Transnational Consociation in Northern Ireland and in Bosnia-Hercegovina: The Role of Reference States in Post-Settlement Power-Sharing

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Abstract

The thesis considers ethno-territorial conflicts in which there are two conflict groups with corresponding 'reference states'. 'Reference states' are internationally-recognised states with co-nationals in the aforementioned disputed territory. The literature on ethno-national conflict regulation largely neglects the potential constructive role of 'reference states'. In particular, Arend Lijphart's work on consociational democracy focuses on elite accommodation within the conflict zone, but views other agents as 'external' to the dispute. Unlike most of the current ethnic conflict literature, the thesis will use a theoretical approach to derive the features of a settlement, not distil traits from purely empirical research. An informal model is employed assuming that that a military option is not open to reference states and that disengagement from the co-nationals is costly. The actions of the reference state are simplified to four options: remaining at the same level of conflict, escalating the dispute, attempting cooperation, or disengaging from the dispute. The features derived for the resulting *transnational consociation* settlement are: durable reference state/co-national links, bipartisanship within reference states, intergovernmentalism between reference states, and consociational democracy internal to the disputed territory. The thesis then focuses on the post-conflict power-sharing settlements in Bosnia-Hercegovina and in Northern Ireland to investigate the features of *transnational consociation* in these two cases. The settlement after the Belfast Agreement exhibits the traits of *transnational consociation*, with a strong intergovernmental Dublin-London axis acting as reliable long-term guarantors of the settlement. By contrast, there is little intergovernmentalism between Zagreb and Belgrade regarding the settlement in Bosnia-Hercegovina. The post-conflict institutions are held together by international agencies that do not have as durable a link to the conflict zone as the 'reference states'. Therefore, a durable *transnational consociation* with the 'reference states' as guarantors is more likely in Northern Ireland than in Bosnia-Hercegovina.

My Roots

Provat Sircar

Dhrubesh Chandra Kar

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Abbreviations

ABiH	Armija Bosne i Hercegovine (Army of Bosnia-Hercegovina)
AOEBIH	Association of Election Officials in Bosnia-Hercegovina
AIA	Anglo-Irish Agreement (1985)
APNI	Alliance Party of Northern Ireland
BIC	British-Irish Council
BIIGC	British-Irish Intergovernmental Conference
BIIPB	British-Irish Interparliamentary Body
BiH	Bosna i Hercegovina (Bosnia and Hercegovina)
BIRW	British-Irish Rights Watch
CCBH	Constitutional Court of Bosnia-Hercegovina
CoE	Council of Europe
CoM	Council of Ministers
DFM	Deputy First Minister of Northern Ireland
DPA	Dayton-Paris Agreement
DRC	Defence Reform Commission [Bosnia-Hercegovina]
DS	Demokratska stranka (Democratic Party) [Serbia]
DSD	Downing Street Declaration (1993)
DSS	Demokratske stranke Srbije (Democratic Opposition of Serbia)
DUP	Democratic Unionist Party

ECHR	European Convention of Human Rights
ECMI	European Centre for Minority Issues
ESI	European Stability Initiative [think-tank]
EUAM	European Union Administration of Mostar
EUFOR	European Union Force in Bosnia and Herzegovina
FBiH	Federacija Bosne i Hercegovine (Federation of Bosnia-Hercegovina)
FCILC	Foyle, Carlingford and Irish Lights Commission
FM	First Minister of Northern Ireland
FRU	Force Research Unit
FRY	Federal Republic of Yugoslavia
GFA	Good Friday Agreement (1998) [Belfast Agreement]
GFAP	General Framework Agreement for Peace [Dayton-Paris Agreement]
HCHR	Helsinki Committee for Human Rights
HDZ	Hrvatska demokratska zajednica (Croatian Democratic Union)
HDZ-BiH	Hrvatska demokratska zajednica Bosne i Hercegovine (Croatian Democratic Union of Bosnia-Hercegovina)
HNS	Hrvatska narodna stranka (Croatian People's Party)
HR	High Representative
HSLS	Hrvatska socijalno-liberalna stranka (Croatian Social Liberal Party)
HSP	Hrvatska stranka prava (Croatian party of rights)
HSS	Hrvatska seljačka stranka (Croatian Peasants' Party)

HVO	Hrvatske vijeće obrane (Croatian Defence Council)
IC	International Community
ICG	International Crisis Group [think-tank]
ICTY	International Criminal Tribunal for the Former Yugoslavia
IEBL	Inter-Entity Boundary Line
IICD	International Independent Commission on Decommissioning
IMC	Independent Monitoring Commission [Northern Ireland]
IPTF	International Police Task Force
IRA	Irish Republican Army
JNA	Jugoslavenska narodna armija (Yugoslav Peoples' Army)
MFA	Ministry for Foreign Affairs
MMC	Multi-member Constituency
NATO	North Atlantic Treaty Organization
NI	Northern Ireland
NILP	Northern Ireland Labour Party
NILT	Northern Ireland Life & Times Survey
NIO	Northern Ireland Office
NIWC	Northern Ireland Women's Coalition
NSMC	North-South Ministerial Council
OFMDFM	Office of First and Deputy First Minister of Northern Ireland

OHR	Office of the High Representative
OSCE	The Organization for Security and Co-operation in Europe
PDP	Partija demokratskog progresa Republike Srpske (Party of Democratic Progress of Republika Srpska)
PfP	Partnership for Peace (NATO)
PIC	Peace Implementation Conference
PIRA	Provisional Irish Republican Army
PR	Proportional Representation
PR-STV	Proportional Representation – Single Transferable Vote
PRC	Police Reform Commission [Bosnia-Hercegovina]
PSNI	Police Service of Northern Ireland
PUP	Progressive Unionist Party
RIR	Royal Irish Regiment
RS	Republika Srpska
RSNA	Republika Srpska National Assembly
RUC	Royal Ulster Constabulary
SDA	Stranka demokratske akcije (Party of Democratic Action) [Bosnia-Hercegovina]
SDLP	Social Democratic and Labour Party [Northern Ireland]
SDP	Socijaldemokratska partija Hrvtaske (Social Democratic Party of Croatia)
SDP	Socijaldemokratska partija Bosne i Hercegovine (Social Democratic Party of Bosnia-Hercegovina)

SDS	Srpska demokratska stranka (Serbian Democratic Party) [Bosnia-Hercegovina]
SEUPB	Special EU Programmes Body
SF	Sinn Féin
SFOR	Stabilisation Force in Bosnia and Herzegovina
SNSD	Stranka za nezavisnih socijaldemoktrata Republike Srpske (Party of Independent Social Democrats of Republika Srpska)
SPS	Socijaliistička partija Srbije (Socialist Party of Serbia)
SPRS	Socijaliistička partija Republike Srpske (Socialist Party of Republika Srpska)
SRBiH	Socijalističke Republike Bosne i Hercegovine (Socialist Republic of Bosnia-Hercegovina)
SRS	Srpska radikalna stranka (Serbian Radical Party)
UDA	Ulster Defence Association
UDP	Ulster Democratic Party
UDR	Ulster Defence Regiment
UKUP	United Kingdom Unionist Party
UUP	Ulster Unionist Party
UVF	Ulster Volunteer Force
VJ	Army of Yugoslavia
VRS	Vojske Republike Srpske (Army of Republika Srpska)

Chapter I: Ethnonational Conflict Regulation Beyond Borders[1]

Ethnonational Conflict Regulation and the End of History

The twilight of the last century heralded the end of the bipolar battle between Moscow and Washington. The latter that won the Cold War, seemingly confirming the move towards a liberal-democratic 'end of history'. However, the world also witnessed some of the most brutal events in the second half of the 20th century, such as the mass killing of Tutsis by ruling Hutus in Rwanda and the series of wars that followed the disintegration of Yugoslavia. Nonetheless, it was in the same era that foes in long-standing ethnonational conflicts concluded political agreements in hitherto 'intractable conflicts', including the end of apartheid in South Africa, the Oslo Accords in the Middle East and the Belfast Agreement in Northern Ireland.

In two of the examples mentioned above, the events were strongly influenced by external actors. In the case of Northern Ireland, the multiparty talks that led to the Belfast Agreement were chaired by former US Senator George Mitchell. The secret 'shuttle diplomacy' in the Middle East was brokered by individuals from the Norwegian Ministry of Foreign Affairs, Institute for Applied Social Science (Oslo) and the Norwegian Institute of International Affairs (NUPI). In the case of South Africa, the geostrategic changes in the region resulting from the end of the Cold War facilitated 'political liberalisation'.[2]

There were more aggressive 'external' interventions in other parts of the world. Although state sovereignty was based on the principle of 'non-interference', a new norm of inter-state 'humanitarian intervention' came into the fore in the 1990s. In Somalia, US military forces tried to restore the rule of law after the overthrow of the Barre regime in 1991. NATO bombing of military positions above Sarajevo ended the shelling of the Bosnian city and accelerated the end of the war. NATO also intervened

[2] For example, see A. Guelke, *South Africa in Transition: the Misunderstood Miracle*, London: I.B. Tauris (1999): 25-27.

in 1999 to stop violence in Kosovo against ethnic Albanians by state military and police. In both Kosovo and Bosnia-Hercegovina, the peace agreements were enforced by international organisations. [3] In the latter case, the international community imposed the constitution, complete with stipulations for the state and local political institutions.

The above examples show the tectonic changes in international political practice. In the past, peacebuilding was largely an internal matter. That is, conflict groups in an intra-state conflict would have to settle on their own. Any outside intervention, especially without the invitation of the government, was considered a breach of state sovereignty. The internationalisation of ethnonational conflict regulation in the 1990s represents a significant divergence from previous interstate norms. It is the examination of a subset of these 'external' actors, hitherto seen as 'interlopers', that provides the basis for the following chapters.

Bringing in 'External' Actors

The genealogy of relevant conflict regulation theories in divided societies starts with a focus on 'internal' mechanisms. That is, these approaches look at processes between the conflict groups *within* the disputed territory.

The notion of consociational democracy was developed by Arend Lijphart through his investigation of democratic stability in the 'fragmented' Dutch political system. [4] Lijphart's initial work was a critique of Gabriel Almond's typology of democratic systems. Almond asserted that fragmented systems would lead to institutional instability. However, Lijphart claimed that the history of Dutch democracy suggested than even though the country was pillarised by a combination of religious and class cleavages, the institutions survived. Lijphart surmised that the factor missing in Almond's analysis was that *elite cooperation* could lead to a long-term settlement.

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[3] The name of the state Bosna i Hercegovina translates to Bosnia *and* Hercegovina. However, the following chapters will use the shorter term 'Bosnia-Hercegovina', except when the official English name of an organisation uses an alternative spelling. For example, EUFOR is the European Union Force in *Bosnia and Herzegovina*.

[4] A. Lijphart, 'Consociational Democracy', *World Politics*, vol. 21, no. 2 (January 1969): 207-225.

This concept of consociational (or 'power-sharing') democracy was generalised in a later work.[5] The term 'power-sharing' can be used more widely, but will be used in the following chapters, as Lijphart does, to connote 'consociational power-sharing'. Thus, the terms 'power-sharing' and 'consociational' will be used interchangeably.[6]

Consociational democracy contains four features. First, instead of having bare majority governments in which one group dominates over others, consociational democracies have parties from major conflict groups in power, thus forming a *grand coalition*, though qualifications for this feature will be examined in the following chapter. Second, to ensure that a numerical majority does not lead to the domination of one group over another, there is a *mutual veto* in the decision-making process. Instead of using the term 'minority veto', it is better to use 'mutual veto', since either group in such systems can override decisions that threaten their national interest. Third, in contrast to the majoritarian systems that developed in the US and Britain, allocation of political representatives and resources are done with *proportionality*. Finally, the system is set up so that each constituent group has a high degree of control over important matters within their community, leading to *segmental autonomy*. In addition to these features, Lijphart lists a set of 'favourable conditions' that predispose a pillarised society to consociational democracy: numerical balance among the groups, multi-party system with dominant parties in each segment, small country, crosscutting cleavages, overarching loyalties, and traditions of elite accommodation.

Brian Barry noticed that the 'favourable conditions' were rarely fulfilled for ethnonational conflicts, so Lijphart's framework was not applicable to these deeply-divided societies. First, the condition of 'tradition of elite accommodation' may be circular, since this seemingly leads to the conclusion that democratic elite accommodation leads to elite accommodation. The second problem is that of

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[5] A. Lijphart, *Democracy in Plural Societies*, New Haven: Yale Univ. Press (1977).
[6] Matthijs Bogaards critiques the relationship between 'consociational' and 'power-sharing' in M. Bogaards, 'The Uneasy Relationship Between Empirical and Normative Types in Consociational Theory', Journal of Theoretical Politics, vol. 12, no. 4 (2000): 395-423. In his response to Bogaards in A. Lijphart. 'Definitions, Evidence, and Policy: A Response to Matthijs Bogaards' Critique'*, Journal of Theoretical Politics*, vol. 12, no. 4 (2000): 425-431, Lijphart writes that the term 'consociational democracy' had been discarded for 'power-sharing'. However, Lijphart still uses 'consociational deomcracy' and 'consociational theory' in his debate with Horowitz at the 'Constitutional Design 2000' conference at Notre Dame (Dec. 1999).

'overarching loyalties'. In 'national conflicts' such as the ones that will be used to investigate post-settlement power-sharing in this thesis, the problem is a more fundamental one about the very existence of 'the country'.[7] In this way, the context is different from the 'ideological' cleavages in the classical examples of fragmented systems in continental Europe (i.e. the Netherlands, Belgium, Austria and Switzerland). Since the very nature of the dispute is different in these cases, McGarry and O'Leary suggest three different 'favourable conditions' for consociational democracies in 'national conflicts', which will be enumerated in Chapter 2.

In his defence of the durability of consociational democracy, Lijphart pointed out that power-sharing in Cyprus and in the Lebanon broke down due to 'external' intervention by Turkey and Syria/Israel, respectively. However, the interplay between neighbouring states, their co-nationals, and the neighbouring territories outside the 'homeland' is an important part of the study of conflict, especially in Central and Eastern Europe. The territorial settlements breaking up the Austro-Hungarian and Ottoman Empires which defined 'new' states invoking self-determination left many people on the 'wrong' side of the border from 'their' nation-state. There have been similar periods of revolutionary changes of international borders after World War II and the Cold War. The tensions in some of these cases have escalated to violent conflict. This sort of phenomena is not only confined to Europe. Decolonisation in Africa and Asia also left states and 'their' co-nationals in different territories. Thus, there are potentially many cases throughout the world in which conflict groups have co-national neighbouring states, and it is unlikely that the resulting disputes are purely 'internal'.

It is in the context of post-Cold War nation-building that Rogers Brubaker develops a 'triadic' conceptualisation of ethno-national conflicts in Central and Eastern Europe. According to Brubaker, there are three actors. First, there are *nationalising states*, which are nationally heterogeneous, newly-forming states in which political elites are trying to construct a civic or national state identity. Second, there are *national minorities* that are politically self-aware and organised who demand certain nation-based concessions such as territorial or non-territorial autonomy. Finally, there is an

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[7] B. Barry, 'Political Accommodation and Consociational Democracy', *British Journal of Political Science*, vol. 5, no. 4 (October 1975): 477-505.

'external' national homeland of the aforementioned national minorities that act as guarantors for 'their' people in the 'nationalising states', asserting the obligation to defend their co-nationals.[8] Although Brubaker describes the principal actors, he does not investigate conflict regulation practices in this 'triadic' structure. Moreover, Brubaker's framework neglects the broader 'Euro-Atlantic space', thus extending from a 'triadic' to 'quadratic' nexus.[9]

The role of the 'external' national homeland has become an important consideration in conflict regulation for minorities on the 'wrong side of the border' in Central and Eastern Europe. In 2001, the Venice Commission considered the Hungarian Law on ethnic Hungarians Living in Neighbouring Countries.[10] The law had been challenged by Slovakia, which saw the legislation as interfering in the affairs of Bratislava. The Venice Commission found that there was a potential method of conflict regulation through bilateral treaties between the 'kin-state' and host state.[11] The kin-state secures a set of extensive cross-border cultural and linguistic rights for its co-nationals. In return, the 'kin-state' agrees to recognise the sovereignty and territorial integrity of the host state. Thus, minority rights are underpinned by bilateral relations.

The importance of 'external' state relations in conflict regulation can also be seen in the comparative politics literature. For example, Michael Kerr examines the role of neighbouring 'external' powers in the power-sharing settlements in Northern Ireland (1973 and 1998), and the power-sharing agreements in the Lebanon (1943 and 1989). In the case of Northern Ireland, he concludes that this regional stability was underpinned by an 'intergovernmental unity of purpose' in which the London-Dublin axis presented a joint strategy for settling the constitutional dispute in Northern Ireland between 'British' and 'Irish' ethno-national aspirations.[12] Thus, Kerr's work

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[8] R. Brubaker, *Nationalism Reframed: Nationhood and the National Question in New Europe*, Cambridge: Cambridge Univ. Press (1996): 57.

[9] DJ Smith, 'Framing the National Question in Central and Eastern Europe. A Quadratic Nexus?' *Ethnopolitics*, vol. 2, no. 1 (September 2002): 3-16.

[10] Venice Commission, *Report on the Preferential Treatment of National Minorities By Their Kin-State*, Strasbourg: CoE Publishers (2001).

[11] Corresponding to Brubaker's notions the 'external' national homeland and nationalising states, respectively.

[12] M. R. Kerr, 'Comparative Power Sharing Agreements in Northern Ireland and Lebanon: An Evaluation of Consociational Government from Sunningdale to Belfast (1973-98), from the National Pact to Ta'if (1943-89)', PhD Thesis (LSE, 2003).

brings together the connection between 'external' intergovernmentalism and 'internal' power-sharing.

The work of Stefan Wolff looks at a broad universe of cases that resemble Brubaker's 'triadic' framework to investigate settlement of cross-border ethno-territorial conflicts. The universe of cases studied by Wolff (Alsace, Saarland, South Tyrol, Northern Ireland, Andorra and the New Hebrides) is wider than the scope of the present study. Three of the cases have 'external' national homeland links, but are qualitatively different from those in this thesis. In Alsace, the annexation by France was not dangerous for the legitimacy of the German state. The annexation of Saarland by Germany was marked with a significant lack of interest in France. The resolution of South Tyrol was also concluded due to the renunciation of territorial aspirations by Austria, though the dispute took some time to be resolved.[13] Northern Ireland is one of the case studies for the present study and is examined in greater detail in later chapters. The case of the condominium in New Hebrides is one in which two colonial powers decided jointly to rule an overseas territory. Thus, many of the 'transnational dynamics' present in Wolff's other cases are not present in the New Hebrides.[14] The current study will not examine the cases in which one of the reference states fully disengages from the disputed territory, and only looks at situations in which these states must navigate conflicting political objectives to achieve a settlement.

The most recent research on the transnational nature of conflict regulation brings together Lijphart's power-sharing with the effect of external agents, combining 'external' involvement with internal power-sharing. The ECMI Complex Power Sharing project selected the cases with the following criteria: recent cases; international or external involvement in the settlement; excluding cases that were solely 'internal' constitutional reform; excluding cases in which the root cause is not national self-determination; and the conflict is not resolved fully in the favour of one of the conflict groups.[15] The cases that fulfil these criteria are: Northern Ireland, Georgia, Moldova, Bosnia-Hercegovina, Macedonia, Kosovo, Bougainville, and Mindanao. Although the comparative empirical studies are valuable, there are

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[13] S. Wolff, *Disputed territories: the Transnational Dynamics of Ethnic Conflict Settlement*, New York: Berghahn Books (2003): Chapters 4-6.

[14] Ibid.: Chapter 8.

[15] See: http://ecmi.de/cps/about_criteria.html.

significant differences between the cases. Most importantly, the criteria for complex power-sharing do not distinguish between the different types of 'external' involvement. The type of intervention by supranational organisation such as the OSCE and UN has a different mandate and motivation compared to neighbouring 'kin-states'.

A summary of conflict regulation practices relevant to the thesis is presented in the table below.

Conflict Regulation	Author	Nature of Conflict	Conditions	Examples
Consociational Democracy	Lijphart (1977)	Segmented cleavages in conflict zone	Balance of power; multiparty system; small country; overarching loyalties; traditions of elite accommodation; crosscutting cleavages	Netherlands, Belgium, Austria, Switzerland.
Consociational Democracy (deeply-divided society)	McGarry & O'Leary (1993)	Segmented cleavages in ethnonational conflict	Elites not interested in assimilating the 'other' group in the short-term; future elites are committed to the system; elite manoeuvrability	Northern Ireland (?)
Bilateral Treaties	Venice Commission (2001)	Rights for co-nationals beyond national borders	Host state confers minority rights; in return, kin-state respects host state sovereignty	Treaties by Hungary with neighbouring states
Intergovernmental Unity of Purpose	Kerr (2003)	Ethno-national conflicts, external agents with irredentist goals	Settlement built 'outside in'; externally-imposed power-sharing	Northern Ireland, Lebanon
Democratic Condominium	Wolff (2003)	Ethno-territorial cross-border conflict	Compromising territorial claims both within the disputed territory and between states	Andorra, New Hebrides
Consociation and/or Territorial Autonomy	Wolff (2003)	Ethno-territorial cross-border conflict	Kin-state withdraws claim; host state and external minority reach internal compromise	South Tyrol, Åland Islands; Northern Ireland
Irredenta	Wolff (2003)	Ethno-territorial cross-border conflict	Host state withdraws territorial claim, but both external minority and kin-state persist	Saarland
International Protectorate	Wolff (2003)	Ethno-territorial cross-border conflict	Both states withdraw territorial claim; third-party intervention	Kosovo, East Timor
Integration	Wolff (2003)	Ethno-territorial cross-border conflict	Withdrawal of claims by external minority and kin-state	Danes in Germany; Alsace
Complex Power-Sharing	ECMI	Recent self-determination disputes	Recent cases; international involvement in negotiation or implementation; not internal constitutional reform; not complex peacekeeping settlements; resolution not in favour of one side	Northern Ireland; Bosnia-Hercegovina; Transdniestria; Gaugauzia; Abkhazia; South Ossetia; Bougainville; Mindanao

An Analytic Turn

Most of the current conflict regulation literature is empirically driven. That is, a systematic examination of particular conflicts in particular historical contexts leads to the generation of conflict regulation theory. However, this thesis aims to use methods to derive a network of relationships, given a set of initial conditions and essential actors.

The conditions for the geometry of the conflict are that there is a disputed area with two or more nationally-defined groups. For at least two of the conflicting national groups, there are internationally recognised 'reference states', a term used by Pieter van Houten, that represent the 'homeland'.[16]

The term 'reference state' is used for two reasons. The first is that the directionality of the word 'reference' is neutral, so that both links emanating from the state and vice versa are considered. The relationship is not wholly dependent on the unilateral action of the reference state, but also constrained by the co-nationals' aspiration to retain links with 'their homeland'. Thus, the 'reference' state is more appropriate for the analysis than 'patron' state. The second reason to use the term 'reference state' is that it is agnostic on whether the link is biological, as can be implied by the term 'kin-state'.

It is also assumed that it is costly for reference states to withdraw their links with co-nationals in the disputed area. Drawing on the work of Ian Lustick, the possibility of abandoning the co-nationals is affected by various thresholds of 'state contraction'.[17] For many states, such as for Hungary, there is a constitutional clause to protect all members of the 'nation', irrespective of their state of residence. Consequently, there is a significant effect of the 'national' connection between reference states and their co-nationals, which leads to a relatively stable level of commitment.

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[16] P. van Houten, 'The Role of the Reference State in Ethnic Relations', *Archives européenes de sociologie*, vol. 39 (Spring 1998): 110-146.
[17] I. Lustick, 'Thresholds of Opportunity and Barriers to Change in the Right-Sizing of States', in *Rightsizing the State: the Politics of Moving Borders*, ed. B. O'Leary, I. Lustick and T. Callaghy, New York: Oxford University press (2001): 83.

A further assumption is that the two reference states are somewhat evenly-matched or at least neither reference state can impose its preferences on the other militarily or by other means. If this were the case, the solution would be trivial: the 'stronger' reference states and their co-nationals would 'win'. The final assumption is that conflict groups, like their reference states, have similar policy preferences. It would also be costly for groups in the disputed territory to renounce their connection to their 'metropole' and integrate into the other reference state.

Starting with the above initial conditions, the notion of *transnational consociation* will be derived in Chapter 3. The phenomenon differs from the traditional formulation of consociational democracy as power-sharing *within* the disputed area. By contrast, transnational consociation includes the role of the neighbouring 'reference states' in a model of conflict regulation.

Network of Relationships

Consider the simple case in which there are two reference states **α** and **β** with groups **A** and **B**, respectively. Within each state, there are groups **A** and **B** that are more antagonistic (+) and those that are less antagonistic (-) towards the other reference state. There is a territory disputed by at least two ethno-national groups. Within this territory, there are co-nationals of **A** called **a** and **B** called **b**. This does not exclude the possibility of other national groups and their elites within the conflict area. In the conflict zone, there are groups that are more antagonistic to the other conflict group (+) and those that are more conciliatory (-).

Thus, using this notation, there will be eight key groups:

- more antagonistic group in **α** (**A+**)

- less antagonistic group in **α** (**A-**)

- more antagonistic group in **β** (**B+**)

- less antagonistic group in **β** (**B-**)

- more antagonistic co-nationals of **A** in the conflict zone (**a+**)

- less antagonistic co-nationals of **A** in the conflict zone (**a-**)

- more antagonistic co-nationals of **B** in the conflict zone (**b+**)

- less antagonistic co-nationals of **B** in the conflict zone (**b-**)

Using the above notation, this type of ethno-national conflict can be represented as follows:
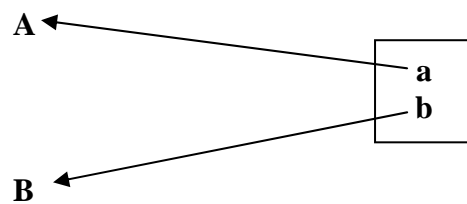
The box denotes the distinct territory that is the subject of the dispute. The conflict groups prefer to 'move' towards their reference state. For example, this 'move' could be a demand for autonomy and transnational institutions (e.g. an Irish dimension in Northern Ireland), or more violent secessionist movements. In any case, the result is centrifugal pressure in the conflict zone, which reduces the likelihood of stable institutions within the territory. Thus, any regulation of the dispute needs to address these centrifugal forces (i.e. reversing the direction of the arrows).

The links between the various groups are largely channelled through the elites. Thus, there is an underlying assumption that the elites have a degree of 'structured elite predominance'.[18] Although political elites for all of the groups are constrained by the preferences of their followers, leaders are able to command the obedience of their

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[18] E.A. Nordlinger, *Conflict Regulation in Divided Societies*, Cambridge, MA: Center for International Affairs Harvard University (1972).

electorate. If the elites can pursue conciliation, so will the followers. If political leaders are more antagonistic, the respective national groups will also be less conciliatory towards 'other groups'. Hence, assuming an 'elite-led' process allows the analysis to be reduced to the constrained interactions of the political leaders of the conflict groups and reference states.

Transnational consociation is a network of relationships between groups of elites in the conflict zone and the reference states (which may be friendly or unfriendly), which can be represented in the following manner:

More antagonistic (e.g **A+**) and more conciliatory elites (e.g. **A-**) in the reference states may be connected. If there are hostile connections between the two groups, there may be *ethnic flanking*. On the other hand, if there is harmonisation between the two groups of elites, there is *bipartisanship*:

There are also links between conflict groups with the disputed area. Initially, these are antagonistic, so there is an *ethnonational conflict*. However, there may also be cooperative relationships as a part of an *internal consociation*:
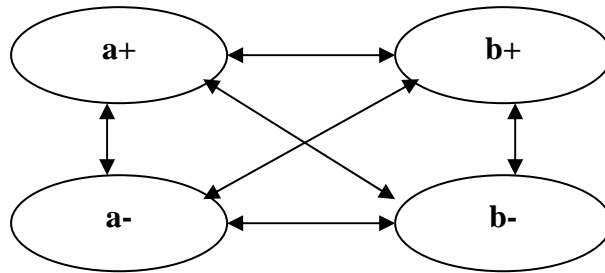
There are significant links between reference states and their co-nationals. It is assumed that these links are cooperative:
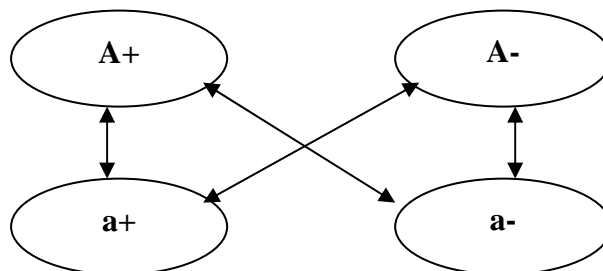
There is a corresponding set of links for the other reference state.

Finally, there are links between the reference states. If the links are unfriendly, there is *interstate conflict*. On the other hand, if there is a cooperative relationship between the reference states, there is *intergovernmentalism*:
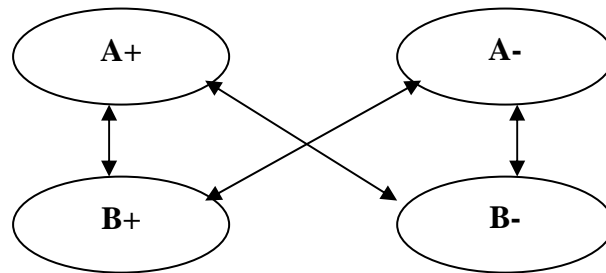
A simplified diagram of transnational consociation can be represented as follows, assuming that there is a durable connection between reference states and their co-nationals in the disputed territory:

$$POL \rightarrow GOV \rightarrow CON \rightarrow SET$$

A settlement based on *transnational consociation* develops over time in the following manner:

1) First, there is **bipartisan policy continuity** within reference states (**POL**) regarding the disputed area.
2) Since there is constant cross-party policy in both reference states, a cooperative **intergovernmentalism** (**GOV**) may then develop.
3) Reference state elites may then use their cooperative **links with co-nationals** to influence them towards a settlement.
4) Inclusive, cooperative and institutional **internal consociation** (**CON**) might then be established.
5) This forms the basis of a durable, self-enforcing *transnational consociation* settlement (**SET**)

These features will be derived in detail in Chapter 3.

In addition to intergovernmentalism, the reference states must be seen as durable and acceptable brokers for a long-term settlement. To ensure this, it is crucial that reference states are not only seen as guarantors by their co-nationals, but also by the other conflict groups. This is more difficult to do when only one reference state is involved, it is less likely that such an arrangement would be agreeable to other conflict groups.[19] Thus, transnational consociation relies on a *triangular* configuration in which there is intergovernmentalism between reference groups as well as cooperative institutional links between each of the reference states and the disputed territory.

Possible Cases

There are many disputes that have two reference states with corresponding co-nationals within an area of ethnoterritorial conflict. As mentioned above, there may be also other conflict groups in the disputed area. For example, Kashmir, Vojvodina, Cyprus, Transylvania, Northern Ireland and Bosnia-Hercegovina exhibit the relevant configuration of reference states and co-nationals. A table summarises the relevant characteristics of these ethnonational conflicts, which is not an exhaustive list of possible cases:

Conflict Zone	Reference States	Conflict Groups
Kashmir	Pakistan, India	'Muslims', 'Hindus'
Vojvodina	Hungary, Serbia	Hungarians, Serbs
Cyprus	Greece, Turkey	Greeks, Turks
Transylvania	Hungary, Romania	Hungarians, Romanians
Northern Ireland	UK, Ireland	Unionists, Nationalists
Bosnia-Hercegovina	Croatia, Serbia	Croats, Serbs, Bosniaks

However, there are some ethnonational conflicts can be excluded, even though they have a similar structure to the above cases. Although there are two main conflict

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[19] For example, the British Government attempted to establish devolved institutions in Northern Ireland in the 1970s and early 1980s, but without cross-border all-Ireland institutions. The rationale was that London could be a 'neutral arbiter' between Unionists and Nationalists, but this was unacceptable to the latter (as well as political parties in Dublin).

groups in Kosovo that can be connected with reference states, Serbia and Albania, the latter does not have significant institutional links with Kosovor Albanians. In the case of (FYR) Macedonia, Albanians have significant ties with Kosovor Albanians. However, there is no corresponding second reference state for the majority Slav Macedonian population.

Why Northern Ireland and Bosnia-Hercegovina?

The theory of transnational consociation will be applied to Northern Ireland and Bosnia-Hercegovina in Chapters 4-7. Although the two territories have been shaped by different historical and political contexts, both have significant parallels that make a comparative study instructive.

First, both Northern Ireland and Bosnia-Hercegovina are in the first stages of a 'post-settlement' situation. In Northern Ireland, the Belfast Agreement (1998) incorporated republican and loyalist ceasefires as a part of an inclusive multi-party accord. In Bosnia-Hercegovina, the Dayton-Paris Agreement (1995) ended one of the more brutal episodes of the 'dissolution' of the Federal Republic of Yugoslavia by concluding a framework for peace between Bosniaks, Croats and Serbs.

Second, the aforementioned 'peace' agreements were the first steps as a part of a political process that led to the creation of constitutional structures to manage the conflicts between particular constitutionally-defined groups. The Belfast Agreement signalled a change in the language of the conflict, since Dublin, London, and the parties in Northern Ireland acknowledged that there were two 'traditions' in the disputed region since the joint Downing Street Declaration (December 1993). The first were 'Unionists' loyal to Westminster, the second were 'Nationalists' whose political and cultural aspirations were directed towards Dublin. In Bosnia-Hercegovina, the complex mechanisms were designed to protect Serbs, Croats and Bosniaks. It is important to point out that both conflicts are often mistaken as 'religious' conflicts. Despite the conflation of national and religious identity (e.g. 'Muslims' in Bosnia), both are ethno-*national* conflicts.

Third, the constitutional mechanisms that were established in both Northern Ireland and Bosnia-Hercegovina broadly match the features of consociational democracy. Both Annex 4 of the Dayton-Paris Agreement and Strand 1 of the Belfast Agreement have provisions for proportionality and safeguards to protect the will of the constitutionally-protected groups in areas of vital national interest through a mutual veto. Moreover, there is also grand coalition and segmental autonomy in both cases, as will be illustrated in Chapter 4.

The fourth important parallel is that conflict groups in both cases have 'metropoles', internationally-recognised states that were the guarantors of the two peace agreements. In Northern Ireland, the British and Irish governments have historical links to their respective 'people' in Northern Ireland. Moreover, the bilateral Dublin-London axis continues to be the driving force of the peace process in Northern Ireland. In fact, the only signatories to the British-Irish Agreement (1998) to which the Belfast Agreement is attached are the British Prime Minister, the Irish Taoiseach and the respective Foreign Ministers. In Bosnia-Hercegovina, the wars facilitated a more direct connection between Serbia and Croatia and 'their' respective people in Bosnia-Hercegovina. Zagreb was a guarantor of the Washington Agreement (1994) that established a confederation between the Republic of Croatia and the Bosniak-Croat Federation. The role of Belgrade during the war is well-recorded by international observers, especially through the workings of the ICTY. Not only did Belgrade fund the Bosnian Serb military (and paramilitaries), but sent its own army into Bosnia. The Dayton-Paris Agreement was finally signed with the leaders of Croatia and Serbia as the guarantors along with the President of Bosnia-Hercegovina (a Bosniak).

The final significant parallel between Northern Ireland and Bosnia-Hercegovina is that both the conflicts (and settlements) were shaped by their location within Europe. The legacy of the two 'world' wars is significant in both places, as are the various empires that ruled over the continent. More recently, EU Programmes in Northern Ireland are one of the cross-border bodies established by Strand 2. More importantly, most of the major strides in intergovernmental cooperation between London and Dublin (e.g. AIA, DSD, GFA) occurred after 1973, when both countries joined the European Union (then the European Community). Since then, the relationship between the two governments has been characterised as an equal partnership within

Europe. The processes of Europeanisation are significant in the Western Balkans, and the promise of rehabilitation into Europe is politically salient. The government in Bosnia-Hercegovina has embarked on defence reforms to join the Partnership for Peace (PfP) in order to ultimately gain membership into supranational European institutions. Moreover, occasional investigations by the European Commission on the status of democratisation and market liberalisation in the Western Balkans (most recently in April 2004) encourage countries like Bosnia-Hercegovina to pursue political and economic reforms to fit into 'Europe'.

Although both cases have important parallels, there are some limitations to the comparison between Northern Ireland and Bosnia-Hercegovina. First, both Northern Ireland and Bosnia-Hercegovina are within the geo-political and historical influence of Europe, but the cases under study fall on either side of the boundary between Europe and 'other'. Northern Ireland is perceived (wrongly) as an aberration within 'Europe', an anachronism of Protestant/Catholic antagonism surrounded by more civilised neighbours. On the other hand, Bosnia-Hercegovina is seen as the product of ancient hatreds on the 'doorstep of Europe' in the 'Balkans'. More importantly, the on-going transformation of Bosnia-Hercegovina (as with all post-transition Communist countries) into a 'normal' state has involved democratisation, creation of liberal markets and the institutionalisation of state frontiers. Although Northern Ireland did not have the market transformation of the post-communist countries, it did have fundamental political changes similar to those in Bosnia-Hercegovina due to devolution. Significantly, institution building in both cases has moved the locus of political power and decision-making from non-local administrators (in Belgrade or in London) to local institutions run by local policymakers in Sarajevo, Banja Luka, Mostar and Belfast.

The second potential limitation of the comparative analysis is the connection of the reference states with the number of constituent groups. In the case of Northern Ireland, there are two constituent groups protected in the Strand 1 institutions, Nationalists and Unionists. There are two corresponding reference states for these groups, centred in Dublin and London. By contrast, there are three constituent groups in Bosnia-Hercegovina: Serbs, Croats and Bosniaks. However, there are only *two* 'reference states', Serbia (and Montenegro) for Bosnian Serbs, and Croatia for Bosnian Croats.

The constituent group with the plurality of the population in Bosnia-Hercegovina does not have a 'reference state'. It is sometimes mentioned that Turkey acts as a patron to the Bosniaks. Additionally, the Gulf States have reportedly contributed to the cultural and religious development in predominantly Muslim areas in Bosnia. Finally, Izetbegović called on fellow Muslims to defend Bosniaks during the wars, bringing many *mujeheddin* from all over the world to Bosnia-Hercegovina. The existence of a non-neighbouring 'reference state' appears to problematise the analysis. However, there are two ways to address the third constituent group in the case of Bosnia-Hercegovina.

The first is to recall the directionality of the network of relationships introduced above. The theoretical underpinning of transnational consociation assumes that the payoffs and conditions in the reference states affect the settlement in the disputed area. The process of conflict regulation is *started by reference states*, and they utilise links with 'their' co-nationals to influence the settlement, not vice versa. The second reply to the lack of a reference state (or non-regional reference state) for Bosniaks is again through the underlying assumptions of transnational consociation, which will be derived in Chapter 3. The theory of transnational consociation assumes that the reference states prioritise *absolute* gains over *relative* gains for their co-nationals. That is, it is not as significant for reference states whether or not other constituent groups have higher or lower payoffs. It is important for reference states that certain safeguards are guaranteed for 'their' co-nationals in the implementation of the post-conflict political structures. Thus, it does not matter how many constituent groups there are. Transnational consociation focuses on the role of reference states and how they ensure payoffs for *their* co-nationals under certain conditions through bipartisanship within the reference states and intergovernmentalism.

A third limitation in the comparability of Bosnia-Hercegovina and Northern Ireland is that the former is an internationally-recognised state and has membership in supranational organisations such as the United Nations and Council of Europe. By contrast, Northern Ireland is explicitly an integral part of the United Kingdom. Thus, a distinction can be made between a potential *sovereign* transnational consociation in which the disputed territory is seprate *de jure* from either of the reference states (e.g.

Bosnia-Hercegovina) and a potential *regional* transnational consociation in which the disputed terrirory is a part of one of the reference states *de jure* (e.g. Northern Ireland).

These differences should not detract from the similarities. Although Northern Ireland is a part of the UK, there are provisions for it to leave the Union if a majority of its citizens so wish, which is different from any of the other devolved UK regions. Moreover, if there is any social unrest in Belfast, there is often a military response unlike in other parts of the UK. There are also different provisions for dual citizenship (with the Republic of Ireland) in Northern Ireland. Thus, an investigation of Northern Ireland as a unit of analysis separate from the UK is not as problematic as it initially appears.

More importantly, the legal status of the disputed territory does not adversely affect the following investiagtion. In both case studies, there is an ethno-national conflict in which conflict groups have different national affiliations, leading to centrifugal tensions that reduce the likelihood of shared post-settlement institutions in the conflict zone. A transnational consociation in both case studies would require cooperative 'triangular relations'. That is, in addition to intergovernmentalism between Dublin and London, Dublin must convince Nationalists to participate in power-sharing in Belfast and be an acceptable arbiter to Unionists, while London encourages Unionists to share power in Belfast and be acceptable arbiters to Nationalists. Similarly, in addition to the Zagreb-Belgrade axis, Zagreb should encourage Bosnian Croats to participate in Bosnian institutions while remaining an acceptable broker for Bosniaks and Bosnian Serbs, and Belgrade should do the same for Bosnian Serbs while being seen as an acceptable broker by the Croats and Bosniaks in BiH. Thus, transnational consociation requires cooperative relations within the 'Dayton Triangle', but also the 'GFA Triangle'. The conflict geometry is the same in both cases.

Methodology

The methodology used in the following discussion is the 'comparative method' as suggested by Arend Lijphart.[20] He asserts that the comparative method has a similar

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[20] A. Lijphart, 'Comparative Politics and the Comparative Method', *American Political Science Review*, vol. 65, no. 3 (Sep. 1971): 682-93.

methodology to the statistical method in all ways than one: 'The crucial difference is that the number of cases it deals with is too small to permit systematic control by means of partial correlations.'[21] In other words, the comparative method is used when there are too few observations to make a statistical inference. The problem arises when each case has a complex structure, such as a state or a sub-state administration. In such complicated cases, there are many variables that need to be accounted for to be able to make the cases comparable. In short, there are more variables than the number of cases.[22] Peters translates this in statistical language as the dependent variable being 'over-determined'.[23]

Although using the comparative method is fraught with difficulties, it is not an inherently flawed methodology that is used because of scarce resources and time afforded to the researcher.[24] Collier argues that the comparative method is not a second-best to the statistical method, but provides detailed, systematic thick description and political science analysis for a few cases, as opposed to superficial data processing in statistical and other large N studies.[25]

A potential problem arises if the researcher wants to ensure that the dependent variable actually varies. If the values of the response variables for the case studies are similar, then it is difficult to conclusively infer a correlation between the causal variables and the response.[26] However, tackling this issue creates further problems. As Peters asserts:

One potential pitfall is choosing cases on the basis of the dependent variable rather than the independent variable. This is a human tendency. Researchers identify cases because of their success or failure, and study them because they are interesting. Unfortunately, there is no real variance to explain.[27]

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[21] Ibid.: 684.

[22] B. Geddes, *Paradigms and Sand Castles: Theory Building and Research Design in Comparative Politics*, Ann Arbor: Univ. of Michigan Press (2003): 136. Lijphart describes this as 'many variables, small number of cases' in Lijphart, 'Comparative Politics and the Comparative Method': 685.

[23] B. Guy Peters, *Comparative Politics: Theories and Methods*, New York: NYU Press (1998): 65.

[24] Lijphart, 'Comparative Politics and the Comparative Method'.

[25] D. Collier, 'The Comparative Method', in *Political Science: the State of the Discipline II*, ed. A. Finifter, Washington DC: APSA (1993). 'N' is statistical short-hand for the number of cases.

[26] Peters, *Comparative Politics*: 31.

[27] Ibid.: 71.

This leads to the well-known problem of selection bias. It appears that the present investigation suffers from selection bias, since both the Northern Irish and Bosnian cases have power-sharing mechanisms. Internal consociation is actually an *independent* variable. The factors that make up transnational consociation derived in Chapter 3 are the causal variables, and the dependent variable is *durable settlement*. That is, looking at the differences in the factors that constitute transnational consociation, the empirical examination of the two cases will examine whether the political structures established after the respective peace agreements are likely to lead to a durable settlement.

The problem remains that there are more potential causal variables than the number of cases. The literature generally suggests two strategies. The first is to increase the number of cases studies.[28] This may mean widening the research to other countries or other sub-state political institutions. However, there is an alternative tactic in increasing the effective number of cases. If the same variables are recorded over an extended period of time, the values for each time can increase N. Extending the effective number of cases in this way also addresses the problem of maturation, where the conditions in the case study gradually vary over time (an thus cannot be seen as constant).[29] This strategy is not useful for the present study, since the data for one instance of institutional structures in both Northern Ireland and Bosnia-Hercegovina have been collected over an extended period of time. The other strategy that can be employed is to reduce the number of variables. This can either be done empirically or theoretically.[30] Empirically, this means that the researcher can carry out experiments to establish the connections between variables, resulting in fewer variables for the analysis. Theoretically, the researcher may employ a theoretical approach such as rational choice to deduce connections between variables in the study. It is the second approach that is used in the thesis.

Before proceeding, it is instructive to briefly address another issue in the comparative politics literature. As a defence of the 'favourable conditions', Lijphart states that the

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[28] Lijphart, 'Comparative Politics and the Comparative Method'. See also King, et al, *Designing Social Inquiry: scientific inference in qualitative research*, Princeton, NJ: Princeton Univ. Press (1994).
[29] Peters, *Comparative Politics*: 53.
[30] Ibid.: 70.

conditions are meant to be probabilistic, not deterministic.[31] This follows Lijphart's framework for the comparative method, which posits:

All cases should be selected systematically, and the scientific search should be aimed at probabilistic, not universal generalisations. The erroneous tendency to reject a hypothesis on the basis of a single deviant case is rare when using the statistical method.[32]

However, this is a misrepresentation of the statistical method. Each 'deviant' case can be used to infer characteristics based on distributions of statistics. These methods are only valid for large N studies and cannot be used in small N comparative politics research. Lieberson maintains, following Skocpol, that the methods used in small N studies are deterministic in their conception.[33] On the other hand, Peters believes that Liberson's framework is too stringent.[34] The rational choice approach that will be used is probabilistic (see below). Although the approach is often mis-interpreted as being deterministic, rational choice takes the following form:

if the actor has the goals the analyst claims, and *if* the information calculations are plausible, and *if* the actor faces the particular benefits and costs for pursuing a particular action according to the analysis, only *then* will certain behaviour occur.[35]

At every *if* in the statement above, agents may not make the correct calculations, but the approach only assumes that actors will behave in a certain way on average.[36] Thus, the study of transnational consociation establishes *probabilistic* claims of the relationship between the features derived in Chapter 3 and a *likely* long-term settlement.

Reducing Variables

It is useful to return to the central problematic of the comparative method and how it affects the study of transnational consociation in Northern Ireland and in Bosnia-

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[31] A. Lijphart, Power-Sharing in South Africa. Berkeley : Institute of International Studies, University of California (1985): Chapter 4.
[32] A. Lijphart, 'Comparative Politics and the Comparative Method': 686.
[33] S. Lieberson, 'Small N's and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases', *Social Forces*, vol. 70, no. 2 (Dec. 1991): 312.
[34] Peters, *Comparative Politics*: 68.
[35] B. Geddes, *Paradigms and Sand Castles*: 190.
[36] Ibid.

Hercegovina. There are four features of transnational consociation (internal consociation, intergovernmentalism, cross-border connection, and reference state bipartisanship), but only two case studies. However, this can be simplified for the following analysis. By using a theoretical framework, variables can be connected and assumed to be correlated. In Chapter 3, an informal rational treatment starting from the relationship between reference states will be used to derive the features of transnational consociation. Once the theoretical framework is derived, the empirical chapters will examine the presence or absence of the four features that comprise transnational consociation in Northern Ireland and in Bosnia-Hercegovina: reference state/co-national links, bipartisanship, intergovernmentalism and internal consociation. The thesis will then show whether the presence of the features are likely to result in a durable settlement.

Chapter Structure

In chapter 2, the three concepts underlying transnational consociation will be examined. First, the *nationalism* literature contains primordialist, modernisation and instrumentalist strands. The thesis will employ an approach of time-varying national boundaries, since it combines the main strands of the nationalism literature to explain both the persistence of ethno-national boundaries as well as the historical variation in the salience of ethno-national ties. Second, the pluralist notion of *the state* cannot accommodate deep cleavages between groups. However, Arend Lijphart found that fragmented countries could still achieve a stable consociational democracy through inter-group elite accommodation. Although Lijphart identifies the possibility of democratic stability in divided societies, he neglects the potential constructive role of *external actors*. In particular, the role of neighbouring 'reference states' can be significant in the negotiation, implementation, and operation of power-sharing, as seen in the work Stefan Wolff and the Flensburg-based think-tank ECMI. Moreover, the influence of external actors can be crucial to the stability of the power-sharing settlement. Thus, the varying level of group affinity, Lijphart's work on 'consociational democracy', and the aforementioned projects on the influence of external actors all inform the notion of transnational consociation.

The theory of transnational consociation is derived in Chapter 3 using an informal model. It is first assumed that the governments in the reference states can act in one of four ways: sever its ties with the conflict zone, escalate the conflict, maintain the same level of conflict, or seek coordination with the other state to manage the conflict. The relative payoffs of pursuing different actions are then deduced. The features of transnational consociation are then developed in three steps. First, the conditions for intergovernmentalism between the reference states is derived. Second, once the dominant strategy is bilateral coordination, the offer to the conflict groups resembles consociational democracy, since neither reference state wants 'their' co-nationals to possibly lose power in the disputed territory. Co-nationals losing power can be symbolically and/or instrumentally costly to the reference state. Third, conflict groups choose whether to settle depending on the benefits and costs of inclusion versus exclusion. If all of the major parties in the conflict prefer settlement, there will be a transnational consociation. The four features of transnational consociation that will be derived using the informal model are: persistent links between reference states and their co-nationals; bipartisanship within reference states regarding the disputed territory; coordination between the two reference states regarding the conflict; and consociational democracy within the conflict zone.

The explanatory theory of transnational consociation extends Lijphart's notion of *internal consociation* by introducing *reference state/co-national links* and *reference state coordination* into the analysis. These three dimensions are used to organise the empirical chapters.

Chapter 4 provides a description of the Belfast and Dayton-Paris Agreements. The institutions established by the two accords both exhibit the features of consociational democracy put forward by Lijphart. However, both documents also have provisions that protect reference state/co-national links. In addition to these structures, there are institutions both in Northern Ireland and in Bosnia-Hercegovina that fall outside the scope of transnational consociation, but these will only be described briefly.

Chapters 5-7 will empirically examine the implementation of post-settlement power-sharing in the two cases along the three dimensions mentioned above. In Chapter 5, durable *reference state/co-national links* are illustrated between Dublin and Irish

Nationalists, London and Unionists, Zagreb and Bosnian Croats, and Belgrade and Bosnian Serbs. In Chapter 6, there is an investigation of the *reference states* to see whether there is bipartisanship and intergovernmentalism regarding the conflict zone. The findings in this chapter suggest a lack of intergovernmentalism along the Zagreb-Belgrade axis regarding Bosnia-Hercegovina. Thus, there is no equivalent to the cooperation between London and Dublin that steers the political process in Northern Ireland. In Chapter 7, the settlements within the disputed territories are examined. By employing criteria developed by Ulrich Schneckener, it is possible to differentiate the long-term prospects for durable *internal consociation* in the two cases. It will be shown that a long-term power-sharing settlement is more likely in Northern Ireland than in Bosnia-Hercegovina given the present situation.

The final chapter will summarise the thesis, but also provide normative recommendations to improve the institutions in Northern Ireland and in Bosnia-Hercegovina to fit with transnational consociation. The final sections will provide possibilities for further research, which include formalisation of the theory and examining other case studies.

Chapter II: Consociational Democracy and Transnationalism

Introduction

Any study of politics and conflict regulation in deeply divided societies contains underlying concepts that are often not made explicit. First, there is a nation or ethnic group at the focus of the study. Second, there is a territorial boundary within which the social interactions under investigation take place. Third, there is an area outside the territorial boundary external to the study, which includes neighbouring states, states outside the region, and the 'international community'. That is, there are underlying assumptions about the different levels of analysis: 'internal', 'border' and 'external'.

The pivotal actors in the following chapters are groups of people. These groups are organised into self-conscious, self-defined communities based on a notion of extended kinship with a linguistic, religious or other cultural focus. The first section will briefly examine the main threads of the nationalism literature by looking at ways in which ties in 'ethnic groups' may be formed. By studying the notions of nationalism, it is possible to lay bare the underlying assumptions about the communities that will be the subjects of the thesis. The primordialist perspective posits that there is an essential (i.e. natural) link within an ethnic group, while other perspectives claim that the ties are linked to either the agency of elites or the level of modernisation. However, primordialists cannot account for the changes in the level of group cohesion, and instrumentalists cannot explain why certain boundaries are not crossed or blurred. It may be more fruitful to look at approaches that combine the main threads of nationalism, such as the 'matrix' formulation by McKay and Brubaker's concept of 'groupness'.

The second underlying concept is that of 'the state'. In theory, a state with liberal pluralist foundations can accommodate heterogeneity. However, recent normative writings from this perspective are more cautious about the amount of difference that can be managed in a pluralist society. Rawls suggests that there is a difference

between 'deep pluralism' that is insurmountable within a society and a manageable pluralism that can be bridged within a society. Will Kymlicka suggests group-differentiated rights for all. Even with these more modest claims, these pluralist perspectives underplay the congruence of majority culture and 'overarching', 'neutral', or 'universal' norms that are the basis of citizenship in diverse societies. In societies in which there are cumulative cleavages, there are centrifugal tensions pulling the state apart. It is in these contexts that an ethnonational conflict results. Following the work of Gabriel Almond, a society in which there is strong fragmentation should exhibit institutional instability. However, Arend Lijphart found that certain states in Western Europe with fragmented political communities were able to produce stability through elite accommodation in a 'consociational democracy'.

The third section examines the origins of consociational democracy. The formulation put forward by Lijphart consists of four institutional criteria: a grand coalition of the major parties; mutual veto by each of the major groups; proportionality in electoral systems and the corresponding political representation; and segmental autonomy for each group to run its own affairs. The consociational model has been exported around the globe to establish power-sharing in divided societies, including the two cases examined in this thesis.

Though Lijphart claims his formulation has been applied widely outside the original cases in Western Europe, consociational democracy has come under attack since its conception. There are collected criticisms in many articles and books, but only four of the critiques are relevant for this study. First, Lijphart's reasoning seems to be circular, since he claims that traditions of elite accommodation lead to elite accommodation. Second, Lijphart's work does not establish whether elite accommodation led to institutional power-sharing or vice versa. Third, the basis of consociation is elite accommodation, but there is no motivation for elites to accommodate. Finally, and most crucially, the theory might not be relevant for societies in which the cleavage is not ideological, but rather ethnonational. However, as mentioned in the previous chapter, it may be possible to retrieve a more appropriate set of favourable conditions for consociational democracy in divided societies.

The third underlying component of the thesis, the distinction between 'inside' and 'outside' territory, is examined in the final section. Lijphart focuses on 'internal settlement', but by doing this, he commits the 'territorial trap' of assuming societies are congruent with their territorial borders.[1] By critiquing this assertion, it is possible to undermine the reification of territoriality. However, it is important to stay away from the poststructuralist precipice of erasing borders, since positing that 'anything goes' is dangerous in the context of deeply divided societies. It is more fruitful in the context of this study to utilise a weak defence of territorial borders as suggested by John Williams.[2]

This weak defence of territoriality is useful in the study in the following chapters. The concept of *transnational consociation* can be situated within the literature by combining the approaches of the complex power sharing project from the ECMI and the cross-border ethnic conflict framework proposed by Stefan Wolff. Transnational consociation is explored in the thesis in the context of Bosnia-Hercegovina and Northern Ireland in Chapters 4-7.

Nations and Reference States

Any study that investigates the relationships between the 'elites', 'people', 'nations', and 'states' implicitly utilises the literature on nationalism and ethnicity. There are several strands in the literature on nationalism. Primordialists argue that there is an essential, almost biological link between members of a national, religious, ethnic, or tribal group.[3] Other threads of the literature include the 'instrumental' and 'modernisation' perspectives on nationalism. The former corpus posits that leaders of ethnic groups use aspects of the culture to promote the interest of the group, and the

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[1] Although the four classical cases (Netherlands, Belgium, Austria and Switzerland) were all 'internal' settlements, Lijphart later applies consociational democracy to examples where this is not the case, such as Cyprus, Lebanon and Northern Ireland.

[2] J. Williams, 'Territorial Borders, International Ethics and Geography: Do Good Fences Still Make Good Neighbours?' *Geopolitics*, vol. 8, no. 2:25-46.

[3] The term 'primordial' is coined in E. Shils, 'Primordial, Personal, Sacred, and Civic Ties', *British Journal of Sociology*, vol. 8 (1957): 130-145. Although Clifford Gerrtz was not a primordialist, the most famous mention of this perspective is C. Geertz, 'The Integrative Revolution: Primordial Sentiments and Civil Politics in the New States', in C. Geertz (ed.), *Old Societies and New States: The Quest for Modernity in Asia and Africa*, New York: Free Press (1963). This strand of the literature also led to explicit links between nationalism and biology: P. van den Berghe, 'Race and Ethnicity: A Sociological Perspective', *Ethnic and Racial Studies*, vol. 1, no. 4 (1978): 402-411.

latter approach concludes that national ties are connected to the level of techonology (e.g. linguistic nationalism developed after the invention of the printing press).[4]

Primordial perspectives cannot explain the variability of the salience of the boundaries between communities. On the other hand, although the name of a collectivity may change due to different political objectives and contexts, there are certain community boundaries that are not traversed.[5] That is, there are certain identities that are not easily compatible (such as being bi-religious), nor is it easy to transform between certain identities (e.g. from being 'Serb' to becoming 'Albanian' in Kosovo).

It is more fruitful not to ask what a nation is, but rather, to use a turn of phrase by Walker Connor, 'when is a nation?' Thus, it is more instructive to look at more complex formulations that combine the primordialist and other approaches to nationalism. McKay suggests a 'matrix' framework on two axes: ethnic manifestations based on primordial factors versus ethnic manifestations based on material factors. Thus, one can plot different national groups on such a two-axis system based on whether primordial and instrumental factors are 'low' or 'high'.[6] The added advantages of such a framework are two-fold. First, such a framework can be used to differentiate between groups within a community, such as Irish paramilitaries (material as well as primordial manifestations) and individuals who join Irish cultural and Gaelic athletic associations (mainly primordial manifestations).[7] Secondly, the two axes can chart the evolution of a certain group along the two axes in different historical periods. Not only can the historical levels of nationalism within

[4] P. Brass, *Ethnicity and Nationalism: Theory and Practice*, London: Sage Publications: 75. Proponents of the modernisation perspective such as Benedict Anderson argue that nationalism is linked to the rise of print-capitalism and consciousness centred on vernacular languages. See B. Anderson, *Imagined Communities*, London: Verso (1991). Another formulation is proposed by Ernest Gellner, who claims that uneven modernisation between groups leads to national sentiment. See E. Gellner, *Thought and Change*, London: Weidenfield and Nicholson (1964). An optimistic theory is put forward by Karl Deutsch in *Nationalism and Social Communication*. Deutsch writes that when modernisation is achieved, nationalism becomes obsolete. See K. Deutsch, *Nationalism and Social Communication*, Cambridge, MA: MIT Press (1966).
[5] M. Esman, *Ethnic Politics*, Ithaca: Cornell University Press (1994): 242
[6] J. McKay, 'An exploratory synthesis of primordial and mobilizationalist approaches to ethnic phenomena', *Ethnic and Racial Studies*, vol. 5, no. 4: 401-413.
[7] R. Terchek, 'Conflict and cleavage in Northern Ireland', *Annals of the American Academy of Political and Social Science*, no. 433: 47-59. Quoted in J. McKay, ibid., 409.

a community be variable, but also the definition of the group itself. For example, the identification of 'Yugoslav' was more pronounced at certain times than others.

The work of Rogers Brubaker develops a concept of 'groupness', which suggests that the very notion of group identification being immutable is flawed.[8] The phenomenon of 'groupness' suggests that there are certain periods of history where the group boundaries become 'fuzzier', and the distinction between groups becomes more pronounced at other times.

One can apply approaches that appreciate both the durability of certain identities and the time-varying salience of these identities. Although there are often underlying economic and material factors in deeply divided societies, one cannot wish away certain 'ethnic' identifiers when managing ethno-national disputes. It is in this way that Brubaker's own analysis, though sceptical of a purely instrumentalist approach to ethnic groups, nonetheless claims that approaches that focus on group identities are strengthened by ordinary language, the 'parochial scholarly tradition', the codification of group identities in policy, and the 'group-making, group-strengthening endeavours of ethno-political entrepreneurs'.[9] Thus, Brubaker proposes that group identities are malleable and constructed, and his critique of 'groupism' does not appreciate the persistence of particular ethno-national groups.

This does not suggest that ethno-national groups have some 'natural' or 'biological' foundation. As mentioned in the first chapter, the present analysis is agnostic about such intra-group links. More importantly, primordial analyses have largely failed to include the importance of historical context of conflict regulation.

Thus, conflict regulation should aim to appreciate both the persistence of ethno-national boundaries within divided societies, but also the economic and political contexts in which settlements are reached.

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[8] R. Brubaker, 'Myths and Misconceptions in the Study of Nationalism', in *National Self-Determination and Secession*, ed. M. Moore, Oxford: Clarendon Press (1998): 233-265. See also *Nationalism Reframed: Nationhood and the National Question in the New* Europe, Cambridge: Cambridge University Press (1996).

[9] R. Brubaker, 'Myths and Misconceptions in the Study of Nationalism': 254.

The study of the consociational settlements in Northern Ireland and Bosnia-Hercegovina will be examined with particular attention to the historical context of conflict regulation in the respective divided societies. Thus, the following investigation of consociational conflict management uses an underlying formulation of nationalism that combines material *and* primordial approaches.

The literature on nationalism is particularly significant in the following chapters, since it is this bond of 'nation' that connects the 'reference state' to its co-nationals, even across internationally-recognised boundaries. Thus, with human boundaries as the starting point, with concepts of nationalism, the thesis will privilege the link between the reference state and co-nationals as qualitatively different from other types of 'external' actors.[10] In fact, the following chapters will show that 'reference states' are not 'external' to the implementation of power-sharing at all.

The State and Its Citizens

At the centre of the modern organisation of society is the liberal pluralist notion of *the state*. Pluralism refers to a political philosophical defence of diversity in institutions, beliefs and societies, which is an attack on the concept of the unitary, over-centralised monist state.[11] This is not the same as the *plural* societies that are the subject of Lijphart's work, which refer to a society characterised by 'religious, ideological, linguistic, regional, cultural, racial, or ethnic' divisions.[12] The result of the neo-Madisonian pluralist prescription extends the state to encompass a variety of groups and belief systems and protects them through inalienable universal rights. Advocates of pluralism are strongly against centralisation of state authority, so thinkers from the literature propose societal checks and balances, not institutional ones. Madison argues that for a large enough geographical area and enough social diversity, it would not be possible to construct a majority, and thus, not possible to have the 'tyranny of the majority.'[13]

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[10] Presuming human boundaries are durable is not tantamount to a confirmation of a 'socio-biological' link within an ethnonational group. As mentioned in the introductory chapter, the term 'reference state' is used to remain agnostic about whether there is a primordial connection with 'their' co-nationals.

[11] P. Dunleavy and B. O'Leary, *Theories of the State: The Politics of Liberal Democracy*, Basingstoke: Macmillan (1987): 13.

[12] A. Lijphart, *Democracy in Plural Societies*, New Haven: Yale University Press (1977): 3-4.

[13] R. Dahl, *A Preface to Democratic Theory*, Chicago: University of Chicago (1964): 104.

In less diverse societies, even if numerical majorities are difficult to organise, they are not impossible. In such situations, a system of checks and balances must be established to thwart the domination of the majority. However, it is challenging to set up a system that guarantees the protection of the minority without giving the minority disproportionate power to block political decisions. One possible solution would be to divide the territory into smaller units with local autonomy (i.e. federalisation), so that minorities have political power at the local level. [14] This notion of 'scattered sovereignty' has been proposed as a potential strategy to address the conflict in Jerusalem.[15]

The driving force behind the liberal pluralist programme is that heterogeneity can be accommodated through the application of universal principles of citizenship, institutional checks and balances and an appeal to a cross-group societal culture. This assumes that there is some neutral standpoint from which such morals can be derived. These tenets can be enshrined in universal 'inalienable' rights in state constitutions. However, these types of 'common' cross-cutting notions have an underlying integration/assimilation effect. That is, within a particular society, the 'common culture' will tend towards that of the majority group. Such a framework conflates the 'multi-ethnic' and majority identities (e.g. Soviet and Russian, Yugoslav and Serb, American and 'WASP'), leading to the assimilation of other national affiliations. Minorities in multi-ethnic states are often treated as an underclass, though they are legally conferred 'equal citizenship.' Examples include the Chinese in Malaysia, Arabs in Israel, and African-Americans in the USA.[16] The problems of managing differences between different groups above a certain level of heterogeneity has led to a softening of the conventional pluralist conception. Rawls suggests that there are varying levels of pluralism, and that there is 'deep pluralism' between state borders (assuming that these borders are congruent with political communities), and less pluralism within a state, so that agreement about societal norms can only be reached

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[14] P. Dunleavy and B. O'Leary, *Theories of the State*: 58.

[15] See G. Baskin, *Jerusalem of Peace: Sovereignty and Territory in Jerusalem's' Future*, Jerusalem: IPCRI (1994).

[16] M. Esman, *Ethnic Politics*: 250-251.

in the latter.[17] A further amendment was suggested by Will Kymlicka, where all minority groups have separate sets of rights. However, his formulation is based on the example of Canada, in which specific rights are granted to minority groups, but an overarching Western Judeo-Christian perspective still prevails. The same can also be said for India, where there are multi-cultural rights for different linguistic, religious and tribal groups, but the identification of 'Indian' culture is strongly North Indian and Hindu-Bramhin.

Pluralists maintain that a society with many 'cross-cutting cleavages' is stable. There is a greater chance of fragmentation in societies in which there is one significant cleavage.[18] The definition of *cleavage* used here consists of three parts proposed by Lipset and Rokkan, though the concept itself is older. First, groups are socially separate from other groups. Secondly, the group must be aware that it is a separate, distinct group. Third, there are organisations that affirm the group's distinct status (political parties, sports clubs, religious institutions, etc.). In societies where cleavages are *cross-cutting*, the divisive impact of each cleavage, for example, class and religion, are attenuated, since there is overlap between the cleavages. In other words, in the above example, by knowing an individual's religion, it is difficult to ascertain the individual's class.

Madison and more recent commentators argue that overlapping memberships allow for members of the majority group to concur with members of the minority on certain issues.[19] On the other hand, if the cleavages coincide, then the society is divided, and there is 'deep pluralism' within the state. In the two case studies investigated later in the thesis, these *cumulative* cleavages exist. In Northern Ireland, there are reinforced cleavages of nation (Irish v. British) and religion (Catholic v. Protestant). In Bosnia-Hercegovina, there are cumulative cleavages along national, (arguably) linguistic and religious axes. In such a situation, if one of the sides of the cleavage controls the state apparatus, there will be a crisis for the state.

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[17] A. Buchanan, 'The making and unmaking of boundaries: What Liberals Say', in *States, Nations, and Borders: The Ethics of Making Boundaries*, ed. A. Buchanan and M. Moore, Cambridge: Cambridge University (2003): 231.
[18] P. Dunleavy and B. O'Leary, *Theories of the State*: 60
[19] R. Dahl, *A Preface to Democratic Theory*: 104.

Gabriel Almond proposed a typology by which Western democracies can be categorised by their structure and political culture. Using Almond's criteria, Lijphart suggests that there are two resulting sub-groups: Anglo-American and Scandinavian democracies; and other European democracies. The latter group of countries have cumulative cleavages, so Almond would predict unstable governing systems for all of them. However, this group includes unstable democracies (such as the Weimar Republic) and stable ones (such as the Netherlands). This led Lijphart to posit that an underlying variable, elite accommodation, accounted for the differences. This results in an alternative typology based on elite accommodation and level of fragmentation (i.e. whether cumulative cleavages exist). With elite accommodation, it is possible to have fragmented yet stable systems in so-called *consociational democracies*.[20]

Introducing Consociational Democracy

The origins of the consociational democracy literature can be traced back to the comparative politics corpus from Western Europe. These studies focus on four states: the Netherlands, Belgium, Austria and Switzerland.

The classical consociational literature falls broadly into three categories. First, the elite accommodation comes out of a segmented social structure. In the work by Lorwin, an institutionalised cleavage is the starting point, and then the amount of cooperation in the resulting political system is examined.[21] Second, consociational democracy is posited as a form of elite behaviour. This dominant approach in the literature is put forward by Lijphart. The crucial subject of investigation for authors such as Lijphart and Lehmbruch is the goodwill of elites within a fragmented society. The third thread in the literature focuses on the role of political tradition. That is, in places where there has been a long history of accommodation between leaders and a culture of mutual understanding, there will be accommodative practices. Such an approach is used by Daalder in examining the Netherlands and Switzerland.[22]

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[20] A. Lijphart, 'Consociational Democracy', *World Politics*, vol. 21, no. 2 (1969): 207-225.

[21] V. Lorwin, 'Belgium: Conflict and Compromise', in *Consociational Democracy*, ed. K.D. MacRae, Toronto: McLelland and Stewart (1975).

[22] H. Daalder, 'On Building Consociational Nations: Cases of the Netherlands and Switzerland' , in *Consociational Democracy*. Jürg Steiner hypotheses that 'proportional' political systems are those that have a tradition of amicable agreement (e.g. Switzerland), which coincides with Daalder's perspective. See J. Steiner, 'The Principles of Majority and Proportionality', in *Consociational Democracy*, ed. K.D. MacRae, Toronto: McLelland and Stewart (1975): 103.

Certainly, the three approaches are related, since they all examine the stability of democractic institutions in 'fragmented' societies within Western Europe. The difference is the main focus of the three strands. Lorwin pays particular attention to *institutions*; Lijphart and Lehmbruch look at *elite behaviour*; and Daalder examines *political traditions*. However, the work by Lijphart, who remains most closely associated with consociational theory, has incorporated the two other approaches in his later work.[23] Although there have been useful contributions to the literature on consociational democracy by many authors, contributions by Lijphart will be the focus of the rest of the thesis, since his work is most closely associated with consociational democracy.

Lijphart suggests four features of consociational democracy. First, the members of the political elite from all of the major segments in a divided society work together to govern the country. This requirement contrasts with the Anglo-American system of having a government and an opposition in bare-majority legislatures. The second trait is that there is a mutual veto in decision-making such that smaller segments are not dominated by larger ones. Third, the principle of proportionality is paramount to the operation of consociational democracy. It contrasts with the political procedures in Anglo-American electoral systems in which the 'winner takes all'. This principle also refers to the proportional allocation of political positions and resource allocation between the segments. Finally, there is a high level of autonomy for each segment to run its own affairs. This sort of autonomy need not be territorial, but it can also be used in conjunction with territorial management techniques such as federalism.[24]

Lijphart's original formulation has been rigorously defined by O'Leary in examining more 'complex' formulations of consociational democratic institutions:

Grand Coalition. A distinction should be made between the ways that a consociational executive is formed. One possibility is that all of the major political parties from major groups from across the main cleavage are represented. This can either be achieved voluntarily or by constitutional requirement. Such a scenario represents a 'complete' consociation and is a 'grand' coalition. On the other hand, it is

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[23] For example, see A. Lijphart, 'Consensus and Consensus Democracy: Cultural, Structural, Functional, and Rational-Choice Explanations', *Scandinavian Political Studies*, vol. 21, no. 2 (1998): 106 and A. Lijphart, *Democracy in Plural Societies*, New Haven: Yale University Press (1977): 99-103.
[24] A. Lijphart, *Democracy in Plural Societies*, (New Haven: Yale University Press, 1977): 25-44.

possible for cross-community coalitions to form that exclude certain major parties from the executive. This situation of 'concurrent' consociation occurs when the cross-cleavage coalition represents a majority from each segment, despite the exclusion of certain parties. This difference is relevant to the case studies examined in the following chapters. The Northern Ireland Act establishes a coalition between all of the major parties. In fact, there is no official 'opposition' in the Northern Ireland Assembly. On the other hand, oversized cross-community coalitions include the largest parties from the three constituent nations of Bosnia-Hercegovina, while other parties are in opposition. A third distinction is also highlighted by O'Leary. A consociation is 'liberal' if voters are allowed to choose freely between political parties, but 'corporate' if voters must declare their group identity and only be able to vote for 'their' parties. The former system encourages the formation of cross-community or cross-ethnic parties.[25]

Segmental Autonomy. A distinction needs to be made between non-territorial and territorial formulations of autonomy. Special rights for minorities can be extended *territorially* where they have a local numerical advantage. *Non-territorial* autonomy means that members of major constituent groups in a divided society enjoy rights by virtue of their identity irrespective of their location within the territory. This non-territorial autonomy is *corporate* if group members can form organisations anywhere in the state, such as separate schools for minority groups. Individuals can also have *personal* autonomy, such as choosing to read newspapers in 'their language'.[26]

Proportionality. Proportionality can be applied in two main areas. First, proportionality means a translation of demographic strength to electoral representation in formal political institutions. Secondly, the principle of proportionality can be applied to ensure a fair allocation of public expenditure and public jobs.[27]

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[25] Draft of B. O'Leary, 'Conceptual Prologue: Two Emergent Forms of Complex Power-Sharing', 6-13.
[26] Ibid., 18-20.
[27] Ibid., 20-26. O'Leary also examines the effect of different proportional representation systems in translating electoral strength into allocation of seats in a legislature.

Mutual Veto Rights. Although Lijphart makes a distinction between 'informal' and 'formal' veto rights, it is only in the latter case when there are explicit, legally enforceable directives that veto rights really exist.[28]

Lijphart's original formulation also provides a set of favourable conditions for consociational democracy: a multiple balance of power instead of either dual segments or single-group hegemony; multiparty systems that will ensure the representation of the major segments; the smallness of a country that will both make the country easier to govern and allow for elites to know each other better; the structure of the religious and linguistic cleavages; the existence of cross-cutting cleavages; possibility of overarching loyalties such as 'Christian' for Calvinist and Catholics in Switzerland; political parties that have cross-cutting electorates such as the parties in the Netherlands that cross-cut class; segmental isolation and federalism; and a tradition of elite accommodation.

Although the consociational model proposed by Lijphart was originally an explanatory framework for the deviant case of democracy in the Netherlands, it has become more prescriptive in recent years. Even from the first book on consociational democracies, Lijphart broadcasted his message to would-be constitutional engineers. He tells his audience:

This book's message to the political leaders of plural societies is to encourage them to engage in a form of political engineering: if they wish to establish or strengthen democratic institutions in their countries, they must become consociational engineers.[29]

In 1985, Lijphart used consociational theory to suggest institutions for a post-apartheid South Africa. His prescriptions followed a critical assessment of consociational, semi-consociational and quasi-consociational proposals for South Africa since the late 1970s.[30]

According to Lijphart, existing consociational systems were established through conscious decisions by political elites in: Canada (1840), the Netherlands (1917),

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[28] Ibid., 26.
[29] A. Lijphart, *Democracies in Plural Societies*: 223.
[30] A. Lijphart, *Power-Sharing in South Africa*, Berkeley: Institute of International Studies (1985): Chapter 3.

Lebanon and Switzerland (1943), Malaysia (1955), Colombia (1958), Cyprus (1960), Belgium (1970), and Czechoslovakia (1989).[31]

Two examples that could be added are Northern Ireland and Bosnia-Hercegovina, the cases examined in this thesis. It is vital to acknowledge that conscious decisions by local, regional and international actors led to consociational settlements in both BiH and Northern Ireland. The case of Bosnia-Hercegovina is interesting, where the negotiations, with a strong element of international backing, formulated a settlement to create a multi-national 'Bosnia'. Moreover, within Bosnia, one of the sub-state 'entities' contains federal mechanisms between Croats and Bosniaks. It is important to note that the international community backed a multi-ethnic 'solution' in Bosnia, though it had legitimated and helped consolidate mono-ethnic states in Slovenia and Croatia. Instead of power-sharing, the latter two states have a privileged constituent nation and explicit protections for subordinate minorities. A more thorough discussion of the institutional architecture of consociation in the case studies will be deferred to Chapter 4.

Critiques of Consociational Democracy

There have been many articles and books that have been sceptical of Lijphart's notion of 'consociational democracy'.[32] However, this discussion will not contain an exhaustive list of empirical and methodological complaints against Lijphart, except for the critiques that will directly affect the study undertaken in the following chapters.

The first relevant criticism is that the formulation of consociational democracy uses circular reasoning. This is because one of the favourable conditions in Lijphart's original framework states that 'traditions of elite accommodation' are conducive for consociational democracy. However, this is a misinterpretation of his 'condition', which draws on the aforementioned work of Daalder. Daalder found that 'ancient pluralism facilitated the development of a stable, legitimate and consistently pluralist

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[31] A. Lijphart, 'Consensus and Consensus Democracy': 101.

[32] A. Pappalardo, 'The Conditions for Consociational Democracy: A Logical and Empirical Critique', *European Journal of Political Research*, vol. 9, no. 4: 365-390; M.C.P.M. van Schendelen, 'The Views of Arend Lijphart and Collected Criticisms', *Acta Politica*, vol. 19, no. 1: 19-49; B. Barry, 'The Consociational Model and Its Dangers', *European Journal of Political Research*, vol. 3: 393-412; I. Lustick, 'Lijphart, Lakatos, and Consociationalism', *World Politics*, vol. 50 (October 1997): 88-117; M. Bogaards, 'The Uneasy Relationship Between Empirical and Normative Types in Consociational Theory', *Journal of Theoretical Politics*, vol. 12, no. 4: 395-423.

modern society'.[33] In other words, pre-modern/pre-democratic elite accommodation is likelier to lead to democratic elite accommodation. Thus, Daalder (and Lijphart) are not making circular claims, but rather posit that a history of accommodative practices pre-dispose a society, even a segmented society, to consociational practices.

