Democracy and Power-Sharing in Multi-National States

Democracy and Power-Sharing in Multinational States: Thematic Introduction

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E ver since the Dutch political scientist Arend Lijphart "discovered" consociational democracy in the late 1960s as a model for maintaining democracy in plural societies, power-sharing and democracy have been viewed as closely linked. The work by Lijphart (1969, 1975, 1977, 1985, 1999) on consociational democracy and later also consensus democracy constituted a breakthrough in the thinking about democracy in divided societies as it showed that the two are not as incompatible as was often thought and claimed, not least by authoritarian rulers trying to justify their non-democratic regimes by invoking the overriding need for national unity. Lijphart's research demonstrated that democracy in divided societies was possible if elites cooperated, even when the masses remained divided. In a consociational democracy, elite cooperation takes the form of executive coalitions in which the leaders of all main social groups are represented; proportional representation in assemblies as well as a proportional allocation of offices and resources; autonomy for social groups in the spheres important to them, such as education; and a mutual veto for groups that see their vital interests at stake (Bogaards 2000).

For Lijphart and many with him, democracy in deeply divided societies is possible only when power is shared instead of monopolised, devolved rather than centralised. Majoritarian democracy is judged unsuitable for plural societies, because the winner-takes-all character and concentration of power allow a dominant group or coalition of groups to capture state power, relegating the minority into permanent opposition. The breakdown of democracy in many post-colonial states in Africa and Asia was attributed to the adoption of Westminster-style democracy, inherited from the (British) colonial powers. Power-sharing became synonymous with democracy.

In the beginning of the new millennium, the tide has changed. At the same time that Lijphart (2002) detects a "wave of power-sharing democracy" and even critics admit power-sharing arrangements have become the standard recommendation for post-conflict societies, scholarly scepticism about the relation between power-sharing and democracy is growing. This increasing unease has at least three grounds.

First, it builds on a long tradition of criticism about the democratic quality of consociational democracy (for overviews, see Van Schendelen 1984; Andeweg 2000; O'Leary 2005). Popular participation in politics is perceived as a potential threat to the fragile power-sharing arrangements that make democracy possible and guard social peace in an ethno-plural society. Secrecy and summit diplomacy are essential rules of the game (Lijphart 1975). To allow political leaders maximum control over their following and the maximum scope to broker deals that cut across social divisions, citizens should be deferential and elites allowed to work in secret, as information about the compromises could only help to fuel discontent among radicals within each group and increase polarisation.

No wonder, then, that many critics have accused power-sharing democracy of being an elitist form of democracy that suffers from a lack of democratic quality, a critique to which supporters of consociationalism reply that power-sharing democracy may have its deficiencies, although these are exaggerated by the critics, but that there is no real choice, because it is the only form of democracy suitable for societies with deep social divisions (Lijphart 1985). The limits to mass participation and elite contestation lead critics to regard power-sharing as a form of "constrained democracy" (Rothchild and Roeder 2005*a*: 7). Power-sharing thereby comes at the expense of democracy.

Second, in the many multinational democracies around the world today, there is increasing evidence of a potential trade-off between democracy and the establishment or revision of power-sharing arrangements. As the outcome of the 2004 referendum in Cyprus illustrates, political participation may threaten fragile elite power-sharing arrangements (cf. Milne 2003; Bahceli and Noel 2005). Ben Reilly (2003: 180–81) lists five reasons why majoritarian devices such as plebiscites are likely to heighten tension and increase polarisation: (1) in a yes/no vote, one side will always lose; (2) referendums almost always disadvantage minorities; (3) referendums have a tendency to turn into an ethnic census; (4) referendums may serve to legitimise choices that have already been decided on the battlefield; (5) referendums may be little more than an empty symbolic activity. Even the successful referendum on the Good Friday Agreements in Northern Ireland, which passed with an overwhelming majority, is viewed with concern. The principle of popular consent to the power-sharing agreement means that the referendum can be repeated in the future, casting the stifling shadow of constitutional politics over the difficulties of day-to-day cooperation (Mac Ginty et al. 2001; Mac Ginty 2003). The dilemma is clear and well-formulated by Michael Lusztig (1994: 748) in his analysis of the failure of constitutional initiatives in multinational Canada: "the requirements of mass input into and legitimisation of constitutional bargaining in deeply divided societies are incompatible with successful constitution making". If mass legitimatisation undermines effective elite accommodation, then the choice is between power-sharing *or* (direct) democracy. Paradoxically, there may be no democratic way to establish power-sharing democracy.

The third reason behind the growing acknowledgement of a tension between power-sharing and democracy lies in concern that consociational democracy reinforces social divisions instead of breaking them down, at least in the short term. At the mass level, this is reflected in Lijphart's adoption of the adage that "good fences make good neighbors". To minimise the danger of contact and conflict, it was thought helpful if citizens lived their lives as much as possible within their own groups. At the elite level, consociational practices reward communal politicians, giving them incentives to continue to play the ethnic, religious, linguistic or racial card and hindering the emergence of cross-communal parties and a different kind of politics. The Dayton Agreement that ended the war in Bosnia and Herzegovina has put into place elaborate power-sharing arrangements that are coming under increasing criticism for their failure to ease tensions and promote cross-ethnic politics (see Bieber 2004; Caspersen 2004). Using a metaphor from medicine, one could say that consociationalism treats the symptoms without dealing with the causes. Even worse, "consociationalism … is a radical therapy that may well make some patients sicker, and should therefore be used only in desperate cases where other, less drastic methods will surely fail" (Reynolds 2005: 57). Therefore, consociational democracy is increasingly seen as a short-term solution to be followed by other, presumably more democratic and lasting arrangements. This sentiment is well captured in the title of a recent volume on post-conflict institutions in ethnically divided societies: *From Power-sharing to Democracy* (Noel 2005). The aim is for "conflict *transformation*", defined as the "reduction of the political salience of ethnicity after armed conflict" (Simonsen 2005: 304, italics in original). Timothy Sisk (2003: 141) sums up the emerging consensus with his statement that "while power-sharing may be desirable, and necessary, as an immediate exit to deadly ethnic wars, power-sharing is not a viable long-term solution to managing uncertainty in ethnically divided societies".

A recent volume edited by Roeder and Rothchild (2005) reflects the current ambivalence about power-sharing and democracy in post-conflict societies. On the one hand, several contributions demonstrate the importance of power-sharing in peace settlements and the editors have to admit that "power-sharing has become the international community's preferred remedy for building peace and democracy after civil wars" (Rothchild and Roeder 2005*a*: 5). On the other hand, the tenor of the volume is that power-sharing may be needed in the short term to end conflict, but is harmful to the long-term prospects of democracy and social peace in post-conflict societies. In a chapter ominously entitled "power-sharing as an impediment to peace and democracy", Rothchild and Roeder (2005*b*) identify seven perils of power-sharing: (1) limits on democracy; (2) the creation of institutional weapons for ethnic entrepreneurs; (3) a focus on inter-ethnic allocation; (4) the problem of outbidding and extremism; (5) governmental inefficiency; (6) governmental rigidity; and (7) inadequate enforcement. However, none of these points of critique is new (see Van Schendelen 1984; Andeweg 2000; O'Leary 2005) and the alternative strategy of "power dividing" (Roeder 2005) is not fully elaborated and lacks an empirical record.

It thus seems that multinational democracies face a series of dilemmas that may be summarised by the following questions: If power-sharing is adopted, does this have to come at the expense of democracy?; Is power-sharing compatible with direct democracy?; Should power-sharing be thought of as a transitional stage that leads to (fuller, non-ethnic) democracy? What is needed is theoretical reflection and empirical research that explicitly confronts the tension between democracy and power-sharing and endeavours to determine in comparative perspective the conditions under which public participation, whether in the form of popular mobilisation or direct democracy, threaten elite power-sharing arrangements in multinational democracies.

To clarify the discussion and to better understand the consequences of particular choices, it is necessary to specify what is meant by power-sharing. Used as an adjective, one can speak of power-sharing institutions, policies, arrangements, etc. (Rothchild and Roeder 2005*a*: 20). Used as a noun, one can speak of, for example, central, territorial, military and economic power-sharing (Hoddie and Hartzell 2003).

Lijphart (2002) has proposed the term "power-sharing democracy" in place of the more established, but less intuitive, term "consociational democracy", whereas others use "power-sharing" as an umbrella concept that not only includes consociational democracy, but also the rival model of integrative majoritarianism (Horowitz 2002). Sisk (2003) distinguishes between two forms of power-sharing. First, the group building-block approach that takes existing divisions and uses communal groups as building blocks of a political order based on elite consensus and group autonomy. This approach roughly corresponds to consociationalism. Second, the so-called integrative approach, where political institutions are designed to give incentives for elite and mass moderation and the aim is to transcend the cleavages that divided the country. If one believes that "power-sharing will work best when it can, over time, wither away" (Sisk 2003: 148) then integrative power-sharing, with its inbuilt incentives for moderation, has an advantage over the more rigid consociationalism that entrenches groups.

Such relabelling and regrouping invites conceptual confusion (see Bogaards 2000) and obliterates important differences between the various models. For our purposes, power-sharing can be understood as a very broad category, as for example in the following definition by Milton Esman (2004: 178): "Power-sharing is an inherently accommodative set of attitudes, processes, and institutions, in which the art of governance becomes a matter of bargaining, conciliating, and compromising the aspirations and grievances of its ethnic communities …". Consociational democracy is a particular type of democracy with a characteristic set of power-sharing institutions, processes and policies.

The four contributions to this special issue on power-sharing and democracy in multinational states provide insights on the dilemmas sketched above. Naazneen Barma's analysis of the role of the international community in transitional

governance in post-conflict societies highlights the trade-off between short-term and long-term solutions. Although the transitional, multiparty bodies set up by the United Nations in Cambodia, East Timor and Afghanistan helped to stabilise the country and implement the peace accords, they also entrenched the predominant groups in power, planting the seeds for future conflicts. In Cambodia, the party that controlled the state continued to call the shots, despite the introduction of formal power-sharing institutions. The outcome is what Sartori (1976) calls a hegemonic party system. In East Timor and Afghanistan, early choices likewise had long-lasting effects, freezing the balance of power. Paradoxically, initial institutions of power-sharing under international supervision contributed to an increasing monopolisation of power by already entrenched groups that used their favoured position in the transitional arrangements to strengthen their hold on power, with adverse consequences for the consolidation of democracy. Interestingly, as a remedy, Barma recommends opening up the process of constitution-writing and increasing subnational participation.

In her analysis of decentralisation as the new delusion of ethnic conflict regulation, Camille Monteux reviews the experience with this particular form of power-sharing in Bosnia and Herzegovina, Macedonia and Kosovo. In Bosnia, an intricate federal set-up is part of a fully fledged system of consociational democracy under international tutelage. The three constituent communities of Bosniaks, Croats and Serbs form the building blocks of the post-Dayton political system. In Macedonia, the Ohrid Agreement that ended Albanian violence against the state and its Slavic majority, revolved around the devolution of powers to the municipalities. Decentralisation was initially viewed in non-ethnic terms, but the practice has been different, Monteux argues. The 2004 referendum on the Law on Territorial Divisions that was instigated by the opposition failed, but it highlighted the tension between direct democracy and power-sharing: "while the holding of [a] referendum is a basic democratic principle, it has dangerous implications for the stability of an ethnically divided society" (Dimitrova 2004: 179). In Kosovo, the conflict about the future political order is not only about the distribution of powers between central and local levels of government, but also about the nature of the territorial units: ethnic or non-ethnic. Against the current preferences of the international community for decentralisation along ethnic boundaries, but in line with scholarly concern about the dangers of ethnic federalism (see Hale 2004), Monteux criticises the "freezing effect" of ethnic decentralisation.

