Concluding Remarks

Eva Maria Belser

At the beginning of the eighteenth century, nationalism started to imprint its mark on the globe. When the concept of the sovereignty of the people began to replace the sovereignty of the monarch, the state and its people became interlinked in entirely new ways: the people became the new source of the legitimacy of the state and transformed the old empires into modern nation-states. Most states, however, inherited rather centralised top-down structures and integrated new democratic ideas into these structures. Hence the classic nation-state was structured around the idea of a shared homogeneous national identity which was more often than not constructed, orchestrated top-down and enforced by assimilation policies. For a long time, it seemed necessary to view the sovereign people as one and to look at the national community as homogeneous, an attitude which involved ignoring or eliminating diversity. The created or claimed national identity appeared to be the mainstay of an individual's right to equality and a national concept of solidarity. States thus aimed at erecting the boundaries of their nation's political structure on what they believed to be the legitimate land of their national group, a major consequence of which was to render invisible the many nations and communities most countries contained. Other states settled with the boundaries inherited by history, war and peace, colonialism and decolonisation, boundaries which often did not match ethnic or cultural borders. As a nation able to sustain a nation-state within these borders did not exist, it had to be constructed – usually by making one of the numerous nations the dominant one. As a consequence, nation-building was often a rather violent process implying the generalisation and 'nationalisation' of one of the local identities and thus came at the price of annihilating and oppressing other identities.

During the nineteenth and twentieth century, numerous nationalist and independent movements led to the creation of new nation-states in Europe, the Americas, Africa and Asia and put an end to land and saltwater empires. While in the nineteenth century, some states were still formed by the aggregation of formerly independent units, the main trend since has been the carving out of new (nation-)states from larger units. Between 1900 and today, the number of states quadrupled and during the twentieth century, a new state was born every nine months. Most of these new states claimed to be nation-states and frequently took it on themselves to build the new state by empowering one of its communities while marginalising and neglecting all others. Since,

the enthusiasm for new states has undoubtedly been curbed but there still are numerous entities identifying as nations and claiming a state of their own – contrary to the predictions of those who believe in the end of the nation-state or the state as such.

What is it that is so attractive about statehood? Amongst many other motives it is the quest of communities for equality and the promise to achieve it by forming a state. After all, the equality of all states has always been a principle of international public law. The principle of equality of nations within states, in contrast, does not benefit from such a guarantee. Whether nations living on the territory of a larger unit are treated equally depends entirely on the will of each state, a fact which not only raises fears when the state is run by an autocratic government or captured by elites, but also when the state is democratic but characterised by deep cultural, ethnic, linguistic or religious cleavages. When the majority group in such a state freely decides the fate of minorities, minorities have no interest in democracy. If small (ethnic) groups happen to be in power in a state, for instance because they have been the elites cooperating with the former colonial power and been able to keep the newly independent states to themselves, democratising the state appears to them as a frightening option. The majority could turn against the ruling class, outnumber it – and possibly take revenge for wrongs of the past. Ruling minorities hence are often spoilers of democratic processes, willing to stage regular elections but unwilling to accept free and fair ones.

While communities which are outnumbered by others feel at the mercy of other groups and experience or fear discrimination, communities having a state 'of their own' can rely on international guarantees of equality. The United Nations Charter was adopted to reaffirm faith in the equal rights 'of nations large and small' (preamble), and is led by the purpose of developing 'friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples' (Article 1). Such a promise of equality makes statehood attractive to peoples, groups and regions suffering cultural oppression, economic marginalisation, and social neglect. Statehood seems the key to equal rights and equal respect; experiences of new states unable to use this key to open the door ending inequality do not seem to alter this perception.

