

MINORITY CULTURAL GOVERNANCE THROUGH AUTONOMY ARRANGEMENTS AS A MEANS OF EXERCISING AGENCY

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ABSTRACT: Cultural autonomy as a means to respond to minority groups' claims differs from classical anti-discrimination or affirmative action measures and strategies. It is rooted in the liberal argument that modern states should be active contributors to pluralistic public spaces and defenders of cultural differences. Connected to non-territorial autonomy, it proposes arrangements for the cultural preservation of minority groups tied by common ethnocultural descent. To explore the features and implications of such arrangements, the discussion in this contribution will unfold in three parts: first, it will consider the basis and features of cultural autonomy when conceptualized for the benefit of ethno-cultural minority groups. The second part will attempt to respond to the question as to whether cultural autonomy could represent the post-territorial toolkit *par excellence* for minority groups embracing multiple identities today, without challenging the territorial integrity of the state. To do so, it will focus on religion and language as identity markers that could form the basis for such types of minority group autonomy. The third part will briefly assess the dynamic of existing cultural autonomy arrangements and propose a way forward towards networked forms of diversity governance.

L'autonomia culturale come mezzo per rispondere alle richieste dei gruppi minoritari si differenzia dalle classiche misure e strategie antidiscriminatorie o azioni affermative. È radicata nelle argomentazioni liberali secondo il quale gli stati moderni dovrebbero contribuire in modo attivo agli spazi pubblici pluralisti e difendere le differenze culturali. Collegata alle autonomie non-territoriali, essa propone disposizioni per la preservazione dei gruppi minoritari legati da una comune discendenza etnoculturale. Per esplorare gli aspetti e le implicazioni di queste disposizioni, la discussione in questo contributo si svilupperà in tre parti: primo, prenderà in considerazione le basi e gli aspetti dell'autonomia culturale quando concettualizzate a beneficio a beneficio dei gruppi minoritari etno-culturali. La seconda parte cercherà di rispondere alla questione se l'autonomia culturale possa rappresentare lo strumento

post-territoriale per eccellenza per i gruppi minoritari includendo oggi identità multiple, senza sfidare l'integrità territoriale dello stato. Per fare ciò, si concentrerà sulla religione e il linguaggio come segnali che potrebbero formare le basi per questo tipo di autonomia dei gruppi minoritari. La terza parte valuterà brevemente la dinamica delle disposizioni dell'autonomia culturale esistente e propone un passo avanti in direzione delle forme collegate di governance della diversità.

KEYWORDS: Cultural autonomy, Minorities, Religion, Language, Agency

PAROLE CHIAVE: Autonomia culturale, Minoranze, Religione, Linguaggio, Agentività

Culture is politics by another name.
MITCHELL 2000, p. 294

1. Introduction

Contemporary cultural governance relies on contextual and comparative dimensions of culture including those linked to the idea of culture as difference (Appadurai 1996, p. 13). It can be defined as “[...] how political authority must increasingly operate through capacities of self- and co-governance and therefore needs to act upon, reform and utilize individual and collective conduct so that it might be amenable to its rule” (Bang 2004, p. 159). Ethno-cultural minority groups, in particular, have traditionally turned to a variety of such regulatory solutions in cooperation with states to defend and promote their cultural difference. Within attempts to reach solutions through diversity governance, the reconciliation between individualized and collective normative entitlements for minority groups remains nevertheless largely unresolved. Adding to it, is the continuing search for sustainable solutions for minority groups with a distinct ethno-cultural identity to manage their cultural identity in autonomous ways.

Since the 1990s, in particular within the context of the study of the British context, the regulation of culture has been linked to multi-culturalism and cultural globalization, focusing inter alia on aspects of representation, identity and regulation (Schmitt 2011, pp. 37–39; Ashcroft and Bevir 2018; Mathieu 2018; Vertovec 2006; Parekh 2000). The relationship of minority cultures to the “mainstream” and national cultural traditions forms an integral part of cultural governance, where

forms of autonomy are considered. Any search for such sustainable solutions allows (and even requires) the consideration of actor-centred perspectives to show how minority groups enter into conscious negotiation processes with states in order to claim rights and recognition (Schmitt 2011, pp. 22–23).

