Can ‘non-territorial autonomy’ serve as a category of analysis?
Between ‘thick’ and ‘thin’ approaches

Paper to be presented at Workshop No. 21
‘Non-Territorial Autonomy, Multiple Cultures and Politics of Stateless Nations’
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Abstract

Non-territorial autonomy (NTA) serves as a category of practice in politics, public administration and civil activism. Being applied an analytical category NTA has acquired a variety of meanings ranging from a label on a multiplicity of minority-related activities and institutions (a ‘thin’ approach) to a clear structural feature or competence of an organisation (a ‘thick’ approach). The main problem with employing NTA as an analytical category stems from the dominant essentialist and group-centric approach. Almost all interpretations of NTA implicitly or explicitly rest on uncritical and often unreflective reification of notions such as ‘group’, ‘community’, and ‘culture’ and assume that a group is a self-evident social actor and an internally cohesive social unit. This significantly limits the analytic perspective and obstructs important research agendas. If this assumption is withdrawn and ethnic group is regarded merely as a way of framing certain activities, most respective interpretative schemes collapse. The author suggests that interpretations NTA as a category of analysis not based on a ‘groupist’ approach can have a room of its own. There might be two interpretations which do not duplicate the already existing terminologies. First, NTA may be interpreted as a top-down official policy of diversity accommodation centred on the perception that ethnic/cultural groups must be addressed with special measures aimed at facilitation of their non-territorial self-organisation. The second one can apply in the domain of public administration and thus can be conceived as ‘new public management’ or ‘indirect administration’ in ethno-cultural sphere, as a combination of self-government with regular allocation of public resources.

Keywords: autonomy, community, groupism, representation, elected bodies, participation

The question raised here is whether non-territorial autonomy (hereinafter NTA) can serve as an analytical concept, and if yes, in course have a room of its own and do not duplicate other notions and terminologies. I argue that the implicitly positive answer repeatedly given by numerous scholars rests on several questionable assumptions. If we discard them, the allegedly logical constructions collapse, but nevertheless some albeit a limited room for an appropriate application of the notion remains.
NTA is an old and a new issue at the same time. The idea took a more or less clear shape in late 19th century, but the political and scholarly debates at the turn of the 20th century and also of 1920-30s were basically forgotten for decades. Although the rebirth of NTA in the English-speaking academia happened less than 20 years ago and the number of publications is still growing slowly, we can already reflect on the major patterns of how the notion is being mastered and utilized. The idea and the related terminologies are used increasingly often, but in such a way that one may already ask a naive question why the notion of NTA is necessary and what added value it brings about.

In most academic texts NTA is employed as an analytical category and mostly for normative rather than descriptive purposes. Still there is a relatively low number of empirical studies on the ways NTA is utilized as a category of practice in politics, law-making and civil activism and how arrangements labeled as NTA function in real life. In part this can be explained by the fact that there are also a few practical arrangements which deserve the label of NTA; the term is basically used speculatively with regard to imaginary models rather than distinct and really functioning institutional setups.

One shall admit, that there is no uniform definition and no commonly accepted understanding of what NTA may mean. This term surfaces in regard to a multitude of themes such as functioning of minority associations, certain features of public and private organizations, recognition and maintenance of social boundaries or group membership and so forth. Needless to

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say, that the related adjectives like ‘cultural’, ‘non-territorial’, ‘national-cultural’, ‘personal’ and so forth also acquire numerous and changing meanings and implications. \(^4\)

There can be multiple ways to bring a variety of NTA definitions in some system. As a first step, let’s think of them as a scale stretching from general and loose understanding to a more concrete and specific models. Let’s conditionally call the first end of the scale as ‘thin’ and the other one as ‘sick’ interpretations.

**Do ‘thin’ interpretations bring any added value?**

Thin interpretations are usually about a general principle under which people can individually or jointly pursue their identity-based interests in a variety of institutional settings.\(^5\) They can be called ‘thin’ because only a label of ‘autonomy’ and no distinct content is offered. The available explanations usually lack clarity and the reserve side of the coin is that the notion has no identifiable substantive referents or has too many of them; in other words, there is no clarity on what exactly this term applies to. The general principle of welcoming collective activities on ethnic grounds can be attached to a variety of initiatives, setups and social forms including all kinds of institutions segregated along ethnic or linguistic lines.

