

**Complex Power Sharing and the Centrality of Territorial Self-governance
in Contemporary Conflict Settlements**

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Introduction

Self-determination disputes are considered to be among the most intractable, violent, and destructive forms of conflict that societies, states, and the international community have had, and continue, to face. This view is empirically correct if one looks at the apparently unending conflicts that have plagued places as diverse as Sri Lanka, northeast India, Kashmir, the Great Lakes Region of Africa, Sudan, the Middle East, and the Caucasus, among others. The conflicts in these areas have cost millions of lives, displaced multiple more people, wrecked entire national economies for decades, and they seem to be "solution-proof."

Yet, a corrective view to this initially very bleak picture is necessary. Not all self-determination conflicts are violent and destructive: Quebec and Belgium are two cases in point, but there was no serious violence in Crimea, Romania, Slovakia, and the Baltic states either despite the highly charged atmosphere between these countries' majority and minority populations, nor were the separations of Slovenia from socialist Yugoslavia, of Macedonia from the Federal Republic of Yugoslavia or of Montenegro from the State Union of Serbia and Montenegro characterised by the same degree of bloodshed. Not all self-determination conflicts evade solutions either: in Western Europe, Northern Ireland, the Swiss Jura and South Tyrol are clear examples for the possibility of sustainable peace after violent conflict. The region of the Western Balkans, despite many other shortcomings, has not returned to the violence it experienced throughout the 1990s and early 21st century. Constitutional arrangements in Aceh, Bougainville, Mindanao, and Gagauzia, likewise, may not be perfect, but they have provided an institutional setting in which ethnic groups can pursue their self-determination claims by political, non-violent means.

This paper contends that these and other successful accommodations of competing self-determination claims have two things in common that have so far not been sufficiently investigated empirically and that have also remained under-theorised: (1) an acknowledgement of the need to give conflict parties' self-determination claims an institutional expression; and (2) that the relevant institutional framework takes into account relations between identity groups locally and state-wide. Focusing on cases of territorially compact groups, these contentions can be further specified: (1) the institutional accommodation of self-determination claims can be assumed to take the form of territorial self-governance; and (2) relations between identity groups are institutionally established as power sharing at the local and/or central level. Such settlements, thus, are examples of the practice of complex power sharing (see also Weller 2008; Wolff 2007, 2008).¹

In order to move towards more systematic empirical and theoretical investigation of complex power sharing as an approach to the settlement of self-determination conflicts and thereby substantiate the two claims made above, I proceed in three steps. First, I clarify the concept of complex power sharing and situate in the context of existing theories of conflict resolution, thus establishing an analytical framework for the subsequent empirical analysis. Second, I compare and contrast a number of existing conflict settlements to illustrate this practice of institutional design of complex power sharing. Third, I draw some conclusions about the theoretical and practical relevance of complex power sharing for the resolution of self-determination conflicts.

The Concept of Complex Power Sharing

A striking feature of contemporary conflict resolution practice in cases of self-determination disputes is that a very significant number of actual and proposed settlements involves forms of territorial self-governance. This reflects the assumption, but not necessarily the reality, that such regimes can contribute to sub-state, state, 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 (cf. Weller and Wolff 2005).

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),² Asia (Iraq, Indonesia, Papua New Guinea and Philippines),³ and Europe (Belgium, Bosnia and Herzegovina, Italy, Spain, Macedonia, Moldova, Russia, Serbia and Montenegro,⁴ Ukraine and United Kingdom).⁵

In addition, proposals for self-governance regimes also figure prominently in proposed peace agreements, including in the Annan Plan for Cyprus,⁶ the Georgian president's peace initiative for South Ossetia,⁷ and Sri Lanka.⁸ 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.

Yet, without exception, these cases also demonstrate that territorial self-governance on its own is insufficient to offer viable solutions to self-determination conflicts. Because of the complexity of such conflicts in terms of the parties directly or indirectly involved in them and their competing demands, 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 referred to as "complex power sharing".⁹

Complex power sharing, in the way it is understood here, 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 liberal consociationalism (e.g., McGarry and O'Leary 2004a and b, McGarry 2006, O'Leary 2005a), integration (e.g., Horowitz 1985[2000], 1990, 1991, 2002, 2004, 2006, Reilly 2001, Sisk 1996, Wimmer 2003) and power dividing (Roeder and Rothchild 2005). Complex power sharing, thus, is the result of the implementation of a self-governance regime whose success as an approach to conflict settlement requires a relatively complex institutional structure that cannot be reduced to autonomy/(ethno-)federalism, (traditional) models of power sharing or power dividing.

The complexity of conflict resolution practice and the centrality of territorial self-governance has been long neglected, or had its relevance and importance denied, in other theories of conflict resolution.¹⁰ Advocates of integration and power dividing generally reject the idea of territorial self-governance for communities seeking self-determination as destabilising, and variably propose 'non-ethnic' federalism or at least splitting communities across several territorial entities.¹¹ Proponents of (liberal) consociational power sharing, only recently have pointed out the important connections between, and complementarity of, consociation and territorial forms of self-governance,¹² thus seeking to fill a significant gap in power sharing theory.¹³

Beyond links and complementarity, however, there are also a number of specific instances in which the provision for institutions of territorial self-governance is essential for the successful negotiation, implementation and sustainable operation of conflict settlements, regardless of which other mechanisms of conflict resolution complete the final deal that the conflict parties agree. Institutions for territorial self-governance are