But what about equality within states? Most federations established by aggregation were built on the international public law principle of equality. All formerly independent units – large and small – enjoy equal rights and obligations. They are all equally represented in the second chambers of the national parliaments which are reminiscent of international organisations in which all members have the same say. Federal and other states have ventured to identify as multinational states and to overcome the legacies of the

dominant nation-state concept. The multinational state recognises a diversity of geographic and cultural constituent units brought or held together under the roof of one state, deals with internal diversity in various ways, in particular by federalising, decentralising or regionalising the state or by adapting autonomy regimes for specific regions or groups. With the increased attractiveness of multinational states to defuse tensions, came an important change of perception: diversity became a factor of union between the different units and communities rather than one of dissention and conflict. Federalism and other forms of vertical power-dividing and power-sharing appeared as the solution to organise those multinational states facing tensions between majority and minority groups. Multinational systems with federal arrangements made it possible to solve long-lasting conflicts while bringing the state closer to the people and making the political structure more democratic and accountable. Opening up to the idea of diversity allowed recognition and accommodation of claims of self-determination within and not outside of the state. Often separatist movements tuned down their requests when fair eye to eye talks and reliable autonomy were available within the territory of the state.

Multinational states comprise two or more nations or 'states' and contrast with the nation-state where a single nation – which often, but not always accounts for the bulk of the population – dominates in terms of culture, language and religion and treats communities of different culture, language or religion at best as protected minorities, at worst as foreigners, settlers or enemies of the state. If the different nations of the same state are to be guaranteed equal rights, features of federal systems occur. Autonomy allows smaller groups to be shielded from domination by the larger groups and to operate democratically, within the sphere of self-rule, without the fear of ending up as permanent losers, a fear which is exacerbated by ethnic cleavages. Shared rule guarantees that all nations equally participate in decision-making at the multinational level, and that majority rule is balanced by mechanisms of coordination and compromise.

However, as in international law and international relations, formal equality or input-equality does not necessarily lead to substantive or output-equality. Just like states, some nations or units within states are more populous, more prosperous, and more powerful than others, some enjoy an advantageous geographic location, host a wealthy capital or a profitable harbour, own or administer natural resources or are home to the (formerly) privileged group. Others are remote, landlocked, underdeveloped and populated by minorities or other disadvantaged groups and therefore are or feel 'less equal than others'. In addition, some units are well administered and effective when it comes to implementing the right to self-rule and impacting on shared rule, others struggle to

position themselves or are plagued by governance deficits, a crucial difference which aggravates other *de facto* inequalities.

Most federal systems, in particular those established by devolution, have inbuilt formal inequalities or asymmetries which relate to one or more aspects of the power-sharing arrangement. These asymmetries are either the result of unequal bargaining powers and mirror *de facto* inequalities or power relations, or are an attempt to overcome such inequalities and to create fair power relations where they did not previously exist. Most often, asymmetric federal systems are composed of elements of both and their respective relevance often changes over time. As Maja Sahadžić reminds us, such unequal relationships among regional units are not unproblematic. As she explains, constitutional asymmetry affects the principle of equality and can be seen – and often is seen – as a threat to the legitimacy and stability of a state. This link between asymmetry and equality is however not straightforward. The formal equality of subnational units often proves unable to cope with the complexity of social reality, fundamentally diverse. Managing diversity can lead to constitutional asymmetry, especially in multinational states in which different nations, large and small, powerful and weak, claim a right to self-determination. Constitutional asymmetry resulting from the implementation of such claims can have numerous and complex implications for the principle for equality. It can serve the principle of equality by allowing all nations, not just the majority group, to determine their fate autonomously and to have an equal say in the making of shared rule. Constitutional asymmetry can then help in implementing the principle of equality by equalising existing power relations and give all the nations a fair chance for effective self-governance and participation. At the same time, constitutional asymmetry can harm the principle of equality. Such is the case when it allows communities and regions, which enjoy a high level of bargaining power thanks to economic or political power, natural resources, military strength or support by neighbouring or kin nations, to negotiate rights and privileges other communities and regions do not have and cannot bargain for. Constitutional asymmetry then does not (only) compensate existing (cultural) inequalities on the ground, but has the potential to exacerbate (political, economic, and social) inequalities. Thus, constitutional asymmetry can enable a fine and often dynamic balance between equality and diversity. It can provide for just the right amount of different treatment to allow every nation within the federal system to be equal when it comes to autonomously determining local matters and contributing to the future of the country. When constitutional asymmetry is used to implement the right of self-determination of nations or national minorities, it can strengthen the coherence of the state and protect its territorial integrity. It can, however, degenerate into a system in

which solidarity no longer functions and in which one or several communities or regions use their bargaining power to obtain extra rights which are not compensated by extra duties and in which asymmetry does not equalise but rather increases inequalities.

