Post-conflict State Building: The Debate on Institutional Choice

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ABSTRACT

A significant theoretical and empirical question underlying much of the literature on post-conflict state-building is what institutions offer the best prospect for peace and democracy in divided societies recovering from conflict. This debate is highly relevant for many developing countries. With much invested by third parties in post-conflict reconstruction and a mixed track record of success at best, the question explored by this paper is whether consociational institutional designs—widely applied in policy practice and severely criticised in academic discourse—can accomplish the twin goals of peace and democracy in divided post-conflict societies. Examining the claims of supporters and detractors of consociationalism, the paper finds substantial conceptual and empirical evidence that consociational institutions hold significant promise for building democratic states after conflict in divided societies.

Introduction

Few debates have engulfed the literatures of comparative politics, international relations, development studies, and conflict management for as long and as intensively as that between advocates of different schools of thought on how to build stable and democratic polities in divided societies. Especially when such societies emerge from frequently long and vicious conflict, the task is formidable at the best of times, and the track record of success patchy. The question, therefore, which approach is the most promising to attain the twin goals of peace and democracy, which at the same time are pre-conditions for sustainable economic development, is not merely academic naval-gazing but of immediate and lasting relevance to the countries embarking on state-building after conflict and is, by extension, often also significant in its implications for regional and international security more broadly. Post-conflict state-building is a significant challenge for many developing countries. Yet, it also has been, and remains, an issue for more developed countries. Herein lies a significant opportunity: informed institutional choice can be based on the comparative analysis of a wide range of experience in different historical, cultural, socio-political and geographic contexts. Institutional choices in post-conflict contexts in developing countries can thus benefit from lessons learned of success and failure in developed countries (and vice versa). At the same time, the political science perspective adopted in this essay can add insights to an already well-established discourse in Development Studies on issues of (good) governance by offering a focus comparative institutional design and the conditions under which particular institutions are feasible and viable for post-conflict societies.

Much of this literature is focused on the institutions of the state, and there is wide agreement that 'it is […] in divided societies that institutional arrangements have the greatest impact [and that] institutional design can systematically favour or disadvantage ethnic, national, and religious groups.'[1] Consequently, while there is agreement that institutions matter because they can provide the context in which differences can be accommodated and managed in a nonviolent, political way, the existing literature on post-conflict state-building offers no consensus on the most suitable institutions to achieve this. While much of the state-building debate is thus consumed with normative and pragmatic arguments about the desirability and feasibility of particular institutional designs, the task of building democratic states after conflict is more wide-ranging.

The first section of this essay will therefore explore what might be called a 'task list' of post-conflict democratic state-building as a way of contextualising the challenge at the centre of state-building, namely the design of the state's political institutions. Yet, designing democratic states in divided, post-conflict societies and building peace there are not necessarily identical processes. Thus, section two addresses the question whether peacebuilding and democratic state-building in post-conflict societies are compatible strategies, and Section 3 follows on by considering whether consociational institutions—that is, the use of mechanisms of power sharing and self-governance—can successfully deal with the variety of dilemmas posed by the simultaneous requirements of peace maintenance and (democratic) state-building.

The State-building 'Task List'

The process of building democratic states after conflict poses a highly complex challenge to domestic and external actors alike. At its heart is 'the state and its relationship to peace'.[2] Sustainable peace

and sustainable states are related to each other within a broader context than merely the design of political institutions and their impact on society. Security, including the issues of disarmament, demobilisation and re-integration of former combatants (DDR) and, linked to this, security sector reform (SSR), a functioning system of law and order, including questions of redress for past crimes, refugee and IDP return and reintegration, a sound economic and fiscal policy, education reform and the incorporation of local and civil society actors all form part of the state-building process and have an effect on both the nature of the state that is being built and the sustainability of peace within it. Put differently, while there is now a clear realisation in the state-building and conflict management literature that there are obvious 'limits of constitutional engineering alone' in achieving peace after conflict,[3] institutions remain the core component of post-conflict state-building. The reason behind much of this focus on institutions as the main tool for post-conflict state-building is that formal institutions can be modified and adapted to suit specific needs and circumstances more readily than other factors that influence the risk of resurgent conflict, such as the level of economic development or the cultural and ethnic make-up of societies. Focusing on institutions assumes that democracy can indeed be 'designed'. The underlying assumption of the state-building literature, in other words, is that peace can be facilitated through an institutional bargain that establishes macro-level structures through which micro-level rewards are provided to elites (and their supporters) incentivising them to resolve their differences by democratic political, non-violent means. Without neglecting this important dimension of agency, state-building 'need[s] to focus…on those dimensions of stateness that can be manipulated and "built"'.[4]

Before any building of state institutions can commence with a reasonable expectation of success, minimum levels of security need to be achieved. The state-building literature recognises the importance of security, and concomitant tasks such as DDR and SSR, for achieving democracy, but equally accepts that a narrow focus on security will not suffice in achieving democratic outcomes in the post-conflict state-building process. In terms of sequencing, 'security first' is by now an accepted paradigm of state-building, but there is equally a realisation that 'security only' cannot succeed in achieving the twin outcomes of peace and democracy after conflict. Building effective institutions of governance, implementing policies for economic development, and fostering the participation of civil society activists and the media in the state-building effort are part and parcel of the state-building task list which are ignored at state-builders' peril.

Security is not only a crucial pre-condition for the success of state-building but it is also linked to it through the notion of legitimacy. Rubin notes that security is more than just a state of affairs which individuals perceive, but that it implies a political claim of legitimacy, that is, 'the transformation of coercion into security through the rule of law.'[5] Security and political legitimacy are thus very closely connected: a post-conflict state's capacity to provide security will crucially determine its legitimacy, and vice versa the political legitimacy it has (in terms of elections, representation and participation of key stakeholders) conditions the degree to which security is seen by citizens as protecting them or as merely the continuation of conflict by other means. As Reno demonstrates, state-builders need to consider carefully their options in this context—between confronting local power-brokers, who may have provided a semblance of security in areas under their control during conflict, and integrating them in the state-building effort. While the latter strategy of 'integrating vigilantes and exclusionary sub-state groups into post-conflict orders ... poses considerable problems', such compromises have a historical record of aiding the 'legitimacy of the new democratic order'.[6] In other words, the design

of institutions, including of the rules of representation and participation, can contribute to achieving a sustainable, secure environment for state-building, economic development, etc. Institution building, thus, also provides the link between security based on coercive capacity (of domestic and/or external actors) to security that derives from rule of law. This is another factor that underlines the significance of a focus on institution-building process and the importance of 'choosing' a set of institutions that can effectively provide this link.

Democratic State-building vs. Peacebuilding

There are no universally agreed definitions of either state-building or peacebuilding,[7] nor is there agreement on the compatibility of peacebuilding and state-building.[8] However, there is a tangible trend to view them as compatible in post-conflict environments, provided that there is a flexible application of the wide range of different tools of institutional design for divided societies. Before discussing some of these tools at greater length in the next section, some conceptual clarification is in order to establish the extent to which democratic state-building and peacebuilding converge and diverge.

Peacebuilding and state-building are not identical, but closely connected processes. By establishing and/or strengthening state institutions in the post-conflict environment of divided societies, a tangible and positive contribution can be made to sustainable peace. This view encounters potentially two conceptual difficulties. The first is that processes of state-building (or state formation) are historically long, and predominantly violent processes, encapsulated famously in Charles Tilly's formulation that 'war makes states'[9] and are consequently at odds with the immediate requirements of achieving peace (or at least an end to hostilities). The other incompatibility arises when state-building is tied to the specific outcome of a democratic state. Even that incompatibility is not a principal one—democracy is possible both after violent conflict and in divided societies. However, it is also empirically correct that processes of democratisation (i.e., the *process* of building democratic states) in divided societies are environments prone to conflict escalation[10] and that democracy in divided societies requires a range of special institutional safeguards[11] to prevent the emergence of conditions in which divisions within society (for example between different ethnic, religious, or socio-economic status groups) gain a salient discriminatory dimension and eventually facilitate the rise of violence as a means to realise group interests. Put differently, focusing on institutional choice provides the link between peacebuilding and democratic state-building. Choosing institutions, from this perspective, means to agree on governance arrangements in which peace and security can be sustained while the broader process of state formation takes place in the course of which a full range of democratic and legitimate institutions are established.