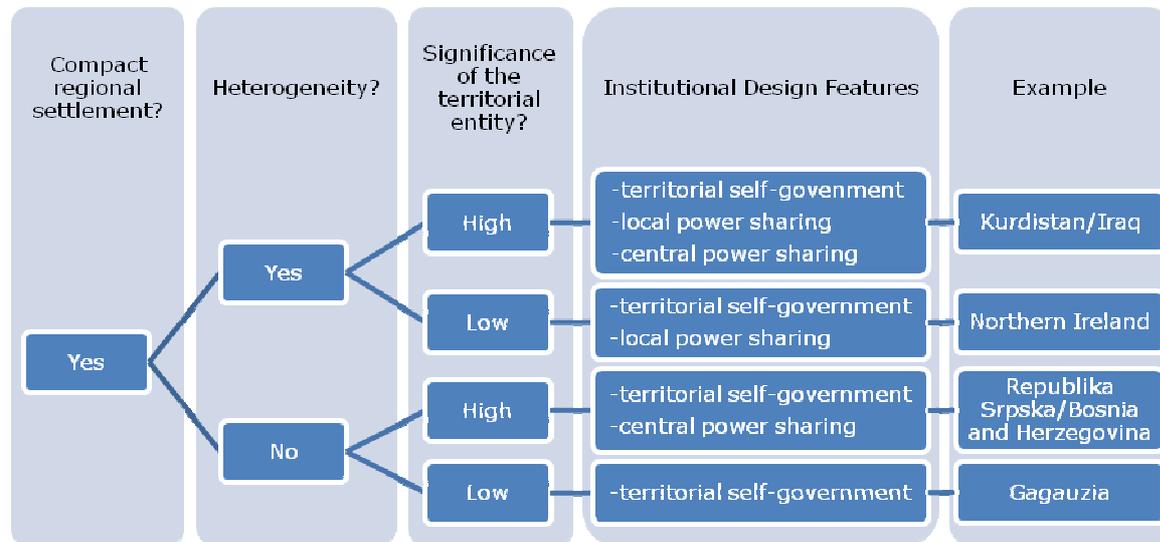
generally needed in conflict situations involving territorially compact communities willing to accept self-governance in the region they inhabit as the way in which they express their right to self-determination. This can take different forms. Self-governance regimes can be established in a single region of a state, such as in Crimea or Bougainville. It is also possible that multiple such regions are established, such as in the United Kingdom. The British example also illustrates that the level of powers and number of competences enjoyed by different regions need not be the same—Scotland and Northern Ireland enjoy far greater powers than Wales, for example.¹⁴ Finally, it can take the form of a federation in which the boundaries of one or more, and potentially all, units are drawn to reflect specific regional ethnic demographics, such as in Canada, the former Yugoslavia, or the Russian Federation.

There are a number of recent borderline cases, too. Macedonia, under the terms of the 2001 Ohrid Agreement, provides for territorial self-governance extended to local communes in combination with a territorial redistricting exercise that rendered them ethnically more homogeneous. The constitution for Iraq of 2005, while recognizing the existence of the Kurdish region, equally offers other provinces (with the exception of Baghdad) a choice about whether they want to form a region (and thus enjoy significantly greater powers independently of the centre) at some future point. Both the Ahtisaari proposal for Kosovo's conditional independence and the constitution of Kosovo provide for an arrangement similar to that in Macedonia with local communes as the principle loci of self-government powers while additionally establishing the possibility of horizontal links between them, thus offering Serbs in the north of Kosovo the opportunity to create their own "region."¹⁵

Importantly, while territorial self-governance may be significant, in and of itself it cannot be expected to be sufficient for sustainable conflict settlements in principally two types of situations, which will additionally require power sharing mechanisms.¹⁶ If the self-governing territories are ethnically heterogeneous, arrangements have to be made to accommodate this local population diversity. This takes the form of a regional consociation, such as in Brussels, South Tyrol, and Northern Ireland, as well as more recently in the case of Kirkuk.¹⁷ If the significance of the territory (territories) in question relative to the rest of the state is high¹⁸ and necessitates power sharing at the centre, the institutional outcome is a sovereign consociation, such as in Belgium or Switzerland, Iraq or Sudan.¹⁹ Regional and sovereign consociations are not mutually exclusive but can occur together, as envisaged, for example, in the Comprehensive Peace Agreement achieved in Sudan in 2005, the Iraqi constitution of 2005, or the Dayton Accords for Bosnia and Herzegovina.²⁰

On the basis of the foregoing discussion, three key characteristics, thus, emerge as crucial in determining institutional design for self-determination conflicts (see Figure 1): the compactness of groups' settlement patterns in a given state; the degree of ethnic heterogeneity in the territorial entities to which powers and competences of self-governance are to be assigned; and their significance relative to the rest of the state.²¹

Figure 1: Context and Institutional Design for Conflict Settlement



Contemporary Conflict Resolution in Practice: Territorial Self-governance and Power Sharing in Comparative Perspective

The conceptual exploration of the notion of complex power sharing in the previous section established that the details of the institutional accommodation of self-determination claims by territorially compact groups qua territorial self-governance are contingent upon two further characteristics of the respective conflict environment: the significance of the territory and its population relative to the rest of the state and its degree of heterogeneity (ethnic or otherwise).²² Following the ideal-typical abstraction of institutional design outcomes in Figure 1, the institutions emerging in relevant cases (of territorially compact groups with self-determination claims) should therefore display variously forms of local and central-level power sharing in addition to a form of territorial self-governance and thus regulate both relations within the self-governing territory and between it and the central government. In other words, while one can expect a certain degree of variation in the precise nature of the institutional design in each case, the general premises outlined in the previous section and summarised in Figure 1 should generally hold if the overall assumption is correct that conflict settlements in cases of territorially compact groups with self-determination claims will involve a form of territorial self-governance (federation,²³ autonomy,²⁴ devolution,²⁵ and decentralisation²⁶) plus local and/or central power sharing depending on the significance of the territory and its population relative to the rest of the state and the degree of its heterogeneity.²⁷

The rest of this section will empirically test these propositions in a number of cases. After a brief discussion on case selection, I establish the basic situational characteristics of each situation. Thereafter, I present data for each case on three questions:

- (1) Does the conflict settlement involve forms of territorial self-governance?
- (2) What, if any, is the nature of local power sharing arrangements?
- (3) What, if any, is the nature of central power sharing arrangements?

