An ethnically based federal and bicameral system
The case of Cyprus
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Abstract

Central to the constitutional provisions that make up the most recent framework agreement put forward by the United Nations for the resolution of the Cyprus problem is an ethnically based federal and bicameral system. This article examines the proposed system’s ability to enhance the viability of any solution to the Cyprus problem (measured by its capacity to reduce the emergence of permanent tyrannical majorities or minorities) as well as its ability to promote legislative stability (measured by its capacity to mitigate the incidence of majority cycling). It is argued that a better institutional set-up would be a federation based on functional-overlapping-competing-jurisdictions coupled with a jurisdiction-dependent and constitutionally enshrined generalization rule. © 2000 Elsevier Science Inc.

1. Introduction

Demographically speaking, Cyprus at the time of its independence from the United Kingdom was made up of various ethnic groups, namely, Greek Cypriots (80%), Turkish Cypriots (18%), and Maronites, Armenians, and Latins (2%). On gaining its independence from the United Kingdom in 1960, the Republic of Cyprus was set up as a consociational

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1 The government of the Republic of Cyprus estimates that in 1995 the demographic make-up of the population was 78% Greek Cypriots (as well as Armenians, Latins, and Maronites), 11% Turkish Cypriots, and 11% Turkish settlers. Behind these percentages lies the emigration over the years of Turkish Cypriots from the occupied north of the island and the immigration of a similar number of Turkish settlers.
democracy by Greece, Turkey, and the United Kingdom. This basically meant that its constitution was based on the notion of power sharing.\(^2\)

This required all its citizens, including those minority group members who were neither Greek nor Turkish, to declare themselves as Greek Cypriots or Turkish Cypriots. The Greek and Turkish communities where allocated a share of posts in the cabinet (7 and 3, respectively), the legislature (35 and 15, respectively), the judiciary, civil service, police, and gendermerie (7:3 ratio, respectively), and the army (6:4 ratio, respectively). The executive consisted of a Greek Cypriot president and a Turkish Cypriot vice president, each with powers of veto over decisions of the cabinet and the legislature. Voting on key issues, such as taxes, required separate majorities. Greek and Turkish Communal Chambers were empowered to deal with religious, educational, and cultural affairs, and separate municipal authorities were to deal with the respective communities in the largest towns.

The success of these arrangements was undermined by the nationalist aspirations of Greek Cypriots who desired enosis (or union with Greece) and of Turkish Cypriots who wanted taksim (or partition and double enosis of each ethnic group with the “mother country”). The politicization of these aspirations led to intercommunal fighting in the 1960s and ultimately to the invasion of the island by Turkey in 1974. As a result, Cypriot society that prior to independence had lived in ethnically mixed cities, towns, and villages is now divided by a United Nations (UN) “Green Line” that impedes the free movement of persons.

At the heart of the most recent constitutional proposals that have been submitted by the UN as part of an overall framework agreement on Cyprus lies an ethnically based federal and multicameral system. In particular, what is envisaged is a system where the powers and functions of the federal government are constitutionally limited to some areas and where, moreover, the consent of ethnic majorities of several subsets of voters will be required for decisions to be adopted in these same areas. To my knowledge, these proposals have not been subjected to any sort of coherent and methodical analysis, and it is my intention here to undertake this task.

This article is structured as follows. In Section 2, I set out the relevant constitutional proposals that have been negotiated by the leaders of the Greek and Turkish Cypriot communities under UN auspices and, in particular, those provisions that refer to the allocation of powers and functions between the federal and regional governments as well as the institution of a bicameral legislature (Paragraphs 24 to 51). In Section 3, I consider the various ways that majorities and minorities can be tyrannical and relate this to the issues of institutional viability and legislative stability. Given this discussion, in Section 4 I will consider the implications for the relevant constitutional proposals in the case of Cyprus by way of the rational choice literature on, respectively, federalism and bicameral legislatures. In Section 5, I propose an alternative institutional arrangement, namely, a functionalist-based federation coupled with a constitutionally enshrined and jurisdiction-dependent generalization rule. Section 6 closes the article by summarizing the main findings of the analysis.

2. The relevant constitutional proposals

In the summer of 1992 the UN Secretary General submitted a “set of ideas on an overall framework agreement on Cyprus” (United Nations, 1992a). These ideas were endorsed by the Security Council by way of resolution 774 (August 1992) and resolution 789 (November 1992). In this section, I set out those paragraphs from the Set of Ideas that are pertinent to my analysis.

Paragraph 25 states that all powers and functions not vested in the federal government will rest with the two federated states (each of which, according to Paragraph 19, will be administered by one of the two main ethnic communities). The federated states may decide jointly to confer additional powers and functions to the federal Government or to transfer powers and functions from the federal Government to themselves. This is reiterated in Paragraph 9 of the “Guiding Principles” of the overall framework agreement and is related to Paragraph 21 of the said principles that states that the federal Government cannot encroach upon the powers and functions of the two federated states.