Cultural autonomy has been defined as the “devolution of political powers to nationalities formed on a non-territorial basis and through voluntary individual affiliation” (Bauböck 2001, p. 1; Coakley 2016; Malloy 2015; Nimni 2015). At the core of cultural autonomy arrangements within any given polity lies the political project of an ethno-cultural group to a common future on the basis of common descent, without necessarily a territorial dimension structured around a geographical unit subsequently transposed to a political one. It includes considerations on actors and their practices, institutions as well as discourses (Schmitt 2011, p. 44).

Developed by Karl Renner and Otto Bauer in the context of the Habsburg Empire, *non-territorial autonomy* has been historically conceived as an option to respond to the cultural needs of national minority groups. It was devised to promote the disassociation between territory and cultural rights. The personality principle within non-territorial autonomy and cultural autonomy makes the frame appropriate for the organization and regulation of aspects related to a group’s culture, language, religion or education. Viewed from a diversity governance viewpoint, cultural autonomy through the lens of non-territorial autonomy is relevant from a politics of difference and recognition perspective, as it supports the underlying claim that minority rights are needed in addition to human rights. It presupposes that we can agree that the cultural self-preservation of groups is of value to super-diverse societies. The aim of autonomy is pursued in the absence of threats to the territorial integrity of states and as such is perceived as less divisive for states⁽¹⁾. But to what extent are cultural autonomy arrangements suitable at present for minority groups? Do they provide viable alternatives for minority groups and their members as individuals? As importantly,

(1) See for example the OSCE Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999) where under Articles 15–18, non-territorial arrangements regulating matters in education, culture, religion and minority language are included.

what happens if the group is not active or interested in preserving its cultural autonomy?

At its core, cultural autonomy as a means to respond to minority groups' claims differs from classical anti-discrimination or affirmative action measures and strategies. It is rooted in the liberal argument that modern states should be active contributors to pluralistic public spaces and defenders of cultural differences (Bauböck 2001, p. 3). To explore the features and implications of such arrangements, the discussion will unfold in three parts: first, it will consider the basis and features of cultural autonomy when conceptualized for the benefit of ethno-cultural minority groups. The second part will attempt to respond to the question as to whether cultural autonomy could represent the post-territorial toolkit *par excellence* for minority groups embracing multiple identities today, without challenging the territorial integrity of the state. To do so, it will focus on religion and language as identity markers that could form the basis for such types of minority group autonomy. The third part will briefly assess the dynamic of existing cultural autonomy arrangements and propose a way forward towards networked forms of diversity governance.

2. The basis and features of cultural autonomy

Within a European context, minority group based cultural autonomy has typically consisted of the combination of freedom of association with (evolving) cultural practices, on the basis of the state's support and recognition. The aims of cultural autonomy combine attempts to guarantee collective rights to minority groups but also to secure a degree of normative autonomy with the most extreme option being to allow the minority group to determine its own "internally" applicable law. The main approaches to serve the broader aim of cultural autonomy either allow the ethnic group to manage its internal, cultural or linguistic affairs and/or include arrangements that allow the creation of ethnicity-based institutions that manage public competences autonomously in the area of culture (Prina *et al.* 2019).

An important preliminary dimension, however, in considering minority cultural identity through autonomous arrangements is centred

around the question of which minorities can claim such autonomy. Within this question, one can find the recurring issue within minority studies of who is entitled to autonomy. Distinguishing between national and ethnic minority groups provides only part of the answer. Socio-legal realities suggest, in addition, that it is minority groups that either pose threats to the survival of the state or those who are relevant for the state in ideological or political terms that are granted various forms of autonomous arrangements to avoid conflict(s) (Poirier 2008, p. 41).

Conceptually, participation of minority groups in public life includes the important component of self-governance⁽²⁾. Self-governance for cultural purposes (though not exclusively) has been connected with autonomy (Dinstein 1981, p. 291). Cultural forms of autonomy can overlap with personal ones, whereby competence to govern oneself is, in certain pre-designated matters, transferred to a minority group body (Henrard, 2005, p. 141). While the underlying concern with such arrangements is to respond to the need and concerns of minorities, existing European standards have already spelt out the “internal” requirements that institutions of self-governance should adopt, including the respect for democratic principles and human rights, covering also those of the “minority within a minority”⁽³⁾. As substantially, autonomy arrangements carry the potential for empowerment of those groups that enjoy them (Poirier 2008, p. 37). Through the prism of such empowerment, cultural autonomy places equal emphasis on *rights* as normative entitlements but also on the *power* to claim space to exercise rights and shape one’s cultural destiny (Poirier 2008, p. 39).