Selecting and mapping the cases

In this paper, I am specifically interested in the institutional design of conflict settlements involving territorially compact groups who make self-determination claims vis-à-vis the state in which they live. By territorially compact groups I mean communities of people who share a sense of identity that is distinct from other communities in the same state, who are neither dominant nor a numerical majority, and

who live predominantly in their historic homeland or an otherwise delineated territory.²⁸ Self-determination claims, as the concept is used in this paper, refer to a group's expressed preference for self-government and can range from demands for independent statehood, unification with another state, territorial self-government within an existing state, and non-territorial self-government (or cultural autonomy²⁹). The former two demands are also referred to as claims for external self-determination, the latter two as claims for internal self-determination.

The total universe of cases along these two criteria is quite considerable: depending on sources, well over 100 cases of territorially compact groups seeking some form of self-determination can be identified.³⁰ As I am not employing quantitative research methods in this paper, I selected thirteen country cases from Europe, Africa and Asia for the following analysis:³¹ Belgium (Brussels, Walloon, Flanders); Bosnia and Herzegovina (District of Brčko, Federation of Bosnia and Herzegovina, Republika Srpska); Indonesia (Aceh); Iraq (Kurdistan); Italy (South Tyrol); Kosovo (Serbs/Mitrovica); Macedonia (Albanians); Moldova (Gagauzia); Papua New Guinea (Bougainville); Philippines (Mindanao); Sudan (South Sudan); Ukraine (Crimea); United Kingdom (Northern Ireland, Scotland).

As discussed earlier, three criteria are particularly important in determining the context of institutional design: the territorial compactness of groups making demands for self-determination,³² the heterogeneity of the territories in which they live, and the significance of these territories relative to the rest of the state.

As Table 1 indicates, only three of the eighteen regions (with the relevant qualifications) are not heterogeneous: South Sudan (Sudan), Republika Srpska (BiH), and the Flemish Region (Belgium). With the exception of the Walloon Region (Belgium), all other regions display levels of diversity of at least 5% local minorities.

All but two regions are distinct, and clearly demarcated territories: only the situation in Macedonia and Kosovo is different inasmuch as the settlement areas of ethnic Albanians and ethnic Serbs, respectively, do not constitute a specific larger territorial entity but comprise relevant local government units only. However, the constitution of Kosovo specifically allows for the establishment of 'horizontal links' between local units of self-government, i.e., greater levels of cooperation on matters devolved into the competence of the local communes. This makes it conceivable that Serb-dominated communes can establish their own quasi-region. In contrast to similar provisions in the Iraqi constitution of 2005 (formation of regions from provinces/governorates), in the Kosovo case this does not mean a change in status or powers at the disposal of the quasi-region.

As far as the distinctiveness of the territories in question is concerned, two further observations are noteworthy. First, constitutional reforms in Macedonia following the 2001 Ohrid Framework Agreement, which established the principle of far-reaching decentralisation, went hand in hand with redrawing the boundaries of local communes, thus rendering them more ethnically homogeneous.³³ Second, two of the territorial entities—Gagauzia and ARMM—are, in fact not territorially contiguous, but rather a patchwork of territories whose populations decided by referendum that they wanted to be part of the respective territorial entity.³⁴ In South Tyrol, similarly, 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 incorporate some predominantly German-speaking municipalities that would have otherwise been part of the province of Trentino.³⁵

Three of the eighteen cases—the Kurdistan Region (Iraq), South Sudan, and Brussels Capital Region (Belgium)—highlight another interesting phenomenon: disputed territories, either between the centre and the self-governing territorial entity (Iraq, Sudan) or between two self-governing entities (Belgium). These are critical issues for the

stability of any settlement, and have potentially significant international implications, as illustrated by the ongoing dispute over Kirkuk. On the other hand, the Brčko Award indicates ways toward the resolution of such disputes.

Table 1: Groups and their corresponding territorial entities

Case	Group/s	Territorial Entity	Heterogeneity ³⁶	Significance ³⁷
Belgium	Dutch-speakers, French-speakers ³⁸	Brussels Capital Region ³⁹	85:15	High
	Dutch-speakers ⁴⁰	Flemish Region	No	High
	French-speakers, German-speakers ⁴¹	Walloon Region	98:2	High
Bosnia and Herzegovina ⁴²	Bosniaks, Croats ⁴³	Federation of Bosnia and Herzegovina	(60:40)	High
	Serbs	Republika Srpska	No	High
	Serbs, Croats, Bosniaks ⁴⁴	District of Brčko	49:51 (35)	Low
Indonesia	Acehnese, Javanese, others ⁴⁵	Nanggröe Aceh Darussalam	70:30 (16)	Medium
Iraq	Kurds, Turkoman, Arabs, Christians ⁴⁶	Kurdistan Region	95:5	High
Italy	German-speakers, Italian-speakers, Ladin-speakers ⁴⁷	Province of South Tyrol/Region of Trentino-Südtirol	64:36 (24)	Medium
Kosovo	Albanians, Serbs ⁴⁸	Districts of the Mitrovica Region	88:12 (7)	Medium
Macedonia	Macedonians, Albanians ⁴⁹	Local districts in western Macedonia	65:35 (25)	High
Moldova	Gagauz, Moldovans, Bulgarians, Ukrainians, Russians ⁵⁰	Territorial Autonomous Unit of Gagauzia	82:18 (5)	Medium
Papua New Guinea	Bougainvilleans	Province of Bougainville (North Solomons) ⁵¹	Yes ⁵²	Medium
Philippines	Muslims, Catholics, Evangelicals, others ⁵³	Autonomous Region of Muslim Mindanao	90:10	Low
Sudan	Southerners	South Sudan (ten states) ⁵⁴	No ⁵⁵	High
Ukraine	Ukrainians, Russians, Crimean Tatars ⁵⁶	(Peninsula of) Crimea	58:42 (24)	High
United Kingdom of Great Britain and Northern Ireland	Protestants, Catholics ⁵⁷	Northern Ireland	53:47 (43)	Low
	Scots, British ⁵⁸	Scotland	88:12 (7)	Medium

Complex Power Sharing in Practice: Institutional Arrangements

As illustrated in Figure 1, the theoretical assumptions that this paper makes are that conflict resolution in cases of territorially compact groups making self-determination claims (1) requires territorial self-government, (2) that 'internal' heterogeneity in the thus emerging self-governing territories leads to power sharing arrangements there, and (3) that high significance of the territory relative to the rest of the state results in power sharing at the centre. The data in Table 2 confirm that these assumptions are, by and large, correct.