Nenad Stojanović takes up the question of whether power-sharing and direct democracy are compatible. As Switzerland is not only a prototype of consociational democracy but also the country with the most frequent use of referendums, it is an obvious case, but different from much of the literature, Stojanović looks at the regional level. In each of the four Swiss multilingual cantons, one controversial referendum on language or minority representation is examined. The findings are that, as many feared, linguistic differences are exaggerated in referendum campaigns, that identity-based issues are amplified in the media, and that communal majorities normally prevail. However, in the end,

the conclusion is tentatively positive, as referendums on sensitive minority issues are rare and do not result in any real conflict. This conclusion corroborates other accounts of Swiss politics that observe a symbiosis between direct democracy and power-sharing (Vatter 1997).

The European Union has developed into one of largest multicultural political systems in the world. In his contribution, Peter Kraus examines the EU as a novel type of multinational polity. Using the concepts of (con)federation and consociationalism, Kraus traces elements of power-sharing in the EU. Taking a normative perspective, he then identifies several shortcomings of the developing EU polity. The recognition of diversity is biased towards national differences and input legitimacy is limited by the underdevelopment of transnational communication. These shortcomings are related to the political architecture and priorities of the EU. For European integration to proceed and for democracy to deepen, the EU needs to go beyond a consociation of Member States.

The four contributions give nuanced answers to the three leading questions about the relationship between power-sharing and democracy. From Barma's contribution on transitional bodies in Cambodia, East Timor and Afghanistan, we learn that what comes after power-sharing may not be democratic consolidation and deepening, but rather the monopolisation of power and increased conflict. Monteux's analysis of decentralisation in Bosnia and Herzegovina, Macedonia and Kosovo confirms suspicions about the freezing effects of power-sharing arrangements, especially when decentralisation is along ethnic lines. The normative critique of the EU by Kraus highlights how power-sharing between states in the EU stands in the way of increased legitimacy and democratisation. The review of the experience of direct democracy and power-sharing in Swiss multilingual cantons by Stojanović is more positive, but then Switzerland is an established democracy and no referendums were organised on the constitutive power-sharing arrangements themselves. The contributions to this special issue on democracy and power-sharing in multinational states, therefore, provide further evidence for the problematic nature of the relationship between democracy and power-sharing, especially in the context of post-conflict societies.

References

ANDEWEG, R. 2000. "Consociational democracy". *Annual Review of Political Science* 3: 509–36.

BAHCELI, T. and NOEL, S. 2005. "Power-sharing for Cyprus (again)? European Union accession and the prospects for reunification". In: S. Noel, ed., *From Power-sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*, 215–38. Montreal: McGill-Queen's University Press.

BIEBER, F. 2004. "Power-sharing as ethnic representation in postconflict societies: the cases of Bosnia, Macedonia, and Kosovo". In: A. Mungiu-Pippidi and I. Krastev, eds., *Nationalism after Communism: Lessons Learned*, 231–48. Budapest: Central European University Press.

BOGAARDS, M. 2000. "The uneasy relationship between empirical and normative types in consociational theory". *Journal of Theoretical Politics* 12 (4): 395–424.

CASPERSEN, N. 2004. "Good fences make good neighbours? A comparison of conflict-regulation strategies in postwar Bosnia". *Journal of Peace Research* 41 (5): 569–88.

DARBY, J. and MAC GINTY, R., eds. 2003. *Contemporary Peacemaking: Conflict, Violence and Peace Process.* Basingstoke, UK: Palgrave Macmillan.

DIMITROVA, K. 2004. "Municipal decisions on the border of collapse: Macedonian decentralisation and the challenges of post-Ohrid democracy". *Southeast European Politics* 5 (2–3): 172–86.

ESMAN, M. 2004. *An Introduction to Ethnic Conflict*. Cambridge: Polity Press.

HALE, H. 2004. "Divided we stand: institutional sources of ethnofederal state survival and collapse". *World Politics* 56: 165–93.

HODDIE, M. and HARTZELL, C. 2003. "Institutionalizing peace: power sharing and post-civil war conflict management". *American Journal of Political Science* 47 (2): 318–32.

HOROWITZ, D. 2002. "Explaining the Northern Ireland Agreement: the sources of an unlikely constitutional consensus". *British Journal of Political Science* 32: 193–220.

LIJPHART, A. 1969. "Consociational democracy". *World Politics* 21 (1): 207–25.

——. 1975. *The Politics of Accommodation. Pluralism and Democracy in the Netherlands*, 2nd rev. edn. Berkeley: University of California Press.

——. 1977. *Democracy in Plural Societies*. New Haven, Conn.: Yale University Press.

——. 1985. *Power-Sharing in South Africa*. Berkeley, Calif.: University of California, Institute of International Studies.

——. 1999. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries.* New Haven/London: Yale University Press.

——. 2002. "The wave of power-sharing democracy". In: A. Reynolds, ed., *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, 37–54. Oxford: Oxford University Press.

LUSZTIG, M. 1994. "Constitutional paralysis: why Canadian constitutional initiatives are doomed to fail". *Canadian Journal of Political Science* 27 (4): 747–71.

MAC GINTY, R. 2003. "Constitutional referendums and ethnonational conflict: the case of Northern Ireland." *Nationalism and Ethnic Politics* 9 (2): 1–22.

MAC GINTY, R., WILFORD, R., DOWDS, L. and ROBINSON, G. 2001. "Consenting adults: the principle of consent and Northern Ireland's constitutional future". *Government & Opposition* 36 (4): 472–92.

MILNE, D. 2003. "One state or two? Political realism on the Cyprus question". *The Round Table* 368: 145–62.

NOEL, S., ed. 2005. *From Power-Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*. Montreal: McGill-Queen's University Press.

O'LEARY, B. 2005. "Debating Consociational Politics: Normative and Explanatory Arguments". In: S. Noel, ed., op. cit., 3–43.

REILLY, B. 2003. "Democratic validation". In: Darby and Mac Ginty, eds., op. cit., 174–84.

REYNOLDS, A. 2005. "Constitutional medicine". *Journal of Democracy* 16 (1): 54–68.

ROEDER, P. and ROTHCHILD, D. 2005 *Sustainable Peace: Power and Democracy after Civil Wars*. Ithaca, N.Y.: Cornell University Press.

ROTHCHILD, D. and ROEDER, P. 2005*a*. "Dilemmas of state-building in divided societies". In: Roeder and Rothchild, eds., op. cit., 1–25.

—— 2005*b*. "Power sharing as an impediment to peace and democracy". In: Roeder and Rothchild, eds., op. cit., 29–50.

Sartori, G. 1976. *Parties and Party Systems: a Framework for Analysis.* Cambridge: Cambridge University Press.

Simonsen, S. G. 2005. "Addressing ethnic divisions in post-conflict institution-building: lessons from recent cases". *Security Dialogue* 36 (3): 297–318.

Sisk, T. 2003. "Power-sharing after civil wars: matching problems to solutions". In: Darby and Mac Ginty, eds., op. cit., 139–50.

Van Schendelen, M. C. P. M. 1984. "The views of Arend Lijphart and collected criticisms". *Acta Politica* 19 (1): 19–49.

Vatter, A. 1997. "Die Wechselbeziehungen von Konkordanz -und Direktdemokratie". *Politische Vierteljahresschrift* 38 (4): 743–70.

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Brokered Democracy-Building: Developing Democracy through Transitional Governance in Cambodia, East Timor and Afghanistan

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This paper examines the attempts of the international community to build democratic political systems in post-conflict countries, focusing on the "transitional governance" approach of the United Nations to working with domestic political factions to establish democratic institutions in Cambodia (1992–93), East Timor (1999–2002) and Afghanistan (2002–04). The transitional process is intended to develop local institutions and administrative and political capacity, while attempting not to reify the static balance of power in place at the end of the conflict. The idea of transitional governance may be seen as a pragmatic stepping-stone in a democracy-building process. It defers to elected representatives all-important decisions about the specific institutional architecture of democracy, including the question of what forms of power-sharing make sense given the domestic political context. The transitional governance process appears to be fairly effective in the initiation phase of the democracy-building process: administering a peace settlement through to a first national election and facilitating the writing of a constitution. Yet democratic consolidation after the transition point has been stunted to some extent in each of the countries considered. The very mechanisms of transitional governance – particularly the designation of a semi-sovereign body to act as a UN counterpart – act at cross-purposes to the impulse to allow a dynamic democracy-building process to take root.

T he international community has made a number of explicit attempts to construct democratic political systems in post-conflict developing countries since the end of the Cold War. The United Nations, in particular, has increasingly taken on the responsibility for collaborating with domestic elites in designing constitutional structures and holding elections as part of broader state-building efforts in several post-conflict nation-states. In undertaking these peace-building

exercises, the UN has adopted a transitional governance model of what I term "brokered state-building" in post-conflict interventions that is intended to assist countries in transitioning to legitimate and effective domestic government. The hallmark of this model is that the UN works with domestic elites simultaneously on two aspects of state-building: it administers the country in collaboration with domestic counterparts during the transitional period; and it simultaneously works with domestic elites in building a democratic political system and reconstructing long-term state capacity.

Here I examine the attempts of the international community to build democratic political systems in post-conflict countries, focusing on the "transitional governance" approach of the UN to working with domestic political factions to establish democratic institutions in Cambodia (1992–93), East Timor (1999–2002) and Afghanistan (2002–04).[1] In each case, as in other post-conflict countries, the UN made the construction of a democratic political system an explicit goal of a peace-building intervention.[2] Post-conflict countries are probably the least favourable environments in which democracy can take hold and flourish: they are usually quite poor and have lost years of economic growth and development; they have low institutional and human capacity that has been further attenuated by decades of conflict; and they are home to populations with sociopolitical cleavages that have led to and become hardened by violent civil conflict. Yet the international community, led by the UN, acts on the belief that a democratic political system is best suited to managing political conflict and presumes to be able to build democratic institutions in these post-conflict countries. It is instructive, therefore, to empirically examine the institutional outcomes of these brokered democracy-building interventions, both in terms of the formal institutional architecture put in place as a result of the transitional governance process, and in terms of subsequent democratic consolidation.

The reasonable null expectation for these hard cases for democracy-building is that the UN-led transitional governance process will have no real impact whatsoever. Yet the evidence from Cambodia, East Timor and Afghanistan, as I demonstrate, tells a more nuanced story. Remarkably similar transitional governance processes

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[1] Throughout I refer to and discuss the country case studies in the sequence in which the state-building interventions occurred.

[2] For the purposes of this paper, I leave aside the two other major dimensions of these (and other) comprehensive peace-building initiatives mounted by the international community: (1) internal security guarantees; and (2) the rebuilding of administrative or state capacity. Both these dimensions are essential for maintaining peace and leading post-conflict countries on the path to political and economic recovery; and both dimensions interact with the democracy-building component to some extent as part of the dynamic transitional process. Indeed, the common assumption that state-building and democracy-building are mutually reinforcing endeavours ought instead to be problematised, an approach I take elsewhere. Nevertheless, my premise is that the democracy-building dynamic can be analysed in isolation in order to illuminate the prospects of achieving democratic consolidation through a transitional governance process.

in each case were surprisingly successful in enabling local elites to come to some form of agreement on an electoral system and constitutional order resulting in the transition to a democratically elected national government. Elites in each of the three countries, guided by the UN, made a series of core institutional choices to reach consensus on a suitable democratic architecture for the local context, and held free and fair democratic elections to mark the end point of the transitional phase.