Another critique is that, even from the original case study of the Netherlands, it is unclear whether elite accommodation led to 'concordant democracy', or whether 'concordant democracy' (which is akin to 'democratic stability') led to elite accommodation. For example, the Pacification of the Netherlands in 1917 led to the *ad hoc* creation of a grand coalition between the *zuilen* that depended on a tradition of elite accommodation. [34] It appears that elite accommodation has led to the characteristic institutions of consociational democracy, not the other way around. This critique was first deployed by Boynton and Kwon, though it has been used later by other authors.[35] Thus, Lijphart's empirical study is ambiguous about the causal direction of the phenomena he is studying.[36]

However, the theoretical framework for transnational consociation developed in the next chapter does not assume that there is a tradition of elite accommodation. It will be shown that after the onset of reference state cooperation, the institutions in the disputed area are set up such that exclusion is costly for conflict groups. Thus, cooperating with the 'other side' in internal power-sharing is the best strategy.

A sustained critique of Lijphart's project has been levelled by Horowitz and his rival research programme of 'integrative' methods for conflict regulation.[37] The main observation by Horowitz is that consociational democracy depends on inter-elite

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[33] H. Daalder, 'On Building Consociational Nations: Cases of the Netherlands and Switzerland': 114.

[34] A. Lijphart, *Democracy in Plural Societies*: 101-102.

[35] G.R. Boynton and W.H. Kwon, 'An Analysis of Consociational Democracy', *Legislative Studies Quarterly*, vol. 3, no. 1 (February 1978): 11-25. See also van Schendelen, *op cit.*, I. Lustick, *op cit.*, and R. Andeweg, 'Consociational Democracy', *Annual Review of Political Science*, vol. 3 (2000): 520-521.

[36] For a discussion of causality and causal inference, refer to G. King, et al., *Designing Social Inquiry*, Princeton: Princeton University Press (1994): 75-114. In particular, see ibid., 107-108 to see the significance of discerning between dependent and independent variables. Not doing so would lead to the type of problem highlighted by Boynton and Kwon.

[37] For example, Horowitz and Lijphart provided alternate views for political engineers at a conference at Notre Dame in 1999. The papers can be found as the first two chapters of *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed. A. Reynolds, Oxford: Oxford University Press (2002).

accommodation, but there is no mechanism to encourage this cooperation between segmental politicians. There is no evidence to suggest that political elites are more accommodating than the rest of their community. In fact, the elites benefit most from the perpetuation of conflict.[38] Thus, Horowitz suggests that the best institutions are those that encourage moderation, and then the construction of a common state identity.

Similar to the above, the conditions derived for transnational consociation in the next chapter will be such that it is costly for groups in the disputed area to be excluded rather than participate in the settlement. As mentioned in the introductory chapter, the settlement comes about after cooperating reference states use their links with co-nationals to conclude a power-sharing settlement. Thus, elites in conflict groups do not cooperate because they are inherently more 'accommodating' than their followers, but rather that non-cooperation is a costlier option.

The most relevant critique of the classical formulation of consociational democracy was deployed by Barry, who argued that communities that are bound by ethnic or national or ethnic solidarity are not as appropriate for a consociational solution as societies in which the main cleavages are ideological or religious.[39] In fact, Lijphart himself questions the applicability of power-sharing in Northern Ireland, including the lack of an overarching loyalty (i.e. shared 'Northern Irish' identity).[40]

However, Lijphart claims successful consociations have included ethnically divided societies, such as Malaysia, Belgium and Switzerland.[41] In the case of the Alliance in Malaysia, Malays were the dominant members, and the constituencies were arranged such that rural areas (where there were more Malays than non-Malays) were over-represented. Thus, stability was maintained through majority control.[42] In the two other cases, although there were different ethno-linguistic groupings, the salient schisms in the society were religious or ideological. In more recent times, the

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[38] D. Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society*, Berkeley: University of California Press (1991): 137-144. Horowitz largely uses his arguments from an earlier work, D. Horowitz, *Ethnic Groups in Conflict*, Berkeley: University of California Press (1985): 568-574.
[39] B. Barry, 'Political Accommodation and Consociational Democracy', *British Journal of Political Science*, vol. 5, no. 4 (October 1975): 477-505.
[40] A. Lijphart, *Democracy in Plural Societies*: 134-141.
[41] A. Lijphart, *Power-Sharing in South Africa*: 97.
[42] A. Lijphart, *Democracy in Plural Societies*: 152.

linguistic cleavage has become more pronounced in both Belgium and Switzerland, and there has been a weakening of the consociational nature of the political system in both places.

Thus, Lijphart's original formulation for the classical cases needs to be revised to be applicable to deeply divided societies. McGarry and O'Leary propose a more 'demanding' set of conditions to replace Lijphart's 'favourable conditions':

First, the rival ethnic segments must not be unreservedly committed to immediate or medium-term integration or assimilation of others into 'their' nation or to the creation of their own nation-state…Second, successive generations of political leaders must have the right motivations to engage in conflict regulation and sustain the consociational system…Third, the political leaders of the relevant ethnic communities must enjoy some political autonomy themselves, so they can make compromises without being accused of treachery.[43]

To attain these conditions in deeply divided societies is indeed more challenging than for the classical examples of Western European consociational democracy and highlights the critique that Barry and others have levelled about the relevance of the prescriptive power of consociational theory. Nonetheless, domestic and international political elites opted for consociational arrangements in both Northern Ireland and in Bosnia-Hercegovina. A least-bad attempt was better than continued violence in these deeply divided societies.

More recently, international 'constitutional engineers' are looking at consociational democratic institutions in Iraq. The interim structures imposed by the international community in Iraq resemble three of the features of consociational democracy. *Proportionality* in the election of the Transitional National Assembly (TNA) was ensured using a closed list proportional representation (PR) electoral system. That is, the lists were constructed to allow for diverse groups to have representation in the TNA (including a stipulation for 25% women). Lijphart prescribes a PR list system in general for consociational democracies. The draft of the Iraqi constitutions has provisions for linguistic/cultural groups within the country (such as the Turkomen,

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[43] J. McGarry and B. O'Leary, *The Politics of Ethnic Conflict Regulation*, ed. J. McGarry and B. O'Leary, London: Routledge (1993): 36-37.

Chaldeans and Assyrians) to have *segmental autonomy* over education. [44] The institutions also include federal structures to foster territorial autonomy. Moreover, although not a written provision in the constitution, the prime minister appointed a Kurd, a Shia and a Sunni as the deputy prime ministers in May 2005.[45] Thus, there is an informal *grand coalition*.

In the next section, it will be shown that the classical consociational democracy literature assumes that accommodation need only involve elites 'within' a disputed territory. However, by questioning the conflation of territory and 'society', it is possible to extend the analysis to include regional actors, thus providing a more useful framework for certain cross-border conflict situations.

Critiquing (But Not Discarding) Borders

In Lijphart's extended defence of consociational theory, he counters the claim that consociational democracy is not empirically valid. [46] Lijphart examines the two 'consociational failures' of Lebanon and Cyprus. He concludes that, although the Lebanese consociational arrangement was not 'blameless', the root cause for the outbreak of civil war was, in the words of Ghassan Tueni (a Lebanese diplomat), '*external* conflicts projected upon *internal* divisions [emphasis added].'[47] Lijphart's diagnosis for Cyprus is the same: the consociational agreement of 1960 ended in 1963 (with the outbreak of civil war) and was ultimately 'doomed by a Turkish *invasion* in 1974 [emphasis added].'[48] Moreover, in formulating a series of favourable conditions that foster inter-elite cooperation, Lijphart cites the 'existence of '*external* threats to the *country*.'[49]

The above shows that Lijphart assumes that the site for power-sharing is *internal* to the conflict zone and discounts the possibility that 'external' actors may play a

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[44] Article 4. An online translation can be found on the BBC website: http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/24_08_05_constit.pdf.
[45] 'New Iraqi government members', BBC News (online), 8th May 2005. URL: http://news.bbc.co.uk/1/hi/world/middle_east/4493999.stm.
[46] A. Lijphart, *Power Sharing in South Africa*.
[47] Ibid.: 92.
[48] Ibid.: 93.
[49] A. Lijphart, 'Conosociational Democracy,' in *Consociational Democracy*, ed. K. D. MacRae.

constructive role.[50] Although the formulation of transnational consociation provides a reconceptualisation of the inside/outside dichotomy, it will not be a sweeping critique of territory and state sovereignty.[51]

Radical critical (including constructivist) approaches are wanting on several levels. First, critical approaches have only deconstructed the present states system by revealing underlying meanings of 'space', but have not progressed beyond this. That is, a deconstruction of territorial borders might offer interesting insights, but does not propose how things might have been constructed in a different world.[52] As a result, the study of borders has not resulted in a theory of borders.[53] An approach that does not have a theoretical account of territorial borders is inappropriate for the study of ethnonational conflict since it does not address the current concept of sovereignty in the states system.

Second, critical approaches aim to show the hegemony inherent in the system in order to remove these hegemonic structures. However, all that remains when everything else is removed (according to postmodern approaches) is power. Thus, the status quo realist approaches and the postmodern approaches that attempt to undermine them come full circle, and again, no alternative is offered. It is naked power that would triumph. Since this implies 'might makes right', hypercritical notions advocating the 'end of the state' or the 'end of sovereignty' would have unintended negative consequences, especially in deeply divided societies.

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[50] See McGarry and B. O'Leary, *Northern Ireland Conflict: Consociational Engagements*, Oxford: Oxford Univ. Press (2004): 4-9.

[51] This radical critique of territory can be found in: RBJ Walker, *Inside/Outside: International Relations as Political Theory*, Cambridge: Cambridge University Press (1993); J. Agnew and S. Corbridge, *Mastering Space*, London: Routledge (1995); J. Agnew, *Geopolitics: Re-visioning World Politics*, London: Routledge (1998); G. O Tuathail, *Critical Geopolitics*, Minneapolis: University of Minnesota (1996); A. Paasi, *Territories, Boundaries and Consciousness: The Changing Geographies of the Finnish-Russian Border*, Chichester: Wiley & Sons (1996); A. Paasi and D. Newman, 'Fences and Neighbours in the Postmodern world: Boundary Narratives in Political Geography,' *Progress in Human Geography*, vol. 22, no. 2 (1998): 96-107; D. Campbell, *Writing Security: United States Foreign Policy and the Politics of Identity*, Manchester: Manchester University (1992); M. Shapiro and H. Alker (ed.), *Challenging Boundaries: Boundaries, Global Flows, Territorial Identities*, Minneapolis: University of Minnesota (1996).

[52] T. Forsberg, 'Territory as a Social Construct', *Geopolitics*, vol. 8, no. 2 (Summer 2003): 8.

[53] Ibid. Quoting David Newman.

Third, postmodern and constructivist formulations attempt to step back from the current states system, so intersubjectivity and contextuality are neglected.[54] Radical constructivist views assume that territory is a *tabula rasa* upon which any narrative can be projected, and thus, any spatialisation and temporalisation of the political space is 'valid.' However, although no material objects can be understood without the lenses of social perception, the resulting narratives are not arbitrary, but constrained by a 'reality' beyond human discourses.[55]

For the current study, though it is useful to appreciate the observations offered by 'critical' accounts, it is vital that this not lead the discussion over the nihilist precipice of a 'borderless world' where 'anything goes'. Similarly, adhering to a conservative state-centric gaze would prolong the zero-sum nature of the contest for sovereignty between communities in ethnonational conflicts. A possible way forward is to move beyond the dichotomy of 'problem-solving' or 'critical' theories, and provide a more gradualist or 'transformative' approach.[56] This sort of transformative framework for territoriality is suggested by John Williams. Instead of an entrenchment of the status quo or complete de-territorialisation, Williams offers a 'limited defence of the ethics of territorial borders.'[57] Instead of a discontinuous break with current notions, it is more instructive to employ the concept of a gradual transformation (or 'cascading') of international norms.[58] Thus, the boundaries between the constituent units of the international system have evolved: between absolutist empires governed by religion, between absolutist empires governed by monarchs, between states established through national self-determination, and arguably, between supra-national entities such as the European Union.

Thus, the constitution of the state system is not pre-determined. There is an underlying reason for choosing the guiding principles of territoriality: the result of the states system is the least bad system that ensures individual security. A similar distinction is proposed by David Miller. An individualistic notion of liberalism starts

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[54] J. Williams, 'Territorial Borders and International Ethics': 34.

[55] T. Forsberg, op. cit.: 8. Forsberg employs critical realism from authors such as Bhaskar.

[56] The dichotomy was proposed by Robert Cox. Problem-solving theory seeks to work within the status quo assumptions; critical theories aim to undermine them.

[57] J. Williams, 'Territorial Borders and International Ethics': 37.

[58] M. Finnemore and K. Sikkink, 'International Norm Dynamics and Political Change', *International Organization*, vol. 52, no 4. (1998): 887-918. Quoted in J. Williams, ibid.

with a set of 'inalienable' (read 'deontological') rights and deduces the traits of the state.[59] On the other hand, a sociological approach looks at the consequences of selecting different ways to address the organisation of political space, and follows more pragmatic principles to ensure liberal rights in the resulting concept of the state.[60] Williams's approach suggests the latter (more consequentialist) logic. By employing a weak defence of territorial borders, it is possible to propose a conception of *inside* and *outside* that ensures individual human security, even in deeply divided societies in which territorial boundaries do not coincide with national boundaries.

By employing a weak defence of territoriality, there are two implications that are significant for the rest of the thesis. The first is that it is possible to formulate cooperative trans-border structures that afford groups separated by state borders extensive econo-politico-social links. The important factor is that these structures can be cooperative, and not fall into winner-takes-all norms of the states-system. Thus, it is possible in certain places, even with territorial boundaries, for cross-border influence to not be 'irredentist'. Using some of the ideas from the 'critical' literature, it is possible to explore new ways of incorporating group identities.

The second implication is an update of Lijphart's formulations. Re-visiting the traditional conception of consociational democracy, the political space within which political elites interact is territorially defined. The deeper consequence of Lijphart's territorial ontology is that identity and difference are only relevant on a 'local' basis. By putting forward a weak defence of the status quo international states system, it presents the opportunity to incorporate 'translocal' identities ignored by Lijphart.[61]

The 'cleavages' that divide the two case studies examined in the following chapters have human boundaries, where 'inside' and 'outside' are characterised by a non-territorial 'society container.' Barthes suggests that studies should focus on *ethnic*

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[59] D. Miller, 'Liberalism and Boundaries: A Response to Buchanan', in *States, Nations and Borders: The Ethics of Making Boundaries*, ed. A. Buchanan and M. Moore, Cambridge: Cambridge University Press (2003): 264. Miller cites Robert Nozick's conception as epitomising 'individualistic' approaches.
[60] Ibid.: 263.
[61] A. Appuradai, 'Sovereignty Without Territoriality,' in *The Geography of Identity*, ed. P. Yaeger. Ann Arbor, MI: Univ. of Michigan Press (1996).

boundaries.[62] The social cleavages mentioned by Lijphart in divided societies are human. Though they may have a 'local' manifestation (e.g. Northern v. Southern Sudanese, etc.), the core difference between 'Us' and 'Them' should look beyond state-centric frameworks. However, the focus on 'ethnic' boundaries should not justify discarding territorial notions of politics, since doing so would lead to instability. Softening the traditional requirements of territoriality has resulted in a two-step advance on Lijphart's original framework.

Stage I: Complex Power-Sharing

The complex power-sharing project from the European Centre for Minority Issues (ECMI) proposes a 'third way' between the integrationist and consociationalist approaches by seeking alternatives to either strand in its pure form.[63] By softening the requirement for exclusivist territorial authority in deeply divided societies, complex power sharing opens up the possibility of 'external' agents in the investigation of conflict regulation.

There are two related phenomena connected with the project. The first is complex autonomy, which means that autonomy (either territorial or non-territorial) can be combined with another strategy of conflict regulation.[64] Complex power sharing results when consociational institutions are combined with other types of conflict regulation.[65]

The most important innovation put forward by the ECMI is the inclusion of international intervention in the establishment of conflict regulation in deeply divided societies. Although this subject is mentioned by Sisk,[66] international elements in

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[62] D. Conversi, 'Nationalism, Boundaries, and Violence,' *Millennium: Journal of International Studies*, vol. 28. no. 3 (Special Issue 1999): 553.

[63] See ECMI, http://www.ecmi.de/cps/about_approaches.htm; ECMI, http://www.ecmi.de/cps/about_what.htm.

[64] These strategies are outlined in *Rightsizing the State*. The first set of strategies aims to eliminate differences: genocide, expulsion (ethnic cleansing), assimilation and integration. The second set of conflict regulation practices attempts to manage differences: control, arbitration, autonomy, and consociation.

[65] For example, the Human Rights Chamber in Bosnia-Hercegovina allows for international *arbitration* of disputes; the principle of consent allows for a self-determined *secession* of Northern Ireland.

[66] TD Sisk, *Power Sharing and International Mediation in Ethnic Conflicts*, Washington DC: United States Institute of Peace (1996): 86-117.

power sharing are *necessary* in complex power-sharing.[67] The commentators on complex power sharing claim that the power-sharing agreements that are concluded with international mediation/intervention are qualitatively different from the agreements that are formulated internally. Moreover, the effect of 'outside' elements extends beyond the negotiation stage and also affects the success or non-success of power-sharing implementation. This international element can either be individual states or international organisations such as the OSCE and the United Nations. Furthermore, there is a distinction made between 'international mediation' and 'international intervention'. The former refers to a situation in which the parties in a conflict are willing to settle the conflict, but are unable to do so without external help. The latter refers to a conflict in which international actors impose a settlement. As mentioned in the previous chapter, the four other criteria for the project are: cases should be recent; the cases will not be those that solely provided autonomy for a minority group; cases that are not conflicts just for sole control of the state (e.g. Somalia and DR Congo); and agreements that are not solely resolved in favour of one party over the other (e.g. East Timor), which is similar to Nordlinger's definition of 'concession'.[68] Summing together all of the criteria, the following definition of complex power-sharing is proposed: 'Complex power-sharing generates a multi-level process of inclusive access to resources and to public decision making by nominated groups with international involvement.'[69]

Stage II: Transnational consociation

The attention to the 'external' involvement is significant to this project, and complex power sharing provides a good starting-point for this thesis. However, at this early stage of the ECMI project, there is no differentiation between the types of external actors. The involvement of the Republic of Ireland in the settlement in Northern Ireland is qualitatively different from the role of NATO for Bosnia-Hercegovina and of Syria in Lebanon. Subsequent work for 'complex power sharing' will differentiate

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[67] See ECMI, http://www.ecmi.de/cps/workshops_1_report.htm.
[68] Ibid.
[69] Ibid.

between the different external actors.[70] The work in the following chapters will be an extension of the complex power sharing model. Unlike the current complex power sharing literature, the thesis will differentiate between the types of 'external' actors, and pay particular attention to the role of 'reference states' in the operation of power-sharing.

Stefan Wolff has also investigated the role of 'external' actors in conflict regulation.[71] His research examines ethnic conflict settlement in Alsace, Saarland, South Tyrol, Northern Ireland, Andorra and the New Hebrides. The conflict geometry is that there is a disputed territory with a significant 'external minority' separated from their 'homeland'.

If the external influence and institutionalisation investigated in the complex power sharing project is combined with the geometry (i.e. two reference states and their co-nationals) of the ethno-territorial cross-border conflict examined by Wolff, the resulting phenomenon is one of *transnational consociation.*

The concept of *transnational consociation* differs from Wolff's framework, in which some of the settlements required that either the reference state or 'host state' withdraw its claims, but in both cases examined in subsequent chapters, reference states continue to have formalised involvement in the disputed territory. On the other hand, complex power sharing does not distinguish between different 'external' agents, and thus, does not prioritise the influence of reference states in complex power sharing settlements.

Hence, the concept of transnational consociation is a special case of complex power sharing where the 'external' agent is a neighbouring reference state. It is also a special case of 'ethno-territorial cross-border conflict' that Wolff terms 'consociation with permanent external formal involvement.'

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[70] The web site for the complex power sharing project mentions forthcoming work by Ulrich Schneckener distinguishing between different types of external actors, but for the time being, the criteria for case study selection contains the blanket term 'external actor'.

[71] S. Wolff, *Disputed Territories: The Transnational Dynamics of Ethnic Conflict Settlement*, Oxford: Berghahn Books (2003).

Considering the existing literature, the statement of the central hypotheses for this project is the following:

First, in an 'ethnonational conflict', the role any reference state is more important than any other 'external' actor. Second, the long-term implementation of power-sharing institutions cannot occur without the cooperation of neighbouring reference states.

Reference states are vital, since 'national ties' available to elites (both in reference states and in the conflict zone) are quite durable. It is difficult for other actors (non-reference states or international organisations) to override the durable links between the reference state 'homeland' and the co-nationals in the disputed territory. This does not imply that nationalism is static and natural, but also that it cannot be wished away, so a more time-varying approach towards group affinity must be employed. Such an approach looks at the evolution of group ties and examines the political contexts in the reference states during which transnational consociation can develop. In transnational consociation, reference states may have a constructive role to enforce a durable settlement. It is for this reason that the reference state, which is seen both by the reference state and co-nationals as the guarantors for 'their nation', is pivotal to the analysis.

The predominance of reference states does not imply that other 'external actors' are insignificant. Non-reference states (e.g. Israel vis-à-vis Syria), a coalition of non-regional states (the 'international community' in Kosovo) and diasporas living in other countries (e.g. Tamils outside Sri Lanka) can still have a significant role in the perpetuation or regulation of an ethnoterritorial conflict. However, reference states have both a national link to the co-nationals (unlike non-regional states and the international community) as well as the advantages of legitimacy and leverage in the state-centric international system (unlike non-state actors such as diasporas in other states).

The thesis will address one of the questions posed by Wolff: 'What modifications of the consociational process will occur because of the altered structure of agents

involved?'[72] The model in Chapter 3 derives the features (independent variables) that lead to a likely settlement (dependent variable) when there are reference states.

Answering the question will require an investigation of the influence of reference states in the shaping of the institutions. By examining the evolving political context in the reference states, it is possible to see how reference state dynamics influence consociational stability in the disputed territory.

In addition to this question, a further question will also be explored: does the reference state/co-national link have a more significant role than any other agent? That is, if the reference state does not moderate, the claim in this thesis is that even with active 'international' involvement, a stable settlement cannot be concluded.

Concluding Remarks

The preceding discussion examined the underlying notions of nations, territory and the boundary of inside and outside in the political sphere to introduce the concept of *transnational consociation*. The first section focused on the two ends of the spectrum in the nationalism literature. On the one hand, primordialists argue that the cohesion between certain groups is natural and ahistorical. On the other hand, modernists and instrumentalists propose that the cohesion of 'nations' is either due to the modernisation process (modernists) or through the rational calculations of elites (instrumentalists). However, primordialists cannot account for the variation of group affinity, while the other threads cannot explain why certain identity boundaries persist. Thus, approaches that combine the two strands must be utilised, such as the concept of 'groupness' developed by Brubaker that appreciates the historical context within which groups interact.

After looking at the 'nation', it is important to look at the territory on which the groups interact. The pluralist conception of liberal democracy assumes that heterogeneous groups can be accommodated within the same political unit through universal human rights. Thus, such a notion suggests a view of the liberal pluralist state as some of the modernist theorists did. Deutsch wrote that nationalism, and

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[72] S. Wolff, *Disputed Territories:* 32.

national fragmentation would just vanish through progress and modernisation towards the Enlightenment ideal of cosmopolitan values.

However, there is no neutral standpoint from which common cultures can be constructed, so one or another group identity becomes dominant. This suggests that if pluralism cannot accommodate above a certain level of diversity, the resulting societies will be fragmented, and there will be pressures to not belong to the same society. However, Lijphart examined the cases of 'fragmented' societies in the Netherlands, Low Countries, and Austria. He found that despite a fragmented society along cumulative cleavages, there was political stability due to elite accommodation. The resulting political institutions were called *consociational democracy*.

The classical formulation of consociational democracy has four traits: grand coalition, proportionality, mutual veto, and segmental autonomy. There are also associated favourable conditions for the development of consociation: multiple segments, a multiparty system, a small country, cross-cutting cleavages, overarching loyalties, political parties that reflect these overarching identities, isolated groups, federalism, and elite accommodation in the past. There are some distinctions that need to be made to develop the criteria fully: there needs to be a distinction between grand coalition and oversized coalitions; a distinction between proportionality for public posts and for elected representation; territorial and non-territorial autonomy; and insistence on mutual veto rights to ensure the protection of the minority.

Although consociational democracy has been used throughout the world by so-called 'constitutional engineers', there are four critiques of Lijphart's framework that are relevant for the discussion. First, the 'fragmented' countries used by Lijphart are not that fragmented, since there had been elite accommodation in the past. Moreover, Lijphart does not ascertain whether elite accommodation led to power-sharing or vice versa. Third, there is no incentive for elites to be accommodating and seek political support from other segments of the population. Most importantly, the literature on the classical cases assume that there is no fundamental conflict about whether the country should exist at all. Thus, there needs to be an adjustment in the favourable conditions to make them more appropriate for ethnonational conflicts: elites must not be committed to integration of other groups in the short-term; future elites must be

faithful to the consociational system; and elites can negotiate with elites from other segments without being accused of betrayal.

The discussion then focused on the norm of territoriality in the state system. The call for certain post-positivist and radical constructivists for de-territorialisation or re-terrorialisation has 'real' destabilising consequences for deeply divided societies. Thus, a better approach is a 'weak defence of territorial borders'.

After 'weakening' the demarcation between inside and outside, transnational consociation is contrasted with Stefan Wolff's research and with complex power-sharing. This leads to the primary hypothesis for the project: there will be no sustainable consociational democracy without cooperation between reference states, even with strong intervention from actors such as international organisations and other states.

Using the above conceptual foundations, there are two research foci for the following chapters:

- What modifications of the consociational process will occur because of the role of reference states?
- Is the influence of reference states more important than any other 'external agents?
- Does cooperation between reference states over a disputed territory lead to likely operational stability?

The following chapter will develop a theoretical framework for transnational consociation using an informal model, deriving the characteristics of the phenomenon and the linkages between the constituent features. It is this theoretical framework that will be used to examine power-sharing settlements in Northern Ireland and in Bosnia-Hercegovina in the empirical chapters in order to address the above research questions.

Chapter III: A Theory of Transnational Consociation

Introductory Remarks

The theory of transnational consociation is only applicable in situations with the appropriate conflict geometry. That is, there are two sufficiently evenly-matched reference states (such that the military option is unviable for either state) and an ethnonational dispute between co-nationals of the reference states (and perhaps other groups in the conflict zone). The method used to derive the traits of transnational consocation is through a simple model. The features of conflicts in which reference states are significant will form an *analytic narrative*.[1] The studies by Bates and others were 'analytic' since they used rational choice methods to derive the features of a social phenomenon, and were 'narratives' since they also relied heavily on case study work to confirm or refute the theory. The same methodology will be used to construct and illustrate the theory of transnational consociation.

The following discussion will add constraints that take account of particularities of conflicts in which reference states are significant to deduce the features of a possible settlement. However, the resulting findings are not deeply-embedded in one specific situation, such as Lijphart's use of the Netherlands as a basis for consociationalist theory. Thus, this leaves the possibility for the framework derived in the following sections to not only be applied to the two case studies in this thesis, but extended in the future to other *relevant* contexts.

The chapter will begin with a justification for using rationalist methods to develop the theory, followed by a short review of the existing the literature using similar methods to examine ethnonational conflict regulation. After that, the pivotal actors in the reference states and conflict zone are identified, and the conditions by which a power-sharing agreement underpinned by reference state intergovernmentalism will be derived. The four features of transnational consociation that are extracted from the analysis are: internal consociation, reference state/co-national links, intergovernmentalism, and bipartisanship. The first is the same as Lijphart's

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[1] R. H. Bates et al., *Analytic Narratives*, Princeton, NJ : Princeton Univ. Press (1998).

framework for pillarised societies. However, in addition to the 'internal' power-sharing, the theory shows the importance of reference state/co-national links and external (i.e. intergovernmental and bipartisan) reference state dynamics that have been neglected in the literature. The three dimensions of internal, reference state/co-national, and external features form the organising principle for the empirical inquiry in Chapters 4-7.

Disclaimer

The use of game theory and rational choice models has often been eschewed by commentators on ethnic conflict regulation and nationalism. Ethnic conflicts are sometimes described as 'irrational' expressions of competing nationalisms and ancient antagonisms that prevent 'rational' dialogue between members of conflict groups. However, that would neglect the strategic character of elite behaviour in ethnic conflict regulation (or perpetuation). Brendan O'Duffy makes a distinction between 'sectarian' and 'ethno-national' conflicts.[2] The former refers to conflicts in which the only objective is to eradicate the other conflict group, whereas the latter refers to a conflict that can be explained by strategic objectives. The disputes examined in this thesis fall into the latter category.

The 'utility' maximised by ethnic entrepreneurs in ethnonational conflicts is not necessarily economic. The 'payoffs' obtained by elites are related to homeland, nation, and other concepts that can only be understood through nationalism. Thus, as mentioned in the previous chapter, the account of nation underlying the thesis is one that combines features of both the instrumental and primordial readings of nationalism.

The other qualification for the use of rational-actor models in examining ethnic conflict is that these descriptions are *models*. That is, the framework provides a limited account of a phenomenon that holds under specific contextual constraints. The value of using these methods in this study is to derive certain outcomes under *specific*

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[2] B. O'Duffy, 'Violence in Northern Ireland 1969-1994: sectarian or ethnonational?', *Ethnic and Racial Studies*, Oct 1995, Vol.18, No.4: 740-772

conditions, not to provide a *universal* script for all elite behaviour in ethnonational conflicts.

The Existing Literature

The approach used below combines other game-theoretical formulations of ethnic conflict. A pessimistic framework suggests that due to the consolidation of democratic institutions, it is rational for a minority group to escalate the conflict in the present, instead of waiting.[3] However, Fearon and Laitin suggest that interethnic cooperation can be explained by looking at two alternative scenarios. In the first, antagonism escalates into a 'spiral' of retribution between conflict groups, and the fear of this leads to cooperation. In the second scenario, interethnic conflict does not escalate due to individuals from one group aggrieving individuals from the other, since the injured parties are assured that the other group will 'police' appropriately within their own community.[4]

Weingast finds that the type of interethnic system that arises from 'constructing trust' includes proportionality and a mutual veto to ensure that the payoff from cooperation is higher than either fighting or becoming a victim.[5] These findings are relevant to the type of settlement pursued by cooperating reference states and will be mentioned again later in the chapter. Tsebelis provides a more formalised account of elites negotiating within a power-sharing democracy.[6]

Pieter van Houten's work examines the strategies of reference states in certain conflict zones. The reference state can intervene, or not get actively involved with the conflict in the disputed area.[7]

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[3] J.D. Fearon, 'Commitment Problems and the Spread of Ethnic Conflict', in *Ethnic Conflict: fear, Diffusion, Escalation*, Princeton: Princeton Univ. Press (1998).

[4] J.D. Fearon and D.D. Laitin, 'Explaining Interethnic Cooperation', *American Political Science Review*, vol. 90, no. 4 (Dec. 1996): 715-735.

[5] B. Weingast, 'Constructing Trust: The political and economic roots of ethnic and regional conflict', in *Institutions and social order*, ed. K. Sołtan, E. Uslaner and V. Haufler, Ann Arbor: Univ. of Michigan Press (1998).

[6] G. Tsebelis, *Nested Games: Rational Choice in Comparative Politics*, Berkeley: Univ. of California Press (1990).

[7] P. van Houten, 'The role of a minority's reference state in ethnic relations', *Archives européennes de sociologie*, vol. 39, no. 1 (1998): 110-146.

As explained in the introductory chapter, the term 'reference state' will be used since it is preferable to 'kin states' and 'patron states'. The following derivation will extend the work of van Houten by including a second reference state to the analysis.

Perhaps most relevant to the conflict geometry examined below is the work of Barbara Walter. From a game theoretical approach, Walter posits that power-sharing agreements can be guaranteed by third-party intervention. However, the likelihood of the parties within the conflict accepting the power-sharing depends on the probablility that the third-party will enforce the terms of the power-sharing.[8] It is here that the persistence of the reference state connection is vital in the implementation of a power-sharing settlement and addresses the 'commitment problem' of 'external' involvement in ethnonational conflicts.

Important Actors

The important players in the framework are the political leaders of the four groups in the reference states and the four groups in the conflict zone. As mentioned in the introductory chapter, the process is elite-led since it is assumed that leaders have a certain level of 'structured elite predominance.'

The actors that will be considered will be from two reference states, **α** and **β**, and within a conflict zone. Within **α** and **β**, there are groups of elites (**A** and **B**, respectively). In the conflict zone, there are corresponding groups of co-national elites (**a** and **b**, respectively). Moreover, in each reference state, there is a more accommodating (-) and less accommodating group (+). Correspondingly, there are more and less conciliatory groups in the conflict zone.[9]

To simplify the theory, the actors are treated as internally homogeneous groups. In reality, these 'players' may be quite complex, with complicated interactions between various factions and battling personalities. However, accounting for all of the nuances of political party formation and cohesion would unnecessarily complicate the

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[8] B.F. Walter, *Committing to peace : the successful settlements of civil wars*, Princeton: Princeton Univ. Press (2002).
[9] See introductory chapter for the list of the eight pivotal actors in the analysis.

following discussion. Another simplification is the assumption that reference states have substantial links with their co-nationals, but weaker relationships with members of the 'other side' in the disputed territory or groups (e.g political parties) that represent cross-community interests. This assumption can be supported empirically by looking at the level of support among cross-community/multiethnic parties in ethnonational conflict zones compared with monoethnic parties.

Assumption: The pivotal actors in the reference states and disputed area are internally homogeneous.

Assumption: Reference states have significant links with their co-nationals in the conflict zone, but weaker contacts with groups from the 'other' side in the disputed area or with cross-national groups.

Events leading to transnational consociation occur in three stages. First, there are relative payoffs for groups in the reference states to either be more conciliatory or not with the other reference state regarding the conflict zone. There are certain equilibria such that the long-term gain from coordinating with groups in the other reference state is higher than not doing so. Second, once there is a situation when all of the groups in reference states coordinate their policy towards the conflict zone, they will make a joint offer to the conflict groups. In the third stage, the conflict groups either accept or reject the settlement. If the settlement is accepted, there is *transnational consociation*.

Initial Conditions

There are three important assumptions about the reference states. The first is that the two reference states find it costly to escalate the conflict. The type of escalation may be direct hostilities towards the other reference state or the disputed area, or indirect escalation through arming their co-nationals. Thus, the 'military' option is not open to either reference state. This may be due to actual military capabilities, but also the threat of enforcement from the international community. For example, Serbia is still militarily superior to military/paramilitary Albanian forces in Kosovo, but the threat of a renewed NATO campaign prevents open hostilities. If escalation is not costly, the probable solution of the situation becomes trivial. If one state is clearly stronger than the other, and this power is unchecked, the dominant reference state can impose its

ideal position on the other reference state as well as forcing a coercive solution in the conflict zone. The aggressive actions of the stronger reference state would incur relatively little cost. However, if escalation is costly, the strategy becomes more complex.

The second assumption is that it is relatively costly for reference states to sever ties with co-nationals in the conflict zone. Disengaging from conflict zones need not be costly *a priori*. The whole process of decolonisation in Africa by the European powers suggests that it is possible to 'quit' in some cases without much cost in the 'colonising' state itself. In fact, in the disputed area in conflict zones, there is a significant financial and human burden due to the maintenance of co-nationals. However, the cases that will be examined in the following chapters will be those in which the cost of disengagement would be high. The most appropriate framework to justify this are the 'thresholds' formulated by Ian Lustick to explain state-building and contraction.[10] Lustick suggests that there are three stages in examining the conflict within the retreating state:

Incumbency stage: if the government were to disengage from a territory, the resulting conflict within the reference state might lead to the fall of the government. However, the dispute will be contained within the competitive political institutions of the state.

Regime stage: if the government retreats from a particular territory, the resulting dispute may not be contained within the political institutions of the state. There may be 'extra-legal' challenges to the government's legitimacy in its authority to disengage from the conflict zone.

Ideological hegemony stage: the territory in question is fully integrated institutionally in the operation of the state functions. Those on the territory of the state (including the area incorporated) believe that the borders of the state are permanent. Thus, there is no debate among the political elite about whether or not the area is part of the state or not.

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[10] I. Lustick, 'Thresholds of Opportunity and Barriers to Change in the Right-Sizing of States, in *Rightsizing the state : the politics of moving borders*, ed. T.M. Callaghy, B. O'Leary and I. Lustick, New York: Oxford Univ. Press (2001).

The three stages are not on a continuum, but are distinct and separate stages of territorial incorporation into the 'homeland' going from incumbency to ideological hegemony. For a particular region to become either more integrated or more separated from the state, it can pass through two 'thresholds'. The first is between the incumbency to the regime stages. That is, if the inclusion of a particular geographic area becomes more salient, disengaging does not only threaten the government of the day, but there may be extra-legal challenges to maintain sovereignty over the territory. When inclusion of the territory goes from the regime to incumbency stage, leaving the area is less politically salient, so disputes can be handled within the political institutions. The second 'threshold' is between the regime and ideological hegemony stages. That is, if the area crosses the 'ideological hegemony threshold', its inclusion into the state becomes unquestioned, and the region is as integral a part of the state as any other. However, if the threshold is crossed in reverse, it means that a once-integral part of the state is now 'loosened'. Although there could be internal instability if the state 'disengages', its inclusion into the territorial borders of the country are not as solid as before, such as Nagorno-Karabakh and former German territories in Poland, respectively.

For transnational consociation, it is assumed that if the reference state fully disengages, it will be costly both for the 'abandoned' co-nationals and the reference state, since citizens in the latter feel some sense of responsibility for 'their' people in the conflict zone. Another related assumption is that if their reference state removes its support, the co-nationals do not have the strength to 'go it alone' against the competing reference state or other conflict groups. Thus, being 'abandoned' would lead to a swift defeat for the co-nationals. If this is not the case, the resolution is again trivial. The reference state can simply leave with little cost and loss of legitimacy at the 'core' of the state and little cost to the co-nationals. Using Lustick's typology, losing the 'disputed land' has not crossed the threshold from the incumbency to regime stage for the reference state.

The third assumption is also linked to costly disengagement. The connection of the reference state is qualitatively different from that of other 'external' actors in their commitment to agreements in the disputed area. Since it is difficult to exit the conflict,

it is more likely that the reference state will maintain a durable link in the dispute. In the case of reference states, the probablility is quite high that once they are involved in the regulation of the conflict, they will remain engaged. There are two reasons for this. The first is, as mentioned above, it is costly for the state to disengage because of the potential destabilising effects to the legitimacy of the reference state itself. Second, reference states are usually contiguous to the disputed area. Thus, not remaining connected to the conflict regulation can result in destabilising factors such as the spread of the conflict and an influx of displaced persons. However, these constraints are not relevant to extra-regional states or multilateral institutions. The costs and benefits are driven largely by domestic factors usually not connected with the conflict. Thus, the certainty of the engagement is lower than for reference states. Using the aforementioned finding by Walter, reference states are better at ensuring persistent influence in enforcing a power-sharing settlement.

Assumption: The reference states are sufficiently evenly-matched, such that neither wants to impose its ideal solution on the other.

Assumption: It is costly for reference states to disengage from the conflict zone.

Proposition: Because it is costly for reference states to disengage from the dispute, the commitment is more durable than other 'external actors.'

Different Possible Outcomes

From the initial assumptions about the reference states, it is possible to set up a theoretical framework approximating the actions of reference states and corresponding conflict groups in a ethnonational cross-border conflict.

The payoffs are approximately symmetrical. That is, the preferences are ordered in the same way for both reference states. It is assumed that the benefits for reference states increase with higher political, economic and cultural influence in the disputed territory. Moreover, the payoff for the reference state is higher if the co-national has more political power in the disputed territory.

To simplify the strategies available, it is assumed reference states can move in one of four ways:

- The reference state can invade or arm the co-nationals in the disputed territory, thus escalating the level of conflict (ESC).

- The reference state can reach a cooperative settlement (COOP).

- The reference state can do nothing, and stay at the status quo level of conflict with the other reference state (SQ).

- The reference state can quit the disputed territory (GO).

A more formal treatment of the relative benefits for the reference states is contained in Appendix I.

Since the preferences of the reference states are symmetric (as explained above), it is only necessary to complete the analysis for one of the states.

First, looking at the payoffs when both states pursue the same action, it is very costly when both escalate the conflict. However, both states disengaging from the conflict zone is assumed to be even more costly, since this can destabilise the reference states themselves and be highly detrimental to the co-nationals. If the two states reach a cooperative agreement, this is preferable to the status quo level of conflict.

Thus, in order, the best outcomes for the reference state if they both follow the same action (e.g. both states simultaneously decide to escalate the dispute) is:

1. Mutual cooperation
2. Neither state changes the level of conflict
3. Interstate conflict
4. Both states disengage from the conflict zone

If states do not both follow the same action, then there are further hypotheses about the relative payoffs.

Reference state α escalates the conflict

If the reference state decides to escalate the conflict, then the other state would be a 'sucker' if it has not also escalated the conflict.[11] However, the penalty incurred by the other state depends on the action it pursues. If the second reference state disengages when the first escalates the conflict, this will result in an unopposed intervention by the latter. The attacking reference state will reap the most benefit, since it will be able to impose its ideal political setup without the interference of the other reference state. If the other state tries to cooperate when the reference state escalates the conflict, it will be less of a 'sucker' than if it exits the disputed area, since both states still have links to the co-nationals. However, the reference state will gain more if the other state tries to cooperate compared versus the other state doing nothing. This is because the second state devotes some of its resources to creating cooperation, so that the first state catches it 'off-guard' by escalating the conflict. The worst outcome for the first state is if the second state also escalates the conflict, since they are 'evenly-matched'.

Reference state α stays at the status quo level of conflict

On the other hand, if the reference state remains at the status quo level of conflict, it will do best if the other reference state leaves. As mentioned in the previous section, if

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[11] The term 'sucker' is used by Tsebelis in *Nested Games* to describe the situation in the Prisoner's Dilemma where an actor's overture of cooperation is not reciprocated by the other actor.

the other reference state becomes divorced from the conflict, it is possible for the remaining state to impose its preferred settlement without hindrance. If the other state seeks cooperation, it is better for the first state than if the second state does nothing. The second state is a bigger 'sucker' if it makes arrangements to cooperate, but this is not reciprocated. Of course, the first state staying at the status quo is better for the second state than if the first state escalates the conflict. Finally, if the second state escalates the conflict, then the first state is a 'sucker' by doing nothing and will have a low payoff.

Reference state α tries to cooperate with the other state

If the reference state sets up the means to cooperate with the other state, but the other state decides to leave the conflict zone, this is the best result for the former. The first reference state is left to pursue its policy unhindered. However, if the other state escalates the conflict, then it will be very costly for the first state. Finally, as with the other scenarios, the first state is a bigger 'sucker' if the other state chooses to not to reciprocate the cooperative overtures than if the other state returns the favour and pursues mutual cooperation.

Reference state α disengages from the disputed territory

As mentioned above, disengaging from the disputed area is costly in all scenarios. However, the worst situation would be leaving the conflict zone while the other reference state escalates the conflict, since this will lead to a swift defeat for the co-nationals. If the second reference state stays at the status quo, it will still be unopposed in the disputed area. Doing nothing is slightly better for State β than cooperating, since extending cooperation requires resources. The least bad scenario for State α is if the other state also disengages from the conflict.

In all four scenarios, the relative payoffs for State α, in order from best to worst, result when:

1. The other state disengages from the conflict zone and severs its ties with its co-nationals
2. The other state attempts to set up cooperative political structures with the first state
3. The other state stays at the status quo
4. The other state escalates the conflict

However, State α is a bigger 'sucker' if it disengages from the conflict, compared to cooperation, status quo, and escalating the conflict, in that order. Moreover, there are further factors that govern the action pursued by reference state α. The relative payoffs for the two reference states are assumed to be symmetric, so that the order of the preferences for the two states are the same. Reference state α knows this and will include this information in its tactics.

A more mathematical treatment is included in Appendix I.A, where a possible equilibrium is shown.[12] That is, there is not a unique solution, but one is chosen that has implications for the current study.

For all of the scenarios, the reference state will always do badly if it tries to disengage from the conflict. Thus, it will pursue one of the three other possible actions.

Assumption: The order of the benefits the various scenarios is the same for both reference states. Thus, the payoffs are symmetric.

Hypothesis: Since disengaging is costly, all other actions will be preferable for both reference states.

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[12] Refer to the inequality at the end of Appendix I.A.

Stage I: Reference State Co-operation

One Shot Situation

The simplest version of the scenario is that each state acts simultaneously in a 'one-shot game.' The first thing that can be inferred from the previous section is that disengaging from the disputed area incurs higher cost than other actions, so neither state will pursue this action. Moreover, looking at the relative benefits from the four possible actions and taking into account the relative benefits for the other state, the best way to ensure that the reference state does not come out a 'sucker' is by escalating the conflict. The other reference state makes the same calculations and will also escalate the conflict. Recalling the relative gains from pursuing the same action, although mutual escalation of the dispute is worse than mutual cooperation or even staying at the status quo level of conflict, the sub-optimal payoff is akin to the Prisoner's Dilemma. That is, although reference states could get higher payoffs, the dominant strategy is such that they will do worse than the optimal outcome of mutual cooperation.

Assumption: The reference states will act simultaneously, and will consider the possible actions by the other reference state in their calculations. Moreover, the reference states will assume that the other state is seeking to maximise its benefit.

Hypothesis: In the one-shot version of the interaction between the reference states, the preferred action for both will be to escalate the conflict, even though this is sub-optimal. This is to insure that a state is not a 'sucker' if the other reference state escalates, and the first state does not.

Finite Iterations

Instead of a 'one-shot game', if the situation is extended such that there are a finite number of actions, the result will still be that both reference states will choose to escalate the conflict at every stage. The reason for this is that in such a finite iterative context, reference states will escalate the conflict in the final stage. However, each of the states knows that this will be the case, and will escalate the conflict at the previous stage. The states will then repeat the same calculation, so that they use backwards induction and pursue escalation of the conflict at each stage.

Hypothesis: In the finite iteration version, reference states will escalate the conflict at each stage, since they will escalate at the last stage. Using backward induction, they will also choose to escalate the dispute at all other stages.

Infinite Iterations

Although both the one-shot and finite iterative versions of the conflict end with an escalation of hostilities between the reference states, it is possible to find scenarios with the infinite iterative version in which it is possible for the reference states to prefer mutual cooperation over either the status quo or conflict escalation. 'Infinite' iterations does not imply that the interaction between the reference states will go on forever, but rather that the end of the 'game' is not included in the calculations carried out by the two reference states.

The *folk theorem* posits that in such 'infinitely' repeating games, it is possible for actors to seek a cooperative solution, even if such a solution does not exist in the one-shot version. The only assumptions are that actors choose their actions based on long-term payoffs, and are thus sufficiently patient to consider future costs and benefits.[13]

The findings in the discussion below are not meant to suggest that there is only one unique solution to a 'ethno-territorial cross-border conflict' with two reference states and their co-nationals. The thesis will not deduce a determinist theoretical framework. However, it *will* be shown below that *one* of the possible equilibria is mutual cooperation given a set of constraints. Before continuing with the discussion, it is useful to introduce two further *a priori* assumptions about the reference states. The first is that the governments in the reference states are 'impatient'. In other words, they value getting a certain payoff now versus getting the same payoff in the future. This impatience is a part of the calculation when reference states calculate their long-term benefits from pursuing particular strategies. The second concept to introduce is risk-aversion. In other words, reference states want to pursue a policy in the conflict area such that they do not take risks. This means that each reference state would rather

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[13] For example, see K. Binmore, *Game Theory and the Social Contract, Volume II: Just Playing*, Cambridge, MA: MIT Press (1998): 293-328. R. Gibbons, *A Primer in Game Theory*, Hemel Hempstead: Harvester-Watersheaf (1992): 56.

play it safe and take a certain benefit over taking a chance, even if the expected benefit over the course of infinite iterations works out to be the same.

Hypothesis: Following the folk theorem, there are equilibria in the 'infinite' version of the situation, where the reference states do not include the end in their calculations.

Assumption: In line with the Folk Theorem, reference states are assumed to make their calculations based on long-term benefits, and are patient enough to consider long-term gains in deciding on their actions.

Assumption: Reference states are impatient and risk-averse.

Preferring Long-term Intergovernmental Cooperation

The first piece of the intergovernmental cooperation puzzle is that it is possible to stay at the status quo level of conflict instead of escalating the conflict. Assuming that the reference states both start at the status quo, if one of the reference states escalates the conflict and the other state continues to stay at the status quo, the former state will benefit by the latter state's inaction. However, the state that remained at the status quo level of conflict can retaliate by escalating the conflict at the next opportunity. The result is a heightened level of conflict between the two reference states. As mentioned above, mutual escalation of the conflict is not preferable to both states staying at the status quo. However, if the extra benefit from catching the other reference state off-guard is not cancelled by the cost of mutual escalation, then the states will prefer conflict to staying at the status quo. On the other hand, if the long-run benefit from escalating is lower than staying at the status quo (since the 'bonus' from surprising the other state is not high enough to compensate the long-term costs), then reference states will prefer to stay at the status quo. Thus, the decision to escalate or stay at the status quo depends on the benefit of staying at the status quo, the lower payoffs associated with mutual escalation, and the temporary advantage the reference state gets by escalation if the other does nothing. Taking into account the 'impatience' of actors, the conditions for this scenario are shown in Appendix I.B.

If the conditions above remain, there are additional constraints by which mutual cooperation is better than staying at the status quo. If one of the states extends

cooperation, but the other state remains at the status quo, the latter will be a 'sucker'. However, the cost of being a 'sucker' short-term is worthwhile if the other reference state returns the overtures and there is mutual cooperation. If the short-term cost of extending 'the olive branch' is outweighed by the long-term benefit of intergovernmentalism, then the reference state will try to cooperate. From the perspective of the second reference state, when the first reference state attempting cooperation, it can either respond in kind or remain at the status quo level of conflict. If it remains at the status quo, the first state will remove its offer of cooperation at the next opportunity. However, for the second state, if the long-term gains from mutual cooperation outweigh the short-term benefit from staying at the status quo, then the second reference state will also prefer to cooperate. Thus, there are situations where attempting cooperation is preferable to staying at the status quo, taking into account the relative long-term benefits of mutual cooperation, the short-term cost of extending cooperation without the other state reciprocating, the short-term benefit of withholding cooperation if the other state extends the olive branch, and staying at the status quo. The conditions for this scenario are shown in Appendix I.C.

Thus, if the conditions are present for reference states to prefer staying at the status quo to escalating the conflict, and they also prefer cooperating to staying at the status quo, then the reference states will favour cooperation.

Hypothesis: There are equilibria such that the short-term gain from escalating the dispute from the status quo (catching the other reference state unaware) is offset by the long-term costs when the other state also escalates the conflict. Thus, there are equilibria in which reference states prefer to stay at the status quo rather than escalate the dispute.

Hypothesis: There are equilibria that the short-term cost of extending cooperation without reciprocity (i.e. the other state stays at the status quo) is outweighed by the long-term benefits if the other reference state also seeks cooperation.

Hypothesis: If the two above hypotheses hold, there are equilibria where the reference states will prefer long-term cooperation.

A Short Note on Flanking in Reference States

Although there are conditions by which groups in reference states would prefer staying at the status quo to escalating conflict, and cooperating rather than staying at the status quo, this is not tantamount to all of the groups in the reference states seeking cooperation. Less conciliatory elements within reference states are less likely to fulfil the conditions by which the preferred course of action is cooperation. The payoff from mutual cooperation is lower for antagonistic elites than for their moderate counterparts, since this would be seen as 'selling out' their supporters. Moreover, escalation of the conflict or refusal to respond to cooperative overtures from the other reference state are seen as defending 'their' people in the disputed area and carries a relatively higher benefit than for more conciliatory groups in the reference states. Thus, it is more difficult for the benefit of long-term mutual cooperation to outweigh the advantages of staying at the status quo, or even escalating the conflict.

This suggests that an accord between moderate groups will not be long-lasting if the other (i.e. less conciliatory) groups gain power in government and do not prefer long-term cooperation. In other words, making an agreement with a more conciliatory government would not survive a change of government to more antagonistic parties if it is preferable for the latter to break the agreement. The only way for an accord to survive between the two reference states is that cooperation is preferable for all four groups (conciliatory and less conciliatory groups in each reference state). This does not require any strong harmonisation of policies within a reference state, since it is not necessary for the four groups in the reference states to have identical payoffs. It is only important that long-term cooperation is more beneficial than other actions. Thus, the conditions derived in Appendix I.B and Appendix I.C must hold for both conciliatory and less conciliatory groups in each reference state. Under these conditions, reference state intergovernmentalism can develop.

Proposition: Long-term intergovernmentalism can only develop if cooperation is preferable for both conciliatory and less conciliatory groups in the reference states. Otherwise, any intergovernmental agreement of 'moderates' (conciliatory groups) is susceptible to default when the antagonistic groups gain power in the reference states.

Stage 2: Making an Offer

Once it is preferable for all of the groups in the reference states to pursue a coordinated policy towards the conflict zone, the current governments from the reference states will come to an agreement and offer this to the conflict groups. For simplicity, it will be assumed that the offer to the conflict groups is halfway between the ideal policy positions of the respective reference state governments. The more antagonistic groups in the reference states have a more 'nationalist' policy regarding the conflict zone than their conciliatory counterparts within the reference state. Thus, a settlement between a more 'nationalist' government in one state and a more conciliatory government in the other will be biased towards the co-nationals of the former. There are four possible scenarios for the settlements offered to conflict groups:

State α and State β both have conciliatory governments. The resulting concord of moderates will offer a balanced (i.e. unbiased) agreement. However, the co-nationals in the disputed area for both states would wait for a less conciliatory government in their own reference state so that there could be an offer more biased in their favour.

State α and State β both have antagonistic governments. The two more extreme elements come to an agreement and offer this unbiased settlement to the conflict groups. However, the co-nationals of both reference states in the conflict zone know that they might have a better offer if the government in the other reference state becomes more conciliatory. Thus, the groups in the disputed territory do not settle.

State α has an antagonistic government and State β has a conciliatory government. The agreement reached will be more beneficial to the co-nationals of State α in the disputed territory, since it will biased towards them. Of course, this is unacceptable to the conflict groups connected to the other state, so there will be no settlement. The co-nationals of β will wait for a change of government in either reference state, which would result in a better deal.

State α has a conciliatory government and State β has an antagonitic government. The situation is reversed from the above paragraph. In this scenario, co-nationals of State α will hold out for a better deal, which results if there is a change of government in either state.

Thus, in none of the cases will there be an agreement between the conflict groups. However, if the situation is extended to infinite iterations, there are possible equilibria in which an inclusive settlement is preferable to refusing the offer from the reference states. An inclusive settlement is preferable to a concord of moderates in the conflict zone, since leaving more 'nationalist' groups unchecked outside the settlement allows these more 'extreme' groups to escalate the conflict without the stigma of 'selling out'. Thus, an offer that is also acceptable to the less conciliatory conflict groups is necessary for an inclusive settlement.

In considering the offer, conflict groups (both conciliatory and antagonistic) must weigh the cost of short-term exclusion against the possibilities of a better deal in the future. The reference states can levy a penalty against non-cooperative conflict groups, but this may ineffective if the long-term benefits of waiting for a better deal exceed the short-term sanction. However, if the best case scenario of a future offer biased in favour of the group still yields lower gains than taking the offer, then the conflict group will settle. Because the less antagonistic groups are more likely to settle than their more 'extreme' counterparts, an inclusive settlement must be one in which the more antagonistic groups accept settlement or in which they can be effectively sidelined.

There are two strategies that reference states can pursue to push their co-nationals towards settlement. The first is by setting the penalty high enough such that there is no incentive to wait for a better deal from the reference states. Although this strategy can be shown to work out mathematically, it is more difficult to execute. Since it is costly for reference states to 'abandon' their co-nationals, taking a hard line on 'their' co-nationals in the conflict area might be countered by accusations of 'selling out' the people in the disputed area. Pushing penalties too far also encourages the co-nationals to follow an extra-legal path and may have dire long-term consequences. An alternative way to encourage settlement in the conflict zone is by narrowing the gap

between the ideal positions of political parties within a reference state. That is, even if the conflict groups hold out for a better offer in the future, the best-case scenario will still yield less benefit than taking the settlement. Thus, it is best for all of the conflict groups to accept the offer from the reference states. Thus, bipartisanship within reference states is important in seeking cooperation with the other reference state and in encouraging conflict groups to accept an inclusive settlement. This will be shown in Appendix I.D.

Hypothesis: The reference states' offer will be accepted by all of the groups in the conflict zone if either or both of the following are true: (1) The reference states levy a high enough penalty on non-compliant groups such that the benefits of waiting for a better deal are cancelled by short-term penalties; (2) The groups within the reference states close their policy distance, so that conflict groups do not benefit from waiting for a better deal.

Hypothesis: Since exclusion is destabilising, the type of mechanism used will be (2) from the previous hypothesis. This suggests that bipartisanship between more and less conciliatory groups in the reference states is a trait of settlement.

Stage 3: The Settlement

If all of the conflict groups accept the offer from the reference states, it is important to examine the institutional form the resulting settlement would take. The objective in this section is not to derive the exact setup of the institutions. The goal is to deduce the guiding principle for the settlement. The two reference states could offer a simple majoritarian system in the conflict zone. If this is the case, the conflict group with the numerical majority will hold power, leading to potential domination of the numerical minority. This setup is not acceptable to the reference state corresponding to the minority. The majoritarian system can also be accepted by the minority under the assumption that it will eventually become the numerical majority. However, if this assumption is shared by the reference state of the conflict group currently the numerical majority, then this will also not be an acceptable solution. It is also possible that other ethnic groups will join the numerical minority to out-poll the majority. The most 'fair' situation to use the majoritarian system when the two conflict groups are almost identical in numerical strength. If it assumed that there is some disproportionality in the system, the results can be such that each group will win all of

the power half of the time. However, the reference states will still not prefer this chance to definite shares of the political power in the conflict zone. This is because it is assumed that the reference states are risk-averse. They would rather conclude a settlement with a sure payoff rather than an expected payoff at the same level.

This suggests that reference states will propose a system in which no side 'wins' or 'loses'. This is because the two reference states benefit most if they pursue a coordinated settlement in the disputed area, but they still have differing constitutional commitments to their respective co-nationals. The result will be a system conferred by the reference states in which the political gains for each group of co-nationals will not diverge significantly from parity. This is illustrated in Appendix I.E. This safe option is to divide political power evenly among major groups in the disputed area. This would ensure that demographic changes would not lead to the permanent loss of power for the smaller group. For disputed areas with more groups (with or without reference states), this also ensures that other groups cannot join and permanently out-vote particular co-nationals.

Hypothesis: Given the risk-aversion of reference states, the institutions will be such that no group in the disputed area will win or lose. The reference states will seek arrangements that will guarantee long-term or permanent equality between major groups.

Resembling Consociational Democracy

Risk-averse reference states will not ensure that their co-nationals win, but rather that they not lose. Creating a political system to reflect these strategies relies on institutional design, since institutions alter the payoffs for co-nationals. Assuming utility maximisation, actors have to navigate the political system differently from before. This, in turn, may lead to a change in the behaviour of the actors.[14] However, this does not mean that the preferences for the actors change. The groups in the disputed area still prefer to be closer to 'their' reference state, but institutions will constrain their actions. There are several ways that institutions could be designed to codify the 'no win, no loss' principle explained above.

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[14] B. Weingast, 'Constructing Trust': 172-3.

The first strategy is to alter the electoral system. There are problems with the prevailing majoritarian electoral systems. A more 'proportional' electoral design would reduce the discrepancy between political representation and share of the vote. Some electoral systems that provide proportional results are open list systems (e.g. Bosnia-Hercegovina, Finland, South Tyrol) and those with a single transferable vote (e.g. Republic of Ireland, Malta, Northern Ireland).

The political system could also be designed to allocate executive political offices based on the number of seats earned in an election, or according to previous census returns. This ensures that the losing group is not completely excluded from political power in the disputed area. This political system *also* ensures that the winning group does not have all the power and must share executive authority with other national groups.

The underlying principle for institutional design for a settlement by reference states is one in which 'their' co-nationals are not powerless in the political structures. There is a strong incentive for reference states working in tandem to offer a settlement so that each group of co-nationals is able to exercise self-determination.

To ensure that national self-determination is protected, there are two additional strategies that can be employed.

First, decisions can be made to require a supermajority. Starting from the principle of self-determination, reference states would prefer that their co-nationals are ensured a share of decision-making. However, since reference states are risk-averse, they do not want a system in which there is a possibility of losing heavily. Thus, the settlement may also include arrangements for supermajority requirements to ensure that 'their' co-nationals are included. The supermajority is a weaker version of Lijphart's 'grand coalition' criterion, since it is possible to induce similar behaviour if the required majority is large enough to require the majority consent of all groups, without requiring all groups to be in government together. This is O'Leary's distinction between 'concurrent' and 'complete' consociation explained in Chapter 2.

Secondly, there can be mechanisms to ensure a threshold level of parallel support within each major conflict group, so that a decision that is unpopular to one group will not be imposed on them. It has been argued that such a veto mechanism can 'construct trust' by ensuring that neither group can use the legitimate political apparatus of the conflict area to dominate the other group or groups.[15] In so doing, reciprocal trust is created in the resulting political arena. When the political structures cannot be used aggressively against any of the national groups, groups that may otherwise feel vulnerable and may pre-emptively escalate the conflict are assured that this is unnecessary. Moreover, the veto mechanism ensures that the political rules are difficult to change, including attempts to remove the veto. Thus, the veto is self-enforced, providing security under which trust can be developed.[16]

Finally, such a settlement that protects the self-determination of the reference states' co-nationals may contain specific group-defined rights. This may be in the form of linguistic or cultural rights that are conferred on a non-territorial basis, but may also be extended on a territorial basis in the form of territorial autonomy or federalism.

Thus, starting from self-determination for co-nationals in the disputed territory, the resulting institutions include requirements for proportionality, supermajority decision-making, veto mechanisms and group-defined autonomy. These characteristics (i.e. veto, proportionality, supermajority and autonomy) are similar to the four features put forward by Lijphart for consociational democracy. It seems that despite some of the critiques levied against Lijphart's formulation of consociational democracy, the general features of his system are borne out in the above analysis. Significantly, the above findings differ from Lijphart's, since all four features emanate from the risk-averse reference states ensuring self-determination of their co-nationals is protected. It is the securing of self-determination that can assure conflict groups to accept the settlement from the reference states. Thus, the reference states will offer a settlement to their co-nationals similar to consociational power-sharing democracy.

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[15] B. Weingast, 'Constructing Trust': 174.
[16] Ibid.: 174-5.

Hypothesis: The resulting settlement will be based on self-determination such that no group can dominate the others. The institutional arrangements within the conflict zone will resemble consociational power-sharing, with the reference states as guarantors.

Adding to Lijphart

The previous section illustrated how most of the features of consociational democracy would follow from the principle of a group-based mutual veto. Thus, the internal mechanisms Lijphart proposed in the 1960s seem to be confirmed by the theoretical investigation in this chapter. Assuming the persistence of certain group boundaries, the resulting system is one in which there are safeguards by which none of the major groups in the disputed territory 'lose'. These protections include mutual veto, autonomy, proportionality and supermajority.

However, the 'internal' consociation is enforced and developed through factors neglected by Lijphart. Lijphart's list of favourable conditions included 'external threats', and consociational democracy in Lebanon and Cyprus failed due to meddling by external agents (see previous chapter). Lijphart does not account for the possible constructive role played by reference states.

By including reference states, two additional dimensions are added to the original notion of consociational democracy. The first is that there are cases in which the internal consociation is related to significant links between certain groups and their 'homeland'. These ties are important both in allowing reference states to encourage their co-nationals towards a settlement, and also constraining reference states by making it difficult to 'abandon' their co-nationals. This suggests that there is a lower commitment problem from reference states compared to other potential 'external' actors. Thus, not only do reference states push their co-nationals towards settlement, but they are reliable guarantors as well, since it is difficult for reference states to disengage, provided that there is moderate bipartisanship and sufficient leverage over co-nationals in the disputed territory.

A third dimension not addressed by the classical literature on consociational democracy is the role of intergovernmental cooperation between reference states

regarding the disputed area. The potential for building consociational democracies 'outside in' is not included in Lijphart's framework. That is, the above theory suggests that 'internal' power-sharing is less likely without the cooperation between the reference states towards the conflict zone.

Conditions for Transnational Consociation

The above findings lead to a framework of *transnational consociation*. The phenomenon is *transnational*, since the influence of reference states cross international boundaries to affect the settlement. The phenomenon is *consociation* due to the features of the institutions within the conflict area. There are four characteristics of transnational consociation:

First, there is a particular geometry of the conflict that includes two reference states, and their co-nationals intermixed in a disputed area. The demographic context is not conducive towards partition, so that some other configuration is necessary. This is tantamount to the existence of an *ethno-territorial cross-border conflict*.[17]

Second, under certain conditions, the two reference states coordinate action to jointly offer a settlement to the conflict groups that are sub-optimal to the latter. Thus, the form of the offer resembles a principal-agent scenario where the owner presents the manager a contract in which the incentive structure drives the agents to accept. The coordination of reference states demonstrates an *intergovernmental unity of purpose*.[18]

Third, since there are two different types of elites in each reference state, reference state elites are uncertain whether a change of government in the other state will undermine bilateral accords regarding the disputed territory. The agreement is susceptible to flanking from elites in each reference state, and conflict groups can choose to wait and see whether future leaders in the reference states would offer a

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[17] S. Wolff, *Disputed territories : the transnational dynamics of ethnic conflict settlement*, New York: Berghahn Books (2003). Wolff develops the concept in Chapter 1 of his book.
[18] M.R. Kerr, *Comparative Power Sharing Agreements in Northern Ireland and Lebanon: An Evaluation of Consociational Government from Sunningdale to Belfast (1973-98), from the National Pact to Ta'if (1943-89)*, PhD Dissertation, London School of Economics (2003).

better deal. Thus, it is crucial to create mechanisms to harmonise the policy positions of the groups within the reference state, so that the level of the future payoffs for conflict groups are relatively stable. This requires bipartisanship, which is *intra-reference-state coordination*.

Finally, the cooperation between reference states leads to an offer in which both states ensure that neither they nor their co-nationals lose (i.e. integration into the other reference state). In this context, the strictly risk-averse reference states will prefer a settlement where the difference in payoffs between winning and losing is small. Thus, the reference states will offer the conflict groups a non-majoritarian system. The political institutions in the conflict area will include a veto mechanism, proportionality, supermajority and autonomy. This framework will ensure that the legitimate state structures cannot be used to dominate any of the conflict groups. There is also an assurance that the political rules are difficult to change, so that the protection of self-determination is self-enforcing. The resulting framework resembles features of *internal consociation*.[19]

As mentioned in the previous section, the four features of transnational consociation can be re-organised along three axes:

Internal. The investigation above shows that the institutions internal to the conflict zone will most likely resemble consociational democracy. This shows that Lijphart's original framework can be used for conflict regulation in certain ethnoterritorial disputes.

External. In addition to Lijphart's 'internal' consociation, settlement is more likely when the reference states pursue a coordinated policy towards the conflict zone. This requires both intergovernmentalism and intra-reference state coordination.

Reference state/co-national links. The term 'cross-border' is not used, since the legitimacy of the territorial boundary is often disputed in such conflicts, either by reference states, conflict groups, or both. The pivotal relationships are the persistent

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[19] A. Lijphart, *The politics of accommodation : pluralism and democracy in the Netherlands*, Berkeley: Univ. of California Press (1975).

links between the 'metropole' and the co-nationals. This bond is important both in allowing the reference states to influence the terms of the settlement, but also to the durability of the commitment of the reference states as guarantors for the settlement.

These three dimensions frame the empirical investigation of transnational consociation in the next four chapters. The next chapter will look at the architecture of the agreements in the case studies, examining them along internal, external and reference state/co-national axes.

Chapters 5-7 will examine the implementation of the power-sharing agreements in the case studies, devoting a chapter each to internal, external and reference state/co-national dimensions.

Thus, the following empirical chapters will confirm the resemblance between the institutions within the disputed territory and consociational democracy. However, the case studies will also reveal that Lijphart's work needs to be extended to inter-reference-state and reference state/co-national dimensions to better appreciate the complex nature of conflict regulation in situations where reference states are significant.

Chapter IV: Comparative Institutional Architecture of the Belfast Agreement and the Dayton-Paris Agreement

Introduction

The peace agreements both in Northern Ireland and in Bosnia-Hercegovina (BiH) were complex bargains between conflict groups. The Belfast and Dayton-Paris Agreements did not appear within a political vacuum, but are culminations of longer political processes. In Bosnia-Hercegovina, the institutions echo some of the structures installed during the constitutional reforms in 1990. In particular, the use of a proportional representation (PR) list system and a 'rotating' presidency among the three constituent peoples (i.e. Bosniak, Serb and Croat) are still a part of the political institutions. In Northern Ireland, a PR electoral system has been used in elections on and off since 1920. Moreover, the power-sharing structures both at local and executive levels have been attempted intermittently since the 1970s.

After briefly considering some of the features of the institutional heritage in the two cases, the institutions of the Dayton-Paris Agreement and the Belfast Agreement will be examined using the three dimensions of transnational consociation: internal consociation, reference state/co-national links, and reference state dynamics.[1]

The post-settlement institutions in both cases exhibit the four features of internal consociation: proportionality, grand coalition, mutual veto and segmental autonomy. The use of PR electoral systems in nearly all levels of government, rules for seat allocation, and special rules for executive formation ensure proportionality for the constituent communities both in Northern Ireland and in Bosnia-Hercegovina. The so-called 'involuntary coalition' in Northern Ireland was designed to ensure a grand coalition between unionist and nationalist ministers, and the dual-premiership of the First Minister/Deputy First Minister has been a joint ticket of one unionist and one nationalist in practice. In Bosnia-Hercegovina, the Speakers and Deputy Speakers are

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[1] The Dayton-Paris Agreement also included annexes that are not relevant to this study. The following chapters will mainly examine the executive and legislative institutions (Annex 4) and the Office of the High Representative (Annex 10), but also mention human rights provisions (Annex 6) and return of displaced persons (Annex 7).

selected in legislative bodies on a joint Serb-Croat-Bosniak ticket, and there are explicit quotas for the three constituent peoples in entity-level cabinets. There are also 'mutual veto' provisions in both case studies . The Northern Ireland Assembly has two procedures (which will be explained below) to ensure cross-community support for certain 'key decisions'. In Bosnia-Hercegovina, members of the Upper Chamber at the entity and state level parliaments can trigger a vote requiring 'parallel consent' if one of the constituent peoples deems that an issue threatens its 'vital national interest'. Although there are few provisions for 'segmental autonomy' in Northern Ireland, the territorially-decentralised Bosnian framework allows a high degree of autonomy over matters at the entity, cantonal and municipal levels.

In addition to the features of internal consociation, there are reference state/co-national links written into both agreements. In Northern Ireland, Strand 2 of the Belfast Agreement indicates the role of Dublin, and part of the Strand 3 institutions set up and East-West framework for London. Moreover, although bound by the terms of the British-Irish Agreement (1998), the British government retains sovereignty over Northern Ireland, so this is another connection between unionists and London. The Dayton-Paris Agreement guaranteed entities could form 'special parallel relationships' with other states. In practice, this has allowed the majority Serb Republika Srpska to sign an agreement with Belgrade, and the Federation of BiH (with a significant Croat minority) to have an agreement with Croatia.

Finally, there are intergovernmental links between the reference states. First, both the Belfast Agreement and the Dayton-Paris Agreement are not signed by the conflict groups, but rather the reference states. In the former case, the Prime Minister and Taoiseach regularly conduct high-level meetings regarding Northern Ireland through the British-Irish Intergovernmental Conference (BIIGC).

There are significant institutions that do not involve either local parties or reference states, which are outside the scope of transnational consociation. Some of these, such as the Office of the High Representative (OHR) in Bosnia-Hercegovina, have power to make binding decisions. Other institutions, such as the International Independent Commission on Decommissioning (IICD) in Northern Ireland, provide reports, but cannot impose decisions.

Bosnia-Hercegovina: Before

The starting-point for political institutional analyses of Bosnia-Hercegovina tend to focus on the early 1970s. There are two significant events in this period. First, the 'Muslim' identity is recognised as separate in the 1971 Yugoslav census. Until that point, the term 'Muslim' was considered a religious identity, not a national one. For example, the 1948 census only allows 'Muslims' to be recognised in one of three ways: 'Serb Muslim', 'Croat Muslim' and 'ethnically undeclared Muslim.' [2] 'Muslims' were recognised as a 'constituent people' in Bosnia-Hercegovina along with Serbs and Croats in the 1974 Constitution of the Socialist Republic of Bosnia and Hercegovina (SRBiH). Thus, 'Muslims' are seen constitutionally as a people (*narod*) of Bosnia-Hercegovina, and more than a mere nationality (*narodnost*). The latter designation is used for other groups such as Hungarians, Slovaks, Czechs, Italians, and Albanians. The preamble of the 1974 Constitution for SRBiH states:

BiH is a socialist democratic state and a self-managing democratic community of the working people, citizens and nations of BiH – Muslims, Serbs and Croats, and of members of other nations and nationalities living in it.[3]

Although 'Muslims' are considered a 'people' in the preamble, Bosnia-Hercegovina is recognised as a multi-ethnic 'state', unlike the other republics, which are 'state nations' with a titular people (Croats in Croatia, Macedonians in Macedonia, etc.).[4] By contrast, 'Bosnia' is not the land of the 'Bosnian *narod*', but rather a republic with 'Muslims', Croats and Serbs as constituent 'peoples'. The 1974 constitution gave extensive autonomy at the republic level.[5] At the Centre, the Yugoslav federation had a collective presidency with one member from each of the republics as well as one seat for the two autonomous regions within Serbia (Vojvodina and Kosovo), with rotation to the presidency of the Presidency every year. However, it was not a democratic system, but was merely a reorganisation of a one-party totalitarian

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[2] S. P. Ramet, *Nationalism and Federalism in Yugoslavia: 1962-1991*, Bloomington: Indiana Univ. Press (1992): 179-180.

[3] Ibid.: 184

[4] Ibid. For example, the Socialist Republic of Slovenia was defined as "a state based on the sovereignty of the Slovene nation and the people of Slovenia".

[5] For an overview of the history leading up to the 1974 Constitution, see: D. Rusinow, *The Yugoslav Experiment, 1948-1974,* Berkeley: Univ. of California Press (1977); S. L. Burg, *Conflict and Cohesion in Socialist Yugoslavia*, Princeton: Princeton Univ. Press (1983).

communist regime. Tito was still at the head of the constitutional order as the president of the state, and the constitution was set up so that the delicate balance between centralisation and de-centralisation could only function with Tito at the helm.

A more instructive starting-point for the institutional heritage of Bosnia-Hercegovina is from the constitutional amendments of 1990. The rotating presidency in SR Bosnia-Hercegovina consisted of a seven-member executive consisting of two 'Muslims', two Croats, two Serbs and one Other'.[6] The 1990 multi-party elections in Bosnia-Hercegovina returned: Fikret Abdić (SDA) and Alija Izetbegović (SDA) as the Muslim representatives; Nikola Koljević and Biljana Plavšić (both SDS) were the Serb members; Stjepan Kljuić and Franjo Boras (both HDZ) were the Croat representatives; and Ejup Ganić, although a member of the SDA, was the 'Yugoslav' member of the collective presidency.[7] The presidency was elected by a 'relative majority'. Voters could cast one vote for 'their' candidate as well as one vote each for candidates for the other constituent groups including the Yugoslav/Other.[8] In addition to the presidency, the constitutional amendments from 1990 included provisions for a bicameral legislature. The Council of Municipalities had 110 seats and was elected using a traditional two-stage run-off system in single-seat constituencies. If no candidate earned more than 50% of the votes cast in the first round, the top two candidates have a run-off election to determine the winner. The Council of Citizens had 130 seats, and used a proportional representation system in seven multi-member constituencies using the Hare quota.[9] The seats in both houses were won largely by the newly formed national parties.[10]

Despite the 'external' influence in constructing the post-Dayton constitutional order, the present-day political institutions in Bosnia-Hercegovina bear some resemblance to

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[6] F. Bieber, 'The Case Study of Bosnia and Hercegovina' (forthcoming) writes that the seventh representative is a 'Yugoslav'. However, a publication from the Electoral Commission of BiH writes that the seventh member of the presidency is 'Other'.

[7] The election results are reproduced in *Izbori u Bosni i Hercegovini*, ed. N. Herceg and Z. Tomić, Mostar: Sveučilište u Mostaru Centar za studije novinarstva (1998).

[8] Association of Election Officials in BiH, 'Retrospective of Elections'. URL: http://www.aeobih.com.ba/documents/Technical%20series%20ENG%20III.pdf: 8.

[9] Ibid. See also S. Bose, *Bosnia After Dayton*, London: Hurst (2002): 228. The Hare quota determines the number of votes necessary to be elected. The formula is V/s, where V is the number of votes cast and s is the number of seats.

[10]The largest parties after the 1990 elections -- Seats in the Chamber of Citizens: SDA 44, SDS 34, HDZ 21, Party of Democratic Changes (ex-Communist) 15, Reformists (ex-communists). Seats in the Chamber of Municipalities: SDA 43, SDS 38, HDZ 23, Party of Democratic Changes 4.

the 1990 framework. First, the rotating presidency at the head of the post-Dayton Bosnia-Hercegovina is elected in a one-round election where the candidates with the most votes from each of the constituent *narodi* earn a seat. Second, the municipal seats are decided by employing the Hare quota with largest remainders.[11] Third, a PR electoral system is used to distribute the seats in the House of Representatives at the federal level, though the system used is different. The description of the electoral system will be given in the following sections. Finally, and most importantly, the Yugoslav system had entrenched the privileged position of the constituent peoples of Bosnia-Hercegovina (i.e. Serb, Croat, Muslim), and it is along these cleavages that the 1990 multi-party system took shape,[12] as well as the constitutional design for Annex IV of the General Framework Agreements for Peace (GFAP). In addition to the institutional heritage from the Yugoslav system, the other unique feature of the political settlement is also shaped by actors from the 'international community'.