1. Forms of territorial self-government

With two exceptions, the territories in which the relevant compact groups live have distinct legal status and enjoy legislative and executive powers of their own and do so independently of the central government. The exceptions to this rule are Macedonia and Kosovo where territorial self-government exists only qua decentralisation of power to local communes. While the degree of centralisation is quite substantial, the powers enjoyed by local communes do not include legislative powers. Moreover, strictly speaking, decentralisation in these two cases also means that the relevant groups—ethnic Albanians in Macedonia, ethnic Serbs in Kosovo—cannot fully determine themselves as distinct population groups in their countries of residence, but only as subgroups in their relevant local communes. This is somewhat mitigated in the Kosovo

case, however, where the constitution specifically provides for local communes to cooperate on matters of joint interest in areas in which they do have powers.

Table 2: Institutional Arrangements

Self-governing Territorial Entity	Heterogeneity	Local Power Sharing	Significance	Central Power Sharing
Brussels Capital Region	85:15	Yes	High	Yes
Flemish Region	No	No	High	Yes
Walloon Region	98:2	No	High	Yes
Federation of Bosnia and Herzegovina	60:40	Yes	High	Yes
Republika Srpska	No	No	High	Yes
District of Brčko	49:51	Yes	Low ⁵⁹	No
Nanggröe Aceh Darussalam	70:30	No	Medium	No
Kurdistan Region	95:5	Yes	High	Yes
Province of South Tyrol/Region of Trentino-Südtirol	64:36	Yes	Medium	No
Districts of the Mitrovica Region	95:5	No	Medium	Yes
Local districts in western Macedonia	95:5	No	High	Yes
Territorial Autonomous Unit of Gagauzia	82:18	No	Medium	Yes
Province of Bougainville (North Solomons)	Yes (political)	Yes	Medium	Yes
Autonomous Region of Muslim Mindanao	90:10	No	Medium	Yes
South Sudan (ten states)	No	Yes	High	Yes
Peninsula of Crimea	58:42	No	High	No
Northern Ireland	53:47	Yes	Low	No
Scotland	88:12	No	Medium	No

In all other cases, the specific territories in which the groups reside have legal status as a whole and on their own. This takes different forms:⁶⁰

- a) Devolved government (one country, two cases): Scotland, Northern Ireland;
- b) Autonomy (seven countries, seven cases): Brčko, Aceh, South Tyrol,⁶¹ Gagauzia,⁶² Bougainville, ARMM, Crimea;
- c) Federation (four countries, seven cases): Brussels Capital Region, Flemish Region, Walloon Region, Federation of Bosnia and Herzegovina, Republika Srpska, Kurdistan Region, South Sudan.

2. Forms of local power sharing

The original assumption of the paper was that ethnic heterogeneity in the self-governing entity leads to the establishment of local institutions that guarantee power sharing between relevant identity groups. The results of the case analysis here are less unambiguous at first sight. Even assuming that heterogeneity is politically relevant only above the level of 10%, there are still several cases that do not confirm this assumption: Aceh, Gagauzia, Crimea, and Scotland. The case of Aceh is the one most difficult to explain, given the relative novelty of the arrangements and lack of data availability. In Scotland, during the first two terms of devolved government, the pro-union Labour Party governed first in a majority government of its own and then with the support of the Liberal Democrats in a coalition. The only decisively pro-independence Scottish National Party (SNP) achieved a plurality of votes in the 2007 elections (47 out of 129) and has been governing as a minority government since then. From this perspective, the nature of the party system, at least in part, explains the lack of a power sharing government: the SNP is the only decidedly pro-independence party, and none of the other major parties (Labour, Liberal Democrats, and Conservatives) was keen to join it in government, but the political-ideological differences between them prevented them from forming an (anti-independence) coalition, even though numerically this would have been possible with the three parties commanding a total of 78 (out of 129) seats in the Scottish parliament. However, indirectly, and because of the balance of power in the parliament, the SNP needs to seek support from the other parties for its legislative programme which guarantees the major parties a certain degree of at least indirect influence on government policy.

In Gagauzia and Crimea, the situation is slightly different. In Crimea, coalition governments including ethnic Russians and ethnic Ukrainians have been the norm rather than the exception in regional politics, even though this has meant that the Crimean Tatar population (12.1% of the Crimean population) has been excluded from executive power. Voluntary power sharing coalitions, in this case at least, thus can have a potentially negative impact on inter-ethnic relations inasmuch as they can become a mechanism of exclusion rather than inclusion. In Gagauzia, on the other hand, the chief executive of the autonomous government is directly elected and appoints his or her own cabinet. This kind of 'presidential system' is combined with a single-member plurality election system that has so far always resulted in a regional assembly that has been relatively representative of Gagauzia's ethnic make-up and has, qua committee scrutiny, checked the powers of the regional governor.⁶³

All other heterogeneous self-governing entities have guaranteed power sharing mechanisms in place:

- a) Guaranteed representation in the regional executive: Brussels Capital Region, Federation of Bosnia and Herzegovina, Brčko, Kurdistan Region,⁶⁴ South Tyrol, Bougainville,⁶⁵ South Sudan,⁶⁶ Northern Ireland;
- b) Parliamentary decision-making procedures (qualified or concurrent majority voting): Brussels Capital Region, Federation of Bosnia and Herzegovina, Brčko, Northern Ireland.

3. Forms of central power sharing

In cases of highly significant territories power sharing institutions exist at level of the central government, except in the case of Crimea. Moreover, there are provisions for power sharing at the centre in four cases of medium significance: Kosovo, Gagauzia, Bougainville, and Mindanao. These arrangements, however, are subject to some important qualifications.

In the case of Kosovo, they extend to the guaranteed representation of representatives of the Serb and other non-Albanians communities in the government and to concurrent voting procedures on issues of vital interest in parliament. However, while the majority of Serbs lives in the districts of the Mitrovica region, there are other pockets of Serb settlement in central and southern Kosovo, and thus a guarantee of Serb representation and co-decision making does not equate to these guarantees applying to Serb representatives from Mitrovica.