Paragraph 26 states that the federal government will have the following powers and competencies: foreign affairs; the central bank; customs and coordination of international trade, airports, and ports as concerns international matters; federal budget and federal taxation; immigration and citizenship; defense; federal judiciary and the federal police; federal postal and telecommunications services; patents and trademarks; appointment of federal officials and civil servants (on a 70:30 Greek Cypriot/Turkish Cypriot ratio); standard setting for public health; the environment; use and preservation of natural resources; weights and measures; and the coordination of tourism and industrial activities. The federal powers and functions will be executed by the federal government or, in accordance with agreements, through delegation to the federated states (Paragraph 27).

The legislature will be composed of a lower house and an upper house (Paragraph 28). All laws must be approved by both houses (Paragraph 29). The lower house will be bicommunal with a 70:30 Greek Cypriot/Turkish Cypriot ratio (Paragraph 30), while the upper house will have a 50:50 ratio representing the two federated states (Paragraph 31). All laws will be approved by a majority in each house. A majority of the Greek Cypriot or Turkish Cypriot representatives in the lower house may decide on matters related to foreign affairs, defense, security, budget, taxation, immigration, and citizenship, that the adoption of a law in the lower house will require separate majorities of the representatives of both communities (Paragraph 32).

If the two houses fail to pass a bill or decision, they will initiate proceedings to obtain

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3 Arguably, this should be read in conjunction with Paragraph 3 (the relationship between the two communities is not one of majority and minority but one of two communities in the federal republic); Paragraph 4 (the communities are politically equal); Paragraph 5 (that this equality will be reflected in the fact that the approval and amendment of the federal constitution will require the approval of both communities ... and in the equality and identical powers of the two federated states); Paragraph 10 (the federal republic will be one territory composed of two politically equal federated states); and, finally, Paragraph 19 (each federated state will be administered by one community). All this points to the likelihood that Paragraph 31 implies that the upper house is meant to be constituted by an equal number of Greek and Turkish Cypriot representatives.
consensus while ensuring the continued functioning of the federal government. To this end, a conference committee will be established. The conference committee will be composed of two persons each selected by the Greek Cypriot and Turkish Cypriot groups equally from among the members of the two houses of the federal legislature. The text of the legislation or decision agreed to by the conference committee will be submitted to both houses for approval (Paragraph 34). In the event the federal budget is not adopted in one or both houses and until an agreement is reached by the conference committee and is adopted by both houses, the provisions of the most recent federal budget plus inflation shall remain in effect (Paragraph 35).

The Council of Ministers will consist of Greek Cypriot and Turkish Cypriot ministers on a 7:3 ratio, respectively, and the president and vice president (each from a different community) will designate the ministers from the respective communities who will appoint them by an instrument signed by them both (Paragraph 38). The president and the vice president will discuss the preparation of the agenda of the Council of Ministers, and each can include items in the agenda (Paragraph 39). Decisions of the Council of Ministers will be made by majority, but decisions over foreign affairs, defense, security, budget, taxation, immigration, and citizenship—that is, the same areas where separate majorities of the representatives of both communities may be required in the lower house—will require the approval of both the president and vice president (Paragraph 40). Both the president and vice president will, separately or conjointly, have veto powers in the areas of foreign affairs, defense, security, the budget, taxation, immigration and citizenship, and the right to send for reconsideration any law or decision of the legislature or any decision of the Council of Ministers (Paragraph 42).

It is interesting to note that following the 1992 UN Set of Ideas, the two sides have either clarified or altered their positions (United Nations, 1992b). For the purposes of my discussion here, it is important to point out that the Turkish Cypriot side has taken the position that the Council of Ministers should be composed of an equal number of Turkish and Greek Cypriots and should operate on the basis of consensus. On the other hand, the Greek Cypriot side has argued that, given the composition of the upper house, the provision for separate majorities in the lower house is unnecessary.

3. Tyrannical majorities or minorities, stability and viability

Given the employment of majority rule for collective decision-making, a majority can be tyrannical in several ways and, depending on which of these emerges, the ramifications can affect legislative stability or even threaten the very viability of the polity.

First, the majority can tyrannize the minority when the individual components of the majority do not possess identical orderings but when no other majority can emerge to challenge the existing one. Under these circumstances, the majority choice is a Condorcet

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4 This means that individual orderings of alternatives may not be identical but can be arranged along one dimension and are single peaked (Black, 1958).
winner against which, by definition, no alternative majority can be formed. A worse kind of tyranny than that of the Condorcet winner is the tyranny of one majority over another that can occur whenever a unique majority does not exist (Riker, 1992). No matter which alternative wins, some other majority prefers a losing alternative. The resultant cycling undermines the stability of legislation as the losing majority repeals the legislation at the next opportunity. The third and worst type of majority tyranny under majority rule can emerge when the individual components of a majority possess identical orderings over all social alternatives (Buchanan, 1954). This leads to the permanent marginalization of the minority, and, under these circumstances, the only remaining option for the minority may be revolution, something that may seriously undermine the very viability of the polity.

