Complex Power Sharing as Conflict Resolution: South Tyrol in Comparative Perspective[1]

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I. INTRODUCTION

Italy is home to fourteen linguistic minorities, whose speakers make up seven per cent of the total population. The Italian constitution and other legislation protect linguistic minorities, and a number of them have been granted special rights through regional and provincial autonomy regulations giving them the status of official languages alongside Italian in these areas. Five of the nineteen regions, which host ethno-linguistic minorities or have special geographic conditions (Friuli-Venezia Giulia, Val d'Aosta, South Tyrol, Sardinia and Sicily), were granted special autonomy with wider legislative and administrative powers status from the late 1940s onwards, while recent constitutional reforms have further and more generally increased the powers and autonomy of Italian regions.

In the case of South Tyrol the special autonomy statute of 1972 and its revised version of 2001 grant wide-ranging legislative and executive powers to the province, and the influence of the central government has been reduced in some crucial areas compared to the earlier 1948 autonomy statute.[3] The constitutional status of the province is now very similar to that of a state in a federal country, allowing for the free and protected development of its three ethnic groups—Germans, Italians and Ladins.

The institutional arrangements for South Tyrol draw on several traditional conflict resolution techniques, but also incorporate features that were novel in 1972 and have remained precedent-setting since then. First of all, South Tyrol can be described as a case of territorial self-governance, that is, "the legally entrenched power of ethnic or territorial communities to exercise public policy functions (legislative, executive and adjudicative) independently of other sources of authority in the state, but subject to the overall legal order of the state" (Wolff and Weller 2005: 13). The forms such regimes can take include a wide range of institutional structures from enhanced local self-government to full-fledged symmetrical or asymmetrical federal arrangements, as well as non-territorial (cultural or personal) autonomy. South Tyrol in its specific Italian context falls into the category of asymmetric arrangements in its relationship with the central government in Rome when compared to other Italian regions and provinces. However, it also comprises elements of non-territorial autonomy internally, especially in relation to the education system.

These non-territorial autonomy regimes flow from the application to South Tyrol of another well-known and relatively widely used conflict resolution mechanism—

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1 In this chapter I draw on previously published and on-going research, including Wolff (1997, 2002, 2003, 2004), Wolff and Weller (2005) and Weller and Wolff (2005).

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3 The principle reference point for the analysis of South Tyrol's arrangements is "Special Statute for Trentino Alto Adige", http://www.provinz.bz.it/lpa/autonomy/autonomy_statute_eng.pdf.

consociational power sharing. Apart from the feature of segmental autonomy (i.e., non-territorial autonomy for the two major ethnic groups in the province, primarily in the field of education), South Tyrol also displays other characteristics traditionally associated with consociationalism—mandatory executive power sharing between parties representing both major ethnic groups in the province, veto rights for the local minority group, and the principle of proportionality, including in public sector employment and the make-up of the executive. This consociational arrangement is replicated at the regional level, where executive power sharing is again mandatory between German and Italian parties, minority veto rights exist (this time for the Germans who are a minority at the regional level), and proportionality governs public sector employment. From this perspective the arrangements for South Tyrol could be described as nested consociationalism.

A third conflict resolution mechanism that is less widely used is related to the cross-border dimension of the South Tyrol conflict. The German-speaking population's historical affinity with the Habsburg Empire and later Austria, both in terms of ethnic identity and national belonging, manifested itself in campaigns against incorporation in Italy after 1919, for reincorporation into Austria after 1945, and eventually for substantive provincial autonomy within the Italian state. Yet, it also meant a role for Austria in the process of conflict resolution—as a negotiating partner for Italy in 1945/46, leading to the Paris Agreement which established an Italian commitment to autonomy for South Tyrol, and again in the 1960s paving the way to the 1969 package deal in whose implementation Austria was involved insofar as the Austro-Italian dispute regarding the fulfilment of the 1946 Paris Agreement could only be resolved subject of Austrian (and by extension South Tyrolean) consent to depositing a declaration at the UN to the effect that the dispute had been resolved (which happened in 1993). In addition, cross-border cooperation between South Tyrol and the Austrian *Bundesland* North Tyrol is formally institutionalised, and also involves, in the framework of a Euroregion, the province of Trentino.

This brief overview of the institutional arrangements operational in the settlement of the South Tyrol conflict forms the background against which the subsequent analysis is set. I will demonstrate that the complexity of the arrangements for South Tyrol is not very well captured by existing theories of conflict resolution, as it involves, contrary to many traditional assumptions, techniques and mechanisms from a range of different approaches traditionally pitted against each other as incompatible. A chronological account of the development of the arrangements now in place for South Tyrol will show that these arrangements emerged gradually in a process of dynamic evolution of the status of South Tyrol within the Italian state. The main features that characterise South Tyrol as an example of what I call an emerging practice of "complex power sharing" will then be used to establish, by means of a comparison with other recent conflict settlements, that South Tyrol is by no means unique as a case of conflict resolution practice eclipsing existing conflict resolution theories.

II. Complex Power sharing and Existing Theories of Conflict Resolution

A. Institutional Design in Divided Societies

From the perspective of conflict resolution in divided societies, institutional design needs to address a number of issues. These include (1) the composition and powers of the executive, legislative and judicial branches of government and the relationship between them; (2) the structure and organisation of the state as a whole; and (3) the relationship between individual citizens, identity groups and the state. All these provisions will require robust legal entrenchment to ensure their durability and thus the predictability of the political process to which (former) conflict parties agree.

1. The Composition and Powers of the Executive, Legislative and Judicial Branches of Government and the Relationship between Them

The key aspects of institutional design in this area relate, first, to the nature of the government system, i.e., whether it is a parliamentary, presidential or semi-presidential system. A second dimension is the issue of whether executive power sharing is mandatory, and if so, what the extent of prescribed inclusiveness is. Inclusiveness, at the same time, is also an important feature of legislative design and is primarily realised through the choice of an electoral system. Power sharing features and inclusiveness may also extend into the judicial branch, primarily in relation to provisions for the appointment of judges and prosecutors. A final issue in this regard is the overall relationship between the three institutions of government, that is, the degree of separation of powers between them. While this partially relates to the choice of government system (see above), it is also about the degree of independence of the judicial branch and its powers of legislative and executive oversight. Institutional design thus not only prescribes certain outcomes in relation to the composition of the executive, legislative and judicial branches of government and the structure and organisation of the state as a whole but also entrenches them in different ways from hard international law to domestic legislation.

2. The Structure and Organisation of the State as a Whole

The most important institutional design challenge in this area has to do with the territorial organisation of the state. While the principal choice is generally between unitary and federal systems, there is a great deal of variation within these two main categories, and there are a number of hybrid forms as well. The most important institutional design decision is about the number of layers of authority with substantive decision-making competences and the extent of these competences. Several further decisions follow from this. The first one relates to the structural and functional symmetry of the political-territorial organisation of the overall state. On the one end of the spectrum, a state may be organised territorially in a completely symmetric fashion with all territorial entities enjoying the exact same degree of functional competences, exercising them through an

identical set of local political institutions. An example of this would be German or US federalism, regionalised states, such as France, or more strictly unitary states, such as Ireland. However, the nature of institutional design in divided societies may necessitate a different approach. Thus, even where there is structural symmetry, functionally speaking the competences enjoyed by different self-governing entities may differ, and/or they may exercise them through different sets of political institutions. For example, where territorial sub-state entities comprise ethnic groups distinct from that of the majority population, they may be granted additional competences to address the particular needs of their communities. In cases in which these sub-state entities are ethnically heterogeneous, executive power sharing, reflecting local ethnic and political demographies, might be an additional necessary feature of conflict resolution.

A second element of institutional design as far as the structure and organisation of the state as a whole are concerned relates to coordination mechanisms, including dispute resolution arrangements, between different layers of authority. This is primarily related to the different types of such mechanisms (e.g., cooptation, joint committees, judicial review) and their leverage (consultative vs. legally binding).

3. The Relationship between Individual Citizens, Identity Groups and the State

Institutional design in this area is about the recognition and protection of different identities by the state. On the one hand, this relates to human and minority rights legislation, that is, the degree to which every citizen's individual human rights are protected, including civil and political rights, as well as the extent to which the rights of different identity groups are recognised and protected. While there may be a certain degree of tension between them, such as between a human rights prerogative of equality and non-discrimination and a minority rights approach emphasising differential treatment and affirmative action, the two are not contradictory but need to complement each other in ways that reflect the diversity of divided societies and contribute to its peaceful accommodation.

Secondly, the relationship between individuals, groups and the state is about the degree to which institutional design favours particular groups and excludes others. This is related to whether different groups are given different status (e.g., constituent nations vs. minorities) and the political, economic and resource implications of this (e.g., mandatory inclusion in government, participation in proportional public sector job allocation, reception of public funding, etc.). In other words, the question here is about the degree to which specific group identities are recognised and protected and how this manifests itself in the way in which the boundaries of authority are shaped by territory or population groups.

B. Institutional Design Approaches in Existing Theories of Conflict Resolution

Existing theories of conflict resolution generally acknowledge the importance and usefulness of institutional design in conflict resolution, but offer rather different prescriptions as to the most appropriate models to achieve stable conflict settlements.

Three such theories are of particular significance as they speak directly to the three areas of institutional design identified above: the two different schools of thought on power sharing—consociationalism and integrationism—and the more recent theory of power-dividing. I will discuss the main tenets of these three sets of theories now in turn, focussing on their recommendations in each of the tree areas. This discussion will necessarily be brief and, to an extent, generalising and does not aim at a comprehensive examination of these theories, nor do I attempt an assessment of how practically feasible or morally justifiable they are.

1. Liberal Consociationalism

Consociational power sharing is most closely associated with the work of Arend Lijphart, who identified four structural 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 (Lijphart 1977: 25-52). Consociationalism has been developed further in the context of its use as a mechanism of interethnic accommodation in Lijphart's own later writings on the subject (e.g., Lijphart 1995, 2002), but more especially by John McGarry and Brendan O'Leary (McGarry 2006, McGarry and O'Leary 2004a and b, O'Leary 2005a and b; see also Wolff 2003, 2004 and Weller and Wolff 2005). The most important modification of Lijphart's original theory is O'Leary's contention that 'grand coalition' (in the sense of an executive encompassing all leaders of all significant parties of all significant communities) is not a necessary criterion. Rather, O'Leary demonstrates that 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' (O'Leary 2005a: 13).[4]

The scholarly literature on consociationalism distinguishes between corporate and liberal consociational power sharing, the latter now the more common policy prescription among consociationalists.[5] 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

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[4] On this basis, O'Leary (2005a: 12-13) distinguishes between three sub-types of democratic (i.e., competitively elected) consociation: complete (executive composed of all leaders of all significant segments), concurrent (all significant segments represented, and executive has at least majority support in all of them), and weak (all significant segments represented, and executive has at least one segmental leadership with only plurality support).

[5] Corporate consociationalism, however, is still evident to some extent 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 proposed (but rejected) Annan Plan display features of pre-determined arrangements based on ascriptive identities.

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' (McGarry 2006: 3, see also Lijphart 1995 and O'Leary 2005a).

Territorial self-governance is a significant feature within the liberal consociational approach which, in this context, emphasises that the self-governing territory should define itself from the bottom up, rather than be prescribed top-down.[6] Liberal consociationalists favour arrangements in which there are more than two, and ideally even more than three, self-governing entities within a given state, as this increases the chances of state survival. Moreover, liberal consociationalists equally support 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.

Naturally, self-governance is complemented with what liberal consociationalists term 'shared rule', i.e., the exercise of power at and by the centre across the state as a whole. While the other three key features of Lijphartian consociationalism (apart from 'segmental autonomy') continue to be favoured by liberal consociationalists, such as grand coalitions, proportionality and minority veto rights, the emphasis is on cooperation and consensus among democratically legitimised elites, regardless whether they emerge on the basis of group identities, ideology or other common interest. They thus favour parliamentary systems,[7] proportional (PR list) or proportional preferential (STV) electoral systems, decision-making procedures that require qualified and/or concurrent majorities, and have also advocated, at times, the application of the d'Hondt rule for the formation of executives[8] (cf. Lijphart 2004, O'Leary 2005a, see also Wolff 2003).

This means, liberal consociationalists prefer what O'Leary refers to as 'pluralist federations' in which co-sovereign regional and central governments have clearly defined exclusive competences (albeit with the possibility of some concurrent competences) whose assignment to either level of authority is constitutionally and, ideally, internationally, protected, in which decision-making at the centre is consensual (between self-governing entities and the centre, and among elites representing different interest groups), and which recognise, and protect the presence of different identities (O'Leary 2005b).

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[6] In the context of Iraq, McGarry (2006: 6-7) explains how this process has been enshrined in the Iraqi constitution: "Kirkuk can choose to join Kurdistan if its people want. Governorates in other parts of the country are permitted to amalgamate, forming regions, if there is democratic support in each governorate. In this case, a twin democratic threshold is proposed: a vote within a governorate's assembly and a referendum. … It is also possible for Shi'a dominated governorates that do not accept SCIRI's vision to remain separate, and, indeed for any governorate that may be, or may become, dominated by secularists to avoid inclusion in a sharia-ruled Shiastan or Sunnistan."