Despite those successes in transition and initiation of the democracy-building process, however, each country has subsequently faced significant challenges to democratic consolidation. I suggest that these hurdles are a result, in part, of the transitional governance mechanisms themselves. The transitional process is intended to prevent carving in stone the static balance of power at the end of conflict, by allowing some time to dynamically develop local administrative and political capacity and institutions. But no matter what the formal institutional choices are in terms of democratic architecture, the very mechanisms of transitional governance pose a problem for democratic consolidation. In particular, the short transitional timeframe and the need to designate a semi-sovereign body to act as a counterpart to the UN entrenches certain groups in power and prevents a dynamic democracy-building process from taking root. The United Nations Transitional Authority in Cambodia (UNTAC) found that it was unable to prevent the previously reigning regime from holding onto the organs of the state and appropriating political power. The United Nations Transitional Authority in East Timor (UNTAET) saw a process intended to build political participation come up short against one party's domination of the legislative and executive branches of government. And the United Nations Assistance Mission in Afghanistan (UNAMA) played kingmaker only to find that alternative loci of power to the centre continue to thrive and threaten democratic consolidation.

These conclusions are not intended to mount a jeremiad against the UN and its state-building efforts. On the contrary, in each country, the political settlement has successfully prevented the return to full-scale violent conflict, a major achievement considering that post-conflict countries face a very high risk of renewed civil war in the absence of intervention.[3] Each country has recovered some measure of political stability and has held at least one democratic election. The point, rather, is to note the extreme difficulty of implanting democracy in developing post-conflict countries within a short timeframe, even given the elite consensus brokered by the UN and its facilitation of institutional choices somewhat tailored to local contexts.

Technocratic approaches to democracy-building in post-conflict countries must be problematised as taking place within a dynamic and hyper-political environment. I

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[3] The rule-of-thumb estimate from Collier (2000) and others' work on the causes of renewed conflict is that approximately half of countries emerging from civil war return to violent conflict within five years.

argue that transitional governance mechanisms are valuable and probably necessary in initiating a democracy-building process as part of a peace settlement in these cases because they provide political space for elites to agree on a new institutional architecture. Yet the exigencies of the process as it has been implemented have subsequently stunted democratic consolidation. I demonstrate this by assessing the experiences of the transitional governance approach to democracy-building in Cambodia, East Timor and Afghanistan. First, I lay out the transitional governance process and specify the outcomes I am interested in examining. In this context, I situate my work theoretically, and discuss research design and the analytical leverage provided by the three cases. Second, I discuss the role of elites in post-conflict settlements and reconstruction, emphasising their importance in thinly institutionalised environments. Third, I outline the major implications of the literature on power-sharing and democracy for post-conflict democracy-building interventions. The question of power-sharing is central to each of these cases because the international community has come to believe that a political solution to stalemated conflict cannot be all-or-nothing, and that institutional design is the major policy instrument available for reconciling previously warring segments of a population. Fourth, I present three brief case studies of the transitional governance processes implemented by the UN in Cambodia, East Timor and Afghanistan, to illustrate successes in the initiation of the democracy-building processes there and the ongoing challenges in each for subsequent democratic consolidation. I conclude with some insights generated from these cases for the practice of international interventions in building democratic political systems in post-conflict countries.

1. Transitional Governance and Democracy-Building

The UN has pursued a "brokered state-building" approach by establishing transitional authorities in five post-conflict countries (all since 1992), a small universe of cases. Transitional authorities fall under the broader mandate of the United Nations Department of Peacekeeping Operations.[4] Peacekeeping is intended to help conflict-torn countries create the conditions for sustainable peace. Assistance comes in many forms, including ceasefire monitoring, humanitarian assistance, military demobilisation, power-sharing arrangements, support for elections, and operations to strengthen the rule of law and economic and social development. By my analysis, only in Afghanistan, Cambodia, Croatia (Eastern Slavonia), East Timor and Kosovo has a transitional governance model been put in place in which the UN takes over some or all day-to-day administration of the country in question for a period of time. Transferring sovereignty to a legitimate domestic government requires a functioning state capable of providing order. Thus,

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[4] For further discussion of the department's mandate and role in post-conflict countries, see Ratner (1995), Brahimi et al. (2000), Durch (2003), Fearon and Laitin (2004), Jones (2004) and Dobbins et al. (2005).

these transitional authorities must assist in reconstructing state capacity and building basic institutions for security and political stability so that a democratically elected domestic government can assume responsibility for administration.

In this paper I focus on the UN's brokered democracy-building efforts in Cambodia, East Timor and Afghanistan.[5] They are a set of "most different systems" cases in terms of potential national-level explanatory variables, including: the nature of the conflict; the configuration of competing groups and elites;[6] and the nature of sociopolitical cleavages and macro-historical context. In Cambodia, three major coherent factions fought a civil war against the backdrop of Cold War geopolitics and a period of auto-genocide. The peace settlement of 1991 was the result of a mutually hurting stalemate between still-hostile groups. East Timorese independence in 1999 marked the end of a twenty-five-year resistance struggle against Indonesian occupation. The revolutionary front served as an umbrella group that, albeit quite incoherent, dominated the political landscape in the transitional phase. Afghanistan emerged in 2001 from almost twenty-five years of conflict that saw an anti-imperialist struggle morph into civil war among many fairly coherent ethno-tribal groupings. The victors – the Northern Alliance aided by the United States military – controlled only one locus of power in a country in which political, financial and armed resources are spread widely across hostile groups.

The cases thus provide an opportunity to draw structured, focused comparisons while developing within-case analysis using process induction and verification (case-intensive methodological insights are from, *inter alia*: George and McKeown 1985; Bennett and George 1997; Mahoney 2000). Democracy-building through transitional governance follows a similar logic in each case, despite the many differences between the cases. My argument here thus emerges from the method of agreement: the shared experience that all three countries go through is the transitional governance process, thus any similarities in outcomes that result from that process should be more compelling, given their differences.[7] With respect to

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[5] The two remaining countries in which UN transitional authorities have led a state-building process – Croatia and Kosovo – are somewhat different; they are both more wealthy and institutionally developed than the three developing nations considered here. Nevertheless, the transitional governance process itself remains similar in important ways in both Croatia and Kosovo, and these cases should provide the opportunity for further testing of the hypotheses generated in the work here. NB: UN peacekeeping and capacity-building activities in Bosnia do not qualify as a transitional governance process as defined here, as the UN has not shared any dimension of sovereignty or civil administrative responsibilities with the domestic government.

[6] In outlining the nature of political group competition in each of the cases I build, in part, on Doyle's insightful definition of "ecologies of transitional politics", a typology based on the number of factions, how coherent those factions are, and whether they are hostile or reconciled in the transitional phase (Doyle 2001: 547–50).

[7] While the comparative case material presented here generates a causal logic, it cannot rigorously demonstrate validity. I have explicitly selected three cases that share the transitional governance

building democratic political systems, the hallmarks of the UN transitional governance approach are as follows:

1. A UN transitional authority is mandated to assist with the implementation of a peace settlement over a transitional period of two to three years.

2. During the course of the transitional period the UN relies on a semi-sovereign domestic counterpart, often a body that explicitly shares power among competing local groups, which is intended both to assist with governing over the transitional period and to provide some form of domestic political participation in the process.

3. The transitional period culminates in a national election for a constituent assembly, the writing of and agreement on a constitution – including core choices about institutional architecture – by the constituent assembly, and the transition of the constituent assembly, upon ratification of the constitution, into the national legislature.

The precise organisational scope and range of responsibilities of the transitional administrative components in Cambodia, East Timor and Afghanistan varied considerably. Different external stakeholders also played important and varied roles in each of the peace processes. But the process of democracy-building through transitional governance followed the pattern outlined above very closely in each case, and the analytical leverage in this study emerges from that shared experience.

Scholars have delved into a relatively new theoretical space at the intersection of international relations, comparative politics and public administration in order to examine the increasingly regular and significant phenomenon of UN and other post-conflict state-building initiatives since the early 1990s. Analysts have approached the processes and implications of peacebuilding in a variety of different ways. The peacekeeping literature – on both interstate and civil wars – focuses for the most part on peace settlements and the implementation of peace agreements through the end of the transition phase as described above (excellent examples of this approach are Durch 1996; Fortna 2004; Paris 2004). The outcome it is most concerned with is the maintenance of peace, that is, the prevention of a return to conflict. Another line of analytical inquiry focuses on the machinery and processes of transitional governance itself. Such work elaborates and compares the

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experience to examine the links between that form of intervention and its stated objective of democracy-building. Complementary research could examine a set of cases of indigenous state-building in which the international community did not implement a transitional governance process. Weinstein (2005) has embarked on this research programme, examining the state formation dynamic in cases of what he names "autonomous recovery".

various mechanisms through which the international community has attempted to build state capacity in weak, failed and post-conflict states.[8]

Nevertheless, analyses of post-conflict state-building efforts have yet to venture into systematic assessments of how state-building interventions achieve their stated objective of democracy-building and democratic consolidation after the transitional phase is over. These are extremely difficult institution-building efforts to sustain over time, but are necessary for continued conflict management and political stability. It comes as no surprise, therefore, that conventional cross-national quantitative measures of democracy identify none of the three cases examined here as fully free or democratic.[9] Yet such measures are necessarily blunt and cannot capture the more finely grained details of nascent democracy-building processes. Furthermore, as they focus on the institutional architecture of democracy, it seems intuitive that they rate newly institutionalising democracies poorly.

In examining transitional governance and its outcomes, I aim to capture the wider and equally significant dimensions of the democracy-building dynamic in post-conflict environments that centre on elite political behaviour and public attitudes towards democracy, as well as the institutional architecture dimension. Hence, I rely on the widely used working definition of a consolidated democracy developed by Linz and Stepan (1996: 6). Briefly, a democratic regime is consolidated:

1. Behaviourally, when no significant actors attempt to create a non-democratic regime or turn to violence or secession;

2. Attitudinally, when a strong majority of public opinion believes that democratic procedures and institutions are the best way to govern their collective life; and

3. Constitutionally, when governmental and non-governmental forces alike are subjected to and habituated to conflict resolution within the specific laws, procedures and institutions laid out by the new democratic process.

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[8] Among others, Chesterman (2004) details the history of United Nations transitional administrations; Fearon and Laitin (2004) and Krasner (2004) examine the complicated and varied combinations of international and domestic governance – that they term "neo-trusteeship" and "shared sovereignty", respectively – that have evolved recently; Paris (2004) assesses the major peacebuilding initiatives of the 1990s to learn about the effectiveness of their strategies; Fukuyama (2004) discusses the problems associated with institution-building in weak states; and Chesterman et al. (2005) discuss the delicate balance that must be struck between local, regional and international actors in state-building processes. This type of deeper discussion of different types of transitional governance and their potential impact on outcomes is beyond the scope of this paper.

[9] Freedom House 2006 scores identify Cambodia as "not free" and Afghanistan and East Timor as "partly free;" the Polity IV 2003 dataset identifies post-civil war Cambodia and East Timor as "anocracies" and does not have data for post-Taliban Afghanistan.

In short, consolidated democracy is a political situation in which democracy has become "the only game in town" Linz and Stepan (1996: 5; quoting Giuseppe DiPalma 1991).

The peacekeeping literature's analytical focus to date on the peace settlement stage and the mechanisms of peacebuilding is partly a result of the very recent nature of externally assisted state-building exercises. Only now has enough time elapsed in enough cases to begin the process of examining brokered democracy-building efforts and outcomes in terms of democratic consolidation. In this paper I attempt to generate some initial conclusions and hypotheses for further empirical investigation. Attention to post-conflict state-building efforts reminds us that as important as the decisions about the format of democratic institutions themselves is the very transitional process through which those institutions are agreed upon. This transitional governance process structures the initiation of the democracy-building exercise by facilitating choices about institutional architecture by domestic political elites. The subsequent course of democratic consolidation takes place through those agreed institutions. In the next two sections, I discuss the role of elites and institutional engineering in post-conflict political arenas.