There were three significant attempts at external mediation to resolve the conflict in Bosnia-Hercegovina. First, Jose Cutilero brought representatives from the three constituent groups together during the Portuguese presidency. An agreement was initially reached to divide the territory into ethnic 'cantons', which still respected the independence of Bosnia-Hercegovina. However, Izetbegović pulled support for the Lisbon plan, since the SDA opposed creating ethnicised cantons. In March 1992, a second version of the Lisbon plan was produced. Although Belgrade accepted the plan, it was rejected by Bosnian Serbs, with Karadžić not accepting anything less than an independent Serbian state with confederal ties to the other cantons and a special relationship with Serbia. A third round of negotiations proposed to settle the cantonal boundaries based on the 1991 census. Each community claimed victory: for Serbs, the plan created three 'Bosnias'; for the SDA, the result would be a unitary state; and for Croats, there would be a separation from Belgrade and the opportunity for relations with Croatia. However, in the end, all three parties rejected it.[13] The Vance-Owen Plan was the second attempt at an externally mediated political settlement. The plan envisioned ten ethnically-defined units, such that three would be Croat, three Serb,

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[11] After the seats are allocated based on the number of V/s quotas received from each party, any unallocated seats are distributed by the highest remainder when the quotient V/s is calculated.
[12] S. Woodward, *Balkan Tragedy*.
[13] The summary of the Lisbon Plan is from S.L. Burg and P.S. Shoup, *The War in Bosnia and Hercegovina: Ethnic Conflict and International Intervention*, London: M.E. Sharpe (1999): 108-111.

three Bosniak, and Sarajevo would be controlled jointly. However, the plan was widely criticised for rewarding ethnic cleansing. Nonetheless, both the Bosnian government (largely Bosniak) and the Bosnian Croats accepted the plan, since it preserved the territorial integrity of Bosnia-Hercegovina. On the other hand, the Bosnian Serbs led by Karadžić (who initially supported the plan) did not endorse the Vance-Owen framework, since NATO would not agree to stop air strikes. This was followed in 1993 by the Owen-Stoltenberg plan, which proposed a three-way partition of Bosnia-Hercegovina. Unlike the earlier offers by the international community, the Serb and Croat units could secede through self-determination and join their patron-state. Surprisingly, the Serbs rejected the plan, since they wanted more geo-strategically advantageous lands, including an outlet to the Adriatic Sea.

Thus, the institutional heritage of the Dayton system is a recent one, combining the *homegrown* elements of recognition of constituent peoples and a rotating 'collective presidency', as well as *imported* democratic structures of ethno-territorial autonomy to end hostilities. Both have shaped the most recent institutional design of the Dayton-Paris system.

Northern Ireland: Before

In contrast to the wholesale importation of a constitutional system and a relatively recent history of multi-party electoral politics in Bosnia-Hercegovina, the genealogy of democratic structures in the case of Northern Ireland is far older. Arguably, some of the institutional features can be traced back to the Government of Ireland Act (1920). It is this act of Parliament that created two separate jurisdictions in Ireland, establishing a parliamentary body in each entity and providing a harmonising Council of Ireland. In both parliaments, the rarely used PR-STV system was applied.[14] The PR-STV electoral system is also used in Malta, Estonia (for the transitional 1990 election), the Australian Senate and Tasmania. In 1929, the Unionist government in Northern Ireland passed an Act that abolished the PR system (except for the Queen's

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[14] Proportional Representation – Single Transferable Vote: The quota for election under PR-STV is $V/(s+1)$, where V is the number of votes cast and s is number of seats. Voters mark ordered preferences. If a candidate reaches the quota, she is elected, and the surplus votes are distributed to the other candidates based on the next preferences. If no candidates reach the quota, the candidate with the least votes is eliminated, and the votes are distributed to the others based on the next highest preference. The process is repeated until s candidates are elected.

University seats), and created 48 single-member constituencies that would be elected using the Westminster 'winner takes all' system.

It is sometimes alleged that the changes in the electoral system ensured Unionist dominance through 'gerrymandered' constituencies. Although the legacy of the 'Stormont regime' is one of Unionist domination and Nationalist marginalisation, the accusations of gerrymandering are debatable.[15] At the local level, there is convincing that the constituencies were gerrymandered, and that there was limited manipulation at the parliamentary level.[16] At the local level, comparing the 1920 (proportional representation) and 1922 (plurality) elections showed that Nationalists had lost their majority in 13 local councils, and that by the late 1920s, Unionists controlled 85% of councils with 66% of the population.[17] Osborne posits that the allocation of an extra seat in the parliamentary elections to Fermanagh before Antrim or Londonderry/Derry was questionable, since it resulted in the consistent return of two unionists and one nationalist in Fermanagh.[18] However, there is no evidence of widespread gerrymandering of parliamentary seats.[19] As John Whyte argues, the Irish geography and history literature questions the effects of the redrawing of constituency boundaries for the Northern Ireland House of Commons election in 1929.[20] Before the change of the electoral system and the constituency boundaries, Nationalists earned twelve seats in the legislature, while after the change, this was only reduced to eleven.[21] On the other hand, what did change was that smaller parties such as the NILP and independent Unionists lost out, and the new system consolidated local Unionist and Nationalist hegemony in certain constituencies. Instead of being discriminatory towards Nationalists, the true legacy of the Stormont regime between 1929 and 1972 was to polarise the political terrain in Northern Ireland.[22] In fact, 'the

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[15] A summary of the various methods of controlling Northern Ireland by majority Unionists 1920-1969 can be found in B. O'Leary and J. McGarry, *The Politics of Antagonism: Understanding Northern Ireland*, London: Athlone Press (1996): 111-133.

[16] P. Mitchell and G. Gillespie, 'The Electoral Systems', in *Politics in Northern Ireland*, ed. P. Mitchell and R. Wilford, Boulder, CO: Westview Press (1998): 69-70.

[17] J. McGarry and B. O'Leary, *The politics of antagonism*: 120-121.

[18] R. D. Osbourne, 'The Northern Ireland Parliamentary electoral system: The 1929 reapportionment'. *Irish Geography*, vol. 12: 45.

[19] Ibid.: 53.

[20] J. Whyte, 'How much discrimination was there under the unionist regime, 1921-68?', URL: http://cain.ulst.ac.uk/issues/discrimination/whyte.htm.

[21] The claim by John Whyte can be confirmed by looking at N. Whyte, 'The Northern Ireland House of Commons, 1921-1972', http://www.ark.ac.uk/elections/hnihoc.htm.

[22] J. Whyte, 'How much discrimination was there under the unionist regime, 1921-68?'.

electoral system *was* significant in establishing areas of either Unionist or Nationalist domination.'[23]

Although the institutional heritage spans back to the establishment of Northern Ireland, it is more instructive to examine the institutions after the return to direct rule in 1972. There was a 'failed' attempt at power-sharing self-government after the Sunningdale Agreement (1973). In 1972, the British Government (in the form of the Northern Ireland Office) compiled proposals from the constitutional political parties in Northern Ireland and used this input to suggest a plan of action for the governance of the province. The Alliance Party, SDLP, NILP and Northern Ireland Liberal Party advocated the establishment of a unicameral legislature directly elected in multi-seat constituencies through PR-STV.[24] Based on these submissions, the paper concluded that there is a great deal of support for the reinstatement of PR-STV in any devolved 'Assembly' established in Northern Ireland.[25] The recommendation is echoed in the White Paper from 1973 presented by the Secretary of State for Northern Ireland to the Westminster Parliament, which suggested that a Northern Ireland 'Assembly' should consist of around eighty members elected using PR-STV applied to multi-member versions of the Westminster constituencies.[26] When the elections for the Assembly were conducted in June 1973, PR-STV was used to fill 78 seats in multi-member constituencies using the Westminster parliamentary boundaries.[27] In addition to the electoral system, there are other features from the political innovations in the early 1970s that resemble the institutional features of the Belfast Agreement.

The important features of both the Sunningdale and Belfast Agreements are: principle of consent; policing; North-South cross-border cooperation; 'Irish' dimension; and British-Irish cooperation.[28]

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[23] R. D. Osbourne, 'The Northern Ireland Parliamentary electoral system': 54.

[24] Northern Ireland Office, *The Future of Northern Ireland: A Paper for Discussion*, London: HMSO (1972): para. 28-31. The Document is reproduced on the CAIN web site at: http://cain.ulst.ac.uk/hmso/nio1972.htm.

[25] Ibid.: para 53.

[26] Northern Ireland Office, *Northern Ireland Constitutional Proposals*, London: HMSO (1973): para. 116. The White Paper is reproduced on the CAIN web site at: http://cain.ulst.ac.uk/hmso/cmd5259.htm.

[27] S. Wolff, 'Context and Content: Sunningdale and Belfast Compared', in *Aspects of the Belfast Agreement*, ed. R. Wilford, Oxford: Oxford University Press (2001): 14.

[28] S. Wolff, ibid.: 13.

The first section of the Northern Ireland Constitution Act (1973) re-affirms that Northern Ireland would remain a part of the United Kingdom as long as a majority of her people wished to remain within the Union.[29] The 'principle of consent' does not originate in this act, but had been on the statutes since the Northern Ireland Act (1949).[30] The British Government also proposed that managing Northern Ireland would include police reform in 1973, long before the recommendations of the Patten Report. The White Paper includes the establishment of a review of police practices.[31]

More importantly, the overall structure of the Belfast Agreement is similar to that of the Sunningdale Agreement. The internal component of the institutional framework was the aforementioned devolved, cross-community Assembly. After the Assembly elections in 1973, Brian Faulkner's pro-White Paper section of the UUP secured 24 seats, but anti-White Paper unionists earned 26 seats.[32] The Northern Ireland Executive was formed through a negotiated settlement between the pro-power-sharing parties and the Secretary of State, despite the concerns by some in the Irish Government that excluding anti-agreement parties would de-stabilise the devolved institutions.[33] Nonetheless, Whitelaw and the pro-agreement parties agreed on the composition of the Executive, which balanced six UUP posts with four SDLP and one APNI member. In addition to the executive departments, four non-voting departments were added to the administration (two SDLP, one APNI and one UUP). Moreover, like the Executive formed under the Belfast Agreement, the Chief and Deputy Chief Executive were members of the UUP and SDLP, respectively. Unlike the Belfast Agreement, the executive did not require approval by cross-party consensus (see the section below on 'mutual veto'). The second 'strand' of the Sunningdale proposal

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[29] Section 1 states: 'It is hereby declared that Northern Ireland remains part of Her Majesty's dominions and of the United Kingdom, and it is hereby affirmed that in no event will Northern Ireland or any part of it cease to be part of Her Majesty's dominions and of the United Kingdom without the consent of the majority of the people of Northern Ireland voting in a poll…'

[30] B. O'Leary, 'Complex Power-Sharing in and Over Northern Ireland' (forthcoming).

[31] Northern Ireland Office, *Northern Ireland Constitutional Proposals*. The intention to reform policing in Northern Ireland is also included in the Sunningdale Agreement: para. 12.

[32] This includes DUP (8), anti-White Paper UUP (7), Vanguard Party (7), and the West Belfast Loyalist Coalition (3). A summary of the election results can be found at: http://www.ark.ac.uk/elections/fa73.htm.

[33] M. R. Kerr, *Comparative Power Sharing Agreements in Northern Ireland and Lebanon: An Evaluation of Consociational Government from Sunningdale to Belfast (1973-98), from the National Pact to Ta'if (1943-89)*, PhD Dissertation (LSE, 2004): 92.

included the 'Irish dimension', which was mentioned in the constitutional proposals.[34] Moreover, the Northern Ireland Act (1973) stated that:

A Northern Ireland executive authority may consult on any matter with any authority of the Republic of Ireland [and] enter into agreements or arrangements with any authority of the Republic of Ireland in respect of any transferred matter.[35]

The institutional arrangements for this 'Irish dimension' were two-fold. First, there would be a Council of Ireland consisting of seven ministers from the Northern Ireland Executive and seven from the Irish Government. Decisions could only be made through unanimity. Second, there was an all-Ireland consultative body with thirty members from the Dáil and thirty from the Northern Ireland Assembly selected through PR-STV. [36] The third component of the institutional geometry of the Sunningdale institutions was the intergovernmental aspect.[37] Thus, the three-strand institutional framework in the Sunningdale framework resemble later incarnations of devolution: power-sharing between unionists and nationalists within an Assembly elected through PR and headed by a community-balanced Executive; an 'Irish dimension' with institutions to harmonise in areas of common concern; and an intergovernmental axis between Dublin and London.

Despite the similarities between the Sunningdale and Belfast Agreements, there were crucial differences which undermined the feasibility of the former.[38] Both inclusion and balanced intergovernmentalism are crucial to the current process, but were absent in the 1970s.

Unlike the establishment of power-sharing after the Belfast Agreement, elements antagonistic to the agreement were outside the process of executive formation and

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[34] NIO, *Northern Ireland Constitutional Proposals*: para. 2.
[35] Quoted in M.R. Kerr, *Comparative Power Sharing Agreements in Northern Ireland and Lebanon*: 84.
[36] Sunningdale Agreement: para. 7, explained in M.R. Kerr, ibid. The submissions from both the SDLP and Sinn Féin for the five-year review of the Belfast Agreement both include a recommendation to establish an all-Ireland parliamentary body. Besides the Westminster elections, the only elections since 1973 that did not use PR-STV used another PR system. The Forum elections 1996 used a PR list system, with the party seats designated by the d'Hondt formula (see below).
[37] Sunningdale Agreement: para. 5, 6, 10.
[38] For an overview of the Sunningdale Agreement, see J. Leavy, *Political Thinking Behind Sunningdale*. Dublin: Talbot (1973).

governance in Northern Ireland following the Sunningdale Agreement. As mentioned before, anti-White Paper unionists were not included in the discussions in executive formation, although they earned more seats than their pro-agreement rivals. Paisley's DUP, although refusing to take part in the negotiations in 1997-8, worked within the devolved institutions. Paisley himself was the chair of the Agriculture committee, and two other DUP members took their ministerial posts, even though the Belfast Agreement includes provisions for parties to exclude themselves from the Executive. During the short-lived power-sharing government after Sunningdale, the IRA continued its 'long war', undermining the support for the institutions among unionists. In contrast to the 1970s, the PIRA had called a cease-fire in August 1994 and its political arm, Sinn Féin, was an integral (though controversial) part of the multi-party talks leading up to the Belfast Agreement. Moreover, the republican movement had reversed its abstentionist policy and were participating in the electoral game. In May 1974, the loyalist paramilitaries reacted to the republican campaign by carrying out bombings in Dublin and Monaghan that left 33 people dead. In stark contrast to their actions in th 1970s, a loyalist cease-fire followed the PIRA cease-fire of 1994, and the political arms of the UVF and UDA (i.e. PUP and UDP, respectively) participated in the multi-party talks as pro-Agreement parties. The elements that were behind the general strike by the UWC that brought down Sunningdale (loyalists and anti-agreement Unionists) were co-opted into the political process in the 1990s. Even though anti-Belfast-Agreement unionists walked out of the talks, when the institutions were established, both the DUP and UKUP chose to voice their dissent from *within* the debating chamber.

The other important aspect of contrast between the Sunningdale and Belfast Agreements is the level of intergovernmentalism. Although there were some areas of Dublin-London cooperation in the past, there was an impetus for stronger co-ordination between the two governments in the 1990s. When Faulkner needed assurances on the status of Northern Ireland, the two governments were unable to issue a joint statement.[39] The Irish Government did not go far enough in reassuring unionists that it did not have irredentist aspirations, and the declaration by the Irish Government went far short of abandoning Articles 2 & 3 of the Irish Constitution. On

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[39] M. R. Kerr, *Comparative Power Sharing Agreements in Northern Ireland and Lebanon*: 115.

the other hand, the two governments have learned their lessons from the past failures and achieved a more coordinated approach to Northern Ireland during the current 'peace process'. More importantly, Dublin and London are not only acting in concert, but also in a more balanced manner towards the communities in Northern Ireland. That is, the recognition of the 'two traditions' in Northern Ireland by the British and Irish Governments means that Dublin has to engage with unionist concerns and London with nationalist concerns. Thus, the political parties could not look to their 'patron' state for unquestioned support.

The deeper level of cooperation between the governments also removed the expediency of unionist intransigence, since both Dublin and London were willing to work over the heads of unionists to reach a settlement.[40] The possibility of a Dublin-London settlement that bypasses the so-called 'unionist veto' was evident from the Anglo-Irish Agreement (AIA) in 1985. In particular, Articles 2 and 3 of the AIA extended the Anglo-Irish Intergovernmental Conference established in 1981. The Intergovernmental Conference allowed for Dublin-London co-operation in areas of security, legal, and political matters, as well the promotion of cross-border co-operation. Moreover, policy coordination between the two governments in these issues could be conducted without input from the parties in Northern Ireland.

The evolution of Anglo-Irish relations suggests that the Belfast Agreement was the culmination of a longer process, and that senior civil servants behind the scenes had been working for decades to gradually learn a way to manage the conflict, though it is often their captains at the helm who receive the credit.[41] The strategy of a three-strand institutional approach to Northern Ireland originating from the Sunningdale Agreement reappeared periodically as the principles of inclusion and British-Irish intergovernmentalism were developed.

In 1982, James Prior, then-Secretary of State for Northern Ireland, suggested an initiative for 'rolling devolution'.[42] The proposals included a 78-member Northern Ireland Assembly. There would also be six statutory committees monitoring the

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[40] Ibid.: 116.
[41] Ibid.: 165.
[42] NIO, *A Framework for Devolution*, Cmnd. 8541 (April 1982). It can be found online at: http://www.nio.gov.uk/issues/agreelinks/ptalks/wp1982.htm.

departments from direct rule on transferred matters. The six statutory committees were: agriculture; education; economic development; environment; health and social services; and finance and personnel.[43] In addition to the statutory committees, the Assembly was permitted to form non-statutory committees. The most significant of these were devolution and security.[44] Moreover, the Prior Initiative had elements of the three-strand approach. Prior's initiatives included suggestions to continue Anglo-Irish intergovernmentalism and establish a British-Irish Parliamentary body. [45] Moreover, it would be within the stipulations of any framework that a devolved government in Northern Ireland could establish bilateral agreements with the Republic of Ireland on 'transferred' functions.[46]

However, any prospects for long-term success for the Assembly was undermined from the start. The political terrain had changed since the Sunningdale Agreement. After the resignation of Gerry Fitt in 1979, the SDLP took a more nationalist 'green' stance, and did not advocate a framework for internal settlement. The only 'solution' would be British withdrawal.[47] The actions of the SDLP were constrained by three factors. First, the Hunger Strikes in the Maze prison confirmed widespread support for republicanism in Northern Ireland. Second, following the propaganda victory of the hunger strikes, Sinn Féin started their dual strategy of 'an armalite in one hand a ballot box in the other' advocated by Danny Morrison at the 1981 Sinn Féin *Ard Fheis*, which meant that the SDLP had competition for the nationalist vote. Finally, in contrast with the Sunningdale Framework, Prior's proposals did not guarantee an 'Irish Dimension'. Moreover, the committee system devised in the 1982 initiative did not have structures for executive power-sharing between unionists and nationalists, which were an important part of the Sunningdale Agreement. Thus, the framework gave the SDLP less than what had been promised in 1973, and combined with the 'greening' of nationalist politics, accepting the 1982 assembly would have exposed the SDLP to electoral flanking from Sinn Féin.[48]

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[43] Ibid.: Para 27(c).
[44] C. O'Leary et al, *The Northern Ireland Assembly, 1982-1986*, London: C. Hurst & Co. (1988): 148-160.
[45] NIO, *A Framework for Devolution*: para 23.
[46] Ibid.: para 24.
[47] C. O'Leary et al, *The Northern Ireland Assembly, 1982-1986*: 68.
[48] P.L. Mitchell, 'Conflict Regulation and Party Competition in Northern Ireland', *European Journal of Political Research*, vol. 20, no. 1 (July 1991): 81.

In Dublin, the Fine Gael-led coalition was ousted by a Fianna Fáil majority led by Charles Haughey, who, like Hume, rejected any internal solutions to Northern Ireland.[49] The SDLP (like Sinn Féin) chose to contest the Assembly elections, but for the reasons outlined above, declined to take their seats.[50] The refusal of all major strands of nationalism to participate in the Assembly weakened the legitimacy of the institutions, and the Assembly was eventually dissolved in 1986.

The most recent chapter in the institutional process in Northern Ireland before the Belfast Agreement started with the publication of the Framework Documents (1995).[51] The first sections of the declaration underline that the initiatives are jointly put forward by London and Dublin and foreshadow the deep intergovernmentalism leading up to the Belfast Agreement.[52] Moreover, the Framework Documents set out a three-strand framework, with proposals for institutions within Northern Ireland, North-South cooperation, and East-West cooperation.[53] Although the Framework Documents were published in 1995, the actual process leading up to the Belfast Agreement stretches back over three decades, starting with the proposals from the Sunningdale power-sharing experiment. Thus, the institutions set up after the Northern Ireland Act (1998) are a culmination of a longer process during which the governments in Dublin and London (especially the civil servants) learned from their past mistakes to put forward a three-strand approach to governance with a local legislature selected through PR-STV, underlined with the principles of *balanced intergovernmentalism* and *inclusion*.

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[49] C. O'Leary et al, *The Northern Ireland Assembly, 1982-1986*: 68.

[50] The results of the 1982 Assembly elections can be found at: http://www.ark.ac.uk/elections/fa82.htm. The composition of the statutory Assembly committees (both SF and SDLP abstained) can be found in C. O'Leary et al., *The Northern Ireland Assembly, 1982-1986*: 209-215.

[51] For an analysis of the Framework Documents, see B. O'Leary, 'Afterword: What is Framed in the Framework Documents?', *Ethnic and Racial Studies*, vol. 18, no. 4 (October 1995): 862-72.

[52] For example, see the repetition of the phrases 'two Governments' and 'both Governments' in setting out the principles for progress in Northern Ireland in the Framework Documents: para 1-13. An online copy can be found at: http://cain.ulst.ac.uk/events/peace/docs/fd22295.htm.

[53] See Framework Documents. The 'internal' arrangements are mentioned in para. 22-23; North-South coordination para. 24-32; and East West structures para. 39-49.

Institutions and Rules: Now

After examining the institutional influences from the past, the discussion now turns to the constitutional design of the current political system both in Bosnia-Hercegovina and in Northern Ireland. It is also important to look at the electoral rules by which the representation in these institutions is selected. The importance of the term *rules* instead of using the phrase *electoral system* highlights that the rules themselves are only a part of the puzzle in governing electoral politics, and do not take into account the political party system and other socio-historical factors.[54] Reilly and Reynolds identify three dangers in Western intellectual thought in electoral design: free and fair elections are the best way to manage conflict; winner-takes-all systems provide clear winners and stable government; and successful electoral rules can be transplanted from the West to the 'developing world'.[55] The contexts through which the electoral rules develop differ in the two cases studied. The PR-STV system in Northern Ireland was first established by the Government of Ireland Act (1920). On the other hand, the electoral rules in Bosnia-Hercegovina were imported from 'outside'. In fact, much of the structure of the present-day Bosnian state was put together by the US State Department.[56] Carl Bildt, the first High Representative, believed that the constitution was 'by international decree', not local consensus.[57] However, Richard Holbrooke felt that this was necessary, writing 'it was better to be criticised for too much leadership [from Washington] than for too little' to conclude the Dayton-Paris Agreement.[58]

The following sections will examine the complex agreements in Northern Ireland and Bosnia-Hercegovina along the dimensions derived in Chapter 3. First, both the Belfast Agreement and Dayton-Paris Agreement exhibit characteristics of 'internal'

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[54] This distinction is proposed by Rein Taagepara. For example, see R. Taagepara, 'Designing Electoral Rules and Waiting for an Electoral System to Evolve,' *The Architecture of Democracy*, ed. A. Reynolds, Oxford: Oxford Univ. Press (2002).

[55] B. Reilly and A. Reynolds, *Electoral Systems and Conflict in Divided Societies*, Washington: National Academy Press (1999): 1-2.

[56] C. Bildt, Peace Journey: the Struggle for Peace in Bosnia, London: Weidenfeld and Nicolson (1998): 136-9.

[57] Ibid.: 139. Bildt was also the EU Special Representative to Former Yugoslavia during the negotiations leading to the Dayton-Paris Agreement.

[58] R. Holbrooke, To End a War, New York: Modern Library (1999): 361. Holbrooke was the US Assistant Secretary of State for European and Canadian Affairs and the primary negotiator from the Americans.

consociation as described by Lijphart. However there are also significant links between reference states and the conflict zone. The agreements also include bilateral institutions between reference states. In addition to the dimensions that comprise transnational consociation, institutions that have power of implementation or arbitration will briefly be considered. Interestingly, there is no explicit mention of bipartisanship in either institutional architecture. However, policy coordination between groups with reference states can be found in political practice and will be investigated in Chapter 6.

Internal Consociation

The features of the institutional design in the Belfast Agreement and the Dayton-Paris Agreement can be organised the original features of consociational democracy put forward by Lijphart.

Proportionality

    a. *Electoral System and Legislative Seat Allocation*

Both in Northern Ireland and in Bosnia-Hercegovina, the electoral rules are designed to result in proportional representation for the constituent groups.

In Northern Ireland, local councillors are selected in District Electoral Areas in multi-seat constiuencies of between five and seven members using the PR-STV electoral system. In turn, the local councils are comprised of three to five District Electoral Areas; there are 26 such local councils in Northern Ireland.

The lynchpin of devolved authority in Northern Ireland is the legislative Assembly at Stormont. The Assembly consists of 108 seats, with each Westminster constituency returning six members through a direct election using PR-STV. The final size of the Assembly was disputed by the parties during the negotiations. According to the Mitchell Draft Proposal, suggestions included increasing the seats in each constituency from five (as recommended in the Framework Documents) to six, or to provide ten to twenty 'top-up' seats to ensure proportionality between electoral

strength and seat allocation.[59] Both proposals were designed to benefit smaller political parties. Ultimately, it was the first suggestion that was included in the Belfast Agreement[60] and the Northern Ireland Act (1998)[61].

The architecture of the settlement in Bosnia-Hercegovina is more complex than in Northern Ireland, so the electoral provisions to guarantee proportionality between the constituent peoples will be summarised for each level of governance. There are 185 municipalities in Bosnia-Hercegovina (including Brčko District), more than before the war, since some municipalities were split by the Inter-Entity Boundary Line (IEBL). The electoral system has evolved at the municipal level both in Republika Srpska and in the Federation of Bosnia-Hercegovina (FBiH). The electoral law for municipal councils in both entities initially used the system from the multi-party elections in 1990, and the Provisional Election Commission employed a closed party list using the Hare quota with largest remainder.[62] Over the next two elections, there were major changes to the electoral law. In the 1998 elections, the Hare quota with largest remainder was replaced with the Sainte-Laguë dividers to allocate seats, while maintaining the closed party lists. This change tends to reduce the number of seats in legislative bodies for smaller parties.[63] The elections in 2000 used open party lists instead of closed party lists, so that voters would have the freedom to rank candidates differently from party leaders. The most recent version electoral law for municipalities stipulates that electoral mandates are distributed every four years through an open-list proportional system. The quotients for a political party or coalition are calculated using the Sainte-Laguë method. Political parties or coalitions that do not earn at least 3% of the total votes cast are not eligible for seats.[64] When a list (i.e. political party or coalition) wins a mandate, seats are first allocated to

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[59] A. Morgen, *The Belfast Agreement: A practical Legal Analysis*, Belfast: Belfast Press (2001): 188.
[60] Belfast Agreement, Strand I, Art. 2.
[61] Art. 33.
[62] After the seats are allocated based on the number of V/s quotas received from each party, any unallocated seats are distributed by the highest remainder when the quotient V/s is calculated.
[63] See AEoBiH, 'Retrospective of Elections'. See also B. O'Leary 'Conceptual Prologue: Two Emergent Forms of Complex Power-Sharing' (forthcoming) for a hypothetical allocation of seats using the Sainte-Laguë formula. The Sainte-Laguë formula is calculated by taking the number of votes for all of the party lists, then dividing them by 1,3, 5 and so on to determine the 'quotients.' These 'quotients' are then ordered from highest to lowest, and seat are distributed until all of the mandates are filled. For further illustrations of the Sainte-Laguë formula, see [63] B. O'Leary, B. Grofman and J. Elklit, 'Divisor Methods for Sequential Portfolio Allocation in Multi-Party Executive Bodies: Evidence from Northern Ireland and Denmark', *American Journal of Political Science*, vol. 49, no. 1 (Jan. 2005): 200
[64] Election Law of BiH: art. 9.6.

candidates on the list earning more than 5% of the votes cast for that list, with the quotients ordered from highest to lowest. If seats are not filled, then the remaining mandates are distributed among candidates from the list with less than 5% of the votes for that list.[65]

There are exceptions to the electoral system for municipalities. Municipalities can be combined to form a 'City Authority' The 'city authority' is responsible for joint infrastructure of the municipalities that comprise it, and has its own statute. Moreover, a city authority has a unified city council with an equal number of councilors from each municipality, with a minimum of 15 and maximum of 30 members. The City Council elects its own Mayor.[66] There are two specific cases of such 'City Authorities'. The first is Sarajevo, and is described in a separate section of the FBiH constitution. In addition to the traits off a City Authority, the decision-making bodies of the City of Sarajevo (i.e. City Council, Mayor and subordinate bodies) 'shall reflect multiethicity and particularity of the City of Sarajevo as the Capital of the Federation of Bosnia and Herzegovina.'[67]

The other example of a City Authority, Mostar, requires specific attention. The difficulty with local consensus on governing Mostar led to a provision to bring the 'divided city' under EU administration for two years under the Washington Agreement.[68] The European Union Administration of Mostar (EUAM) managed the city until it handed over the duties to the OHR Regional Office in Mostar. The arrangements were intended to be temporary, until the local parties agreed on the governance of Mostar. However, this consensus was never reached, so the High Representative, Paddy Ashdown, handed down a decision on 28th January 2004 for the reunification of Mostar.[69] The Federation constitution was amended to include a

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[65] Ibid.: art. 13.5.

[66] Federation of BiH Constitution, sec. VIA. The competencies of the City Authority are listed in Sec. VIA, art. 1: public transport, tax and finance (in accordance with Canton and Federation legislation), urban planning, joint infrastructure and other areas.

[67] Ibid, sec. VIB, art. 2.

[68] Washington Agreement, Art. VIII. URL: http://www.ecmi.de/cps/documents_bosnia_washington.html.

[69] OHR, 'Decision Enacting the Statute of the City of Mostar', URL: http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31707.

separate section on the City of Mostar. [70] The unique context of the imposed reunification of the City of Mostar also required a separate section in the Election Law of Bosnia-Hercegovina. The Mostar City Council will have 35 members, 17 of which are elected on a city-wide basis, and three each from the six municipalities (now known as 'city areas electoral constituencies'). For the city-wide seats, the mandates are decided by an open-list proportional representation, with seats being allocated to political parties, coalitions and independent candidates using the Sainte-Laguë formula.

The cantonal level inherited from the Bosniac-Croat Federation established by the Washington Agreement forms part of post-Dayton governance in the Federation of BiH. The Federation consists of ten cantons, of which five are Bosniak-majority, three are Croat-majority and two are 'mixed.' The Bosniak-majority cantons are Una-Sana (1), Tuzla (3), Zenica-Doboj (4), Bosnian Podrinje (5) and Sarajevo (9). The Croat-majority cantons are Posavina (2), West Hercegovina (8) and Canton 10. [71] The two 'mixed' cantons are Central Bosnia and Hercegovina-Neretva. [72] Each canton has its own constitution, with provisions for the election of a cantonal executive and legislature. The electoral rules to choose the cantonal legislature are the same as the municipal elections, employing an open-list PR system with seats allocated through Sainte-Laguë. The size of the cantonal legislatures are specified in the Electoral Law for BiH. [73]

In addition to the cantonal level of government unique to the federation, there is another level of governance unique to the case of Bosnia-Hercegovina, the sub-federal level of 'entity' administration, which arguably function as states within states.

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[70] Constitution of FBiH, Sec. VIC. The decision came into force 15th March 2004. URL: http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31695. The decision also required amendment of the Constitution of the Hercegovina-Neretva Canton constitution, creating a unified territorial unit of self-government with the same competencies as a Municipality. URL: http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31699.

[71] Canton 10 was originally called 'Herceg-Bosna Canton'. However, the name was seen as unconstitutional by the Constitutional Court in 1998, since no part of the canton is in Hercegovina. Moreover, the name was the same as the breakaway Croat territory during the war, and is contentious. Although the canton is called 'West Bosnia' even on the FBiH Government web site, it is officially 'Canton 10'.

[72] The two cantons were treated in a separate article in the Constitution, but this was deleted by Amendment LXXXV, so that the provisions for the mixed cantons are the same as for the others.

[73] Article 13.3.

Following the Dayton-Paris Agreement, the IEBL demarcated the border between the Federation of BiH (FBiH) and Republika Srpska (RS).

At the legislative level, both entities have their own parliament. In the RS, the National Assembly consists of 83 members. Members are elected using an open-list PR system in six multi-member constituencies for 62 seats with Sainte-Laguë dividers and a minimum threshold for the party of 5%, and then using the highest remainder to fill any empty seats. The remaining 21 seats are allocated as compensatory seats. If the percentage of seats for a party or coalition from the constituencies is lower than the overall percentage in the RS, they receive compensatory seats to fill their complement. The lower house in the FBiH, the House of Representatives, consists of 98 deputies, of which 73 are elected from 12 multi-member constituencies using the same electoral rules as for the national Assembly in the RS, with the remaining 25 seats as compensatory seats.

The procedures for ensuring proportionality at other levels of government are also evident at the federal bicameral legislature in BiH. The required designation is not present in the House of Representatives (lower chamber). There are 42 delegates, 28 elected in the Federation and 14 in RS. In the Federation, 21 of the seats are elected in five multi-member constituencies (MMCs), and the remaining seven are compensatory seats. In RS, 9 members are elected from three MMCs, with five compensatory seats. The electoral rules used are identical to those used in the lower houses at the entity level.

b. *Executive Formation*

In addition to the proportionality of the electoral systems in the two case studies, this feature can also be seen in the allocation of the executive.

Following from the Constitutional Court decision in 2000 safeguarding the rights of constituent peoples over the whole of Bosnia-Hercegovina, a strict formula for the composition of the executive was stipulated for the entity governments until the return

of displaced persons (Annex 7 of the Dayton-Paris Agreement) is completed.[74] The cabinet in Republika Srpska consists of eight Serb, five Bosniak and three Croat ministers.[75] Similarly, the executive in the FBiH includes eight Bosniak, five Croat and three Serb ministers.[76] The formula of explicit allocation of seats in the executive resembles the power-sharing agreement in Lebanon, though the entity constitutions in BiH do not have explicit portfolio allocation.

Unlike the practice of executive power-sharing in most parliamentary and semi-presidential systems, the ministerial departments in Northern Ireland are allocated using a formula on the basis of the seats won in the Assembly (bigger parties will have more seats, so this can be seen as 'proportional'). The result is a coalition in which the portfolio distribution is not done by the head of the government, but rather parties that are given turns in choosing ministerial departments. The number of ministerial departments for each political party and the order in which they will choose are determined by the d'Hondt mechanism.[77] The allocation of the chairpersons and deputy chairpersons in the Statutory Committees connected to each of the ministerial departments are also allocated using the d'Hondt mechanism.

Grand Coalition

The use of the d'Hondt mechanism in the Northern Ireland Executive and Statutory Committees bridges two of the features of consociational democracy. The d'Hondt formula not only ensures that these posts are allocated proportional to the number of Assembly seats, but also guarantees both Nationalist and Unionist representation in ministerial departments and as chairpersons of the corresponding Statutory Committees. Moreover, the choice of the number of ministries may have been finalised by considering the option that would lead to maximum inclusion of the four main political parties (UUP, SDLP, DUP and Sinn Féin). O'Leary et al. surmise that the SDLP drove the decision on the number of ministries and opted for ten over six

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[74] Agreement on the Implementation of the Constituent Peoples Decision of the Constitutional Court of BiH, Art. 5.II. URL: http://www.oscebih.org/documents/54-eng.pdf.

[75] The explicit composition appears in Article 98 of the amended RS constitution.

[76] The formula is included in Article IV.B.4(1) of the amended Federation constitution

[77] The d'Hondt method is calculated by taking the number of Assembly seats received by the political parties, then dividing the seats by 1,2, and so on to obtain quotients. These quotients are then ordered from highest to lowest. This determines the order in which parties get a chance to choose a ministerial department. The process is run until all of the departments are filled.

ministries, since this would give both the DUP and Sinn Féin two ministerial departments, binding them more closely with governance (compared to one portfolio in a six-department executive) and create a 'grand coalition' with five Nationalist and five Unionist ministers.[78] After the successful running of d'Hondt, it was this grand coalition of five ministries each that resulted.[79] There is also a 'grand coalition' through the dual-premiership of the First and Deputy First Minister. The stipulations in the Belfast Agreement do not explicitly demand that there should be one premier from each 'community'.[80] However, requirement for cross-community support within the Assembly for the joint FM and DFM ticket within the Assembly encourages a Unionist and Nationalist partnership.

Contrasting with the method in Northern Ireland, executive formation in Bosnia-Hercegovina is not unlike other parliamentary systems. The three-person Bosnian Presidency (see below) nominates a Chairman, who appoints the other ministers. The resulting Council of Ministers (CoM) is approved by a majority vote in the House of Representatives. There is a further specification that no more than two-thirds of the Ministers can be from the FBiH, and that Deputy Ministers are from a different constituent people than the corresponding Minister.[81] Although the constitution does not provide a requirement to include 'Others' in the Council of Ministers, the rules do leave room for constituent minorities (i.e. Serbs in the Federation) to be represented in the CoM. In practice, the ministerial portfolios have been distributed such that there is equal representation among the three constituent peoples, and there are two Deputy Ministers for each department, each from different constituent peoples from the corresponding minister.[82] Thus, there is a grand coalition between the Serbs, Croats and Bosniaks in the CoM.

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[78] B. O'Leary, B. Grofman and J. Elklit, 'Divisor Methods for Sequential Portfolio Allocation in Multi-Party Executive Bodies: Evidence from Northern Ireland and Denmark', *American Journal of Political Science*, vol. 49, no. 1 (Jan. 2005): 208.

[79] The allocation of ministries and political parties in 1999, after the first Assembly elections: Enterprise (UUP); Finance (SDLP); Regional Development (DUP); Education (SF); Environment (UUP); Higher Education, Training and Development (SDLP); Social Development (DUP); Culture (UUP); Health (SF); Agriculture (SDLP).

[80] Belfast Agreement, Strand I, 'Executive Authority', sec. 15. According to McGarry and O'Leary, a simple majority rule would result in an exclusively unionist FM/DFM team, or perhaps an exclusively nationalist FM/DFM team in the future. This option would be unacceptable to the numerical minority and 'its logic is not within the spirit of the Agreement'. See J. McGarry and B. O'Leary, 'Stabilising Northern Ireland's Agreement', *Political Quarterly*, vol. 75, no. 3 (Jul. 2004): 221.

[81] Annex IV, Art. V.4.

[82] F. Bieber, 'The Case Study of Bosnia and Hercegovina' (forthcoming)

The grand coalition between the three constituent peoples is also evident in the upper chamber of the federal parliament and selection of Speakers in both Houses. The House of Peoples is a fifteen-member chamber with five Serb delegates appointed by the RS National Assembly, and ten delegates (five Croat, five Bosniak) from their 'own' caucus in the FBiH House of Peoples.[83]After the legislative seats are allocated, the Speakers and Deputy Speakers for the two Houses in the federal parliament are elected by its members. The candidates run on a joint ticket with one member from each constituent people.[84]

The heads of state in Bosnia-Hercegovina are the three members of the Presidency. The Bosniak and Croat members are elected from the FBiH with residents voting for Bosniak or Croat candidates, but not both. The candidate with the most votes amongst Bosniak and Croat candidates will be the respective representatives of the Presidency from FBiH. The Serb member is elected by residents in RS. [85] The Chair of the Presidency is initially given to the member who earned the most votes, but the Chair of the Presidency is rotated every year during their four-year terms.[86]

Grand coalition between the constituent peoples can be seen elsewhere in the architecture of the Bosnian constitution. In the special provisions for Mostar, there is a requirement that the final allocation of seats in the Mostar City Council includes at least four of each constituent people, and least one 'Other'. [87] In the cantonal legislatures, if there is a member of a constituent people, then a caucus of that people is formed. It is from this caucus that the nominees for Chairman and Deputy Chairman are drawn. If one of the constituent peoples is not represented, the post remains vacant.[88] However, if there are caucuses for all three constituent peoples, they will all have either the Chairperson or Deputy Chairperson from 'their people'.

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[83] Annex IV, Art. IV.1.
[84] Annex IV, Art. IV.3(b).
[85] Election Law of BiH, Art. 8.1.
[86] Annex IV, Art. V.1-2.
[87] Election Law of BiH, as set forth in the OHR decision, art. 19.5. URL: http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31703. The rules about the threshold of 3% votes cast for the political party, and 5% for the candidate within a list still apply, as stipulated in the Election Law, art. 9.6. The provisions for filling the quota in the citywide election if not over the minimum requirement are also set out in art. 19.5.
[88] Constitution of FBiH, Art. V.2.7.

The executive in both entities consists of a Presidency, and a Prime Minister and Ministers comprising the Government. Following the Constituent Peoples decision Constitutional Court (see Chapter 7), the members of Presidency in the entities (President and two Vice-Presidents) must come from different constituent peoples.[89] The members of the Presidency in RS are elected directly using a 'winner takes all' system. The system in the Federation is mentioned in the next section. The candidate with the highest vote from each constituent people is elected, with the highest vote overall being named President (the two others are Vice-Presidents).[90] In both entities, as with many of the semi-presidential systems in Eastern Europe, the President nominates the Prime Minister, and they appoint sixteen ministers for the Cabinet. Moreover, two of the Ministers from constituent peoples other than that of the Prime Minister-designate are selected. Then, the Cabinet and Prime Minister (and Deputy Prime Ministers) are approved by majority vote in the lower house of the entity parliament. As mentioned in the previous section, the formula for the composition of the ministerial portfolios ensures that the cabinet will be a coalition of Serbs, Croats and Bosniaks.

Mutual Veto

The President of Republika Srpska is directly elected. In the FBiH, nominees for the President and Vice-presidents are put forward by the caucuses of constituent peoples in the FBiH House of Peoples. The joint ticket is approved by a majority both in the FBiH House of Representatives and House of Peoples, including a majority of each caucus.[91] Thus, each constituent group (i.e. Serbs, Croats and Bosniaks) needs to support the ticket for President and Vice-Presidents. This mechanism of 'parallel support' allows for constituent national groups to block decisions if they are not supported. This allows each group a veto on important decisions and removes the possibility of being outvoted on issues of national interest.

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[89] Agreement on the Implementation of the Constituent Peoples Decision of the Constitutional Court of BiH, Art. 5.II. URL: http://www.oscebih.org/documents/54-eng.pdf.
[90] Constitution of RS, Article 80.
[91] Constitution of FBiH, Art. IV.B.1

There are also provisions to ensure parallel consent of the constituent peoples at the cantonal level. The aforementioned caucuses are also used in cases where legislation is seen to affect 'vital national interest'. If more than one of the Chairman/Vice-Chairmen claims that a law is of 'vital national interest', then the law requires the majority vote of each caucus in the legislature. Alternatively, if one of the caucuses votes by a two-thirds majority that a particular law is of 'vital national interest', then the procedure for parallel consent is invoked.[92]

The Bosnian state constitution lays out the parallel consent procedure in the federal legislature. If a majority of Croat, Serb or Bosniak delegates in the House of Peoples decide that a particular issue is 'destructive' to national interest, then it is necessary for a majority of Bosniak, Serb and Croat representatives to approve the law. If the majority of one of the other constituent peoples objects to the invocation of 'national interest', then the matter is decided by a Joint Commission of delegates from the House of Peoples. If there is still no agreement, the matter is sent to the Constitutional Court.[93]

Following the Decision on Constituent Peoples by the Constitutional Court, the two entity constitutions were amended to protect the 'vital national interest' of the three constituent peoples similar to the federal constitution. For example, in the Federation constitution, issues of 'vital national interest' are:

exercise of the rights of constituent peoples to be adequately represented in legislative, executive and judicial authorities; identity of one constituent people; constitutional amendments; organisation of public authorities; equal rights of constituent peoples in the process of decision-making; education, religion, language, promotion of culture, tradition and cultural heritage; territorial organisation; public information system, and other issues treated as of vital national interest if so claimed by 2/3rd of one of the caucuses of the constituent peoples in the House of Peoples.[94]

As a part of the constitutional reforms, an upper house was established in RS, which is called the Council of Peoples (not House of Peoples). However, the list of issues relevant to 'vital national interest' in the RS Constitution are identical to those in the

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[92]Constitution of FBiH, Art. V.2.7a-7b.
[93] Annex IV, Art.IV.3e, 3f.
[94] Constitution of FBiH, Art. IV.A.5, art. 17a.

Federation, except that 'House of Peoples' is replaced with 'Council of Peoples'.[95] The procedure to decide on issues of 'vital national interest' can be done in two ways: two of the Chairperson/Deputy Chairpersons in the upper chamber claim that a law is vital national interest; or two-thirds of one of the constituent peoples in the Upper Chamber deems an issue to affect the national interest.[96] If this procedure is started, then laws can be adopted only if a majority each of the caucuses in the Upper Chamber approves. This upper house can also agree to amend legislation and resubmit the law to the House of Representatives.[97] If no agreement is reached, then the law is sent to a Joint Commission of members of the House of Representatives and the Upper House. If there is no agreement, then the issue is referred to the entity Constitutional Court to decide whether the legislation does fall under vital national interest. If it does, the legislation fails; if not, it is resubmitted to the House of Representatives, where a simple majority is necessary to pass the law. In other words, if the entity Constitutional Court decides, there is no scope for a mutual veto.[98]

A similar type of mutual veto provision is a part of the setup of the Northern Ireland Assembly through the cross-community requirement for certain 'key decisions'. Areas explicitly mentioned in the Belfast Agreement are 'election of the Chair of the Assembly, the First Minister and Deputy First Minister, standing orders and budget allocations'.[99] The two decisionmaking procedures are:

(i)**either** parallel consent, i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting;

(ii) **or** a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.[100]

Both mechanisms require that a critical proportion of both Unionists and Nationalists in the Assembly support a measure in key decisions. This threshold is 50% for

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[95] Constitution of RS, art. 70. For the rest of the section, 'Upper Chamber' will be used as short-hand for Council of Peoples in RS and the House of Peoples in the Federation, since the 'vital national interest' clauses are analogous.
[96] Constitution of FBiH, Art. IV.A.5, art. 18; Constitution of RS, Art. 79.
[97] Ibid.
[98] Ibid.
[99] Belfast Agreement, Strand I, 'Safeguards', sec. 5d.
[100] Ibid.

parallel consent and 40% for the weighted majority. For example, the cross-community procedure used to elect the FM and DFM is parallel consent, so a majority of unionists and a majority of nationalists must support the joint ticket. In addition to the areas specified as 'key decisions', other issues can require cross-community support if a 'petition of concern' is brought by 30 of the 108 members of the Assembly. If there is a petition of concern, then parallel consent or weighted majority will be needed for the motion to pass.

Segmental Autonomy

The final feature of consociational democracy is segmental autonomy, and can be realised in two ways. It can either be 'non-territorial' and be connected to the individual, such as cultural or religious rights. For example, there are different rights attached to Flemish and Walloons in Belgium. Similarly, there are separate rights for different religious groups in India. This is not a strong component of the Northern Ireland case. However, due to the recognition of two equal traditions in Northern Ireland, there is state-funded single-religion education that approximates non-territorial autonomy. There are also cross-border implementation bodies that protect the use of the Irish and Ulster Scots languages.[101]

Although single-religion education matters profoundly in Northern Ireland, segmental autonomy is not strongly evident otherwise. By contrast, there are numerous examples of both territorial and non-territorial autonomy for constituent peoples in Bosnia-Hercegovina.

At the municipal level in FBiH, there are rules to protect constituent peoples when they are a majority in a municipality within a canton where the same people are a minority. Each Canton may 'delegate functions concerning education, culture, tourism, local business and charitable *activities*, and radio and television *to a municipality or city in its territory, and is obliged to do so if the majority of population in the*

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[101] B. O'Leary, 'The Character of the 1998 Agreement: Results and Prospects', in *Aspects of the Belfast Agreement*: 60-1.

municipality or city is other that of the Canton as a whole.'[102] This safeguard for a minority (when the group is one of the constituent people) ensures autonomy for constituent peoples, even when they are a minority within the canton. These provisions are important in the two 'mixed cantons' in the Federation, Hercegovina-Neretva and Central Bosnia.[103]

Since most of the cantons in the Federation have either a Croat or Bosniak majority, there are provisions to cede territorial autonomy from the entity level to the canton. Some functions are under 'joint responsibility' between the two levels of government: human rights; health; environmental policy; infrastructure for communication and transport; social welfare; laws concerning citizenship; laws and regulations for BiH citizens in FBiH and foreigners; tourism and natural resources. These areas are managed either by the Federation or canton, or by coordination of the Canton by the Federation.[104]

In addition to the areas of joint responsibility, there are crucial subjects where the canton is the lead, underlining the de-centralised governance in the Federation: policing; education; cultural policy; housing; public services; regulating land use; local business regulation; energy production facilities; broadcast media; implementing social welfare; implementing tourism policy; and powers of taxastion for operation of local government.[105] Because of the decentralised arrangement, the canton is the decisive layer in the decision-making in the Federation, having exclusive control over policing, education, and distribution of public housing, the latter being a highly contentious subject due to the demographic changes due to the war.[106] These responsibilities at the canton level ensure that the local majority has a high degree of territorial autonomy.

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[102] Constitution of FBiH, sec. VI, art. 2. The article is also present from the Washington Agreement (1994) that established a Bosniac-Croat Federation, sec. II. An online copy can be found at: http://www.ecmi.de/cps/documents_bosnia_washington.html.
[103] S. Bose, *Bosnia After Dayton*.: 80.
[104] Constitution of FBiH, sec. II, art. 2-3.
[105] Ibid., art. 4. However, as discussed above, some areas of competence can be delegated to the municipal level when the majority within the municipality is a different constituent people from the constituent people who are a majority in the canton.
[106] S. Bose, *Bosnia After Dayton*: 79. Bose also argues that the cantons control most of the areas supposedly 'shared' by the Federation and canton Governments.

Before the Agreement on the Implementation of the Constitutional Court Decision on Constituent Peoples in March 2002, the two entities had strongly ethnisised constitutional frameworks. The previous wording of Artcle 1 in the RS Constitution was that 'Republika Srpska is a State of the Serb people and of all its citizens.'[107] Similarly, the Federation Article I.1 (1) refers to 'Bosniacs and Croats as being constituent peoples'. [108] Thus, the pre-2002 entity constitutions reflected that Republika Srpska belonged to the Serbs, and the Federation to the two other constituent peoples. Thus, this is a further example of territorial autonomy for the constituent peoples.

The reason for this ethnic definition of the two entities is the legacy of the war, and the two-stage settlement brokered by the parties and the international community. The first stage was the Washington Agreement (1994), ending the conflict between Bosniaks and Croats, and establishing power-sharing institutions in the Bosniac-Croat Federation, which later became the Federation of BiH. When the Dayton-Paris Agreement was finally concluded in 1995, it just *added* the Serb-dominated territories in the form of Republika Srpska and adjusted the IEBL. The 'adding on' of the Federal Republic of Yugoslavia (Serbia and Montenegro) is evident in Article XI of the General Framework Agreement for Peace (GFAP), which reads: 'The Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina recognize each other as sovereign independent States within their international borders.' In other words, the mutual recognition between Bosnia-Hercegovina and Croatia was in force from the Washington Agreement, so it was unnecessary to reiterate this in the GFAP. The final agreement arguably solidified the effects of population changes during the war, and this was affirmed by the constitutions in the two 'entities' in Bosnia-Hercegovina.

Both entities have a high degree of autonomy over wide policy areas, including land use, public services, and fiscal policy.[109] However, the most interesting area of autonomy is in military or defence matters.[110] The two entities have had separate

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[107] 'Constituent Peoples' Decision of the BiH Constitutional Court'. URL: http://www.ohr.int/ohr-dept/legal/const/default.asp?content_id=5853.
[108] Ibid.
[109] Constitution of RS, Art. 68. Constitution of FBiH, Art. III.1.
[110] Ibid.

armies, with the Serb 'Army of Republika Srpska' (VRS) in one entity[111], and the Bosniak 'Army of BiH' and 'Croatian Defence Council' (HVO) in the other. The three armies have retained the names from the war. However, the requirements to join the Partnership for Peace (PfP) as a prologue to full NATO accession have encouraged military reform. These requirements include a central 'Standing Committee for Military Matters' at the federal level under full civilian control as a part of the state's Council of Ministers. There has been such centralisation of the military in Bosnia-Hercegovina. Following these stipulations, the Law on Defence was passed at the state and entity levels in May 2004, creating a Ministry of Defence with the corresponding Minister, a Joint Staff, and an Operational Command. The Minister has control over the unified Armed Forces of Bosnia-Hercegovina.[112] Despite these changes, the failure to meet the requirements of PfP membership are partially due to inertia in centralising the military command structure, including:

failure to nominate candidates for key State-level positions with qualifications that meet NATO's expectations; failure to secure adequate funds for State defence institutions; failure of the Federation parliament to pass legislation required to harmonise Federation defence laws with the new BiH Law on Defence; inability of the National Assembly and Council of Peoples of Republika Srpska to conclude the passage of the amendments to their defence legislation; and minimal progress on the selection and recruitment of personnel for State-level defence institutions.[113]

The constitutional reforms from 2002 have ensured that there is required inclusion of Serbs in FBiH governance, and Bosniaks and Croats in RS governance. This process has been started through the amendment of the entity constitutions to include quotas and other specifications to require power-sharing. This has changed the nature of the 'autonomy' endowed to the three constituent peoples of Bosnia-Hercegovina. By divorcing the safeguards of the constitution from the entity level (by including all three peoples in the constitutions), the focus has moved to a more *non-territorial* autonmony, where identification with either the Serb, Croat or Bosniak segments is sufficient to guarantee constitutional rights over the whole of the state territory.

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[111] Constitution of RS, Article 105.
[112] OSCE, 'State-level Command and Control of the Armed Forces of Bosnia and Herzegovina'. URL: http://www.oscebih.org/security_cooperation/state_ministry.asp?d=4.
[113] OHR, 'BiH Failing to Meet requirements for PfP', 12th Mar 2004. URL: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=32012.

Reference States

In addition to the features of internal consociation, there are components of the Belfast Agreement and Dayton-Paris Agreement that reflect the complex relationships between conflict groups and their reference states. The dimensions that will be considered in turn are reference state/co-national links and intergovernmentalism.

Reference State/Co-National Links

There are institutionalised relationships between reference states and the conflict zone both for Northern Ireland and Bosnia. These connections will be described for each of the 'metropoles'.

    a. *Dublin*

The Strand 2 institutions in the Belfast Agreement include the North-South Ministerial Council (NSMC), which consists of the Taoiseach and relevant ministers from the Republic of Ireland, and the FM and DFM and relevant ministers from the Northern Ireland Executive. The objectives of the NSMC are to provide a framework to discuss areas of common interest for both North and South, reach agreement on areas of common interest, agree on implementation, and take action on these areas through implementation bodies established through an agreement between North and South.[114] The areas of implementation, harmonisation and cooperation were pared down from three annexes with 49 areas and eight implementation bodies down to twelve areas of implementation or cooperation.[115] The six areas in which implementation bodies were ultimately developed were: inland waterways; food safety; trade and business development; special EU programmes; Irish and Ulster Scots language; aquaculture and marine matters. The six areas for cooperation were: transport, agriculture, education, health, environment, and tourism.[116]

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[114] Belfast Agreement, Strand II, Art. 5.
[115] A. Morgen, *The Belfast Agreement*: 304. The twelve areas are: animal and plant health; teacher qualifications and exchanges; strategic transport planning; environmental protection; inland waterways; entitlements of cross-border workers; tourism; EU programmes; inland fisheries; aquaculture and marine matters; cross-border A&E services; and urban and rural development.
[116] A. Morgen, *The Belfast Agreement*: 307-8.

b. *London*

The confederal component of the Belfast Agreement was a weak East-West component in the form of the British-Irish Council (BIC). The BIC consists of the two governments as well as the other devolved institutions on the two islands, including Northern Ireland, Wales, Scotland, Channel Islands and the Isle of Man.[117] The BIC consists of plenary summits twice a year, and sectoral meetings with the appropriate ministers and the appropriate personnel on cross-sectoral issues. The objective of these meetings is to discuss areas of common concern and agree on areas of cooperation. At the inaugural meeting, the different administrations were given responsibility for five sectoral areas: drug trafficking and abuse (Irish Government); social exclusion (Scotland and Wales); transport (Northern Ireland); environment (British Government); and knowledge economy (Jersey).[118] Although the BIC does have some parallels with the NSMC, there are two important differences. First, the above competencies mean that the BIC has harmonisation and cooperation as a part of its remit, but no executive implementation powers. In fact, the members can opt out of any common policies or actions.[119]

Another site of reference state/co-national links is not as evident in the Belfast Agreement, but is crucial in studying British sovereignty over Northern Ireland. The guiding principle for the devolution in Northern Ireland is the less-familiar notion of *federacy*.[120] This differs from the notion of federation, since self-government is not conferred on an equal basis to constituent parts. That is, there is a difference between the Union of Great Britain, and the Union of Great Britain and Northern Ireland. In particular, the principle of consent only applies to Northern Ireland. None of the other parts can leave the Union if a numerical majority agree to do so. This unique relationship with Westminster also allows Northern Ireland to establish special cross-

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[117] Belfast Agreement, Strand III, Art. 2.
[118] G. Walker, 'The British-Irish Council', in *Aspects of the Belfast Agreement*: 131.
[119] Belfast Agreement, Strand III, Art. 6.
[120] The principle is discussed as a possible way to organise self-government for Kurds in Iraq in B. O'Leary, 'Multi-national Federalism, Federacy, Power-Sharing and Kurds in Iraq', URL: http://www.ssc.upenn.edu/polisci/faculty/bios/Pubs/federalism-iraqi-kurds.pdf . 2004. O'Leary develops the notion of federacy in O'Leary, 'The Character of the 1998 Agreement': 65, as well as O'Leary, 'Complex power-sharing in and over Northern Ireland' (forthcoming).

border relationships with the Republic of Ireland, while the other devolved governments can not.

Nonetheless, this means that ultimate legislative authority lies with the Parliament in Westminster, not Dáil Éireann. The significant veto-player remains the British Government through the Northern Ireland Office. The British-Irish Agreement repealed Section 75 of the Government of Ireland Act (1920), which read:

Notwithstanding anything contained in this Act, the supreme authority of the Parliament of the United Kingdom shall remain unaffected and undiminished over all persons, matters and things in [Northern] Ireland and every part thereof.

The above suggests that the Westminster parliament can take unilateral action. However, according to the Belfast Agreement:

If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.[121]

However, when there was a crisis in February 2000, the then-Secretary of State for Northern Ireland Peter Mandelson pushed primary legislation (Northern Ireland Act 2000) through Westminster Parliament amending the Belfast Agreement to allow unilateral suspension of the institutions without consultation. For nationalists and the Irish government, this meant that despite the repeal of Section 75, the British Government still had an all-powerful veto. For Bertie Ahern, 'suspension raises issues of concern for the [Irish] Government and any significant extension of it could make the situation more difficult.'[122] To address this issue, the joint Dublin-London proposals for the resumption of the devolved institutions mention repealing the Suspenison Act (2000). London remains bound by the British-Irish Agreement (1998) which they cannot violate unilaterally, the British continue to have *de jure* authority over Northern Ireland.

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[121] Belfast Agreement, Annex on Validation, Implementation and Review, Art. 7.
[122] Article by Bertie Ahern, 14th Feb 2000, URL: http://cain.ulst.ac.uk/events/peace/docs/ba14200.htm.

c. Dublin and London: Federal Aspects

In addition to the confederal features in the political structures regarding Northern Ireland, there are also *federal* features to the Belfast Agreement. First, the federalisation of the Union is a fundamental change to the Act of Union. Instead of a centralised, unitary state, with political sovereignty resting with the Westminster Parliament, powers have not only been devolved to Northern Ireland, but also to a Scottish Parliament and a Welsh Assembly. [123] In both of these devolved administrations, certain powers are transferred to local governments and legislatures. A unionist reading of the organisational change of the UK is that the decentralisation is equivalent in Wales, Scotland and Northern Ireland, since the Agreement does affirm the position of Northern Ireland as an integral part of the United Kingdom. On the other hand, a nationalist reading of the BIC could suggest a federal Ireland, a body in which the two parts of Ireland have multilateral discussions with the constituent parts of Great Britain. The changes in the Irish Constitution (Articles 2 &3) do not abandon the aspiration of eventual Irish unification. However, the rewording of the articles refers to 'both jurisdictions' on the island. Thus, the constitution acknowledges partition, and that self-determination must be exercised in a separate Northern jurisdiction. O'Leary points out that if there is an eventual nationalist majority in Northern Ireland, nationalists might be reluctant to fully integrate into the Irish state, since they would have a local majority. The Irish government might want to maintain the boundary to maintain the same amount of political power. By contrast, unionists might prefer a non-federal Ireland, since they would constitute a large enough electoral group to affect government formation.[124]

d. Zagreb

The confederal features for BiH are most evident in the relationship between Zagreb and FBiH, which has the majority of the Bosnian Croat population. The Washington Agreement (1994) concluded the fighting between Bosniaks and Croats and established a Bosniac-Croat Federation in Bosnia. The Washington Agreement set out arrangements for the Confederation between the newly formed Federation and the

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[123] B. O'Leary, 'The Character of the 1998 Agreement': 65.
[124] Ibid.: 66-7.

Republic of Croatia. As mentioned above, the Dayton-Paris Agreement appended a Serb-dominated Republika Srpska and established the Republic of Bosnia and Hercegovina. The Preamble to Annex IV proclaims that the constituent peoples (and Others) are '[c]ommitted to the sovereignty, territorial integrity and political independence of Bosnia and Herzegovina.' Similarly, 'the Parties' (which include the two reference states) 'refrain from any action, by threat or use of force or otherwise, against the territorial integrity or political independence of Bosnia and Herzegovina.'[125]

Confederal links can be established, as long as the Republic of Croatia recognises the sovereignty of Bosnia-Hercegovina. The Ministry for Foreign Affairs in Zagreb re-affirms the principle of non-interference in a neighbouring, sovereign state.[126] However, the Croatian Government appreciates the position of Croats as a numerical minority among constituent peoples, and has programmes of cooperation with the FBiH entity, but not the federal Bosnian government. The areas of cooperation include education, culture, technology and health, where Zagreb has devoted 25 million kunas to the Federation.[127] This includes funding for a separate university in West Mostar, as well as importing lecturers from Split and Zagreb. Moreover, the confederal link between Zagreb and FBiH are enshrined through bilateral agreements on cooperation in higher education, technology and tourism.[128] The implementation of these 'special parallel relationships' between Zagreb and Croats in FBiH will be examined in the next chapter.

e. Belgrade

Republika Srpska and Belgrade have concluded two significant agreements since the Dayton-Paris Agreement on 'special parallel relationships'. In 1997, the President of

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[125] GFAP, Art. I.

[126] For example, see Croatian MVP, URL: http://www.mfa.hr/MVP.asp?pcpid=1391.

[127] Ibid.

[128] These treaties include the Agreement on special relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (Nov. 1998); Annex for the implementation of cooperation in the areas of science, technology and higher education with the Agreement on special relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (June 1999); and Annex on tourism cooperation alongside the Agreement on special relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (June 1999). URL: http://www.mfa.hr/CustomPages/Static/HRV//templates/_frt_bilateralni_odnosi_po_drzavama_en.asp?id=62.

FR Yugoslavia and the Serb member of the BiH presidency signed an agreement that established a cross-border Council for Cooperation between RS and FRY.[129] The agreement re-affirmed the sovereignty of BiH (Article 8), and listed areas in which the two parties would 'encourage, plan and harmonise comprehensive cooperation.' (Article 6) The Council consists of the President of FRY, the Serb member of the BiH Presidency, and five others appointed by the two. As with the BIC, the remit of the Council does not include *executive* implementation, since this would, arguably, derogate from the principles of Bosnian sovereignty. Similarly, the then-High Representative oversaw the drafting of the agreement for Special Parallel Relations between RS and FRY signed in March 2001 and concluded that the compact did not endanger the Bosnian state. The agreement included areas such as law enforcement, education, tourism and defence.[130] These Serb-RS links will be mentioned briefly in the following chapter.

Intergovernmentalism

In addition to the links between reference states and the conflict zone, the institutional settlements include a significant role for bilateral relations between reference states. That is, Zagreb-Belgrade axis for Bosnia-Hercegovina and London-Dublin axis for Northern Ireland play a crucial role.

   a. *Signatories*

Although there is no explicit intrgovernmental institution between Zagreb and Belgrade regarding Bosnia-Hercegovina, the importance of the axis between Croatia and Serbia in the implementation of the post-Dayton settlement is undeniable. The peace agreement from which the constitutional structures emanate were concluded between Croatia, Serbia and Bosnia-Hercegovina. The signatories in Article XI of the GFAP were the three presidents. However, the Bosnian representative was Alija Izetbegović, a Bosniak. Although the constituent peoples of the Bosnian state are Bosniak, Croat and Serb, the latter two are not represented by their 'host state'. The

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[129] An English translation can be found at: http://www.barnsdle.demon.co.uk/bosnia/yusrp.html.
[130] 'Yugoslavia Signs Special Agreement With Republika Srpska', *Southeast European Times* (4th Mar 2001), URL: http://www.balkantimes.com/html2/english/3178.htm.

Presidents of the reference states are proxies for their co-nationals in Bosnia-Hercegovina. Thus, the reference states are guarantors of the Agreement for Bosnian Serbs and Bosnian Croats.

The reference states have a similar role in the 'signing' of the British-Irish Agreement (1998). Although the negotiations and final structure of the three strands were strongly influenced by the multilateral talks between the two governments and local parties, the treaty itself is only *signed* by the reference states. The closing of the Annex to the Belfast Agreement reads:

In witness thereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in two originals at Belfast on the 10th day of April 1998.

It is then signed by Tony Blair (British Prime Minister), Mo Mowlam (Secretary of State for Northern Ireland), Bertie Ahern (Irish Taoiseach), and David Andrews (Irish Minister for Foreign Affairs).

b. Bilateral Institutions

There are institutions in the Belfast Agreement that allow London and Dublin to act as 'veto-players'. That is, the Irish and British Governments have set up structures that bypass decision-making procedures within Northern Ireland. The Anglo-Irish Agreement suggested a common front in Northern Ireland, such that London and Dublin might impose a solution in Northern Ireland over the heads of local actors. This intergovernmentalism carried over to the British-Irish Intergovernmental Conference (BIIGC), a part of Strand 3 of the Belfast Agreement (the antecedent to the Intergovernmental Conference established in 1985).

The BIIGC is designed such that there are regular meetings between the British Prime Minister and Irish Taoiseach at the 'Summit' level to 'promote bi-lateral cooperation' for non-devolved issues related to Northern Ireland that are of common interest to the

two government. The meetings are co-chaired by the Secretary of State for Northern Ireland and the Irish Foreign Minister. In particular:

Co-operation within the framework of the Conference will include facilitation of co-operation in security matters. The Conference also will address, in particular, the areas of rights, justice, prisons and policing in Northern Ireland (unless and until responsibility is devolved to a Northern Ireland administration) and will intensify co-operation between the two Governments on the all-island or cross-border aspects of these matters.[131]

The Conference is designed as a forum in which the two governments can address any disagreements between them, and does not include any regular role for local Northern Ireland officials.

Beyond Transnational Consociation

There are also institutions in both Northern Ireland and in Bosnia-Hercegovina that do not depend on reference state influence, but should be mentioned for completeness. These other institutions either have authority for implementation or for arbitration. That is, institutions can either give binding, enforceable decisions (implementation), or can provide non-binding decisions (arbitration).

Implemention

The most significant of these 'institutions' in the Bosnian context is the International Community (IC), which is comprised of the international organisations taking part in the building of the Bosnian state: the OSCE, UN, and especially the Office of the High Representative (OHR) in BiH. The latter was established in Annex X of the DPA as the OHR, headed by the High Representative (HR), who is the 'the final authority in theatre regarding interpretation of this agreement on the civilian implementation of the peace settlement.'[132] The wording of the original annex suggests that the role of the HR is more consultative, having authority for 'monitoring

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[131] Belfast Agreement, Strand III, 'British-Irish Intergovernmental Conference', Art. 6.
[132] Annex X, Art. V.

implementation; promoting compliance; coordinating civilian agencies; facilitating conflict resolution; meeting donor agencies; and reporting on progress.'[133] However, the 1997 Peace Implementation Conference (PIC) in Bonn re-interpreted the mandate in Annex X to prescribe a more proactive HR with executive powers. The PIC is a group of 55 countries and international agencies that 'sponsor and direct' the implementation of the peace plan following Dayton. [134] The Bonn conference concluded that the HR can make *binding* decisions, which include instituting temporary measures (i.e. laws) that are consistent with the Dayton-Paris Agreement, and removing office holders that are acting contrary to the aims of the peace implementation plan.[135] The HR's decisions include vital issues such as a unified system for car license plates, and the national hymn and flag of the state. [136] In addition to the OHR, the OSCE was significant, since it was in charge of conducting elections, though it has slowly ceded the responsibility to local authorities. The 2004 local elections were the first to be completely handled by Bosnian officials. The UN has been in charge of reforming the border and police services, with support in the latter from the EU.

The Human Rights Commission in Bosnia-Hercegovina set up under Annex VI of the GFAP consists of two bodies. The first part of Annex VI establishes the Human Rights Chamber. The Human Rights Chamber has fourteen members, four of which are appointed by the Federation and two by Republika Srpska. The remaining eight members are appointed by the Council of Europe and cannot be drawn from Bosnia-Hercegovina or any neighbouring country (i.e. Croatia or Serbia). The President of the Chamber is selected from the 'international' members, not 'local' appointees. [137] Investigations brought before the Human Rights Commission are usually handled first by the Ombudsman (see next section), unless the applicant explicitly requests the Chamber or the case is referred to the Chamber by the Ombudsman. The scope of the investigations include alleged human rights violations that contravene either the European Convention for the Protection of Human Rights and Fundamental Freedoms or other human rights agreements explicitly mentioned in the Appendix to Annex VI.

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[133] Ibid., Art. II.1.
[134] From the OHR web site. URL: http://www.ohr.int/ohr-info/gen-info/.
[135] PIC Bonn Conclusions, Art. XI.2. URL: http://www.ohr.int/print/?content_id=5182.
[136] F. Bieber, 'The Case Study of Bosnia and Hercegovina' (forthcoming).
[137] GFAP, Annex VI, Art. VII.2.

The cases are heard in panels of seven members, in which four will be 'international'. Once the decision is made, it is forwarded to the OHR and OSCE. Unlike the decisions form the Ombudsman, Annex VI explicitly states that decisions by the Human Rights Chamber 'shall be final and binding'.[138] The Chamber is set up such that a majority of the members in each panel and the President of the Chamber will be neither from Bosnia-Hercegovina or the reference states, so there is effectively an 'international veto' on issues referred to the Chamber.

Arbitration

The other part of the Human Rights Commission is the Human Rights Ombudsman, appointed by the Chairman-in-Office of the OSCE. The Ombudsman cannot be a citizen of Bosnia-Hercegovina or a neighbouring state.[139] The Ombudsman initiates an investigation of alleged human rights violation either independently or at the request of another party. Once the Ombudsman completes the investigation, a report is published with recommendations. If these recommendations are not heeded, the findings of the report are forwarded to the OHR. Thus, the decisions from the Ombudsman are not binding (unlike the decisions from the Human Rights Chamber), but are sent to the High Representative, who can demand compliance.

One of the most divisive issues in the Northern Ireland peace process has been the decommissioning of paramilitary weapons. The British and Irish governments signed an agreement in August 1997 creating the Independent International Commission on Decommissioning (IICD). The mandate of the IICD was to consult with the two governments and political parties in Northern Ireland about decommissioning; present the two governments with proposals for decommissioning; carry out tasks such as monitoring and verification of decommissioning; and reporting the findings of the IICD back to the two governments and parties in Northern Ireland.[140] The three members are General John de Chastelain (Canada), Ambassador Andrew D. Sens (USA) and Brigadier Tauno Nieminen (Finland), none of whom are from the reference states. The independent Weapons Inspectors that report back regularly on

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[138] GFAP, Annex VI, Art. XI.3.
[139] GFAP, Annex VI, Art. IV.2.
[140] Agreement on Independent International Commission on Decommissioning, 26th August 1997, Art. 4.

IRA weapons dumps are headed by former South African ANC negotiator Cyril Ramaphosa and former Finnish President Martti Ahtisaari.

As in the previous section, the Human Rights Ombudsman in Bosnia-Hercegovina, the members of the IICD, and the weapons inspectors in Northern Ireland are not from the conflict area or the reference states. Thus, these institutions go beyond the parameters of transnational consociation, but unlike the bodies in the previous section, the above institutions provide advisory opinions, not binding decisions. However, their recommendations can be forwarded to institutions that have power to impose decisions.

Concluding Remarks

The institutions of the Belfast Agreement and the Dayton-Paris Agreement exhibit the characteristics of consociational democracy. Both ensure proportionality through the electoral system, seat allocation in legislative bodies, and executive formation. Moreover, the formula to allocate ministerial portfolios and the selection of the dual-premiership in Northern Ireland result in a grand coalition between unionists and nationalists. In Bosnia-Hercegovina, there are explicit provisions for the composition of the cabinets at the entity level that stipulate a grand coalition between Serbs, Croats and Bosniaks. Moreover, the Speakers and Deputy Speakers run on a joint ticket with one of each constituent people, and the rotating Presidency is a three-person institution with one Croat, one Serb and one Bosniak. The Belfast Agreement provides for mechanisms on certain 'key decisions' or those that are petitioned by thirty members of the Assembly that require cross-community support. There are procedures at the entity and state level in Bosnia-Hercegovina for any caucus of constituent peoples in the upper chamber to trigger 'parallel consent' on issues that threaten 'vital national interest'. Such measures are considered approved if they earn a majority of each caucus in the upper chamber. Finally, the 'parity of esteem' in the Belfast Agreement allows for single-religion education in Northern Ireland. However, segmental autonomy is more developed in the Dayton-Paris Agreement. The devolution in certain areas for cantons in FBiH ensure that local majorities have a high degree of control over their own affairs. There are similar stipulations for municipalities in mixed cantons. The entities themselves were initially defined along

ethnic terms due to the legacy of the demographic changes during the war. However, the Constitutional Court decision on Constituent Peoples protecting the rights of Bosniaks, Serbs and Croats over the whole of the territory of the state changes the largely 'territorial' autonomy regime to a 'non-territiorial' one based on the protection of the constituent peoples over the whole of Bosnia-Hercegovina.

In addition to the traits of consociational democracy, there are significant links between the conflict zone and the reference states within the institutional framework. The Strand 2 institutions allow Dublin to cooperate with ministers in Northern Ireland in areas of mutual concern such as tourism. The British government has links to unionists through the maintenance of the Union and the Strand 3 British-Irish Council. In addition to these arrangements, the Belfast Agreement can also be seen as a 'federalising' process. In the BIC, the constituent parts of the UK sit in a forum with the Republic of Ireland. However, if there is ever a change in the sovereignty over Northern Ireland, there may still be two jurisdictions on the island, since there are advantages for both unionists and nationalists to keep some territorial autonomy in a 'united Ireland'. The provisions in the Dayton-Paris Agreement allow for 'special parallel relations' between entities and other states. The Serb-majority Republika Srpska has concluded such agreements with Belgrade, while Zagreb and the Federation of BiH have also signed such agreements.

The bilateral relations between reference states comprise the final dimension of transnational consociation. In both agreements, the reference states are signatories, and are thus guarantors of the accords. The institutional framework is more developed in Northern Ireland, where the Intergovernmental Conference of the AIA in 1985 has been succeeded by the BIIGC, allowing high-level summits between the Prime Minister and Taoiseach on non-devolved matters such as security.

There are some institutions both in Northern Ireland and Bosnia-Hercegovina that are not a part of transnational consociation. Some of these institutions have a role offering non-binding decisions, such as the IICD and Human Rights Ombudsman. On the other hand, the OHR and Bosnian Human Rights Chamber can give binding decisions.

From the formal rules of the institutions, three of the features of transnational consociation are evident: internal consociation, reference state/co-national links and intergovernmentalism. However, bipartisanship within the reference states is not a part of the formal institutions. Nonetheless, policy continuity within reference states regarding the disputed area is a crucial part of *political practice* in ensuring transnational consociation. Thus, the focus of the thesis will move from the formal institutions to the political practice to examine whether the four features of transnational consociation are present in the implementation of the agreements in Northern Ireland and in Bosnia-Hercegovina.

The investigation in the next three chapters will be organised along the axes of transnational consociation derived in the previous chapter. The first will look at the significant links between the reference state and its co-nationals in the disputed area. The second chapter examines the factors in transnational consociation at the reference state level: intergovernmentalism and bipartisanship. The final empirical chapter will investigate the performance of the power-sharing institutions internal to the conflict zone, and evaluate whether the structures are self-enforcing and durable.

Chapter V: Reference State/Co-National Links

Introduction

The persistence of links between reference states and their co-nationals in the disputed territory is crucial to the rest of the analysis. Clearly, if there were no links between the reference states and the conflict zone, then a policy change in the reference states would not have any effect on the conflict. For example, if there are no significant and durable links between nationalists in Northern Ireland and Dublin, then changes in the Republic of Ireland regarding policy in Northern Ireland would have limited effect in the latter.

The following sections will illustrate that this link between certain groups and their 'metropoles' was not only significant in the negotiations of the respective settlements, but also a means by which the reference states could drive the implementation of the settlement (which will be illustrated in subsequent chapters).

