetry. And these can only account for cases featuring actual resymmetrisation, but not for others cases when such processes have not occurred. Besides, the lack of a fluid dialogue between conceptual and typological exercises on the one hand, and works on the consequences of asymmetry on the other, has brought additional limitations, as it has favoured analyses and sweeping and undue generalizations on asymmetry as a whole rather than about particular kinds and degrees of asymmetry.

Looking at state-wide and long-term processes that form the ‘bigger picture’ of asymmetry does not exhaust all the relevant dimensions, debates and questions that revolve around asymmetry. In particular, it contributes very little to our knowledge and understanding of immediate reactions to individual episodes of asymmetry, the specific context where counter-asymmetry reactions materialise and how the ‘black-box’ of inter-regional dynamics and relations really operates under conditions of asymmetrical empowerment. Arguably, digging deep inside the black–box of asymmetry and exploring under-empowered regions’ reactions to it is an important task in itself. Even more, the full and proper comprehension of the systemic picture of asymmetry partly rests on these context-specific and episodic reactions, while advocacy arguments remain somehow hollow unless questions about the feasibility and practicability of asymmetry had previously been answered. Indeed, the underestimated role of

under-empowered regions in enabling and preventing asymmetry has hindered much progress and development of the literature on asymmetrical federalism and devolution which remains at a very rudimentary stage, especially if compared to other areas of comparative federalism such as fiscal federalism or intergovernmental relations, thus hindering sound policy or institutional design recommendations for the accommodation of groups or territories within multilevel polities.

The feasibility of asymmetry and its long-term survival does not depend exclusively on the satisfaction it provides to the minority nations demanding asymmetry, but more generally on the acquiescence of all parts involved, which makes such arrangements very fragile and quite vulnerable to be reversed. From this perspective, under-empowered regions constitute key elements in the machinery of the system, often acting as veto players in the process of enacting and implementing asymmetry or at least being able to persuade the central government to make decisions in either direction. This being the case, it is mystifying and regrettable how little attention scholars have devoted to these regions and the way they react to asymmetric arrangements (see Hombrado 2011).

In this thesis, I contend that in studying federal dynamics and asymmetric decentralization, under-empowered regions should be brought into the picture and not be kept relegated as minor players any longer and that their reactions need to be upgraded from the current consideration as un consequential anecdotes to serious phenomena worth of thorough scientific research. A theoretically and empirically grounded investigation of reactions to asymmetry, as I propose here, should help us to appreciate and comprehend the existence of puzzling variations in these reactions which should, in turn, inform our predictive understanding of the capacity of individual regions -and the system more broadly- to digest or tolerate asymmetry. This requires that we rethink our approach to the study of asymmetry; a task that I undertake in the following.

1.2. A NEW APPROACH TO THE INVESTIGATION OF ASYMMETRICAL EMPOWERMENT AND DYNAMICS

The scholarship on asymmetry to date has developed from the perspective of – and with a focus on- minority nations⁴. The framework that has emerged is thus conceptually and analytically fit to examine the position and role of these political entities regarding the establishment of asymmetry; but it remains ill-equipped to recognise and account for the involvement of other regions in such process. In order to shed some light on the matter of reactions to asymmetry, it is necessary to step out of the mainstream literature to recognise and make some adjustments in the assumptions on which it is anchored. In the first two subsections I challenge two such premises, from where I move on to discuss how to build a more suitable framework for the analysis of reactions to asymmetry.

1.2.1. First turn of the screw: From ‘need’ to ‘toleration’⁵ of asymmetry

The accommodation capacity of asymmetrical empowerment stands in the intersection between two dimensions or planes of analysis that I refer to as (1) necessity of asymmetry and (2) toleration towards it. The first dimension has to do with the degree and type of asymmetry minority nations deem necessary to fulfil their demands of territorial autonomy and recognition; the intended consequences of asymmetry; and the arguments in favour of using it with accommodative purposes. The second one pertains to issues related to the predisposition and adaptability of the system (and its various component units)

⁴ Also referred to as “internal nations” (Gagnon et al 2003) or “stateless nations” (Keating 1997; 1999).

⁵ The choice of this term rather than the most commonly used ‘tolerance’ follows Murphy (1997)’s recommendation that the latter is applied to the subjective dimension of attitudes of acceptance of something we might not agree entirely with, while the first one is used to refer to actual practices and actions through which such acceptance is reflected.

to adopt asymmetry; and the real possibilities and limitations of implementing it and realising its purported goals.

Despite the objective relevance of both dimensions, priority has been given to research interests, debates and questions mostly linked to the dimension of necessity over, and at the expense of, the dimension of toleration. This is partly due to the basic premises on which the literature was grounded, namely, the legitimacy of concerns and demands raised by territorially concentrated groups unless proven otherwise; the superior value of the principle of territorial integrity of the state; and the convenience of giving satisfaction to the above ‘morality-based demands’⁶ through instruments of internal self-government rather than secession. As a result, reactions to and dynamics against asymmetry have at best received very limited academic attention, and only insofar as they were part of an account of the more or less successful enactment and application of asymmetry in a given country. But they have not been considered as a subject of investigation relevant by itself. In fact, from a necessity-driven approach to asymmetry, both the acceptance of asymmetry and the absence of resymmetrisation are self-explained in terms of the functions asymmetry allegedly performs; in the opposite scenario, on the other hand, sufficed it to identify expressions of hostility towards asymmetry or the presence of resymmetrisation trends, but their explanation was deemed superfluous.

This study represents a departure from the mainstream literature that seeks to expose how the underlying and almost-umbilical connection between the necessity of asymmetry and the accommodation of diversity has shaped the focus of researchers and circumscribed their works within a narrow set of questions. I do not mean to deny the efforts and some merit of research conducted to date neither I propose that the current approach based on the necessity of asymmetry is replaced altogether by a new approach based on toleration. However, I openly reject the more or less deliberate confusion

⁶ As they have been defined by M. Burgess (2000).

between the actual causes of a given outcome and the moral reasons underlying and justifying it that is often found in studies of asymmetrical federalism.

I put forward a measured argument that both perspectives have to be treated as complementary ones, for the full picture of asymmetry can only be obtained by combining them. Furthermore, I advocate that it is possible to conduct a purely empirical analysis, detached from principled considerations. Thus, regardless of the reasons why asymmetrical empowerment (in its various forms and degrees) deserves being tolerated or rejected, what matters from a practical point of view is identifying actors with real capacity to authorise or prevent symmetry and the conditions -of a material, political and institutional nature- that lead them to make authoritative decisions in either direction.

1.2.2. Second turn of the screw: From majority vs. minority nations to Most-Empowered (MER) vs. Less- or Non-Empowered Regions (LER/NER)

Determining the subjects whose reactions constitute the focus of this investigation has direct implications for another basic foundation of the mainstream literature on asymmetrical federalism that I refer to as ‘the two-nation paradigm’. Arguably, most scholars have examined and interpreted asymmetry as a bilateral relationship between the majority and minority nations which, in turn, has served to feed and reinforce an oversimplifying and perverse image of the former as (1) internally homogeneous and (2) naturally leaned towards unitarism and centralisation. Embedded in this perspective is also the idea that the central or state-wide government is a simple reflection of the alleged majority which it represents to the exclusion and detriment of the minority⁷.

⁷ Thus, for example, Iacovino (2010) makes reference to two actors and their divergent interests in the process of implementing asymmetry: state nationalists -who seek to maintain sovereignty and territorial integrity- and the self-determination movement - aspiring at gaining greater control over the destiny of the group it represents. Discussions in similar bi-national terms are also apparent in Gagnon (2000); Gagnon & Tully (2001);

Closely linked to this majority-minority dichotomy is Kymlicka (1998)'s very influential classification of substate entities as either 'nationality-based' units (NBU) or 'regional-based' ones (RBU)⁸. The first category corresponds to a territory part of the larger multinational state inhabited by a group featuring a distinctive national identity, which is thus likely to seek recognition and greater powers from the centre. In contrast, the second category refers to what are seen as mere geographical divisions of the numerically dominant community within the country. In practice, however, such a conceptual divide into two exclusive and watertight groups does not generally sit comfortably with an increasingly complex and interconnected reality where boundaries between national identities are blurring away. Widespread feelings of dual identity among citizens of multinational democracies confirm this point (Henderson 2007; Henderson et al 2014; Keating 2004; Moreno 2001) and raise doubts, I argue, about the usefulness of somehow shoehorning the status of belonging and membership into either the majority or the minority nation.

The NBU-RBU typology gets still more problematic when it comes to studying asymmetry and regional governments' reactions to it for, at least, two reasons: First of all, asymmetrical or uneven self-empowerment does not only occur between NBU and RBU, but it can also take place between two NBU -as it is the case of Scotland and Wales- or within the set of RUBs. Secondly, by clustering all RBU under the majority nation the literature has diluted their specificities and taken for granted that there is a basic commonality of interests and strategies among them whereas, in fact, variation exists both in the attachment of different RBU to the shared national and political community as well as in other structural or political-institutional features that may in turn

Keating (2001); McGarry (2005; 2007); McGibbon (2004) or Requejo (2005), just to mention a few works.

⁸ This has been used, among others, by Baubock (2002); Colino & Moreno (2010); Millard (2008); Telford (2005); Tillin (2007) and (2013); and Zuber (2010).

create divergence of interests and strategies as well as different reactions to asymmetry.

In line with Boismenu (1991), I contend that under certain circumstances and for certain purposes, issues related to minority nations need to be placed within the broader context of regionalism. More specifically, and for the purposes of analysing reactions to asymmetry, it seems more appropriate to use the actual scope of authority granted to the component units of a federal or politically decentralised state vis-à-vis one another as classificatory criterion to distinguish between more-empowered region (hereafter MER) and less- or non-empowered region (hereafter LER/NER), as I have already proposed elsewhere (Hombrado 2011).

In most countries where asymmetry has been implemented it could be easily identified one region (or a very small number of them) provided with the highest level of autonomy that, precisely for this very reason, tends to be treated as the benchmark against which all other regions measure their own autonomy. Yet, the concepts of MER and LER/NER proposed here are neither absolute nor permanent. On the contrary, the consideration of two given regions respectively as MER and LER/NER depends on their actual position of over-empowerment and under-empowerment relative to each other. Therefore, it may be the case that the region which in practice enjoys the greatest powers is also defined as MER within this conceptual framework for the analysis of likely reactions to asymmetry; but this is not a theoretical requirement. Moreover, we should allow for the possibility that regions may exchange their under-empowered or over-empowered position vis-à-vis each other over time.

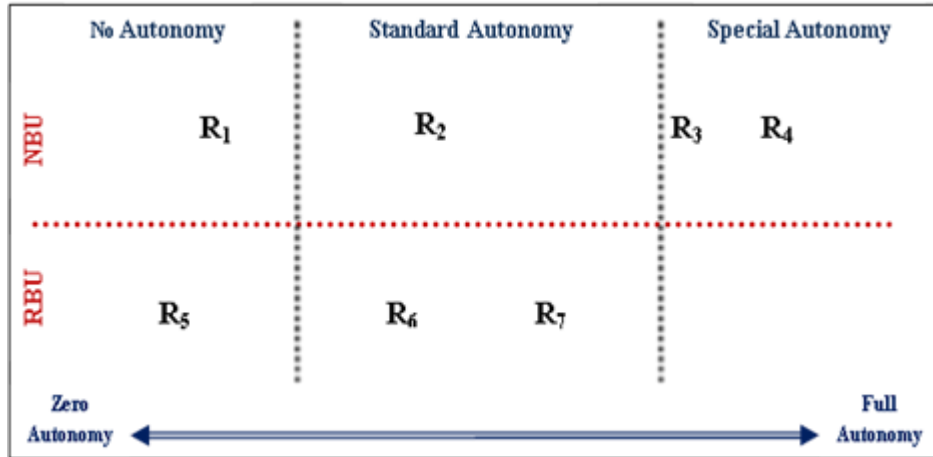
Supposing a continuum from zero to full autonomy, all sub-state units could occupy approximately the same position (symmetrical autonomy) or they could

be more or less scattered between the two ends (asymmetrical autonomy)⁹. Among all possible asymmetrical scenarios, the empirical evidence offers some instances where a mostly non-devolved country contains one or several specially empowered region(s) (such as the UK). Other states include several special regions and some average autonomy regions (such as Canada, Italy or Spain). It is also theoretically feasible some mixture of special region(s) plus average autonomy region(s) plus non-devolved territory(ies)¹⁰.

Figure 1 shows a hypothetical multinational state made of ten regions, as they are distributed according to two criteria: (1) their condition as either minority nation or part of the majority nation (in the vertical axis); and (2) their level of autonomy (in the horizontal axis). As illustrated above, R₃ and R₄ are over-empowered compared to all remaining regions; but R₃ is also in a position of under-empowerment relative to R₄. Moreover, R₇ appears slightly over-empowered in comparison to R₂, in spite of the fact that the latter region falls under Kymlicka's NBU definition. Therefore, no necessary correlation exists between both aspects. Taking this into account, the actual level of autonomy seems to provide a more objective and straightforward classificatory criterion for the analysis of reactions to asymmetry, against the highly sensitive and often contested issue about which regions deserve the title of NBU or RBU. Besides, by adopting the MER versus LER/NER distinction, we do not prejudge or take for granted the explanatory value of national identity, but we are better placed to empirically test its influence on reactions to asymmetry against other factors.

⁹ This refers to what can be considered 'horizontal asymmetry'. On the other hand, the degree of centralization or decentralization, measuring the difference in powers between the state and sub-state levels of government could also be defined as 'vertical asymmetry'. This vertical asymmetry is not, strictly speaking, the target of analysis.

¹⁰ Nagel and Requejo call "*double asymmetry*" to this difference in levels of autonomy between territories granted self-government and relative to the rest of the country devoid of it (2010: 255).

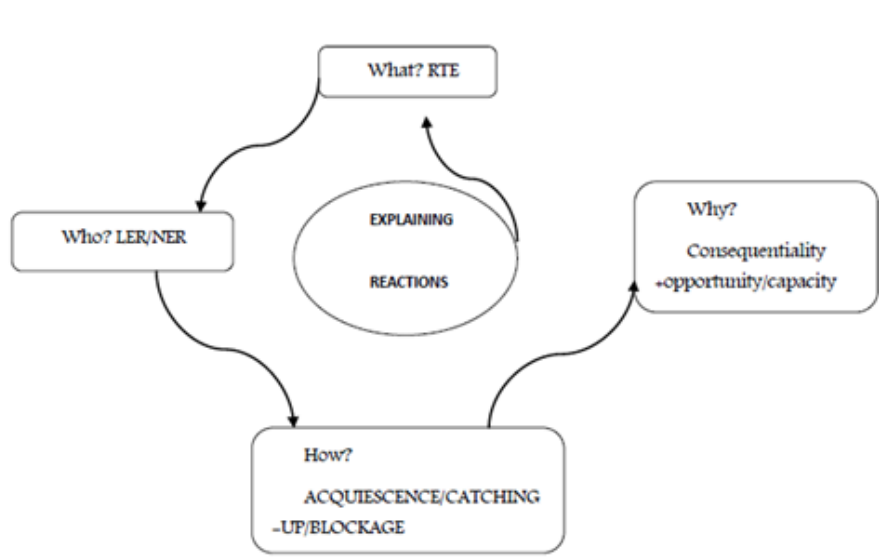


1.3. OBJECTIVES AND RESEARCH QUESTIONS

As it has been previously noted, regional governments' reactions to asymmetrical autonomy constitute an under-theorised area that has not been sufficiently investigated at empirical level either. The current investigation takes the first steps towards filling this gap in the literature. In order to provide more knowledge and better understanding of this phenomenon, I set out to conduct an exploratory research that delves into the existence of reactions to asymmetry, their nature, contents and causes. Specifically, I pursue a fourfold objective which serves to inform the empirical research questions as outlined next.

At the theoretical level, this thesis aspires, first of all, to developing a conceptual framework able to encompass all forms of reactions to asymmetry on the side of under-empowered regions. Secondly, it undertakes to build an explanatory model including a set of relevant hypotheses about the occurrence of various forms of reactions. As for the empirical dimension of the work, it combines descriptive and analytical facets. Specifically, the third objective involves identifying episodes where asymmetrical empowerment in favour of a MER has been at stake, as well as detailing how several LER/NER have responded to the selected reaction-triggering episodes (henceforth referred to as RTE). Such a description is used to illustrate the practical application of the conceptual typology and to assess its usefulness. Finally, the thesis tries to account for the observed reactions and more broadly to test the explanatory capacity of each causal condition and the overall explanatory model.

As represented in the Figure 2, these goals need to be addressed successively, for questions related to the causes of reactions cannot be answered satisfactorily unless we have identified three elements first: (1) some reaction-triggering episodes; (2) the under-empowered regions whose reactions are to be explained; and (3) the actual contents of these regions' responses to the above RTE.



Taking into account the objectives just set out, the main research question guiding this work can be formulated as follows: Under what conditions do LER/NER governments pursue various types of reactions against asymmetrical empowerment in favour of the MER? This question can be broken down into a number of more specific empirical questions:

How do LER/NER governments react to asymmetry? And, are there any discernible patterns of variation in reactions to asymmetry depending on the type of asymmetry at stake and/or the region reacting to it?

How can different types of reactions and different patterns of reactions be accounted for? More specifically, the thesis enquires into some potential causal conditions:

Which influence do asymmetry-specific features themselves have on the observed reactions to asymmetry?

How do socio-economic conditions affect reactions to asymmetry?

Which is the relationship between political-institutional conditions and reactions to asymmetry?

By moving away from absolute yes-or-no questions and enquiring instead about the context and conditions under which asymmetrical empowerment is more likely to be accepted or rejected I aspire to reach a more nuanced understanding of the factors influencing the perception and treatment of asymmetrical empowerment by under-empowered regions as being more or less tolerable. Whereas the eventual findings of this analysis cannot be fully extrapolated to draw general conclusions about all other cases or to predict reactions to asymmetry in the future, they could still be used to elaborate more informed propositions or “bounded” generalizations about the feasibility of asymmetry and the role LER/NER play in shaping the territorial dynamics and allocation of powers within a multilevel system.

1.4. RESEARCH STRATEGY

This section offers a general overview of the research design and methodology. And it tries to establish their appropriateness by reference to the analytical framework (ch. 3) and the primary orientation of this thesis towards theory development on the matter of the dynamics of federal and/or decentralised systems and specifically the reactions to asymmetrical arrangements. Arguably, this endeavour is best served by case-based research and carried out through focused and structured comparisons (Eckstein 1975; George and Bennett 2008; George & McKeown 1985). I have opted for a medium-N research design of a limited (but quite substantial) number of cases in the hope that it will offer a balance between in-depth and detailed within-case observations and the needed contextualisation to uncover the causal mechanisms underlying reactions of asymmetry.

Closer to a case-oriented than a variable-oriented research design, this approach allows for less parsimonious explanations than statistical analyses; but the loss in parsimony is compensated with the gain in a more fine-tuned linkage between the theory and the complex reality on the ground. This investigation

stands away from testing deductive hypotheses as well as from simply a historic and contextual description of the cases. Instead, it undertakes to generate, through a comparative design and an appropriate case selection, data that are then interpreted by means of the mechanisms proposed within the analytical model. Although inductively-driven results suffer from some limitations, inductive methods seem more able to recognise unexpected dynamics and diverse causal effects.

The fact that this constitutes a first theoretical and empirical approximation to the phenomenon of reactions to asymmetry as a research object in itself recommends using some combination of a case-sensitive approach -in order to gain a good knowledge of the specificities of each case cases- with the comparative perspective –because of the theoretical and methodological discipline it imposes by requiring that some dimensions of comparison are established, that similarities and differences within these comparative dimensions are identified and calibrated and that an attempt is made to explain the observed similarities and differences along the lines of some proposed hypotheses (George & Bennet 2005).

As a first approximation, the case studies are mainly used as ‘plausibility probe’ (Eckstein 1975; George 1979), in the sense that they serve to assess the pertinence and usefulness of the theoretical concepts in the way they have been operationalised as well as the strengths and weaknesses of the proposed causal relations both to structure the description of reactions to asymmetry and their interpretation. Ultimately, this exploratory exercise should guide further empirical analysis to test the hypotheses or to guide our efforts towards further conceptual and theoretical refinement. I fully acknowledge the limitations of this approach and that the conclusions of this thesis are tentative and the argument will need to be tested and refined further. As a step in this direction, I offer in the final chapter some qualifications of the central argument in light of the empirical analysis conducted and I assess briefly the applicability to additional cases.

In what follows, more specific details are provided about the selection of cases, methods and sources.

1.4.1. Staged case selection

Ragin rightly noticed that usually “cases are not predetermined, nor are they given at the outset of an investigation. Instead, they often coalesce in the course of the research through a systematic dialogue between ideas and evidence” (2000: 58). Therefore, the process of case selection requires, first of all, answering the question ‘what are my cases cases of?’ My interest has gradually shifted from the evolution of systems initially displaying asymmetrical empowerments among their component units to the role of under-empowered regions when faced with actual or prospective asymmetry. This has led me to reconsider both the cases –that I have ultimately defined as LER/NER governments’ reactions to asymmetry- and the relevant unit of analysis -that now corresponds to the sub-state or regional level of government¹¹.

My selection strategy is based on the principles of the co-called “sub-national comparative method” (Snyder: 2001). Political scientists in general, and those dealing with decentralisation and federalism more in particular, increasingly rely on comparisons across subnational political units due to the advantages they offer in order to strengthen the comparative research design (Tillin 2013). But here, subnational comparisons are a necessity rather than just a matter of choice, for it is at regional level where the outcomes I try to explain and the processes entailed in the proposed hypotheses take place. In particular, I have opted for a combination of across-country and within-country comparisons of a set of

¹¹ Needless to say that, although region can be used to describe a piece of land larger than most states, the word serves here to refer to a bounded area on the spatial scale between the state and the local community, possessing some sort of unity or political-administrative structure. In practice, regions –whose reactions are object of this research– correspond to the component units of a federal or politically devolved state which receive various names in their respective countries: autonomous community or region (in Spain or Italy); provinces (in Canada or Argentina); states (in Brazil or India); or Länder (in Germany), just to mention a few examples.

reactions to asymmetry carried out by four LER/NERs from two different countries.

In my view, using several regional units from within the same country makes it easier to construct controlled comparisons and it is in line with my theoretical contention that we need to reverse the low sensitivity to internal heterogeneity of the misnamed majority nation found in the literature on asymmetrical federalism. At the same time, bringing into the analysis two state systems facilitates making valid causal inferences. In order to arrive at the final cases of LER/NERs' reactions to asymmetry, I have carried out a multi-phased selection which involves three essential choices: (1) countries, (2) regions and (3) reaction-triggering episodes. In what follows, I justify my choices at these three levels.

a. First selection: Canada and Spain

The first step towards the selection of cases is to identify two countries within all multinational (federal or politically devolved) states¹² displaying some form of *de iure* asymmetry. According to this criterion, the number of provisionally eligible states for the empirical research is rather limited. In fact, McGarry's catalogue of countries that featured some kind of asymmetrical arrangements at any point during the 20th century (2005: 3) combined with Watts' list of current fully-fledged asymmetrical federations (2008: 128) form a small universe of approximately twenty states¹³.

¹² The thesis follows Burgess & Pinder (2007)'s definition of multinational federations as those states where the boundaries of the constituent units are usually drawn in such a way that at least some of them are controlled by national or ethnic minorities and whose principal purpose is to accommodate, manage and resolve conflicts that emerge from competing national visions within established states.

¹³ Namely, Belgium, Bosnia-Herzegovina, Canada, Comoros, Denmark, Ethiopia, Finland, France, India, Indonesia, Iraq, Italy, Lithuania, Malaysia, Moldova, Nicaragua, Papua New Guinea, the Philippines, Poland, Russia, Spain, Sudan, St. Kitts and Nevis, Sweden, Tanzania, Ukraine, the United Kingdom and Yugoslavia.

In order to narrow them down to just two crucial countries¹⁴, theoretical and practical aspects have been taken into account. In this sense, I excluded micro-federations and states with dubious democratic credentials, because dynamics could be more specifically associated to either the short number of constituent units –two to four- in the first case, or to some undemocratic features and processes in the second one. Countries whose experience with asymmetrical arrangements is very old and over, where asymmetry is primarily linked to the insular character of one territory or where asymmetry does not occupy a salient place in public and political debates have also been discarded. More practical considerations such as linguistic barriers and difficulties to access and gather information as well as the scarcity of scientific literature or unreliability of sources recommended further exclusions. I was thus left with four strong candidates, namely Belgium, Canada, Spain and the United Kingdom. I decided against the Belgian case due to its complex combination of territorial units and linguistic communities that could complicate unnecessarily the analysis of asymmetry and against the British one because of its recent experience with asymmetrical devolution, which makes it more suitable for later investigations. In the end, Canada and Spain stood as the most sensible options; two powerful reasons exist to back both of my choices:

First of all, Canada and Spain are among the main empirical referents of multinational states (Anderson 2013; Burgess & Pinder 2007; Gagnon et al 2003; Keating 1996; 1997; Torrecillas 2000; Ventura 2004). Territorial and linguistic cleavages have long featured in Canadian and Spanish domestic politics, where episodes of asymmetry-symmetry tensions can be easily found in their more recent political history. Not by coincidence, academic discussions on the issue have emerged and developed largely around these cases; and studies abound within the literatures on multinationalism, ethnonationalism and asymmetrical federalism focused on either case or on a comparison between them (Agranoff ed. 1999; Conversi 2007; Lecours 2004; McGarry 2007; Watts

¹⁴ For a discussion of the appropriate techniques to choose them see Gerring (2007) and Seawright & Gerring (2008).

1999). Working on well-known and well-documented systems entails clear advantages in order to gain strong empirical grounds and familiarity with the cases, whereas the new approach prevents a redundant research.

Secondly, after more than three decades of extensive and intensive federalisation and decentralisation in Spain, the debate remains open on the nature of the Spanish territorial structure and whether Spain deserves to be included within the group of federal states. Contrary to many comparativists in the field, concerned with constitutional labels and the formal territorial structure of the states, this comparative project vindicates that formal aspects have a rather limited influence on the actual dynamics and functioning of the systems, especially when it comes to analysing interregional dynamics that take place around the issue of asymmetry. It seemed thus appropriate to select the countries irrespectively of the formal definition of their territorial structure; even more, by bringing the Canadian long-established federation and the alleged Spanish ‘federation in the making’ under the same analytical framework, it allows to overcome perennial -though often unfruitful- nominal debates. This serves to put forward the argument that the formal structure of the state, relevant in the field of constitutional law, might be less so for the study of politics and should not prevent, anyway, comparative analyses.

b. Second selection: Alberta, Ontario, Andalusia and Valencia

The selection of LER/NERs rests on having previously identified one over-empowered region in each country. In the case of Canada, Quebec stands as the most appropriate choice of MER, if not the only possible one, because asymmetry has been largely associated there -both at theoretical level and political practice- with the need to accommodate the Francophone province of Quebec¹⁵ within a predominantly Anglophone country. In fact, the standard

¹⁵ This is not to deny that provinces other than Quebec have also benefited from some asymmetrical arrangements such as the over-representation of Prince Edward Island in the House of Commons. For a wide selection of examples of asymmetry at constitutional and policy levels see Milne (2005).

narrative of Canadian political history typically emphasises the role the existence of French Canada played in the origins and evolution of Canadian federalism (Cook 1971; Laselva 2004; Ormsby 1969; Riendeau 2007; Simeon & Robinson 2004). First of all, the partition of the United Province of Canada into Ontario and Quebec and the creation of a federal state provided for by the British North America Act (BNA)¹⁶ is generally interpreted as a way to recognise that the French-speaking minority concentrated in Quebec constituted one of the two (non-Aboriginal) founding nations¹⁷. Moreover, examples of what may be described as ‘proto-asymmetry’ institutions favouring Quebec can be traced back to the 19th century¹⁸ whereas Quebec’s struggle to protect its distinct identity and institutions has continued well into contemporary times, leading to a variety of constitutional and extra-constitutional asymmetrical arrangements more recently.

As for Spain, the Basque Country and Catalonia appeared to be the clear contenders to be taken as MER. Many historical accounts have stressed strong historical identities and the tradition of self-government in both regions, as well as their efforts during the 19th and 20th centuries to preserve their cultural/linguistic distinctiveness and to resist centralising and homogenising

¹⁶ Passed by the British Parliament in 1867, the BNA was renamed as ‘Constitution Act 1867’ in 1982 and it currently forms the main written part of the Canadian Constitution.

¹⁷ This, in turn, was to ensure that French Canadians could manage their affairs and institutions acting as a majority within their own province (Chevrier 1996: 6; Cook 1988: 55; Gagnon 2000: 281; Rocher 2009: 100; Tully 1994: 171).

¹⁸ For instance, the BNA Act entrenched the distinct character of Quebec Civil Law System (Section 94) and it made Quebec, alone among the original provinces, officially bilingual (Section 133) (O’Neal 1995: 2; Tully 1994: 170-71). Earlier precedents of this proto-asymmetry yet applied at personal level are also found in the Quebec Act (1774) and the Royal Proclamation Act (1763) that allowed French-speaking inhabitants to use a no anti-Catholic Oath and French civil law, whereas English common law was enforced onto new settlers.

attempts by the Spanish national majority (Conversi 1997; Guibernau 2000; Gagnon 2010; Moreno 2001; 2007). Being the homeland of the most assertive sub-state nationalist movements, Catalonia and the Basque Country have worked as main drivers of the process of territorial decentralisation in Spain, which in turn have brought them the highest autonomy levels¹⁹. Additionally, the latter enjoys a very favourable financial regime and broader taxing powers than Catalonia. On the other hand, however, only the Basque Country has posed and endured a serious problem with political violence and terrorism which, arguably, could affect the way other regions perceive the powers granted to it and how they relate to it. Based on this, Catalonia has been chosen over the Basque Country, so to avoid unnecessarily complicating, or even distorting, the analysis.

With Quebec and Catalonia as MERs, I was left with nine Canadian provinces and fifteen Spanish regions from where to make the selection of LER/NERs²⁰. In the process, I sought to guarantee some variance among the regions regarding some structural features that are part of the explanatory framework (as it will be developed in chapter 3). In this connection, it could be said that the selection of the units of analysis -not the actual cases- has been made on the independent

¹⁹ Although Galicia is considered the third of the so-called ‘historical nationalities’, it was immediately excluded as a weaker case of MER due to its lower assertiveness when compared to either Catalonia or the Basque Country. Very rarely has Galicia led the quest for regional autonomy, to that it seems less likely that other regions will look at Galicia as a benchmark.

²⁰ The Canadian federation is made of ten provinces plus three additional territories: Northwest Territories, Yukon and Nunavut. The territories were excluded straight away due to their lower relevance for inter-territorial dynamics within Canada and accordingly, for the ongoing investigation. Spain is formed by seventeen regions and two cities in the North of Africa -Melilla and Ceuta. The exclusion of the cities was based on similar grounds to those that justified the exclusion of the Canadian territories, whereas the high degree of Basque self-government makes it hard of the Basque Country to be considered as a LER/NER with reference to any other Spanish region.

variable; but only to a certain extent, for these criteria have been applied with some flexibility, not in a rigid manner. At the same time, considering the very exploratory nature of the research and the definition of the cases as LER/NERs' reactions rather than regions themselves, there seems to be not a best choice, so I have also taken into account the weight of the regions within their respective countries, and some variation in their position and relation with the MER. Alberta and Ontario are the chosen LER/NERs in Canada and Andalusia and Valencia in Spain.

The historical process of development of Canada has placed Ontario and Quebec at the core of Canadian politics, favouring the creation and strengthening of ties between them; on the contrary, Alberta has largely remained both geographically and politically an outsider. In Spain, Valencia offers a clear proximity with Catalonia from a cultural and linguistic point of view, which has not always translated into similarity of interests or smooth political relations; Andalusia is very far from the above in cultural, economic and political terms while it has played the key role as bastion of the resymmetrising demands. Seen as a whole, the four LER/NERs include cases with strong and weak regional identities; with strong and weak economic position within their respective countries and vis-à-vis the MER; and with various central or peripheral positions.

c. Third selection. RTEs

The third stage in the case selection procedure corresponds to the final identification of reaction triggering episodes. These RTEs are demands of regional autonomy raised by the MER that explicitly entail some form and degree of asymmetry between it and the LER/NERs or may lead to it. The timing of reactions is important; reactions object of the analysis are those taking place during and as part of the negotiations of those RTEs or soon afterwards. As far as the period of observation is concerned, the RTEs are scattered over a period of about thirty years. The starting point taken in Spain is the transition to democracy in the late 1970s which returns two RTEs -provisional autonomy regimes and the creation of the Spanish Autonomous Communities (ACs

hereafter). In Canada, the patriation debates around the same period provide the first RTE.

After the first RTE and following a chronological order, a series of additional episodes has been selected where the issue of asymmetry for Quebec and Catalonia was at stake. Space constraints have compelled me to leave some potentially significant episodes out of the study, while the ones finally included satisfy a double criterion of (1) individual relevance and (2) sufficient variation: that is to say, each case has already caught the attention of the literature on asymmetry and the MER economic, political and constitutional relationship with the rest of the country and/or it was singled out during the expert interviews conducted for this investigation. When considered as a whole, moreover, the final selection provides examples of the various types of asymmetry (institutional, jurisdictional and symbolic)²¹ and of several channels through which it was addressed (including constitutional reform, federal unilateral decision and bilateral or multilateral agreements). They can be found listed in appendixes 1 and 2.

1.4.2. Methodology

A first remark is warranted here about the fundamentally iterative nature of this project, which requires a constant ‘back and forth’ dialogue between the cases and the theory²². This means that the analysis of the cases, which normally unfolds in ordered stages -the narrative or description; the proper analytical moment when the explanatory framework is applied; and the return to the cases to interpret their complexity- is here undertaken several times, and not necessarily in the same sequence. This iterative dynamics are very much in tune

²¹ Early in the process I made the decision to exclude instances of reactions to fiscal asymmetry. There are very few examples of them, so that findings would not be significant.

²² The weaknesses and lack of attractiveness of what might be seen at first glance as a relatively messy research process are by far offset by its benefits and advantages towards theory development, as acknowledged by Lukes (2008).

with the general principles of qualitative comparative analysis (known as QCA), on which this research is methodologically grounded. It is convenient to distinguish between QCA as a research approach or strategy on the one hand, and QCA as a technique for data analysis on the other (Rihoux & Lobe 2009). Thus, although I do not apply QCA techniques *strictu sensu*, I share the ontological and epistemological underpinnings of QCA methodology as it understands political phenomena and political causation.

First of all, QCA is particularly suitable for the exploratory and theory-building purpose of this work (Gerring 2012: 353) and in order to answer the type of questions posed here. To start with, the sort of questions this research tries to answer correspond to the ‘causes-of-effects’ in Goertz and Mahoney’s terminology (2012:41-42), that is to say, I am interested in explaining outcomes in individual cases and studying the paths towards those outcomes. I start looking at reactions to asymmetry that have occurred in the real world and I then move backwards to ask about their causes. I aim at developing a causes-of-effects model so to identify the causes of the occurrence of a particular outcome and ideally, I will try to identify combinations of conditions²³, including all non-trivial necessary conditions that are sufficient for outcomes.

Moreover, QCA entails a specific conception of cases in a holistic manner (Ragin & Becker 1992). That is to say, any part of a given case cannot be viewed in isolation from the rest but in the context of the whole they form; therefore, a change in one or more elements of a case often changes other parts, ultimately affecting how the whole is perceived and understood (Ragin 1987: 24). Important methodological implications can be derived from these ontological underpinnings, in the sense that cases should not be forgotten, distorted or obscured by the analysis (Rihoux and Ragin 2009: 6), but they should be kept in their integrity as much as possible.

²³ In contrast, with the effects-of-causes approach, it is normal to focus on just one independent variable seeking to estimate its average causal effect.

The above conception of cases as complex entities is in line and runs parallel to the assumption of causal complexity. My methodological approach to the explanation of the occurrence of various types of reactions is rooted in the observation that intergovernmental dynamics in asymmetrically devolved systems are complex phenomena. In this connection, causal complexity, referred to as “configurational causal complexity” in QCA jargon, can be broken down into three main ideas: First, according to ‘conjunctural causation’, no single causal condition has an independent causal impact on the outcome but it is usually a combination of conditions that produces a given outcome of interest. In this connection, the concept of ‘independent variable’ has been replaced in QCA terminology for ‘condition variable’, because the latter makes explicit that “all parts are mutually constitutive and interconnected within a given case” (Ragin 2000: 27)²⁴. In turn, it rejects that a single cause might have “its own separate, independent impact on the outcome” (Rihoux & Ragin 2008: 9).

Second, neither the presence nor the absence of particular factors but their interaction with each other ultimately accounts for the observed outcome. In other words, the concurrence of several conditions, more precisely a particular configuration of them, is required for an outcome to occur. Applied to my research, which particular dimension of autonomy is affected by asymmetry, in conjunction with other structural, political or institutional conditions may favour catching-up demands, while the same factors combined differently may enhance the chances of downgrading demands. In a different combination, asymmetry could still act against either of the previous outcomes.

Third, the idea of multiple causation or equifinality (Rihoux & Ragin 2008: 8; George & Bennett 2005: 20), according to which, an outcome can result from

²⁴ This terminological choice has important epistemological, theoretical and methodological implications. Borrowing the terminology from this qualitative comparative methodology, I will refer the dependent variable as ‘outcome’ and the independent variable as ‘(causal) condition’.

several different combinations of causal conditions. And, depending on the context, that is to say, on the other relevant conditions with which it appears in combination, a given condition may have very different impact on the outcome. “The bottom line is that by using QCA, the researcher is urged not to specify a single causal model that fits the data best, as one usually does with standard statistical techniques, but instead to determine the number and character of the different causal models that exist among comparable cases (Ragin 1987)” (Rihoux & Lobe 2009: 224). In a sense, theoretical relevance is prioritised over empirical relevance. Or, in other words, the number of the different constellations is of prime importance, but the number of cases observed for each configuration of conditions is only of a secondary importance.

Attempting to study different reactions to asymmetry implies that it is important to maintain sensitivity to the interaction among causal variables as different combinations may lead to the same outcome. In addition, we can only retain some depth of case knowledge by dealing with a limited number of cases, so to be able to determine the form of asymmetry involved, and to establish the related reaction, while systematically comparing cases with different outcomes. By limiting the sample to middle-sized case sets, statistical analysis is effectively precluded. My purpose, however, is less ambitious, for I wish to understand why certain reactions to asymmetry occurred in some particular place and time rather than setting all paths towards the occurrence of all types of reactions. Although QCA is particularly sensitive to the composition of a chosen sample and its accompanying population (especially when compared to other methodological approaches), and although adding or subtracting cases may fundamentally alter the pathways to the outcome (Gerring 2012: 353), it is a significant step into theory development.

1.4.3. Data

The methodology proposed bears important implications for the type of evidence that will be included in the empirical analysis, and specifically it recommends drawing data from a variety of sources. Secondary sources are used to understand the reaction-triggering events and the context where reactions

occur. Newspapers, governmental and parliamentary documents, official statistics and in-depth semi-structured interviews with politicians and high-ranking public servants will serve to reconstruct the cases, as well as to corroborate information gathered from other sources. According to the objectives of the research, in the selection of interviewees I have opted for a non-random and chain-referral sampling of interviewees, so to identify key informants as they were directly involved in the episodes and processes under examination.

1.5. ORGANIZATION OF THE THESIS

The second chapter systematises and critically revises the evolution of the literature on asymmetrical federalism and the main contributions to the field. Ultimately, this theoretical exploration leads to conclude that the subject matter of the present research has been entirely overlooked in the main debates within this literature. Chapter three contains the theoretical proposal of this investigation. On the one hand, it defines and operationalises the outcome to be explained: LER/NERs' reactions to asymmetry. On the other hand, a series of explanatory factors are proposed and discussed. They are the type of asymmetry involved in the RTE; the central or peripheral condition of LER/NERs, their relative economic position and the strength of regional identity; cross-level party congruence or incongruence; and the existence and relevance of regional parties. For each of them, specific hypotheses are derived. Ultimately, a complex explanatory model is built, according to which the explanation of variation in reactions to asymmetry rests on how these factors combine to shape the consequentiality of asymmetry and the reaction capacity of the regions.

Chapters four and five are devoted to describing the RTEs and resulting reactions in Canada and Spain respectively. The description is based on the conceptual framework of reactions developed in chapter three. It tries to establish the occurrence of reactions and to confirm the utility of the proposed categories of catching-up, blockage, acquiescence and issue linkage. Chapter six presents the comparative analysis of how the various factors influence the variation in reactions to asymmetry. Finally, chapter seven presents some

general conclusions and derives some broader theoretical and empirical considerations, and advances new research lines opened by this work.

2. THE DISCUSSION ON THE DYNAMICS, TYPES, CAUSES AND CONSEQUENCES OF ASYMMETRICAL ARRANGEMENTS: A CRITICAL ASSESSMENT

2.1. INTRODUCTION: CONVENTIONAL KNOWLEDGE ABOUT FEDERAL ASYMMETRY. MEANING, PURPOSE AND PERFORMANCE

Over thirty years ago, William H. Stewart (1982; 1984) undertook the task of compiling some five hundred adjectives and metaphors used by political scientists to describe and classify federalism. Among them, ‘asymmetrical federalism’ seemed a rather exotic concept, largely overshadowed by other better-known entries on the list such as ‘competitive’, ‘cooperative’ or ‘executive’ federalism. Although the concept of asymmetry had already been introduced into the theoretical study of federalism in the mid-1960s (Tarlton 1965), there were hardly any references to it up until decades later²⁵. In fact, the emergence of a proper academic debate on asymmetries and asymmetrical federalism can be dated around the final years of the 20th century, coinciding with the publication of two edited volumes by B. De Villiers (1994)²⁶ and R. Agranoff (1999). Since then, asymmetry has attracted a more sustained attention and it has more recently become a well-established piece of the political jargon

²⁵ Duchacek (1970), Elazar (1987) and Stevens (1977) are among the very few authors who went beyond passing references to federal asymmetry and produced some (although brief) discussion and reflection about it, prior to the 1990s.

²⁶ And more specifically the chapters by Gagnon; Mullins and Saunders; and Price Boase within this book.

and the subject of a booming research area largely made of contributions by constitutional lawyers and political scientists and philosophers²⁷, and to a lesser extent by economists too.

In order to provide an up-to-date and systematic overview of the literature, this chapter is structured around three broad analytical dimensions -conceptual, normative and empirical- that are dealt with in turn. Section two focuses on the meaning of asymmetry and how the original definition has evolved and changed since it was first coined, with the result that it has been used in a variety of senses and applied to quite different realities. By analysing the evolution of the concept arguments are given to rethink/reconsider the role attributed to Tarlton's contribution as the departure point in the scholarship on asymmetrical federalism. Section three looks at the emergence and development of a normative theory of asymmetrical federalism. It summarises the moral grounds most often used to justify asymmetrical federalism as a model of government for plurinational states, as well as the normative counter-arguments and criticisms formulated against it. Section four examines more empirically-oriented works and discusses their findings regarding the feasibility and actual implications of asymmetry for institutional stability and effectiveness of the system. The last section highlights the limits of the current literature.

2.2. CONCEPTUAL ISSUES

2.2.1. On the origins of notion of federal asymmetry: too much of a tribute to Charles Tarlton?

The idea of asymmetry was brought into the field of federal studies by Charles L. Tarlton in 1965. In his "theoretical speculation" on the nature of federalism, the author condemned a common perspective among contemporaneous authors

²⁷ Relevant works with a prime focus on federal asymmetry includes Benz (1999); von Beyme (2005); Bolaji (2010); Brock (2008); Cardinal (2008); Congleton (2006); Croisat (1999); Henders (2010); Keating (1998); McGarry (2005); Obydenkova (2005); Requejo (2001; 2005); Requejo et al (2012); Swenden (2002); Tillin (2006); Ventura (2004); Weller & Nobbs (2010) or Zuber (2010).

to look at federations as integral entities rather than the sum of their parts which had, in turn, contributed to strengthening the (oversimplifying and distorting) assumption of federated states being small-scale copies of the whole. Partly conditioned by the research agendas and purposes of the prevailing schools of thought about federalism at that time²⁸, scholars were prepared -as Tarlton saw them- to make statements and reach conclusions about an entire federal system, but they remained conceptually ill-equipped to recognise and assess internal heterogeneity and complexity. Ultimately, and as a consequence, they had failed to pay the needed consideration to the “diverse ways in which each member state in a federal system [was] able to relate to the system as a whole, the central authority and each other member state” (Tarlton 1965: 861).

In order to address this weakness Tarlton advanced a distinction between symmetry and asymmetry that would help to discern a crucial element to understanding federalism, that is, whether the constituent units of a federal state enjoyed essentially the same relationship to the central authority or not. Regardless the formal allocation of competences, the actual power capacity was based on the relative powers and representation of the constituent units and their concerns among of a federal state refers to degree of similarity or difference in the relationship of each constituent unit to the federal authority. Thus, in an ideal symmetrical federal system each constituent unit would enjoy (or claim) essentially the same relationship to the central authority defined in terms of division of powers, representation, and main concerns, which in turn affects their influence and power within the system. More specifically, “an ideal symmetrical federal system would be one composed of political units of equal territory and population, similar economic features, climatic conditions, cultural patterns, social groupings, and political institutions” (Tarlton 1965: 868), and because of this basic similarity federated states would be concerned with the same sort of problems and there would be no significant differences in terms of

²⁸ Namely, Wheare’s legal-constitutional one, the ‘Jeffersonian’ political approach and Livingston’s socio-cultural theory.

political machinery and resources and there would be no need special forms of representation and protection.

On the other hand, the ideal asymmetrical federal system would be one composed of political units corresponding to differences of interest, character and makeup that exist within the whole society ” to those existing within the whole society (Ibid: 869). And because “each component unit would have about it a unique feature or set of features which would separate in important ways, its interests from those of any other state or the system considered as a whole” (Ibid). What is far more important is that being more symmetrical or asymmetrical is (primarily) a function of their structural conditions. According to him, symmetry referred to “the level of conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and the other component units” (Tarlton 1965: 867), which in turn resulted from these component units fitting “the pattern of social, cultural, economic, and political characteristics” of the entire polity (Ibid: 861).

Therefore, the two main points Tarlton made were: on the one hand, acknowledging that no federal system consists of constituent units with identical -or very approximate- structural features²⁹ might appear something of a truism nowadays³⁰; certainly not at Tarlton’s time. As puzzling as it could be, symmetry -rather than asymmetry- was then implicitly linked to the standard idea of federalism which, based on the American model of federalism, upheld the principle that all member units are entitled to equal status and rights. Tarlton helped to unravel the intricate nature of federal states and their internal diversity. “No federal arrangement is likely to be made up of states each of which stands in exactly the same relationship to the whole system. In actual cases each component unit will tend to reflect (or not to reflect) the overall national

²⁹ Point further developed by Duchacek (1970), where he concludes that social, political and economic differences ensure that no federal system is completely symmetrical.

³⁰ The argument has often been pointed out in the literature. See Baier (2008: 2); Duchacek (1971: 280); Price Boase (1994: 91) and Watts (1999: 63).

character to a greater or lesser extent” (Tarlton 1965: 870). And by reshaping the implicitly symmetrical federal model into an explicitly asymmetrical one, he made an important contribution to our better understanding of federalism. True, all federal systems are asymmetrical to a greater or lesser extent.

On the other hand, he proposed a structural definition of symmetry and asymmetry. And the fact that economic, social, cultural and political factors could lead to great variation in power and influence among the federated units of a federation remained largely ignored, as well. Drawing on Livingston’s sociological approach to federalism, he suggested that the relationship of any constituent units relative to one another and to the system as a whole was more or less “federal”³¹. Implicit here was the importance of the reciprocal and mutually reinforcing relationship between the societal structure and political dynamics, specifically, the patterns of relationship between constituent units dependent upon the societal structure.

We should be cautious of the extreme structural determinism in Tarlton’s conceptual framework. Precisely one of the problems is that he seems to confuse the preconditions of asymmetry with the asymmetrical outcomes that derive from them. Paraphrasing M. Burgess, it seems the fish is confused with the water it swims in (1965: 217). More importantly, mostly unconcerned with the actual degree of asymmetry and the form it takes in any given federal system, Tarlton’s definition does not provide a clear-cut criterion to discriminate between federal systems. Instead, it points to the fact that asymmetry is a common feature to all federal systems which show some degree of asymmetry. It is also irrelevant when it comes to assess the merits of asymmetry as a device to accommodate internal national diversity. And this is, precisely, because his case, the US, is not a good example of highly divided societies.