[7] Note, however, that, empirically, collective presidential systems are as widespread in existing functioning consociations than parliamentary ones. Cf. O'Leary (unpublished).

[8] For details on the d'Hondt rule, see O'Leary, Grofman and Elklit (2005).

In order to protect individuals against the abuse of powers by majorities at the state level or the level of self-governing entities, liberal consociationalism offers two remedies—the replication of its core institutional prescriptions within the self-governing entity,[9] and the establishment and enforcement of strong human and minority rights regimes both at the state and sub-state levels. In addition, the rights of communities—minorities and majorities alike—are best protected in a liberal consociational system if its key provisions are enshrined in the constitution and if the interpretation and upholding of the constitution is left to an independent constitutional court whose decisions are binding on executive and legislature (cf. O'Leary 2005b: 55-8).

2. Integrative Power Sharing

Integrative power sharing emphasises that rather than designing rigid institutions in which elected representatives have to work together *after* elections, 'intergroup political accommodation' is achieved by 'electoral systems that provide incentives for parties to form coalitions across group lines or in other ways moderate their ethnocentric political behaviour' Horowitz (2004: 507-8). This school of thought is most prominently associated with the work of Donald Horowitz (1985[2000], 1990, 1991, 2002), and more lately with that of Timothy D. Sisk (1996), Benjamin Reilly (2001) and Andreas Wimmer (2003). While Horowitz's remains the standard-setting integrationist work, Reilly's theory of centripetalism tries to encourage, among others, '*electoral incentives* for campaigning politicians to reach out to and attract votes from a range of ethnic groups other than their own…; (ii) *arenas of bargaining*, under which political actors from different groups have an incentive to come together to negotiate and bargain in the search for cross-partisan and cross-ethnic vote-pooling deals…; and (iii) *centrist, aggregative political parties* or coalitions which seek multi-ethnic support…' (Reilly 2001, p. 11; emphasis in original). This is partially echoed by Wimmer in his proposals for the Iraqi constitution to introduce 'an electoral system that fosters moderation and accommodation across the ethnic divides', including a requirement for the 'most powerful elected official … to be the choice not only of a majority of the population, but of states or provinces of the country, too', the use of the alternative vote procedure, and a political party law demanding that 'all parties contesting elections … be organised in a minimum number of provinces' (Wimmer 2003). In addition, Wimmer advocates non-ethnic federalism (ibid.: 123-5), at least in the sense that there should be more federal entities than ethnic groups, even if a majority of those entities would be more or less ethnically homogeneous or be dominated by one ethnic group. Furthermore, "a strong minority rights regime at the national level, a powerful independent judiciary system and effective enforcement mechanisms are needed", according to Wimmer (2003: 125).

In what remains a classic work in the field of ethnic conflict and conflict resolution theories, Donald L. Horowitz (1985 [2000]) discusses a range of structural techniques and preferential policies to reduce ethnic conflict. Among them, he emphasises that 'the most potent way to assure that federalism or regional autonomy will not become just a step to secession is to reinforce those specific interests that groups have in the undivided

9 On regional consociations see Wolff (2004).

state' (Horowitz 1985 [2000]: 628). Horowitz also makes an explicit case for territorial self-governance (i.e., federalism) in his proposals for constitutional design in post-apartheid South Africa (Horowitz 1991: 214-226) and argues, not dissimilar to power-dividing advocates, for federalism based on ethnically heterogeneous entities.

Horowitz emphasises the usefulness of electoral systems that are most likely to produce a Condorcet winner, i.e., a candidate who would have been victorious in a two-way contest with every other candidate in a given constituency. The most prominent such electoral systems are the alternative vote and the Coombs rule, both of which are preferential majoritarian electoral systems,[10] that are said to induce moderation among parties and their candidates as they require electoral support from beyond their own ethnic group in heterogeneous, single-seat constituencies (Horowitz 2003: 122-125).

3. Power Dividing

In the context of conflict resolution, the theory of power dividing has been put forward most comprehensively by Philip G. Roeder and Donald Rothchild in their edited volume *Sustainable Peace: Power and Democracy after Civil Wars* (Roeder and Rothchild 2005). Power dividing is seen as "an overlooked alternative to majoritarian democracy and power sharing" as institutional options in ethnically divided societies (Rothchild and Roeder 2005: 6). Three strategies that are said to be central to power- dividing—civil liberties, multiple majorities, and checks and balances—in practice result in an allocation of power between government and civil society such that "strong, enforceable civil liberties … take many responsibilities out of the hands of government", while those that are left there are distributed "among separate, independent organs that represent alternative, cross-cutting majorities", thus "balanc[ing] one decisionmaking centre against another so as to check each majority … [f]or the most important issues that divide ethnic groups, but must be decided by a government common to all ethnic groups" (Rothchild and Roeder 2005: 15).

The key institutional instruments by which power dividing is meant to be realised are, first of all, extensive human rights bills that are meant to leave "key decisions to the private sphere and civil society" (Rothchild and Roeder 2005: 15). Second, separation of powers between the branches of government and a range of specialised agencies dealing with specific, and clearly delimited, policy areas are to create multiple and changing majorities, thus "increas[ing] the likelihood that members of ethnic minorities will be parts of political majorities on some issues and members of any ethnic majority will be members of political minorities on some issues" (Rothchild and Roeder 2005: 17). Third, checks and balances are needed "to keep each of these decisionmaking centres that represents a specific majority from overreaching its authority" (ibid.). Thus, the power-

10 Under AV, lower-order preferences are redistributed among candidates by eliminating the candidate with the lowest number of first preference votes in each round until one candidate with more than 50% emerges. Under the Coombs rule, candidate elimination is based on the highest number of last-preference votes achieved. That means, under AV the least popular candidate is eliminated in each round, under Coombs it is the most *un*popular one.

dividing approach favours presidential over parliamentary systems, bicameral over unicameral legislatures, and independent judiciaries with powers of judicial review extending to acts of both legislative and executive branches. As a general rule, power dividing as a strategy to keep the peace in ethnically divided societies requires "decisions [that] can threaten the stability of the constitutional order, such as amendments to peace settlements" be made by "concurrent approval by multiple organs empowering different majorities" (Rothchild and Roeder 2005: 17).

4. The Different Theories Compared

The preceding overview of three main theories of conflict resolution illustrates two important aspects of current academic and policy debates about how to establish sustainable institutional settlements in cases of self-determination conflicts. First, while there are fundamental differences in the underlying assumptions about how such settlements can succeed, certain institutional arrangements that complement the basic prescriptions of each approach are largely similar, if not identical (see Table 1).

Table 1: Main Institutional Arrangements Recommended by Different Theories of Conflict Resolution

	Integrationist Power sharing	**Consociational Power sharing**	**Power-dividing**
Principle recommendation	Interethnic cooperation and moderation induced by electoral system design	Interethnic cooperation at elite level induced by institutional structure requiring executive power sharing	Cooperation between different, changing coalitions of interest induced by separation of powers
Government system	Presidential	Parliamentary	Presidential
Executive power sharing	Yes: voluntary	Yes: guaranteed	No, except in initial transition phase after civil wars
Electoral system	Plurality preferential	PR list or PR preferential	Plurality
Independent judicial branch	Yes	Yes	Yes
Unitary vs. federal territorial organisation	Federal: heterogeneous units	Federal: homogeneous units	Federal: heterogeneous units
Structural symmetry	Yes	Possible, but not necessary	Yes
Functional symmetry	Yes	Possible, but not necessary	Yes
Individual vs.	Emphasis on	Emphasis on	Emphasis on

group rights	individual rights	combination of individual and group rights	individual rights
Recognition of distinct identities	Yes, but primarily as private matter	Yes, but as private and public matter	Yes, but primarily as private matter
Legal entrenchment	Yes	Yes	Yes

III. THE EVOLUTION OF SOUTH TYROL'S AUTONOMY 1948-2001

In the following section, I explore the historical evolution of South Tyrol's autonomy arrangements from the ill-fated 1948 statute to the 2001 revisions of the 1972 version of the statute. The purpose of this examination is to demonstrate how the autonomy arrangements grew increasingly complex and came to incorporate a range of mechanisms recommended by different schools of thought on conflict settlement.

A. The Autonomy Statute of 1948

The Paris Agreement obliged the Italian government to grant autonomy to South Tyrol. In drafting an autonomy statute on the basis of the Paris Agreement, the government needed to balance the political and economic interests of the two major ethnic groups in the area – Germans and Italians – against the interests of the Italian Republic and its international commitments. It had to fulfil the Paris Agreement by granting autonomy to South Tyrol and, at the same time, it had to protect the Italian population in South Tyrol, and to satisfy the aspirations of the inhabitants of the neighbouring province of Trentino, with which South Tyrol was joined in the autonomous region Trentino-Alto Adige in 1947. In addition, the Italian government also had to bear in mind the effect that the autonomy statute for South Tyrol would have on similar minority situations elsewhere in the country—primarily the French-speaking minority in the Val d'Aosta and the Slovene-speaking minority in the area of Trieste. Thus, it took almost two years until, on 29 January 1948, the Constituent Assembly of Italy approved the autonomy statute. This was followed by a press declaration of the Austrian Foreign Minister on 31 January 1948 in which he characterised the autonomy statute as satisfactory and asked the German-speaking South Tyroleans to be loyal citizens of the Italian state (Stadlmayer 1965: 480).
This new autonomy statute, however, did not contribute to the settlement of the South Tyrol problem. On the contrary, the different interpretations the statute was given by the Germans in South Tyrol and by the Austrians resulted in high expectations on part of the German minority, while the Italian interpretation and subsequent implementation of the statute did not live up to these expectations. The German-speaking population's view was that both the Paris Agreement and the 1948 autonomy statute were legal instruments that would strengthen the German position in South Tyrol in two ways – numerically by the

return of those who had left under the 1939 *Option*,[11] and economically and socially by a redistribution of employment according to ethnic proportions. In contrast, the Italian interpretation was that with these two documents the state had eventually been equipped with internationally recognised instruments to resist further German encroachment and to maintain the existing degree of Italianisation.

One of the biggest causes of German South Tyroleans' resentment was the insufficient transfer of powers from the region to the province as laid down in Articles 13 and 14 of the autonomy statute. The bitterness and disappointment of the South Tyrolean People's Party (SVP) – the predominant German party in the area – at their failure to achieve their economic and social objectives (control of the labour exchanges, control over immigration, language issues, ethnic proportions in the public sector) led them to suspend, in 1959, any cooperation at regional level with the major Italian party at the time, the Christian Democrats (DC), which would have been essential for a more favourable Italian interpretation and administration of the autonomy statute.[12] Nevertheless, official negotiations between the SVP and the Italian government on autonomy were reopened in 1954, but failed to achieve anything. This led to growing opposition within the SVP against the party leadership, which was perceived by many rank and file members as too moderate. The 1957 party congress saw an almost complete transformation of the SVP leadership. From then on, SVP policy aimed at a revision of the 1948 autonomy statute in favour of full provincial – instead of shared regional – autonomy and at the mobilisation of the German-speaking South Tyrolean population for this goal. In other words, the SVP recognised the territorial integrity of the Italian state, but sought to establish a full-fledged autonomous unit of South Tyrol instead of a province subordinate to an Italian-dominated region. However, the new policy did not strengthen the SVP position vis-à-vis the Italian government; rather, its powerlessness became increasingly obvious, especially in the light of these ambitious objectives. Dissatisfaction among local party organisations increased and finally erupted in a brief campaign of violence in 1961 (initially confined to the toppling of power pylons as symbols of Italian domination), after several Austrian initiatives, including at UN level, had equally failed to achieve any changes in Italian policy towards South Tyrol.[13]

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[11] Hitler and Mussolini had agreed in 1938 that Germans in South Tyrol would be given a choice either to accept Italianisation or emigrate to Germany (which by then had already annexed Austria). While a large number of South Tyrolean Germans opted for emigration, a considerably smaller number actually executed their choice. On numbers voting for emigration and numbers of émigrés, see Alcock (1970) and Cole and Wolf (1974), and cf. Wolff (2002).

[12] On the provincial level, this SVP-DC coalition held until the electoral demise of the DC in the early 1990s.

[13] At the end of the 1960 UN session, a resolution was adopted on 31 October that called for bilateral negotiations between Austria and Italy to resolve the South Tyrol question. In case these would not be successful, it was recommended that the dispute should be referred to other international organisations, including the International Court of Justice. The UN session of 1961 returned to the issue, but merely referred the parties back to the resolution adopted a year earlier.