To have the full picture one should add those ‘thin’ interpretations exist not only in academia, but in politics as well. Some international ‘soft law’ provisions (first and foremost, of the OSCE HCNM Lund Recommendations and the Commentary of the Advisory Committee on the Framework Convention for the Protection of National Minorities on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs) treat the notion of ‘cultural autonomy’ too broadly as an unidentified range of activities for the manifestation and promotion of minority cultures or the guarantees of

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publicly sponsored multilingualism and cultural institutions segregated along ethnic lines. All references to non-territorial autonomy in the OSCE and CoE documents are broad in nature and are open to interpretations who the subject and beneficiaries of ‘autonomy’ or ‘arrangements’ would be, what detachment from territory would mean and what types of arrangements the notion of ‘autonomy’ implies.

Several national legislations refer to their general framework of minority protection as ‘cultural autonomy’ without specifying what this terms means but implying that it concerns different kinds of bottom-up activities. Croatia employed the term ‘cultural autonomy’ in its legislation as an overarching notion pertaining to the official minority policies as a whole, but since 2002 the country has been also introducing the system of minority councils elected by popular vote. The Law about the Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups was enacted in Latvia in March 1991 even before the independence was reinstated. This framework act concerns a variety of issues pertaining to minority protection; all commentators including the Advisory Committee on the Framework Convention agree that the Latvian law is declarative, that it lacks clarity and envisages no mechanism of implementation. The Ukrainian Law on national minorities adopted in 1992 looks in a similar way. Its Article 6 refers to ‘cultural autonomy’ which is described as a general principle guaranteeing several basic ‘negative’ rights of persons belonging to minorities. The law is also declarative and defies mechanisms of implementation.

Employment of such notion as ‘cultural autonomy’ in politics might be instrumental for pragmatic reasons for the purpose of raising the symbolic importance of minority-related norms and arrangements. In the meantime, it’s quite obvious that putting together such things as social networking, all kinds of segregation patterns, claim-making and mobilization, social activism and clienteles under the tag of ‘autonomy’ has little if any sense for analytical purposes. Such an operation can tell nothing about the nature and origins of these phenomena as well as of those

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9 Закон України ‘Про національну меншину в Україні’ No. 2494-XII vid 25.06.92.
public institutions which target cultural and educational affairs being separated along ethnic or linguistic lines. The same is equally true for voluntary non-governmental organizations established on ethnic grounds. Political participation and self-empowerment of voluntary associations take different shapes, and studying them in general as well as ethnic activism in particular must not necessarily rely on such notion as ‘autonomy’.

Those scholars who study conflict resolution, power-sharing arrangements, integration of immigrants or multicultural debated, as the recent experiences show, can do without resorting such notion as NTA and cope with more adequate terminologies and research tools which are already in place.

Each formally acknowledged and established entity both in public or in private sectors is entitled with some degree of independence in operation and decision-making, and the term ‘autonomy’ would tell nothing about the way those entities function and how they differ from other similar units, but rather blur the issue. Labeling organizations as ethnicity-based autonomies on the grounds that their activities are targeting certain ethnicities or cultures would also be non-informative their respective founders, donors, decision-makers or clients.

**Where do ‘thin’ interpretations come from?**

The persistence of ‘thin’ interpretations can be explained in most part by the origins or such a perception rather than by purposes of its usage. This is a mystification typical for ethnic and minority studies, i.e. ‘the tendency to treat ethnic groups, nations and races as substantial entities to which interests and agency can be attributed’.  

If ethnic groups are perceived as collective individuals possessing will, consciousness and ability to act as such and internally structured social entities then it would be in some way logical to interpret all ethnicity-related activities as internal life of groups *per se*. In other words, ‘autonomy’ is regarded as an attribute of an ethnic group as such or an organizational shell for an entire ethnic category.

This assumption (which Rogers Brubaker labels as ‘groupism’) is often manifested explicitly; sometimes it is also pursued indirectly. The notion ‘autonomy’ implies the existence of a self-administering social entity and being taken with regard to ethnicity-based setting may

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12 Ibid. p.164.
be interpreted as re-affirmation of independence and agency of a group. The adjective ‘non-territorial’, on the one hand, puts ethnicity-based organizational forms on equal footing with political and administrative units known as territorial autonomy; on the other, it implicitly indicates that territorial arrangement can be also ethnicity-based, or in other words, an ethnic group as such can exercise political power and public administration on a certain territory.