To establish that it is possible to have transnational consociation, it is necessary to show four reference state/co-national relationships:

- A durable link between Unionists in Northern Ireland and British institutions in London.
- A durable link between Nationalists in Northern Ireland and the Irish institutions in Dublin.
- A durable link between Bosnian Serbs and Serbian institutions in Belgrade.
- A durable link between Bosnian Croats and Croatian institutions in Zagreb.

It is only if all four of these conditions are fulfilled can there be a basis for transnational consociation in both cases. However, if one of the two reference states for a case study does not have substantive links with the conflict zone, then the

preconditions for a possible transnational consociation are not satisfied in this particular case.

The types of links that can be investigated are numerous, but the following discussion will be limited to six areas.[1] The first is that a connection between reference states and co-nationals can be verified by personal pronouncements by policymakers within the reference states and disputed territory. That is, representatives from the political parties within the conflict zone and reference states all mention these ties. These personal pronouncements take two forms. The first is that the reference states have a responsibility to protect 'their' side. The second, existing in case of Bosnia-Hercegovina and reference states, is that there is a unified 'ethnic space' interrupted by state borders.

Much of the evidence of these personal pronouncements is based on primary interview data with policymakers and journalists in the two disputed territories and the corresponding reference states.[2] The interviews in Northern Ireland were conducted from October to December 2002, and the interviews with reference states were completed in spring 2003. The interview material from the other case study was collected May to September 2003. Since the Bosnian political system is decentralised, in addition to interviews in the three national capitals (i.e. Sarajevo, Belgrade and Zagreb), fieldwork was also done in Mostar and Banja Luka. The objective was to obtain material from the main political parties in Northern Ireland and in Bosnia-Hercegovina as well as the corresponding reference states. Additionally, the goal of the fieldwork was to get some supplementary information from different levels of governance in the two places, such as the perspectives from parties in government and others that are not. Ultimately, it was not possible to obtain interviews with two major political parties: HDZ in Croatia and SRS in Serbia. However, using secondary material and interviews from other sources, it is possible to include HDZ and SRS in the analysis.

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[1] Other possible areas to study could include state-supported civil society links such as cultural organisations and commerce.

[2] I would like to thank Vesna Bojičić-Dželilović, Saša Božić, Zdravko Grebo, Kishore Mandhyan, Silva Mežnarić and Rick Wilford for helping me arrange my fieldwork. I am especially grateful to the staff at the Centre for Interdisciplinary Postgraduate Studies (Sarajevo) and the staff at the Institute for Migration and Ethnic Studies (Zagreb) for hosting me during the summer of 2003.

The second area for such relationships are the constitutional links by reference states for their 'nation' outside the borders of the state. These types of 'status laws' are found in many states in Central and Eastern Europe, such as the Hungarian law that promises responsibility for all members of the Hungarian nation, as mentioned in the introductory chapter.

The third area for co-national/reference state links is institutional. That is, both the Belfast Agreement and the Dayton-Paris Agreement contain provisions for transnational institutions co-existing with internal power-sharing. In the Belfast Agreement, all-Ireland implementation bodies were set up under Strand 2, and the British-Irish Council as part of Strand 3. The Dayton-Paris Agreement allowed for entities to conclude agreements with other states. Since the entities are dominated by certain national groups, this allows for co-nationals to have links with their reference states.

The political terrain in the reference states and disputed territory are not independent. That is, for both case studies, political parties in the reference states have strong links with particular parties in the conflict zone, and even have 'sister parties'. These direct political links comprise the fourth area investigated.

In both of the case studies, there has been a history of military/security links which persist to this day. Although these connections could have been included with the 'institutional links' mentioned above, it is instructive to discuss the security sector separately.

The first five sections focus on legal mechanisms through which reference states and 'their' co-nationals are linked. However, more shadowy relationships have been and continue to exist. The sixth section will look at possible illicit financial flows, organised crime and state collusion in the two case studies.

Pronouncements by Policymakers

A vital aspect underlining the relationships between reference states and their co-nationals is through *personal pronouncements* by political elites regarding Northern Ireland and Bosnia-Hercegovina.

In the case of Bosnia-Hercegovina, the public declarations from politicians in the reference states link the 'homeland' with 'their' co-nationals in the conflict zone.

During the presidential campaign in 2002, Kostunica made an appearance at Mali Zvornik, just on the Serbian side of the Drina. He remarked that Republika Srpska was 'part of the family, temporarily separated from the Serbian motherland.'[3] According to an ICG report from 2001, 'FRY officials at the highest level, including President Kostunica and Foreign Minister Goran Svilanović, openly link the status of Republika Srpska with the future status of Kosovo.'[4] Serbian intellectuals in Belgrade underlined the notion of a unified 'Serb ethnic space' that includes Republika Srpska in a round-table of the Institute of Geopolitical Studies in 1997.[5] Although the round-table was convened in the time of Milošević, the notion of a Serb ethnic space remains salient with hard-line nationalists. As one SRS-aligned journalist remarked that 'it is funny that there is a border between members of the same nation.'[6] The public positions of the MFA and political parties are less irredentist. There is a consensus that Dayton should be followed to the letter. Thus, representatives from the Serbian MFA, SPS, and DSS assert a right to form special relationships with RS under the Dayton-Paris Agreement.[7]

In Croatia, Zdravko Tomac once remarked that Tuđman's wartime policy towards Bosnia-Hercegovina had been correct and that a third Croat entity should be

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[3] M. Saponja-Hadžić, Serbia: 'Kostunica Remarks Frighten Bosnia', *Balkan Crisis Report*, no. 368 (18th Sep 2002). URL: http://www.iwpr.net/archive/bcr2/bcr2_20020918_1_eng.txt.
[4] ICG, 'A Fair Exchange: Aid to Yugoslavia for Regional Stability', June 2001. URL: http://www.icg.org//library/documents/report_archive/A400316_15062001.pdf.
[5] HCHR (Serbia), 'New Serbian Nationalism', 11th Feb. 2000. URL: http://www.helsinki.org.yu/focus_text.php?lang=en&idteks=304. The salience of this 'ethnic space' was also mentioned in an interview with Sonja Biserko.
[6] Interview with Vlada Đukanović
[7] Interview with Dušan Crnogorčević; interview with Aleksandar Vulin; interview with Nikola Lazić.

established.[8] Echoes of the unified 'ethnic space' from Serb nationalists can be heard from Zagreb. One member of the HSLS remarked: 'Part of our Croatian people are in Bosnia. The border passes through the same people, so relations are important.'[9] However, the public declarations of the Croatian government and other political parties assert the constitutional obligation (mentioned in the next section) as well as the special relationships protected by DPA. The obligation to protect Croats in BiH is mentioned by representatives of the MFA, SDP, HSLS, HSS, HNS, and the President's office.[10] The obligation to support Croats in BiH is also asserted within the Zagreb human rights community. The Director of the HCHR in Croatia emphasised that both Zagreb and Belgrade should have provided support when Bosniak politicians in Sarajevo suggest that Bosnia-Hercegovina is a Bosniak state.[11] The Croatian MFA posits it has an obligation to help minority return of Croats to the RS.[12]

There are also political pronouncements from policymakers in the disputed area. Advisors of the Croat Presidency in BiH all referred to Croatia as the 'homeland' or 'metropole', despite a commitment to the political structures in Sarajevo.[13] However, they also see that with the normalisation of bilateral relations, Croats are pushing away their 'poor cousins' in Hercegovina.[14] Regarding the Bosnian Serb connection with Belgrade, most in Banja Luka see Belgrade as their capital, the relations are more 'realistic', and Serbs know that Sarajevo is their capital.[15] In Belgrade, the issues of BiH are not researched, and Kosovo gets more attention.[16] Refugees from Bosnia-Hercegovina are not liked, as they are seen as bringing trouble.[17] The focus has moved towards the economic situation within Serbia, Kosovo, and occasionally Montenegro.

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[8] ICG, 'Bosnia's Nationalist Governments', 22nd Jul. 2003. URL:
http://www.icg.org//library/documents/report_archive/A401057_22072003.pdf.
[9] Interview with Željko Glavan
[10] Interview with Davor Vidiš; interview with Mirjana Ferić-Vac; interview with Željko Glavan; Interview with Josip Torbar; interview with Vesna Pusić; and interview with Tomislav Jakić. Pusić believed that BiH had a problem with state legitimacy since all of its citizens did not see it as 'their own' state.
[11] Interview with Žarko Puhovski.
[12] Interview with Davor Vidiš
[13] Interviews with Stjepan Kljuić, Nevenko Herceg and Andrijana Barišić.
[14] Interview with Stjepan Kljuić
[15] Interview with Dragi Stanimirović
[16] Interview with Dušan Janjić
[17] Interview with Ognjen Pribičević

The feeling of 'abandonment' by the reference state is more evident in the case of Northern Ireland. Although there are differences of between Dublin and London, the policy from both governments has been 'even-handed'. From the London perspective, 'the government has regular meetings with all the political parties in Northern Ireland. There is no distinction between Unionist and Nationalists.'[18]

According to a former David Trimble advisor, Unionists expect support from the British government, but are unhappy since London has been 'even-handed'.[19] Trimble's special advisor, Steven King, appreciated the difficult position of the British Government: 'The London government is in a difficult position: it must be seen as a counterweight [to Dublin], but also fair.'[20] However, King also says that the NIO is 'not committed to this place [Northern Ireland]. That really needs to change. The NIO officials still don't see Unionist parties the way the Irish government sees the SDLP as a part of the process.'[21] Other unionist politicians say that the promises made by the Labour government have not been delivered, so unionists feel 'alienated'.[22] Robert McCartney, an anti-Agreement unionist, adds that the British policy since Peter Brooke's statement in 1990 has been to 'dispose of Northern Ireland.'[23]

Similarly, for the Irish Government, 'one of the major changes has been the growing relationship with Unionists. There was a relationship with the UUP, but now there is contact with the DUP.'[24] The fair approach by the two governments has elicited complaints from some republican policymakers. Francie Molloy (SF) says that 'Dublin has not delivered. They did not complain very publicly about the suspensions. Republicans definitely felt let down.'[25] Dara O'Hagan (SF) comments:

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[18] Interview with Senior Official (NIO); another official at the NIO, William Stevenson, commented that the problem in Unionism has been that the British governments have been 'too fair', while it is still seen that Dublin speaks for nationalists.
[19] Interview with Graham Gudgin
[20] Interview with Steven King
[21] Ibid.
[22] Interview with Peter Weir
[23] Interview with Robert McCartney. Peter Brooke, then Secretary of State for NI, made a speech in London on 9th November 1990 declaring that the British had no 'selfish economic or strategic interest' in Northern Ireland.
[24] Interview with Senior Source in the Irish Government
[25] Interview with Francie Molloy

There are times when the Dublin government can be stronger. You get the impression it acts as a junior partner to the British government. It has not always upheld the interests of Nationalists in the North…. [The Irish Government does] not always go as far as we would like them to.[26]

Constitutional Links

The second type of link between reference states and co-national is *constitutional*. That is, reference states declare an explicit responsibility to protect their co-nationals in the disputed territory. Such evidence can only be found in two of the four reference states.

It is not surprising that the constitution of the Union of Serbia & Montenegro does not have a reference to protection of *external* Serbs, even in the Constitution of the Republic of Serbia (1990).[27] Serbs living in Croatia and Bosnia-Hercegovina were still *internal* to Yugoslavia in 1990. By contrast, the Croatian Constitution asserts an explicit constitutional obligation to the Croats living abroad. Article 10 of the Croatian Constitution states:

The Republic of Croatia shall protect the rights and interests of its citizens living or residing abroad, and shall promote their links with the homeland.

Parts of the Croatian nation in other states shall be guaranteed special concern and protection by the Republic of Croatia.

This article was mentioned by Croatian policymakers in Zagreb in the previous section to justify ties with Hercegovin Croats. The reason for these provisions was that the Croatian HDZ supported its twin sister party in Hercegovina (HDZ-BiH) and other nationalists at the inception of the Croatian state. Hercegovina was economically targeted by Belgrade during the communist era, so many Croats from the region emigrated in the 1970s and became wealthy in places like Germany, Canada and Argentina. These Hercegovins were predominantly religious and

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[26] Interview with Dara O'Hagan

[27] The Constitution of the Federal Republic of Yugoslavia (April 1992) was superseded by the arrangements agreed between Serbia and Montenegro in February 2003.

nationalist, and formed ties with the pre-independence HDZ to aid the state-building project. [28] The HDZ reliance on Hercegovin Croats resulted in the allocation of parliamentary seats in the electoral law for the 'diaspora', the 11th electoral unit in Croatian elections, since the 'diaspora' is composed mainly of Hercegovin Croats. [29] The existence of the 11th electoral district follows from the *constitutional* obligation of Zagreb to protect all Croats, irrespective of state of residence. This protection has been used by the HDZ to ensure extra representation in the Sabor as well as extra support in the presidential elections, even after the end of the Tuđman regime. The election results below illustrate the effects of the 11th district in recent elections.

The presidential election in Croatia follows a two-round run-off system common in Europe. That is, the two candidates receiving the highest total of votes from the first round have a second election just between the two of them if no candidate receives over 50% of the vote. The winner of the second round becomes the president of Croatia. In 2000, Dr. Mate Granić (then HDZ) received only 22.5% of the first round votes for Croatian president, but 68% of the votes from the diaspora went to Granić, including 90% of the votes from Hercegovina.[30] For the Sabor elections held the same year, the HDZ government was unseated by an SDP-led coalition. Nonetheless, the votes from the 11th electoral unit (a majority of whom were from Bosnia-Hercegovina) voted overwhelmingly for the HDZ, with 85.9% of the votes. All six of the corresponding seats in the Sabor went to the HDZ. Although the effect of the diaspora vote has diminished since 2000, all four seats from the 11th electoral district in the 2003 parliamentary elections were allocated to the HDZ.[31] Nonetheless, the cross-border 'diaspora' plays a significant role in electoral politics in Croatia, and prevented non-nationalist parties such as the SDP from gaining power before 2000.[32] Even in the 2005 presidential election, a significant gap remains between the overall results and the 11th election unit.[33] In the first round of the election, the incumbent

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[28] Interview with Julien Berthoud (OHR, Mostar)

[29] The 12 electoral units include ten territorially-defined constituencies, one for the diaspora, and one for national minorities.

[30] Hercegovin numbers courtesy of Julien Berthoud. Presidential election results from the Croatian Electoral Commission: http://www.izbori.hr/arhiva/arhiva2000Pred/Pred1Krug.htm.

[31] Results from Croatian Electoral Commission. The HDZ list won 57.64% of the diaspora votes, with the hard-line nationalist Hrvatski Blok a distant second with 9.73%.

[32] Interview with Mirjana Ferić-Vac (SDP, Head of Croatian Delegation to CoE)

[33] The electoral unit name has changed from 'diaspora' to 'foreigner' according to the election results published on the Coratian Electoral Commission website.

Stjepan Mesić (HNS) received 48.9% of the total votes while the HDZ candidate, Jadranka Kosor, only obtained 20.3% of the vote (though this was enough to move to the second round of the election).[34] However, Kosor received 59.8% of the votes from the 11th electoral unit compared to 13.7% for Mesić. In particular, 68.3% of the 53884 valid ballots cast went to the HDZ candidate, while only 9.0% were for Mesić. Moreover, the hard-line 'nationalist' Hrvatski Blok candidate Ivić Pašalic (who is Hercegovin) only received 76 fewer votes than Mesić, although Pašalić received 1.8% of the overall vote in the first round. In the second round, the same pattern emerged between the 11th electoral unit results and the overall vote. Mesić was re-elected, winning 65.9% of the vote, but only getting 12.1% in Bosnia-Hercegovina in the second round.

In the other case study, there is no 'status law' emanating from London regarding the Unionists. This is simply because the present constitutional arrangement is that Northern Ireland is an integral part of the United Kingdom *de jure*, so there is no need to afford special protection for her citizens in Northern Ireland. Additionally, the Belfast Agreement re-affirms the principle of consent to underline British sovereignty, such that 'the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union'.[35]

By contrast, the original wording of Articles 2 and 3 of the Irish Constitution asserted an explicit territorial claim on all of the land and seas of the island. The two articles were changed as a part of the Belfast Agreement. Article 2 now reads:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish Nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.[36]

The amended article still has a connotation of responsibilities across the borders of the internationally-recognised twenty-six county Republic of Ireland. Even the newer version of the text has ramifications for cross-border citizenship rights. Since Article

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[34] Results from the Croatian Election Commission.
[35] Belfast Agreement, 'Constitutional Issues'.
[36] Constitution of Ireland: art. 2.

2 allows those born on any part of the island to be given citizenship, those from Northern Ireland are automatically eligible. There is a constituency residency requirement to vote in Dáil elections. However, to become President, one only needs to be an Irish citizen. Thus, for the last two terms, Belfast-born Mary McAleese has been the Head of State, an automatic citizen since the 'birthright' of the Irish nation extends beyond the border of the Republic of Ireland.

Institutional Links

In addition to constitutional declarations in reference state constitutions, there are also institutional provisions in the peace agreements for both Northern Ireland and Bosnia-Hercegovina.

The Washington Agreement predates the Dayton-Paris Agreement by a year. As mentioned in the previous chapter, this agreement lays out the structures for power-sharing between Bosniaks and Croats, and establishes a 'Bosniac-Croat Federation' that was the harbinger of the Federation of Bosnia-Hercegovina. The preamble of the Agreement suggests a confederation between the Republic of Croatia.[37] Some Croat politicians claim that Dayton-Paris Agreement arguably 'adds on' Republika Srpska as well as weak federal structures.[38] This would bolster the claim for a permanent, cross-border confederation between Zagreb and the Federation. However, the Venice Commission concluded that the Dayton-Paris Agreement superseded the earlier document, so the previous confederal arrangements are no longer valid. In considering the Preliminary Agreement (denoted as 'the Agreement' in the quote below) on the establishment of a Confederation between FBiH and the Republic of Croatia, the Venice Commission concluded:

The Commission considers the establishment of a confederation between an Entity and another State as clearly inconsistent with the sovereignty and territorial integrity of BH and therefore as unconstitutional…It is clear that, as from the entry into force of the new Constitution, the Washington

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[37] For a text of the Washington Agreement, see:
http://www.ecmi.de/cps/documents_bosnia_washington.html.
[38] For example, Miroslav Tuđman claims that the Serbs were invited to join the Washington Agreement if they wanted. Interview with Miroslav Tuđman.

Agreement may be used as a basis for the conclusion of agreements only to the extent the agreements are compatible with the new Constitution.

This Agreement, which was concluded before Dayton, has to be regarded as superseded by the new Constitution.[39]

Thus, the confederation is superseded by the right of entities to form 'special parallel relationships' with neighbouring countries as long as such agreements uphold the territorial integrity of Bosnia-Hercegovina.[40] Although there is no explicit mention of which neighbouring countries entities can form special relationships within Annex IV, the measures have been used for obvious ends by both entities to create sub-national, legal relationships between Bosnian Serbs in RS and Belgrade on the one hand, and Bosnian Croats in the Federation (FBiH) and Zagreb on the other.[41]

The Special Relations Agreement between Croatia and FBiH was signed into law in April 1999, resulting in cross-border cooperation in science, technology, education, tourism, culture, pensions, protection from natural disasters, economic co-operation, energy and social protection.[42] There was a deeper reason for the HDZ regime to implement these special parallel relationships. Franjo Tuđman asserts that 'The Agreement provides for the rights and continuance of the Croatian people in Bosnia and Herzegovina'.[43]

There has been substantive funding from Zagreb for Croat housing and education in Bosnia-Hercegovina During the previous regime, there was housing and resettlement in and south of Mostar funded by Zagreb. Although this funding has been reduced, the demographic shift of importing Croats has been completed, so there is no need for further cooperation.[44] In other areas, the current Croatian government funds projects for Croats in Bosnia-Hercegovina. The government gave 20000 million kuna (1 kuna

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[39] Venice Commission, *Draft opinion on the constitutionality of international agreements concluded by Bosnia and Herzegovina and/or the entities* [CDL-FED(1998)02]. URL: http://www.venice.coe.int/docs/1998/CDL-FED(1998)002-e.asp.

[40] Art. III, 2(a).

[41] Article 4 of the Constitution of RS states: 'The Republic [Republika Srpska] may, according to the Constitution of Bosnia and Herzegovina, establish special parallel relations with the Federal Republic of Yugoslavia and its member republics'.

[42] OHR: Economic Newsletter, vol. 2, no. 6 (July 1999).

[43] Speech by Franjo Tuđman on the State of the Nation of the joint session of the Sabor (1999). Reproduced on the Croatian Embassy website. URL: http://www.croatiaemb.org/politics/1999/address98a.htm. Last accessed 19th Nov 2004.

[44] Interview with Amna Popovac and Amela Rebac (Studio 88, Mostar).

= €7.4, October 2005) annually between 2001 and 2003 for building materials to help reconstruction.[45] Moreover, the Croatian government funds Croatian cultural projects, just as it does for Croats in Slovakia, Vojvodina and Montenegro.[46] The MFA have a programme of €700000 to fund cultural projects. This fund includes the reconstruction of cultural buildings, such as churches, and the Croatian National Theatre.[47] According to OHR (Mostar), instead of directly funding the projects in Hercegovina, the Croatian government is offering these funds for re-building schools, churches, and other 'cultural' projects via Sarajevo.[48]

The final significant area of cross-border investment is the funding of a separate 'Croatian' university in West Mostar in accordance with the Special Relations agreement in 1998. The former Deputy Minister for Science and Education states that the Croatian government has supported education in Hercegovina. In particular, there was funding for education and science education, including funding for the West Mostar University. Moreover, the Croatian government supplied additional financial support by sending lecturers (e.g. from the medical school) from Zagreb to Mostar and providing scholarships for Hercegovins to study in Zagreb.[49] Although these links are legal, there are dissenting voices in both Zagreb and Mostar. A community organiser in Mostar remarks that there are 'even two universities [in Mostar]. Individually, both universities are terrible. If they join up, maybe they can form one decent university.'[50] The leader of the small Liberal Party in Croatia, Ivo Banac, says that there should not be a separate university in West Mostar. He believes that funding the university is 'cultural segregation'.[51]

Although there is a stronger Zagreb-Sarajevo axis since 2000 and a change to fund the West Mostar University federally (i.e. via Sarajevo, not directly to Hercegovina), the current Croatian government still defends the separate university. Joško Paro, a former Deputy Minister of Foreign Affairs and current Croatian Ambassador to the UK, says that West Mostar University is a private university and the only one that is

[45] Interview with Dunja Jevak
[46] Interview with Davor Vidiš
[47] Interview with Dunja Jevak
[48] Interview with Julien Berthoud
[49] Interview with Radovan Fuchs
[50] Interview with Nedim Čišić
[51] Interview with Ivo Banac

Croatian. Thus, it is important to preserve the history and culture of the Croats.[52] It is perhaps this moral (in addition to financial) support from Zagreb that impeded the passing of the Higher Education Framework Law that would have created a state-wide agency for recognising qualifications, and would ensure that Bosnian diplomas would be recognised in the rest of Europe.[53] Although there had been a lengthy consultation with members of all three constituent peoples and the Council of Europe, Croat deputies of the federal parliament invoked the 'vital national interest' clause in May 2004, because they felt that the law did not make adequate provisions to protect West Mostar University.[54]

In accordance with Annex IV of the DPA and the RS Constitution, the presidents of the Federal Republic of Yugoslavia and RS concluded an agreement in May 2001, which was ratified by the RS National Assembly in July 2001. Despite some challenges that the accord was in contravention of the constituent peoples decision of the Constitutional Court as well as the constitution, the High Representative concluded that the agreement was valid.[55] The areas of cooperation were similar to those between Zagreb and FBiH, and are listed in Article 2.[56] In addition to the provisions of Article 2, the agreement also established a Council for Cooperation.[57] The Council consists of the Prime Minister, Deputy Prime Minister and relevant minister from Belgrade and from Banja Luka meeting every three months to discuss aspects of implementation. These arrangements are similar to the North-South Ministerial Council (which is mentioned below). According to Mladen Ivanić, one of the reasons for these agreements between entities and 'their' reference states is that

[52] Interview with Joško Paro

[53] The law was drafted so the BiH would be in line with the 'Bologna Process' of harmonising higher education qualification throughout Europe

[54] E. Bayrasli, 'Comment: Bosnia's Education Law Fiasco', *Balkan Crisis report*, no. 498 (20th May 2004). URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200405_498_5_eng.txt.

[55] OHR Press Release, 6th June 2001. URL: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=4431.

[56] The list of areas from Article 2 are: economy and use of natural resources; planning; legislature; privatisation and denationalisation; science and technology; education, culture and sport; health-care and social policy; tourism and environmental protection; information; the protection of freedoms and rights of the citizens in line with the highest standards, and in particular the standardisation and recognition of the right to dual citizenship to the citizens of the Federal Republic of Yugoslavia and Republika Srpska; curbing all forms of crime; and defence (education, equipment, joint production etc.) to a degree that is in conformity with the Peace Agreement.

[57] Ibid., Articles 3-6. An online translation of the agreement can be found at: http://dev.eurac.edu:8085/mugs2/do/blob.doc?type=doc&serial=1017236424771.

'parts of the population have to be convinced that they were not lost.'[58] In other words, the institutional connections and high-level 'Council' meetings between almost-exclusively Serb RS officials and Belgrade assure Serbs in BiH that they have some institutional connections to 'their homeland'.

The inclusion of Dublin in matters for the nationalist community in Northern Ireland can be traced back to both the failed Sunningdale power-sharing arrangements and the AIA. The Intergovernmental Conference set up by the latter gave Dublin 'a framework within which the Irish Government may put forward views and proposals on the modalities of bringing about devolution in Northern Ireland, in so far as they relate to the interests of the minority community.'[59] These cross-border links were further formalised in Strand 2 of the Belfast Agreement through the North-South Ministerial Council (NSMC). The NSMC is a forum in which the Northern Ireland First Minister, Deputy First Minister, Irish Taoiseach, and relevant ministers from the respective administrations could discuss matters of common concern.[60] Although the relevant minister need not be nationalist, the Strand Two institutions negotiated by Dublin and London were established to satisfy the wishes of the nationalists. The NI Life & Times Survey (2003) illustrates the gap between nationalists and unionists regarding the 'Irish dimension'. Although there is not a perfect correspondence, the religious labels of 'catholic' and 'protestant' are used as proxies for 'nationalist' and 'unionist'. In the 2004 survey, only 1% of the 'catholic' respondents described themselves as 'unionist' and 1% of 'protestants' described themselves as 'nationalist'.[61] There is 34% support for 'a lot' of Dublin involvement, and 49% for 'a little' by 'catholics'. By contrast, 63% of 'protestants' believe that the extent of Dublin involvement should be 'not at all'.[62]

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[58] Interview with Mladen Ivanić.

[59] Anglo-Irish Agreement, Article 4c.

[60] As mentioned in Chapter 4, the six areas for cross-border cooperation were: transport, agriculture, education, health, environment and tourism.

[61] NILT (2004). URL: http://www.ark.ac.uk/nilt/2004/Political_Attitudes/UNINATID.html.

[62] The question asked was 'To what extent do you think the Republic of Ireland should be involved in Northern Ireland's affairs? Would you say …'. URL: http://www.ark.ac.uk/nilt/2003/Political_Attitudes/ROIINNI.html. Also see http://www.ark.ac.uk/nilt/2000/Political_Attitudes/GFAPROP2.html for the level of support for North-South bodies from the 2000 survey. 25% of the 'catholics' 'strongly support' and 53% 'support these institutions.

Strand 2 institutions took three forms before the 2002 suspension. First, there were high level plenary meetings that were chaired either by the Irish Taoiseach, or jointly co-chaired by the First Minister and Deputy First Minister. These meeting allowed the executives from the two administrations to discuss the overall operation of the cross-border structures. Second, there were six cross-border implementation bodies created by the Agreement which were accompanied by sectoral meetings between the appropriate ministers from the Northern Ireland Executive and Irish Government. In the six other areas of agreed cooperation, there were sectoral meetings, but no corresponding implementation bodies.

The NSMC meetings were used by both the UUP and DUP to politicise issues outside the areas of cross-border cooperation. David Trimble excluded Sinn Féin ministers to the NSMC, though NI High Court Justice Brain Kerr ruled in January 2001 that the First Minister could not exert pressure on Sinn Féin in this way. The DUP minister did not attend the transport sectoral meetings, even though the issues discussed, such the improvement of railway links across the border, were not 'sectarian'. Nonetheless, the implementation bodies did identify some strategic areas for policy coordination. Each of the twelve areas are briefly mentioned below.

InterTradeIreland recently explored the development of an all-Ireland information technology 'Digital Island' scheme and the creation of more cross-border partnerships in science/technology research. The Food Safety Board has created awareness about food safety issues through various public service campaigns. Although there have been complications transferring the authority from the Irish Commissioner of lights (requiring a change in British legislation), the FCILC has examined issues related to aquaculture in both the Foyle and Carlingford Lough. Waterways Ireland is responsible for the development of rivers and canals on an all-Ireland basis, including exploring the feasibility of re-opening the Ulster Canal (connecting the Shannon-Erne System to Lough Erne and Lough Neagh). The Special EU Programmes body (SEUPB) distributes EU Funds earmarked for cross-border projects for community building, including over €200 million from the PEACE II fund. Finally, the Language Body is made up of Foras na Gaeilge and Tha Boord O Ulstèr-Scotch. The former has developed educational resources in Irish, funded Irish-language publications and

funding for the compilation of dictionaries. The corresponding Ulster Scots body has developed education materials for a language course.

In the six other areas of policy coordination, issues have been identified for an all-Ireland strategy. In the health sector, it has been agreed that problems such as accident and emergency services, a strategy in case of a major emergency, and cancer research could all be tackled more effectively on an all-Ireland basis. The education sector is working on pooling expertise on special-needs children and harmonising qualifications for teachers to facilitate mobility of teachers. The tourism sector, coordinated by Tourism Ireland, has concentrated on an all-Ireland strategy. Cross-border cooperation in agriculture is crucial, as evidenced by the foot-and-mouth crisis. The agriculture sector has put together a joint plan for convergence of Animal Health as well as rural development with an all-island strategy. The environment sector was developing an all-Ireland approach to recycling and a proposed study examining the impact of agriculture on the environment on an all-island basis. Finally, in the transport sector, the focus has been on the development of an all-island plan for rail and road safety. Interestingly, issues such as the modernisation of the rail network have not been on the meeting agenda.

Although the issues discussed above are mundane, the last plenary meeting before the 2002 suspension proposed some possibly controversial measures by discussing to create more all-Ireland institutions. First, the joint communiqué put forward an idea for an all-island version of the Civic Forum, a consultative body for elements of 'civil society'. The communiqué also noted that members of the Dáil and the Assembly should meet in order to establish a joint parliamentary North-South Forum. The establishment of these new North-South bodies are included in the recent joint Dublin-London as part of the 2004 review of the Agreement.[63]

The important institutional connection between London and Unionists for the latter is through the maintenance of the Union, not the development of new East-West bodies. Thus, Unionists focused on internal Strand 1, not East-West Strand 3 structures during the multi-party negotiations leading up to the Belfast Agreement. The high

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[63] *Proposals by the British and Irish Governments for a Comprehensive Agreement* (12th Dec. 2004): Annex B, para. 7-8.

level of 'protestant' support for a devolved legislature in Northern Ireland can be verified from NILT survey data in both 2001 and 2003.[64] the establishment of a regional Assembly (subordinate to Parliament) represent links between Unionists and their reference state centred in London.

Mutual Destruction Clause

The unionist negotiating team wanted to ensure that cross-border institutions would be subordinate to the Assembly. On the other hand, nationalist politicians preferred strong, independent north-south bodies.[65] Nationalists wanted the NSMC to be established by legislation through the Oireachtas and Westminster to underline the independence of the cross-border bodies from the Assembly, while Unionists insisted that the NSMC be established through the Assembly and the Oireachtas, to tie it to devolution in NI. In the end, the NSMC and implementation bodies were brought about through legislation by the two governments, but the decision on the areas for cooperation were decided between Dublin and Belfast.[66]

During the negotiations, Unionists were concerned that the Nationalists would undermine the Assembly, so that the North-South bodies would be more important, while Nationalists were worried that Unionists would undermine cross-border bodies to ensure no development of 'all-Ireland' institutions. To ensure that neither group undermines one of the strands, the Assembly and the North-South bodies had a 'mutual destruction' clause.[67] The Belfast Agreement stipulates that:

It is understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.[68]

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[64] In 2001, 47% of the protestants believed the best way to govern NI was through an elected parliament with extensive legislative and tax-making powers, with a further 18% wanting an assembly with limited powers. This had changed to 37% and 31% respectively in the 2003 NILT poll.

[65] G. Mitchell, *Making Peace*, New York: Knopf Publishers: 143.

[66] B. O'Leary, 'The Character of the 1998 Agreement: Results and Prospects': 64.

[67] G. Mitchell, *Making Peace*: 175-6. Instead of 'mutual destruction', Paul Bew writes that the Strand 2 institutions are not 'free standing'. See P. Bew, 'The Belfast Agreement of 1998: from ethnic democracy to a multicultural, consociational settlement?', in *A Farewell to Arms?*, ed. F. Stephen, A. Guelke and M. Cox. Manchester: Manchester Univ. Press (2000): 44

[68] Ibid., Art. 13. This is called the 'mutual destruction' clause by George Mitchell in *Making Peace*: 175-6.

This 'mutual destruction' clause was designed to reassure both sides that the institution-building was done in a balanced manner. Although the Assembly and cross-border bodies were designed to be mutually interdependent, the Irish Government amended domestic legislation in November 2002 so that the NSMC would continue to function as well as the implementation bodies during the suspension of the Strand 1 structures.[69] This incensed unionists who are already worried about deals done between the two governments 'over their heads'. While in suspension, the cross-border institutions operate on a 'care and maintenance' basis, meaning that the meetings are now attended by direct rule ministers from the British Government instead of members of the Northern Ireland Executive.[70]

Direct Political Links

In addition to the institutional connections with the reference states, there are also direct *political links*. These can be manifested in a few different ways. The first is that political parties may form cross-border alliances to further their cause. The HDZ and its sister party HDZ-BiH were almost indistinguishable until the change of government in 2000. Even now, the two parties coordinate candidates for the HDZ 'diaspora' candidates, although the 'reformed' HDZ did refuse some of the 'murkier' offerings from Hercegovina in 2003.[71] The Democratic Party of Serbia (DSS), led by Vojislav Kostunica, is popular among nationalists in Republika Srpska (RS), since he opposed various peace plans supported by the West. In the run-up to the election in 2000, DSS representatives attended SDS events in RS and supported RS candidates.[72] After the SDS election victory in RS, Kostunica and SDS leader Dragan Kalinić signed a formal agreement for cooperation between the two political parties in areas such as refugee return and education.[73]

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[69]R.A. Wilford, 'Intergovernmental Relations', in *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, February 2003*, London: UCL Constitution Unit (2003): 18. URL: http://www.ucl.ac.uk/constitution-unit/monrep/ni/ni_february_2003.pdf.
[70] Ibid.
[71] A. McTaggart, '"Reformed" HDZ Set to Take Power', *Balkan Crisis report*, no. 469 (20th Nov. 2003). URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200311_469_1_eng.txt.
[72] Z. Cvijanović, 'Kostunica Rescues Bosnian Serb Nationalists', *Balkan Crisis Report*, no. 201 (6th Dec. 2000). URL: http://www.iwpr.net/index.pl?archive/bcr/bcr_20001206_1_eng.txt.
[73] AFP, 31st July 2001.

There are strong historical links between the SDLP and Irish political parties in the South, though it is the Irish Labour Party that has 'sister party' links with the SDLP. The Labour Party canvassed with the SDLP for the last election, and cooperated with the SDLP during the referendum on citizenship in the South.[74] According to an Irish Government official, the links are strong between Dublin and the Nationalist parties, since the latter see 'Dublin as their capital'.[75] The DUP reacts to these strong ties by dealing directly with Dublin instead of interfacing directly with Nationalist parties.[76] The links between Dublin and nationalist parties are treated with some suspicion by Unionist parties. According to Steven King:

They are [Dublin is] still too close to the SDLP for our liking. The SDLP does not exist as an autonomous body. They rely on Dublin to write their speeches, research, and provide money. I think that relationship is too cosy.[77]

Unionist suspicion stems from a fear that a 'pan-nationalist' alliance of nationalists, republicans and the Irish government would negotiate a deal with London over the heads of Unionists. The so-called 'pan-nationalist' front was significant in putting together the documents that would eventually become part of the Downing Street Declaration:

Reynolds, having learned about the exchange of declarations, got behind the process. Reynolds and Hume spoke often on the phone, and the latter travelled often to Dublin to work on the declaration. Father Reid conveyed messages between Adams and Dublin. Hume and Dublin offered a reply, drafted by O hUiginn.[78]

Historically, there have been similar links between the Ulster Unionists and the Conservative Party, and the former have traditionally taken the Conservative Whip at Westminster. However, the strength of the connection has waned since the end of the Stormont regime in the 1970s and there was a break after the signing of the AIA.

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[74] Interview with Fergus Finlay
[75] Interview with Senior Source in the Irish Government
[76] Ibid.
[77] Interview with Steven King
[78] E. Mallie & D. McKittrick, *The fight for peace : the secret story of the Irish peace process*, London: Heinemann (1996): 150. Albert Reynolds was then Irish Taoiseach and Sean O hUiginn was a senior official who is now Irish Ambassador to Germany.

However:

The Conservative Party's dependence on the Ulster Unionists and Major's consultation with the UUP throughout the negotiation of the Downing Street Declaration seems to have given the Ulster Unionists the confidence at least not to oppose that initiative from the outset. Parliamentary arithmetic at Westminster may have finally forced the British government to play something like the supporting role for Ulster Unionists that the Irish government has traditionally played for Northern Ireland nationalists.[79]

Contrary to Unionist fears that a deal would be done over their heads, John Major 'opened private consultation with the long-serving leader of the Ulster Unionists, James Molyneaux: 'To have any chance of gaining Unionist agreement, I thought it essential to take Jim [Molyneaux] into our confidence, listen to his views, and keep him briefed.'[80] This contact became the basis of a united Unionist/British position, as Major comments: 'I wanted Albert Reynolds to understand that the Joint Declaration, in its existing form, had no hope of winning *British or Unionists* acceptance. [emphasis added].'[81]

These reference state connections were also evident during the negotiations leading up to the Belfast Agreement. Some observations from George Mitchell's *Making Peace* illustrate these links:

The UUP needed reassurance on those two issues [prisoner release and decommissioning]. So they went to the only place they felt they could get that reassurance...At about mid-afternoon, five of the highest UUP officials, led by Trimble, met with Blair.[82]

The prime ministers were negotiating in London, but they were in contact with some of the parties in Stormont: the British side with the UUP, the Irish with the SDLP and Sinn Féin.[83]

As to their [prime ministers'] negotiations in London, I hoped that they would come up with an acceptable agreement. Since Blair was keeping Trimble advised, and Ahern was doing the same for Hume and Adams, that was a reasonable expectation.[84]

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[79] Ibid.: 39.
[80] J. Major, *John Major: the Autobiography*, London: Harpercollins (1999): 450.
[81] Ibid.
[82] G. Mitchell, *Making Peace*, New York: Knopf Publishing (1999): 179.
[83] Ibid.: 153
[84] Ibid.: 154.

These links between the reference state governments and political parties in Northern Ireland have continued into post-Agreement Northern Ireland, and were evident in the negotiations to re-establish the institutions in late 2004. The DUP and Sinn Féin have supplanted the UUP and SDLP as the electorally strongest parties in their respective communities. The reference states remain guarantors of 'their' respective communities in the recent attempts to resume the devolved institutions:

UK Prime Minister Tony Blair is expected to give a document to DUP leader Ian Paisley in London on Wednesday.

While, at the same time, Irish Taoiseach Bertie Ahern will hand the paper to Sinn Féin leader Gerry Adams in Dublin.[85]

Military/Security Links

Although Northern Ireland is a part of the United Kingdom *de jure*, the cost of the security provisions is also borne by the Irish Exchequer. The additional expenditure on the Irish side was devoted to extra security and patrolling measures. According to the estimate from the New Ireland Forum Report *The Cost of Violence Arising from the Northern Ireland Crisis since 1969* (published in November 1983), though the British Government spent more than three times as much on additional security-related expenditure, the Irish Governmant actually spent four times as much *per capita* in 1982-83.[86]

Margaret Thatcher once famously referred to Northern Ireland being as 'British as Finchley', though the security environment in the 'province' suggests that this is not the case. Unlike any other part of the United Kingdom, Northern Ireland is in a 'state of emergency'. This allows the British Government to derogate from the European Convention of Human Rights (ECHR).[87] In particular, the British Government derogates from Article 6 of the Convention to deal with alleged terrorist offences. The unique situation in Northern Ireland is underlined by the provisions in the Agreement

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[85] 'NI Parties Hear Plan for Deal', BBC News (online), 17th Nov. 2004. URL: http://news.bbc.co.uk/1/hi/northern_ireland/4017969.stm.
[86] The estimates are IR£36 and IR£9 for the Irish and British Exchequers, respectively. See B. O'Leary, *Northern Ireland: Sharing Sovereignty*, London: IPPR (1993): 81.
[87] ECHR, art. 15.

for security sector reform. The dismantling of observation posts and reduction of troop numbers is security 'normalisation', so that the arrangements become in line with other parts of the UK. Another part of the security framework from the Agreement is the removal of the Emergency Powers. Even though the Agreement incorporates the ECHR into Northern Ireland law, the derogation continues.

The Ulster Defence Regiment (UDR) was created by the British Parliament in 1970 to lend support to the police force to manage the increased level of unrest in Northern Ireland and drew its ranks from the local population. To symbolise that it was a cross-community force, the first two UDR men sworn in were a Catholic and a Protestant, and although the security forces are often viewed suspiciously, 18% of the UDR were catholic when the regiment was formed in 1970.[88] The UDR formed the 'back-up' for the RUC, and when the former had established itself in the 1980s, it assumed the predominant role as the support force for the police. Moreover, the UDR became mainly a full-time force.[89] However, the UDR has always been seen as a 'Protestant' force with shadowy links to loyalists. Nationalists were also concerned about the recruitment of B-Specials (a police reserve force) to the UDR.[90] Moreover, the relationship between loyalist groups such as the UVF and members of the UDR has been investigated both in the Cory Report as well as the Stevens Inquiry. Both suggested that the arms for assassinations of catholics were supplied by the UDR for acts such as the Dublin/Monoghan bombings (see next section). Probably due to a combination of nationalist distrust and intimidation within the nationalist community, the number of catholics within the UDR dropped. By the time it was combined with the Royal Irish Rangers to form the Royal Irish Regiment (RIR), the UDR was only 3% catholic.[91] However, the reason given by the MoD in 1991 about the creation of the RIR was that the global security situation had changed since the end of the Cold War. Although initially denied by the Minister of Defence, there are reports from within the Army of plans to further reduce the local component of the British military in Northern Ireland in June 2003.[92] The plans would disband the three RIR regiments

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[88] 'Chequered History of the UDR'. BBC News (online), 1st Aug. 2005. URL: http://news.bbc.co.uk/1/hi/northern_ireland/4736301.stm.
[89] Information from the British Army web page.
[90] 'Chequered History of the UDR'.
[91] Ibid.
[92] ' "No Timetable" for RIR Move', BBC News (online), 10th Jun. 2003. URL: http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/2976902.stm.

based in Northern Ireland. These plans for security 'normalisation' were confirmed two years later by the Minister. In response to the July 2005 statement by the IRA, Geoff Hoon said that the RIR home battalions would be disbanded and the Army would stop its policing support mission in August 2007.[93] This would be part of the broader security arrangments including reduction of troop levels and changes to anti-terrorism legislation.[94]

The target for the number of troops from the British Army was mentioned in the joint declaration of April 2003, stating that if there is an end to paramilitary violence, there would be around 5000 soldiers in Northern Ireland, which would be in line with other parts of the UK. This is a significant reduction from the current level (summer 2005) of 10500 troops.[95] However, the level of British Army deployment in Northern Ireland has historically been even higher.[96] At the height of the deployment in mid-1972, there were 21800 soldiers from British regiments and a further 8500 from the UDR. The total number of British Army soldiers (including UDR) remained between 16000 and 20000 during the 1980s, with an increase at the end of the decade due to an upsurge in paramilitary violence. In the months before the 1994 paramilitary ceasefires, there were 19500 troops deployed (including RIR). The number was reduced to 15500, of which 4350 are drawn from the RIR. At present, there are 10500 troops in Northern Ireland.[97]

There have been security/military links between Serbia and RS during and after the war in Bosnia-Hercegovina. The JNA intervened to 'protect' Serbs in Republika Srpska Krajina (RSK) in Croatia and in Republika Srpska in Bosnia-Hercegovina.[98]

As Milošević testified as a part of the investigation of Morten Torkildsen for the ICTY into the financing of military services by Belgrade in both Republika Srpska and RSK:

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[93] 'Royal Irish units to be disbanded', BBC News (online), 2nd Aug. 2005. URL: http://news.bbc.co.uk/1/hi/northern_ireland/4737395.stm.
[94] Ibid.
[95] Ibid.
[96] The following figures are complied by CAIN. URL: http://cain.ulst.ac.uk/ni/security.htm.
[97] 'Royal Irish units to be disbanded'.
[98] See Chapter 6 for a short summary of the Croat-Serb war in the early 1990s.

As regards the resources spent for weapons, ammunition and other needs of the Army of Republika Srpska and the Republic of Serbian Krajina, these expenditures constituted a state secret and because of state interests could not be indicated in the Law on the Budget, which is a public document. *The same applies to the expenditures incurred by providing equipment, from a needle to an anchor, for the security forces and special anti-terrorist forces in particular, from light weapons and equipment to helicopters and other weapons which still remain where they are today,* and this was not made public because it was a state secret, as was everything else that was provided for the Army of Republika Srpska…. (emphasis in original)[99]

The significant part of this statement is that the wartime infrastructure is still in place today. According to the director of the Centre for Security Studies (CSS) in Sarajevo, the VRS was still on the payroll of Yugoslavia.[100] These post-war links between Belgrade and the RS military are confirmed by the advisor on security matters in the RS National Assembly. According to Momo Sevarika, there were 2000 JNA in the VRS after the war paid by Belgrade. Cadets from RS were sent to Belgrade for training, and scholarships were provided for this training.[101] Officers even held dual ranks in the VRS and VJ.[102] In 1998, the OHR wanted reforms in the arrangements to ensure transparency between RS and Belgrade. However, 2002 was the first year that all of the officials were paid wholly by the budget of Republika Srpska. This is confirmed by the second expert report by Torkildsen:

VRS officers and non-commissioned officers continued to be financed by the FRY right up until 2002. Regarding the payment of salaries to VRS members financed by the FRY, it is stated, *inter alia*:

VRS Officers and non-commission (*sic*) officers received pay as members of the 30th Personnel Center of the Yugoslav Army, until 28 February 2002[103]

Nonetheless, the director of the CSS asserts that those formerly on Belgrade's payroll were invited back to Belgrade, with some still receiving jobs in the Ministry of Defence or pensions from Belgrade.[104]

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[99] Amended Expert Report of Morten Torkildsen
[100] Interview with Bisera Turković.
[101] Interview with Momo Sevarika
[102] ICG, 'Is Dayton failing?'. URL: http://www.icg.org//library/documents/report_archive/A400058_28101999.pdf.
[103] Copy of Torkildsen's expert reports obtained from ICG, Belgrade.
[104] Interview with Bisera Turković

The alleged links between the RS and Serbia in the security sector may also extend to the police. The President of Serbia may have advised Dragan Čavić, the Serb member of the Bosnian Presidency, to reject the provisions for police reform agreed at Vlasić.[105] According to a Western diplomat, the lack of police reform would be advantageous to Belgrade, since an unstable BiH would be preferable during discussions about the status of Kosovo.[106]

In parallel with the connection between the VRS and Belgrade, there are strong links between the HVO (the Croat component of the FBiH army) and Zagreb. During the previous HDZ regime, funding for the HVO was almost entirely from Croatia. According to the HVO declaration on the level of foreign support, 83% of the total budget came from Zagreb.[107] The other funding came from abroad, including Brunei, Saudi Arabia, Malaysia, UAE and Kuwait.[108] Interestingly, none of the funding in 1998 came from the FBiH. The Army of BiH received funds from the Federation budget, while the aforementioned VRS received money from the RS budget. However, the HVO is completely funded from foreign sources. Even though the funding was reduced by 14% in 1999, a possible reason for continuing to support the HVO was for the HDZ to block the unification of the Bosniak and Croat armies in the Federation of BiH.[109]

In addition to the direct funding for the HVO, the Croatian government also paid pensions for veterans. An advisor in the Croatian Ministry for Foreign Affairs states that there are still 8000 cases of pensions for veterans (Southern Front HVO) who are all citizens of Bosnia-Hercegovina.[110] The level of funding for the HVO and veterans' pensions came to attention after the Hercegovačka Banka (Mostar) affair in 2001, and is discussed in the next section. There is greater transparency in the HVO funding now, according to the Office of the President and the MFA in Zagreb.[111] This is

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[105] Details about the police reform will be discussed in Chapter 7.
[106] 'Serbian PM urged Bosnian Serb leader to reject police reform - Western diplomat', *Nezavisne novine*, 1st Jun 2005. Translated by BBC Monitoring.
[107] ICG, 'Is Dayton failing?'. The ICG suggests that since the figures were provided by the HVO and not independently verified, the actual level of support is probably higher.
[108] Ibid.
[109] D. Hedl, 'HVO Still Under Zagreb's Control', *AIM*, 25th Sep 1999. URL: http://www.aimpress.ch/dyn/trae/archive/data/199909/90925-007-trae-zag.htm.
[110] Interview with Davor Vidiš.
[111] Interview with Tomislav Jakić; interview with Davor Vidiš.

confirmed by the OHR in Mostar, who states that the HVO funding was reduced after the change of government in 2000. Moreover, all funding is done bilaterally with Sarajevo instead of through private companies, resulting in greater transparency.[112] According to the Parliamentary Assembly of the Council of Europe, the implementation of a more bilateral approach to HVO funding is evidenced by the agreement between the Minister of Defence in Croatia with his counterpart in BiH signed in May 2000.[113]

Illicit connections?

The final area of significant links is the illegal connection between 'metropole' and its co-nationals. The difficulty with any examination about such alleged illegal relationships is that the evidence is hard to find, and even harder to confirm. Some of the information is withheld, due to the sensitive nature of the activities involved. For example, to protect the safety of those mentioned, British-Irish Rights Watch (BIRW) only provided excerpts from its report on possible British-Loyalist collusion.[114]

British Collusion with Loyalists?

The single 'deadliest' day during the conflict in Northern Ireland occurred on 17th May 1974. On that day, a car bomb exploded on Talbot Street in Dublin killing 26 people, and a second car bomb detonated in Monaghan town killing 7 people.[115] Although the UVF claimed responsibility for the bombings in 1993, families of the victims believed that the attacks were carried out by loyalists colluding with British security forces.[116] The Irish Government established an inquiry headed by Justice Barron to investigate these claims. The Inquiry did not find any *conclusive* evidence of 'official' collusion between loyalist and British security forces in the bombings. However, Justice Barron believed that such links existed. The 'Hidden Hand'

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[112] Interview with Julien Berthoud

[113] Parliamentary Assembly – CoE, *Honouring of obligations and commitments by Croatia* [Doc 8823], 13th Sep 2000. Online copy: http://assembly.coe.int/Documents/WorkingDocs/doc00/EDOC8823.htm.

[114] British Irish Right Watch, *Justice Delayed: Alleged State Collusion in the Murder of Pat Finucane and Others*, February 2000. URL: http://www.birw.org/justice.html.

[115] An unborn child, 'Baby Doherty', was confirmed as a 34th victim after the 2004 inquest.

[116] 'Report on 1974 loyalist bombs', BBC News (online), 29th Oct. 2003. URL: http://news.bbc.co.uk/1/hi/northern_ireland/3222301.stm.

television programme, aired in 1993, alleged that security forces 'looked the other way' regarding loyalist killings to protect informants, and used loyalists as a 'friendly guerrilla force' by identifying targets as well as providing planning assistance.[117] These claims all focused on Robert Nairac, a Captain in the British Army. According to the programme, Nairac may have employed loyalists Billy Hanna, Robin Jackson and Harris Boyle as agents both before and after the bombings.[118] In particular, Billy Hanna has been implicated by a former RUC officer, John Weir, as the main organiser of the Dublin/Monaghan bombings.[119] Hanna was a senior member of the UVF in Lurgan, but also a former soldier in the British Army who allegedly employed the help of an RUC Special Branch officer and four British Army officers to carry out the 1974 bombings as well as earlier bombings in Dublin.[120] Later investigations have uncovered illicit links between the security forces and loyalists, especially following the murder of human rights lawyer Pat Finucane. In the wake of a police raid in 1999 that uncovered files with details on republicans, it was revealed that elements within the regular British Army and military intelligence leaked the documents to dissident loyalists.[121] One source reported that one of the leaked files was on Rosemary Nelson, the human rights lawyer killed by a loyalist car bomb in 1999.[122]

The Stevens Inquiry looked into possible collusion between security forces and loyalists after the murder of Pat Finucane. In the overview and recommendations, Sir John Stevens posited:

My Enquiries have highlighted collusion, the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, and the extreme of agents being involved in murder… These serious acts and omissions have meant that people have been killed or seriously injured.[123]

In particular, the Stevens Enquiry looked at the actions of the Force Research Unit (FRU), a branch of army intelligence that used loyalist Brian Nelson as an agent to

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[117] Barron Inquiry (released Dec. 2003): 135. An online version can be found on the CAIN website at: http://cain.ulst.ac.uk/events/dublin/barron03.pdf.

[118] Ibid.: 240.

[119] Ibid.: 145. Weir was convicted of murder in 1992 along with loyalists.

[120] *Sunday Independent*, 16th May 1999. Quoted in Barron Inquiry.

[121] British Irish Right Watch, *Justice Delayed*.

[122] Ibid.

[123] *Stevens Enquiry: Overview and Recommendations*: para. 1.3. Available online from the BBC site: http://news.bbc.co.uk/1/shared/spl/hi/northern_ireland/03/stephens_inquiry/pdf/stephens_inquiry.pdf.

infiltrate the UDA.[124] According to BIRW, the FRU used Nelson to improve the loyalist intelligence on intended targets. This information soon spread among loyalist paramilitary groups.[125] Stevens concluded that Nelson and a quartermaster in the UDA both passed information that contributed to the attack on Finucane.[126] Stevens also found that collusion obstructed his enquiry, especially the apprehension of Brian Nelson. During a previous operation to arrest Nelson, the information was leaked to loyalists and the press so that the arrest order was aborted. Moreover, FRU 'handlers' advised Nelson to leave his home the night before. The night before the new operation, there was a fire in Stevens's 'Incident Room' that destroyed key documents. Sir Stevens was convinced that it was a 'deliberate act of arson'.[127] A former member of the FRU claimed that the fire had been started by the FRU to buy time to construct a 'cover story' about their link to Nelson.[128] The Cory Inquiry later found that there was collusion leading to the death of Rosemary Nelson, including the failure of the NIO by 'turning a blind eye' to the dangers faced by the solicitor.[129] Thus, there seems to be a long-standing collusion between the British security forces and loyalists, and this link continues in the post-Agreement period.

Irish Collusion with Republicans?

Unionists have long been suspicious of the collusion between the Irish authorities and republican paramilitaries. The suspicions seemed to be confirmed by the Dublin Arms Trial in 1971. A shipment of arms bound for Northern Ireland to the IRA arrived at Dublin airport on 19th April 1970. However, the Special Branch had been tipped off about the operation and intercepted the arms. In the furore following the operation, Taoiseach Jack Lynch sacked two members of the Fianna Fáil government, Neil Blaney and Charles Haughey, the Ministers for Agriculture and Finance, respectively. Blaney, Haughey, Haughey's brother, a senior republican, an Irish Army captain and

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[124] These links are also investigated in the *Cory Collusion Inquiry Report: Patrick Finucane*, 1st Apr 2004. Online copy:
http://www.nio.gov.uk/cory_collusion_inquiry_report_(with_appendices)_pat_finucane.pdf.
[125] *Justice Delayed*.
[126] *Stevens Enquiry*: para. 2.13.
[127] Ibid.: para. 3.4.
[128] *Justice Delayed*.
[129] *Cory Collusion Inquiry Report: Rosemary Nelson*, 1st Apr 2004. Online copy:
http://cain.ulst.ac.uk/issues/collusion/cory/cory03nelson.pdf.

a Belgian businessman were all charged with trying illegally to import arms. The charges against Blaney were dropped before the trial and the five others were acquitted. However, some still believe that there was a gun-running conspiracy at the highest levels of government. Using the testimony of a former Secretary of the Department of Justice, Ryle Dwyer suggests that the whole government, including the Taoiseach, knew about the gun-running. Lynch may have been confronted by the opposition Fine Gael leader, leading the Taoiseach to dismiss the two ministers as scapegoats.[130] The Irish Army captain, James Kelly, claimed that he assumed that he was acting on official orders that originated in the Irish cabinet.[131]

More recently, Toby Harnden posited that a Garda officer collaborated with local IRA units, passing information helping the republican paramilitaries to ambush two RUC officers, Chief Superintendent Harry Breen and Superintendent Bob Buchanan, on 20th March 1989. Breen and Buchanan had been attending a meeting with Gardai in Dundalk.[132] In the first edition of his book, Harnden attributed a series of killings including the murders of Breen and Buchanan to the 'Surgeon', the commander of the IRA South Armagh Brigade.[133] However, in the second printing of the book, Harnden blames collusion between certain members of the Garda Siochana and IRA. These allegations were investigated by the Gardai and other Irish authorities in 2000. According to the Minister for Justice, there was no verifiable evidence that there had been any collusion.[134]

More recently, an Independent Inquiry under Canadian judge Peter Cory investigated four suspected cases of British-Loyalist collusion, but also two cases of alleged links between the Gardai and the IRA: the aforementioned Breen/Buchanan murders, as well as the killings of Lord Justice and Lady Gibson.

The Gibsons were driving north to Belfast to end a show at the Royal Opera. Although the Lord Justice had been a target of the IRA and under police protection,

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[130] T.R. Dwyer, 'The real story behind the Arms Crisis', *Irish Examiner*, 13th Apr 2001.
[131] 'Captain Battle to Clear Name', BBC News (online), 17th July 2003. URL: http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/3075465.stm.
[132] T. Harnden, *Bandit Country: the IRA & South Armagh*, London: Hodder and Stoughton (1999): 156-9.
[133] Ibid.: 162.
[134] *Dail Debates*, 12th Apr 2001.

he had not taken the appropriate security measures, and had even booked a ferry under his own name and car registration. Although the Gibsons were escorted part of the way by a Garda car, they were unaccompanied the last few miles. By this time, their car was followed by the IRA. They were killed by a car bomb that was detonated by remote control.[135] Although Harnden's claims were one of the main motivations for both the inquiries by the Irish Government and Judge Cory, the author was unable to provide any specific names or other supporting evidence. Cory was unable to find any documents on either side of the border that corroborated the claims in *Bandit Country*.[136] Thus, he found no grounds for recommending a public inquiry regarding the issue of Garda collusion with republicans.[137]

On the other hand, Cory found evidence of collusion concerning the murders of Breen and Buchanan. The killings of the two RUC officers may have been committed with information passed from the Gardai to the IRA. The inquiry is based on two types of information. First, an intelligence report with 'high' reliability claimed that a member of staff at the Dundalk Garda station was passing information to the IRA and another 'fairly reliable' report (from 2003) claims that a certain 'Garda B' was passing information to the IRA.[138] Second, the statement by British intelligence agent 'Kevin Fulton', who infiltrated the IRA, also claimed that 'Garda B' passed information to the IRA.[139] By considering the possibility that the IRA still had the means to carry out the killings without Garda help, Cory still found that there was enough evidence to establish a public inquiry, since the documents 'reveal evidence, that, if accepted, could be found to constitute collusion'.[140] The Minister for Justice established a public inquiry into possible Garda collusion in the deaths of Breen and Buchanan in March 2005.[141]

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[135] T. Harnden, *Bandit Country*: 163-4.
[136] *Cory Collusion Inquiry Report:Lord Justice Gibson and Lady Gibson*, 7th Oct 2003: para. 1.112. URL: http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ5XELDP-ga/$File/coryreportgibson.pdf.
[137] Ibid.: para. 1.163.
[138] Ibid.: paras. 2.123, 2.151.
[139] Ibid.: para. 2.149. Assistant Commissioner O'Dea confirmed that 'Garda B' was on-duty at the Dundalk garda station the day of the Breen and Buchanan murders.
[140] Ibid.: para. 2.162.
[141] Department of Justice, 'Minister Announces Tribunal Chair' (Press Release), 23rd Mar 2005. URL: http://www.justice.ie/80256E01003A02CF/vWeb/pcJUSQ6AXET5-en./

HDZ Funding a Third Entity?

There was no *de facto* border between Croatia and Hercegovina, especially during the last HDZ regime. These illicit links were underlined during the Hercegovačka Banka investigations. According to the OHR administrator in charge of the investigation, Toby Robinson, the Croatian government deposited 647 million German marks for soldiers' salaries, pensions, and funds for widows of war veterans from March 1998 to early 2001. However, 216 million DM were used 'for other purposes'.[142] Hard-line Hercegovin nationalists from the HDZ allegedly used embezzled monies from the bank to fund activities such as buying off soldiers for loyalty and to finance the extra-constitutional attempt to establish a third Croat entity.[143] Although there was no verifiable link to the Croatian government, it was alleged that the founders of the bank approached Tuđman in early 1998 for capital. Moreover, one of the central figures in the scandal was General Ljubo Češić Rojs, a HDZ deputy in the Sabor.[144] To investigate possible wrong-doing connected to the bank and to prevent illegal activities, a coordinated operation between international military (NATO), police (IPTF) and political (OHR) institutions in Bosnia-Hercegovina sought to secure the Hercegovačka Banka buildings on 6th April 2001. However, the effort partially failed due to the intervention of a 'spontaneous' mob. The banks were secured twelve days later and placed under international administration. In 2004, the Hercegovin founders of the bank were arrested and charged with corruption after an investigation started the year before. In a joint operation involving the police and SFOR, Ante Jelavić (former president of BiH), Miroslav Prce (former general) and Miroslav Rupce (head of Croatia Osiguranje) were arrested and detained.[145]

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[142] S. Numanović, 'Bosnia: Bank Fraud Revelations', *Balkan Crisis Report*, no. 392 (20th Dec. 2001). URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200212_392_1_eng.txt. Last accessed 20th Nov. 2004. For more information, see the paper presented by the former Anti-Fraud Officer at the OHR: http://www.watsoninstitute.org/cland/Rausche.pdf.

[143] 'Bosnia: Bank Fraud Revelations'

[144] Ibid.

[145] N. Jelacić, 'Bosnia: Fury at Croatian Politicians' Arrest'. Balkan Crisis Report, no. 478 (29th Jan. 2004). URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200401_478_3_eng.txt.

Serb-RS Organised Crime Links?

International organisations have noted the significant organised crime link between Belgrade and RS. The Banja Luka Deputy HR notes that 'in the case of Belgrade, there was a change in the direction of the mafia connection, from RS to Belgrade…There is a good chance that some of the shooters [Đinđić assassination] were Bosnian.'[146] Zoran Đinđić, the Prime Minister of Serbia, was killed by a sniper in Belgrade on 12th March 2003. As mentioned by the Deputy HR, the direction of organised crime emanated from RS to Belgrade. An ICG report written soon after the assassination posited that the parallel security structures set up under Milošević operated from the Serb-dominated entity, since in the period after the Dayton-Paris Agreement, it was easier to dodge sanctions in Bosnia-Hercegovina than in Serbia.[147] In particular, these criminal networks raised funds through tax and customs evasion by trafficking tobacco, arms and petroleum.[148] The report makes two further allegations about the link between organised crime networks in Republika Srpska and in Serbia. First, an audit found that Elektroprivreda RS (the electricity supplier in RS) was found to be losing around a half million KM (1 KM = €0.5, November 2005) per day through 'conflicts of interest, theft and neglect'.[149] The HR removed the General Director and one of the board members, saying that the former 'presided over a culture of gross mismanagement, neglect and probably criminality'.[150] The ICG contends that the illegal activities related to Elektroprivreda RS were probably connected to the parallel security structures. Some of these funds may have been used to hire bodyguards to hide Karadžić and Mladić.[151] Second, the SFOR raids in March 2003 of the offices of Bjelica were planned to curb the flow of money to Mladić and Karadžić. In particular, 'businessmen' associated with the security services in Belgrade have considerable influence in the RS Ministry of Finance.[152]

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[146] Interview with Graham Day
[147] ICG, 'Serbia after Djindjic', 18th Mar 2003.
[148] Ibid.
[149] OHR, 'High Representative Removes Senior Managers from Elektroprivreda RS, Enacts Law on Ministerial and Government Appointments' (Press Release), 26th Mar 2003. URL: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=29337
[150] Ibid.
[151] ICG, 'Serbia after Djindjic'.
[152] Ibid.

After the Đinđić murder, some of the criminal elements from RS that had moved to Belgrade moved back. As the political officer for OSCE (Banja Luka) comments:

Go up to the hills above Sarajevo to see the big houses, big cars out front with Belgrade number plates. After the assassination of Đinđić, the crackdown of organised crime led to much of the activity moving to the RS, since security is not as tight.[153]

Concluding Remarks

Although not all of the links between the reference states and their co-nationals are legal, the above discussion showed that these are significant and durable relationships. The investigation focused on six areas of potential connections: personal pronouncements, constitutional links, institutional links, direct political party links, security links and illicit connections. The four reference states vary in the types of links they have with their co-nationals.

Policymakers from all four reference states and 'their' corresponding co-nationals all mention the significance and persistence of this link. Much of the evidence is based on primary interview data from the two case studies and supporting secondary material. There are two forms of personal pronouncement. The first is 'mutually reinforcing', in which the reference states and 'their' people both refer to the responsibility of the 'metropole' to look after the nation. The second, which is more visible in the case of Northern Ireland, is that reference states that act fairly between conflict groups are accused by their co-nationals of 'abandoning' them.

There are also explicit links in the constitutions of certain reference states. However, neither Serbia nor the UK have a 'status law' regarding co-nationals. The reasons are quite uncomplicated. For Serbia, the constitution of Yugoslavia pre-dated the secession/dissolution of the states, so provisions for Serbs in Bosnia-Hercegovina would not be explicitly written in the constitution. For the UK, Northern Ireland remains an integral part of the state *de jure*, so there is no need to provide special provisions. However, the Belfast Agreement states that the majority of Northern

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[153] Interview with Keith Bean

Ireland choose to stay in the Union at present. By contrast, the two other reference states do have clauses in their constitutions regarding their 'external' members. Both Croatia and the Republic of Ireland separated from a state to create a new nation-state. Part of the legitimation of both Dublin and Zagreb hinges on the protection of members of the nation, even outside the state borders.

The two settlements also allowed institutional links by reference states. The cross-border Strand 2 institutions from the Belfast Agreement include six implementation bodies and a further six areas in which ministers from Dublin and Belfast would meet on a regular basis. In all of the areas, there has been significant progress in identifying issues for coordination, but the bodies were not running long enough for implementation of these plans. For example, InterTradeIreland has developed an all-island for IT and science and technology, but this has not been executed. During the suspension, the Strand 2 institutions exist on a 'care and maintenance' basis. This means that the civil servant jobs in the implementation bodies are saved, and the Northern Ireland ministers are replaced by direct rule ministers from Whitehall. For unionists, the institutional focus is not on the weak Strand 3, but rather, development of the local Strand 1 structures internal to Northern Ireland such as the Assembly and Executive that are subordinate to Westminster and Whitehall. An investigation of the performance of Strand 1 institutions is deferred to Chapter 7.

The Dayton-Paris Agreement specifically mentioned the possibility for the entities to conclude 'special parallel' relations with neighbouring states. Although this is not explicitly stated, this allows for the Serb-dominated RS to sign agreements with Belgrade, and for Zagreb to sign agreements with the Federation of BiH (which has most of the Croat population in Bosnia-Hercegovina). Belgrade has concluded two such agreements with RS (in 1997 and 2001), but the cross-border institutions are limited. On the other hand, there have also been 'special parallel' agreements between the Federation and Zagreb. However, unlike the Belgrade counterparts, the Croatian government provides substantial support to Bosnian Croats. The University of West Mostar is funded by Zagreb. Moreover, reconstruction of homes and cultural sites undertaken by Zagreb is targeted at Croats.

There are significant links between the political parties in the two case studies. The Irish Labour Party is a sister party to the SDLP and helped the Northern Irish party canvas in the elections. More recently, development of Sinn Féin as an electoral force both in the Assembly and Dáil suggest another link between both jurisdictions. The UUP took the Conservative whip at Westminster until 1972 and was a pivotal part of John Major's slim majority in Parliament in the early 1990s. The Alliance Party (NI) and Liberal Democrats are sister parties. In the case of Bosnia, the HDZ in Hercegovina and in Zagreb were not only 'sister parties', but had deeper links. The SDS, the largest party in Republika Srpska representing a vast majority of Bosnian Serbs, is the sister party of the DSS, the party of the most recent Serbian president.

In addition to the above areas, the Croatian government funded the HVO throughout the first HDZ regime (until 2000), which accounted for the majority of the HVO budget. In fact, none of the HVO funding was from the FBiH or state budgets. This allowed for the HVO to remain separate from a unified Bosnian army. Although the funding to the HVO is now reduced and delivered more transparently, the Croatian government still pays the pensions of Hercegovin Croat ex-soldiers. Belgrade's support of the VRS was vital during the wars, but the commitments to the Serb-dominated army of RS extended far after the Dayton-Paris Agreement. Officers received training and pay from Belgrade as recently as 2002, and even held joint posts in the VRS and VJ.

There are no such links between the Irish Army and Nationalist members of the security forces. However, in the case of the British, the maintenance of the security presence in Northern Ireland has had a significant contribution from the almost exclusively-protestant UDR (which later became part of the RIR). Moreover, other British regiments not originating in Northern Ireland also maintained a sizeable presence in the province over the last thirty years.

In addition to the above connections, there have been some illegal links between reference states and co-nationals. The Irish Gardai may have been involved in collusion with the IRA in Dundalk, leading to the murders of two RUC men. The 1970 Dublin Arms scandal may have been evidence of high-level collusion between republicans and the Irish Government in gun-running. Concerning alleged collusion

between British security forces and loyalists, the weapons for the Dublin/Monoghan bombings may have come from the UDR, and there were members of the UDR who were also involved in loyalist organisations. Members of British intelligence and elements within the British Army may have colluded to pass along photographs and other information about suspected republican paramilitaries and others (such as Rosemary Nelson) to loyalists in 1999.

The assassination of Đinđić showed that there was a sophisticated cross-border Serbian organised crime problem, and support from these organisations remains significant in the failure to capture on-the-run war crime suspects. The Hercegovačka Banka scandal highlighted alleged links between Zagreb and Mostar in embezzlement to fund parallel institutions to create an secessionist Croat-dominated 'third entity' in Hercegovina.

Thus, there are substantial links between reference states and co-nationals in the conflict zone in all four cases. More importantly for transnational consociation, these relationships not only existed at the time of settlement, but have persisted (in fact, are protected by the respective agreements) in the post-settlement era.

These durable reference state/co-national relationships shown in this chapter allow for intergovernmental policy coordination between the reference states to encourage the conflict groups to accept a power-sharing settlement. The following chapter will examine whether the reference states for the case studies have developed a coordinated policy towards the respective disputed territories.

Chapter VI: Reference State Bipartisanship and Intergovernmentalism

Introduction

As seen in the last chapter, both case studies exhibit significant links between members of the conflict groups within the disputed territory and corresponding reference states. Most importantly, these 'special relationships' are durable and affect not only the negotiation stage of conflict regulation, but also the settlement and implementation. The persistence of these links from the reference states ensure that the relationship between the states can be channelled to the disputed area. Following the theoretical treatment in Chapter 3, this means that in an ethno-territorial cross-border conflict, intergovernmental coordination between the reference states will increase the likelihood of a self-enforcing internal power-sharing settlement. Conversely, an exacerbation of inter-state relations will lead to a worsened situation in the conflict zone and a reduced likelihood of settlement.

As derived in Chapter 3, intergovernmentalism between reference states comes about in two stages. In the first stage, there is bipartisanship or policy continuity between governments within the reference states. That is, the election of a more 'extreme' government would not undo previous agreements between reference states regarding the management of the conflict. Once this continuity is established, this allows successive governments in the reference states to establish a durable intergovernmentalism, provided that it is beneficial to pursue a long-term moderating bilateral strategy in the disputed territory. The development of this 'outside in' approach for a settlement will be examined for the reference states involved for Bosnia-Hercegovina and for Northern Ireland.

Wars of the Past

Before proceeding, it is instructive to briefly mention the past intergovernmental relations between the reference states. Both in the cases of Northern Ireland and

Bosnia-Hercegovina, the respective reference states have been at war in the previous century.

London and Dublin

The Anglo-Irish War followed after Sinn Féin's electoral victory in 1918. The leaders of Sinn Féin then abstained from Westminster, declared an independent Irish Republic, and established a separate legislature (i.e. Dáil Éireann) and government in January 1919. Soon after this, groups of 'Volunteers' committed acts of violence, though this was quite sporadic. It was only when the Dáil took responsibility for some of these shootings that the chain of events led to war. The Irish Volunteers increased the level of violence after both the Dáil and Irish Volunteers were declared illegal by the British. The Volunteer and Sinn Féin organisations were not well co-ordinated, but British policy was also indecisive since Lloyd George did not want to legitimate the resistance in Ireland by declaring war. Much of the conflict was fought on the ground by the 'Black and Tans', ex-soldiers and ex-police officers, recruited for a 'police operation' who were later joined by a similar force of Auxiliaries. However, some of the publicised brutality of these ill-trained men caused outrage in Britain, Ireland and internationally. The Anglo-Irish War continued until the truce in July 1921 and the signing of the Anglo-Irish Treaty in December of the same year.[1] Although there has not been open warfare since then, relations between Dublin and London have been fraught, especially during the life of de Valera. There was a tariff war between Dublin and London in the 1930s. During the Second World War, Ireland insisted on retaining its neutrality and did not allow British forces to use Irish ports. Although there is a long history of Irish rebellion against British rule that stretches long before the happenings of the previous century, there is a remarkable level of policy coordination over Northern Ireland today. There are three possible reasons for the improved relations between Dublin and London. The first is the process of European integration. Both the UK and Republic of Ireland joined the European Community in 1973. Instead of being 'colonisers' and 'former colony', the two states entered as members of equal standing. Moreover, European integration has highlighted regional dimensions on the continent so that the two islands have a 'common destiny' within

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[1] This account is a summary of J.J. Lee, *Ireland 1910-1985: Politics and Society*. Cambridge: Cambridge Univ. Press (1989): 40-3.

Europe. Membership in the EU (including the European Commission) allows Ireland veto power over EU policy, and thus have equal footing with London. On the other hand, Etain Tannam suggests that though the EU alters perceptions and shapes preferences of the two governments, intergovernmentalism is still the driving force in the regulation of the conflict.[2] As McGarry and O'Leary point out, 'EU membership may not have a significant effect on the conflict, but it has facilitate[ed] better working relations between the Republic [of Ireland] and the United Kingdom'.[3] The second factor was the need for intergovernmental cross-border cooperation on security matters. This was one of the primary reasons that pushed the negotiations of the Anglo-Irish Agreement (1985) between Thatcher and Fitzgerald. The third factor, as posited in the introductory chapter, was that global changes in the wake of the Cold War allowed Peter Brooke to famously declare that it had no 'selfish' or 'strategic' interest in Northern Ireland and paved the way for cordial relations between the two states. However, it can be disputed whether the statement is evidence of British neutrality, since the Conservative Party (which was in government in 1990) want Northern Ireland to remain within the Union and have contested elections there since 1989. [4] Nonetheless, the declaration indicates a more even-handed and intergovernmental approach to Northern Ireland.

Belgrade and Zagreb

The history of antagonism between Serbs and Croats is often portrayed as a 'seething cauldron' of 'ancient hatreds' in the Balkans, where there have been occasional episodes of brutality over many centuries. However, the most relevant episode to the current study is the war between 'Croatia' and 'Serbia' in the early 1990s.[5] The definition of the conflict itself is disputed, since the armed conflict for 'liberation' by Croats was seen as both a war against 'secession' as well as a 'humanitarian intervention' by Serbs to protect the Serb minority in the Yugoslav Republic of Croatia (as mentioned in the previous chapter). The seeds of the conflict, were planted

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[2] E. Tannam, *Cross-Border Cooperation in the Republic of Ireland and Northern Ireland*, New York: St. Martin's Press (1998): 209. Tannam posits that this 'liberal institutionalism' approach most reflects the situation, which is developed in ibid.: 26-29.

[3] J. McGarry and B. O'Leary, *Explaining Northern Ireland*, Oxford: Blackwell Publishing (1993): 305-306.

[4] J. McGarry and B. O'Leary, *Explaining Northern Ireland*: 57-58.

[5] The following is a summary of the account from L. Silber and A. Little, *The Death of Yugoslavia*, London: Penguin Books (1996).

after the first multi-party election in Croatia in 1990. The poll was won overwhelmingly by the newly-formed nationalist HDZ. The HDZ leadership under Tuđman wanted to create an independent Croatian state, which meant that Serbs would be demoted from a constituent people to a minority. With the help of Belgrade, including the Serb-dominated JNA, Serbs in and around Knin armed in anticipation of a conflict, not to defend their position within Croatia, but to secede from Croatia.[6] The arming of the Serbs in Knin was evident in the run-up to their 'referendum' to declare autonomy in August 1990 when Croatian forces were unable to overrun the Serbs. Under the guise of separating Croats and Serbs to keep the peace, the JNA continued to lend political and military support to the latter. The Croatian Sabor declared its independence from Yugoslavia in June 1991. Starting the following month, the JNA attacked targets in Croatia more openly with help from local Serb volunteers. Eventually, the JNA (which had ceased being an impartial 'state' army) and Croatian Serbs controlled around a third of the territory of Croatia. However, Tuđman had won international support, especially from Germany. The Germans unilaterally recognised the independence of both Slovenia and Croatia in December 1991. A ceasefire between the sides was enforced by a large peace-keeping force from 1992. However, Croatian borders were not finalised until the military operations by the Croatian military annexed the Serb Krajina and Eastern Slavonia in 1995. Although the history of hostilities between Zagreb and Belgrade has been recent, there has been progress. Much of this process has been pushed by the promise of Euro-Atlantic integration and the conditionality of economic aid from major donor-states such as the US. Thus, positive developments in open issues such as the demilitarisation of Prevlaka and refugee return have been goaded by international pressure.