³¹ By being “more or less federal” Tarlton actually meant here being ‘more or less symmetrically federal’.

Two more due criticisms³²: assumption of harmony inherent to symmetry: “the overall pattern of states partaking of the general features of the federal nation is at the core of the symmetry of federalism (Tarlton 1965: 867). “federal-state conflict is a likelihood where the relationship between local and central authorities corresponds to the image of the asymmetrical situation. To a real extent, then, the degree of harmony or conflict within a federal system can be thought of as a function of the symmetrical or asymmetrical pattern prevailing within the system” (Ibid: 871). I take here Burgess’s criticism: “[Tarlton’s] mistake was to assume that symmetry equals harmony while asymmetry automatically produces discord in federations. In practice, asymmetry reflects difference; it does not create it” (Burgess 2005: 221).

And surprisingly, he makes not even a passing reference to the fact that national diversity is very often the most visible and also more difficult to tackle. Instead, it is put under the same lot along with other sources of societal difference. This makes his work little useful, if not irrelevant, to the analysis of asymmetry in multinational societies. Precisely because his country of reference is USA, mononational. And in the trade-off between desirability and workability, he reaches the counter-intuitive conclusion that “the higher the level of symmetry, that is the more each particular section, state, or region partakes of a character general and common to the whole, the greater the likelihood that federalism would be a suitable form of governmental organization. On the other hand, if the system is highly asymmetrical in its components, then a harmonious federal system is unlikely to develop” (Tarlton 1965: 872-73).

Therefore, it is somehow problematic to consider Tarlton the father of the literature on asymmetrical federalism. We owe him the term but we need to sever all other linkages, for Tarlton’s asymmetry is not part of asymmetrical federalism.

³² A thorough critical reflection on Tarlton’s article can be found at Burgess (2005: 211-15).

2.2.2. On typologies: ‘de facto/de iure’ dichotomy and beyond

At the core of the concept of asymmetry lies some variation in the exercise of political power or influence among the component territorial units of a federal (or politically-decentralised) state. Broadly speaking, asymmetry has to do with inequalities between the regions in their relations with the federal authorities (Hahn 2001). In 1996, R. Watts established a distinction between political and constitutional asymmetry with the first one resulting from the action of cultural, economic, social and political conditions on the power, influence and relations of federated entities vis-a-vis one-another and with the federal government. Beyond the apparent usefulness of this distinction, it creates confusion in that political asymmetry largely corresponds to Tarlton’s de facto asymmetry.

His unfinished work was taken up by academics and practitioners gathered at an international symposium in Kwa Maritane (South Africa) in 1993³³. The debates exposed the limits of Tarlton’s pioneering analysis. In turn, they led to a move from asymmetry in the singular to asymmetries in the plural, and to a now well-established distinction between “*de facto*” asymmetry (asymmetry in fact) and “*de iure*” asymmetry (asymmetry as a matter of law) (De Villiers 1994b: xi). In fact, the de iure/de facto distinction is the most widely used typology of asymmetry (Weller 2010). Its application, however, has created some confusion. Thus, for example, Croisat (1999) makes a restrictive application of the the concept of “de iure asymmetry” to refer, exclusively, to the cases of asymmetry written down in the constitution, thus extending the concept of “de facto asymmetry” to the cases of asymmetries established in intergovernmental agreements between the Canadian federal government and the provinces.

There is also some confusion in that some authors take differences in territory, population, economic features, climatic and geographic conditions, social

³³ The proceedings of the joint Conference of the International Association of Centres for Federal Studies (IACFS) and the Federation and Federalism Research Committee of the International Political Science Association (IPSA) were edited by Bertus De Villiers a year later. Six of the papers directly address the issue of asymmetrical federalism.

groupings and political patterns as asymmetries (Price Boase 1994) whereas they should not be interpreted as asymmetries per se, but preconditions leading to de facto asymmetries or justifying the demand or actual creation of de iure asymmetries. This author does not provide a typology of asymmetries but what he refers to as “faces of asymmetry” is, in fact, a list of diverse ways including federacy; ‘federation-within-a-federation’; consociationalism; asymmetrical division of powers; functional and processual asymmetry; asymmetrical geographical division; and unequal representation of constituent units in central institutions.

It is right that the variation in size and geography among constituent units, their natural resources, wealth and economic development, or the cultural characteristics of their population crucially influence regions’ informal power and leverage relative to each other and vis-à-vis the central government. From this perspective, asymmetry can be seen as the immediate reflection of constituent units displaying differences in those “structural” conditions. Moreover, this structural or *de facto* asymmetry can be accepted as consubstantial to all federal systems, and taken for granted for the most part³⁴.

From a constitutional and political viewpoint, nevertheless, the crucial issue is not whether the various constituent units differ in their territories and populations but whether the constitution and political rules of the system treat – or should treat– them differently (De Villiers 1994b: xi). As Gerald Baier and Katherine Boothe rightly pointed out, “[c]lassifying these underlying differences as asymmetry misses a critical step. Asymmetry should be of interest to political scientists only if the relevant differences are created politically; otherwise they are more suitable as research subjects for geographers or demographers” (2008)³⁵. But the socio-structural and political spheres blur because many people think

³⁴ As an exception, the Nigerian federation has often gone through a process of reshaping its internal borders.

³⁵ Important contributions have been made in Spain to the discussion about “differential facts” as part of the social world and asymmetry as an institutional or power difference

that “de facto asymmetry imposes legal asymmetry in the territorial structuring of the state” (Caamaño 1999: 362; in the same line, see also Ventura 2004).

In contrast to *de facto*, the so-called *de iure* asymmetry is the product of a conscious and purposely political choice. As it could be expected, some federal systems, but not all of them, have made use of this type of asymmetry, creating different institutional rules and/or granting different self-governing powers to their constituent parts. As a consequence, for example: regulations approved by the central institutions of the state might be of application in some parts of the country but not in others; the constituent units could vary in their competences in various policy fields; and some sub-state governments could enjoy special mechanisms of intergovernmental relations with the central government and/or exceptional veto powers in constitutional amendment procedures. This *de facto* - *de iure* dichotomy is also referred to as “political asymmetry” versus “constitutional asymmetry” (Gagnon 2001; Requejo 2005; Watts 1999, 2008) and “asymmetry in actual situation” versus “asymmetry in legal forms” (Mullins and Saunders 1994).

It is worthwhile to bring into the equation a third type of asymmetry which seems to sit somewhere between *de facto* and *de iure* asymmetry: This is what Peter Graefe (2005) has labelled “mundane asymmetry” in the sense that it is a feature inherent to the very functioning of a federal system, in so far as the regional governments retain the capacity of defining a diversity of projects³⁶. And César Colino (2007: 3) and Ferran Requejo (2005: 62) have referred to as “asymmetry produced by the exercise of self-government”. The picture becomes far more complex because the field of social policies entails great potential for both, mundane asymmetry, related to the space of regional autonomy, but also

between the sub-state entities. Just to mention some of them: García Roca (1997); López Aguilar (1997); Pineda (2005); Seijas (2003); Trujillo (1997).

³⁶ The author is careful to clarify that “*the term ‘mundane’ is used not to downplay its importance and significance, but to highlight the fact that a fair amount of asymmetry should be expected in the normal functioning of a federal system*” (Graefe 2005: 2).

for political asymmetry if one or several regions get a different treatment formally established in an intergovernmental agreement, as rightly pointed out by P. Graefe.

Still a very broad concept, *de iure* asymmetry is now portrayed as a general rubric, under which many asymmetrical arrangements can be engineered. Thus for example, in the sphere of international relations asymmetry can be found in the form of “*federacies*”, “*confederations*” and the so-called “*variable geometry*” integration within the European Union (Price Boase 1994; Stevens 1977; Von Beyme 2005; Watts 2005). At state level, on the other hand, asymmetry more typically translates in the formal distribution of legislative and executive jurisdiction (Burgess and Gress 1999: 53), together with mechanisms of special representation and veto rights granted to some constituent units in central institutions such as a senate or a supreme court (Ghai 2002: 156; Tillin 2006: 48). Provisions allowing sub-state governments to opt-in and -out of the powers they exercise, non-uniformity in the application of state-wide legislation and bilateral processes of inter-governmental relations are also considered forms of “*de iure*” asymmetry (Agranoff 2005: 2; Brown 2005: 4; Watts 1999: 67).

Taking into account the above mentioned examples, a wide range of federal systems can still be considered asymmetrical in a particular way or to a certain extent, or to show some asymmetrical features or to promote some kind of asymmetrical outcomes. In that connection, much work has already been produced, to track and describe the various instrumental aspects of implementing asymmetry in particular countries³⁷. Some valuable attempts have also been made to catch the meaning of “*de iure*” asymmetry through a more refined categories and typologies. For example, focused on the Spanish case, Garcia Roca (1997) has distinguished between “*competence asymmetry*”-policy fields under sub-national jurisdiction-, “*institutional asymmetry*” -representation

³⁷ See the chapters on Canada, Germany and Spain in the collective volume edited by Robert Agranoff (1999). Also Watts (1999). On the other hand, Michael Keating (1998) offers a useful comparative analysis of the asymmetrical features in Canada, Spain and the United Kingdom.

and participation of constituent units at central level institutions- and “*financial asymmetry*” –fiscal autonomy and revenue raising capacity-.

Ronald Watts (2004: 12-18) distinguishes nine types of de iure asymmetry, depending on the aspect affected by the variation: (1) delineation of constituent units³⁸; (2) relative autonomy, jurisdiction and powers of the units³⁹; (3) fiscal powers and autonomy, i.e, the de iure constitutional allocation of fiscal resources and transfers; (4) representation of member states in central institutions, mostly looking at the Senate; (5) representation in intergovernmental relations; (6) differential nature of regional political parties⁴⁰; (7) application of Bills of Rights (as a result of the notwithstanding clause); relative power in constitutional amendments⁴¹; the Constitutions of the member states⁴². Apart from the form of asymmetry, another classification referring to

³⁸ I would exclude this first one for it has not to do with the establishing of asymmetries but rather adjusting the number, size and boundaries of units in order to moderate the degree of de facto asymmetry among the constituent units.

³⁹ Asymmetry of powers can be established by increasing from the norm the federal authority in particular member states; by increasing from the norm the jurisdiction of particular constituent units; or by formally granting symmetry that includes provisions permitting any member state in certain cases to opt in or opt out.

⁴⁰ I will discard this as well because it primarily represent de facto asymmetry or at most asymmetrical outcomes resulting from de iure constitutional arrangements governing regional electoral systems.

⁴¹ In my opinion, this is not de iure asymmetry but an asymmetrical outcome of the variation in structural conditions. De iure asymmetry is not relative power but asymmetrical provisions granting special role to some constituent units.

⁴² Again, it is not de irue asymmetry strictus sensus, but a likely asymmetrical outcome of the fact that the federal Constitution might not impose many requirements onto the constitutions of the state members, thus potentially allowing for significant variation in the contents from one ot other state member.

the duration of asymmetry as it might be intended as either “permanent” or “transitional”, respectively leading to variable geometry or variable speed decentralization or integration (Watts 2004: 18-19).

A step further in the process of conceptual refinement, Colino advises us to consider not only what has been asymmetrically devolved, but the way asymmetry has been applied. That is to say, apart from the contents, facets or material aspects of autonomy affected by asymmetry, it is worthwhile looking at the voluntary or compulsory character of asymmetry and its temporal scope, since both dimensions are crucial “when trying to compare different systems or evaluate the effectiveness or equity of federal asymmetry” (2007: 4). In this sense, he proposes a distinction between “hard asymmetry or asymmetry by design” –if a power or status is exclusively granted to a particular constituent unit and no other territory may access to it- and “soft asymmetry or asymmetry by choice” –when the option to acquire a competence or to remain outside a state-wide programme is open to several or all territories, even if in practice it may be used by only one or a few of the constituent units-, together with a second dichotomy between “permanent asymmetry” and “provisional or transitional asymmetry” –which translates, for example, in several-speed devolution⁴³.

In the same vein, but with a focus on the Canadian federation, Gerald Baier and Katherine Boothe (2008) point out that the variety of ways how asymmetrical federalism has been put into practice significantly affects the effectiveness and ability of the federal system to accommodate internal diversity. To that aim, the key dimensions determining the accommodation capabilities of the system are: the venue used for accommodating diversity, on the one hand; and the type of differences the asymmetrical relationship is aimed to accommodate, on the other. Regarding the first criterion, asymmetries can be “formal” –if they are embedded in constitutional or statutory provisions- or

⁴³ Colino’s second classificatory criterion had already been advanced by Ronald L. Watts (1999b: 42).

“informal” –if they are contained in non-binding intergovernmental agreements and/or they emerge from political practice or habit. Concerning the differences to be accommodated, the result could be “recognition asymmetries” –primary related to culture and language- and “pragmatic asymmetries” –linked to economic differences. Interestingly, whereas recognition asymmetries are meant to acknowledge, preserve and promote cultural and linguistic diversities, pragmatic asymmetries are primarily intended to mitigate economic disparities.

2.3. NORMATIVE DISCUSSION: DIVERSITY AND RECOGNITION VERSUS THE PRINCIPLE OF TERRITORIAL EQUALITY

Apart from the conceptual debate summarised above, the bulk of the literature on asymmetrical federalism falls within the normative sphere. It addresses the challenges that the multinational or plurinational⁴⁴ character of a federal state is likely to pose in terms of legitimacy, citizens’ participation and quality of democracy. In that connection, it reflects on the goodness and evilness of asymmetry and its implications for the principles of equality, justice and stability of the political system (Cairns 1991; Gagnon & Tully 2001; Keating 2004; LaSelva 1996; Maiz 2006; Milne 1991; Requejo 2005; Resnick 1994; Seymour 2003).

A basic commonality of the literature on asymmetrical federalism is that contributions from all perspectives (legal, constitutional, political, normative, economic) almost unanimously and either explicitly or implicitly, tend to make a connection between asymmetric federalism and national or linguistic minorities. Moreover, asymmetry is at the core of the debates about the management of national diversity or ‘plurinationalism’. That’s why asymmetry

⁴⁴ Following Michael Keating, “multinationalism” implies the existence of distinct national communities living together within the same state. However, the complexities of post-modern societies are better captured by the concept of “plurinationalism” (2001: 19). In this sense, plurinationalism rejects the perception of national identities as monolithic and exclusive, and it rather embraces the idea that individuals can have several national identities, as it seems to be the case of Belgium, Canada, Spain, and the United Kingdom.

is often discussed or considered a feature of multinational/plurinational federalism. In other words, the normative theory of asymmetry is developed as part of the normative theory of multinational federalism.

Multinational federalists seek to “express, institutionalise and protect at least two national or ethnic cultures on a durable and often on a permanent basis. Any greater union or homogenisation, if envisaged at all, is postponed for the future... They believe that complementary dual or multiple national loyalties are possible and indeed desirable” (McGarry & O’Leary 2007: 189). Multinational federalists correspond to multinational liberals, for whom “a proper understanding of liberal individual rights requires respect for the culture of individuals and the means allowing minorities the power to protect and promote their culture” (Ibid). Moreover, they believe that accommodating national minorities holds the key to overall stability and unity. A different matter is whether empirical evidence supports this normative argument. See Kymlicka 1995; Stepan 1999; Keating 2001; McGarry & O’Leary 1993; O’Leary 2001.

The normative approach to asymmetrical federalism highlights stark challenges in terms of re-thinking the conception of the demos (Requejo & Sanjaume 2013) and related to it, the conception of representation, recognition or internal sovereignty. The “cultural and national turn” in the 21st century, that F. Requejo associates with the claims of different groups, among them minority nations in plurinational societies, to be constitutionally recognized and politically accommodated (2013: 34). Minority nations defined by the author as “territorially concentrated collectives with a basic national identity that does not coincide, at least for a significant number of their members, with the national identity of the majority group of the polity. These collectives display distinguishing features such as a different history from the rest of the state, a specific language, a different religious culture, etc... They also express a will to be recognized as a different collective and a clear desire for self-government” (Requejo 2013: 34). But the author complains “the question of national pluralism has usually been absent in the theoretical and practical approaches of classical federalism” (Ibid).or, in other words, that “federalism is a notion that

has been neither historically nor normatively related to national pluralism until quite recently” (Requejo 2013: 38).

McGarry (2005) is an exercise to reject the validity of objections to asymmetry based on cohesion and unity of the state, stability and liberty and equality. The author first present the reasons why asymmetry is opposed by state nationalists, affirming that they do not reject all forms of asymmetry, buy only “asymmetrical arrangements that discriminate among regions on the basis of nationality, i.e., which suggest that the region’s citizens are members of a distinct national community” (2005: 4). On the other hand, they may be prepared to endorse asymmetry for a region that is considered to be outside the nation-state (such as Puerto Rico or Northern Ireland) or forms of asymmetry that they consider consistent with the nation-state.

Initially considered an unavoidable illness, federal asymmetry has increasingly gained credit as the institutional design best suited for “nationally complex democracies” (Viejo 2010). For the most part, the tone of the debate has been temperate: thus, for example, Ramon Maiz (2006) suggests that, even if asymmetrical federalism does not constitute a solution to all the problems US-like symmetrical federalism has failed to solve, it will still be able to improve and deepen the federal principle. More emphatically, among the ‘asymmetry gurus’ Alain Gagnon has taken side portraying asymmetry as a panacea that will make it possible “to strengthen democracy by redistributing powers, encouraging citizen participation, increasing the legitimacy of the political system and helping to accommodate minority nations within institutions”(2010: 9).

The normative argument in favour of asymmetrical federalism draws on the theory of multiculturalism and minority rights (Kymlicka 1995; 2005; May 2004) from where it borrows the concepts of diversity and recognition: its point

of departure is the existence of several nations within the country⁴⁵, what is perceived as a valuable asset of the state and therefore worthy of recognition and protection. On the other hand, it places much emphasis on territory and the territorial dimension of politics. In that connection, federal asymmetry is appropriate to national communities that are territorially concentrated, but it seems irrelevant for minority communities evenly distributed throughout the territory of the state, as it might be the case of immigrant people.

In the resulting imagery, the federal state is made up of different national groups that, according to a numerical criterion are respectively defined as “majority nation” -the most populous one- and “minority nation(s)” –all remaining national groups (Gagnon 2003; Tillin 2006). Provided that the minority/ies are territorially concentrated and internal boundaries have been drawn in a way that each minority forms a majority within a territorial subunit, they constitute what Will Kymlicka calls “nationality-based units”. On the contrary, “regional-based units” could eventually emerge from the administrative division of the land occupied by the majority nation into smaller territorial entities. Crucially, if the creation of “nationality-based units” is justified in terms of ethno-cultural diversity, the creation of “regional-based units” is, more often than not, efficiency-driven (Kymlicka 2005: 277)⁴⁶.

According to this divide, the quest for recognition by minority nations is primarily justified in terms of identity and self-perception of belonging to a distinct society. Moreover, the normative justification is reinforced by the

⁴⁵ Whereas national diversity is often based on cultural diversity, nations are not mere cultural communities but they are -or aspire to become- political communities with self-governing institutions (Keating 2001; Seymour 1999).

⁴⁶ As an illustration, French-speaking Quebec would be the only nationality-based province in Canada, which stands against the other nine English-speaking provinces. Similarly, in the Spanish State of Autonomies, Catalonia, the Basque Country and Galicia -all three considered nationality-based units- stand against the other fourteen, and allegedly regional-based, Autonomous Communities.

particular understanding of the origins and purposes of the federal state, held by the alleged minority nation. For the political actors claiming to represent it, federalism was -and should remain- a partnership between the founding peoples. According to the terms of the original federal covenant, participation in the larger state did not involve a permanent surrender of sovereignty but it was made conditional to the benefits the minority national community would derive from the union. Therefore, the minority nation remains the ultimate legitimate authority, and it retains the moral right (though not the legal one) to take back the powers delegated upon the federal government. In Kymlicka's own words, the larger federation is "morally dependent on the revocable consent of the constituent national units" (2005: 286)⁴⁷.

Accepting that the nature of nationality-based units is qualitatively distinct to that of regional-based units and their terms of entry into the union were also different, then minority nations will aspire to be treated differently. In this sense, political theorists have argued that the multinational character of a state cannot be clearly affirmed or conveniently safeguarded by any form of federalism, certainly not by means of symmetrical federalism (Requejo 2005: 61). Thus, in spite of the fact that federalism acknowledges some sort of diversity, and even if uniform instruments of self-government may be appropriate within a mono-national country, reality shows that symmetrical federalism is not "a sufficiently flexible framework with which to accommodate nations or nationalities —

⁴⁷ This is certainly the way nationalist political leaders in Quebec have perceived the British North America Act of 1867. They enthusiastically lauded it as a safeguard of their religion, language, culture, education institutions and legal traditions (LaSelva 1996). According to them, the Act's suggested was constructed under two conventions: the mutual recognition of the cultures of the original nations, and the preservation of those cultures in the new constitutional framework (Tully 1995).

claiming a level of autonomy appropriate to guarantee the protection and the development of their collective identity” (Fossas 1999: 9)⁴⁸.

Quite the opposite, asymmetry is advocated as the only institutional mechanism able to preserve, articulate and promote national diversity (Bauboch 2002; Gagnon 2001; Ghai 2002; Norman 2006; Requejo 2001)⁴⁹. Thus, in order to recognise the genuinely multinational character of the federation, decisions about both the internal boundaries and the devolution of powers “must consciously reflect the needs and aspirations of minority groups” (Kymlicka 2005: 276). This translates into symbolic recognition, as well as enhanced self-governing powers for the national minorities (Requejo 2005: 61).

This leads to another crucial point: in multinational states, discussions on autonomy are not easily separated from normative considerations. In other words, the key issue at stake does not seem to be power but recognition (Fossas 1999). The demand for extensive powers is not primarily induced by the assumption that some competences can be better and more efficiently implemented at sub-state level, but it carries an important symbolic dimension. As illustrated by Will Kymlicka, “Quebec nationalists want asymmetry, not just to gain this or that additional power, but also for its own sake, as a symbolic recognition that Québec alone is a nationality-based unit within Canada” (2004: 280). Undoubtedly, this applies to some policy fields such as education and culture, of critical importance for the protection of the national identity. But

⁴⁸ This links to the differentiation between “territorial federalism” -which corresponds to US-type symmetrical federation- and “multinational federalism” -which is primarily asymmetrical (Kymlicka 2005; Requejo 2001; 2005; Stepan 2001).

⁴⁹ However, even if accommodation has most frequently been the motivation underlying asymmetry, some exceptions can be found to this rule: Louise Tillin’s thorough examination of Indian federalism reveals that asymmetry was not established there as a means to accommodate territorial minorities. This is why it does not contribute to India’s ability to ‘hold together’, nor does it constitute a successful model of governance there (2006: 49).

even more generally, Nicola McEwen and Andre Lecours (2008) have depicted differential or asymmetrical powers as a logical and necessary extension of such a recognition, while J. Caron and Guy Laforest (2009) have broadly recommended a combination of “symbolic multinationalism” and “consequentialist multinationalism”.

Advocates of asymmetrical federalism seem also confident they have found a strong normative argument against those who reject asymmetry as incompatible with the key democratic principle of citizens’ equality⁵⁰. In their opinion, the aversion towards asymmetry is an unwarranted expression of a “*latent ethnocentrism*” (Kymlicka 2005: 279) and a regrettable bias towards liberal individualism (Gagnon 2001; 2010). In fact, by assuming the absolute moral primacy of the person over any social group, individualists have ignored that the meaningful exercise of individual rights can only occur within one’s own cultural context and they have failed to appreciate the complexities of individuals’ identity. The moral equality of persons and respect of their interests does not require equal powers for the constituent units but it rather compels the state to ensure that the rights and interests of the national minority are protected in line with the rights of the majority nation. This calls for a balance between equality and diversity, between individual and collective rights, that can only be achieved by embracing Charles Taylor’s “liberalism 2” (Requejo 2005; Seymour 2003). From this point of view, asymmetry is a legitimate and fair choice that can be justified according to a communitarian conception of the good, and also through the redefinition of the classical liberal idea of equality among citizens (Gagnon 2001; 2010).

⁵⁰ For a description of the interplay between provincial equality and national community rights in Canada, see David Milne (1991). In the same vein, Alan Cairns (1991) offers a good analysis of how the application of the Canadian Charter of Rights and Freedoms circumscribed to Canada outside Quebec could lead to an asymmetrical citizenship. With a focus on Australia, Anne Mullins and Cheryl Saunders (1994) also present the dispute between the search for equality and uniformity on the one hand, and cultural and linguistic groups’ rights on the other.

Without disputing the strong normative case for asymmetry, it does not seem to have been persuasive enough to convince all parties involved in the dispute. Crucially, many people within the alleged majority nation still embrace a diametrically opposed view on the basic principles of the federation and its purposes: “For the majority nation, federalism is a compact between equal territories, which therefore precludes asymmetry; for the national minority, federalism is a compact between nationality-based units and regional-based units, which therefore requires asymmetry between nationality-based and regional-based units” (Kymlicka 2005: 281). Since decisions on power-sharing are unavoidably and inherently linked to the primary view on the nature of the state, this helps to explain how difficult it is for the two sides to compromise on the actual degree of autonomy. Clearly, the normative debate stands in a deadlock: granting equal powers to both regional-based and nationality-based units can be seen “to deny equality to the minority nation, by reducing its status to that of a regional division within the majority nation” (Kymlicka 2005: 280). But as John McGarry has recently conceded, enhancing the status of the nationality-based territorial units can be equally seen as denigrating the rest of the territories to a second-order status (McGarry 2007).

The attempt to persuade people in regional-based units that asymmetry conferred to the minority nation can indeed strengthen the majority nation’s own identity (Kymlicka 1998) has not been of much help either, since there is no straightforward response to the question about who are us and who are them, neither on the person(s) entitled to answer those questions. This highlights a more fundamental flaw of the normative theory of asymmetrical federalism. The majority nation/minority nation divide that serves as a basic premise for asymmetry portrays an oversimplified view of the state harbouring various watertight national compartments, rather than the more accurate image of a state encompassing blurring and dual national identities (Woods 2009). In other words, it fits better the ideal multinational state than the more realistic plurinational one.

The normative theory has gone beyond questions of justice and fairness of asymmetrical federalism to influence the analysis of its causes. As a

consequence, the literature on the causes of asymmetry remains inappropriately addressed and mostly underdeveloped in empirical terms. Looking at the relationship between society and polity, Michael Burgess was right to stress that the diversity in socio-economic and cultural-ideological conditions existent in any federal or quasi-federal can be seen as “preconditions of asymmetrical outcomes”⁵¹. This notion of precondition is particularly useful in the case of *de facto* asymmetry that is self-explained in structural and sociological term. However, the way the notion of ‘precondition’ has been used in connection with *de iure* asymmetry is rather problematic, since the existence of economic, geographic and ethno-national diversity is deemed the explanation, not only the justification, of it. In other words, an inadequate intermingling between the normative and empirical dimensions of the debate has led to a situation where the “moral foundations of asymmetry” (Gagnon 2010; Gagnon & Gibbs 1999) are often mistaken for its cause⁵². As a result, an important gap in the literature is concerned with the conditions under which, and the factors that account for the establishment of *de iure* asymmetry. Specific efforts are still paid in a recent edited book to look at the mutual influence between *de facto* territorial asymmetries and *de iure* constitutional asymmetries (Requejo and Nagel 2011).

2.4. DEBATE ON THE CONSEQUENCES OF ASYMMETRY FOR THE STABILITY AND INSTABILITY OF FEDERAL SYSTEMS

Diverse social conditions may be a good reason to promote the establishment of asymmetrical arrangements but they do not explain the kinds of asymmetrical arrangements finally agreed or likely to be agreed in a political system

⁵¹ This led him to draw a distinction between “preconditions of asymmetry” and the “asymmetrical outcomes” (Burgess 2006: 215).

⁵² We should be cautious, as Louise Tillin (2006) reminds us, to universally praise the accommodative benefits of asymmetry. In the case of India, asymmetrical federalism was not established as a means to accommodate territorial minorities and as a result, it is unwarranted to contend that for that reason it has been a successful model of governance there.

(Hombrado 2008: 11). Even conceding that those alleged ‘preconditions’ are necessary they are not sufficient for *de iure* asymmetry to come into existence. In fact, not all structural, socio-economic and cultural-ideological differences find their way through the political process or get recognition by means of some kind of asymmetrical institutions. Up to the date, only Roger Congleton et al. (2003), and Christina Zuber (2010) have tackled the task to separate the normative case for asymmetry from the examination of various institutional and political factors that facilitate its establishment. Their works draw on game-theoretic foundations to develop a baseline theory of the creation of asymmetry, which explains asymmetrical federalism as a consequence of voluntary exchanges between central and regional governments.

What consequences arise from asymmetrical federalism for the federal relationships operating within the system? Despite (in)stability being a major concern in federal systems, it has not produced a coherent body of literature⁵³: for the most part, the relationship between federalism and (in)stability has been touched upon in a piecemeal fashion, while very few analyses have specifically addressed the questions of how effective federalism has been in incorporating the conflicting goals of unity and diversity, and whether it can survive and promote political stability. If anything, asymmetrical federalism has come to complicate the discussion further. In what follows, a review is presented of the existing insights about the assumed link between federalism and instability, and the way in which asymmetry has entered the equation.

2.4.1. Asymmetrical federalism as an accommodation solution

As W. Swenden points out, “territorial solutions set plurinational states on a path of disintegration with the emergence of new –often unitary-sovereign– states as their most likely outcome. For others, territorial solutions provide the

⁵³ In its extreme expression, instability refers to secession and the circumstances that enhance this risk. The concept is here used in a broader sense embracing all challenges to the fundamental rules defining the allocation of powers and the territorial structure of the state.

best chance for holding together plurinational states” (2013: 61). Moreover, asymmetry seems to be for the author “the corollary of plurinationalism, since the governments of minority nations may demand asymmetric powers as recognition for their status as nations... while majority nations... may be more interested in projecting their interests at the centre, which they can control more easily” (Swenden 2013: 63). See also McGarry & O’Leary (2015) discussing asymmetry as a means of accommodating territorial pluralism that helps to distinguish from both, forms of non-territorial pluralism and regimes of territorial pluralism that do not accommodate territorial minorities.

From a pragmatic point of view, the proponents of asymmetry have commended it as a true alternative to independent statehood for national minorities (Keating 2001)⁵⁴. Far from being “a deviant behaviour undermining real federalism”, and because of its links to postmodernist thinking and pragmatism, it offers clear advantages to complex social realities (Von Beyme 2005: 434). In this sense, asymmetry serves to satisfy the constituent units’ different aspirations for self-government, whose demands tend to vary in contents and intensity (Kymlicka 2005). Moreover, to the extent that it contributes to accommodateing different national identities -rather than assimilating them- asymmetry can strengthen the legitimacy of the federal system in the eyes of the minority population, and its stability in the long run.

A significant brand of the literature focuses on the role that asymmetrical federalism can play in accommodating multinationalism (Requejo, Gagnon, Kymlicka, etc). From this perspective, federalism is only suitable for societies showing strong ethnonationalist diversity if it embraces multinationalism and thus it provides asymmetrical mechanisms for the recognition and autonomy of the internal nations. “In effect, the federation would have to be asymmetrical, affording special arrangements for the units that are nations” (McRoberts 2003: viii). If these arguments are theoretically plausible, the number of extant

⁵⁴ Extolling the virtues of federacies for the survival of small republics, R. Michael Stevens (1977) also suggests the suitability of this form of asymmetric federalism for ethnic or cultural minorities after policies of national integration have failed.

asymmetrical federations is used by some authors as strong empirical evidence that asymmetry has indeed succeeded in achieving “flexibility in the pursuit of legitimacy and overall federal political stability” (Burgess & Gress 1999: 53). Two readings of the data reinforce this optimistic view: First, even in the absence of conclusive proofs, a powerful pattern is clear that “all the long-standing (largely) mono-national federal democracies are constitutionally symmetrical. But all the long-standing (largely) multinational federal democracies are constitutionally asymmetrical” (Stepan 1999: 31). Second, none of the plurinational states that experienced secession in the twentieth century was an asymmetrical federation, but they all were symmetrical federations or unitary states (McGarry 2005: 11).

With a focus on particular cases, moreover, it seems that asymmetrical concessions have succeeded in abating minority groups’ aspirations and demands. It has been argued, for instance, that asymmetry led to a decline in sovereignty claims in Quebec in the 1980s (Whitaker 1993). Likewise, the example of Tatarstan shows the triumph over the worst prophecies against asymmetrical federalism. The very fact that Moscow’s government had –and central governments in general also tend to have– considerable leverage over sub-state governments has limited how far the latter are willing to go in pressing for autonomy and independence. According to Edward Walker, then, asymmetrical and negotiated federalism did not lead to the disintegration of the Russian federation but it was “the most effective means for ensuing that Russia’s territorial integrity would be preserved” (1996: 33).

Although asymmetrical concessions might not always diminish the appetite for autonomy, denying them often increases the chances of demand radicalisation. It might be the insistence on symmetry, rather than the insistence on asymmetry, that ultimately promotes secessionism. In other words, “[g]overnments unable or unwilling to deal with moderates who want into a national society are often obliged to contend subsequently with extremists who want out of that society” (Mikesell and Murphy 1991, 599). In that connection, John McGarry (2007), one of the gurus of asymmetry, has offered support for asymmetry not only on the basis of asymmetry’s own virtues, but primarily out of the faults of

symmetry. According to him, symmetrical autonomy might not always be easy to implement in plurinational states, where regional-based units might not want autonomy or not as much as the minority nation(s). The resultant level of autonomy would not satisfy any of the sides: it will not be enough for the nationalities, while it will be more than the regions can possibly digest⁵⁵.

Depending on the country under observation, the very presence of asymmetry is seen as a successful solution. Thus, for example, according to D. Conversi (2007), in the cases of Spain and Italy “asymmetric arrangements are more accommodative, durable and practical, having proved in both cases more flexible and effective in managing and preventing ethnic conflict. Although asymmetry has not stopped, on the contrary, it might have triggered, equalisation and standardisation pressures (Ibid). Therefore, arguments about the consequences of asymmetry require “case-by-case evaluation” (McGarry & O’Leary 2015: 36).

2.4.2. Asymmetrical federalism as Pandora’s box: slippery slope towards secession and resymmetrising trends

As Snyder puts it, multinational federalism has ‘a terrible track record’ (2000: 327). But the cases that have broken down or failed have been largely in the communist or post-colonial world. It also seems clear that multinational federations make it easier for groups to secede should they want to do so. Federalism provides the minority with political and bureaucratic resources that it can use to launch a bid for political independence... But this bleak assessment of the track record of multinational federations has to be qualified in five important ways ((McGarry & O’Leary 2007: 192-97): First, the major federal failures, including the Soviet Union, Yugoslavia, Czechoslovakia and Nigeria were or have been, to a significant extent, sham or pseudo-federations. Second,

⁵⁵ I share with McGarry that a “one size fits all” autonomy model is unlikely to accommodate different aspirations. However, a ‘give everyone what they want’ model might be in some contexts simply not possible: regional- and nationality-based units do not always happen to desire different powers whereas in some other cases their demands are not only different but also incompatible.

the case against multinational federalism would be stronger, if it could be shown, as critics claim, that it was unnecessary to accommodate national minorities.

Theorists of conflict management have often criticized territorial autonomy arrangements for being inherently unstable (Wolff 2011). A more qualified view is provided by W. Swenden, for whom whether territorial autonomy arrangements are successful or not in the management of plurinationalism depends on the more undemocratic or democratic context. And, according to McGarry and O'Leary, territorial self-rule can be considered to have integrative effects in democratic contexts, for "there is not yet an example of an established democratic plurinational federation failing" (2009: 18). "The most apparently powerful and pervasive argument against territorial pluralism, endorsed by many socialists, liberals, and conservatives, is that it deepens divisions by institutionalising them (Brubaker 1996; 2006; Left 1999; Roeder 2007; Snyder 2000)", causing instability and conflict and facilitating the breakup of the state. The concern about territorial pluralism being inconsistent with the integrity of the state, widely held in Eastern Europe and most of Africa and Asia, but it is also pointed out by politicians in the United Kingdom, Spain and France (McGarry & O'Leary 2015: 38).

Very often, arguments against territorial pluralism are based on the implicit premise that territorial unity, solidarity and stability could be more easily achieved in the absence of territorial pluralism; but the truth is that in many cases territorial pluralism has been a response to multinational and multicultural divisions rather than the cause of them, as proved by the popular support for autonomy. But on the other hand, the very existence of what is shown as "success stories", that is to say, the existence of multinational states that have not undergone break-up, including old states like Switzerland, Canada or India, as well as emergent examples of successful territorial pluralism like Spain, the United Kingdom and Italy.

One of the advantages of asymmetry, namely the capacity of accommodating different levels of demands, can turn into a disadvantage because, as S. Wolff points out "the problem of sequential and decoupled settlement processes, noted as a potential advantage to the state, however, is just as likely to backfire:

movements with initially lesser demands might be encouraged by a prior settlement to raise the stakes and ask for an equally advantageous deal; alternatively, subsequent settlements perceived as better may lead to reopening disputes that had already been settled. Asymmetry thus inevitably raises the spectre of comparison, in itself a potential conflict causing factor.

Asymmetry is thus a double-edged sword whose application requires careful consideration of potential consequences... its benefits can clearly outweigh any possible costs, but only if asymmetry is embraced by all conflict parties as a solution to their disputes, if it is dynamically developed over time rather than conceived as a one-off static solution, and if it responds to real needs on the ground can protect past achievements against subsequent erosion of the status and powers of the autonomous entities” (Wolff 2010: 25). As McGarry has pointed out, symmetrical federalism is resisted, first of all, on the grounds that it may facilitate the break-up of the country. “By establishing a special relationship between a region’s government and its people, it is thought to encourage loyalties to that government” (2005: 4). Despite his preference for asymmetry, Will Kymlicka was concerned that the granting of asymmetrical autonomy, though often unavoidable, might turn into a 'slippery slope' towards secession for national minorities. As a consequence, it will not avoid, but it will only delay, the break-up of the state. In the end, “excessive asymmetry is an inclined plane on which federations will glide downwards towards eventual dissolution” (Baubock 2002: 2). Moreover, the fact that asymmetry tries to combine and satisfy antagonistic aspirations works to the detriment of its own success. Thus, according to Robert Cox and Erich Frakland, asymmetrical federalism is partly to be blamed for the break-up of Czechoslovakia. It “represented an awkward compromise between the proponents of central authority and the proponents of regional autonomy...that left the institutions with a somehow irrational administrative structure” (1995: 78).

From this perspective, asymmetrical arrangements and their “unintended” effects do confront us with the paradox of a self-destructive mechanism: asymmetry is, on the one hand, the very solution designed to keep national minorities within the state; on the other, it offers them the institutional

experience, resources and incentives to ultimately launch a successful secession movement (Simeon and Conway 2001). In this sense, the very success of asymmetrical federalism in accommodating minority nations may simply have encouraged them to seek secession. According to the slippery-slope argument, asymmetry combines a double dimension, symbolic and practical: firstly, it recognises and affirms the sense of national identity amongst the minority group, and strengthens their political confidence (Kymlicka 2004). Secondly, it gives the minority group concrete institutional and material resources, as well as governance experience, to run their own state. Because of this, the minority feels “more confident of their ability to go it alone, and with an already recognised territory over which they are assumed to have some prima facie historical claim” (Kymlicka 1998: 140). “The option of secession will always be present. Indeed, in a sense, it becomes the default position or the baseline against which participation in the federation is measured” (Kymlicka 2005: 287). Under such circumstances, and provided with all those incentives, exit costs are considerably lowered down and secession becomes more feasible than ever before. What the literature summarised above inaccurately presents as evidence of the effects of asymmetry on the stability of federal states constitutes, more precisely, two alternative and equally plausibly hypotheses: the “secession-preventing hypothesis” -asymmetry successfully accommodates and contains the minority’s self-government demands- and the “secession-inducing hypothesis” – asymmetry provides the minority with symbolic and institutional incentives for additional demands. Yet, a global survival-rate does not seem to be significant evidence to support one or the other claim. In that regard, analyses tend to be descriptive, and they do not identify the causal mechanisms linking asymmetry with either stability or instability.

On the other hand, and together with the “slippery slope” dilemma, asymmetrical autonomy seems likely to activate an additional destabilising dynamics, usually referred to as “leapfrog risk” (Hazell 2004), “snow-ball effect” and “domino effect” (Bodganor 2010; Lecours 2004), “café para todos” (Aja 1999; Blanco Valdes 2005; Moreno 2001) -or “tea for everyone” (Giordano & Roller 2004) in its British version. These “catching up dynamics” describe the

tensions between asymmetry and symmetry featuring the process of decentralization in Spain. Thus, according to Moreno's "ethnoterritorial mimesis" once the so-called historic nationalities (Basque Country, Catalonia and Galicia) got their statutes of autonomy passed, all remaining regions also demanded autonomy for themselves, in an attempt not to be left behind (2001: 101). And every time the former gained more powers or improved their institutional machinery the latter have also tried to come closer and so on, with this dynamics never coming to an end. In that regard, and not without irony, the "fable of the hare and the turtle" has been used to describe the Spanish race for autonomy (Corcuera 1994; Pradera 1993). Implicit in this catching up argument is the suggestion that an incentive of territorial emulation is embedded in the very nature of asymmetry, which facilitates breaking the "original asymmetrical stigma of the system" (Blanco Valdés 2005: 72).

If this is correct, inter-regional rivalries and territorial emulation would not be features exclusive of the Spanish case, but they might also be found in other asymmetrically devolved countries, such as Canada or the United Kingdom. Not surprisingly, Benito Giordano and Elisa Roller warned against the risks of implementing a Spanish-like model of asymmetrical autonomy in the United Kingdom, as it could lead to "a process of catch-up whereby regions with less demand parity with those that have more devolved responsibilities and competencies" (2004: 2180). In the same vein, Robert Hazell wrote: "In Great Britain there is likely to be a process of leapfrog whereby the slower English regions seek to catch up with those which have established regional assemblies; and Wales seeks to emulate Scotland. This may lead the Scots to press for further devolution to keep one step ahead." (2004: 9).

The argument also had resonance in Russia, where Gail Lapidus emphatically pointed out how the regions resented "what they consider their second-class status in an asymmetrical federation that granted what were, in their view, unjustified privileges to republics" (1999: 77). Bearing this in mind, central authorities have been advised to be naïve about this "potential escalation", "diffusion of demands", "chain reaction" and "epidemic hypothesis" and seriously consider "that granting extraordinary rights to one national group will

inspire a whole series of comparable demands” (Mikesell and Murphy 1991: 599). They ultimately materialised in what is known as the ‘parade of sovereignties’ in the period between 1990 and 1992, followed by some form of federalism a la carte through 42 power-sharing treaties signed bilaterally by the federal authorities and the respective regional elites between 1994 and 1998 as the subsequent logical consequence of the earlier parade of sovereignties (Bowring 2010: 55-58; Sakwa 2011: 158-160).

A recent edited volume by Ferrán Requejo & Klaus Nagel (2011) examines how asymmetrical decentralization have led to processes of “resymmetrization”⁵⁶ in ten European countries including Belgium, Italy, Spain, and the UK, “which initially displayed large de iure asymmetries in their constitutional structure” (Nagel & Requejo 2011: 249). If asymmetrical processes are ultimately followed by resymmetrization, doubts can be raised about whether asymmetrical autonomy is an effective tool for the accommodation of regional differences or it rather serve to reducing or eliminating them. However, and despite the editors’ attempt to establish a strong link between asymmetrical decentralization and resymmetrization processes, the evidence suggest that regionalisation spill overs and resymmetrization has been much limited in countries where asymmetry was involved islands, such as Denmark, Portugal or France, but also in the UK. And therefore, it is debatable the generalization capability of the editors’s claims regarding decentralization and asymmetry. While the editors acknowledge these cross-country variations (Nagel & Requejo 2011: 250), they tend to overlook the existence of internal variation in countries that have followed some general resymmetrisation process.

⁵⁶ The authors distinguish two main strategies and dynamics through which resymmetrisation can be pursued: what they label ‘homogenising decentralisation’ or ‘compensatory decentralisation’ (that gives the rest of the territories of the state similar powers and institutions to those acquired by the asymmetric territories) on the one hand, and recentralisation, on the other.

Startlingly “resymmetrization” is for the most part portrayed as a unilateral decision made by the central government in those countries, without highlighting the involvement or counter-asymmetry pressures emerging from regional governments. This trend to look at resymmetrization as a general trend overlooks the fact that even in the countries where resymmetrization has been more apparent, not all regions have pursued resymmetrization or that they have done so to the same extent. In the authors’ own words “the SWPs are the main defenders of symmetry, among other reasons because they have to look for electoral support among the *majority population*. A clear example of this is Spain, where the two majority parties (PSOE and PP) defend positions that endeavour to minimise asymmetries despite proclaiming different positions with regard the territorial organisation of the state” (Nagel & Requejo 2011: 261).

And the final conclusive remarks: “at least in the cases studied here, there is evidence that national and linguistic asymmetries generate more de jure asymmetries than other de facto asymmetries, for example, those of a economic nature. They also exert greater resymmetrising pressures in response. The latter, however, may be of a decentralising or recentralising kind. The historical cases of the small Danish and Finnish islands and the case of the United Kingdom show that, in some cases, the recognition of a number of de facto asymmetries and their transformation into de jure asymmetries has failed to generate enough resymmetrising responses in either direction. However, it should be noted that British devolution is still in the early stages” (Nagel & Requejo 2011: 268).

Maiz and Losada (2011) identify resymmetrisation dynamics and pressures in the development and evolution of the Spanish state of autonomies. This resymmetrisation has combined with recentralisation dynamics to produce an ever-lasting ‘defederalisation’ of the system, which has appeared with more or less intensity over time. “This brief review of the main historical moments of the State of Autonomies evidences the more or less constant presence of a logic of defederalisation (resymmetrisation and/or recentralisation), in contrast with the constitutional and statutory logic of decentralisation and accommodation. Thus, Spanish federalism is currently the result of the tension and oscillation between these two logics” (Maiz & Losada 2011: 89). When the authors look at the

constellation of actors and their position regarding asymmetry, they describe the political parties as general actors with nationalist parties forming the nucleus of the block that supports decentralisation and asymmetry; the PP at the core of the block supporting recentralisation and the PSOE in a more undefined position that “shows a preference for the legitimacy of the process itself rather than any specific solution or direction of the policies being designed and implemented” (2011: 89). But they neglect the fact that those very parties support different views and have different strategies depending on the territory they are or their position as government or opposition.

From a game theoretic perspective, Christina Zuber (2010) has developed the most compelling theoretical explanation of the relation between asymmetry and instability. The author concludes that “asymmetrical rules are shown to simultaneously facilitate outcomes aimed at abolishing and at maintaining the asymmetries and therefore turn out to be inherently unstable from a perspective that takes all actors in all arenas into account (2010: 3). Yet, the analysis does not explain when the ‘inherent instability’ is likely to materialise. As noted, among others, by Wellner (2010) and Wolff (2010), asymmetry offers elites at the central level the opportunity to maintain the state and its overall structure, while endowing institutional architects with a significant degree of flexibility to cater to the very specific characteristics that a conflict brings with it and to accommodate different levels of demands by different territorial units or movements. But the application of asymmetry presupposes that concessions need not be replicated across the board. But the problem emerges from a sequential settlement process that is just as likely to backfire. Addressing the question of whether asymmetrical arrangements have contributed to or undermined political cohesion, R. Watts points out to Canada, Spain, Belgium, India and Malaysia as examples of success, while the conclusion on the Russian case is more ambivalent and the case of devolution in the UK was too early to judge the long-term efficacy of those asymmetrical arrangements. But at the same time, he lists some other less encouraging examples, leading in some cases to disintegration of the state West Indies (1962), Yugoslavia (1991), Czechoslovakia (1992) (2004: 20). And, “in some cases de jure asymmetrical

arrangements or pressures for such arrangements have themselves provoked counter-pressures for symmetry and therefore become a source for greater rather than reduced inter-regional conflict within the federal system. This suggests that asymmetrical decentralisation is not a panacea and that there may be limits to de iure asymmetry beyond which extreme asymmetry may be dysfunctional ... furthermore, constitutional asymmetry among regional units within a federal system may accentuate its complexity to the point of limiting its effectiveness (Ibid).