The origins of ‘groupism’ are a tricky issue which lies beyond this paper’s scope, and only a brief comment would be appropriate here. In most of its manifestations, this outlook turns out to be unreflective and to miss a clear theoretic underpinning. It is not equivalent to essentialism and can be better regarded as a discursive trend rather than a coherent approach. Few scholars engaging in ethnic studies deliberately stick to essentialism, but for many their allegiance to constructivism remains merely a declaration. At the best the popular versions of constructivism are confined to irrelevant issues such as internal heterogeneity of groups or existence of multiple group affiliations or shifting boundaries and changing cultural content. Another version of folk constructivism combines the acknowledgement of social construction as an act of group creature with subsequent attitude towards groups as substantive entities, social actors and bearers of some quasi-natural ‘identity’.

At first glance, groupism poses as a mental and discursive inertia multiplied with common sense assumptions, and images of a group as a social agent serve as convenient explanatory tools. The world history of science offers a similar example, and this is the destiny of the mid-18th century caloric theory. It posited that heath in physical sense is a fluid that flows from hotter bodies to colder bodies. Although the theory was found invalid already in 1790s, it persisted since then even in textbooks for almost a century more, because it applied as a clear and simple explanatory model fully compatible with common sense.

What do ‘thick’ interpretations bring about?

‘Thick’ interpretations are about robust and empowered institutional settings. A clear-cut example of a ‘thick’ interpretation as an idea of creating a public-law corporation which would encompass and structure a whole ethnic group was put forward in the seminal works of Karl
Renner and Otto Bauer in late 19th and early 20th century. Since then many scholars identify non-territorial, or ‘national-cultural’ autonomy either as a distinct organizational form (usually, a centralized public-law corporation based on individual membership); and/or authorities and competences of an organization (the latter approach often assumes delegation of governmental power to the structures beyond regular governmental institutions).

‘Autonomy is attributed to an institution or an association under public law, elected by individual members, vested with a range of public, mostly cultural and social responsibilities’.  

‘Personal autonomy applies to all the members of a certain group within the state, irrespective of their place of residence. <…> The community is entitled to different, wide-ranging rights in political, economic as well as social life, although these rights have so far usually been limited to matters of culture, language, religion and education.’

Such arrangements are often conceived and justified as a remedy for ethnic conflicts over territorial domination and access to power; it is assumed that devolution of power to

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organisations based so-called ‘personal principle’\(^{19}\) would meet the demands of ethnic groups and lead to ethnic reconciliation. One should also take into consideration the already mentioned ‘groupist’ assumptions: if a group is by default perceived as a cohesive social unit, it would be natural to seek its organization through a single structure ideally embracing all the group members.

The problem is that these institutional designs have materialized only in exceptional cases which can be hardly considered a success story (such as the unfortunate bi-communal statehood of Cyprus after 1960).\(^{20}\) What is more important, this model is at odds with modern techniques of governance and human rights law.\(^{21}\) Lastly, there are only a few cases of granting public authorities and jurisdictions to non-governmental institutions in the fields pertinent to minority issues, and it is not obvious that those rare cases constitute a distinct research area and give raise to a meaningful scholarly debate.

**Rationalizations through ‘participation’, ‘representation’ and ‘accountability’**

The relative popularity of ‘thick’ interpretations can be explained by a good wish of theorists and policy-makers stirred up by the recent debates around ‘participation’ and power-sharing that as a rule implies ‘segmental’ autonomy of the groups involved.\(^{22}\)

There is also the opportunity of rationalizing the image of ‘collective individual’ through the idea of ‘representation’. There is a widely spread belief that people belonging to an ethnic group can jointly delegate their will to a representative body through inner democracy, ideally,

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by casting a vote.\textsuperscript{23} This approach implies the need for the group’s internal organization for having representative organs and the democratic procedures under which the constituency forms its representative structures. In the both frameworks the term ‘autonomy’ often comes to the forefront. The notion of participation entails such themes as legitimacy of group ‘representation’ and accountability of representative bodies. In other words, an ethnic group can function as an autonomous entity\textsuperscript{24} and participate in public life if it is organized as a quasi-nation with elected, authoritative and accountable systems of governance with \textit{locus standi}, i.e. legitimate representative bodies.\textsuperscript{25} The issue at stake is thus delegation of authority from grass-root group members to the governing bodies with a mandate to represent the community before the outside world and to arrange its internal affairs.