This violent escalation of the conflict was the clearest indication yet that the autonomy statute of 1948 had failed to provide an institutional framework within which both Italian and German interests could be accommodated in a mutually satisfactory manner. The reasons for this failure did not only lie within South Tyrol or Italy, but there were also a number of external conditions limiting from the outset the chances of success for the 1948 statute, including Austria's insistence that Italy had not fulfilled the letter and spirit of the Paris Agreement, the failure of several rounds of negotiations between the two countries and the ill-fated attempt to internationalise the South Tyrol question at the UN which raised South Tyroleans' hopes without delivering and substantive change in their situation. Similarly, European institutions, still in their infancy, failed to exert sufficient pressure on all parties involved to resolve contentious issues in the framework of the 1948 autonomy statute

B. The Package Solution of 1969

Following a brief campaign of violence, which was swiftly contained by the Italian government, it took eight years of negotiations before an agreement was reached between Italy and Austria, which consisted of a substantial revision of the 1948 autonomy statute and a so-called operational calendar in which both governments committed themselves to a certain sequence of events which would eventually lead to the dispute over South Tyrol being brought to an end.

This operational calendar outlined the procedures for the implementation of the *Paket* as well as steps to be taken by both governments to settle the dispute over South Tyrol. In doing so, however, no timeframe was given as to when certain parts of the *Paket* had to be fulfilled and specific steps for the eventual settlement had to be completed. The sequence of events, however, was explicitly stated as the settlement of the dispute requiring prior full implementation of the autonomy statute. Only then was an official settlement of the Austro-Italian dispute to go ahead. This official settlement consisted of two main parts. One included declarations of the heads of both governments before their parliaments about the settlement, parliamentary motions on the issue, official letters to the Secretary General of the UN regarding the fulfilment of UN Resolution 1457 of 1960 and an Austrian declaration that the dispute had been settled. The other, and more far-reaching part, was a bilateral agreement between Austria and Italy that in case of any further disputes the International Court of Justice would be approached. The operational calendar strengthened the Austrian position vis-à-vis the Italian government, and with it that of the German-speaking population in South Tyrol (Zeller 1989: 84).[14]

The substantive part of the settlement upon which the two governments agreed and which found the approval of a marginal majority of 52.4% within the SVP at an extraordinary party congress in 1969, contained 137 single measures, twenty-five detailed provisions,

[14] There are two reasons for this. One is that the calendar qualifies the *Paket* as a 'later practice' of the fulfilment of the Paris Agreement, the other is that it denies the Italian interpretation of the *Paket* as being part of voluntary inner-Italian legislation, but places all legislative measures in connection with the implementation of the *Paket* in the context of the fulfilment of the Paris Agreement (Zeyer 1993: 54).

and thirty-one rules of interpretation (Peterlini 1997: 115f.). Among the most important measures were the substantial changes and additions to the 1948 autonomy statute, which devolved more powers to the province, and the regulations that determined the equal status of the German language as a second official language in the province; the redrawing of constituency boundaries for senate elections, which assigned a third constituency to South Tyrol; and the establishment of a proportionality scheme for the recruitment and appointment of staff according to ethnic proportions in the public sector and of the distribution of public housing. The so-called internal guarantee of the new statute took the form of a standing commission at the office of the Italian Prime Minister, monitoring the implementation of the statute.

The new autonomy statute, which is the central part of the package, passed all parliamentary hurdles in Italy and came into force on 20 January 1972. As a territorial autonomy statute, however, it has the double character of an instrument regulating the decentralised self-government of the province of South Tyrol and the region of Trentino-South Tyrol and providing for the protection of the German and Ladin-speaking minorities. Its official name – 'Measures in Favour of the Population of South Tyrol' – emphasises that minority protection is only one part within the whole set of measures and regulations, dealing with the distribution of powers between different levels of government and between the two ethnic groups –Germans and Italians. Only fifteen articles are specifically and exclusively aimed at the German-speaking population within the province (and thus, by extension, at interethnic relations), while the rest of the articles strengthened provincial autonomy vis-à-vis the region and the central government as a whole and introduced procedures to mediate between all ethnic groups in South Tyrol.

The substantive competences that South Tyrol enjoys under the 1972/2001 statute are wide-ranging, and include primary, secondary and tertiary legislative powers. The areas of legislative competence are distinct in each of these areas, as are the specific boundaries within which they are to be exercised.

South Tyrol enjoys primary legislative competence in the areas of in virtually all areas of education and culture, economy and economic development, environment, public housing, communication and transport including relevant infrastructure, tourism, welfare, and the provincial political and electoral structures. The most significant change introduced with the 2001 constitutional reforms was the provision that the province enjoys primary legislative competences in *all* areas not specifically reserved for the centre or otherwise designated as secondary or tertiary competences. That is, in addition to the specific primary legislative domains named in the autonomy statute, primary legislative competences now include additional policy areas previously assigned to the centre by default.

The province's secondary legislative competences include teaching arrangements in primary and secondary schools, establishment and oversight of employment agencies, public health, civil aviation, energy production and distribution, foreign trade and foreign and EU relations, science and technolgy.

Tertiary legislation can be passed by the provincial assembly in some areas of transport and transport infrastructure, public health services, and pay structures in the education system. Apart from these policy areas that were traditionally a domain of central legislation, further competences were delegated to the province from the region, primarily

administrative functions in relation to chambers of industry, trade, commerce, and agriculture; and as far as oversight of financial institutions is concerned.

The distinction between these three levels of legislative competence has its source in the legal boundaries to which they are confined. The 2001 reforms (of both autonomy statute and Constitutional Law no. 3) have generally extended these boundaries, which is particularly obvious in relation to South Tyrol's primary legislative competences. These are now only constrained by the Italian constitution and the country's EU and other international obligations, rather than by the previously more vague notions of 'national interests' and 'basic provisions of the social and economic reforms of the Republic'. Secondary legislation, that is legislation in areas of concurrent competences, is constrained by framework legislation in which the centre determines the basic principles of legislation while the province makes the detailed arrangements as they are to apply in South Tyrol. Tertiary legislative competence is constrained in two ways. First, it is only in specifically 'delegated' policy areas beyond the stipulations of the autonomy statute in which such competence can be exercised by the province. Second, provincial legislation has to comply with a range of particular constraints specified in individual cases of delegated legislative competence, as well as with the more general constraints imposed on primary and secondary competences.

At the heart of the reorganisation of ethnic relations in the province and the region are formalised mechanisms of power sharing. Going far beyond the original provisions of the 1948 autonomy statute, these mechanisms can be found in relation to three distinct dimensions at both regional and provincial levels: voting procedures in the two assemblies, rotation of high offices between the ethnic groups, and coalition government.

To begin with the latter, the government of South Tyrol has to reflect the ethnic proportions of the provincial assembly. Therefore, a simple majority of votes in the assembly is not sufficient to establish the government unless this majority consists of votes from both Italian and German representatives, i.e., the autonomy statute, in practice, requires a German-Italian coalition government. This 'implicit' coalition requirement is complemented by a more explicit one deriving from the compulsory equitable distribution of the offices of the two Vice-Presidents of the provincial government between the German and Italian ethnic groups.

Another feature of power sharing in South Tyrol established by the 1972 autonomy statute is the compulsory rotation of offices in the presidency of the provincial assembly. Elected by the assembly, the presidency consists of one president and one vice-president as well as three deputies, who act as secretaries. In the first half of every five-year legislative period an elected representative of the German-speaking group must be chosen as president, and an Italian as vice-president; in the second half, their roles reverse.

All legislation emanating from the provincial assembly, is prepared by legislative commissions. Their members are the president, vice-president and one of the presidency's secretaries as well as between four and five 'ordinary' members chosen by government and opposition parties in the assembly, thus again reflecting ethnic proportions in the assembly.

At regional level, similar provisions were made to ensure adequate representation of the German and Italian ethnic group, and thus, by extension, a functioning system of power sharing. The regional assembly, which is made up of the entire cohort of elected deputies from both provincial assemblies (i.e., South Tyrol and Trentino) operates the same

principle of rotating offices between president and vice-president; in addition, it also changes the location of its sessions between Bozen/Bolzano (first half) and Trient/Trento (second half). As for the regional government, the same principles operate that are in force at provincial level.

In order to give each ethnic group additional leverage and incentives, to make the power sharing arrangements work, specific voting procedures and other mechanisms for the adoption of provincial laws were established. If any bills put before parliament were considered affecting the rights of a particular ethnic group in South Tyrol, a majority of the deputies of this ethnic group could request 'separate voting', i.e., a determination of support for the specific bill among each ethnic group. If this request is denied, or the bill is passed against two-thirds of representatives from one ethnic group voting against it, the group opposing the bill could take the matter to the Italian constitutional court in Rome. Thus, there is no formal veto-power enshrined in the arrangements. While defending democratic decision-making procedures against a blockade of the political process, nevertheless a mechanism exists that potentially offers legal redress outside the political process. Only in one respect a more or less formal veto right has been established – in relation to the provincial and regional budgets. Here, separate majorities are required from within both the German and Italian ethnic groups. If this is not forthcoming, all chapters of the budget are voted on individually. Those failing to receive the required double majority are referred to a special commission of the assembly, and if no agreement is reached their either, the administrative court in Bozen/Bolzano makes a final and binding decision.

The focus on the German-Italian dichotomy in respect of power sharing and in a number of other areas, where the principle of proportional, rather than equal, representation of all ethnic groups, was in force, clearly disadvantaged the Ladin-speaking group. Most of these traditional disadvantages experienced by the Ladins have been formally addressed during the implementation process of the 1972 autonomy statute, and more drastically in its reform in 2001.

C. The 2001 Reform of the Autonomy Statute

The formal settlement of the South Tyrol conflict between Austria and Italy in 1992 according to the procedures set out in the operational calendar did not mean an end to the further dynamic development of the autonomy and power sharing regulations. Led by the SVP, the provincial government sought to further improve and extend the regulations of the 1972 statute in order to increase the province's autonomy and with it improve the quality of life for all three ethnic groups. From the mid-1990s onwards, the provincial government was granted an extension of its powers, among others, in the sectors of education, employment, transport, finance, privatisation of state-owned properties, energy and European integration.

As part of these and other significant changes, a reformed autonomy statute has come into effect on 16 February 2001, marking the third autonomy statute for the province since the end of the Second World War. In it, the status and powers of the two provinces Trentino and South Tyrol has been greatly enhanced such that South Tyrol and Trentino no longer constitute subordinate units of the region of Trentino-South Tyrol and have individually

more legislative and administrative powers than the region itself. In particular, the following new regulations have increased the degree of autonomy enjoyed by both provinces:

- In contrast to the previous autonomy statute, the revised version of 2001 now explicitly recognises the internationally guaranteed nature of South Tyrol's autonomy. By nature of it being a constitutional law, the new autonomy statute gives an even firmer guarantee for the inviolability of South Tyrol's autonomous status.
- All legislation in relation to elections is now in the competence of the provinces, allowing them to determine, for example, whether the president of the provincial government should be elected directly or not. Respective legislation no longer requires approval of the government commissioner.
- Amendments to the autonomy statute can in future also be developed by the two provinces, without involvement of the region.
- If the Italian parliament intends to change or amend the current statute, representatives of the province have now to be consulted, instead, as was previously the case, of the region.
- Members of the provincial government can be appointed with a two-thirds majority in the provincial assembly without having to be its members.
- Representation of the Ladins in the presidency of the regional and provincial assemblies and in the regional government is now part of the power sharing arrangement, and members of the Ladin ethnic group can be coopted into the South Tyrol provincial government.

In addition, for the first time ever, the term 'South Tyrol' has been officially incorporated in its German version in the Italian constitution as part of the Constitutional Law on Federalism, which was adopted in March 2001.
What this revision of the autonomy statute, together with developments since 1972 in general, shows is that the real strength of the South Tyrol arrangements derive from the flexibility of its implementation process. The particular combination of territorial autonomy and power sharing has also facilitated the increasing identification of all ethnic groups with the arrangements as they have developed over time. With the enhanced and formalised participation of the Ladin ethnic group in the political process in South Tyrol, the 2001 reforms also indicate that the province has moved beyond the traditional Italian-German dichotomy and that institutions are now more than ever fully representative of the ethnic demography of the province while at the same time serving the interests of the population as a whole rather than the particular interests of one or another individual ethnic group.