2. Elites and the Institutional Landscape

Following much of the democratisation and democracy consolidation literature, I emphasise the role of elites in the democracy-building experience. The solutions to the challenge of holding post-conflict elections centre around the relationships among political elites, political institutions and civil society (Bermeo 2003: 166). I explicitly emphasise the hyper-political and contested nature of the state-building process by focusing on the agency of political elites in determining the institutional outcomes of externally supported reconstruction efforts. A necessary criterion for success in transitional state-building is a general consensus that new and rebuilt democratic institutions are legitimate, reflecting broad socio-political inclusion and representation in the formal structures of the polity and state. Domestic elites are central in building the necessary social consensus for successful post-conflict recovery, and hence they play an essential – and yet under-theorised – role in shaping the institutions that are put in place with the aim of transferring sovereignty to a domestic government.

While much of the democratisation literature explicitly focuses on elite pacts and settlements (Rustow 1970; Karl 1990; DiPalma 1991; Bermeo 1997), the peacekeeping literature has been less agent-centred. My analysis rests on the view that peace agreements themselves are elite settlements, and that the subsequent transitional process is dominated by elites designated in various ways by the UN as counterparts and legitimate contenders to power. Furthermore, the nature of the transitional governance process is that the UN, its own agents, and the political legitimacy it confers are inserted into negotiations among domestic elites. This

heavily elite-driven political dynamic is often a direct result of the conflict period itself: during civil war all forms of political participation become militarised and the institutions of civil society and institutional channels for non-violent political participation wither away. The most central long-term challenge of post-conflict reconstruction is the (re)building of precisely those institutions that will mediate political conflict and regularise the resolution of intra-group competition in the political arena. Without a long-term institution-building process geared towards this goal, the resumption of violent conflict between groups is always a threat.

In most contemporary post-conflict states the political landscape is dominated by elites who are attempting to solve the practical puzzle of protecting their own power bases while guaranteeing universal political inclusion in an institutional vacuum. The nature of these elites and their resource bases can vary dramatically. In Cambodia, leaders of the major political factions that fought the civil war were the key power-holders in society, supported by their factional armies and, in the case of what became the dominant Cambodian People's Party, by the institutional power vested in their control of the state. In East Timor, the organisational backbone of the guerilla front stepped into the power and institutional void left at the nation's independence, bolstered by the powerful shared symbology of a widespread national resistance movement. In Afghanistan, the United States and United Nations played kingmakers, installing a compromise choice from the Afghan diaspora as the core leader who was hamstrung by the diffuse loci of power – resting on control of revenue and militias – throughout the country.

The three countries examined here thus vary in terms of the types of political competition among domestic elites, their claims to authority, and their power resources. Yet each set of political elites, themselves constrained by macro-historical context and international norms concerning state-building (represented by the UN presence), influence the institutional outcomes implemented and the subsequent domestic power balance in discernible patterns. Doyle observes:

> Bargaining, and hence both will and capacity, are crucial aspects of a peacekeeping agreement. A peace treaty is a binding legal contract, granting rights, specifying duties, and – when it mandates a peacekeeping operation – establishing institutional capacities. But signing it does not end the political bargaining. After the parties agree to the creation of a peacekeeping operation, they continue to compete for advantage. The agreement becomes, as do so many other constitutional texts, an invitation to struggle (Doyle 1995: 66).

In other words, the transitional governance process itself shapes the interactions of elites and the processes of peace-building and democratic consolidation. In post-conflict negotiations where there is no clear winner, the impulse towards some form of non-zero-sum political arrangement makes sense. Various power-sharing arrangements embedded in transitional governance mechanisms might help to achieve the right mix of institutional incentives to prevent elites from derailing peace settlements over time. Moreover, domestic elites might choose to build some

forms of power-sharing into the institutional architecture for democratic governance, in order to ensure their own access to power and their group's political inclusion over time.

3. Power-Sharing and Institutional Engineering

Scholars and practitioners are agreed that institutional engineering is the major policy instrument available to stack the deck in favour of democracy and hence mediate conflict in peaceful, indeed productive, ways (see especially Barnes 2001; Belmont et al. 2002; Horowitz 2002; Norris 2002). An assessment of the externally supported effort to build democratic institutions and the subsequent consolidation of democracy in post-conflict developing countries benefits from a brief look at the extensive comparative politics debate on democracy and power-sharing. The power-sharing literature for the most part centres on the need to provide institutional guarantees and protections to ethnic groups within ethnically fragmented, indeed multinational, states. In this paper, I attempt to generalise from a literature that focuses on ethnicity as the core political cleavage in a country, by asking what light the institutional prescriptions of power-sharing can shed on post-conflict rebuilding efforts that are not primarily dogged by the problem of ethnicity. Cambodia, East Timor and Afghanistan are linked in that the post-conflict democracy-building process centres on elites attempting to maintain their grip on power and their relationship to popular participation, rather than the salience of the ethnic group identity in politics. In each case, the transition to democracy and its subsequent consolidation have centred around inter-elite struggles, rather than competition among ethnic groups worried about their security and political power post-conflict. Nevertheless, the literature on power-sharing yields an insight into how legitimate governance systems can be constructed in political systems that will not tolerate all-or-nothing solutions.[10]

The literature on power-sharing and democracy is rich with both theoretical debates and empirical material. For the purposes of this paper, I follow Sisk (1996: 4) in defining power-sharing systems inclusively as the practices and institutions that foster broad-based governing coalitions generally inclusive of all major mobilised groups in society.[11] Understanding power-sharing in this manner illuminates the point that institutions and practices can be assembled in different

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[10] Bermeo points out that elections are often idealised as arenas in which conflict is resolved, but they can exacerbate conflict as well. Thus, "[in] a situation where electoral opponents have fought a civil war democratizers must make sure that elections are not all-or-nothing propositions" (Bermeo 2003: 165).

[11] Sisk's definition elides the distinction between, and the long-standing debate on, the merits of Lijphart's (1977) consociational democracy and Horowitz's (1985) integrative democracy and treats them both as variants of power-sharing approaches intended to form an inclusive approach to government. Together they are distinct from purely majoritarian first-past-the-post parliamentary systems of democratic governance.

ways to promote democratic conflict management. Within this general constellation of power-sharing institutions, there are three core choices in institutional design that are particularly applicable to post-conflict nations In delineating these choices, I draw from the different typologies of conflict-regulating practices developed by Sisk (1996), Barnes (2001), Belmont et al. (2002), and Rothchild and Roeder (2005*b*):

1. *Centralism versus the territorial division of power.* Federalism has been widely analysed for its potential in regulating political conflict among distinct regional groups. Devolution of power to territorial regions can give groups that are in a minority at the national level some degree of power over their own affairs at the subnational level. It can also thwart excessive concentration of power by distributing it in the hands of subnational entities and elites. On the other hand, it can empower those local institutions and strongmen at the expense of central government, diffuse political power and scarce administrative and executive capacity in a thinly institutionalised system, and create unnecessary tension between the centre and regions. (Decentralisation can be pursued as a softer form of territorial power-sharing that privileges the centre.)

2. *Electoral system structure.* Much has been written about the impact of electoral systems on politics.[12] Scholars who disagree on the outcomes of different institutional architectures are agreed that electoral systems represent the most powerful tool available for institutional engineering. In practice, moreover, there is a general belief that "[a]n appropriate electoral system in a divided society is arguably the most important mechanism through which parties in conflict can adopt a democratic conflict-regulating process" (Sisk 1996: 58). For post-conflict societies, the choice has centred on whether majoritarian systems, plurality systems, or some type of proportional representation system is best, along with more detailed analyses and prescriptions of specific voting rules.

3. *Decision-making rules, institutions and informal practices.* Formal rules specifying the division of responsibilities between executive and legislature have important implications for power-sharing among competing elites. Inclusive decision-making can also be pursued in the executive and administrative arenas through informal mechanisms such as national unity cabinets and roughly proportional senior administrative representation.

Table 1 briefly captures how some of these choices have been made in Cambodia, East Timor and Afghanistan.

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[12] See Reynolds (2002) for a recent survey of theories of electoral systems and constitutional engineering and their impact on the practice of democracy.

Table 1: Core Institutional Choices in Cambodia, East Timor and Afghanistan

	Core Institutional Choices		
	Level of centralisation	**Electoral system structure**	**Decision-making mechanisms**
Cambodia	Administrative and political power highly centralised.	Parliamentary system. Proportional representation in mostly multi-member districts; closed party list for each province.	Two-thirds majority legislative rule has necessitated a series of informal coalitions that ostensibly share power.
East Timor	Decentralisation a formal objective, but provincial powers remain weak.	Semi-presidential system. Parliament elected by combination of first-past-the-post district representation and national party list proportional representation.	Head of government (leader of parliamentary majority) constitutionally more powerful than head of state.
Afghanistan	Formally a centralist, unitary state model; provincial governors powerful in practice.	Presidential system. Parliamentary elections on single non-transferable vote (SNTV) basis in multi-member districts.	Informal "national unity" cabinets reflecting need for power-sharing across ethno-regional groups.

In Cambodia, administrative structures are highly centralised, and constitutional arrangements empower the executive. A two-thirds legislative majority rule, however, has necessitated informal coalition governments that ostensibly share power. In East Timor, one party dominates the political and administrative landscape and provincial powers and responsibilities remain weak. A semi-presidential system empowers the head of government (the leader of the parliamentary majority) over the popularly elected head of state. In Afghanistan, strong executive powers are vested in the president in a formally centrist and unitary state model. Yet provincial governors remain powerful in practice and the exigencies of ethnic heterogeneity in the country necessitate informal power-sharing arrangements at the centre such as a "national unity" cabinet.

Out of a universe of possible arrangements for legitimate and effective democratic governance, there are some similarities in institutional choice across the three cases, but there are also some remarkable differences in formal institutional architecture and the subsequent domestic power balances. The differences indicate that in each case local political elites have interacted with the UN in the transitional governance process to develop institutional systems that reflect political reality.[13] In each case, nevertheless, the institutional choices were made by domestic elites both empowered and constrained by a transitional governance process implemented by the UN that has a number of key characteristics. In this context, an examination of the dynamic political processes created by the institutional mechanisms of transitional governance is instructive. I argue that the transitional governance process itself constrained institutional and political outcomes and the potential for democratic consolidation in discernible patterns.

4. Case Studies: Transitional Governance in Practice

The idea of transitional governance itself, as represented by the UN's transitional authority approach, can be seen as a pragmatic stepping stone in a democracy-building process. It defers to elected representatives all-important decisions about the specific institutional architecture of democracy, including the question of what forms of power-sharing make sense given the domestic political context. The transitional process is intended to develop local institutions and administrative and political capacity, while attempting not to reify the static balance of power in place at the end of the conflict. It is intended to allow the generation of indigenous forms of democratic governance and institutions for consensus-building, accountability and political participation. Transitional institutions are intended to "pave the way for more lasting mechanisms for participation and decision-making" (Brown 2003: 144).

Yet the cases presented here illustrate that the very mechanisms of transitional governance – particularly the designation of a semi-sovereign body to act as a UN counterpart – act at cross-purposes to the impulse to allow a dynamic democracy-building process to take root. I structure my case comparison in this paper by looking across Cambodia, East Timor and Afghanistan at the peace settlement, the transitional governance period and the initiation of the democracy-building process and prospects for the subsequent consolidation of democratic governance in each country. In brief, we see that the UN's need for a local counterpart empowered the State of Cambodia within the Supreme National Council, Fretilin within the East Timor Transitional Authority, and Hamid Karzai and a small group of Northern Alliance leaders in the Interim and Transitional Administrations in Afghanistan.

