Resolving Territorial Self-determination Disputes
A Comparative Review of Contemporary International Practice

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1. Introduction

Territorial self-determination conflicts are conflicts in which territorially concentrated identity groups (whose identity is, in part, derived from association with this territory, or homeland, in which they reside) demand to exercise their right to self-determination. Self-determination claims made by territorially concentrated groups refer to a group's expressed preference for self-government and can range from demands for independent statehood, unification with another state, territorial self-governance within an existing state, and non-territorial self-governance (or cultural autonomy). The resulting conflicts are often violent and at times protracted. However, they can be, and have been, resolved successfully. There are two principal types of solutions. External territorial solutions, chiefly independent statehood (achieved qua secession or partition) or unification with another state (qua irredenta) are very rare, even if one considers the cases of the former Soviet Union and ex-Yugoslavia in this category of solutions. Far more frequent are internal territorial solutions for which I use the broad umbrella term of territorial self-governance (TSG) and which are the focus of the following comparative exploration.

2. Territorial self-governance: a definition

I define TSG as the legally entrenched power of territorially delimited entities within the internationally recognized boundaries of existing states to exercise public policy functions independently of other sources of authority in this state, but subject to its overall legal order. Conceptually, this definition of TSG applies its meaning as a tool of statecraft to the specific context of conflict resolution in divided societies and encompasses five distinct governance arrangements—confederation, federation, autonomy, devolution, and decentralisation.

- *Confederation* is an empirically relatively rare form of voluntary association of sovereign member states which pool some competences (e.g., defence, foreign affairs, and currency) by treaty without normally giving executive power to the confederal level of government. Relevant examples include Serbia and Montenegro under the terms of the 2003-6 constitution (which was never fully implemented), Switzerland between 1291 and 1848 (formally Switzerland retains the term confederation in its official name, functionally, however, it is a federation).
- *Federation*, in contrast, 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.[1] Commonly cited contemporary examples of successful federations include Canada and Belgium, historically failed federations are those of Yugoslavia, the Soviet Union, and Czechoslovakia. The verdict on success is still open on cases like Bosnia and Herzegovina, Iraq and Sudan.
- An *autonomy* (or federacy) normally enjoys similar powers and constitutional protection as federal entities, 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. Classical examples include the Åland Islands (Sweden) and South Tyrol (Italy), as well as more recently Aceh (Indonesia), Bougainville (Papua New Guinea), and Gagauzia (Moldova).
- *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. Spain and the United Kingdom are most commonly used to illustrate this form of TSG.

- *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 and does not normally include legislative competences. Recent examples of the application of this form of TSG as a mechanism of conflict resolution in divided societies include Macedonia (under the 2001 Ohrid Agreement) and Kosovo (under the terms of its 2008 constitution and related 'Arthisaari legislation').

It is important to note here that these are ideal-typical classifications that are commonly applied by academics and analysts after a conflict has been settled. Many conflict settlements, in fact, reflect a mix-and-match approach at the negotiation table when conflict parties tackle individual issues step by step, and do not easily fit into these categories. Moreover, these five broad classifications say little about the specific nature of the arrangements in place. For example, federations can be highly centralized with very few powers actually exercised by the federal subjects (for example, a large number of republics in the Russian Federation) or they can border quasi-confederal power structures with very little real power left for the centre (as in the case of Belgium). At the same time, local municipalities may enjoy a relatively significant degree of competences and may even be constitutionally mandated (for example, Macedonia and Kosovo). Sami TSG in Finland, Sweden and Norway is primarily a matter of decentralised local government, but incorporates elements of cultural autonomy and power sharing. Bosnia and Belgium are examples in which TSG is intrinsically linked with consociational power sharing at the centre, whereas in Northern Ireland and South Tyrol TSG arrangements emerged alongside consociational power sharing at the level of the self-governing entity. This is also the case in the Belgian capital of Brussels: itself one of three regions in the Belgian federation, the local consociational arrangement there illustrates that sovereign and regional consociations are not mutually exclusive. Such 'nested consociations' also exist in relation to South Tyrol where power-sharing arrangements at the level of the province (South Tyrol) and the region (Trentino-South Tyrol) are mutually constitutive. Devolution in the UK has resulted in very different statuses for Scotland, Wales and Northern Ireland. This asymmetry in terms of public policy functions exercised by TSG entities is also present in Russia and Spain, and has been retained, to a degree, in Italy in the post-2001 federalisation process, while attempts in France to grant a higher level of autonomy to Corsica have so far failed.