While the tyranny of the Condorcet winner may be preferable to that of the cyclical majority, it can also be said that the tyranny of a cyclical majority is preferable to permanent tyranny of the majority over the minority. Indeed, it is the possibility that ordinary majority decisions are subject to reversal that makes majority rule tolerably acceptable (Buchanan, 1954). The desire to maximize coherence qua transitivity in social decisions, ought to be set aside so as to ensure meeting the more general goal of the durability of political institutions (Miller, 1983; Ordeshook, 1992). In short, it is no use setting up institutions that promote stability in decision-making if the whole institutional edifice is unsustainable over time.

Of course, the possibility must also be admitted for the emergence of the tyranny of the majority by the minority. Thus, even when the majority choice is a Condorcet winner, this represents the ideal preference of only a minority of the society in question and can be considered to be tyrannical compared to a liberal system where each individual can choose his/her ideal point. A more serious occurrence, given its potentially negative effect on the viability of the system, is that of the permanent tyranny of the majority by the minority. This is increasingly possible in the presence of a more inclusive voting rule, double majorities, or veto powers for minority groups. Again, the persistent exercise of such powers may hamper the viability of the polity.

What emerges from this discussion is that a suitably designed federal and bicameral system should minimize the likelihood of permanently tyrannical majorities or minorities emerging and, having done so, reduce the possibility of alternating majorities arising and facilitate the emergence of a Condorcet winner when decisions are being taken collectively. The next section will evaluate the federal and bicameral system proposed by the UN for Cyprus in this light.

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5 Cycles are probably not frequent in one dimension but almost inevitable in two or more. Incumbent politicians then would have a strong incentive to reduce dimensions to one, emphasizing that dimension on which they have previously won. Nonincumbents, on the other hand, have a strong incentive to introduce a second dimension in the hope of dividing previous winners (Riker, 1992). The removal of race and ethnic issues from the public domain by incumbents may, thus, enhance legislative stability (Ordeshook, 1992). Conversely, their introduction by nonincumbents may generate instability.
4. Implications for the 1992 UN Set of Ideas

4.1. Avoiding the permanent tyranny of the minority by the majority

One way to avoid the permanent tyranny of the minority by the majority and thus to enhance the viability of the polity, is to decentralize collective decision-making so as to grant the minority the authority to decide on certain issues. One set of issues that are likely to be relevant here are nondivisible or nontradeable ethnic issues such as nationality, language, territorial homelands, and culture (O'Leary & McGarry, 1995, p. 262). A reading of Paragraph 26 of the constitutional proposals shows that the federal government is not granted the power to decide on issues, like education, culture, language and religion, over which preferences are, arguably, split along ethnic lines. This power is then (implicitly) vested in the two federated states. This reduces the capacity of the majority to tyrannize the minority even before the government begins its deliberations.

Notwithstanding the just-mentioned decentralized collective decision-making, another way to avoid the permanent tyranny of the minority is through constitutional constraints in the centralized provision of services. One would expect to find tighter constitutional constraints in the centralized provision of services over which preferences may be divided along ethnic lines or, in other words, with respect to which an ethnic group may expect to be a dissident minority (Congleton, Kyriacou & Bacaria, 1998). Conversely, one would expect to find looser constitutional constraints in the centralized provision of services over which preferences may not be divided along ethnic lines, that is, with respect to which one expects to oscillate between the majority and the minority coalition.

A look at those areas that would be attributed to the central government of a Federal Cyprus indicates that those over which one would a priori expect a higher degree of interethnic consensus (central banking, customs and coordination of international trade, airports and ports as concerns international matters, federal postal and telecommunication services, and patents and trademarks) are subject to relatively fewer checks and balances, namely, approval by simple majorities in both houses. Conversely, areas where the degree of interethnic consensus may be more limited (foreign affairs, defense, security, budget, taxation, immigration, and citizenship) are subject to additional safeguards such as separate majorities in the lower house, presidential and vice presidential approval, and presidential and vice presidential vetoes.

Indeed, in the extreme case, to pass a proposal requires separate ethnic majorities in the lower house, a third majority in the upper house, and two more ethnic majorities at the executive level. In other words, the constitutional provisions envisage the institutionalization of a multicameral system. The idea of separate ethnic majorities obviously responds to the fears held by the Turkish Cypriot minority that under majority rule for the whole population they may be potentially permanently disaffected. Having said this, the constitutional proposals seem to do so in apparent ignorance of those decision-making costs that are inherent to the requirement that decisions be approved by numerous ethnically based subsets of voters.6

When these decision-making costs are factored in, the whole set-up seems overly expen-

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6 Decision-making costs are those costs that the individual expects to incur as a result of participating in decisions when two or more individuals are required to reach agreement (Buchanan & Tullock, 1962).
sive. This is especially so since the proposed constitution gives each ethnic community the power to decide on issues over which preferences at the constitutional moment are divided across ethnic lines. In addition, the fact that both the president and vice president can include items on the agenda of the Council of Ministers provides some degree of protection against the exercise of agenda setting power by the Greek Cypriot majority.