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[13] Note that this provides some contrary evidence to the common – and perhaps correct in nuance but often overstated – criticism of UN state-building that it does not pay enough attention to local political and institutional contexts.

These groups dominated the transitional governance process, including the all-important constitution-writing process and institutional design phase. The UN-legitimated groups were then, in turn, the presumptive winners of the first national elections before they were held in each case, and have since governed with varying degrees of legitimacy in the eyes of the rest of the country. In each of the cases, some measure of democratic consolidation – behavioural, attitudinal and/or constitutional – has thus been attenuated in the aftermath of the transitional governance process.

4.1. Cambodia: reifying entrenched interests

The Cambodian peace agreement included specific power-sharing provisions and provided a roadmap for building democracy and the transition to an elected government. The transitional process, however, came up against two hard constraints: mutual hostility among groups that were far from reconciled; and the resilient power of the particular group – now the Cambodian People's Party (CPP) – that was entrenched in the country's administrative structure. Elections were indeed held successfully, but the political landscape has since been dominated by the powerful CPP even though the vast majority of the country believes that democratic procedures are the appropriate way to govern collective life. The CPP regime has managed to thwart behavioural and constitutional democratic consolidation over time by governing autocratically, crushing dissent, and refusing to subject itself or its actions to agreed democratic procedures.

From 1970 onwards, Cambodia underwent two decades of political instability, auto-genocide and civil war. Four political factions and their armies fought for control of the country: the Vietnamese-backed People's Republic of Kampuchea (PRK), and the loosely aligned exile coalition made up of the radical communist Khmer Rouge, Prince Norodom Sihanouk's royalist Funcinpec (National United Front for an Independent, Neutral, Peaceful, and Cooperative Cambodia); and the non-communist Khmer People's National Liberation Front (KPNLF). The conflict for political control over Cambodia developed out of the collapse of the legitimacy of the Cambodian state, which began under the Khmer Rouge's violent regime from 1975–79[14] and continued under the Vietnamese-installed PRK regime. Although the UN seat and therefore the country's sovereignty was held by the exile coalition, the PRK government controlled the country from 1979 onwards, led by Heng Samrin and then Hun Sen. This regime "developed out of the devastation inherited from the Khmer Rouge an effective (albeit dictatorial) authority over

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[14] The Khmer Rouge strategy systematically dismantled and destroyed the very fabric of Cambodian society. It targeted the most educated and trained sectors of society, destroyed civic and religious institutions, prohibited normal family life, and crushed dissent.

more than 80 per cent of the territory" (Doyle 1995: 18), yet it continued to lack both international and domestic legitimacy.[15]

As Soviet support for the Vietnamese-installed regime began to wane in the mid-1980s, the factions began negotiations for a political compromise. These talks broke down, deadlocking over the issue of power-sharing and the nature of the interim control mechanism when Hun Sen's faction rejected Khmer Rouge participation in an interim quadripartite government. In 1989, Viet Nam removed its troops, leaving behind Hun Sen's government, now known formally as the State of Cambodia (SOC). Cambodia lost much of its geostrategic importance as a proxy battlefield with the end of the Cold War, but the civil war continued, with the Khmer Rouge making territorial advances at the end of the 1980s. Finally, in 1990, the Permanent Five members of the UN Security Council – China, France, the Russian Federation, the United Kingdom and the United States – drafted a peace plan that called for an interim administration made up of the four factions to run the country under UN supervision. The Paris Peace Agreement of 23 October 1991 was the genesis of the United Nations Transitional Authority in Cambodia (UNTAC), mandated to implement the peace accords, and its parallel domestic counterpart, the Supreme National Council (SNC), a quadripartite body endowed with Cambodian sovereignty. The Paris Agreement was an inflection point in the Cambodian civil conflict, but it did not mark a final resolution to the civil war. In many ways, subsequent Cambodian reconstruction occurred within a political process that was a continuation of the war by other means.[16]

Scholars agree that the Cambodian factions did not sign the Paris peace accords from their own desire for peace, but did so unwillingly due to the pressure applied to them by their external backers (Doyle 1995: 68; Ratner 1995: 158). Indeed, the SOC believed itself in control of 90 per cent of the country, and the Khmer Rouge thought it could continue to mount a guerilla war and in fact later did. Although the factions were likely not intent on violating the peace accords even as they signed them, "they had competing conceptions of how the accords would affect them and undermined the consent critical to peacekeeping" (Ratner 1995: 158). The SOC and the Khmer Rouge in practice actively resisted UNTAC whenever it sought to implement its mandate in a manner against their interests. Perhaps most significantly, the Khmer Rouge refused to comply with the second phase of the ceasefire in June 1992, which included the partial demobilisation of the factional armies. The SOC seized on this refusal to disarm as its own justification for

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[15] Support from the Cambodian population was not forthcoming, and few Cambodians returned from the diaspora to assist the regime. While the PRK was nowhere near as brutal as the Khmer Rouge, "it was nonetheless a hardline one-party state under rigid Vietnamese control", that brooked no dissent, tortured and killed its opponents, and made no moves towards establishing the hallmarks of a free society such as an independent judiciary or a free press (Shawcross 1994: 10–11).

[16] This is an inversion of Clausewitz's famous insight that war is a continuation of politics by other means.

resisting UNTAC and soon both parties were again engaged in violent conflict even as the 1993 election neared.

This translated directly into problems for the institutional mechanisms of transitional governance. Each of the domestic factions had different views on the relationship between UNTAC, the SNC and the SOC. The latter continued to emphasise its own authority under the accords, relying on its control over the apparatus of government even as the SNC officially embodied Cambodian sovereignty. The Khmer Rouge, and the other members of the exile coalition, saw the SNC – the quadripartite, power-sharing body they had aimed for over ten years of negotiation – as the only national entity with their participation and therefore the only legitimate source of political power in Cambodia. In their view, UNTAC would act on behalf of the SNC, and the SOC would be powerless. UNTAC, in line with the initial design of the arrangement, envisioned the SNC as an important reconciliation body that would help it with important decisions.

By the end of 1992, UNTAC essentially stopped trying to implement the comprehensive Paris Agreement and reformulated its mandate to creating a legitimate Cambodian government. A series of UN Security Council resolutions formally effected this change (Shawcross 1994: 15). UNTAC subsequently achieved modest success in implementing this circumscribed mandate including, most notably for many, the holding of Cambodia's first democratic national election in May 1993. Many analysts assessing UNTAC close to the end of its tenure in 1993 concluded that its electoral component was probably the most successful of its various dimensions (Doyle 1995; Shawcross 1994). Yet while this may have been true in a technical sense – in terms of registering voters and holding a relatively conflict-free, high-turnout election – UNTAC's legacy has been much more contested with the clarity of hindsight.

Subsequent problems of democratic consolidation can be traced back to conditions at the time of the first election. The Khmer Rouge withdrew from the elections, mounting instead an increasingly futile insurgency against other Cambodian parties and UNTAC. The separation of the SOC and its political party, the CPP, was in name only and hardly enforceable, and the SOC tried continuously to interfere with the campaigning of other parties and practiced widespread voter intimidation and buyoffs. Indeed, to those who controlled the CPP and the apparatus of government, defeat was unimaginable. Yet the election's results were unambiguous: Funcinpec won 45 per cent of the vote and Hun Sen's CPP only 38 per cent. What followed was the type of opaque political manoeuvring that has continued to characterise Cambodian democracy, leaving UNTAC essentially a bystander in the game. The CPP refused to acknowledge Funcinpec's victory and took an elaborate series of steps to entrench itself in power, including roping in Sihanouk and blackmailing the opposition with a short-lived secession and increased violence. Funcinpec was forced to compromise with the CPP, in a deal brokered by Sihanouk, and agreed to

share power in the new interim government that was to draft and adopt a new constitution before turning itself into a legislative assembly. Funcinpec's leader, Prince Norodom Ranariddh, calculated that the CPP would never hand over full administrative power, and thus agreed to accept parity with the CPP in the interim administration.

While many – including international officials – were dismayed that the final arrangement did not reflect Funcinpec's electoral victory, "the compromise aptly reflected the administrative, military, and even financial muscle of the CPP" (Shawcross 1994: 29). Sihanouk and Ranariddh even agreed to the CPP's demand that all votes in the new assembly be passed by a two-thirds majority, which ensured that the CPP would maintain its grip on government. In practice, the CPP retained control of all the provinces, even those it had lost in the election. In many central ministries, furthermore, personnel and policies remained unchanged from those of the SOC. A Constituent Assembly committee drafted a constitution in almost total secrecy, with barely any consultation with either UNTAC or Cambodian civil society groups, ending up with a document written and favoured by the CPP.[17] The new permanent government would include two co-prime ministers and the two-thirds majority was also retained, both at the demand of the CPP against Funcinpec's wishes. The continued control of the SOC (and hence CPP) over the bureaucracy, army and police was a locus of political power that simply outweighed Funcinpec's electoral victory. In terms of democratic consolidation and how power was distributed across the political system, the elite bargaining over the interim and then permanent arrangements was more important than the elections themselves. It is, in hindsight, not surprising that the CPP had the leverage to get a power-sharing compromise and stack the institutional architecture in its favour. It then waited out its chance to seize power outright.

The power-sharing coalition created legislative and executive gridlock. Funcinpec's power was weak in ministries; although it appointed many party functionaries to senior ministry positions, it simply lacked the bureaucratic capacity to have the necessary presence further down the hierarchy. Until 1993, Funcinpec had been a resistance movement rather than a political party, and it failed to quickly develop institutional strength. Thus, despite the election and negotiation results, Funcinpec's power was restricted to the cabinet level and administrative power remained in CPP hands. Moreover, Funcinpec made no real inroads into the police or army. Continuing factionalism has prevented the development of national institutional capacity to this day. By the mid-1990s, Gottesman concludes, "Pluralism in Cambodia did not evolve into a democratic exchange of ideas but into a tenuous compact among competing patronage systems. … Hun Sen and the CPP leadership could tolerate the multiparty system

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[17] Personal interviews with Cambodia legislators and donor officials; Phnom Penh, Cambodia, May 2005.

imposed on them by the international community so long as the other parties did not directly challenge their interests" (Gottesman 2003: 353).

Hun Sen consolidated his own power within the CPP, emerging as the dominant figure within the party. Soon thereafter, in early 1996, tension mounted between Hun Sen and Ranariddh when the latter began to complain about inequality in the coalition. In 1997, as word spread of a coalition forming between Funcinpec, the Buddhist Liberal Democratic Party and the new Sam Rainsy Party (SRP), violence erupted in the charged political atmosphere. In July 1997, troops loyal to Hun Sen and the CPP staged a coup d'état, moving tanks into the streets of Phnom Penh, skirmishing with royalist troops, and chasing Ranariddh, Sam Rainsy and other non-CPP politicians into exile.[18] This coup marked the breakdown of a system of power-sharing between distinct elite groups.[19] In subsequent coalitions, the ostensible role in power-sharing of Funcinpec has been not much more than window-dressing for the emergence of a de facto one-party system led by the hegemonic CPP.

The CPP's grip on the political system has subsequently thwarted any meaningful measure of democratic consolidation in Cambodia. After almost a year of negotiations, a new election was held in 1998, with the exiled politicians returning to Cambodia to participate. The CPP controlled this election, dominating institutions such as the Election Committee and restricting the media access of opposition politicians. In the announced results, the CPP won a plurality, while Funcinpec and SRP split the majority. In another ostensibly power-sharing coalition, Hun Sen became prime minister and Ranariddh president of the National Assembly. The July 2003 elections repeated a now-familiar pattern: after an electoral process marked by electoral fraud and violence, the CPP won over half the seats in the national assembly but fell short of the two-thirds majority needed to form a government. One year of absolute stalemate followed; only in July 2004 did negotiations to form a government begin, culminating in yet another deal with Funcinpec. In terms of governance and democratic consolidation, however, Cambodia had people governing "whose monopoly on power has remained mostly untouched since 1979" (Gottesman 2003: 356).