Normatively, one can already identify at least two major difficulties when implementing such arrangements: the first concerns the decision of who should be considered a member of the minority group enjoying cultural autonomy. There is, *prima facie*, a tension here between the right to association and that of self-determination. The latter

(2) See for example the OSCE’s Lund Recommendations on the Effective Participation of National Minorities in Public Life and Exploratory Note, Foundation on Inter-Ethnic Relations, Hague, 1999, at 6.

(3) See OSCE Lund Recommendations and Explanatory Note at paras. 16 and 21. See also paragraph 17 of the Lund Recommendations stipulating that “non-territorial forms of governance are useful for the maintenance and development of the identity and culture of national minorities.”

is informed more often than not by superimposed and shifting identities that minority groups and their members adopt, making belonging a non-linear process for both individuals and groups. The second challenge lies in reaching agreement within the group on the collective dimensions of the group's quest for cultural survival and development. Within this process, the reliance on the state to take on positive obligations to support it is crucial though very contested by states but also unstable. Very commonly, these obligations entail the mobilization of economic resources but also of political means to allow the groups to survive and/or grow in cultural terms.

Equally problematic is the need to address potential instances of discrimination arising out of cultural autonomy arrangements. But while minorities, including in their cultural aspects, are recurrently considered through a security lens (Carla 2023; Roe 2004), the present contribution instead proposes to approach them as an element of normalised domestic politics (Divald 2020). Translated into the contemporary needs of ethno-cultural groups, autonomy arrangements are empirically implemented to serve the needs of national minority groups. More than that, they can serve the purposes of minority cultural reproduction (and survival) in times where cultural identity becomes highly individualized and population movements are intense and continuous.

With the aim of cultural survival and reproduction in mind, the non-territorial components of such arrangements tend to focus on aspects of education, media, cultural symbols, language and even personal or family law⁽⁴⁾. Political autonomy, within such a frame, has been commonly organized around *national councils*, formed by minority groups with consultative functions for the most. In theory, the status and powers of an entity that forms the core of a cultural autonomy body and serving a linguistic, cultural or religious autonomy goal corresponds to that of a public law entity. It must be distinguished from that of a non-governmental organisation or associations. This is because minority cultural councils are introduced through constitutional

(4) See only indicatively the 1993 Estonian Act on Cultural Autonomy for Ethnic Minorities and the Estonian Language Act 1995 that adopt the principle aims of organizing education in minorities' mother tongue, establish and manage educational facilities, a fund for the promotion of culture and education and the formation of an institution for the promotion of culture (Article 5 of the Act on Cultural Minorities).

or statutory instruments (De Villiers 2012, p. 173). In practice, when responding to the need for practical solutions for dispersed minorities, particularly within Central and Eastern Europe, cultural autonomy has not been, however, always completely detached from territorial autonomy arrangements.

Modern illustrations of cultural autonomy include frameworks based on minority cultural councils found for instance in Hungary, Slovenia or Estonia; or the separate councils for Dutch, French and German speakers in Belgium since the 1970s. The measure of their scope of autonomy is nevertheless a matter of open and ongoing debate. Perceiving autonomy as a *process* (Ghai 2000) may perhaps leave some room for optimism: the accommodation of ethno-cultural diversity through cultural autonomy can have a positive effect on the role of the state in the longer term. By recognizing non-territorial means of redistribution of resources and cultural forms of pluralism, states can mobilize their powers to serve their own interests (i.e. the diffusion of conflicts) but also those of others (i.e. cultural survival of minority groups). Cultural autonomy admittedly has served often de-escalating purposes for conflicts around identity and borders, as already mentioned. But could it be also relevant for minority groups within post-modern polities even when they are not territorially concentrated? In addition, could cultural autonomy present the post-territorial toolkit for the multiple identities that minority groups embrace today, without challenging the territorial integrity of the state?