The decision-making costs would be further increased, without any significant improvement in the ability of the constitutional set-up to safeguard the rights of the Turkish Cypriot minority, by the posterior Turkish Cypriot demand that the Council of Ministers be made up of an equal number of Greek and Turkish Cypriots and that it operate on the basis of consensus. Alternatively, the Greek Cypriot view that, given the composition of the upper house, separate majorities are unnecessary in the lower one, finds support from the perspective of decision-making costs.

4.2. Avoiding the permanent tyranny of the majority by the minority

Consider now the capacity of the system to avoid the tyranny of the majority by the minority. Minority tyranny may emerge when the Turkish Cypriot vice president withdraws his/her approval of legislation or vetoes it, or when a majority of Turkish Cypriot representatives votes as a separate majority in the lower house or, when the Turkish Cypriot community votes as a block in the upper house, all for reasons other than blocking ethnically discriminatory legislation.7

For example, they may do so as to redistribute federal resources away from the Greek Cypriot majority toward itself. This in turn may partly depend on the redistributive possibilities that exist at the federal level—possibilities that are instituted, most notably, by Paragraph 86 of the framework agreement, which states:

A priority objective of the federal republic will be the development of a balanced economy that will benefit equally both federated states. A major program of action will be established to correct the economic imbalance and to ensure economic equilibrium between the two communities through special measures to promote the development of the federated state administered by the Turkish Cypriot community.

In attempting to redistribute resources to itself by blocking legislation, the Turkish Cypriot minority, like any minority, must take into account the costs to itself of inaction, with the higher the costs the lower its hold-out power and, thus, the likelihood that it will push for such discriminatory redistribution (Buchanan & Tullock, 1962). In this respect, recall that Paragraph 35 of the constitutional proposals allows for the application of the most recent budget, adjusted for inflation, in the event of a stalemate. One effect of this article may be

7 The fact that only a majority of Turkish Cypriot representatives would be required in the lower house, while all such representatives may be required in the upper house, means that it may be relatively more difficult to tyrannize the majority in the upper house compared to the lower house. On the other hand, if the number of Turkish Cypriot delegates is significantly smaller in the upper house, then it may be easier to achieve unanimous agreement and to vote as an ethnic block.
to lead the Turkish Cypriot minority to discount the expected costs of a stalemate and, thus, to encourage it to hold out for redistributive gains.

While it may be that the system envisaged may be prone to the tyranny of the Greek Cypriot majority by the Turkish Cypriot minority for redistributive purposes, it also reduces the ability of a minority of virulent nationalists in either group who see the alternatives as being mutually exclusive—or, in other words, who reject the whole concept of a reunified federal republic—to freeze the deliberations of the federal government. In particular, the institution of majority rule makes it difficult for these minorities to throw a spanner in the workings of the federal government, either by blocking the approval of legislation by their own ethnic group in the lower house or by blocking legislation in the upper house (in this they may ironically count on the support of virulent nationalists in the other ethnic group, who may similarly vote down legislation). Indeed, the system envisaged may allow for the adoption of legislation that is a Condorcet winner at all voter levels. In this respect, while Paragraph 35 may indeed encourage the Turkish Cypriot minority to hold out for redistributive gains, it may also reduce the ability of virulent minorities who do not support the federation to threaten the viability of the state by freezing the workings of government.

4.3. Avoiding the tyranny of successive majorities

Consider finally, the extent to which the proposed institutional structures deal with the issue of the tyranny of cyclical majorities.

To the extent that a federal system consists of political jurisdictions that allow different groups to decide on those issues that they care greatly about, the potential for cycling is necessarily reduced or, in other words, stability is increased (Ordeshook, 1992). Otherwise, individuals may be willing to trade off issues that they care little about to influence those dimensions that are relevant to their regions and that, therefore, concern them, thereby generating legislative instability.8 Again, the fact that the federal government of a reunified Cyprus would not be granted the power to decide on ethnically specific issues such as education, culture, language, and religion would tend to be stability inducing.

Moreover, stability would be enhanced insofar as the proposed multicameral system is able to block the adoption of legislation that, although it may be ethnically neutral, is nevertheless economically discriminatory on some other basis (for example, wealth, professions, gender, age, etc.) and can, thus, involve the redistribution of resources. A legislature that confines itself to deciding on positive sum activities such as public goods, externalities, and prisoner’s dilemmas (PDs) by majority vote is much less likely to experience cycling than one that decides on purely redistributive issues where the degree of homogeneity in voters’ preferences would be expected to be much lower (Mueller, 1996). Although distributitional issues arise in the former case as well (for example, in determining the tax shares

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8 Strom (1990) argues that the larger the geographic area represented in a legislature, the more likely it is that the preference orderings of legislators will differ from each other, and so, the less likely it is that the different preference orderings can be simultaneously represented by single-peaked preference curves.
for providing public goods), they differ, since in the end all individuals are presumably better off.