Although the Paris Peace Agreement's precondition of a neutral political environment did not exist for the first elections in 1993, peaceful, free and fair elections were held nevertheless. Yet international pressure on the signatories to reach a peace settlement meant that their actual reconciliation was incomplete. The

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[18] The official rationale for Hun Sen's action was that Ranariddh was about to strike a reintegration deal with the Khmer Rouge. Ashley (1998) argues that this was a pretext for Hun Sen's desire to see the end of Ranariddh as his own popularity was declining and that of the opposition coalition rising.

[19] I am indebted to an anonymous peer reviewer for this and the subsequent insight. Brown and Timberman (1998) concur with the assessment.

UNTAC mandate was designed on the premise that what was needed was coordination of the parties, but assuming good faith and reconciliation was inaccurate (Doyle 1995: 69). Hence the institutional mechanisms of transitional governance embodied in the relationship between UNTAC and the ostensibly power-sharing SNC did not work. Many agree that had UNTAC originally stood up to the State of Cambodia regime – had it effectively prized the reins of administrative apparatus from the SOC and not instead relied on the SOC to administer the country before the elections were held – it may have prevented the first power-sharing compromise, and then the later dominance of the CPP.[20] Yet UNTAC continued to rely on the semi-sovereign SNC, which was in turn dominated by the powerful reigning SOC. An emphasis on exit through quick elections compounded the problem. Some have gone so far as to argue that UNTAC's emphasis on the elections as an end point increased pressure on itself to compromise on the election results, ending in "complicity in the betrayal of the real winners of the UN supervised elections" (Thakur 2001: 121).[21] Postponing elections may have ushered in a sequence that allowed democratic consolidation to occur, rather than the truncated and thwarted process seen instead.

4.2. East Timor: dilemmas of political participation

Until the destabilising events of April 2006, East Timor had the most consolidated democracy of the three cases considered here. It was considered the most successful of the UN's transitional administration efforts, and many observers found cause for cheer when it passed the five-year mark without renewed violence. At that point, the country had achieved a relatively high degree of behavioural and attitudinal democratic consolidation, with all major political actors and public opinion agreeing on the benefits of democratic procedures and institutions. But challenges on the constitutional front became more pronounced, most notably as a result of the dominance of the Fretilin party over the legislative and executive branches of government and its reluctance to open political participation in managing conflict. In April 2006, political violence leading to serious instability and the prime minister's forced resignation left analysts asking whether the enormous international investment and involvement of UNTAET had failed.

On 30 August 1999, the East Timorese voted in a national referendum overwhelmingly against a special autonomy relationship with Indonesia and hence in favour of independence.[22] The country was finally allowed the act of self-determination it had been promised in 1974 by a withdrawing Portuguese colonial

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[20] Personal interviews with Cambodia legislators, scholars, NGO and donor officials; Phnom Penh, Cambodia, May 2005.

[21] Thakur cites Reginald Austin, director of UNTAC's electoral component, in pointing out the problematic emphasis on elections as an end point.

[22] The vote was 21.5 per cent in favour and 78.5 per cent against the proposed special autonomy relationship, with 98 per cent of registered voters participating.

administration. In the intervening twenty-five years, occupied by Indonesia, a large proportion of the East Timorese population had been engaged in a guerilla resistance movement for independence. Mere hours after the results of the referendum were announced, pro-autonomy militias that had favoured a special relationship with Indonesia – organised, armed and assisted by the retreating Indonesian military forces – conducted a pre-planned, systematic scorched-earth campaign intended to leave the small country in ruins and largely depopulated.[23] In perhaps the swiftest response in the history of UN peacekeeping, the UN sent in a multinational blue-helmet force headed by Australia. Within two months, the Security Council authorised a mandate (Security Council Resolution 1272 of 25 October 1999) for the United Nations Transitional Authority in East Timor, which became the virtual government of the territory until a transitional governance process culminating in national elections and the writing of a constitution could take place.

East Timor was thought by many at the UN and in wider international intervention circles to be a *tabula rasa* upon which to prove the effectiveness of externally assisted reconstruction initiatives. In many respects, the country was the perfect environment for success: violence was effectively over after the Indonesian troops left and there was remarkable political accord and goodwill in the country, with no real dissent over appropriate leadership. Yet UNTAET has subsequently come in for much criticism about the manner in which the political timetable and process was implemented (see for example Chopra 2002; Goldstone 2004; Surkhe 2001). The state-building challenge in East Timor was, and remains, in many ways very different from Cambodia and Afghanistan. Unlike most other UN peacekeeping missions, the political dimension in East Timor did not need to adjudicate between warring factions. As Goldstone points out, that adjudication process had already occurred with the national referendum in August 1999: "Instead, the political task was the relatively straightforward one of working through a political timetable that had the uncontested goal of independence as the final end point" (Goldstone 2004: 85). A set of interrelated challenges arose in the course of this process, however, that have proved problematic for subsequent democratic consolidation: UNTAET's slow incorporation of East Timorese participation; the emergence of one party's dominance as political participation was increased; and the overall timing and sequencing of the political process.

UNTAET found, upon its arrival, a natural group to act as its local counterpart: the National Council of Timorese Resistance (CNRT), which had acted as the umbrella pro-independence organisation during the course of the decades-long resistance.

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[23] Dunn (1983, 2003) provides details of the collaboration between the Indonesian military (TNI) and pro-autonomy militias. Three-quarters of buildings in the country were demolished in the retreat, and over a quarter of a million refugees forcibly deported into neighbouring West Timor. Estimates of how many were killed are unreliable: some mass graves remain unexamined and reports abound of bodies being dumped at sea.

The CNRT enjoyed considerable legitimacy due to the symbology of a popular and successful national resistance front, and had been the organisational driving force behind the pro-independence victory in the referendum. It was led by Xanana Gusmao, the leader of the guerilla resistance (now President of East Timor), a man with tremendous charisma and popular support. It also benefited from the extensive non-military network that was developed throughout the towns and villages of East Timor during the course of the resistance. The CNRT's survival had depended on this network, which now translated into a formidable organisational presence reaching throughout the country. After Indonesian provincial administrators left East Timor in the wake of the referendum, the CNRT was the one organisation with nationwide political reach in an institutional vacuum, and acted in many areas as a de facto government authority.[24] Furthermore, as Goldstone points out, there was a natural political affinity between UNTAET and a major wing of the CNRT, in that both favoured a "national unity" approach to politics and government that reflected their nervousness about open political competition (Goldstone 2004: 89). Many CNRT leaders, in particular, opposed political party development, fearing a return to the brief but violent civil war of 1975, which followed a period of nascent party development in East Timor and provided a pretext for Indonesia's invasion.[25] Yet while the CNRT did become UNTAET's de facto interlocutor in a number of different ways, the relationship was complicated and never formalised.

The UN Security Council mandated to UNTAET an end state of independence for East Timor, yet provided no roadmap (such as the Cambodian Paris peace accords) for how to proceed or how to incorporate East Timorese participation over the process. UNTAET was designated the repository of East Timorese sovereignty until independence, in a mandate that to date represents the most executive, legislative and judicial authority that a UN mission has exercised in a post-conflict nation. UNTAET defenders have argued in retrospect that the process adopted gradually increased levels of East Timorese political participation over time. Yet the Special Representative of the Secretary-General (SRSG), Sergio Vieira de Mello, himself acknowledged that it was a process of "false starts and hard-won political accommodations" (Goldstone 2004: 86). The timing and sequencing of the process that resulted created some immediate challenges for future democratic consolidation.

UNTAET's formal collaboration was with the newly created National Consultative Council, a small body composed of an East Timorese majority and a small group of senior UNTAET staff. This morphed into the larger and entirely Timorese National Council, intended to operate as a national legislature even though it was appointed

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[24] Personal interviews with East Timorese, UN and other donor officials; Dili and Vieque, East Timor, April 2005.

[25] Karol Soltan, the Deputy Director of UNTAET's Department of Political, Constitutional, and Electoral Affairs, remarks in his account of the political challenge that he came to think of the fear of 1975 "as the greatest enemy of democracy in East Timor" (Soltan 2002).

rather than elected and the SRSG retained his absolute veto. This change was accompanied by the creation of a coalition cabinet of transitional government, the East Timorese Transitional Authority (ETTA), with Timorese proto-ministerial counterparts for the core UNTAET executive staff; four posts were assigned to Timorese (Internal Administration, Infrastructure, Economic Affairs, Social Affairs) and four to international staff (Police and Emergency Services, Political Affairs, Justice, Finance).[26] Together, the coalition government and the National Council were intended to provide "democratic institutions before democracy that could be the setting of democratic learning-by-doing at the national level" (Soltan 2002). While this process took place at the national political level, the development of parallel community empowerment political institutions at the district level faltered.

Factionalisation within the CNRT eventually led to the defection of its largest component, Fretilin. This splinter party was dominated by members of the East Timorese diaspora who had remained active in the resistance movement from afar (from Mozambique, in particular). Fretilin was the organisational backbone behind the CNRT's ability to step into the institutional vacuum created by the attenuation of political and institutional development under Indonesian rule, during which no political, administrative or professional class developed in East Timor.[27] Fretilin scored a large victory in the Constituent Assembly elections of August 2001, winning fifty-five of the available eighty-eight seats. This Constituent Assembly replaced the National Council, and a new Transitional Government, with a fully "Timorised" cabinet, was chosen to reflect Fretilin's victory. Fretilin was subsequently successful in pushing through its draft constitution for approval, with minimal attention to the results of the popular consultation conducted.[28] The Fretilin-controlled proto-legislature thus defined the scope of its own powers, particularly vis-à-vis the other organs of government (Chesterman 2002: 69). The constitution was designed to subordinate the president to the government, essentially neutralising the non-affiliated Xanana Gusmao's overwhelming mandate (82 per cent of the vote) in winning the presidency in April 2002. Finally, Fretilin was also instrumental in transforming the Constituent Assembly into the

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[26] The National Council and coalition cabinet were established by regulation on 14 July 2000. Another Timorese leader, José Ramos-Horta, was sworn in as cabinet member for foreign affairs in October 2000.

[27] Fretilin, self-consciously taking on the CNRT mantle as a political umbrella organisation, shares some characteristics with other independence movements that morphed into political parties, such as India's Congress Party or South Africa's African National Congress. Perhaps most significantly, these umbrella political fronts mediate national sociopolitical cleavages internally rather than allowing them to play out in an electoral arena.

[28] Personal interviews with East Timorese legislators and donor officials; Dili, East Timor, April 2005.

National Parliament on independence, obviating the intended second election that other parties had anticipated would increase their own showing in the legislature.[29]

Fretilin's domination of the political process – facilitated by UNTAET's indecision over political participation and the sequencing of the "Timorisation" of government – is probably the outcome most problematic for the long-term consolidation of democracy in East Timor. Fretilin has, in essence, "placed the new National Parliament in clear subordination to a government intent on using its majority to push through its ambitious legislative program" (Goldstone 2004: 84). Although the Fretilin party organisation continues to dominate throughout the country, its goals are not necessarily shared by the population at large. In a problematic twist, the Roman Catholic Church has taken on a troublesome political role in opposition to the government on certain pieces of legislation.[30]

Moreover, Fretilin's own institutional legacies have compromised its political legitimacy. The proximate cause of the April 2006 violence and leadership change was tension between factions in the armed forces and police. This tension, in turn, resulted from the complicity of the Interior Minister Rogério Lobato and Prime Minister Mari Alkatiri in setting up loyalist groups inside the armed forces as a counterweight to forces loyal to Gusmao.[31] Observers subsequently criticised Gusmao for compromising the constitution by demanding that Alkatiri leave office; yet there is no legal process in East Timor for determining the constitutionality of his actions. This recent series of setbacks stemmed from a reversal of some degree of earlier behavioural democratic consolidation among core political elites. It has thrown the country into a serious constitutional and political crisis that must be resolved to prevent the country from backsliding into failure. Yet public attitudes towards democracy remain encouraging. In a more promising development over time, smaller parties are proliferating and growing in strength, capitalising on the frustration of young, urban, and educated East Timorese with the older, Portuguese-speaking, conservative leaders of Fretilin. Presidential and parliamentary elections must be held by May 2007, and renewed political institutionalisation is needed in order to be able to channel the political participation of all East Timorese and rebuild the country's nascent democratic institutions.