In the cases of Gagauzia and Mindanao, representation of the self-governing entities in the central government is achieved qua cooptation. Central-level power sharing, therefore, is somewhat limited in that it only extends to the mandatory inclusion of members of the regional government into the national government. While regional representatives, thus, can participate in the national executive process, they do not have veto powers nor are there qualified or concurrent majority voting procedures in place that would increase the influence of regional representatives at the centre. Hence, the main benefit of these arrangements needs to be seen in both the symbolic recognition of the region (qua inclusion of its representatives into the national government) and in the establishment of formal channels of communication between regional and central executives (i.e., the institutionalization of a policy coordination mechanism).

The case of Bougainville, local influence on central decisions is generally sought to be achieved through the establishment of consultation mechanisms aimed at establishing consensus between the central and autonomous governments, and by reference to judicial arbitration where such consensus cannot be achieved. Moreover, any changes to the agreed and constitutionally entrenched structure of the institutions created by the 2001 Bougainville peace agreement require the consent of two-thirds of the representatives of Bougainville's parliament and the Bougainville government has to be

represented at its request in any international negotiations potentially affecting the constitutional status and powers of Bougainville as per the 2001 peace agreement.

The situation in another case of medium significance is also of interest in this respect. In South Tyrol, no central-level power sharing arrangements exist, but the settlement for South Tyrol creates technically a nested consociation with guaranteed power sharing at the level of the province (South Tyrol) and the region (Trentino-Südtirol), which is the next higher level of authority, and where South Tyrol is clearly of high, rather than medium significance.

In broader terms, this means that in both low significance cases, no central-level power sharing exists, while for a total of nine cases where the self-governing territory is of high significance, in eight central-level power sharing structures exist, and the same is true for four out of seven medium significance cases. Thus, central-level power sharing institutions exist in nine out of 13 country cases discussed here (with the qualifications elaborated above):

- a) Guaranteed representation in the central executive: Belgium, Bosnia and Herzegovina, Indonesia, Iraq, Kosovo, Macedonia, Moldova, Papua New Guinea, Sudan;
- b) Parliamentary decision-making procedures (qualified or concurrent majority voting): Belgium, Bosnia and Herzegovina, Iraq, Kosovo, Macedonia, Papua New Guinea.

The relevance of “complex power sharing”

This paper started from the observation that territorial self-governance is a widely used feature in contemporary (and past) conflict settlements and settlement proposals. I hypothesised that this should be particularly obvious in cases of territorially compact groups making self-determination claims, but that territorial self-governance would be insufficient in cases where the relevant territories are internally heterogeneous, and are highly significant relative to the rest of the state. In these cases, I contended, power sharing arrangements would be necessary at the local and/or central levels as well to come to a conflict settlement.

In a discussion of settlements in 18 individual cases across 13 countries, these assumptions were broadly confirmed. This emerging practice of conflict settlement can be referred to as “complex power sharing” and 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, especially forms of power sharing.

In terms of integrating conflict resolution theory and practice, and thus equip practice with theoretically well-informed menus of feasible options to be applied in a specific case, the primary question is whether complex power sharing settlements, like the ones discussed in this paper, are more than the result of choices of short-term convenience in an effort to achieve a settlement at the negotiation table without considering its implications for long-term sustainability of the governance structures it establishes. There is little point in making immodest claims at this stage about the feasibility of complex power sharing, as conceptualized and analyzed here, as a conflict resolution strategy equal, if not superior to what existing theories prescribe. The cases examined here are all similar to the extent that they comprise self-determination claims by territorially compact identity groups that lend 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, Bosnia and Herzegovina, Crimea, Gagauzia, Scotland, and South Tyrol. Northern Ireland has, despite significant delays, achieved a remarkable institutional compromise that appears to endure. The settlements for Aceh, Bougainville, Kurdistan Region, Macedonia, Kosovo, and South Sudan 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. While the track record may thus be sketchy, the sheer range of cases in which settlements have been achieved that fall into the complex power sharing category, suggests that there is a clear trend of conflict resolution practice that points in the direction of complex power sharing settlements.

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¹ The essence of complex power sharing is that such institutional frameworks go significantly beyond one-dimensional arrangements offering “just” autonomy, or power sharing, or minority rights bills, or improved economic development, etc., but combine a range of different mechanisms to address the concerns of all relevant parties.

² 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 the late Donald Rothchild for providing me with this information.

³ In India, one could include the so-called Union Territories, such as Pondicherry (Puduchery).

⁴ 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>.

⁵ 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).

⁶ For the full text of this document, see http://www.hri.org/docs/annan/Annan_Plan_Text.html.

⁷ For the full text of this document, see <http://www.president.gov.ge/?l=E&m=0&sm=5>.

⁸ 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.

⁹ I borrow the term ‘complex power-sharing’ from a research project funded 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.

¹⁰ There have been some past attempts to conceptualise ‘territorial solutions’ for ethnic conflicts, especially the use of autonomy arrangements. These include especially Benedikter (2007), Coakley (2003), Dinstein (1981), Ghai (2000), Hannum (1996), Lapidoth (1997), Wehengama (2000), Weller and Wolff (2005).

¹¹ Cf., for example, Horowitz (1985[2000], 1990), Reilly (2001), Sisk (1996), and Wimmer (2003) on integration, and Roeder and Rothchild (2005) on power dividing.

¹² See in particular McGarry and O’Leary (2004), McGarry (2007), O’Leary (2005a and b). Weller and Wolff (2005) and Wolff and Weller (2005) draw similar conclusions about the compatibility of, and likely need to combine, autonomy, power sharing, and other mechanisms of conflict resolution to achieve sustainable settlements.

¹³ For a review of recent writings on power sharing and power dividing, see Wolff (2007b).

¹⁴ For a more extensive appraisal of asymmetrical federal systems, see McGarry (2007).