The idea of ‘rational representation’ based on conscious and formalized investment of individual wills and of ‘trustees’ who legitimately represent the whole ontological group and serve as it actual replacement (‘practical group’ vis-à-vis ‘group on paper’ in terms of Bourdieu)\textsuperscript{26} must be conceived as nothing more than a fiction like \textit{le contrat social}. This fiction may serve for practical purposes and legitimize certain claims, but it is not clear that it can be utilized as a descriptive and analytical tool. But if one questions this taken-for-granted equation of political citizenship with manifestations of ethnic affiliations and loyalties the whole theme of ethnic representation and accountability becomes irrelevant from theoretic point of view.

The adherents of this idea as a rule do not ask save answer two crucial questions. One is about the reasons of transplanting the attitude towards statehood and citizenry onto a completely different institutional environment such as ethnic categorization and manifestations of ethnic affiliations with completely different social meaning. The other one is about the multiplicity of ways people manifest their ethnic affiliation and participate in the related activities. In modern states with rare exceptions of deep cleavages and/or societies affected protracted conflict quite often a minor part of people who can be deemed minority members as a rule participates in

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ethnicity-based activities and minority organizations. For example, in the case of Sami self-governments which seem to be one of the most user-friendly systems of ethnic participation, only in between 15 and 20 percent people of Sami origin eligible to vote take part at the elections to the Sami parliaments.27

Respectively, the assumption that a minority representative body can function as a national parliament where deputies of different views and party backgrounds adequately voice concerns of their electorate, engage in deliberations and finally elaborate balanced decisions also looks arbitrary. The proposition that minority members engage in their group’s inner democratic mechanisms and procedures *bona fide*, for the development of the group’s culture and the group’s more efficient participation in public life looks speculative. One can put forward another assumption: only people with ethnocentric worldview, particularly those who belong to the activist environment, will run for elections and vote. Those who in principle don’t feel like framing their interests in terms of group claims and playing those games with identity politics would just abstain or cede the playground to populist or fundamentalist politicians. As a result, ‘autonomy’ will be a room for only one segment of those who belong to minorities in the eyes of the larger society.

**Some background issues**

Two background issues directly unrelated to the origins of NTA as such in fact have a strong impact on the moral atmosphere around the autonomy debates. These magic idioms of ‘self-determination’ and ‘preservation’ or ‘survival’ of ‘cultures’ or ‘identities’ are not necessary components in the rationalizations and justifications of NTA, but there is too much of evidence that they are on the back of many scholars’ minds.

‘Self-determination’ has been borrowed by several social disciplines from the legal domain. Despite the high moral status of the notion one may ask a question about the added value it brings about into the scholarly debates except for reassertion of the groupist attitudes to social reality.

In the legal domain, ‘self-determination’ with regard to ‘nations’ and ‘peoples’ initially concerned nation- and state-building on the basis of territorially defined collectivities and thus external configuration of the statehoods. The UN Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, approved by the United Nations General Assembly in its Resolution 2625 (XXV) of 24 October 1970 gave birth to the doctrine of ‘internal self-determination’ which initially envisaged merely democratic participation of the populaces in the government on the grounds of equality. Gradually the subsequent professional debates have given rise to a broader interpretation within which self-organization of groups and acquisition of certain subnational status of groups started to be interpreted as a sub-type of self-determination. Numerous scholars put forward and justify further recognition of this right with respect to groups setting up their autonomy at a sub-national level.

As a result, many authors’ argument rests on the belief that NTA is backed with some legal and moral imperative in the meaning that any ethnic group is ultimately entitles to some types of sovereignty and self-determination, maybe in collective non-territorial forms. In the meantime, the concept of self-determination is far from being clear and even legal professionals are far from consent on the very basics of what it is about. One may legitimately ask whether it makes sense to exclude such issues as sovereignty and self-determination from discussions about how the notion of NTA can be utilized.

Also, from the legal perspective, there are no clear reasons to treat ‘self-determination’ as something other than a fictive norm. In other words, this formula present in international instruments looks like a legal norm, but it fully lacks clarity in regard to its content, right holders, obligation bearers and the very opportunity of its normative, i.e. uniform repetitive application. If

one discards the very utilization of this notion everything falls in place. As for the political science perspective, the notion of self-determination in international instruments and activities of international organizations can be easily interpreted as a typical ‘lock-in’ – an inefficient but persistent institutional setting.