III. Complex Power sharing beyond South Tyrol: An Empirical Analysis

The essential feature of the South Tyrolean conflict settlement is the territorial self-governance regime that it created. Such self-governance regimes have been used widely in the resolution of self-determination conflicts around the globe. This reflects the

assumption, but not necessarily the reality, that such regimes can contribute to local, national, regional and international stability. In ethnically, linguistically and/or religiously heterogeneous societies in which corresponding group identities have formed and become salient, the degree of self-governance enjoyed by the different segments of society is often seen as more or less directly proportional to the level of acceptance of an overall institutional framework within which these different segments come together. Self-governance regimes are thus also meant to provide institutional solutions that allow the different segments of diverse societies to realise their aspirations for self-determination while simultaneously preserving the overall social and territorial integrity of existing states. In doing so, self-governance regimes above all offer mechanisms for conflict parties to settle their disputes by peaceful means. Yet, territorial self-governance on its own is often insufficient to offer viable solutions to self-determination conflicts. As the analysis of the features and evolution of the South Tyrolean settlement above has demonstrated, further conflict resolution mechanisms are required to ensure that an overall stable and durable democratic settlement can be achieved. This has been increasingly understood by practitioners of conflict resolution and has led to an emerging practice of conflict settlement that I refer to as "complex power sharing". [15]

Complex power sharing, in the way it is understood in this paper, refers to a practice of conflict settlement that has a form of self-governance regime at its heart, but whose overall institutional design includes a range of further mechanisms for the accommodation of ethnic diversity in divided societies, including those recommended by advocates of consociationalism (e.g., McGarry and O'Leary 2004a and b, McGarry 2006, O'Leary 2005a), integrationism (e.g., Horowitz 1985[2000], 1990, 1991, 2002, 2004, 2006, Reilly 2001, 2002, Sisk 1996, Wimmer 2003) and power-dividing (Roeder and Rothchild 2005). Complex power sharing is thus the result of the implementation of a self-governance regime whose success as a conflict settlement device requires a relatively complex institutional structure that cannot be reduced to autonomy/(ethno-)federalism, (traditional) power sharing or power-dividing.

In order to appreciate fully the degree to which the case of South Tyrol is one example of this practice of complex power sharing, the following empirical analysis of other cases compares and contrasts them in a number of different aspects. The dimensions of the comparative analysis flow directly from the discussion of institutional design and the

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15 I borrow the term 'complex power-sharing' from a research project funder by the Carnegie Corporation of New York ("Resolving Self-determination Disputes Through Complex Power Sharing Arrangements"). In this project, complex power-sharing regimes are distinguished "in that they no longer depend solely on consociational theory, or solely upon integrative theory", involve international actors that "are often key in designing, or bringing experience to bear upon, the structure of the eventual agreement, or its implementation" and "consider a far broader range of issues … and … address structural issues as diverse as economic management, civil-military relations and human and minority rights, and … do so at many different levels of government", thus recognising "that at different levels of government, different strategies may be more, or less, applicable, and consequently more, or less, successful, in engendering peace and stability" (Kettley, Sullivan, Fyfe 2001: 4-5). O'Leary (2005a: 34-5) uses the term 'complex consociation' in a similar manner.

examination of the three approaches to conflict resolution above. As far as the the composition and powers of the executive, legislative and judicial branches of government and the relationship between them is concerned, I will consider three separate issues:

- the nature of the government system and the choice of the electoral system;
- power sharing; and
- legal entrenchment.

The comparative analysis of the structure and organisation of the state as a whole in all the cases considered will focus on three aspects:

- symmetry and asymmetry in institutional design;
- distribution and separation of powers; and
- coordination mechanisms.

Finally, when examining the relationship between individual citizens, identity groups and the state, two dimensions are o particular importance:

- human and minority rights provisions; and
- recognition and protection of identities.

My starting point in case selection is that the settlement in question involves a form of territorial self-governance. There is a large number of such settlements that provide evidence for this trend in North America (Canada), Central and South America (Panama, Colombia, Mexico, Ecuador and Nicaragua), Africa (Sudan, Zanzibar),[16] Asia (Iraq, Indonesia, Papua New Guinea and Philippines),[17] and Europe (Belgium, Bosnia and Herzegovina, Macedonia, Moldova, Russia, Serbia and Montenegro,[18] Ukraine and United Kingdom).[19] In addition, proposals for self-governance regimes also figure

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16 Proposals for decentralisation/federalisation also exist in Ethiopia, Nigeria and the Democratic Republic of Congo, but in all three cases lack serious implementation efforts. I am grateful to Sandra Joireman and Donald Rothchild for providing me with this information.

17 In India, one could include the so-called Union Territories, such as Pondicherry (Puduchery).

18 The 2003 constitution of the Union of Serbia & Montenegro provided for a bi-national federation between the two entities and included an option for Montenegrin independence after three years if at least 55% of people participating in a referendum would opt for it. The referendum was held on 21 May 2006, and Montenegro declared its independence on 3 June after the country's referendum commission confirmed as official the preliminary result which had already been recognised by all five permanent members of the UN Security Council on 23 May. For the text of the Constitutional Charter of the State Union of Serbia and Montenegro, see http://www.legislationline.org/upload/legislations/41/97/29d53b4d7dabbfe0af7023a6454a.htm.

19 This is not meant to be a comprehensive list of cases. For an analysis of some examples and general trends in the spread of territorial self-governance regimes as part of conflict settlements, see contributions in Weller and Wolff (2005).

prominently in proposed peace agreements, including in the Annan Plan for Cyprus,[20] the Georgian president's peace initiative for South Ossetia,[21] and Sri Lanka.[22] Thus in virtually every conflict situation involving self-determination claims by territorially relatively concentrated identity groups at least proposals for territorial self-governance have been made. In many of them, these proposals have been implemented.

From among these cases, I selected eight countries in addition to Italy/South Tyrol in which territorial self-governance regimes were established as part of a complex power sharing settlement: Bosnia and Herzegovina,[23] Bougainville/Papua New Guinea,[24] Brussels/Belgium,[25] Crimea/Ukraine,[26] Macedonia,[27] Mindanao/Philippines,[28] Northern Ireland/United Kingdom,[29] and South Sudan.[30] The degree and nature of complexity in each of these regimes differs, but as the following comparative analysis will demonstrate they all exhibit mechanisms in addition to territorial self-governance that allow their classification as complex power sharing arrangements.

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20 For the full text of this document, see http://www.hri.org/docs/annan/Annan_Plan_Text.html.

21 For the full text of this document, see http://www.president.gov.ge/?l=E&m=0&sm=5.

22 See documentation at http://www.peaceinsrilanka.lk/, a website run by the Secretariat for Co-ordinating the Peace Process set up by the government of Sri Lanka.

23 "General Framework Agreement for Peace in Bosnia and Herzegovina". http://www.ecmi.de/cps/documents_bosnia_dayton.html.

24 "The Bougainville Peace Agreement". http://www.ecmi.de/cps/download/BougainvillePeace.pdf; "The Constitution of the Autonomous Region of Bougainville". http://www.vanuatu.usp.ac.fj/library/Paclaw/Papua%20New%20Guinea%20and%20Bougainville/Bougainville.htm.

25 "The Constitution of Belgium", http://www.fed-parl.be/constitution_uk.html

26 "The Constitution of Ukraine", http://www.rada.kiev.ua/const/conengl.htm; The Constitution of the Autonomous Republic of Crimea, http://www.rada.crimea.ua/index_konstit.html.

27 "Framework Agreement". http://www.ecmi.de/cps/documents_macedonia_frame.html "Law on Local Self-government of the Republic of Macedonia". http://www.urban.org/PDF/mcd_locgov.pdf.

28 "Peace Agreement". http://www.ecmi.de/cps/documents_philippines_final.html.

29 "The Agreement Reached in the Multi-party Negotiations". http://www.ecmi.de/cps/documents_ireland_peace.html.

30 "Protocol between the Government of Sudan (GOS) and the Sudan People's Liberation Movement (SPLM) on Power-Sharing" http://www.usip.org/library/pa/sudan/power_sharing_05262004.pdf.

A. The Composition and Powers of the Executive, Legislative and Judicial Branches of Government and the Relationship between Them

1. The Nature of the Government System and the Choice of Electoral Systems

All three approaches to conflict resolution favour independent judicial systems, and these are present in all cases discussed here, at least in the structural sense that a formal judicial branch of government exists alongside the executive and legislature. A key difference between consociationalists on the one hand, and integrationists and power-dividers, on the other, is their disagreement over the utility of parliamentary or presidential systems, i.e., whether the chief executive of the government should be directly elected or emerge from within parliament. These differences are reflected in the practical aspects of the conflict settlements discussed here (see Table 2).

Table 2: Parliamentary vs. Presidential Systems

Central parliamentary system	**Central presidential system**	**Regional parliamentary system**	**Regional presidential system**
Belgium		Brussels	
Italy		South Tyrol[31]	
	Bosnia and Herzegovina*	Federation of Bosnia and Herzegovina	
Macedonia			
Papua New Guinea			Bougainville
	Philippines		Mindanao
	Sudan		South Sudan
	Ukraine*	Crimea	
United Kingdom		Northern Ireland	

*Denotes semi-presidential system

There is a slight predominance of parliamentary systems, both at central, and where applicable, regional level of government. Of these, the UK, Papua New Guinea,[32]

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31 According to the 2001 revised autonomy statute, the *Landeshauptmann* can now be elected directly, but will at the same time remain head of the provincial government, which needs to be elected by the provincial parliament. Once the relevant legislation for the direct election of the *Landeshauptmann* has been passed, South Tyrol's system of government will be an unusual type of parliamentary system with a directly elected prime minister who at the same time is head of 'state'.

32 Elections to the parliament of Papua New Guinea used a version of AV, the so-called Limited Preferential Vote, between 1964 and 1975, and since 2002. Between 1975 and 2002, a single member plurality system was in operation.

Bougainville,[33] and Crimea use plurality electoral systems, all others rely on PR systems for the election of members of their respective parliaments. Noteworthy is, however, the use of preferential systems in Northern Ireland (Single Transferable Vote) and South Tyrol (open party list system). Such preferential systems are generally more closely linked to integrationist power sharing, even though Horowitz's clear preference is plurality preferential systems. The fact that consociationalists have come appreciate preferential systems more as well, indicates both a greater openness towards the potential benefits of preferential systems (election of more moderate leaders), and a 'liberalisation' and 'democratisation' of consociationalism away from Lijphart's preference for the elite cartel.

In presidential systems, both at central and regional levels of government, the method of electing presidents is by simple majority vote with a second-round run-off between the two candidates topping the first-round ballot. The lower chambers of parliament at the central level are elected by either plurality systems in single-seat constituencies (Sudan), parallel mixed systems (Philippines, Ukraine), or List PR (BiH). At regional level, the electoral system for parliament in Mindanao is a parallel mixed system. No elections have yet taken place in South Sudan and no electoral system has been determined yet.

2. Power Sharing

One element of the complexity of self-governing regimes as a mechanism to resolve self-determination conflicts stems from the fact that constitutional engineers have developed innovative ways to combine traditional structures of horizontal and vertical power sharing and power dividing. All the cases examined in this paper are examples of state structures characterised by multiple vertical layers of authority and, in all but one of them, formal horizontal structures of power sharing exist as well (see Table 3).

33 According to the Bougainville Constitution, there are three reserved seats each for former combatants and women, representing the three regions of the Autonomous Region of Bougainville. Mandatory representation of former combatants can be abandoned by a two-thirds majority vote in the regional parliament.

Table 3: Horizontal Executive Power Sharing at Central and Regional Levels of Authority

No horizontal power sharing	Horizontal power sharing at the centre	Horizontal power sharing at regional level only	Horizontal power sharing at the centre and regional level
	Macedonia[34]	Crimea[35] Northern Ireland South Tyrol[36]	BiH[37] Bougainville[38] Brussels Mindanao[39] South Sudan[40]

As the cases of Macedonia and Mindanao demonstrate, the absence of formal structures of power sharing at the centre does not preclude power nevertheless being shared to some extent. In Macedonia, this is more obvious, as the country's demographic balances, structure of the party system and electoral formula combine in a way that make the formation of government coalitions between ethnic Macedonian and ethnic Albanian parties likely (and they have been a reality since 1992[41]). In Mindanao, on the other hand, there is a somewhat greater degree of formality in power sharing arrangements at the centre as members of the regional governments are co-opted into respective branches of the national government. Co-optation, however, limits the extent of the influence that

34 Even though there is no mandatory power sharing at any level in Macedonia, the power balance of national politics makes coalitions at the centre between ethnic Macedonian and ethnic Albanian parties highly likely. In fact, so far ethnic Albanian parties have been present in all coalition governments since Macedonia's independence, except for the 1990-1992 "government of experts", which was not structured around political parties, but also included three ethnic Albanians. My thanks to Eben Friedman for providing this information.

35 Power sharing at regional level is not mandatory, but a likely outcome of the regional demographic and power balances.

36 The self-governance arrangements in South Tyrol combine horizontal power sharing at the level of the province (South Tyrol) and the region (Trentino-South Tyrol).

37 Mandatory power sharing at regional level only applies to the federation and cantons within it.

38 The regional constitution of Bougainville determines mandatory inclusion of representatives of Bougainville's three regions into the regional government.

39 To the extent that certain members of the government of the Autonomous Region of Muslim Mindanao are co-opted into structures of the national government, there is a certain degree of power sharing at the national level in addition to the mandatory power sharing at regional level.

40 In the period prior to elections.

41 Cf. Friedman (2005).

can be exercised by the region at the centre as regional co-optees are outnumbered by other members of the national government and have little, if any, leverage compared to situations in which a regional party is a member of a governing coalition and can potentially exercise veto powers.