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[29] Personal interviews with East Timorese legislators and journalists; Dili, East Timor, April 2005.

[30] In April 2005, the Roman Catholic Church trucked in tens of thousands of unemployed youths from the provinces to Dili in order to stage a demonstration against the government's plan to make religious education in schools optional rather than mandatory.

[31] A UN Security Council assessment mission found that former Minister of the Interior Rogério Lobato supplied an irregular paramilitary group involved in the violence with arms intended for the police and instructed the group to use the weapons against political opponents, and also found that former Prime Minister Mari Alkatiri was complicit to some degree (UNSC 2006: 4, 18).

4.3. Afghanistan: will the centre hold?

The reconstruction of Afghanistan is still very much under way, with a great deal to achieve in basic internal security and humanitarian work. Yet even at the nascent stages of its democracy, Afghanistan's central political challenge in terms of democratic consolidation clearly comes from the power of local strongmen with alternative resource bases from that of the central government. The obstacles to democratic consolidation in the country are behavioural, attitudinal and constitutional: some significant actors – a resurgent Taliban and regional warlords – continue to practise violence against the democratic regime; some segments of society do not believe that democratic procedures and institutions are the most appropriate way to govern collective life; and regulation of political conflict through constitutionally agreed institutions and procedures remains truncated.

When the Northern Alliance and the US military liberated Kabul from the Taliban in November 2001, Afghanistan had suffered over two decades of war. Often called the last Cold War proxy battleground, the country saw its anti-imperialist war against the Soviet Union morph into a civil war among *mujahedin* (freedom fighter) factions that continued into 2001 even as the Taliban had consolidated power over most of the country. Afghanistan in 2001 was considered by many to be the classic "failed state," an institutional vacuum in which state-sponsored terrorism could flourish. The Bonn Accords of December 2001 provided the roadmap for Afghan reconstruction. Afghan factions and the diaspora political leadership meeting there, under the supervision of the UN, agreed to the creation of an Interim Administration, endowed with Afghan sovereignty and charged to represent it in its external relations.

Hence the Interim Administration would be the main counterpart of the UN and other donors in reconstruction efforts, acting as a semi-sovereign body during the course of a transitional governance period. The composition of the Interim Administration was agreed at the conference: Hamid Karzai was the choice for chairman, and the rest of its members represented a carefully assembled mosaic of different Afghan ethnic and tribal leaders. Reflecting the final outcome of the civil war, the Interim Administration had a high – critics would say too high – representation of Tajiks from the Northern Alliance. As is the fate of most losers in civil war, the Taliban, a force with considerable support and power in some parts of the country, stood no chance of being included in a power-sharing arrangement

In June 2002, within six months of the establishment of the Interim Administration, as stipulated in the Bonn Accords, an Emergency Loya Jirga (grand council meeting), a traditional consensus-building political institution, was held in Kabul to appoint a Transitional Authority. This was to include "a broad-based transitional administration, to lead Afghanistan until such time as a fully representative government can be elected through free and fair elections to be held no later than two years from the date of the convening of the Emergency Loya Jirga" (Bonn

Agreement, 2001). The Interim Administration and the UN adhered to the timetable, staging a remarkable Loya Jirga that proved both optimistic about the future of the country and refreshingly contentious, particularly over the role of the warlords. [While the political dimension of reconstruction was progressing, however, state capacity-building was foundering in the absence of a robust, functioning Afghan administrative apparatus to guide reconstruction work.[32]] The assembled leaders reached agreement on the Transitional Authority, the new semi-sovereign body that would lead the country and its reconstruction. Hamid Karzai was named the Transitional President, as expected, and much of his cabinet remained the same from the Interim Administration, again reflecting the exigencies of informal power-sharing in an ethnically fragmented and centrifugal country.

Yet regional warlords have remained a serious obstacle to democratic consolidation in Afghanistan. Large areas of the country remain dominated by private militias under the control of various anti-Taliban commanders, particularly those of the Northern Alliance. Many warlords and local strongmen have won key posts in central and regional government, while resisting the demobilisation of their personal forces and continuing to enrich themselves with customs revenues and illegal flows.[33] Karzai has tried to neutralise their independent power by incorporating them into his cabinet, a strategy that has worked with some (such as Ismail Khan from Herat) and not with others (such as the Uzbek Rashid Dostum).

The political timeline, including some of the mechanisms of informal power-sharing, has worked towards a measure of democratic consolidation. The Transitional Authority was to rule until a new constitution was adopted within eighteen months, followed by national elections. A Constitutional Loya Jirga met in December 2003 and January 2004, as planned, to draft and ratify a new Afghan constitution. The presidential elections of October 2004 (which returned Hamid Karzai to the presidency) and the parliamentary elections of September 2005 were a success by almost any measure. Yet analysts have argued that the favouring of "broad-based government" in the course of the political sequencing in Afghanistan had the drawback of setting aside federalism, which would have been a natural fit for the ethno-regionally diverse country (Goodson 2005: 30). Federalism proponents argue that political contestation could have been transferred to places other than Kabul, recognising the true loci of power – both military and economic – in the country. In attempting to create a strongly centralised national-unity government, growing out of UN efforts to solve the civil war dating to the 1990s,

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[32] Personal interviews with officials of the Afghanistan Assistance Coordination Authority (AACA), United Nations Development Programme and World Bank; Kabul, Afghanistan, June 2002.

[33] Joel Migdal (1998) has asked how states in the developing world can have such a great deal of penetration into society and yet fail to implement policies successfully, answering that strong elites continue to dominate society and to be capable of thwarting state policies.

critics argue, the international community fell prey to wishful thinking rather than designing appropriate institutions for the fissiparous reality of Afghan politics.[34]

One of the key aims of the broad-based coalition idea was to ease fears that Pashtuns, with a two-fifths ethnic plurality in Afghanistan, would grow too strong and abuse their powers. Pashtuns, on the other hand, have felt that broad-based government was "code for rule by non-Pashtun figures from the old anti-Taliban coalition, the Northern Alliance" (Goodson 2005: 31) and that the Interim Administration and Transitional Authority too heavily represented these other groups. Thus an ethnic dynamic was set in place, precisely the pattern that national unity government proponents were trying to avoid:

> Pashtuns, with the encouragement of their co-ethnic Hamid Karzai, began to reassert themselves within the process at the [Constitutional *Loya Jirga*], thereby arousing predictable suspicions among Tajiks, Uzbeks, Hazaras, and other minority groups. This process would continue throughout 2004 and culminate during the October presidential balloting (Goodson 2005: 31).

There were significant ethnic patterns in the presidential elections, with Tajik, Hazara and Uzbek leaders leading the vote in provinces dominated by their own ethnic groups.

Yet in a promising sign, some of these leaders – the Tajik Yunus Qanooni and the Uzbek Rashid Dostum foremost among them – later formed political parties in the run-up to the September 2005 parliamentary elections in order to broader their appeal across ethnic lines. Despite the reluctance of Karzai and other senior officials to see parties form for fear that they will deepen ethnic divisions, more than fifty parties had registered prior to the parliamentary elections. A few months ahead of the parliamentary elections, Qanooni announced the formation of an opposition front to compete in the elections, intended to forge a serious opposition bloc to Karzai's government (Gall 2005*a*). The single non-transferable vote (SNTV) electoral system chosen was much criticised, particularly for leading inexorably to a fragmentary parliament full of non-aligned legislators at the expense of established parties. [35] Many guessed that this result was what Karzai intended: the elections led to three roughly equal blocs in parliament, one pro-government, one unaligned, and one supporting opposition parties (*Economist*, 2005). Yet the Afghan parliament has since managed to assert itself vis-à-vis the government: in May 2006, the legislative body approved most of Karzai's

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[34] Andrew Reynolds, presentation at the American Political Science Association Annual Meeting, September 2005. Others have argued that the solution to state collapse in Afghanistan is indeed a centralised state that is effective and maintains a credible monopoly on violence; and that decentralised or federal systems create insurmountable centre-region tensions (Cramer and Goodhand 2002).

[35] See Reynolds (2006) for an excellent summary of the choice and consequences of the SNTV system in Afghanistan.

proposed cabinet, but only after refusing to rubberstamp the whole body and insisting on individual hearings for each member.

Power tussles with parliament aside, Karzai appears to have made the cabinet more his own than ever before. He has dropped each of the Panjshir Valley troika that dominated the political and military scene after the Taliban's defeat, finally freeing himself from accusations that his government was under the control of the Northern Alliance faction. Analysts saw the move as another step away from the "compromise government" that Karzai had to date used as an informal power-sharing mechanism (Gall, 2005*b*). The new cabinet contains both technocrats and some remaining members of ethnic and political groups from around the country. It remains to be seen whether this will be a stable arrangement that is capable of governing without deadlock. Clashes with a newly resurgent Taliban have further emphasised the central government's challenges in broadcasting legitimate authority throughout the country. The need to neutralise or incorporate alternative loci of power in the political system continues to be the major obstacle besetting democratic consolidation in Afghanistan.

5.   Conclusions: In Search of a Dynamic Democracy-Building Process

International intervention in post-conflict countries is predicated on the belief that the assistance of third parties can help to alter the internal balance of power and help to transform that balance into a stable political system.[36] Moreover, brokered state-building efforts introduce and create new actors on the domestic political scene, including the electorate, a fledgling civil society and free press, and a continuing international presence. Doyle points out: "[S]uccessful contemporary peace-building not only changes behaviour but, more important, also transforms identities and institutional context. More than reforming play in an old game, it changes the game" (Doyle 2001: 544). The UN, in the cases examined here, changed the political game by facilitating a process of institutional engineering by domestic elites and setting the countries on the path to democratic consolidation via national elections and the writing of a constitution. This conclusion is contrary to the null expectation that the UN transitional governance process would have no impact towards democracy-building in post-conflict developing countries. While democratic consolidation on behavioural and constitutional fronts has suffered setbacks in Cambodia and East Timor, and remains attenuated on all fronts, including attitudinal, in Afghanistan, few would deny that some success in democracy-building has been achieved in each case.

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[36] Indeed, nation-building as part of a peace process has become one of the most important and distinctive portfolios of the United Nations, even when its efficacy has stalled on other major contemporary issues such as non-proliferation of nuclear weapons and prevention of genocide.

Yet the evidence from Cambodia, East Timor and Afghanistan indicates that the mechanisms used in external intervention can freeze the internal balance of power in an unstable disequilibrium that threatens future democratic consolidation. Perhaps the most problematic transitional governance pattern is the development of ad hoc semi-sovereign bodies to both aid with governing and provide some political participation in the transition period. Proponents argue that these semi-sovereign bodies are created at a moment of temporary consensus, and therefore allow that consensus to be formally incorporated into a regular consultative body that can build political support and legitimately adjust the external mission's mandate if necessary (Doyle 2001: 543).[37] These entities are thus intended to dynamically manage a peace process and mobilise local cooperation in an inclusive manner. Yet the three cases discussed here demonstrate that the semi-sovereign bodies created – Cambodia's Supreme National Council, East Timor's National Council and Afghanistan's Interim Administration – had the opposite effect: they froze the domestic political arena by endowing certain groups with static power. These bodies were in practice dominated by organisationally powerful groups that then effectively cut off the participation of other political groups in decisions about institutional architecture and subsequently consolidated their own holds on power. In turn, these domestic political processes powerfully constrained the institution-building efforts of external actors, who seemed to have more limited leverage than anticipated at the beginning of reconstruction efforts. Thus the transitional governance model itself and its exigencies – particularly the need for a local counterpart and the short timeframe in the rush to elections – perhaps adversely affected the prospects of longer-term democratic consolidation and political participation.