The above section highlights the previous level of conflict between reference states in both case studies. In both cases, the reference states were one-time adversaries in war. However, the investigation of the reference state dynamics only look at the post-settlement period.

The following section contains two sub-sections corresponding to the two 'intergovernmental' features of transnational consociation. The first section will look

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[6] JNA: Jugoslovenska Narodna Armija (Yugoslav Peoples' Army)

at bipartisanship in each of the four reference states regarding the disputed territory. The second section will look at the level of intergovernmental coordination regarding the conflict zone. In the previous chapter, all of the reference states exhibited significant long-standing links with their co-nationals. However, in the following sections, a fundamental difference will be evident between the two case studies. Due to the legacy of the recent wars, the intergovernmentalism is less developed along the Zagreb-Belgrade axis compared to Dublin-London relations. Moreover, more 'nationalist' policymakers both in Zagreb and Belgrade do not have a coordinated bipartisan approach with their 'moderate' counterparts regarding Bosnia-Hercegovina as parties in Dublin and London do concerning Northern Ireland.

Bipartisan Policy Continuity

Transnational consociation relies on policy continuity within the reference state. If a change of government leads to different levels of cooperation between reference states, then neither state will be willing to settle, since an agreement may not survive a change in government. Similarly, co-nationals in the disputed area would not be willing to negotiate, since changes of government in the reference states may yield a better deal. These arguments are fully developed in Chapter 3. Policy continuity regarding the conflict zone will be investigated for all four 'metropoles': London, Dublin, Zagreb and Belgrade.

London. Paul Dixon asserts that there has been 'bipartisanship' between the two largest British parties on social and economic policy, but also the broad constitutional position of the province.[7] The bipartisanship was especially strained during the last half of the 1970s. Although there had been disagreements on both sides of the house regarding Northern Ireland, both Conservative and Labour politicians nonetheless claimed that bipartisanship was still intact.[8]

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[7] P. Dixon, 'British Policy Towards Northern Ireland: 1968-2000',. Paper presented at the PSA (UK) conference (April 2000). Other authors suggest that the 'bipartisan' policy goes back to the 1920s. See P. Arthur, *Special Relationships: Britain, Ireland, and the Northern Ireland Problem*, Belfast: Blackstaff (2000): 160.

[8] Ibid.

This may be an oversimplification of bipartisanship between Conservatives and the Labour Party regarding policy over Northern Ireland. Continuous, public bipartisanship between the two largest parties in Westminster has been a more recent development. In the wake of the breakdown of the Sunningdale power-sharing Executive, both the leaders of Labour (Harold Wilson) and the Conservatives (Ted Heath) believed that a power-sharing solution was possible. Merlyn Rees, Secretary of State for NI under Wilson, attempted to convene a constitutional convention in 1975. Elections to the Convention were held in May. The UUUC platform was devolved government along the Westminster model (i.e. one-party rule) and an explicit rejection of an 'Irish dimension'.[9] By contrast, the SDLP advocated executive power-sharing and both a British and Irish dimension.[10] Not surprisingly, the Convention itself did not reach a consensus. The Report of the Convention was published in November 1975 and attempted to provide a 'neutral' solution. On the one hand, the receommendations rejected any all-Ireland institutions such as a Council of Ireland or any other cross-border bodies, thus counter to SDLP proposals.[11] On the other hand, the Report's prescriptions to ensure proportionality were not in line with the UUUC majoritarian position.[12] Ultimately, the parties in Northern Ireland did not reach an agreement, Rees dissolved the convention and direct rule was re-introduced until 1999.[13] Rees's successor in the Callaghan government, Roy Mason, did not introduce any power-sharing proposals, though Mason's 'five points' included both a consultative assembly elected by PR and devolved powers.[14]

Contrasting with the Labour Government, there was a shift in Conservative policy with the start of Margaret Thatcher's tenure as the Leader in 1975. This was especially evident in Thatcher's choice for Spokesperson for Northern Ireland, Airey Neave. Though Neave supported a body of local policymakers to scrutinise Northern

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[9] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89: Its nature and execution*, Manchester: Manchester Univ. Press (1991): 96. The UUUC proposals resembled the old Stormont regime (1921-72).
[10] Ibid.
[11] *Northern Ireland Constitutional Convention Report* (20th Nov.1975), para. 143.
[12] Ibid., para. 50-55.
[13] Due to the political impasse in Northern Ireland, Rees then focused more heavily on security policy. In the remainder of his tenure, Rees sought to address paramilitary violence through the courts ('criminalisation'); recruiting for the police and military locally to reduce British Army presence ('Ulsterisation'); and increase police numbers so that it had primary responsibility for security matters ('normalisation').
[14] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 101.

Ireland legislation to fill the 'political vacuum' after the end of power-sharing, the Conservative Party advocated full integration of Northern Ireland into the UK. In fact, Neave officially broke the bipartisanship with the Labour party and declared that the Conservatives did not support power-sharing in Northern Ireland.[15] Still, when the Conservative Party came into Government in 1979, they retreated from their policy of 'integration', stating a commitment to develop local government with authority over local services 'in the absence of devolved government'.[16] Each of Thatcher's Secretaries of State for Northern Ireland attempted to promote a devolved legislative body in Northern Ireland.[17] There are two possible reasons for this. The first is that Neave was assassinated by the INLA in March 1979. Second, O'Leary suggests that the Conservatives in government recognised that neither full integration nor a return to institutions resembling the old Stormont regime were appropriate for Northern Ireland.[18] Although the stated position of the Conservatives diverged from devolution in public while in Opposition, it is difficult to assess whether the integrationist strategy was substantive, since it was never a part of Conservative policy over Northern Ireland while in Government.

While in Opposition, the Labour Party changed its policy to 'unity by consent' for Northern Ireland. At the 1981 party conference, Labour party members accepted a resolution that it was possible to unite the island through consent by both Northern Ireland and the Republic of Ireland. This could be achieved by advocating a devolved power-sharing and an Irish dimension on areas of mutual concern.[19] Neil Kinnock endorsed the New Ireland Forum report (1984), since it included 'unity by consent'.[20] The party officially ended this policy in 1994. In June 1994, the Labour Party Spokesperson for Northern Ireland, Kevin McNamara, declared that his party would not object to any agreement that had the support of the people of Ireland.[21] In other words, the Labour Party officially endorsed the principle of majority consent in Northern Ireland. However, this change in Labour policy may be overstated.

[15] Ibid.: 101-2.
[16] Ibid.: 141.
[17] B. O'Leary, 'The Conservative Stewardship of Northern Ireland, 1979-97: Sound-bottomed Contradictions or Slow Learning?'. *Political Studies*, vol. 45, no. 4 (1997): 664.
[18] Ibid.
[19] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 148-9.
[20] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-2000*, Manchester: Manchester Univ. Press (2001): 48.
[21] Ibid.

Endorsing 'unity by consent' was such that it never significantly affected its standpoint on Government policy. While in Opposition, Labour supported Prior's initiatives for 'rolling devolution' (see Chapter 4), even though the proposal s did not have a guaranteed 'Irish dimension'.[22] Although Kinnock re-stated his party's policy after the conclusion of the Anglo-Irish Agreement (1985), he did not break with the Government:

As a matter of policy and of commitment the Labour Party wants to see Ireland united by consent, and we are committed to working actively to secure that consent. However, that is not the reason for our action in approving the Hillsborough accord. We recognise that the priority is reconciliation in the communities of Northern Ireland and between the communities of Northern Ireland. It is that objective that brings our consent.[23]

The Labour Party also supported the Downing Street Declaration, with Tony Blair backing the document at the party conference in 1994.[24] Thus, as with the integrationist policy of the Conservatives in the last two years of the Cunningham government, it is difficult to confirm that the declared policy of 'unity by consent' was substantive, since it was vague enough as to not contradict Government policy.

Since 1993, there is cross-party agreement about the *broad* policy towards Northern Ireland, but there are still differences on *specific* issues. The most recent 'breaks' in cross-party consensus came over the Labour Government's decision to allow Sinn Féin to use office space at parliament and the Government's 'concessions' on decommissioning. Quentin Davies said after the Government decision to allow Sinn Féin office space in the Commons, 'We cannot possibly have a bipartisan arrangement in the present circumstances.'[25] Lembit Öpik, worries that 'there is no harmonisation between parties. Conservatives have gone off the deep end in some sense.[26] He adds that the position of the Liberal Democrats is that a Conservative Government would clamp down on the IRA, and be closer to the Unionists, thus

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[22] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 148.
[23] House of Commons Debates, 27th Nov. 1985, col. 758. Quoted in T. Hadden and K. Boyle, *The Anglo-Irish Agreement: Commentary, Text and Official Review*, London: Sweet & Maxwell (1989): 67.
[24] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-2000*: 92.
[25] 'Tories End 30 Years of Bipartisanship on Northern Ireland', *The Guardian (UK)*, 18th Dec 2001. Hague's statement criticising prisoner releases was also seen as a potential break in the 'bipartisan' approach'. See 'Hague: Blair "Betraying" Northern Ireland', BBC News (online), 1st Sep 1999. URL: http://news2.thdo.bbc.co.uk/1/low/northern_ireland/435239.stm.
[26] Interview with Lembit Öpik

breaking with the even-handed approach between Nationalists and Unionists practised by previous British governments. [27] This assessment of Davies's position is misinterpreted, since Davies affirmed the commitment to the Belfast Agreement as the only framework for peace and stability in Northern Ireland, and the Conservatives even accepted the findings of the Patten Report. Davies reaffirms this during a more recent Commons debate:

We have been a responsible Opposition on Northern Ireland, and we shall remain so. We support the Government entirely on their objectives and the Belfast agreement. We have always supported them on tactics when they have done what we thought were the right things. But one thing that the Government and even the Whips and spin doctors in No. 10 surely cannot expect us to do in any circumstances is to be party to a cover-up and acquiesce in a deception of the public. That would be a veritable perversion of bipartisanship.[28]

In other words, despite some of the inflammatory rhetoric about the government 'cover-up', Davies continues to support the Labour Government's overall policy of implementing the Agreement, though there can be disagreement on particular issues. This 'constrained policy' regarding Northern Ireland from Conservatives has been maintained by Davies's replacement, David Lidington.[29] According to Lidington, the Conservatives try to follow a bipartisan approach, but that is not a 'blank cheque.' There are differences in policy towards prisoner releases, police reform and inclusion/exclusion from the NI Executive. Recently, the Conservative spokesperson was cautious in accepting the IRA statement in July 2005 declaring the end of the 'armed struggle'. David Lidington believes that the increased rate of demilitarisation followed by the Government after the statement is premature. [30] However, 'the [Conservative] party remains committed to the principles of the Belfast Agreement: devolution and consent.' [31] The Liberal Democrat position is that the 'current government line-up allows for sensible opposition' regarding Northern Ireland.[32] That is, broad consensus yet critical oversight regarding particular measures. The main

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[27] Ibid.

[28] Quentin Davies, House of Commons Debate, 5th Nov. 2003.

[29] 'Constrained policy' is mentioned by Paul Dixon and refers to the bounded policy that Opposition politicians can propose and still preserve cross-party consensus on Northern Ireland.

[30] 'Scaling down of Ulster security is premature' (press release), 1st Aug 2005. URL: http://www.conservatives.com/tile.do?def=news.story.page&obj_id=124165.

[31] Interview with David Lidington

[32] Interview with Lembit Öpik

difference between Lib Dem and Labour policy is that the former asserts there should be no unilateral agreements, such as the Government's agreement with Sinn Féin regarding 'on-the-run' suspected paramilitaries. According to Öpik, Northern Ireland is a place that if 'you make a deal with one party, everyone will find out'.[33] The cross-party continuity from London is also evident from the Government. A senior NIO official states that there is a 'bipartisan policy among the British parties regarding Northern Ireland…Everyone sees that the problem goes beyond politics.'[34]

Thus, establishing evidence for bipartisanship is not straightforward. However, despite more recent disputes between the Government and Opposition, as well the stated Conservative preference for 'integration' (1977-9) and Labour preference for 'unity by consent' (1981-94), policy by the two parties towards Northern Ireland is marked more by continuity than by fundamental dispute. In particular, successive governments since 1972 (both Conservative and Labour) have been committed to the establishment of a devolved assembly, since Northern Ireland is 'different' from the rest of the UK and thus needs different arrangements for governance.[35]

Dublin. Examination of the harmonising cross-party continuity by successive Irish governments has been largely neglected in the literature. Much of the post-independence period in the Republic of Ireland has been dominated by Fianna Fáil-led governments. Fianna Fáil has always projected a more 'green' policy than Fine Gael. Nonetheless, there has been a measure of cross-party consensus among major parties in the Dáil. As with the British cross-party consensus on Northern Ireland, there have been tensions in the harmonisation of policy between Fianna Fáil and Fine Gael. For example, when the IRA ended its ceasefire with the Canary Wharf bombing in February 1996, the then-opposition leader Bertie Ahern blamed the resumption of violence partly on John Bruton.[36] According to one official, the relationship between Bruton and the nationalists in NI was 'fraught', and that may have contributed to the breaking of the IRA ceasefire in Canary Wharf, but the same official adds that the new leadership under Enda Kenny has mended relations with the SDLP.[37] The

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[33] Ibid.
[34] Interview with Senior Official (NIO)
[35] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-2000*: 153.
[36] Dáil Debates, 21st Apr 1996.
[37] Interview with Senior Source in the Irish Government

ceasefires were back in place soon after a change from a Fine-Gael-led to a Fianna Fáil-led government.

There have been other times when the bipartisanship between Fine Gael and Fianna Fáil has been strained, especially when Charles Haughey was leader of Fianna Fáil.

The New Ireland Forum was comprised of the main constitutional political parties in the Republic of Ireland and Northern Ireland: Fine Gael, Fianna Fáil, the Irish Labour Party and the SDLP. The New Ireland Forum Report (1984) suggested three possible solutions to the conflict in Northern Ireland to achieve a united Ireland: a unitary unified state, an all-island confederal/federal state with two jurisdictions, and London-Dublin joint authority over Northern Ireland.[38] Although Haughey participated in the Forum, he used the opportunity to register his preference for a unitary Irish state with full British withdrawal. While in Opposition, Haughey objected to the Anglo-Irish Agreement:

By confirming what is called the constitutional status of Northern Ireland as an integral part of the United Kingdom in this Agreement we will do serious damage in the eyes of the world to Ireland's historic and legitimate claim to the unity of her territory.[39]

The vote in the Dáil on the Anglo-Irish Agreement followed party lines, with the Fine Gael TDs voting for the motion and Fianna Fáil members voting against. The measure passed 88 to 75.[40] In October 1986, Haughey declared that his party would renegotiate the Anglo-Irish Agreement if they were in Government. However, when Haughey did become Taoiseach, he maintained Irish Government support for the Agreement:

It is the practice of Irish Governments to honour and operate international agreements concluded by their predecessors. This Government will follow in that tradition and will fulfil and operate the Anglo-Irish Agreement …The Deputy will be aware that my party and I have indicated that we do not accept the constitutional implications of Article 1 but as an integral part of a binding international agreement that Article could be amended only by mutual agreement and there is no likelihood that such agreement would be forthcoming.[41]

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[38] *New Ireland Forum Report*, 2nd May 1984.
[39] Dáil Debates, 'Anglo-Irish Agreement, 1985: Motion', 19th Nov. 1985.
[40] T. Hadden and K. Boyle, *The Anglo-Irish Agreement*: 67.
[41] Dáil Debates, 'Anglo-Irish Agreement', 24th Mar 1987.

Thus, despite earlier pronouncements, Haughey did not break nor renegotiate the Anglo-Irish Agreement, and maintained bipartisanship over Northern Ireland policy, perhaps due to the high level of public support for the document in the Republic of Ireland.[42]

The level of bipartisanship has been especially strong in recent times. Both sides of the House in the Dáil closed ranks regarding the Belfast Agreement. According to the parliamentary correspondent for the *Irish Times*:

The usual robust exchanges yielded to respectful questions about the state of talks and a united approach to the historic accord, backed by the overwhelming support of the electorate North and South in referendums. The bipartisan approach has more or less continued.[43]

Evidence of this cross-party support for the 'peace process' can be found in the transcripts of the Dáil in spring 1998. John Bruton assented to the strands of the eventual settlement:

The three stranded approach guarantees that every aspect of the problem will be tackled; that is a great strength. Nor am I concerned that the outcome will be insufficiently fair. I believe the outcome will be very fair.[44]

As the deadline for agreement drew closer, Bruton also said:

I believe I speak for the House in wishing the Taoiseach well in the work he has to do this week in conjunction with the British Prime Minister and with all the participants in the talks. He has the support of everybody in Ireland in his work in that regard.[45]

More recently, Enda Kenny, Bruton's successor, has commented:

Fine Gael supports the Good Friday Agreement unequivocally. It is a compromise and therefore imperfect, but no one, not even its most fierce detractors, has produced anything better. The Agreement remains our best and only hope. Fine Gael stands by the Agreement because the principles

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[42] T. Hadden and K. Boyle, *The Anglo-Irish Agreement*: 69.
[43] M. O'Halloran, 'No Shortage of Drama in an Extended Run' (Feature on elections in 2002). URL: http://www.ireland.com/focus/election_2002/features/features1.htm.
[44] Dáil Éireann, Events in NI: Statements, 4th Feb. 1998.
[45] Dáil Éireann, Questions – NI Peace Process, 31st March 1998.

underpinning it are those it has articulated and defended since its foundation…Fine Gael in opposition retains a patriotic and passionate commitment to Northern Ireland and its people. It has never played politics with this issue and has supported the Government staunchly throughout the process.[46]

According to a political advisor in Fine Gael, 'the support given to the Good Friday Agreement by all parties in [the] Dáil would suggest that there is [harmonisation of NI policy].'[47] Moreover:

The Agreement itself is a compromise that all sides signed up to. Regardless of who is in power, in either Dublin or London, both Governments are compelled to reach a solution and achieve lasting peace in Northern Ireland.[48]

The Taoiseach has confirmed more recently that the cross-party consensus regarding Northern Ireland:

Members on all sides of the House have always expressed their overwhelming support for the Good Friday Agreement…All of us have a collective responsibility to make the Agreement work. This is not a policy option.[49]

According to a senior policymaker in Dublin, the Opposition is briefed regarding Northern Ireland and that overall, there is a similar policy for all major parties in the Dáil. This occurred after 1998, since the Agreement was endorsed by a large majority of the people in the referendum.[50]

The third significant party in Dublin is Irish Labour. According to Fergus Finlay, there is cross-party support for what is agreed in Northern Ireland: consent and stability.[51] Ruari Quinn, one of Finlay's Labour colleagues in the Dáil, suggests that this cross-party support has limits:

When in Government my party appreciated the support of the Taoiseach in relation to Northern Ireland and in Opposition we have sought to reciprocate. Of course, we would try to pursue a bipartisan approach even if Fianna Fáil had not done so. Bipartisanship is not a complete *carte blanche*. We will

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[46] E. Kenny, Dáil Éireann, NI Issues : Statements, 7th May 2003.
[47] Written answers from Stephen Lynam
[48] Ibid.
[49] B. Ahern, Dáil Éireann, NI Issues : Statements, 7th May 2003.
[50] Interview with Senior Source in the Irish Government
[51] Interview with Fergus Finlay

continue to point out areas where we think progress is not being made or where it can be made more speedily.[52]

Similarly, the Chair of the Fianna Fáil, Rory O'Hanlon, criticised some of the government policy regarding Northern Ireland when Fianna Fáil was last in Opposition, but he still mentioned that there was a bipartisan approach.[53]

Thus, Finlay claims that a change in government in Dublin, it would 'lead to a change of tone, not policy.'[54] According to a policymaker in the current Irish Government, there are differences in the 'nuances' between the political parties in Dublin.[55] Thus, the situation is similar to London. There is a high level of policy continuity between the major political parties, but this is not tantamount to a political 'blank cheque'. The Opposition still plays a role in oversight of government actions, while reinforcing support for the Belfast Agreement.

Belgrade. Much of the connection between RS and Serbia originated during the wars under the leadership of Milošević. There was a marked change in the institutional structures and the legitimacy of Serbia after Milošević was indicted and brought to the ICTY. According to the current Minister heading the Section for Bilateral Relations, after Milošević was sent to the Hague, the 'world became more relaxed' and Serbia was 'ready to transform to Western, democratic values.' Moreover, Serbia decided to change to a 'reliable, transparent partner in any field of cooperation.'[56] Serbia has made overtures to Europe, and according to Vejvoda, Euro-Atlantic integration is 'real policy', not just lip service to impress the West. Reforms in areas such as defence are tantamount to reforms to become 'decent countries' (i.e. democratic, market-oriented states).[57] Towards these ends, Belgrade passed a law in July 2004 to 'tilt' the defence policy of Serbia & Montenegro towards the West, meaning the EU, NATO, OSCE and UN as a step towards Euro-Atlantic integration.[58]

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[52] R. Quinn, Dáil Éireann, NI Peace Process: Statements, 17th Dec. 1998.
[53] Dáil Éireann, Northern Ireland Peace Process (Resumed). 29th Feb. 1996.
[54] Interview with Fergus Finlay
[55] Interview with Senior Source in the Irish Government
[56] Interview with Dušan Crnogorčević
[57] Interview with Ivan Vejvoda
[58] D. Sunter, 'Belgrade's Defence Strategy Tilts West', *Balkan Crisis Report*, no. 504, 24th Jun 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200406_504_5_eng.txt.

However, the state has not made a clean break with Milošević's legacy. According to the ICG, Serbia 'increasingly resembles the Milošević-era without Milošević.'[59] The same illegal security structures in place during Milošević's regime may have been responsible for Đinđic's murder, as suggested in the previous chapter.[60] More importantly, the last elections for the Serbian presidency and parliament have shown that the electorate are not as committed to 'decent' liberal-democratic values as portrayed by some policymakers. The parliamentary elections resulted in significant gains for the Serbian radical party (SRS), which gained the largest seat allocation with 82 out of 250 seats.[61] However, the hard-line policies prevent the SRS from forming a coalition large enough to control the parliament. Nonetheless, the election shows significant disaffection towards the ruling coalition led by the DSS and DS.[62] The shift towards the nationalists is partly due to the split between DS and DSS, partly due to dissatisfaction with the economic situation, but also a protest against the move towards Europe. The SRS has drawn support from pensioners, farmers, and the unemployed, who had been protected during communist times. Moreover, cooperation with the Hague tribunal and other 'Western' organisations has remained unpopular.

In the 2004 presidential elections, the first round was won by Toma Nikolić, the SRS leader. As in the parliamentary elections, the SRS succeeded in projecting a platform based on nationalism and welfare to win the first round.[63] However, the SRS was unable to win in the second round and the more 'pro-Western candidate', Boris Tadić, was returned. Nonetheless, the strong support for the far right in Serbia has consequences for regional relations. During a television interview in November 2003, Nikolić said that he would not contemplate diplomatic relations with Croatia until the border dispute was settled near Karlovac.[64] The SRS also oppose the Hague war-crimes tribunal (their leader Šešelj is awaiting trial at the ICTY), and Nikolić has said that European integration is a waste of time.[65] Nikolić is portrayed as a less 'hysterical' nationalist than Šešelj, but Nikolić continues to adhere to the aspiration of

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[59] ICG, 'Serbia's U-Turn', Europe report no. 154, 26th Mar. 2004.
[60] ICG, 'Serbia After Djindic', Europe Report no. 141, 18th Mar. 2003.
[61] Z. Cvijanović, 'Serbia: New Regime Faces Instability from the Start', *Balkan Crisis Report*, no. 475, 8th Jan. 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200401_475_1_eng.txt.
[62] Ibid. The 'centre-right' DSS led by Kostunica and centre-left DS won 46 and 37 seats, respectively.
[63] V. Sudar, 'Hard Men of Serbian Right in Bullish Mood', *Balkan Crisis Report*, no. 505, 18th Jun. 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200406_503_2_eng.txt.
[64] ICG, 'Serbia's U-Turn'
[65] Z. Cvijanović, 'Radicals Set to Make Big gains', *Balkan Crisis Report*, no. 474, 23rd Dec. 2003.

a 'Greater Serbia' that includes Bosnia-Hercegovina and much of Croatia. In June 2004, he said: 'I'll dream about that border as long as I live.'[66] Nikolić sometimes couches the SRS territorial aspirations in terms of universal rights for all individuals to live and own property where they want. However, he adheres to the rhetoric of extending the borders of Serbia:

We hope that the borders could be changed some day, but before that we hope the dream of any citizen of the globe will be fulfilled. That is, to live in peace and safety on his property...

One day, even the Serbs will live on their property. Protected so nobody can beat them, kill them. That is our dream. And there is no war in it.[67]

Although Nikolić represents the 'new face' of the Serb Radicals in Serbia, the rhetoric remains the same as SRS objectives during the Milošević era. In the 1998 party manifesto, the SRS suggested the 'union of the whole Serb people and establishment of a governmental community in the complete Serb national territory that will include Serbia, Montenegro, Republika Srpska and the Serb Krajina Republic' by 'democratic' means. [68] The call for these 'democratic' border adjustments are condemned by the international community in Bosnia-Hercegovina, which concludes that this is a violation of the terms of the Dayton-Paris Agreement.[69] More worryingly, the words used by Nikolić in the above quote echo the rhetoric reportedly used by Milošević in the 1989 speech in Kosovo Polje.

Thus, although the 'democratic reformist' forces that ousted Milošević are largely committed to Euro-Atlantic integration, a plurality of the Serbian electorate recently voted for a party that is anti-EU, nationalist, and still publicly 'dreams' of a 'Greater Serbia'. Although the actual policy of the SRS cannot be confirmed (since they do not control either the parliament or the presidency), the stated expansionist position of the Radicals suggests a lack of policy continuity with more moderate parties in Serbia regarding Bosnia-Hercegovina.

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[66] 'Serbia Votes in Crunch Election', BBC News (online). URL:
http://news.bbc.co.uk/2/low/europe/3843547.stm.
[67] M. Price. 'Serb Radical outlines ambitions'. BBC News (online), 30th Dec. 2003. URL:
http://news.bbc.co.uk/2/hi/europe/3356875.stm.
[68] Quoted in NATO/SFOR Transcript of Press Briefing, 14th Aug 1998. URL:
http://www.nato.int/sfor/trans/1998/t980814a.htm.
[69] Ibid.

Zagreb. The 2001 general election returned a coalition of 'liberal' democratic parties that were committed to severing ties with the Tuđman regime. The Office of the President claims that policymaking has changed from the previous HDZ government. Legislation comes from the president, parliament and government, not just the former. Moreover, all politicians, especially in public, respect the borders of neighbouring countries.[70] As with Serbia's 'tilt westward', Croatia believes that its fate lies in Euro-Atlantic integration. There was some uneasiness about the prospects about a return to HDZ rule. Vesna Pusić suggested that a return to HDZ rule would put reforms in 'the wrong direction'.[71] The President's Office worried that 'if the ruling coalition stays the same, then policy stays the same. If HDZ wins, they will try to return to some of the previous policy.'[72]

However, the HDZ election victory at the end of 2003 did not bring about a return to the Tuđman-era policies. After Tuđman's death, the resulting power struggle resulted in a more 'European' leadership under Ivo Sanader, with more of the more 'extreme' elements starting their own small nationalist parties. Sanader has portrayed the HDZ as a centre-right party and has told the ICTY that 'the HDZ is a responsible political party and this is the 21st century.'[73] Sanader has also made gestures to the Serb minority in Croatia, promising to make conditions favourable for the return of Croatian Serbs displaced during the war.[74] Most importantly, despite the fact that cooperation with the ICTY is unpopular in Croatia, two Croatian citizens, Markac and Cermak, voluntarily surrendered in March 2004. Significantly, the indictments alleged that the two ex-generals, along with Tuđman and Gotovina, 'participated in a joint criminal enterprise' against the Serbs during 'Operation Storm'.[75] This suggests that compliance from Zagreb was tantamount to admitting that 'Operation Storm' was wrong. Moreover, by associating Gotovina with Markac and Cernak, the indictment of the two ex-generals indicated that Gotovina's handover to the Hague was imminent.

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[70] Interview with Igor Dekanić
[71] Interview with Vesna Pusić (Leader, HNS)
[72] Interview with Igor Dekanić
[73] A. McTaggart, 'Croatia Eyes the Prize', *Balkan Crisis Report*, no. 493, 22nd Apr. 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200404_493_8_eng.txt. See also A. McTaggart, '"Reformed HDZ Set to take Power'.
[74] A. McTaggart, 'Croatia Eyes the Prize'.
[75] The indictment can be found online at the ICTY site: http://www.un.org/icty/indictment/english/cer-ii040224e.htm.

This progress led to Carla del Ponte declaring Croatia was cooperating fully with the ICTY in April 2004. Despite some reservations from the CoE regarding minority rights and the failure to hand over the 'remaining indictee' to the ICTY, the European Commission recommended that Croatia start EU accession negotiations.[76] Two months later, on 18th June, Croatia received candidate status to join the EU.[77]

Croatian policymakers outside the HDZ confirm that there is certain policy continuity between governments. Željko Glavan (HSLS) says that a 'change of government will not change policy towards Bosnia. [It is] state politics, not party politics.'[78] Josip Torbar (HSS) comments that the HDZ do not want a 'bigger Croatia' any more, since they want to keep the US happy (e.g. HDZ support for US policy in Iraq).[79] Similarly, Ozren Žunec, a former head of the Croatian Intelligence Services, adds that a change of government to HDZ will change little, since 'the historic moment has been gone' for a while, and the international community ensures that there is little manoeuvrability.[80] Finally, the Croatian Ambassador to the UK adds that a change in government will not lead to a change in foreign policy, as this is common in 'European democracies'. He added that no party opposes the government in public, and that there are not many open issues regarding Bosnia-Hercegovina.[81] In economic terms, the European Commission believes that 'Croatia can be regarded as a functioning market economy'.[82] In fact, according to the EBRD, Croatia is classified economically as 'Central European', and not 'SE Europe' like Bulgaria and Romania, the two countries that are set to join the EU in 2007.[83]

Despite some encouraging economic and political signs across Croatian governments, there are worrying signs from Zagreb. For example, in a radio debate with Ivica Račan, Sanader 'qualified his support for the Hague tribunal by saying he accepted

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[76]European Commission, 'Croatia: Opinion on the application of Croatia for membership of the European Union'. URL: http://europa.eu.int/comm/external_relations/see/sap/rep3/cr_croat.pdf.
[77] See http://europa.eu.int/comm/external_relations/see/croatia/croatia04_14-06.pdf.
[78] Interview with Željko Glavan
[79] Interview with Josip Torbar
[80] Interview with Ozren Žunec. Žunec resigned in April 2001due to alleged interference from members of the President's Office.
[81] Interview with Joško Paro
[82] 'Croatia: Opinion on the application of Croatia for membership of the European Union'.
[83] 'Croatia Eyes on the Prize'.

the principle of cooperation but wanted "politicised" cases reviewed.'[84] Moreover, HDZ ran a more traditional nationalist campaign at the local level. At one rally, Sanader blamed 'the Račan government for neglect of the diaspora and abandoning the Croats of Bosnia "when we are all one nation"'.[85] Finally, the capture of Ante Gotovina, remains an open issue. The failure of Serbia and Republika Srpska to hand over suspects to the ICTY was the primary reason for NATO rejection of their applications to the PfP, and Croatia has not handed over the third most wanted indictee behind Mladić and Karadžić. After explaining the non-cooperation from RS and Serbia, del Ponte said on 3rd November 2004:

In Croatia, I have similar problems. It is a great disappointment for the ICTY that Croatia did not arrest General Gotovina to this day. In the course of the spring, the Government apparently intensified its efforts to locate this fugitive, and I was confident that he would be arrested during the summer. It is very unfortunate that this did not happen and that, in July and August, the momentum was lost. Gotovina is still in Croatia.[86]

Despite some concerns from other parties, a return to HDZ has not led to a return to the policies of the pre-2000 era. In particular, the re-packaging of HDZ as a party of the 21st century with the reformist Sanader at the helm has ensured continued Euro-Atlantic integration after the change in government. However, some of the declarations by Sanader suggest that his party has been unable to make a clean break from its nationalist past. Although there have been democratic changes since 2000, a continuous policy of cooperation with BiH and Serbia is unfulfilled as long as the tasks of ICTY indictments and Serb minority rights remain unfinished.

Thus, an examination of cross-party cooperative policy among reference parties revealed a significant difference between the two case studies. Although there are differences in the 'tone' of the major parties in both Dublin and London, they all agree on the principles of the Belfast Agreement and share broad policy objectives on Northern Ireland. By contrast, hard-line nationalists control nearly half of the Serbian Parliament, and the SRS candidate earned a plurality of the vote in the first round of

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[84] A. McTaggart, '"Reformed" HDZ Set to take Power'.
[85] Ibid.
[86] Address by Carla del Ponte (Press Release), 3rd Nov. 2004. URL: http://www.un.org/icty/pressreal/2004/p907-e.htm.

the presidential elections. Such nationalist parties still use the rhetoric of 'Greater Serbia', and thus, are at variance with the 'reformist' coalition that takes a more conciliatory tone with Serbia's neighbours. Although Croatia is further along the process of Euro-Atlantic integration than any country in the 'Western Balkans', non-cooperation with the ICTY regarding Gotovina and HDZ's nationalist rhetoric during the election campaign (2003) shows that cross-party commitment to Dayton is incomplete. For Northern Ireland, there is cooperative policy continuity across governments that are more traditionally 'Unionist' and those that are not in London, as well as those that are traditionally 'republican' and those that are not in Dublin.[87] This cross-party policy continuity is not evident in the case of Bosnia-Hercegovina.[88]

Intergovernmentalism

The theory of transnational consociation predicts that a lack of continuous cooperative policy would reduce the likelihood of cooperation between reference states, and *vice versa*. Thus, this would suggest that the 'bipartisan' policy towards Northern Ireland by successive governments in Dublin and London is likely to lead to stable, cooperative intergovernmental relations. On the other hand, the lack of such continuity between governments in both Zagreb and Belgrade would suggest that neither would be able to trust the consistency of the other. Thus, there would be little persistent intergovernmentalism regarding regional policy in Bosnia-Hercegovina. Each of these axes (i.e. Dublin-London and Belgrade-Zagreb) will be examined in turn.

London-Dublin. The relationship between Dublin and London has evolved from that of antagonism to one that is friendlier, and from an asymmetric relationship between the former coloniser and colony to one of equals. The importance of the agreement of the two 'metropoles' as a foundation for the settlement in Northern Ireland is

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[87] Referring back to the theory developed in Chapter 3, Fianna Fáil and the Conservatives are the 'less conciliatory' parties, while Labour (UK) and Fine Gael have been 'more conciliatory.'

[88] In Croatia, the 'less conciliatory' parties are HDZ and HSP, and 'more conciliatory' ones are the parties of the 'centre-left' coalition that won the 2000 elections: SDP, HNS, HSS. In Serbia, the situation is complicated. SRS are the largest 'less conciliatory' party. The mottled coalition that formed a government led by DS and DSS, with the latter a definite 'more conciliatory' reformist party. DSS sees itself as never being aligned with Milošević, but on the other hand, its sister party is the 'nationalist' SDS from Republika Srpska. Still, since it formed a part of a non-nationalist government, it will be assumed that DSS is 'more conciliatory'.

discussed elsewhere in the literature.[89] According to John Bruton, 'the key elements in the approach of the two Governments have evolved in a consistent, organic way over the entire period [1972-1997].'[90]

However, this overstates the continuity of the intergovernmentalism between Dublin and London. After the collapse of the Sunningdale power-sharing institutions, successive British governments sought a devolved framework for Northern Ireland, but without an 'Irish dimension'. Nonetheless, the British Prime Minister (Thatcher), Irish Taoiseach (Haughey), Secretary of State for NI, Irish Foreign Minister, and Ministers of Finance from the two governments met in December 1980 and decided to explore areas of common concern, including economic and security cooperation, and possible institutions, though the constitutional position of Northern Ireland.[91]

As aforementioned Prior Initiative (April 1982) for 'rolling devolution' had been rejected by Nationalists, and political parties in the Republic of Ireland were unconvinced.[92] In the wake of the 1981 Hunger Strikes, the nationalist tilt both in Northern Ireland and in the Republic of Ireland (Fianna Fáil returned to Government in February 1982) resulted in a low-point in relations between London and Dublin. The tension between the two governments extended to issues outside Northern Ireland, including Ireland's criticism of the British in the Falklands after the sinking of the *Belgrano*.[93]

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[89] F. Wright, *Northern Ireland: A Comparative Analysis*, Dublin: Gill and Macmillan (1988): 268; J. McGarry and B. O'Leary, *Northern Ireland Conflict: Consociational Engagements*, Oxford: Oxford Univ. Press (2004): 5-6. J. McGarry, 'Political Settlements in Northern Ireland and South Africa', *Political Studies*, vol. 46, no. 5 (December 1998): 865-870.

[90] John Bruton, Address to the Oxford Union (7th May 1997). Quoted in P. Dixon, 'British Policy Towards Northern Ireland: 1968-2000'.

[91] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 146. The Anglo-Irish Intergovernmental Council was established in November 1981.

[92] See also M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 148.

[93] P. Arthur, *Special Relationships: Britain, Ireland, and the Northern Ireland Problem*, Belfast: Blackstaff (2000): 210-11.

In November 1984, Thatcher's press conference on the three options proposed by the New Ireland Form Report (see above) underlined the gulf between London and Dublin:

The unified Ireland was one solution – that is out. A second solution was a confederation of the two states – that is out. A third solution was joint authority – that is out.[94]

However, even at this time, Dublin-London relations were improving. Fine Gael came back into Government in 1983. Garret FitzGerald and Margaret Thatcher re-started Anglo-Irish cooperation on Northern Ireland in June 1983, and negotiations starting in mid-1984 culminated with the Anglo-Irish Agreement in November 1985.[95] The change in Conservative policy soon after the Prior Initiative towards bilateralism is surprising.[96] According to Cunningham, there were four reasons why a change of British policy would not have been expected: Thatcher was thought to be sympathetic to unionism; a relatively low death-rate meant that all-island security measures were no more necessary than before; the worry about the Unionist backlash if there were an Irish dimension; and Sinn Féin's electoral success had supposedly 'peaked'.[97]

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[94] Quoted in T. Hadden and K. Boyle, *The Anglo-Irish Agreement*: 7.

[95] P. Arthur, *Special Relationships*: 213.

[96] O'Leary calls this the 'sovereignist-intergovernmentalist' contradiction. See B. O'Leary, 'The Conservative Stewardship of Northern Ireland, 1979-97': 667.

[97] M.J. Cunningham, *British Government Policy in Northern Ireland 1969-89*: 176.

However, there were a number of possible countervailing factors that may explain the change in British Government policy[98]:

- Increased security in both Britain and Ireland

- Managing the fear of the electoral success of republicans in both parts of Ireland

- 'Damage control' after the Hunger Strikes

- Douglas Hurd as Secretary of State for Northern Ireland was more committed to addressing Northern Ireland on a bilateral basis

- the British and Irish negotiators under-estimated the Unionist backlash against bilateralism

- some middle-class Unionists could be appeased with increased security and economic prosperity in return for an Irish dimension

- Unionist hostility to Dublin involvement could have been used as an incentive for internal consociation

- Thatcher calculated increased support from Dublin and Nationalists against terrorism if Dublin were included

The Anglo-Irish Agreement (AIA) contained an explicit institutionalised role for Dublin and included provisions to establish an Intergovernmental Conference between the heads of government to discuss political, judicial, 'cross-border' and security matters.[99] The bilateral features of the AIA can be found in later joint London-Dublin documents, such as the Downing Street Declaration (DSD), the Framework Documents and the Belfast Agreement. The DSD was issued jointly from the PM and Taoiseach. Two years later, although the positions of Dublin and London did not coincide: 'In this Framework Document both Governments…describe a *shared* understanding reached between them on the parameters of a possible outcome to the Talks process. [emphasis added]'[100]

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[98] Ibid. See also O'Leary calls this the 'sovereignist-intergovernmentalist' contradiction. See B. O'Leary, 'The Conservative Stewardship of Northern Ireland, 1979-97': 668. In addition to the Hurd, O'Leary suggests Thatcher was also influenced by Haughey, FitzGerald, Lord Geoffrey Howe, members of the Cabinet Office (Lord Robert Armstrong) and British civil servants in the Foreign Office.

[99] Anglo-Irish Agreement (1985): Article 2.

[100] Framework Documents (1995): Art. 7.

The Belfast Agreement represents an important signpost in the intergovernmental relations. As mentioned in Chapter 4, though finally approved through multi-party negotiations with policymakers in Northern Ireland, no representative from the 'Province' actually *signs* the 'Agreement' (i.e. the 1998 British-Irish Agreement).

The choreography leading up to the Belfast Agreement was done to underline London-Dublin intergovernmentalism. The two heads of government negotiated the Strand 2 institutions bilaterally at Downing Street, separately from the Strand 1 negotiations in Belfast chaired by George Mitchell. Blair and Ahern were to only appear in Belfast at the very last stages to 'close the deal'.[101]

Some commentators suggest that the evolution of London-Dublin relations from the failure of Sunningdale to the current peace process was a 'slow learning' process. That is, by trial and error, the two sovereign governments developed a 'unity of purpose' of developing politics in Northern Ireland from the 'outside in'.[102] Kerr suggests that the longevity of certain civil servants led to the policy continuity examined in the last section, and also to a coherent London-Dublin strategy regarding the 'Province'.[103] Other work on Northern Ireland looks at the change of London-Dublin relations in a wider context of Europe, and of international changes.[104]

Fergus Finlay worked for previous governments in Dublin and was a part of the Irish Government team that negotiated the Anglo-Irish Agreement (1985). According to him, it was routine to 'be lectured by the Secretary of State [for Northern Ireland]'. However, by the early 1990s, the intergovernmental relations are much more 'level', and although there are disagreements, these are discussed as equals, not as the 'sovereign' and the 'interloper.'[105] The institutional manifestation of intergovernmentalism from 1985 can be found in Strand Three of the Belfast Agreement. First, the British-Irish Intergovernmental Conference (BIIGC) subsumes

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[101] G. Mitchell, *Making Peace*: Chapter 15.
[102] M. R. Kerr, *Comparative power sharing agreements in Northern Ireland and Lebanon*: 159. See also B. O'Leary, 'The Conservative Stewardship of Northern Ireland, 1979-97: Sound-bottomed Contradictions or Slow Learning?'. *Political Studies*, vol. 45, no. 4 (1997): 663-76.
[103] M. R. Kerr, *Comparative power sharing agreements in Northern Ireland and Lebanon*: 166.
[104] For example, see P. Gillespie, 'From Anglo-Irish to British-Irish relations', in *A farewell to arms? : from 'long war' to long peace in Northern Ireland*, ed. F. Stephen, M. Cox and A. Guelke, Manchester: Manchester Univ. Press (2001).
[105] Interview with Fergus Finlay

the bilateral institutions from the Anglo-Irish Agreement to 'bring together the British and Irish Governments to promote bilateral co-operation at all levels on all matters of mutual interest within the competence of both Governments.' Moreover, the joint secretariat at Maryfield from the AIA is superseded by the Joint British-Irish Secretariat responsible for non-devolved matters located at Windsor House (Belfast).[106] The first meeting of the BIIGC was in December 1999, and there have been regular meetings since then, meeting more frequently after the institutions were suspended in 2002. The most important function of these continued Conferences between the Taoiseach and the Prime Minister are the joint communiqués that are public declarations of full commitment to the Belfast Agreement. For example, soon after the suspension, the governments declared:

Both Governments reiterated their commitment to the implementation of the Agreement as the only way forward and the only viable future for the people of Northern Ireland. It is their determined wish to see devolved Government restored as soon as possible and, in any event, in advance of the scheduled elections. Both Governments believe that a representative Assembly and an inclusive Executive remain the most appropriate form of government for Northern Ireland.[107]

Similar pronouncements of intergovernmental commitment to the Agreement have been made after more recent BIIGC meetings. In addition to the formal institutions established by the Belfast Agreement, there are other non-legislative bodies that have supported the London-Dublin axis. One such institution is the British-Irish Parliamentary Body (BIIPB), which meets twice a year, bringing together members of legislative assemblies from Britain and Ireland. It predates devolution in the UK, so plenary sessions were only attended by members of Parliament and the Oireachtas. However, since the advent of regional assemblies, representatives from the Scottish, Welsh, and (when not suspended) Northern Ireland assemblies also attend.

The crucial function of the London-Dublin axis is recognised by both sovereign governments and by the local political parties in Northern Ireland. At the heart of the present Dublin-London axis is the relationship between the two heads of government, Tony Blair and Bertie Ahern. Blair has led a Labour government since 1997, after 18

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[106] Belfast Agreement, Strand III. The areas of cooperation in the BIIGC are similar to its predecessor in the AIA: security, justice, cross-border matters, but also policing and prisons.
[107] BIIGC, Joint Communiqué, 22nd Dec. 2002.

years of Conservative rule in Westminster. Fianna Fáil returned to government in the same year in Dublin. The changes of government arguably added some momentum to the process, evidenced by the restoration of the IRA ceasefires and the 'signing' of the Belfast Agreement. William Stevenson (NIO) describes Blair and Ahern having an 'especially friendly relationship.'[108] From the Dublin perspective, Finlay says that a change of government would change the situation, only because 'it is not possible to be as involved as Tony Blair [has been].'[109] Nonetheless, Finlay concludes that a change of government in Westminster would be one of 'tone', as mentioned in the previous section.[110] The intergovernmental London-Dublin axis is more solid than the personal relationship of the Taoiseach and the PM.

According to an official from the Irish Government:

There is no progress until there is intergovernmental agreement…The two governments took power, and have the same aims…The two governments do not criticise each other publicly. They basically have the same essential policy.[111]

The strengthening relationships between Dublin and London are confirmed by Fine Gael:

[Over the last ten years], the relationship between British and Irish Governments has grown much closer. The Good Friday Agreement itself changed the nature of that relationship and strengthened the role of Dublin in the Peace Process…In recent years, both governments have worked closely in their efforts to bring about the full implementation of the Agreement.[112]

The current leader of Fine Gael confirms the role of intergovernmental cooperation between officials both in London and Dublin who are 'in so many ways the real architects of…[the peace] process'.[113]

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[108] Interview with William Stevenson
[109] Interview with Fergus Finlay
[110] Ibid.
[111] Interview with Senior Source in Irish Government
[112] Written answers from Stephen Lynam
[113] Dáil Debates, Northern Ireland: Statements, 7th May 2003.

From the Opposition benches in the British Parliament, there is further confirmation of intergovernmentalism. David Lidington suggests that there is a 'closer and more trusting relationship' between the two sovereign governments.[114]

The significance of the intergovernmental engine for the process is also mentioned across parties in Northern Ireland. A sample of such comments from both Nationalists and Unionists is shown below:

Dr. Sean Farren (SDLP) believes:

[The two governments] have the role of ringmaster. The two governments are the sovereign governments. This place is not sovereign. They exercise the responsibilities jointly. They co-chair the talks…They convened the talks in the first place in 1996. They laid the grounds. Without them, there would not be a process. They are the key; they are central to driving the process.[115]

Soon after the October 2002 suspension of the Northern Ireland Assembly Mark Durkan, leader of the SDLP, called on the British and Irish Governments to 'lead' on the implementation of the Belfast Agreement through meetings of the BIIGC.[116] Denis Haughey (SDLP) believes that the significant feature of the last 15-20 years is the 'gradual growing together of the British and Irish Governments in a tight compact to cooperate on issues of Northern Ireland.'[117]

For Peter Weir (DUP), Dublin and Westminster 'are guardians or guarantors of the agreement.'[118] For Dr. Esmond Birnie (UUP), 'in practice, their role has been substantial, perhaps too substantial…The two governments keep being drawn in. This will be the pattern for the foreseeable future.'[119] Graham Gudgin believes that the chief role for Dublin and London is to consider 'the bigger political picture, keeping the process alive and pressuring the IRA.' Finally, Steven King claims that:

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[114] Interview with David Lidington

[115] Interview with Sean Farren

[116] SDLP, 'Two Governments Must Lead on Agreement – Durkan' (Press Release), 11th Oct. 2002. URL: http://www.sdlp.ie/media/pressarchive/archivepeacetalks/prdurkangovts111002.shtm.

[117] Interview with Denis Haughey

[118] Interview with Peter Weir.

[119] Interview with Esmond Birnie

The way that things have gone since 1985 is that papers are drafted in Dublin, and the British Government amends them instead of both sides coming forward with positions, and there is a coming together to meld the two positions. This still carries on.[120]

Although it appears that the governments' policies are harmonised, the situation should not be mistaken for joint sovereignty. Some policymakers in Northern Ireland (more often Unionist) see the cross-border arrangements and intergovernmental relations as 'jointery' or Dublin aspirations for sharing sovereignty. However, the position of the British Government is that there is no joint sovereignty.[121]

There have been periods, even recently, when there have been tensions between London and Dublin regarding Northern Ireland. According to one source, the Irish government had a tougher time during Mandelson's tenure, since the then-Secretary of State believed that Mowlam was 'a bit tipped towards the Nationalists', so Mandelson was biased towards Unionists. Thus, the then-Secretary of State pursued policies such as such as trying to veto certain parts of the Patten report on policing reform.[122] The most controversial decision under Mandelson was the passing of primary legislation in parliament to suspend the Northern Ireland Assembly.

As mentioned in Chapter 4, unilateral suspensions by the British Government seem to clearly breach Article 7 of the Belfast Agreement section on validation and review, which stipulates that any change in the agreement will have to be agreed by the two governments and the parties in Northern Ireland. In fact, some commentators have seen the passing of the Suspension Act (2000) as a 'formal break with the agreement, and international law'.[123] More worryingly for nationalists, the unilateral suspensions suggest that the British government sees itself as being able to revise the Agreement without the consent of Dublin or nationalist opinion.[124]

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[120] Interview with Steven King

[121] Interview with William Stevenson. Stevenson says that the Irish DFA was consulted about the suspensions. Regarding the suspensions, another official in the NIO commented: 'Northern Ireland is British, and the legislation is British.'

[122] Interview with Senior Source in the Irish Government

[123] B. O'Leary, 'Elections, not suspensions', *Guardian (UK)*, 13th July 2001. See also draft of B. O'Leary, 'Complex Power-Sharing in and Over Northern Ireland' (2003).

[124] J. McGarry and B. O'Leary, Stabilising Northern Ireland's Agreement, *Political Quarterly*, vol. 75, no. 3 (Jul 2004): 219.

Surprisingly, the reaction from the policymakers in Dublin was not openly hostile. The first suspensions of the institutions were done unilaterally, but later ones had more consultation with Dublin. A source in the Irish Government concedes: 'in the end, Northern Ireland is sovereign territory of the United Kingdom, so they [the British Government] can do it [suspend the institutions].'[125]

This position is also corroborated by Fine Gael:

Under the Good Friday Agreement and its implementing legislation, the British Government has the power to suspend and restore the Assembly and other institutions established under the Good Friday Agreement.[126]

Despite the lack of public critique from Dublin of the unilateral British government's break with the British-Irish Agreement (1999), the intergovernmental recommendation to repeal the Suspension Act (2000) implies that both Dublin and London appreciated the questionable legal basis of the British Government's unilateral actions. This suggests that even if the Irish Government (and other large political parties in Dublin) felt that the British Government had acted illegally, it was important to publicly continue intergovernmentalism.

The stance of the Irish Government showed that there have been disagreements with London, but that Dublin continued nonetheless to support the intergovernmental axis to implement the Agreement.

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[125]Interview with Senior Source in the Irish Government
[126] Wriiten answers from Stephen Lynam

The position of the Irish Government is encapsulated in a speech by Bertie Ahern in May 2003 regarding a subsequent dispute about Assembly elections:

I have stated clearly that the Government disagrees with the British Government on the postponement of these elections. I re-iterated our view, which I know is shared by many members of the House, on this matter on several occasions directly to the Prime Minister.

I believe that yet another postponement of the elections causes more problems for the process than it solves.

However, while we do not agree or endorse this step, the closest of partnerships between the two Governments is essential to achieving continuing progress in Northern Ireland.

That partnership remains strong and will continue. It is of enormous value as we work to overcome the current difficulties.

The Prime Minister and I met together yesterday and restated our commitment to our shared objective of completing the full implementation of the Agreement.[127]

Although there are occasional tensions or disagreements between Dublin and London, both are committed to the overall principles of the Belfast Agreement. The overall bipartisan policy in the reference states, has allowed for the intergovernmentalism to develop in the 1980s, since governments in Dublin and London know that agreements with the other reference state will survive a change of government.

Zagreb-Belgrade. As mentioned in Chapter 4, the Dayton-Paris Agreement (1995) was signed by Milošević from Serbia, Tuđman from Croatia, and Alija Izetbegović as the President of Bosnia-Hercegovina. There are two interesting points regarding the identities of the 'local' signatories. The first is that although the constitution from Annex IV recognises Bosniaks, Serbs, and Croats as the three constitutive peoples of Bosnia-Hercegovina, it is only Izetbegović, a Bosniak, that signs for all of the newly-formed state. It is assumed that the reference states, Croatia and Serbia, speak for their co-nationals in Bosnia-Hercegovina. The second point is that the inclusion of Zagreb and Belgrade in the final signing illustrates the importance of the Zagreb-Belgrade axis in the geopolitics of the region. In fact, it is this axis between Croat and Serb

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[127] B. Ahern, Statement on Northern Ireland to Dáil Éireann, 7th May 2003.

politics that has had a significant impact on regional history. For example, the Yugoslav Wars 1991-5 are often seen as the expansionist aspirations of Milošević from Belgrade and Tuđman from Zagreb. Both leaders utilised 'historic' justifications to extend their respective territories into Bosnia, leaving the 'Muslims' without a state.[128] Tuđman argued that the Croatian claim is based on the 1939 agreement for Croatian autonomy between Yugoslav Prime Minister Cvetković and Croatian HSS leader Maček. Milošević based his territorial claim on majority Serb areas that had declared autonomy in 1990-1, and held 'referenda' among Serbs to exercise their right to self-determination.[129] There has always been speculation that Tuđman and Milošević convened a secret meeting in Karađorđevo to agree on a territorial division line in BiH between an expanded Croatia and Serbia. In October 2003, the former Prime Minister of Yugoslavia, Ante Marković, told the ICTY at the Milošević trial the details of such a meeting.[130] The court transcript reads:

As I had received information about the topic discussed in Karadjordjevo, that is, the division of Bosnia and Herzegovina between Serbia and Croatia, and that Milošević and Tudjman had agreed to carry out this division, and also there was talk of the dismissal of the Prime Minister, Ante Markovic, because he was in the way of both of them in implementing this division of Bosnia and Herzegovina. At my initiative, I had a meeting with Milošević in Belgrade and with Tudjman in Zagreb…The results of these talks were that both of them confirmed to me that they had agreed to divide up Bosnia and Herzegovina. Milošević told me this very soon. Tudjman needed much more time to admit this and to say that they had reached an understanding about it.[131]

Present-day policymakers refer to this 'agreement' as the central reason for the Yugoslav wars in the 1990s. Žarko Korać, the Deputy Prime Minister of Serbia and Montenegro, believes that the war was 'a deliberate attempt to dismember Bosnia,' and that Serbia was the aggressor, with Croatia joining in 'voluntarily.'[132] Finally, Radmanović of the SNSD (RS) connects the pre-war and post-war Zagreb-Belgrade influence. He says that in the first period, Zagreb and Belgrade tried to divide Bosnia-Hercegovina together. Now, although there are changes in both places so that the

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[128] S. Woodward, *Balkan Tragedy*, Washington, DC: Brookings (1995): 216.

[129] Ibid.

[130] C. Stephen, 'Plan to Divide Bosnia Revealed', *Balkan Crisis Report*, no. 330, 24th Oct. 2003. URL: http://www.iwpr.net/index.pl?archive/tri/tri_330_4_eng.txt.

[131] Transcript of Milošević Trial, p. 28026, 11-22 (23rd Oct. 2003). Available online at: http://www.un.org/icty/transe54/031023ED.htm.

[132] Interview with Žarko Korać

reference states worry about their own problems, but it is 'still quite normal for [Bosnian] leaders to be in '"their" capitals'.[133]

The centrality of the Zagreb-Belgrade link in the post-war context has been noted by policymakers in the two reference states. Ivan Vejvoda comments that the 'relationship between Zagreb and Belgrade is the central one in the region. When this links breaks down, we know that Bosnia-Hercegovina goes down the drain.'[134] He adds that the Zagreb-Belgrade axis is important for Bosnia, in that the closer the two reference states move to Europe, the better for BiH, since Belgrade and Zagreb act as 'communication vessels' for the rest of the region.[135]

A day before the above comments from Vejvoda, the then-President of Serbia & Montenegro offered a 'surprise' apology, which was reciprocated by the Croatian president. According to one report:

It was Marović who initiated the surprise apology in his statement: "I want to apologize for all the evils that any citizen of Serbia and Montenegro inflicted upon or committed against any citizen of Croatia."

Mesić accepted the apology, and in turn offered his regrets for crimes committed by Croats "at any time" -- a remark interpreted as including crimes committed by Croat fascists against Serbs during World II: "I accept this symbolic apology. In my name, I also apologize to all those who have suffered pain or damage at any time from citizens of Croatia who misused the law or abused their position. I said, at any time."[136]

There are occasional joint declarations from high-level officials for the two countries, such as the pledge to normalise relations between Belgrade and Zagreb in June 2001. More recently, there has been an abolition of the visa region among the states in the 'Dayton Triangle', though this is a work in progress. Through the 'special relationship' protected in the Dayton Agreement, residents of RS can cross the border with Serbia without a passport. Serbia is in the process of negotiating with Sarajevo to

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[133] Interview with Nebojša Radmanović
[134] Interview with Ivan Vejvoda
[135] Ibid. That is, the two states lead by example. Reconciliation and reform emanating from the two capitals will induce change among their 'co-nationals' in BiH.
[136] E. Tomiuc, 'Balkans: Belgrade, Zagreb Apologize To Each Other For Bloody War', *RFE/RL*, 10th Sep. 2003. URL: http://www.rferl.org/features/2003/09/10092003190407.asp.

abolish visas for all citizens.[137] At the same time, Zagreb has issued a six-month visa amnesty with its neighbours, but the extension of the amnesty to a permanent abolition of visas was conditional, subject to Belgrade returning birth and land registers taken during the wars.[138] The Serbian MFA hopes that easing visa restrictions in the region will ameliorate tensions.[139] Although citizens of Serbia and Montenegro can now travel to Bosnia-Hercegovina for up to thirty days without a visa, the amnesty for tourist visas to Croatia remains temporary (lasting until the end of 2005).[140]

There are more salient issues that still need to be tackled before solid intergovernmentalism between Zagreb and Belgrade can develop. This problem can be highlighted by a multilateral agreement between Kostunica, Mesić and the members of the Bosnian Presidency during a summit in Sarajevo in July 2002. The two reference states promised to not have any territorial aspirations in Bosnia.[141]

Despite the strong symbolic content of the document renouncing the vision of a Greater Serbia and a Greater Croatia, there was no mention of more substantive areas of conflict:

[T]he leaders shied away from the serious problems that still hamper good relationships. There was no mention of compensation for war damages, arrest of war criminals, property issues, or genocide charges filed by Sarajevo against Yugoslavia at The Hague.[142]

There are also ongoing multilateral discussions about deciding the frontiers between BiH, Croatia and Serbia, which will be followed by the final demarcation of international borders in the region.[143] The most sensitive issues revolve around refugee and return of IDPs, as set out by Annex VII of the Dayton-Paris Agreement. Because of the patterns of 'ethnic cleansing' during the wars, it is crucial that BiH,

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[137] Interview with Dušan Crnogorčević
[138] From Serbian MFA, 'Croatia temporarily lifts visa requirements for citizens of Serbia and Montenegro'. URL: http://www.mfa.gov.yu/Policy/Bilaterala/Croatia/activities_e/050603_e.html.
[139] Ibid.
[140] From the Serbian MFA, see http://www.mfa.gov.yu/Visas/yu_without_visa.htm.
[141] S. Slatina, '"Hands Off" Pledge over Bosnia', *Balkan Crisis Report*, 18th July 2002. URL: http://www.iwpr.net/index.pl?archive/bcr2/bcr2_20020718_3_eng.txt.
[142] Ibid.
[143] Interview with Ivan Đorđević

Croatia and Serbia all cooperate to complete the process. The status of return will be examined in more detail below. In this section, it is important to illustrate the lack of bilateralism concerning this issue. The Croatian MFA maintains that they do not have enough money to increase expenditure to assist refugee return. The Croatian MFA believes that minority return in RS should be the focus, so displaced Croats from RS now in Croatia can return.[144] The UNHCR statistics collected from January to April 2004 support these concerns: of the 2475 minority returns recorded in this period, only 78 were Croats.[145] However, the Director of the HCHR in Zagreb worries that refugee return is 'important propaganda' and that Croatia has 'used Bosnian Croats against other people.'[146]

The MFA in Belgrade is concerned about the situation of Serbs in Croatia. According to Dušan Crnogorčević, the number of Serbs in Croatia went from 12% to 5% during the wars. The numbers from the last Croatian census broadly corroborate this claim, with the current population comprising 4% and leading to claims by Croatian Serb politicians of ethnic cleansing.[147] Crnogorčević claims that most of these Croatian Serbs became refugees. Invitations for Serbs to return should be followed by return of property. In a rejoinder to the Zagreb position, the Assistant Minister believes that though return is 'expensive', Croatia did sign up to international agreements to implement refugee and IDP return.[148]

On a more general level, there is still distrust between the two reference states. For example, Žarko Korać is suspicious of the aforementioned Article 10 of the Croatian Constitution:

It is a holdover from the Tuđman era. Imagine if the US justified intervention everywhere there were Americans. It *is* possible for a state to work on the behalf of *its* citizens. What if China had a status law?[149]

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[144] Interview with Davor Vidiš
[145] UNHCR. 'Statistics Package' (30th Apr 2004). URL: http://www.unhcr.ba/return/pdf%202004/SP_04_2004.pdf.
[146] Interview with Žarko Puhovski
[147] 'Croat census sparks "cleansing" row'. *BBC News* (online), 23rd May 2002. URL: http://news.bbc.co.uk/2/hi/europe/2004045.stm.
[148] Interview with Dušan Crnogorčević
[149] Interview with Žarko Korać

The problem in Croatia is not one of lack of bipartisan continuity. As seen in the last section, there is little scope for 'less conciliatory' parties to reverse the drive to Europe. Although there is cross-party continuity between Zagreb governments, there are some open issues in which the benefits from taking a 'nationalist' stance outweigh the costs of international censure. There are issues that successive governments need to address, such as cooperation with the ICTY and refugee return, but there is no significant policy distance between the previous 'centre-left' coalition and the current HDZ-led governments.

Policymakers in Zagreb worry about the political situation in Serbia and Montenegro. According to the Croatian Ambassador to the UK:

Developments in Serbia and Montenegro are not always helpful. We do not have a serious partner…Territorial integrity [of BiH] is supported, but they [Serbia and Montenegro] are dysfunctional. This is not beneficial to Bosnian Serbs. Hopefully, Nikolić will never be close to power.[150]

The concern of the ambassador links cross-party policy continuity with intergovernmentalism. Because of the resurgence of nationalist parties in Serbia, Belgrade is not a 'serious partner'. That is, there is no reliable, continuous bipartisan strategy emanating from Belgrade. If Nikolić came to power, this would jeopardise agreements with 'more conciliatory' coalitions and perhaps even reverse the direction of the slow reconciliation in the Dayton Triangle. For example, Nikolić has threatened to sever ties with Croatia. In an interview on B92 during the presidential campaign, he said:

I would remind them that they [Croatians] have to do a great deal in order to gain the trust of Serbia, enough trust for us to have diplomatic relations with Croatia. I'm only reminding them that they've expelled people and not allowed them to return while, at the same time, they want trade and other relations with us. We're rather hypocritical when we want to cooperate with Croatia.[151]

Such comments would not ease anxieties in Croatia, and suggest that a change to a SRS presidency would herald a return to more antagonistic relations between Zagreb

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[150] Interview with Joško Paro
[151] B92 interview with Tomislav Nikolić, 27th may 2004. Transcript at: http://www.b92.net/intervju/eng/2004/Nikolić.php.

and Belgrade. Important areas of progress such as the symbolic apologies and the demilitarisation of Prevlaka may be undone.

Thus, comparing the two case studies, the reliability of cross-party support for the Belfast Agreement in both London and Dublin has paved the way for the two sovereign governments to have a degree of 'unity of purpose' in their policies. As with cross-party continuity, there are occasionally issues of disagreement between the two governments, but the overall commitment to the Agreement ensures that intergovernmentalism survives. On the other hand, there is a limited degree of cross-party consensus in Croatia. With Croatia's candidate status for the EU, there are significant policy constraints for governments in Zagreb. However, nationalist rhetoric is still popular, which is seen disapprovingly in Belgrade. With continuing progress in refugee return and cooperation with the ICTY, Croatia might be able to sustain a conciliatory cross-party policy regarding Bosnia-Hercegovina. However, this will not consolidate intergovernmentalism with Belgrade, since Serbia and Montenegro is not a 'reliable partner' for agreements to survive a change in government to a 'less conciliatory' coalition.

The differences between the two situations is encapsulated by an official from the OHR (Sarajevo):

In Northern Ireland, an important factor is that Articles 2 and 3 were changed, so that Dublin has distanced itself from a 'United Ireland'. Nationalists must work within Northern Ireland. But here, this is missing from both Zagreb and Belgrade. This works to the advantage of radical elements. What is needed is a public declaration from both governments distancing themselves, with verifiable results on the ground.[152]

Concluding Remarks

The examination in the previous sections suggests a fundamental difference between the intergovernmental Dublin-London axis and the Zagreb-Belgrade concerning the respective conflict zones. Although there have been periods in history in which the

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[152] Interview with Morris Power

British and Irish have been at war, and the former represent the one-time 'colonisers' of the latter, the two governments have a highly coordinated, cooperative policy towards the political process in Northern Ireland. Much of the stability of the intergovernmentalism between the two sovereign governments rests on cross-party consistency regarding the 'peace process' among all major parties. In Dublin, all major parties believe in the three-strand approach to Northern Ireland. In London, both the Labour and Conservative parties share a common purpose to implement the Belfast Agreement. Although the Liberal Democrats have always been in Opposition, they also support the Government's overall policy. Due to this stability, a strong intergovernmental axis has developed by which Dublin and London are the 'guarantors' of the Agreement. Both 'metropoles' have softened their previous territorial claims, with the statement by Brooke regarding British interests and the changes in Articles 2 and 3 of the Irish Constitution. They are able to play a constructive role in driving an inclusive political process, which would have not been possible if either government disengaged completely from Northern Ireland.

By contrast, the wars in Yugoslavia have been all too recent, and there are still tensions between the states in the region. The recent memory of atrocities during the conflict has made it difficult for political leaders to be conciliatory towards recent adversaries. There have been some developments in inter-state relations among the former Yugoslav republics, such as the normalisation of diplomatic relations and the temporary abolition of visas within the region. Moreover, politicians in Croatia and Bosnia-Hercegovina are cooperating to construct "Corridor 5C", a 330 km highway that will stretch from Poland to Greece via the Adriatic. However, the two most important issues remain 'open' among Bosnia, Croatia and Serbia. First, the ultimate goal of the Dayton-Paris Agreement is to create and consolidate rule of law such that those who want to return to their pre-war homes can do so. This requires extensive cooperation among the 'Dayton Triangle' (i.e. Bosnia, Croatia, and Serbia). Although there have been joint pronouncements and symbolic apologies, the task of refugee return, especially minority return, remains incomplete. This issue is addressed in the following chapter. The other issue that requires strong cross-border cooperation is the apprehension of the three major accused 'war criminals' that remain outside the custody of the ICTY. One of the main constraints is that it is politically difficult for politicians in the Dayton Triangle to hand over these suspects. In Croatia, despite

continued pressure from Carla del Ponte, officials in Zagreb have been unable to make a commitment to find Ante Gotovina. He is still considered a 'hero' and 'defender' of the Croat people by many in the country. The failure to hand over General Gotovina has led to a suspension of EU accession talks with Croatia. The two other main suspects are considered 'heroes' by many people both in Serbia and among Bosnian Serbs. Both Ratko Mladić and Radovan Karadžić remain free. However, Serbs in Serbia have become more cautious about their support for Karadžić after the release of video showing the killings of Muslim civilians at the hands of Serb forces at Serbrenica in 1995.[153]

Nonetheless, the lack of intergovernmental coordination to tackle the two issues results in a weaker base for settlement in Bosnia-Hercegovina than the Dublin-London axis does for Northern Ireland. By not having a conciliatory policy towards Bosnia-Hercegovina, Serbia makes it difficult for Croatia to see Belgrade as a 'reliable partner' in dealing with the outstanding issues in the 'Dayton Triangle'. Moreover, the lack of a clear cooperative message between Zagreb and Belgrade sends a signal to radical elements in Bosnia-Hercegovina to not look to Sarajevo as their 'capital'. Although the level of bipartisanship between the 'nationalist' HDZ government and 'moderate' SDP-led coalitions is substantial, especially in issues of European integration, the aforementioned 'open issues' remain. Serbian authorities are concerned that Croatia facilitates reconstruction of Croat houses, but not minority Serbs either in Bosnia-Hercegovina or in Croatia.

Following the theory of transnational consociation, a strong cooperative intergovernmentalism between reference states creates a stronger likelihood or a durable, inclusive power-sharing settlement. This would suggest that the Northern Ireland case is more likely to result in long-lasting internal consociation than Bosnia-Hercegovina. The following chapter will examine the implementation and political practice of post-settlement power-sharing in the two case studies to as an illustration of the empirical ramifications of transnational consociation theory.

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[153] M. Prodger, 'Serbs' Hero Worship Sours'. BBC News (online), 11th Jul 2005. URL: http://news.bbc.co.uk/1/hi/world/europe/4078234.stm.

Chapter VII: Internal Consociation

Introduction

The ultimate objective of the settlements is for stability in the disputed area, so it is important to evaluate internal consociation in Northern Ireland and in Bosnia-Hercegovina. First, the development of collective decision-making procedures will be assessed for each case, with sub-sections for the 'good news' and 'bad news'. Although there are many areas where the settlements have been unsuccessful, the two peace agreements have resulted in the cessation of the wars in Bosnia-Hercegovina and the ceasefires by all major paramilitary organisations in Northern Ireland. The second section looks at the state of the 'peace' in both places. By using criteria for post-conflict power-sharing developed by Ulrich Schneckener, the subsequent chapter will differentiate between the two cases. Utilising Schneckener's framework, it will be surmised that the presence of more of the *actor-oriented* factors in Northern Ireland make it more likely to achieve long-term stability than Bosnia-Hercegovina. Thus, Northern Ireland, the case study in which there is strong intergovernmental influence from the reference states (see Chapter 6) will be more likely to develop durable, self-sustaining power-sharing.

Collective Decision-making

At the heart of both accords are the 'twin processes' of institutional development cessation of violence. That is, the Belfast Agreement depended on the commitment of the political parties to principles of non-violence and democratic governance. The Dayton-Paris Agreement signalled the end of the inter-state war, and the reconstruction of the country (especially the return of displaced persons to pre-war areas) relies on the rule of law and constitutionalism. The following section will examine the performance of collective decision-making institutions in the two post-conflict contexts.

Northern Ireland: Good News

The Northern Ireland Act (1998) established devolved legislative and executive institutions which were welcomed by all of the parties in the Executive (even though

the DUP criticises the 'Agreement'), although for different reasons. For Unionists, devolved institutions represented an opportunity for local politicians to make decisions about local issues while ultimate sovereignty remains in Westminster. For nationalists, the institutions and the all-Ireland Strand 2 provisions were a potential stepping-stone to a united Ireland. The Assembly and Executive also afforded a new arena for local policymakers to participate in 'normal' politics.

There have been examples of cooperation within the Strand 1 structures, even across the Unionist-Nationalist divide. During the foot-and-mouth crisis in spring 2001, coordination between the devolved Ministry of Agriculture and corresponding statutory committee showed the possibility of 'joined-up' government to tackle issues of common concern and also illustrated the possibility of a coordinated response to crises. The emergency Executive meeting on 2nd March resulted in a harmonised response to the problem with the devolved administrations in Scotland and Wales, as well as the two Governments.[1] The Executive also formed an Interdepartmental Committee under the chairmanship of Brid Rodgers to deal with foot-and-mouth.[2] The Ulster Farmers' Union developed a joint strategy on animal health with its counterpart in the South, the Irish Farmers' Union. The SDLP minister's active response resulted in praise from the predominantly Protestant Ulster Farmers' Union.[3] Even Ian Paisley, the head of the Agriculture Committee, worked with Ms. Rodgers and authorities in the Republic of Ireland to regulate the movement of livestock, as well as asked for NI to be treated as a part of the Republic of Ireland for foot-and-mouth purposes to enable continued exports from Northern Ireland.

One of the institutional innovations of the devolved institutions is the Business Committee. The Standing Orders of the Assembly stipulate that the order of business on the floor of the legislature is determined by consensus. There is no equivalent provision at Westminster, though there is a Business Bureau in Scotland. The composition of the Business Committee is based on party strength, and decisions are taken by consensus. Although the four major parties are represented separately,

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[1] Executive Information Service (NI), 6th March 2001.

[2] Executive Information Service (NI), 12th March 2001.

[3] R. Wilson, 'Devolved Government', in *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, May 2001*, London: UCL Constitution Unit (2001): 10. Subsequent references to the UCL Constitution Monitoring reports will be shortened to *Quarterly Monitoring Report (date)*. For example, *Quarterly Monitoring Report (May 2001)*.

disputes about the order of business were resolved 'behind closed doors' in the Executive meetings and presented to the Business Committee.[4] The coordination between the four parties in the Executive was not tantamount to 'cooperation' or 'friendliness'. Rather, the smooth operation of the Business Committee suggested a 'workman-like' perspective taken by the political parties in the Executive.[5] In fact, the mechanism for determining the order of business may be exported to other cases of power-sharing in post-settlement cases. According to one official at the Business Committee, a delegation from Bosnia-Hercegovina visited the Assembly to ascertain whether the Business Committee model could be used in the post-Dayton Agreement institutions.[6]

Members of the Executive maintained their professionalism in the policymaking process, despite the DUP policy to rotate its ministers. Although the other parties in the Executive could have sanctioned the DUP ministers through reduced budget allocations or blocking particular legislation, it appears that the Executive resisted doing this.[7] The 'good faith' with which the Executive dealt with the DUP ministers is explained by Mark Durkan:

The two non-attending ministers would send their views in writing to the finance minister as well as FM/DFM. I refused to take the view shared by some ministers that they were not present at the meeting, so 'you should shaft them'. I could not discriminate against certain services that were in need of money just because I was not in full agreement or in full cooperation with a minister.[8]

Sean Farren, the most recent devolved Minister of Finance, also confirmed this pragmatic approach to the DUP policy regarding the Executive. Farren believes that although the non-attendance of DUP ministers in the Executive meetings affected the budget at the 'margins', the allocations for the departments did not differ greatly from a single-party government.[9]

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[4] Interview with Alan Rogers and Steven McCourt
[5] Ibid.
[6] Personal communication
[7] G. Gudgin, 'A Slow Ship Steaming Ahead', *Parliamentary Brief*, (June 2002): 19.
[8] Interview with Mark Durkan
[9] Interview with Sean Farren

Despite the short lifespan of the devolved institutions, the Executive drafted budgets and Programmes for Government, which were ratified with cross-community support. In accordance with Article 20 of Strand 1 of the Belfast Agreement, David Trimble and Seamus Mallon, acting as First and Deputy First Ministers, introduced the first draft Programme for Government on 24th October 2000. Trimble used the opportunity to say that the final version of the document would become 'the *joint agreed* declaration of policy' for the Executive.[10] The FM added that the broad policy objectives would create cross-cutting responsibilities so that the Executive could form a 'joined-up' response to key policy areas.[11] The importance of these documents is highlighted in statements by David Trimble and Seamus Mallon in October 2000 in support of the first draft Programme for Government.[12] The draft Programme for Government was symbolically significant, since it represented a document, like the draft budget, that was agreed by *all* of the parties in the Executive.

The level of cooperation between members of the devolved Northern Ireland Executive was most evident within the OFMDFM. When decisions are finally reached, they are a compromise and represent real cross-community consensus.[13]

A central SDLP-UUP axis gradually developed before the suspension in 2002. It is upon this axis that the new 'normal' politics in Northern Ireland was to flourish. The transfers from the first Assembly election showed some evidence of the electorate voting along a 'pro' or 'anti' agreement dimension. That is, there were some voters who used lower-order preferences in the Assembly elections to vote for other pro-agreement parties, even if these parties were from the other community.[14] In the campaign before the 2001 local elections, Mark Durkan gave a speech to the North Down Ulster Unionist constituency association telling voters to think tactically and use lower-order preferences for other pro-Agreement parties.

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[10] Northern Ireland Assembly Record, 24th Oct. 2000. Emphasis added.
[11] Ibid.
[12] Executive Information Service (NI), 24th October 2000
[13] Ibid.
[14] P.L. Mitchell, 'Transcending an Ethnic Party System? The Impact of Consociational Governance on Electoral Dynamics and the Party System', in *Aspects of the Belfast Agreement*, Oxford: Oxford Univ. Press (2001).