Horizontal power sharing at the regional level exists in all those cases where there is significant ethnic or other diversity within the region, i.e., where mere devolution of powers to a lower level of authority would simply replicate the conflict at the national level. This is clearly the case in Bosnia and Herzegovina (Federation level), Brussels, Mindanao, Northern Ireland and South Tyrol.[42] More specifically, the South Tyrol arrangements can be described as a "nested consociation", that is consociational structures exist at both the provincial (South Tyrol) and regional (Trentino-South Tyrol) levels, a situation that has its causes in the particular territorial, demographic, and political dynamics of the South Tyrolean autonomy. On the one hand, it reflects the territorial organisation of the Italian state into regions and (normally) subordinate provinces. On the other hand, Germans are a minority at the regional level, while Italians are in a minority position in the province. Given that, until the 2001 reforms, the region was a much more important political player in relation to the exercise of South Tyrol's competences, concerns of German-speakers about political influence could be addressed by including them mandatorily in the regional cabinet. At the same time, the Italian minority in South Tyrol required similar protective mechanisms. To achieve a stable equilibrium in the face of this dual minority situation required the establishment of such an interlocking consociational mechanism that would recognise and protect both main linguistic groups within the existing structure of territorial-political organisation.

In contrast to the 'abundance' of power sharing arrangements in the case of South Tyrol, mandatory state and sub-state horizontal power sharing mechanisms are lacking in Macedonia, but their absence can be explained with reference to the same factors of territorial, demographic and political factors. The territorial concentration of ethnic Albanians, the range of powers devolved to the municipal level and the opportunity for citizens to establish a further layer of authority at the neighbourhood level addresses a wide range of self-government concerns among ethnic Albanians. In addition, the numerical strength of ethnic Albanians in the Macedonian polity and the structure of its party and electoral systems guarantee significant representation of ethnic Albanian parties in the national parliament and make their participation in a coalition government at least highly likely. This strength of Albanians that allows them to benefit fully from the implementation of local autonomy as foreseen in the Ohrid Agreement, is another explanation for the absence of horizontal power sharing: the geographical concentration and size of the minority make a federal solution less attractive for ethnic Macedonians, as it could be construed as a first step to the partition of the country.

This indicates that under certain conditions—relative territorial concentration of ethnic communities, sufficient levels of devolution and a minimum degree of representation at the centre—vertical division of powers can function as a useful substitute for formal structures of horizontal power sharing both at national and regional level and suffice in

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[42] Crimea's constitution does not provide for formal structures of power sharing, but local power demographic and power balances make voluntary inter-ethnic power sharing at least likely.

addressing institutional dimensions of power (re)distribution in self-determination conflicts. The fact that vertically divided powers can only substitute for horizontal levels of power sharing under very specific conditions is also highlighted by the example of Bosnia and Herzegovina where despite wide-ranging devolution, horizontal power sharing remains mandatory at the level of state institutions and at the level of the Bosnian-Croat Federation.

It is important to note, however, that the absence of formal power sharing structures, i.e., the lack of a consociational requirement for a cross-community representative executive, should not be equated with either the absence of power sharing at all, or the derogation of communal identities from the public to the private sphere. Furthermore, voluntary executive power sharing arrangements that emerge do not necessarily do so on the basis of a specific electoral system. Integrationists' favourite AV model is absent in all relevant cases—deputies to the Crimean Supreme Council are, since 1998, elected on the basis of a single-seat non-preferential majoritarian system, and Macedonia's members of parliament are elected by a parallel mixed system.

3. Legal Entrenchment

Guarantees of institutional structures of horizontal and vertical power sharing and power dividing are essential to prevent the arbitrary abrogation of devolved powers and thus to ensure conflict parties of the relative permanence of the institutions they agreed upon. Guarantees are particularly important for the relatively weaker party in a self-determination dispute, i.e., a specific minority, to protect it from a state reneging on earlier concessions. However, such guarantees are also valuable for states in that they commit all parties to an agreed structure and, in most cases, imply that there can be no unilateral change of recognised international boundaries outside pre-determined procedures, such as the referenda provided for in the settlements for Bougainville, Northern Ireland and South Sudan).

In principle, guarantees can be either international or domestic, and in the latter case they can be part of a country's constitution or other legislation (see Table 4). Given the complexity of many of today's self-determination conflicts, guarantees often exist at more than one level. In addition, international guarantees can take the form of hard guarantees (international treaties) or of 'soft' guarantees (non-binding standards and norms, declarations of intent, etc.).

Table 4: Guarantees of Self-governance Institutions

International Guarantees		**Domestic Guarantees**	
'Hard'	**'Soft'**	**Constitutional Guarantees**	**Guarantees in Specific Laws**
BiH Northern Ireland South Tyrol	Bougainville Macedonia Mindanao South Sudan	BiH Bougainville Brussels Crimea Macedonia Northern Ireland[43] South Tyrol	Bougainville Brussels Crimea Macedonia Mindanao Northern Ireland South Tyrol

Table 4 illustrates that there is great variance across the cases considered here. In terms of the strength of the protection that they afford established horizontal and vertical power sharing and power dividing structures, hard international guarantees are preferable over other forms of guarantees, provided there is significant commitment of the international community to uphold its guarantees. In Bosnia and Herzegovina this commitment is unquestionable with the presence of peacekeeping forces in both territories and with the investment that has been made over the past years by the international community in order to foster economic development, institution-building and institutional reform. Whereas in Bosnia and Herzegovina there exist international bodies with a clear mandate (the multi-national Peace Implementation Council and the UN Security Council, respectively), the situation in Northern Ireland is such that the hard international guarantee of the 1998 agreement exists in the form of a British-Irish treaty. The crucial difference here is that for any violation of the treaty (as has arguably occurred on several occasions with the unilateral suspension of the power sharing institutions by the UK government) to be addressed one of the signatory parties needs to bring a case before a relevant international legal institution (e.g., the European Court of Justice). If this does not happen, the protection theoretically afforded by the link between the agreement and an international bilateral treaty remains an empty shell. In the case of South Tyrol, the Paris Treaty of 1946 between Austria and Italy, annexed to the Italian Peace Treaty, called for the granting of autonomous status to South Tyrol. In 1992, the Austrian government deposited a declaration with the United Nations in which it declared that its dispute with Italy over the implementation of the Paris Treaty had been resolved following the implementation of the majority of the measures agreed in the Second Autonomy Statute of 1972. Both countries – Italy and Austria – subsequently agreed that any future dispute between them in the respect would be referred to the International Court of Justice.

[43] I am grateful to Brendan O'Leary for pointing out to me that the 1998 Agreement on Northern Ireland has guarantees in the Irish constitution and that the House of Lords in the UK also read the 1998 Northern Ireland Act, together with the Agreement, as a constitution.

Soft international guarantees primarily manifest themselves in the form of the involvement of international organisations in the negotiation, implementation, and (potentially) operation of a particular peace agreement. While not of the same legally binding and thus potentially enforceable status as hard international guarantees, a significant presence of international agents is often instrumental in shaping preference and opportunity structures for the conflict parties. In the cases studies, this has taken different forms. In Bosnia and Herzegovina, similar to Macedonia, an international troop presence, as well as the involvement of various international governmental and non-governmental organisations on an unprecedented scale, have, for better or worse, been instrumental in the implementation and operation of the respective agreements thus far. In Bougainville, a UN Observer Mission has been crucial in facilitating demilitarisation. In South Sudan, the significant engagement of regional and international organisations and individual states in the peace negotiations and their commitment to the reconstruction of Sudan ensures a certain degree of 'compliance enforcement' as well.

At the level of domestic guarantees, constitutional guarantees are more entrenched than those which have their source in normal legislation. Incorporation of specific provisions of peace agreements into national constitutions is a common way of realising constitutional guarantees and has occurred in Bosnia and Herzegovina, Bougainville, Brussels, Crimea, Macedonia, and South Tyrol. In the case of Bougainville, an additional safeguard exists in that no changes to the agreed and constitutionally entrenched structure of the institutions created by the peace agreement is permissible except with the explicit consent of at least two-thirds of the members of the Bougainville parliament. Similarly in South Tyrol, interlocked provisions in the Italian constitution and ordinary legislation provide a very strong set of domestic guarantees.

Guarantees through specific laws exist in the cases of Bougainville, Brussels, Crimea, Macedonia, Mindanao, Northern Ireland and South Tyrol. In practice, they have proven weakest in Northern Ireland, where, in the absence of a written constitution, another law on the statute books has given the UK government the power to suspend the power sharing institutions at any given time, even though this appears to be in contravention of the legally binding international treaty between the UK and the Republic of Ireland of which the 1998 Agreement is a part.[44]

All three theories of conflict resolution emphasise the importance of judicial institutions and enforcement mechanisms to uphold the letter and spirit of conflict settlements. They also recognise the role of external actors, but are divided on the usefulness of international intervention: power-dividers see a limited, transitional role for them; advocates of power sharing embrace them more readily as facilitators and guarantors of settlements.

[44] I am grateful to Brendan O'Leary for clarifying this point for me.

B. The Structure and Organisation of the State as a Whole

1. Symmetry and Asymmetry in Institutional Design

The first element to consider in the context of questions about symmetry and symmetry of institutional design is the number of layers of authority that actually exist across the eight case studies (Table 5).

Table 5: Variation in the Vertical Layering of Authority[45]

Two-layered Structures	**Three-layered Structures**	**Multi-layered Structures**
Macedonia	Bougainville Crimea Northern Ireland	BiH Brussels Mindanao South Sudan South Tyrol

Table 5 illustrates that self-governance regimes rely predominantly on more than two layers of authority. In the cases of Bougainville, Northern Ireland and Crimea, these three layers are central, regional and local government. In Macedonia, on the other hand, the middle level of government—the region—is missing, reducing the levels of government to two, namely the central government and local governments, which are both prescribed in the constitution and whose functions and powers are detailed there and in relevant legislation. There also exists a legally guaranteed opportunity for citizens to develop a further layer of government at the level of neighbourhoods, but this is regulated by by-laws of the individual local governments and thus a matter of local decision-making rather than of state construction.

In the cases of Bosnia and Herzegovina Brussels, Mindanao, South Sudan and South Tyrol, more than three levels of government exist. In Bosnia and Herzegovina, this is a result of the interplay of domestic, regional and international factors in the process of state creation at Dayton, leading to a complex federal-confederal structure of the state. The complexity of domestic divisions and the process of federalisation in Belgium, leading to a structure in which regions and communities are simultaneously components of the overall federal structure, accounts for the four-layered structure of the Belgian system. Interestingly, looking only at Brussels only a three-layered structure exists. However, within it, at the regional level, three parallel layers of authority exist: the regional council and government, and the institutions of the French, Flemish and Joint Community Commissions. In the case of Mindanao, an existing four-layered structure of government was altered with the creation of a specific and unique fifth layer – the legal-political entity of the Autonomous Region of Muslim Mindanao – to which powers were devolved in an effort to resolve the underlying self-determination conflict. This is similar

[45] This classification ignores purely or mostly ceremonial Heads of State as well as the fact that for all West European cases the European Union is an additional layer of authority.

to the case of Sudan (and for that matter, Ukraine/Crimea and UK/Northern Ireland), where a three-layered structure was altered in relation to South Sudan which represents an additional level of government between central and state governments manifesting a distinct identity of the southern states.

Another way of looking at structural types of vertically layered authority is to examine the degree to which these cases represent institutions that are structurally and/or functionally symmetric or asymmetric (Tables 4–6), as this perspective provides a more comprehensive picture of the structure of the entire polity concerned and the place and status of self-governance institutions within it.

Table 6: Structural Symmetry and Asymmetry of Institutions

Structural Symmetry	**Structural Asymmetry**	
	Single Asymmetry	**Multiple Asymmetry**
Bougainville Brussels Macedonia South Tyrol	Crimea Mindanao Sudan	BiH Northern Ireland

Table 7: Functional Symmetry and Asymmetry of Institutions

Functional Symmetry	**Functional Asymmetry**
Macedonia	BiH Bougainville Brussels Crimea Mindanao Northern Ireland South Sudan South Tyrol

Table 8: Structural and Functional Symmetry and Asymmetry of Institutions Compared

	Structures			**Functions**	
	Symmetric	**Single asymmetric**	**Multiple asymmetric**	**Symmetric**	**Asymmetric**
BiH			X		X
Brussels	X				X
Bougainville	X				X
Crimea		X			X

Macedonia	X			X	
Mindanao		X			X
Northern Ireland			X		X
South Sudan		X			X
South Tyrol	X				X

Tables 4 and 5 indicate that there is no clear-cut predominance of symmetric or asymmetric forms of institutional structures across the case studies, but that from a functional perspective, i.e., the way in which powers and functions are distributed horizontally at the relevant levels of government in a polity, asymmetry is more frequent than symmetry. In other words, the vertical layering of authority, regardless whether it is structurally 'coherent' across a given state or not, facilitates asymmetric distribution of powers and functions, thus enabling central governments and specific regions to create a special relationship in the sense that more powers and functions or parts thereof are devolved to a particular region, which thereby acquires greater autonomy in a wider range of policy areas compared to other territorial entities in the same country. This is also demonstrated in Table 8, which illustrates that, while symmetric structures and symmetric functions correlate more frequently (Macedonia), symmetric structures do not preclude asymmetric functional capacities (Bougainville).