But why do unitary states federalise in the first place or guarantee autonomy to units in order to respond to claims to self-determination? And why are these claims for (more) autonomy so vocal in numerous countries around the world? Federal systems, be they symmetric or – more often – asymmetric, are often implemented in order to allow for the accommodation of groups or territories with distinct identities, needs or priorities, designed to protect national minorities, and to enable diversity to coexist with unity. What drives trends to autonomy is usually a claim to be or to remain different or to revive and celebrate a cultural difference which has been suppressed in the past. But just as in the international sphere, the quest for autonomy is often also one for equality. Like independence, autonomy not only holds the promise of distinctiveness, but is also seen as a key to equality. Separatist movements, whether they aspire to outright independence or internal autonomy, are generally characterised by complaints about inequality and unfair treatment which have to be overcome by more and better self-rule. Their supporters are usually inspired by the hope that real or perceived disadvantages, past or current injustices and discrimination and lack of chances and opportunities will end when one's own region or community is in charge.

Nico Steytler recalls that the quest for autonomy in many developing countries is driven mainly by the objectives of accommodating minority groups, limiting abusive centralised rule, and guaranteeing equitable development. Such quests are born out of practices and perceptions of racial, ethnic, linguistic and cultural discrimination, marginalisation and unequal development of different groups and regions within one country. He reminds us that strong centralised governments, often seen as guarantors of coherence, equality and solidarity within a country, in fact often serve a narrow partisan group. They centralise resources and redistribute them to themselves and those holding and keeping them in power. In this kind of system, even regions rich in natural resources and economic potential end up being deprived of fair development chances. Communities and regions experience material inequality with regard to access to basic state services, government jobs, and overall development. Such experiences and perceptions of inequality can become explosive when the frontiers between the privileged and the disenfranchised follow ethnic, cultural, religious and linguistic lines. Ostensible material inequality can even lead to new constructions or the strengthening of existing ethnic, cultural, religious and linguistic identities of little previous relevance. Once there is a

common conviction that one's personal disadvantaged positions and those of one's friends and family are not or not only the result of the actions and omissions of an ineffective or failed central government, of corruption or state capture, but a policy directed against a group or region, separatism is just around the corner.

Jayampathy Wickramaratne offers an imposing illustration of these mechanisms. For decades, successive governments have negotiated power and compromised with ethnic groups but later defied the constitutional vertical distribution of powers and taken back devolved powers thereby pouring oil on the fire of looming ethnic conflict. According to Jayampathy Wickramaratne, only the forging of a settlement which guarantees equality for the numerous ethnic minorities, most importantly the Tamil minorities, and the Sinhalese majority – by way of guaranteeing all regions a right to local self-government and fair participation – would ensure the sustainable cohesion of the conflict-ridden state. Unfortunately, Sri Lanka's history, including direct foreign involvement, has made its population afraid of power-sharing, in particular when it carries the label of federalism. Nonetheless, devolution when enforced symmetrically served all of the nine provinces of the country, ensured their equal treatment and offered a chance for autonomous development, chances and opportunities which the central government now seems to be crushing without itself being able to mobilise the country's resources and serve its entire population.

Unfortunately, as Nico Steytler shows by drawing on the examples of the Solomon Islands as well as Trinidad and Tobago, the objective to end material inequality is not necessarily the only objective of marginalised groups. In both of the island states, constitutional proposals aiming at introducing federal systems are currently being debated. For the marginalised and under-developed islands – or at least their elites negotiating in the capital – the promise of greater autonomy is linked with the hope that this will improve the management of non-renewable natural resources, ensure a fairer distribution of wealth and increase equality between the different regions. In both of the islands, like in many other parts of the world, these demands for more autonomy are particularly salient because the regions claiming autonomy as a means to end economic neglect differ from the dominating group in the capital in terms of culture, language, religion and ethnicity. Such a situation easily allows for political mobilisation along these lines and can turn economic equalisation into a potentially explosive matter in which failure can lead to outbreaks of violence or threats thereof.