In a recent study on state-building and democratization in sub-Saharan Africa, Bratton and Chang found that rule of law—conceived of as popular perceptions of improvements in personal security and leaders' respect of the constitution—is the most critical factor to success in building democratic states.[12] While the crucial role of security in legitimising institutions has already been noted above, it is worthwhile pointing to the emphasis that Bratton and Chang put on leaders' respect of the constitution, that is, in the language of conflict management in divided societies, their credible commitment to implementing and operating an institutional framework agreed in a peace settlement. As James Fearon had pointed out more than a decade earlier, some institutional choices are less likely to engender leaders' credible commitment to a constitution than others, noting that

'the use of majoritarian principles can create a commitment problem that generates secession movements and large scale ethnic violence' while 'pushing seriously for multi-ethnic democracies may require embracing non-majoritarian, consociational principles.'[13] Fearon's argument, developed in the specific context of an apparent upsurge in inter-ethnic violence in the aftermath of the dissolution of the Soviet Union and the disintegration of Yugoslavia, stands in a broader tradition of conflict management literature that seeks institutional alternatives to majoritarian democracy. One of these alternatives is consociationalism and while the merits of the consociational strategy as a tool for state-building and peace-building remain contested, there is some consensus, including among otherwise fierce critics of consociationalism, that the requirements of these often simultaneous tasks in divided societies recovering from civil war make consociational designs indispensable. Viewing consociationalism as a transitional mechanism and retaining serious reservations about its long-term ability to induce stability and democracy in divided societies Philip Roeder and the late Donald Rothchild in the context of their (rival) theory of power dividing emphasize the frequent necessity of consociational arrangements as a step towards more majoritarian democratic institutions.[14] Similarly, Donald Horowitz, who provides a centripetalist critique and alternative to power sharing, has observed that '[c]ivil wars […] can sometimes be brought to an end with consociational arrangements, but the desirability and durability of such agreements are often in doubt'.[15] In the following, I therefore engage with this central debate on the feasibility and viability of a consociational strategy for post-conflict state-building and thus offer one particular perspective on the importance of choosing institutions that can command both elite and popular loyalties, thus preserving peace and strengthening democracy.

Post-conflict State-building in Divided Societies: The Origins and Main Features of Contemporary Consociational Theory and Practice

Consociationalism is a theory of managing conflict in divided societies and has been widely applied in post-conflict state-building. It has two predominant dimensions of institutional design that have emerged most clearly in its liberal consociational version: power sharing and self-governance.[16] Even though empirically they frequently coincide, by design or otherwise, territorial approaches to conflict management in divided societies are often treated separately from power sharing in the literature.[17] In the following section, I will treat them sequentially, but emphasise both their empirical connections that have been obvious for some time and conceptual links that have only recently been established more systematically.[18] In presenting the origins and main features of contemporary consociational theory and practice and engaging with its critics, I develop an argument in favour of a consociational strategy of post-conflict state-building.

Arend Lijphart began to examine democratic consociational systems in the late 1960s, coining the very term when making reference to the political systems of Scandinavian countries and of the Netherlands and Belgium.[19] He followed up with further studies of political stability in cases of socially severely fragmented societies, eventually leading to his ground-breaking work *Democracy in Plural Societies*.[20]

The phenomenon Lijphart was describing, however, was not new. As a pattern of social structure, characterizing a society fragmented by religious, linguistic, ideological, or other cultural segmentation, it had existed and been studied (albeit not as extensively) long before the 1960s. These structural aspects, studied by Lorwin,[21] among others, were not the primary concern of

Lijphart, who was more interested in why, despite their fragmentation, such societies maintained a stable political process, and identified the behaviour of political elites as the main, but not the only, reason for stability. Furthermore, Lijphart identified four features shared by consociational systems – a grand coalition government (between parties from different segments of society), segmental autonomy (in the cultural sector), proportionality (in the voting system and in public sector employment), and minority veto.[22] These characteristics were, more or less prominently, present in all the classic examples of consociationalism: Lebanon, Cyprus, Switzerland, Austria, the Netherlands, Belgium, Fiji, and Malaysia. Some of these consociations have succeeded, such as in Switzerland, Austria, the Netherlands, and Belgium, while others have failed, like Lebanon, Cyprus, Fiji, and Malaysia.

Lijphart's own thinking on consociational theory has developed considerably over the decades since he first introduced the concept into comparative politics, partly in response to the challenges that other scholars made against his assumptions and prescriptions. Lijphart engaged his critics most comprehensively in his book on *Power sharing in South Africa* and in his contribution to Andrew Reynolds's *The Architecture of Democracy*.[23] In the latter, he also offers a substantive revision of his original approach, now describing power sharing and autonomy (i.e., grand coalition government and segmental autonomy) as primary characteristics, while proportionality and minority veto are relegated to 'secondary characteristics'.[24] Yet, in relation to his grand coalition requirement, Lijphart maintains his earlier position that this form of executive power sharing means 'participation of representatives of all significant groups in political decision making'.[25]

Apart from Lijphart, the other main, and today predominant, advocates of consociational theory and practice are John McGarry and Brendan O'Leary. Their analysis of the Northern Ireland peace process 'highlights six important weaknesses in traditional consociational theory'.[26] These are the failure to address the role of external actors; the trans-state nature of some self-determination disputes and the necessary institutional arrangements to address them; the increasing complexity of conflict settlements in which consociational arrangements form an important element but require complementary mechanisms to deal with 'the design of the police, demilitarization, the return of exiles to their homes, the management of prisoners, education reform, economic policy, and the promotion of language and other group rights';[27] terminological and conceptual inaccuracies, primarily associated with Lijphart's grand coalition requirement; the merits of preferential proportional electoral systems, and the allocation of cabinet positions by means of sequential proportionality rules.

In dealing with these weaknesses, McGarry and O'Leary offer both refinements of, and advancements to, traditional consociational theory. In terms of the purpose of this article—post-conflict state-building—the relevant refinements relate to the technical side of consociational institutions, where the authors recommend preferential proportional electoral systems thatmilitate against the proliferation of micro-parties. They also contend that Lijphart's grand coalition requirement is overstated, as 'what makes consociations feasible and work is joint consent across the significant communities, with the emphasis on jointness'.[28] In other words, what matters for a democratic consociation 'is meaningful cross-community executive power sharing in which each significant segment is represented in the government with at least plurality levels of support within its segment'.[29] McGarry and O'Leary also elaborate the usefulness of sequential proportionality rules in the allocation of cabinet positions in order to avoid protracted bargaining between parties and increase parties' incentives to remain part of cross-communal coalitions. The other important

relevant refinement are McGarry's and O'Leary's observations on the significance of external support for conflict management. This brings consociational theory into line with an established debate in international relations on the role of third parties in conflict management and post-conflict state-building.[30]

What is, therefore, evident in contemporary consociational theory is a clear 'liberal turn' away from more traditional corporate consociationalism. The main difference between the two is that a 'corporate consociation accommodates groups according to ascriptive criteria, and rests on the assumption that group identities are fixed, and that groups are both internally homogeneous and externally bounded,' while 'liberal […] consociation […] rewards whatever salient political identities emerge in democratic elections, whether these are based on ethnic groups, or on sub-group or trans-group identities'.[31] This is another important modification of consociational theory that addresses one of its more profound, and empirically more valid, criticisms, namely that (corporate) consociations further entrench and institutionalize preexisting, and often conflict-hardened, ethnic identities, thus decreasing the incentives for elites to moderate.[32] However, this move away from corporate consociationalism in the literature is not entirely reflected in political practice: for example, Bosnia and Herzegovina, under the original Dayton Accords, Northern Ireland under the 1998 Agreement, Lebanon under the National Pact and under the 1989 Ta'if Accord, Cyprus under the 1960 constitution and the proposed (but rejected) Annan Plan all display features of predetermined arrangements based on ascriptive identities.