3. A MODEL TO UNDERSTAND REGIONAL REACTIONS TO ASYMMETRICAL EMPOWERMENT: BRINGING THE OTHER REGIONS BACK IN

This chapter builds a conceptual and explanatory model aimed at comparatively describing and accounting for reactions to asymmetrical empowerment, this way setting the stage for the empirical analysis that is carried out in the remaining chapters. The model serves two purposes: on the one hand, it guides the data collection; on the other, it provides some tools to interpret, compare and explain the findings of the empirical research. The chapter is divided into two parts. In the first section, devoted to defining and operationalising the outcome, I propose four ideal types of reactions to asymmetry. In the second one, I present the explanatory framework that contains a series of causal factors and empirically testable statements in connection to the fundamental theoretical and empirical questions of the thesis. After discussing each condition in individual subsections, a complex explanatory argument is built in the final one, according to which reactions to asymmetry cannot be satisfactorily accounted for by reference to any causal condition considered in isolation from the rest, but as a result of the contingent and interactive effect of many factors.

3.1. CONCEPTUALISING THE OUTCOME: HOW DO LER/NERS REACT TO ASYMMETRY?

The idea of reaction is implicit in the analysis of territorial dynamics relating to asymmetrical self-empowerment, as it is suggested by academic references to emulation dynamics and catching-up (Moreno 2001). However, no explicit attempt has been made so far to create a proper conceptual framework that

identifies and describes how under-empowered regions respond to the asymmetrical allocation of powers among the various regions of a single state, while the term of catching-up is too narrow to capture and encompass the phenomenon of ‘reactions to asymmetry’ in its full complexity and diversity. Partly building on examples scattered throughout various subfields of political science⁵⁷, a working definition of reaction is first provided. In line with my theoretical contention that LER/NER may react to asymmetry in various ways, an inductively derived classification of LER/NER’s reactions to asymmetry then follows.

As a first approximation to the study of reactions, I have opted for a broad concept, according to which a reaction is ‘any decision, stance, action or inaction taken by the LER/NER government through which it expresses or makes effective its position regarding actual or prospective asymmetry in favour of the MER’. Some clarifications are needed with regard to the proposed definition. First of all, a reaction is a conscious and considered response which results from a thought-out and deliberate choice. This is held true even in the case of a seemingly irrational behaviour that may appear suboptimal given the

⁵⁷ For example, the idea of “reactive ethnicity” or “reactive ethnic cleavages” have been used in the area of ethno-nationalism studies to explain the emergence of nationalist/regionalist mobilisation against exploitation by the centre (Hetcher 1975; Leifer 1981; Nielsen 1985; Ragin 1977); and the business and economic elites’ quest for regional autonomy in Bolivia has also been interpreted as a reaction to the empowerment of indigenous people there (Eaton 2007). In addition, the concept has been used by international relations theorists to model the interplay between international actors as dynamics of ‘action-reaction-interaction’ (Rosecrance 1963; Snyder et al 1954), and to distinguish between ‘proactive’ and ‘reactive’ foreign policies (Potter & Sueo 2003). In the field of European integration studies, the phenomenon of euro-scepticism in Central and Eastern Europe has also been construed as a reaction mechanism in defence of national identities (Vetik et al 2006) and, Goldsmith and Klausen (1997) have developed the categories of ‘reactive’, ‘proactive’, ‘counter-active’ and ‘passive’ governments within their typology of municipalities and regions based on their strategies of adaptation to the challenges of the EU.

LER/NER's apparent interests. And it excludes both, any mechanical or instant responses that are not backed with further measures later on, and the absence of a response due to ignorance of the asymmetrical autonomy at stake.

Secondly, reactions are relevant to this investigation if they derive from the LER/NER government. This entails reducing the LER/NER to a unitary actor. This may be seen as an undue abstraction of their internal heterogeneity, especially when opposition parties or some social elites do not share the government's views about asymmetry. Nonetheless, and in line with Van Houten (2007), I contend that governing politicians can be considered to speak on behalf of the region and to pose credible and consequential reactions for the approval and implementation of asymmetry precisely because of their governmental responsibilities and electoral strength. Therefore, and to the extent that a regional government is in place we have to look for reactions from the cabinet or its members; otherwise, members of either the central parliament elected in the LER/NER or from the regional branch of the party holding the majority there will be used as a proxy of the regional government.

Thirdly, beyond the various forms reactions may take (including the decision not to take any action) and the diverse avenues through which they can be channelled, all of them share an official character and some degree of formality and publicity. This excludes views expressed or actions taken by political representatives or members of a LER/NER government as private individuals or in the private sphere. Specifically, reactions have to be distilled from -and defined in the light of- legislation and regulations approved by the regional government, as well as legal and court actions adopted by them; their position held in bilateral or multilateral meetings and negotiations; their policy documents, plans and reports; their statements and made before parliament or information given to the media; or more broadly any administrative measures or activities of political campaign affecting the asymmetry at stake.

The above definition theoretically allows for non-uniformity in their contents. The remaining of the section is devoted to classifying reactions based on the direction of their impact towards facilitating or hindering asymmetry. Based on

this criterion, I have constructed three basic categories: catching-up; blockage; and acquiescence⁵⁸. A fourth category –issue linkage– is added later on, that supplements the above classification.

3.1.1. Catching-up reaction

Social science literature is not a stranger to the notion of catching-up. Quite often, it has been used to refer to either the process of convergence over a period of time or the outcome in terms of narrowing or closing a gap -in different areas such as governmental performance and regulatory capacity (Spendzharova & Vachudova 2012); public spending (Jensen 2011); or technological innovation (Serranito 2013)- between two entities that occupy initial positions respectively as frontrunner and laggard. Likewise, catching up is related to ideas of ‘spill-over’ and ‘contagion effect’, developed by the neo-functionalist theory of European integration (Jensen 2000; Niemann 1998), which are also found in some modified version of neo-functionalism applied to the analysis of sub-state regionalisation (Evans 2000; Bradbury 2003).

Closer to my research, a growing number of analyses of constitutional reform and change in multinational federal states have adopted the notion of catching-up more or less explicitly too (Giordano & Roller 2004; Lecours 2004; Moreno 2001; Petersohn et al 2015; Zuber, 2011). In fact, catching-up captures very approximately the fundamental aspect of territorial emulation and a prevailing expectation that under-empowered regions’ assertiveness is moulded by developments in over-empowered regions, so that their demands to enhance their authority are ultimately driven by some sort of mimetic or ‘metooism’ aspiration.

Partly in line with the above precedents, catching-up is used here to describe the type of ‘reaction through which the LER/NER government calls for increased self-governing powers for itself, in line with those already demanded

⁵⁸ I argue they constitute qualitatively distinct categories that meet the dual condition of being mutually exclusive and collectively exhaustive. If this is true, any given reaction should fall only under one of the given types.

by –or granted to– the MER’. Nonetheless, similarities should be taken with some caveats, for my definition rejects and tries to temper automaticity somehow embedded into the idea of spill-over, as well as the deterministic view of territorial emulation as a necessary outcome, intrinsic to every asymmetrical institution. On the contrary, I emphasise the contingent nature of catching-up and the crucial role of agency behind it.

Ultimately, catching-up requires that the area where the MER has been -or is likely to be- asymmetrically empowered is also relevant for the LER/NER, so that their regional elites purposely respond using catching-up as a defence mechanism against what they perceive as actual or eventual territorial discrimination. Besides, catching-up and steps towards symmetrical devolution do not constitute a logical extension or development of asymmetrical empowerment but they are the result of inter-regional contentious dynamics which create a fracture of the initial asymmetrical design. By pushing for the spread of regional autonomy beyond the MER, catching-up reactions have a negative impact on asymmetry and they entail a demand for a ‘more symmetrically devolved’ system.

3.1.2. Blocking reaction

The second category of reaction, referred to as blockage, describes ‘a formal critique or an obstructive measure taken by the LER/NER government in an attempt to prevent the concession of asymmetry to the MER or to get it cancelled if already approved’. Much like catching-up, blocking reactions pose a challenge to the enactment or exercise of asymmetrical autonomy. Unlike catching-up, however, the LER/NERs do not seek to walk the path paved by the MER, but they endeavour to stop the latter from moving further away in its conquest of self-government. Placed on a centralisation-decentralisation continuum, blocking reactions assert a preference and bring a pressure for the status quo or a ‘symmetrically and less decentralised system’.

In general, for blockage to become effective it is necessary that the LER/NER government has a say on the matter, and that their reaction predates the eventual concession or implementation of asymmetrical empowerment; an example of

this occurs when the LER/NER expresses its opposition to asymmetry during a process of multilateral negotiations prior to its enactment. The proposed definition does not take into consideration whether or not the reaction has an actual influence on the outcome; therefore, an objection to asymmetry that is mostly symbolic in nature will be considered a blocking reaction. On the other hand, if the LER/NER poses an obstacle or hindrance after the MER was granted special autonomy, its reaction does not represent, strictly speaking, a blockage but more exactly an attempt to roll asymmetry back. Bringing a case against asymmetry before a court of justice would be a case of ‘rolling-back reaction’. For analytical purposes, and in order not to create an unnecessarily complex classification, blockage and rolling-back reactions are clustered together under the same category.

3.1.3. Acquiescence reaction

The third category of reaction encompasses a variety of responses ranging from the enthusiastic endorsement of asymmetry to silence or inaction and sort of reluctant or demurring acceptance in between. Under certain conditions, LER/NER governments may see asymmetry as a good solution, being thus willing to accept it. In other cases, LER/NER may conceptually dislike or disapprove asymmetry and yet, refrain from opposing it they concede that asymmetry may be the only choice for the sake of peaceful coexistence. Finally, a quiescent reaction may reflect indifference due to the little salience of an issue at stake to the LER/NER’s interests. Despite the greater or lesser differences among these hypothetical responses, all three share having a positive and facilitating effect towards the approval or exercise of asymmetrical empowerment, which justifies getting them clustered under the same label. Acquiescence is thus defined as *‘any action or inaction through which LER/NERs demonstrate, either actively or passively, their support for asymmetry’*.

It is worth recalling here that instances of ‘no response’ motivated by ignorance of asymmetrical autonomy at stake have already been excluded from the proposed definition of reaction. However, other instances of what may

appear at first glance the absence of reaction actually entail a strategic calculation on the side of the LER/NER. These latter cases will be considered quiescent reactions rather than no-reaction.

3.1.4. Issue-linkage reaction

Strictly speaking, acquiescence, blockage and catching-up cover the full spectrum of reactions to asymmetry, in the sense that every reaction-triggering event always and necessarily prompts one of these responses. This is the reason why I consider them to be the basic types of reactions to asymmetry. But I also suggest the existence of a fourth one that I have named issue-linkage reaction. Issue linkage does not constitute an alternative but a supplementary category which, under certain conditions, may appear in combination with any of the above ones, and more particularly with acquiescence.

Numerous analyses have underlined the importance of threads and rewards and processes of linking issues as ubiquitous facts in both international and domestic politics (Axelrod & Keohane 1986; Hass 1980; McGinnis 1986; Mckibben 2010; Scharpf 1997; Tsebellis 1990; Tollison & Willett 1979). Issue linkage constitutes a common bargaining strategy through which multiple games played along objectively separate issue dimensions become nested together in order to facilitate cooperative outcomes that would be otherwise very unlikely. The usefulness of quid-pro-quo mechanisms essentially rest on the differences in the relative salience of the issues that are to be linked together for the actors involved in the negotiation; that is to say, quid-pro-quo has to involve, in F. Scharpf's words, "two or more distinct policy areas with complementary asymmetries in their interest constellations" (1997: 130). This is why players are able to arrive at mutually-acceptable packages by respectively sacrificing on issues they value less in explicit exchange for gains on other issues deemed more important; ultimately, "[s]ince the issues are not inherently connected, the sacrifice of a peripheral demand poses no problem as long as what is really wanted is accomplished" (Hass 1980: 373).

The concept of issue-linkage reaction developed here is based on this literature and is thus closely related to notions of 'nested games', 'package deals', 'quid-

pro-quo' and 'trade-off arrangements' typically found there⁵⁹. Therefore, through the linkage politics, '*LER/NER make a tactical and instrumental use of the MER's demands so that their support for asymmetry in favour of the latter is made conditional upon having issues of their own interest taken care of, too*'. By bringing their own issue into the same negotiations, LER/NER obtain additional bargaining leverage that they could not extract if the discussion remained confined to the question of the MER's asymmetrical empowerment. In a circumscribed use of the term, therefore, catching-up reactions could only take place during a process of multilateral negotiations involving both the MER and the LER/NER. Besides, and considering that asymmetrical empowerment may result from a bilateral agreement between the central government and the MER, it should be theoretically allowed the possibility that issue-linkage reactions may also happen afterwards. True, in these cases issue-linkage will not serve as an effective thread, but an argument along these lines could still be used to extract rewards or to seek some compensation that would somehow balance the LER/NER's position vis-à-vis an already asymmetrically empowered MER.

3.2. EXPLAINING LER/NER'S REACTIONS TO ASYMMETRICAL EMPOWERMENT: CAUSES AND HYPOTHESES

To my knowledge, no other investigation has been conducted to date dealing specifically and systematically with reactions to asymmetrical empowerment where my own research could be anchored. Therefore, developing an explanation of LER/NER governments' reactions will entail a great deal of creative guess-working; but it does not mean going blinded or theoretically unequipped in this undertaking. On the contrary, despite the lack of a proper theory and explanations of the occurrence of reactions to asymmetry, there is a rich scholarship on neighbouring areas such as nationalist and secessionist mobilisation, regional assertiveness and decentralisation, as well as works with a focus on intergovernmental relations in federal and politically decentralised

⁵⁹ Issue trading shares the basic principles with the vote trading or 'logrolling' used in parliamentary politics, too.

states from where I have drawn some insights on relevant factors that are likely to influence reactions to asymmetry. The different perspectives and approaches used to account for variation in levels of autonomy demands across time and space and the evolution of processes of decentralisation have, in turn, produced a wide range of explanations⁶⁰.

Traditional explanations featuring socio-cultural and economic causes, as well as more recent ones looking at party competition dynamics appear to be provisionally useful to this investigation⁶¹. Given that regional autonomy demands and reactions to asymmetry are basically concerned with the restructuring of territorial power, some commonalities could also be expected as regard the causes triggering them. Yet, it does not presuppose that hypotheses and explanations can be directly transferred from one area into the other. Chances are that the same explanatory condition will influence autonomy demands and reactions to asymmetry in different ways or become relevant through different causal mechanisms. Since the former are specifically related to the position of regions regarding the vertical allocation of powers between state-wide and sub-state governments whereas the latter primarily affect the horizontal distribution of powers between two sub-state units, this seems a key difference that will have to be taken into account in order to adjust or redefine the explanations accordingly and to make causes of autonomy demands workable in the analysis of reactions to asymmetry.

⁶⁰ Fitjar (2010), Schrijver (2006) and Van Houten (1999) offer three good summaries of this scholarship.

⁶¹ On the contrary, and assuming that reactions to asymmetry are fundamentally mediated by elements and conditions affecting inter-regional perceptions and dynamics happening within the borders of the state, I have excluded those other explanations based on macro-level and international factors such as globalisation and European integration (Dardanelli 2005; Keating 1995; Zürn & Lange 1999) or outside powers intervention (Gherghina & Jigla 2011; Jenne 2004; 2011).

A final clarification is needed here. Considering the exploratory nature of this project and my personal epistemological predisposition in favour of multiple and complex causation of political phenomena, I am not trying to establish one single or main cause that ultimately determines the outcome, but to identify several factors likely to influence it. In this connection, I advance a basic explanatory argument according to which *LER/NER governments' reactions vary because of the different implications of asymmetry at stake and the different reaction capacities of LER/NERs given some structural features of the latter and some political-institutional factors enabling or constraining them to react one way or another*. This proposition brings together elements specifically related to asymmetry with causes derived from the above-referred neighbouring areas in a combination of structural and junctural factors. Specifically, three kinds of conditions are deemed to contribute to the variation in reactions to asymmetry: the type of asymmetry involved in the RTE targeted by the reaction; characteristics of the actual LER/NER responding to such RTE; and the political-institutional context under which the reaction occurs. The discussion of these three dimensions and explanatory statements based on them are developed next, in one subsection each.

3.2.1. Asymmetry involved in the RTE

The concept of asymmetry used here broadly corresponds to *de iure* asymmetry and it refers to the special constitutional status and/or powers that a component unit (of a single federal or federal-like state) enjoys relative to other territorial units within the same state. As indicated in the first chapter, the actual or prospective concession of such special powers or status to the MER, which creates an uneven or non-uniform allocation of autonomy between MER and LER/NERs, constitutes the core defining feature of RTEs. After excluding *de facto* asymmetry from the definition, it still remains a very general rubric, under which many asymmetrical arrangements can be engineered. Some scholars have

noted that different types of asymmetry have different implications and are more or less important depending on the context where they are put into practice⁶².

If the same line of reasoning is applied to reactions to asymmetry, it could be argued that, since the object of LER/NERs' reactions is asymmetry, then, variations in asymmetry can also be thought of to cause variation in reactions. More specifically, since asymmetry can be enacted and implemented in different ways, over different scopes of public action and with different intensity, these different forms of asymmetrical autonomy should be expected to trigger different reactions. There are three dimensions through which asymmetry can vary that are considered particularly relevant for the purposes of this analysis. The first aspect likely to lead to variation in reactions is the non-uniformity in the contents of authority. Drawing on works on decentralization (Falleti 2005; Manor 1999; Willis et al 1999) and regionalism (Keating 1998a; Loughlin 2000), together with the more recent and exhaustive analysis by Gary Marks, Hooghe Liesbet and Arjan Schakel (2008)⁶³, asymmetrical empowerment is here operationalised as a four-dimensional concept as follows:

- The *institutional sphere* primarily refers to the legal position of the region, the structure of the regional government and its related law-making capacity, ranging from a directly elected legislature endowed with primary legislation powers, to an executive body with secondary legislation powers, up to some form of implementing body without law-making capacity. It can also translate into specific rules of representation at state-level institutions,

⁶² See Baier & Boothe (2008)'s discussion of different types of asymmetry and how they have contributed to make of Canada a relatively smoothly running federation. Also Colino (2007)'s for the various modalities and uses of asymmetry in Spain.

⁶³ In their analysis of regional authority in 42 countries over the second half of the 20th century, the authors disaggregate the concept of regional authority into four dimensions of self-rule -institutional depth; policy scope; fiscal autonomy and representation- and four dimensions of shared-rule -law-making; executive control; fiscal control and constitutional reform.

particular intergovernmental mechanisms and/or some veto power over the constitutional reform process at statewide level.

- The *symbolic sphere* corresponds to what is referred to as symbolic recognition and affects to the distinctive status of the region within the state. Symbolic recognition is reflected, first of all, in the (constitutional) recognition of the distinctiveness of a region, generally as a (minority nation), as well as the acknowledgement of the state as plurinational, thus encompassing multiple –and sometimes complementary- national (or national-like) identities. Symbolic recognition can also be reflected in the choice of national symbols, the wording of the constitution or the acceptance of more than one official language.
- The *jurisdictional sphere* corresponds to the policy fields over which the regional government exercises legal and/or executive responsibility and its higher or lower expenditure capacity in those areas. According to the nature of the policies, it is worth distinguishing between economic policies (including environmental protection, transports or energy); welfare policies (such as culture and education); security and coercive policies (police and judicial administration); immigration and citizenship policies; and foreign affairs.
- Finally, the *fiscal sphere* affects the extension of the regional government's decision capacity on public revenue, that is to say, whether it has been endowed with powers to levy taxes.

The second aspect is the avenue through which asymmetry is established. Based on it, we can distinguish between *constitutional asymmetry* which is entrenched in the constitution or a document of statutory nature and *extra-constitutional asymmetry* provided for in the legislation or emerging from intergovernmental agreements and political practice. The third dimension is the temporal scope of asymmetry which serves to differentiate arrangements intended to be *permanent* from others with a rather *provisional or transitory* character.

The theoretical expectation is that, in principle and irrespective of any other consideration, the different types of asymmetry resulting from each of the above classifications yield different objective significance, some of them being largely consequential and others less so. Regarding the first criterion, institutional and fiscal asymmetries are expected to be the most consequential, for it is the combination of the institutional and fiscal spheres of autonomy which defines the overall political capacity and autonomous economic resources of a given region. Jurisdictional asymmetry, on the other hand, seems neither consequential nor inconsequential on its own, because it is not possible to establish a scale of objective relevance of all policy fields over which regions can exercise powers. Finally, symbolic recognition is considered to be the least consequential of the four. Due to the greater formality of constitutional asymmetry it is considered to be more consequential than extra-constitutional forms of asymmetry; and the fact that provisional asymmetry is much easily reversible than permanent asymmetry makes the former largely inconsequential when compared to the later.

From here, whether a specific type of asymmetry is consequential or inconsequential is thus expected to lead to reactions opposing asymmetry or instead to quiescent ones. It could thus be hypothesised that: (1) if everything else is held constant, institutional and fiscal asymmetry, as well as arrangements of constitutional and permanent character would lead to either catching-up or blockage. Conversely, (2) symbolic asymmetry as well as arrangements of extra-constitutional and provisional nature would be more likely to trigger quiescent reactions.

3.2.2. Features of the LER/NER

a. Centre-Periphery explanation

The concepts of centre and periphery have been widely used, although in different ways and for different purposes, in social sciences and are at the basis of several theories in the fields of sociology and international relations such as economic imperialism (Galtung 1964; McKenzie 1977). They are also the root cause of regionalism (Lipset & Rokkan 1967; Rokkan & Urwin 1982). The

core-periphery model is based upon an unequal distribution of power in economy, society, and polity. The core is seen as the dominating and powerful 'central' realm, while the peripheries are assumed to be isolated, dependent, and underprivileged. This dominance-dependency syndrome strongly impacts on the economic structures and exchanges, as well as on political power distribution.

While the concepts of centre and periphery derive from and are primarily linked to a spatial dimension, it is their social, cultural, economic and institutional components that matters the most for a political perspective that seeks to establish which are the positions and roles closer to power and, in turn, better rewarded than others. The idea of political centre has thus to do with the decision-making nucleus, in the sense that the centre is where power in general, and political power in particular, is practiced. This does not mean that the periphery is entirely powerless or that it lacks any influence on the exercise of political power; ultimately, however, the practice of political power will always remain at the centre.

The centre-periphery model forms a useful framework for understanding the origins of regionalism and its relations with state- and nation-building processes. According to Lipset and Rokkan (1967), the peripheries try to fight this colonisation by the centre and defend their own economic and cultural interests. Protests from the periphery can focus on economic, political or cultural issues, and the structure of this protest is what shapes the cleavage structures and party systems of the states. In this perspective, regionalism is a natural reaction to the expansion of central authority. The peripheries react against the establishment of the state and the dominance of its administrative and economic systems (Rokkan and Urwin 1983)" (2010: 6). There is the somehow implicit understanding that the peripheries gain presence of their own if important differences exist between the peripheries and the central territory in terms of resources, culture, language, even geographical distance and those peripheries felt deprived of power or somehow under a dominant political centre.

On these grounds, it can be argued that regions are likely to be affected differently by asymmetry depending on their central or peripheral position

within the country, so that they will deal with asymmetry being demanded by - or granted to- the MER accordingly. For central regions enjoying great leverage and influence to shape policy- and decision-making at central/federal level, the primary objective will be keeping the country together. In many occasions, then, asymmetry is likely to be perceived as a necessary tool towards achieving such goal. Since they hold sway state-wide, when seen as a challenge or a threat to the unity of the state, the rejection of asymmetry seems a more optimal strategy than its spread throught the territory. On the contrary, for peripheral regions with already diminished capacity at federal level (compared to central ones), asymmetry appears to be far more damaging, because it entails an additional grievance that restricts their self-governing powers relative to specially-empowered regions.

The general argument, then, reads as follows: Central LER/NERs are likely to be more accommodative when faced with asymmetry than peripheral LER/NERs. And this unfolds in two separate hypotheses: (1) Everything else held constant, a central LER/NER is more likely to acquiesce to asymmetry than to oppose it. Otherwise, a central LER/NER will generally pose blocking reactions rather than catching-up. (2) Everything else held constant, the opposite order of preferences is expected in the case of peripheral LER/NERs: they are more likely to oppose asymmetry in the form of catching-up than blockage while it is highly unlikely that they will remain quiescent.

b. Economic explanations

Some traditional approaches of regionalism have pointed to economic grievances as its prime cause, and widespread evidence has been found showing how economic disparities (between the assertive regional entity and the rest of the state) correlate with growing self-government demands. In this sense, P. Gourevitch pointed to the likely increase in regionalist mobilization when territorial divergence exists “between the two functions of the modern state: political leadership and economic development” (1979: 304). Yet, economic influences seem to work in two opposed directions, suggesting that regional

autonomy movements may indeed appear in either relatively poor or relatively affluent regions.

On the one hand, an ‘under-development argument’ has been constructed based on the theory of internal colonialism⁶⁴ (Hechter 1975; Lafont 1967) according to which economically disadvantaged regions will tend to blame their backward economic position on the central government because of the scarcity of public investment allocated to them. As a consequence, and in order to tackle their deprived position, poor regions would be more likely to support devolution, so that regional rebellion will be strongest in the most economically deprived regions where the grievances are more acute (Hebbert & Machin 1984; Ragin 1979; Rokkan and Urwin 1983). A very elaborate economic argument suggests that, voters in poor regions are more willing to support regionalist parties if the regional income distribution within the region is sufficiently different from that of the country as a whole (Bolton & Roland 1997). Regionalist parties will, in turn, demand more autonomy (Fearon and Van Houten 2002).

Alternatively, in accordance with a so-called ‘over-development argument’, economically dynamic regions would try to avoid exploitation by a relatively poor centre, becoming more assertive as a result (Gourevitch 1979; Harvie 1994). In fact, Keating pointed out that, while there is little empirical evidence of regionalism developing in poor regions, rich regions have tended to exhibit stronger regionalist tendencies (1988: 12). As wealthy regions feel that they are paying heavily and getting little in return, elites there can easily exploit the argument that the living standards in the region would be better if they enjoyed more autonomy and did not have to fund the poorer rest (Dahl Fitjar 2010: 29).

⁶⁴ Initially created and applied to international relations of dependency and exploitation between sovereign states, the concept of internal colonialism was later successfully applied in cases such as France, Spain and the United Kingdom, to account for regional imbalances in economic development within the country.

This has been used to explain, for example, increasing fiscal autonomy demands posed by the better-off Western German Länder after re-unification, in an attempt to prevent subsidizing the comparatively impoverished Eastern Länder (Benz 1999; Von Beyme 2005). These economic calculations have also been developed into a rational choice model of regional policies by Persson and Tabellini (2000). In their view, when the periphery becomes economically more powerful than the centre, it may not be content to remain a periphery but it will seek a more active involvement on political and cultural affairs, so to match their economic power.

By extending and adapting the economic reasoning on the causes of regional assertiveness to the explanation of reactions to asymmetry, my theoretical expectations take into consideration two aspects: (1) the economic position of the MER within the state-wide economy and (2) the economic strength of LER/NERs vis-à-vis the MER. The economic explanation of reactions to asymmetry is a relational one, in the sense that it is not the economic capacity of the LER/NER in absolute terms that is argued to trigger different types reactions. Instead, it is the economic weight of the MER within the state-wide economy and the LER/NER's economic capacity measured against the MER's that combine in a complex economic argument.

- MER's weight within the state-wide economy

First of all, it could be expected that LER/NERs will react differently depending on the economic position of the MER within the state-wide economy. The larger the MER's share of the state-wide economy, the more consequential decisions related to it will be for any LER/NER. Asymmetry in favour of the MER is thus more likely to be opposed by reactions on the side of the LER/NER. And, if the situation of the MER is characterised by wealth and well-being, it would induce LER/NERs to follow on the MER's steps. By contrast, LER/NERs are expected to more willing to remain quiescent when dealing with demands raised by a small MER with a limited weight within the economy of the country.

- LER/NER's economic position relative to the MER

Once the economic consequentiality of asymmetry demands has been established based on the economic size of the MER, the actual direction of the reactions is expected to be also influenced by the LER/NER's economic position relative to the MER. Specifically, a LER/NER could be expected to oppose asymmetry in the form of catching-up reactions if it is at least as wealthy as the MER whereas the theoretical expectations work in the opposite direction if the LER/NER is worse-off than the MER, in which case blocking reactions seem more likely.

c. Cultural explanation. Strength of LER/NER's regional identity

The concept of regional identity can be defined as “the feeling of belonging and sense of membership into a particular region and imagined regional community” (Dahl Fitjar 2010: 3). “Territorial communities are to some degree bound together by a shared territorial identity, combining ‘we’ with a particular place” (Schrijver 2006: 30). It entails an objective as well as -and most fundamentally- a subjective dimension; and it can act either as a complement of other geographical identities or to compete with them for primacy. The notion of identity is necessarily linked to the mechanism of differentiation for one's identity is defined through its differentiation from another. When we deal with territorial identity, moreover, ‘we’ is connected to ‘here’ and ‘other’ to ‘there’.

Yet, the extent to which people identify with their region varies, and hence the levels of regional identity (i.e. the sum of regional identification among a region's inhabitants) vary across regions and time. In tune with the definition of identity, one can say that the strength of a regional identity depends on the extent to which people feel that they belong in the region and see themselves as part of a group involving all the inhabitants of the region” (Dahl fitjar 2010: 3-4).

Some traditional approaches have tried to explain the political mobilization of regions by reference to ethno-cultural distinctiveness. Drawing on the theories of ethno-nationalism, authors such as W. Connor (1994) have suggested that a group which recognises itself as a distinct national community will seek self-

determination, so as to be able to conduct its own affairs with greater autonomy within the country or as a separate new state (Keating 1996). The notion of regional identity -namely, the feeling of belonging and sense of membership into an imagined national community at sub-state level (Dahl Fitjar 2010: 3)- becomes central to this perspective that relies heavily on interpreting the results arising from identity tests based on public opinion surveys where respondents have been invited to weight the importance of various identities and to measure the attachment to their region in absolute terms or relative to their country.

It has often been argued that a strong sense of regional identity is likely to develop if the inhabitants of the region share common social and cultural features (most fundamentally language, religion, ethnicity and/or historical traditions) which sharply contrast with the characteristics shared among the people living in the rest of the country. Drawing on the theories of ethno-nationalism, therefore, a group that recognizes itself as a distinct national community would be expected to seek self-determination, so as to conducting its own affairs with greater autonomy within the country or as a separate new state (Keating 1996). According to Walker Connor, the fact that some ethno-national groups have claimed independence at the risk that their economic situation would deteriorate, is sufficient to reject “the lure of economic explanations” (1994, 146). Although more reluctantly, Donald L. Horowitz also conceded on the primacy of the ethnic and cultural motivations: while economic cost-benefit calculations have often served as either an accelerator or a brake on secession, ethnic anxiety, rather than economic loss or gain, has played the largest role in backward regions’ decision to secede. And these are, indeed, the most frequent to initiate secessionist demands (Horowitz 1981: 193).

Exception made of the above-mentioned analyses, cultural and ethnic differences are rarely portrayed as a sufficient for regional autonomist mobilization. Yet, many studies still consider them a necessary condition that,

together with other factors, would explain autonomy demands⁶⁵. For instance, based on the assumption that relatively large and spatially concentrated groups stand “in the best position to advance demands”, Marvin Mikesell and Alexander Murphy suggest that it will be the combined consequence of cultural distinctiveness, the size of the group relative to the majority and its geographical distribution that ultimately accounts for self-government claims (1991: 586).

Large literature examining one’s sense of attachment and/or belonging to the country, a sub-state territorial unit or ethnic group (see, for example, Jedwad 2010). Some surveys look at the attachment to various geographical levels but in absolute terms drawing thus results of people stating a strong or a feeble attachment to all sorts of geographic units (Eurobarometer). However, for the purposes of this research it seems more appropriate to look at the relative attachment to the region vis-à-vis the country. What is important is that all this literature intends to explain assertiveness by reference to the existence of a distinctive nation. Yet, it is often overlooked the fact that very often what we find is dual identities. Precisely because I am aware of and acknowledge this fact, I focus not on the existence of a minority nation but on the predominance of feelings of attachment to either the state-wide national identity or the sub-state identity. What I have not yet decided is whether LER/NER’s identity should be defined by reference to itself or by reference to the MER’s identity.

Multi-leveled identity structures on the basis of the widely used Linz-Moreno question that allows respondents to claim exclusive (either state-wide or sub-state) identities or some combination of both, i.e., dual identities which are either balanced –people feeling an equally strong sense of membership into the state and the regional communities- or lean towards one or the other of the territorially-defined identity poles –that is, more state or more regional. “The bipolar identity scale was designed to study national identities in contexts with competing views of the nation –a state-level nation and a sub-state level nation.

⁶⁵ That is to say, even if not all culturally-distinct regions will seek self-government, culturally-distinct regions are still more likely to raise autonomy demands than non-culturally distinct ones.

It differentiates between exclusive identifiers with one of the nations and dual identifiers with both nations, who perceive the two identities as compatible rather than antagonistic... The bipolar scale also differentiates the degrees of identification with each territorial sphere among dual identifiers: those who identify preferably with one of the two (leaners) and those who identify equally with both (indistincts)” (Galais et al 2014: 56).

If the sense of regional identity has been used as a predictor of demands of regional autonomy, it may also serve to predict reactions to asymmetrical autonomy. The preference for the identification with the region over the identification with the state is arguably related to the perception of the regional people as the prime demos and the regional government as the appropriate level in which to vest powers to run public affairs; even more so if another region (the MER) has previously demanded or gained extra powers. A theoretical expectation can be derived from here according to which a strong regional identity will make it more likely for the LER/NER to oppose asymmetry through catching-up reactions. On the contrary, if people in the LER/NER feel a strong sense of belonging to the state-wide community, they will prefer that the various regions within the state are governed by the same overarching government, turning them more reluctant to get powers devolved to the regional level. As a result, when the sense of belonging to the state-wide national community prevails over the feelings of belonging to the sub-state national community, the LER/NER government could be expected to block asymmetry, for an over-empowered MER can be seen as damaging or weakening the national community to which the LER/NER population shows stronger attachment. Finally, dual identity may help to absorb potential conflicts between the MER and the LER/NER, thus making the latter government keener to acquiescence.

As for the implications, the existence of a large proportion of citizens who prefer exclusive identities -on either side- is expected to indicate a polarised national cleavage, whereas, conversely, a larger proportion of citizens with dual identities would indicate a lack of polarization and could help to absorb potential conflict between exclusive identifiers (Galais et al 2014: 56). If this is

indeed the case, regions with large proportions of people showing dual identities should be more kin to acquiescence; large proportions of state-wide identity will lead to blockage and large regional identity to catching-up. A preference for regional identification vis-à-vis statewide identification is arguably related to the perception of the regional public as a more appropriate demos because of the sense of common identity at regional level and in this connection, the likeliness that people will favour vesting more power in the regional level of government than in the central level. Even more so if another region gets more powers. When the people of a region regard the statewide demos as inappropriate for deciding over a policy area that affects the region, they will want to redefine the demos in order to make it congruent with the regional public. The regional public is then regarded as the community that is affected by the decisions made. On the contrary, if people do not feel any sense of identity towards the regional level, it is unlikely that they will favour devolving power to the region. There would be no reason why the several regions within the state could not be governed by the central government, because the people of all regions are regarded as belonging to the same community.

There is also the question and problem of whether territorial identities are complementary or competitive and whether the MER is seen by the LER/NER as part of its own national community or a different one. And do the regional and state-wide identities overlap or are they seen as different? In a way, we could expect that people showing pure dual identities can more easily describe sub-state and state-wide identities as overlapping. It is far less likely that people showing exclusive (or even primary) state-wide or regional identities would see them as overlapping. The problem when examining this factor is that the way questions are posed crucially affects the responses and in some cases, it can even distort them. Certainly, the way citizens' identifications are operationalised and the questions asked in corresponding surveys have some limitations. Most importantly, as R. Gibbins pointed out, "the research to date may have distorted reality by asking the wrong questions. When, for example, respondents are asked if they 'first think of themselves as Canadians or New Brunswickers' they are being placed in a forced-choice situation. Yet if national and provincial

identifications are not competitive, the forced choice does not square with the psychological reality of respondents. For many and perhaps most Canadians, national and regional identities may be two sides of the same coin” (Gibbins 1994, 191).

On the other hand, the literature review suggests that self-government and sovereignty demands are often associated with sub-state nationalism and strong feelings among the inhabitants of a territory within the country of belonging to a national community different from the majority national community in the country. Grounding on these arguments, yet bringing them to the analysis of reactions to asymmetry, it is here hypothesised that the primary identification of the LER/NER’s population as being part of the state-wide national community or with their own sub-state nation will influence the way the LER/NER’s government reacts to asymmetry being demanded by or granted to the MER.

As a matter of fact, the MER tends to show a strong distinctive sub-state national identity. If a strong sense of national identity has proven to influence regional assertiveness, it is here expected that it will also affect whether and how the LER/NER react to asymmetrical concessions in favour of the MER. First of all, asymmetry can be expected to create different types or intensities of challenges depending on the national identification of the LER/NER primarily as part of the state-wide national community or as a distinctive national community. LER/NERs do not always or necessarily react to asymmetry. The sense of national identity does not serve to determine whether asymmetry is seen as damaging and thus worthy of a reaction. Therefore, it cannot be used to determine establish the LER/NER quiescence or opposition to asymmetry but the direction of the opposing reaction as follows:

Blocking reactions are likely to occur when the feelings of belonging to the state-wide national community prevail over the feelings of belonging to the sub-state national community. LER/NER are expected to react this way because asymmetry in favour of the MER can be seen as damaging or weakening the national community to which the LER/NER population shows stronger sense of belonging.

Catching-up demands are likely to occur when the feelings of belonging to a sub-state national community prevail over the feelings of belonging to the state-wide national community.

3.2.3. Political-institutional features

a. Regionalist Parties

The importance of political factors to account for the evolution of decentralization was already pointed out by Riker in his seminal work, where he suggests that parties were the key factor to understanding the extent to which a federation is centralized or decentralized with the possibility of deriving hypotheses about relations from parties and party systems to the more or less decentralized territorial structure of the state (Caramani 2004; Willis, Garman and Haggard 1999; Heller 2002; Roller & Van Houten 2003) but also the other way round (Brancati 2006).

Within the political-institutional approach to regionalism, it has been highlighted the role of party competition dynamics and the existence of sub-state political parties as a cause of regional mobilisation, especially in regions where the regional party system differs markedly from the statewide party system, where conflicts between the regional and national governments can act as a strong incentive for seeking devolution of powers (Van Houten 1999; Brancati 2008).

Peter Van Houten uses the conditions of party competition and the existence of sub-state parties as a cause of regional assertiveness, there is also a related literature that seeks to explain the support for and strength of ethnoregionalist and secessionist parties (Brancati 2008; Gordin 2001; Sorens 2004; 2005). Political parties and the dynamics of party competition have also been used to explain regional mobilization, especially in regions where the regional party system differs markedly from the statewide party system. In this type of regions, conflicts between the regional and national governments can act as a strong incentive for seeking devolution of powers. Amat, Jurado and Leon (2009) try to explain the evolution of decentralisation as the national incumbent's strategies of political survival that results from the interaction between national and

subnational politicians' relative power and goals, and this interaction is based on the degree of vertical integration of statewide parties (intraparty competition) and the blackmail played by regional parties (interparty competition). They create a "theoretical model where the evolution of intergovernmental arrangements is endogenous to the nature of the party system and party competition" (Ibid: 1).

When transferring this line of reasoning to the study of reactions to asymmetry, the existence of strong regionalist parties in the LER/NER can be expected to trigger catching-up reactions whereas, in cases where party competition at regional level largely takes place between state-wide parties, reactions are more likely to be blockage or quiescence.

b. Cross-level government (in)-congruence

It is broadly shared in the literature on regionalism and party systems that, whenever regions are governed by a national opposition party, it can lead to conflict between the regional and national government, encouraging the mobilisation of regionalism. Opposition parties at the central level that are in office at the regional level have strong incentives to support devolution in order to increase their power (Hopkin 2003). For example, Esselment (2013) has shown that partisanship has an effect on the conduct of intergovernmental relations -although its impact is more on the process than on the substance. When it comes to the influence of partisanship on reactions to asymmetry, the party composition of the LER/NER government vis-à-vis the federal government (or the MER) could also be expected to play an important role in the way the former react to demands of asymmetrical autonomy raised by the MER.

Specifically, conditions of party congruence would enhance the integrative role of parties, pressuring the regional to temper their arguments and claims vis-à-vis other regions of the federal government and reducing intra-party fractures and frictions across the board. Party congruence, thus, is more likely to impose constraints on the LER/NER governments to be quiescent, that would otherwise oppose asymmetry. On the other hand, under conditions of party incongruence

the regional branches of a state-wide party enjoy the capacity to shape their decisions regarding asymmetry in response exclusively or primarily to regional conditions and interests. Decisions can be more easily disembodied from political party considerations, making it easier to exploit disputes with the centre or other regions by exacerbating spatially based discontent. Party incongruence would thus create an incentive for the LER/NER province to oppose asymmetry in the form of blocking reactions or catching-up demands or, at least, such incongruence would not act as a constraint for the LER/NER's government or prevent it from opposing asymmetry.

Political parties, insofar as they form governments, ultimately become the main actors involved in defining reactions to asymmetry. Moreover, the party composition of the LER/NER government vis-à-vis the federal government (or the MER) is expected to play an important role in the way the former react to demands of asymmetrical autonomy raised by the MER. The literature on regionalism and party systems suggests that, whenever regions are governed by a national opposition party, this can lead to conflict between the regional and national government, encouraging the mobilisation of regionalism. "National opposition parties that are in office at the regional level have strong incentives to support the transfer of powers to the regional level in order to increase their power" (Dalh Fitjar 2010: 24). In other words, opposition parties tend to favour regionalisation of power (Hopkin 2003). When regional governments are run by national opposition parties are also amenable to blame games and vertical diffusion of responsibility, that is, regional politicians can reap rewards through blaming the national government for any failures of regional policy or any grievances that the electorate may have (McGraw 1990).

Specifically, it could be expected that under conditions of party incongruence the regional branches of a state-wide party enjoy the capacity to shape their decisions regarding asymmetry in response exclusively or primarily to regional conditions and interests. Decisions can be more easily disembodied from political party considerations. Party incongruence thus makes easier to exploit disputes with the centre or other regions by exacerbating spatially based discontent. Party incongruence would thus create an incentive for the LER/NER

province to oppose asymmetry in the form of blocking reactions or catching-up demands or, at least, such incongruence would not act as a constraint for the LER/NER's government or prevent it from opposing asymmetry.

On the contrary, conditions of government congruence are more likely to pressure the regional to temper their arguments and claims vis-à-vis other regions or the federal government and stand as a strong incentive to cooperate in the intergovernmental arena to avoid alienating one another. The value of cross-level cooperation between "party cousins" seems intuitive. For example, Esselment (2013) has shown that partisanship has an effect on the conduct of intergovernmental relations, although its impact is more on the process (how an agreement is reached and whether it is kept or not) than on the substance of such agreement. When it comes to the influence of partisanship on reactions to asymmetry, it can be expected that conditions of party congruence would enhance the integrative role of the party and thus the limits to show intra-party fractures and frictions across the board. Party congruence, thus, is more likely to impose constraints on the LER/NER governments to be quiescent, that would otherwise oppose asymmetry.

Moreover, the literature on political parties in multi-level polities has consistently highlighted the role of state-wide political parties as linkage between levels of government (Fabre 2008; 2011). State-wide parties competing in all districts in all elections exercise a crucial linkage function between levels of government. Thus, for example, Falcó-Gimeno and Verge claim that "SWP's strategies are not simply interconnected across tiers but rather regional government formation decisions are hierarchically subject to central-level considerations" (2013: 388). As argued by Stefuriuc, SWP are particularly interested in stepping into congruent coalitions. "Vertical congruence refers to the situation in which the party composition of a regional government coincides with that of the central government. SWP will highly value vertical congruence across institutional levels as a means to smooth intergovernmental relations on key policy issues, thereby ensuring that regional governments have a fluid relationship with the central executive" (Falcó-Gimeno & Verge 2013: 391). If that is the case, then, we will expect that, under conditions of congruence, the

LER/NER government will not openly voice opposition to decisions made by the central government, or asymmetry granted to the MER, for that matter. They might try to oppose asymmetry, but they would most likely do so through intra-party channels.

Yet, the actual extent and effectiveness of those linkages in practice cannot be taken for granted, because the allocation of power between central and regional levels of party organization and the higher or lower the degree of autonomy of regional branches from the central headquarters of the party can affect the former's capacity to make independent choices, even when they contradict the position of the central headquarters. Whether the behaviour of state-wide parties is hierarchically subject to its needs at the central level primarily depends, I should argue, on the fact that the party is integrated and the regional party branches lack of sufficient autonomy and leverage at the centre. That is to say, the degree of vertical integration of the parties will have a significant impact in determining the existence of government congruence or incongruence, and in turn, is decisions made by regional governments.

Thorlakson describes vertical integration as the extent and strength of formal and informal organizational linkages, interdependence and cooperation between state and federal parties, in both the parliamentary and extra-parliamentary arenas (2009, 160). Party incongruence takes place whenever the ruling parties in one LER/NER province are different from the governing parties at either the MER or the federal government. And some degree of party incongruence also exists when at least one of the coalition partners is different. On the other hand, having the 'same party' in power at both levels of government does not necessarily translate into party congruence, for parties in multilevel systems are not always integrated but they can also be split or bifurcated, cases that better fit the definition of party incongruence:

State-wide parties competing in all districts in all elections exercise a crucial linkage function between levels of government. Thus, for example, Falcó-Gimeno and Verge claim that "SWP's strategies are not simply interconnected across tiers but rather regional government formation decisions are

hierarchically subject to central-level considerations” (2013: 388). And they try to assess whether under conditions of minority government at the centre they will be more likely to pursue coalition and supporting strategies at regional level. But here the occurrence of government congruence is indirectly the outcome to explain rather than the explanatory condition. More importantly, whether the behaviour of state-wide parties is hierarchically subject to its needs at the central level primarily depends, I should argue, on the fact that the party is integrated and the regional party branches lack of sufficient autonomy and leverage at the centre. That is to say, for that hypothesis to work, state-wide parties have to be integrated and centralised.

3.2.4. Configurational framework

An important aspect of the explanatory framework has to do with distinguishing between remote and proximate conditions. These are contingent concepts in the sense that whether a factor is conceptualised as one type or the other is research-specific because it largely depends on aspects such as the research question, the research design or the conceptualisation of the outcome to be explained. Thus, although systemic features and those occurring at macro level seem to better fit the definition as remote causes and actor-based, micro-level factors as proximate causes, “in certain situations it is perfectly valid to conceptualise proximate factors in terms of systemic features, for their conceptualisation one way or the other should be done in connection to the theoretical framework. In general, socio-demographic and economic parameters and ethno-linguistic cleavages are not directly historically shaped but they are generally and most often conceptualised as remote factors.

This research embraces the basic idea held in common by different variants of neoinstitutionalism that political action occurs in institutionally constrained arenas (Hall & Taylor 1996; Thelen & Steinmo 1992); that is to say, political action can be accounted for only by reference to a combination of remote and proximate conditions. Political actors are exposed both to conditions which they have the capacity (power, resources, knowledge) to influence and to other conditions which cannot be changed easily or cannot be changed at all.

Explanations that rely exclusively on the first type of conditions display the causal mechanisms but are too shallow and lack causal depth. On the other hand, explanations relying on remote conditions provide for causal depth but fall short of demonstrating the causal mechanisms. When relying exclusively on one type of conditions or the other, explanations are at best incomplete and insufficient. Instead, “a good causal statement consists in finding the right balance between the two core features: causal depth and causal mechanisms” (Schneider & Wagemann 2004: 16).

Even when a reaction is likely to materialise, asymmetry alone is unable to predict whether such a reaction will be shaped as catching-up demands or downgrading demands. This remains a matter of choice in the hands of regional political leaders. In line with an actor-centred institutionalist approach to the analysis of social and political phenomena, demands are primarily seen as by strategic and intentional actors. While relying on their orientations and preferences, political actors do not make decisions in the vacuum, but they take into consideration the surrounding structural and institutional environment (Scharpf 1997). If facing asymmetry, regional elites will ultimately decide a particular course of action in accordance with the consequentiality of asymmetry, as well as a range of other factors.