By sharing power, remote or marginalised regions or groups often hope to turn around history and implement a system which is not necessarily based on equality and solidarity throughout the country but allows them to take

their turn. There is sometimes a willingness to pay back for old injustice by holding back, for instance, all the natural resources the regions have access to or to retain preferential access to them. As a rule, regions calling natural resources their own are more prone to secessionist movements, a fact which often leads opponents to qualify these movements as egoist as they are less based on claims of (cultural) self-determination or seen as a remedy to oppression but are rather viewed as a way of calling off solidarity. Old inequalities are then fought by an attempt to create new ones. The claim to autonomy, as often expressed in recent constitution-making processes, is then not one for autonomy but one that allows role reversal. When implemented, such a system may for a time serve as a tool to overcome wrongs of the past but then runs the risk of marginalising others. The proposed move to autonomy, even when combined with fiscal equalisation, also risks never being implemented in the first place, because those in power refuse to share power, due – rightly or wrongly – to a fear of payback.

As a conflict resolution mechanism, federal arrangements are then confronted with two objectives which can be contradictory: they must guarantee self-government for minority groups while at the same time ensuring solidarity between subnational governments and their citizens. If the unity of the country is to be upheld, the very idea of equality of citizenship cannot be questioned. While there is a guarantee of autonomy, there must also be one of equivalent public services, irrespective of location and group belonging. But how can this be provided? If the central tier enforces equitable distribution and solidarity throughout the country, the very purpose of having a decentralised system risks evaporation.

As Yonatan Tesfaye Fessha shows, Ethiopia perfectly illustrates this dilemma. By empowering all ethnic communities, the dominance of one group over all the other groups of the multi-ethnic nation has been ended and the aim of constitutional equality for all peoples, nations and nationalities, which was crucial to guarantee peace after a long civil war along ethnic lines, has been fulfilled. But the equality of citizens has taken a serious blow. Despite a constitutional commitment to uphold both individual and collective rights, the constitutional practice gives more weight to collective rights and frustrates claims based on the right of an individual to equal treatment. When self-governing units implement a mandatory language requirement to stand for election or to work for the government, this requirement is discriminatory when it is adopted to exclude members of non-dominant groups from participating in self-governance. Constitutional norms or practices which do not prevent such practice, and which cannot effectively prevent minorities within minorities from suffering from the autonomy of the other people's right to

self-determination question the legitimacy as well as the stability of the system and the overall state. A constitution thus cannot be committed primarily to upholding the autonomy of ethnic communities but must leave enough room for individual rights as well – and provide effective constitutional mechanisms to enforce both. As at the federal level, federal systems must deal with majority-minority tensions at the level of constituent units and protect internal minorities, irrespective of where they live.

Very similar lessons can be drawn from multinational Bosnia and Herzegovina. As Dejan Vanjek recalls, federalism was introduced to guarantee the equality of the three constituent peoples – Bosniaks, Serbs, Croats – but created discriminatory effects for member of other groups. Whereas nation-states are willing and often prone to sacrifice their diversity to force unity, multinational federations do not know or practice such a trade-off. Instead of a ‘winner takes all’ approach, which is typical for the classic majoritarian political reasoning, multinational federations opt for a culture of compromise and consensus between the major groups. Such institutional arrangements, however, require a high level of pacifism, voluntarism, and, first and foremost, generalised trust in the power of political deliberation and rational action for ‘win-win’ values of compromise and consensus to operate effectively. The character of Bosnia and Herzegovina as a multinational federation is not territorial, but rather corporative-communitarian; however, because the federation has no strong and resilient commitment to its fundamental constitutional values and lacks a supportive federal political culture, which would energise its federalism and internal federalisation process, the constitutional promises have yet to be fulfilled. Due to inherent structural deficiencies, the constitutional right to self-governance guaranteeing all three constituent peoples equal administrative-territorial autonomy and self-governing powers is currently still unevenly allocated and the federal executive and legislative powers still do not faithfully reflect the constitutional principle of symmetry of the three nations.