In consociational theory the term 'autonomy' is frequently used to broadly describe the second main dimension of institutional design alongside power sharing. In this abstract sense, it refers to the whole breadth of self-governance arrangements, be they territorial or non-territorial in nature. Non-territorial or (national) cultural autonomy is usually advocated in cases where claimant groups are territorially not sufficiently concentrated. Such '[p]ersonal autonomy applies to all members of a certain group within the state, irrespective of their place of residence. It is the right to preserve and promote the religious, linguistic, and cultural character of the group through institutions established by itself'.[33] It has its modern origins in Austro-Marxism, and is particularly associated with the work of Otto Bauer and Karl Renner.[34] It was widely applied in the period between the First and Second World Wars, and has seen a degree of resurgence in Central and Eastern Europe after 1991, while also being incorporated into the Belgian federal model.[35] Neither conceptually nor empirically is it much invoked in the contemporary literature on consociationalism as a strategy for managing conflict in divided societies, and I shall therefore not treat it at any further length here.

Territorial self-governance (TSG), on the other hand, is a strategy of conflict management in divided societies widely and predominantly employed in cases of territorially compact groups. Across the literature, there is no agreement on a common definition of TSG, but existing treatments of the concept all share the view that it entails the transfer of certain powers from a central government to that of the (thereby created) self-governing entity, and the relatively independent exercise of these powers. Such arrangements then can incorporate executive, legislative, and judicial powers to varying degrees. Where they are used as an instrument for conflict prevention and settlement in divided societies, they ideally include such a mix of the three that enables the self-determination movement in question to regulate independently the affairs central to the concerns of its members, which are normally easily identifiable as they manifest themselves in concrete claims. However, because such TSG arrangements fall short of full sovereignty, this often happens within the broader

constitutional and legislative framework of the existing state and under the supervision of a central government or similar agencies.

As a tool of state-building in post-conflict divided societies, TSG is best defined as the legally entrenched power of territorially delimited entities within the internationally recognized boundaries of existing states to exercise public policy functions independently of other sources of authority in this state, but subject to its overall legal order.[36] As such, TSG encompasses five distinct governance arrangements—confederation, federation, autonomy, devolution, and decentralisation.

- *Confederation: extensive self-rule without institutionalised shared rule.* This is an empirically rare form of voluntary association of sovereign member states which pool some competences (e.g., defence, foreign affairs, and currency) by treaty without giving executive power to the confederal level of government. Relevant examples include Serbia and Montenegro under the terms of the 2003-2006 constitution (which was never fully implemented), Switzerland between 1291 and 1848 (formally Switzerland retains the term confederation in its official name, functionally, however, it is today a federation). The relationship between Republika Srpska and the Federation of Bosnia-Herzegovina also resembles a confederal arrangement.

- *Federation: extensive self-rule with institutionalised shared rule.* This implies a constitutionally entrenched structure in which the entire territory of a given state is divided into separate political units, all of which enjoy certain exclusive executive, legislative and judicial powers independent of the central government. Most commonly cited examples of federations as tool of conflict management in divided societies include Canada and Belgium, as well as Yugoslavia, the Soviet Union, and Czechoslovakia.

- *Federacy arrangement: constitutionally entrenched extensive self-rule for specific entities*. A federacy enjoys similar powers and constitutional protection as federal entities, but does not necessitate territorial sub-divisions across the entire state territory. In other words, federacy arrangements are a feature of otherwise unitary states, such as the Åland Islands (Finland), South Tyrol (Italy), Gagauzia (Moldova) and Crimea (Ukraine).

- *Devolution: extensive self-rule for specific entities entrenched in ordinary law.* Devolution can be applied to selected territories in a unitary state. The degree of legal protection is weaker and extends only to protection by 'regular' rather than constitutional laws. The primary example here is the United Kingdom with its four devolution settlements (London, Northern Ireland, Scotland, and Wales).

- *Decentralisation: executive and administrative powers at the local level.* Guided by the principle of subsidiarity, decentralisation means the delegation of executive and administrative powers to local levels of government. It does not include legislative competences. Recent examples of the application of this form of TSG as a mechanism of conflict management in divided societies include Macedonia (under the 2001 Ohrid Agreement) and Kosovo (under the terms of its 2008 constitution and related 'Athisaari legislation').

Having thus defined the two main features of consociational institutions—power sharing and (territorial) self-government, a practical questions arises: when are consociational institutional institutions appropriate in the context of post-conflict state-building? This involves two distinct dimensions: feasibility and viability. Feasibility is about the primarily structural conditions under which different forms of power sharing and TSG, and combinations thereof, appropriately reflect the preferences of the immediate conflict parties. That is, the question is about the (structural) factors that determine the (institutional) outcome of negotiations and does not take account of the dynamics of negotiations that lead to agreement on a specific settlement. Viability, in contrast, is about the degree to which a negotiated outcome (i.e., a set of institutions agreed between the conflict parties) in actual fact addresses the core demands and concerns of each conflict party to such an extent that they do not take recourse to violence but rather engage in a political process within the agreed institutional framework.

While there is significant overlap in terms of the factors that lead to the emergence of power-sharing and self-governance arrangements, it is useful to treat them initially separately for analytical purposes. The key structural factor to consider in relation to TSG is the territorial pattern of ethnic demography. Among the proponents of TSG, there is relative consensus that such TSG institutions are generally needed in conflict situations involving territorially compact communities willing to accept self-governance in the area they inhabit as the way in which they express their right to self-determination.

In the following three types of situations power-sharing mechanisms are required, either in addition to, or instead of TSG arrangements: to accommodate local, politically relevant heterogeneity in the self-governing territory; to reflect the significance of the self-governing territory relative to the rest of the state; or to account for the significance of particular groups that lack compact settlement patterns. Power sharing as a result of efforts to accommodate local population diversity in the self-governing territory takes the form of a regional consociation, such as in South Tyrol and Northern Ireland. If the significance of the territory (or territories) in question relative to the rest of the state is high and necessitates power sharing at the centre, the institutional outcome is a sovereign consociation, such as in Belgium or Switzerland, or Iraq. Regional and sovereign consociations are not mutually exclusive but can occur together. Empirical evidence for this exists, for example, in the Dayton Accords for Bosnia and Herzegovina, as well as in the arrangements in Brussels and Belgium. Where groups live dispersed such that territorial self-governance is not an option, yet their significance relative to the rest of the state and its population is high, sovereign consociations emerge, possibly in combination with non-territorial self-governance, such as in Lebanon under the National Pact and the Ta'if Accords, in Rwanda under the Arusha Accords, or in Burundi under the Pretoria Protocol.

'Significance' relates to both territory and population. For states, territory possesses certain value in and of itself, including natural resources, the goods and services produced there and the tax revenue generated from them, and military or strategic advantages in terms of natural boundaries, access to the open sea, and control over transport routes and waterways. Additionally, for identity groups, territory very often is also important in a different way – as a crucial component of their identity. Territory is then conceptualised more appropriately as place, bearing significance in relation to the group's history, collective memories, and 'character'. Yet, for identity groups, too, territory is, or can become, a valuable commodity as it provides resources and a potential power base, including

natural resource presence, strategic location, and cultural importance. Significance can also arise from the size of a particular population group, the wealth it has and/or generates (as expressed in GDP per capita), its control of particular sectors (security, public administration, business), and its electoral impact at the centre.

As a starting point to explain the viability of consociational institutions,[37] I take the observation that institutions designed to manage conflicts in divided societies in practice work as a package; that is, they 'interact in complex ways'.[38] What matters, therefore, is that different dimensions of institutional design fit each other and the context in which they are to be implemented to enable overall outcomes that are conducive to the success of conflict settlements.

The existing literature on conflict management offers some insights on what contextual conditions need to be in place to enable sustainable settlements. As far as TSG is concerned, the consensus generally extends to the need for institutional arrangements to address the key conflict issues (including assignment of substantive powers to the self-governing entity, adequate financing for their discharge, clear delineation of competences held by the territorial entity and by the centre), to entrench the settlement constitutionally, and as necessary in international law, and to provide for effective dispute resolution mechanisms.[39]

Moreover, the establishment of appropriate power-sharing arrangements has a direct bearing on the success of TSG: governance arrangements within the self-governing territory must contribute to the settlement's workability at the local level, and relations with the centre must be structured in such a way that they adequately reflect the significance of the self-governing entity relative to the rest of the state. Yet, the relationship is not linear; power-sharing institutions have their own 'success conditions', too.