More substantially, the difficult relationship between Trimble and Mallon described above was replaced by an FM-DFM team of Trimble and Durkan when the latter became the leader of the SDLP. Trimble and Durkan reportedly formed a harmonious partnership of the moderates in the Northern Irish political spectrum, forming an environment of what the SDLP leader calls 'cross-community stake-holding'.[15] Both the FM and DFM suggested that the two of them could steer devolved politics from 'autonomous ministerialism' to 'consensus'.[16] The level of agreement had been quite unproblematic in economic issues, and the OFMDFM operated on the guiding principle of 'no surprises.'[17]

Northern Ireland: Bad News

Despite the seemingly rosy relationship between the FM and DFM, the interaction between the FM, DFM and Junior Ministers was dominated by personality politics. Although Trimble and Mallon issued joint communiqués about Executive policymaking in Northern Ireland, relations between the two leaders were sometimes fraught. According to a former Trimble advisor, the relationship between the UUP leader and the former SDLP Deputy leader was awkward, since the two were different 'sorts of characters'.[18] One of the junior ministers from the nationalist bloc, Denis Haughey (SDLP), added that the consensus within the Office depended on the personalities of the ministers. For him, it was easier to work with Durkan than with Mallon on his 'own side of the fence', while it was easier to work with James Leslie than Dermot Nesbitt as the other junior minister.[19]

In fact, there was a general difficulty in joint decision-making in the OFMDFM. James Leslie (UUP) commented that it is difficult to get an agreement between the two ministers and their junior ministers, since the two parties that comprise the OFMDFM still have conflicting constitutional objectives.[20] Mark Durkan did 'not like how the joint office [had] worked'. In particular, he disagreed with the way that his unionist counterpart used the office to levy preconditions on the formation of the

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[15] P. Bew, 'Two Ministers in Union', *Parliamentary Brief* (June 2002): 4.
[16] Ibid.
[17] Interview with Hugh Logue
[18] Interview with Graham Gudgin
[19] Interview with Denis Haughey
[20] Interview with James Leslie

Executive and hold other issues hostage, which diverted the focus away from the Executive's primary goals.[21]

The Executive is even less united than the OFMDFM. As mentioned in Chapter 4, allocation of the ministerial portfolios is based on the d'Hondt formula from the seats in the Assembly. Thus, political parties are entitled to head ministerial departments based on electoral strength, not the ability to command consensus among a majority coalition. The Executive cannot exclude unwanted ministers or political parties without cross-community support in the Assembly. Political parties can only exclude *themselves* from the Executive. Another unique aspect of Northern Ireland Executive formation is that there is no provision for ministerial oversight by other members of the Executive or by the FM/DFM joint 'head' of the coalition. Unlike their counterpart in Westminster, the FM and DFM cannot reshuffle the Executive. As mentioned above, removing a Minister can only be done by cross-community consensus, and the vacant portfolio is reserved for a member from the same party as the outgoing minister. Thus, Executive governance is tied only to the ability of the political parties to secure Assembly seats and not to coordinated coalition building. The result is a distinct lack of 'collective responsibility' in the NI Executive. According to Michael Laver, the Northern Ireland Executive 'looks more like a holding company for a collection of ministers with different party affiliations than a collective decision-making body.'[22]

The lack of a united front among the four parties in the Executive was evident from the beginning of devolution in Northern Ireland. The DUP attempts to exclude Sinn Féin were doomed to fail from the start, since the SDLP was committed to inclusion. Thus, both nationalist parties would vote against the measure and there would never be sufficient nationalist support required for cross-community consensus. The 'preconditions' mentioned by Durkan above refer to the exclusion of Sinn Féin from the NSMC by the First Minister, since decommissioning had not commenced by the time the Executive was to be formed. However, Sinn Féin referred this decision to the

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[21] Interview with Mark Durkan

[22] M. Laver, 'Coalitions in Northern Ireland: Preliminary Thoughts'. Paper presented in Democractic Dialogue round-table on the Programme for Government .

courts, and won its right to attend the NSMC meetings.[23] These examples represent a rare situation in which members of the same 'government' were attempting to exclude their coalition partners.

The DUP policy of rotating ministers as a protest against the Agreement also illustrates the anomaly of coalition building in the Northern Ireland Executive. The DUP agreed to its allocation of ministerial portfolios but refused to attend the Executive meetings and chose to periodically change the ministers for the two ministerial departments it had selected after the invocation of d'Hondt in 2000.[24] The FM and DFM criticised the DUP, concluding that 'political stunts cannot be allowed to damage public services.'[25] Although the DUP had attempted to exclude Sinn Féin based on a clause of the Pledge of Office for a 'commitment to non-violence and exclusively democratic means', it was another part of the Pledge that formed the basis for DUP sanction. A DUP statement claimed that the anti-agreement Executive ministers were not bound by the Ministerial Code of Conduct and that the party would divulge the proceedings of the Executive meetings. The FM and DFM decided to withhold Executive Committee papers from the DUP, replace the Minister for Regional Development at the British-Irish Council meetings on transport, and the DUP ministers were excluded from the Joint Ministerial Council.[26] Still, the FM and DFM did not hand down the maximum penalty for non-compliance to the pledge of Office, which would have been exclusion for 12 months under the Northern Ireland Act (1998).[27]

The lack of collective responsibility is most evident in the production of the Budget and the Programme for Government (PfG) by the Executive.

Although the draft budget was supposedly agreed by the UUP, SDLP, Sinn Féin and DUP, the proposals were queried by Executive parties on the floor of the Assembly. First, Nigel Dodds tabled an amendment to the draft document to reduce expenditure in the North-South bodies and Civic Forum, and to reduce the regional rate from 8%

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[23] See Chapter 5.
[24] R. Wilson, 'Devolved Government', in *Quarterly Monitoring Report (Aug 2000)*: 10.
[25] Executive Information Service, 8th June 2000.
[26] Ibid.
[27] R. Wilson, 'Devolved Government', in *Quarterly Monitoring Report (Aug 2000)*: 10.

(as proposed in the draft budget) to the level of inflation.[28] Although the proposed amendments by Dodds were attacked by Francie Molloy as politicking, Sinn Féin also called for an amendment to the budget by lowering the regional rate from 8%. Curiously, the DUP and Sinn Féin, along with the Alliance Party, found themselves agreeing on the reduction of the regional tax rate stipulated in the draft budget.[29] Thus, representatives of two of the parties that *agreed* the draft budget had tabled amendments.

The Alliance Party also criticised the first draft PfG, since it had assumed the role of the Opposition in the Assembly, being neither 'nationalist' nor 'unionist'.[30] More tellingly, some of the strongest antipathy towards the draft Programme for Government came from the DUP, one of the four political parties of the Executive that supposedly *agreed* on the draft Programme. In a later debate, Peter Robinson, the Deputy Leader of the DUP, referred to the first Programme for Government as '90% packaging and 10% content'.[31] Nigel Dodds, one of the members of the DUP who was 'rotated' in as a Minister, provided seemingly contradictory statements. On the one hand, as a representative of the largest anti-Agreement party in the province, he declared that the Programme 'deals with spin rather than substance' and used his comments to condemn a fellow member of the Executive that 'hold on to terrorist arms and ammunition, and highlight the fragmented nature of the Northern Ireland Executive.'[32] On the other hand, Nigel Dodds said:

I congratulate the Minister for Social Development on many of the issues that have been included in the Programme for Government, and I look forward to the introduction of free travel on public transport for older people. I hope that that will be implemented as quickly as possible in keeping with DUP manifesto commitments.[33]

The DUP has been a pro-devolution party. One of the seven principles upon which the DUP based its 2003 Assembly manifesto was a commitment to devolution.[34] An

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[28] Northern Ireland Assembly Record, 18th Dec. 2000.
[29] R.Wilford, 'The Assembly', in *Quarterly Monitoring Report (Feb 2001)*: 17-18.
[30] R. Wilson, 'Devolved Government', in *Quarterly Monitoring Report (Nov 2000):*: 12.
[31] Ibid.
[32] Northern Ireland Assembly Record, 13th Nov. 2000.
[33] Northern Ireland Assembly Record, 13th Nov. 2000.
[34] For example, see the 'Seven Principles' in DUP's 2003 Assembly Election Manifesto on page 4. URL: http://www.dup.org.uk/pdf/DUPAssembly2003Manifesto.pdf.

advisor for the DUP notes that although there were many flaws with the type of devolved institutions, devolution offered a system better able to respond to the needs of the people in Northern Ireland and better access to politicians compared to direct rule.[35]

Ultimately, the Programme for Government was accepted by the Assembly by a vote of 47-27 with the required amount of Nationalists and Unionists for cross-community support. However, the DUP members (from a party in the Executive that drafted the 'agreed' document) voted against it. The same pattern of the DUP being both (pro-devolution) government *and* (anti-Agreement) opposition was repeated for the second Programme for Government and draft budget, where members of the DUP voted against the proposals in the Assembly.[36]

Mark Durkan has likened the relationship with the DUP in the Executive to a 'correspondence course.'[37] That is, it was only the tolerance of the other parties regarding the DUP's absence and the latter's willingness to conduct its ministerial responsibilities by 'remote control' that allowed devolved government to continue.

During his tenure as Minister for Finance, Durkan tried to encourage more 'collective responsibility' through the development of Executive Programme Funds (EPF) to be disbursed for cross-departmental projects. The funds themselves were to be overseen by the Executive, not single Departments, and fell into five areas: Social Inclusion and Community Regeneration; New Directions; Infrastructure and Capital Renewal; Service Modernisation; and the Children's Fund.[38]

In the first round of the EPF funding, there was £372 million available for proposals that fell into the above five areas. Of the 139 bids received by the Ministry, 62 were accepted. However, the first tranche of EPF did not result in 'the degree of cross-cutting activity, interdepartmental bid development, and programme planning that the Executive want to see.'[39] For the second round of EPF disbursement, the Department

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[35] Interview with Richard Bullick
[36] Northern Ireland Assembly Record, 11th Dec. 2001.
[37] Ibid.
[38] R. Wilford, , 'The Assembly', in *Quarterly Monitoring Report (May 2001)*: 22.
[39] Northern Ireland Assembly Report, 2nd Apr. 2001.

of Finance received 89 proposals of which 31 were accepted. As with the first round of funding, Durkan felt that 'there may not have been as many cross-cutting proposals as we would have liked'.[40] Thus, the EPF were designed to promote cross-departmental projects and 'joined-up' government by allocating monies within five areas that cut across departmental responsibilities. However, according to Durkan himself, the successful bids still fell short of expectations.

Far from achieving collective responsibility in the Executive, the ministerial departments have often been called 'fiefdoms' by commentators on Northern Ireland. Instead of looking at all of the ministerial departments, the following paragraphs will examine the most high-profile and highest-spending department, the Department of Health and Social Services (DHSSPS) under Bairbre de Brun.

One problem for all of the devolved ministries was the short run-up to the establishment of the institutions of about one week compared to 18 months for Scotland.[41] Clive Gowdy comments that there was a rush when the ministerial departments were devolved to Northern Ireland and it 'would have been nice to bring people up to speed', since there were few staff members with experience.[42] Moreover, there is a disproportionately smaller staff in Belfast compared to London, despite the fact that DHSSPS needs more personnel than any other devolved ministry.[43] The public expenditure allocated for DHSSPS for 2002-3 was £2.5 billion, which represented 40% of the whole block grant for Northern Ireland.[44]

As one of the two Sinn Féin ministers in the Executive, de Brun's party identification has caused some difficulty. The First Minister attempted to exclude both de Brun and McGuinness from the Executive, and excluding Sinn Féin ministers from the NSMC for lack of progress on IRA decommissioning in 2000 (as mentioned above). Gowdy admits that 'party politics' has obstructed policymaking in Northern Ireland. For example, the minister's decision for health provisions for non-UK nationals was not

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[40] Northern Ireland Assembly Report, 3rd Dec. 2001.
[41] Interview with Joe Reynolds
[42] Interview with Clive Gowdy
[43] Ibid.
[44] R. Wilford, 'A Healthy Democracy?', *Parliamentary Brief*, Special Issue (June 2002): 21.

supported by both the UUP and the DUP.[45] The minister herself refused to work with the police, and that created difficulties in implementing a strategy to tackle illegal drugs. The minister's refusal to work with either the army or the police created difficulties in areas such as the military hospital in Musgrave Park.[46]

Although some of the Health Minister's difficulties were related to her 'republican' party affiliation, her fiercest critics were SDLP ministers within the statutory committee for the DHSSPS. The Health Minister conducted 10 consultations and 9 reviews by mid-2002, and her approach of consultation about consultation was called 'paralysis by analysis' by some commentators.[47] In January 2002, Dr. Joe Hendron (SDLP), then-head of the committee demanded that *prompt* action needed to be taken for primary care, cancer centre, accident and emergency provision, trauma, and acute care.[48] Hendron also attacked the department's policy on the transformation of primary care after the end of GP fundholding. Carmel Hanna (SDLP) replaced Hendron as the head of the committee, and shared the view that the minister had not been proactive in implementing policy in health. She referred to the ministry as appearing 'rudderless and out of control.'[49]

Despite these critiques from the committee, there is no way for the statutory committees to affect policy directly. However, Clive Gowdy believes that the Executive was not a government by committee, so unchecked action by the minister is 'right and proper'.[50] Some of these issues of legislative scrutiny have been addressed in more recent proposals to return the institutions from suspension. The joint British-Irish document after the four-year review of the Agreement contains provisions for statutory committees questioning the corresponding ministers, and petitions from the Assembly for the Executive reviewing controversial ministerial decisions. Thus, it allows some semblance of 'opposition' both in the committees and Assembly while leaving ultimate authority with the Executive.[51]

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[45] Interview with Clive Gowdy
[46] Ibid.
[47] R. Wilford, 'A Healthy Democracy?'
[48] R. Wilford, 'The Assembly', in *Quarterly Monitoring Report (Feb 2002)*.
[49] R. Wilford, 'A Healthy Democracy?'
[50] Interview with Clive Gowdy
[51] 'Proposals by the British and Irish Governments for a Comprehensive Agreement', 8th Dec 2004. See an electronic version from BBC (online):
http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/08_12_04_british_irish_proposals.pdf.

The Assembly has also been perceived as being ineffective. Some commentators worry that 'the Assembly has not 'really connected with the people…It is still unclear whether the Assembly can handle [contentious issues]. There is no strong yearning to get devolution back among the people.'[52] Alex Kane comments: 'I don't honestly believe that 99% of the people can say that it [devolution] has made a difference in their lives.'[53] The majority of respondents in the NILT Survey (2000) felt that there had been no change in education, health, transport, employment, economy and environment.[54]

There are at least two reasons why the Assembly was perceived to be ineffectual. The first is that tax-raising powers remain exclusively with the Westminster Parliament (unlike the devolved legislature in Scotland), so that the Assembly can only increase the regional rate to generate additional revenue. The amount of public expenditure that is transferred from the Exchequer to the devolved administrations is determined by a formula known as the 'Barnett' formula. The formula leads to a convergence between expenditure in England and in the devolved UK administrations, thus leading to lower increases in spending for areas such as health and education compared to England. This results in a so-called 'Barnett squeeze', since the percentage increase of public expenditure per capita to the devolved regions is being reduced annually by the Exchequer. The combination of converging public expenditure for public services and lack of tax-varying powers prevents devolved departments in Northern Ireland from proposing an innovative programme for public services.

Another possible reason is that few of the local policymakers have previous experience in government. According to Alex Kane, many members of the Assembly are unqualified for law-making, since they do not have a professional background.[55] Thus, Kane believes that the bad governance has nothing to do with the institutional design, but lack of political experience within the Assembly. A senior official in the OFMDFM added that there has been a 'steep learning curve' since the establishment

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[52] Interview with Stephen Farry
[53] Interview with Alex Kane
[54] Respondents felt that that there was no change/same level for: education (59%), health (52%), transport (60%), employment (52%), economy (54%), environment (63%).
[55] Interview with Alex Kane

of the devolved structures and that the policymaking community in Northern Ireland is still 'small and fragmented'.[56]

Irrespective of whether the lack of policy innovation is driven by fiscal 'Barnett' constraints or by policymaking inexperience, both the Northern Ireland budget and Programme for Government had not been innovative. Most of the legislation passed by the Assembly has been of a technical nature, and the possibility of the Assembly as a site for more creative local government to deal with more contentious issues remains unfulfilled. In the time the Assembly operated, there was a distinct lack of member's bills or from the statutory committees, and most laws were those adapted from Westminster.[57]

Most worryingly, the Belfast Agreement was designed to create a political and peace settlement by creating a strong, stable Centre with the SDLP and UUP, but the institutions seem to reward ethnic flanking by Sinn Féin and the DUP. The result was instability in the political structures.

The electoral fortunes of the two 'Centre' parties placed the architecture of the Executive in jeopardy. This is best exemplified by the difficulties in electing Durkan and Trimble as FM/DFM in November 2001. On the unionist side, a steady decay in support for the agreement including the defection of two UUP members (Pauline Armitage and Peter Weir) to the anti-agreement camp left Trimble/Durkan with 28 unionist votes and needing 30 to be elected. To ensure that the SDLP/UUP ticket would have enough votes, Jane Morrice (NIWC) tabled an amendment to the Standing Orders so that there could be immediate redesignation, not the 30 days required (nor the 45 proposed in a failed measure by the DUP). After the motion passed, one of NIWC members of the Assembly designated as a 'unionist' and the other as 'nationalist'. This still left Durkan and Trimble one vote short, until all of the Alliance Party MLAs decided to redesignate as 'unionists'.

The shift away from the moderate parties in each bloc is partially an effect of the institutional design. All 'cross-community' decisions are taken without the 'Other'

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[56] Interview with Senior Official (OFMDFM).
[57] R. Wilford, 'The Assembly', in *Quarterly Monitoring Report (Feb 2001)*: 17

bloc, so the system 'institutionalises sectarianism'. Assembly elections have been virtually run as two independent intra-community polls.[58] In other words, with the current electoral system used, it is more beneficial for Unionist and Nationalist parties to mobilise support within their own community instead of making conciliatory overtures to the other bloc. Since there are a high number (six) of Assembly members elected from each constituency, there is a low threshold.[59] This has allowed the less moderate parties to outflank the SDLP and UUP, since cross-community moderation is not necessary to gain enough support to be elected. Although Sean Farren feels that the electoral shift to Sinn Féin is not only due to the institutional design, since there has an independent rise of a 'strident form of nationalism', the electoral system used in the Assembly elections has allowed outflanking by Sinn Féin to some extent.[60] In fact, with little cross-community voting, cooperating with the other community in certain issues *hurts* electoral fortunes.

The fate of the moderate SDLP-UUP axis is best exemplified by the changing fortunes of the previous leader of the UUP, David Trimble. Trimble led the largest party into the Assembly in 1998, and for his efforts during the multi-party negotiations, he won the Nobel Peace Prize with the then-SDLP leader, John Hume. However, constant unionist misgivings fragmented the UUP and the Ulster Unionist Council over contentious issues such as police reform and decommissioning. The intermittent suspensions of the institutions were not due to the institutional design *per se*, but rather the tensions within Unionism. Intra-party factions weakened Trimble's 'elite predominance' with frequent challenges to his leadership. Moreover, especially with the slow pace of republican decommissioning and other alleged activities such as the spy ring in Stormont, disillusioned voters migrated to the DUP. In the 2005 general election, the DUP (the only anti-Agreement party in the Executive) became the largest political party in the Assembly. David Trimble lost his seat as MP to the DUP candidate and resigned as UUP leader.

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[58] Interview with Stephen Farry
[59] Since there are six seats in each constituency, a candidate just needs 1/(6+1) or around 14% of the votes to cross the threshold.
[60] Interview with Sean Farren

Bosnia-Hercegovina: Good News

In the case of Bosnia-Hercegovina, the international community had to build a state from the ground-up after the war. International organisations in Bosnia-Hercegovina seem to have a long-term exit strategy. On the occasion of the downsizing of OHR staff, Paddy Ashdown said that it was 'a tribute to the progress that BiH has made in recent years towards full statehood. That has always been the OHR's mission: to put BiH irreversibly on the road to full statehood and Europe, and then leave. There is still a way to go, but increasingly it will be the EU that helps you get there.'[61]

This 'exit strategy' depends on the accomplishment of the primary objectives of the OHR, which are '[t]o ensure that Bosnia and Herzegovina is a *viable*, *peaceful* state on course to *European Integration*.'[62] The four 'core tasks' from 2004 onwards have been reforming the economy; reforming the security and defence sectors for Euro-Atlantic integration; rule of law; and the capacity of political institutions, especially at the State level.[63]

The gradual development of viable state-level decision-making can be observed in the three-person Bosnian Presidency. According to representatives from all three offices, there is a culture of consensus among the members. The economic advisor for the Serb member finds that despite initial problems, the decision-making within the Presidency has been quite effective.[64] An advisor for the Croat member of the added that the Presidency governed by 'principles of consensus and cooperation', so the Croat component of the Presidency realises that he is elected by only Croats, but must still work for all Bosnians.[65] Finally, the Secretary for the Bosniak part of the Presidency asserted that decisions are passed by consensus (or even 2 versus 1 for less vital issues), and there are more frequent meetings and personal contact than before.[66]

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[61] OHR, 'OHR Announces Downsizing in line with BiHs Progress Towards Full Statehood', 24th Aug. 2004. URL: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=33115.
[62] OHR, 'OHR Mission Implementation Plan for 2005', 7th Mar 2005. URL : http://www.ohr.int/ohr-info/ohr-mip/default.asp?content_id=34144. Emphasis added.
[63] Ibid.
[64] Interview with Vasilj Žarković
[65] Interview with Nevenko Herceg
[66] Interview with Edin Dilderobić

To further the political reforms, the OHR establishes commissions chaired by the international community, but with representation of local authorities from the Entity level. The ultimate objective for these reforms is to centralise the institutions at the state level and to hand over authority to local agencies. Such reforms have been pursued in areas such as indirect taxation, intelligence, defence (i.e. army), police, and elections. Once these commissions reach a consensus, the recommendations are drafted into laws for the Entity legislatures to ratify. A few of the aforementioned areas will be examined briefly.

The High Representative issued a decision in July 2004 to establish a Police Reform Commission (PRC) to review and draft legislation for the Entity- and state-level Parliamentary Assemblies. According to the High Representative's decision, the OHR would appoint the Chairman and Deputy Chairman of the PRC.[67] These two appointees were from outside the region: the former Prime Minister of Belgium Wilfred Martens was selected as the Chairman and former HMIC David Blakey was chosen as the Deputy Chairman.[68] The ten other members of the PRC were local Bosnian politicians and police officials from the two Entities.[69] Following the mandate of the High Representative, the PRC met twice in 2004 and discussed police reform in Bosnia-Hercegovina. According to the guidelines agreed by the members of the Commission, decisions would be taken by consensus. Those items of the agenda that achieved consensus would be included in the conclusions published by the PRC.[70]

A few days before the first PRC meeting, Bariša Čolak, the Minister for Security at the State level, called for the unification of policing in Bosnia-Hercegovina.[71] Along these lines, the conclusions reached by the PRC in its second meeting declare that BiH is a 'single common public security space'; the police service should be coordinated at the state level; there should be a state-wide communication system for

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[67] OHR, 'Decision Establishing the Police Restructuring Commission', 5th Jul. 2004. URL: http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-key-doc/default.asp?content_id=34149.
[68] HMIC: Her Majesty's Inspector of Constabulary.
[69] Ibid.
[70] PRC, 'Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina', December 2004. URL: http://www.ohr.int/ohr-dept/presso/pressr/doc/final-prc-report-7feb05.pdf.
[71] 'Sarajevo: Final Report on Functional Police Restructuring Presented', 16th Jul. 2004. *FEMA*. URL: http://www.fena.ba/uk/vijest.html?fena_id=FSA160279&rubrika=ES.

the police; the system of police rank and salaries should be brought together at the state level; and there should be a common process of training and recruitment.[72] These principles were included in a declaration from the PRC in October 2004.[73] The next step in police reform was to agree on the legal and political procedures for restructuring the police. In a series of meetings at Vlasic in April 2005, representatives of eleven Bosnian political parties agreed on a way to harmonise policing in BiH along EU principles. According to the agreement, policing would be controlled by a State level ministry with two representatives from the RS and three from FBiH. [74] Thus, although shepherded by the OHR and other international institutions, most of the negotiations were conducted by local politicians, and reaching consensus on the policing restructuring at Vlasic was not achieved throuugh OHR imposition, but by internal consensus among Bosnian political parties.

The restructuring of the armed forces is a crucial area for reform in Bosnia-Hercegovina. Each of the constituent peoples had a corresponding army after the war: the predominantly Bosniak ABiH and Croat-dominated HVO in the Federation, and the Serb-majority VRS in Republika Srpska. However, to be in line with Euro-Atlantic integration for security matters, it was necessary to create a more centralised chain of command for the armed forces. Moreover, maintaining three separate armies that were former adversaries would be destabilising and could undermine the legitimacy of the new Bosnian state. Thus, the HR enacted a decision forming the Defence Reform Commission (DRC) in May 2003.[75] The HR appointed former US Assistant Secretary of Defence James Locher III as the Chairman of the Commission, as well as representatives from NATO, OSCE and SFOR as the international representatives. The Ministers for Defence and an additional appointee from each of the Entities comprised the Bosnian delegation.[76] After some negotiations, proposals were drawn up to adhere to European norms of military organisation. In particular, a single state-wide army was placed under the command of the Bosnian Presidency

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[72] PRC, 'Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina': 239-40.

[73] See URL: http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-key-doc/default.asp?content_id=34147.

[74] 'Bosnian Politcal Parties Agree on Police Reform', 29th Apr 2005. *RFE/RL Newsline*. URL: http://www.rferl.org/newsline/2005/04/4-SEE/see-290405.asp.

[75] OHR, ' High Representative Appoints Defence Commission', 8th May 2003. URL: http://www.ohr.int/print/?content_id=29833.

[76] Ibid.

through the newly-created state-level Ministry of Defence. The meetings of the DRC were then co-chaired by the new Minister of Defence, Nikola Radmanović.[77] To see the implementation of armed forces reform to the end, the HR extended the mandate of the DRC in February 2004 to 'oversee' the fulfilment of the criteria necessary to join the Partnership for Peace.[78] As with recent restructuring the police service, defence reform follows the formula of cooperation between representatives at the entity level and international agencies.

Although the two examples of state-building above were helped along by a 'joined-up' approach (to use a phrase from the other case study) between international organisations and local policymakers, the most significant state-building reforms were agreed by the Bosnian local political parties themselves. According to the OHR, Bosnian politicians agreed to meet to implement constitutional reforms without any international pressure. This 'shows that BiH's politicians are assuming responsibility and ownership, and that they are taking their obligations toward their voters seriously'.[79] The landmark Constitution Court decision in 2000 upon which the reforms are based will be examined in the next section. The principal conclusion from the Court's decision was to extend the constitutional rights of the three constituent peoples in Bosnia-Hercegovina over the whole territory of the state, not just the Entities. The meetings took place in Mrakovica at the start of 2002, and were attended by all of the major political parties in Bosnia-Hercegovina. After nearly 100 hours of negotiation over the course of a few weeks, the main political parties of the ruling coalition, the Alliance for Change, agreed on a set of reforms in line with the Court ruling on 27th March 2002.[80]

There were three significant areas of reform agreed in the constitutional amendments.[81] The first was that institutions needed to be identical at the entity level.

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[77] OSCE, 'Supporting Defence Reform'. URL:
http://www.oscebih.org/security_cooperation/institution.asp?d=4.

[78] OHR, 'Decision Extending the Mandate of the Defence Reform Commisison', 4th Feb. 2004. URL:
http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=31761.

[79] NATO/SFOR, 'Transcript of Press Briefing', 29th Jan. 2002. URL:
http://www.nato.int/sfor/trans/2002/t020129a.htm.

[80] 'Bosnia: Key Vote on Constitutional Change'. *Balkan Crisis Report*, 4th Apr. 2002. URL:
http://www.iwpr.net/index.pl?archive/bcr2/bcr2_20020404_1_eng.txt.

[81] See P. Neussl, 'The Constituent Peoples Decision of the Constitutional Court and Sarajevo-Mrakovica Agreement – A "Milestone Product" of the Dayton Concept?', in *Dayton and Beyond:*

That is, political structures would be 'symmetric'. Thus, an upper chamber (the Council of Peoples) was introduced in the RS legislature to create a bicameral parliament as in FBiH. The second change was the insistence of equal representation for the three constituent peoples. In the upper houses at the Entity level, Bosniaks, Croats and Serbs have five representatives each. Moreover, the Entity prime ministers, Prime Ministers and Speakers have Deputies such that each constituent people is represented. [82] The third and final principle is the minimum representation of constituent peoples pending the full implementation of the return of displaced persons (Annex 7 of the Dayton-Paris Agreement). This can be achieved in two ways. The first is that the composition of the Entity Council of Ministers would follow an explicit formula: eight from the most populous constituent people, five from the second most populous, and three from the smallest group. The second way was to determine allocation of seats based on the proportions of the three constituent peoples from the last census before the war. Thus, the basis of the legislation for fundamental constitution reform was decided by local political consensus. Other areas such as intelligence, defence, policing, indirect taxation and customs were agreed by using a cooperative commissions with international and local actors. The result has been significant institution building, gradually transforming Bosnia-Hercegovina into a 'normal' state.

Bosnia-Hercegovina: Bad News

The significant constitutional reforms in the wake of the Sarajevo-Mrakovica Agreement originated with the case (U-5/98) brought against the Entities by Alija Izetbegović. He claimed that the Entity constitutions contravened Annex 4 of the Dayton-Paris Agreement. The preamble of the RS constitution defined the Entity as the territory of the Serb people. Similarly, the Federation of Bosnia-Hercegovina only referred to Bosniaks and Croats as constituent peoples. However, Annex 4 defines the constituent peoples of Bosnia-Hercegovina as Bosniaks, Serbs *and* Croats.

The pivotal conclusion of the Constitutional Court of Bosnia-Hercegovina (CCBH) came from the third partial decision. In particular, the Court concluded that:

Perspectives on the Future of Bosnia and Herzegovina, ed. C. Solioz and T.K. Vogel, Baden-Baden: Nomos (2004) 68-70.

[82] For example, if the Speaker were a 'Croat', then one Deputy Speaker would be 'Serb' and the other 'Bosniak'. The same principle applies to the Entity Presidency and Prime Minister.

[T]he constitutional principle of collective equality of constituent peoples following from the designation of Bosniacs, Croats and Serbs as constituent peoples prohibits any special privilege for one or two of these peoples, any domination in governmental structures, or any ethnic homogenisation through segregation based on territorial separation.[83]

Thus, the preambles of the Entity Constitutions were at odds with the state-level constitution. The Court concluded that Bosniaks, Serbs, and Croats should be explicitly mentioned as constituent peoples both in Republika Srpska and in the Federation of BiH.

Although this was a landmark decision, the legitimacy of the findings are disputable. The majority decision was reached 5-4, with the three international and the two Bosniak judges outvoting the Croat and Serb judges. Snežana Savić, a Serb judge in the Court argued that the international and Bosniak justices had 'ganged up' on the judges drawn from the two other constituent peoples.[84] One of the Croat judges also had a similar complaint about the procedures of the Constitutional Court. Zovko Miljko felt that the international judges along with the Bosniaks would vote against the Serbs and the Croats, and that being a judge on the Court was a 'punishment'.[85] Thus, the agreement to fundamentally change the Entity constitutions was not reached by a collective consensual decision between the judges appointed from the two Entities, but rather by an international vote.

The HR intervened to push the implementation of the constitutional reforms at the Entity level following the Constitutional Court decision.[86] These Commissions had to be imposed, since there was no movement from the Entities themselves in the six months after the aforementioned partial decision by the Constitutional Court.[87]

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[83] CCBH, U98/5 III, 1st Jul. 2000, para. 60.

[84] ICG, *Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Herzegovina*. Brussels: ICG (2002): 22.

[85] Quoted in P. Nuessl, 'The Constituent Peoples Decision of the Constitutional Court and Sarajevo-Mrakovica Agreement': 78.

[86] OHR, 'Decision establishing interim procedures to protect vital interests of Constituent Peoples and Others, including freedom from Discrimination'. 11th Jan. 2001. URL: http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=365.

[87] P. Neussl, 'The Constituent Peoples Decision of the Constitutional Court and Sarajevo-Mrakovica Agreement': 82.

As mentioned in the previous section, the main parties of Bosnia-Hercegovina met in Sarajevo and Mrakovica to hammer out the shape of the final amendments to adhere to the Constituent Peoples' decision. Although the Commission itself was not imposed, the final agreement did not enjoy cross-community support. Of the nine main parties of the state, only the relatively moderate Croat NHI, moderate Bosniak Stranka za BiH, and the multi-ethnic SDP approved the agreement without reservation, while the HDZ and SDA, the largest nationalist parties for Croats and Bosniaks respectively, did not sign the agreement.[88] The Sarajevo-Mrakovica Agreement was concluded during the only period when the nationalist parties were in opposition, so the non-compliance of the HDZ and SDA is quite significant. Moreover, the four parties in RS (i.e. SDS, PDP, SNSD and SPRS) only accepted the proposals with significant reservations regarding the provisions for issues such as proportional representation and protection of minority rights.[89]

The RS National Assembly (RSNA) proposed a set of amendments to the Sarajevo-Mrakovica Agreement that were a 'watered down' version of the agreed stipulations. The RSNA amendments omitted the direct election of Bosniak and Croat vice-presidents, and also did not have required representation for Bosniaks and Croats.[90] The decision by the RSNA to push through amendments that diverged from the Agreement affected the ratification of the amendments in the Federation, with the opposition SDA and HDZ withholding support.[91] In the end, it was again the High Representative that imposed the changes in the Entity constitutions in two decisions on 19th April 2002.[92] The continued imposition of significant decisions by both Paddy Ashdown and his predecessor has been likened to a 'European Raj' by the Geneva-based think-tank ESI.[93] That is, although the situation in BiH is unlike the servitude of India under the British colonial period, there is a lack of consensual

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[88] 'Bosnia: Key Vote on Constitutional Change'.

[89] Ibid.

[90] P. Neussl, 'The Constituent Peoples Decision of the Constitutional Court and Sarajevo-Mrakovica Agreement': 83.

[91] Ibid. For an account of the RSNA tactics to push through the amendments, see ICG, *Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Herzegovina*: 9-10.

[92] OHR, 'Decision on Constitutional Amendments in Republika Srpska', 19th Apr. 2002. URL: http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=7474. OHR, 'Decision on Constitutional Amendments in the Federation', 19th Apr. 2002. URL: http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=7475.

[93] G. Knaus and F. Martin, 'Travails of the European Raj', *Journal of Democracy*, vol. 14, no. 3 (Summer 2002): 60-74.

politics between local political parties in reforming the state. This, in turn, leads to a delegitimation of the existing political institutions: governors are only allowed to govern if they reach a predetermined outcome demanded by an unelected foreign statesman.

As explained in Chapter 4, the Bonn Powers not only permit the HR to impose legislation, but also allow the HR to remove officials from office, even if they have been democratically elected. Thus, the electorate of Bosnia-Hercegovina only has free choice insofar as it reaches the 'right' decision. For example, the Croat member of the Bosnian Presidency, Dragan Čović, was indicted in March 2005 on charges of abusing his political position as finance minister in collecting import duties from the Lijanovic meat processing company. Čović did not resign, so he was removed from office by the HR. By doing so, it was possible for Croatian politicians to portray the incident as another grievance against Croats instead of allowing the democratic accountability of competitive elections.

Still, some local policymakers do feel optimistic about the legislative process. For example, the Speaker of the state-level House of Peoples believed that both houses at the state level were 'well-functioning European standard institutions' that have provided political solutions.[94] However, his positive assessment is not shared by his counterpart in the House of Representatives. In the lower house, members of parliament are told by the OHR how to act and adopt laws as is, since they feel they have no power.[95]

The lack of collective responsibility and a dearth of local consensual decision-making are evident in all of the major reforms that have been undertaken since the establishment of the post-Dayton state-level institutions. For example, the legislation for the national anthem, unified national identification cards, national civil service, and Communications Regulation Agency (CRA) were all imposed by the HR in addition to the creation of the aforementioned 'reform' commissions for unifying the police, military, customs and indirect taxation.

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[94] Interview with Velimir Jukić
[95] Interview with Nikola Spirić

Instead of examining each of the above areas of reform imposed by the HR, it is more instructive to look at the example of the harmonisation of a state-level education, which highlights the challenges of reform in BiH. The subject of education and instruction in a particular national language has been made contentious, especially by nationalist leaders within the three constituent peoples. In April 2003, the Bosnian Council of Ministers enacted legislation to bring the education system in line with 'European standards' and the Bologna criteria.[96] In particular, the law provided a single system of diplomas and certificates throughout the country (instead of the Entity level), and allow students to transfer between schools in any part of the state.[97]

The law was challenged by Croat education ministers at the cantonal level who signed a declaration refusing to implement the primary and secondary education reforms.[98] Although the HR continued to demand the cantonal education ministers implement the reforms (since the choice to implement was outside the remit of these ministers), he ultimately imposed the decision enacting the law on primary and secondary education in Canton 10 of FBiH in July 2004. The draft law on primary and secondary education was passed in the state-level assembly, but it was challenged by HDZ politicians from the Central Bosnia canton on the basis that it infringed on the constitutionally-protected 'vital national interest'. In December 2004, the Constitutional Court of the Federation found that the draft law did *not* violate 'vital national interest', so the head of the OSCE mission hoped that this would end the legal challenges for the implementation of the law at the cantonal level.[99] Still, the education minister in Central Bosnia Canton, Nikola Lovrinović, refused to implement the reforms for primary and secondary education. Thus, the HR removed Lovrinović in July 2005.[100]

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[96] D. Valenta, 'Educating Bosnia', *Balkan Crisis Report*, 2nd May 2003. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200305_427_3_eng.txt. See also OHR. 'House of Peoples Adopts State Framework Law on Primary and Secondary Education', 19th Jun. 2003. URL: http://www.ohr.int/print/?content_id=30124.

[97] D. Valenta. 'Educating Bosnia'.

[98] OHR. 'Politicisation of Education Reform Damages BiH's EU Prospects', 22nd Mar. 2004. URL: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=32902.

[99] 'Citizens feel detached from their authorities', *Dnevni List*, 26th Jan. 2005. Reproduced at: http://www.oscebih.org/public/default.asp?d=6&article=show&id=909.

[100] OHR, 'Decision to remove Nikola Lovrinovic from his position as Minister of Education of the Central Bosnia Canton', 8th Jul. 2005. URL: http://www.ohr.int/decisions/removalssdec/default.asp?content_id=35013.

Even though the courts both at the state and entity levels rejected the challenges by Croat politicians concerning primary and secondary education, there were similar problems with ratifying the law to harmonise higher education in Bosnia-Hercegovina. The draft law on higher education was produced by the end of February 2003 through cooperation between local and international organisations. The Bosnian Ministry of Civil Affairs, along with representatives of the OHR, OSCE and Council of Europe put together the legislation.[101] It went through a lengthy consultation process. The draft law was first forwarded to members of government and 'members of the academic community' for their consideration.[102] The provisions of the draft were agreed between local and international groups in September 2003 at the Conference on Reform of Higher Education.[103] It was submitted to the Bosnian government for review, accepted by the Council of Ministers in March 2004, and forwarded to the Parliamentary Assembly for consideration.[104]

However, the vote on the law was stopped in May 2004 by Croat deputies, who invoked the clause of 'vital national interest'. The justification by these deputies was that the draft legislation did not provide adequate protection for the University in West Mostar.[105] Thus, the law was delayed and the issue of 'vital national interest' was referred to the Constitutional Court.

The consequences of this delay were far-reaching and underline the lack of collective responsibility for state institutions. By failing to ratify the law, Bosnia-Hercegovina was unable to join the European Higher Education Area and lost substantial World Bank funding (around $12 million) to help restructure the grossly underfunded Bosnian education system.[106] It is unclear whether the funding will be offered again.

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[101] Mladi Info, 'National Law on Higher Education in Bosnia and Herzegovina'. *One World SE Europe*. 28th Jan. 2005. URL: http://see.oneworld.net/article/view/102303/1/3214.

[102] These documents are reproduced online at: http://www.see-educoop.net/education_in/pdf/draft-framework-law-high-educ-bih-enl-t04.pdf.

[103] World Bank, 'World Bank Congratulates CoM On The Passage Of Higher Education Law, Urges Quick Adoption By The Parliament', 23rd Mar. 2004.

[104] Ibid.

[105] E. Bayrasli. 'Comment: Bosnia's Education Law Fiasco.' *Balkan Crisis Report*. 20th May 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200405_498_5_eng.txt.

[106] Ibid.

Although BiH did not lose the $34 million Economic Management Structural Adjustment Credit (EMSAC) from the World Bank as feared by international organisations, the obstacles to reform still send out a negative message to international donors upon whom Bosnia-Hercegovina is still dependent. The invocation of 'vital national interest' to protect local political power at the cost of crucial education funding illustrates the lack of collective responsibility towards state institutions.

The fundamental problem with the state-building process is that the three constituent peoples have different short-term aspirations for Bosnia-Hercegovina: integration, status quo and autonomy.

First, many of the majority Bosniaks envision the trajectory of post-Dayton settlement as undoing the territorial fragmentation of Bosnia-Hercegovina. That is the Dayton-Paris Agreement legitimated two state-like Entities with a high degree of parallelism. However, running such a complex state is expensive, and more importantly, the lack of a common 'Bosnian' identity exerts centrifugal pressures on the state's integrity. The predominant Bosniak perspective believes in a 'normal' *integrated* state with the authority (and finances) emanating from the Centre to be distributed to the Entities.

The second of Bosnia's constituent peoples, Serbs, largely see that the arrangements are those that were agreed by all of the parties at the negotiating table, and so it should not be changed. In other words, the best framework is the *status quo* decided in Paris in 1995. This includes the de-centralisation of political authority from the state to the entity level. According to many Serbs (and declared by their elected officials), the loose association between two entities and a weak Centre was the only possibility, so moving away from that moves away from the Dayton-Paris Agreement. Moreover, the RS is the insurance policy that Serbs will not be dominated by either the majority Bosniaks or an alliance of the two other constituent peoples. This defensive stance on restructuring the state has led to Serb intransigence regarding reforms.

Most worryingly, Serb politicians (through the machinery of the RS) are willing to agree on paper to reforms, but then renege on these agreements. For example, although negotiators from eleven political parties agreed on police reform on 27th

April 2005 at Vlasić, talks broke down three weeks later since political leaders from the RS did not accept the EU principles for police reform.[107] The government and opposition in the RS united against the EU-backed reforms, citing that derogation of power from the entities on policing violated the terms of the Dayton-Paris Agreement.[108] The RSNA rejected the reform package on 30th May 2005, perhaps under orders from Belgrade.[109] In defence reform, the nominal agreements within the DRC to restructure the entity armed forces to a unified command structure have not led to real changes on the ground. In a swearing-in ceremony in Manjaca on 16 April 2005, the new VRS recruits changed the words 'Bosna i Hercegovina' to 'Republika Srpska', and the national hymn of BiH was jeered while the national song of RS was cheered. Although most residents in RS are 'realistic' towards the relationship between the Entity and the Centre, most of those living in RS do not prefer integration into BiH. In fact, a poll conducted in RS in July 2003 found that a majority of respondents wanted to 're-unify' with Serbia.[110]

Croats comprise the third constituent people in Bosnia-Hercegovina, and are less populous than either Serbs or Bosniaks. Thus, many Bosnian Croat leaders push for greater but *equal autonomy* for each group. That is, there is a strong sentiment within the Croat community, mainly based in Western Hercegovina along the border with Croatia, that there should be a 'third entity'. Serbs predominate in RS, and because of the numerical majority of the Bosniaks, Croats are less represented in the Federation. Some Croats believe that this 'third entity' should be in Western Hercegovina with Mostar as its capital to ensure equal authority for each constituent people. The two main constitutional crises with Croats in BiH have centred around the aspirations for a 'third entity'. The aforementioned Hercegovačka Banka affair (see Chapter 5) centred on the misappropriation of funds (with influence from Zagreb) to fund parallel political and military structures.

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[107] OHR, 'Statement: Negotiations on Policing Restructuring Break Down', 17th May 2005. URL: http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-pr/default.asp?content_id=34686.
[108] G. Katana, 'Bosnians Serbs Quash EU Plans for United Police', *Balkan Crisis Report*, 25th May 2005. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200505_557_1_eng.txt.
[109] See Chapter 5.
[110] N. Jelacic, 'The Greater Serbia Dream Lives On', *Balkan Crisis Report*, 29th Aug. 2003. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200308_456_2_eng.txt.

The HDZ (in BiH) also challenged to undo the whole Dayton framework by refusing to acknowledge the results of the 2000 general election after the moderate coalition, the Alliance for Change, was able to form a government. The HDZ refused to nominate representatives of the state-level House of Peoples from the cantons in which it commanded an absolute majority, thus impeding the post-election process.[111] On 3rd March 2001, the Croatian National Assembly (HNS), largely represented by nationalists part of or aligned to the HDZ, voted to set up a separate entity outside the Dayton arrangements if reforms were implemented.[112] The HNS declared that if their demands were not met, the separate 'parallel' Croat entity would be established with its own government and financial institutions. The borders of the parallel entity were to cover the aforementioned Croat-majority cantons and coincided with the war-time Croat-held 'Herceg-Bosna'. The OHR intervened quite soon after, and Ante Jelavić's 'separatist' aspirations led to his removal. Soon after, the international community tackled the parallel institutions through separate funding through the Hercegovačka Banka.

Thus, in both case studies, there has been a mixed record of success in implementing post-settlement collective decision-making.

In Northern Ireland, despite conflicting constitutional aspirations, the parties in the Executive worked professionally to decide the Assembly agenda, and agreed on budgets and collective Programmes for Government (PfG). Moreover, the operation of the OFMDFM led to the gradual evolution of an SDLP-UUP axis, and relations between the FM and DFM were quite harmonious on many issues. Despite the drafting of the PfG and budgets by the Executive, there had been an overall lack of collective responsibility in the Executive before devolution was suspended. Moreover, there is little scope for scrutinising ministerial decisions, either by the FM/DFM or the Assembly. Finally, the Assembly did not make any innovative policy, since it had fiscal constraints (i.e. lack of tax-varying powers and 'Barnett squeeze'), and most of the policymakers have little experience in Government. Most significantly, the institutional design may have contributed to the electoral success of the less

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[111] A. Kebo, 'Bosnian Croats Flex Their Muscles'. *Balkan Crisis Report*, no. 223, 2nd Mar. 2001. URL: http://www.iwpr.net/index.pl?archive/bcr/bcr_20010302_1_eng.txt.

[112] A. Kebo. 'Herceg-Bosna Revival', *Balkan Crisis Report*, 7th Mar. 2001. URL: http://www.iwpr.net/index.pl?archive/bcr/bcr_20010307_2_eng.txt.

'moderate' parties in each bloc, though the less moderate parties are less hard-line than they once were.

In Bosnia-Hercegovina, there has been increased cooperation between Serbs, Croats and Bosniaks. The decision-making procedures in the Presidency have become more effective, since there is more personal contact than before between the three offices. Although it has been just over a decade since the end of the war, joint local/international commissions have agreed to reforms both in policing and the structure of the armed forces. Most importantly, the constitutional reform based on the Constituent Peoples' decision was agreed by local parties without intervention from the international community. However, the Constitutional Court decision itself was imposed by a *de facto* 'international veto', since neither Croat nor Serb judges supported the decision. This veto is most evident in the powers of the High Representative. After the 1997 PIC, the HR has the power to remove elected officials and impose legislation. This has led to a feeling of powerlessness among local policymakers. More fundamentally, the three constituent peoples do not have a shared vision of 'Bosnia': Bosniaks want a 'normal' centralised state, Croats want a 'third entity' where they are in the majority, and Serbs want no changes to the overall structure of the state stipulated in the Dayton Agreement.

At Least They Stopped Shooting…

Despite some of the above problems with the development of power-sharing both in Northern Ireland and in Bosnia-Hercegovina, both settlements have been largely successful as ceasefires. That is, the accords 'stopped the war' in both cases.

In the case of the international military response in Bosnia-Hercegovina, this is quite evident. The IFOR mission under NATO quickly consolidated the end of the war with a deployment of 60,000 troops.[113] The reduction in the everyday level of violence is remarkable compared to other recent international interventions in Kosovo, Afghanistan and Iraq. [114] The objective of the military forces changed to a peacekeeping stabilisation force (SFOR) also under NATO. After nearly a decade of

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[113] M. Nowak. 'Has Dayton Failed?', in *Dayton and Beyond*: 46.
[114] Ibid.

overseeing the post-Dayton peace, the international military responsibility was transferred to the EUFOR in December 2004, which is significant since it is the first joint EU military operation. The objectives of EUFOR were similar to that of SFOR: patrolling the country to uphold the peace.[115]

In the case of Sarajevo, the changes in the post-war environment are quite significant. According to Ashdown back in 2003:

Bosnia in 2003 is almost unrecognisable as the same country that emerged from the horror of war.

Come to Sarajevo today, and you will find a bustling city, with supermarkets and DIY stores. Nearly a million refugees have returned to their homes. Bosnia has one of the most stable currencies in the Balkans. Freedom of movement is now taken for granted, following the imposition by one of my predecessors of a car license plate system guaranteeing ethnic anonymity - a change opposed by many of the politicians in power at the time, but widely applauded by the public.[116]

The ultimate goal of the Dayton Agreement is in Annex 7, which lays out the provisions for refugee return to reverse the forced demographic changes during the wars in the 1990s. According to the UNHCR mid-2000 report, return to 'majority' areas had largely been completed in time for the fifth anniversary of the Dayton-Paris Agreement, but the report admitted that minority return had taken longer than expected.[117] The issue is that sustainable refugee return is connected to economic development.[118] Especially for those who would be minority returnees, ethnic cleansing led to the dominance of the majority population in political and economic matters. Thus, the problem is not the return of displaced persons, but ensuring that those who wish to resettle permanently in their pre-war area can do so. In places like Mostar, it is difficult to count refugee return, since some returnees stay for two to six months, sell their property, and then leave.[119] Due to local clientelist structures, it is difficult for minority returnees to get jobs. Thus, in Republika Srpska, though there has been some minority return in Bijelina in the agricultural sector, the political

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[115] N. Hawton. 'Eufor: A Step Forward or Sideways?'. *BBC News* (online), 2nd Dec. 2004. URL: http://news.bbc.co.uk/1/hi/world/europe/4063359.stm.
[116] P. Ashdown, Bosnia Needs Accelerated Reforms', reproduced in *Balkan Crisis Report*, no. 447, 23rd Jul 2003. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200307_447_2_eng.txt.
[117] UNHCR, 'UNHCR Mid-Year Progress Report 2000 - Bosnia and Herzegovina'.
[118] Interview with Embassy Official (Sarajevo)
[119] Interview with Richard Medić

director at the OSCE feels that refugee return is completed 'on paper', but in practice 'it is largely not completed.'[120] The focus in RS is minority return for Bosniaks, since many Bosnian Croats have settled in Croatia, the wealthiest state in the Western Balkans with a GDP per capita of $4000, nearly three times that of Bosnia-Hercegovina.[121]

These problems with refugee return are evident in other parts of the state. More homogeneous places in Hercegovina have had success. For example, those who want to return to Prozorama have done so, but there are some problems with employment for Bosniaks.[122] In Mostar, there was a demographic shift, bringing people from other parts of Bosnia and Eastern Hercegovina that have nothing to return to, so they have stayed.[123] In both Mostar and Banja Luka, 'older folks come back to die' in their place of origin.[124] However, of the 1.1 million IDPs and 1.2 million refugees resulting from the conflict, the UNHCR announced in September 2004 that the one-millionth displaced Bosnian had returned 'home'.[125] Moreover, according to UNHCR figures, nearly half of the returnees since 1996 (446,795) are minority returns, including about two-thirds of the returns for the first half of 2004.[126] Although the idea of reversing the demographic changes from the war is a noble one, the Deputy HR (Banja Luka) suggests that return is not the issue, but rather the resolution of property claims. In that area, implementation has been a qualified success.[127] There is 'nothing going on' in the villages, so it is difficult to motivate return; there is no industry in Bosnia, so people have left.[128] Minority returnees that want to settle in their pre-war homes (or pre-war regions) are vulnerable to intimidation and violence from the majority community. For example, there have been cases near Janja (in RS) where the local authorities have withheld electricity, water and sewage services from minority returnees.[129] Although the amount of violence has subsided, there are still cases of

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[120] Interview with Keith Bean
[121] Ibid.
[122] Interview with Lejla Heziric (OSCE Democratisation Officer 1, Mostar)
[123] Interview with Kristina Coric
[124] Ibid.
[125] UNHCR Press Release, 21st Sep 2004
[126] Ibid.
[127] Interview with Graham Day
[128] Ibid. According to the press release in fn. 117, nearly 500,000 of the two million that were displaced have found permanent solutions, and have settled elsewhere in Europe or beyond.
[129] HCHR (BiH), 'Report on the Status of Human Rights in Bosnia and Herzegovina: Analysis for the Period January – December 2004)'. URL: http://www.bh-hchr.org/Reports/reportHR2004.htm.

physical assaults, property damage, attacks on national monuments, and assaults committed against local returning minorities.[130]

Although the war is over, the effects of corruption continue to affect the implementation of the Dayton-Paris Agreement. Both local and international authorities have turned their attention from peace-building to preventing organised crime and other illegal activities. There has been an increase in violence related to organised crime in places like Mostar over the past few years, so the international community is doing more to stop racketeering and trafficking. However, the international community is willing to look the other way as long as the perpetrators just kill each other.[131]

The end of the war gave those who profited from the conflicts a chance to transform their fortune into a legitimate one. Those who constituted the political and economic entrepreneurs during the war continue to have influence today. According to the director of ICG in Sarajevo, the connection with business interests is most important, and how those who benefited from the conflict are now 'men of peace'.[132] The editor of *Nezavisne Novine*, Dragan Jerinić, says that Mladen Ivanić is a 'criminal' and that the Minister of the RS is on an EC blacklist.[133]

A fundamental problem for both Wheeler and Jerinić is that Bosnia-Hercegovina is governed by 'parallel structures' that traverse the legal and illegal. According to the latter:

Bosnia-Hercegovina does not have real institutions. The presidency and council of Ministers are fictional institutions. The real centre is in Izetbegović's house. The RS – somewhere in the forest, though it has some powers now. The HDZ is somewhere in Široki Brijeg. The Bosnian institutions are somewhere on paper.[134]

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[130] Ibid.
[131] Interview with Amela Rebac and Amna Popovac
[132] Interview with Mark Wheeler
[133] Interview with Dragan Jerinić. Alija Izetbegović, a Bosniak, was the first president of Bosnia. The 'forest' refers to Eastern Hercegovina, where some believe on-the-run war criminals are hiding with the help of local Serb elites. Široki Brijeg is a stronghold of nationalist Croats in Western Hercegovina.
[134] Ibid.

In other words, the real locus of power in BiH is not the Annex 4 institutions, but rather extra-legal 'fiefdoms' controlled by local Croat, Serb and Bosnian elites, many of who have criminal ties. The international 'blacklisting' of Bosnian politicians confirms this. Hasan Ćengić appeared on a US blacklist and had been dismissed from the Defence Ministry for arms deals with Iran.[135] The speaker of the RS National Assembly, Dragan Kalinić, was removed by the HR since it was unclear whether SDS links had been severed with Radovan Karadžić.[136] For Borislav Paravac, the Serb member of the Bosnian presidency, there are questions about wartime activities in Doboj:

The first complication in the case arose when the public began demanding why the former president of the Bosnian Serb crisis staff headquarters in Doboj was not being investigated. It was a serious question, because the man who held that position - Borislav Paravac - is the Serb member of Bosnia-Herzegovina's tripartite presidency…Many Bosnians - particularly those who had been expelled from the area - claimed that the crisis staff headquarters in Doboj helped carry out the ethnic cleansing of the town.[137]

An opposition politician in Banja Luka adds that parties such as Paravac's SDS do not work for reform, since it is easier to just stoke nationalist feelings. The three nationalist parties use the system to keep control of their own media, police and army.[138] Although a representative from the OSCE in Banja Luka suggested that some of the critique from opposition parties is from 'sore losers', he admitted that the Agreement rewarded the results of the war. Money from the Office of Refugees has been used to build housing at the edge of Banja Luka to consolidate the demographic changes during the war, though the international community has been a bit better at fighting clientelism since 2001.[139]

Many high-level Bosnian Croat politicians have also been linked to illegal activities, most notably the aforementioned Hercegovačka Banka affair. Dragan Čović, a recent

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[135] A. Kebo, 'US sanctions Alarm Bosnians', *Tribunal Update*, no. 315, 26th May 2003, URL: http://www.iwpr.net/index.pl?archive/tri/tri_315_5_eng.txt.

[136] OHR, ' Decision removing Dr. Dragan Kalinic from his positions as Chairman of the National Assembly of Republika Srpska and as President of the SDS', 30th Jun 2004. URL: http://www.ohr.int/decisions/war-crimes-decs/default.asp?content_id=32750.

[137] A. Kebo, 'Bosnian War Crimes Investigation Stalls', *Tribunal Report*, no. 319, 10th Jul 2003.

[138] Interview with Dragi Stanimirović

[139] Interview with Keith Bean

member of the Bosnian presidency, was the Federation finance minister at the time and authorised funds from Zagreb to be transferred to the bank. Another former member of the presidency, Ante Jelavić, faced charges for the Hercegovačka Banka affair and trying to set up a third Croat entity. He is now banned from public office and on the US blacklist. As mentioned above, Čović was banned from office on 2005 for his part in another financial scandal.

In the case of Northern Ireland, political violence claimed over 3000 lives over thirty years in a province with a population of 1.5 million. However, a decade after the Enniskillen bombings, the most visible markers of the conflict have vanished: security checkpoints on the way to Castlecourt Shopping Centre, armed foot patrols of the British Army and repeated bombing of the Europa Hotel. There is some evidence of a 'peace dividend' in Northern Ireland. According to the Equality Unit, since devolution, the socio-economic indicators are 'going in the right direction' and 'lots of gaps have narrowed' between the communities, such as level of income, education and access to housing.[140]

Improving the security situation in Northern Ireland is the primary motivation for unionist endorsement for the agreement in the 1998 referendum. It was republican violence with 'protestant' victims that account for a majority of the casualties between 1969 and 1994.[141] Unsurprisingly, again assuming 'protestant' as a proxy for 'unionist' for the NILT (1999) data, 94% felt that full or some decommissioning was a precondition for entering the Executive, compared to only 74% of 'catholics', though decommissioning is not an explicit precondition in the Agreement.[142] The significance of decommissioning for unionist support in the 1998 referendum has been confirmed in another study.[143] It was the 'five pledges' given by Tony Blair saying that the 'writing was on the wall' ending paramilitary violence that resulted in

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[140] Interview with Bernie Duffy and Alan McLelland (Equality Unit, OFMDFM)
[141] Fay et al., *Mapping Troubles-related deaths in Northern Ireland, 1969-1994*, Londonderry: INCORE (1997). Although loyalist parties are also a part of the negotiations, the discussion will focus on republican violence. This is because Sinn Féin represents a majority of the nationalist vote, and is one of four executive parties. By contrast, the UDP and PUP only have one MLA combined, David Ervine. Thus, 'no guns, no government' is not relevant for the loyalist parties.
[142] NILT Survey (1999)
[143] B.C. Hayes, 'Who voted for Peace? Public Support for the 1998 Northern Ireland Agreement,' *Irish Political Studies*, vol. 16 (2001): 86.

the slim unionist majority support in the referendum.[144] The evidence for initial unionist/protestant optimism can be confirmed from the Northern Ireland Referendum and Election Study. Of the protestant respondents who voted 'yes' in the referendum, 84% believed that the Agreement would 'lead to a lasting peace in Northern Ireland'.[145] However, decay in unionist support for the Agreement is tied to lack of satisfaction with the post-settlement security situation. Among protestants who would withdraw their support for the Agreement if the referendum were re-run in 2000, both lack of de-commissioning (78%) and continued level of violence (65%) were cited as significant reasons for a 'change of heart'.[146]

More recent evidence of republican activities have continued to erode unionist support for the Agreement. The previous crisis that led to the October 2002 Assembly suspension focused on an alleged republican spy ring at Stormont, the training of FARC rebels in Colombia by members of the IRA, and IRA gun-running in Florida. More importantly, even though the PIRA (whose political arm is Sinn Féin) has not carried out any bombings or killings since the restoration of the ceasefire, the threat of republican violence remained until July 2005. In deciding to let Sinn Féin back into the multi-party talks after it had been excluded for violating the Mitchell Principles, Mo Mowlam said that 'the peace we have is now imperfect, but it is better than none,' despite IRA involvement in another murder and arms smuggling.[147] This 'acceptable level of violence' has led to a significant decrease in shootings since the Agreement, but a marked *increase* in other forms of community policing, such as beatings, maimings and exilings.[148]

The type of community policing that is perhaps most underreported is 'exiling', when persons deemed 'anti-social' by local paramilitary 'law enforcement' are threatened to leave the area or face physical harm or death. However, these practices were brought to light when thirteen teenagers in the Ardoyne committed suicide separately in the

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[144] H. Patterson, 'From Insulation to Appeasement: The Major and Blair Governments Reconsidered', in R. Wilford (ed.), *Aspects of the Belfast Agreement*, Oxford: Oxford Univ. Press (2001): 177-8.

[145] G. Evans and B. O'Leary, 'Northern Irish Voters and the British-Irish Agreement: Foundations of a Stable Consociational Settlement?', *Political Quarterly*, vol. 71, no. 1 (2000): 88.

[146] NILT (2000)

[147] Quoted in C. Knox, '"See No Evil, Hear No Evil: Insidious Paramilitary Violence in Northern Ireland', *British Journal of Criminology*, vol. 42 (2002): 164-185.

[148] Ibid.: 175. The figures are underreported, since many are afraid to go to the police.

first few months of 2004. It has been revealed that many had been subject to threats and punishment beatings by dissident republicans.[149] In an article of *The Times*, Sean O'Callaghan, characterised the attitude of the NIO as: 'while terrorism is confined to the ghettoes, why worry?'[150]

The concern about continued paramilitary violence persists among unionists. Graham Gudgin feels that the IRA has a deal to not shoot security personnel, but community policing is seen as 'alright' by the governments.[151] Anti-Agreement unionists claim the 'appeasement' by the British Government is to stop violence in London (i.e. not Belfast), and that there is an economic rationale for the 'deals' with paramilitary groups and their political arms.[152] Even the Alliance party sees the Agreement as 'crisis management', and does not offer a long-term solution, leaving problems to be addressed by local politicians.[153] The disillusionment regarding the 'peace dividend' is also echoed by public opinion in both communities. According to the NILT survey in 2001, 57% of the protestants and 46% of the catholics believed that the level of violence in Northern Ireland would stay the same, irrespective of the Agreement.[154] For the NI Referendum and Election Survey, 60% of the catholic respondents and 75% of the protestants believed that the level of violence would stay the same or increase if the Agreement stays in place.[155]

According to David Ervine, the only way to reverse the overall pessimism is:

The republicans have a commitment to tell us the war is over…There is no question that loyalists make contributions [to the violence]. The largest and most valuable key is the belief that the war is over. If the war is over, what is wrong with saying so? If the war is not, saying so is dishonourable. [This is the key] to unlock all other locks.[156]

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[149] D. Murray, 'Belfast Suicides Expose Despair', *BBC News* (online), 18th Feb. 2004. URL: http://news.bbc.co.uk/1/hi/northern_ireland/3501053.stm.
[150] Quoted in C. Knox, 'See No Evil, Hear No Evil': 180. Sean O'Callaghan was allegedly a former Officer Commanding in the PIRA who also turned informer, helping both the Garda Síochána Special Branch and MI5.
[151] Interview with Graham Gudgin
[152] Interview with Richard Bullick.
[153] Interview with Stephen Farry
[154] NILT (2001). The question asked was "If the Agreement remains in place, do you think that the level of violence in Northern Ireland will increase, decrease, or stay the same?". 40% of the catholic respondents replied that there would be a decrease in the level of violence.
[155] G. Evans and B. O'Leary, 'Northern Irish Voters and the British-Irish Agreement': 96.
[156] Interview with David Ervine

Events in July 2005 seem to show remarkable progress in this 'key' area with the IRA announcement that its armed campaign was over. The IICD verified that the IRA arsenal had been put beyond use, which was confirmed by two independent witnesses.[157] According to the British Government, the IMC will publish two reports investigating whether the IRA has adhered to its commitments from July.[158]

Evaluating Power-Sharing

There are criteria by which it is possible to judge whether one of the cases has better prospects for a stable consociational settlement.

To differentiate between post-conflict power-sharing in the two cases, the criteria developed by Ulrich Schneckener will be used.[159] Schneckener posits that there are eleven conditions that are split into 'actor-oriented' and 'structure-oriented' items. The 'structure-oriented' include: relative equilibrium, no significant socio-economic differences, territorial segmentation, overarching loyalty, cross-cutting cleavages, and moderate pluralism.[160] The 'actor-oriented' criteria include dominant elites, respecting the status quo, traditions of compromise, comprehensive participation, and internal compromise.[161] If more of the eleven criteria that are fulfilled, it is more likely that a long-term stable solution can be achieved. According to Schneckener's analysis, it is the actor-oriented criteria that define whether or not a consociational system will be durable. He bases this hypothesis on the relative 'success' of South Tyrol and Belgium, and the differences between the Sunningdale Agreement and the Belfast Agreement.[162]

Thus, by investigating certain 'actor-oriented' criteria in Northern Ireland and in BiH, it is possible to hypothesise the relative chances for durable power-sharing. In

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[157] 'IRA has "destroyed all its arms"', *BBC News* (online), 26th Sep 2005. URL: http://news.bbc.co.uk/1/hi/northern_ireland/4283444.stm.
[158] 'IMC Will "judge IRA's commitment"', *BBC News* (online), 6th Oct 2005. URL: http://news.bbc.co.uk/1/hi/northern_ireland/4316614.stm.
[159] U. Schneckener, 'Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation', Institut für Interkulturelle und Internationale Studien Working Paper, no. 19/2000 (Oct. 2000).
[160] Ibid.
[161] Ibid.
[162] Ibid.

particular, there are significant differences between Northern Ireland and Bosnia-Hercegovina regarding *dominant elites*, *comprehensive participation* and *internal compromise*.

Both in Bosnia-Hercegovina and Northern Ireland, political processes are largely controlled by politicians and other elites. However, the difference lies in the *amount* elites can cooperate with the 'other' side without losing support. The move away from the SDS in Republika Srpska can be partially correlated with voters trusting the other parties (i.e. SNSD) to 'protect' Serb interests in Bosnia-Hercegovina. When politicians are constrained by national politics, it is hard to make moderating gestures. The political director of the OSCE in Banja Luka comments that the 'political spectrum [in RS] is quite thin…Even the more moderate element [SNSD Leader Milorad] Dodik sometimes says inflammatory nationalist things. All these parties can be termed nationalist.'[163] By contrast, the DUP, the largest 'anti-Agreement' party (despite its occasional rhetoric and posture) has made overtures suggesting that their position is not far from the UUP position a few years ago.[164] The 'seven principles' from the last election affirmed that the DUP supported devolution. Moreover, political advisors within the party believe 'that Strand 2 is clearly necessary, but needs to be accountable to Northern Ireland.'[165] Despite a relatively more moderate position, both the DUP and Sinn Féin have retained support.

The reason for the DUP to apparently moderate is that the dominant strategy by Dublin and London regarding Northern Ireland has been one of 'inclusion'. Although this has primarily meant the addition of the political arm of paramilitary organisations (that adhere to the Mitchell Principles), this also meant that there were provisions for parties in the Unionist community that were against the Agreement. However, instead of staying at the table, Paisley's DUP and Robert McCartney's UKUP left the multi-party talks in 1997. However, by leaving the negotiations, they were unable to voice their concerns about the institutions. According to one unionist commentator, the only mistake by the DUP and UKUP was that they should have remained at the multi-party

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[163] Interview with Keith Bean
[164] P.L. Mitchell, B. O'Leary and G. Evans, 'Northern Ireland: Flanking Extremists Bite the Moderates and Emerge in Their Clothes', *Parliamentary Affairs*, vol. 54, no. 4 (2001): 725-42.
[165] Interview with Richard Bullick

talks.[166] Thus, Kerr argues, 'the parts of the agreement that offended anti-agreement Unionists in the DUP and UUP might not have been so offensive had they remained united and doubled their negotiating potential.'[167]

The acceptance of the Belfast Agreement through referenda both in Northern Ireland and in the Republic of Ireland demonstrates the comprehensive participation enshrined in the document. Although support for the Agreement has eroded in both 'communities' and more markedly among unionists, a majority of both Nationalists and Unionists did endorse the document in 1998.[168] By contrast, there was no widely accepted exercise of popular affirmation of the terms of the Dayton-Paris Agreement. As mentioned in Chapter 6, the signatories of the Dayton-Paris Agreement were the two reference states, the Bosniak President of Bosnia, and witnessed by the western powers. In contrast to the principle of 'inclusion' at the heart of the Belfast Agreement, there were many elements missing from the peace negotiations at the end of the Bosnian War. First, there were no *direct* representatives of either Bosnian Croats or Bosnian Serbs, primary combatants in the Bosnian conflict. Moreover, non-nationalist and parties not aligned with the nationalist forces were not at the negotiations.

Northern Ireland and Bosnia-Hercegovina also differ in the level of comprehensive participation by local parties. In the case of Northern Ireland, the two sovereign governments have been the 'ringmasters'; this is not to say that the parties in Northern Ireland did not have any input. According to Robin Wilson, the Agreement was drawn up by the two governments, but 'tweaked' by the parties.[169] The principle upon which the Agreement was concluded relates *intergovernmentalism* and *internal consociation*. The joint declarations by the two governments reiterated the principle of consent, meaning that a settlement would be one that commanded support from a majority of each community. On the other hand, these dynamics are absent from the case of Bosnia-Hercegovina. The driving force of the Dayton settlement was military pressure by NATO. The Bosnian constitution was written by the US Department of

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[166] Interview with Roy Garland
[167] M.R. Kerr, *Comparative power sharing agreements in Northern Ireland and Lebanon*: 181.
[168] I. McAllister, B.C. Hayes and L. Dowds, 'The Erosion of Consent: Protestant Disillusionment with the Agreement', *ARK Research Update*, no. 32 (Jan. 2005).
[169] Interview with Robin Wilson

State and imposed on the Bosnian population. In BiH, there was no negotiation of the final compromise like the talks chaired by George Mitchell in Northern Ireland. The Constitutional Court and the OHR are the sites for political reforms in BiH, not local actors. It is possible for the three international judges of the Constitutional Court to side with *one* of the constituent peoples and pass a decision. Thus, the appointments by the European Court of Human Rights play a pivotal role in the Constitutional Court, and judicial matters are not the internal compromise of the judges from the three constituent peoples.

The High Representative's extensive powers impede internal compromise in BiH. The current High Representative, Paddy Ashdown, challenges these claims, and replies:

[M]y office is increasingly using its powers under Dayton not to impose legislation, but to help the local authorities reach agreement. For instance, we have established policy commissions, made up almost entirely of local politicians and experts, to reform Bosnia's fragmented tax system, military structures and intelligence sector.

The legislation drafted in these commissions - stamped "Made In Bosnia" - has already started to go through Bosnia's parliaments. By contrast, the number of pieces of legislation that have been imposed, and the number of officials removed from office, far from increasing exponentially, have in fact dropped significantly in recent months, a downward trend I am determined should continue.[170]

By examining the extension of the powers of the High Representative agreed by the Bonn meeting of the Peace Implementation council, the dearth of internal bargaining is highlighted by Ashdown's own words:

It is true that the High Representative in Bosnia has the power to impose or revoke laws and to remove obstructionist politicians. But it is not true that he is not accountable for this. The High Representative's authority comes from the Peace Implementation Council - made up of the 50 countries responsible for overseeing the Dayton Peace Agreement, including Bosnia itself.

His decisions are subject to international oversight, and to the scrutiny of the country's constitutional court and, ultimately, Bosnia being a member of the Council of Europe, of the European Court of Human Rights itself.[171]

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[170]P. Ashdown, 'Bosnia Needs Accelerated Reforms'.
[171] Ibid.

In other words, the main veto player in the institutional design of the Dayton Agreement is an unelected High Representative, whose most important decisions are not accountable in the first instance to the Bosnian legislatures or executive, but rather to the 55 delegations and agencies from outside the region. In 2002, the High Representative reformed the structure to 'streamline' the decision-making process, creating a Board of Principals for the International Community. This Body consists of 'OHR, SFOR, OSCE, UNHCR, EUPM and the European Commission. International financial institutions such as the World Bank, the IMF and the UNDP are also regular participants at the Board of Principals.'[172] Again, there are no 'local' voices for the weekly meetings in Sarajevo. The powers of both the Constitutional Court and the OHR (after the 1997 PIC) underline the fact that there is little room for comprehensive, local discussions to consolidate the Bosnian political system.

Drawing on Schneckener's 'actor-oriented' criteria, the above section highlighted differences in the 'internal consociation' in the two case studies. Thus, instead of building institutions from the outside in, the situation in Bosnia-Hercegovina is one in which the agreement was not reached with *comprehensive participation* from both the reference states and local parties, and the veto exercised by judges from outside the region and the HR undermine the prospects for *internal compromise*. Moreover, a lack of a clear bilateral strategy from reference states pushing their co-nationals towards Sarajevo has ensured that local elites must play 'the nationalist card' to retain power. Even though the GFA institutions have been in suspension since October 2002, the situation is more encouraging in Northern Ireland. The Agreement is founded on the joint bilateral commitment to the principle of consent. This ensures that neither side 'loses', so the system established, with the input from the local parties, upholds internal compromise. Finally, the ability for 'anti-agreement' parties to move towards internal conciliation whilst bringing along their electorate suggests that elites, though not immune from ethnic flanking, do exhibit *structured elite predominance*.[173] Thus, using the actor-oriented criteria, this suggests that the prospects for eventual durable internal consociation are more favourable in Northern Ireland than in Bosnia.

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[172] See http://www.ohr.int/board-of-princip/default.asp?content_id=27551.
[173] The term used by Nordlinger is the same as 'elite dominance' proposed by Schneckener.

A table summarising the evaluation of the actor-oriented criteria is below:

	Comprehensive Participation	Internal Compromise	Elite Dominance
Northern Ireland	*Yes:* Multi-party talks leading to Belfast Agreement; approval through referenda	*Yes:* power-sharing system based on internal consensus between Nationalists and Unionists	*Yes:* more extreme parties have moderated (e.g. DUP) and are still electorally successful
Bosnia-Hercegovina	*No:* Bosnian Croats and Bosnian Serbs did not participate in the Dayton-Paris talks	*No:* legal and judicial decisions frequently imposed by High Representative	*No:* Elites susceptible to intra-ethnic flanking, especially in the RS

Concluding Remarks: Any Hope?

Thus, despite the difficulties with post-settlement institutions in both cases, the 'internal consociation' in Northern Ireland and in Bosnia-Hercegovina can be differentiated qualitatively.

The stop-start institutions in Northern Ireland imply a lack of a durable 'settlement', but the previous sections take 'settlement' to mean internal, inclusive, local agreement. It is in this way that the context of Northern Ireland is one in which there will be an eventual 'settlement'. It is true that George Mitchell and the US Government played an undeniable role in the conclusion of the Belfast Agreement. However, the responsible agents for returning the institutions from suspension are the two governments, Sinn Féin and the DUP. Because of the durable links shown in Chapter 5, both Dublin and London will remain as guarantors to the Agreement. More importantly, there are certain political outcomes that are highly unlikely due to the encouragement by the coordinated policies from the reference states. The first is that the IRA returns to its previous level of violence in Northern Ireland and Britain. As mentioned above, the IRA declared an end to their armed campaign in July 2005 and have put their arsenal 'beyond use'. Secondly, the anti-Agreement DUP and UKUP lost out by excluding themselves from the multi-party talks in 1997, and though most unionists are now against the Agreement, opinion polls show that there is still a large

consensus in both communities for devolution.[174] Thus, for both the DUP and Sinn Féin, a return to their previous 'less conciliatory' position would be politically more costly than to continue negotiations. In other words, both of the 'extreme' parties in Northern Ireland are accommodated within the institutions, and this moderation may account for their electoral successes. [175]

Despite some pessimistic accounts from both republican and unionist commentators, it is likely that there will be an eventual settlement that enjoys support from both communities, and does not depend on the political will of external donors. The locus of legislative, executive and judicial politics has moved from Britain to Northern Ireland. According to an official in the NIO, all of the 'sexy' political offices are now in Belfast, not in London.[176] Issues such as the foot-and-mouth crisis were handled in the devolved agriculture department with cooperation of Brid Rodgers (SDLP) and the committee headed by Ian Paisley (DUP). The strategy to tackle foot-and-mouth was executed without imposition from outside actors, not even the two governments. Even after the lengthy suspension, there is still no popular support for 'abandoning the Agreement', and there is cross-community support for power-sharing. Thus, it is claimed that (though the institutions remain suspended as of November 2005), there will eventually be a self-sustaining *transnational consociation* involving local political parties and their reference states.

The situation is different in Bosnia. For Graham Day, the Deputy HR in Banja Luka, Richard Holbrooke's *To End a War* describes the problems in a nutshell. In the book, Bill Clinton asks his advisors how much it would take to 'fix Bosnia', and some of them said upwards of one billion dollars. One of the advisors reminded the President of political concessions in Congress for an extra ten *million* dollars for Ecuador, so asked how much the President would be willing to give up for one *billion* dollars in Bosnia. It was then that the decision was made to not fund any more than the existing

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[174] PL Mitchell, G. Evans and B. O'Leary, 'Changing Party Fortunes: Party Competition and Public Opinion at the Northern Ireland Assembly Elections of 2003', *ARK Research Update*, no. 33 (Feb 2005).

[175] P.L. Mitchell, B. O'Leary and G. Evans, 'Northern Ireland: Flanking Extremists Bite the Moderates and Emerge in Their Clothes'.

[176] Interview with William Stevenson

package.[177] The above shows the inherent commitment problem with donor-driven democratisation, particularly in the case of Bosnia-Hercegovina.