South Tyrol does not stand out from the other cases. It is characterised by structural symmetry in the sense that the province of South Tyrol (and the Region of Trentino-South Tyrol) are, from a structural point of view, regular territorial entities within the overall Italian context. Importantly, however, in relation to the competencies enjoyed by South Tyrol, these are significantly beyond the level of those enjoyed by similar territorial entities elsewhere in Italy.[46] As discussed in greater detail above, there are very few policy areas in which South Tyrol does not exercise executive and/or legislative powers; thus the range of its competences under the asymmetric functional arrangement in operation is impressive, but, as I will demonstrate below, not unique in comparison with some of the other cases discussed.

From a theoretical point of view, it is worth noting that both varieties of power sharing, albeit to differing degrees, allow for asymmetric structures and functions. While liberal consociational power sharing is principally in favour of territorial configurations reflecting the expressed wishes of self-defined communities (whatever the basis of such self-definition), integrative power sharing is not opposed to the use of territorial self-governance arrangements in either symmetric (federalism) or asymmetric (autonomy) forms. Where integrationists and advocates of power dividing tend to agree is their preference for territorial self-governance to be based on 'administrative' rather than

[46] In the context of the 'federalisation' of Italy, which began with the constitutional reforms of 2001 (Constituional Law N. 3 of 18 October 2001), there is now greater functional symmetry between provinces and regions across Italy. The point, however, that is important for an understanding of more general principles of complex power sharing, is that for over thirty years significant functional asymmetry co-existed with structural symmetry without any particular problems.

'ethnic' criteria, in an effort to prevent the institutionalisation of group identities and enable coalitions of interest based on policy rather than identity (integrationists) or multiple and changing majorities (power dividers). Having said that, it is evident that in the cases that form the basis of this empirical comparison the entities of territorial self-governance are exclusively those in which group identities form the basis of boundaries.[47]

2. Distribution and Separation of Powers

One of the key questions to ask of any self-governance regime is where powers rest; i.e., how different competences are allocated to different layers of authority and whether they are their exclusive domain or have to be shared between different layers of authority. As with other dimensions in this analysis, there is a certain degree of context-dependent variation across the cases under examination. Variation exists primarily with regard to the way in which powers are allocated and the degree of flexibility concerning new fields of policy-making not relevant or not included at the time a specific agreement was concluded.

The principle mechanism to handle the distribution of powers is the drawing up of lists that enumerate precisely which powers are allocated to which levels of authority and/or which are to be shared between different such levels. These lists can be very specific for each layer of authority (Bougainville, Mindanao, South Sudan and South Tyrol[48]) or they can be specific for one or more layers and 'open-ended' for others (Bosnia and Herzegovina, Crimea, Macedonia and Northern Ireland). The key difference in the latter case is which layer of authority has an 'open-ended' list, i.e., which layer retains residual authority for any partly devolved power or any other policy area not explicitly allocated elsewhere (see Table 9).

[47] I will return to a discussion of territory and population as boundaries of authority below.

[48] Since the 2001 constitutional reforms, South Tyrol is in the unusual situation that has both specific lists of competences allocated to different layers of authority, as well as a general clause assigning all not specifically mentioned policy areas automatically to the legislative competence of the province.

Table 9: Power Allocation in Self-governance Regimes

Specific Lists	Combination of Specific and 'Open-ended' Lists	
	Open-ended list at centre	**Specific list at centre**
Bougainville Mindanao Northern Ireland[49] South Sudan	Brussels Crimea Macedonia	BiH South Tyrol

In Brussels, Crimea, and Macedonia, the centre holds residual authority over all matters not expressly devolved to the lower layers of authority, while in South Tyrol and Bosnia and Herzegovina the two entities retain all the competences not explicitly delegated to the centre (with the qualification that in the case of Bosnia and Herzegovina, the Federation cantonal institutions assume most of these powers from the Federation entity).

In Mindanao, the multi-layered system of public authority that is in place there has very specific lists of powers allocated to the individual levels within it, even though the central government remains the original source of all authority, i.e., the reverse of the situation in South Tyrol since 2001. This is also the case in Northern Ireland, but here the system of allocating powers operates on the basis of three different lists enumerating devolved, reserved (with the future possibility of devolution) and excepted (without the future possibility of devolution) matters. In Bougainville, which also operates a system of specific power allocation to the different layers of public authority, an additional feature is that there are specific arrangements as to how to deal with emerging policy areas (a joint commission that will resolve disputes over the allocation of new powers). Another distinctive feature of the Bougainvillean system is that initially all powers allocated to the autonomous province are retained at the central level and are, albeit almost automatically, devolved to Bougainville upon application to the central authorities by the provincial authorities. In the case of South Sudan, notably, specific lists of powers exist for the centre, the government of South Sudan and State governments, as well as a list of so-called concurrent powers whose exercise falls into the competence of more than one layer of government.

None of the three theories of conflict resolution discussed above offers much specific guidance on this issue of power allocation to different vertical layers of authority. Some inferences can nevertheless be made. Power-dividers, who express a certain preference for the American model of federalism (e.g., Roeder 2005), favour strong central governments and are thus likely to opt for residual authority to remain with the central government. As for the two power sharing schools, for both of them it is important that power sharing is a more attractive option to conflict parties than recourse to violence, hence both approaches should be interested in substantive powers assigned to territorial self-government entities, which is best done either by way of assigning residual authority

[49] In case the Assembly in Northern Ireland asks for it, the regional power sharing institutions could enjoy an open-ended list of powers allocated to them, with only specifically excepted matters retained by the Westminster government.

to these entities or by drawing up specific lists which clearly distribute powers between central and regional governments.

3. Coordination Mechanisms

The distribution and separation of powers, horizontally and vertically, in complex power sharing systems requires mechanisms for the coordination of law and policy-making. This is generally an important issue in the operation of any multi-layered system of government, but in the context of self-determination conflicts it assumes additional significance as coordination failures not only have an impact on the effectiveness of government but also have repercussions for the perception of the usefulness of a particular institutional structure to resolve a conflict. The cases studied in this analysis suggest that, although there is a wide spectrum of individual coordination mechanisms, these can be grouped into four distinct categories: co-optation, joint committees and implementation bodies, judicial review and arbitration processes, and direct intervention by the international community (see Table 10).

Table 10: Coordination Mechanisms in Self-governance Regimes

Co-optation	**Joint Cttees. and Implementation Bodies (including ad-hoc bodies sponsored by international organisations)**	**Judicial Review and Arbitration**	**Direct Intervention by the International Community**
Brussels Mindanao	Bougainville Brussels Macedonia Mindanao Northern Ireland South Sudan South Tyrol	BiH Bougainville Brussels Crimea Macedonia Mindanao Northern Ireland South Sudan South Tyrol	BiH

As Table 10 indicates, with the exception of Crimea, all the cases exhibit at least two different coordination mechanisms, with one of them always (in the case of Crimea, the only one) being judicial review and arbitration processes. This suggests that there is a strong reliance upon the legal regulation of the relationships between different layers of public authority and an emphasis on the separation of powers between the different branches of government, creating an independent judiciary. This is similar to any other country which has adopted the rule of law as a basic principle of running its own affairs. It is therefore more interesting to consider the other three types of coordination

mechanisms in greater detail with a view to examining the degree to which they are the specific results of adopting self-governance regimes as settlements for self-determination conflicts.

Co-optation, adopted in Belgium and the Philippines, is a mechanism to ensure the representation of regional officials (from Brussels and the ARMM, respectively) at the centre. In all cases, regional and officials are *ex officio* members of relevant national government departments. This arrangement is symbolic and emphasises the special relationship between central government and autonomous region. In the case of Mindanao it is also necessary as the autonomous entity is an artificial construction from an administrative point of view and does not fit into the pre-existing structures of authority in the Philippines. Co-optation thus becomes a potential mechanism to overcome this kind of administrative 'abnormality' and ensure that the special circumstances of the autonomous regions are borne in mind in the process of national law and policy-making. Co-optation is notably absent in the similar cases of Crimea and South Sudan, but well-compensated for in the latter through extensive power sharing mechanisms. In Crimea, the Representative Office of the President of Ukraine acts, in part, as a coordination mechanism with oversight, but no executive powers.

In the context of coordination between different vertical layers of authority in self-governance regimes, the need for joint committees and implementation bodies often arises from two sources – to find common interpretations for specific aspects of agreements and regulations and to coordinate the implementation of specific policies at national and regional levels. An example of the former is Bougainville, while the latter can be found in Macedonia (inter-ethnic relations), Mindanao (development), Northern Ireland (cooperation between Northern Ireland and the Republic of Ireland and among all entities party to the British-Irish Council) and South Sudan (constitutional review, application of Shari'a law, human rights, elections, referendum, fiscal and financial allocation). Such bodies usually hold regular meetings (Bougainville, Macedonia, Mindanao, Northern Ireland, South Sudan); and they can be in their nature domestic, centre-periphery bodies (Bougainville, Macedonia, Mindanao, South Sudan) or reflect the international dimension of a particular self-determination conflict (Northern Ireland). They may be prescribed in agreements between the conflict parties (Bougainville, Mindanao, Northern Ireland, South Sudan) or arise from actual needs (Macedonia).

In the case of South Tyrol, significant aspects of the original negotiations of the autonomy statute in the 1960s were carried out by the so-called Commission of Nineteen, involving representatives of South Tyrol and the Italian government. Subsequently two separate commissions were created to facilitate and oversee the implementation of the statute in relation to provincial and regional aspects of autonomy. Since 1997, a further commission, required according to article 137 of the autonomy statute has been operational which deals specifically with questions of minority protection and economic, social and cultural development of the ethnic groups in South Tyrol. This commission must be consulted in case of any planned changes to the autonomy statute. A further special commission was created in 2001 to deal with the implementation of changes resulting from the 2001 reforms of autonomy statute and Italian constitution. A standing commission at the office of the Italian Prime Minister, created to monitor the implementation of the statute, has been in place since 1972. In addition to policy coordination at the level of commissions, South Tyrol's autonomy also benefits from a

strong and independent judicial system, whose role, however, has changed significantly in the operation of the system, especially the role of the constitutional court in protecting South Tyrol's legislative acts from undue interference by the central government.
Unique to Bosnia and Herzegovina is the direct intervention of the international community as a mechanism to coordinate law and policy-making. In both cases, powerful international officials retain significant powers enabling them to intervene directly into the political processes of the two entities. This results primarily from the unprecedented involvement of the international community in the process of resolving the two underlying self-determination conflicts and the responsibility that international agents thereby assumed for post-conflict state construction, as well as from the particularly bitter nature of the disputes concerned.
The three theories of conflict resolution discussed above offer some limited guidance on how they see this issue of coordination best addressed. All three generally emphasise the importance of a law-based system and thus of the role played by independent judicial institutions. Consociationalists further allow for additional coordination mechanisms. In fact, a key characteristic of regional consociations is the presence of such coordination mechanisms (cf. Wolff 2004). Integrationists, even where they explicitly discuss federal-type arrangements (e.g., Horowitz 1991: 214-226, Wimmer (2003), say very little on how policy be best coordinated in multi-layered systems of authority.

C. The Relationship between Individual Citizens, Identity Groups and the State

1. Human and Minority Rights Provisions

Relevant human and minority provisions exist in all cases included in this analysis, albeit to differing degrees. Applicable law includes international and regional standards and more specific state-wide, and in some cases local, human and minority rights legislation, as summarised in Tables 11-13.

Table 11: International Human and Minority Rights Instruments[50]

	UN Membership	Convention on the Prevention and Punishment of the Crime of Genocide[51]	International Convention on the Elimination of All Forms of Racial Discrimination[52]	International Covenant on Economic, Social, and Cultural Rights[53]	International Covenant on Civil and Political Rights[54]	Optional Protocol to the International Covenant on Civil and Political Rights[55]	UNESCO Membership	UNESCO Convention against Discrimination in Education
Belgium	Yes	1951	1975	1983	1983	1994	Yes	--
BiH	Yes	1992	1993	1993	1993	1995	Yes	1993
Italy	Yes	1952	1976	1978	1978	1978	Yes	1966
Macedonia	Yes	1994	1994	1994	1994	1994	Yes	1997
PNG	Yes	1982	1982	--	--	--	Yes	--
Philippines	Yes	1950	1967	1974	1986	1989	Yes	1964
Sudan	Yes	2003	1977	1986	1986	--	Yes	--
Ukraine	Yes	1954	1969	1973	1973	1991	Yes	1962
UK	Yes	1970	1969	1976	1976	--	Yes	1962

[50] The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions has not yet been signed by any of the countries concerned.

[51] Status as of 1 November 2006 (http://www.ohchr.org/english/countries/ratification/1.htm).

[52] Status as of 1 November 2006 (http://www.ohchr.org/english/countries/ratification/2.htm).

[53] Status as of 1 November 2006 (http://www.ohchr.org/english/countries/ratification/3.htm).

[54] Status as of 1 November 2006 (http://www.ohchr.org/english/countries/ratification/4.htm).