Lijphart identified several such 'favourable factors', based on his study of sovereign consociations in the 1960s and 1970s,[40] but confusingly his favourable factors included both factors that enable the emergence of consociational arrangements as the outcome of a negotiation process and those that can ensure their subsequent success. Lijphart thus listed overarching loyalties, a small number of political parties in each segment, segments of about equal size, and the existence of some cross-cutting cleavages with otherwise segmental isolation. In addition, the small size of the territory to which a consociational structure is applied and the direct and indirect internal and external consequences of this, as well as a tradition of compromise among political elites were also emphasized by Lijphart as conditions enhancing the stability of the consociational settlement.

Since Lijphart's original analysis of success conditions, the literature on conflict management more broadly has developed various and increasingly sophisticated approaches to determining the factors that condition success. A broad distinction can be made between factors related to content (of the institutions put in place) and context (of their implementation and operation), though sometimes the distinction is difficult to pin down. As far as the impact of the content of any agreement goes, what matters primarily is the degree to which the institutional bargain achieved reflects the structural conditions of each conflict situation and the degree to which it addresses the concerns and demands of the conflict parties. In addition, appropriate dispute resolution mechanisms should be part of an agreement and translated into institutional mechanisms. The proper financing of self-governance and the constitutional entrenchment of the agreement's provisions are two factors that

are somewhat in a grey area between content and context. As they are quite frequently written into agreements, I consider them as part of content, while acknowledging that they are also part of its broader context.

Beyond the structural aspects that significantly shape the content of an agreed institutional design, two aspects are of particular significance: elite agendas and behaviour and the external environment. Concerning elite agendas and behaviour, three issues appear to matter most.[41] First, 'the mutual understanding and acceptance of each side's concerns about survival, status, legitimacy, and cultural and political rights' needs to be reflected in settlements[42] and parties need to acknowledge and protect institutionally each other's right to be part of the common state with their distinct identity. Second, elites must commit in word and deed to full implementation and subsequent operation of an agreement, they must be prepared to revisit it in whole or part in good faith if specific provisions in the original agreement do not or no longer work or if there is an expectation that a changing context might affect the effectiveness of specific provisions. Third, elites need to retain as widely as possible the support of their constituents for the settlement to ensure that they can interact with each other with a relative degree of autonomy, not having to fear being outflanked within their own community. This is closely related to the extent to which all relevant political elites within each conflict party adopt a non-partisan approach when it comes to preserving the settlement and do not engage in mutual ethnic outbidding predicated on 'defending' communal interests rather than an inter-communal peace. Crucial for the success of any settlement (and process leading up to it) is thus the absence of effective spoilers at the domestic level.

Apart from these primarily domestic factors, it has been increasingly recognised that there is also an external dimension to the sustainability of any settlement.[43] There are two factors widely accepted in the existing literature: the absence of effective external spoilers[44] and broad international support for the implementation (and operation) of agreements, including through donor funding and international/regional security guarantees.

Another external dimension affects content more than context: third parties, such as international governmental (e.g., UN, EU, AU, OSCE, OIC) and non-governmental organisations (Centre for Humanitarian Dialogue, Conciliation Resources, Concordis, Kreddha, Initiative on Quite Diplomacy), individual states (e.g., United States, Norway), and prominent individuals (e.g., Jimmy Carter, Martti Ahtisaari, George Mitchell) play a major role in mediating between the conflict parties during the negotiation phase of a conflict management process[45] and thus have a significant impact on the content of any settlement. Their involvement often commits them to long-term engagement beyond the negotiation phase, for example, by extending security guarantees or offering monitoring and verification of agreement implementation.

Table 1. The viability of consociational institutions in post-conflict state-building

Content			Match of institutional bargain to structural conditions
			Match of institutional arrangements to conflict issues
			Appropriate dispute resolution mechanisms
			Constitutional entrenchment
			Proper financing
C	o	Domestic	Parties' acknowledgement of each other's right to be part of the common state

		with their distinct identity
		Parties' credible commitment to implementation
		Absence of effective domestic spoilers
	External	Absence of effective external spoilers
		International support for implementation

Consociational Theory and Practice: Critique and Defence

Consociationalism as an approach to managing conflict in divided societies has been, and continues to be, criticized from three perspectives: a theoretical one that it is built on an uncertain and changing conceptual basis, a normative one that it is undemocratic, and a pragmatic one that it does not lead to stable conflict settlements. All three critiques are interrelated, thematically and in terms of their authors, and they all reflect not only a (partial) rejection of the consociational strategy but also, directly and indirectly, advocacy for its two main rivals: centripetalism and power dividing.

Engaging with critics of consociationalism and offering a defence for it is complicated by the fact that most critiques focus on its power-sharing dimension, while critics of territorial approaches to conflict management equally see them in isolation despite significant empirical evidence to the contrary. This terminological, and to an extent conceptual, imprecision has also not been helped by Lijphart's own use for more than two decades of power-sharing democracy as by and large synonymous to consociational democracy.[46] Thus, in developing an argument in favour a consociational approach to state-building in post-conflict societies, I shall engage separately with both sets of critique and defend each approach individually, before offering a more 'joined-up' defence of consociationalism as a whole in the concluding section.

The theoretical critique of power sharing is associated prominently with the work of Mathijs Bogaards.[47] Bogaards levels two challenges against Lijphart on the basis of conceptual, terminological, and typological problems within consociational theory. His first criticism is 'that Lijphart's recommendation of consociational democracy as against majoritarian democracy for plural societies does not derive from and cannot be supported with his empirical analysis of the performance of these types of democracy in plural societies'.[48] Bogaards' second criticism, again based on a careful examination of Lijphart's writings, is that a 'lack of theoretical coherence [in terms of the underlying assumptions of consociational theory] shows in the considerable changes the favourable factors [for the success of consociational democracy] underwent in both number and content in the course of time'.[49] Bogaards' two-fold critique is well supported by the evidence he presents from Lijphart's writings up until the late 1990s, but requires some qualification in light of Lijphart's own writings in the twenty-first century and in light of McGarry and O'Leary's development of consociational theory.

Lijphart himself responded directly to the first dimension of Bogaards' critique by accepting a degree of conceptual vagueness and re-affirming his definition of consociation as consisting of 'the four characteristics of grand coalition, autonomy, proportionality, and mutual veto'.[50] Perhaps more importantly, Lijphart rejected the claim that because of the lack of overlap between consociation as a normative and an empirical type, no policy recommendations can be derived, emphasizing the 'beneficial character and practical value' of power sharing in divided societies that derives from the

empirical analysis of actual conflicts and their management and the assessment of actual or potential alternatives.[51]

McGarry and O'Leary's early engagement with consociational theory particularly addressed Boogards' critique of Lijphart's discussion of the conditions conducive to the success of consociation as a strategy to manage conflict in divided societies. Bogaards pointed out that Lijphart's 'favourable factors' are essentially deterministic and thus in stark contrast to his otherwise 'voluntaristic stance'.[52] In contrast to Lijphart, McGarry and O'Leary, as noted above, as early as 1993 identified three fundamental conditions for consociational systems to work that put much greater emphasis on elite behavior, precisely what Bogaards demanded.[53] Part of the confusion here rests with Lijphart, part with Bogaards' exclusive focus on Lijphart and his specific reading of Lijphart's claims. Liijphart's favourable factors mixed conditions conducive to the emergence of power-sharing arrangements with those conducive to their stability and success in managing conflict in divided societies. McGarry and O'Leary have since made this distinction more clearly,[54] and subsequently elaborated further on elite motivations.[55] As I have argued above, systematic analysis of consociational theory (and practice) suggests that a distinction is both necessary and possible between its predictive and explanatory functions (feasibility vs. viability) to determine precisely the factors that dictate when consociational structures are likely to emerge and when they provide for sustainable conflict management.