The role of cultural preservation also used for the justification of NTA looks similarly. First of all the whole interpretation of ethnic cultures as attributes of individual groups looks highly questionable. Second, there is no international legal standard prescribing preservation by all means of what can be regarded as group cultures. Of course, there is a move in this direction in some soft law instruments and in professional debates. The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in its Article 1 (1) stipulates that ‘States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.’ General Comment 23 of the UN Human Rights Committee Human Rights Committee’s General Recommendation states in its paragraph 6.2 that ‘positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion, in community with the other members of the group.’ Meanwhile these two most radical provisions belong to the domain of soft law and are not binding in strict sense. The other relevant instruments referring to cultural rights and the values of cultural diversity are even further from a rigid interpretation.

The theoretic debates of the recent decades fall short from providing a well-grounded argument of favour of treating ethnic cultures as a common and universal value as such. It is highly problematic to treat ‘cultures’ as some unchangeable substances or objective phenomena like biologic species. There are no valid reasons to rhetorically equate environment of socialization with ‘community’ or ‘culture’ and the latter with a value system as some theorists

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But if one regards preservation of certain cultural traits as not a universal, but as a particularistic value which legitimately deserves negotiation and accommodation – everything falls in place again.

Moral and pragmatic considerations

As a rule, people who publicly manifest their ethnic identities through participating somehow in activities and organizations affiliated with a certain ethnicity are in minority position among those who belong to that category in the eyes of the government, academia or the larger society. It looks methodologically correct and pragmatically appropriate to treat ethnic minority or ethnic group as an imagined class of people who are subject to a certain imposed categorization, who respectively have to adapt themselves to this categorization whenever it matters and who thus opt for a variety of adaptation strategies. The whole range of opportunities cannot be confined to either active participation in the ‘community’ or to full exit and assimilation; there is a multitude of choices in between, which are also permanently revised, transformed and renegotiated in changing contexts. Ethnic activism thus appears as just one type of strategies available; someone may find treating it as the only one respectful norm and all the rest as negligible deviances to be politically suitable in a certain situation, but such approach is obviously in conflict with the basic rationale of human rights and minority protection. Anyway, people who are not happy with ethnic activism in principle or see no room for themselves in activist environment deserve at least the same respect and recognition than those who subscribe to such things.

There is a temptation to confuse the needs and aspirations of ethnic activists with the whole range of problems and concerns the people identifiable as minority members may face. Special participatory mechanisms are devised first and foremost for ethnic activists; accommodation of ethnic activism and group claims is an important, maybe the central issue of minority protection, but by no means can be deemed as its full replacement.


The risks stemming from the creation of segregated institutions vested with power over people affiliated with them have been already commented on in the scholarly literature: these are undermining of the societal cohesion, deepening of inequalities between groups, precipitation of militant activism, opening ways to illiberal political environments.\textsuperscript{36} One can also extend this list.

In the scholarly literature, one can already find two (fortunately, still embryonic and vaguely formulated) ideas about the ways of circumventing inactivity of would-be minority members in electing representative bodies. One is about disregarding non-participants in minority activities and treating them as people who have made their voluntary choice and by default given their mandate of representing their group to people elected by others.\textsuperscript{37} The other one envisages compulsory membership in ethnicity-based corporate organizations; this idea is justified on the ground that the modern human rights defends the liberty of association allegedly only with regard to private law institutions and lacks full clarity in respect to the right to refrain from participation in associations.\textsuperscript{38} The conclusion is thus that public law associations with mandatory membership do comply with modern human rights law.

No doubt that all suggestions of this kind like ethnic electoral rolls, public voting for ethnic representative bodies, legitimating of representative bodies through the official recognition of their exclusive and privileged status are feasible in technical terms. Moreover, technically there is also nothing impossible in forcing people to be members in corporate organizations on ethnic grounds even in countries conceived as liberal democracies. Such systems can be functional, but the consequences are not clear enough.

Such settings and measures may ultimately mean a real jeopardy to private life and the liberty of association. If the right to choose ethnic and cultural affiliation as well as the


\textsuperscript{37} Brunner, Küpper, \textit{op.cit.} note 23, pp.29-30.

opportunity to join or not to join certain organizations are exempted from the domain of civil rights and thus questioned (even indirectly) on discriminatory ground (that is ethnic origin) in this very context, there are no obstacles to impose other restrictions for the sake of ‘participatory rights’, ‘minority integrity’ or something else of this kind. It is a slippery slope; one can’t predict how tempting this opportunity might be for certain national governments.