The proposed theoretical framework is based on the acknowledgement that explanatory conditions can be divided into remote and proximate causes. And the concepts of remoteness and proximity have to be interpreted not only in terms of space and time but also and most fundamentally, with regard to the causal closeness to the outcome of interest to be explained. Remote factors are relatively stable over time; their origin is often remote (in both the time- and space- dimensions) from the outcome to be explained. As a consequence, remote factors cannot usually be easily altered by actors and are best treated as exogenously given. These remote factors are also labeled in certain research settings as structural factors or context. Proximate factors, by contrast, vary more easily and do not originate so far back in the past. They are more easily modified by actors; often, they even describe human action itself. A good causal statement consists of finding the right balance between remote and proximate

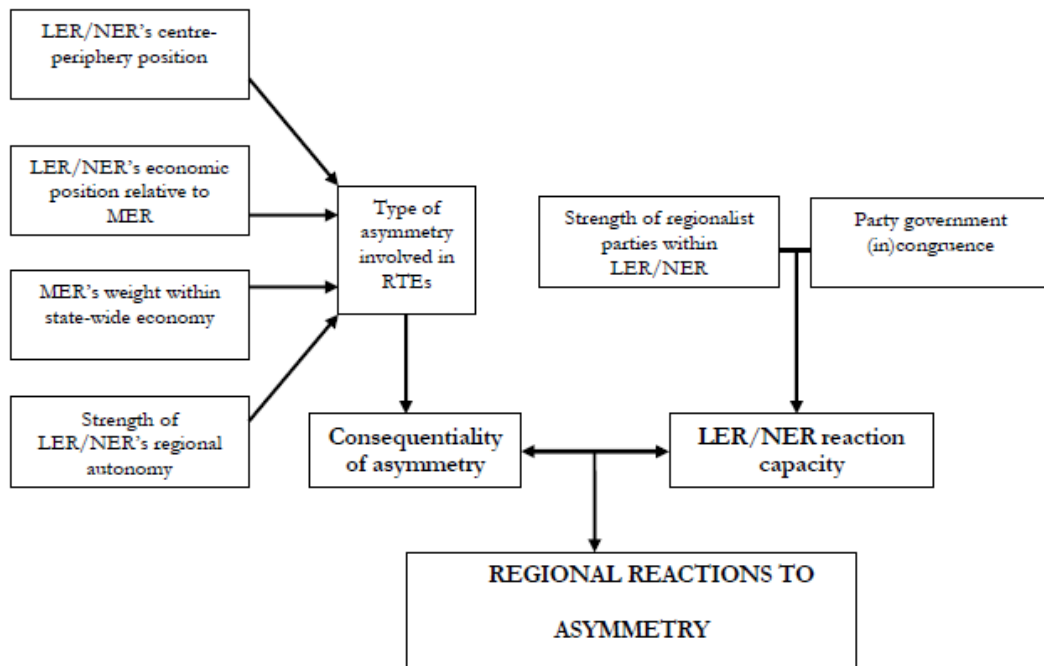
causes. For, on the one hand, relying exclusively on remote or structural factors provides for causal depth but falls short of demonstrating the actual causal mechanisms that link deep, distant causes with an outcome. On the other hand explanations based on proximate factors display causal mechanisms but without making the connection to the more contextual factors influencing and where causal mechanisms unfold.

I assume two theoretical considerations: first, the impact of asymmetry on the LER/NER is differential. Second, the differential impact can be explained by the existence of mediating factors. The resulting theoretical framework showing how the differential impact of asymmetry is mediated by other conditions is illustrated in the figure below. The consequentiality of asymmetry results from the combination of the types of asymmetry and the structural conditions, while government congruence determines the reaction propensity of the LER/NER. The different types of reaction come out of the combination of reaction propensity and consequentiality of asymmetry.

Consequentiality, defined in political and economic terms, constitutes the causal mechanisms linking asymmetry and socio-economic and political features together. An asymmetrical arrangement is deemed to be consequential if it fundamentally alters the composition of the national community in the eyes of the NER/LER or its share in the state's powers and revenues⁶⁶. Accordingly, regional elites will judge how detrimental the effects for their own region will be, if the level of asymmetrical autonomy increases to the advantage of a

⁶⁶ The use of the term “consequentiality” significantly differs from the “*logic of consequentiality*” first developed by March and Olsen in 1989, which has later on been applied in various sub-fields within Sociology and Political Sciences. See, for example, its use of in communication studies (Sigman 1995); in the analysis of the probability that survey respondents will reveal their real preferences (Cummings et al, 1997); or in state members' position regarding the enlargement of the European Union to Central and Eastern Europe (Schimmelfennig 2001).

different region⁶⁷. This way, asymmetry adds an important element of inter-regional comparison to the process of demand-making. While self-government demands are more generally based on a vertical dimension of cooperation and competition between the central and sub-state levels of government, in asymmetrical federal or quasi-federal states the horizontal dimension of interactions between specially empowered regions and the rest of the country should not be underestimated. Arguably, an accurate understanding of territorial dynamics importantly relies upon this very fact.



⁶⁷ Special considerations have to be made in the case of ‘opting-in’ and ‘-out’ clauses. Insofar as they are theoretically open to all regions, they remain inconsequential in the terms of the proposed explanatory framework. That is to say, in order to achieve symmetry, a NER/LEU does not need to react to ‘opting-in’ and ‘-out’ clauses but it just has to make effective use of them.

4. OTHER GOVERNMENTS' REACTIONS TO ASYMMETRY IN CANADA: A CASE ANALYSIS

4.1. PATRIATION OF THE CONSTITUTION (1982)

The 'patriation'⁶⁸ of the constitution represents the completion of the process of severing all remaining legislative dependence on the United Kingdom that was pending since the Statute of Westminster was passed in 1931. There was little optimism about the ability of the Prime Minister and the Premiers to actually come to an agreement when they gathered in Ottawa on November 2nd 1981. Yet, three days later an agreement that patriated the Constitution was signed between the PM and nine premiers, that contained an amending formula, a charter of rights and freedoms, as well as sections on equalisation and natural resources. More significantly for the purposes of this research, Quebec's quest for asymmetry came to the forefront of constitutional debates, thus making of patriation a crucial case for the analysis of the accommodation capacity of the system when faced with the challenges posed by Quebec.

Canadians had been involved in unfruitful patriation debates for about half of a century (Hurley 1996: 22-68). Yet, the political developments in Quebec following the victory of the *Parti Québécois* (PQ) in the provincial elections of 1976 almost unavoidably precipitated the issue of constitutional reform back into the political agenda (Bergeron 1983: 59; Campbell and Pal 1989: 235;

⁶⁸ A uniquely Canadian term used to refer to the process and the resulting constitutional package that removed the powers to amend the Canadian constitution from the British Parliament at Westminster and brought them under the authority of Canadian institutions.

Meekison 1992: 252). Soon after taking power, the PQ Government led by Premier René Lévesque set about to fulfil their electoral pledge and called a referendum to seek a mandate from the people of the province to negotiate a sovereignty-association partnership with the rest of Canada (Quebec Government 1979).

Were Lévesque's plan implemented, the nine English-speaking provinces would remain part of the Canadian federation –arguably a more symmetrical one as a result of Quebec leaving it– whereas Quebec, by virtue of its newly acquired sovereign status would gain exclusive power to make its laws, levy its taxes and establish foreign relations (Ibid: ch.4). Quebec and Canada would have to subsequently negotiate, as two independent states, a bilateral treaty of economic association (Ibid: 61).

Despite the rather equivocal wording of the referendum question⁶⁹ and the fact that nothing would be decided until a second referendum was held, for most people both within and without Quebec, the 'political sovereignty plus economic association' proposal was seen as a euphemism for independence. Not surprisingly, it triggered strong reactions outside of Quebec. The majority of premiers, including William Davis of Ontario and Peter Lougheed of Alberta, rejected the contents of a plan that would have made Quebec an equal partner with the combined rest of Canada and because they had not been given any say on the matter.

⁶⁹ In its English version, it read as follows:

"The Government of Québec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations; this agreement would enable Québec to acquire the exclusive power to make its laws, levy its taxes and establish relations abroad - in other words, sovereignty - and at the same time to maintain with Canada an economic association including a common currency; no change in political status resulting from these negotiations will be effected without approval by the people through another referendum; on these terms, do you give the Government of Québec the mandate to negotiate the proposed agreement between Québec and Canada?"

Premier Lougheed, for instance, raised concerns that Ottawa's preoccupation with Quebec was likely to overshadow western grievances (Sallot 1980a; 1980b) and he advanced the cause of provincial rights by insisting that the federal government did not have the authority to negotiate on its own the secession of Quebec, but all provinces had to be involved in defining any post-referendum settlement (Behiels 2005: 429). Premier Davis also criticised Lévesque's "new deal" as being the product of a "self-imposed ghetto mentality" (quoted by Zukowsky 1981: 12) and he warned Quebecers that a yes vote would only lead to "a closing of minds and a hardening of attitudes" from other Canadians (quoted by Oziewicz 1980a).

If sovereignty-association was an unacceptable solution, the status quo had also become unattainable for most Quebecers (and for many Canadians outside Quebec, too). In this juncture, the federal government promised Quebecers that the rejection of the PQ's proposal would be interpreted as a vote in favour of constitutional change. In an emblematic public appearance in Montreal, Prime Minister Trudeau asserted:

'If the answer to the referendum question is NO, we have all said that this NO will be interpreted as a mandate to change the Constitution, to renew federalism. I am not the only person saying this... It is also the seventy-five MPs elected by Quebecers to represent them in Ottawa who are saying that a NO means change. And because I spoke to these MPs this morning, I know that I can make a most solemn commitment that following a NO vote, we will immediately take action to renew the Constitution and we will not stop until we have done that... We want change and we are willing to lay our seats in the House on the line to have change" (Trudeau 1980).

Other premiers joined the federal government in their counter-proposal. On repeated occasions, members of the Davis' government insisted on their support for the federalist approach the Quebec Liberal Party (PLQ) had fleshed out in its 'Paper on Constitutional Reform: A New Canadian Federation' and their determination not to negotiate the PQ's new deal (Zukowsky 1981: 15; Oziewicz 1980c). That was a decision widely in tune with Ontarians' opinion on

the matter (G&M 1980), which also reflected the general mood among their political representatives. Despite some inter-party controversies during a debate on confederation and national unity conducted by the provincial legislature in early May 1980, it resulted in a unanimous resolution against sovereignty-association, and in favour of appointing a select committee to start working on constitutional reform (Oziewicz 1980b; Winsor 1980). The Select Committee reported in October 1980 affirming “our opposition to the negotiation of sovereignty-association; and, therefore, we appeal to all Quebecers to join with other Canadians in building this national constitution” (Ontario Legislature 1980: i).

With regard to the appropriate course of action, the provincial government of Alberta also committed to “take whatever constructive steps needed to keep Quebec citizens in the federation short of agreeing any form of sovereignty association” (Ibid: 420). This meant that Quebec’s aspirations would have to be satisfied within the framework of federalism; more importantly, it had to be done within the framework of symmetrical federalism. To that aim, the Legislative Assembly of Alberta passed a resolution in the following terms:

“BE IT RESOLVED THAT, on behalf of the people of Alberta this Legislative Assembly publicly express to Canadian Citizens in Quebec our hope that they will remain within Confederation and that we further declare our commitment to working with our fellow governments to bring about a restructured Confederation in which the unique features of each province are properly recognized and represented” (Motion 204, Alberta Hansard, April 15, 1980, pp. 348-349).

According to it, there was room for federal renewal in the sense of strengthening the role of the provinces and allowing for more autonomy across the board, but the equality of powers and status of the provinces had to be essentially preserved.

On referendum day, with a turnout over 84%, the PQ’s plan was defeated by a margin of 20 points. Far from being an unconditional ‘yes’ to remain in Canada, many Quebecers who voted against the sovereignty-association proposal had in

mind the commitment to federal renewal, and did so because they believed, “naively in retrospect”, that Trudeau’s counter-proposal would address some of the major concerns expressed by the nationalist elites in Quebec (Russell 2004: 109; also Bergeron 1983: 63; Burgess 1993: 366; Meekison 1999: 4; and Mulroney 2007: 508-509).

Conceding defeat in the referendum, Premier Lévesque immediately demanded that the Prime Minister fulfil the promise made at the time of the referendum that his Government would immediately take action to renew the Constitution and would not stop until they had done that. This opened 18-months of negotiations until a constitutional accord was signed in November 1981 between the federal government and nine provinces but without Quebec’s consent. This period was marked by some of the most important facts and moments in the recent constitutional history of Canada including Trudeau’s unilateral patriation plan challenged by the dissident provinces joined in what was labelled “the Gang of Eight” through appeals to the Supreme Court and some provincial Courts⁷⁰.

A series of intergovernmental discussions at ministerial and official levels took place over the summer of 1980, followed by a First Ministers’ Conference in early September⁷¹. Having failed to reach agreement in any of the items on the extensive constitutional agenda, the Prime Minister criticised the premiers’ strategy as “just another provincial shopping list” (quoted by Russell 2004: 111; also Giniger 1981d) and he decided to proceed on his own and request the Westminster Parliament to amend the British North America Act (1867) on the basis of his ‘people’s package’ (Carter and James 2009: 203; Hurley 1996: 53).

Premiers Davis of Ontario and Hatfield of New Brunswick -who had previously participated in the so-called “Château consensus” produced by all ten

⁷⁰ For a detailed account of the events that took place during these patriation battle of 1980-81 see:

⁷¹ For a detailed account of the process, see Romanow et al (1984: 60-105).

provinces on the occasion of the September constitutional conference-, then decided to back Trudeau's scheme. By contrast, the remaining provinces, including Quebec, united in what was thereafter dubbed "the Gang of Eight" (Carter and James 2009: 208; Russell 2004: 115), to oppose the patriation initiative unilaterally undertaken by the federal government⁷². As part of their strategy, the dissenting premiers mounted judicial challenges before the courts of appeal in Manitoba, Quebec and Newfoundland. At the same time, they launched a public relations campaign against the federal strategy both in Canada and Britain (Giniger 1981e)⁷³. Finally, on April 16 1981, they agreed on an alternative "Canadian Patriation Plan" (Giniger 1981g; Meekison 1999: 6-7; Russell 2004; Trudeau 1986).

The above-described alternative patriation did not seem to affect the federal government's intention to proceed with its own unilateral plan (Giniger 1981f). It was not until after the Supreme Court of Canada announced its ruling on the Patriation Reference Case that the Prime Minister felt obliged to call "the one last time conference". The Supreme Court ruled that nothing prevented the federal government, on a strictly 'legal' level, to patriate the constitution without provincial assent. Yet, such a decision was outside constitutional conventions. For the patriation to be 'legitimate', though, a substantial majority of provinces had to support it. The fact was, the Court concluded, that "[b]y no conceivable standard could this situation [where Ontario and New Brunswick agree with the proposed amendments whereas the eight other provinces oppose it] be thought to...disclose a sufficient measure of provincial agreement" (Supreme Court of Canada 1981).

⁷² This common front was created by the six most dissident provinces (Quebec, Alberta, Manitoba, Prince Edward Island, Newfoundland and British Columbia) on the 14th of October, 1980. They were later joined by Saskatchewan and Nova Scotia.

⁷³ Successful on the British front, in late January 1981, the Foreign Affairs Committee of the House of Commons in London recommended rejection of Trudeau's plan because it is opposed by a majority of Canada's provinces (Giniger 1981f).

This judicial decision altered the bargaining dynamics in two important ways: on the one hand, the declared ‘illegitimacy’ of unilateral patriation increased the political leverage of the Gang of Eight vis-à-vis the federal government, provided that its members remained united. On the other hand, it gave the federal government additional room for manoeuvring; since unanimous provincial assent was no longer needed, the federal government could gain a “significant majority” by playing a divide-and-conquer strategy (Giniger 1981a; Russell 2004: 119; also Romanow et al 1984: 188-189).

When the First Ministers’ Conference opened on November 2, 1981, the dissenting provinces shared an understanding that, their ultimate goal was compelling the Prime Minister “to return to the conference table and reconvene real constitutional negotiations” (Lougheed 1999 [1982]: 20). Therefore, the April patriation plan constituted an initial bargaining position rather than a binding contract. As such, if Trudeau “abandoned his unilateral process and was prepared to modify the resolution...then every one of the eight premiers was freed from any commitment arising out of the Accord” (Ibid). In the event that any premier intended to put forward a different proposal (that they saw might facilitate to break an impasse), their only commitment was giving prior notice of that new position to the group. This way, it could be discussed among the eight before it was formally presented at the conference meeting (Romanow et al 1984: 192).

After three days of fruitless discussions that exposed and deepened internal divisions within the gang of eight⁷⁴, a solution was reached on the basis of what was thereafter known as the “kitchen accord”⁷⁵ -by reference to the small secluded room where it was put together (G&M 1983). While nine provinces

⁷⁴ For the exchange of accusations about which province had broken the strategic alliance first, see Meekison (1999) and Trudeau (1993).

⁷⁵ Both Ontario Premier Davis and his attorney general Roy Romanow played a crucial role in developing this middle-ground position that ultimately became acceptable to most governments (Romanow et al 1983).

were more or less actively involved in formulating the final compromise, Quebec remained seemingly oblivious to those manoeuvrings. It was precisely the absence of Lévesque or any members of his delegation from those negotiations that the *Pequiste* Government exploited inside Quebec as an act of betrayal. In the Premier's own words,

“[o]ver and above the differences in outlook which necessarily vary from person to person, it remains that the commitments to Quebec during the referendum were ignored, that the April 16 agreement was trampled upon, and that, during the night of November 4-5, nine provinces drew up an agreement with Ottawa behind Quebec's back” (1999 [1982]: 29).

The main issue at stake was to define a ‘made in Canada’ amending formula⁷⁶. And it had implications regarding symmetry or asymmetry at institutional level.

In order to make the patriated constitution acceptable to Quebec, the renewed Canadian federalism would have to promote Quebec's role as the homeland of one of the founding people of Canada and to grant it the exercise of particular powers accordingly (Lévesque 1980). First of all, if patriation primarily meant crafting a ‘made-in-Canada’ amending formula, the role of Quebec as one of the founding peoples had to be built in the amending formula, which entailed entrenching some form of institutional asymmetry, while the exercise of according powers would mean some form of jurisdictional asymmetry. In what concerns constitutional amendment, Quebec had historically defended its veto. Alternatively, it was willing to accept opting out with financial compensation⁷⁷,

⁷⁶ Over several decades several alternatives had been put forward, all of them including as a requirement some degree of consent by the Canadian Parliament plus the consent by all or some of the provinces. The key controversial issue was how many provinces and which of them were necessary to give consent to a constitutional change.

⁷⁷ This meant that, where a constitutional amendment requiring the support by a majority of provinces but not unanimity trenched on provincial jurisdiction, the dissenting provinces were allowed to declare that the amendment would not be applicable to their province. Because such amendments might in some cases lead to the federal government

But Quebec was not alone in the process of demand-making. In fact, the federal government and other provinces put forward their own priorities, too. Prime Minister Trudeau advocated a two-phase approach to constitutional reform: first, a “people’s package”, which consisted of a constitutional amendment formula and a charter of rights and freedoms, had to be achieved⁷⁸; only at a second stage should the territorial allocation of powers -i.e. the “politicians’ package”- be dealt with. His proposed amending formula, modelled after the one contained in the Victoria Charter (1971), provided for regional vetoes for Quebec, Ontario, two Atlantic provinces, and two provinces totalling at least 50 per cent of the population in the West; but it added a tie-breaking referendum if necessary.

In the case of Alberta, constitutional matters had been high in the agenda for several years. In 1976, the provincial legislature had adopted a motion directing the government that:

“it should not agree to any revised amending formula for the Constitution which could allow for existing rights, proprietary interests or jurisdiction be taken away from any province without specific concurrence of that province, and that it should refuse to give its support to any patriation prior to obtaining the unanimous consent of all provinces for a proper amending formula” (Alberta Hansard, November 4, 1976).

A year later, the government introduced the document “Harmony in Diversity: A New Federalism for Canada” to the legislative assembly of Alberta. It emphasized the protection of jurisdictions, proprietary interests and rights of the provinces in general; and more specifically the need to strengthen the provincial

paying for some services in the provinces that had agreed to the amendment, the government of Quebec insisted that there should be some fiscal compensation to provinces which exercise their right to opt out.

⁷⁸ Since the charter proposal and the promotion of an economic union were strategically intertwined, the overall agenda ultimately entailed further centralisation of powers (Courchene and Telmer 1998: 63).

ownership of resources. When put together, both documents conveyed the principle that provinces are equal partners within federation and the vision of a decentralised federal system. They became, as acknowledged by James Horsman, the then Federal and Intergovernmental Affairs (FIGA) Minister, an essential part of Alberta's constitutional position in the ensuing patriation negotiations (Alberta Legislature 1981: 1576). On their basis, Premier Lougheed defined his priorities as being twofold: "secur[ing] an amending formula based on the equality of provinces, not regions, and preserv[ing] the supremacy of legislatures by providing an override or notwithstanding clause in the Charter of Rights" (Lougheed 1999 [1982]:19).

Premier Lougheed firmly believed that, unless certain matters were included he simply would not agree. "In particular, this meant agreement on an amending formula that was at least close to what he believed to be the ideal formula. Throughout the negotiations he refused to accept compromise formulae that departed substantially from what was then called the Vancouver consensus" (Leeson 2011: 98).

As for Ontario, its close identification with the federal government and the absence of what can be called an 'Ontarian consciousness' significantly shaped the position of the provincial government at the time. In David Cameron's words, for much of the post-World War II period and up to the election of the New Democratic Party in early 1990s,

"Ontario basically saw itself the way General Motors sees itself in the US...in the sense that what is good for General Motors is good for America. Likewise, what is good for Ontario is good for Canada; but at the same time, what is good for Canada is also good for Ontario" (Interview 1).

Concerning the question of Quebec, and due to the geographic and historic ties between Ontario and *la belle province*, the government was well aware that Ontarians expected their provincial government to play a mediating role between French- and English-speaking Canada and to act as a broker in constitutional negotiations. On these grounds, the very existence of a constitutional conflict was more detrimental for Ontario than the actual issues at

stake. This is why Premier William Davis, dubbed 'Captain Canada' did not develop a province-specific set of aspirations, but he construed Ontario's interests and preferences as being equivalent to those of Canada. His ultimate goal thus became to put an end to the ongoing constitutional conflict, and to do so in a way that would also strengthen the Canadian unity. As described by Howard Leeson, Premier Bill Davis of Ontario "was comfortable with the role which the premiers of Ontario had played in the past. That role involved supporting most federal government initiatives which generally were beneficial for the province of Ontario" But despite his quick support for unilateral patriation, "most of the other provincial delegations considered him to be reasonable and capable of important compromise. It was no surprise, therefore, when the conference began in November of 1981 that he actively sought some compromise between the Prime Minister and the 'Gang of Eight'... he was constantly conciliatory,, he sought novel solutions to intractable problems and intervened positively when matters seem to deteriorating over personality differences" (2011: 89).

There was a general feeling among the Premiers that Quebec could never agree on anything (Leeson 2011: 64). That's why their officials were not invited to be actively involved in the last night negotiations, although Levesque would be informed in the Gang of Eight morning meeting. He was very, very angry Quebec had been kept unaware of these discussions until so late. When the first ministers' conference reconvened on that morning he summarized his province's position as follows: "we have had veto for 114 years, yank out compensation and there is nothing left. Quebec says no" (Leeson 2011: 699).

After the agreement was signed by the PM and nine premiers, there was to be a partial compensation of fiscal compensation for education and cultural matters and a partial opting-in clause for Quebec with respect minority language education rights.

Alberta's basic position on the amending formula: ensuring that it would not allow the federal government or any combination of the federal government and

other provinces to remove provincial powers, especially over natural resources, without the approval of the province involved.

THE ALTERNATIVE PATRIATION PLAN DEVELOPED BY THE ‘GANG OF EIGHT’: It consisted of a patriation resolution and an amending formula, leaving the substantive terms of the constitutional renewal for later negotiations over a three-year period. After initial discrepancies, the eight premiers eventually agreed on a general amending procedure, known at the time as the Alberta-Vancouver formula (Giniger 1981c), largely promoted by Premier Lougheed of Alberta. On its basis, most modifications of the Constitution would have to be approved by the Senate, the House of Commons, and “the legislative assemblies of at least two-thirds of the provinces that have in the aggregate, according to the latest decennial census, at least fifty per cent of the population of all the provinces” (First Ministers’ Conference 1981: Part A, Section 1.1.b). Although no single province was granted veto power, a high degree of provincial consensus was required. Arguably, this would make constitutional reform difficult enough, but not impossible (Meekison 1992: 255).

Several provisions were added to moderate the effects of the above amending formula on individual provinces: first, no province would be bound, without its consent, by “[a]ny amendment... derogating from the legislative powers, the propriety rights, or any other rights or privileges of the Legislature or government” (First Ministers’ Conference 1981: Part A, Section 1.3). Second, “[i]n the event that a province dissents from an amendment conferring legislative jurisdiction on Parliament, the Government of Canada [should] provide reasonable compensation to the government of that province, taking into account the per capita costs to exercise that jurisdiction in the provinces which [had] approved the amendment” (Ibid, Section 3). Third, and as it had been explicitly requested by Quebec, the opting-out provision would be facilitated by only requiring a simple majority vote of the provincial legislature to authorise its use (Lougheed 1999 [1982]: 25).

The April Accord served the purpose of empowering the provinces vis-à-vis the federal government; yet, it did little for the cause of asymmetry. Far from

defining an enhanced role for Quebec in the process of constitutional patriation, all provinces were given equal constitution-making powers. Thus, by concurring with that plan René Lévesque traded off a formal veto power for Quebec for the supremacy of the provincial charter of rights, that is to say, institutional asymmetry in exchange for symbolic asymmetry combined with potential jurisdictional asymmetry. In fact, the Premier justified his decision as the price to pay to have a common front of the dissenting provinces against an entrenched charter (Monahan 1991: 44), whereas the opting-out clause with financial compensation constituted some sort of “defensive veto”, for it enabled Quebec to retain its legislative powers, even if other provinces might in the future decide to transfer theirs to the federal government (Russell 2004: 116).

If veto power was a genuine form of institutional asymmetry, opting-out with financial compensation only allowed for variation in sectoral competences among provinces, but without necessarily creating it. In terms of asymmetry, therefore, Premier Lévesque gave up Quebec’s traditional quest for actual institutional asymmetry in return for potential jurisdictional asymmetry.

If the procedure, that most Quebecers still repudiate as the “night of the long knives”, was despicable, its contents also contradicted the promises to renew Canadian federalism along lines satisfactory to Quebec. In fact, Premier Levesque argued, the November 1981 constitutional accord entailed “a reduction of Quebec’s powers and the negation of the existence here of a distinct society” (Ibid). The harm was inflicted in two ways: through the amending formula and through the Charter of Rights. Despite the basic similarities to the one Quebec had agreed on in April, the amending formula differed on the crucial matter of financial compensation. Such a provision, first removed from the formula adopted in November, was later brought back but limiting its application to cases of opting-out in two specific fields: education and culture (Giniger 1981a)⁷⁹. As for the Charter of Rights, although its practical

⁷⁹ Premier Lougheed of Alberta have publicly affirmed that he tried to make Premier Levesque stay and sign the accord by broadening the compensation on the opting-out

effectiveness was weakened by the combined effect of the notwithstanding clause⁸⁰ and the new section 59 of the Constitution Act 1982⁸¹, it was constitutionally entrenched both as a principle and an expression of national identity.

When compared to the Gang of Eight's alternative patriation plan, the Constitution Act 1982 –adopted on the basis of the November 1981 Constitutional Accord- represented a step further in the rejection of the principle of asymmetry. If institutional asymmetry (defined as veto power) had already been blocked back in April 1981, jurisdictional asymmetry was subsequently made more difficult, by curtailing the financial incentives attached to the opting-out provision. Which was the actual role played by Ontario and Alberta in shaping this overall symmetrical outcome?

The response of the government of Ontario to Quebec's demands is best described as acquiescence to institutional asymmetry and blocking reaction to jurisdictional asymmetry. Ontario had initially defended the amending formula proposed by the PM that would have awarded Quebec a constitutional veto power. Since both, Quebec and Ontario qualified as regions under that regional-based formula, it would have created a situation rather satisfactory for Ontario, of institutional symmetry between the two provinces of Central Canada and institutional asymmetry with the rest of provinces. But even more, at some stage during the negotiations, Premier Davis conceded he would be willing to accept an amending formula based on the Victoria formula, but where only Quebec

provision to all matters, and thus beyond education and culture; but that was to late (Lougheed 1993: 173)

⁸⁰ According to it, the federal parliament or any provincial legislatures could enact laws that were immune to Charter review from the courts for renewable five-year periods (First Ministers' Conference 1981: provision (3) (b)).

⁸¹ On its basis, the enforcement of minority language education rights would be put on a hold in Quebec until they are authorised by either the National Assembly or the provincial government.

would enjoy veto power, not Ontario, if everything else came into place (Davis, transcripts of the patriation minutes, Leeson 2011: 28). In his opening statement, Premier Davis had already stated he would not insist on having a veto in any amending formula (Ibid).

For the sake of reaching a general agreement, and as a major concession to the rest of English-speaking provinces, Ontario's provincial government ultimately accepted the opting-out amendment solution. But it strongly advocated a limited version which, aimed at protecting and fostering a pan-Canadian national identity, in turn undermined the interests of Quebec and the chances of jurisdictional asymmetry even further. In Ontario's view, the opting-out provision would need to be "refined" in two ways: first, its scope of application would be reduced, by requesting a clear distinction between derogation of provincial powers and transference of legislative powers to the Parliament of Canada, with opting out being allowed only in the second case (Ibid: 192). Second, the financial compensation would have to be rescinded altogether or, at least, restricted to some policy areas. Justifying his choices before the Legislative Assembly of Ontario, immediately after the accord was signed, Premier Davis affirmed:

"There are some alterations in the amending formula from what has been historically referred to as the Vancouver formula... The prime area is the deletion of the transfer of fiscal equivalents if a province opts out of a constitutional amendment that derogates from provincial rights. That is a sensitive issue. I was one of those who supported this, and I explained to my fellow Premiers that, while one might isolate certain situations, the reality is that... if there were a national program to represent the national will, if Ontario or, as an even better example, Alberta were to opt out and still receive the fiscal equivalents, that would be rewarding provinces that should not have that sort of incentive or encouragement to opt out of a program that the rest of the country felt was in the national interest" (Legislative Assembly of Ontario, Debates, November 6, 1981).

Asymmetry triggered the opposite responses on the side of Alberta: while displaying a clear blocking reaction against institutional asymmetry, the Lougheed government seemed more willing to tolerate, even endorse, jurisdictional asymmetry. Positioning explicitly on the matter he tried to reassure the rest of premiers by affirming “those of you who worry about the opt-out should not be so worried. I believe that there is an exaggeration of the concern. We should be flexible, but not easy”, especially because he thought most provinces (especially Ontario) would not opt-out and thus, the transfer payments to those who did so would in practice be feasible (Patriation minutes, Leeson 2011: 23). On the grounds that institutional asymmetry was inherently incompatible with the principle of equality of provinces, Alberta did not only reject granting Quebec a formal veto power, but it did not seek a similar veto power for itself, either. On the contrary, a solution was advanced based on the opting-out, that ultimately became the amending formula adopted by the Constitution Act 1982 (See Mr. Horsman and Mr. Johnston, Alberta Hansard, November 10, 1981, p. 1571 and p. 1576).

Peter Meekison, Deputy Minister of Alberta Federal and Intergovernmental Affairs to whom the authorship of the opting-out mechanism is commonly attributed, explained the reasoning behind it as follows:

“the only way for an amending formula to address the issue of a veto for Quebec while respecting the principle of provincial equality favoured by Alberta would be unanimity (i.e., that every province would possess the power to veto constitutional change) or opt out of constitutional amendments” (Interview 2).

Peter Lougheed as one of the strongest defenders of provincial rights against PM Trudeau’s crusade for a strong federal government. This way, no special institutional powers would be given to Quebec in the constitution-making process, but Quebec would simply be able to opt out from constitutional amendments, as Alberta and the rest of provinces would, as well. However, since Alberta had been the sponsor of the opting-out mechanism, it certainly understood and accepted that such a device would most likely be used by the

government of Quebec, in practice leading to increased jurisdictional asymmetry.

“Ontario’s support of Trudeau’s 1980-82 constitutional process can be rationalised almost entirely in terms of Ontario’s defining characteristics and its role in the federation” (Courchene 1992: 30). Centralising, almost no additional powers to the provinces, and even the isolation of Quebec. The fact that Ontario immediately threw its support behind the federal proposals during the constitutional patriation process may be recorded “as a nation-building, Canada-first initiative on Ontario’s part. However, it is also the case that the introduction of a thorough-going Canadian economic union was very much and ‘Ontario first’ policy” (Courchene 1992b: 47).

4.2. MEECH LAKE ACCORD (1987)

The 1982 Constitution Act broke, in the eyes of Quebec, the unanimity convention that had been taken for granted since the Constitution Act 1867 (Tully 1994: 172), thus constrained and diminished in its powers by new constitutional rules to which Quebec had not consented. According to most observers, that was a precarious situation only partially tenable while the PQ remained in power, but, in the event that more moderate federalist politicians assumed power in Quebec, the federal government and the other provinces would be put under a “moral obligation” to seek the voluntary consent of Quebec to the new constitutional system (Monahan 1991: 15). Doing otherwise would provide the nationalists with additional ammunition for the cause of independence (Toronto Star 1986).

Crucial changes in political leadership, both at federal and provincial levels, opened a window of opportunity to repair the ‘damage’ inflicted upon Quebec (Leslie 1988: 9; Stevenson 2009: 259). In November 1984, the conservatives of Brian Mulroney defeated the governing Liberal Party in Ottawa; a year later, Robert Bourassa led Quebec Liberals to victory, putting an end to a decade of *Péquist*e governments in Quebec City. Pierre Trudeau and René Lévesque –“the warring titans of Confederation” (Cohen 1990: 19)– were thus replaced by “less

imposing and pragmatic figures” (Campbell and Pal 1989: 236). Unlike their predecessors, Brian Mulroney and Robert Bourassa were politicians “schooled in the art of political compromise”, more interested in getting a deal done than in the substance of it (Monahan 1991: 49). This created a collaborative Ottawa-Quebec axis that ultimately laid the groundwork for the Meech Lake Accord of 1987.

Although the federal election campaign was not centred on constitutional issues, Brian Mulroney used his nomination speech to denounce that the federal system that emerged out of the 1982 Constitution remained incomplete without Quebec. This is why he was resolved “to convince the National Assembly of Quebec to give its consent to the new Canadian Constitution with honour and enthusiasm” (quoted by Wallace 1987: 41)⁸². Soon afterwards, the Liberals of Robert Bourassa also took advantage of the provincial elections in Quebec, to affirm their commitment to constitutional reconciliation. According to their 1985 policy statement, ‘Mastering our Future’, the PQ was to blame for the flaws of the 1982 Constitution Act -in particular for the absence of a formal veto-, whereas the PLQ remained the only authentically federalist party in the province with the credibility to carry off the enterprise of bringing Quebec back into the Canadian family (PLQ 1985)⁸³.

In that new political climate, a seminar of officials and academics was convened at Mont-Gabriel in May 1986, to discuss the process of rapprochement between “Quebec and its partners in Confederation”; an occasion

⁸² In the same vein, Mulroney’s speech from the throne (House of Commons, *Debates*, 5th of November 1984, pp. 5-6).

⁸³ As a gesture of good faith, moreover, the Bourassa’s government stopped systematically applying the so-called notwithstanding clause for over two years (Cairns 1991: 87). Only when the ratification of the Meech Lake Accord was put in jeopardy by the governments of Manitoba, New Brunswick and Newfoundland, was the notwithstanding clause re-invoked in Quebec, in order to introduce Bill 178 that prohibited the use of English signs outside commercial establishments.

the government of Quebec used to formally announce its agenda on constitutional matters. According to Gil Rémillard, Quebec Minister of Canadian Intergovernmental Affairs, “[n]othing less than Quebec’s dignity [was] at stake in future constitutional discussions” (Rémillard 1986: 166). For the damage inflicted upon Quebec in 1982 to be repaired, then, Quebec’s role would need to be reinstated as “the major partner it had always been in confederation” (Ibid: 167). This general goal was broken down into some more specific requests -known as the ‘Bourassa’s five conditions’- that had originally been sketched out in ‘Mastering our Future’⁸⁴. Bourassa’s five conditions were presented as the minimum requirements that would allow Quebec to accept the amended constitution. While some flexibility was possible concerning their actual contents, their very existence was non-negotiable and some gain would have to be made in each of the five items or no deal would be done (Monahan 1991: 57; Stevenson 2009: 259).

First of all, the recognition of the unique character of Quebec society constituted a precondition to be met if a reformed Canadian constitution was to become acceptable to Quebec. It was thus placed at the core of Bourassa’s constitutional agenda, from where the remaining four items were derived. They consisted of: (1) increased powers in matters of immigration; (2) the limitation of the federal spending power; (3) a veto right on constitutional amendments; and (4) full involvement in the nomination of at least a third of the Supreme Court judges (Ibid: 168). What are the implications of these demands in terms of asymmetry?

Concerning the distinctiveness of Quebec society, Rémillard indicated that the Constitution should explicitly recognise that fact and award Quebec the necessary means for its full realisation within the framework of Canadian federalism (Rémillard 1986: 169). No mention was made at the time about the form that acknowledgment should take, which led most observers to assume it

⁸⁴ Not by chance, Rémillard had been actively involved in drafting that document (Monahan 1991: 56; Russell 2004: 133).

would be a symbolic statement written down in a preamble. During the informal bilateral talks that followed the Mont Gabriel conference⁸⁵, further details were given that the provision on distinct society would have to be part of the main body of the constitution. This way, the courts could use it as an “interpretive clause” to make sense of the ‘existing’ division of powers; but such clause in itself would not grant -Quebec officials tried to reassure their counterparts- any new legislative competences.

At home, however, the provincial government strategically played up the concrete effects attached to Quebec being recognized as a distinct society. Premier Bourassa thus insisted:

“With [it] we achieve a major gain which is not merely symbolic, because henceforth the whole Constitution of the country... including the Charter, will be interpreted and implemented in the light of this provision on distinct society. The exercise of legislative powers is contemplated and this will allow us to consolidate what we have achieved and to gain new ground” (National Assembly, Debates, June 18, 1987, p. 8708).

From this perspective, the distinct society provision would certainly ensure the National Assembly of Quebec pre-eminent powers over language rights (Bourassa, quoted by Fraser 1986). It might also serve -Gil Rémillard pointed out- as a licence to expand Quebec’s jurisdiction over Radio-Canada and the *caisses populaires*, or even to gain an independent voice on the international scene (National Assembly, *Debates*, June 19, 1987, pp. 8784-8785). In terms of asymmetry, therefore, the constitutional recognition as a distinct society entailed a double demand for ‘actual’ symbolic asymmetry and ‘potential’ jurisdictional asymmetry.

Immigration being considered a key policy in the endeavour of protecting Quebec’s cultural identity, an enhanced role was sought for the provincial

⁸⁵ A delegation of the Quebec government was sent touring Ottawa and the provincial capitals in June and July 1986, in order to explain the Mont Gabriel proposal and to gather initial reactions.

government in setting the priorities and rules on the admission of and services for newcomers (Rémillard 1986: 169). To that aim, Premier Bourassa specifically demanded that the principles of the Cullen-Couture agreement (concluded by Ottawa and Quebec City in 1978) were entrenched in the constitution and, that Quebec's powers over independent-class immigrants⁸⁶ were expanded upon the categories of refugees and family reunification.

According to the above agreement, the government of Quebec already exercised far more competences in the field of immigration than any other province, specifically: (a) the decision about immigration levels into Quebec, with a guaranteed number of immigrants at least proportional to its share of the Canadian population and up to five per cent more; (b) the control over selection criteria; and (c) the delivery of reception and integration services with a financial compensation awarded as a result of the federal withdrawing from those services. The most recent demand was an expression of jurisdictional asymmetry, for Quebec wanted those greater powers to be further extended, and most fundamentally, to be further protected by getting them written down into the Constitution.

As for the spending power used by the federal government outside its sphere of exclusive jurisdictions, Quebec denounced it as "a sword of Damocles" hung over the provinces trying to "plan their social, cultural and economic development" (Rémillard 1986: 169), and insisted that it was made dependent upon provincial approval (Ibid). In that connection, any province that opted out of a new shared-cost program should receive a fair compensation regardless of whether or not it decided to undertake a similar programme on its own (Monahan 1991: 69).

Phrased this way, Bourassa's third condition had more to do with the provinces' vertical power position vis-à-vis the federal government than with the (symmetrical or asymmetrical) allocation of competences between the

⁸⁶ General label used to refer to skilled-workers and businessmen with their dependents, who seek to immigrate for economic reasons.

former. The fact that Quebec was the province most likely to opt out of a shared-cost programme was not enough to alter the entitlement of the legislative powers that would remain symmetrical for all the provinces⁸⁷. On the contrary, this opting-out provision linked to the federal spending power might lead to a differentiated exercise (either as part of a joint-programme overseen from Ottawa or through an independent one) of similar provincial competences. Strictly speaking, therefore, it did not entail a demand for jurisdictional asymmetry but, at the very best, a demand for a differentiated (or asymmetrical) exercise of jurisdictional symmetry.

At Mont Gabriel, Gil Rémillard also insisted upon the need to restore the conventional rights that *la belle province* had enjoyed in the process of constitution-making, prior to 1982 (Rémillard 1986: 167). This could be achieved by granting Quebec either an ‘absolute’ or a ‘qualified’ veto over any constitutional amendments directly affecting its interests (Ibid: 170). With regard to the qualified veto, the Bourassa government brought back the request raised by former Premier Lévesque during the patriation negotiations that a province withdrawing from ‘any’ non satisfactory amendment conferring powers on the federal parliament and government should be granted a financial compensation; thus rejecting the narrower solution contained in the 1982 Constitution Act, according to which the financial compensation only applies in cases pertaining to education and culture. Within the conceptual framework developed in chapter three, and as explained in the previous section, the withdrawal from constitutional amendments with financial compensation entailed a demand for jurisdictional asymmetry.

On December 1, 1981, despite QLP opposition, the National Assembly adopted a resolution affirming “the right of the people of Quebec to self-determination” and “its historical right of being a full party to any change to the Constitution of Canada which would affect the rights and powers of Quebec”. It

⁸⁷ Compare this case to the opting-out provision attached to the amending formula analysed in the previous section.

went on to state Quebec's conditions for accepting patriation. The first condition was the recognition that "the two founding peoples of Canada are fundamentally equal and that Quebec, by virtue of its language, culture and institutions, forms a distinct society within the Canadian federal system and had all the attributes of a distinct national community" (Dunsmuir, 1995, p. 6).

Furthermore, a general procedure for amending the constitution was proposed requiring the support of seven provinces representing 75 per cent of the Canadian population. Quebec was not singled out for a formal veto. Nevertheless, taking into account that the population of Quebec at the time represented about 26 per cent of the whole Canada, and that "magic number" was just high enough to ensure that Ottawa and the other nine provinces could not impose a constitutional reform against Quebec's wishes (G&M 1986), Bourassa's proposal in fact concealed a provisional veto (Interview 2). Moreover, Quebec was to be recognized as always having more than 25 per cent of Canada's population, what granted it a permanent veto, even if its relative population size were one day to drop below that figure (McKenzie 1986a; Goar 1986b). Therefore, the '7/75' amending formula constituted a demand for institutional asymmetry.

Drawing attention to the fact that the constitution can be modified in practice through judicial interpretation, the last one of Bourassa's conditions focused on the Supreme Court of Canada (Rémillard 1986: 170). On this basis, the government of Quebec requested constitutional guarantees both, of the convention that a third of its judges were appointed from the Quebec bar, and the participation of the provincial government in their selection and nomination. The first aspect highlighted the role of the Supreme Court with a view to the respect and protection of an essential part of Quebec's specificity, namely the civil law (Ibid). On the one hand, the composition of the Supreme Court including three Quebec justices was an expression of symbolic asymmetry. Their selection by "agreement between the Prime Minister of Canada and the Premier of Quebec" (Monahan 1991: 71) entailed, on the other hand, a request for institutional asymmetry.

English-speaking premiers responded jointly to Quebec's constitutional agenda in two subsequent stages: the 1986 Premiers' Conference and the 1987 First Ministers' Conference.

Especially when compared with the twenty-two demands raised by the preceding PQ's government (Government of Quebec, 1985), Bourassa's five conditions represented a less ambitious proposal (Campbell and Pal 1989: 238; Russell 2004: 134) that most premiers generally welcomed it as a reasonable starting point for a new round of negotiations. Seen those positive initial reactions and after almost three months of secretive discussions, Premier Bourassa was anxious to resume formal constitutional negotiations⁸⁸. The annual meeting of premiers to be hosted by Alberta seemed to offer an invaluable opportunity and thus Prime Minister Mulroney urged the premiers to put aside their own constitutional priorities and concentrate on the issue of Quebec's status in confederation when they met in Edmonton (Mulroney 2007: 605; G&M 1986; McKenzie 1986b).

At Edmonton, a "gentleman's code" helped the premiers to keep behind closed doors major inter-provincial tensions between advocates of a constitutional round focused exclusively on Quebec –such as Premier David Peterson of Ontario- and those others reluctant to unconditionally give up their own constitutional objectives –such as Premier Donald Getty of Alberta- (Goar 1986a; 1986c). Ultimately, a compromise solution was reached between Quebec's and Alberta's perspectives, titled "the Edmonton Declaration". In the terms of this two-paragraph statement:

The premiers unanimously [agreed] that their top constitutional priority [was] to embark immediately upon a federal provincial process, using Quebec's five proposals as a basis for discussion, to bring about Quebec's full and active participation in the Canadian federation.

⁸⁸ In this sense, see the position held by the Attorney General of Ontario, Ian Scott (quoted by G&M 1988).

There [was] a consensus among the Premiers that then they [would] pursue further constitutional discussions on matters raised by some provinces which [would] include, amongst other items, Senate reform, fisheries, property rights, etc.” (Premiers’ Conference 1986).

According to this Declaration, a two-stage constitutional process was to be undertaken, starting with the so-called “Quebec round” (Russell 2004: 136). No timetable was set for negotiations and nothing specific was said as to what might be included in the agreement. Yet, to Premier Bourassa’s contentment, the immediate constitutional agenda would consist of his own five conditions while, at Premier Getty’s insistence, Senate reform was also designated as the very first issue to be addressed following the Quebec round.

Afterwards, intensive discussions took place among ministers and officials for over half a year, that failed to improve the prospects for settlement significantly (Campbell and Pal 1989: 242). Then, the federal government called a First Ministers’ Conference to be held at Meech Lake on April 30 1987. Upon arrival to Meech Lake, only Robert Bourassa and David Peterson showed some optimism on the possibilities to reach an agreement. In contrast, few among the remaining premiers foresaw enough unity to get the deal done, since most of them opposed to one or two of the demands, particularly those related to the distinct society, the constitutional veto and opting-out from shared-cost programs (CBC 1987).

The First Ministers discussed for about nine hours, which resulted in an ‘agreement in principle’ signed on May 1, 1987. Officials were then left to draft a legal document that would phrase the original accord into precise constitutional language. When the first ministers reconvened at the Langevin Block (Ottawa) a month later, they were unaware that it would become a “marathon meeting” (O’Donnell 1987; Ruimy 1987b)⁸⁹. On June 3 1987, after

⁸⁹ Detailed accounts of the process leading to Meech Lake as well as the specifics of the Meech Lake and Langevin meetings can be found in: Campbell and Pal (1989); Cohen (1990); Monahan (1991) and Russell (2004: ch. 9).

nearly 20 hours “locked up together in one of the biggest card games in Canadian history”, Prime Minister Mulroney and the ten premiers succeeded in formalising a crucial amendment to the Constitution Act 1867 and the Constitution Act 1982⁹⁰.

On June 23 1987, the National Assembly of Quebec became the first provincial legislature to approve the Meech Lake Accord which, as set out in Section 39(2) of the Constitution Act, 1982, triggered the three year period for ratification. By July 1988, the House of Commons and six more provinces, including Alberta and Ontario, had also given their consent to the Accord. The ratification process was more problematic in Newfoundland and Labrador, Manitoba and New Brunswick (Coyne 1992). The first one ratified it in July 1988 just to rescind it support in April 1990, under the new Liberal government of Clyde Wells. With only weeks ahead of the ratification deadline, Prime Minister Mulroney summoned the premiers on a dinner that became a long week constitutional conference, in a final attempt to rescue the deal. New Brunswick finally approved the Accord on June 15, 1990, but Manitoba and Newfoundland and Labrador failed to do so. The Accord was thus rendered null and void on June 24 1990. On that day after, which ironically coincided with Quebec’s *Fête nationale*, “Canada and Quebec were pushed further apart” (Gagnon 2000, 291).