¹⁵ The Comprehensive Proposal for the Kosovo Status Settlement, www.unosek.org/unosek/en/statusproposal.html; The Constitution of the Republic of Kosovo, <http://www.kosovoconstitution.info/?cid=2,247>. Theoretically, it would also be possible for majority-Serb communes in central and southern Kosovo to join such a region as there is no stipulation about territorial contiguity.

¹⁶ Power sharing is a form governance whereby representatives of different groups make decisions jointly in one or more branches of government. Power sharing can occur as a result of guaranteed arrangements, e.g., particular parliamentary election (reserved seats, quotas) and/or government appointment procedures (d’Hondt mechanism, guaranteed posts for members of particular groups) in combination with specific decision making procedures in relevant branches of the government (qualified or concurrent majorities) or emerge as a result of the electoral process as part of coalition formation. I am primarily interested in the former, guaranteed type of power sharing, but will note voluntary power sharing coalitions where appropriate.

¹⁷ For an extensive comparison of regional consociations, see Wolff (2004).

¹⁸ For states, territory possesses certain value in and of itself, including natural resources, the goods and services produced there and the tax revenue generated from them, and military or strategic advantages in terms of natural boundaries, access to the open sea, and control over transport routes and waterways. Additionally, for ethnic groups, territory very often is also important in a different way – as a crucial component of their identity. Territory is then conceptualised more appropriately as place, bearing significance in relation to the group’s history, collective memories, and ‘character’. Yet, for ethnic groups, too, territory is, or can become, a valuable commodity as it provides resources and a potential power base.

¹⁹ Sovereign consociations are, of course, also possible without provisions for territorial self-governance. The key example here is Lebanon, yet Lebanon, too, underlines the importance of self-governance (or segmental/group autonomy), in this case taking the form of non-territorial, or cultural/personal autonomy extending to individuals as members of a group rather than to individuals living in a specific territory.

²⁰ Comprehensive Peace Agreement (Sudan), www.usip.org/library/pa/sudan/cpa01092005/cpa_toc.html; The Constitution of Iraq, http://portal.unesco.org/ci/en/files/20704/11332732681iraqi_constitution_en.pdf/iraqi_constitution_en.pdf; General Framework Agreement for Peace in Bosnia and Herzegovina," www.intstudies.cam.ac.uk/centre/cps/documents_bosnia_dayton.html.

²¹ A fourth situational characteristic – transnational links – also shapes institutional design in a significant way. Such links are often determined by historical and/or ethnic relations between populations and territories divided by contemporary international boundaries. In a broader sense, transnational links need not be just with immediately neighbouring countries, but can, as a consequence of past intra-empire migration or emigration, connect population groups across greater distances, too (consider, for example, existing links between Germany and the descendants of ethnic German minorities in Central and Eastern Europe and the former Soviet Union, as far as Kazakhstan, or the relations between Hungary and ethnic Hungarian minorities in Central and Eastern Europe, the Balkans and parts of the former Soviet Union, as well as among those communities and the Hungarian diaspora in the US). In these instances, formal transnational institutions may be established and/or so-called para-diplomatic powers be granted to self-governing territorial entities, and/or minority rights regimes be enacted explicitly providing for the maintenance of such links. However, there is also another reason why self-governing territorial entities should be invested with para-diplomatic powers: the ability to engage in the international arena is increasingly important for them in order to discharge their 'other' powers effectively, for example in relation to economic development and cultural identity maintenance. Thus, the establishment of formal transnational institutions and/or the conferral of para-diplomatic powers to self-governing territorial entities need not happen only in cases in which historic, ethnic or other transnational links necessitate this, but can become a feature of institutional design regardless of the existence of such links. More generally on the potential contribution of para-diplomacy to conflict resolution, see Wolff (2007a).

²² In the majority of cases, heterogeneity, where it is relevant, is ethnic in nature, but there are also cases where political rivalries within one ethnic group necessitate local power sharing deals, e.g., in Bougainville and in the Kurdistan region of Iraq. The latter, however, also is an example of elements of inter-ethnic power sharing (see below).

²³ Federation implies a constitutionally entrenched structure in which the entire territory of a given state is divided into separate political units, all of which enjoy certain exclusive executive, legislative and judicial powers independent of the central government. Note that there are common exceptions to this 'entire-territory' rule. Capital cities, unless they are federal entities of themselves, often have special status (Washington, D.C., vs. the German capital Berlin which is a *Bundesland*). Occasionally, there are also other special territories that are directly ruled by the federal government, even though they may enjoy some degree of self-governance (falling short, however, of full federal status), such as the India's Union Territories.

²⁴ Autonomy is the legally entrenched power of territorial entities to exercise public policy functions (legislative, executive and judicial) independently of other sources of authority in the state, but subject to the overall legal order of the state and any relevant international obligations. Autonomy normally enjoys similar constitutional protection as federalism, but is distinct in that it does not necessitate territorial sub-divisions across the entire state territory. Autonomy is normally a feature of otherwise unitary states. Cf. also Weller and Wolff (2005).

²⁵ Devolution is another form of achieving territorial self-governance. Like autonomy, it can be applied to selected territories in an otherwise unitary state. In contrast to autonomous territories, however, the degree of legal protection for entities with devolved powers is usually weaker (in the sense that it is easier to reverse) and often extends only to protection by 'regular' rather than constitutional laws.

²⁶ Decentralisation (guided by the principle of subsidiarity) means the delegation of executive and administrative powers to local levels of government. It is rarely constitutionally entrenched.

²⁷ As indicated above, transnational dynamics may additionally shape the institutional structure of conflict settlements. While the absence of concrete historical, ethnic or other links between the populations and/or territories for which conflict settlements were adopted does not preclude the establishment of formal institutions or the conferral of para-diplomatic powers on the authorities of self-governing territories, according to the conceptualisation of complex power sharing one would expect their presence in those cases where such links are present. For reasons of space, however, I do not investigate this claim further here.

²⁸ Apart from adding the characteristic of territorially compact settlement, I rely here primarily on the definition by Capotorti (1979) who defines a minority as "... a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion, or language."

²⁹ On the concept of cultural autonomy, see Smith and Cordell (2007) and contributions therein.