While constitutional practice still struggles to fulfil the promise of equality of groups, its very design creates formal and substantial inequalities questioning the principle of individual equality for all. Soeren Keil makes this clear by discussing the 2009 *Sejdić-Finci* judgement of the European Court of Human Rights which has not yet resulted in fundamental constitutional change but perfectly illustrates the tension between collective and individual equality. The amendments which the ECHR wishes to see adopted question one of the key constitutional elements introduced to ensure peace in post-war Bosnia, namely the power balance it installed between the three major groups. The constitutional peace treaty guarantees equal representation to the

three most important groups at the price of excluding other groups and raises the fundamental question of whether institutional mechanisms in post-war countries might exclude some communities from certain institutions when these arrangements serve the purpose of uniting and bringing together former enemies and therefore contribute to peace-building. Is it allowed – and if so, for how long – to give preference to the protection of group rights and power-sharing amongst ethnic elites at the price of the protection of human rights and fundamental freedoms for all Bosnian citizens? For countries discussing federalism as a tool of conflict resolution, such as Ukraine, Syria and Myanmar, one of the lessons that can be learnt from the Bosnian experience is that finding a balance between giving rights and autonomy to territorially organised groups and preventing discrimination against other groups remains a key challenge for any federal system. It is also evident that post-war institutional arrangements do not always organically change and reform themselves over time. While Bosnia's territorial and institutional arrangements reflect the necessity for cooperation and compromise between ethnically divided territories which were a precondition for the successful conclusion of the Dayton Peace Conference, today it can clearly be argued that the same arrangements have become a symbol for the permanent crisis of the political system and its lack of progress in the field of human rights and democratisation. Both authors investigating equality in the highly complex federation Bosnia and Herzegovina hence conclude that innovative and unconventional institutional mechanisms need to be employed to ensure that the inclusion of certain groups through power-sharing and territorial autonomy does not result in the exclusion of other groups.

A similar conclusion can be drawn from the Brazilian experience where the tension between autonomy and equality is most controversial when it comes to the political representation of the citizens from the different units in the first, rather than the second chamber of parliament. While second chambers typically aim at balancing the equality of the subnational units with the majoritarian mechanisms of the first chamber, both chambers operate in the federal logic of equalising regions in the Brazilian system. Sérgio Ferrari claims that such a system distorts individual voting rights, undermines political equality among the country's citizens, and allows federalism to supersede democracy and the political equality for which it stands. He demonstrates that the division of federal states into electoral districts along the borders of the constituent units may not be the only or best solution and runs the risk of unduly compromising equal political representation, especially when the number of representatives assigned to each constituent unit is not re-evaluated regularly and adjusted if needed. If not, the elegant federal compromise of having one

chamber representing the equality of regions, and another one guaranteeing the equality of citizens is undermined and the inextricable link between democracy and equality overstretched.

The acceptance of self-rule of regions or communities is either the result of necessity or of a voluntary restraint by the majority, which views diversity positively, accepts the principle of subsidiarity or simply wants peace. Accepting the overrepresentation of smaller regions or groups is also a compromise, which usually does not come into being by a simple majority vote but through negotiations in which federal actors negotiate as equal partners. But what of the principle of solidarity in all this? As a fundamental constitutional value, solidarity affects both interpersonal as well as interregional and intergovernmental relations. Solidarity and equality are twinned; one cannot exist without the other.

By using the example of Italy, Erika Arban recalls that demands for federalism are often seen as comprising the unity of the state and opposing the principle of solidarity – and hence equality. This is in particular the case when these demands are raised in the wealthier parts of the country. Federalism can then be seen as or blamed for being a mechanism of limiting solidarity and accepting the risk that the inequality of regions further increases over time. Such fears can only be overcome when the constitution legally protects solidarity and establishes public service and social welfare systems which are equally accessible to all. Federal systems are therefore bound to find a fine balance between autonomy and solidarity and adapt it over time. Such balancing obliges wealthier regions, in the name of solidarity, to allocate a part of their income to other regions or to the central government which then has the duty of coordinating equalisation payments. While this kind of equalisation scheme is necessary to reconcile regional autonomy with solidarity, it must respect the right to self-rule and abstain from interfering excessively in regional autonomy.