A multicameral system would be able to do this if effective opposition is institutionalized across chambers such that the majority coalitions formed in each are representative of different combinations of interests (Buchanan & Tullock, 1962; Hammond & Miller, 1987; Brennan & Hamlin, 1992). This would reduce the inherent instability that would arise under alternating majorities by making it increasingly difficult for ethnically neutral but nonetheless discriminatory legislation that effectively redistributes resources among different interests to pass.

This points to the importance of the processes by which legislators are chosen for each chamber. Where legislators in each house are elected by similar procedures to represent similar constituencies, they will not generate significantly different preferences in each and so the stabilizing value of bicameralism will be foregone. The constitutional proposals made by the UN in the Set of Ideas take ethnicity as the fundamental guiding principle of representation in each chamber. Aside from requiring that each representative be elected by members of his/her own ethnic group, the proposals are silent on the important question of whether representatives elected to each chamber will be so based on the same constituencies. Leaving aside for the moment the undesirability of ethnicity-based representation and given my previous discussion, it would be desirable that representatives be elected from different constituencies so as to generate the opposition that is necessary to promote stability.

5. An alternative institutional arrangement

While an ethnically based federal system with a multicameral legislature similarly set-up along ethnic lines may certainly minimize the risk of the permanent tyranny of the ethnic minority by the majority, in this section I will argue that a functionalist-based federal system together with a constitutionally enshrined and jurisdiction-dependent generalization rule may be a better institutional arrangement.

5.1. A functionalist-based federation

The first alternative institutional arrangement that I propose here is the constitution of functional, overlapping, and competing jurisdictions (FOCJs), an arrangement that has been advocated for the European Union by Bruno Frey and his collaborators in a series of articles (Casella & Frey, 1992; Frey & Eichenberger, 1996; Frey, 1996). FOCJs are, as their name implies, characterized by the following features:

9 The degree of opposition can be reduced by party discipline if the same political party controls both houses (Brennan & Hamlin, 1992).

10 FOCJs incorporate various concepts, in particular the ideas of: fiscal equivalence (Olson, 1969) or the correspondence principle (Oates, 1972), which basically call for a match between those who receive the benefits of a collective good and those who pay; economic clubs (Buchanan, 1965), whereby if a public good is
They are functional, in that political units are defined by the public services they provide and not necessarily by geographic boundaries, or, in other words, they are organized across functions instead of territories. As such, people may be able to choose among the suppliers of such services without having to change their place of residence.

They are overlapping, since because they are functionally based they can overlap geographically. FOCJs may overlap geographically either when two or more FOCJs cater to different functions or when two or more FOCJs cater to the same function.

They are competing, in that individuals and/or communities are free to choose the political units they want to belong to and can express preferences directly via initiatives and referenda. FOCJs must be constitutionally protected, so that existing jurisdictions such as direct competitors or higher level governments will be unable to block their emergence.

They are jurisdictions, in that units are established that are governmental in the sense that they have authority over their members including the power to raise taxes to fulfill their tasks.

Frey & Eichenberger (1996) point out that by concentrating on one or a few functions, FOCJs increase the ability of members of a jurisdiction to be informed about its activities and to compare its performance with other governments, can yield specialization benefits and allow functionally specialized outsiders to enter into a political arena that is otherwise dominated by persons with that broad and nonspecialized knowledge needed to govern all-purpose jurisdictions. All these factors contribute to the better satisfaction of citizen preferences at lower cost.

An additional advantage pointed to that is of particular interest here is that FOCJs help to diffuse political movements focused on one single issue like ethnicity or religion. Thus, “An ethnic group need not dissociate itself from the state they live in as a whole but may found FOCJ that care for their particular preferences. South Tyroleans, for example, unhappy with the language domination imposed by the Italian state, need not leave Italy to have their demands for cultural autonomy fulfilled, but may establish corresponding FOCJ.” (Frey & Eichenberger, 1996, p. 320).