3. Cultural Autonomy and Religion

Religious affiliation or traditions constitute one of the essential elements of minority cultural identity. The nexus between religion, minorities and identity remains the locus and focus of cultural autonomy arrangements insofar as groups claim the right to believe and manifest their faith. With regard to religion, minority cultural autonomy can take two forms: some countries provide for certain laws related to religion that apply to members of religious minorities regardless of where the person may be located. These kinds of arrangements are qualified as *personal law*. Issues of

personal law usually cover aspects of family law (e.g. marriage, divorce, inheritance). Disputes are solved by different jurisdictions specific to religious communities. A typical example in this case is India. A second option is for the state to assign intermediaries to organise religious–identity related activities. For example, the German Islam Conferences operate as an example of state–stakeholder partnership: the German state negotiates with various Muslim organization aspects of cultural and everyday life in Germany. Alternatively, states support bottom–up governance initiatives that aim at the production of specific public goods (e.g. minority religious schools/“faith schools” in the UK). It should be emphasized that these forms of diversity governance can function as pluri–centric networks where state and minority–led actors form alliances towards culturally related public purposes. They do not always presuppose or even rely on a legislative agreement recognizing the institutionalization or other autonomy aiming formalization of the relationship between the state and the minority group(s).

Commonly, the accommodation of claims towards autonomy within family or personal law status involves, however, state monitoring in terms of basic norms to be respected or the modalities of procedural guarantees to be followed (e.g. in the appointment of religious adjudicators) (Gaudreault–Des Biens 2010). At the other end of the spectrum of cultural autonomy arrangements, the privatization of religious diversity presupposes a fully–fledged contract–based regime between the state and a religious minority towards the provision of religious arbitration or adjudicatory services to the communities concerned (Shachar 2008; Manea 2016).

Within religiously diverse societies, these kinds of arrangements demonstrate the shortcomings of unitary or strongly integrationist regimes. While religious autonomy is not without significant risks (Gaudreault–Des Biens 2010, p. 161)⁽⁵⁾ it offers remedial leverage for minority groups against pressure by majority groups. It may also contribute towards the remedy of historically rooted disadvantage and oppression against some minority communities. As such, this type of

(5) Gaudreault–Des Biens argues that these arrangements are not always successful in preventing the further minoritization and disempowerment of some communities when their members are systematically defined and treated as “minorities”.

arrangements corresponds comparatively well to groups that in historical terms are “non-territorialized” minorities without state recognition or to “new” religious minorities that are of immigrant background and with to avoid assimilation (Gaudreault–Des Biens 2010, p. 167).

Minority status of a religious and ethnic group especially in diaspora tends often to reinforce religious identification and by extension the need/claim for minority groups to manage autonomously their cultural existence. Breaking the limits of territoriality while creating new types of transnational religious communities, diasporic religion has the tendency to strengthen the link between religion and ethnicity. This dynamic movement is inevitably reflected in different patterns within public education (e.g. Islamic faith schools in the UK, Denmark or Austria). Minority groups constituted from immigrant populations in Europe are not, however, immediately and unambiguously designated as beneficiaries of cultural autonomy. States may decide to award degrees of cultural autonomy, however, either because they perceive such groups to pose a threat to the cohesion of the state in general or because the state considers the vitality of such groups as relevant for political, ideological or even historical factors.

Claim-making in circumstances of autonomy in religious minority matters describes a process where religious minority groups move beyond equality and non-discrimination claims to more political ones. For the latter, the minority group must embrace a distinct politically bound community status, often coinciding with a shift from individual to more collective rights claims. States, particularly in the Western context, have traditionally resisted such claims due to the challenges that the public recognition of such communities with self-governing powers raise for citizenship in a liberal context⁽⁶⁾. In broader terms, for these claims, however, to have a possibility to flourish and evolve in positive terms, they must acquire “juridical relevance” (Santi Romano 1975, p. 106): in clear terms, religious minority groups as entities need to demonstrate their relevance for the State and its legal order in order to survive.

(6) For an inspiring opposite view see Charles Taylor, “Shared and Divergent Values”, in R. Watts and D. Brown (eds.), *Options for a New Canada*, Toronto: University of Toronto Press, 1991, at p. 53 discussing the concept of *deep diversity* as describing a larger polity membership that is conditional upon belonging to another small community.