[55] Status as of 1 November 2006 (http://www.ohchr.org/english/countries/ratification/5.htm).

Table 12: Regional Human and Minority Rights Instruments: Europe

	Council of Europe Membership	(European) Convention for the Protection of Human Rights and Fundamental Freedoms	(European) Framework Convention for the Protection of National Minorities	European Charter for Regional or Minority Languages
Belgium	Yes	1955	(2001)[56]	--
BiH	Yes	2002	2000	(2005)[57]
Italy	Yes	1955	1998	(2000) [58]
Macedonia	Yes	1997	1998	(1996) [59]
Ukraine	Yes	1997	1998	2006
UK	Yes	1953	1998	2001

There are no regional human and minority rights instruments applicable to the Asian case studies in this analysis (Papua New Guniea and Philippines). Sudan ratified the African Charter for Human and People's Rights[60] in 1986.

56 Not yet ratified.

57 Not yet ratified.

58 Not yet ratified.

59 Not yet ratified.

60 For the text of the Charter, see http://www.achpr.org/english/_info/charter_en.html.

Table 13: Domestic and Local Human and Minority Rights Provisions

	Constitutional Human Rights Provisions	Constitutional Minority Rights Provisions	State-wide Minority Rights Legislation	Local Human Rights Legislation	Local Minority Rights Legislation
Belgium/Brussels	Yes	No	No	Yes	Yes
BiH	Yes	Yes	Yes	Yes	Yes
Italy	Yes	Yes	Yes	Yes	Yes
Macedonia	Yes	Yes	Yes	N.A.	N.A.
PNG	Yes	No	No	Yes	No
Philippines	Yes	No	Yes	No	No
Sudan	Yes	Yes	No	Yes	No
Ukraine	Yes	Yes	Yes	Yes	No
UK[61]	Yes	No	No	Yes	No

This is not the place to examine in detail the legal provisions contained in any of these documents, nor the degree to which law translates into policy and is enforced in the countries covered by this comparative analysis. The general trend in legal provisions for human and minority rights, however, is obvious in that constitutional human rights provisions are universally present and in that, with the exception of Papua New Guinea, all countries are states parties to the key international conventions. There seems to be significantly greater reluctance to include minority rights provisions in constitutions or even provide for separate minority rights legislation either at the state or local level. This emphasis on individual human rights over (group-specific) minority rights is consistent with recommendations of power dividers and integrationists. Consociationalists, too, appreciate the value of individual human rights provisions, but their recommendations do not caution against the parallel use of minority rights provisions, which is consistent with their generally more pronounced emphasis on the recognition and protection of (self-determined) group identities.

61 The UK does not have a single constitutional text, in accordance with the doctrine of parliamentary sovereignty.

2. Recognition and Protection of Identities: Territory and Population as Boundaries of Authority

Authority as the legitimate exercise of political power has two boundaries – it is normally limited to a specific territory and/or a defined group of people. The degree to which both of these categories shape the boundaries of authority of specific institutions of government contributes to an assessment of the degree to which group identities are institutionally recognised and protected.

A national government has the authority to exercise its power within the territorial confines of the state it is governing and over the residents of this territory (with the exception of foreign diplomats for example). Some elements of a national government's authority may also extend beyond the territorial boundaries of its state, but then they will normally be limited to that particular state's citizens, for example in the field of tax collection. In terms of self-governance regimes, the extent of these two limitations placed on the exercise of authority is similar. Regional, territorial self-governance regimes are spatially confined. The powers devolved to them only apply within the territorial boundaries of the region and, by extension, only to (permanent) residents of the region. An analogue to authority extending beyond territorial boundaries are instances of personal autonomy in which the autonomous body has authority over all individuals belonging to it no matter where they live in the territory of the state or region concerned.[62]

These observations are particularly relevant in two of the cases examined here. The territory of the Autonomous Region of Muslim Mindanao was determined by a referendum at the local level, giving the population an opportunity to express in a free vote whether they want to live under the authority of a newly created regional government or want to continue being governed within the existing structure of vertically layered institutions. This vote took place at the level of provinces and towns, thus allowing for a much more 'precise' gauging of popular will and the degree to which a Muslim identity expresses itself, in part, through a desire for self-governance. In both cases, the result was that the autonomous territory thus created is not in fact a contiguous area, but is made up of a number of patches of territory. Early indications suggest that this is not necessarily detrimental to the exercise of authority at the level of the autonomous territory. A degree of personal autonomy exists in the Autonomous Region of Muslim Mindanao with regard to judicial affairs as Shari'ah and tribal courts have authority alongside lower-order courts of the national judicial system in religious and family affairs to cater for the specific needs of the different religious, ethnic and tribal communities in these areas. In South Sudan, the relevant territory comprises the Southern States as they existed at Sudan's independence. Special provisions apply to two disputed areas: Abyei and the Southern Kordofan/Nuba Mountains and Blue Nile States. The

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62 In reverse, this means that all members of the ethnic group concerned can enjoy the rights accorded to them in the autonomy arrangement anywhere in the territory of the relevant state. This form of autonomy is particularly useful in instances where groups are more dispersed. It is also used to complement territorial forms of autonomy in specific policy areas (culture, religious affairs, education, etc.) when autonomous territories are ethnically heterogeneous.

former is defined as the area of the nine Ngok Dinka chiefdoms which were transferred to Kordofan in 1905. Both territories were accorded special status during the interim period prior to the referendum on independence for South Sudan and have different options in this referendum.[63]

The case of Mindanao suggests that there is an additional degree of differentiation available that goes beyond the traditional territorial delimitation of authority in that it incorporates a public consultation process for the definition of the territorial boundaries of the autonomous area. If combined with levels of personal autonomy in specific policy areas, the range of authority that a self-governance entity enjoys can be tailored to the specific demographic and geographic situation, taking account of settlement patterns and ethnic, religious, cultural and other types of heterogeneity. While such 'fine-tuning' increases the complexity of self-governance regimes, it may also make them more suitable to particular contexts and thus more acceptable. In other words, careful territorial and personal delimitation of self-governance potentially increases the belief in the authority of the institutions established among those governed by them and is thus likely to contribute to greater stability of these same institutions and the political process of which they are part. However, as I have previously indicated, adding a further layer of authority to those already existing within the structure of an established state increases the complexity of institutional design, places greater demands on policy coordination and has the potential to undermine the authority of the territorial entity created specifically to increase the degree of self-governance enjoyed by a particular population group.

However, what is striking about the arrangements in Mindanao[64] is the fact that while the relevant local government units can decide in a referendum on whether they want to belong to the newly created autonomous entity, there seems to be no provision for the reverse process, i.e., units leaving the autonomous entity. In case of significant changes in the population balance in one or more such units, a new minority would be created within the autonomous entity (whose demands would have to be accommodated). Demographic developments always have implications for security perceptions and the stability of settlements of complex self-determination conflicts,[65] but it is reasonable to assume that their implications would be even more severe in cases where territorial (re)arrangements are recent, precisely because they will imply a degree of fluidity which is threatening to majorities and minorities at the same time. On the other hand, given reasonably and rationally acting political elites there is nothing to say that significant demographic shifts could not be addressed constructively.

In a third case, Macedonia, devolution of significant powers to the local layer of authority was accompanied by boundary revisions to take better account of ethnic settlement patterns.

In South Tyrol, the boundaries of the autonomous province were largely determined on the basis of the historical entity of South Tyrol, but some 'adjustments' were made to

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63 For further analysis of this issue, see Weller (2005).

64 In Mindanao, an initial referendum took place in 1989 in which four of the twenty-two provinces and cities opted for inclusion into the ARMM. In 2001, a second referendum was held, and one further province and one further city joined the ARMM.

65 I am grateful to Tom Trier for pointing this out to me.

incorporate some predominantly German-speaking municipalities that would have otherwise been part of the province of Trentino.

Thus, in almost half of the cases considered in this comparative analysis, the recognition and protection of group identities went beyond the application of mere territorial principles. This is not to say that in the other cases identities are not institutionally recognised or protected. After all, self-governance in all cases is applied to territories inhabited, wholly or in part, by ethnically or otherwise distinct groups. Furthermore, in most cases, power sharing arrangements exist that explicitly recognise group identities and afford them a measure of institutional protection precisely because of the inclusiveness of resulting governance arrangements at various levels. What is important, though, is to recognise that among some of the complex power sharing arrangements discussed here the recognition and protection of group identities extends beyond the application of these principles, and establishes territorial entities, or adjusts pre-existing ones, to facilitate the inclusion of the maximum possible number of members of one particular ethnic group into self-governance regimes, without, of course, engaging in their (involuntary) resettlement. The recent use of local referenda, moreover, means that there is no automatic, predetermined equivalence of identity and territory.

This issue of privileging group identities is one in which liberal consociationalist views dominate in conflict resolution practice—territorial boundaries of self-governing entities are self-defined by their populations. The resultant 'ethnic' entities run counter to recommendations made by either integrationists or power-dividers both of whom generally prefer administrative, heterogeneous entities to ethnically self-defined ones with particular group majorities or pluralities.

IV. Conclusion: Complex Power Sharing Lessons from South Tyrol and Beyond

The South Tyrol conflict was primarily an ethnic conflict, in which one ethnic group – South Tyrolean German-speakers – challenged the Italian state over its apparently discriminatory policy against an ethnic minority that had been annexed to the Italian polity after the First World War. The institutional arrangements of the conflict settlement are an example of the practice of complex power sharing, which is so far under-theorised in the literature on conflict resolution. While complex power sharing does not offer a blueprint for conflict settlements, the foregoing case study of South Tyrol and the comparative analysis of a further eight cases in which similar complexity in institutional design prevails offers important insights into the general nature of complex power sharing designs, including, at an analytical level, into the relationship of complex power sharing practice with existing conflict resolution theories.

While the South Tyrol model has not been 'transferred' to other conflict settlements, its institutional design has exemplary character for complex power sharing arrangements more generally, as demonstrated in the comparative analysis above. This means that lessons from South Tyrol, in particular as far as they concern the long-term stability of complex power sharing arrangements concern are extremely important for the practice (and any emerging theory) of this conflict resolution approach.

The two main features of complex power sharing in South Tyrol are territorial self-governance and (consociational) power sharing. This appears to be common to all the cases studied, the only difference being the degree to which power sharing is pre-

determined or emerges as a result of demographic and electoral factors. It is therefore possible to glean important lessons for the stability of complex power sharing arrangements more generally, as South Tyrol is one of its oldest, and longest-lasting examples.

Given the presence of consociational structures, existing literature on consociationalism offers a range of different factors that influence their success.[66] Most of Lijphart's (1977: 53ff.) assumptions about 'favourable conditions for consociational democracy' appear to be present in South Tyrol. Overarching loyalties, the small number of political parties in each ethnic group, and the existence of some cross-cutting cleavages with otherwise segmental isolation were all found in part either essential or helpful for the stability of the consociational settlement in South Tyrol.

However, the success of the South Tyrolean consociation had its sources also in a number of other internal and, importantly, external factors whose influence must not be underestimated.[67] Notwithstanding the particularity of some of the power sharing features in South Tyrol, the factors that have contributed to the durability and stability of arrangements in South Tyrol bear relevance for other complex power sharing cases as well. These factors include:

- The territorial integrity of Italy has not been challenged by either the Germans in South Tyrol or any Austrian government since 1946.
- Remaining issues of conflict were gradually resolved within an agreed institutional framework and without taking recourse to violence, as the institutions have proven flexible enough over the years to accommodate changes in the interest structures of the two major ethnic groups in the province.
- None of the disputes that occurred were about the essence of the settlement as all involved conflict parties accepted the principle nature and structure of the package deal agreed in 1969 as the best possible solution.
- While the degree of cooperation between the ethnic groups has varied over time, but has generally increased, especially among the younger and urban sections of the population, that between their respective elites has always remained high.
- Gradually, a set of common territorial and a sense of loyalty to the power sharing institutions have developed and proven to be advantageous for the stability of the settlement.

Consequently, a majority within both ethnic groups and their political elites have been satisfied with the particular settlement adopted in South Tyrol. The empowerment of the South Tyrolean Germans through the complex power sharing arrangements that were established has been acceptable to both the Italians in the province and the region and to the Italian state. The segmental autonomy of the groups in clearly defined areas, such as

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[66] For a critical assessment of the changing nature of these factors, see Bogaards (1998), for a balanced defence, cf. McGarry and O'Leary (2004b).

[67] For a recent appreciation of the role of external factors in the negotiation, implementation and operation of consociational settlements, see McGarry and O'Leary (2004b).

education, language, and religion, where community-specific rather than inter-communal issues are at stake, has been similarly accepted.

Furthermore, successive Italian governments have demonstrated a willingness to recognise and protect identity-based differences rather than to suppress or eliminate them. State institutions, especially the judiciary and various joint commissions, have, where necessary, mediated between the ethnic groups or played the role of an arbitrator. In the process of implementing the agreed settlement, the Italian state has been a fairly impartial administrator, independent of the various governments in office during this lengthy process, which was possible because of the high level of cross-party consensus among the political parties in Rome with respect to the desirability of the success of the *Paket* solution.