One real world case mentioned by these authors is that of Poland where the organization of jurisdictions along these lines in the past, they argue, contributed to managing potential ethnic and religious conflict between Catholic, Protestant, and Jewish Poles. Another historical example could be the scheme of “extraterritorial national autonomy” put forward in the beginning of the century for the Austrian empire by Otto Bauer and Karl Renner (Ferrero, 1995). The idea there was to divorce the development of cultural autonomy from territorial autonomy or independent statehood. In particular, each nation would be treated as a union of individuals whose names—if they chose voluntarily to be identified as such—would be excludable, then it can be financed by marginal cost pricing and so can acquire the nature of a private good; voting by feet or exit as mechanisms of preference revelation (Tiebout, 1956) that, moreover, increase citizen sovereignty (Hirschman, 1970; Brennan & Buchanan, 1980).
entered into a national register. These individuals then would be able to administer their cultural affairs in full autonomy, regardless of their place of residence.\textsuperscript{11}

One final example worth mentioning is, of course, the 1960 constitutional arrangements for Cyprus itself, whereby authority over religious, educational, and cultural affairs was vested in each ethnic group independently of territorial considerations, not surprisingly, given that Greek and Turkish Cypriots at the time lived in mixed villages and towns all over the island.\textsuperscript{12}

It is important to realize that while these arrangements represent functional overlapping jurisdictions, they do not necessarily represent competing ones. Unlike the FOCJs described above, it is not (constitutionally) possible for new competing jurisdictions to emerge and, for example, to provide either exactly the same public services or services that differ (such as educational and cultural services that combine elements from all ethnic groups and/or that adhere to a supraethnic identity). Thus, the ability of individuals to exit a jurisdiction and to enter another is severely curtailed and so is, as a result, the degree of competition between jurisdictions.

This same problem arises in the case of the ethnically based federal system envisaged for Cyprus. Recall that this system implicitly vests each ethnic community with exclusive powers in areas that are not expressly assigned to the federal government (for example, education, culture, language, and religion). This is surely inimical to the emergence of political jurisdictions that respond to individuals who have little or no taste for ethnic public services with respect to these and other issues or, even, individuals who have a taste for interethnic public services with respect to such issues. Given that FOCJs allow for the formation of such jurisdictions, they can have an integrative effect or, put differently, compared to the ethnically based federal system envisaged FOCJs can lower “the price of integration relative to separation” (Roback, 1991).

Finally, consider that, unlike the ethnically based federal system envisaged and like the previously mentioned non-territorially based approaches to ethnic conflict resolution, FOCJs do not need to be defined over a particular territory. Again, consider that the system proposed for Cyprus assigns all non-federal activities to each federated state, and it states that each federated state is to be administered by one (ethnic) community. As a result, if the tyranny of the minority is to be avoided in the federated state administered by the Turkish Cypriots, this requires that they never be put in a position of a minority in the north that ultimately requires that the freedom of reestablishment of Greek Cypriots in the north necessarily be violated.\textsuperscript{13}

\textsuperscript{11} Bauer and Renner also referred to their proposal as federalism on the basis of the “personality principle” in contrast to the usual “territorial principle” (Lijphart, 1977).

\textsuperscript{12} See Coakley (1994) for numerous other examples of the nonterritorial approach to the resolution of ethnic conflict.

\textsuperscript{13} This assumes that Greek Cypriots reestablishing in the north have a right to stand for office or, at least, to vote for those representatives they prefer. Of course, to the extent that they cannot do so, this would represent a very large barrier to their establishment in the north and would be inimical to the development of interethnic relations in a reunified republic. According to Article 3 of Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms that has been ratified by Cyprus, Greece, and Turkey,
This is probably behind the Turkish Cypriot demand following the 1992 Set of Ideas that “The settlement of Greek Cypriots in the area that will be under Turkish Cypriot control . . . shall be subject to moratorium and the agreed ceiling in order to preserve the bicomunal and bizonal character of the federal state” (United Nations, 1992b). To the extent that FOCJs can protect the minority from majority exploitation and can do so without requiring restrictions to resettlement, it can allow the eventual voluntary return of all displaced persons to their homes.

5.2. A generalization rule

The second alternative institutional arrangement that I propose here is a constitutionally enshrined generalization rule that has been advocated by James Buchanan (Buchanan, 1993a; Buchanan, 1993b; Buchanan & Congleton, 1998). In particular, such a rule “would legally guarantee equal treatment for all contending parties (industries, regions, groups, etc.) . . . If a particular industry should succeed in getting, say, tariff or quota protection that shuts out, say twenty percent of foreign supply, the general rule would indicate that all imports be cut in like amounts.” (Buchanan, 1993a, p.71).

To see how a constitutionally enshrined generalization rule would operate within the context of my analysis here, consider Fig. 1. The first thing to point out is that, despite looking like a classic PD, the interaction described below is not that of a PD game. According to Buchanan & Congleton (1998), unlike a classic PD game played over time where players have an incentive to cooperate, in the game below the majority would more likely act to maximize its payoffs by tyrannizing the minority.

One way to avoid the majority tyranny represented by cell is, of course, by taking decisions by unanimity, but this is not advisable considering the fact that virulent minorities in both communities would effectively obtain a veto over the workability of the federal republic. A second option, which has been the subject of the previous discussion, is an ethnically based bicameral system. A third option, and the one I advocate here, is to place majority rule within the context of a constitutionally enshrined generalization rule that again would limit the choice set to the diagonal elements.