Moreover, the formation and functioning of representative and self-governing institutions raises the issues of entitlement to membership and voting, of collection and redistribution of public funds and of access to services and benefits. In turn, all this entails qualifications, restrictions, bans and obligations for individuals. Eventually, one ends up with the situation when state bureaucracy hand in hand with affiliated ethic activists decides who is entitled to what. The current enthusiasm of the normative scholarship about the promotion NTA as a universally applicable model or set of models may pay a lip service to real people.

**Any more room for the application of NTA as an analytical category?**

A reservation is needed here - studying NTA as a category of practice and its usage in real life with all its meanings and implications remains an important and promising area of empiric research.

If the notion of NTA taken as an analytical category became a large container where too many kinds of human activities can be stored, one may ask about the reasons for having it. If the term deserves a scholarly application it must bring some added value and should not be just introduced because of the season fashion. It should (1) denote more or less clearly distinguished phenomena; (2) not duplicate other terminologies; (3) in case of partial overlap with other terminologies depict certain realities better than they do.

A corporation established on ethnic grounds and performing jurisdiction over human beings ascribed to a certain ethnicity is conflicts both with modern techniques of government and ultimately jeopardizes the established human rights framework. Such a model can be imagined theoretically, but there have been no viable specimen and all the rare attempts to implement the idea in practice failed; prospects for its future application are interesting in principle, but can hardly constitute a distinct area of research and theoretic debates.
One can in the meantime argue that in between there are two thematic areas where there a room for NTA’s application as an analytical category.

First, we may single out a type of policies which are designed for the accommodation and facilitation of collective activities pursued on behalf of identity-based groups and which imply special treatment and encouragement of such activities and organizations and for denoting it use a generic term like ‘policies of non-territorial autonomy’. One may conditionally call in this manner those top-down strategies and arrangements (including rhetorical exercises) which purport the need to create conditions for self-organization and activity of ethnic groups as such.

In other words, in the framework of ‘NTA policies’ public authorities behave as if there were ethnic groups per se in need of self-organization and empowerment; that is the government but not scholars or other external observers who reify ethnicities and attribute agency thereto. Of course, this type of policies may also include attempts to organize an ethnic group into a corporate entity based on personal membership and granted certain public functions. Therefore one can single out a more or less distinguishable class of top-down discourses and institutional settings; needless to say that applying this approach to ethnic politics in general would make the whole category too broad and meaningless because most of ethnicity-based claims rest on the ideas of group agency.

A clear example can be the evolution of the Canadian official bi-lingualism over the last 40 years; starting with equal formal status of two languages in the federal institutions and the opportunity to communicate with the federal authorities in either of them this policy gradually evolved into the legal and judicial recognition of language communities and of their ‘rights’ and ended up with the acceptance of the doctrine of ‘institutional completeness’ of linguistic minority communities.39

Another case could be found within the Belgian federal model. The latter includes Francophone, Flemish and German ‘linguistic communities’ as its integral parts; however, ‘communities; are constitutes not as personal union with fixed memberships, but rather as virtual

entities embodies in governmental structures which exercise jurisdictions over cultural, educational and social care institutions.\textsuperscript{40}

In contrast, one can found a clear trend that also fits in the framework of ‘NTA policies’ far outside consolidated liberal democracies. Numerous post-Soviet countries (particularly Russia, Kazakhstan and Belarus) legally acknowledge multi-ethnicity of their populaces, rhetorically encourage non-political activities on the basis of ethnic communities and establish institutions with envisage at least in theory communal representation and self-organization. One can emphasize the Russian legislation on ‘national-cultural autonomies’ which assumes that those civil society organizations with limited rights must be conceived as internal self-determination and public representation of ethnicities \textit{per se}.\textsuperscript{41} Repeatedly convened publicly elected ‘congresses of peoples’ in Russia are also conceived in the same way.\textsuperscript{42} Multi-ethnic ‘Assemblies of Peoples’ encouraged or directly established by the governments in the Russian Federation and Kazakhstan are also shaped in a way to facilitate self-organization of ethnic activists and to promote inter-ethnic dialogue on this ground.\textsuperscript{43}