Normative and pragmatic full and partial rejections of the power-sharing strategy as an approach to conflict management in divided societies often go hand-in-hand. They focus on the diminished quality of a consociational democracy; the fact that power sharing entrenches ethnic cleavages; and that such arrangements are essentially unstable and easily end in deadlock. Complete rejectionists of the power-sharing strategy are considerably fewer in number than those who see partial value in it, especially as a means to facilitate a transition after civil war.

The out-of-hand rejections of power sharing made by Wilson, Jarstad and Ghai & Cottrell are illustrative of this type of critique. Wilson criticizes consociationalism in the Northern Irish context from the perspective of a counter-proposal: 'an 'intercultural' alternative to consociationalism' that 'has at its heart the idea that one develops one's own complex identity through deliberation with others'; in other words, focusing on the need for 'reconciliation towards an integrated society conforming to the democratic norm that the individual citizen, rather than the 'community', comprises the social unit, in line with the Universal Declaration of Human Rights'.[56] As McGarry and O'Leary provide a robust rebuttal to Wilson's claims,[57] I shall instead focus on a more limited, but in some ways more critical point, which stands for a broader and more widely shared criticism of consociational power sharing: that is, that consociationalism favours and entrenches communal identities at the expense of individual identities and rights. This is a gross misreading of liberal, as opposed to corporate, consociationalism theory and practice, and Lijphart, as well as McGarry and O'Leary have convincingly demonstrated both theoretically and with reference to practical examples that contemporary power-sharing practice favours self-determined over pre-determined groups in its institutional prescriptions and arrangements.[58]

The broadly corporate assumption of consociational power sharing also permeates Jarstad's criticism. Her criticism is conceptually focused narrowly - on corporate consociations - but extrapolates from their shortcomings a broader rejection of power sharing more generally. Thus, the claim that 'all power-sharing systems have to settle the difficult issues of defining which groups

should be represented and the share of seats for each group'[59] is empirically not generalisable. It is true, to some extent, for the arrangements in Bosnia and Herzegovina (under the 1995 Dayton constitution), but not as far as other prominent examples go, such as Iraq (2005 constitution), Northern Ireland (1998 and 2006 Agreements), or South Tyrol (1972 Autonomy Statute). These latter cases, among others, are essentially liberal consociational institutional arrangements in the terminology of McGarry and O'Leary. As already noted, the body of work by McGarry and O'Leary represents a significant further development of power-sharing theory beyond Lijphart, who is Jarstad's main reference point,[60] but even a closer reading of Lijphart's own work reveals that he has for long argued that 'consociational institutions that follow the principle of … "self-determination" are superior to those that are based on "pre-determination"'.[61] Moreover, Jarstad's reading and interpretation of existing literature in this field appears to be limited, which leads to the erroneous claim that 'previous research on power sharing has underestimated the long-term negative consequences of power sharing on both democracy and peace',[62] ignoring the decades-long debate on the virtues, or lack thereof, of power-sharing arrangements.[63]

Even if one leaves these shortcomings in the conceptualisation of power sharing aside, Jarstad's reservations about the long-term suitability of power sharing need some qualification. First, the claim that 'moderate actors are often excluded from a share of power'[64] may be empirically true in a number of cases, but it is far more difficult to demonstrate causality. Especially in cases where power-sharing governments emerge from an electoral process, the fact that power is to be shared in the executive is at best an indirect cause of the success of hardliners. Lack of popular support is also rather more context-dependent. In Bosnia and Herzegovina, for example, Serbs are strong supporters of the power-sharing arrangements created under the Dayton constitution, Bosniaks are more likely to advocate for re-centralisation and integration, while Croats to some extent would like to see a different set of reforms, namely those that would give them a greater share of power at the state level than they currently have.

Jarstad's claim that power sharing necessitates external intervention in order to become viable and thereby minimises local ownership is of significant substance.[65] Heavy-handed international intervention and long-term presence may, indeed, not be conducive to building a locally legitimate democratic state after conflict, but as Sisk has noted, 'extended commitments [by the international community] to war-torn societies need to be the norm, not the exception' if 'bringing about lasting peace through democratization in societies shattered by war' is to succeed.[66] Jarstad's final reservation, that power sharing 'freezes ethnic division by group representation'[67] has been well-rehearsed in the literature, but applies only to corporate consociations and thus cannot be generalised across the variety of power-sharing regimes established in post-conflict societies.

Ghai & Cottrell's critique of consociational power sharing, while drawing largely on the experience of Fiji, offers similar observations.[68] It is less generalised in terms of the broader viability of power-sharing institutions, but it resonates well with some established critiques in their general concern, including the 'degrading of human rights', the downgrading of 'citizenship rights … in favour of group rights, with an emphasis of community and custom prevailing over the rights of the individual'.[69] In the same way in which Jarstad also cannot but acknowledge that 'in many cases, the alternatives to power sharing are worse',[70] Ghai & Cottrell offer a significant caveat to their critique when accepting that it would be 'difficult to tell how Fiji would have fared under a different kind of dispensation, one emphasising a non-racial approach and providing incentives for cooperation across racial boundaries'.[71] But perhaps such a counter-factual already exists in the consequences of the

introduction of the Alternative Vote system (AV) in 1999 which resulted in the two most radical parties in each community (indigenous Fijian and Indo-Fijian) taking the largest share in every election since then. AV, generally hailed by centripetalists like Horowitz and Reilly as inducing moderation and cross-ethnic cooperation has clearly not functioned in Fiji as predicted by its proponents.[72] Having said that, this still leaves the question of whether non-power sharing institutions would have led to more conciliatory political outcomes in Fiji. While Ghai & Cottrell cannot offer a conclusive answer to this question, their implicit endorsement of doing away with the corporate aspects of power sharing in Fiji, especially the communal electoral rolls, is consistent with the critique made by liberal consociationalists like McGarry and O'Leary,[73] as well as by centripetalists like Horowitz.[74]

The second category of 'rejectionists' comprises scholars who accept power sharing as a transitional mechanism, but have serious reservations about its long-term ability to induce stability and democracy in divided societies, such as Philip Roeder and the late Donald Rothchild,[75] as well as Donald Horowitz.[76] As these are well-established and frequently discussed critiques, I shall focus on three other recent partially-rejectionist critiques of power sharing put forward by Sisk, Murray and Simeon, and Papagianni.

The partial rejection of power sharing, i.e., its acceptance as only a transitional arrangement, is based on the empirically derived insight that such institutional arrangements, especially if internationally guaranteed, assure conflict parties that it is safe to commit to resolving remaining, and potentially new, disputes by political rather than military means. At the same time, however, critics' acceptance of power sharing as a transitional mechanism reflects concerns that power sharing in the long term may not be suitable for successful conflict management. At the same time, this approach is predicated on the assumption that it is in fact possible to make this transition from a period in which decisions are made in power-sharing institutions to one in which these institutions have been abrogated. One way of achieving this is a sunset or expiry clause according to which power-sharing institutions are limited to a specific period of time after the conflict. Here the primary success case is South Africa, which is analysed in great depth by Murray & Simeon,[77] who argue that the Interim Constitution of 1993 not only provided for power sharing in the period towards the eventual Constitution of South Africa agreed in 1996 but also included a set of constitutional principles to govern the negotiations of the Constitution, thus providing a double assurance to the parties that their essential concerns would not be neglected.