Particularly for minorities whose interests may not be well protected and/or understood by the mainstream, religious minority groups develop institutions that undertake in response to marginalization and cultural needs a social and economic role. Through their activities, they contribute towards the creation of culture, of public morality and of economic activity through the provision of jobs. In some instances, these bodies are even able to build an entire (alternative) social environment that includes schools but also banks, hospitals and other services to cater for the needs of their believers. The cultural dimensions of such institutionalization efforts are not however without risks as they may lead to the creation of ethnic enclaves and social segregation of groups.

The increasingly complex constellations of interactions between the state, the market and non-state, including religious, minority actors along with the questioning of secularism (i.e. the separation of the state and religion) as the dominant trajectory are precisely in the process of shifting the distribution of “public goods” from states. This happens because, although there is a decline of individualized religion’s significance and role in society, religion and religious actors remain still heavily involved in providing health care, education and other social services and at the same time, activism continues to be grounded on religious identities. As importantly, due to population movements, minority religious identities are more and more hybrid and policy (as well as legal) interventions are called upon to take account of the growing spread of such multiple, *hyphenated* identities.

With the increase of religious diversity and the proliferation of super-diverse contexts, the future of religious governance, including through the consideration of cultural autonomy arrangements, has embraced scenarios of raising complexity. Borrowing from theoretical constructions such as those built around *inter-faith governance* (IFG), forms of cultural and religious autonomy could acquire enhanced impetus. Following developing IFG constellations, states are increasingly prepared to test forms of state-stakeholder partnerships to support the production of public goods akin to non-territorial arrangements in the more classic sense⁽⁷⁾. Similar alternative arrangements extend to *mul-*

(7) See for example the case of the German Islam Conferences focusing on questions of legal constitution, financing and everyday life issues.

tilevel pluricentric networks, conceived as alliances of interdependent agents for a public purpose (Martikainen, 2013). Within such formations, religious institutions, trans-governmental alliances and to a lesser extent states govern through negotiation. By virtue of this arrangement, the need for the state to maintain a direct link to all (including minority) faith communities is strengthened⁽⁸⁾. Ultimately, these modes of governance are expected to lead to self-regulation which is a basic characteristic of autonomy arrangements (Koch 2010, p. 536).

4. Cultural Autonomy and Language

Linguistic cultural autonomy arrangements are premised on the complex relationship between languages, societies and political institutions. In simpler terms, linguistic diversity affects the design of autonomy arrangements and vice versa (Arraiza 2015, p. 8). At the basis of these arrangements are identity claims aiming mostly for state recognition and/or state support in minority culture preservation.

Language, as one of the salient identity markers of a group, has been historically present in several self-determination struggles in Europe and has been furthermore closely associated with European nationalism during the 19th century. The recognition of the rights of minority cultures, in connection to language policy, is usually based on the choice between regimes based on *territoriality* (where linguistic rights are afforded to inhabitants of a defined geographical area) and those based on *personality* (where linguistic rights are given to persons belonging to certain groups independently of territory). The second category presupposes self-identification of the members of the groups and a certain capacity of the group to govern itself. It also requires linguistic diversity as “both a condition and an argument for political mobilisation.” (Arraiza 2015, p. 12). In reality, minority language regimes are more complex, combining territorial and personal elements (Burckhardt *et al.* 2021, p. 123).

The preservation of a minority language represents an important element for the cultural survival of a group. It is tightly connected to claims

(8) See for example the case of the Swedish Interfaith Council where state funding for interfaith work operates as an incentive to collaborate.

for minority–language education, including in the case of non–territorialized minority groups. Minority languages encapsulate “the record and synthesis of the main historical experiences that reflect the lifestyle of a community.” (Ruiz–Vieitez 2016, p. 16). Their minority/minoritized⁽⁹⁾ legal status is often the outcome of personal and/or collective trauma, connected to broader social conflicts and upheavals. But as minority groups opt to define themselves in relation to language, it becomes the task of the multicultural state to protect minority languages as an objective aspect of cultural manifestation. This does not mean that there are no controversies or instances of state reluctance to admit the existence of certain minority languages (e.g. the case of Serbo–Croat or Moldavian and Romanian and even Ruthenian and Ukrainian) or the restrictive use and application of names in those languages⁽¹⁰⁾. In an opposite direction, the example of minority language school boards in Canada provides a more successful application of linguistic autonomy arrangements. Section 23 of the Canadian Charter has been interpreted by courts to grant constitutional rights to linguistic minorities in the management of their schools as well as the right to establish policies for the hiring, retention and promotion of the personnel of their choice⁽¹¹⁾.