Although generally satisfying Quebec’s ‘minimum conditions’, the Meech Lake-Langevin Accord ultimately represented a significant departure from Quebec’s demands, whose proposal underwent fundamental changes triggered by the counter-demands made by other provinces combined with Ottawa’s bargaining strategy to keep adding concessions until an agreement was reached (Cairns 1988: 109; Ruimy 1987a).

⁹⁰ The final Meech Lake-Langevin Accord was made of three parts: a political accord, which confirmed the agreement reached by the first ministers in April and committed them to ratifying it; a motion for resolution that had to be approved by the Parliament and the provincial legislatures; and the actual text of the amendments in seventeen clauses (First Ministers’ Conference 1987a).

Whenever possible, English-speaking premiers tried to catch up with Quebec's enhanced responsibilities and powers. Alternatively, they sought to water-down the symbolic dimension of asymmetry or to seek approval of their specific constitutional priorities in exchange for accepting Quebec's requests (Stevenson 2009: 260). As a result, what started as "the Quebec Round" soon became "the Provincial Round" (Cairns 1988: 110-115; Cohen 1990: 9). Exception made of the distinct society clause, the very nature of which prevented its extension to other provinces, the remaining four items within Quebec's proposal were generalised in a way that all provinces ultimately and essentially received the same constitutional treatment (Robertson 1991: 230; Cleroux et al. 1987). Arguably, then, the role of Quebec in the process of 'provincialising' the outcomes of the 1987 Constitutional Accord was to set the terms for the enhancement of powers of the remaining provinces, or, in Alan C. Cairns' words, the governments of the nine English-speaking provinces gained new powers and responsibilities "on the coattails of Quebec" (Cairns 1988: 112).

Concerning the role of the selected NER/LER in those constitutional negotiations, Ontario saw its responsibility and main priority to hold the country together, by raising a voice in favour of the constitutional accommodation of Quebec. David Peterson, the newly elected Liberal Premier, had come into office with the commitment to "ending Quebec's constitutional isolation", and to do so "on terms that did not compromise or tamper with any of the fundamentals of Canadian federalism" (Monahan 1991: 48).

That accommodative impetus was first reflected in the premier's strong advocacy for dealing, first if not exclusively, with Quebec's matters. In his view, it had been a mistake to include other issues in the Meech Lake agenda, for without "hav[ing] Quebec as a signatory" the constitution could never be amended. "In retrospect -he added- those with their own agendas shot themselves in the foot" (Interview 3). The accommodative impetus was also apparent in the efforts made by the provincial government to act as an "honest broker" (Interview 1), "mediator" (Harrington 1987c) or "bridge-builder" (Stevenson 1989: 64), trying to find the middle ground between conflicting views and interests in the constitutional drama. In his attempt to save the deal,

Premier Peterson went a step further, volunteering some of his province's seats in the Senate to the advantage of Newfoundland⁹¹. It was but the continuation of Ontario's traditional role, which all parties in the Legislative Assembly broadly supported⁹²; and for which Premier Peterson was often praised by his counterparts (Cleroux 1987; Harrington et al 1987; Walker 1988).

Truly, there was nothing in the constitutional agenda that constituted a proper Ontario concern. Yet, the fact that "Ontario went to Meech Lake for the sake of Quebec" (Cohen 1990: 29) does not make of its commitment to constitutional reconciliation an exercise of pure altruism. On the contrary, there was a strong perception, especially among political elites, that national unity was a fundamental interest of Ontario in a way that could not be perceived by, let's say British Columbia, simply because the latter is too far away from Quebec (Interview 4). From an economic perspective, too, the constitutional reconciliation was very much to Ontario's advantage, for the country could not successfully deal with the challenges associated to globalization and international competitiveness while Quebec remained absent from the constitutional table (Courchene and Telmer 1998: 107). This reading of provincial self-interest is clearly reflected in the premier's own words:

"The single most important issue [for Ontario] was keeping the economy functioning well. In order to do that, political stability was important. That is

⁹¹ As he recalled those key moments of early June 1990:

"We had been there [in Ottawa] for six days...some days making progress, some others moving backwards... Clyde Wells was going to walk out and I finally asked: 'Clyde what do you really need?' And he answered 'what I really need is a guarantee that there is going to be some kind of equal Senate'. 'Then -I replied- we [Ontario] guarantee you that if Senate reform is not approved in three years, we will give up six of our senate seats'" (Interview 3).

⁹² See the debate prior to the ratification of the Meech Lake Accord (Ontario Legislature Hansard, June 28-29, 1988).

one of the reasons I argued it was crucial for me to spend a lot of time keeping this country unified” (Interview 3).

As for Alberta, Quebec’s claims to be recognised a special status and granted more roles and responsibilities within the Canadian federation were in direct conflict with Albertans’ strong commitment to the equality of the provinces and the growing popularity of senate reform there. Although Peter Lougheed had been replaced by Donald Getty both as the leader of the Conservative Party of Alberta and the head of the provincial government, the official constitutional policy remained the same. If anything, the commitment to the Triple-E Senate was strengthened out of the recommendations of the Select Special Committee on Upper House Reform that had been created within the Legislative Assembly in 1985. The view in Alberta was “that no matter what we do in the West, we can’t influence policy in Ottawa” (Horsman, quoted by Freed 1987), and thus senate reform became the main instrument to the cause of “The West Wants In” (Interview 6).

Driven by the belief that the prospects of senate reform would improve if it were linked to Quebec’s five conditions, the bottom-line of the government of Alberta’s constitutional strategy was securing some concession on senate reform in exchange for their support for Quebec’s demands. Upon arrival to Meech Lake, Premier Getty reaffirmed his view of Canada being made up of ten provinces equal in all respects, and he set himself to challenge any plans granting Quebec a special status (CBC 1987). Resorting to some form of ‘compensatory demand’, a issue-linkage reaction moreover, he warned that there would be no deal without some commitment on senate reform. If the Triple-E was not achieved at the time, at least there had to be some progress on institutional reform (Cohen 1990: 10; 16; 35).

The Meech Lake Accord ultimately included a provision signalling senate reform as the first mandatory item for the future annual constitutional conferences⁹³, plus an interim amendment requiring that, until Senate reform

⁹³ According to the new wording of paragraph 50 (2) (a) of the 1982 Constitution Act, a constitutional conference convened yearly commencing in 1988 “*shall have included on*

was accomplished, the federal government would have to appoint senators from lists submitted by the premiers⁹⁴. Alberta's concerns were thus addressed to the satisfaction of his Premier who, anticipating that the Meech Lake Accord would go through, saw his constitutional priority brought closer to accomplishment than ever before (Getty 1988)⁹⁵.

Seen Alberta's and Ontario's constitutional agendas, how did they shape the way their provincial governments responded to Quebec's pro-asymmetry demands? First of all, Quebec's proposal concerning the federal spending power was, as already mentioned, symmetrical in nature. Therefore, it is irrelevant for the analysis of LER/NER's reactions to asymmetry.

On the matter of the Supreme Court, the symbolic dimension attached to the demand that three of its nine justices were selected from within Quebec did not trigger any negative reaction in either Alberta or Ontario. In fact, it was welcomed in both places as a provision already part of the legal conventions of the country that simply bore a functional aspect needed for the institution set to act as final court of appeal in cases where either common law or the civil code applies (Interviews 2 and 3). In line to Alberta's and Ontario's non reactions, the

its agenda...Senate reform, including the role and functions of the Senate, its powers, the method of selecting Senators and representation in the Senate" (First Ministers' Conference 1987a).

⁹⁴ "Until the proposed amendment relating to the appointments to the Senate comes into force, any person summoned to fill a vacancy in the Senate shall be chosen from among persons whose names have been submitted by the Government of the province to which the vacancy relates and must be acceptable to the Queen's Privy Council for Canada" (First Ministers' Conference. 1987b: section 4).

⁹⁵ For a discussion about the actual implications of the Meech Lake Accord for senate reform, see Gibbins (1990).

issue was addressed in the Meech Lake-Langevin Accord to Quebec's satisfaction⁹⁶.

On the other hand, what originally appeared as a demand for jurisdictional asymmetry concerning the nomination of justices was immediately faced with catching up pressures from the rest of provinces, leading the Meech Lake Accord to produce a solution of jurisdictional symmetry. Thus, according to the proposed new paragraph 101C (3), when a vacancy in the Supreme Court of Canada affects any of the judges coming from the Quebec Bar, "the governor General in Council sh[ould] appoint a person whose name ha[d] been submitted by the Government of Quebec". Similarly, when the vacancies affect the rest of justices, the new one w[ould] have to be appointed from within lists submitted by provincial governments other than Quebec (section 101C (4)).

In the field of immigration, catching-up pressures were also evident on the side of Alberta. As a matter of fact, it was the government under Don Getty that most intensely pushed for an equal treatment and thus for a symmetrical response to Quebec's demand. Ontario's approach, on the other hand, is best described as no reaction. In the view of Premier Peterson, his government thought it reasonable that:

"Quebec's control over immigration is based on language, because they don't want a full bunch of English-speaking people flowing into their country and changing the very fragile demographic balance...It was an issue during Meech Lake to enshrine the Cullen-Couture agreement in the constitution, but it didn't bother me. It was not a concern for my government, not really...People come here, anyway" (Interview 3).

The combination of Quebec's demands with mixed provincial reactions produced a mid-way compromise that led to a provisional situation of asymmetry in favour of Quebec while also opening the doors to further jurisdictional asymmetry, provided that other provinces signed agreements with

⁹⁶ See section 101B (2) of the 1982 Constitution Act, as it would be amended by the Meech Lake Accord.

Ottawa in the future, enhancing their own powers over immigration (Leslie 1988: 15). Under the terms of the 1987 Constitutional Accord, “the Government of Canada w[ould], as soon as possible, conclude an agreement with the Government of Quebec” pertaining to immigration and in line with the demands raised by the province on that issue (First Ministers’ Conference 1987b: section 2). Yet, such provision did not prevent Ottawa from negotiating similar with other provinces. Quite the opposite, the federal government would also be obliged to enter those negotiations at the request of any provincial government (Proposed new section 95A of the 1982 Constitution Act). Anyway, full symmetry could never be reached, for new agreements pertaining to immigration would have to be “appropriate to the needs and circumstances of that province” (Ibid).

The one element of the accord which, by its very nature, could not be “provincialised” was the recognition of Quebec being a distinct society. However, the way the clause was phrased, acknowledging the bilingual character of the whole country before the reference to Quebec’s distinctiveness represented, in P. Russell’s words, an exercise at “Canadising” the distinct society clause (2004: 138). The symbolic dimension of asymmetry implied in the recognition of the distinctive French character of Quebec (in section 2 (1) (b)) was thus diluted by recognising the fact that French-speaking Canadians, are “centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec” (in section 2 (1) (a)).

Alberta and Ontario saw the symbolic dimension of the distinct society as being largely non-consequential. This is why both provinces remained largely supportive of it, acting in a manner that broadly fits the description as non-reaction. On the other hand, the potential practical effects associated with the role afforded to the National Assembly and Government of Quebec “to preserve and promote the distinct identity of Quebec” (section 2 (3)) and the general understanding of the distinct society section as an interpretive clause became more controversial.

Despite the fact that the clause primarily entailed “the declaration of a political principle” (Monahan 1991: 67) or the “affirmation of sociological facts with little legal significance” (Hogg 1988:12), the prospects for increased legislative powers could not be denied either (G&M 1986). Since the provision would have to be ultimately interpreted by the Supreme Court of Canada, its meaning would always be seen as a question of conjecture. There was a strong basis, however, to expect that it would serve as a broad directive for the Supreme Court to read Quebec legislative powers broadly enough for that legislature to carry out its constitutional mandate to promote the distinct identity of Quebec” (1988: 102) (Scott 1991: 255).

Several proposals emerged from the governments of Alberta and Ontario in order to clarify the wording of the distinct society in what pertains to its institutional asymmetry role (Cook 1988; Forsey 1988; TS 1987b; Woerhling 1989). Allegedly, this created some effective blocking reactions from both sides.

For the government of Alberta, it was very clear that the distinct society clause “just recognis[ed] the reality of Canada. In a sense, -James Horman argued further- Quebecers wanted to protect their language, their culture, and the fact that they have a civil code as opposed to the British Common Law. This is a very distinct feature of Quebec and this has been there ever since confederation” (Interview 5).

However, the government of Alberta was concerned to some extent about the distinct society condition and “it was concerned mostly because it wanted to be clear what the distinct society provision meant and that it would not entitle Quebec special treatment” (Interview 6). It thus insisted that the equality of the provinces was needed to balance Quebec’s distinct society and that it should be written down into an amendment provision to be included in the legal text of the accord. Although the rest of English-speaking provinces accepted Alberta’s proposal, Quebec’s position against led to circumscribe the reference to provincial equality as a principle within the preamble (Interview 2; Campbell and Pal 1989: 265).

At the very beginning of the process, Ontario made an eloquent plea in favour of the distinct society, for “it was a moderate accommodation of the need in the province of Québec for a largely symbolic gesture” (Scott 1991: 255). But it was also Ontario that later insisted on clarifying its contents (Cohen 1990: 8). For instance, in the meeting at Langevin, Ontario’s officials (together with those of Manitoba) pushed to get a “cautionary provision” into the distinct society section providing an exemption to safeguard aboriginal groups’ cultural rights (Cohen 1990: 106-107). In order to save the deal, though, Ontario finally conceded that multiculturalism would have to be dealt with in a separate clause (Oziewicz 1987).

At the same time, Ontario raised some concerns that granting Quebec a special status, might hollow the national identity ties. It would undermine the bilingual and bicultural Canadian nation, creating, in turn, two separated -English-speaking versus French-speaking- nations. In the Premier’s words:

“One of the things we tried to do in Meech Lake was to recognize the individual and special nature of Quebec and the idea of distinct society which carries no particular power but serves to affirm the value of the collective over the individual. And actually you can argue it diminishes individual rights. In spite of the worries that stemmed from this view, -he added-, it was something Quebec wanted. What Quebec wanted was recognition of its distinctiveness and it is something I believed in. It was important for French Canadians to have their distinctiveness recognized I had no problem with that because it actually meant very little in terms of law” (Interview 3).

After much discussion, Ontario eventually succeeded in adding a provision designed to ensure that Quebec could not use it to secure additional powers (McRoberts 1991: 5). Under the terms of section (2) (4), therefore, nothing in the section on distinct society “derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language”.

On the issue of constitutional reform, the principle of provincial equality, rather than Quebec's distinctiveness, was at the basis of the agreed changes of the amending formula. Far from Quebec's claim for exclusive veto or the '7/75 amending formula', the 1987 Constitutional Accord extended the provincial unanimity rule, to all matters set out in section 42 of the 1982 Constitution Act – importantly including changes in national institutions such as the powers and selection of members of the Senate and the Supreme Court or the creation of new provinces. In a clear exercise of catching-up, Quebec's demand for institutional asymmetry was addressed by enhancing institutional symmetry; as a consequence, a veto for Quebec became a veto for everyone else.

While Ontario Premier was not genuinely concerned about Quebec having a veto (Christie 1986), he was well aware of the concerns it triggered in most provinces. This was precisely the case of Alberta. Even before formal negotiations started, Alberta officials informed the Quebec delegation that they could not accept the 7/75 formula. "Symmetry was needed on the amending formula, based on the principle of equality of provinces" (Interview 2). The support of this unanimity over institutional reforms by the government of Alberta, although initially striking, was defended by Premier Getty as a means that, while making Senate reform much harder, for all provinces would have to approve it, at least it would prevent the rest of the country from imposing upon [Alberta] a Senate it rejected (Cohen 1990: 13).

The position of Ontario in the negotiations of the Meech Lake Accord reinforces the centre-periphery explanation and the tight links between Ontario and Quebec as central Canada. As D. Cameron recalls, Ian Scott, Attorney General of the Province of Ontario at the time, used to joke that, if Quebec was to leaving, Ontario should go with them (1994: 112).

4.3. MCDOUGALL-GAGNON-TREMBLAY AGREEMENT ON IMMIGRATION (1991)

The interest Canadian provinces have historically shown in the issue of immigration explains that concurrent powers were constitutionally enshrined, granting jurisdiction to both the federal and provincial governments falls within

concurrent powers (Constitution Act 1867, section 95). The list interest historically shown by the Canadian provinces in immigration explains that ‘concurrent powers’ were enshrined in the Constitution at the time of confederation. That is why the Constitution enshrined ‘concurrent powers’ (section 95, Constitution Act 1867), according to which jurisdiction over that policy is formally shared between the federal government and the provinces. Among all provinces, however, Quebec can be singled out as the one that most often “pressed and negotiated with the federal government for more provincial rights in this field” (Kostov 2008: 91)⁹⁷. As a result, the policy of immigration developed through bilateral arrangements which, in turn, brought increasing asymmetry into the system. In the period 1971-1991, four agreements were signed between the federal government and Quebec: Lang-Cloutier Accord (1971); Andras-Bienvenue Accord (1975); Cullen-Couture Accord (1978) and McDougall-Gagnon-Tremblay Accord (1991). Each agreement afforded the government of Quebec increased powers both, as compared to the one they replaced and to the role that the rest of provinces played in the selection of immigrants over that length of time.

Perceived as an integral part of the national-building project, immigration policy became instrumental both in fostering the pan-Canadian identity pursued by the federal government and, in protecting and promoting Quebec’s distinct society (Baglay 2011; Garcea 2008). With regard to the latter, the declining birth rates and the secularization Quebec society has experienced since the Quiet Revolution, led subsequent provincial governments to the realization that a pan-Canadian approach to immigration was unable to meet its more specific demographic and cultural needs. Consequently, it was crucial for the government of Quebec to secure a greater role in the definition and management of the policy, so to be able to attract immigrants who met Quebec-specific requirements.

⁹⁷ In the same vein, see Garcea (1998) and Vineberg (1987).

If the above constitutes the broader context of the agreement on immigration object of this section, the more immediate one is created by the definition of this policy field as one of Bourassa's five conditions and the constitutional discussions related to it at Meech Lake. Following the collapse of 1987 constitutional accord, the federal government offered Quebec the possibility of negotiating a new agreement (of political or administrative nature) to replace Cullen-Couture. The result was the conclusion of the *Canada-Quebec Accord relating to Immigration and Temporary Admission of Aliens* (generally known as McDougall-Gagnon-Tremblay Accord) signed on February 5, 1991.

If the opening of those bilateral negotiations was thus an outgrowth of the failed constitutional accord (Oziewicz 1991a; Young 1991) the substance of the new deal was also fundamentally based on what Quebec would have obtained had the Meech Lake accord come into force (Steward 1990). Acknowledging the unique character of Quebec, whose French heritage and language sets it apart from the rest of the country, the accord defined its main purpose as "provid[ing] Quebec with new means to preserve its demographic importance in Canada, and to ensure the integration of immigrants in Quebec in a manner that respects the distinct identity of Quebec" (McDougall-Gagnon- Tremblay Accord: preamble).

This objective was to be achieved primarily through two avenues: a formal role in advising the federal government on the number of immigrants it wished to receive, before the state-wide annual immigration targets are set (Ibid: provision 5); and the control over the selection of 'independent immigrants' –i.e. those who do not fall under the categories of refugees or family reunification– using its own criteria (Ibid: provision 12). On the basis of the accord, the federal government has withdrawn from the delivery of settlement services (Ibid: provision 24), that would be provided for by the provincial government with a "reasonable compensation" for taking over them (Ibid: provision 25).

It also allows Quebec receiving 25 per cent of immigrants to Canada (that is, a percentage similar to its share of the Canadian population) increased with an additional five percentage points 'for demographic reasons', so as to preserve

Quebec's relative weight within the country (Ibid: provision 6). Finally, the accord contains a 'controversial' formula to calculate the financial compensation for settlement services (Ibid: annex B), that produces an effective annual increase of the transfers to Quebec regardless of the actual number of immigrants entering the province or that the full amount of federal money available may decrease over time (Young 1991).

The McDougall-Gagnon-Tremblay Accord fundamentally constituted an expression of jurisdictional asymmetry, with some 'asymmetrical financial consequence' attached to it. And the chances that the inter-provincial imbalance of powers is redressed through the conclusion of similar agreements with other provinces seem unlikely, considering the position of the federal government on the matter. Ottawa has always defended that the asymmetrical allocation of powers in this case serves to meet the specific needs and concerns of Quebec (Interview 7).

In this regard, Quebec's share of integration funds has been justified on the grounds of the greater needs for language training there⁹⁸. Moreover, its enhanced powers over immigrant selection will not be fully available to the remaining provinces, for they were designed with a view to the particular situation of "a French-speaking society surrounded by an English-speaking people"; conditions that do not apply in the rest of cases (Mooney 1990; TKWR 1991). Practical reasons do not facilitate generalising a Quebec-like accord either: if all provinces were to perform the same roles as Quebec in the selection of immigrants, then "the entire process would be extremely complicated and potentially chaotic" (Joseph Garcea, quoted by Kostov 2008:97). Taking into account the situation and particular needs of each province within the federal framework, the federal government has developed a different strategy in its

⁹⁸ Whereas half of the newcomers admitted into the rest of provinces did not speak English, approximately two-thirds of the immigrants to Quebec did not speak French at the time when the accord was negotiated (TKWR 1991).

bilateral negotiations with the rest of provinces, known as Provincial Nominee Programs (PNP)⁹⁹.

How did Alberta and Ontario react to the 1991 Canada-Quebec accord on immigration?

Alberta, among the Prairie Provinces, showed its concern that it was not getting its fair share and sought further decentralisation of immigration policy, through a strategy that can be described as catching-up demand. As part of a joint-reaction by the Western Premiers, a request for full provincial input in Canadian immigration policy was issued in their annual conference convened within three months since the conclusion of the McDougall-Gagnon-Tremblay Accord. As expressed in communiqué 4, the premiers specifically called for: (1) a national meeting of federal and provincial immigration ministers in order that they “lay the groundwork for entering into specific immigration agreements between each province and the federal government”; (2) greater “voice in selecting immigrants who settle in their province”; and (3) that “annual immigration levels are tied to the availability of immigrant-settlement services” (Premier Don Getty, *Alberta Hansard*, May 15, 1991, p. 1246; also reported by Roberts 1991).

In practice, and despite the fact that Alberta attempted bilateral negotiations with the federal government following the the McDougall-Gagnon-Tremblay Accord (1991), by then the priorities of the provincial government and most of its efforts were devoted to were constitutional reform and free trade (Interview 5). Most importantly, the memories of the Cullen-Couture Accord were still very recent, on which occasion Alberta had more actively sought to catch-up

⁹⁹ Far from the extensive powers afforded to Quebec under the McDougall-Gagnon-Tremblay accord, the remaining provinces and territories were offered the right to identify a ‘limited number’ of economic immigrants to meet specific provincial needs, who would receive priority attention for immigration processing. The signing of Alberta and Ontario-PNP was delayed to 2002 and 2005, while in the latter case the negotiation was pursued at the insistence of the federal, rather than the provincial government.

with Quebec, just to see its prospects spoiled at the very last stage. In James Horsman's recollection of the events:

“The so-called Cullen-Couture agreement gave special rights to Quebec... Alberta, and I was at the time Minister of Advanced Education and Manpower and had the responsibility for negotiating with the federal government seeking a similar agreement to be able to go out and attract immigrants to Alberta, to meet the specific need we believed were necessary for the development of the oil sands in particular...When Joe Clark was elected as PM in 1979, we began intensive negotiations with that government to develop the same agreement that Quebec had signed under Trudeau's government...And we were on the verge of signing a similar agreement and then Trudeau came back and the new federal minister for immigration absolutely cut off the negotiations... it was not an issue that received a lot of attention in terms of discussion, but it was a very real thing: We were on the verge of getting the same deal Quebec had! (Interview 5).

Unlike Quebec's interests in immigration policy, in the case of Alberta they were triggered exclusively by demographic and economic reasons, rather than cultural ones. According to Mr. Weiss, Minister of Career Development and Employment at the time, the combined effect of “a maturing population and a decreasing fertility rate”, made of immigration an important issue both, at that time when the McDougall-Gagnon-Tremblay accord was signed and in the following decades (*Alberta Hansard*, April 10, 1991, p. 425). The low number of newcomer arrivals as percentage of the total number of immigrants into the country was insufficient to satisfy the provincial demand in certain occupations. Therefore, added the minister, “it is our intention to have a greater influence on immigration matters as they relate to our province, particularly in light of the trend to reduce federal transfer payments to the provinces” (Ibid).

Far from criticism of Quebec getting enhanced powers over immigration or resentment against *la belle province*, it was the federal government that came under attack for not making the treatment extensive to other provinces (Interview 2). Moreover, “much of the question of controlling who gets into your province is the funding that comes along with it for settlement services”

(Interview 9). In other words, it was not asymmetry itself but the financial consequences of it that became particularly ‘offensive’ to the provincial government. From R. Gibbins’ point of view, Quebec might have helped to precipitate a reaction from the government of Alberta and thus, a combination of labour shortages and the contagion effect might be seen to lay behind Alberta’s demands for increased powers over immigration. But they would have been raised even if no agreement had been previously signed with Quebec (Interview 8).

Contrary to Alberta, the McDougall-Gagnon-Tremblay accord did not cause major concern to (in fact it triggered no response from) the NDP government of Ontario under Premier Bob Rae. Jurisdictional asymmetry in favour of Quebec had not prevented Ontario to remain the major destination of immigrants under the federal programs¹⁰⁰. Ontario had not experienced similar skill shortages, outmigration or demographic decline as other provinces, either. Taking these factors into account, the provincial government did not see the need to seek of specific powers for the purpose of attracting immigrants (Baglay 2011); furthermore, pursuing a Quebec-like agreement for Ontario was seen as detrimental to the role of the federal government in nation-building through immigration, supported by Ontario (Seidle 2010, ii).

In the early 1990s, Ontario Citizenship minister was reported to have sought an immigration agreement with Ottawa, like six other provinces already enjoyed (Oziewicz 1991a; Oziewicz 1991b), and initial efforts were indeed made to undertake formal bilateral negotiations to that aim. Yet, Ontario was primarily concerned with that, the federal government was not contributing enough to the provision of social services, health care and education for newcomers. In the words of the Premier, the provincial government was forced to “pay a lot of the

¹⁰⁰ On annual average, and combining the figures of primary and secondary immigration (the latter referred to immigrants who arrive to another province and later on move and settle down in Ontario), Ontario receives over half of immigrants admitted to Canada (Seidle 2010: 1).

costs”, that in turn “[put] a huge constrain on the provincial economy” (Todd 1991).

More than in the case of Alberta, it was the extra resources and funding disparities in favour of Quebec that became a source of resentment in Ontario. If anything, the province at the centre of Canada did not contest jurisdictional asymmetry but the financial implications of the accord. As a senior civil servant explains the reasoning behind his government’s position:

“Part of what Ontario lobbied for is that more money is related to that particular agreement with Quebec. Although Ontario has sporadically been interested in greater devolution of authority in immigrant selection, I think the money, resources are the big part. You might see more concern on immigrant selection in the future... but the principal preoccupation or focus at that time was very much on the money. I was involved a bit and the financial issue was really at the top of the agenda. And because in the early 1990s there was a recession and an enormous fiscal pressure, money meant everything” (Interview 10).

4.4. CHRÉTIEN’S RESOLUTION ON QUEBEC’S DISTINCT SOCIETY (1995)

The failure of the Charlottetown Accord deeply harmed Bourassa Liberals who had described the deal as being unacceptable to Quebec, just to give it their support a few weeks later (Gagnon 2000: 293). This ambivalence helped to bring the *PQ* back into power in the ensuing provincial elections held in 1994. During the electoral campaign, Quebec nationalists insisted that the failure of the Meech Lake and Charlottetown Accords proved the inability of constitutional reform to accommodate Quebec; as a consequence, sovereignty was advocated as the only remedy possible (*PQ* 1994).

Following his victory, the new Premier Jacques Parizeau unveiled his plan to call a second referendum on independence. To that aim, he tabled a draft-bill in the National Assembly in December 1994, modified into a more moderate version in September 1995, after an agreement was reached between the *PQ*, *BQ*

and *Action Démocratique du Québec* (ADQ)¹⁰¹. Unlike the 1980 referendum, in which occasion Quebecers were simply asked to give the provincial government a ‘mandate to negotiate’ with the rest of Canada, this time the proposal entailed a unilateral declaration of independence (Russell 2004: 230). Were the sovereignty act ratified in public consultation, independence would come into force one year after the popular vote¹⁰². Although the provincial government would be required to make a formal offer of economic and political partnership to the rest of Canada, the sovereignty of Quebec was not made conditional on success in those negotiations. The referendum, held on October 30, 1995, resulted in a razor-thin victory of the Non forces with 50.6 per cent of Quebecers against 49.4 per cent of those who endorsed the PQ’s sovereignty plan.

Canadians outside Quebec were deeply concerned about the consequences of a referendum that might break their country apart. Yet, there were just a few belated efforts to persuade Quebecers to say no. For the new Prime Minister Jean Chrétien and a great many Canadians “the nationalist game of threatening to secede unless Quebec was offered a stronger place within the federation was over” (Russell 2004: 234). Following this logic, the federal government refused to play an active role for the most part of the campaign. Only in the final days, when polls revealed a clear advantage of the sovereignist side, the Prime Minister made a major appearance in Montreal and committed to accommodate some of Quebec’s traditional demands by means of a new approach to federalism that he designated ‘flexible federalism’. It was comprised of three elements:

¹⁰¹ For a comparison of the contents and specific wording of both versions of the sovereignty bill, see Quebec Government 1994 and 1995.

¹⁰² The referendum question read: "Do you agree that Quebec should become sovereign, after having made a formal offer to Canada for a new Economic and Political partnership, within the scope of the Bill respecting the future of Quebec and of the agreement signed on June 12, 1995?"

“(1) We must recognize that Quebec's language, its culture and institutions make it a distinct society. (2) And no constitutional change that affects the powers of Quebec should ever be made without the consent of Quebeckers. (3) And that all governments -federal and provincial- must respond to the desire of Canadians everywhere for greater decentralization”¹⁰³.

Ontario's mayor actions relating to the referendum was also delayed. Around the time of Chrétien's speech on flexible federalism, Premier Mike Harris moved a 'pro-Quebec' motion that was seconded by the leaders of the opposition parties unanimously passed by the members of the legislative assembly. In a rather tenuous manner, the Legislature and the people of Ontario affirmed that they “value[d] and cherish[ed] Canada and Quebec's distinctive character within our country” (Ontario Legislature debates L017, October 26, 1995). Interestingly, the recognition of Quebec's distinctiveness came second, once the value of Canada was first acknowledged. In the case of Alberta, the feeling was growing that Quebec's secession was but a matter of time and “it [was] not worth courting a partner whose allegiance towards the Canadian federation [was] so unconvincing” (Resnick 1995).

The third aspect of Chretien's flexible federalism, which became the core of the federal offer of national reconciliation, did not serve to satisfy Quebec's political demands in an asymmetrical fashion. Even more, it seemed to interpret those demands as a series of mere administrative and practical hurdles that could be addressed in a piecemeal manner, this way relegating the national question “to a question of practicality and pragmatism” (2000: 294). The first two items, on the other hand, were more directly oriented to satisfying Quebec's traditional quest for symbolic and institutional asymmetry.

Honouring its pledge on symbolic recognition, Chrétien's government tabled a motion in the House of Commons recognising Quebec as a “distinct society within Canada” (Canada House of Commons, Debates November 29, 1995, p.

¹⁰³ Speech substantially reproduced in the PM's televised address to the nation on October 25, 1995 (See Chrétien 1995).

16971). In an attempt to curtail any potential political or legal implications of the motion that had caused much controversy at the time of the Meech Lake negotiations, the distinct society was now defined in strict sociological terms, as referring to “its French-speaking majority, unique culture and civil law tradition”; and no reference was made to the role of the National Assembly or the provincial government in preserving and promoting Quebec’s distinct character. Furthermore, the Commons and the federal government, not the courts, were the institutions whose conduct should be guided by the reality of Quebec being ‘a distinct society within Canada’. Therefore, the motion was advanced as a ‘purely’ symbolic recognition and part of an extra-constitutional or non-constitutional approach to accommodating Quebec. As a parliamentary resolution, not an amendment to the Canadian constitution, any government, including Jean Chrétien's, could decide to rescind it at any future point in time.

As the Prime Minister pointed out, the time was not ripe for reopening constitutional talks, “because the Government of Quebec and the Leader of the Opposition himself have indicated that they refuse to participate in such discussions” (Jean Charest, Canada House of Commons, *Debates*, November 29 1995, p. 16972). But constitutional negotiations were not in the agenda of the federal government or any of the provinces, either. For instance, Ms. Cunningham, Ontario Minister of intergovernmental affairs, was quoted stating:

“[t]he time for dramatic gestures is long gone. Our government wants to build on non-constitutional successes before embarking on the constitutional adventure. We are aware of the need to meet the main demand of federalists in Quebec, the recognition of the uniqueness of their province. But it has to be done starting with administrative renewal” (Leblanc 1997; also Walker 1995a).

Behind closed doors, Mike Harris also voiced some concerns that his government had not been elected with a mandate to make constitutional changes. Accordingly, all his efforts towards national unity would centre upon practical measures such as new deals on interprovincial trade (Walker 1995c). And, when asked to lead a provincial bid to pass a resolution based on the five

principles of the Meech Lake constitutional accord, he dismissed the Prime Minister's petition (Leblanc 1997; Mackie 1998c).

Commenting on the distinct society motion before the House of Commons, he stated that "the federal government is already fighting the next Quebec election". Ultimately, he added, "Chrétien's proposals are for Quebecers and not, in my view, necessary for Ontario or the rest of Canada" (quoted by TS 1995a and Walker 1995a). It was clear, then, that the Ontario Legislature would not follow the same steps as the federal parliament. In fact, not only the Premier took a negative stand on the matter, but the whole Conservative caucus (which controlled 82 seats out of the 130-seat Legislature) were firmly opposed to the parliamentary resolution and special status for Quebec more generally (Walker 1995c).

If the conservative government of Mike Harris opposed that Quebec's distinct society was enshrined in the constitution, it also voice aversion to that very concept. The combination of both elements can thus be interpreted as an expression of blocking reaction. In Premier Harris' view, sticking to "old words and old terminology that failed time after time for the last 15 years is not a constructive way to find common ground" (quoted by Walker 1995c). This is why his office was pursuing a strategy that would see new language affirming Quebec's distinctiveness in a way that would not alienate other provinces.

Explaining this position further, a constitutional advisor to the provincial government commented on the need to have some well-founded expectations that a term such as 'distinct society' was "workable" and "deliverable", "before investing a lot of political capital in it". Since there was evidence otherwise, Ontario premier was determined "not to be a prisoner of the terms, conditions and ideas that foundered at Meech Lake or Charlottetown" (Hugh Segal, quoted by Walker 1995b).

Like his counterpart in Ontario, the Premier of Alberta, rejected reopening constitutional discussions. But the traditionally decentralisation-oriented government of Alberta seized the opportunity to exploit Quebec's leverage vis-à-vis the federal government to make some progress in specific policy fields

before addressing constitutional questions (TS 1995a). In this connection, it was proposed that the solution to the national unity problem could be worked out between the provinces and the territories without the interference of the federal government, and in a way that would allow for further “decentralization of power and recognition of the provinces”; thus respecting the principle of equal rights for all provinces (Mr. Langevin, in Alberta Hansard, October 31 1995, pp. 2254-2255).

As regard the concept of distinct society, the provincial government was sympathetic to Quebec’s demands for recognition on condition that it did entail no legal implications. In Premier Klein’s own words, Alberta would support the distinct society resolution “if it recognises only the distinctiveness of Quebec. But the province would be very concerned . . . if the proposal represented in any way, shape or form special status for Quebec” (quoted by Walker 1995a). Chrétien’s resolution was very rarely challenged and on those occasions, on the grounds that it might endanger the principle of provincial equality (Cernetig 1995). The government of Alberta showed a clear preference for an administrative approach to accommodating Quebec. Yet, it did not question the concept of distinct society. Its position is, thus, best described as a non-reaction to symbolic asymmetry.

4.5. BILL C-110 ON REGIONAL VETOES (1996)

On the subject of constitutional reform veto, the PM’s promise during the referendum campaign was not to make any constitutional change that affects Quebec without its consent. That is to say, the purpose was to reinstate Quebec’s conventional capacity to block, but not necessarily to ensure, the passage of constitutional amendments¹⁰⁴. Under the Constitution Act (1982), most constitutional amendments require the support of Parliament and seven provinces representing 50 per cent of the Canadian population. Chrétien’s proposal, modelled after the so-called Victoria formula (1971), would not

¹⁰⁴ In this sense, see the federal minister of justice, Allan Rock, on the debate on Bill C-110 (Canada House of Commons, *Debates*, November 30, 1995, p. 17002).

replace that general amending procedure, but Ottawa would impose a supplementary requirement of regional approval onto itself. Although the basis of those de-facto regional vetoes was only an act of the federal parliament which could be overturned by any subsequent parliament, the political risk of doing so made Chrétien's new rules almost untouchable in the future (Russell 2004: 239).

When the original proposal was first tabled, it identified four regions: Ontario, Quebec, the Western provinces and the Atlantic ones. According to it, any cabinet minister could introduce into Parliament a resolution to modify the constitution under the general amending formula only if the reform had been consented to by Quebec, Ontario, two provinces representing 50 per cent of western Canada's population and two provinces representing 50 per cent of Atlantic Canada's population". This way, the central element of Bill C-110 - namely Quebec's constitutional veto- was to be disguised into "an indirect method of regional vetoes" (Russell 2004: 237). Although the bill brought into the constitutional reform process what can be referred to as institutional asymmetry, such an asymmetry was not granted exclusively to Quebec, but it was extended to the advantage of Ontario, as well. This effectively created a "two-class order" of provinces and as a result, was likely to prompt reactions from other provinces¹⁰⁵.

On this matter, Ontario's and Alberta's positions were set far apart from each other. Since Bill C-110 recognised the former as one of the four Canadian regions, it did not trigger any specific reaction there: regional vetoes were not opposed by the government of Ontario or welcomed with much enthusiasm, either. Thus, Premier Harris stated he was not "particularly enthralled by the notion of a new veto for Ontario on constitutional change" (Walker 1995a). In his view, the proposals were hastily designed to appease Quebec, in the wake of

¹⁰⁵ For Ms. Arseneau, witness before the Senate Special Committee on Bill C-110, "it will all come down to how the thing is actually sold...you hear 'veto for Quebec' and people react badly...There is a real fear that power is a zero sum equation, and that if Quebec has more power, somehow the rest of us have less" (Proceedings N. 5, January 26, 1996).

the near loss referendum, but they did not serve to tackle the real problems of the country (Bryden 1995).

On the other hand, the regional approach to constitutional amendment caused strong alienation feelings in the West (Russell 2004: 239). Seen as a violation of the principle of provincial equality, Peter Meekison (former minister and constitutional advisor to the government of Alberta) opposed it in his appearance before the Senate Special Committee on Bill C-110 (Proceedings N. 5, January 26, 1996). Alberta and British Columbia specifically objected that they had had been lumped, together with Saskatchewan and Manitoba, as one single region. Alberta's immediate response took the form of a blocking reaction: thus, condemning the granting of "a very special status to Ontario and Quebec" and in order to "avoid that Alberta [was] treated as a second-class province", Premier Klein threatened to bring the dossier before the Supreme Court (Bryden 1995; Resnick 1995; Walker 1995a). Subsequently, the provincial government seized upon the benefits stemming from catching-up demands raised by British Columbia.

The federal government met western objections by accepting that British Columbia is a region separate from the Prairie region (made up of Alberta, Manitoba and Saskatchewan). The final *Act Respecting Constitutional Amendments* was passed by the Parliament of Canada in early 1996, providing for 5 regional vetoes over amendments to be made under the '7/50 formula'¹⁰⁶. In these cases, constitutional changes proposed by the federal government will have to be consented by a majority of provinces that includes Quebec, Ontario, British Columbia, two Atlantic provinces and two Prairie ones representing at least 50 per cent of the population in their respective regions.

Whereas Alberta was not formally singled out as a region, this arrangement, when considered in light of Alberta's weight within the whole Prairie population

¹⁰⁶ This affects, for example, constitutional amendments pertaining to parliamentary institutions, the creation of new provinces and the division of powers between Parliament and the provincial legislative assemblies.

gave it an actual *de facto* veto power¹⁰⁷. The result is a division of the provinces in two clear-cut groups: four of them with an effective veto in their own right (Ontario, Quebec, British Columbia and Alberta) and the remaining six which must combine with at least one other province in order to block a proposed amendment (Heard and Swartz 1997: 343). Peter Meekison offered a slightly different reading of Bill C-110 as creating four groups of provinces: three first-class provinces (Ontario, Quebec, and British Columbia) with a designated veto; one second-class province (Alberta) with a *de facto* veto in the foreseeable future; five third-class provinces (Saskatchewan, Manitoba, New Brunswick, Nova Scotia, and Newfoundland) without individual veto and which have to combine with another province to secure one; and one fourth-class province (Prince Edward Island), whose opinion cannot determine the outcome of an amendment in any way (Senate Special Committee on Bill C-110. *Proceedings* N. 5, January 26, 1996).

4.6. OTTAWA-QUEBEC AGREEMENT ON UNESCO (2006)

In one of his central speeches during the federal election campaign that brought the Conservative party back into power in January 2006, the conservative candidate, Stephen Harper, advocated a new approach to the working of intergovernmental relations that he labelled “open federalism” (Harper 2006a; Harper 2006b)¹⁰⁸. As outlined by the future Prime Minister, open federalism entailed, first of all, a clearer division of competences

¹⁰⁷ At the time when the Act was under discussion, Albertans already constituted 56’3% of the Prairie population and the size of the province has grown steadily, representing 62% in 2010 (Own calculations based on the data from Statistics Canada. Estimates of population per province).

¹⁰⁸ The speech given before the Quebec City Chamber of Commerce on December 19, 2005, was considered to be just as important as the one Mulroney delivered back in 1984 (Fraser 2006: 63). But constitutional reform was not part of Harper’s agenda, whose approach to accommodating the national specificity of Quebec inside the Canadian federation would be pursued by practical means and asymmetries at policy level.

“respecting areas of provincial jurisdiction” (Harper 2006b). To that aim, formal limits would be placed on the use of the federal spending power for new shared-cost programmes. And the fiscal pie would be divvied up between the federal and provincial tiers of government accordingly.

Furthermore, open federalism meant forging new federal-provincial relations that, while open to all parts of the country would be respectful of their differences. On this ground, it specifically envisaged asymmetrical arrangements in favour of Quebec. Since formal mechanisms were necessary to channel “provincial input into the development of the Canadian position in international negotiations or organizations where provincial jurisdiction is affected” (Ibid) and “nowhere [was] the need to turn the page in Quebec more evident than on the issue of Quebec at UNESCO”, Quebec would be invited to play an enhanced -though cooperative- role in this field (Ibid: 10).

The promise to give Quebec a place at UNESCO was far from new. In fact, former Prime Minister Paul Martin had already raised it in his ‘vision speech’ delivered in Laval in May 2004¹⁰⁹ during the 2004 federal elections. It was also part of Quebec’s historical agenda. The relevance of UNESCO for *la belle province* stems from its bi-dimensional nature as a matter being associated both to international relations policy and, cultural and education policy: on the one hand, it falls under Quebec’s broader objective of strengthening its international influence and reinforcing its presence in international forums. From a cultural perspective, on the other hand, UNESCO constitutes an essential instrument for the external protection and affirmation of Québec’s language, culture, and unique characteristics. Thus, it constitutes one of the best examples of what is referred to as ‘cultural paradiplomacy’ (Belanger 1994; Paquin and Chaloux 2010).

¹⁰⁹ The irony being that, two years later Harper capitalised on a pledge previously made by his opponent.

Quebec's interest in international cultural activities can be traced back at least to the time when the Gerin-Lajoie doctrine was developed in mid-1960s¹¹⁰ and it has a precedent in the acquisition of full membership in *La Francophonie* in 1970. And in general, it can be asserted that demands for an increased role for Quebec internationally have been both widespread and bi-partisan, raised both by the federalist and sovereigntist sides (Nossal 1996: 515). Most recently, the quest for external distinctiveness turned towards participation in UNESCO, as revealed, for example, in the government's international strategy set up in 2005 (Quebec government 2006). According to it, one of the key objectives was to define a formal and predictable framework that would ensure the participation of Quebec within Canadian delegations during the deliberations or conferences of international organizations. To that aim, it would seek "full member status in Canadian delegations and exclusive responsibility for designating its representative" and "the right to speak for itself at international forums on matters related to its responsibilities" (Ibid: 28), specifically targeting the case of UNESCO¹¹¹.

When Stephen Harper displaced the Liberals as the default federalist option in francophone Quebec, he did not hesitate to reward Quebecers for their "French Kiss" (Hébert 2007). To honour his electoral promise, Harper's government moved fast and one of its first measures was indeed the Canada-Quebec agreement concerning UNESCO, signed on May 5, 2006 (Authier 2006). Recognising the cultural specificity of Quebec and its role on the international scene, it provides that "a Québec permanent representative will be welcomed into the Permanent Delegation of Canada to UNESCO in Paris". Yet, this

¹¹⁰ According to it, "whatever falls under Quebec's jurisdiction at home falls under its jurisdiction everywhere". This 'extra-constitutional' view is reinforced by the fact that the Canadian Constitution (both the 1867 and the 1982 Acts) remain silent on the issue of international activities of the provinces (Nossal 1996: 505). Thus, more than in many federal states, the absence of legal or constitutional restrictions on the international role of the provinces does, in principle, facilitate it.

¹¹¹ In the same vein, Pelletier (2005: 6).

representative will enjoy diplomatic status as advisor, working under the general direction of the chief of the Canadian delegation (provision 2.2.), but without an autonomous presence outside the Canadian delegation. The Government of Quebec will have the opportunity to speak and express its point of view at all UNESCO proceedings, meetings and conferences; but it could only do so to the extent that its position is in agreement and serves to complement that of the federal government. Finally, the agreement requires official consultations between Québec and Canada before any votes or public positions concerning areas within Québec's jurisdiction¹¹².

It has become normal to see in the nationalist literature that the Quebec government only has a “foldaway seat” that doesn't give it the opportunity to fully express its cultural specificities on the international scene” (Caron and Laforest 2009: 48). And it certainly does not go as far as the Bloc Québécois wished for, to give Quebec a veto that would force the federal government to abstain in case no agreement was reached with Quebec on the Canada position (Larocque 2006). This is why it has been described as a form of “symbolic multinationalism” (Caron and Laforest 2009). Despite the limited role of Quebec under the terms of the agreement, it still creates an asymmetrical situation with the rest of provinces that can be described as a form of jurisdictional asymmetry.

On the very day of the signing of the agreement, concerns were raised about how the accord would be received by other provincial governments. When questioned on that matter, the Prime Minister made three important statements: first, he had not received and he did not expect to receive any other demand from any other province regarding UNESCO. Second, the specificity of Quebec justified a special treatment on an international organization whose focus is on education and cultural matters. Third, the federal government was not planning

¹¹² In case of disagreement, the Québec government has the right not to implement conventions, actions plans and other international instruments determined by UNESCO.

to open negotiations for similar agreements with other provinces, but to deal with the involvement of provinces in foreign matters on a case-by-case basis.

Ontario's response to the UNESCO agreement corresponds to a form of non-reaction. Thus, for example, no debate was raised in the legislative assembly on the matter. According to Ontario government officials, from an issue-specific point of view, jurisdictional asymmetry defined as having a voice in the UNESCO delegation is not offensive and therefore, it has not caused much concern for the provincial government. From an instrumental point of view:

“[o]ther provinces have pressed in intergovernmental fora such as the Council of the Federation for more formal involvement in things like international trade negotiation. Our own people prefer to do all the relationships on that score informally and bilaterally rather than through some kind of formal intergovernmental bilateral mechanism. And that, I think it is a reflection of the fact that we have a long standing relationship with the federal government that reflects our relative economic importance in terms of overall Canada trade...that's an example of where Ontario is influential and it exercises its influence through purely informal channels” (personal interview).