While South Africa provides empirical evidence that sunset clauses can work and maintain stability beyond the end of formal power-sharing arrangements, such agreements may not always be acceptable, especially to the politically weaker parties in such a deal. Sisk and Papagianni, in their respective contributions to this debate, offer alternatives. Sisk recommends 'to encourage national dialogue processes on democracy that can allow for supplementary consensus building to occur outside formal institutions' and argues that 'such dialogues have the benefit of creating consensus first on possible institutional or procedural reforms following which implementation of reforms can be less controversial.'[78] In a similar vein, Papagianni sees instrumental value in transitional power-sharing arrangements beyond merely assuring weaker parties in peace settlements: 'the goal of inclusion and elite bargaining in the transitional period is to secure the engagement of key political actors in the process and to channel differences among them through agreed-upon institutions and procedures.'[79]

These critiques of power sharing as a long-term or permanent way of governance in divided societies are not as such rejections of power sharing, but rather attempts to move beyond what are often considered arrangements that are inferior in terms of the long-term stability and quality of democracy they provide. In this sense, they are not an alternative to liberal consociational power sharing. In fact, liberal consociationalism potentially offers an answer to how to make the transition from mandatory power-sharing institutions to more flexible forms of democratic practice: the principle of self-determination rather than pre-determination in liberal consociational theory affords the possibility of the kind of credible institutional change from consociational to other forms of democracy that is often lacking in accounts by proponents of only transitional power-sharing institutions. In this sense, liberal consociational power sharing offers a way to address the potential gap and disconnect between peace-building and state-building: it assures former conflict parties immediate after the end of violent conflict that politics is 'safe', but it does not lock them in forever in an arrangement whose primary purpose is peace and security rather than a fair and balanced democratic constitutional order. By privileging electorally legitimized (rather than ethnically or otherwise pre-determined) elites, liberal consociational power sharing advocates institutions that emphasize democratic accountability and transparency and leave the ultimate choice of who governs with electors rather than with those who are militarily most powerful at the end of a civil war. In other words, liberal-consociational power-sharing institutions are democracy-enabling: they are conducive to state-building and peace-building.

Similar to the debate over the utility of power-sharing institutions, the academic and policy communities are equally deeply divided over whether territorial approaches to post-conflict state-building offer appropriate mechanisms to establish a sustainable peace while preventing the break-up of an existing state. The critique of TSG, however, is far more simplistic and mono-dimensional than that of power sharing, its main point being the assertion that territorial arrangements empower fundamentally separatist elites and their supporters and endow them with resources to pursue their agenda even more vigorously. For example, Cornell in his analysis of ethnic conflicts in the Caucasus argues that the 'institution of autonomous regions is conducive to secessionism',[80] a point that Roeder had made more than a decade earlier in relation to Soviet ethnofederalism and later reiterated in a broader empirical study,[81] in line with similar findings by Bunce, Hale, and Treisman.

The failure, in particular of ethnic federations and autonomies, is one of the most frequently voiced objections to the use of TSG arrangements in post-conflict state-building. While some of this literature fails to appreciate that (renewed) conflict is a consequence of the abrogation of TSG arrangements rather than of their prior existence, there is also a more sophisticated recent trend of research on TSG, such as that by Chapman and Roeder and Brancati. Similar to the charge of a democratic deficit levelled against power-sharing institutions, Chapman and Roeder demonstrate empirically that, from the perspective of long-term stable democratic outcomes, partitions are preferable to any other territorial settlement.[82] Brancati similarly finds that 'political decentralization' (meaning in her definition, federation) has short-term positive effects; its long-term consequences, however, are more often than not negative for preserving peace, democracy and existing international boundaries.[83]

While the authors referred to above are highly skeptical of TSG as a conflict-management approach, arguing that, rather than being a cure, territorial approaches induce conflict, others have presented empirical evidence to the contrary. TSG, in this view, thus offers an acceptable compromise to

conflict parties. Gurr argues that the 'recent historical track record shows that, on balance, autonomy arrangements can be an effective means for managing regional conflicts.'[84] Wallensteen concurs with such a positive assessment, pointing out that 'since the Cold War, autonomy solutions have been of increasing interest' and that '[t]hus far, the territorial solutions negotiated since the end of the Cold War using autonomy or federation have not failed.'[85] Saideman et al. find that 'federalism reduces the level of ethnic violence',[86] Bermeo concludes that 'federal institutions promote successful accommodation' in cases of ethnic conflict.[87] Rothchild and Hartzell find that 'territorial autonomy … combined with other safeguards … can be used to reassure groups in deeply divided societies about their security and ability to exercise a limited authority' and that such 'arrangements may help to lay the foundation for a stable, accommodative politics.'[88] Hartzell and Hoddie offer statistical evidence that '[d]esigning a negotiated settlement or negotiated agreement to include [territorial power sharing] lowers the risk of a return to war'.[89] Cohen and Schneckener similarly endorse the use of territorial approaches to resolving self-determination conflicts,[90] while Harff and Gurr argue that 'if no autonomy options are open to regionally concentrated groups, armed conflict may occur.'[91]

There is no denying the fact that territorial approaches to conflict management in divided societies have a track record that is far from spotless. In several cases, TSG arrangements have failed to prevent the break-up of multi-national states. In others, they have been unable to preserve or sustain peace between the conflict parties, and critics of territorial approaches have documented these cases well empirically and analytically.[92] However, many of these critiques are focused on federal arrangements alone and on the post-communist/post-Soviet region.

In contrast, what I advocate here in line with contemporary (liberal) consociational theory is a broader approach to understanding the utility of TSG as a post-conflict state-building strategy in divided societies, emphasizing three aspects that are often neglected in critiques. First, territorial options for state-building extend beyond federal and federacy (autonomy) arrangements. Devolution and decentralized local government offer viable alternatives that can satisfy self-determination demands without potentially endangering the continued territorial integrity of an existing state. Second, TSG arrangements are adopted not only as negotiated settlements after civil wars but also in the course of settling non-violent disputes. Hence, many arguments against the viability of TSG arrangements include a selection bias.

Third, while the track record of TSG arrangements in managing conflicts in divided societies may be sketchy, it is far less disheartening than some of its critics suggest. TSG will retain its importance as an approach to post-conflict state-building also because conflict parties in civil wars will continue to demand it, including as a concession from the state in return for their refraining from demands for independence. In this sense, the track record of international involvement in post-conflict state-building suggests that TSG is often considered a natural compromise by international mediators. In other words, and most importantly, no claim is made that TSG arrangements are a panacea in themselves, but rather that, when combined with other institutions in a comprehensive package, they can make an important contribution to building states, maintaining peace and keeping international borders intact. It is for this reason that, practically as well as theoretically, TSG is a natural complement to power sharing within a consociational strategy of post-conflict state-building.

Conclusion

The question about the merits and perils of consociationalism underlies most of the debate on which institutions should be established in the context of efforts to build democratic states after conflict. While neither denying nor stating the obvious—that each case is individual and no one-size-fits-all institutional model is possible—there is considerable support, analytically and empirically, that consociational institutions offer a viable strategy to build peace, states, and democracy. As this essay has demonstrated, this holds true across a wide range of cases and relatively independent of the state of development of the country concerned. Consociational institutions have succeeded and failed in developing and developed countries alike. For this reason, broader conclusions can be drawn about their feasibility and viability to contribute sustainable peace and democracy.

Consociationalism has a long history as a theory and political practice, which has evolved significantly over time. Today it has two primary dimensions of institutional design (and prescription): power sharing and TSG. While these are obvious in consociational practice, their connection has so far remained theoretically underexplored, both by supporters and critics of consociational institutions. Those critical of consociationalism as a whole often focus on its power-sharing dimension, while critics of territorial approaches to conflict management in divided societies normally ignore it altogether. Until recently, supporters of consociationalism, too, were largely oblivious to the significance of the (necessary) complementarity of power sharing and TSG. Yet, there is strong empirical evidence that the viability of consociational institutions increases when they combine both dimensions. Hartzell and Hoddie, for example, argue that conflict settlements (after civil war) are the more stable the more they institutionalize power sharing across four dimensions—political, economic, military, and territorial.[93] Schneckener reaches similar conclusions in a study that is focused on European consociational democracies.[94] These recent empirical findings confirm the conceptual and empirical links between consociation and federation that had already been established by Lijphart three decades ago, noting two crucial principles, namely that 'the component units [must] enjoy a secure autonomy in organizing their internal affairs… [and] that they *all* participate in decision-making at the central level of government'.[95] Following this path, McGarry and O'Leary recently noted that 'some successful cases of territorial pluralism suggest that, at least with sizable nationalities, autonomy should be accompanied by consociational power sharing within central or federal institutions. Such arrangements prevent majoritarianism by the dominant nationality, and make it more likely that minorities have a stake in the state.'[96] This is in line with conclusions reached by Weller and Wolff who argue that 'autonomy can only serve in the stabilization of states facing self-determination conflicts if it is part of a well-balanced approach that draws on elements of consociational techniques, moderated by integrative policies, and tempered by a wider regional outlook'.[97]