It is perhaps for domestic considerations and the need for positive progress reports in donor states that Bosnian elections were held in 1996, soon after the end of the war. According to political advisors in the OSCE, the international organisation responsible for administering the first elections in BiH, the elections preceded refugee return since it was necessary to consolidate the rule of law through democratic elections.[178] However, senior OHR officials highlight the other political factors. Graham Day believes that running the elections in 1996 was a mistake, but was pushed by the US to coincide with the American presidential election, since the US had promised their voters 'one year and out' to fix Bosnia.[179] Julien Berthoud does not know why the elections were held early, but believes it was probably a 'political decision' since the international community (IC) only had a 1-2 year plan in Bosnia-Hercegovina.[180] Early elections arguably legitimated the population displacement and the nationalist political parties in each of the three constituent peoples, but the IC did not and do not have the political will to implement refugee return before elections.[181]

Graham Day also points out that the international community can eradicate the 'revenue streams' of criminal elements, but adds:

Why are the revenue streams not being controlled? …The problem is that many of the Europeans do not want to impose on the locals, and have a less committed style of 'soft power'… However, the international community needs to get a hold of revenue streams. In Iraq, they have spent millions of dollars… [They] can spend a lot less to grab revenue streams here [Bosnia], but do not have the commitment to grab the thistle.[182]

The peacekeeping in Bosnia-Hercegovina is done with military objectives and not to develop local structures. Although the size of the force is greatly reduced from 1995,

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[177] R. Holbrooke, *To End a War*, New York: Modern Library (1999): 86-7.
[178] Interview with Giulio Zanni and Gabriella Danza
[179] Interview with Graham Day
[180] Interview with Julien Berthoud
[181] Interview with Senad Pečanin
[182] Ibid.

the handover from NATO to EUFOR confirmed that Bosnia, though 'peaceful', is unable to survive without a force of 7000 peacekeepers from 30 other countries.[183]

Moreover, as mentioned above, the Constitutional Court has three of the nine judges appointed externally, and that they could have a pivotal role. In fact, this is precisely what happened in the ruling on the vital decision on Constituent Peoples upon which the large-scale constitutional reform in 2002. The international judges and the Bosniak judges found in favour of the claimant (Izetbegović, a Bosniak), while the Croat and Serb judges offered dissenting opinions. [184]

The powers given by the Bonn PIC also erode local governance. Lord Ashdown dismissed over 60 officials from Republika Srpska in July 2004, mainly members of the SDS, for not handing over war crime suspects to the ICTY. These dismissals were due to the failure of Bosnia-Hercegovina's application to the PfP, which was also linked to cooperation with the war-crimes tribunal at the Hague. However, these actions would not precipitate more internal participation from Bosnian Serbs. According to one report, Dragan Čavić responded to the sackings by saying, 'The people who devised this draconian punishment should know they will not achieve stability and prosperity.'[185] Earlier comments by Sulejman Tihić suggest that local politicians believe that the HR interferes excessively with the operation of the institutions, and Dragan Mikerević believes that the intervention by OHR reduces the desire for politicians to reach solutions between themselves.[186]

Thus, the imposition of political decisions by Paddy Ashdown has actually prevented internal compromise. In Ashdown's own words, 'the strongest check and balance of all is the people of Bosnia, on whose consent international authority ultimately depends. Opinion polls consistently show that Bosnians fully support these powers

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[183] 'EU Force Starts Bosnian Mission', BBC News (online), 2nd December 2004. URL: http://news.bbc.co.uk/1/hi/world/europe/4060739.stm.

[184] For example, see ICG, 'Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Hercegovina', no. 128, 16th Apr 2002: fn 10. URL: http://www.icg.org//library/documents/report_archive/A400618_16042002.pdf.

[185] G. Katana, 'Bosnian Serbs Warn of Backlash Over Ashdown sackings', *Balkan Crisis Report*, no. 505, 2nd Jul 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200407_505_1_eng.txt.

[186] N. Hawton, '"Raj" Claim Hits Home', *Balkan Crisis Report*, no. 447, 23rd Jul 2003. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200307_447_3_eng.txt.

and think they are used, not too much, but if anything too little.'[187] Thus, the 'international protectorate' headed by the OHR has resulted in a situation where people in BiH do not expect the locus of power to rest with their current elected officials, but rather the unelected HR.

Despite the remarkable changes there since the end of 1995, BiH is still unable to 'go it alone' in four key areas. First, the continued military presence of EUFOR suggests that Bosnia-Hercegovina is incapable of handling the security situation. Second, the unaccountable role of the High Representative in dismissing officials and blocking laws pulls much of the legislative locus away from local policymakers. Third, international judges on the Constitutional Court have an effective veto in the judicial process as long as one of the constituent peoples concurs with their stance. Finally, the performance of the institutions are donor-driven, so that constraints in donor countries, not local needs, drive reform. If the level of funding by donors were to be reduced, the state would not be viable. Thus, self-enforcing durable settlement *cannot be achieved* in post-Dayton Bosnia-Hercegovina.

In sum, the stability criteria of transnational consociation are present in Northern Ireland and largely absent in Bosnia-Hercegovina. There are significant links between reference states and respective conflict groups in the two cases. However, there is a significant cooperative intergovernmentalism and policy continuity along a Dublin-London axis regarding Northern Ireland that is absent for the Zagreb-Belgrade axis concerning BiH. In both cases, the implementation of post-settlement between conflict groups has been mixed. There have been successes in collective decision-making and the cessation of violence. However, there are still many shortcomings of the institutional development in Northern Ireland and in BiH. Nonetheless, using the 'actor-oriented' criteria developed by Schneckener, it is possible to differentiate power-sharing in the two cases. Although the institutions are in suspension, the political process in Northern Ireland is underpinned by mechanisms for comprehensive participation, internal compromise and top-down elite dominance. By contrast, there is no transnational consociation in Bosnia-Hercegovina. Rather, the institutions in BiH are held together by external imposition through the OHR and

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[187] P. Ashdown, 'Bosnia Needs Accelerated Reforms.'

other institutions such as the Constututional Court. None of the substantive reforms (especially in the security sector) have been reached by local consensus, and many of the parties were not a part of the negotiations that resulted in the DPA. Thus, despite the current bleak prospects, the strong, continuous intergovernmentalism in Northern Ireland may allow a durable transnational consociation to emerge.

Chapter VIII: Summary and Further Research

Recap

The previous chapters connected existing empirical and theoretical work to develop the notion of transnational consociation for conflicts in which at least two groups have 'reference states'.

In the second chapter, the concept of transnational consociation is situated within the wider literature on nationalism, comparative politics, and geography/international law. It is posited that neither a 'pure' form of primordialism nor any other approach in the nationalism literature explains both the persistence of certain 'national' boundaries but also that the time-varying salience of these boundaries. Authors such as McKay and Brubaker suggest that the approaches can be combined. Thus, it is possible to explain how peace agreements are reached at certain times and not in others, yet the main dividing lines between 'nations' are persistent. For example, although the political and historical terrain prevented an inclusive, durable settlement for Northern Ireland in 1973, it was possible in 1998, yet the main conflict groups in both cases remained 'nationalists' and 'unionists'.

The thesis then developed a theoretical framework to examine the role of reference states in conflict regulation. A simple informal model was chosen as the starting point. Assuming the rationality of the two reference states and the initial conditions mentioned in Chapter 1, it is possible to deduce how transnational consociation may result. In the model, the possible strategies for the reference states are to escalate the conflict with the other reference state, remain at the same level of conflict, cooperate, or disengage from the conflict. Since a consistent commitment is one of the initial conditions, it is costly for either reference state to leave. From this, conditions were derived in which not changing policy towards the conflict yields a higher payoff in the long-term, and if the reference states are using a 'trigger strategy', conditions in which cooperation are preferable to staying at the current level of conflict can also be deduced. The use of the trigger strategy is different from the usual treatment in the literature. Instead of 'triggering' defection, the conditions for 'triggering' cooperation

are used. This is similar to the approach used Robert Axelrod, who showed that 'conditional cooperation' is an equilibrium of the iterative Prisoner's Dilemma.[1] Once there is intergovernmental cooperation concerning policy over the disputed territory, the two states conclude an inclusive settlement in which neither side can win or lose, since the two states cooperate despite having incompatible constitutional goals over the conflict area. However, if the above framework is generalised so that there are more and less conciliatory governments in each, it was shown that policies must remain consistent irrespective of the government of the day. Thus, the four features of *transnational consociation* are:

1) Intergovernmental reference state cooperation
2) Internal consociation
3) Policy continuity across changes in government (i.e. bipartisanship)
4) Significant reference state/co-national links

Before the empirical illustration of transnational consociation, detailed examinations were provide of the internal, reference state/co-national, and intergovernmental reference state features of the institutional architectures of the agreements. In addition to the detailed account of the institutions, the consociational nature of the internal structures were compared to Lijphart's four criteria: grand coalition, proportionality, mutual veto and segmental autonomy.

By examining constitutional provisions in the reference state constitutions, the institutions stipulated in the two agreements, policymaker statements, and illicit connections, significant links between Belgrade and Bosnian Serbs, Zagreb and Bosnian Croats, Dublin and Nationalists, and London and Unionists were revealed. Reference states can influence the political situation in the conflict zone through these links.

In Westminster, there has been a policy, at least since 1993, that both Labour and the Conservatives not openly oppose the overall government policy on Northern Ireland. There have been occasional disagreements over specific issues over the last ten years,

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[1] R. Axelrod, *The Complexity of Cooperation*, Princeton: Princeton Univ. Press (1997).

such as the current British Government's agreement with Sinn Féin regarding amnesty for on-the-run paramilitary suspects. There have also been disagreements over police reform and whether Sinn Féin should be excluded from the formation of the Executive. Although there are differences in 'tone', the Conservatives, Liberal Democrats and Labour confirmed that they all support the principles of consent and stability enshrined in the Belfast Agreement. There is a similar state of affairs in Dáil Éireann. Although there have been some disagreements in the chamber, this is only scrutiny of government policy. Fine Gael, Labour, and Fianna Fáil all have fundamentally the same policy regarding Northern Ireland.

The 'bipartisanship' within reference states is less evident in the other case study. The former 'nationalist' HDZ regime was voted out of office in Zagreb soon after the death of Franjo Tuđman, the founder and leader of the party. The 'centre-left' coalition and international observers feared that a return to HDZ rule in 2003 would result in a reverse of the advances towards 'Euro-Atlantic integration'. However, the HDZ party split, and the leadership was controlled by Ivo Sanader, a younger, more 'outward-looking' leader than his predecessors. Sanader has made pronouncements about cooperation with the ICTY and symbolic gestures to the Serb minority in Croatia. Thus, the policy of 'Euro-Atlantic integration' remains largely unchanged after HDZ formed a government following the 2003 elections. Croatia officially opened negotiations for EU accession in June 2004, *after* the HDZ had won the elections. However, the HDZ still maintained some of its nationalist rhetoric in traditional HDZ strongholds such as Dalmatia. In Serbia, there is a wide gap between the liberal 'centre-right' coalition, and SRS and nationalist wings of the SPS. The SRS is led by Vojislav Šešelj, who has been indicted by the war crimes tribunal at the Hague. Although the party now claims that it will achieve its territorial claims through diplomacy, not force, hard-line elements remain. The acting leader of the party, Tomislav Nikolić, has said that he would sever relations with Europe. He won a plurality of the first round of the last presidential elections, and his party became the largest party in the Serbian parliament. Although SRS is unlikely to win power in parliament (due to a lack of willing coalition partners), it is unclear how much Serbia's regional policy would change if SRS either won the presidency or more seats in parliament.

Finding: there is 'bipartisan' policy continuity in both reference states for Northern Ireland. For Bosnia-Hercegovina, Zagreb does have a high degree of policy continuity, though there are still some remnants of nationalist rhetoric from the HDZ. However, here is little policy continuity in Belgrade, since it is unclear how policy towards Bosnia-Hercegovina would change if the expansionist, nationalist, anti-EU SRS came to power.

The last twenty years have been marked by a high level of intergovernmentalism between London and Dublin regarding Northern Ireland. The Anglo-Irish Agreement (1985) may have largely been driven from the London perspective by cooperation on security, but later joint declarations show that there was bilateral consensus that the 'Irish dimension' needed to be a part of any settlement. The Downing Street Declaration (1993) Framework Documents (1995), and the Belfast Agreement (1998) all exhibit a high level of Dublin-London coordination. The latter document is only 'signed' by the two sovereign governments. This is not to say that bilateralism means that both governments have identical policy objectives. Even after Articles 2 and three of the Irish Constitution were changed to remove the territorial claim over the whole island, the revised articles still assert a cultural unity for all 'traditions' on the island. Though the British do not have 'selfish [,?] strategic or economic interest' in Northern Ireland, they support the continuation of the Union. For both states, the principle of consent is agreed. That is, Northern Ireland will remain a part of the UK as long as a majority of its residents so wish. There have been occasional disagreements between the two governments, such as the suspensions of the devolved institutions and the delay of the assembly elections in 2003. However, in both cases, the Irish Government affirmed that although the two governments may disagree about particular policy, there is overall agreement about the principles of consent and stability. This strong Dublin-London axis depends on the stable 'bipartisanship' in each state, so that successive governments have not significantly affected bilateral cooperation regarding Northern Ireland.

By contrast, there is little Zagreb-Belgrade coordination regarding Bosnia-Hercegovina. There are occasional joint declarations by the leaders in both countries. Mesić and Kostunica issued a statement at a meeting in 2001 promising to respect the sovereignty of Bosnia-Hercegovina. However, this statement like a later joint

communiqué (with the members of the Bosnian presidency) is only symbolic, since it avoids the contentious issues of refugee return and demarcation of the borders between the three states. Serbia still feels that Croatia has been dragging its feet regarding the resettlement of Serbs displaced during Operations Storm and Flash. This is the central justification used by Nikolić to sever ties with Croatia if he were to win the Serbian Presidency. The distrust from Zagreb is also evident. The declarations from Nikolić convince Zagreb that Belgrade is not a 'reliable partner', and that Serbia is 'dysfunctional'. In other words, there is no certainty about the future of the state, because of the fundamental differences between the more and less 'nationaist' blocs in Belgrade.

Finding: There has been a bilateral policy, most evident since 1993, between London and Dublin that was based on the policy continuity between governments in both capitals. By contrast, Belgrade has fundamental problems with Zagreb's record on Serb refugee return in Croatia. Zagreb believes the uncertainty of policy due to the domestic battle between the 'centre-right' coalition headed by DS and DSS, and nationalists headed by SRS make Belgrade unreliable. Thus, there is a significant cooperative London-Dublin axis, while little cooperation along the Zagreb-Belgrade axis on contentious issues. Moreover, bilateralism is underpinned by policy continuity for London and Dublin, while lack of bipartisanship (especially in Serbia) confounds Zagreb-Belgrade cooperation regarding Bosnia-Hercegovina.

Using some of Schneckener's 'actor-oriented' criteria, it is possible to differentiate the likelihood of a stable power-sharing settlement between the two cases. Northern Ireland and Bosnia-Hercegovina differ on three aspects: dominant elites, comprehensive participation, and internal compromise. In Northern Ireland, parties have been able to 'sell' the agreement in both communities, and have retained support for devolved government. By contrast, the parties in Bosnia-Hercegovina are more susceptible to intra-ethnic flanking. As seen in the case of Republika Srpska, it is difficult to differentiate between the SDS and SNSD, since both can be termed as nationalist. As for the agreements upon which the institutions are based, the two reference states acted as proxies for their co-nationals, so that only Bosniaks were represented at the negotiating table among local constituent groups. By contrast, the principle of inclusion in Northern Ireland meant that not only were the two

governments present during the negotiations leading up to the Belfast Agreement, but also parties from both 'traditions' as well as the smaller cross-community parties. Finally, the institutions are designed such that decisionmaking is done through internal consensus, such as the passing of legislation, and the Executive meetings to decide on the Programme for Government. Although such structures exist *de jure* in Bosnia-Hercegovina, the Bonn PIC ensured that the locus of legislative and political power rested in the OHR, since the High Representative can dismiss elected officials and block legislation. Moreover, the three foreign nationals from the European Court of Human Rights on the Constitutional Court are pivotal, only requiring the support of one of the three constituent peoples' judges. Thus, none of the three criteria are fulfilled in Bosnia-Hercegovina, but they are present in Northern Ireland. The link to intergovernmentalism was explained by an OHR official. For Northern Ireland, Dublin changed Articles 2 and 3 as a part of the cooperative arrangement between the two governments, which helped build consensus for the agreement. On the other hand, neither 'Zagreb' nor 'Belgrade' have stepped back, which allows radical elements to succeed and undermines internal consensus.

Finding: Using Schneckener's 'actor-oriented' criteria for durable power-sharing, it is shown that Northern Ireland displays elite dominance, comprehensive agreement and internal compromise. By contrast, Bosnia-Hercegovina does not display any of these traits. Moreover, bilateral compromise between London and Dublin was the driving force for the conclusion of a comprehensive agreement in Northern Ireland. However, this process has been missing along the Zagreb-Belgrade axis, undermining prospects for comprehensive internal consociation in Bosnia-Hercegovina.

Since the prospects for 'internal consociation' can be differentiated for the two cases, the possibility of a durable settlement can be examined. The momentum of democratic reform in Bosnia-Hercegovina is not tied to 'local' policymakers, but rather an 'external' High Representative, with the financial commitment from donor-state contributions. Thus, the survival of the institutions is vulnerable to domestic political pressures in donor states, outside the hands of the Bosnian people. On the other hand, though the institutions have been suspended longer than they have operated in Northern Ireland, the challenges in reaching a settlement underlines the difficulties in reaching a durable settlement between two perspectives that have

fundamentally differing constitutional objectives. However, there is little chance that either the DUP or Sinn Féin will reverse course and return to a more abstentionsist or rejectionist path. It is costly for the DUP to walk out as it did during the multi-party negotiations. Nor is it politically profitable for Sinn Féin to publicly renounce the Mitchell Principles and for the IRA to resume the 'long war'. Thus, the thesis predicts that although a settlement has not been achieved, once an agreement for power-sharing is concluded, the comprehensive, inclusive institutions bolstered by the principles of transnational consociation will be durable.

Finding: With the current conditions, it is likely that a transnational consociation will emerge in Northern Ireland. By constrast, there is no evidence of an emerging transnational consociation in Bosnia-Hercegovina, since the reference states are not the guarantors of the settlement. The international community is the centre of gravity for governance in BiH, and there is some evidence that the institutions are inoperable without the OHR, EUFOR and other international elements.

Putting Together the Pieces

As mentioned in Chapter 1, it can be argued that there is a limitation to the comparability between Bosnia-Hercegovina and Northern Ireland, since the former is a separate internationally-recognised state while the latter is a region within another state. This means that any long-term settlement in the Bosnian conflict would require improved Zagreb-Belgrade, Zagreb-Sarajevo and Belgrade-Sarajevo relations, which is *triangular*.

By contrast, the political process in Northern Ireland seems to be driven primarily through a coordinated strategy between London and Dublin. However, this does not reflect the *triangular* nature of transnational consociation in Northern Ireland. Although it is crucial for London and Dublin to work together with their co-nationals, it is also important that both conflict groups accept the role of both reference states. Thus, not only does Dublin need to be considered as reliable by Nationalists, but the Irish dimension must be accepted by Unionists. Moreover, London must be acceptable to Unionists as their 'patron' while Nationalists accept the *de jure*

continuation of the Union (including the relationship between the Westminster Parliament and NI Assembly). It is only when these conditions are present will transnational consociation be likely. Such a configuration addresses the centrifugal ethno-national tension of the conflict. Recalling Figure 1 in Chapter 1, transnational consociation in Northern Ireland could be represented as follows:

London

Dublin

Unionists
Nationalists
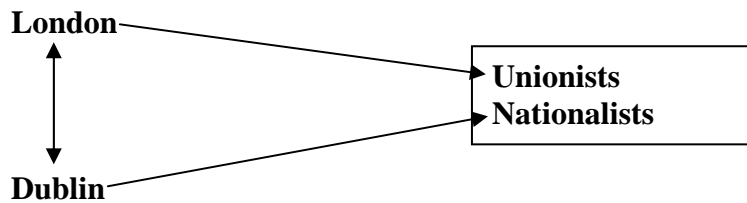
Political elites in London and Dublin encourage their co-nationals to participate in consociational power-sharing institutions in Northern Ireland (denoted by the box). The London-Dublin axis ensures that the policy towards the conflict zone is coordinated between the two reference states. Thus, the centrifugal ethno-national pressure is managed (i.e. the arrows are pointed inwards), leading to the likelihood of a self-enforcing transnational consociation.

By contrast, the situation in Bosnia-Hercegovina can be represented differently:

Belgrade

Zagreb

Serbs in BiH
**Croats in BiH**
Bosniaks

International Community
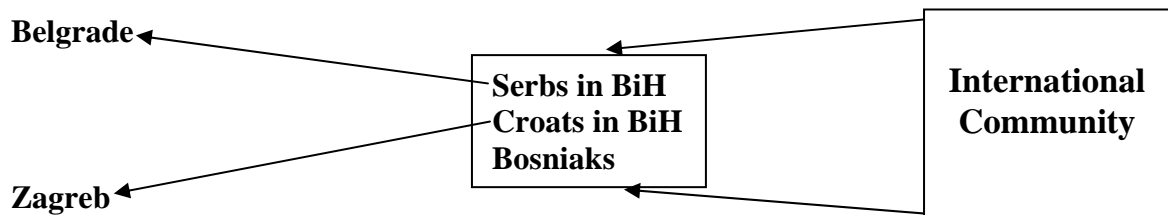
As shown in Chapter 7, the consociational power-sharing institutions in BiH (represented by the box on the left) can only operate with the imposition of the international community (e.g. the High Representative and the international judges on the Constitutional Court). However, this strategy does not address the centrifugal forces from the ethno-territorial conflict (i.e. the arrows still are pointing outwards). Serbs in BiH still look to Belgrade as the centre of their 'homeland' and many Croats in BiH see Zagreb in the same way. Governments in Belgrade are susceptible to ethnic flanking due to the strength of nationalist parties in Serbia, so that a unilateral gesture encouraging Serbs in BiH to participate fully in Sarajevo would be costly if it

were not accompanied by similar moderation from Zagreb. Political parties in Zagreb are constrained in a similar way. Despite the continuing negotiations with Brussels regarding Euro-Atlantic integration, political elites still affirm the constitutional obligation to all Croats. Thus, as shown in Chapter 5, the HDZ has continued the process of European integration inherited from the previous government, yet continue to use nationalist rhetoric regarding the link between Hercegovin Croats and Croatia during election campaigns. The situation resembles a Prisoner's Dilemma. The two reference states cannot moderate, since they would risk being accused of 'selling out' if they do so and the other reference state does not moderate. One way to ensure that the reference states can gradually encourage their co-nationals to participate in consociational power-sharing institutions in BiH is by coordinating a moderate policy towards BiH. The reference states must also be seen as credible guarantors by the other constituent peoples. The prospects for such an agreement are remote at present, but can be facilitated or driven by the international community (e.g. US, IMF, European Commission, etc.) by the following:
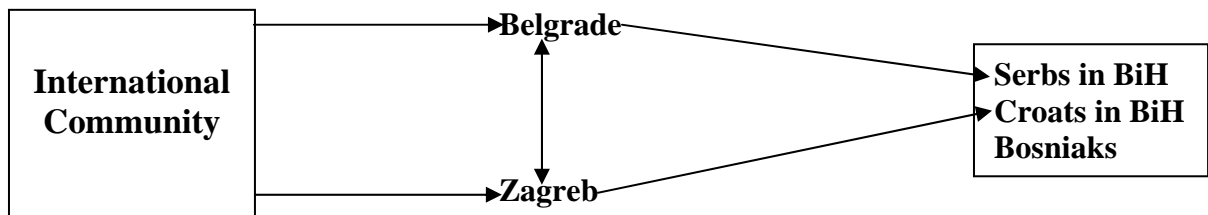
The international community provides a set of constraints for Zagreb and Belgrade (e.g. conditional aid or membership to Euro-Atlantic organisations) such that it is costly to not coordinate a moderate policy towards their co-nationals in BiH. This will lead to Zagreb and Belgrade encouraging their co-nationals towards consociational power-sharing in Sarajevo. As with the NI case, it is also important that the involvement by Zagreb is accepted by Bosniaks and Serbs in BiH , as well as the role of Belgrade being accepted Bosniaks and Croats in BiH. If this is not achieved easily, the international community can again mediate or arbitrate. The regulation of the conflict is constructed 'outside in'. With the involvement of the international community, the reference states are guarantors of a transnational consociation in the 'Dayton Triangle'.

If the role of the international community is not included in the diagram, the triangular relations resemble transnational consociation in NI:
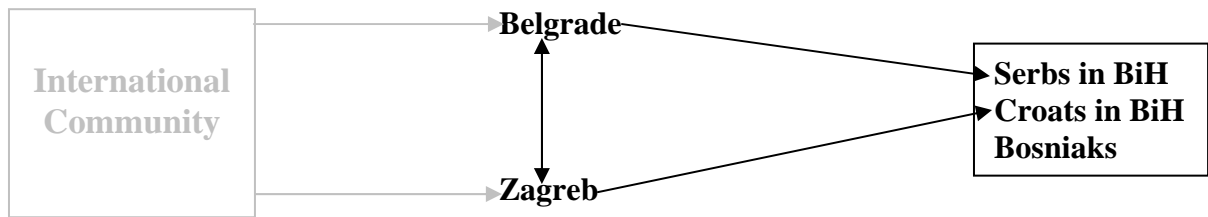
Most importantly, this configuration ensures that the centrifugal pressures of the ethno-national conflict are addressed (i.e. the arrows are now pointing inwards) and conflict groups are encouraged to share power in Sarajevo. Possible institutions for a transnational consociation will be mentioned below in the 'Recommendations' section.

Thus, *both* case studies are more likely to result in transnational consociation if there are cooperative *triangular* relations between the reference states and conflict groups. In Northern Ireland, likely transnational consocation is likely to result with cooperative links along London-Dublin, Dublin-Belfast and London-Belfast axes. In Bosnia-Hercegovina, transnational consociation would be possible if there were cooperative relations along Zagreb-Belgrade, Zagreb-Sarajevo and Belgrade-Sarajevo axes. However, this is not the case at present. It may still possible to construct settlement facilitated by the international community. This strategy would regulate the ethno-national pressures that threaten the stability of consoicational democratic institutions in BiH.

The above findings are not meant to preclude other types of conflict regulation. In the case of Bosnia-Hercegovina, Sarajevo had been shelled by Serb paramilitaries and the JNA for over 1000 days, so the only options open to the international community were military ones. Only an extensive peacekeeping mission was able to quell the violence following the formal cessation of hostilities. Although the Dayton-Paris Agreement has provisions for 'special parallel relationships', the focus of the agreement was to impose internal power-sharing. However, unless contentious issues of refugee and property return are resolved, there can be no durable settlement. Moreover, the international community has not included the two reference states as an

integral part of the political solution. For example, though there are reforms to change the electoral law to prevent individuals from voting in both Hercegovina and Croatia, there is little political will to remove 'diaspora' voting in Croatia. As shown in Chapter 5, the 11th electoral district was used by the pre-2000 HDZ regime as a constant base of support. Moreover, Article 10 of the Constitution can be amended to explicitly uphold the sovereignty of the countries of residence for the diaspora. This is important not only for Croatia, but also settlement in BiH.

Alternative Arrangements

The theoretical formulation of transnational consociation only derives the general guiding principle of power-sharing within the disputed territory. Thus, those that drafted the three-stranded Belfast Agreement and Annex 4 of the Dayton-Paris Agreement had the possibility of choosing different ways to implement the general notion of power-sharing between the constitutionally-defined peoples within the conflict zone. Thus, suggestions from policymakers to improve the post-settlement institutions in Northern Ireland and in Bosnia-Hercegovina will be examined in the following sections.

Bosnia-Hercegovina

Commentators on Bosnia-Hercegovina focus on two main areas for potential improvements to the institutions. First, there is a lack of ownership by local parties and places the impetus for change with the OHR. Although some of the preliminary discussions for constitutional reform in areas such as the police and military are carried out by local consensus, the actual implementation is imposed by decisions of the High Representative. Bieber suggests that the constitutional reforms in Bosnia-Hercegovina will not be effective as long as the state operates as a 'semi-protectorate'.[2] The Parliamentary Assembly of the CoE recommended that the HR place 'greater trust' in the decision-making abilities of local politicians, refrain from intervening unless absolutely necessary, and that the OHR puts together a specific exit

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[2] F. Bieber, 'Towards Better Governance with More Complexity?', in *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, ed. C. Solioz and T.K. Vogel, Baden-Baden: Nomos (2004): 87.

strategy for devolving power back to local authorities.[3] The Venice Commission makes the specific comparison between the HR and the powers of the EU Special Representative in Macedonia, so that the OHR can be transformed from 'decision-maker' to 'mediator' and allows for Bosnians to make their own decisions.[4]

Other commentators are less enthusiastic about a withdrawal of the so-called 'European Raj' in Bosnia. For example, Nowak believes that the international community can only leave Bosnia-Hercegovina after the threat of further conflict has ended. However, for the time being, the nationalist parties still control many of the institutions, so it is necessary for the international community to 'facilitate' the structural changes associated with reform.[5] Contrary to the calls for the withdrawal of the IC, Dizdarević believes that the decision-making by the IC should be centralised to be more effective.[6]

The second area of suggestions from the literature aim to bring the institutions in line with the Constituent Peoples' Decision (see Chapter 7). One of the remaining anomalies are the election rules for the three-person Presidency. The aforementioned constitutional amendments in 2002 ensured that constituent peoples (i.e. Serbs, Croats, and Bosniaks) would have political representation across the whole of the state. However, certain persons are excluded from running for office based on their language/national group. Although the constitutional reforms did address these problems at the Entity level, the link between entity and ethnic identity persists in the state-level House of Peoples and Presidency. The Serb candidate for the Presidency can only be from the RS, while the members of the Presidency for the two other groups must be elected from FBiH. The Venice Commission suggested that the current rules governing the election of the state-level Presidency may be improved in one of two ways. First, the election could be held over the entire territory with the

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[3] Parliamentary Assembly (CoE), 'Strengthening of democratic institutions in Bosnia and Herzegovina' [Resolution 1384], 23rd Jun 2004. Online copy:
http://assembly.coe.int/Documents/AdoptedText/TA04/ERES1384.htm.

[4] Venice Commission, 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative', 11th Mar 2005. URL: http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp.

[5] M. Nowak, 'Has Dayton Failed?', in *Dayton and Beyond*: 58.

[6] Z. Dizdarević, 'The Unfinished State?', in *Dayton and Beyond*: 44.

safeguard that two candidates from the same constituent nation could not be elected.[7] The Venice Commssion also suggests a more 'radical' approach, in which the rotating presidency is jettisoned altogether for one President with limited powers elected by the Government.[8] Instead of an indirectly elected President, Hilmo Pasić suggests a directly elected President, since she or he could only be successful with wide support across national boundaries, and thus be able to speak for all 'Bosnians'.[9] The Venice Commission also suggests that instead of having pre-determined quotas in the House of Peoples, there should be a maximum number that can be drawn from a constituent nation. However, the Venice Commission also proposes a more 'radical' solution by abolishing the House of Peoples and leaving the decision for 'vital national interest' to be decided in the lower house, since the House of Peoples often impedes legislation by unnecessarily invoking 'vital national interest'.[10]

A third potential area of reform mentioned by commentators is 'streamlining' the state structures. The architecture of the state is a result of the wars in Bosnia-Hercegovina, so that the existence of RS is seen by many as a 'reward' for the war and the result of ethnic cleansing.[11] Holbrooke felt in retrospect that letting one of the entities retain the name 'Republika Srpska' was more of a concession than realised.[12] The international community had been committed to the creation of a two-entity BiH with 51% to the majority-Serb areas and 49% to the Bosniak-Croat Federation since the Contact Group Plan of 1994, even though Holbrooke admitted 'given that the Serbs had conquered so much territory through infamous methods, it would have been just for the Federation to control more than 51 percent of the land'.[13] An official in the Bosnian MFA feels that the war left the country institutionally 'crippled', rewarding Serb aggression with the RS and others with a de-centralised FBiH, resulting in an 'unsustainable and ridiculous' system.[14] There is a call for Bosnia-Hercegovina to abolish the entities in favour of a more unitary structure so that Bosnia-Hercegovina

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[7] 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative'.

[8] Ibid.

[9] Interview with Hilmo Pasić.

[10] 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative'.

[11] For example, see Z. Dizdarević, 'The Unfinished State?': 91.

[12] R. Holbrooke, *To End a War*, New York: Modern Books (1999): 135. The name was given by Karadžić and Serbs in Pale.

[13] Ibid.: 295.

[14] Interview with Nedžad Hadžimusić

operates as a 'normal' centralised state, especially among Bosniaks. However, the recent conflicts make it necessary for explicit minority rights so that there are safeguards in place, compared to a country that does not have a recent history of war. To this end, the Venice Commission realises that any large-scale reform is not feasible at present, especially due to Croat insecurity if cantons are removed in FBiH, or Serb objections if there is international imposition abolishing RS. However, it is necessary to centralise more of the legislative function at the entity level and leave only the implementation at the cantonal level. On the other hand, the RS does not have this intermediate level of the canton, but still needs to develop local government.[15] The Deputy Speaker of the FBiH House of Peoples concurs, saying that the legislative 'bottlenecks' at present are due to inefficient governance in the cantons, so more power needs to be devolved to municipalities where it can deliver services to citizens.[16]

The think-tank European Stability Initiative (ESI) suggests reforming the entity structure by taking RS, Brčko and the ten existing cantons in FBiH, and establishing a twelve-unit federal state such that each unit has the same level of responsibilities, thus following the Swiss federal model.[17] If these changes are instituted, the ESI claims '[t]his would represent a fundamental change to the structure of the state, turning it into a normal European federal system with central, regional and municipal governments.'[18] The reaction from the Bosniak SDA was positive, since they believed that the current administration of the country was not sustainable.[19] The Croat HDZ felt that the plan was a 'good starting point', but Serb politicians rejected the ESI plan outright:

The ruling Serbian Democratic Party, SDS, deemed the ESI proposal "unacceptable", while the opposition Party of Independent Social Democrats, SNSD, said it was a "proof that certain

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[15] 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative'

[16] Interview with Vahid Hećo

[17] ESI, 'Making Federalism Work: a Radical Proposal for Practical Reform', 8th Jan. 2004. URL: http://www.esiweb.org/pdf/esi_document_id_48.pdf.

[18] Ibid. Such 'normal European federal' systems include the classical consociational cases such as Switzerland, Belgium and Austris, as well as other federal systems like Germany.

[19] N. Jelacić, 'New Reform Plan fails to Unite Bosnians', *Balkan Crisis Report*, no. 476, 15th Jan. 2004. URL: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200401_476_4_eng.txt.

representatives of the Federation are lobbying the powers around the world for reconstruction of Bosnia and Herzegovina".[20]

Another suggestion for the reorganisation of Bosnia-Hercegovina would be to change the state using an 'economic logic' rather than the local ethnic majorities, since some commentators believe that this is the only way to rebuild a cross-national society.[21] Hilmo Pasić believes that Bosnia-Hercegovina has been built around regional economic centres over the last 150 years, so these should inform the re-ordering of the state. Pasić identifies seven such centres: Sarajevo, Mostar (Hercegovina), Tuzla, Zenica, Doboj, Banja Luka, and Bihać. He believes this is the 'only good way to have good organisation' in Bosnia.[22] The OHR also believes that a regional economic approach within Bosnia-Hercegovina is fruitful and have developed the Sarajevo region in this way.[23] Along these lines, Jakob Finci, a Bosnian constitutional lawyer, believes that the economic logic along with the cultural and other factors would lead to a 'Federal Republic of Bosnia and Herzegovina' with regionalisation.[24] However, at present, there is little room for any of the above alternatives. The only constituent people in BiH that want a fundamental change in the structures are the Bosniaks. As mentioned above, Croats do not want any changes to the cantons, since they will lose their local power base in Hercegovina, and Serbs do not want to give up RS for similar reasons. Perhaps the only realistic option is put forward by the Venice Commission:

It is desirable for the citizens at some stage to decide to have an entirely new constitution based on their own wishes and drafted during a period without ethnic strife. This moment may not yet have arrived…. A consensus between Bosniacs, Serbs and Croats will be required if this is to be undertaken successfully. Even if this reform is not for tomorrow, one should not lose sight of its desirability.[25]

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[20] Ibid.
[21] Interview with Vasilj Žarković
[22] Interview with Hilmo Pasić
[23] Interview with Morris Power
[24] J. Finci, 'The Federal Republic of Bosnia and Herzegovina', in C. Solioz and T.K. Vogel eds., *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, Baden-Baden: Nomos (2004)
[25] 'Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative'.

Northern Ireland

As mentioned in Chapter 7, the final settlement was based on multi-party talks that include more and less 'moderate' parties from each bloc and a permanent guarantor role of both governments. Moreover, a part of the initial agreement in 1998 was that there would be a review after four years. Most of the major parties contributed a set of suggestions for the review. The section below will not provide an exhaustive analysis of the review documents, but only look briefly at selected aspects of the recommendations related to Strand 1.

The UUP refused to submit proposals for the review process in 2004. [26] The justifications for this were familiar: progress on the implementation of the Belfast Agreement and a return to power-sharing hinged on the end of the threat of republican violence. In other words, 'no guns, no government.' Thus, according to Trimble, the oft-mentioned 'acts of completion' would remove the primary obstacle for unionist uneasiness about power-sharing. Trimble claimed that it would be pointless to review and reform the existing framework with the institutions suspended. Although the motives are different, the main unionist and nationalist parties push for an end to the suspension. The DUP offers a more general statement, pushing for conditions such that there are not frequent suspensions.[27] On the other hand, the nationalist positions on suspension of the Assembly were the same. Both Sinn Féin and the SDLP believed that the Westminster suspension act (2000) should be repealed.[28]

On the overall constitutional future of Northern Ireland, the Alliance Party reaffirmed the consent principle, but, being a 'cross-community' party, added that alternatives should not be confined to the unionist and nationalist positions.[29] The two largest parties in the virtual Assembly maintained their traditional constitutional positions. The DUP only envisaged a framework within the Union and not one that was a

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[26] See for example, David Trimble's statement at the opening of the review process on 3rd Feb 2004. Online copy available from CAIN: http://cain.ulst.ac.uk/issues/politics/docs/uup/uup030204.htm.
[27] DUP, *Devolution Now*, 5th Feb 2004. HTML version available from CAIN: http://cain.ulst.ac.uk/issues/politics/docs/dup/dup050204text.htm.
[28] SDLP, 'The Four Year Review of the Agreement'; Sinn Féin, 'Sinn Féin sets out review agenda'. 28th Jan. 2004. URL: http://sinnfein.ie/news/detail/3059.
[29] APNI, 'Agenda for Democracy', 7th Jan. 2004. URL: http://www.allianceparty.org/agenda.pdf.

transition to a united Ireland.[30] By contrast, the Sinn Féin press release wanted a date for a border poll on Irish unity.[31]

The perspectives put forward by the main parties mainly corresponded to their respective 'wish lists'. All of the major parties that submitted proposals included suggestions about the importance of swift decommissioning except for Sinn Féin. On the other hand, Sinn Féin did posit that the Independent Monitoring Commission (IMC) was outside the parameters of the Agreement, so the IMC should be abolished. Both Sinn Féin and the SDLP criticise the slow pace of security normalisation (i.e. reduction of British troop numbers and the closing of army observation posts). On the issues of human rights and equality, all of the parties suggest extensive institutions while the DUP is silent. The DUP also defers the issue of police reform, while Sinn Féin demands full implementation of the Patten report. Only the nationalist parties specifically ask for the publication of the Cory report on alleged state collusion and the establishment of independent inquiries.

The DUP did not mention any areas for Strand 2 institutions to change, although they repeated their principle that cross-border institutions are acceptable, as long as they are entirely 'accountable' to the Strand 1 institutions internal to Northern Ireland.[32] The Alliance Party takes a rather unspecific line, suggesting that the North-South bodies be organised to deliver 'practical benefits'.[33] The nationalist parties both focused on the Strand 2 institutions. Although the SDLP did mention the 'increased efficacy' of the Strand 3 British-Irish Council, the focus of the party's suggestions was on the all-Ireland institutions. The SDLP and Sinn Féin both sought to increase the areas of cooperation and thus create additional North-South bodies.[34] Moreover, both nationalist parties also suggested the creation of a consultative joint parliamentary body mentioned in the Agreement, but not implemented as a part of the post-Agreement institutions.[35]

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[30] DUP, *Devolution Now*: 6.
[31] Sinn Féin, 'Sinn Féin sets out review agenda'.
[32] DUP, *Devolution Now*: 5.
[33] APNI, 'Agenda for Democracy'.
[34] SDLP, 'The Four Year Review of the Agreement'; Sinn Féin, 'Sinn Féin sets out review agenda'.
[35] Ibid.

From the time of the multi-party negotiations, unionists have focused on the Strand 1 institutions, not the Strand 3 East-West structures. Thus, it is not surprising that the DUP devoted more attention to Strand 1 reform than changes in Strand 3. The now-largest party in the suspended Assembly suggested that the number of MLAs be reduced from 108 to 72, the number of devolved areas of Government reduced to eight, a streamlining of the OFMDFM and the creation of an Efficiency Commission to investigate ways to reform the current institutional framework.[36] Some of these suggestions resemble the submission by the Alliance Party, including the reduction of the number of MLAs, a review of the number of devolved departments and a committee set up to scrutinise the organisation of OFMDFM.[37] The nationalist parties do not mention such reorganisation.

However, all of the parties do examine the devolved institutions. The DUP demanded that Sinn Féin should not be allowed into the Executive unless the IRA achieves 'acts of completion.' Both the SDLP and Alliance make a reference to paragraph 13 of the April 2003 British-Irish joint declaration, which demands:

…an immediate, full and permanent cessation of all paramilitary activity, including military attacks, training, targeting, intelligence gathering, acquisition or development of arms or weapons, other preparations for terrorist campaigns, punishment beatings and attacks and involvement in riots. Moreover, the practice of exiling must come to an end and the exiled must feel free to return in safety. Similarly, sectarian attacks and intimidation directed at vulnerable communities must cease.[38]

The Alliance Party proposed the Pledge of Office include a commitment to uphold the above principles. Sinn Féin's press release is silent on the issue, simply stating that the Pledge of Office would allow 'breaches of Ministerial Office' to be 'subject to sanction within the terms of the Agreement'.[39]

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[36] DUP, *Devolution Now*:10.
[37] APNI, 'Agenda for Democracy'.
[38] An online copy of the joint declaration can be found the website of the Office of the Taoiseach: http://www.taoiseach.gov.ie/upload/monitori.pdf.
[39] Sinn Féin, 'Sinn Féin sets out review agenda'.

The suggested changes for the selection and operation of Assembly and Executive falls within three broad strategies: voluntary coalition, involuntary coalition, and no coalition. These are the three options put forward in the DUP document.[40]

The voluntary coalition would result from 'normal' negotiations between political parties and could be confirmed by a cross-community consensus in the Assembly. This proposal also included in the Alliance Party recommendations.[41] Although this seems reasonable, there are a few problems with the 'voluntary coalition' model. First and foremost is that this is tantamount to a coalition that excludes Sinn Féin from government. Since the republican party is now the largest in the nationalist bloc, it would reduce the legitimacy of the institutions and go against the inclusive guiding principle of the Agreement. Moreover, the SDLP would not be able to join the coalition, since appearing complicit in the exclusion of the largest nationalist party would further hurt SDLP electoral fortunes.

The second option is similar to the current arrangements. That is, the Ministerial Departments are distributed using the d'Hondt rule. In addition to the present institutions, there would be provisions for the Executive and the Assembly to scrutinise ministerial decisions without having to refer the case for judicial review. Thus, there would be some collective responsibility in the Executive. However, the DUP adds that this involuntary coalition would not be available to Sinn Féin without the IRA verifiably disarming.

A related issue is the election of the First and Deputy First Ministers (FM/DFM). The split within the unionist bloc in the selection of the FM/DFM ticket led to the suspensions as well as the redesignation crisis in November 2001. The current provision is that they are elected using 'parallel consent'. In the composition of the suspended Assembly, the anti-Agreement DUP has a majority within their bloc. Even with the IRA announcement in July 2005 to end its 'armed struggle', the DUP is reluctant to share power with Sinn Féin. The SDLP has just over 40% of the MLAs in the nationalist bloc, so if Sinn Féin chooses to vote against the ticket (having been passed up), then there would be no possibility for resolution.

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[40] DUP, *Devolution Now*: 13-14.
[41] APNI, 'Agenda for Democracy'.

It has been suggested that the 'weighted majority' convention could be used instead, requiring 60% of voting MLAs and 40% from each bloc. If this rule had been used in November 2001, there would have been enough 'pro-agreement' support across the blocs to elect an SDLP-UUP ticket.[42] The 'weighted majority' rule would also include the 'Other' bloc in the decision-making process. However, excluding the largest parties in both blocs would be undemocratic.[43] On a more practical level, the results of the 2003 Assembly elections make it impossible to create a SDLP-UUP ticket using 'weighted majority'. Even if the 24 UUP and 18 SDLP MLAs join forces with the six members of the Alliance Party, one Independent and one PUP MLA, there would still not be enough to elect a pro-Agreement FM/DFM.[44] The Alliance Party suggests that designation should be abolished and that the 'weighted majority' rule be used for all key decisions.[45] No single party has a blocking minority with the 60% weighted majority rule. However, if the majority is set at two-thirds (as examined by McGarry and O'Leary), the 33 DUP MLAs with the lone anti-Agreement UKUP representative almost have enough potential votes to block all key decisions.[46] The weighted majority requiring 70% support as suggested by the DUP, not surprisingly, allows the DUP to block all key decisions, including the election of the FM/DFM. McGarry and O'Leary suggest that d'Hondt also be used for the selection of the FM/DFM.[47] Additionally, a safeguard can be put into place such that both members of the FM/DFM team could not be from the same bloc. This would allow the possibility of cross-community 'Other' parties to possibly have a chance to be elected on the FM/DFM ticket, though the chances are quite remote at present. By using the d'Hondt rule, if the DUP refuses the FM post, it would then go to the next largest party, which would be the UUP. The potential problem would be the one that befell the Assembly the first time d'Hondt was run. If both the UUP and DUP refuse to join the ticket, the next eligible party would be the Alliance Party. The results would have little legitimacy.

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[42] J. McGarry and B. O'Leary, 'Stabilising Northern Ireland's Agreement', *Political Quarterly*, vol. 75, no. 3 (Jul. 2004): 221.

[43] Ibid.: 222.

[44] Although there were 30 UUP MLAs elected on 26th Nov 2003, Norah Beare, Jeffrey Donaldson and Arlene Foster left the party and joined the DUP on 15th Jan 2004.

[45] APNI, 'Agenda for Democracy'.

[46] J. McGarry and B. O'Leary, 'Stabilising Northern Ireland's Agreement': 222.

[47] Ibid.: 222-4.

Taking all of the above submissions from the parties into account, the British and Irish governments put forward proposals for a 'comprehensive agreement'.[48] Some of the above suggestions for changes in Strand 1 appear in the document prepared by the two governments. As suggested by the nationalist parties, the British Government would repeal the Suspension Act (2000).[49] Moreover, the review of the efficiency of the number of devolved departments and the number of MLAs will be examined by an Efficiency Review Panel.[50] The proposals contained three recommendations to address the lack of collective responsibility. First, the Pledge of Office would be changed to include collective decision-making as a responsibility of the Executive, and procedures could be triggered by three members of the Executive for cross-community decisions when consensus is not reached.[51] Second, the Assembly can sign a petition of concern regarding a Ministerial decision, which leaves seven days for the Executive to consider the matter. This allows for a measure of oversight by the Assembly regarding ministerial decisions.[52] The governments propose to use the d'Hondt mechanism for the nomination of the FM/DFM along the same lines as the article by McGarry and O'Leary.[53] The other Ministers would also be selected using the d'Hondt mechanism, but the whole Executive would be confirmed *collectively* by the Assembly.[54] The proposals did change MLA designation slightly, introducing a '50:50:50' rule for both the approval of the Executive and the selection of the FM/DFM. That is, in addition to a majority of nationalist and unionists approving, 'others' would also have to lend majority support, thus including the latter bloc in 'parallel consent'. However, contrary to Alliance recommendations, the designation system would persist, and redesignation would not be allowed.[55] Although the proposals largely addressed the institutional design concerns of the parties, movement towards reintroduction of devolution hinged on the decommissioning of all paramilitary weapons. As explained in Chapter 7, the electoral strength of Sinn Féin means that they are the only party with links to paramilitary organisations that could

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[48] The Strand 1 proposals are in Annex B. An online copy is available on the BBC website: http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/08_12_04_british_irish_proposals.pdf.
[49] Ibid.: para. 13.
[50] Ibid.: para. 12.
[51] Ibid.: para. 3-4.
[52] Ibid.: para. 6.
[53] Ibid.: para. 9.
[54] Ibid.
[55] Ibid.: para. 14.

join the Executive. Thus, the requirement for decommissioning before devolution is directed at Sinn Féin. Although the IRA announced an end to the 'long war' in the summer of 2005, suspension of the Executive and Assembly continues as of November 2005.

Recommendations

Although there are some general suggestions in the previous sections, the objective of the thesis was not to distil a set of normative policy prescriptions. Similar to Lijphart's original research on consociational democracy, there are some normative implications to the empirical tests of transnational consociation. For Lijphart, there was an uncharacteristic 'stability' in Dutch democratic political structures. This stability was 'good', so Lijphart's later work takes the classical cases and uses them as blueprints for 'constitutional engineering' in divided societies around the world.

However, the aims of the current investigation are more modest that Lijphart's, since transnational consociation can only be derived in very specific contexts. The one general policy implication of the current study is that if there are reference states for two or more groups, there is an opportunity to build a durable settlement 'outside in'. The break with some of the literature is that the reference states are often considered detrimental to complex peace agreements and are thus seen as 'interlopers'. Commentators in Bosnia-Hercegovina see the war as a concerted effort by Zagreb and Belgrade to dismember the country. International organisations see involvement from reference states as 'interference' that should be prevented. However, the irredentist reading of reference states leads to policy that misses an opportunity to utilise the link between the reference state and co-nationals. That is, if there is conciliatory policy from the reference state that confirms the political legitimacy of the institutions in the disputed area, then this is advantageous. Such pronouncements can be made by reference states in the well-regulated realm of interstate international politics. Thus, the reference state is a more reliable agent for conflict regulation than certain stateless nations. For example, in the cases of the Basques in Spain and in France and the Kurds distributed between Iraq, Iran and Turkey, there is no reference state. In both cases, there are no internationally recognised, accountable states that would be able to act as an advocate or consistent guarantor for a particular national group.

One possible mechanism to include reference states would be some form of inclusive, comprehensive, inter-parliamentary body. There are such cross-border institutions in the case of the 'special relationship' between Republika Srpska and Belgrade to consult on matters of common concern. In the case of Northern Ireland, Strand 2 left provisions for an interparliamentary forum.

However, in both cases, the institutions are not inclusive of all of the important parties and linkages that consolidate transnational consociation. It is true that in the case of Northern Ireland, there are Strand 3 interparliamentary bodies such as the BIC and BIIPB that discuss issues of common concern. However, these bodies also contain the devolved institutions in the rest of the UK. Although a unionist reading of the situation is that Northern Ireland is equivalent to the other devolved parts of the Union, the recognition of two traditions, North-South dimension and intergovernmental dynamics and principle of consent differentiate NI from the other devolved regions. The fact that Northern Ireland can leave the Union if the majority so wishes makes it unique. Thus, the connections between the reference states and the constituent 'communities', the same parties that concluded the original Belfast Agreement, should be given institutional voice. Thus, the interparliamentary forum should include a representative sample of MPs from Westminster, TDs from Dublin, and MLAs from Belfast. It is the interaction of these actors that consolidate the transnational consociation, so there should be regular meetings to discuss some of the more contentious issues. A similar recommendation can be extended to institutions in Bosnia. Instead of a hands-off policy, a proportion of the membership from the Serbian parliament, Croatian Sabor, and Bosnian (federal) parliament should meet to discuss the open issues in the Dayton Triangle such as property, refugee return and the abolition of visas. In the case of this institution, there could also be an international community component, such as the OHR and UNHCR. However, the composition of these interparliamentary bodies should be predominantly 'local' parties. Moreover, since the interparliamentary forum should try to consolidate the institutions in the disputed area, the representation from the reference states should be less numerically than for the disputed area.

There should also be changes in citizenship and electoral rights. In most of the Central European states, there are provisions for members of an ethnic group to obtain dual

citizenship, usually one passport from the state of residence and the other from the 'homeland'. These provisions are not uncontroversial. There has been a recent debate in Hungary regarding the granting of citizenship based on ethnicity. The fear is that doing so would result in an influx of 'new' Hungarians from parts of Europe outside the EU, and those in which the Hungarian minority is economically disadvantaged (such as Vojvodina and Ukraine). In Northern Ireland, although the claim of right over the whole of the island has been removed from the Irish Constitution, the jurisdiction of citizenship rights extends to all parts of the island. Thus, those born in Northern Ireland are automatically eligible for an Irish passport. Although this arrangement has worked in Northern Ireland, conferring automatic extra-territorial citizenship rights is not unproblematic.

Dual citizenship is contrary to the two dominant norms in the extension of citizenship (excluding naturalisation). The first is by birth on the territory, which is prevalent in 'immigrant' states such as the US, where there is a 'civic', not 'ethnic', definition of citizenship. There are provisions in other states in which members of the dominant 'nation' are given citizenship. These rights may be extended across the internationally recognised borders. For example, in the case of the Republic of Ireland, those having one parent or grandparent born in Ireland (including Northern Ireland) are eligible for citizenship. If the aforementioned principle of automatic extra-territorial citizenship were applied to Central Europe, then this would lead to a permanent extraterritorial claim. Even though the more contentious parts of the Irish Constitution have been altered, the principle ties citizenship to people on a certain territory, and amounts to quasi-sovereignty. Although the rules of dual citizenship are compatible with the norms of state sovereignty, it still has some of the same problems as automatic extraterritorial citizenship. Citizenship is membership of a state, with the state having particular obligations to protect its members. This is not necessarily problematic, but between certain states in which there has been a recent territorial dispute, dual citizenship still allows extraterritorial obligations for the 'homeland' state. One way to avoid this problem is to employ the distinction used in the communist federations of Yugoslavia and the USSR, in which *citizenship* was conferred in a territorial fashion, and *nationality* is self-defined by self-identification. Thus, for those who see themselves as 'Hungarian' (the Yugoslav and Soviet passports had a place for this ethnic self-identification) can avail in the types of cross-border educational and

cultural links permitted by the decisions by the Venice Commission. Distinguishing between the geographic membership of 'citizenship' (along internationally-recognised boundaries) and the self-identification of 'nation' allows for co-nationals to express their minority national identities without eroding the bilateral norm between 'host' and 'homeland'.

Answering Questions

The ultimate objective of the previous chapters has been to answer the questions posed at the end of Chapter 2, so they will be re-examined briefly.

What modifications of the consociational process will occur because of the role of reference states?

Classical consocational theory can explain purely internal conflicts. However, since boundaries of states and ethno-national groups rarely coincide, it is necessary to extend the theory to 'external actors'. By developing the notion of transnational consociation, the previous chapters takes this concern seriously by investigating the roles of 'external' reference states in developing consociational democracy in the 'conflict zone'.

While the thesis has primarily been empirical, there is a clear normative implication. If the reference states can pursue a constructive role in the disputed territory, then they should be included into the post-settlement institutions. In other words, there is a potential to build a settlement 'outside in'. Though there are practical reasons for cross-border cooperation in the NSMC, Strand 2 is also important for nationalists since it adds an explicit connection to Dublin. For unionists, the existence of an Assembly subordinate to the Parliament means that the link to London remains. However, there should be a more 'triangular' approach with policymakers from London, Dublin and Belfast addressing issues of common concern.

The intergovernmental London-Dublin axis has pushed the political process forward by setting penalties for non-compliance by the local parties. This has prevented the less moderate wings of the two communities, which now control a majority of seats in the virtual Assembly in their respective blocs, from simply walking away from the

process. This is absent in the case of Zagreb and Belgrade. Although there is some bipartisanship regarding a more moderate approach from Zagreb, policymakers in both capitals still take a less conciliatory position regarding the handover of war crimes suspects and the completion of refugee return. Thus, they are unable to encourage their co-nationals to work within the post-Dayton power-sharing structures. This, in turn, places centrifugal pressures from Serbs still dreaming of a 'Greater Serbia' and Croats trying to establish a 'third entity'. Only a stronger coordinated Zagreb-Belgrade axis regarding the handover of suspects to the ICTY and the completion of sustainable refugee return will build a durable settlement in Bosnia-Hercegovina.

Is the influence of reference states more important than any other 'external agents?

The importance of reference states hinges on their durable commitment to co-nationals in the conflict zone, which cannot always be promised by other international actors. As seen in Chapter 7, the crucial decision by the US to stop further funding in Bosnia-Hercegovina was not based on a calculation about the consequences on-the-ground, but the political implications back in Congress. Similarly, when the UK recognised the independence of Croatia and Slovenia at the urging of Germany, it was not because of considerations about the effect in the dissolving Yugoslavia, but rather as a political favour in return for assurances about EMU from Berlin.

Contrasting with other states, both Croatia and Serbia have a long-term responsibility as the 'metropoles' for their respective 'nations' in the 'Dayton Triangle'. Any attempt to disengage from their co-nationals in Bosnia-Hercegovina would lead to instability in the reference states themselves and any heightened conflict inside BiH may result in a repeat of the devastating demographic changes in all three states. Although the two reference states operate more transparently regarding funding for their co-nationals in Bosnia-Hercegovina, this 'pulling back' is not equivalent to 'pulling out'. Both Zagreb and Belgrade see themselves and are seen as guardians for all Croats and Serbs, respectively. Unlike the various donor states and international organisations, the destinies within the 'Dayton Triangle' are tied to stability within the region in the drive for Europe, not overall global budgetary considerations (such as for NATO) or unrelated policy concerns of other donor states.

The importance of the 'intergovernmental unity of purpose' driving the political process in Northern Ireland is quite evident. Despite international attention on the conflict for decades, it was only when the two governments began to coordinate policy regarding Northern Ireland that power-sharing was possible. The US did have an important mediation role, but as shown above, the final choreography leading to the Belfast Agreement came from the two governments, which encouraged their co-nationals to accept the power-sharing settlement.

Further Research

The previous chapters represent an initial investigation that can be extended in various manners.

Cyprus

The case of Cyprus closely mirrors the geometry of the two cases studied in this thesis. There are two reference states that have 'co-nationals' in a disputed territory, the island of Cyprus. There has been a longstanding antagonism between Greece and Turkey. In 1974, the Turkish Army invaded the island and effectively partitioned the island by creating the 'Turkish Republic of Northern Cyprus' (TRNC) and expelled ethnic Greeks on the 'wrong' side of the line of control. The Turkish-held part of the island remains unrecognised by the international community. However, there is a UN peacekeeping mission deployed along a 'Green Line' to keep the two parts of the island separate and significantly reduce the level of conflict. In Greece, the co-nationals in Cyprus are ideologically significant. The two ruling parties are the Conservatives and the Socialists, representing a right-left cleavage. As with governments in the UK, the right-leaning Conservatives portray a stronger connection with the Greek Cypriots. Because of the ideological importance of Cyprus, there is a bidirectional relationship, not just a patron-client link between Athens and Greek Cypriots. Thus, it would be ideologically difficult for Athens to disengage from Cyprus, since Greek Cypriots demand the continuation of the link to Athens. Nonetheless, there is an unspoken rule in election battles between the Conservatives

and Socialists that certain 'national issues' including Cyprus are off limits for the campaign and debates. Thus, there is a limited bipartisanship between the two main parties. Rauf Denktash, the leader of TRNC, is well respected in Turkey, so it is politically costly for any government in Ankara to 'abandon' the Turkish-controlled part of Cyprus. There is little bipartisanship between the pro-EU CHP and the former 'Islamic' AKR (which won the election in 1999) in Turkey. The latter party's power is tied to the military, so it is constrained from making moderating moves regarding Cyprus. However, for both of the large parties in Ankara, conciliatory policy towards Cyprus is difficult. Although there is some opportunity for détente between Ankara and Athens through joint membership in NATO and EU accession talks with Turkey, strong differences remain. The Annan Plan to re-unify Cyprus was not built 'outside in', but represented a compromise solution between the communities on the island. However, it did not have the support of Athens, where there was a campaign to reject the plan. There were some disagreements from Ankara as well, since Turkey was fully consulted about the plan. However, the plan was accepted in TRNC, but rejected on the rest of the island, which is predominantly Greek. There were two fundamental flaws with the Annan Plan. The first is that the dominant strategy for Greek Cypriots was to vote against the plan. With or without acceptance, 'their' part of the island was joining the EU, so now they do not need to share power with Turks. Secondly, there was no strong move from the UN to create the plan 'outside in' and utilise the reference state links. It is the latter policy from supranational institutions that may finally create a longer-term settlement for Cyprus based on transnational consociation.

Vojvodina

There is also a similar conflict geometry for Vojvodina in Serbia & Montenegro. The territory is one of the lands that were lost after World War I from Hungary due to the break-up of the Austro-Hungarian Empire, leaving many ethnic Hungarians on the 'wrong' side of the border. The area enjoyed special autonomous status in both the 1946 and 1974 Yugoslav constitutions, though this autonomy was revoked in 1989 at the start of the Milošević regime. The conflict in Vojvodina has been described by NATO as a potential 'flashpoint' for a ground war between Serbia and Hungary, especially after the military action by Belgrade in Kosovo. The status of the 'lost' brethren play an important part in Hungarian politics, including the debate in the

parliament about the extension of dual citizenship to ethnic Hungarians living abroad. Although the issues of the 'external' Hungarian minorities remain an important symbolic issue, elections are won and lost on domestic socio-economic issues, especially after accession into the European Union. Hungary had to moderate its policies toward its external minorities in order to join NATO. Still, the conservative opposition in Budapest used the recent referendum on extending dual citizenship to ethnic Hungarians outside Hungary as a platform for nationalist issues. The plan was supported by a majority of those who voted, but failed to achieve the threshold turnout to be valid.[56] In line with the norms established by the Venice Commission, Budapest and Belgrade signed a bilateral agreement in October 2003 regarding cross-border links between Budapest and their co-nationals in Serbia (predominantly in Vojvodina).[57] However, there are difficulties with consistent cooperative bilateralism between the two governments. There was anti-Hungarian violence in Vojvodina in 2004, increasing tensions between the two states, since Budapest was not content with the level of protection for the minorities in the region. Nonetheless, because the conflict never escalated as in Bosnia-Hercegovina or Kosovo, there is no international presence in Vojvodina. Moreover, the process of Euro-Atlantic integration might induce further cooperation between the reference states.

Kashmir

The case of Kashmir would be an interesting study, since none of the factors for transnational consociation are present. Bose presents a framework modelled on the Belfast Agreement by using the various axes discussed above, paralleling the interplay between London, Dublin and Belfast and finding the corresponding geopolitical foci of New Delhi, and the two capitals of their respective areas of control in Kashmir.[58] There have been some encouraging signs of negotiation between the two reference states and thawing of the relationship in other areas, such as the Indian cricket team travelling to Pakistan on tour. The region has been a flashpoint since the partition and independence of the Subcontinent in 1947. With the

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[56] 'Low turnout scuppers Hungary vote', BBC News (online). URL:
http://news.bbc.co.uk/1/hi/world/europe/4069625.stm.
[57] English translation from Government Office for Hungarians Abroad (Hungary) site:
http://www.htmh.hu/en/?menuid=06&country_id=Serbia+and+Montenegro&id=213.
[58] S. Bose, *Kashmir : roots of conflict, paths to peace*, Cambridge, MA: Harvard Univ. Press (2003).

development of a nuclear arsenal by both states, international observers fear a devastating conflict between India and Pakistan. Although there are strong pro-Pakistan and pro-Indian elements in the region, there is also a sizable population that prefers an independent Kashmir (i.e. neither 'Indian' or 'Pakistani'), since both rule from Islamabad or New Delhi would be equally exploitative.[59] Not surprisingly, neither sovereign government favours the 'third option'. Any eventual ceasefire/settlement would have to balance all three predominant perspectives. However, any agreement will also have to include a complex, transnational component to include New Delhi and Islamabad. Otherwise, the two governments and their supporters in Kashmir will push to undermine governance in the region. Creating accountable, cross-border structures based on bilateral cooperation will consolidate any settlement in Kashmir. However, recalling the criteria for transnational consociation, there is no bipartisanship in Pakistan, since the current President heads the government on the basis of military force, and may not be able to influence the actions of certain co-nationals who are in paramilitary organisations operating in Kashmir. Moreover, a change in government, as a result of a coup d'etat, will lead to a high degree of uncertainty. If a more 'extremist' government wrests power, any agreement between Musharraf and the Indian Government may be null and void. Thus, none of the features of transnational consocation are present for a durable power-sharing settlement enforced by New Delhi and Islamabad to develop.

In addition to examining other cases of conflict regulation in which reference states are present using the current version of transnational consociation theory, it is also possible to improve the theory itself.[60]

Improving the Theory

The initial conditions for transnational consociation were selected such that the dominant strategy for each reference state was to seek a cooperative policy with the other reference state, while maintaining differing constitutional positions. The last

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[59] S. Bose, *The challenge in Kashmir : democracy, self-determination, and a just peace*, Thousand Oaks, CA: Sage Publications (1997).

[60] In addition to the cases mentioned above, there are other potential cases: Nagorno-Karabakh, South Ossetia, Abkhazia, Transdniestria. Also, going one level deeper with one of the current cases, FBiH can be investigated with Sarajevo and Zagreb as the 'metropoles'.

step in the theory demanded that there was policy continuity between the more and less conciliatory governments in each reference state for stable intergovernmentalism. As the theory stands, it is bipartisanship that starts a chain reaction leading to durable settlement in cases in which there are significant reference state/co-national links. However, the present model, though parsimonious, is quite rigid.

There is variation in the level of policy continuity in the case studies, yet 'bipartisanship' is a binary variable in the theory derived in Chapter 3. In both of the reference states for Northern Ireland, there has been a high degree of bipartisanship over the last thirty years. Croatia represents an intermediate case in which there have been some changes between the two HDZ regimes, but the party still relies on its nationalist credentials in Croatian elections. In Serbia, since there is little policy continuity, a sizable amount of the electorate and the largest party in parliament still dream of a 'Greater Serbia', while a loose coalition of parties seeks a gradual 'tilt westward'. A follow-up inquiry to the present thesis is whether it is possible to correlate the different levels of bipartisanship with different factors present in a reference state. Such a study could be executed by using the definition of reference states, identifying reference states throughout the world (larger N), and create an appropriate statistical model to test the significance of various factors. The addition of this statistical model will extend the current model to a predictive one. That is, transnational consociation as it is described in Chapter 3 posits an explanation for the interconnections between the factors, but it does not predict when transnational consociation will be triggered. An explanatory model for bipartisanship in reference states may shed light on this.

The second area to extend transnational consociation theory is by making different assumptions than the ones used to reduce the variables. In Chapter 5, extensive cross-border links between reference states and the co-nationals were confirmed in the two case studies. If the assumption of durable reference state/co-national links is relaxed, or it is not assumed that these links exist, it would be instructive to examine contexts where the reference state connection is not as strong as in either of the case studies in this thesis. For example, there are few verifiable and durable reference state links between Tirana and Kosovor Albanians. Similarly, although Moldovans assert a difference between their post-Soviet country using a language with Cyrillic script,

there are political parties that espouse a connection with Romania. However, these reference state links are largely unheeded by Bucharest. If cases with and without significant reference state/co-national links are considered, it may be possible to conduct a more probabilistic statistical investigation of transnational consociation.

The final improvement of the model is formalisation of the existing framework. The theory as it is currently explained relies on a static solution concept. In other words, if the payoffs from the various strategies result in the dominant strategy of cooperation, then that condition will hold for the duration of the game. Moreover, the most elementary version of the theory assumes that the government in each reference state makes a perfect appraisal of the payoffs from playing various strategies, and never makes 'mistakes'. These changes in the assumptions require a formal game theoretical model. Thus, starting from the current simple model, it may be possible to create a more rigorous formal model about reference state action in conflicts. The second improvement is that the theory can be derived using an evolutionary game, which can account for time-varying changes in payoffs for pursuing different strategies.

Final Remarks

Starting from a simple informal model of 'ethno-territorial cross-border conflict', the thesis develops a parsimonious yet instructive theory of transnational consociation. The development of the framework and examination of post-settlement power-sharing in Northern Ireland and in Bosnia-Hercegovina represents a significant exercise in theory-building. Much of the conflict regulation literature constructs a theory through the examination of a particular case study. By contrast, transnational consociation was *derived* using a general statement of the conflict geometry and then illustrated using case studies. The research demonstrated that reference states need not be 'interlopers' in a disputed territory, but can potentially represent reliable guarantors of a long-lasting durable post-conflict settlement.

Appendix I

Appendix I.A

Initial assumptions:

i.   The option of escalating the conflict is costly, either through direct hostilities with the other reference state or an attack on the conflict zone, or through indirect escalation by arming co-nationals.

ii. Disengaging from the conflict is even more costly, since it would have negative effects for both the reference state and the co-nationals.

iii. The matrix of payoffs is approximately symmetrical for the two reference states

iv. The payoff for the reference state is higher if the co-national has more political power in the disputed territory.

Although there are numerous strategies that be pursued by a reference state, the potential actions will be simplified to four possibilities:

- The reference states can invade or arm the co-nationals in the disputed territory, thus escalating the level of conflict (ESC).
- The reference states can reach a cooperative settlement (COOP).
- The reference states can do nothing, and stay at the status quo level of conflict (SQ).
- Finally, the reference states can quit the disputed territory (GO).

The relative payoffs for reference state α are described as Pij, where i denotes the action of reference state α, and j the action of reference state β. The four actions will be indicated as:

ESC = 1
COOP = 2
SQ = 3
GO = 4

For example, the benefit for reference state α when it escalates the conflict (ESC) and the other state stays at the status quo (SQ) is P_{13}. The matrix for the payoffs for the situation can be represented in the table below. The entries in the cells are left in the most general form, since the constraints will follow in the rest of this appendix. The choices for reference state α are in the first column, and the choices for β are in the first row.

	Esc	Coop	SQ	Go
Esc	P11, Q11	P12, Q12	P13, Q13	P14, Q14
Coop	P21, Q21	P22, Q22	P23, Q23	P24, Q24
SQ	P31, Q31	P32, Q32	P33, Q33	P34, Q34
Go	P41, Q41	P42, Q42	P43, Q43	P44, Q44

The analysis assumes that both reference states play simultaneously. Since the payoffs are approximately symmetric, the following investigation will only be done for reference state α, and the strategies would also hold for reference state β.

If both sides pursue SQ, then neither side will be better or worse off at the beginning of the game, so α receives P33.

If both sides decide ESC, the result will be a high cost exacerbation of the conflict. The payoff will thus be lower than the status quo:

P33 > P11

If both sides come to a compromise settlement, then they will both be better off than the status quo dispute, and it follows that they will also be better off than escalation.

$$P22 > P33 > P11$$

Finally, if both sides leave (GO), then, according to the payoff criteria above, the reference states will be worse off than any other scenario along the diagonal of the payoff matrix (i.e. the two reference states make the same move). The game is set up this way to underline the difficulty of unilateral departure from the disputed territory. The territory may have a vital strategic and symbolic function for the reference state. However, even when the legitimacy of the state does not rest on the retention or contestation of the disputed area, it is difficult to leave. The co-national inhabitants may not wish for the reference state to leave, either fearing the vulnerable position with respect to the other groups in the area or the other reference state. In the postcolonial international context, reference states cannot simply 'divide and quit.' Thus, the relative payoffs along the diagonal are:

$$P22 > P33 > P11 > P44$$

The investigation now turns to the cells of the payoff matrix that are not on the diagonal (i.e. when the two reference states make different moves). To apply Tsebelis's terminology, if one reference state escalates the dispute (ESC), and the other does not, the latter is a 'sucker'. Moreover, the second reference state is more of a 'sucker' if it cooperates (COOP) rather than staying at the status quo (SQ), and less a 'sucker' if it stays at the status quo (SQ) than if it leaves (GO). This order of payoffs within COOP, SQ and GO is the same for the other scenarios not on the diagonal. The relative payoffs if reference state α pursues escalation (ESC) will be:

$$P14 > P12 > P13 > P11$$

On the other hand, if reference state β escalates the dispute (ESC), then reference state α will have the relative payoffs:

$$P11 > P31 > P21 > P41$$

If reference state α decides to cooperate, then its payoff is highest when the other reference state unilaterally leaves the disputed area. The payoffs are more for mutual cooperation (P22) than the other state remaining at the status quo (SQ). The lowest yield results if the other state decides to escalate (ESC). The relative payoffs are:

P24 > P22 > P23 > P21

If reference state β decides to cooperate, the relative payoffs for reference state A are:

P12 > P32 > P22 > P42

If reference state α does nothing (SQ), then the highest payoff is received if the other reference state leaves, and the next highest is if the other state decides to cooperate. The payoff is lower than both playing SQ if the other reference state escalates the dispute (ESC). Thus, the relative payoffs are:

P34 > P32 > P33 > P31

If reference state β remains at the status quo level of conflict (SQ), then the relative payoffs for state α are:

P13 > P33 > P23 > P43

Finally, if the reference state leaves, the relative payoffs are:

P44 > P42 > P43 > P41

If the other state disengages from the disputed territory (GO), then the relative payoffs are:

P14 > P34 > P24 > P44

Then, compiling all of the inequalities from above:

P22 > P33 > P11 > P44

P14 > P12 > P13 > P11

P11 > P31 > P21 > P41

P24 > P22 > P23 > P21

P12 > P32 > P22 > P42

P34 > P32 > P33 > P31

P13 > P33 > P23 > P43

P44 > P42 > P43 > P41

P14 > P34 > P24 > P44

One possible solution is:

P14 > P34 > P24 > P12 > P32 > P22 > P13 > P33 > P11 > P31 > P23 > P21 > P44 > P42 > P43 > P41

Appendix I.B

Before proceeding with further calculations, it is useful to introduce the concept of the discount factor. The notion originates from the literature on sequential bargaining, and refers to the time-value of money.[1] That is, the relative value of receiving a payoff now is higher than receiving the same payoff at a time interval t later. Reference states are impatient, so getting the payoff now will be more valuable than receiving the same payoff in the future. The concept is akin to a constant rate of inflation over set intervals of time, so that the value of receiving what is offered immediately decreases by a constant rate for each time period. Thus, the discount factor δ will fall between 0 and 1. The less impatient the reference state is, the closer the value will be to 1. Moreover, if the reference state receives a payoff P now, it will get δP after one time period t, and $\delta^2 P$ after two time periods, and so on. Thus, the total payoff for the infinite iterative game is:

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[1] R. Gibbons, *A Primer in Game Theory*, Hemel Hempstead: Harvester-Wheatsheaf (1992): 68-9n.

$\Sigma \delta^t P_t$ summed over the time period t, where t is an integer from zero to infinity

This discounting of the future is modelled by a simple constant reduction, but could be modelled in many other ways, such as assuming an exponential or other reduction in payoffs over subsequent time periods.

Using these concepts, it is possible to estimate the payoffs. Once the first state escalates the conflict from the status quo, the defecting state receives a short-term payoff, but then, when the other reference state also escalates, then the payoffs will be reduced from the status quo until the end of the game. Thus, the payoffs, starting at the status quo, for defecting and provoking the other state to fight are:

P33 + δP13 + δ^2P11 + … (escalation)

If, on the other hand, the reference state α stays at the status quo, then the payoffs will simply be:

P33 + δP33 + δ^2P33 +… (status quo)

Since the discount factor is between 0 and 1,the expressions above containing infinite series can be simplified:

P33 + δP33 + [(δ^2)(P33)/(1- δ)] (status quo)

P33 + δP13 + [(δ^2)(P11)/(1- δ)] (escalation)

The payoff from initial defection will be offset by the reduced payoff if the long-term payoff to stay at the status quo is greater than escalation:

P33 + δP33 + [(δ^2)(P33)/(1- δ)] > P33 + δP13 + [(δ^2)(P11)/(1- δ)]

It has been assumed that pursuing ESC increases the payoff if the other reference state remains at the status quo level of conflict, so P13 is greater than P33 (see Appendix I.A).

Simplifying the inequality above:

$(\delta/1-\delta)(P33 - P11) > (P13 - P33)$

The right-hand side of the equation represents the short-term gain from defecting. This is offset by the left-hand side. If the reference state strongly discounts the future and would much rather have a payoff in the present rather than in the future, the value of δ will be low. Thus, the left hand side will be smaller, and the inequality less likely to be true, which makes escalation more likely.

On the other hand, if the payoff from escalating the conflict (P13) increases, then, unsurprisingly, it is more likely that the reference state will escalate the conflict. If the benefit from staying at the status quo level (P33) is sufficiently high, then the reference state will not exacerbate the conflict. That is, if P33 is higher, then the right hand side decreases and the left-hand side increases, making it more likely that the inequality holds (i.e. no escalation). Finally, as the cost of war is lessened (or, in the notation above, P11 increases), it becomes more likely that the reference state will choose to escalate.

The impact of the change of the relative payoffs between staying at the status quo (P33) and escalating to mutual antagonism (P11) is weighted by the $(\delta/1-\delta)$ term, so that if δ is more than 0.5 (indifference), changes in (P33 – P11) are magnified, so that whether the conflict escalates or not is highly sensitive on changes for P33 and P11. This means that if the reference state does not discount the future as much, then small changes have a major impact on the likelihood of escalation. On the other hand, if δ is less than 0.5, then the term $(\delta/1-\delta)$ tends to zero, so that changes in (P33 – P11) do not drastically change the likelihood of either staying at the status quo or escalating the conflict.

If the above inequality holds, then the reference state, calculating the long-term payoffs of staying at the status quo versus escalation, will choose the former.

Appendix I.C

The strategy that needs to be in place for long-term cooperation is the *trigger strategy*, so called because the reference states play the same thing (SQ) until one of the states switches to another action (COOP). This action results in a switch for the other reference state from SQ to COOP, such that the outcome will be mutual cooperation at every stage for the infinite repeated game between the reference states.