Externally, cooperation with Austria has been an additional positive factor. Not only have relations between Rome and Vienna contributed to creating a general environment of constructive cooperation, but the room that South Tyrol, and in particular its German-speaking population, was given to establish and develop cross-border institutions and less formal contacts has been beneficial. This has been helped by the fact that in Austria, too, a high overall level of cross-party consensus has prevailed since the adoption of the 1972 autonomy statute. The country has abstained from any policies aimed at destabilising this settlement and has contributed to its long-term success. Austria's accession to the European Union in 1995 has been the latest in a sequence of steps the country took towards closer integration with European institutions. The international context has thus generally been very favourable towards the durability and stability of the settlement in South Tyrol, even to the extent that a number of European regulations are not applicable in the province in order to avoid a destabilisation of the situation.

South Tyrol has proven a success because the institutions and mechanisms of the complex power sharing arrangements established have interacted with political dynamics that operate in the province and region, in Italy and Austria, and in a broader European and international in such a way that elites, as well as members of all ethnic groups concerned, have powerful incentives to preserve the settlement. The main factors operational at each level are summarised in Table 15 below.

Table 15: Factors Contributing to the Success of Complex Power Sharing in South Tyrol

- In South Tyrol:
  - Flexibility among all three groups in the implementation and operation of the autonomy statute
  - High degree of political consensus among German-speaking population and virtual monopoly position of the SVP
  - Decreasing level of inter-ethnic tensions
  - Economic prosperity of South Tyrol
  - Ethnic division of labour
  - Segmental cultural autonomy of all three groups
  - Growing cross-communal loyalty to the autonomous institutions
  - Increasingly, development of common interest structure
- In Italy:
  - Two-level negotiation approach of the Italian government, including both the South Tyroleans and the Austrian government in the settlement process

- Greater preparedness to compromise after the swift containment of violence
- Acceptance and gradually full implementation of a comprehensive settlement with a double arbitration mechanism
- Development of an asymmetric framework of regional structures and different autonomy statutes across Italy

- In Austria:
  - Commitment to continue settlement efforts despite the difficult bilateral relationship with Italy
  - Encouragement of the political leadership of the SVP to settle for an inner-Italian solution
  - Constant consultations with representatives of the German-speaking minority during the negotiation process and subjection of any agreement to their consent
  - Policy of strict non-interference once a settlement had been reached, except in areas where the settlement provided for Austrian engagement
- International Context:
  - Bilateral commitment to finding a mutually acceptable solution
  - Sensitivity towards the constraints within which each side was operating
  - International encouragement to settle the conflict peacefully
  - Built-in guarantees for international mediation in case of disputes over the implementation of the settlement
  - Opportunities offered by European integration and Austria's accession to the European Union

South Tyrol demonstrates that complex power sharing works because it adapts macro-political approaches to conflict settlement to specific cases. The fact that all the cases studied in this comparative analysis combine territorial self-governance with power sharing only tells half the story. It is the specific nature of both of these macro-political conflict resolution techniques and the range of 'supplementary' mechanisms—be they specific electoral systems, human and minority rights legislation, or coordination and arbitration mechanisms—that need to fit the specificities of the particular case to which they are applied, but also, and importantly, have to fit each other. This means that there are limits to the extent to which the design of complex power sharing settlements can choose at random from the available menu of mechanisms and techniques.

This is borne out by the broader comparative analysis in this chapter which placed South Tyrol in a global context of recent conflict resolution practice that I refer to as complex power sharing. This analysis starts from the empirical observation that a significant number of recent conflict settlements establish territorial self-governance regimes that combine forms of horizontal and vertical power sharing and power-dividing in an effort to establish stable political and institutional processes conducive to resolving self-determination conflicts. Vertical power sharing and power-dividing prove necessary complements of territorial self-governance in two ways: self-governance regimes cannot be established in specific territorial entities without it, and such entities become a locus of power, no power can be shared at the sub-state level. Power sharing and power-dividing in the Bosnian-Croat Federation, in Bougainville, in Brussels, in the Autonomous Region of Muslim Mindanao, in Northern Ireland, South Sudan and South Tyrol would not be

possible if these regions had not been established as legal-political entities and powers had not subsequently been devolved to them.

The main difference between regions with horizontal structures of power sharing and those without is first of all one of the degree of ethnic (or other) heterogeneity. The bipolar ethnic and/or political demography of the Bosnian-Croat Federation, Bougainville, Brussels, Northern Ireland and South Tyrol, as well as the religious and tribal mix in the provinces that opted for membership in the Autonomous Region of Muslim Mindanao and in South Sudan, required constitutional designers to devise mechanisms of conflict regulation below the central state level and beyond traditional notions of subsidiarity and devolution. Context-sensitive institutional design is reflected, among others, in the differences in power that regional power sharing authorities have in all these cases and the degree of power that lower levels of authority within them enjoy, such as the cantons in the Bosnian-Croat Federation, the individual provinces that make up the Autonomous Region of Muslim Mindanao, or the States that are part of South Sudan.

Where regional or national (formal) horizontal structures of power sharing are missing, demography and the vertical layering of authority have combined favourably in ways that make them superfluous. In Crimea, demography, electoral system and party system combine to result in a reasonably equitable representation of the region's three main groups—Russians, Ukrainians and Crimean Tatars—in parliament and also encourage executive inter-ethnic power sharing. In Macedonia, the territorial concentration of ethnic Albanians in the west of the country, combined with a substantial degree of autonomy and power for local communities is, by-and-large, sufficient to address the key concerns of the minority community. Moreover, the fact that the demographic balance in the country and the structure of its party system facilitate inter-ethnic coalitions at the centre contribute to the relative overall satisfaction that majorities in both ethnic groups derive from this settlement.

Mechanisms of power-dividing exist in all cases discussed as well. Apart from the vertical division of power, i.e., the distribution of powers between different vertical layers of authority, one also finds a range of horizontal mechanisms advocated by power-dividing theory: most obviously there is, in all cases, an emphasis on independent judicial institutions tasked with the upholding of the constitutional order and the enforcement of human and minority rights legislation. Division of power between executive and legislative branches of government exists as well, but is not as universal. Indeed, parliamentary systems are marginally more common both at central and regional levels of government. Where these systems are integral part of conflict resolution efforts, they are strongly correlated with the establishment of executive power sharing: they are prescribed in Belgium, Brussels, the Federation of Bosnia and Herzegovina, Northern Ireland and South Tyrol, but emerge voluntarily in Macedonia and Crimea. By the same token, presidential systems, favoured by power-dividers, do not preclude executive power sharing. Bosnia and Herzegovina (albeit with a semi-presidential system), Sudan and South Sudan serve as illustrations.

From this degree of variation across the case studies one can draw a number of both analytical and empirical conclusions. Empirically, there are four important conclusions for the role that complex power sharing regimes have in the conflict resolution toolkit. First, dividing power along a vertical structure of institutions can serve as a useful

substitute for formal horizontal power sharing at either national or regional levels, provided that national or regional ethnic demographies create suitably homogeneous territories and that substantial powers are devolved from the centre. In other words, such cases lend themselves to the application of forms of territorial autonomy or of the subsidiarity principle, instead of the use of executive co-decision making as foreseen by power sharing institutions. Moreover, a reasonable degree of representation of minority groups at the relevant 'central' level (regional in the case of Crimea, central state in the case of Macedonia), in addition to these other two conditions, also seems to facilitate this kind of institutional structure.

Second, no attempt was made in any of the case studied to *create* heterogeneous entities as subjects of territorial self-governance. Heterogeneity, where it exists, was addressed by means of consociational powersharing within the self-governing territorial entity. This means that one key recommendation by advocates of integrationist power sharing and power dividing was not followed by practitioners of conflict resolution in any of the cases studied.

Third, coordination between different vertical layers of authority and the establishment of clear hierarchies are important to ensure that vertical layering of authority remains meaningful and can contribute to the long-term sustainability of a particular conflict settlement. Where there is a danger of eroding the degree of self-governance enjoyed by specific territorial entities and their populations created as a particular layer of authority with the specific purpose of conflict resolution (such as Mindanao, South Sudan, and with some qualifications, Crimea), conflict settlements may not be sustainable in the long term.

This means, fourth and finally, that without safeguards against arbitrary government interference, it is unlikely that the conflict parties will develop a sense of satisfactory permanence and predictability in relation to a particular conflict settlement. Legal and constitutional entrenchment, possibly alongside international guarantees, is thus one important mechanism for the stabilisation of institutional structures. These and other power-dividing strategies that provide checks and balances on the exercise of power serve to ensure that principles of liberal democratic state construction shape complex power sharing regimes and enhance their longer-term legitimacy.

However, from the perspective of the minority community another mechanism can be equally important, namely the option to secede in case of major constitutional, demographic or political changes. Thus, Bougainville has a future option for a referendum on its independence from Papua New Guinea; in Northern Ireland the popular will regarding unification with the Republic of Ireland is to be gauged at regular intervals; and South Sudan is set to have a referendum on independence after an interim period of six years.

These two observations on entrenchment and popular consultation also underscore again that the preservation of democratic procedures is a key factor for stabilising institutional structures created for the purpose of resolving self-determination conflicts, because it is through this longevity that institutions acquire their legitimacy. While democratic institutions in themselves are not necessarily and automatically technically viable, compliance with rules and regulations agreed between all conflict parties and their democratic accountability to voters increases the survival chances of smooth and efficient institutional processes. Any form of complex power sharing regime will always modify

and constrain majoritarian forms of democracy, but this does not mean that its institutions can or should be run without popular support. Complex power sharing regimes *do* depend upon the willingness and ability of elites to cooperate and make compromises, but they *also* depend on the willingness of the people to support their respective elites in this process and to uphold a settlement negotiated to bring about a non-violent, stable and predictable political process.

Analytically, it appears clear that none of the three theories of conflict resolution fully capture the current practice of complex power sharing. Having said that, two additional points need to be made. Liberal consociationalism seems to be the one theory that is most open to incorporation of elements of integrationist power sharing and power-dividing. Within a liberal consociational framework, there is room for a range of power-dividing strategies, including a strong role for judicial entrenchment and enforcement mechanisms, and universally applicable and enforceable human rights legislation. Liberal consociationalism is also open to a vertical division of power on the basis of non-ascriptive, i.e., non-ethnic criteria, but in contrast to power-dividing and integrative power sharing does not rule it out either should self-determined entities on that basis emerge and desire territorial or corporate self-governance. Liberal consociationalists and integrationists also share some common ground in terms of the principle of preferential electoral systems, even though they disagree about whether preferential PR or majoritarian systems are better suited to achieve outcomes conducive to stable settlements in the long-term. However, the empirical evidence presented in this paper indicates that executive inter-ethnic power sharing is a component of all institutional designs discussed.

The second point worth emphasising is related to the stability of the settlements discussed. In other words, is complex power sharing a feasible alternative to the purist implementation of existing theories, or is it the result of misguided and ill-informed diplomats and policy makers making choices of short-term convenience rather than long-term prudence? There is little point in making immodest claims at this stage about the feasibility of complex power sharing, as analysed in this paper, as a conflict resolution strategy equal, if not superior to what existing theories prescribe. While complex power sharing practice *may* eventually lead to a synthesis of existing theories in a complex power sharing framework, there is as yet not enough real-world evidence about how stable such regimes can be under varying conditions. The cases examined in this paper were all similar to the extent that they comprised self-determination claims by territorially concentrated identity groups that lent themselves to the establishment of complex power sharing regimes with territorial self-governance arrangements at their heart. Some of them have proven relatively stable over time (i.e., over ten years): Belgium, Brussels, Bosnia and Herzegovina, Crimea, and South Tyrol. Northern Ireland has, despite incomplete implementation, achieved a reduction of violence. Others, including Bougainville, South Sudan and Macedonia are too short-lived to provide reliable data about their long-term stability. Mindanao has only achieved partial success in bringing peace to a troubled region of the Philippines. In all these cases, however, further analysis is required to determine causal relations between institutional design and the durability of peace. Having said that, neither is power sharing generally doomed to collapse in renewed violence (as power-dividing theory at times implies), nor is

consociationalism practically dangerous or morally unjustifiable as some of its integrationist critics tend to suggest.

For complex power sharing to develop into a theory of its own, further research is necessary. While I hope to have demonstrated that it describes a particular phenomenon of conflict resolution practice in adequate detail, more work needs to be done to increase its predictive capabilities (i.e., when are complex power sharing regimes likely to emerge) and its explanatory value (i.e., when and why does it succeed). The latter especially will require conflict resolution theorists to engage more thoroughly with conflict theory: what are the underlying causes of conflict that complex power sharing is meant to address? Only then will it be possible to make sure that complex power sharing does not emerge accidentally as a patchwork of different conflict resolution mechanisms cobbled together to accommodate a wide range of diverse (and most likely, incompatible) interests, but to provide a framework within which stable, lasting and ultimately successful conflict settlements can be designed.

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