This phenomenon of power sharing and TSG occurring in combination has been identified by several authors over the past years. Kettley, Sullivan, Fyfe, Weller, and Wolff refer to it, albeit in somewhat different ways, as 'complex power sharing',[98] O'Leary uses the term 'complex consociation',[99] and Hartzell and Hoddie conceptualize it as 'highly institutionalized negotiated settlement'.[100] As demonstrated in this article, it is possible analytically to explain both why such multi-dimensional institutional arrangements emerge (i.e., why they are feasible) and why they might have a greater chance of success (i.e., why they are viable). Empirically, Gurr, almost two decades ago offered the

initial evidence that "some combination of [...] autonomy and power sharing" offers reasonable prospects to accommodate minority demands.[101]

Contemporary consociational theory integrates power sharing and TSG more coherently and puts greater emphasis on TSG as a complement to power sharing. This has enriched consociational theory and practice in two ways. On the one hand, it has enhanced the possible range of mutually reinforcing institutional options that can provide sustainable peace as an outcome of processes of post-conflict state-building in divided societies. On the other hand, the systematic integration of the territorial and power-sharing strategies in theory and practice addresses a number of justified concerns among critics of either strategy individually. Power sharing within the self-governing entity can prevent abuses of minority groups that might become possible by empowering local majority populations, while power sharing at the centre ties the elites of self-governing entities to the centre, giving them a stake in the common state and minimizing the appetite for secession. In turn, self-governance for locally compact groups reduces the stakes of political competition at the centre and thus the likelihood of institutional deadlock. Moreover, the focus on self-determined identity groups in liberal consociationalism offers more flexibility and enables the longer-term change towards politics that are not entirely driven by narrow group interests. This is also reflected in the liberal consociational approach to TSG, which supports the principle of asymmetric devolution of powers, i.e. the possibility for some self-governing entities to enjoy more (or fewer) competences than others, depending on the preferences of their populations.[102]

We must remain cautious about the likelihood of success of any state-building enterprise under the difficult conditions that characterize most post-conflict settings. 'Peace requires not just a balanced constitutional order but a disposition on the part of all sizable communities to accept compromise'.[103] In addition, without sustained international support and in the absence, or effective containment, of domestic and external spoilers, state-building, whether pursuing a consociational strategy or not, is unlikely to succeed. Yet, its flexibility in institutional design makes liberal consociationalism an appealing strategy for post-conflict state-building, nonetheless, because it offers the potential of designing fair and balanced constitutions that, while not sufficient in themselves, are indispensable for the success of post-conflict state-building. Liberal consociationalism places great emphasis on the protection of self-determined (rather than pre-determined) identity groups through ensuring their effective representation and participation in decision making especially in the executive and legislature; and it combines this with an approach to TSG that allows self-governing territories, too, to be defined from the bottom up, rather than be prescribed top–down. In this sense liberal consociationalism is a truly, rather than deficient, democratic strategy of state-building in post-conflict divided societies.

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[3] P Norris, *Driving Democracy: Do Power-sharing Institutions Work?*, Cambridge, Cambridge University Press, 2008, p 220. See also R Schwarz, 'Post-Conflict Peacebuilding: The Challenges of Security, Welfare and Representation', *Security Dialogue,* 36(4), 2005, pp 429-446.

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[5] BR Rubin, 'The Politics of Security in Postconflict Statebuilding', in CT Call and V Wyeth (eds), *Building States to Build Peace*, Boulder, CO, Lynne Rienner, 2008, pp 25-47, p 30.

[6] W Reno, 'Bottom-Up Statebuilding?', ibid., pp 143-161, pp 35-37.

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[13] J Fearon, 'Ethnic War as a Commitment Problem' (paper presented at the Annual Meeting of the American Political Science Association, New York, 30 August - 2 September 1994), p 24.

[14] PG Roeder and D Rothchild, 'Conclusion: Nation-state Stewardship and the Alternatives to Power Sharing', in PG Roeder and D Rothchild (eds), *Sustainable Peace: Power and Democracy after Civil Wars*, Ithaca, Cornell University Press, 2005, pp 319–346.

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[25] Ibid.

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[28] Ibid.

[29] B O'Leary, 'Debating consociational politics: Normative and explanatory arguments', in S Noel (ed) *From powersharing to democracy*, Montreal, McGill/Queen's University Press, 2005, pp 3-43, p 13.

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[33] R Lapidoth, *Autonomy: Flexible Solutions to Ethnic Conflicts*, Washington, D.C., United States Institute of Peace Press, 1996, p 175.

[34] Cf. O Bauer, *Die Nationalitätenfrage und die Sozialdemokratie*, Vienna, Verlag der Wiener Volksbuchhandlung Ignaz Brand, 1907 and K Renner, *Das Selbstbestimmungsrecht der Nationen in besonderer Anwendung auf Österreich*, Leipzig and Vienna, Deuticke, 1918.

[35] Cf. DJ Smith, 'National Cultural Autonomy', in K Cordell and S Wolff (eds), *The Routledge Handbook of Ethnic Conflict*, London, Routledge, 2010, pp 278-287.

[36] The definition of self-governance has been adapted from S Wolff and M Weller, 'Self-determination and autonomy: A conceptual introduction', in M Weller and S Wolff (eds), *Autonomy, self-governance and conflict resolution: Innovative approaches to institutional design in divided societies*, London, Routledge, 2005, pp 1-25.

[37] See Table 1 for a summary of the argument.

[38] Belmont, Mainwaring and Reynolds, 'Introduction', p 4.

[39] See Lapidoth, *Autonomy*; McGarry and O'Leary, 'Territorial Approaches'; and Weller and Wolff (eds), *Autonomy*.

[40] Lijphart, *Democracy*, pp 53-103.

[41] See M Bogaards, 'The favourable factors for consociational democracy: A review', *European Journal of Political Research,* 33(4), 1998, pp 475-496; Lijphart, *Democracy*; Lijphart, 'The Wave'; McGarry and O'Leary, 'Consociational Theory'; J McGarry and B O'Leary, 'Power shared after the deaths of thousands', in R Taylor (ed) *Consociational Theory: McGarry and O'Leary and the Northern Ireland conflict*, London, Routledge, 2009, pp 15-84.

[42] FS Pearson, 'Dimensions of Conflict Resolution in Ethnopolitical Disputes', *Journal of Peace Research,* 38(3), 2001, pp 275-287, p 278.

[43] See ME Brown (ed) *The international dimensions of internal conflict*, Cambridge, MA, The MIT Press, 1996; McGarry and O'Leary, 'Consociational Theory'; D Rothchild and PG Roeder, 'Dilemmas of State-building in Divided Societies', in PG Roeder and D Rothchild (eds), *Sustainable Peace: Power and Democracy after Civil Wars*, Ithaca, Cornell University Press, 2005, pp 1–25.

[44] On the 'spoiler problem', see SJ Stedman, 'Spoiler Problems in Peace Processes', *International Security,* 22(2), 1997, pp 5-53.

[45] According to Zartman, "Peacemaking rests squarely in the hands of third parties." (IW Zartman, 'Conclusion: The Use of Methods and Techniques in a Conflict's Lifespan', in IW Zartman (ed) *Peacemaking in International Conflict: Methods and Techniques*, Washington, D.C., United States Institute of Peace Press, 2007, pp 465-477, p 476).

[46] Cf. A Lijphart, 'Consensus and Consensus Democracy: Cultural, Structural, Functional, and Rational-Choice Explanations', *Scandinavian Political Studies,* 21(2), 1998, pp 99–108, p 100.

[47] Bogaards, 'Favourable factors'; M Bogaards, 'The uneasy relationship between empirical and normative types in consociational theory', *Journal of Theoretical Politics,* 12(4), 2000, pp 395-423.