Given the wide variety of TSG arrangements, the following exploration focuses on specifics of conflict settlements in four areas:

1. The distribution of powers between central government and self-governing entity
2. The range and nature of coordination and dispute resolution mechanisms
3. The forms and extent of entrenchment of the arrangements
4. Forms of power sharing within the self-governing entity (local power sharing) and between it and the central government (central power sharing)

By way of a systematic empirical illustration, I consider thirteen country cases from Europe, Africa and Asia: Belgium (Brussels, Walloonia, 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).

All but two of these 18 self-governing entities 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.

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:

a) Devolved government (one country, two cases): Scotland, Northern Ireland;
b) Autonomy (seven countries, seven cases): Brčko, Aceh, South Tyrol, Gagauzia, Bougainville, Mindanao (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.

3. A comparative overview of contemporary conflict resolution practice: evidence from cases

3.1. Distribution 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. 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) 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 holds original authority competence for any partly devolved power or any other policy area not explicitly allocated elsewhere:

a) Specific lists: Bougainville, Mindanao, Northern Ireland,[1] South Sudan
b) Combination of specific and open-ended lists
    i. Open-ended list at the centre: Aceh, Brussels Capital Region, Flemish Region, Walloon Region, Crimea, Macedonia, Moldova, Scotland, South Tyrol
    ii. Specific list at the centre: Brčko, Federation of Bosnia and Herzegovina, Republika Srpska, Kurdistan Region, Kosovo

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

[1] 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.

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. 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 Southern 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.

An unambiguous distribution of powers should indicate that the most important issues of the underlying self-determination conflict have either been resolved or postponed (e.g., future referendum on independence) and that the potential for conflict re-erupting should be minimal and limited to disputes over emerging new policy areas not covered by the provisions of the original agreement between the conflict parties (provided that the institutions established discharge their functions properly).

Where such an unambiguous allocation of powers is missing in the sense that one layer of authority automatically retains all powers not explicitly allocated elsewhere (and thus implicitly also the competence over all emerging new policy areas in the future), renewed conflict over the distribution of power between different layers of authority is more likely, even though there is no automatism in this.

In cases where the central authority retains all the powers not expressly devolved, autonomous areas may, over time, seek renegotiation of past agreements or the allocation of additional powers. In the reverse case, central authorities may be continuously weakened, potentially leading to the break-up of the central state.

The key point to remember is that disputes are unlikely to be avoided under any of these systems, but wherever there are proper mechanisms of dispute resolution and policy coordination in place, they are unlikely to escalate into conflict.

3.2. Mechanisms of dispute resolution and policy coordination

Coordination of law and policy-making and their implementation is an important issue in the operation of any multi-layered system of government. In the context of self-determination conflicts and self-governance regimes 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 a particular institutional structure designed to resolve a self-determination 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:

a) Co-optation: Brussels Capital Region, Flemish Region, Walloon Region, Gagauzia, Mindanao
b) Joint committees and implementation bodies: Aceh, Bougainville, Brussels Capital Region, Flemish Region, Walloon Region, Gagauzia, Iraq, Macedonia, Mindanao, Northern Ireland, Scotland, South Sudan, South Tyrol
c) Judicial review and arbitration processes: Aceh, BiH (all levels), Bougainville, Brussels Capital Region, Flemish Region, Walloon Region, Crimea, Gagauzia, Iraq, Kosovo, Macedonia, Mindanao, Northern Ireland, Scotland, South Sudan, South Tyrol
d) Direct intervention by the international community: BiH (all levels), Iraq (until 2005), Kosovo

Thus, 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. 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, Moldova and the Philippines, is a mechanism to ensure the representation of regional officials (from Brussels Capital Region, Flemish Region, Walloon Region, Gagauzia, 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 cases of Mindanao and Gagauzia, this is also necessary as in both of these cases the autonomous entities are artificial constructions from an administrative point of view and do not fit into the pre-existing structures of authority in either country. 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), Gagauzia (fiscal and budgetary policy, property legislation), 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 can hold one-off (Gagauzia) or 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, Gagauzia).