Making decisions by majority rule, but subject to a constitutionally enshrined generalization rule, would effectively reduce the incidence of cycling (thereby increasing legislative stability) and, moreover, would allow Condorcet winners to be adopted.14 Insofar as the

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14 The symmetry or generality imposed by allowing only a solution on the on-diagonal in turn imposes the equivalent of a unique dimension on a multidimensional space and, thereby, promotes majority stability (Buchanan & Congleton, 1998).
permanent tyranny of the ethnic minority by the majority is concerned, the generalization rule changes the nature of the external costs that the majority can impose. Under unrestrained majority rule the ethnic majority can, technically, redistribute resources away from the minority. Make the majority rule conditional on a constitutionally enshrined generalization rule, however, and the majority is limited to the imposition of its own vision of the public interest, that is, to the diagonal elements (see Buchanan, 1993a; Buchanan & Congleton, 1998) (more on this below). Furthermore, a constitutionally enshrined generalization rule can eliminate the ability of the ethnic minority to tyrannize the majority (Cell II) by holding out for greater redistributive gains, a possibility that, I have argued, the constitutional proposals do not address.

Perhaps more important however, is the fact that a generalization rule does not require that the federal legislature be divided along ethnic lines. By not effectively limiting the constituency of each representative to fellow ethnic group members, it reduces the possibility that, as political entrepreneurs vie for redistributive gains for their constituents (in the normal course of competitive electoral politics), this may take the form of ethnically discriminatory and inherently divisive policy proposals. In this sense, a generalization rule makes it easier for politicians to act in accordance with an interpretation of the encompassing interest since it shifts the focus away from distributional politics, whether ethnically based or other (Buchanan, 1993b). As such, it makes it easier for those moderate politicians whose interpretation of the common good may not be ethnically based to survive.

Having said this, I am aware that structural mechanisms such as the proposed bicameral system and bicameral legislatures, in general, may be superior to constitutional directives that prohibit the discrimination against citizens by others. As Macey (1988, p. 503) points out, unlike structural mechanisms, such constitutional directives are not self-executing, and they require interpretation and so are subject to manipulation. Arguably, however, in the context of my discussion, because each ethnic group has an interest in the enforcement of constitutional rules, one would not expect them to be ignored. Moreover, in the particular case of the generalization rule, there may be little scope for manipulation through biased interpretation. In any case, this danger may point to the necessity for a Constitutional Court

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Fig. 1. The permanent tyranny of the minority by the majority.
wherein each ethnic group is equally represented. Paragraph 43 of the constitutional proposals does, in fact, foresee a Supreme Court composed of an equal number of Greek and Turkish Cypriot judges, with its presidency rotating between senior Greek and Turkish Cypriot members.

5.3. A generalization rule and decentralized collective decision-making

As previously stated, a constitutionally enshrined generalization rule changes the nature of the costs that a majority can impose on a minority, effectively limiting the majority to the imposition of its own version of the public good. Admittedly, because the ethnic minority can block legislation in the proposed bicameral system, it can both avoid the imposition of purely redistributive costs and bargain so that its own vision of what constitutes the public interest is included in legislation. Having said this, by placing the generalization rule within the wider context of a functionalist-based federation, one can limit the capacity of the majority to impose its own vision of the public good. To see this, consider the following model, in the spirit of a treatment of this issue by Congleton et al. (1998).

Assume that ideal service level of service i of majority M is $Q_i^{M*}$. The ideal service level for service i of minority N is, in turn, $Q_i^{N*}$. Given majority rule subject to a generalization rule, the minority’s costs, $C_i^N$, and benefits, $B_i^N$, must vary with the majority’s ideal service level, which is that which will actually be produced, so $C_i^N(Q_i^{M*})$ and $B_i^N(Q_i^{M*})$. The minority would prefer that service i be centrally provided as long as,

$$B_i^N(Q_i^{M*}) - C_i^N(Q_i^{M*}) > N_i,$$

where $N_i \geq 0$ is the net benefit from local provision.

In other words, the minority will prefer to centralize a service when the resultant net benefit is greater than that from local provision. By way of illustration, where the ideal service levels for service i are the same for both the minority and the majority, $Q_i^{N*} = Q_i^{M*}$, then centralized production will be preferred to local production as long as the cost of centralized production is below that of local production (either because of economies of scale or redistributive aspects of centralized cost-sharing agreements).

Assume now that the ideal service level of service i for the minority is zero. This could be the case, for example, where service i represents cultural services in the majority’s culture. If service i were centrally provided, it would most likely generate net costs for the minority and make the minority prefer the local provision of this service (that it would subsequently provide at its ideal level of zero). This example illustrates that on issues where the differences across groups in the ideal levels of a service are large, there is a rationale for the decentralization of collective decision-making despite the existence of a constitutionally enshrined generalization rule at the central level.