[48] Bogaards, 'Uneasy relationship', p 417.

[49] Bogaards, 'Favourable factors', p 476.

[50] A Lijphart, 'Definitions, Evidence and Policy: A Response to Matthijs Bogaards' Critique', *Journal of Theoretical Politics,* 12(4), 2000, pp 425–431, p 425.

[51] Ibid.

[52] See Bogaards, 'Favourable factors'.

[53] Ibid..

[54] McGarry and O'Leary, 'Consociational Theory'.

[55] J McGarry and B O'Leary, 'Under friendly and less-friendly fire', in R Taylor (ed) *Consociational Theory: McGarry and O'Leary and the Northern Ireland Conflict*, London, Routledge, 2009, pp 333-388.

[56] R Wilson, 'From consociationalism to interculturalism', in R Taylor (ed) *Consociational Theory: McGarry and O'Leary and the Northern Ireland conflict*, London, Routledge, 2009, pp 221-236, p 221.

[57] See McGarry and O'Leary, 'Friendly and less-friendly fire', pp 368-371.

[58] See Lijphart, 'Self-determination versus Pre-determination of Ethnic Minorities in Power Sharing Systems' and J McGarry and B O'Leary, 'Iraq's constitution of 2005: Liberal consociation as political prescription', in S Choudhry (ed) *Constitutional Design for Divided Societies: Integration or Accommodation?* , Oxford, Oxford University Press, 2008, pp 342-368; J McGarry and B O'Leary, 'Consociation and its Critics: Northern Ireland after the Belfast Agreement', in S Choudhry (ed) *Constitutional Design for Divided Societies: Integration or Accommodation?*, Oxford, Oxford University Press, 2008, pp 369-408.

[59] AK Jarstad, 'Power sharing: former enemies in joint government', in AK Jarstad and TD Sisk (eds), *From War to Democracy: Dilemmas of Peacebuilding*, Cambridge, Cambridge University Press, 2008, pp 105-133, pp 127-128.

[60] Ibid..

[61] A Lijphart, *Thinking about democracy: power sharing and majority rule in theory and practice*, London, Routledge, 2008, p 6.

[62] Jarstad, 'Power sharing', p 106.

[63] Prominent contributors to the debate include B Barry, 'Political Accommodation and Consociational Democracy', *British Journal of Political Science,* 5(4), 1975, pp 477-505; B Barry, 'The Consociational Model and Its Dangers', *European Journal of Political Research,* 3(4), 1975, pp 393-413; B Barry, *Culture and Inequality*, Cambridge, Polity, 2000; Horowitz, *Ethnic groups*; DL Horowitz, 'Ethnic conflict management for policymakers', in JV Montville (ed) *Conflict and peacemaking in multiethnic societies*, Lexington, Lexington Books, 1990, pp 115-130; Horowitz, *South Africa*; DL Horowitz, 'Democracy in Divided Societies', *Journal of Democracy,* 4(4), 1993, pp 18-38; Horowitz, 'Conciliatory Institutions'; I Lustick, 'Stability in Divided Societies: Consociationalism v. Control', *World Politics* 31 (2), 1979, pp 325–344.

[64] Jarstad, 'Power sharing', p 107.

[65] See ibid..

[66] TD Sisk, 'Peacebuilding as democratization: findings and recommendations', ibid., pp 239-259, pp 256-257.

[67] AK Jarstad, 'Power sharing: former enemies in joint government', ibid., pp 105-133, p 107.

[68] Y Ghai and J Cottrell, 'A tale of three constitutions: Ethnicity and politics in Fiji', in S Choudhry (ed) *Constitutional Design for Divided Societies: Integration or Accommodation?*, Oxford, Oxford University Press, 2008, pp 287-315.

[69] Ibid..

[70] Jarstad, 'Power sharing', p 133.

[71] Ghai and Cottrell, 'Fiji', p 314.

[72] See Horowitz, *Ethnic groups*; Horowitz, 'Electoral Systems'; DL Horowitz, 'The alternative vote and interethnic moderation. A reply to Fraenkel and Grofman', *Public Choice,* 121(3-4), 2004, pp 507-517 and B Reilly, *Democracy in divided societies*, Cambridge, Cambridge University Press, 2001.

[73] See McGarry and O'Leary, 'Power shared'; McGarry and O'Leary, 'Friendly and less-friendly fire'.

[74] See Horowitz, *Ethnic groups*; Horowitz, *South Africa*; Horowitz, 'Electoral Systems'.

[75] Cf. Roeder, 'Power Dividing'; Roeder and Rothchild, 'Conclusion'; Rothchild and Roeder, 'Dilemmas'; Rothchild and Roeder, 'Power Sharing'.

[76] See, for example, Horowitz, 'Conciliatory Institutions', p 1220.

[77] See C Murray and R Simeon, 'Recognition without empowerment: Minorities in a democratic South Africa', in S Choudhry (ed) *Constitutional Design for Divided Societies: Integration or Accommodation?*, Oxford, Oxford University Press, 2008, pp 409-437.

[78] Sisk, 'Peacebuilding', p 254.

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[90] See FS Cohen, 'Proportional versus Majoritarian Ethnic Conflict Management in Democracies', *Comparative Political Studies,* 30(5), 1997, pp 607-630 and U Schneckener, 'Making Power Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation', *Journal of Peace Research,* 39(2), 2002, pp 203-228.

[91] B Harff and TR Gurr, *Ethnic Conflict in World Politics*, Boulder, CO, Westview Press, 2004, p 186.

[92] See, for example, V Bunce, *Subversive Institutions: The Design and the Destruction of Socialism and the State*, Cambridge, Cambridge University Press, 1999; V Bunce and S Watts, 'Managing Diversity and Sustaining Democracy: Ethnofederal versus Unitary States in the Postcommunist World', in PG Roeder and D Rothchild (eds), *Sustainable Peace: Power and Democracy after Civil Wars*, Ithaka, NY, Cornell University Press, 2005, pp 133-158; Cornell, 'Autonomy'; HE Hale, 'The Parade of Sovereignties: Testing Theories of Secession in the Soviet Setting', *British Journal of Political Science,* 30(1), 2000, pp 31-56; HE Hale, 'Divided We Stand: Institutional Sources of Ethnofederal State Survival and Collapse', *World Politics,* 56), 2004, pp 165-193; EA Nordlinger, *Conflict Regulation in Divided Societies*, Cambridge, MA, Harvard University Center for International Affairs, 1972;Roeder, 'Soviet Federalism'; Roeder, *Nation-States*; Snyder, *From Voting*; RT Suberu, 'The Travails of Federalism in Nigeria', *Journal of Democracy,* 4(4), 1993, pp 39-53; DS Treisman, 'Russia's "Ethnic Revival": The Separatist Activism of regional Leaders in a Postcommunist Order', *World Politics,* 49(2), 1997, pp 212-249; and DS Treisman, *The Architecture of Government: Rethinking Political Decentralization*, Cambridge, Cambridge University Press, 2007.

[93] Cf. C Hartzell and M Hoddie, 'Institutionalizing Peace: Power Sharing and Post-Civil War Conflict Management', *American Journal of Political Science,* 47(2), 2003, pp 318-332; Hartzell and Hoddie, *Crafting Peace*.

[94] Cf. Schneckener, 'Making Power Sharing Work'.

[95] Lijphart, 'Consociation', p 506.

[96] McGarry and O'Leary, 'Territorial Approaches', p 260.

[97] M Weller and S Wolff, 'Recent trends in autonomy and state construction', in M Weller and S Wolff (eds), *Autonomy, self-governance and conflict resolution: Innovative approaches to institutional design in divided societies*, London, Routledge, 2005, pp 262-270, p 269.

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[99] O'Leary, 'Debating', pp 34-35.

[100] Hartzell and Hoddie, *Crafting Peace*.

[101] Gurr, *Minorities at risk*, p 292.

[102] See J McGarry, 'Asymmetry in federations, federacies and unitary states', *Ethnopolitics,* 6(1), 2007, pp 105-116.

[103] McGarry and O'Leary, 'Iraq's constitution', p 368.