The second possible approach basically belongs to the domain of public administration and means combination of self-government with regular allocation of public resources. While in philosophy ‘autonomy’ basically means independence and free will of the ‘self’, in law and political science the same term would rather indicate relative and partial independence of the part with respect to the whole entity. One can assume that ‘autonomy’ becomes an appropriate term here when certain institutional arrangements based on independent decision-making exist as integral parts of national diversity policies, diversity maintenance or national cultural and educational policies. In other words, the word ‘autonomy’ should apply not to groups or imaginary all-embracing public law corporations (as the ‘self’), but autonomous sub-systems of

\textsuperscript{40} Scholsem, J.-C. (2008) “Personal autonomy through the “communities” system: does the example of Belgium suggest that forms of non-territorial autonomy can make a difference in terms of minority participation?”, in The Participation of Minorities in Public Life (Ser. Venice Commission. Science and Technique of Democracy No.45) (Strasbourg: Council of Europe Publishing), pp.101-17.


decision-making and service deliveries which exist beyond and in addition to regular politics and administration.

This approach would basically delineate a certain sphere of policies and administration where public authorities collaborate or make partnership with civil society. In practical terms, NTA as a set of principles may cover a broad range of arrangements like public-private partnerships or non-governmental organizations which are granted public regulatory competences or functions in service deliveries or like. The range may stretch from corporate entities which are integrated into state machinery (as offered by Karl Renner) through ‘administrative democracy’ – incorporation of elected or expert bodies into regular public decision-making to NGO regularly subsidized from public budgets. To say it a simpler way, NTA may mean what is called in different national contexts as ‘new public management’ or ‘indirect administration’ in the domain of cultural and educational policies, i.e. delegation of public functions and competences to non-public-sector agents.

A clear-cut example would be publicly elected school district boards which are divided on linguistic lines in Canada and Finland. Another set of cases is minority councils elected through popular vote of minority members in Hungary and several Balkan states; the Sami parliaments are formed in the Nordic countries under a similar scheme. These bodies take part in consultancy and decision-making affecting minorities; they are allocated public money and share responsibility for the operation of cultural and educational institutions which serve minorities. An interesting case was the Aboriginal and Torres Strait Islander Commission.

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47 Bourgeois and Bourgeois, op.cit. note 39.
which operated in the Australian Commonwealth from 1990 until 2005. ATSIC was in part formed by the Aboriginal population through indirect vote and bore a part of public responsibility for social and educational policies targeting Aboriginals. The self-governing union of Danish minority schools which are private but fully publicly funded in the German land of Schleswig-Holstein also deserves mentioning here.

This approach would allow for the exclusion, on the one hand, units of governmental apparatus and, on the other hands, ‘ordinary’ private institutions as such. NTA could thus label institutes which obtain public resources on a regular basis. ‘Resources’ should be understood here as all kinds of material (allocative) and non-material (authoritative) wealth including power and participation in decision-making. Defining resources too narrowly like authority or ability to exercise jurisdiction would make the approach impractical since delegation of public authorities to non-state institutions remains a rare exception. The criteria of regularity would distinguish autonomies from NGOs and private institutions getting public resources occasionally.

Would the formal legalistic criteria based on the division between public and private law be applicable here? It looks as having little sense, since division between public law and private law organizations does not matter in many jurisdictions; besides, in practical terms private institutions serve as public interest organizations.

In this context, the adjective of ‘non-territorial’ like all other potential adjectives (‘cultural’ or ‘personal’) look to a certain degree problematic. Such still poorly defined term as ‘functional autonomy’ turns out to be more appropriate, however, ‘non-territorial’ may also serve as a generic term in force of the recently established tradition of naming ethnicity-based arrangements.

Needless to say, that ‘policies of NTA’ as an ideological approach and ‘functional autonomy’ as a technique of governance may but not necessarily co-exist in individual cases. In the meantime, the both have a room of their own. They do not coincide with minority protection

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54 Tkacik, op.cit. note 4, pp.375-79.
or multicultural policies that does not necessarily envisage group self-organization, and they can be in necessary distinguished from power-sharing because NTA policies and functional autonomy do not necessarily imply a division of authority and competences.

These two potential opportunities of using NTA as an analytical category leave little space for application and turn out to be optional. Nevertheless, it makes sense to keep this notion alive to maintain the already ongoing academic discussion and to secure its coherence. The precondition is to stop treating ethnic groups as internally cohesive social units and to get rid of non-issues like ‘shared sovereignty’ or group ‘self-determination’.