More generally, operating in the international system is a costly game and thus, for example, one of the most visible and attractive forms of international activity, namely opening and maintaining offices abroad has generally been, and certainly in the case of Ontario, an “equally highly visible and attractive target for budget-cutting exercises” as demonstrate the closing of many offices at the end of the 1970s and again by the NDP government under Bob Rae in early 1990s (Nossal 1996: 506).

As a reflection of cultural paradiplomacy, the Canada-Quebec agreement regarding UNESCO has not caused reaction from the Alberta government, either. Arguably, the fact that neither Alberta's or Ontario's government have condemned the Canada-Quebec UNESCO agreement or have sought their own representative within the Canadian permanent delegation in Paris suggests their acquiescence of Quebec's quest for external distinctiveness primarily as a cultural matter and they accept Quebec's specific interests in the field of culture.

Paraphrasing Kim R. Nossal, “a persuasive case can be made that in many respects Quebec is special” (1996: 507), and thus, it can be expected that only the government of Quebec city engages in international relations that are also designed to project the sense of Quebec cultural distinctiveness, while the same driver cannot be found underlying international activities undertaken by other provincial governments (Ibid).

Conceptualised more broadly, however, the UNESCO agreement entails the formalisation of Quebec’s role in Canadian foreign affairs. And it is the fact that Alberta has sought developing an international presence for economic purposes related to trade and energy policy, and to play a more active involvement in international negotiations dealing with both fields of international trade and energy policy (Alberta 2007b: 31-32; CoF 2006a; CoF 2006b). To that aim, the government’s objective has been “to formalise the role of provinces whenever the federal government deals with matters that involve provincial jurisdictions at the international level. Our focus has always been to have a formalised accord that says: we are dealing with provincial responsibilities, therefore the provinces have to be involved” (interview with senior government officials of the government of Alberta).

From this perspective, some spill-over could be expected from international cultural relations into other areas such as energy or international trade. Since ‘energy is for Alberta what culture is for Quebec’ (Dyment 2006; Mach 2008) a reaction has been expected from the government of Alberta, requesting for itself an involvement in international organizations and forums such as the World Trade Organization (WTO), the International Energy Agency (IEA) and the NAFTA Energy Working Group on Energy, similar to that of Quebec in UNESCO. Despite the fact that the government of Alberta has become increasingly assertive in demanding a role in international relations, it has not taken advantage of the momentum created by the Canada-Quebec agreement on UNESCO, and it has not phrased its demands in terms or catching-up.

4.7. HARPER'S MOTION ON QUEBEC'S NATIONHOOD (2006)

As shown in others sections of the chapter, the question of Quebec's distinctiveness was part of an old and recurring debate. The Conservative government under Stephen Harper brought it once again into the heart of Canadian politics. In late 2006, the Prime Minister moved forward a motion recognising Quebec's specificity. Like previous exercises in that direction, it was a symbolic gesture; yet, it entailed a significant novelty regarding the nature of the terms used.

Arguably, some events both within Quebec and in the Canadian parliament pressured the federal government to take that step. In November 2006, a debate was held in the National Assembly about the constitutional recognition of the concept of Quebec nation. In a statement full of traditional federalist elements, Benoît Pelletier -then Quebec IGA minister- supported the idea that recognising Quebec would make Canada "more united and stronger" while sending a message to Quebecers that "they can be themselves within Canada". Therefore, the recognition of Quebec's specificity was not a whim, but a matter of necessity. "Since the constitution of a country is a mirror, it [was] imperative that the people of Quebec could see themselves perfectly reflected in the Canadian Constitution" (National Assembly Hansard, vol. 39, n. 59). As for the type of the recognition, his government aimed for "the same recognition found in the Meech Lake Accord; that is to say, a provision that would eventually serve as an interpretative clause of the Canadian Constitution" (Ibid).

Around the same time, Gilles Duceppe -leader of the Bloc Québécois- announced its intention of introducing a motion into Parliament defining Quebecers as a nation _ period. Within weeks since the debate in the National Assembly and less than 24 hours after the BQ's notice, the Prime Minister "picked up the gauntlet thrown down by Pelletier" (Aubry 2007); and he responded with a proposition of his own affirming Quebec's nationhood, "[i]n a dramatic pre-emptive strike that took the sovereignists by surprise" (Thompson

2006)¹¹³. In sharp contrast to the wording suggested by the BQ, the government's motion read "this House recognises that the '*Quebécois*' form a nation within a united Canada" (House of Commons, 39th Parliament, 1st session, November 27, 2006. Journal 87, p. 811). After a short debate, the motion was passed by an overwhelming majority of 266 votes against 16 (Ibid).

This parliamentary motion represents a form of symbolic recognition; indeed, a very limited one. The use of the word '*Quebécois*' in the English version of the motion opened the doors to different interpretations and created much controversy as to who are the people whose nationhood is acknowledged and in turn, the nature of the community recognised this way (Kom 2006; Martin 2007). In Quebec, on the one hand, the resolution was largely understood as referring to a political community that includes all Quebecers. From the reading that the province as a whole forms a (civic) nation, it was thus inferred that Quebec should be entitled more political autonomy¹¹⁴. For most people outside Quebec, on the other hand, the subject of the motion was only a subset of all residents in Quebec, namely "the old-stock French-Canadians" (Legault 2007). Underlying this restricted definition of Quebecers was an ethno-linguistic concept of nation, that is to say, a group with distinct cultural characteristics and not necessarily tied to any particular territory (Kom 2006). Stephen Harper certainly favoured this second understanding of the Quebec nation¹¹⁵. Yet, his deliberately ambiguous use of the terminology enabled the federal government to "escape a political trap by sending one message to English Canada and another to Quebec" (Martin 2007).

¹¹³ Moreover, the tabling of the motion roughly coincided with the Liberal Party's convention where, delegates and leadership candidates were expected to discuss the issue.

¹¹⁴ This perspective served to justify a subsequent motion unanimously voted by the National Assembly in support of the Commons' resolution (Richer 2006).

¹¹⁵ In his view, French-speaking Quebecers undoubtedly belonged to the '*Quebécois* nation'. but Anglophones and other ethnic groups within Quebec might not identify themselves as such (quoted by Rodrigue and Panetta 2006; also Thompson 2006).

With regard to the legal implications of the motion, the federal government did want to leave no doubt that the resolution was not a way of reopening constitutional discussions (Federal Transport Minister, as quoted by Brown 2006a). It was also very careful to avoid any signals that calling *Quebecois* “a nation within a united Canada” might bring concrete consequences in terms of powers or status. On the contrary, they insisted the resolution was but “a symbolic gesture of recognition and reconciliation” (Woods and De Souza 2006) and Quebec would be treated as a province like the others (Legault 2007). In a similar vein, political and legal experts generally agree that the motion does not affect “how federalism works or how powers are divided” (Caron and Laforest 2009: 45) and “will not have any impact on the Constitution unless further steps are taken” (Peter Hogg quoted by Leblanc 2006). Taking its “purely cosmetic meaning” into consideration, Caron and Laforest have described Harper’s motion as an expression of “symbolic multi-nationalism” (2009: 45). In a similar vein and within the conceptual framework developed here, it is best defined as a case of symbolic asymmetry.

Whereas the motion triggered widespread opposition among Canadians outside Quebec (Calgary Herald 2006; *Press Canadienne* 2006), official responses from provincial governments did not quite match such a popular dislike. The government of Alberta, for example, did not challenge the motion in any specific manner, but its concerns were any practical consequences attached to it. Ed Stelmach, then Alberta Premier-designate described his approach to intergovernmental relations as being more conciliatory and less confrontational than that of his predecessor. In terms of substance, however, he was equally committed to the defence of Alberta’s interests; what would occasionally require requesting for his province whatever Quebec got¹¹⁶. The government’s guiding principle was not being equal to Quebec, but having equal rights. As a member of the legislative assembly told the press, “most Albertans

¹¹⁶ In this sense, he specifically flirted with the possibility of seeking the same kind of immigration arrangement enjoyed by Quebec or a provincial pension scheme similar to the Quebec Pension Plan (Toronto Star 2006).

are particularly interested in the semantics of what nation means...in terms of policy and power...dollars and cents” (Ted Morton, quoted by Harding and Walton 2006). In that connection, whenever the Premier referred to the motion, he pointed to the potential practical implications of being recognised a nation as his only concern and thus, his readiness “to fight for the same rights and privileges being assigned to this 'nation within a nation,'" (McLean 2006; Weber 2006) But symbolic recognition was not within Alberta’s priorities and from this perspective, Harper’s motion remained provisionally harmless:

At least three aspects made this most recent recognition of Quebec different to the discussions in the 1980s and 1990s: Number one, it is not in the Constitution...Canada is very good at seducing at the practical level, but if you try to put it in the constitution it will lay down a symbolism and it will get reaction...Second, everybody was told -as in the case of the very similar resolution passed by the House of Commons in 1995- that it was meaningless...Third point, it read “nation within a united Canada” (interview with senior civil servants, Alberta Government).

In a historical perspective, the government of Alberta seemed to be growing more tolerant to symbolic asymmetry at the same time as Quebec’s recognition was made less consequential. This weak or non-reaction is also partly explained by the support and trust in a Conservative government whose stronghold was in Western Canada and an Alberta native prime minister (as suggested in interview with several political scientists).

Similarly to Alberta, the government of Ontario did not oppose Harper’s motion. Yet, Premier Dalton McGuinty talked about it with disdain and making remarks often charged with sarcasm and irony (Blatchford 2006; Kelly 2006). In his view, political leaders were wasting their time over a semantic debate that only appealed older generations. By contrast, for most Quebecers under the age of 40 the meaning of being a Quebecer was as important as the “question of how many angels can dance on the head of a pin”, whereas “it [was] not the kind of thing [likely] to keep Ontarians awake at night" (quoted by Benzie 2006). While his government -or indeed his province- is not “threatened" by a purely symbolic

motion, it is unfortunate in that it serves "to reinforce that somehow there are groups of us that are different from the others" (Howlett 2006). Closing doors to any constitutional discussion in his province, Dalton McGuinty added: "It's a debate that's going to take place on Parliament Hill. It's not going to be a debate that spills over into the Ontario Legislature certainly as a result of any of my doing" (Ibid).

Apart from the futility of the issue, additional sources of criticism were raised. The Prime Minister had miscalculated the consequences of his action: by moving a motion to try to keep Canada united, he was rather risking to divide the country further. In that connection, the motion might push Canada back into the constitutional wrangling and debilitating bickering of the 1980s and 1990s. The motion might also encourage other groups, such as aboriginal people, to argue that they also are nations within Canada. Finally, by highlighting the differences among Canadians the motion made it more difficult for Canada, and thus for Ontario, to compete in a global economy (Howlett 2006; Guelph Mercury 2006; *Presse Canadienne* 2006).

4.8. HOW DO ALBERTA AND ONTARIO REACT TO ASYMMETRY? OCCURRENCE OF DIFFERENT FORMS OF REACTION

In the question of whether other provinces represent a supporting or countervailing force to Quebec's quest for asymmetry, the analysis displayed in this chapter enables us to identify some patterns of pro-asymmetry demands and pro-symmetry reactions in Canada and to draw some provisional conclusions about the relevance of the analysis of reactions to asymmetry.

The first conclusion has to do with the complexity and multidimensionality of the phenomenon of asymmetry. Whereas most of the issues studies correspond to a single dimension of asymmetry, the case of the distinct society reflects two dimensions of asymmetry, namely symbolic and jurisdictional. It is worth pointing out this fact because of its implications for the analysis of the LER/NER's reactions. The responses to that single issue can be described as both, blockage and non-reaction, depending on the specific dimension of asymmetry we are looking at.

As for the occurrence of the different types of asymmetrical demands, symbolic recognition and institutional asymmetry in the form of a special involvement in constitutional reform have been the most recurrent issues raised time and time again by governments of both nationalist and federalist orientations.

Concerning LER/NER's responses to Quebec's demands, substantial evidence has been found that asymmetry has not been put in place easily or without challenge. As a matter of fact, half of our observations were met with either catching-up demands or blocking reactions on the side of the governments of Alberta and Ontario. But on the other hand, as many of the possible occasions were Alberta and Ontario could challenge asymmetry, they remained largely accommodative or indifferent. Precisely this variation highlights the relevance of the analysis here conducted, in order to have a better understanding of the conditions under which asymmetry is more likely to become a stable or an unstable solution.

Notably, the inter-provincial comparison produces a differential pattern of reactions between Alberta and Ontario, in the sense that Ontario seems to be slightly more accommodative, having produced non-reaction results in almost 60 per cent of the occasions, as compared to the 40 per cent of non-reaction results in the case of Alberta. Moreover, whenever Ontario has opposed asymmetry, it has done so largely through blocking reactions, whereas the cases of blocking reactions and catching-up demands are more evenly distributed in the case of Alberta. This seems to suggest that some province-specific conditions might be affecting these different patterns.

An important element stands out here, which is the fact that both during the period when Ontario was fully considered Canada's heartland and after Mike Harris accessed power when a movement emerged for Ontario first, for Ontario, protecting its own interests meant for the most part reacting by blocking offending legislation of a sister province rather than acquiring further provincial powers (Courchene). The results, then, seem to fit the expectations derived from the central-peripheral analysis. Not only was Ontario generally more

accommodative, but when it reacted to Quebec demands it generally did so by blocking some of the demands, rather than trying to catch up with its demands.

The occurrence of the different forms of reactions seems also to be partly associated to different types of asymmetry. Specifically, institutional asymmetry has been the type of asymmetry most often opposed whereas symbolic asymmetry appears to be accommodated more easily.

5. OTHER GOVERNMENTS' REACTIONS TO ASYMMETRY IN SPAIN: A CASE ANALYSIS

5.1. RE-ESTABLISHMENT OF THE CATALAN GENERALITAT

Regímenes preautonómicos ('preautonomic regimes' or 'provisional regimes of autonomy' in English) is an expression that became popular and widespread during the Spanish transition to democracy to make reference to a legal-administrative formula devised at that time as a sort of limited regional government aimed at providing a temporary solution –i.e. before the approval of the Constitution– to centrifugal pressures and demands of decentralisation mainly from Catalonia and the Basque country. As an immediate precedent to the constitution, their influence on the constitutional decisions concerning territorial autonomy was undeniable (Aja 2003; Clavero 1983; García Álvarez 2002:431; García Fernández 1980; Gunther 1985; Powell 2001), and very much so on the way asymmetry-symmetry tensions shaped the constitutional contours of the future state of the autonomies.

In the twilight of the dictatorship of General Franco, regional autonomy was increasingly regarded as a condition for successful democracy and was thus brought to the centre of the political agenda (Sánchez-Terán 1988: 278; also Clavero 1983; Keating 1998: 67; Ruiz Monrabal 2003)¹¹⁷. The issue became

¹¹⁷ Almost every political party competing at the 1977 general elections included the defense of regional autonomy in their manifestoes and they even advocated that political decentralisation was undertaken simultaneously to the democratic transition.

most pressing in Catalonia, where political elites had lately insisted on getting self-government immediately re-established¹¹⁸. Following the first free elections held in Spain since the Civil War and soon after the new parliament convened as a constituent assembly in June 1977, the parliamentarians elected in the four Catalan provinces joined in an unofficial and non-institutionalised body known as *Asamblea de Parlamentarios Catalanes* (Assembly of Catalan MPs, in English); their purpose being demanding and negotiating with political institutions at the central level a regime of autonomy for Catalonia on the basis of two indispensable conditions: (1) the re-establishment of the historic *Generalitat* on the same terms of the 1932 Catalan Statute of Autonomy and (2) the return of the Catalan president in exile, Josep Tarradellas (Domingo 1977a; 1977b; 1977c; El País 1977b; Sopena 1977)¹¹⁹.

According to Senator Benet Morell, spokesman for *Entesa del Catalans* in the Congress, the urgency of the quest for self-government was only apparent in Catalonia that could this way regain “at least part of what they had been unjustly deprived” (Benet 1977: 103). That’s why some asymmetry was needed in the short term to reflect Catalonia’s sociological and historic specificities. In the long term, however, Catalans did not seek a privilege and were committed to support autonomy for the rest of nationalities and regions (Ibid)¹²⁰.

Responsive to Catalan demands, the newly elected Spanish government headed by Adolfo Suárez opened talks both with the above-mentioned Catalan president in exile and the regional assembly of Catalan MPs. These negotiations spanned throughout the summer, ultimately leading to signing of the so-called

¹¹⁸ This had been, in fact, one of the key objectives behind the creation of the “*Consell de Forces Polítiques de Catalunya*” in December 1975 (Catalunya Informa 1975).

¹¹⁹ The proposal was met with overwhelming popular; the mass demonstrations held on 11th September 1977, on the occasion of the *Diada* (national day of Catalonia) clearly attest this (ABC 1977; Capdevila 1977; Figuro 1977; Ya 1977).

¹²⁰ In the same vein, Mr. Abelló, president of the assembly of Catalan MPs (ABC 1977b).

‘Perpignan Accord’ on September 28 1977, enacted by the central government as Royal Decree-Law 41/1977 (Spanish Government 1977a) on the following day¹²¹. From the point of view of the types of asymmetry, Catalonia’s pre-autonomic regime primarily constituted an expression of the institutional type, because it entailed the creation of a regional government and administration with full legal personality (Royal Decree-Law 41/1977, art. 2 & 3) and statutory and administrative responsibilities –but no law-making powers¹²².

Secondly, the provisional *Generalitat* had an important symbolic dimension. In this sense, it was justified as “the symbol and recognition of the historic personality [of Catalonia]” (final declaration of principles of the Perpignan Accord, as quoted by Sánchez Terán 2002); as “the triumph of political recognition” (Josep Tarradellas, as quoted in Sánchez Terán 1988: 304); and a victory against the ‘cultural genocide’ the Catalan people suffered under Franco’s rule Senator Benet Morell, spokesman for *Entesa del Catalans* in the Congress 1977: 103). Two facts served to reinforce its symbolic role even further: the insistence on the fiction that the *Generalitat* had been restored (even if in reality it had been created anew and its legitimacy rested on new legislation by the central government). And the figure of Tarradellas who did not have any real power in the Catalonia of 1977, but had the value of a symbol that stood above political parties and party competition (Pelaz 2002: 92).

Thirdly, the provisional *Generalitat* brought with it potentials for jurisdictional asymmetry, by means of the devolution of specific responsibilities and services (together with the economic and human resources needed for their effective implementation) (Clavero 1978: 15-16). By the time the Spanish Constitution was passed in December 1978, and on the basis of negotiations within a joint

¹²¹ For a detailed account of the process see Clavero (1983:39-45), García Álvarez (2002: 430-473) and Sánchez-Terán (1988: 282-320).

¹²² Accordingly, it fits a model of administrative rather than political decentralisation (Ferrando Badía 1980) which does not detract, however, from its value and implications as institutional asymmetry.

commission of transfers made up of representatives from the central and regional governments, the regional government of Catalonia had been formally devolved competencies over agriculture, industry, urban planning, internal trade, home affairs, tourism; unhealthy and dangerous activities; and transports. Additional competencies were transferred before the approval of the Statute of Autonomy of Catalonia in December 1979¹²³.

How did the political representatives of Andalusia and Valencia react to the creation of the pre-autonomic regime for Catalonia? It is widely accepted that granting provisional self-government to Catalonia (and the Basque Country) triggered dynamics of territorial emulation across the board, even in those territories that had not previously shown any regionalist aspirations (Pelaz 2002: 95). As a matter of fact, regional assemblies of parliamentarians had been created and bilateral negotiations concerning pre-autonomy were also well under way in several regions by the time the Catalan *Generalitat* was restored (Clavero 1983: 52).

Moreover, this sort of mimetic bottom-up pressures were partly supported by the central government, whose members used the generalisation of pre-constitutional decentralisation processes as an instrument to either dilute the specificity of the Catalan and Basque initiatives or to avoid suspicions, distrust and criticisms of discrimination among the less-empowered regions (García Álvarez 2002: 436). In the end, a ‘symmetrising principle’ had to be added to the regulation of the provisional Catalan *Generalitat* (Sánchez-Terán 1988: 287). The very preamble of the RD-L 41/1977 thus affirmed it “did not entail a privilege nor it precluded that similar formulas were applied in other Spanish regions”.

Active participants from the early days in the so-called “riot of the regions” (Noguera Puchol 1976), Andalusia and Valencia set up their regional assemblies

¹²³ All decrees of transfers to Catalonia available at: http://www.seap.minhap.gob.es/areas/politica_autonomica/traspasos/reales_dec_traspasos/rd_catalunya.html

of MPs in August 1977 -as reported in the local press¹²⁴, and they formally requested a preautonomic regime soon afterwards. The commitment of the regional political elites within the whole ideological spectrum to get an interim regime of autonomy, coupled with mass demonstrations in support of the same shared objective¹²⁵ made it possible the creation of the ‘*Consejo del País Valenciano*’ and ‘*Junta de Andalucía*’ in March and April 1978¹²⁶ (Assembly of Andalusian MPs 1977a; Sevilla Merino 1992: xii; Sanz and Felip i Sarda 2006: 8). These Valencian and Andalusian provisional governments clearly constituted a catching-up reaction to institutional asymmetry. Key similarities in the wordings of their respective regulations are a first indication of this.

More significantly, positive references were made sometimes to the role of Catalonia as a model and example. For instance, immediately after the reestablishment of the Catalan Generalitat, an editorial in a Valencian regional newspaper described Catalonia as the “exemplary arcade” through which would have to flow the wish for the renewal of the country that was to be built on the backbone of the recognising and protection of regions” (Levante 1977c). As well as negative comparisons and warnings that dominated to public debate about to the excessive attention the central government was paying to Catalonia at the expense of the rest of territories which, in turn, risked being left behind in the process of decentralisation and relegated to a second-class status.

In this sense, the inter-party platform of the democratic political forces founded in 1976 under the name *Taula de Forces Politiques i Sindicals del País Valenciá* justified the creation of a provisional government for the “Valencian

¹²⁴ See *Las Provincias*, August 10, 1977 and *El Ideal*, August 28, 1977.

¹²⁵ Demonstrations to celebrate the Day of the Valencian Country took place on October 9 1977 and to raise regional consciousness in Andalusia on December 4 1977 (Clavero 1983: 68).

¹²⁶ See the Royal Decree-Law 10/1978 of March 17 and the Royal Decree Law 11/1978 of April 27.

Country” as a instrument to place Valencia on a similar footing to other historic and differentiated regions of Spain¹²⁷. This meant, in practice, achieving a self-government level comparable to Catalonia’s. On the occasion of the *Diada* of Valencia, marchers were told that the Valencian Country could not afford to remain a second order nationality (Joan Pastor on behalf of PSOE, as quoted by Sanz 1982: 80). In the same vein, the major of Alcoy complained that their region had suffered from centralism since the 17th century and therefore, Valencians “[could] not remain silent while other territories [were] being granted special regimes before Valencia got its own” (Millas 1976a).

In Andalusia, too, the regional assembly of MPs made public a communiqué on the day after the re-establishment of the Catalan Generalitat requesting a pre-autonomy regime of identical nature to the Catalan one. And it explicitly affirmed that, “not achieving a Catalan-like regime would go against the interests of the region and would mean that Andalusia was being left behind, once again, in the multi-regional state sought for Spain” (as quoted in Levante 1977b).

For Valencia, the provisional regime of autonomy had also an undeniable symbolic dimension. Considering itself as an “oppressed nationality” (Sanz and Felip i Sarda 2006: 164), autonomy at that early stage could serve as a means to recognise the historical personality of the Valencian Country (Alcaráz Ramos 1985: 145; Cucó 1994: 498; Ruiz Monrabal 2003: 383; Sanz 1982: 24-28) and to “reach the adulthood as a nationality” (Levante 1977d). Unlike Valencia, in Andalusia, the potential historic justification of self-government as a historic nationality did not materialise at the time of instituting the pre-autonomy regime. Instead, it was strictly justified as the aspiration of the present representatives of the Andalusian people, democratically elected at that time. An omission of the historic justification particularly surprising taking into

¹²⁷ "*promulgació d'un estatut autonòmic el qual situé al País Valencià en condicions similars a les que obtinguen les altres regions històriques i diferenciades de l'àmbit de l'Estat espanyol*" (as quoted at Ruiz Monrabal: 376-377)

consideration the emerging historic Andalusism or that catching-up reaction was used in Valencia regarding symbolic asymmetry.

Except for the regulation of internal organization, the rest of competences of the preautonomic governments depended on the effective transfers from the central government (or from the provincial councils). As for the central government, it was blamed for using “a philosophy of delay” which, in Andalusia resulted in that the first transfers to the pre-constitutional government of Andalusia took place as late as February 1979 (Valles and Gutiérrez 1980: 247), during its almost 3 years of existence, only two decrees of transfers were approved and financial sources provided were far from sufficient (Ruiz Robledo 2003: xlvi). Complaints specifically pointed to the fact that the Andalusian provisional government was not devolved responsibilities with true social and political implications but rather difficult and anachronistic ones (García Fernández 1980:193) and matters that fell within departments of the regional government run by members of the UCD and not the PSOE (García Fernández 1981: 202).

Albiñana too, who became the first president of the preautonomic *Consejo del País Valenciano* used to complain about the delaying tactics deployed by the central government during the process of granting the provisional government to Valencia, which ultimately led him to resign from the negotiating commission. Furthermore, he condemned the lack of relationships and the treatment received from the central government as indication that there were first-, second- and even third-order autonomies (Albiñana 1979)¹²⁸. The unrealised transfers to Valencia drowned the leftist council and paralysed the autonomic process (Sanz 1982: 105), Difficulties in the transfer of powers did not affect exclusively to Andalusia and Valencia, but the process was also full with delays and budgetary restrictions in Catalonia, what significantly curtailed the political capacity of the

¹²⁸ This sort of concerns had already been raised during the negotiations for the restoration of the Generalitat of Catalonia. Worries were then expressed before the minister for the regions, Manuel Clavero, that simultaneous negotiations had not been undertaken with other regions (Sánchez Terán 1988: 293).

Catalan provisional government. Nevertheless, complaints often raised comparative grievances with concerns not so much about the scope of powers but the pace of the devolution far slowed in the LER/NER.

To sum up, the three forms of asymmetry the creation of the provisional Generalitat entailed triggered different reactions from the regions of Andalusia and Valencia. In both cases the main concern and target for the comparison with Catalonia was the formal institutionalisation of a system of autonomy, and less so the actual contents of self-government. As a result, catching-up was primarily a response to institutional asymmetry, which spilled over symbolic asymmetry to a lesser extent and only in the case of Valencia, while jurisdictional asymmetry was not faced with major opposition from either Andalusia or Valencia.

5.2. SPANISH CONSTITUTION (1978) AND THE CREATION OF THE AUTONOMOUS COMMUNITIES (1979-1983)

The 1978 Spanish Constitution laid the foundations for the process of decentralisation that was undertaken thereafter, which in turn created what has been referred to as “State of the Autonomies”. Considered the most contentious issue during the Spanish transition to democracy, the constitutional solution to the regional question had to be satisfactory to sub-state nationalisms in Catalonia and the Basque Country, as well as tolerable elsewhere in the country (Aja 2003; Arévalo 2003; Blanco 2005; González Encinar 1995; Guibernau 1995).

That was achieved through an agreement on an open-ended process of decentralisation rather than a definite territorial model (Jaria 1999: 21; Powell 2001: 41). And the route-map was full with ambiguities so to give enough room for different -even contradictory- readings of the territorial constitution (Gallego-Díaz & De La Cuadra 1989: 100-110). At first glance, it produced a formal unitary system but with strong federalising trends and it included some relevant asymmetries together with other counter-asymmetry provisions (Blanco Valdés 2008: 180-181). It comes as no surprise, then, that the asymmetry-symmetry tensions fundamentally shaped the constitutional negotiations, and the

implications of its more or less asymmetrical design still remain at the forefront of political and academic discussions in Spain nowadays¹²⁹. This section examines how the statutes of autonomy of Andalusia and Valencia dealt with and responded to Catalonia's pro-asymmetry pressures during the drafting of the constitution.

The Spanish constitution of 1978 did not enshrine a permanent distinction between two types of Autonomous Communities (ACs) depending on the type and extent of autonomy to be granted to them; yet, it provided for some symbolic asymmetry (as contained in article 2) and some potential or provisional asymmetries at institutional and jurisdictional levels, directly linked to the different paths according to which the ACs could be created. In M. Clavero's words the constitution gave the so-called historic nationalities a bonus and put many obstacles in the way of the rest of regions" (1983: 103-106).

Whereas all other basic constitutional questions were successfully decided at the *ponencia* stage, provisions dealing with the territorial structure of the state underwent significant changes throughout the subsequent parliamentary debates (Gunther 1985). The original draft responded to a federal model, mostly reflecting the preferences of Communists and Socialists; conversely, the final text was an attempt to redress some harsh opposition expressed by sub-state nationalists and the governing UCD (Pérez Royo 2004). Specifically, Catalan nationalist were very much responsible for the asymmetrical features of the constitutional accord.

Starting with article 2 of the Spanish constitution, it established "the indissoluble unity of the Spanish nation", at the same time as it recognised the existence of "nationalities" and "regions" within it. The term "nationality" was,

¹²⁹ This debate has been frequently linked here to the concept of "differential fact" – constitutional recognition of some regional differences, worthwhile protecting-. A thorough analysis from a legal-constitutional point of view can be found in García (1997); López Aguilar (1997); Seijas (2003) and Trujillo (1997). From a political science perspective, see Blanco Valdés (2005); Colino (2007) and Moreno (1997).

above all, a concession to peripheral nationalist claims, particularly those raised by Catalan CiU (Clavero 1983: 98; Juliana 2006: 87)¹³⁰. Its distinction from the term ‘region’ and the somehow “nominalist discussions” that followed concerning the application of one or the other very much entailed a demand of symbolic recognition (Fossas 1999: 3). Therefore, it was implicitly assumed – although not explicitly provided for in the Constitution- that the first label had to be reserved for Catalonia, the Basque Country and Galicia. In defense of the term nationality, Senator Mr. Puncernau affirmed that “Catalans, in general, consider the existence of Spain as a state but not a nation. As Catalans, we have only one nation, namely, Catalonia... if the Spanish constitution wants to keep a Spanish state able to accommodate all of us, then, Spain must be accepted as a multinational state. Otherwise, it will trigger separatisms... (Hansard. Commission on the Constitution within the Senate, August 19 1978, p. 1605).

In contrast, it was generally criticised outside Catalonia as being ambiguous, confusing, dangerous and discriminatory. For example, Senator J. Marias suggested that “it introduces a clear discrimination and causes suspicion and distrust in wide spheres of the Spanish society” (Hansard. Commission on the Constitution within the Senate, August 19 1978, p. 1627). Moreover, although no fundamental consequences were formally derived from this terminological distinction (Corcuera 1992; López Aguilar 1997; López Guerra 1995), such duality was “misleading” and “disturbing”, especially when put in relation with the 2nd transitory provision (Martín-Retortillo, Hansard. Commission on the Constitution within the Senate, August 19 1978, p. 1612). In fact, the need to satisfy the demands of differentiation raised by Catalan and Basque nationalisms was very much at the origin of the different pathways devised to access regional autonomy (García Álvarez 2002: 502) through the approval of statutes of

¹³⁰ It also illustrates the lack of a common vision of the Spanish reality, shared by all relevant political actors. Despite the fact that most political forces perceived Spain as a culturally diverse and heterogeneous society, fundamental disagreements persisted about what they meant by diversity and most importantly, which constitutional and institutional consequences should be derived from it.

autonomy (a sort of regional constitutional laws approved by the national parliament as organic laws): the so-called “slow-track autonomy” (article 143) and “fast-track autonomy” (article 151 and Second Transitory Provision).

The different paths were to determine the competencies and institutional settings of the AC, since theoretically choosing one way or another allegedly was directly proportional to the more or less pro-autonomy impetus in the provinces that aimed at becoming an AC (Sevilla Merino 1992: x). The fast-track enabled ACs to opt for the highest level of powers from the very beginning. From an institutional point of view, art. 152.1 SC made compulsory for them, as a guarantee of political autonomy, representative and democratic institutional system based on a legislative assembly, a government and a regional court of justice. ACs created through the slow-track procedure, by contrast, would have limited powers for a five-year period and no explicit provision was made concerning their institutional framework –although they were not prevented from adopting a similar internal organisation as the one devised for the fast-track ACs. The two-track devolution process is very much an expression of provisional jurisdictional asymmetry and potential institutional asymmetry, too.

The creation of the Autonomous Communities triggered a controversy about the existence of first and second order ACs. Particularly, for many parliamentarians from Valencia, including some members of the governing UCD, the 2nd transitory provision was a “grievance that could not be allowed” (Garrido Mayol 1996: 77). Among them, Francisco de Paula Burguera, presented an amendment -rejected by the “mesa del Congreso”- aimed at adding other territories that had historically had their own political institutions to the 2nd transitory provision, in a clear but implicit reference to the Kingdom of Valencia that had lost their right with the “decretos de nueva planta” (DS of the Congress 116, July 21, p. 4580)¹³¹. He also raised concerns about inter-territorial

¹³¹ Moreover, Valencia tried to differentiate itself and protect against some sort of pan-catalanism project and the risks of colonisation by means of the creation of the so-called Catalan countries. Therefore, and translating a concern among the regional branches of

grievances and discrimination in the written media (quoted at Grau 1978). In the case of Andalusia, there was no formal opposition. Afterwards, the José García Pérez who abandoned UCD to enter the Andalucist Party (PA) bench complained about parliamentary cowardice among Andalusian MPs who were unable to break the party discipline in defence of the interests of Andalusia, and conceded that a different treatment was given to different ACs.

Apart from these responses during the constitutional discussions, the opposition to asymmetry can be largely traced through the process of creating the ACs of Andalusia and Valencia and the drafting and approval of their respective statutes of autonomy. Although the regulation of all provisional regimes of autonomy insisted that they “[did] not prejudge or condition the contents of the future constitution on this matter”, they inevitably created a strong precedent in the regions with their provisional government to also seek autonomy after the approval of the Constitution. And in the end, they sketched the future autonomic map and were responsible for the generalisation of the process of decentralisation (Blanco Valdés 2005: 56)¹³². Since the provisional regimes of autonomy had been institutionalised in similar conditions for all Spanish regions which demanded their own, the possibilities of designing and implementing an asymmetrical model of territorial autonomy were severely reduced in practice (Clavero 1980: 109; also Aja 2003; García Fernández 1980 and Powell 2001).

AP and UCD, the Valencian deputy A. Jarabo tabled an amendment that resulted in the prohibition of federation of regions, as provided for in article 145.1 CE. In the same vein, the Socialist MP Sotillo.

¹³² By the time the constitution was passed, up to thirteen provisional regimes of autonomy existed, namely those of Catalonia, the Basque Country, Andalusia, Aragón, Asturias, Balearic Islands, Canary Islands, Castilla y León, Castilla La Mancha, Extremadura, Galicia, Murcia and Valencia.

The active role played by the informal assemblies of Andalusian and Valencian MPs is a clear expression of their position against asymmetry. Once the Constitution and the Statute of Catalonia were enacted, there was an attempt to “rationalise” the autonomic process (Clavero 1983: 118). Rationalisation was in part triggered by the fear that mimetism and a emulation process would lead to homogenise to the maximum regions without autonomic aspiration or tradition (Ruiz Monrabal 2003: 398). The rationalisation was in a way similar in its objectives to the attempt of putting brakes to the provisional regimes of autonomies pursued years earlier. This materialised in increasing the difficulties to use article 151, combined with the recommendation to slow down the process to construct de ACs (Sevilla Merino 1992: x). If the rationalisation process was initially played by the governing party UCD, following the 1981 coup d’etat, UCD analysed with PSOE the decentralisation process in a global manner, so to subscribe a programme. It resulted in the so-called autonomic pacts that set a date for all the statutes to be passed, a planning and calendar for the process of transfers and funding (Sevilla Merino 1992: xi).

The National Executive Committee of UCD met again on January 15 1980, and unanimously decided that from then on, all autonomies would be conducted through art. 143, and therefore, the party would advocate abstention in all referendums seeking ratification of the initiative of art. 151 (UCD 1980; text of the agreement also available in *El Pais*, January 17, p. 11). A decision that became a “transcendental and historic mistake” for UCD and that damaged the survival of the party (Clavero 1983: 121). In the particular case of the Andalusian referendum, the campaign was much shorter than the Basque and Catalan; electoral advertising was limited on TV and other media and the wording of the referendum question made it very hard to be understood: no inclusion of the words autonomy or Andalusia even once (Ruiz Robledo 2003: LIII).

According to Rodriguez de la Borbolla, member of the subcommittee in charge of drafting the statute of autonomy for Andalusia, throughout the period that undertook that process (since the summer of 1978 to February 1981), “there was a permanent agreement concerning the competence ceiling Andalusia

should reach. At no time there was a suggestion or discussion about whether Andalusia should remain at a lower level than the highest the constitution allowed since the very beginning. No one raised concerns, either, that Andalusia getting full autonomy since the very beginning might entail a fracture of the constitutional model” (Rodriguez de la Borbolla 2001: 14). This is the background against which to interpret the so-called pact of Antequera¹³³. Except for UCD, the rest of parties in Andalusia ratified it. Clavero’s resignation and his personal involvement in the referendum supporting the campaign in favour of art. 151 headed by PSOE and the role of the then president of the regional government, Rafael Escudero, who entered a hunger strike in defense of article 151 personified the feelings of historic grievance and were also expression of catching-up reactions. In the end, only in the province of Almeria the high abstention prevented reaching the absolute majority of the electorate. Other relevant members of UCD also left the party as a means to show their disagreement with the position of the party in the referendum (García Ferrando 1982: 129).

Interestingly, even before the Pact of Antequera was signed, the Valencian representatives had also signed an autonomic compromise in similar terms to the Andalusian one, the so called pact of Morella. In fact, one of the first political measures taken by the Valencian pre-autonomic Consell was to work for the restoration of self-government. It promoted the signing of the Autonomic Commitment of October 8, 1978 “to reach the maximum degree of autonomy in the shortest period allowed for by the Constitution” (Valencia pre-autonomy council 1978a: 27). The declaration of Morella, signed in the plenary session held in Morella on January 8, 1979, refers to the aspiration of the “most perfect institutionalisation of the AC” and “the highest level of self-government”, which entailed a catching-up response to institutional asymmetry by seeking the creation of a regional parliament, that was the only way of guaranteeing political –not only administrative- autonomy (Aguiló i Lucia 1997: 29).

¹³³ Signed by all relevant political forces in the región: UCD, AP, PSOE, PCE, PSA and PTA.

According to Felipe Guardiola, vice-president of the Generalitat and one of the drafters of the future statute of autonomy of Valencia, “the town councils of all three provinces, the pre-autonomic government, the provincial councils, political parties, MPs and senators opened the process to gain self-government through art. 151. This process was later frustrated as a consequence of political maneuvering plotted by UCD, especially representatives from Valencia” (2001: 52). The wording of OL of referendums created a ‘legal trap’ used to cut short the autonomic process already opened in Valencia, by establishing ex post formal requirements that effectively blocked the continuation through article 151 (Pla 2013: 43).

The position of UCD was at best hesitant and ambivalent has been used as the explanation of the intermediate solution given to Valencia. In January 1979 it had signed the autonomic compromise in favour of the fast track autonomy but in July that year, it recommended the municipalities to subscribe the autonomic initiative without specifying the path of art. 151 and since August it openly supported article 143. In early February 1980, UCD reiterated its request to all town councilors and local and provincial leaders that “UCD’s attitude has to be maintained in the town councils, and it is of full support of article 143 and therefore the rejection of article 151, even if at some earlier stage in the process it was accepted”¹³⁴.

The solution to the Valencian problem ultimately came through the approval of the OL of transfers enabled in practice to enjoy full autonomy in what concerns the jurisdictional ceiling but it prevented that that full autonomy was recognized in the very statute, as most people in Valencia would have wanted (Ibid: 52-53). In practice, then, the scope of competences completely matched that of the historic nationalities (Ibid: 53).

¹³⁴ UCD circular of February 5 1980, quoted at Garrido Mayol 1993: 129. Explaining the reasons of proceeding according to article 143: M. Broseta Pont “¿Por qué el 143?”, *Las Provincias*, January 27 and 29 1980, p. 5 and February 2 and 3, 1980.

In Andalusia, as a reaction, PSOE presented a vote of non-confidence that was saved with the only votes of UCD and the abstention of Democratic coalition and the Catalan nationalists (See DSCD May 21, 28 and 29 1980). The socialist proposal was to modify the Organic Law on referendums so that it could be repeated in Almería and as regard the process in the Valencian country (the Canary Islands and Aragon) to open a 2-month negotiation to reach a final decision (DSCD May 28). After several inter-party negotiations, the solution to the Andalusian problem was found in the validation of the initiative autonomic of the 7 Andalusian provinces where the referendum was successful and the use of article 144c of the Spanish constitution to replace the initiative in the province where the referendum had failed. This way, the autonomic process was unblocked in Andalusia. The symbolic relevance given to the fact that the statute of autonomy was passed following the procedure established in article 151 is clear in J. Rodríguez de la Borbolla words: “it was a process that produced the first collective victory of the Andalusian people, for, prior to February 28 1980, Andalusians had never won a battle” (2001: 2).

Compared to the definition of Catalonia as a historic nationality, the definition of Andalusia as a nationality was not that straightforward and it was further constrained by the reference to the indissoluble unity of the Spanish nation. “*Andalusia, as expression of its historic identity and exercising the right of self-government that the Spanish constitution recognizes to all nationalities, constitutes itself into an autonomous community, within the framework of the indissoluble Spanish nation, common homeland of all Spaniards*” (Statute of Autonomy of Andalusia, art. 1). What García Fernández refers to as “a somehow convoluted reference to the Andalusian nationality” (1981: 219). The explanation given by M. Clavero: “We, Andalusians found ourselves facing a difficult dilemma when we had to define ourselves as either a nationality or a region. Catalans and Basques had opened their statutes by flatly affirming that they had accessed to self-government in their condition of nationalities... Instead, Andalusia preferred a more nuanced formula, Andalusia is more sensitive to the recognition as undisputed personality than the non-existent aspiration to become an independent state” (1983a: 203). What the provisional

government of Andalusia derived as an indirect political consequence of the definition as a nationality was to gain as wide self-government powers as those granted to Catalonia (the Basque Country and Galicia) (Sánchez Agesta 1987: 25). The Andalusian identity and its specificities, although linked to the historical identity in the past, is mostly projected towards the future, towards what Andalusia can become and achieve in the future (Ibid: 16).

As for Valencia, the issue of identity was highly controversial during the creation of the AC. And most debates surrounding the symbols of the region, flag, anthem and shield, or the very language unveil the conflict between those who defended historic and cultural linkages with Catalonia and those who tried to emphasise the differences (as seen in the debate on the Valencian identity within the statute in Garrido Mayol et al ed, 2001: 227-265). The definition of the AC of Valencia was equally complex. The tensions on the matter gave result to an eclectic wording of the preamble and article 1 that indistinctly makes reference to the historic kingdom of Valencia; the Valencian country and also “the exercise of the self-government right the constitution grants to all nationalities, the valencian people constitutes itself in the Valencian Community.

5.3. MOSSOS D’ESQUADRA: AN ACCEPTED ASYMMETRY

The existence of regional police forces in some ACs but not in others is a reflection of ‘variable geometry’ in the distribution and exercise of powers in the field of public security and policing (Blas i Vilafranca 2009: 39). Not surprisingly, this has been singled out as one of the most prominent differential facts within the Spanish State of the Autonomies (Aja 2003: 196-199; Vintró 1995: 262) which, in turn, presents us with a suitable case for the analysis of reactions to asymmetry.

According to article 149.1.29 of the Spanish Constitution, ACs were allowed to create their own police forces provided that such a competence was explicitly assumed in their statutes of autonomy and developed within the framework of an organic law to be passed by the Spanish parliament on the matter. Based on

this constitutional provision, although long before the enabling state legislation was approved, the so-called ‘*Mossos d’Esquadra*¹³⁵, were set up in Catalonia in the early 1980s¹³⁶. If this was a rather formal move towards the definition of the Catalan police model, more significant steps were taken during the following decade (Catalan Government 2003: 31). On October 17 1994, the intergovernmental body in charge of the coordination between Spanish and Catalan police forces –known as *Junta de Seguridad de Cataluña*- reached an agreement for the deployment of the Catalan autonomous police that would progressively replace the Spanish *Policía Nacional* and *Guardia Civil* in key functions of public order, public security and traffic¹³⁷, while the latter would remain responsible for a much limited set of exclusive competences of the central government such as issuing official identity documents, immigration and border control (ABC 1994a).

Much like the *Ertzaintza* in the Basque Country, the *Mossos d’Esquadra* aspired at becoming the all-purpose police force in the territory of Catalonia. Their wide scope of duties, coupled with their dependence –both functionally and organically- upon the regional government and the absence of control and accountability linkages with the central government has effectively placed the *Generalitat* of Catalonia at the highest autonomy level any AC could achieve in this field. From the point of view of the types of asymmetry, the public policy of policing constitutes a paradigm of the jurisdictional type.

¹³⁵ Catalan designation of the autonomous police force of Catalonia, whose historic precedent dates back to the *Esquadres de Catalunya* of the 18th century.

¹³⁶ See Law 19/1983 of July 14 for the creation of the autonomous police of the *Generalitat* of Catalonia, and Organic Law 2/1986 of March 13 on security and police forces.

¹³⁷ This agreement embodied and gave response to a demand raised by the CiU parliamentary group in the Congress in 1993, who made of the strengthening of the *Generalitat*’s self-government capacity in various fields a necessary condition to support the investiture of the PSOE minority government (Blas i Vilafranca 2009: 39).

Catalonia's jurisdictional asymmetry was anticipated to influence the development of similar powers in other regions (Villagómez 1987: 138). Yet, evidence runs largely against the above expectation in the ACs under analysis here (and in the whole country, too). Despite the enabling provisions contained in their statutes of autonomy¹³⁸, Andalusia and Valencia did not follow in Catalonia's footsteps concerning the very model of police system or the pace for its implementation. Far from creating their own police forces, the regional governments of Andalusia and Valencia opted to simply get some units of the Spanish National Police assigned under their control (Castells 1988: 50)¹³⁹. As 'quasi-autonomous' organisations, the Andalusian and Valencian regional polices remained institutionally dependent upon the Spanish Ministry of Home Affairs, but functionally linked to their respective regional government for the performance of a limited set of powers (as compared to the Catalan *Generalitat*) (Jar 1995)¹⁴⁰.

Moreover, the *Junta de Andalucía* and the Valencian *Generalitat* awaited until the approval of the state-wide organic legislation, and they undertook and developed negotiations with the central government independently from the process in Catalonia. The regional police force of the Valencian *Generalitat* was created in 1992 by the Decree 9/92 of the Spanish Ministry of Home Affairs¹⁴¹, and began operation in February 1993. In Andalusia, a similar agreement was

¹³⁸ See articles 14 of the Organic Law.... and 36 of the Organic Law...

¹³⁹ As provided for in article 37.2 of the Organic Law 2/1986.

¹⁴⁰ Among the basic functions of these territorially-assigned units of the National Police Force are: (1) the surveillance and protection of persons, buildings, institutions and agencies of the AC and (2) law-enforcement of legislative and statutory provisions and administrative decisions made by the AC institutions.

¹⁴¹ Orden del Ministerio de Interior, de 16 de septiembre de 1992 (BOE 229, 23-9-1992)

reached in August 1993 for the creation of the autonomous police of Andalusia¹⁴² to start operations in January 1994.

Questioned on the desirability and convenience for Andalusia to have its own police force, the regional minister in charge of the department of home affairs at that time, Rodríguez de la Borbolla, insisted that the official position his regional government had defended since the very beginning was that, there was no need to create new police forces at regional level, while a more appropriate course of action consisted of getting special units of the national police force transferred to the regional level of administration (Parliamentary debates 1983: 563-565). In Valencia, Lerma i Blasco praised his government for the quick progresses made in the process of transfers which was almost accomplished by mid-1984. Disregarding the field of public security and police forces, he affirmed that the AC of Valencia was already in line with the so-called historic communities that had been granted the highest jurisdictional ceiling and seemed to have been provisionally privileged by the constitution (Lerma 1984: 425).