Following Gibbons, it can be shown that if the discount factor δ is close enough to unity (i.e. the reference state does not discount the future much), then it is a Nash equilibrium for both reference states to follow the trigger strategy.[2]

Assume that both reference states start at the status quo level of conflict and that reference state β has adopted the trigger strategy. Thus, if reference state α moves from status quo (SQ) to cooperation (COOP), this triggers reference state β to also cooperate. Thus, reference state α receives the payoff P23 in the first time, which is less than the payoff at the status quo (P33). In the second time period onwards, reference state α receives P22. Then, the total payoff for triggering mutual cooperation is:

$$P23 + \delta P22 + \delta^2 P22 + \ldots$$

Since $0 < \delta < 1$, the infinite series reduces to:

$$P23 + (\delta/1 - \delta)*P22 \text{ [trigger]}$$

On the other hand, if reference state α decides to stay at the status quo in the first period, it will have the same choice in the next period, so that the infinite series for the payoffs can be expressed as:

$$P33 + \delta x \rightarrow x = P33/(1 - \delta) \text{ [status quo]}$$

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[2] Ibid.: 91.

Thus, triggering mutual cooperation is only optimal if doing so yields higher payoffs than not triggering cooperation at the first time period. This can be expressed as:

$$P23 + (\delta/1-\delta)P22 \geq P33/(1-\delta)$$

Solving for the discount factor, the above simplifies to:

$$\delta \geq 1 - [(P22 - P33)/(P22 - P23)]$$

This expresses the critical value of δ such that it is above a certain level of 'patience' for long-term payoffs that results in adopting a trigger strategy. If the above criterion for δ holds, then it is a Nash equilibrium for both players to seek mutual cooperation.

Both of the terms (P22 – P33) and (P22 – P23) are positive, and P23 > P33 (c.f. Appendix I.A). Thus, the quotient of the two falls between 0 and 1, such that the right-hand side will be between 0 and 1. If the payoff for staying at the status quo is higher, then the right-hand side of the inequality is higher, which means that a higher critical discount factor is required to trigger mutual cooperation. That is, reference state α will be more impatient about receiving payoffs. On the other hand, if the payoff for making a unilateral move for cooperation (P23) increases, then the difference between mutual and unilateral cooperation decreases. The critical discount factor is lower, such that the reference state is more willing to wait for long-term payoffs. Finally, if the payoff for mutual cooperation is higher, the critical value of δ for reference state α to pursue the trigger strategy decreases. In sum, if one of the reference state uses the trigger strategy from the status quo, and the discount factor is above the critical value, then the other reference state also pursues the trigger strategy.

The result is that if the above conditons hold, reference states will pursue long-term coordination with the other reference state instead of maintaining the current level of conflict. Moreover, if this is coupled with the conditions from Appendix I.B, there are conditions under which mutual cooperation is the preferred strategy for reference states.

Appendix I.D

There are four possible scenarios for the settlement offer to the conflict groups, depending on the group in government in the two reference states. To simplify the calculations, it is assumed that the two reference states have the same negotiating leverage, so the final offer will be the arithmetic mean of their ideal positions. If the settlements are considered along a one-dimensional axis, offers that are 'fair' will have a value of close to zero, offers that are biased towards the co-nationals of α will be represented as a negative number, while offers biased towards the co-nationals of β will be represented as a positive number. See diagram below:

```
  ◄──────────┼──────────────►
   A+    A-        0     B-        B+
```
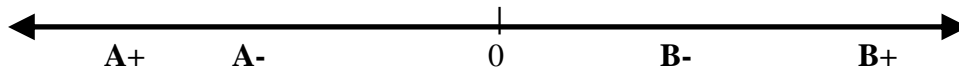
The ideal position of the conciliatory groups of the reference states are closer to zero than their less conciliatory counterparts.

As an instructive example, consider the four groups in the reference states. The notation from the introductory chapter will be used.[3] If the ideal policy positions (in some arbitrary units) are:

A+: -30
A-: -15
B+: 24
B-: 15

Then, the four possible settlements will have fall along the axis in Diagram I.D.1:

The reference state governments are both more conciliatory (A- and B-). The offer will be $(-15 + 15)/2 = \mathbf{0}$.

---

[3] **A+**: Less cooperative group in α; **A-**: More cooperative group in α; **B+**: Less cooperative group in β; **B-**: More cooperative group in β.

The reference state governments are both less conciliatory types (A+ and B+). The offer will be (-30 + 24)/2 = **-3**.

The government from α is more conciliatory and the government from β is less concilatory (A- and B+). The offer will be (-15 + 24)/2 = **+4.5**.

The government from β is more conciliatory and the government from α is less concilatory (A+ and B-). The offer will be (-30 + 15)/2 = **-7.5**.

Notice that the offers between one conciliatory and one antagonistic group in the reference state governments are more biased towards the co-nationals of the antagonistc government, compared to offers when both governments are the same type. Examining the offers when the governments are both the same type (+ or -), the comparison is dependent on the values of the numbers. In this example, when both sides are conciliatory, the final offer is biased towards the co-nationals of β. If the ideal position of A+ were –24 instead of –30, then the offer from A+ and B+ would be the same as that from A- and B-. The important thing to note is that from the standpoint from the conflict groups, the best offer results when their reference state has a less conciliatory government and other state has a more conciliatory one, the worst-case scenario is when their reference state has a conciliatory government and other state has an antagonistic governmnent, and the two other scenarios are somewhere in between.

The conflict groups, like their counterparts in the reference states, calculate the long-term benefits of pursuing a particular action. At each stage, the two reference states offer a settlement. Each of the conflict groups, a+, a-, b+ and b- consider the offer and can make one of two choices. If the conflict group decides to accept the offer, then it will receive a payoff (W). However, for accepting the offer, conflict groups will have to pay a political cost (L) for cooperating with the 'other side'. The conflict group can also refuse to take the offer from the reference states, obtaining a payoff (S). However, to push the conflict groups to settle, the reference states levy a penalty (T) on the non-compliant conflict group. The political cost (L) is higher for antagonistic conflict groups (+) compared to conciliatory groups (-). The payoff for non-compliance (S) is higher for antagonistic groups (+) than it is for conciliatory groups (-). Finally, as

indicated above, the payoff from accepting the offer depends on the group that is in government in the reference states. For the conflict groups, the payoffs will be indicated as W_{ij}, where i is the type of government in their own reference state, while j is the type of government in the other reference state. For example, if there is a conciliatory government (-) in 'their' reference state, and a less conciliatory one (+) in the other state, then the payoff from accepting the offer will be W_{+-}.

As in Appendix I.B, is is assumed that the conflict groups are impatient like groups in reference states. Thus, the discount factor will be included in the analysis.

The first thing to consider is the situation in which conflict groups compare non-compliance and accepting a settlement. The worst payoff that a conflict group can receive from accepting a settlement is when their reference state is conciliatory, and the other reference state is not, yielding W_{-+}.

The benefit from non-compliance in the long-term is:

$$(S - T) + (S-T)\delta + (S-T)\delta^2 + \ldots$$

The benefits from taking the worst-case settlement in the long-term is:

$$(W_{-+} - L) + (W_{-+} - L)\delta + (W_{-+} - L)\delta^2 + \ldots$$

If the relative benefit from accepting the settlement ($W_{-+} - L$) is higher than the gain from non-compliance ($S - T$), then the conflict groups will accept the settlement. The gain from non-compliance (S) is determined by the conflict groups and their followers, the political cost (L) is levied by the supporters of the conflict groups, and the payoff from the settlement (W) is set by the average of the policy positions. The only parameter for which the reference states have discretionary power is T, the penalty for non-compliance. In the simplest case, this means that reference states will set the penalty such that:

$$T > (S + L - W_{-+})$$

This result is quite intuitive. The left-hand side suggests that the penalty (T) must be set higher as the political cost for 'selling out' (L) is higher for the conflict groups. Moreover, the higher the benefit from non-compliance (S), the higher the critical value of the penalty (T) needs to be. Finally, the higher the gains from compliance with the reference states (W), the lower the penalty (T) needs to be for the conflict groups to prefer settlement. The settlement will be inclusive if the conditions above are fulfilled for both conciliatory (-) and antagonistic (+) conflict groups.

If the penalty (T) is high enough for all of the conflict groups, then they will choose an option that will involve eventual settlement. Before proceeding, it is instructive to introduce a modification to the derivation. It is assumed that the reference states can increase the penalty (T), and that this does not affect the level of the other parameters. However, if we introduce a correspondence between the penalty levied by the reference states (T) and the benefit of non-compliance (S), there is a critical penalty T_c above which there is an increasing function S(T) for non-compliance. In other words, once the penalty is high enough, the conflict group becomes marginalised, and it gains more credibility outside the institutions from its supporters. Thus, though reference states can levy penalties, setting them too high may exacerbate the situation. However, there are other ways to encourage acceptance of an accord.

If the conflict group accepts the 'worst-case' settlement immediately, it will benefit by:

$$(W_{-+} - L) + (W_{-+} - L)\delta + (W_{-+} - L)\delta^2 + \ldots$$

However, the conflict group may want to wait out for a better offer. The best-case scenario is that their reference state has an antagonistic (+) government in the next period, and the other reference state has a conciliatory government (-). The long-term payoffs for taking the 'worst-case' settlement is (as above):

$$(W_{-+} - L) + (W_{-+} - L)\delta + (W_{-+} - L)\delta^2 + \ldots$$

Since the discount factor is between 0 and 1, this reduces to:

$$(W_{-+} - L) + (W_{-+} - L)\delta/(1- \delta)$$

On the other hand, if the conflict group waits for the next period, it will pay a penalty for non-compliance, but will get the higher benefit in subsequent periods for agreeing with the better settlement:

$$(S -T) + (W_{+-} - L)\delta + (W_{+-} - L)\delta^2 + \ldots$$

Since the discount factor is between 0 and 1, this reduces to:

$$(S -T) + (W_{+-} - L)\delta/(1 - \delta)$$

The conflict groups will accept the settlement, even if it is the worst possible deal, if waiting for favourable set of reference state governments does not cancel out the penalty from non-compliance. In other words:

$$(W_{-+} - L) + (W_{-+} - L)\delta/(1- \delta) > (S -T) + (W_{+-} - L)\delta/(1 - \delta)$$

which is equivalent to

$$(W_{-+} - L) - (S -T) > (W_{+-} - W_{-+})\delta/(1 - \delta)$$

The left hand of the inequality is just the difference between taking the worst-case settlement and not complying. The benefits from non-compliance (S) and the penalty from 'selling out' (L) cannot be set by the reference states. For the reasons outlined above, increasing the reference state penalty (T) may marginalise the conflict groups. The only parameters that remain are the payoffs associated with the settlements (W). Looking at the right side of the inequality, the term $(W_{+-} - W_{-+})$ simply represents the difference between the best and worst settlements. Thus, if this approaches 0, then it is more likely that the inequality will hold. Since the settlement is related to the policy positions, this means that the ideal policy positions of the groups are similar, irrespective of whether there is an antagonistic (+) or conciliatory (-) reference state

government. For the right-hand side to approach zero, there needs to be harmonisation of policy towards the conflict zone in *both* reference states. Thus, given that the worst-case settlement is more beneficial than non-compliance, there are conditions under which waiting for a better deal is not preferable to taking an inferior settlement. If the best possible scenario still results in lower gains than the 'worst-case' settlement, then any other combination of reference state governments (i.e. both states have antagonistic or both states have conciliatory groups) will also be less preferable than taking the inferior settlement in the first period. In particular, if the policies regarding the disputed area are harmonised in both reference states, then it is more likely that the conflict groups will settle. Thus, *bipartisanship within reference states* is important in reaching an accord.

Appendix I.E

The reference states are assumed to be risk-averse. Mathematically, the utility function for the reference states regarding the payoffs from settlement is concave. The marginal gain in the payoff from extra political authority is not worth the risk of possibly losing the same amount of marginal political authority. There are two general types of settlements that the reference states can jointly offer the conflict groups a majoritarian settlement. That is, there is a political system in which the largest group receives the most political offices in elections. There is a probability P_{WIN} that the reference states 'own' co-nationals will be victorious (WIN) in a majoritarian system, and a probability $(1-P_{WIN})$ that the same co-nationals will be defeated in a majoritarian system. Then the expected utility in the majoritarian system is:

$$P_{WIN}*U(WIN) + (1-P_{WIN})*U(LOSE)$$

Majoritarian systems are assumed to be designed such that the payoff from winning is much higher than from losing. If there is an overwhelming numerical majority of one of the conflict groups, then the probability for victory is quite high. Thus, it is not in the interest of the reference state of the group with a numerical minority to advocate a majoritarian system. However, if the numerical difference between the two conflict groups is low, and the groups are intermixed (as assumed at the beginning of the

discussion), then there are motives for the reference state with a numerical majority to also move away from a majoritarian solution. First, other groups in the disputed area may join the minority group to out-poll the majority group. Second, though one group has an overall majority, it may be a minority at the sub-national level, so that the majority group might be dominated in certain local districts. The result would be local ethnonational fiefdoms, where one group would hold most of the power, and the other group(s) could be marginalised.

The reference states have differing best outcomes. Each state would receive a higher payoff if the conflict area were more integrated into their state. However, if the two states are coordinating, then neither side will win in this zero-sum situation. The reference state will try to ensure that the other state does not win either. One way to achieve this is to offer the conflict groups a non-majoritarian system in which the payoffs between winning and losing are small. Thus, the expected utility can be expressed as above. However, if the possible outcome of parity (PAR) is introduced, where both groups receive the same payoff, then the expression can be written as:

$$P_{WIN}*[U(PAR) + W] + (1-P_{WIN})*[U(PAR) – L]$$

Where W and L are both positive and close to zero, and represent the divergence from parity for winning and losing in the political system, respectively. The payoffs do not change much whether the conflict groups win or lose in the political system. The coordinated reference states will offer a settlement to the conflict groups such that irrespective of the election results, the payoff is approximately unchanged. Suppose the payoff from winning in a majoritarian system is significantly higher than in a non-majoritarian system. Furthermore, assume that the payoff from losing in a majoritarian system is much lower than parity. Then:

$$U(WIN) > [U(PAR) + W] > [U(PAR) – L] > U(LOSE)$$

Graphically, since the reference state is risk-averse, its utility function plotting the outcomes (X) against the utility (U) is concave. The point at which the line connecting U(WIN) and U(LOSE) crosses X_{PAR} at a point lower than U(PAR). Thus, at $X = X_{PAR}$:

$P_{WIN}* U(WIN) + (1-P_{WIN})* U(LOSE) < U(PAR)$

The above is simply the condition for strict risk aversion. Since the payoff from either winning or losing in a non-majoritarian system are quite close to the utility received at parity, so it is assumed that:

$P_{WIN}* U(WIN) + (1-P_{WIN})* U(LOSE) < U(PAR) + W$

$P_{WIN}* U(WIN) + (1-P_{WIN})* U(LOSE) < U(PAR) - L$

In the above situation, the reference states will prefer a political system that is near parity, and opt for a non-majoritarian system in which, even if the co-nationals of the other reference state win, there will be a little change in the payoff.

Bibliography

Official Documents Related to Bosnia-Hercegovina Case Study

Constitution of the Republic of Serbia. 1990.

Constitution of the Republic of Croatia. 22nd Dec. 1990.

Constitution of the Federal Republic of Yugoslavia. April 1992.

Washington Agreement: Confederation Agreement Between the Bosnian Government and Bosnian Croats. 1st Mar. 1994. Online copy: http://www.usip.org/library/pa/bosnia/washagree_03011994.html. Last accessed 28th Dec. 2004.

The General Framework Agreement for Peace in Bosnia and Herzegovina ("Dayton-Paris Agreement"): Annex IV. 14th Dec. 1995. Online copy: http://www.ohr.int/dpa/default.asp?content_id=372. Last accessed 28th Dec. 2004.

Constitution of Republika Srpska. 1994
Online copy: http://www.ohr.int/ohr-dept/legal/oth-legist/doc/rs-constitution.doc. Last accessed 28th Dec. 2004.

Constitution of the Federation of Bosnia. 24th Jun. 1994. Online copy: http://www.ohr.int/ohr-dept/legal/oth-legist/doc/fbih-constitution.doc. Last accessed 28th Dec. 2004.

Agreement on Special Parallel Relations between the Federal Republic of Yugoslavia and Republika Srpska. 28th Feb. 1997. English translation online: http://www.barnsdle.demon.co.uk/bosnia/yusrp.html. Last accessed 29th Dec. 2004.

Peace Implementation Council (PIC) – Bonn. Bosnia and Herzegovina 1998: Self-sustaining Structures. 10th Dec. 1997. Online copy: http://www.ohr.int/print/?content_id=5182. Last accessed 29th Dec. 2004.

Office of the High Representative (OHR). Decision imposing the Law on State Border Service. 13th Jan. 2000. URL: http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=358. Last accessed 30th Dec. 2004.

Constitutional Court (Bosnia-Hercegovina). Constituent Peoples' Decision of the BiH Constitutional Court. 14th Sep. 2000. Online copy: http://www.ohr.int/ohr-dept/legal/const/default.asp?content_id=5853. Last accessed 28th Dec. 2004.

Ratification of Agreement on the Establishment of Special Parallel Relations between the Federal Republic of Yugoslavia and Republika Srpska. 5th Mar. 2001. Online copy (in English): http://dev.eurac.edu:8085/mugs2/do/blob.doc?type=doc&serial=1017236424771. Last accessed 29th Dec. 2004.

Election law of Bosnia and Herzegovina. 19th Sep. 2001. Online copy:
http://www.oscebih.org/documents/25-eng.pdf. Last accessed 28th Dec. 2004.

OSCE. Agreement on the Implementation of the Constituent Peoples' Decision of the
Constitutional Court of BiH. 28th Mar. 2002. URL:
http://www.oscebih.org/documents/54-eng.pdf. Last accessed 28th Dec. 2004.

The Constitutional Charter of the State Union of Serbia and Montenegro. 4th Feb.
2003.

Office of the High representative (OHR). Decision Enacting the Statute of the City of
Mostar. 28th Jan. 2004. URL: http://www.ohr.int/decisions/mo-
hncantdec/default.asp?content_id=31707. Last accessed 28th Dec. 2004.

Office of the High Representative (OHR). Decision Enacting Amendments to the
Constitution of the Herzegovina-Neretva Canton. 28th Jan. 2004. URL:
http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31699. Last
accessed 28th Dec. 2004.

Office of the High Representative (OHR). Decision enacting the Law on amendments
to the Election Law of Bosnia and Herzegovina. 28th Jan. 2004. URL:
http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=31703. Last
accessed 28th Dec. 2004.

European Commission. Croatia: Opinion on the application of Croatia for
membership of the European Union. 20th Apr. 2004. URL: Croatia: Opinion on the
application of Croatia for membership of the European Union. URL:
http://europa.eu.int/comm/external_relations/see/sap/rep3/cr_croat.pdf. Last accessed
29th Dec. 2004.

Office of the High Representative (OHR). Decision removing Dr. Dragan Kalinic
from his positions as Chairman of the National Assembly of Republika Srpska and as
President of the SDS. 30th Jun. 2004. URL: http://www.ohr.int/decisions/war-crimes-
decs/default.asp?content_id=32750. Last accessed 30th Dec. 2004.

Official Documents Related to Northern Ireland Case Study

Government of Ireland Act. 1920.

Bunreacht na hEireann ("Constitution of Ireland"). 1st Jul. 1937. Online copy:
http://www.taoiseach.gov.ie/upload/static/256.pdf. Last accessed 29th Dec. 2004.

Northern Ireland Office. The future of Northern Ireland : a paper for discussion. 1972.
London: HMSO.

Northern Ireland Office. Northern Ireland Constitutional Proposals. 1973. London:
HMSO.

BIBLIOGRAPHY

Northern Ireland Constitution Act. 1973.

Northern Ireland Constitutional Convention Report. 20th Nov.1975.

Northern Ireland Office. A Framework for Devolution, Cmnd. 8541. April 1982. London: HMSO.

New Ireland Forum Report. 2nd May 1984. Online copy: http://cain.ulst.ac.uk/issues/politics/nifr.htm. Last accessed 7th Mar. 2006.

Anglo-Irish Agreement. 15th Nov. 1985. Online copy: http://www.ecmi.de/cps/documents_ireland_anglo.html. Last accessed 29th Dec. 2004.

Joint Declaration of December 1993 ("Downing Street Declaration"). 15th Dec. 1993. Online copy: http://foreignaffairs.gov.ie/angloirish/jointdeclaration/. Last accessed 30th Dec. 2004.

A New Framework for Agreement ("The Framework Documents"). 22nd Feb. 1995. Online copy: http://www.ecmi.de/cps/documents_ireland_frame.html. Last accessed 28th Dec. 2004.

Agreement Reached in the Multi-Party Negotiations ("Belfast Agreement"). 10th Apr. 1998. Online copy: http://www.nio.gov.uk/agreement.pdf. Last accessed 28th Dec. 2004.

Northern Ireland Act 1998. 1998 chapter 47. Online copy: http://www.legislation.hmso.gov.uk/acts/acts1998/19980047.htm. Last accessed 28th Dec. 2004.

Joint Communiqué British-Irish Intergovernmental Conference. 22nd Dec. 2002.

Joint Declaration of the British and Irish Governments. April 2003. Online copy: http://www.taoiseach.gov.ie/upload/monitori.pdf. Last accessed 4th Sep. 2005.

Joint Communiqué British-Irish Intergovernmental Conference. 2nd Jul. 2003. URL: http://foreignaffairs.gov.ie/information/display.asp?ID=1232. Last accessed 30th Dec. 2004.

Joint Communiqué British-Irish Intergovernmental Conference. 18th Sep. 2003. URL: http://foreignaffairs.gov.ie/Press_Releases/20030918/1272.htm. Last accessed 30th Dec. 2004.

Joint Communiqué British-Irish Intergovernmental Conference. 22nd Jan. 2004. URL: http://foreignaffairs.gov.ie/information/display.asp?ID=1421. Last accessed 30th Dec. 2004.

Joint Communiqué British-Irish Intergovernmental Conference. 21st Apr. 2004. URL: http://foreignaffairs.gov.ie/information/display.asp?ID=1489. Last accessed 30th Dec. 2004.

Joint Communiqué British-Irish Intergovernmental Conference. 7th Jul 2004. URL: http://foreignaffairs.gov.ie/information/display.asp?ID=1538. Last accessed 30th Dec. 2004.

Proposals by the British and Irish Governments for a Comprehensive Agreement. 8th Dec. 2004. Online copy: http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/08_12_04_british_irish_proposals.pdf. Last accessed 30th Dec. 2004.

Other Official Documents

Act LXII of 2001 on Hungarians Living in Neighbouring Countries. 19th Jun. 2001. Online copy: http://www.hhrf.org/htmh/law.htm. Last accessed 31st Dec. 2004.

Act LXII of 2001 on Hungarians Living in Neighbouring Countries [revised]. Passed by the Hungarian Parliament on 23rd Jun. 2003. Online copy: http://www.hhrf.org/htmh/lawnew.htm. Last accessed 31st Dec. 2004.

Agreement between the Republic of Hungary and Serbia and Montenegro, on the protection of Rights of the Hungarian Minority living in Serbia and Montenegro, and the Serbian Minority living in the Republic of Hungary. 21st Oct. 2003. Online copy: http://www.htmh.hu/en/?menuid=06&country_id=Serbia+and+Montenegro&id=213. Last accessed 4th Sep. 2005.

Interviews for Northern Ireland Case Study

Confidential Source. Parliament Buildings, Belfast. 5th Dec. 2002.

Senior Official (NIO). Telephone interview. 29th Sep. 2004.

Senior Source in the Irish Government. Telephone interview. 18th Oct. 2004

Senior Official (OFMDFM). Stormont Castle, Belfast. 3rd Dec. 2002.

Birnie, Esmond. MLA (UUP). Parliament Buildings, Belfast. 28th Nov. 2002.

Bullick, Richard. Office of Peter Robinson (DUP). 91 Dundela Ave, Belfast. 10th Dec. 2002.

Duffy, Bernie and McLelland, Alan. Researchers in the Equality Unit (OFMDFM). Castle Buildings, Belfast. 12th Dec. 2002.

Durkan, Mark. Deputy First Minister (SDLP). Parliament Buildings, Belfast. 5th Dec. 2002.

Ervine, David. MLA (PUP). Constituency Office, Newtonards Road, Belfast. 13th Dec. 2002.

Farren, Sean. Minister of Finance (SDLP). Parliament Buildings, Belfast. 18th Dec. 2002.

Farry, Stephen. Secretary General (APNI). APNI Office, Belfast. 22nd Nov. 2002.

Finlay, Fergus. Chef de Cabinet (Labour, Ireland). Telephone interview. September 2004.

Garland, Roy. Irish News Columnist. Sandy Row, Belfast. 10th Dec. 2002.

Gowdy, Clive. Permanent Secretary of the Department of Health, Social Services and Public Safety. Stormont Buildings. 12th Dec. 2002.

Gudgin, Graham. Director, NIERC. 22 Mt. Charles, Belfast. 4th Dec. 2002.

Haughey, Denis. Junior Deputy First Minister (SDLP). Parliament Buildings, Belfast. 9th Dec. 2002.

Kane, Alex. Journalist, Advisor (UUP). Parliament Buildings, Belfast. 28th Nov. 2002.

King, Steven. Special Advisor to David Trimble (UUP). Parliament Buildings, Belfast. 11th Dec. 2002.

Leslie, James. Junior First Minister (UUP). Parliament Buildings, Belfast. 9th Dec. 2002.

Lidington, David. Spokesperson for Northern Ireland (Conservative). Telephone interview. 12th Oct. 2004.

Logue, Hugh. OFMDFM (Seconded from European Commission). Stormont Castle, Belfast. 2nd Dec. 2002.

Lynam, Stephen. Fine Gael Political Advisor. Written answers. 13th Sep. 2004.

McCartney, Robert. MLA (UKUP). Parliament Buildings, Belfast. 12th Dec. 2002.

McCourt, Steven and Rogers, Alan. Business Committee, NI Assembly. Parliament Buildings, Belfast. 28th Nov. 2002.

Molloy, Francie. MLA (Sinn Féin). Parliament Buildings, Belfast. 11th Dec. 2002.

O'Hagan, Dara. MLA (Sinn Féin). Parliament Buildings, Belfast. 11th Dec. 2002.

Öpik, Lembit. Spokesperson for NI (Liberal Democrats). Telephone interview. 7th Sep. 2004.

Reynolds, Joe. Deputy Clerk to the Assembly. Parliament Buildings, Belfast. 2nd Dec. 2002.

Stevenson, William. NIO Official. Millbank, London. 7th Mar. 2003.

Weir, Peter. MLA (DUP). Parliament Buildings, Belfast. 10th Dec. 2002

Wilson, Robin. Director of Democratic Dialogue (DD). DD Office, Belfast. 3rd Dec. 2002.

Interviews for Bosnia-Hercegovina Case Study

Embassy Official (Sarajevo). Embassy of the US, Sarajevo. 31st Jul. 2003.

Member of Staff, OSCE Democratisation (Mostar). OSCE Office, Mostar. 27th Aug. 2003.

Banac, Ivo. Leader, Liberalna Stranka (LS). LS Office, Zagreb. 10th Jun 2004.

Barišić, Andrijana. Advisor for Youth Affairs, Office of the President, Bosnia-Hercegovina (Croat). Titova 16, Sarajevo. 29th Jul. 2003.

Bean, Keith. Political Advisor to Regional Centre Director, OSCE (Banja Luka). OSCE Office, Banja Luka. 9th Sep. 2003.

Berthoud, Julien. Head of Political Section, OHR (Mostar). OHR Office, Mostar. 27th Aug. 2003.

Biserkos, Sonja. President, Helsinki Committee for Human Rights in Serbia. Helsinki Committee Office, Belgrade. 16th Sep. 2003.

Čisić, Nedim. Altertavni Institut. Alternativni Institut, Mostar. 28th Aug. 2003.

Ćorić, Kristina. Mostar Intercultural Festival Organizing Committee (MIFOC). Alternativni Institut, Mostar. 29th Aug. 2003.

Crnogorčević, Dušan. Assistant Federal Minister, Ministry of Foreign Affairs, Serbia & Montenegro. Ministry of Foreign Affairs, Belgrade. August 2003.

Danza, Gabriella. Deputy Director of the Democratisation Office, OSCE (Sarajevo). OSCE Office, Sarajevo. 16th Jul. 2003.

Day, Graham. Deputy High Representative, OHR. OHR, Banja Luka. 11th Sep. 2003.

Dekanić, Igor. Advisor to the President for Domestic Policy, Croatia. Office of the President, Zagreb. June 2003.

Dilderobić, Edin. Secretary to the President, Bosnia-Hercegovina (Bosniak). Titova 16, Sarajevo. 14th Jul. 2003.

Đorđevic, Ivan. Ministry of Internal Affairs, Belgrade. Telephone conversation. 16th Sep. 2003.

Đukanović, Vlada. Journalist. SPS Office, Belgrade. Translator: Dušan Jeličić. 6th Aug. 2003.

Ferić-Vac, Mirjana. Head of the Croatian Delegation to the Parliamentary Assembly of the Council of Europe (SDP). Opaticka 8, Zagreb. June 2003.

Fuchs, Radovan. General Secretary, Demokratski Centar. Sabor, Zagreb. 23rd May 2003.

Glavan, Željko. Member of Parliament, HSLS. Sabor, Zagreb. 12th Jun 2003.

Hadžimusić, Nedžad. Ambassador-Director, Directorate for Political Multilateral Relations, Ministry of Foreign Affairs, Bosnia-Hercegovina. Ministry of Foreign Affairs, Sarajevo. 22nd Jul 2003.

Hećo, Vahid. Deputy Speaker, House of Peoples, Federation of Bosnia-Hercegovina (FBiH). FBiH Parliament, Sarajevo. Translator: Sanja. August 2003.

Herceg, Nevenko. Advisor to the Presdident, Bosnia-Hercegovina (Croat). Titova 16, Sarajevo. 29th Jul. 2003.

Hezirić, Lejla. OSCE Democratisation Officer I (Mostar). OSCE, Mostar. 27th Aug. 2003.

Ivanić, Mladen. Minister for Foreign Affairs, Bosnia-Hercegovina. Ministry of Foreign Affairs, Sarajevo. 5th Sep. 2003.

Jakić, Tomislav. Foreign Policy Advisor to the President, Croatia. Office of the president, Zagreb. 17th Jun 2003.

Jeličić, Dušan. President, Socialistic Youth (SPS). SPS Office, Belgrade. 5th Aug. 2003.

Jerinić, Dragan. Editor, *Nezavisne novine* (Banja Luka). Nezavisne novine office, Banja Luka. Translator: Dragana. 9th Sep. 2003.

Jevak, Dunja. Minister Counsellor, Ministry of Foreign Affairs, Croatia. Ministry of Foreign Affairs, Zagreb. September 2003.

Jukić, Velimir. Speaker, House of Peoples, Bosnia-Hercegovina. Federal Parliament, Sarajevo. 5th Sep. 2003.

Kljuić, Stjepan. Advisor to the President, Bosnia-Hercegovina (Croat). Holiday Inn, Sarajevo. Translator: Andrijana Barišić. 29th Jul. 2003.

Korać, Žarko. Deputy Prime Minister, Serbia & Montenegro. Government of Serbia & Montenegro, Belgrade. 15th Sep. 2003.

Lazić, Nikola. President of the Committee for International Questions, Demokratska stranka Srbije (DSS). DSS Office, Belgrade. August 2003.

Mandhyan, Kishore. Former Head of UN Mission to Croatia. Zagreb. 27th Jun. 2003.

Medić, Richard. Press Officer, OSCE, Mostar. Mostar. 26th Aug. 2003.

Milišić, Oleg. Spokesman, Press Office, OHR (Sarajevo). OHR, Sarajevo. 5th Sep. 2003.

Paro, Joško. Croatian Ambassador to the UK. Embassy of the republic of Croatia, London. 26th may 2004.

Pašić, Hilmo. President, Electoral Commission, Bosnia-Hercegovina. Electoral Commission, Sarajevo. Translator: Ana-Marija Lašić. July 2003.

Pečanin, Senad. Editor, DANI (Sarajevo). Sarajevo. 28th Jul. 2003.

Popovac, Amna and Rebac, Amela. Studio 88 (Mostar). Studio 88, Mostar. 26th Aug. 2003.

Pribičević, Ognjen. President, Center for SouthEastern European Studies. Belgrade. 17th Sep. 2003.

Power, Morris. OHR Offical. OHR, Sarajevo. 5th Sep. 2003.

Puhovski, Žarko. Chairman of the Croatian Helsinki Committee for Human Rights. Helsinki Committee Office, Zagreb. 13th Jun. 2003.

Pusić, Vesna. President, Hrvatska narodna stranka (HNS). Sabor, Zagreb. 17th Jun. 2003.

Radmanović, Nebojša. President of the Executive, Savez nezavisnih Socijaldemokrata – Republika Srpska (SNSD). SNSD Office, Banja Luka. 10th Sep. 2003.

Regoda, Mirjana. Expert in Committee for Political Systems, Jurisprudence and Administration, Republika Srpska National Assembly (RSNA). RSNA, Banja Luka. 11th Sep. 2003.

Sevarika, Momo. Expert in Committee for Control and Monitoring Institutions in Defence and Interior Matters, Republika Srpska National Assembly (RSNA). RSNA, Banja Luka. 11th Sep. 2003.

Simosas, Stefan. Political Adviser, Delegation of the European Commission to Bosnia and Herzegovina. Union Bank Building, Sarajevo. 22nd Aug. 2003.

Spirić, Nikola. Speaker, House of Representatives, Bosnia-Hercegovina. Federal Parliament, Sarajevo. 5th Sep. 2003.

Stanimirović, Dragi. SDP (Bosnia-Hercegovina). Banja Luka. 10th Sep. 2003.

Suton, Mirela. OSCE Democratisation Officer (Mostar). OSCE, Mostar. 27th Aug. 2003.

Torbar, Josip. Member of Parliament, Hrvatska seljacka stranka (HSS). Sabor, Zagreb. 10th June 2003.

Tuđman, Miroslav. President, Hrvatski identitet i prosperitet (HIP). HIP Office, Zagreb. June 2003.

Turković, Bisera. Executive Director, Centre for Security Studies (CSS). CSS, Sarajevo. 15th Jul. 2003.

Vejvoda, Ivan. Executive Director, The Balkan Trust for Democracy (BTD). BTD Office, Belgrade. 15th Sep. 2003.

Vidiš, Davor. Head of Department for Neighbouring Eastern States, Ministry of Foreign Affairs, Croatia. Ministry of Foreign Affairs, Zagreb. September 2003.

Vulin, Aleksandar. Executive Committee, Socijalisticka Partija Srbije (SPS). SPS Office, Belgrade. August 2003.

Wheeler, Mark. Director, Bosnia Project, International Crisis Group (ICG). ICG Office, Sarajevo. 20th Aug. 2003.

Žarković, Vasilj. Advisor for Economic Affairs, Cabinet of the Member of the Presidency from Republika Srpska. Office of the President (Bosnia-Hercegovina), Banja Luka. 9th Sep. 2003.

Zanni, Giulio. Political Officer, OSCE (Sarajevo). OSCE, Sarajevo. 16th Jul. 2003.

Žunec, Ozren. Professor of Sociology, University of Zagreb. Faculty of Philosophy, Univ. of Zagreb, Zagreb. 3rd Jun 2003.

Newspaper Articles, Magazine Articles and Press Releases

1999. Hague: Blair 'betraying' Northern Ireland. *BBC News (online)*, 1st Sep. 1999.
2001a. Tories End 30 Years of Bipartisanship on Northern Ireland. *The Guardian (UK)*, 18th Dec. 2001.
2001b. Yugoslav and Croatian Presidents Issue Joint Declaration. *Radio Free Europe/Radio Liberty Newsline*, 11th Jun. 2001.
2002a. Bosnia: Key Vote on Constitutional Change. 4th Apr 2002.
2002b. Croat census sparks "cleansing" row. *BBC News (online)*, 23rd May 2002.
2003a. 'No timetable' for RIR move. *BBC News (online)*, 10th Jun 2003.
2003b. Report on 1974 loyalist bombs. *BBC News (online)*, 29th Oct 2003.
2004a. EU Force Starts Bosnian Mission. *BBC News (online)*, 2nd Dec. 2004.
2004b. Low turnout scuppers Hungary vote. *BBC News (online)*, 5th Dec. 2004.
2004c. NI Parties Hear Plans for Deal. *BBC News (online)*, 17th Nov. 2004.
2004d. Sarajevo: Final Report on Functional Police Restructuring Presented. *FEMA*, 16th Jul 2004.

2004e. Serbia Votes in Crunch Election. *BBC News (online)*, 27th Jun. 2004.

2005a. Bosnian Politcal Parties Agree on Police Reform. *RFE/RL Newsline*, 29th Apr 2005.

2005b. Chequered history of the UDR. *BBC News (online)*, 1st Aug 2005.

2005c. Citizens feel detached from their authorities. *Dnevni List*, 26th Jan 2005.

2005d. New Iraqi government members. *BBC News (online)*.

2005e. Royal Irish units to be disbanded. *BBC News (online)*, 2nd Aug 2005.

2005f. Scaling down of Ulster security is premature [press release], 1st Aug 2005.

2005g. IMC Will 'judge IRA's commitment'. *BBC News (online)*, 6th Oct. 2005.

2005h. IRA has 'destroyed all its arms'. *BBC News (online)*, 26th Sep. 2005.

Ahern, Bertie. 2000. Arms Body Now Believes IRA Will Decommission. *Irish Times*, 14th Feb. 2000.

Ashdown, Paddy. 2003. Bosnia Needs Accelerated Reforms. *Balkan Crisis Report*, 23rd Jul. 2003.

B92. 2004. *Interview with Tomislav Nikolić*, 27th May 2004 [cited 30th Dec. 2004]. Available from http://www.b92.net/intervju/eng/2004/nikolic.php.

Bayrasli, Elmira. 2004. Comment: Bosnia's Education Law Fiasco. *Balkan Crisis Report*, 20th May 2004.

Bew, Paul. 2002. Two Ministers in Union. *Parliamentary Brief*, June 2002, 4-5.

Cvijanović, Željko. 2000. Kostunica Rescues Bosnian Serb Nationalists. *Balkan Crisis Report*, 6th Dec. 2000.

Cvijanović, Željko. 2003. Radicals Set to Make Big Gains. *Balkan Crisis Report*, 23rd Dec. 2003.

Cvijanović, Željko. 2004. Serbia: New Regime Faces Instability from the Start. *Balkan Crisis Report*, 8th Jan. 2004.

del Ponte, Carla. 2004. Address by Ms. Carla del Ponte, Chief Prosecutor of the International Criminal Tribunal for the Former Yugoslavia to the North Atlantic Council [press release], 3rd Nov. 2004.

Department of Justice (Ireland). 2005. Minister Announces Tribunal Chair [press release], 23rd Mar 2005.

Dwyer, T.R. 2001. The real story behind the Arms Crisis. *Irish Examiner*, 13th Apr 2001.

Hawton, Nick. 2003. "Raj" Claims Hit Home. *Balkan Crisis Report*, 23rd Jul. 2003.

Hawton, Nick. 2004. Eufor: A Step Forward or Sideways? *BBC News (online)*, 2nd Dec 2004.

Hedl, Drago. 1999. HVO Still Under Zagreb's Control. *AIM*, 25th Sep 1999.

HCHR (Serbia). 2000. New Serbian Nationalism. 11th Feb. 2000.

Jelacić, Nerma. 2003. The Greater Serbia Dream Lives On. *Balkan Crisis Report*, 29th Aug 2003.

Jelacić, Nerma. 2004. New Reform Plan Fails to Unite Bosnians. *Balkan Crisis Report*, 15th Jan 2004.

Katana, Gordana. 2004. Bosnian Serbs Warn of Backlash Over Ashdown Sackings. *Balkan Crisis Report*, 2nd Jul. 2004.

Katana, Gordana. 2005. Bosnians Serbs Quash EU Plans for United Police. *Balkan Crisis Report*, 25th May 2005.

Kebo, Amra. 2001a. Bosnian Croats Flex Their Muscles. *Balkan Crisis Report*, 2nd Mar 2001.

Kebo, Amra. 2001b. Herceg-Bosna Revival. *Balkan Crisis Report*.

Kebo, Amra. 2003a. Bosnian War Crimes Investigation Stalls. *Tribunal Report*, 10th Jul. 2003.

Kebo, Amra. 2003b. Regional Report: US Sanctions Alarm Bosnians. *Tribunal Report*, 26th-30th May 2003.

McIntyre, Anthony. 2004. Can't Deal, Won't Deal. *Parliamentary Brief*, October 2004, 7.

McTaggart, Anna. 2003. "Reformed" HDZ Set to Take Power. *Balkan Crisis Report*, 20th Nov. 2003.

McTaggart, Anna. 2004. Croatia Eyes the Prize. *Balkan Crisis Report*, 22nd Apr. 2004.

Murray, Denis. 2004. Belfast Suicides Expose Despair. *BBC News (online)*, 18th Feb. 2004.

NATO. 2004. *NATO Secretary General Visits Aspirant Countries [press release]*, 8th Jun 2004 [cited 31st Dec. 2004]. Available from http://www.nato.int/docu/update/2004/05-may/e0526a.htm.

NATO/SFOR. 2002. *Transcript of Press Briefing* 29th Jan 2002 [cited 8th Sep 2005]. Available from http://www.nato.int/sfor/trans/2002/t020129a.htm.

Numanovic, Sead. 2001. Bosnia: Bank Fraud Revelations. *Balkan Crisis Report*, 20th Dec. 2001.

O'Halloran, Marie. 2002. No Shortage of Drama in an Extended Run. *Irish Times*.

O'Leary, Brendan. 2001. "Elections, Not Suspensions." *Guardian (UK)*, 13th Jul. 2001.

OHR. 1999. Economic Reform and Reconstruction. *Economic Newsletter*, July 1999.

OHR. 2001. *Press Release*, 6th Jun. 2001 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=4431.

OHR. 2002a. *Board of Principals [press release]* OHR, 29th Jul. 2002 [cited 30th Dec. 2004]. Available from http://www.ohr.int/board-of-princip/default.asp?content_id=27551.

OHR. 2002b. *Decision on Constitutional Amendments in Republika Srpska*, 19th Apr 2002 [cited 7th Sep 2005]. Available from http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=7474.

OHR. 2002c. *Decision on Constitutional Amendments in the Federation*, 19th Apr 2002 [cited 7th Sep 2005]. Available from http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=7475.

OHR. 2003a. *High Representative Appoints Defence Commission [press release]*, 8th May 2003 [cited 7th Sep 2005].

OHR. 2003b. *High Representative Calls for the Swift Passage of Law on Indirect Taxation [press release]*, 1st Aug 2004 [cited 30th Dec. 2004]. Available from http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=30507.

OHR. 2003c. *High Representative Removes Senior Managers from Elektroprivreda RS, Enacts Law on Ministerial and Government Appointments [press release]*, 26th Mar 2003 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=29337.

OHR. 2003d. *House of Peoples Adopts State Framework Law on Primary and Secondary Education [press release]*, 19th Jun. 2003 [cited 7th Sep 2005]. Available from http://www.ohr.int/print/?content_id=30124.

OHR. 2004a. *Decision Establishing the Police Restructuring Commission* 5th Jul 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-key-doc/default.asp?content_id=34149.

OHR. 2004b. *Decision Extending the Mandate of the Defence Reform Commission*, 4th Feb 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=31761.

OHR. 2004c. *Decision removing Dr. Dragan Kalinic from his positions as Chairman of the National Assembly of Republika Srpska and as President of the SDS*, 30th Jun 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/decisions/war-crimes-decs/default.asp?content_id=32750.

OHR. 2004d. *OHR Announces Downsizing in line with BiHs Progress Towards Full Statehood [press release]*, 24th Aug 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=33115.

OHR. 2004e. *Politicisation of Education Reform Damages BiH's EU Prospects [press release]*, 22nd Mar 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=32902.

OHR. 2005a. *Decision to remove Nikola Lovrinovic from his position as Minister of Education of the Central Bosnia Canton*, 8th Jul 2005 [cited 7th Sep 2005]. Available from http://www.ohr.int/decisions/removalssdec/default.asp?content_id=35013.

OHR. 2005b. *OHR Mission Implementation Plan for 2005*, 7th Mar 2005 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-info/ohr-mip/default.asp?content_id=34144.

OHR. 2005c. *Statement: Negotiations on Policing Restructuring Break Down*, 17th May 2005 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-pr/default.asp?content_id=34686.

Patterson, Henry. 2004. A Conspiracy of Agreement. *Parliamentary Brief*, October 2004, 5-6.

PRC. 2004. *Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina*, Dec 2004 [cited 7th Sep 2005]. Available from http://www.ohr.int/ohr-dept/presso/pressr/doc/final-prc-report-7feb05.pdf.

Prodger, Matt. 2005. Serbs' Hero Worship Sours. *BBC News (online)*, 11th Jul 2005.

Radić, Renata. 2004. EU Focus: Unifying Bosnia's Markets. *Balkan Crisis Report*, 10th Sep. 2004.

Saponja-Hadžić, Milanka. 2002. Kostunica Remarks Frighten Bosnia. *Balkan Crisis Report*, 18th Sep. 2002.

SDLP. 2002. *Two Governments Must Lead on Agreement - Durkan [press release]*, 11th Oct 2002.

SFOR. 2001. *Transcript: Joint Press Conference [press release]*, 25th Apr. 2001 [cited 30th Dec. 2004]. Available from http://www.nato.int/sfor/trans/2001/t010424b.htm.

Sinn Féin. 2004. *Sinn Féin sets out review agenda [press release]*, 28th Jan 2004 [cited 7th Sep 2005]. Available from http://sinnfein.ie/news/detail/3059.

Slatina, Senad. 2002. "Hands Off" Pledge over Bosnia. *Balkan Crisis Report*, 18th Jul. 2002.

Stephen, Chris. 2003. Plan to Divide Bosnia Revealed. *Tribunal Update*, 24th Oct. 2003.

Sudar, Vladimir. 2004. Hard Men of Serbian Right in Bullish Mood. *Balkan Crisis Report*, 18th Jun. 2004.

Sunter, Daniel. 2004. Belgrade's Defence Strategy Tilts West. *Balkan Crisis Report*, 24th Jun. 2004.

Tomiuc, Eugen. 2003. Balkans: Belgrade, Zagreb Apologize to Each Other for Bloody War. *Radio Free Europe/Radio Liberty Newsline*, 10th Sep. 2003.

Tuđman, Franjo. 1999. *Speech at the State of the Nation at the Joint Session of the Sabor* [cited 29th Dec. 2004]. Available from http://www.croatiaemb.org/politics/1999/address98a.htm.

UNHCR. 2001. Press Release. 13th Jul. 2001.

UNHCR. 2004. Press Release. 21st Sep. 2004.

Valenta, Daniela. 2003. Educating Bosnia. *Balkan Crisis Report*, 2nd May 2003.

World Bank. 2004. *World Bank Congratulates CoM On The Passage Of Higher Education Law, Urges Quick Adoption By The Parliament [press release]*, 23rd Mar 2004.

Books, Journal Articles and Other Secondary Sources

2003a. *Barron Inquiry*, Dec 2003 [cited 5th Sep 2005]. Available from http://cain.ulst.ac.uk/events/dublin/barron03.pdf.

2003b. *Cory Collusion Inquiry Report:Lord Justice Gibson and Lady Gibson*, 7th Oct 2003 [cited 5th Sep 2005]. Available from: http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ5XELDP-ga/$File/coryreportgibson.pdf.

2003c. The Prosecutor v. Slobodan Milosevic, ICTY [23rd Oct. 2003].

2003d. *Stevens Enquiry: Overview and Recommendations*, 17th Apr 2003 [cited 5th Sep 2005]. Available from http://news.bbc.co.uk/1/shared/spl/hi/northern_ireland/03/stephens_inquiry/pdf/stephens_inquiry.pdf.

2004a. *Cory Collusion Inquiry Report: Patrick Finucane*, 1st Apr 2004 [cited 5th Sep 2005]. Available from http://www.nio.gov.uk/cory_collusion_inquiry_report_(with_appendices)_pat_finucane.pdf.

2004b. *Cory Collusion Inquiry Report: Rosemary Nelson*, 1st Apr 2004 [cited 5th Sep 2005]. Available from http://cain.ulst.ac.uk/issues/collusion/cory/cory03nelson.pdf.

2004c. The Prosecutor v. Ivan Cermak and Mladen Markac [indictment]: International Criminal Tribunal for the Former Yugoslavia (ICTY).

AEOBiH. 2003. *Retrospective of Elections* Association of Election Officials in Bosnia and Herzegovina (AEOBiH), 2003 [cited 28th Dec. 2004]. Available from http://www.aeobih.com.ba/documents/Technical%20series%20ENG%20III.pdf.

Agnew, John A. 1998. *Geopolitics: re-visioning world politics*, *Frontiers of human geography , 1*. New York: Routledge.

Agnew, John, and Stuart Corbridge. 1995. *Mastering space : hegemony, territory and international political economy*. London: Routledge.

Anderson, Benedict R. O'G. 1991. *Imagined communities : reflections on the origin and spread of nationalism*. Rev. and extended ed. London: Verso.

Andeweg, Rudy B. 2000. Consociational Democracy. *Annual Review of Political Science* 3:509-536.

APNI. 2004. *Agenda for Democracy*, 7th Jan 2004 [cited 5th Sep 2005]. Available from http://www.allianceparty.org/agenda.pdf.

Axelrod, Robert M. 1997. *The complexity of cooperation : agent-based models of competition and collaboration*, *Princeton studies in complexity.* Princeton, NJ: Princeton University Press.

Appuradai, Arjun. 1996. Sovereignty Without Territoriality, edited by P. Yaeger. Ann Arbor: University of Michigan Press.

Arthur, Paul. 2000. *Special relationships : Britain, Ireland and the Northern Ireland problem*. Belfast: Blackstaff.

Barry, Brian. 1975a. The Consociational Model and Its Dangers. *European Journal of Political Research* 3 (4):393-412.

Barry, Brian. 1975b. Political Accommodation and Consociational Democracy. *British Journal of Political Science* 5 (4):477-505.

Baskin, Gershon. 1994. *Jerusalem of Peace: Sovereignty and Territory in Jerusalem's' Future*. Jerusalem: Israel/Palestine Center for Research and Information.

Bew, Paul. 2000. The Belfast Agreement of 1998: from ethnic democracy to a multicultural, consociational settlement? In *A farewell to arms? : from 'long war' to long peace in Northern Ireland*, edited by F. Stephen, M. Cox and A. Guelke. Manchester: Manchester University Press.

Bieber, Florian. 2003. The Case Study of Bosnia and Herzegovina [draft].

Bieber, Florian. 2004. Towards Better Governance with More Complexity? In *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, edited by C. Solioz and T. K. Vogel. Baden-Baden: Nomos.

Bildt, Carl. 1998. *Peace journey : the struggle for peace in Bosnia*. London: Weidenfeld.

Bogaards, Matthijs. 2000. The Uneasy Relationship Between Empirical and Normative Types in Consociational Theory. *Journal of Theoretical Politics* 12 (4):395-423.

Bose, Sumantra. 1997. *The challenge in Kashmir : democracy, self-determination, and a just peace*. New Delhi ; Thousand Oaks, Calif: Sage Publications.

Bose, Sumantra. 2002. *Bosnia after Dayton : nationalist partition and international intervention*. London: C. Hurst.

Bose, Sumantra. 2003. *Kashmir : roots of conflict, paths to peace*. Cambridge, MA: Harvard University Press.

Boynton, G.R., and W.H. Kwon. 1978. An Analysis of Consociational Democracy. *Legal Studies Quarterly* 3 (1):11-25.

Brass, Paul R. 1991. *Ethnicity and nationalism : theory and comparison*. New Delhi ; Newbury Park, CA: Sage Publications.

British Irish Rights Watch. 2005. *Justice Delayed: Alleged State Collusion in the Murder of Pat Finucane and Others* February 2000 2000 [cited 5th Sep. 2005]. Available from http://www.birw.org/justice.html.

Brubaker, Rogers. 1996. *Nationalism reframed : nationhood and the national question in the New Europe*. Cambridge England ; New York: Cambridge University Press.

Brubaker, Rogers. 1998. Myths and Misconceptions in the Study of Nationalism. In *National self-determination and secession*, edited by M. Moore. New York: Oxford University Press.

Buchanan, Allen. 2003. The making and unmaking of boundaries: What Liberals Say. In *States, nations, and borders : the ethics of making boundaries*, edited by A. Buchanan and M. Moore. Cambridge: Cambridge University Press.

Buchanan, Allen, and Margaret Moore. 2003. *States, nations, and borders : the ethics of making boundaries*, *Ethikon series in comparative ethics*. Cambridge: Cambridge University Press.

Burg, Steven L. 1983. *Conflict and cohesion in Socialist Yugoslavia : political decision making since 1966*. Princeton, N.J.: Princeton University Press.

Burg, Steven L., and Paul Shoup. 1999. *The war in Bosnia-Herzegovina : ethnic conflict and international intervention*. Armonk, N.Y.: M.E. Sharpe.

Callaghy, Thomas M., Brendan O'Leary, and Ian Lustick. 2001. *Rightsizing the state : the politics of moving borders*. New York: Oxford University Press.

Campbell, David. 1992. *Writing security : United States foreign policy and the politics of indentity*. Manchester: Manchester University Press.

Campbell, David. 1996. Introduction. In *Challenging boundaries : global flows, territorial identities*, edited by M. J. Shapiro and H. R. Alker. Minneapolis, Minn: University of Minnesota Press.

Collier, David. "The Comparative Method." In *Political Science: The State of the Discipline II*, edited by Ada Finifter. Washington DC: APSA, 1993.

Conversi, Daniele. 1999. Nationalism, boundaries and violence. *Millennium: Journal of International Studies* 28 (3):553-584.

Council of Europe (Venice Commission). 2002. Report on the Preferential Treatment of National Minorities by Their Kin-State. In *The protection of national minorities by their kin-state*, edited by European Commission for Democracy through Law. Strasbourg: Council of Europe Pub.

Cunningham, Michael J. *British Government Policy in Northern Ireland 1969-1989 : Its Nature and Execution*. Manchester: Manchester University Press, 1991.

Cunningham, Michael J. *British Government Policy in Northern Ireland, 1969-2000*. Manchester, New York , New York: Manchester University Press, Distributed exclusively in the USA by Palgrave, 2001.

Daalder, Hans. 1975. On Building Consociational Nations: Cases of the Netherlands and Switzerland. In *Consociational Democracy*, edited by K. D. MacRae. Toronto: McLelland and Stewart.

Dahl, Robert Alan, and University of Chicago. Charles R. Walgreen Foundation. 1956. *A preface to democratic theory*. Chicago,.

Deutsch, Karl Wolfgang. 1966. *Nationalism and social communication : an inquiry into the foundation of nationality*. 2nd ed. Cambridge [Mass.]: M.I.T. Press.

Dixon, Paul. 1994. "The Usual English Doubletalk": The British Political Parties and the Ulster Unionists 1974-94. *Irish Political Studies* 9:25-40.

Dixon, Paul. 2000. British Policy Towards Northern Ireland: 1968-2000: Balance, Continuity and Consistent 'Inconsistencies'. Paper read at Political Studies Association (UK): 50th Annual Conference, April 2000, at London.

Dizdarević, Zija. 2004. The Unfinished State? In *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, edited by C. Solioz and T. K. Vogel. Baden-Baden: Nomos.

Dunleavy, Patrick, and Brendan O'Leary. 1987. *Theories of the state : the politics of liberal democracy*. Basingstoke: Macmillan Education.

DUP. 2004. Devolution Now.

ECMI. 2001a. *Conflict Theory: Classical Approaches* [cited 20th Dec. 2004. Available from http://www.ecmi.de/cps/about_approaches.html.

ECMI. 2001b . *Criteria for the Selection of Case Studies* [cited 20th Dec. 2004]. Available from http://ecmi.de/cps/about_criteria.html.

ECMI. 2001c. *What is Complex Power-Sharing?* [cited 20th Dec. 2004]. Available from http://www.ecmi.de/cps/about_what.html.

ECMI. 2001d. *Workshop I - Report* [cited 21st Dec. 2004]. Available from http://ecmi.de/cps/workshops_1_report.html.

ESI. 2004. *Making Federalism Work: a Radical Proposal for Practical Reform* 8th Jan. 2004 [cited 5th Sep. 2005]. Available from http://www.esiweb.org/pdf/esi_document_id_48.pdf.

Esman, Milton J. 1994. *Ethnic politics*. Ithaca: Cornell University Press.

European Commission. 2004. Croatia: Opinion on the application of Croatia for membership of the European Union.

European Commission for Democracy through Law, ed. 2002. *The protection of national minorities by their kin-state*, *Science and technique of democracy ; no. 32*. Strasbourg: Council of Europe Pub.

Fay, Marie Thérèse, Mike Morrissey, and Marie Smyth. 1997. *Mapping Troubles-related deaths in Northern Ireland, 1969-1994*. Londonderry: INCORE.

Fearon, James, D. 1998. Commitment Problems and the Spread of Ethnic Conflict. In *The international spread of ethnic conflict : fear, diffusion, and escalation*, edited by D. A. Lake and D. S. Rothchild. Princeton, NJ: Princeton University Press.

Fearon, James, D., and David D. Laitin. 1996. Explaining Interethnic Cooperation. *American Political Science Review* 90 (4):715-735.

Finci, Jakob. 2004. The Federal Republic of Bosnia and Herzegovina. In *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, edited by C. Solioz and T. K. Vogel. Baden-Baden: Nomos.

Finnemore, Martha, and Kathryn Sikkink. 1998. International Norm Dynamics and Political Change. *International Organization* 52 (4):887-917.

Forsberg, Tuomas. 2003. The Ground without Foundation: Territory as a Social Construct. *Geopolitics* 8 (2):7-24.

Geddes, Barbara. 2003. *Paradigms and sand castles : theory building and research design in comparative politics*, *Analytical perspectives on politics*. Ann Arbor: University of Michigan Press.

Geertz, Clifford. 1963. The Integrative Revolution: Primordial Sentiments and Civil Politics in the New States. In *Old societies and new states : the quest for modernity in Asia and Africa : essays by members of the Committee for the Comparative Study of New Nations*, edited by C. Geertz and Committee for the Comparative Study of New Nations. New York: Free Press of Glencoe.

Geertz, Clifford, and Committee for the Comparative Study of New Nations. 1963. *Old societies and new states : the quest for modernity in Asia and Africa : essays by members of the Committee for the Comparative Study of New Nations*. New York: Free Press of Glencoe.

Gellner, Ernest. 1964. *Thought and change*, *The nature of human society series*. London: Weidenfeld and Nicolson.

Gibbons, Robert. 1992. *A primer in game theory*. Hemel Hempstead: Harvester-Wheatsheaf.

Gillespie, Paul. 2000. From Anglo-Irish to British-Irish relations. In *A farewell to arms? : from 'long war' to long peace in Northern Ireland*, edited by F. Stephen, M. Cox and A. Guelke. Manchester: Manchester University Press.

Guelke, Adrian. 2000. Comparatively peaceful: South Africa, the Middle East and Northern Ireland. In *A farewell to arms? : from 'long war' to long peace in Northern Ireland*, edited by F. Stephen, M. Cox and A. Guelke. Manchester: Manchester University Press.

Guelke, Adrian. 2001. International Dimenssions of the Belfast Agreement. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

Hadden, Tom, and Kevin Boyle. *The Anglo-Irish Agreement : Commentary, Text and Official Review*. London: Sweet & Maxwell, 1989.

Hadfield, Brigid. 2001. Seeing It Through? The Multifaceted Implementation of the Belfast Agreement. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford Universit y Press.

Harnden, Toby. 1999. *Bandit country : the IRA and South Armagh*. London: Hodder & Stoughton.

Herceg, Nevenko, and Zoran Tomic, eds. 1998. *Izbori u Bosni i Hercegovini*. Mostar: Sveucilište u Mostaru Centar za studije novinarstva.

Holbrooke, Richard C. 1999. *To end a war*. New York: Modern Library.

Horowitz, Donald L. 1985. *Ethnic groups in conflict*. Berkeley: University of California Press.

Horowitz, Donald L. 1991. *A democratic South Africa ? : constitutional engineering in a divided society*, *Perspectives on Southern Africa ; 46*. Berkeley: University of California Press.

ICG. 1999. Is Dayton Failing?: Bosnia Four Years After the Peace Agreement. In *ICG Balkans Report*. Sarajevo: International Crisis Group.

ICG. 2001. A Fair Exchange: Aid to Yugoslavia for Regional Stability. In *ICG Balkans Report*. Belgrade/Brussels: International Crisis Group.

ICG. 2002. Implementing Equality: The "Constituent Peoples" Decision in Bosnia & Herzegovina. In *ICG Balkans Report*. Sarajevo/Brussels: International Crisis Group.

ICG. 2003a. Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building. In *ICG Balkans Report*. Sarajevo/Brussels: International Crisis Group.

ICG. 2003b. Serbia After Djindjic. In *ICG Balkans Report*. Belgrade/Brussels: International Crisis Group.

ICG. 2004. Serbia's U-turn. In *ICG Europe Report*. Belgrade/Brussels: International Crisis Group.

Kerr, Michael Robert. 2003. Comparative power sharing agreements in Northern Ireland and Lebanon: an evaluation of consociational government from Sunningdale to Belfast (1973-98), from the National Pact to Ta'if (1943-89). PhD Thesis (LSE).

King, Gary, Robert O. Keohane, and Sidney Verba. 1994. *Designing social inquiry : scientific inference in qualitative research*. Princeton, N.J: Princeton University Press.

Kingsbury, Benedict. 1992. Claims by Nonstate Groups in International Law. *Cornell International Law Journal* 25 (3):481-513.

Knaus, Gerald, and Felix Martin. 2003. Travails of the European Raj. *Journal of Democracy* 14 (3):60-74.

Knox, Colin. 2002. 'See No Evil, Hear No Evil': Insidious Paramilitary Violence in Northern Ireland. *The British Journal of Criminology* 42:164-185.

Lake, David A., and Donald S. Rothchild, eds. 1998. *The international spread of ethnic conflict : fear, diffusion, and escalation*. Princeton, NJ: Princeton University Press.

Leavy, J. 1973. *Political Thinking Behind Sunningdale*. Dublin: Talbot Press.

Lee, Joseph. 1989. *Ireland 1910-1985 : government and society*. Cambridge: Cambridge University Press.

Lieberson, Stanley. 1991. Small N's and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases. *Social Forces* 70 (2):307-320.

Lijphart, Arend. 1969. Consociational Democracy. *World Politics* 21 (2):207-225.

Lijphart, Arend. 1971. Comparative Politics and the Comparative Method. *American Political Science Review* 65 (3):682-693.

Lijphart, Arend. 1974. Consociational Democracy. In *Consociational Democracy*, edited by K. D. Macrae. Toronto: McLelland and Stewart.

Lijphart, Arend. 1975. *The politics of accommodation : pluralism and democracy in the Netherlands*. 2nd ed. Berkeley ; London: University of California Press.

Lijphart, Arend. 1977. *Democracy in plural societies : a comparative exploration*. New Haven ; London: Yale University Press.

Lijphart, Arend. 1998. Consensus and Consensus Democracy: Cultural, Structural, Functional, and Rational-Choice Explanations. *Scandinavian Political Studies* 21 (2):99-108.

Lijphart, Arend. 1985. *Power-sharing in South Africa*, *Policy papers in international affairs ; no.24*. Berkeley: Institute of International Studies University of California.

Lorwin, Val. 1975. Belgium: Conflict and Compromise. In *Consociational Democracy*, edited by K. D. Macrae. Toronto: McLelland and Stewart.

Lustick, Ian. 1993. *Unsettled states, disputed lands : Britain and Ireland, France and Algeria, Israel and the West Bank-Gaza*, *The Wilder House series in politics, history, and culture*. Ithaca: Cornell University Press.

Lustick, Ian. 1997. Lijphart, Lakatos, and Consociationalism. *World Politics* 50 (1):88-117.

Lustick, Ian S. 2001. Thresholds of Opportunity and Barriers to Change in the Right-Sizing of States. In *Rightsizing the state : the politics of moving borders*, edited by T. M. Callaghy, B. O'Leary and I. Lustick. New York: Oxford University Press.

Macrae, K. D. 1974. *Consociational democracy : political accomodation in segmented societies*. Toronto: McLelland and Stewart.

Major, John. 1999. *John Major : the autobiography*. London: HarperCollins.

Mallie, Eamonn, and David McKittrick. 1996. *The fight for peace : the secret story of the Irish peace process*. London: Heinemann.

McAllister, Ian, Bernadette C. Hayes, and Lizanne Dowds. 2005. The Erosion of Consent: Protestant Disillusionment with the Agreement. *ARK Research Update*, January 2005.

McGarry, John. 1998. Political Settlements in Northern Ireland and South Africa. *Political Studies* 46 (5):865-870.

McGarry, John, and Brendan O'Leary. 1993. *The politics of ethnic conflict regulation : case studies of protracted ethnic conflicts*. London ; New York, NY: Routledge.

McGarry, John, and Brendan O'Leary. 2004a. *The Northern Ireland conflict : consociational engagements*. Oxford, New York: Oxford University Press.

McGarry, John, and Brendan O'Leary. 2004b. Stabilising Northern Ireland's Agreement. *Political Quarterly* 75 (3):213-225.

McKay, James. 1982. An exploratory synthesis of primordial and mobilizationalist approaches to ethnic phenomena. *Ethnic and Racial Studies* 5 (4):395-420.

Miller, David. 2003. Liberalism and Boundaries: A Response to Buchanan. In *States, nations, and borders : the ethics of making boundaries*, edited by A. Buchanan and M. Moore. Cambridge: Cambridge University Press.

Mitchell, George J. 1999. *Making peace*. 1st ed. New York: Knopf : Distributed by Random House.

Mitchell, Paul. L. 2001. Transcending an Ethnic Party System? The Impact of Consociational Governance on Electoral Dynamics and the Party System. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

Mitchell, Paul. L., Geoffrey Evans, and Brendan O'Leary. 2005. Changing Party Fortunes: Party Competition and Public Opinion at the Northern Ireland Assembly Elections of 2003. *ARK Research Update*, Feb 2005.

Mitchell, Paul. L., Brendan O'Leary, and Geoffrey Evans. 2001. Northern Ireland: Flanking Extremists Bite the Moderates and Emerge in Their Clothes. *Parliamentary Affairs* 54 (4):725-742.

Moore, Margaret. 1998. *National self-determination and secession*. New York: Oxford University Press.

Morgen, Austen. 2001. *The Belfast Agreement: a Practical Legal Analysis*. Belfast: Belfast Press.

Neussl, Peter. 2004. The Constituent Peoples Decision of the Constitutional Court and sarajeco-Mrakovica Agreement - A "Milestone Product" of the Dayton Concept? In *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, edited by C. Solioz and T. K. Vogel. Baden-Baden: Nomos.

Nordlinger, Eric A. 1972. *Conflict regulation in divided societies*, *Harvard studies in international affairs ; no.29*. Cambridge, Mass.: Center for International Affairs Harvard University.

Nowak, Manfred. 2004. Has Dayton Failed? In *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*, edited by C. Solioz and T. K. Vogel. Baden-Baden: Nomos.

Ó Tuathail, Gearóid. 1996. *Critical geopolitics : the politics of writing global space*, *Borderlines ; v. 6*. Minneapolis: University of Minnesota Press.

O'Duffy, Brendan. 1995. Violence in Northern Ireland 1969-1994: sectarian or ethnonational? *Ethnic and Racial Studies* 18 (4):740-772.

O'Leary, Brendan. 1989. The Limits to Coercive Consociationalism in Northern Ireland. *Political Studies* 37 (4):562-588.

O'Leary, Brendan. *Northern Ireland : Sharing Authority*. London: Institute for Public Policy Research, 1993.

O'Leary, Brendan. 1997. The Conservative Stewardship of Northern Ireland, 1979-97: Sound-bottomed Contradictions or Slow Learning? *Political Studies* 45 (4):663-676.

O'Leary, Brendan. 2001. The Character of the 1998 Agreement: Results and Prospects. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

O'Leary, Brendan. 2002. The Belfast Agreement and the British-Irish Agreement: Consociation, Confederal Institutions, a Federacy, and a Peace Process. In *The architecture of democracy : constitutional design, conflict management, and democracy*, edited by A. Reynolds. Oxford: Oxford University Press.

O'Leary, Brendan. 2003a. Complex Power-Sharing in and Over Northern Ireland [draft].

O'Leary, Brendan. 2003b. Conceptual Prologue: Two Emergent Forms of Complex Power-Sharing [draft].

O'Leary, Brendan. 2003c. Multi-national Federalism, Federacy, Power-Sharing and Kurds in Iraq. Paper read at Multi-Nationalism, Power-Sharing and the Kurds in a New Iraq, 12th Sep. 2003, at Cafritz Foundation Conference Center, George Washington University.

O'Leary, Brendan, Bernard Grofman, and Jørgen Elklit. "Divisor Methods for Sequential Portfolio Allocation in Multi-Party Executive Bodies: Evidence from Northern Ireland and Denmark." *Americn Journal of Political Science* 49, no. 1 (2005): 198-211.

O'Leary, Brendan, and John McGarry. 1996. *The politics of antagonism : understanding Northern Ireland*. 2nd ed, *Conflict and change in Britain - a new audit ; 3*. London: Athlone Press.

O'Leary, Cornelius, Sydney Elliott, and R. A. Wilford. 1988. *The Northern Ireland Assembly,1982-1986 : a constitutional experiment*. London; New York: C.Hurst ; St. Martin's Press.

Paasi, Anssi. 1995. *Territories, boundaries, and consciousness : the changing geographies of the Finnish-Russian boundary*, *Belhaven studies in political geography*. New York: J. Wiley & Sons.

Paasi, Anssi, and David Newman. 1998. Fences and Neighbours in the Postmodern world: Boundary Narratives in Political Geography. *Progress in Human Geography* 22 (2):96-107.

Pappalardo, Adriano. 1981. The Conditions for Consociational Democracy: A Logical and Empirical Critique. *European Journal of Political Research* 9 (4):365-390.

Parliamentary Assembly - Council of Europe. 2000. Honouring of obligations and commitments by Croatia.

Parliamentary Assembly - Council of Europe. 2004. Strengthening of democratic institutions in Bosnia and Herzegovina.

Patterson, Henry. 2001. From Insulation to Appeasement: The Major and Blair Governments Reconsidered. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

Peters, B. Guy. 1998. *Comparative politics : theory and methods*. New York: New York University Press.

Ramet, Sabrina P. 1992. *Nationalism and federalism in Yugoslavia, 1962-1991*. 2nd ed. Bloomington: Indiana University Press.

Raushe, Adrian. 2003. International Indirect Responses to Clandestine Political Economies: the Hercegovacka Banka Case Study. Paper read at Clandestine Political Economy of War and Peace, 6th May 2003, at Thomas J. Watson Institute for International Studies, Global Research Program, Brown University.

Reilly, Ben, Andrew Reynolds, and National Research Council(U.S). Committee on International Conflict Resolution. 1999. *Electoral systems and conflict in divided societies*, *Papers on international conflict resolution ; no. 2*. Washington, D.C.: National Academy Press.

Reynolds, Andrew. 2002. *The architecture of democracy : constitutional design, conflict management, and democracy*. Oxford: Oxford University Press.

Rusinow, Dennison, and Royal Institute of International Affairs. 1977. *The Yugoslav experiment 1948-1974*. London: Hurst for the Royal Institute of International Affairs.

Schneckener, Ulrich. 2000. Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation. In *Institut für Interkulturelle und Internationale Studien Working Paper*. Bremen (Univ. of Bremen).

SDLP. 2004. The Four Year Review of the Agreement, Jan 2004.

Shapiro, Michael J., and Hayward R. Alker. 1996. *Challenging boundaries : global flows, territorial identities*, *Borderlines ; v. 2*. Minneapolis, Minn: University of Minnesota Press.

Shils, Edward. 1957. Primordial, Personal, Sacred, and Civic Ties. *British Journal of Sociology* 8:130-145.

Silber, Laura, and Allan Little. 1996. *The death of Yugoslavia*. 2nd ed. London: Penguin.

Sisk, Timothy D., and Carnegie Commission on Preventing Deadly Conflict. 1996. *Power sharing and international mediation in ethnic conflicts*, *Perspectives series*. Washington, D.C: United States Institute of Peace Press.

Smith, David J. 2002. Framing the National Question in Central and Eastern Europe. A Quadratic Nexus? *Ethnopolitics* 2 (1):3-16.

Sołtan, Karol Edward, Eric M. Uslaner, and Virginia Haufler, eds. 1998. *Institutions and social order*. Ann Arbor: University of Michigan Press.

Solioz, C., and T.K. Vogel, eds. 2004. *Dayton and Beyond: Perspectives on the Future of Bosnia and Herzegovina*. Baden-Baden: Nomos.

Steiner, Jürg. 1975. The Principles of Majority and Proportionality. In *Consociational Democracy*, edited by K. D. Macrae. Toronto: McLelland and Stewart.

Stephen, Fiona, Michael Cox, and Adrian Guelke, eds. 2000. *A farewell to arms? : from 'long war' to long peace in Northern Ireland*. Manchester: Manchester University Press.

Taagepara, Rein. 2002. Designing Electoral Rules and Waiting for an Electoral System to Evolve. In *The architecture of democracy : constitutional design, conflict management, and democracy*, edited by A. Reynolds. Oxford: Oxford University Press.

Tannam, Etain. *Cross-Border Cooperation in the Republic of Ireland and Northern Ireland*. New York: St. Martin's Press, 1998.

Terchek, Ronald J. 1977. Conflict and cleavage in Northern Ireland. *Annals of the American Academy of Political and Social Science* 433:47-59.

Tonge, Jon. 2002. *Northern Ireland : conflict and change*. 2nd ed. London ; New York: Prentice Hall.

Torkildsen, Morten. 2002. Amended Expert Report of Morten Torkildsen. den Haag: ICTY.

Tsebelis, George. 1990. *Nested games : rational choice in comparative politics*, *California series on social choice and political economy ; 18*. Berkeley: California University Press.

UNHCR. 2000. UNHCR Mid-Year Progress Report 2000 - Bosnia and Herzegovina. Geneva: UNHCR.

UNHCR. 2004. Statistics Package.

van den Berghe, Pierre L. 1978. Race and Ethnicity: A Sociological Perspective. *Ethnic and Racial Studies* 1 (4):402-411.

van Houten, Pieter. 1998. The Role of the Reference State in Ethnic Relations. *Archives européenes de sociologie* 39:110-146.

van Schendelen, M.C.P.M. 1984. The Views of Arend Lijphart and Collected Criticisms. *Acta Politica* 19 (1):19-49.

Venice Commission. 1998. Draft opinion on the constitutionality of international agreements concluded by Bosnia and Herzegovina and/or the entities, 7th Dec 1998.

Venice Commission. 2005. Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative, 11 Mar 2005.

Walker, Graham. 2001. The British-Irish Council. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

Walker, R. B. J. 1992. *Inside/outside : international relations as political theory*, *Cambridge studies in international relations ; 24*. Cambridge England ; New York: Cambridge University Press.

Walter, Barbara F. 2002. *Committing to peace : the successful settlements of civil wars*. Princeton: Princeton University Press.

Weingast, Barry. 1998. Constructing Trust: The political and economic roots of ethnic and regional conflict. In *Institutions and social order*, edited by K. E. Sołtan, E. M. Uslaner and V. Haufler. Ann Arbor: University of Michigan Press.

Whyte, John. 2004. *How much discrimination was there under the unionist regime, 1921-68?* 1983 [cited 28th Dec. 2004]. Available from http://cain.ulst.ac.uk/issues/discrimination/whyte.htm.

Whyte, Nicholas. 2004. *The Northern Ireland House of Commons, 1921-1972* 17th Feb. 2002 2000 [cited 28th Dec. 2004]. Available from http://www.ark.ac.uk/elections/hnihoc.htm.

Whyte, Nicholas. 2004. *Local Government Elections 2001* 2001 [cited 28th Dec. 2004]. Available from http://www.ark.ac.uk/elections/flg01.htm.

Whyte, Nicholas. 2004. *Northern Ireland Assembly Elections 1973* 25th Mar. 2003 2003a [cited 28th Dec. 2004]. Available from http://www.ark.ac.uk/elections/fa73.htm.

Whyte, Nicholas. 2004. *Northern Ireland Assembly Elections 1982* 2003b [cited 28th Dec. 2004]. Available from http://www.ark.ac.uk/elections/fa82.htm.

Wilford, R. A., ed. 2001a. *Aspects of the Belfast Agreement*. Oxford: Oxford University Press.

Wilford, R. A. 2001b. The Assembly. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, February 2001*: UCL Constitution Unit.

Wilford, R. A. 2001c. The Assembly. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, May 2001*: UCL Constitution Unit.

Wilford, R. A. 2002a. The Assembly. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, February 2002*: UCL Constitution Unit.

Wilford, R. A. 2002b. A Healthy Democracy? *Parliamentary Brief*, June 2002, 21-22.

Wilford, R. A., and Elizabeth Meehan. 2003. Intergovernmental relations. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, February 2003*. London: UCL Constitution Unit.

Williams, John. 2003. Territorial Borders, International Ethics and Geography: Do Good Fences Still Make Good Neighbours? *Geopolitics* 8 (2):25-46.

Wilson, Robin. 2000a. Devolved Government. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, August 2000*: UCL Constitution Unit.

Wilson, Robin. 2000b. Devolved Government. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, November 2000*: UCL Constitution Unit.

Wilson, Robin. 2001. Devolved Government. In *Quarterly Monitoring Report (Northern Ireland): Quarterly Report, May 2001*: UCL Constitution Unit.

Wolff, Stefan. 2001. Context and Content: Sunningdale and Belfast Compared. In *Aspects of the Belfast Agreement*, edited by R. A. Wilford. Oxford: Oxford University Press.

Wolff, Stefan. 2003. *Disputed territories : the transnational dynamics of ethnic conflict settlement, Studies in ethnopolitics*. New York: Berghahn Books.

Woodward, Susan L., and Brookings Institution. 1995. *Balkan tragedy : chaos and dissolution after the Cold War*. Washington, D.C: Brookings Institution.

Wright, Frank. 1988. *Northern Ireland : a comparative analysis*. Dublin ; Totowa, N.J.: Gill and Macmillan : Barnes & Noble.

Yaeger, Patricia. 1996. *The geography of identity, Ratio*. Ann Arbor: University of Michigan Press.

Yin, Robert K. 2003. *Applications of case study research*. 2nd ed ed, *Applied social research methods series*. London: SAGE.