Still, the available experiences of linguistic cultural autonomy in Europe are not, however, encouraging: the influence of the groups on cultural policy making is limited, state resources are unsteady and politicized and the use of minority languages within self–administering communities appears to be in decline⁽¹²⁾. The territorial concentration of minority groups seems, on the other hand, to increase leverage and funding opportunities for minority groups wishing to safeguard and promote their language.

(9) The concept of ‘minoritization’ is approached in this context as “structures and processes that make some person, group, concept a minority”. It implies a shift of focus from categories like a “minority” to processes and constructions that turn individuals into minorities, including through “othering” through language and other forms of social practice. See in this respect, Stausberg *et al.* (2023).

(10) Ruiz–Vieitez (2016) at p. 18 adds to the scenarios of minority linguistic complexity the role of the use of different alphabets even within the same language as a result of differing religious affiliations of the groups in question,

(11) See *Hak v. Procureur General du Quebec*, 2021, QCCS 1446; *Mahe vs Alberta*, 1990, 1 SCR 342 at 375–6.

(12) Prina *et al.* (2019) discussing the relevant examples in Hungary, Serbia and Russia.

State responses to minority linguistic claims vary: some states adopt a “preservationist” approach aiming at the survival of recognized minority languages as cultural forms (regardless of patterns of use). Other states are more “protectionist”, conceding mutually acceptable forms of accommodation to their use (e.g. bilingualism). A third option sees states making no concession to minority linguistic demands (i.e. the state is defined as unilingual), while in a fourth and more “permissive” approach, the state leaves room for linguistic communities as non-state actors to organize themselves while offering some support to them to realize their goals (Burckhardt *et al.* 2021, p. 126).

Cultural forms of autonomy have found expression within granted collective constitutional rights, dissociated from territorial rule in post-1970s Belgium or in several Central and Eastern European states after the fall of communism (Coakley 2016a, pp. 13–17). Based on a recognition of the states of ethno-cultural minorities as collective entities, such arrangements carry the potential to give control to the groups over their cultural, including linguistic, affairs. Coakley argues, however, that the comparative analysis of such regimes leads one to think that “there may be less — perhaps, much less — to non-territorial autonomy than meets the eye” (Coakley 2016b, p. 178). Still, cultural autonomy may correspond better to situations where there is need to strike a balance between equality (understood as equity) and efficiency, while creating space for minority groups to act as agents alongside the state in shaping their cultural destiny. It may also correspond better to scenarios of ethnolinguistic polarisation (Burckhardt *et al.* 2021, p. 132)⁽¹³⁾, especially when territoriality is challenged in policy making by factors such as the strengthened role of non-state actors, new migration flows and intensified digital communications (Burckhardt *et al.* 2021, p. 136).

5. Assessing cultural autonomy arrangements

Normatively, cultural autonomy arrangements rest on minority rights and self-determination. They challenge unified and narrow

(13) See also the example of Switzerland contrasting the top-down linguistic territoriality principle with the bottom-up self-determination of linguistic groups within the cantons.

ethno-cultural views of statehood as well as consolidated views of a dominant group within a given space. As a long-term strategy, cultural autonomy can be assessed on the basis of its impact on the processes of integration (understood as inclusion) versus the fostering of models of separate coexistence, responding to the specific historical and national context each time.

In matters of minority cultural practices, the core question concerns cultural diversity and its limits. In other words, it asks which cultural practices and beliefs a state must accommodate, permit and support. The aim of such question is to achieve a balance of rights and interests that permit cultural minorities the practice and development of their cultures within the state structure. In liberal multiculturalist contexts, this type of “project” additionally entails the provision of the space for members of minority culture to live autonomous lives. To do so, the state must allocate resources for these groups to develop and/or maintain their cultures (Lambrecht 2023).

To assess the nature of cultural autonomy arrangements, several elements need therefore to be taken into account: the institutional design of the bodies responsible, their powers, the issue of membership within those bodies and the mechanisms for the participation of members are some of the most relevant aspects (Suksi 2015, p. 84). The issue whether private entities in the form of cultural minority organizations taking on the task of providing (cultural) public services should be included within cultural autonomy arrangements in the absence of statutory measures of division of competences and special jurisdictions under the self-management of the group(s) remains contested (*ibid.*; Osipov 2013).