As further evidence of the little interest the Generalitat of Valencia awarded to these matters, the regional minister of home affairs, Felipe Guardiola, affirmed that they did not intend to pursue the creation of an autonomous police force, on the basis of economic reasons and the lack of need at that time (Gozalvez 1984). The low profile of the issue within the public agenda was later on added as a further reason why, in spite of the possibility accorded in the statute of autonomy, the two main political forces, the socialist and popular groups in the regional parliament, had not sought to create a regional police force in the medium term (Esteve 1986).

If the 1983 Catalan law had not caught much attention in Andalusia and Valencia, the agreement of 1994 also went much unnoticed and scarcely talked about in the local media, in spite of criticism by the PP about the lack of information and because the negotiations had been conducted with CiU in order to guarantee its support but without the involvement of the parliament and the

¹⁴² Orden del Ministerio del Interior de 31 de Agosto de 1993 (BOE n. 223, 17-9-1993)

threat to bring the agreement before the Constitutional Court as discriminatory against other regions (ABC 1994b; 1994c; La Vanguardia 1994).

The model implemented in Andalusia since 1994 was justified in economic and non-nationalist terms. As it was argued, it was the cheapest and more advantageous formula as a result of the co-funding between the central and regional governments. This, together with the lack of a strong Andalusian nationalism explained why the regional government did not exercise all the powers bestowed on it by the Statute of autonomy (Niño 1994). For the regional minister of home affairs at that time, Carmen Herмосín, a regional police force *strictus sensus* was not a priority for her government far more interested in the full implementation of the agreement to ascribe units (Europa Press 1994, EFE 1994). Sensitive and responsive to the Andalusian people's worries, the regional government was convinced that "people were primarily concerned with enjoying security in streets regardless whether that was reached through the police forces dependent on the central government or the regional one" (Parliamentary debates 1994: 1321).

Questioned on the recent agreement between the Generalitat of Catalonia and the central government, she mostly showed indifference by affirming that "she did not have any special information on that matter, other than what she, as anyone else, could have read in the media, concerning the deployment of the Catalan police force (Andalusian Parliament 1994: 1315). Abounding on the irrelevance of the *mossos d'esquadra* for Andalusia, Gaspar Zarrías, member of the Socialist group in the Andalusian Parliament stated that there was no need to have an exhaustive knowledge of the State-Generalitat agreement because "we don't do politics by permanently looking at somewhere else; we do what we believe fits the Andalusian interests better. Therefore, if someone jumps into the Llobregat river, there is no reason why I should jump in the Guadalquivir river, too" (in Andalusian Parliament 1994, p. 1323). Doing otherwise as demanded by PP group would mean, he added, but a reflection of an inferiority complex and the obsession with Catalonia and the national parliament (Andalusian Parliament 1994: 1319).

In the AC of Valencia, soon after the agreement of 1994 the Valencian government was also questioned on its general policy concerning the policing system within the AC (BOCV n. 230, November 11 1994). The delay of the debate until February 1995 seems one more indication of the low profile of the issue. Making reference to a document on transfers approved by the Generalitat of Valencia in July 1994 and to a speech by the president in October 9 that committed on new responsibilities on public security and fighting drug trafficking (El País 1995), the minister of public administration, Ramón-Llin, defended the model consisting on further transfer of security and police forces under functional dependence of the regional government rather than the creation of a regional police force. And he made the commitment not to table a draft bill on the creation of such a regional police force (Ramon-Llin 1995: 7604). Interestingly, at no time during the debate was the Catalan agreement was dealt with, not even explicitly mentioned.

In both moments, then, neither the Andalusian government nor the Valencian one reacted to the jurisdictional asymmetry enjoyed by Catalonia.

5.4. BARCELONA DECLARATION AND THE RECOGNITION OF A SPANISH MULTINATIONAL FEDERATION

After nearly twenty years since the statute of autonomy of Catalonia was passed, Catalans' aspirations for self-government remained unfulfilled. The major political forces in the region denounced that, the development of the State of Autonomies had prioritised the generalisation of regional governments across the board over the development of satisfactory mechanisms for the accommodation of the Catalan 'nation'. In fact, Catalans had endured the lack of political, cultural and social recognition of their national distinctiveness. The situation thus required to find alliances with other political forces to create a culture that would recognize both the national character of Catalonia and the plurinational character of Spain (PSC-PSOE 1998)¹⁴³.

¹⁴³ See also the interview to Pere Esteve, General Secretary of Democratic Coalition, member of the governing coalition CiU, in *El País*, June 19 1998, p. 24.

On these grounds, in July 1998, the governing party in Catalonia - Convergence and Union Coalition (CiU) - signed a joined declaration with the main nationalist parties in Galicia - the Galician Nationalist Bloc (*Bloque Nacionalista Galego or BNG*)- and the Basque Country -the Basque Nationalist Party (EAJ-PNV)- known as the “Declaration of Barcelona”¹⁴⁴. As they saw it, after twenty years of democracy, Spain continued to retain its essentially unitary character and had not yet resolved the national question. That justified their demand that Spain was defined as a multi-lingual, multi-cultural and multi-national state and that the state of the autonomies was reformed in order to grant the historic nationalities of Catalonia, Galicia and the Basque Country greater self-government (CiU et al 1998). The primary demand of the Declaration was for symbolic recognition. Out of the discontent caused by the generalization of autonomy it also aspired at reforming the territorial allocation of powers in a more asymmetrical way (Tornos 1999: 24). Moreover, a working paper attached to the main text included other more specific institutional and jurisdictional demands such as changes in the composition and election of the members of the Constitutional Court or mechanisms of direct relation with the EU institutions.

With few exceptions, the Declaration of Barcelona triggered strong expressions of opposition across the country, mostly in the form of blocking reactions, the best-know example being the Declaration of Mérida. That was an institutional agreement between the presidents of the regional governments of Andalusia, Castile La Mancha and Extremadura, signed on October 6, 1998, in the hope that it would work as a counter-statement to the “Declaration de Barcelona. Known as “the three tenors of the Socialist Spanishness” (Cullá 2001). Manuel Chaves, José Bono and J. C. Ibarra opened the statement by affirming their loyalty to the Constitution and the Statutes of autonomy. Enthusiastic references to the preservation of the constitutional framework,

¹⁴⁴ For a detailed analysis of this Declaration and some previous experiences of alliances between the peripheral nationalist movements in Spain see Barreiro (1999) and De la Granja (2000).

Spain and the sovereignty of the Spanish nation, as well as their role in defence of their ACs traditionally discriminated run throughout the text.

They stated, for example, “we are not willing to become accessories to processes that marginalize our territories, by remaining silent. Instead, as presidents of three ACs, we will defend the interests we represent, which are those of Spain” or “as regional representatives of more than 10 million people, we defend social cohesion and territorial solidarity. For peace is not only the silence of arms; peace is also social peace, balance between territories and the guarantee of equality of rights and opportunities...” and ultimately, they concluded with a reaffirmation of the principle of equality among peoples and territories, in the following terms: “within the political unity of Spain, where our constitution recognise the differential facts, particular financial systems and different paths to access to self-government, there is no natural right, either prior of after the Constitution that could be called on to justify privileges between territories or inequalities between Spaniards”.

Therefore, to the symbolic recognition of difference contained in the Declaration of Barcelona, the Declaration of Merida opposed a symbolic recognition of equality, but also with likely practical implications in the form redistribution policies. This is apparent in the immediate reaction to the Declaration of Barcelona by the Andalusian President. At a conference held in Seville on July 18, he denounced that the Declaration of Barcelona “[aimed] at setting up an unequal Spain based on privileges where, the right to the difference recognized in the constitution is transformed into a right of inequality between certain ACs” (Europa Press 1998). The minister responsible of the department of the presidency within the Andalusian government, Gaspar Zarrías, also appeared before the regional parliament to explain the position of the government. Justifying the signing the Declaration of Merida, the minister affirmed that “defending the constitution was not synonym with conservatism or resistance to change”. “the same objectives Andalusia defended back during the Spanish transition are still valid now and this is way the Declaration of Merida reflects the “concern for nationalist positions that question the cohesion granted by the constitution and deny the sovereignty of Spaniards as a whole” (p. 5689).

“Peace is not only the silence of arms but also social peace and balance between territories and the guarantee of equal rights and opportunities” (p. 5689). “We won’t play irresponsibly with the future of our territory but we won’t allow other to do it, either” (p. 5689).

While in stark opposition to the pro-asymmetry discourse proclaimed in Barcelona, the presidents of Andalusia, Castile and Extremadura do not seem to voice catching-up demands, but to oppose a blocking reaction. This is what can be inferred from the views of other regional leaders of PSOE, most specially in Valencia, the Canary Islands and Galicia, who rejected Mérida as entailing an “extreme pro-Spanishness drift”, warned that peripheral nationalisms should not be faced by means of a different nationalism from Madrid (Díez 1998a; 1998b). But the Andalusian President Manuel Chaves insisted on the defense of the Declaration of Merida and condemned the charge that it entailed a form of “españolismo” (El País 1998d).

In the same line, yet receiving less media attention than the Declaration of Merida, and without making explicit mention of the Declaration of Barcelona, the regional presidents of the ten ACs run by the PP at the time, therefore including the Valencian AC, also unfolded some blocking reaction. They met in San Sebastian on October 4 1998 and signed a joint declaration that defended the Spanish Constitution as the guarantee of the peaceful coexistence of all Spaniards and that the constitution, together with the statutes of autonomy, had opened the way to the aspirations of self-government of the different ACs and sufficiently reflected the plural reality of Spain. And they defend the solidarity as the basic principle in the territorial articulation of the State (ABC 1998).

On the other hand, the president of the Generalitat, Eduardo Zaplana, on the occasion of the Diada of 1998 pronounced an institutional speech in favour of the Constitution for “Valencian people know that we have recovered our self-government institutions and asserted our political personality thanks to the Constitution” and “inequalities and imbalances are not allowed between ACs with the same aspirations and it is their right to set the degree of competences within the Constitution” (El País 1998b; Reigadas 1998). Moreover, he

minimised the importance of the Declaration as a political strategy, artificial and voluntarist but not serious enough to pay so much attention to it (as quoted by Albendín 1998).

In early December 1998, the regional parliament of Valencia unanimously passed a proposal that declared that the Constitution was still in force and was able to accommodate the pluralism and diversity of Communities (Corts Valencianes 1998). In the original proposal tabled by the PP, there was an implicit reference to the Declaration of Barcelona, arguing that an interpretation of the constitution should not force the wording or the spirit of the declaration, whereas no reform would be allowed that replaced the Spanish people as constituent power¹⁴⁵ (Levante 1998b). Still, the position of the regional government is criticised as too light and in general the traditional role of the people and politicians of Valencia who have not been sufficiently reactive or assertive. “As always, the role of Valencian people is seeing and being quite, in the waiting to get a small price, but not the jackpot” Perez Benlloch (1998).

5.5. REPRESENTATION OF THE ACS AT EU INSTITUTIONS

The European Union (EU hereafter) has important implications for the internal allocation of powers within federal and politically decentralised member states. Since the accession of Spain to the European Economic Community (today EU) in 1986, the Spanish ACs saw certain decisions in areas within their scopes of powers migrate upwards to the European level, while no effective mechanisms were in place at that time to channel their participation in the formation of the Spanish government’s will and position over those issues (Martín y Pérez Nanclares 2004).

It could thus be expected that the EU membership was received with dissatisfaction and caution by Spanish ACs. However, the regional governments were not equally protective of their autonomy or requested a similar involvement in the European decision-making process, at least during the early

years¹⁴⁶. In fact, only Catalonia (and the Basque Country) played an active role in the quest for internal and external mechanisms of participation of the Spanish ACs at EU level (Cordal 2004: 358; Ortuzar et al 1995: 131; Roig 2002: 216). Catalonia's historic demands had a double (symmetrical and asymmetrical) objective of general instruments for all ACs to be present and involved within the EU combined with some exclusive mechanisms for the historic nationalities which were respectful of the Catalan and Basque differential facts (Roig 1999: 200). In this sense, while Catalonia did not initially question multilateral solutions, it also sought to develop and enhance bilateral central state-Generalitat mechanisms or a singular framework or specific provisions for Catalonia within multilateral instruments¹⁴⁷.

In late 1985, the Spanish government opened negotiations with the regional governments to define a multilateral framework for the participation of ACs in European matters (Diego 1994: 150) that would deal with both the top-down phase of implementation and bottom-up phase of law-making. As for this second dimension, the central government proposed a system of consultation to the ACs, together with the creation of a regional Observer and Deputy Observer within the Spanish permanent representation (REPER), who would serve as a link between the governments of the ACs and European institutions, and could participate in the preparatory committees of the Council, Commission and COREPER. This gave Catalonia a first opportunity to make specific demands. Among them was the request of a 'Delegation of the ACs for European Affairs'

¹⁴⁶ In those early times, in the eve of the accession of Spain to the European Community, most ACs were not fully aware of the great political and administrative implications the European integration process entailed. Only some of them showed as a priority the search of participation formulas or foresaw the horizon of that participation with similar perspectives (Ortuzar 1995: 128).

¹⁴⁷ For the purposes of this research, asymmetry could come through channels of participation granted to just one or few ACs, as well as bilateral state-AC channels formally available to all ACs but applied only in some of them. For a discussion of the differences between asymmetry and bilateralism, see Roig (2001).

within the REPER to take part (with full rights) in all committees and working groups of the European Community (Catalan Government 1986; Morata 2010: 138). The autonomic delegation had to be composed of six representatives appointed by the ACs, and three of them necessarily in representation of the historic communities of Catalonia, the Basque Country and Galicia (Catalan Government 1986, article 4). The fact that only Catalonia, the Basque Country and Galicia would have their own representative while the remaining fourteen ACs would have to share the other three regional delegates entailed a significant asymmetry. As for the type of asymmetry, the broad cross-sector scope of the EU makes it more appropriate to classify it as institutional asymmetry rather than jurisdictional one.

The Catalan proposal did not prosper due, precisely, to the insistence on having its own representative in the Spanish REPER and that autonomic positions should be binding for the central government character (MAP 1995: 141). In fact, most ACs were against any kind of privileged position for the historical communities” (Morata 2010: 138). Andalusia and Valencia are generally described as regions sensible to the European matters (Ortuzar et al 1995: 131); yet, in those early moments they were part of the bulk of regions not raising any specific demands or reactions to get an individual voice or their own a general mechanism of internal participation. Instead, they simply opposed the privileged position sought by the Catalan government through a blocking reaction.

Like most ACs, Andalusia and Valencia were more concerned with substantive matters like the costs of implementing European law and receiving funds than with procedural aspects and policy making. Thus, for example, a parliamentary debate took place within the Andalusian Parliament on the consequences that would derive for Andalusia as a result of the Spanish accession to the European Communities. Concern was shown and some questions were raised by the Andalusian Party about the risks of increasing economic dependency and under-development, but no explicit mention of the

role Andalusia would have in the European decision making process¹⁴⁸. Some vague references were made to the diminishing of the decision-making capacity and influence of the ACs within the EU and some criticisms of the regional government of Andalusia that had not been as effective as other regions in pressuring the central government to negotiate in favour of the interests of Andalusia.

Yet, no explicit discussion followed about the means to allow the regional government a more direct involvement in European politics nor an explicit proposal from the regional government similar to the Catalan one. On the contrary, the regional government limited to justify its actions and affirmed that the regional government had lived the process of integration of Spain into the EU in close connection with the Spanish government with working meetings dealing with almost every issue during the negotiations with the EU (Mr. Salinas, regional minister of economy and industry). Only the communist party, through its representative Romero Ruiz, demanded “the establishment, at an organic level, of some permanent mechanism for the participation of Andalusia in negotiations and Spanish proposals to be negotiated at European level. Specifically, he suggested the creation of a consultative commission where the ACs would be represented by their respective presidents, taking the *Gianini* Commission in Italy as a model (Ibid).

In a debate in the Valencian Legislature in May 1986, Mr. Campillos Martínez asked the regional government about the way the regional government was thinking to give the AC voice on the EU regional policy and whether the government intended to establish a permanent regional office in Brussels. In his answer, the regional minister of public administrations pointed to the Council of the Regions of Europe as the best channel through which the Valencian Generalitat could have its own and direct voice in Europe while they were not considering, at least in the short term, creating a permanent office in Brussels, “mainly because, compared to other regions, the Valencian presence had to be

¹⁴⁸ See Salvador Pérez Bueno, Plenary session 59 (March 18, 1986), p. 5729-5739.

gradual, in line with the needs” (Minutes of Valencian legislature 1986: p.3452). The president of the Valencian AC in the debate on general politics of the AC held in September 1985, mentioned how the accession to the European Community would have economic, social and judicial consequences. And in the debate held the year later there is also concern on the economy, but not institutional.

It is important, then, that demands of further involvement if and when raised, generally came from parties in opposition at regional level but not from the ruling party. Moreover, government congruence at regional and central level might have facilitated intra-party relations, limiting the need of formal intergovernmental channels.

5.6. DEVOLVED POWERS ON IMMIGRATION (2006-2010)

The period that lapsed between the approval of the so-called ‘first generation’ statutes of autonomy and their latest reform -examined in the previous section- registered important changes in terms of migration dynamics. In contrast to its traditional role as a source of emigration outflows, Spain became confronted with increasingly larger inflows of immigrants (ABC 2007). As a result, the number of foreign born people residing in Spain rose from less than half a million in 1991 to around six millions in 2010¹⁴⁹. Given the size and policy implications of foreign immigration, the ACs most exposed to this phenomenon¹⁵⁰ could be expected to challenge the central government’s exclusive powers in this field. That was, in fact, the case of Catalonia that

¹⁴⁹ This entailed an exponential growth of the immigrant population over the entire Spanish population from under one per cent to more than twelve per cent over that period.

¹⁵⁰ Official figures for the year 2007 show an uneven distribution of the immigrants across the Spanish territory, with two thirds of them concentrated in four regions: Catalonia being the major recipient with over 20 per cent of immigrants, closely followed by Madrid (19%), Valencia (16%) and Andalusia (12%) (Camós 2009: 270).

became the first Ac to expand its powers on labour-related matter over immigrants in the second half of the 2000s.

The matter of the involvement by the Catalan *Generalitat* in setting the quota of immigrants to be admitted into the country and its management entered the parliamentary agenda as early as 2001 (Catalan Parliament 2001b). Based on a report by a commission appointed to analyse the immigration policy in Catalonia, the regional parliament suggested the possibility for the Spanish government to devolve to the *Generalitat* any implementation responsibilities other than border control and the granting of citizenship and that the organic law of transfers under article 150.2 of the Spanish Constitution was the appropriate mechanism to that aim (Catalan Parliament 2001a).

The subsequent reform of the statute of autonomy in 2006 provided a more suitable and fertile ground for the Catalan government to extend its competences. Although the Catalan over-ambitious proposal on immigration was significantly curtailed as it passed through the Spanish Congress (Santolaya 2007: 173), the final version of the new statute still included significant powers for the *Generalitat*, especially in relation to the labour dimension of immigration¹⁵¹. Specifically, the processing, resolution and appeals concerning “initial work permits” for foreign employees and self-employed persons “whose work relationships would take place in Catalonia” were brought within the scope of responsibilities of the *Generalitat*¹⁵².

On the basis of the above provision, a series of bilateral negotiations were conducted by the Spanish and Catalan governments that led to an agreement in February 2009, ratified by the central government months later¹⁵³. It detailed the

¹⁵¹ For a more detailed comparative analysis of the different texts produced at successive stages of the Catalan reform, see García Juan (2011b: 111-118).

¹⁵² See article 138.2 (Spanish Parliament 2006: 27293), the constitutional validity of which has been upheld by the Constitutional Court (2010: 340-342).

¹⁵³ Royal Decree 1463/2009 of September 18 and Royal Decree 206/2010 of February 26 transfers to the *Generalitat* the executive function in initial work permit and labour and

functions, services and human and economic resources that were to be transferred to the *Generalitat* so to make its newly gained powers effective. As a result, Catalonia became the first and only AC to date in charge of those labour-related issues in the field of immigration (García Juan 2011a; Rojo 2009)¹⁵⁴. Although most constitutional lawyers agree that differences in the wording of the statutes as regard immigration would not prevent any AC to exercise competences similar to Catalonia -for the implementation of labour legislation does not fall under the central government's exclusive powers and could, therefore, be transferred to any AC- (García Vitoria, p. 9), for the time being, the recent devolution of powers to Catalonia creates, at least temporarily, an "important degree of jurisdictional asymmetry between ACs" (García Vitoria 2010: 9).

The new statute of autonomy of the AC of Valencia does not attribute specific powers in the matter of immigration to the regional government. Instead, it just contains a general and brief reference to the collaboration with the Spanish government regarding policies of immigration¹⁵⁵. The statute of autonomy has thus been criticised because it has failed to give adequate attention to immigration which "has not been a priority of the drafters of the reformed statute of autonomy of Valencia" (Santolaya 2007: 171). This statute stands at the lowest level in a hypothetical scale measuring the interest on this matter (Revenga 2010: 118). Thus, although the Camps clause was potentially applicable to the field of immigration, the parliamentary debates on the

social security inspection. The February 2009 agreement is based on two agreements reached by within the bilateral commission State-Generalitat on January and July 2008.

¹⁵⁴ Executive functions transferred include all procedures concerning initial work permits; management of procedures regarding employment such as reception of job offers, verification of tax and social security obligations and notifications; and joint resolution with the central government.

¹⁵⁵ And it does so in article 59 devoted to intergovernmental cooperation with the central government and other ACs, rather than in substantive provisions on immigration policy.

reformed statute of autonomy (within neither the regional assembly of Valencia nor the Spanish parliament), did not make any specific reference to the particular fields in which the Camps clause could be applied. Its potential for catching-up has not materialised in practice; despite being the first autonomous community in getting its statute reformed, Valencia has lagged behind other ACs, particularly Catalonia, in demanding the management of new policy fields (Levante 2007; Ruiz 2008)¹⁵⁶.

But this has not stopped them from seeking further empowerment in the field of immigration. While the PP at central level opposed the proposal to reform the immigration law presented by the socialist government, partly due to the fact that the ACs should not be allowed to grant work permit¹⁵⁷, the truth is that days before the Valencian branch of the PP which runs the regional government there had just requested the Spanish government the transfer of that power (Orias 2009). It seems at least striking that this demand occurred around the time the royal decree transferring those same powers to the Catalan generalitat, was passed. The same position is held months later. In May 2010, the regional minister of immigration is reported to have demanded in several occasions the central government to call the bilateral commission to transfer the pending powers, that include, among others, the management of initial work permits in equal terms that enjoyed by the Catalan government (G.G. 2010).

It is also surprising the low profile of the reform of the statute of autonomy of Andalusia in what concerns powers on immigration, especially taking into consideration the active involvement of the Junta de Andalusia in practice and its broad policies for the integration of immigrants (Pérez Sola 2007: 243)¹⁵⁸.

¹⁵⁶ Since April 2008 to November 2011, only one transfer was approved, namely the management of the hospital of defense of Valencia.

¹⁵⁷ In the same vein, the RD of 2009 was challenged in the Supreme Court by the regional government of Madrid¹⁵⁷, no blocking reaction has come from other ACs.

¹⁵⁸ Although the original text of the reformed statute sent by the Andalusian parliament to the Spanish one was more ambitious making even reference to exclusive competences in

5.7. HOW DO ANDALUSIA AND VALENCIA REACT TO ASYMMETRY? THE OCCURRENCE OF DIFFERENT FORMS OF REACTION

On the question of whether Andalusia and Valencia have been a supporting or countervailing force to Catalonia's quest for asymmetry, the analysis displayed in this chapter enables us to identify some patterns of reactions and to draw some provisional conclusions about the relevance of the analysis of reactions to asymmetry.

Concerning the occurrence of different types of reactions, a clear pattern has emerged characterised by the predominance of catching-up demands. This, somehow, comes to validate the traditional description of Spanish decentralisation as process of territorial emulation, according to which once the so-called historic nationalities (Basque Country, Catalonia and Galicia) got their statutes of autonomy passed, all remaining regions also demanded autonomy for themselves, in an attempt not to be left behind. And every time the former have gained more powers or improved their institutional machinery the latter have also tried to come closer and so on, with this catching-up dynamics never coming to an end (Corcuera 1994; Giordano & Roller 2004; Lecours 2004; Moreno 2001).

However, as significant as catching-up seems to be in order to understand the general process of asymmetrical devolution in Spain, when conceptualised as a reaction to a specific episode of asymmetry, catching-up only accounts for about half of the cases studied here. In a few more occasions asymmetry was opposed with blocking reactions on the side of the regional governments of Andalusia and Valencia and, in about a third of the occasions when Andalusia and Valencia could have challenged asymmetry, they remained largely acquiescent or indifferent to it. Arguably, the fact that certain types of asymmetry have,

integration of immigrant, that was subsequently modified in the Congress and the final text (Pérez Sola 2007: 244).

under certain conditions, been accepted by the LER/NER provides an argument in support of some accommodation capacity of asymmetry.

Notably, the inter-regional comparison does not seem to produce a differential pattern of reactions between Andalusia and Valencia. Catching-up has been the predominant response in both cases, followed by no reaction and blockage. Interestingly, none of the observed cases has triggered issue-linkage, which has instead been relevant in Canada. On the other hand, the occurrence of the different forms of reactions seems to be partly associated to different types of asymmetry. Specifically, symbolic and institutional asymmetries have mostly triggered catching-up reactions, while responses to jurisdictional asymmetry are more or less evenly split between catching-up and no reactions.

6. COMPARATIVE ANALYSIS: EXPLAINING REACTIONS TO ASYMMETRICAL EMPOWERMENT

The purpose of this chapter is applying the explanatory framework proposed in chapter 3 to the LER/NER's reactions to asymmetry described in chapters 4 and 5. The same order will be followed to discuss the relevance of each factor.

6.1. ASYMMETRY INVOLVED IN THE RTE

Institutional asymmetry, which in most cases has also been of a constitutional and/or permanent character, has almost always triggered catching-up or blocking reactions. At first glance, these findings confirm the theoretical expectation about such types of asymmetry. Moreover, it seems that constitutional and permanent arrangements reinforce the outcome already expected from institutional asymmetry. On the other hand, jurisdictional asymmetry has not produced any clear pattern of reactions other than LER/NERs have very rarely blocked attempts by the MER to get increased powers in specific policy fields. At the most, they have tried to catch-up in those areas, but much more often they have just remained quiescent. Moreover, the three outcomes have occurred in instances of jurisdictional asymmetry independently from the temporal length of the asymmetrical arrangement or its constitutional or extra-constitutional nature.

As for instances of symbolic asymmetry, just over half of them triggered quiescent reactions and regardless of the constitutional and permanent condition of the recognition as predicted by the hypothesis. However, in roughly the same amount of cases LER/NERs responded by blocking the recognition of the MER or they sought to be acknowledged similarly to it. This is a very important finding that refutes the general belief that symbolic gestures, by yielding greater

acceptability, could be used more easily to resolve issues of accommodation of diversity. The truth is, however, that blockage is not a rare outcome and it has often taken place in cases when the recognition of the MER was granted through extra-constitutional means which were expected to be largely inconsequential.

These findings suggest that the type of asymmetry influences how LER/NERs react to asymmetry but it does not determine the direction of the outcome. Therefore, predictions cannot be made on these grounds.

6.2. CENTRE-PERIPHERY POSITION OF LER/NER

In chapter three (section 3.2.2.a), it was argued that whether LER/NERs have a central or peripheral position in the channels of power at federal level and whether they enjoy enough leverage to influence or shape federal decision- and policy-making is likely to affect how their regional governments deal with and respond to asymmetry being demanded by -or granted to- the MER. In this section, it will be established the position of Alberta, Ontario, Andalusia and Valencia in the centre/periphery divide by reference to some structural, institutional and historical conditions. Afterwards, it will be discussed the explanatory capacity of the centre/periphery divide concerning the variation in LER/NERs' reactions to asymmetry in the cases examined.

Many authors agree on the continuing importance of the territorial cleavage in Canadian politics (Brodie 1990; Gibbins 1994). From a political geography point of view, the ten Canadian provinces are thus clustered into several regions: Central Canada, which pairs Ontario and Quebec together; Western Canada, made of the originally so-called Prairie provinces (Manitoba, Saskatchewan and Alberta) plus British Columbia; and Atlantic Canada, comprising the remaining four provinces located in the Atlantic coast¹⁵⁹. Ontario and Alberta are thus set apart geographically. But they also vary quite significantly in terms of political power and the role they have played within the Canadian federation.

¹⁵⁹Although sometimes the latter one is portrayed as a separate fifth region.

Furthermore, the conventional discourses on the matter have but perpetuated and reinforced their description, respectively, as heartland¹⁶⁰ and hinterland.

The centrality of Ontario has deep historical and economic grounds. A few data serve to illustrate its economic importance within Canadian: in the mid-1970s Ontario represented more than 38 percent of Canada's labour force and about 40 percent of the country's GDP; its share of the national GDP has remained constant all throughout, and it represents nearly twice the size of Quebec's. By any measure, Ontario is Canada's largest province. No other province approaches it in population¹⁶¹, in the size and diversity of its economy, in accumulated wealth, or in the amount of financial, corporate and media power or even cultural capacity (Gibbins 1994: 186; McCann 1998:32; Noel 1997: 49; Yeates 1998:109)¹⁶². The central position of the province is apparent through the creation and development of of Canada, too. In that connection, it is interesting how "the expansion to the West was planned as a mechanism that would bring Upper Canada an empire of its own", and as a result, some of the main policies such as the so-called 1878 National Policy, the railway system and the national energy programme (NEP) were strongly shaped in the interests of Ontario (Cameron & Simeon 1997: 162).

¹⁶⁰ In this connection, see the so-called "Laurentian consensus" (Cameron 1994; Ibbitson 2012).

¹⁶¹ For example, Ontario is three and three-and-a-half times larger than the provinces respectively ranked in third and fourth position, namely British Columbia and Alberta. At the other end of the continuum, the combined population of New Brunswick, Newfoundland and Labrador and Prince Edward Island amounts to less than five percent of Canadians and just above eleven percent of Ontarians (own calculations based on the 2006 census of population (Statistics Canada 2007)).

¹⁶² For a detailed discussion of Ontario's economic features, see Dyck 1996 and 1997.

The institutional mechanisms through which national interests are articulated, based on the principle of parliamentary representation by population¹⁶³, give also predominance to Ontario in the House of Commons. The Canadian lower chamber has increased greatly from the initial composition of 181 members to 308 it reached around the end of the time-frame of this research. Ontario has gained additional seats, going from 95 to 106 between 1976 and 2006. This represents a rather steady share of about 34 percent of the House and fairly close to its contribution to the Canadian population. The sheer size of Ontario's parliamentary representation becomes far more evident when compared to the rest of provinces. Ontario takes the largest share of seats with over a third of the total; Quebec comes next (with nearly a fourth), followed by British Columbia and Alberta (approximately with one tenth each); meanwhile, the rest of provinces are significantly much smaller and they fall in a range between one and five percent of the Chamber¹⁶⁴.

Parliamentary maths helps, thus, to cast the argument about the centrality of Ontario in political terms, so that it has become quite difficult for any other province to challenge Ontario and virtually impossible to govern Canada in full disregard of Ontarian interests (Cameron & Simeon 1997: 158). Since the late 1970s, there has not been a governing party elected with fewer than 40 Ontario

¹⁶³ The principle of representation by population, initially adopted by the Fathers of Confederation, has remained the general criterion for the allocation of seats in the House of Commons. The successive changes approved since the opening of the First Canadian Parliament in 1867 have only slightly altered the rules of application of this general principle, or they have introduced minor adjustments such as the so-called 'senatorial' and 'grandfather' clauses. For the specific formula used to allot the share of seats to each province, see the *Constitution Act 1985 (Representation)*.

¹⁶⁴ Abounding in interprovincial comparative measures, during the period covered by this research the number of representatives Ontario sent to the Commons was, on average, three to four-and-a-half times higher than those from British Columbia or Alberta, and almost twice as many as all the representatives elected in the bottom six provinces put together

MPs and the average has been over 70. Except for the federal elections held in 2006, the resulting governing party also won a majority of seats in Ontario. In the three federal elections held in the 1980s, the winning party gained around 60 and 85 percent of its seats in Ontario and Quebec, while Ontario alone contributed more than 50 percent of the winning seats between 1993 and 2004. Not surprisingly, Ontario has significantly influenced the composition of the federal government and together with Quebec, it has often determined it¹⁶⁵.

Alberta, on the other hand, stands as a typical case of peripheral LER/NER, which shares with the remaining Prairie Provinces a chronic sense of alienation from the federal government. The historical narrative used to account for Ontario's centrality serves to explain, a sensu contrario, Alberta's peripherality. In Westerners' view, for much of Canadian history the federal government treated the Western provinces as semi-colonial possessions, initially depriving them of control over natural resources, and offering them fewer seats in the Senate than the older provinces enjoyed. And they suffered from a wide variety of economic grievances including tariff protection for central Canadian manufacturers, unfair transportation and rail policies or the NEP as well as political ones such as the federal government's disallowance power being mainly used against the provinces in the West¹⁶⁶. The conventional view among Albertans has thus been that contemporary federal policies and priorities have been consistently worked to their disadvantage and to the benefit of Central Canada –and Ontario for that matter (McCormick 2001: 401).

The conventional understanding of Ontario's place in the Canadian federation is consistent with its definition as heartland, whose main features include the

¹⁶⁵ As Wollinetz and Carty put it: these two provinces together “control over 60 per cent of the seats in the House of Commons. Elections are won and lost in the centre of the country; parliamentary majorities are impossible without winning a substantial number of seats in one of these two provinces, and improbable without winning support in both” (2006: 69).

¹⁶⁶ For a short analysis of the West in historical perspective, see Gibbins (1994: 169-185).

fact that Ontarians have tended to direct their attention and loyalties towards the federal government rather than the provincial government and that Ontario has generally favoured a strong central government, because Ottawa could be trusted to further the province's own interests (Courchene 1992a: 23). Therefore, what is known as the 'Canada first approach', largely pursued by Ontario during the post-IIWW period and up until the mid-1990s was not –at least not primarily– an altruistic strategy but one for its own benefits¹⁶⁷. In fact, Ontario's main ability was not to wheel, deal and compromise but, more fundamentally, "to manage its privileged position to ensure that Canada's interests coincided with Ontario's interests" and to somehow convince the rest of Canada that "what was good for Ontario was also good for the country, and vice versa" (Cameron & Simeon 1997: 159; also Courchene & Telmer 1998).

As far as reactions to asymmetry in favour of Quebec are concerned, it is quite enlightening that Ontario has remained largely quiescent or it has raised blocking reactions. And these reactions can be easily rationalised in terms of Ontario's defining characteristics and role as heartland.

Accounts of the processes of state- and nation-building in Spain and the relationship between Spanish and peripheral nationalisms have made widespread use of the spatial centre-periphery metaphor, as pointed out by Muro and Quiroga (2004). Leaving aside the discussion about the failure or success of the Spanish nation-building and the assimilation and/or integration of the various territories into the Spanish nation-building project¹⁶⁸, what is here at stake is the position of Catalonia, Andalusia and Valencia in this centre-periphery framework. It serves to examine the relationship between national

¹⁶⁷ The more or less hesitant turn towards an 'Ontario first approach' the provincial government followed under Premiers Bob Rae and Mike Harris does not refute it, because Ontario still holds a significant weight in statewide Canadian institutions.

¹⁶⁸ Add here some references

communities but not between regional units. And this is the case because there is not a Castilian national community, but a Castilian-speaking population. My argument is that there is not such a thing as a hegemonic Castile; it is highly controversial deciding whether Andalusia or Valencia are part of Castile and if that was the case, they would be part of the periphery of Castile.

The history of Spain has been written with a focus on and from the perspective of Castile (Carabaña 1977). But what is more important is that Castile seems to be a mystification that has not existed for a long time (Ibid: 103). According to Carabaña, the creation of the Spanish nation-state around the time of the Constitution de Cadiz entailed more a struggle and conflict urban-rural than a centre-periphery one. And the apparatus of power and ruling classes including political authorities, military officers and economic power were anything but dominated by Castilians (1977: 107). That is to say, the state apparatus was not exclusively or even primarily made of people of Castilian origin. Carabaña tries to derail the topic of the direct political identification between Castile and centralism because neither were primarily Castilian the hegemonic interests that sustained the centralist state at birth nor during its development. The fact that some parts of Castile seem to accurately represent conservative centralism has little to do with any perennial spirit or hallmark transmitted from generation to generation and it is more related to the degree of prosperity of the territory and therefore greater or less dependence and professional links to the state.

The Spanish nation “has been built from a centre (Castile), which has expanded in an attempt to incorporate and assimilate the periphery. Nevertheless, contrary to the European trend, in Spain it is difficult to speak of a progressive centre and a backward periphery. The three regions with strong nationalist movements, Catalonia, the Basque Country and Galicia, differ markedly in geopolitical and geoeconomic trends and became alternative centres to Castile” (Muro & Quiroga 2004: 19-20). Particularly the cases of Catalonia and the Basque Country are best defined as economically advanced while politically linked to and culturally differentiated from the dominant Castilian standard.

Whether it has a strong empirical support or not, the accepted historiography has tended to (over)emphasise Castile's role in the formation of Spain. As some scholars have argued, during the Restoration period (1875-1923), liberal historians, intellectuals and artists emphasised the preponderance of Castile in shaping the Spanish nation (Fox 1999; Muro & Quiroga 2004), whereas the early Catalan nationalism, predominantly moderate, sought to be involved in the modernisation and governance of Spain, by means of a decentralised state-framework that in which Catalonia will be recognised as binational and bilingual.

Following the loss of the remaining of the colonial empire –the so-called Disaster of 1898- “an extraordinary group of intellectuals devoted to defining the "problem of Spain" in the context of an historical national identity and to national regeneration through modernization, always, however, in the spirit of national unity” (Fox 1999: 21). “The economic development in Catalonia was characterized by a dissatisfaction with the politics and the administration of the Restoration and its Castilian-centric ideology, the basic thesis of the Catalan nationalists being related to the idea that the problem of Spain was founded in Castilian primacy and that the weaknesses and virtues of Castile were interpreted as if they were those of Spain. In addition, the evolution of the political nationalism of the Catalans coincided with a purely cultural one throughout the later years of the nineteenth century (the *Renaixença*)” (*Ibid*: 23).

“Common language was often not a criterion for nationhood, except, of course, insofar as it was used by the rulers and the educated. Nevertheless, language became central to the modern definition of nationhood. For where an elite literary and administrative language exists, it can become an important element of national cohesion. When it is put into *print*, it becomes even more powerful. In this context, we should remember that a common language does not naturally evolve, but is constructed and when forced into print appears more permanent, more "eternal" than it really is (Fox 1999: 25).

“According to this historiographical conceptualization, it was Castile that set the tone for Spanish history and society during the four generations of the literary and cultural Golden Age, while Catalonia and the kingdom of Valencia went through a relatively impotent period characterized by debilitating internal social struggles and the disastrous demographic consequences of the major epidemics in the fourteenth century. All of this, then, was used to explain that the apex of Spain was above all the apex of Castile, as was likewise the decadence of Spain. In the words of Ortega y Gasset - a pro-Castilian of the first order - "Castilla ha hecho a Espana y Castilla la ha deshecho" (Castile has made Spain and Castile has unmade it).” (Fox 1999: 30).

Whether diversity is recognised more or less broadly with their different peoples, languages, or life styles, the unity of the Spanish nation and state has been built on the basis of the Castilian experience, to the point that in certain key moments unity turned into uniforming attempts, such as Decretos de Nueva Planta imposed by Philip the 5th; after the Carlist Wars or following the 1936 Civil War (Lain 1968; Sánchez 2009). One could also add that the role given to the Castilian language and literature was equally important. In fact the elimination of linguistic and cultural diversity was as essential to the construction of national homogeneity as the removal of political and social barriers which impeded the free movement of individuals” (Manzano & Pérez 2002).

Which are the centre and the peripheries? Is there a Castilian centre? If so, who rules in the centre? It is worth highlighting the brokerage power of small regionalist parties -particularly CiU in what concerns this research- whenever the party in central office lacks a legislative majority on its own. And this has in practice given Catalonia more power than the structural centre-periphery division might suggest. Somehow paradoxically, this might have led other regions to perceive Catalonia as playing a central role. If Catalonia could be portrayed as a periphery from a classical point of view, the fact that its political leaders –particularly Jordi Pujol- has sometimes made use of the regionalist rhetoric to gain political concessions seems to contradict this view.

Abounding on this point, Catalonia's place within the country cannot be seen fully as peripheral; at least not more peripheral than Valencia or Andalusia. For example, the importance of Catalonia within Spain can be seen through the number ministers of Catalan origin who have formed part of the Spanish government since the Spanish transition, starting with Miquel Roca and Jordi Solé Ture, fathers of the constitution and the second minister with Felipe González later on. Other relevant names include Josep Borrell, Josep Piqué or Carme Chacón (Ainaud de Lasarte 1996; Bermejo 2014). Almost every Spanish government since the early 19th century to the late 20th century and independently from their position in the ideological spectrum, has included at least one Catalan minister, very often two and even in some occasions three or four (Bermejo 2014: 290). This is commonly known as "Catalan quota" (Ibid). Adolfo Suarez had three Catalans, Leopoldo Calvo Sotelo two, Felipe González five, J.M Aznar three, J.L. Rodríguez Zapatero four and one Rajoy up until the publication. And with F. Gonzalez two and even three Catalan ministers often coincided in time.

From a cultural point of view, Andalusia and Valencia represent the heterogeneity of Spain outside Catalonia, and the Basque Country. In fact, they are generally included in the list of 'nationalities', even if to a lesser extent than Catalonia, the Basque Country or even Galicia (see, for example, Muro & Quiroga 2004: 29). The clear involvement of Catalonia in the process of drafting the constitution, and the support given to minority central governments challenge the view of Catalonia as periphery.

The Kingdom of Valencia was a relatively autonomous -although not sovereign- political entity from its foundation in the thirteenth century until 1707; the contemporary Valencian country has not lacked political and economic elites with significant capacity for autonomous action; the variant of the Catalan language -known as Valencian- constituted, by 1900, the most widely used language at unofficial level, which became, since the first third of the nineteenth century, a non-negligible literary and worship use (Martí & Archilés 1999: 175).

The action of the state failed the process of linguistic homogenisation, because at the end of the 19th century the Castilian language was confined to the inland Valencian territories, and it has managed to open the process of replacement of the Valencian language only in small minorities in the capital cities, most especially Alicante.

The emergence of a national political formulation alternative to the Spanish in the early 20th century failed and it succeeded mostly as an minoritaria political and cultural option. Partly, this failure was due to geographic and linguistic dualism in the region and the specific political circumstances of the first valencianism. But above all, the main explanation is that at the beginning to the 20th century the political culture of the Valencian people was already deeply Spanish. Spain was the scope of political identification even if expressed in Catalan and it was compatible with a strong regional affirmation and a recurring criticism of centralism, but in support of national unitarism (Martí & Archilés 1999: 180).

The origins of the Kingdom of Valencia can be dated back to the conquest of the city by the Catalan-Aragonese King James the 1st in 1238, and the establishment of a new political unit that became part of the confederally run Crown of Aragon. The new kingdom had its institutions and laws (known as Furs), and was constituted as a land of immigration following the expulsion or segregation of the original islamic population and their replacement by new settlers mainly of Catalan origin, whose language was adopted by most of the settlers from other areas (Archilés & Martí 2010: 782). Despite the persistence of some sort of kinship between Catalan and Valencian over time, already by the 15th century there are accounts of a distinct Valencian identity and the Catalan spoken by them began to be known as Valencian language.

Particularly since the 17th century the Valencian political institutions progressively revealed their weakness against the centralist forces of the Spanish monarchy. A death blow was given to that sort of proto-self-government institutions after the victory of the Bourbon dynasty in the War of Succession to the Spanish throne in the early 18th century: The new Monarch Philip the 5th

abolished the political institutions of the old Kingdom of Valencia—as also occurred in the rest of the territories that had formed part of the Crown of Aragon- and in contrast to the case of Catalonia, its own civil law.

The dynastic union between the crowns of Castile and Aragon marked the beginning of the decline of the Catalan language as a vehicle for high culture; nevertheless, it did not weaken the sense of belonging to a legally-politically defined Valencian identity which for centuries included feelings of anti-Catalanism and opposition to centralism, that have become an essential feature of the relationship between the Valencian people and the (Castilian) central power.

“The *Nueva Planta* (the name of the royal decree which abolished the Valencian *Furs*) imposed Spanish as the official administrative language and thereby consolidated the already heralded relegation of Catalan as an official language. Therefore, the Valencian identity permeated, in the centuries crucial for the emergence of national identities, completely deprived of what had been one of its main foundations, the existence of the Kingdom which had given its own identity. It can survive only as historical memory, while its other base, the Catalan language, was restricted to a non-formal public role” (Archilés & Martí 2010: 783).

“The history of the Valencian people shows the course of a group of people with a marked awareness of their distinctive identity. Although their ancestry and majority language were Catalan, they have never been recognized themselves either as Catalans, or, obviously, as Castilian, the two ‘others’ against which Valencian identity has been defined throughout history. Rather, this marked cultural peculiarity has been re-defined over time in order to avoid coming into conflict with modern Spanish national identity” (Archilés & Martí 2010: 780). Thus, against the prevailing view among historians that the Spanish modernising and nationalising processes were frustrated or at best incomplete (Linz 1973; de Riquer 1993; for more nuanced views in this debate see Álvarez Junco 2001 and Fusi 1999), the case of Valencia somehow serves to challenge this interpretation because it shows a the process of strengthening the Spanish

national identity through the modification of inherited territorial identities to the cultural requirements demanded by the construction of the new nation-state (Archilés & Martí 2010: 784). Specifically, the Valencian elite “warmly welcomed” and “cooperated enthusiastically” in the formation and development of the Spanish nation-building process in the nineteenth century, by participating in the development of a Spanish literary language and in scientific renewal (Ibid). Furthermore, the history of the old Valencian kingdom and its political institutions and its language were re-defined and re-interpreted in a way that they became the distinctive markers of a regional identity compatible with the new Spanish national identity¹⁶⁹. (Ibid: 785). As for the language, Castilian, which was unfamiliar and not mastered by most Valencians became the only one associated with the public administration and high culture while Catalan continued to be the linguistic vehicle of most expressions of popular culture.

In contrast to the case of Catalonia where, around 1900 the Catalan identity began to be reconsidered as an alternative to the Spanish national identity, “Valencian nationalism proved to be very weak during the twentieth century, while in certain instances (especially following the end of Franco’s dictatorship) some of the majority political forces have successfully used an anti-Catalan rhetoric which at the same time reaffirmed both Valencian regional and Spanish national identity” (Archilés & Martí 2010: 781). “between 1880 and 1910, a process of intense symbolic building of regional identity took place on all levels. This process coincided with the first Valencian economic upsurge, based on a dynamic agricultural production and export trade, which encouraged a more gradual growth of manufacturing and services. For this reason, the regional stereotype tended to show the Valencians as a hardworking and basically agricultural people, placing these characteristics at the heart of Valencian identity, and making them seem natural, with a growing tendency to leave to one side the tensions within the society thus represented. Without politicizing its own ethnicity, the regional identity fulfilled some of the central functions

¹⁶⁹ Thus, for example, the founding of the Kingdom of Valencia began to be described as part of the myth of the Castile-driven Christian reconquest.

attributed to the national identity, and in this way, complemented the social role of the idea of the Spanish nation. Thus, region building was a tool of Spanish nationalization and a proof of its strength, independently of the greater or lesser impact of State agencies (Archilés & Martí 2010: 787).the official anthem of the region, first used in 1909, captures in its first two verses those feelings of dual territorial attachment “To offer new glories to Spain, our region knew how to fight”.

Joan Fuster’s essay, ‘We the Valencians’ (*Nosaltres, els valencians* 1962), had an enormous impact on the culture surrounding the anti-Franco movement, and on certain sections of the university student population. On the surface, Fuster’s theory is simple: Catalan is the language of the Valencian people, ergo their national identity is also Catalan...There are two noteworthy aspects to Fuster’s work when compared with previous regionalist or nationalist discourses. Firstly, his explicit affirmation of a national identity other than Spanish. Fuster became the most outspoken defender of the concept of *Països Catalans* (Catalan Countries). Both culturally and politically based, this idea caused Valencian identity to oscillate between sympathy for a broad concept of Catalan identity and a distancing from Spanish identity. Secondly, Fuster’s most innovative contribution to the understanding of Valencian identity was not so much based on language, as on his fierce stand against the traditional stereotypes of this identity...