³⁰ Cf., for example, Working Group International Politics of Autonomy (2003a, b) which uses a range of different data sources.

³¹ I accept that this selection of cases includes some notable absences—India (creation of three new states in 2000), Nicaragua (Atlantic North and Atlantic South regions), Mexico (1996 Chiapas Agreement), autonomous subjects of the Russian Federation (such as Tatarstan)—for which no comparable data could be obtained. Also absent are the results of two sets of constitutional reform processes: in Canada (indigenous peoples and Quebec) and Spain (e.g., Catalunya, Basque Country). These have their origins in processes that began well before the end of the Cold War and thus do not fulfil the criterion of 'recent' settlements. However, I decided to include Brussels, Northern Ireland, and South Tyrol, which could be excluded as non-recent cases as well, because the settlements reached here over the past decade or so are a significant departure from these entities' previous status. Finally, I also leave out the case of the State Union of Serbia and Montenegro, where an "Agreement on the Restructuring of Relations Between Serbia and Montenegro" was achieved under EU mediation in March 2002, but which was never implemented except for holding a referendum on independence

in Montenegro which succeeded in 2005. Even with these absences, the following comparative analysis covers 13 of approximately 20 relevant country cases (67%).

³² As noted above, this is the primary selection criterion for the cases discussed.

³³ In the cases of Bosnia and Herzegovina and Kosovo greater ethnic homogeneity at various levels of governance (from entity to local commune) is a result of deliberate policies of ethnic cleansing during the wars of Yugoslav disintegration in the 1990s. High levels of separation, partly the result of violence and partly grown of long-term trends in population movement and settlement, can also be observed in Belgium and Northern Ireland.

³⁴ In Mindanao, an initial referendum took place in 1989 in which four of the eligible twenty-two provinces and cities opted for inclusion into the Autonomous Region of Muslim Mindanao (ARMM). In 2001, a second referendum was held, and one further province and one further city joined the ARMM. In Gagauzia, only one referendum was held in 1995. In both cases, the autonomous entity that emerged as a result of the referenda was territorially non-contiguous.

³⁵ The second important feature that distinguishes South Tyrol from the other cases here is that it was not an entity in its own right under the provisions of the 1948 and 1971 autonomy statutes, but rather was joined with the province of Trento into a region and derives its autonomous status principally from the devolution of powers from the region to the province. The revised 2001 autonomy statute constitutes the two provinces as entities in their own right, even though they remain formally part of the region of Trentino-South Tyrol.

³⁶ This is calculated as the ratio between the largest group and the total of all other groups. If local minorities make up more than 10% of the total, the share of the largest local minority group is indicated in parentheses.

³⁷ As noted earlier, significance can arise from size, population density, natural resource availability, strategic location, and cultural importance. If more than three of these indicators matter, I define significance as 'high', for two indicators as 'medium' and for one or none as 'low'.

³⁸ Of the 1 million Belgian citizens resident in Brussels, 85% are French-speaking, 15% Dutch-speaking.

³⁹ The bilingual Capital Region of Brussels only came into being as a fully self-governing region in 1989, consisting of 19 communes with a majority of French-speaking citizens. While this constituted major progress compared to the situation since the 1960s, plans to redraw the region's boundaries have been part and parcel of a broader constitutional crisis engulfing Belgium at the end of 2007.

⁴⁰ The province of Flanders contains 58% of Belgium's population (6.1 million people), and is, bar six municipalities with facilities for French-speakers along the border with the Walloon Region and another six such municipalities in the so-called Eastern Rim of Brussels, exclusively populated by Dutch-speakers. The total French-speaking population of these 12 municipalities is below 80,000 or less than 1.5% of the total population of the Flemish Region.

⁴¹ The Walloon Region contains 32% of Belgium's population (3.4 million people). Of these, approximately 70,000 are German-speakers, concentrated in nine eastern municipalities along the German border. There are also four municipalities with facilities for Dutch-speakers along the language border.

⁴² There has been no census in Bosnia and Herzegovina since 1991, when the following data were established: total population—4.38 million, Muslims—1.9 million (43.5%), Serbs—1.37 million (31.2%), Croats—761,000 (17.4%). Current population estimates set the total resident population at 3.84 million. See <http://www.bhas.ba/Arhiva/2007/TB/Demografija-hr.pdf>.

⁴³ This ratio is based on the 1991 population data and the assumption that Bosniaks and Croats live overwhelmingly in the federation. It is noteworthy, however, that the cantons of the Federation are ethnically relatively homogeneous.

⁴⁴ As with the overall population for Bosnia and Herzegovina, no recent census data are available. An estimate for 1999 was 49% Serb, 35% Bosniak and 15% Croat. Since then, the number of Bosniaks has probably increased and that of Serbs somewhat decreased. I am grateful to Florian Bieber for providing this information.

⁴⁵ According to data of 2003, Aceh's total population of an estimated 3.93 million consisted of several ethnic groups of which the Acehnese were the largest with approximately 70%, followed by Javanese (16%). A census was apparently conducted in 2005 with support from the UNFPA, but no data could be found. See <http://www.pcg.org.uk/Indonesia-%20Population&AdminDivs-%202003.pdf> and

⁴⁶ There are only estimates of the current population of Kurdistan. UNDP data of 2004 project the population size of the three governorates of Dohuk, Suleimaniya, and Erbil at 3,579,916. See [http://www.reliefweb.int/rw/RWFiles2005.nsf/FilesByRWDocUNIDFileName/KHII-6CC44A-undp-irq-31dec1.pdf/\\$File/undp-irq-31dec1.pdf](http://www.reliefweb.int/rw/RWFiles2005.nsf/FilesByRWDocUNIDFileName/KHII-6CC44A-undp-irq-31dec1.pdf/$File/undp-irq-31dec1.pdf). The same source calculates a total Iraqi population of just over 27 million. The official website of the Kurdistan Regional Government gives a slightly higher number of 3,757,058, based on the 2002 UN Oil-for-Food Distribution Plan. See <http://www.krg.org/articles/detail.asp?lngnr=12&smap=03010400&rnr=141&anr=18657>. Other unofficial estimates commonly assume a total population of around 5-6 million. All estimates agree that of the total population of the Kurdistan Region in Iraq 95% are Kurds, the rest Assyrians, Chaldeans, Turkmen, Armenians and Arabs.