Peter Hänni draws similar conclusions from an analysis of the Swiss fiscal federal system and the mechanisms of equalisation of financial resources and burdens provided for by the Swiss Federal Constitution. The far-reaching fiscal autonomy of cantons and communes, which includes the right to determine tax rates, leads to very diverse tax legislations and unequal tax burdens of Swiss citizens depending on where they live. At first sight, such a system has negative effects on equality. However, these effects are mitigated on the one hand by individual rights protecting taxpayers and by duties of equal treatment enforced by the Federal Supreme Court. On the other hand, there is a federal system of tax harmonisation and a financial equalisation scheme, both of which help to reconcile autonomy with equality. While the first limits the negative effects of tax competition, the second prevents a vicious cycle of

cantons, disadvantaged by geographical-topographical or sociodemographic conditions, becoming even less attractive for citizens and investors because of their need to levy higher tax taxes. The financial equalisation scheme thus does not only equalise the financial resources of cantons but also compensates extra burdens with which some cantons are confronted. Such a system, combining both horizontal and vertical equalisation, permanently navigates between a merely symbolic equalisation and full equalisation, seeking compromises between solidarity, autonomy and competition which is welcome when fair.

Giulia Maria Napolitano and Gabriella Saputelli illustrate the challenge of reducing tensions between centralisation and autonomy by examining the Italian social care policy, a policy field which is particularly relevant for social equality. They demonstrate that ongoing conflicts between the central government and the autonomous regions and the absence of a nationwide standard of essential social care services threatens unity and the principles of equality and solidarity within Italy. They also show that it is a dynamic but contradictory process of power-sharing and a lack of regional fiscal powers, coupled by the absence of adequate financial transfers, which prevents regions from providing essential services. Such a situation, harming equality in a central matter, also has the potential of undermining regionalism as such. Hence, the lack of solidarity potentially endangers the diversity the regional systems aims at protecting.

By analysing the Argentinian approach to 'equivalent development' Miguel Angel Asensio raises similar challenges. In fact, federalism in Argentina has failed to overcome uneven development of regions and to provide socio-economic equality to its citizens. By highlighting the challenges and limits faced by the federal fiscal system in Argentina, he demonstrates that the complex problem of adopting a unified concept of 'development' has not yet been solved. Reliable data and new and innovative mechanisms at the national level would urgently be needed and would ideally be sourced by inputs, best-practices and knowledge gathered by regional authorities through locally implemented development mechanisms. Such a reformed system could provide for more even development changes for all regions and citizens without crushing the potential of bottom-up initiatives – and the right to self-government as such.

In fact, there are good reasons to insist on regional powers in the field of development and basic services despite the challenges such powers hold for equality. Based on a large comparison of European countries, Andrea Filippetti is able to show that citizens' satisfaction with local public services in heterogeneous populations increases when these services are provided by autonomous

regional and local actors. From the point of view of citizens living in diverse regions, access to public services is generally more satisfactory when these services are provided in a decentralised manner. The tendency of most EU states with increasingly heterogeneous population to bring the government and the people closer together and provide regions with more autonomy, in particular in the field of taxation, thus has the potential of providing better services in all the regions. Decentralisation is no panacea to poor service delivery and bears, amongst other things, the risk of decentralising corruption to regional governments. However, (re)centralisation is not the answer to such a problem as it is likely to reduce citizens' satisfaction. The presence of strong and independent regional media and a vibrant civil society are much more promising when it comes to dealing with the issue of regional and local state failures.