Following the death of the dictator, the period of transition towards democracy and the consequent crisis of legitimacy opened up hitherto unknown possibilities for the new nationalism. In fact, during the final years of the dictatorship, some items of the nationalist cultural agenda had already been accepted by most of the anti-Franco opposition (Nadal and Sanz 1996). These included the demand for Catalan to be recognized as an official language (along with Spanish), and even parts of its political programme (such as the demand for a politically autonomous structure) However, the results of the first democratic elections revealed the support enjoyed by parties embracing a nationalist alternative to be extremely limited (Santacreu and García 1995). ...most Valencians chose to support Spanish parties, which at the same time had taken up the slogans and

demands first advanced by the nationalists. The third factor was the demographic shift. Since 1960, the Valencian coastal strip had experienced a huge population increase due to the number of incomers from other regions of Spain; together with the effects of language substitution in urban areas, this phenomenon meant that the region was much less receptive to the linguistically weighted message of the new nationalists.

In the Valencian case, symbolic region-building set out to redefine ethnicity in terms of a regional identity, which would be politically non-conflictive with the identity of the new nation-state. This re-definition, made possible by the flexibility of ethnic identity itself, cannot take place, however, without the subordination of the features of ethnic identity which come into direct conflict with the identity of the nation-state (Banks 1996). This is particularly urgent if the national identity associated with the nation-state also includes ethnic cultural factors, whether linguistic, religious or otherwise (Kymlicka 1995; Parekh 1995; Brubaker 1998). This is precisely the Spanish case. The historical construction of the modern Spanish State did not take place as a result of an agreed take-over of pre-existing political units, but rather by the violent destruction of these legal-political entities. Moreover, in the Spanish case (as in that of France) the dominant ethnic group within the new State to become national assumed that some of its distinctive cultural elements would have to be shared out, at least in the long term, among the remaining subordinate ethnic groups. This led to a lasting tension in the extent to which tolerance of the cultural peculiarities of these subordinate groups is shown by the nation-state (Núñez 1996; 1999).

Modern Spanish national identity (which, since the re-establishment of democracy in 1978, has tended to be presented as purely political) has included, and still includes, cultural elements,⁸ with the spread of the Spanish language among the people of the nation-state being one of the most fundamental (Bastida 1998). As a result, the re-definition of Valencian ethnicity as a powerful regional identity required that the Catalan language, spoken by the majority of the inhabitants of the region, be excluded as a significant constituent of that identity. In the long term, the relegation of the language led to its stigmatization, thereby favouring its undercommunication to the point where a process of language shift

was unleashed. The conservation of ethnicity in the medium term, helped by its symbolic conversion into regional identity, implied the disappearance of the most important characteristic associated with ethnic identity as a long-term prospect.

The case of Andalusia is quite paradoxical: it is at the core of the stereotypical view of Spain. James W. Fernández aptly points out that there exists a “metonymic misrepresentation” in the sense that Andalusia is what the European and American public have on their minds when they think of Spain:

“[O]ne demon I can’t escape as a Hispanist is the demon of Andalusia... a place in Spain of such powerful and compelling character that it is hard to convince those foreign to the cultural complexity of Iberia that this part of Spain and its characteristics are not the whole of Spain. I have trouble convincing people, surely people with tourist or other fashionable interests in Spain, that the part of Spain I work in, in contrast to the Andalusian part –I do not wish to deny what an authentic part it is- doesn’t fight bulls, enact ‘machismo’, dance the Flamenco, cook with olive oil, vigil virgins, engage in politics of patronage, have a large dispossessed rural proletariat, and so forth” (1988: 22).

From Albuquerque’s point of view, Andalusia has been a historically oppressed community, whose culture has been distorted and perverted by the dominant social and political classes, in an attempt to make the Andalusian people lose its own identity (1977: 167). Therefore, the adoption of Andalusian features by the Spanish elites is not a proof of success but of failure and abuse suffered by Andalusia. The absence of an Andalusian language can be interpreted as evidence of internal colonisation, suffered by Andalusians more deeply than, let’s say, Valencia or Galicia. A distinctive Andalusian national identification is absent precisely because it has been forced to remain in a situation of underdevelopment and internal colonialism.

The centre-periphery discourse is deeply rooted in the mainstream account of Andalusian history, with Andalusia being described both as part of the periphery in the world capitalist system, and as an internal colony within Spain

(Albuquerque 1977). Andalusia and an oppressed people politically, economically and culturally (Ibid).

On the other hand, the historic-geographic process of formation of Andalusia during most of its history is full with connotations of physical periphery and colonised and dependent territory from an economic perspective (Machado & Kurs 2000: 171). Since the very first time when the space currently known as Andalusia is recognised as such –even the rather fictitious Kingdom of Tartessos that allegedly existed around the 1st millennium before Christ or the Bética during the Roman Empire-, it is emphasised the main economic finality has been exploitation of resources and the idea of colonisation (Cuenca Toribio 1980).

The Muslim influence in the territory of Andalusia, with more or less intensity, lasted around eight centuries from 711 to 1492 and the very name reflects this influence. After the long reconquest that lasted for almost three centuries, the territory of Andalusia was occupied by Castilian people and under the absolute monarchy and despite the administrative division in four kingdoms –Jaén, Córdoba, Seville and Granada- the unitary territorial perception under the name of Andalusia remains. Even more now than any other period before, after the discovery of America, Andalusia is condemned to socio-economic stalemate and its relationship with Castile can be defined as colonial (Domínguez Ortiz 1981; Machado & Urks 2000: 176). The colonial relationship continued during the 18th century, and the Borbonic centralisation meant for Andalusia drenaje of agricultural, mining and commercial resources (Machado & Urks 2000: 177).

6.3. ECONOMIC EXPLANATIONS

From an economic point of view, LER/NER's reactions to asymmetry rest, as hypothesised in chapter 5, on (1) the economic position of the MER within the economy of the country as a whole, and (2) the LER/NER's economic wealth relative to the MER. If the first factor determines the relevance of the MER and thus fundamentally influences whether the LER/NER will be inclined to remain quiescent or to oppose asymmetry, the second factor mostly influences the direction of the opposition. Specifically, it is predicted that a better-off province

will generally try to catch-up, whereas worse-off provinces are more likely to respond by blocking asymmetry. This section is primarily grounded on statistical data that will show the economic position of the MER and LER/NER in the case of Canada and Spain in turn.

Canada

Over the thirty-year period between 1976 and 2006, the population of Quebec experienced a steady but small increase of about 0,5 per cent per year, going from roughly six millions four hundred thousand inhabitants to around seven and a half millions. Over the same time span, the Canadian population also increased from about twenty three and a half to thirty two and a half millions, thus registering a higher interannual growth rate than Quebec. As a result, the population of Quebec has gone down from 27.3 to 23.4 per cent of the Canadian population. Despite this decline in relative terms, Quebec has remained the second largest Canadian province, accounting for about a quarter of the total population of the country.

With regard to the size of the provincial economy, Quebec's contribution to the Canadian economy, measured in terms of share of GDP, has ranged between 23,9 per cent in 1981 down to 20,3 per cent in 2006. As with the population, and in spite of this steady decrease and an interannual GDP growth slightly lower than that of Canada as a whole, Quebec represents around a fifth of the Canadian economy, only second to Ontario.

Additional factors to Quebec's population and economic size are its geographical size, the largest of the ten Canadian provinces. From these three points of view, therefore, the implications of asymmetry are expectedly far more significant than asymmetry associated to smaller provinces such as New Brunswick or Nova Scotia, with relevant francophone minorities. Therefore, and according to the theoretical expectations, we should primarily expect reactions of opposition against asymmetry in favour of Quebec rather than acquiescence. Precisely the fact that in certain occasions Ontario and even Alberta have remained quiescent suggests that this factor can at best only partially explain reactions to asymmetry and it is not the main explanatory factor. Moreover, the

predictions derived from different factors do not always run in the same direction.

Analyses of the provincial economies in Canada usually make use of the distinction between the 'have' and 'have not' provinces¹⁷⁰. These concepts, directly derived from the equalisation policy, are also a good indication of the relative economic position of various provinces. Ontario has been the only province to have never received equalisation payments¹⁷¹. But income per capita in the province has slowly declined since the early 1980s.

A whole intellectual imagery has been built around the fact that wealthier provinces feed poorer ones. Quebec has historically received the largest total equalisation payments (although not the largest per capita payments). Being at the middle of the ranking, it means that it scores high on some indicators but below average on others.

Resource-rich Alberta has always been ranked as one of the top performers and by any economic measures. For example, for most of the period it has been the only province to score over average in GDP per capita¹⁷². Alberta's energy wealth has led to huge increases in investment, as well as job and income

¹⁷⁰ A province that does not receive equalisation payments is referred to as a "have province", while one that does is called a "have not province"

¹⁷¹ A situation that changed in the 2009-10 fiscal year, which is outside the time frame of this research.

¹⁷² To compare the performance of Canadian provinces relative to one another, we first determined the average score and standard deviation of the provincial values. The standard deviation is a measure of how much variability there is in a set of numbers. If the numbers are normally distributed (i.e., the distribution is not heavily weighted to one side or another and/or does not have significant outliers), about 68 per cent will fall within one standard deviation above or below the average. Any province scoring one standard deviation above the average is "above average." Provinces scoring less than the average minus one standard deviation are "below average." The remaining provinces are "average" performers.

growth that have propelled the province not only to the highest standard of living among the provinces but to one of the highest standards of living among all developed countries. Even though the province's wealth has resulted in high interprovincial in-migration, especially from provinces in Central and Atlantic Canada, gains in real GDP have been strong enough to offset increases in population and keep income per capita high (a rising population tends to put downward pressure on per capita income). Between 1981 and 2013, Alberta's population increased by 76 per cent, the highest increase in the country. By comparison, Canada's population grew by 42 per cent over the same period.

Throughout the whole period under observation Quebec's GDP per capita has remained well under the Canadian average. Economic wealth can be captured by GDP per capita and income per capita. Combined, they reflect material living standards of individuals, but they are also indicative of the ability of a province to sustain living standards through public spending on education, health, and infrastructure. It can also be complemented with the unemployment rate, because high unemployment hurts a province's labour productivity and its GDP growth. High unemployment is also linked to elevated rates of poverty, homelessness, income inequality, crime, poor health outcomes, low self-esteem, and social exclusion.

The sheer importance of Ontario can be established according to any objective criterion: first of all, it is the Canadian province with the largest population and contains Toronto, Canada's largest urban and financial centre. In terms of population size, it constituted almost half of Canada's population at the time of confederation; even when Ontario dropped to its lowest point, in the early 1950s, it still constituted over a third of the entire population of country and from the late 1970s it has moved in a range between 34 and 39 per cent¹⁷³. From an economic point of view, moreover, Ontario accounts for a large proportion of Canada's economy all throughout its history. As a result, the economic performance of the rest of the country has been highly correlated with Ontario's

¹⁷³ Statistics Canada. CANSIM Table 051-0001

(Di Matteo et al 2014: 5). Since 1981 to 2006, Ontario's share of Canada's GDP has ranged between 36 per cent (at the hardest moments of recession) to 42 per cent¹⁷⁴.

Ibbitson's main argument is that post-war prime ministers could always rely on Ontario to support Ottawa's management of the federation. But the situation has changed, and it started to do so since the 1990s and more clearly in the first decade of the 21st century. Ontario is becoming increasingly more assertive and less willing to transferring wealth generated in Ontario to the poorer regions of the country. In the 21st century, Ontario's continuing troubles with Ottawa and growing affinity with decentralist governments in Quebec and Alberta are evidence that the province is now "engaged in a struggle to return to its former self." He reminds us that, for decades after 1867, Ontario played the lead role in the fight to limit federal power. Premier Oliver Mowat regularly outwitted John A. Macdonald and, together with Honoré Mercier of Quebec, formed an Ontario-Quebec axis in defence of provincial rights. Ibbitson goes so far as to refer to Premier Mike Harris as "Mowat's heir."

As other Canadians have always suspected, Ontario's political class saw Confederation as the tool that would allow it to realize its imperialist ambition of dominating the top half of North America. The province's leaders behaved accordingly, refusing to defer to Ottawa whenever it argued that the national interest conflicted with the provincial one.

In Ibbitson's view, Davis's support for Trudeau's centralism was based on economic self-interest: Ontario needed protection from the rising world price of oil. The only way to get it was to support Ottawa's assault on provincial rights, be it via the National Energy Policy or the patriation of the constitution. In exchange for Alberta's cheap oil, Davis became Trudeau's "loyal and unquestioning ally." Davis and Trudeau also shared a vision of a country whose unity was based on bilingualism, a concern for Quebec's place in Canada,

¹⁷⁴ Statistics Canada, CANSIM table 384-0037.

industrial policy and regional development—all underpinned by a strong federal government.

Ibbitson describes how recent Ontario governments—beginning with Bob Rae’s— became increasingly resentful of federal transfer programs that redistribute wealth from Ontario to the “have-not” provinces. Rae’s anxiety was heightened by the recession of the early 1990s. A province unable to meet the needs of its citizens found itself still subsidizing other regions of the country. By contrast, Mike Harris’s antipathy to federal policy is based on a desire to protect the strength and competitiveness of the Ontario economy.

Echoing Tom Courchene, Ibbitson argues that free trade has changed the rules of the game. Time was when wealth transferred from Ontario was offset by cheap natural resources from the other provinces, and a captive Canadian market for Ontario products. Under free trade, however, Ontario no longer depends on buyers and sellers in the rest of Canada. Like all provinces, Ontario’s biggest customer is the US, and for this reason it is less and less interested in subsidizing less prosperous provinces. Thus, as a result of free trade, “the economic bonds between Ontario and the rest of the country have weakened dramatically.”

Between 1977 and 2010, the population of Catalonia experienced a 32 per cent increase, going from around five and a half millions to just below seven and a half millions inhabitants. Over the same period, the Spanish population also increased from about thirty six and a half to about forty six and a half millions, thus registering a slightly lower overall growth rate than Catalonia. As a result, Catalonia was –and has remained–the second largest autonomous community after Andalusia, with an average 15.5 per cent share of the total population of Spain¹⁷⁵. Catalonia’s weight becomes even more pronounced when assessed in

¹⁷⁵ Throughout the whole period, only Andalusia, Catalonia and Madrid have continuously been above average –in certain points in time Valencia too– when their respective populations have been measured in relation to the average score and the standard deviation. If these are the only large regions, La Rioja is ranked below average,

terms of its contribution to the Spanish economy. In fact, Catalonia's GDP approximately represented 18.5 per cent of the Spanish GDP throughout the whole period under observation, making of Catalonia the largest regional economy within Spain¹⁷⁶.

Taking into consideration the size of the Catalan population and economy within the context of Spain, the implications of asymmetry are expectedly far more significant than asymmetry associated to smaller regions such as La Rioja or Cantabria. The theoretical expectations suggest that being a large AC, reactions of opposition to asymmetry in favour of Catalonia are more likely than acquiescence. Precisely the fact that in certain occasions Andalusia and Valencia have remained quiescent suggests that this factor can at best only partially explain reactions to asymmetry and it is not the main explanatory factor. Moreover, the predictions derived from different factors do not always run in the same direction.

Considering the historic evolution of economic convergence between Spanish regions it seems that economic inequalities were greatly reduced up until the early 1980s; afterwards, the situation has somehow remained in a standstill, with only some junctural improvements in reducing the interregional economic gap and a widening of the gap since the beginning of the 2008 economic crisis (Marchante & Ortega 2006; Peña Sánchez et al 2014: 10; Peña Sánchez & Jiménez 2013; Raymond & García 1994; Villaverde 2007).

Peña Sánchez 2006: Over the period 1980-2000, Andalusia has experienced an uneven economic development within the context of Spanish regions. In 2000, the GDP per capita of Andalusia was under 75 percent of Spanish GDP per capita and 68 percent of EU-25. It was thus ranked as the 2nd poorest Spanish

and thus constitutes a small region. The remaining regions can be described as having a population within the average.

¹⁷⁶ Only in 2010 did the Autonomous Community of Madrid rank first, surpassing the Catalan share of the national GDP by a few hundredths (Núñez 2010).

region after Extremadura. Andalusia suffers from low productivity employment and low employment level. The main conclusion being that Andalusia is handicapped by the unequal distribution of factors deemed determinants for economic growth determinants of economic growth; this has caused a limited economic development, damaging, also, the wellbeing of the Andalusian population. And this is the general picture despite some improvements, for example in terms of human capital. In fact, human capital has evolved positively in the last two decades of the 20th century, bringing Andalusia closer to the rest of Spain. Yet the gap has not disappeared and it has not been enough to make Andalusia converge in terms of productivity (Peña 2006: 9-10). The public component predominates greatly over the private component of stock of the Andalusian economy, while its share of the national stock is deficitary. For the last two decades of the 20th century, Andalusia represented around 17% of the territory and 18% of the population, while the stock has never surpassed 14.5% (Peña 2006: 10-11).

In Spain, there are acute interregional economic disparities and very little variation has occurred over time on the position of the regions relative to one another. Andalusia and Extremadura have always been ranked below average and at certain points Galicia and Castile La Mancha too. At the other end, Madrid, Navarre and the Basque Country have consistently scored above average, with Catalonia coming very close, falling at the top of the average regions. An important finding is that the interregional divergence measured in terms of GDP per capita has been mostly due to the uneven distribution of employment per capita (Peña Sanchez et al 2014: 20).

In the case of Andalusia, the role of differential economic status is so crucial that even the andalusian identity is fundamentally shaped and grounded in the socio-economic reality of the region. Thus, it is the collective consciousness of underdevelopment that constitutes the key element as differential factor (Pérez Sola 2007: 237). The existence of a previous socio-economic reality has conditioned, since the very beginning, the autonomic process, and the political demand of self-government, to the extent that the devolution of powers is conceived as intertwined with the possibility of overcoming the conditions of

structural and economic underdevelopment is what ultimately served to craft some imprecise but true autonomic sentiment (Ibid: 238). That is, the inclusion of a consciousness of territorial discrimination as part of the Andalusian regional consciousness.

Economic regional imbalances, that existed prior to the 1960s, have but widened and reinforced during the 1970s (Alcaide 1979). As a contributing factor, the author highlights the industrialisation process territorially concentrated in certain regions of the country (Ibid: 194). Specifically, he states that “the economically deprived regions share, as a common denominator, the interdependence between population drift-emigration-insufficient industrial development (Alcaide 1979: 194).

In the period 1955-1978, the population of Andalusia decreased as a percentage of the Spanish population from 19.75 to 16.78 per cent. The same trend is also found in Extremadura, Castile La Mancha, Castile Leon and Galicia. Andalusia had the second lowest per capita income after Extremadura, with its per-capita income representing 71% of the national average. In Extremadura is 60%. This is especially relevant if compared with Catalonia, at that time with 127.5% of the national average per capita income. Only in Madrid and the Basque Country was the per capita income higher than in Catalonia (over 136 per cent), while Valencia corresponded exactly to the national average. Moreover, Catalonia represented the highest percentage of the whole national income (20.15 per cent), followed by Madrid (16.59 per cent), Andalusia (12.20 per cent) and Valencia (9.46 per cent). But the Andalusian population (16.78 per cent) was slightly larger than the Catalan one (16.07) as part of the whole Spanish population and Valencia in 4th position after Madrid (12.33) with 9.70 per cent (Alcaide 1978: 198).

In Catalonia, 43% of active population and 41% of regional GDP correspond to industrial sector. Valencia, together with Catalonia and Madrid are clustered in the group of regions highly populated and with high income. At the other end, regions with high participation in whole national population but regional income lower than the national average we can find Andalusia and Cantile

Leon. Andalusia, at the time still the largest regional population, it has however, suffered from significant emigration. The economic crisis in Andalusia has its origins in its productive structure typical of an underdeveloped country with high percentages of active population involved in primary and tertiary sectors but very low industrialization level. It also had the highest unemployment rate in the country: 12.7 per cent.

6.4. CULTURAL EXPLANATION: STRENGTH OF LER/NER'S REGIONAL IDENTITY

Canada is generally pictured as a country comprised two national groups, namely French-Canadians-whose spatial identity is largely concentrated within the borders of Quebec- and English-Canadians (Kaplan 1994).

Despite the widespread view of English Canadians sharing a single and uniform identity, the truth is that the continental Canadian identity overrepresents the views of Canadians while other alternative conceptions exist, for example, among westerners, as suggested by Bercuson (1980), who gives higher relevance to identification with provincial or regional areas and highlights the strength of regionalism and provincialism in the Canadian west. Struggles over resource control have shaped the pattern of regional grievances; these grievances are also related and moulded by the discrimination western Canada has felt as a consequence of some federal policies such as the National Policy., which led to two major protest parties: the United Farmers of Alberta and Social Credit. What is much more relevant and puzzling is that, since the 1980s Alberta has combined, in Palmer & Palmer's words (1982) maximum economic power with maximum political alienation.

Politically, Alberta has been subject to what has been referred to as the "one-party dominance syndrome", characterized by weak and divided opposition and a tendency toward one-man rule (Palmer & Palmer 1982:21). Moreover, the centrality of agriculture in the years before the IIWW led to a sense of living in a hinterland and the accompanying feelings of political alienation, powerlessness and fear of exploitation, which spawned the assumptions and rhetoric of populism. It is precisely these regional grievances which have also,

for many Albertans, provided a sense of Alberta identity and provincialism (Ibid 23). The one-party dominance in Alberta can be explained as “a sense of quasi-colonial status which fuelled the urge to join together to resist central Canada” (Ibid). In 1982, most Albertans shared a widespread resentment against the federal government “for introducing energy policies which many Albertans feel were designed solely for the benefit of central Canada and have prevented their province from taking full advantage of the economic opportunities which rightfully belong to it” (Palmer & Palmer 1982: 26).

Precisely the peripheral position of Alberta has produced a sense of alienation which constitutes one of the defining features of Alberta’s provincial identity (Palmer & Palmer 1982: 27). Its peripheral position -and the sense of political alienation attached to it- is even stronger during periods of Liberal reign in Ottawa. Given the Conservative-majority electorate of Alberta, in those periods Alberta has sent no representation to the federal government. That was clearly the case of the decade from 1972 to 1982, when the patriation negotiations took place. “The Quebec and Ontario-based Liberal establishment is able to exacerbate these injuries to Alberta’s pride by its ability to maintain itself in power totally independent of Alberta’s political input. Many Albertans are quick to point to the example provided by the February 1980 federal election, when the outcome was a *fait accompli* before western votes had even been counted” (Palmer & Palmer 1982: 28). In the same vein: “many Albertans feel resentful that, given the numerical dominance of Quebec and Ontario, in the game of national politics the deck seems stacked unfairly against them before the play even begins. And, not surprisingly, many Albertans take their resentment one step further, contending that the federal Liberal government not only ignores Albertans, but also uses them quite cynically to maintain its power base in central Canada” (Ibid). Major attention given to politically potent central Canada maintains the West in a subordinate position relative to Ontario and Quebec.

“The 1993 federal election underscored these divisions. Two regional parties—the Bloc Québécois as the federal extension of the Parti Québécois and the Reform Party as the party of western Canada—eclipsed the more “national”

Conservative and New Democratic parties... English-Canadian spatial identity, always fluid, may be in the midst of a realignment around more regional loci. The emergence of the Reform Party which swept the western ridings in the 1993 election offers a case in point. The irony of this new kind of politics is that a Canadian solution may reside not with the federally minded Liberals and Conservatives, but with regionally based factions who most distrust one another” (Kaplan 1994: 602).

“Spain provides a good example of how *Staatsvolk* dynamics are to be cautiously analysed on processes of federation building... dictatorial Francosim attempted an identification of an ‘eternal Spain’ as the ideological expression of an old and unpolluted ‘Castilian spirit’ with a universal language and idelas beyond the limits of time and space... According to the views of such majority (ethnic) nationalism, Spain was a single nation rather than a plural nation of nations. Francoism attempted to enforce a programme of national homogenization patterned along the lines of a Castilian *Staatsvolk*...

The subsequent development of the *Estado de las Autonomías* has clearly shown a fallacy regarding Castile as a national unit. As a matter of fact, only from the ethnolinguist point of view such a nationality could be taken into account (64 per cent of the total population reside in Castilian-speaking territories such as Andalusia, Aragon, Canary Islands, Cantabria, Asturias, Extremadura, La rioja, Madrid or Murcia, together with the traditional ‘old’ and ‘new’ Castiles).

However important language is for social mobilisation and nation building, it would be unlikely for an ethnic community to be politicised solely around it. At this point, identity could well be the necessary extra element providing national cohesion on collective perceptions, interpretations and aspirations. But as we have previously examined, the wide existence of dual identities in the Castilian-speaking *Comunidades Autónomas* makes implausible an identity attachment to an ideal *Castilla* which does not exist as such neither ethnically nor politically.

Could it be hypothesised, nevertheless, that all mono-lingual Castilian-speaking regions in Sapin would be willing to constitute one political

community congruent with their ethnolinguistic commonality in the foreseeable future? ‘No’ ought to be the answer to this question if we bear in mind the effects produced by the federalising developments accomplished in the last decades. Processes of socialisation in the consolidation of the *Estado de las Autonomías* have reinforced regional boundary building and ethno-territorial diversities. Citizens in, say, Aragon or Andalusia regard themselves ethnically much less as Castilian speakers than as active members of their own regional communities. The role of the meso-governments of the 17 *Comunidades Autónomas* in the production and reproduction of regional identities in Spain has been very important (Martínez-Herrera 2002)” (Moreno 2007: 99-100).

6.5. CROSS-LEVEL GOVERNMENT (IN)-CONGRUENCE

This section discusses how the conditions of government congruence or incongruence affected the way the governments of Alberta and Ontario reacted to the episodes of asymmetry previously described in the chapter. The existence of government (in)congruence is first determined by taking into consideration two factors: (1) the coincidence of ruling parties across levels of government and (2) the extent of vertical integration within each party.

For the mainstream literature on the subject, Canada stands as an exception within multi-level systems regarding the territorial organisation of political parties. While most parties competing in federal -or politically decentralised- states have adopted integrated structures, the Canadian ones have been generally characterised by their limited integration at federal and provincial levels (Carty & Steward 1996; Dyck 1991; 1996; Elkins 1991; Renzsch 2004)¹⁷⁷. Moreover, Canadian political parties have become increasingly disentangled as a result of some reforms and the evolution they have undergone through the 2nd half of the 20th century (Dyck 1996; Thorlakson 2009). The general description of

¹⁷⁷ Although recent analyses contend that, paying more attention to informal and personnel linkages -and not only to formal organisation- would provide a more moderate view of Canadian parties as being less separate and distinct than it is often suggested (Esselment 2010; 2013).

Canadian political parties as ‘disconnected’ (Wolinetz & Carty 2006: 66) or ‘divorced’ (Renzsch 2014: 13) does not apply equally to all parties or to the various provincial wings within each of them. Quite the opposite, significant interparty and interprovincial variations exist in the degree of vertical integration, as it is shown next:

The New Democratic Party (NDP) stands at one end of Dyck’s theoretical continuum, as an archetypical integrated party, characterised by joint federal-provincial membership, strong organization and financial linkages and high degree of cooperation between party personnel at various territorial levels. This is certainly the case for all provincial branches of the NDP except for Quebec where the New Democratic Party of Quebec (NPDQ) has been organised as a parallel and independent party from the federal NDP since the 1990s.

At the other end of Dyck’s continuum, the Progressive Conservatives (PC) are organised confederally. In the nine English-speaking provinces the federal and provincial organizations of the PC exist side by side as split parties with separate federal and provincial memberships and separate executive offices in most cases, too, while high cross-level ideological coherence has not always sufficed to compensate for the lack of organizational ties. In Quebec, the PC is a truncated party that competes only at federal level and has not contested provincial elections since 1936¹⁷⁸.

Finally, the Liberals fall somewhere between the integrated and confederal party models, showing two distinct types of federal-provincial relationships depending on the province. In Quebec, the provincial Liberal Party (PLQ) severed links with the federal organization since 1964, a strategy that was subsequently adopted in Ontario, Alberta and British Columbia in the 1970s. As split organizations, the provincial Liberal parties in these four provinces maintain separate memberships, executives, headquarter and staff from the Liberal Party of Canada and are largely unconnected to other provincial wings

¹⁷⁸ The creation of a new Conservative Party of Quebec in 2009 is beyond the time frame of this research.

of the federal party. In the remaining six provinces, the Liberal Party maintains integrated provincial and federal branches.

Focusing specifically on Ontario and Alberta, the two main political parties - Liberals and Progressive Conservatives- work as split parties at federal and provincial levels there, while the third main party –NDP- is the only one with integrated vertical structure, as the table shows. This has important implications for the analysis of government (in)congruence, for the predominance of split party structures increases the chances of federal-provincial government incongruence greatly. In fact, in most of the episodes object of study different parties were in power in Ontario and the federal government. In the case of Alberta, in about half of the occasions the ruling PC party at provincial level found the Liberals at federal

In the Canadian province of Ontario, the Liberal Party formed a minority government from 1985 to 1987 on the basis of a formal accord with the New Democratic Party (NDP): the NDP agreed to support the Liberals for two years on all confidence motions and budgetary legislation, in exchange for the passage of certain legislative measures proposed by the NDP. This was not a coalition government, as the NDP remained an opposition party and was not given seats in the cabinet. In this case the Liberals did not even have a plurality of seats: they had 48 and the NDP had 25, but the Progressive Conservatives were the largest party with 52.

This separation is apparent not only in the different performance and success in federal and provincial elections, but also, and most fundamentally it refers to the fact that the federal and provincial wings have different organizations, officers, facilities, active members and sources of funding. The separation also occurs at the levels of interests for Canadian parties have been asked and have also done a good job in representing (and brokering) territorially based interests (religion, economic based, language) while also presenting programs which are more ideological and nonterritorial in intent (Elkins 1991: 42). Interestingly, then, there is more intraparty than interparty variation in the social coalitions voting for a party. “For example, NDP and Social Credit in British Columbia

have more similar social bases than the NDP in BC has with the NDP in Ontario” (Elkins 1991: 13).

Compared to Canadian parties, Spanish parties tend to be integrated, that is to say, there are strong organizational linkages between the regional branches and the central headquarters (Fabre 2011: 345). If this applies generally to all Spanish cases, then the implications for government incongruence would be that this would only occur when we find parties of different denomination governing at different levels or partial party incongruence when the same party governs in coalition with another party in one territorial level. Let’s see this in more detail:

In the case of Spanish Socialist Party (*Partido Socialista Obrero Español-PSOE*), is an integrated party in all regions except for Catalonia, where the socialist party of Catalonia (PSC) is officially a separate party federated to the PSOE. Despite some bi-directional influences and policy co-ordination, with the involvement of the PSC in the central decision-making organs and processes, they are largely separate with PSC choosing its own leader and candidates and adopting its own constitutional rules. But PSOE has influenced at times issues of leadership, such as “The PSOE central leadership’s disagreement with Maragall was, however, one of the factors that contributed to destabilizing his leadership and led to his replacement by José Montilla, first secretary of the PSC and until then minister in the Spanish government, in the 2006 election” (Fabre 2008: 322).

In the rest of regions, regional branches of PSOE are formally represented in the central party organs, most importantly through the Federal Executive Commission and the Territorial Council most recently. Yet, the degree of bottom-up influence has varied considerably both across the border and over time. In Fabre’s words, “A form of zero-sum game is played between the state-wide and regional leaderships: the central leadership dominated the party apparatus during most of the González leadership, but in the 1990s, when the state-wide leadership was weak and divided, the power of regional leaders at the centre increased considerably. The most important regional ‘barons’ were presidents of an autonomous community, like Chaves in Andalusia... while the

strengthening of the central leadership with Rodríguez Zapatero since 2000 has led to a retreat of the regional leaders from the centre stage of the party, even though some regional barons remain influential in the party (Méndez Lago, 2005)” (2008: 319-320).

In the case of conservatives, Popular Alliance-Popular Party (AP-PP), it is both highly integrated and very centralized. Thus, the central organs of the *Partido Popular* have remained firmly in charge of candidate selection and policy making and the emphasis on party cohesion is reflected in the low level of autonomy of the regional party branches. Even in ACs where PP has been in power for a long period of time (such as Valencia since the 1990s), the regional branch has tended to follow the central party line¹⁷⁹. True, regional leaders are represented and involved in the National Executive Committee, but their actual role and influence is rather limited, especially if compared with the regional barons in the PSOE.

¹⁷⁹ Example of this: “During the debate on the Catalan Statute of Autonomy, the central party has taken the lead of the campaign against the statute adopted by the Catalan Parliament, often adopting a position that was likely to affect the electoral chances of the Catalan party branch negatively. Recently, interventions from the central level pushed the Catalan party leader Josep Piqué to resign from his position, as he felt disavowed when the central leadership appointed a parallel steering committee to prepare the 2008 general elections (Barbeta, 2007)” (Fabre 2008: 321).

7. CONCLUSIONS: RETHINKING THE USES AND POSSIBILITIES OF ASYMMETRY

The present chapter provides an overview of the main conclusions of this study. It also points to the limitations of the theoretical framework presented. In addition, it contains a brief examination of its applicability to other cases and some suggestions for the future directions in the study of the uses and accommodation capacity of asymmetry.

7.1. ASYMMETRY AND RE-SYMMETRISING DYNAMICS: A (POISONED) GIFT?

The aim of this thesis has been to contribute to our better understanding of the dynamics of federal and/or politically decentralised systems featuring asymmetrical autonomy arrangements, by examining the variability in regional reactions to asymmetry. In developing the explanatory framework presented here, I have attempted to move beyond the limitations of standard studies on asymmetrical federalism which result from their approach to asymmetry exclusively as a matter of binational relationship between the alleged majority and minority nations. But, as this work has shown, a key side of asymmetry has to do with the largely overlooked issue of relationships between over-empowered and under-empowered regions. Bringing under-empowered regions into the analysis of asymmetry has required, as I have done, to acknowledge

internal heterogeneity within the majority nation, disaggregating it into its various regional units.

The thesis has been designed as an exploratory research into the existence of regional reactions to asymmetry, their contents and causes. Regarding the occurrence of reactions, first of all, it can be argued that it has succeeded in illustrating various types of reactions which, in turn, proves that reactions to asymmetry are a very complex phenomenon, far more complex indeed, than the current state of the art would allow us to appreciate. The conceptual framework, applied onto the analysis of Alberta's and Ontario's responses to various episodes of asymmetry in favour of Quebec as well as reactions pursued by Andalusia and Valencia when faced with RTEs in favour of Catalonia confirms that reactions to asymmetrical empowerment can take all the hypothesised forms. Specifically, and against the more or less generalised intuition about widespread demands, strategies and processes of resymetrisation, the LER/NERs under observation have not always sought gain similar powers to those granted to specially-empowered region(s) within their respective states. As a matter of fact, catching-up only represents about a third of the studied reactions, with blocking reactions making an even smaller share of the total. Conversely, acquiescence constitutes the most significant group, larger than any of the other two. A nuanced interpretation of these findings is that there is not an absolute rejection to asymmetry on the side of LER/NERs but, under certain conditions and faced with certain types of asymmetry, they may be willing to tolerate them.

When it comes to identifying regional patterns of reactions, only one clear pattern has emerged describing very approximately the way the province of Ontario has reacted, which consists of a combination of predominantly quiescent reactions that have occurred in almost 60 per cent of the occasions, plus some instances of blockage. Ontario has thus been more accommodative than either Alberta or the Spanish LER/NERs studied. Moreover, in the rest of potentially reaction-triggering episodes examined, and whenever Ontario has opposed asymmetry, it has done so largely through blocking Quebec demands rather than trying to catch up with it. Arguably, then, some province-specific conditions

might be at play triggering this pattern of reactions. As for patterns of reactions based on the type of asymmetry at stake, institutional asymmetry has been mainly opposed with catching-up and jurisdictional asymmetry has been faced with an almost similar number of catching-up and quiescent reactions. Against my theoretical expectations, symbolic asymmetry has triggered all three types of basic reactions and in quite similar proportions.

As for the causal factors likely to have influenced the various reactions, and specifically regarding Ontario's pattern of reactions, its central status within the Canadian federation that sets it apart from the other three regions. And this structural factor seems to have deeply shaped the dynamics of reaction even in those periods when the provincial government moved towards what was labelled 'Ontario first approach', both under Bob Rae's premiership and following the election of Mike Harris in 1995. If we try to draw some more general conclusions from here, it could be argued that some combination of acquiescence and blockage constitutes the pattern of reactions associated to central LER/NERs. Asymmetry appears to be less challenging for central regions than peripheral ones; but when it poses any risks to the interests of the central LER/NER, they are better protected and satisfied by blocking asymmetrical demands rather than trying to acquire further regional powers. These findings highlight the relevance of the central or peripheral position of LER/NERs in shaping reactions to asymmetry, but in a very specific sense: The very central position of a LER/NER provides some good indication of the direction of its reactions; conversely, in cases of peripheral regions other conditions may be more relevant in shaping their reactions.

The findings for the remaining explanatory conditions proposed have been less conclusive. In particular, they have been very limited concerning the explanatory force of the two political-institutional factors proposed –presence of regional parties and government (in)congruence. In any case, the analysis does not point to the irrelevance of these conditions but the cases studies have produced very little variation in them, making thus hard to either validate or refute the related hypotheses. This constitutes, in my opinion, the main

weakness of the investigation that will be addressed in some detail in the final subsection.

In order to provide an answer to the question that opens this subsection, it could be said that asymmetry can be a gift and, in some cases, a poisoned chalice. Sometimes, it has been welcomed and accepted but in other occasions it has also triggered strong opposition and, ultimately, many factors seem to be at play in the various types of reactions.

7.2. LER/NERs AND TOLERATION TO ASYMMETRY

This research has noted that since asymmetry is multifaceted and LER/NERs are very heterogeneous and not unanimous in their responses to asymmetry, it is fruitless discussing and reflecting on asymmetry generally. We can always find episodios, even in countries that have allegedly succeeded in implementing asymmetry, of asymmetrical arrangements being blocked or trying to be spread. The main question, therefore, is not whether asymmetry can lead to resymmetrising dynamics, for this is very likely the case. The main question is whether there are certain types of asymmetry that, under certain specific conditions, have greater chances to be acceptable. Only by being aware of such conditions that have favoured the toleration to asymmetry should bring us to a better understanding of the real capabilities and limitations to successfully implement asymmetry and it should help in the process of designing asymmetrical arrangements with greater chances to be accepted.

The empirical analysis developed here should feed the theoretical debates about the toleration capacity of regions towards asymmetry. However, what we might learn of individual regions is hardly transferable to other regions or the state as a whole. If anything, and to the extent that many actors are involved with different interests and strategies, the toleration capacity of the system is much more limited than advocates of asymmetry seem to acknowledge, what leads to much misunderstanding and frustration. A more balanced assessment should be beneficial. By acknowledging the limits of our knowledge on a very

complex phenomenon allows to reduce our expectations and the frustration derived from the difficulties of implementing asymmetrical institutions.

7.3. CONTRIBUTIONS TO THE SCHOLARSHIP AND STEPS TOWARDS FURTHER RESEARCH

Since this thesis was designed as an exploratory work, it necessarily leaves doors open to further research to either validate or refute the proposed conceptual and analytical framework and, if possible, to refine and improve it. The main contribution of this thesis stand at a conceptual level, as it has developed a basic but comprehensive conceptualisation of reactions to asymmetry where catching-up is regarded as only one among other forms of reaction along with blockage and acquiescence. The empirical analysis has found evidence of all types of reactions proposed, this way proving their usefulness. The empirical analysis of the cases, moreover, proves their relevance. In any case, there is some room for conceptual refinement, in a particular direction: The broad category of ‘acquiescence’ that need to be disentangled into ‘active acquiescence’ and ‘pasive acquiescence’. It could also be undertaken the development of a proper typology that adds additional classificatory criteria, for example the intensity of the reactions.

The simplest, most immediate strategy towards that aim consists of extending the analysis to reactions by other LER/NER to the same RTEs already explored here. If we are to increase the variability in the cases and avoid reproducing combinations of conditions already observed, the selection of cases -generally a crucial step in any research design- becomes far more crucial here. In the medium run, it would also be worth including RTEs involving fiscal asymmetry, for their exclusion at this stage was only justified on convenience grounds given the complexity of fiscal negotiations and the small number of potential reactions taking into consideration the choice of countries and MER and LER/NER within them. Finally, it may also be useful adding a third country such as the United Kingdom, where special fiscal powers were part of the original devolution settlement for Scotland and the issue has been part of subsequent reforms and discussions.

This dissertation is a modest contribution to a better understanding of the political dynamics of accommodation through asymmetrical empowerment and the role of under-empowered regions in the process. If it can raise sufficient interest to stimulate further study of this important subject, it will have fulfilled its aim.

8. REFERENCES

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9. APPENDIXES

9.1. APPENDIX 1: RTEs AND REACTIONS IN CANADA

CONTEXT	Asymmetry		Provincial reactions	
			Alberta	Ontario
1 st Sovereignty-Association Referendum (May 1980) & Constitutional Patriation (1982)			Strong position against sovereignty-association: <ul style="list-style-type: none"> Western Premiers' Conference communiqués (Nov. 1979 + Ap. 1980) Low profile during referendum campaign 	Strong position against sovereignty-association: <ul style="list-style-type: none"> Ontario Legislative Assembly Resolution High profile involvement in referendum campaign
	Veto power	Institutional	Position summarised as C : <ul style="list-style-type: none"> Principle of equality of provinces Authorship of opting-out amending formula Key sources: <ul style="list-style-type: none"> Part of the Gang of Eight → Alternative patriation plan (April 1981) Governmental statements 	Position summarised as b + Ac : <ul style="list-style-type: none"> Offer to give up its own veto Limits to financial compensation when opting-out Limits to notwithstanding clause Key sources: <ul style="list-style-type: none"> Support of federal unilateral patriation Kitchen accord
Edmonton Declaration (1986) & Langevin-Meech Lake Accord (1987)	Bourassa's five conditions	Symbolic (distinct society)	Position summarised as B : <ul style="list-style-type: none"> Principle of equality of provinces 	Position summarised as Ac :
		Institutional (veto power)	Position summarised as C : <ul style="list-style-type: none"> Principle of Unanimity in constitutional reform 	Position summarised as c : <ul style="list-style-type: none"> Limits to financial compensation when opting-out
		Institutional (Supreme Court)	Position summarised as C : <ul style="list-style-type: none"> Participation in appointments but not reserved number of justices 	Position summarised as c : <ul style="list-style-type: none"> Participation in appointments but not reserved number of justices
		Jurisdictional (Immigration)	Position summarised as C :	Position summarised as Ac :
Charlottetown Accord (1992)	Allaire and Belanger-Campeau Reports	Symbolic (distinct society)	Position summarised as B : <ul style="list-style-type: none"> Principle of equality of provinces 	Position summarised as Ac :

	& Bill 150	Institutional (veto power)	Position summarised as C : <ul style="list-style-type: none"> Principle of Unanimity in constitutional reform 	Position summarised as c : <ul style="list-style-type: none"> Limits to financial compensation when opting-out
		Jurisdictional (Immigration)	Position summarised as C :	Position summarised as Ac :
Failure of Meech Lake	1991 Canada-Quebec Accord relating to Immigration and Temporary Admission of Aliens	Jurisdictional	Position summarised as C : Key sources: <ul style="list-style-type: none"> Western Premiers' Conference (May 1991) Bilateral negotiations with federal government 	Position summarised as Ac : Key sources: <ul style="list-style-type: none"> Government officials' statements
Sovereignty referendum (1995) & Chrétien's accommodation plan			Strong position against sovereignty: "once you are gone, you are gone"	Moderate position against sovereignty
	House of Commons resolution: "Quebec as distinct society within Canada"	Symbolic	Position summarised as Ac : <ul style="list-style-type: none"> Acceptance if no legal implications attached to the symbolic recognition Key sources: <ul style="list-style-type: none"> Klein gov.'s statements Calgary Declaration 	Position summarised as B : <ul style="list-style-type: none"> Rejection of concept "distinct society" Key sources: <ul style="list-style-type: none"> Harris gov.'s statements Provincial Legislature resolution: "Quebec's distinctive character" Calgary Declaration
	Bill C-110: regional vetoes in constitutional reform	Institutional	Position summarised as B + C : <ul style="list-style-type: none"> Initial threat but mostly satisfied with a catching-up solution by means of a de facto veto Key sources: <ul style="list-style-type: none"> Klein gov.'s statements 	Position summarised as Ac : <ul style="list-style-type: none"> Regional vetoes formula grants Ontario similar asymmetrical powers as those of Quebec Key sources: <ul style="list-style-type: none"> Harris gov.'s statements
Harper's open federalism	Canada-Quebec agreement on UNESCO	Jurisdictional	Position summarised as Ac :	Position summarised as Ac :

<p>National recognition as pursued by Quebec Liberal Party and BQ</p>	<p>House of Commons' resolution: "Quebecois as a nation within a united Canada"</p>	<p>Symbolic</p>	<p>Position summarised as Ac:</p> <ul style="list-style-type: none"> • It is non-consequential • Western leader effect <p>Key sources:</p> <ul style="list-style-type: none"> • Stelmach gov.'s statements 	<p>Position summarised as Ac:</p> <ul style="list-style-type: none"> • Non-enthusiastic acceptance of the motion because it has no juridical effects • But a fruitless effort likely to become divisive <p>Key sources:</p> <ul style="list-style-type: none"> • McGuinty gov.'s statements
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9.2. APPENDIX 2: RTEs AND REACTIONS IN SPAIN

MER's asymmetry demands		LER/NER's reactions	
		Andalusia	Valencia
<i>Re-establishment of Catalan Generalitat (1977)</i>		<i>Creation of "Junta de Andalusia" (1978).</i>	<i>Creation of "Consejo del País Valenciano" (1978).</i>
Creation of regional government	Institutional	<i>CATCHING-UP</i>	<i>CATCHING-UP.</i>
Restoration + Catalan president in exile	Symbolic	ACQUIESCENCE	<i>CATCHING-UP</i> (justification of provisional regime of autonomy in historic terms)
Devolution of certain responsibilities	Jurisdictional	<i>ACQUIESCENCE</i> (although complaints about delaying tactics)	<i>NO REACTION</i> (although complaints about delaying tactics)
<i>Spanish Constitution and Statute of Autonomy of Catalonia</i>		<i>Statute of Autonomy of Andalusia</i>	<i>Statute of Autonomy of Valencia</i>
Article 2 SC (nationalities vs. regions)	Symbolic	<i>Limited CATCHING-UP</i> (definition as nationality)	<i>Limited CATCHING-UP</i> (definition as nationality)
Article 1 SAC (definition as nationality)			
'Slow track' (art. 143 SC) vs. 'fact track' (art. 151 & 152 & 2 nd TP)	Institutional	<i>CATCHING-UP</i> (SAA passed according to art. 151)	<i>Limited CATCHING-UP.</i> (art. 143 + intermediate solution)
Limited autonomy vs. full autonomy	Jurisdictional	<i>CATCHING-UP</i> (art. 148 & 149 SC)	<i>CATCHING-UP</i> (art. 148 & LOTRAVA)
<i>Mossos d'Esquadra</i>		<i>Unit of the Spanish police</i>	<i>Unit of the Spanish police</i>
Law 19/1983 of the Catalan Parliament	Jurisdictional	ACQUIESCENCE	ACQUIESCENCE
1994 Agreement of Junta de Seguridad de Cataluña	Jurisdictional	ACQUIESCENCE	ACQUIESCENCE
<i>Participation in EU decision-making</i>			
Catalan observer within Spanish REPER	Institutional	BLOCKAGE	BLOCKAGE

<i>Declaration of Barcelona (1998)</i>			
	Symbolic	BLOCKAGE Declaration of Merida (1998)	BLOCKAGE Declaration of San Sebastian (1998) & Parliamentary motion (1998)
Reformed SA Catalonia (2006)		Reformed SA Andalusia (2006)	Reformed SA Valencia (2006)
Definition as a nation	Symbolic	CATCHING-UP definition as ‘national reality’)	CATCHING-UP definition as ‘historic nationality’)
Shielding of powers	Jurisdictional	CATCHING-UP	PRE-EMPTIVE CATCHING-UP Camps Clause BLOCKAGE Challenge before the Constitutional Court
Bilateralism	Institutional	ACQUIESCENCE	ACQUIESCENCE
Participation power	Institutional	CATCHING-UP	ACQUIESCENCE
<i>Devolved powers on immigration</i>			
Reformed SAC	<i>Jurisdictional</i>	CATCHING-UP	ACQUIESCENCE
2008 State-Generalitat agreements	<i>Jurisdictional</i>	CATCHING-UP	CATCHING-UP