⁴⁷ According to the 2001 census, of South Tyrol's total population of 462,999, 296,461 (64%) declared their linguistic identity as German, 113,494 (24.5%) as Italian, and 18,736 (4%) as Ladin. Another 34,308 people (7.8%) opted for the category 'other'. See http://www.provinz.bz.it/astat/download/JB07_K3-pdf.pdf.

⁴⁸ The current estimate of the total population of Kosovo is 1.9 million of which a total of 228,000 (12%) are non-Albanian groups. Of these, Serbs are the largest group with 128,000 (7%) most of whom live in the north around Mitrovica where they make up over 95% of the local population. See <http://www.ks-gov.net/ESK/esk/pdf/english/population/Demographic%20changes%20of%20the%20Kosovo%20population%201948-2006.pdf>.

⁴⁹ Albanians, who make up a total of 25.17% are geographically concentrated in the west of Macedonia where they often make up for 90+% of the population in local municipalities. See http://www.stat.gov.mk/pdf/kniga_13.pdf. Other minorities include Roma, Serbs, and Vlachs.

⁵⁰ Latest statistics for the population of Gagauzia are as follows: Gagauzians—82.1%, Moldovans—4.8%, Bulgarians—5.1%, Russians—3.8%, Ukrainians—3.2%. See http://www.statistica.md/statistics/dat/1269/en/Populatia_str_1999_2006_en.pdf.

⁵¹ The name change of the province from North Solomons to Bougainville happened in 1996. The province comprises four islands: Bougainville, Buka, and the Green Islands (Nissan, Pinipel).

⁵² In Bougainville heterogeneity is predominantly of a political nature, dividing the population politically between autonomists and secessionists. There are also some regional and linguistic differences: some 20 different languages are spoken in the islands, with Buin in the south and Haila in the north being the two largest. The total population according to the 2000 census is 141,000, but some areas of the province were not covered by the census (the 1990 population figure is 154,000). See <http://www.statoids.com/upg.html>.

⁵³ Mindanao as a whole comprises 18.1 million people (24% of the total population of the Philippines). The ARMM's population is 2.8 million (15.5% of the population of Mindanao), and of these, 90.1% were Muslims (compared to a total of 20.4% in Mindanao as a whole). The largest ethnic group in the ARMM (Maranao), in contrast, made up only 26.4% of the total population. See <http://www.census.gov.ph/data/sectordata/sr05173tx.html>.

⁵⁴ The states of Abyei, Nuba Mountains, and Blue Nile are currently disputed territories between north and south. They are to hold a referendum in 2011 on whether to join South Sudan, which will at the same time decide upon its independence or continued membership in Sudan.

⁵⁵ The term 'Southerners' in Sudan is an umbrella term for various predominantly non-Arab tribes and communities, including Dinka and Nuer as the two largest groups. Divisions among them are linguistic (the two official languages are English and Juba Arabic, with a variety of officially recognised regional languages). The Sudanese People's Liberation Army/Movement (SPLA/M) has been the sole political (and military) representative of the South since its merger with the South Sudan Defence Force in January 2006.

⁵⁶ Russians are the largest ethnic group in Crimea (58.32% of the total population), followed by Ukrainians (24.31%) and Crimean Tatars (12.1%). See http://www.ukrcensus.gov.ua/eng/regions/reg_crym/.

⁵⁷ 'Protestants' and 'Catholics' are the most common, historically determined markers for the two population groups in Northern Ireland, indicating both religious affiliations and sense of national belonging. The conflict as such, however, is not a religious one, but rather one in which one population group seeks continued membership of the region in the United Kingdom, while the other strives for unification with the Republic of Ireland. Cf. McGarry and O'Leary (2004), Wolff (2001, 2003). The 2001 census data establish the distribution of the two communities in the total population in Northern Ireland at 43.76% Catholics and 53.13% Protestants. See <http://www.nisranew.nisra.gov.uk/census/Census2001Output/KeyStatistics/keystats.html>.

⁵⁸ The 2001 census data put the percentage of the population declaring their primary ethnic group identity as White Scottish at 88.09% and as Other White British at 7.38%. See <http://www.scotland.gov.uk/Publications/2004/02/18876/32939>.

⁵⁹ Note that low significance refers explicitly to the state as a whole. The two entities of Bosnia and Herzegovina—the Federation and Republika Srpska—disputed control over Brčko for several years and finally agreed to an international arbitration placing the district into 'condominium' between them.

⁶⁰ I am only discussing legal status here, not the substance of actual powers enjoyed by the entities.

⁶¹ Constitutional reforms towards federalisation have been under way in Italy since 2001. Once complete, the status of the *province* of South Tyrol will still be that of an autonomous entity, but that of the *region* of Trentino-Südtirol would be that of a federal entity.

⁶² It is conceivable, but unlikely, that Moldova will become a federation in the process of resolving the conflict with Transnistria. In this case, Gagauzia might either retain its autonomous status (within the Moldovan federal entity) or become a federal entity of its own, alongside a Moldovan and Transnistrian entity.

⁶³ Since the 2008 local elections, however, a serious deadlock has prevented the Assembly from functioning, because of a stand-off between local communist and non-communist elected members. A formal power sharing arrangement, involving the rotation of Assembly Chairperson, his/her Deputies, and Committee Chairs has been suggested as a resolution, but has so far not been accepted (as of 1 August 2008).

⁶⁴ The draft constitution of the Kurdistan Region states in Article 111: "A fair representation of the Minorities should be represented in the formation of the Kurdistan Region's Council of Ministers." Document in author's possession.

⁶⁵ The regional constitution of Bougainville determines mandatory inclusion of representatives of Bougainville's three regions into the regional government.

⁶⁶ Local power sharing here extends to a 60:40 quota representation at the level of South Sudan and all its ten constituent states for representatives of the Sudanese People's Liberation Army/Movement (SPLA/M) and the government in Khartoum.