There is an apparent contradiction between the application of equal treatment to all groups required by a generalization rule and the possibility of differential treatment across groups that is inherent to decentralized collective decision-making. How, if at all, can these two institutional features be reconciled? The answer is by allowing public services to differ across political jurisdictions (within a functionally based federation) but, at the same time, by applying the generalization rule within each political jurisdiction. A jurisdiction-depen-
dent generalization rule would require the equal treatment of all the members of a particular jurisdiction but would allow for differential public services across jurisdictions.

Before closing, it is necessary to point out that this institutional set-up is not without its problems. One problem may concern territorially based public goods and services whose parallel provision by two or more FOCJs may be technically impossible or extremely costly (for example, sewerage, electrical, or water systems). As a result, the only way to avoid consuming such a good or service may be by physically voting with one’s feet. Of course, one mitigating factor here is the presumption that preferences over such public goods or services are not likely to be divided across ethnic lines. Thus, the possible imposition of the majority’s vision of the desired level or nature of these public goods (under a generalization rule) may not impose large costs on the ethnic minority. In this respect, it is interesting to note that one of the few areas where the two ethnic communities have cooperated despite their physical separation is in bicomunal projects in the island’s divided capital such as the Nicosia sewerage scheme, the Nicosia Master Plan, and electricity and water projects that have been funded from the financial protocols concluded with the European Union.

Insofar as each functional jurisdiction must finance its expenditure by levying taxes on its own tax base, another problem may emerge, namely, the possibility that a poorer ethnic group may be unable to provide public goods or services that are specific to it and on which it attaches a high value (again, the examples could be education, culture, and language). Faced with this possibility, it may be reasonable to search for a consensus on a minimum level for such public goods and services for all ethnic groups, to be financed by some statewide redistributive scheme. Arguably, such a scheme should be based on a nonethnic principle such as wealth and, as such, potentially should be financed by wealthier individuals regardless of their ethnic group. This would avoid setting up a system of structural redistribution from relatively wealthy ethnic groups to poorer ones, something that over time may both engrain ethnic awareness and lead to feelings of resentment by wealthier ethnic groups to the detriment of interethnic cooperation (Ferrero, 1995). Recall that just such a system is envisaged by Paragraph 86 of the framework agreement.

Provided that problems such as these are addressed, an FOCJ-based federation coupled with a jurisdiction-dependent generalization rule would be able to harness all the benefits stemming from equality in treatment without foregoing the benefits flowing from decentralized and functionally based collective decision-making.

6. Conclusions

The ethnically based federal and bicameral system envisaged by the UN as part of an overall framework agreement on Cyprus reduces the likelihood of majority tyranny of the minority, and, as such, it can contribute to the viability of a future reunified Cyprus. Further, the institution of majority rule across all the different chambers of the legislature allows for the adoption of legislation that is a Condorcet winner at all voter levels. In addition, it reduces the chances that the majority may be tyrannized by virulent minorities that reject the very idea of a reunified Cyprus, and, as a result, the viability of the system is enhanced.

Related to this, Paragraph 35 of the proposals may be partly inspired by the fear of such
tyranny emerging, but it may have a negative side-effect in that by reducing the costs of inaction facing blocking minorities, it may encourage the Turkish Cypriot minority to hold out, as a block, for redistributive gains. This possibility is not addressed by the proposed bicameral legislature. Moreover, this proposed legislature and, even more so, the latest Turkish Cypriot demands for an equal number of members from each community in the Council of Ministers seem to ignore the decision-making costs of requiring that decisions be taken by several ethnically based subsets of voters.

Legislative stability is enhanced by the decentralization of collective decision-making that is inherent to the federal system. For stability to be enhanced by the bicameral legislature then, it must block the passing of legislation that may be economically discriminatory in general. This requires the institutionalization of effective opposition across chambers, which, in the context of the actual proposals, points to the need to elect the representatives from different constituencies, albeit subject to the restriction that they cannot seek votes beyond their ethnic group.

Finally, an alternative institutional arrangement has been proposed that, it has been argued, is superior to that actually envisaged. In particular, I have advocated the adoption of an FOCJ-based federation coupled with a jurisdiction-dependent generalization rule, with both being constitutionally enshrined and enforced by a constitutional court in which each ethnic group is equally represented. Such a system can enhance both the viability and legislative stability of a federal republic by reducing the likelihood of the emergence of a permanently disaffected majority or minority as well as the likelihood of cyclical majorities.

Beyond this, and unlike the system actually proposed, the alternative arrangement facilitates the emergence of voluntary social and political relationships between individuals of different ethnic groups who do not put ethnicity before everything. Moreover, not limiting political constituencies to fellow ethnics makes it easier for politicians who may act in accordance with a more encompassing (supraethnic) interest to survive in the face of political competition from those politicians attempting to appropriate electoral gains from the mobilization of their ethnic group. Finally, by having a functional and not a territorial basis, the alternative system can reduce the capacity of the Greek Cypriot majority to tyrannize the Turkish Cypriot minority without requiring restrictions to the resettlement of displaced persons, and, as such, it can accommodate the voluntary return of all displaced persons to their homes.

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