Still, the pressing questions subsist: how sustainable are cultural autonomy arrangements if they fail to promote the socio-economic participation of minorities? And do they de facto function as excluding mechanisms from mainstream processes (e.g. in employment, equal political participation, education, etc.)? The available instances of cultural autonomy show a limited vesting of powers both de jure but also de facto (Suksi 2015, p. 103). Existing cultural autonomy arrangements do not give entitlements to groups to exercise legislative powers nor include exemptions from general national legislation. Ultimately, in their

current forms, they become distinguishable by virtue of the possibility afforded to the groups to exercise varying degrees of public authority over the members of each group within pre-designated matters. Given the highly situational background prevailing in each national context, cultural autonomies predictably entail varying degrees of freedoms. The main criticisms vis-à-vis such arrangements remain their limited decisional powers, the unclear legal status afforded to minority groups endowed with vague competencies and more practically, their unstable state funding (Yupsanis 2019, p. 86; Nimni 2005; Dobos 2023). It is hardly surprising, therefore, that cultural autonomy-based agency of minority groups can be limited and limiting in those terms.

6. Autonomous Minority Culture(s) as a Public Good and the role of Minority Cultural Groups as Institutional Brokers

The governance of cultural autonomy for the benefit of minority groups is a horizontal task that extends both to legal standards (human and minority rights) as well as to policy measures. The shared process of shaping a group's cultural identity is therefore linked to the enjoyment of rights through relevant policy measures (Vieytez 2016, p. 7).

But are cultural autonomy arrangements able to release ethno-cultural minority groups from the prevailing territorialized constraints of autonomy? The answer to the fundamental dilemma between the right to equality as opposed to that of the protection of difference provides the starting point for the assessment as to whether and how minority groups may benefit from arrangements that are closely tailored to their needs. International standards and national legal requirements have only cautiously begun to consider the plausibility and sustainability of ad hoc instruments that adopt diversity as a value to be protected beyond equality⁽¹⁴⁾. At the level of states, however, there is still resistance to move away from notions of territorialized cultural belonging, despite

(14) See for example the case of the European Union, which characteristically considers minority protection standards outside its remit of competences but who at the same time through the Charter of Fundamental Rights (legal enforceable through the Lisbon Treaty) contains Articles 21 and 22 on the prohibition of discrimination and on the respect of cultural, religious and linguistic diversities respectively). See additionally Palermo (2007).

multiple challenges posed today to state perceptions of cultural homogeneity (Quer and Memo 2012, p. 162).

The understanding of territory as a source of conflict is certainly not a novel one: Renner's attempt to de-securitize minority claims dates back to the mid-1920s (Renner 1924). His proposition to consider communities as entities defined around cultural and personal membership was aiming at deconstructing the myth of ethnically homogenous regions as a solution. Instead, through the combination of territorialized and non-territorialized tools, he devised a system where cultural needs are addressed through minority designated institutions to maximize the opportunities to protect their distinct cultural heritage beyond territorial concerns.

Transposing an analogous vision to contemporary realities demands a fundamental paradigm shift: states should abandon the exclusive role of guarantor of minority protection and assume that of coordinator of diversity within policy implementation (Quer and Memo 2012, p. 173). Culture and cultural difference, therefore, should not be excluded from state governance but rather negotiated within the confines of key constitutional principles such as equality, citizenship or the separating of the public and private spheres. Within a hyper-diverse world, the desire for identity preservation cannot be detached from emphasis on linguistic, cultural, historical and social practices but can only be governed (and understood) through means that are responsive to those needs.

Governance networks are useful to resolve impasses created by institutional arrangements that do not correspond to the needs of various stakeholders involved. Public-private partnerships as a model to address cultural diversity are not, however, a new phenomenon in governance⁽¹⁵⁾. These networks combine the rule-making power and capacities of states with non-state actors such as civil society institutions enjoying legitimacy on the ground joined often also by private entities (e.g. businesses) that drive the financial needs of the constellations (Huppe *et al.* 2012, p. 2). Assuming that minority cultural protection and promotion is considered as a public good, governance networks describe:

(15) See for example a view from the US by Guo (2022).