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.

3.3. Entrenchment of institutional structures

Guarantees of institutional structures of horizontal and vertical power-sharing 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, Gagauzia, 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. 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.). Thus, we can conceive of two types each of international and domestic guarantees:

a) International guarantees
    i. Hard guarantees: BiH (all levels), Kosovo, Northern Ireland, South Tyrol
    ii. Soft guarantees: Aceh, Bougainville, Macedonia, Gagauzia, Kosovo, Mindanao, South Sudan
b) Domestic guarantees
    i. Constitutional guarantees: BiH (all levels),Bougainville, Belgium (all levels), Crimea, Gagauzia, Iraq, Kosovo, Macedonia, Northern Ireland, Scotland, South Tyrol, South Sudan
    ii. Guarantees in specific laws: Aceh, BiH (all levels),Bougainville, Belgium (all levels), Crimea, Gagauzia, Iraq, Kosovo, Macedonia, Mindanao, Northern Ireland, Scotland, South Tyrol, South Sudan

Obviously, there is great variance across the cases considered here. In terms of the strength of the protection that they afford established arrangements, 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.

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.

This can take many 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; while in Gagauzia, the OSCE has played an important role in facilitating the coordination of policies and laws between regional and national government. 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, Moldova, 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, Moldova, Mindanao, Northern Ireland and South Tyrol. In practice, they have proven weakest in Northern Ireland, where prior to 2006 and 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.

3.4. Forms of local power sharing

The need for local power sharing arises when the self-governing entity itself is demographically diverse and when a need is felt to establish local institutions that guarantee power sharing between relevant identity groups.

Formal institutions of local power sharing do not exist in four cases considered here: Aceh, Gagauzia, Crimea, and Scotland. However, several qualifications are in order following this general assessment: 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.[2]

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,[3] South Tyrol, Bougainville,[4] South Sudan,[5] Northern Ireland;
b) Parliamentary decision-making procedures (qualified or concurrent majority voting): Brussels Capital Region, Federation of Bosnia and Herzegovina, Brčko, Northern Ireland.

3.5. Forms of central power sharing

When it comes to power sharing at the centre (i.e., between the central government and the sel-governing entity) the picture is equally mixed. Central-level power sharing arrangements exist in nine out of 13 country cases discussed here:

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.

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 (as detailed in section 3.2. above). 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).

In 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 government and the government of Bougainville, 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.

4. Concluding observations

Several points emerge from this exploration. They are relatively broad generalizations based on a significant body of comparative evidence but cannot necessarily be applied directly to other cases of conflict without due consideration of their specific context.

1. A territorial approach to conflict settlement is essential in cases in which the conflict is about the self-determination of a relatively compact identity group. TSG, as conceptualized here, can take many different forms, including, but not limited to, federation and federacy arrangements which are its most frequent manifestations.
2. TSG rarely, if ever, is a singular mechanism of conflict settlement. In other words, and again depending on the specific context of its application, it is likely to be complemented by different forms of local and/or central-level power sharing.
3. TSG requires the establishment of proper mechanisms of dispute resolution and policy coordination in order to minimize the disruptive potential of (highly likely) disputes between self-governing entity and central government.
4. It is essential for the long-term stability of conflict settlements that TSG arrangements and other mechanisms that complement them are properly entrenched at least domestically, and preferably, and again context-dependent, internationally.

[1] There are common exceptions to this entire-territory rule. For example, 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.

[2] After the 2008 local elections, a serious deadlock between communists and non-communists prevented the Assembly from functioning for several months. Following mediation by the EU Special Representative for Moldova, a formal power sharing arrangement, involving the rotation of Assembly Chairperson, his/her Deputies, and Committee Chairs was suggested and initially agreed to be the local parties, but vetoed by the Moldovan president. At an assembly session on 31 July, the local parties nonetheless agreed to a power sharing deal giving the Presidency of the Assembly to a non-communist, and splitting the two deputy positions and eight committee chairs equally between communists and non-communists.

[3] 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."

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

[5] 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.