The fact that decentralisation allows for diversity in services and creates tensions with equal citizenship does not necessarily affect access to public services in negative ways. The fact that citizens' satisfaction with local services increases in heterogeneous societies might hint at the fact that it is a value in itself that services are delivered by local actors seen as belonging to the region and one's own community; people then feel empowered to impact on service delivery. The common view that human rights and federalism associated with unequal human rights standards are incompatible is often equally erroneous. Diversity even in the sensitive field of human rights is not *per se* a problem to overcome but a situation to handle within the framework of national and international human rights obligations, as Eva Maria Belser claims. Autonomy and equality are just as much friends as they are foes. In fact, both federalism and human rights aim at improving governance and protecting diversity by constraining power. More importantly, both federalism and human rights seek to respect, protect and fulfil equality and self-determination. While the former strives to implement the principle of equality by empowering smaller or weaker regions or communities and by guaranteeing equality between majorities and minorities and amongst minorities, the latter focuses on the enforcement of equality amongst individuals. Human rights protect the equal dignity and value of each person by guaranteeing all humans a right to self-determine their lives by making their own choices in all relevant fields – speech, beliefs, family, profession – and rely on the constitution to entrench these rights and on courts to enforce them, even against the will of the majority. In federal systems, the same underlying logic can be found. The aim of the system is to protect the equal dignity and value of the diverse regions and communities of the country and to provide them with a right to self-determination in relevant fields – culture, religion, language, development. Federal systems also rely on the constitution to safeguard these competences and on a neutral umpire adjudicating

conflicts based on the constitutional power sharing system – even against an act approved by the majority.

Equality is at the core of liberal democracies, and it is often used to measure, evaluate and monitor the relation between the state and the individuals that constitute it. While equality was linked in classical nationalism to the existence of one nation and one national identity, acknowledging the fact that countries are often home to many nations and numerous national identities, and that each of these nations has a right to its own local political structure, challenges this concept of equality by giving the impression that the country is fragmented and equality thus impossible. While unitary states find it easier, at least in theory, to guarantee the equality of all their citizens, to effectively redistribute resources and to provide equal resources to all, they often fail in practice. When pondering the difficulties of federal systems to enforce equalities, one should thus not forget that factual differences between communities and regions of one and the same country challenge the cohesion of all states, be they unitary, regional or federal. In fact, unitary states do not seem to have a better record when it comes to equalising disadvantaging differences and guaranteeing equal chances to all. While it has been shown that centralised unitary states have empirically the most salient asymmetries, the predominance, even today, of classical national beliefs produces a perception among both people and political leaders that giving autonomy to some national groups leads to a fragmentation of equality and an increase in unfair inequalities. This perception, combined with other political considerations such as a strong fear of secession, often leads the majority to refuse any consequential devolution of power in favour of regional and local governments. However, reliable and well-implemented devolution of power in favour of regional and local actors has the potential of improving service delivery and ensuring a peaceful balance between majorities and minorities, and of weakening secessionist claims as regional and local governments find themselves enabled to address major local issues without depending on the central government or on the rest of the population. Such an arrangement does not hinder solidarity but can be a condition for it to function effectively. Federalism after all is not only about yielding autonomy, but also about fostering collaboration and solidarity between the different units that constitute the state.

The granting of autonomy does not by itself further fragment equality, increase inequalities or lead to new ones, neither does it necessarily question solidarity or threaten the unity of the state. Anna Gamper convincingly counters this predominant belief and demonstrates that federalism and equality are not principles which oppose each other. Quite the contrary, both principles, in fact, share a common narrative, namely *suum cuique tribuere* – to give

each their own. While federalism aims at guaranteeing diversity, and equality is mobilised to ensure homogeneity, the principle of *suum cuique tribuere* unites the two. In order to ensure justice, it considers the situation of each actor and attributes goods according to needs and priorities. This common principle of justice is essential to understanding the way federalism legitimises equal and unequal treatment of regions and persons living in different regions. While human rights organisations might regard the relation of federalism towards equality as flawed, asymmetries in federal states exist because federal systems consider everyone's situation, including their needs, aims and aspirations, in order to better guarantee justice – and to ensure not only formal but also substantive equality before the law and by the law. This objective can only be reached when factual differences – whether demographic, geographic, ethnic, cultural, social, political and economic – existing between different groups, regions or individuals are considered and used to justify, depending on the circumstances, either equality of treatment or compensatory inequality of treatment. Equality can then be carried out, as justice can be carried out, by balancing the rights and obligations of the one vis-à-vis the other and by respecting, protecting and fulfilling the potential of each – be it a state, nation, region, minority or individual.