(...) initiatives deliberately undertaken by governments to accomplish public goals (...). The ultimate goal of these efforts is to produce the maximum possible public value, greater than the sum of what each lone player could accomplish without collaboration. (Goldsmith and Eggers 2004, p. 8)

Moving beyond federal arrangements, reflexive governance strategies that move outside traditional government are characterized by “more or less stable patterns of social relations between mutually dependent actors, which cluster around policy problems, a policy programme, and/or a set of resources” (Klijn and Koppenjan 2015, p. 11). These collaborative governance networks of actors are constituted by a plurality of participants that do not steer policy from a single point but rather through the interaction of state and non-state actors. They additionally presume that local actors are better positioned to devise solutions and implement frameworks as governance that arises from the bottom-up (van Duijn and Yberma 2022, pp. 661–662).

Minority cultures, as a recognized public good, could be perceived as forms of institutional entrepreneurship that aim to expand (and protect) cultural diversity. Institutionalization projects of this kind are well under way in Western Europe, for instance in the field of education (Topidi 2023). Stakeholders within such networks include the state but allow local cultural organizations to partake in efforts to implement specific policy projects through constellations of “interdependent, but operationally autonomous agencies” (Sorensen and Torfing 2007, p. 9). Given how existing examples of minority cultural autonomy have been criticized for excessively centralized governance approaches, networked cultural autonomy could provide the space for minority cultural groups to self-organize within such initiatives and develop their agency through bottom-up processes in co-production with states.

For national minority actors and institutions, a network governance approach to cultural autonomy could constitute an alternative approach to enhance the public value of minority cultures and reinforce cultural vitality processes while responding to financial sustainability through an expanded stakeholder regime. Although network governance is not without challenges of coordination, it may suggest collaborative schemes

that allow both integration and differentiation at the same time, making them particularly relevant for cultural autonomy arrangements of minority groups. Within this type of arrangements, the state (as central governing unit) retains its power but leaves more room for the development of agency of minority culture actors. Based on decentralization efforts, network governance can offer opportunities for self-organization, without eliminating nevertheless the possibility of conflicts emerging between the different parties (van Duijn *et al.* 2022, p. 666). At the same time, as networks are not static, “reified” structures, they can adjust to the minority groups’ policy needs as long as they are able to produce outcomes that reflect the intention and interests of the partners.

Built around social innovation, minority cultural governance can become more responsive to the needs of those cultural groups whose needs are not served due to state-centric approaches to diversity governance. They also offer the promise of more sustainable solutions for minority groups insofar as actors involved develop visions of policy that make sense to all, while stimulating the involvement of local minority communities that current territorial and non-territorial models of minority cultural arrangements fail to fully acknowledge.

7. Concluding Remarks

The contemporary practice of non-territorial autonomy suggests that Bauer and Renner’s 19th century concept of *national cultural autonomy* may still be relevant today, subject to some actualization. With the exception of the field of education, where international law has established the right of minority groups to set their own private schools⁽¹⁶⁾, most other aspects of cultural autonomy do not provide direct legal entitlements to the minority groups to self-regulate. Ideal forms of cultural autonomy, according to Yupsanis, thus presuppose an accumulation of features that emphasize self-identification of members as belonging to the group, minority group registers, cultural councils and

(16) Minority Schools in Albania, Advisory Opinion, PCIJ (ser. A/B) no.64, at paragraph 79. For a more recent bilateral example see all the case of German language private schools in Southern Denmark operating on the basis of the 1955 Copenhagen Declaration and the Act on Free Schools (Bekendtgørelse af lov om friskoler og private grundskoler m.v. 2011).

self-governing bodies, state recognition of these bodies in public law terms, accompanied by collective rights awards, tax-raising capabilities and legislative powers in their fields and lastly continuous and steady state funding (Yupsanis 2019, p. 88).

More than that, the terms of existing minority-relevant cultural autonomy arrangements overemphasize the role and responsibility of minority groups in claiming agency while recalibrating the role of states as mere recipients of claims that concern financial support destined to sustain the cultural subsistence of the groups concerned (Garibova 2012, p. 106). Through complicated and often obscure legislative frameworks to that effect, the state has sustained a minimalist role in the protection and promotion of the cultural identity of minority groups. This role may require re-routing to more dialogical forms of cooperation between the state and cultural minority groups in order to enhance the possibilities for the latter to shape their cultural destinies.

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