A number of scholars have recently pointed out that the problem with power-sharing solutions such as those attempted in the forms of institutional engineering in the cases presented here is that they are necessary for the *initiation* of a peace settlement, but adversely affect the *consolidation* of peace and democracy.[38] The paradox is that power-sharing may be necessary to reach agreement at the time the initial settlement is being negotiated; subsequently the dominant political group's impetus to share power is much lessened. Institutional engineering is undertaken with the intention of making politics a non-zero-sum game in stable democracies. In the unstable, disequilibrated reality of post-conflict states, however, these choices of institutional architecture can freeze a stalemated and potentially somewhat arbitrary political balance over the longer term. The transitional

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[37] Doyle does go on to say that the design of these semi-sovereign bodies should "preview" the peace sought – in Cambodia, seeking "pluralist democracy" should have meant supplementing the Supreme National Council with other bodies, including one for civil society.

[38] Rothchild and Roeder make the distinction between the initiation and consolidation phases in discussing the merits of power-sharing in post-conflict societies. They conclude that while power-sharing institutions can facilitate the initiation of a peace settlement, they "thwart the consolidation of peace and democracy" (Rothchild and Roeder 2005*a*: 12). Licklider (2001) concurs.

governance process in each of the cases examined – albeit to varying degrees – facilitated the entrenchment of already powerful groups rather than ensuring the dynamic political contestation over time that is the hallmark of a consolidated democracy.

We know from both the peace-building and democratisation literatures that the transition to democracy in post-conflict states is inherently more destabilising than stabilising. Thus a gradual course of democratisation seems most desirable, together with processes of political accommodation and institution-building to strengthen political and governance arrangements at national and subnational levels. Among the core decisions that have emerged over time for externally brokered state-building efforts is the allocation of finite resources to the many urgent needs of a post-conflict country. The decisions in this arena are tactical and practical in terms of how aid flows, which programmes are developed, what donor technical assistance is offered, and so on. But they also reflect broader strategic and normative judgements prioritising various post-conflict goals over others, and choosing among trade-offs in the inherently complex endeavour of institutional engineering.

An optimal path towards one key objective may in fact compromise the achievement of other important objectives. For the goal of building a better political accommodation process, for example, Roeder and Rothchild suggest that "power-dividing" solutions are better placed to ensure democratic consolidation in post-conflict countries than the typical power-sharing solutions favoured by the international community (Roeder and Rothchild 2005*a*). One of the hallmarks of the power-dividing approach they advocate is the elevation of civil liberties rather than a state-centric orientation, along with the support of civil society and bottom-up governance mechanisms. There is certainly much to recommend this approach. Building in the opportunity for dynamic, issue-specific majorities to form, it moves to address the problems of static power freezes and the reification of ethnic cleavages (or whatever other dimension power-sharing is predicated on). Yet the utility of the power-dividing approach is hampered in post-conflict state-building efforts because it is, to some extent, predicated on degrees of state capacity, rule enforcement and norm-adherence that do not often exist in many developing countries, let alone those that have undergone violent conflict.

Others have advocated strengthening the central state before holding elections and focusing on civil society. Following Huntington, such analyses argue that democracy can only serve constructive participatory and integrative ends following political stabilisation and institutional consolidation (Huntington 1968). In this view, an emphasis on fostering civil society – such as would be necessitated in a power-dividing approach – at the expense of state institutions could have a negative impact on reconstruction attempts by perpetuating conflict. In the Afghan case, for example, Wimmer and Schetter argue that the parties present at Bonn did

not represent political interests, but were "rather individuals tied to one another on the basis of temporary obligations of loyalty or kinship" (Wimmer and Schetter 2003: 530). They advocate, in post-conflict situations like Afghanistan, institutionalising traditional consensus-building systems – such as the Loya Jirga – among bureaucrats, warlords and tribal chiefs over the medium term, rather than just for a short transitional governance period. In their view the Emergency Loya Jirga in Kabul certainly helped to stabilise the political situation and found a balance among competing political groups. Finally, they advocate a federalism that leads to the decentralisation of power, but not on an ethnic basis. State-building, in this perspective, is the right tool to trump political fissures, rather than relying on an artificial transitional governance process that privileges organisationally powerful political groups.

Nevertheless, approaches that favour greater "institutionalization before liberalization"[39] are also problematic, because an extended trusteeship period attenuates political participation while also failing to build in a dynamic process to local political development. To provide better results in this respect, the transitional governance process could be extended to enhance state capacity and institution-building with an emphasis on concurrently generating various forms of political participation. The practical limitation facing suggestions to lengthen the process is simple: most external actors are simply unwilling or unable to accept the enormous human and financial responsibilities of extended transitional support. The desire of foreign stakeholders to disengage from the Cambodia civil conflict was instrumental in reaching the Paris Peace Agreement, but also meant that there was no will to extend the UNTAC mandate. Yet the costs associated with premature international exit have become all too clear, not least in the attenuated democracy-building experiences discussed here. The international community must develop pragmatic mechanisms through which to remain constructively involved in recovering post-conflict states. Baskin, for instance, encourages the substitution of the idea of "engagement" for that of "exit", to prevent "domestic spoilers [from exploiting] the threat of international exit through minimal compliance, delays, and resistance" (Baskin 2004: 135). In his view, a strategy that emphasises international engagement could lengthen the shadow of the future, allowing the evolution of combined international-domestic forms of authority in which institutions are responsible for those tasks they can implement effectively.

Other modifications to the precise sequence and design of the transitional process itself could have salutary effects. The UN could, for example, mandate a genuinely participatory constitution-writing process before holding national elections.[40] The benefits would be twofold: preventing powerful groups from dominating decisions

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[39] The phrase belongs to Roland Paris (2001); others advocate forms of extended trusteeship (Fearon and Laitin 2004) or shared sovereignty (Krasner 2004).

[40] See Hart (2003) on the potential role of participatory constitution-making for peacemaking in divided societies.

about institutional architecture; and encouraging a nascent democratic participatory culture. A corollary strategy would be to emphasise and foster subnational political participation during the transitional process, rather than relying simply on a semi-sovereign body at the centre to provide local input. In East Timor, the UN failed to incorporate political participation at the provincial level by capitalising on an ambitious community empowerment project, paving the way for the Fretilin core to consolidate its power at the centre without reaching out and building support throughout the country.

Another possible, albeit difficult, adaptation of the transitional governance model would be to ban elites central to the transitional process and institutional decisions from taking elected office in the first five years post-transition. As demonstrated in the cases above, elections can reinforce the strength of the already powerful. Thus considerable care must be taken at the outset in designing democratic procedures. Enforcing uncertainty rather than inevitability about who will take the reins of power at transition can provide a window of opportunity: elites may be able to agree on institutional arrangements that do not lock in a specific balance of power but rather provide for meaningful elite alternation through elections and overall political inclusion and participation. Indeed, uncertainty can actually align competing elite incentives towards moderation in institutional design.[41] External interventions at state-building should be aimed at allowing a political dynamic to take hold in which cross-temporal and cross-issue compromises can be made across slowly institutionalising political groups. The challenge of post-conflict brokered democracy-building is in determining the institutional solutions and sequencing that can facilitate both the initiation and consolidation of that healthy democratic dynamic.

Note

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[41] Weinstein (2002) argues that in an excessively centralised and therefore zero-sum political system, Mozambican elites unsure of the results of the next election should have supported electoral decentralisation that would have diffused political power away from the elected government and made some degree of power-sharing possible.

References

ASHLEY, D. W. 1998. "The failure of conflict resolution in Cambodia". In: F. Z. Brown and D. G. Timberman, eds., *Cambodia and the International Community: The Quest for Peace, Development, and Democracy.* New York: Asia Society.

BARNES, S. H. 2001. "The contribution of democracy to rebuilding postconflict societies". *American Journal of International Law* 95: 86–101.

BASKIN, M. 2004. "Between exit and engagement: on the division of authority in transitional administrations". *Global Governance* 10: 119–37.

BELMONT, K., MAINWARING, S. and REYNOLDS, A. 2002. "Introduction: institutional design, conflict management, and democracy". In: Reynolds, ed., op. cit., 1–11.

BENNETT, A. and GEORGE, A. L. 1997. "*Process tracing in case study research*". Paper presented at MacArthur Foundation Workshop on Case Study Methods, Harvard University, October 1997.

BERMEO, N. 1997. "Myths of moderation: confrontation and conflict during democratic transitions". *Comparative Politics* 29 (3), *Transitions to Democracy: A Special Issue in Memory of Dankwart A. Rustow*: 305–22.

——. 2003. "What the democratization literature says – or doesn't say – about postwar democratization". *Global Governance* 9: 159–77.

BONN AGREEMENT. 2001. *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions*, 5 December. http://www.afghan-web.com/politics/bonn_agreement_2001.html

BRAHIMI, L. et al. 2000. "*Report of the Panel on United Nations Peace Operations*" (Brahimi Report). New York: United Nations.

BROWN, F. Z. and TIMBERMAN, D. G. 1998. "Introduction: peace, development, and democracy in Cambodia – shattered hopes". In: F. Z. Brown and D. G. Timberman, eds., *Cambodia and the International Community: The Quest for Peace, Development, and Democracy*. New York: Asia Society.

BROWN, M. M. 2003. "Democratic governance: toward a framework for sustainable peace". *Global Governance* 9: 141–46.

CHESTERMAN, S. 2002. "East Timor in transition: self-determination, state-building and the United Nations". *International Peacekeeping* 9 (1): 45–76.

——. 2004. *You, The People: The United Nations, Transitional Administration, and State-Building*. New York: Oxford University Press.

CHESTERMAN, S., IGNATIEFF, M. and THAKUR, R. 2005. "Conclusion: the future of state-building". In: S. Chesterman, M. Ignatieff and R. Thakur, eds., *Making States Work: State Failure and the Crisis of Governance*. Tokyo: United Nations University Press.

CHOPRA, J. 2002. "Building state failure in East Timor". *Development and Change* 33 (5): 979–1000.

COLLIER, P. 2000. "*Policy for post-conflict societies: reducing the risks of renewed conflict*". Paper prepared for The Economics of Political Violence Conference, Center of International Studies, Princeton University (March 18–19).

CRAMER, C. and GOODHAND, J. 2002. "Try again, fail again, fail better? War, the state, and the 'post-conflict' challenge in Afghanistan". *Development and Change* 33 (5): 885–909.

CROCKER, C. A., HAMPSON, F. O. and AALL, P. eds. 2001. *Turbulent Peace: The Challenges of Managing International Conflict*. Washington DC: United States Institute of Peace Press.

DIPALMA, G. 1991. *To Craft Democracies: An Essay on Democratic Transitions*.

Berkeley, Calif.: University of California Press.

DOBBINS, J. et al. 2005. *The UN's Role in Nation-Building: From the Congo to Iraq*. Santa Monica, Calif.: RAND.

DOYLE, M. W. 1995. *UN Peacekeeping in Cambodia: UNTAC's Civil Mandate*. Boulder, Colo.: Lynne Rienner Publishers. (Occasional Paper Series, International Peace Academy.)

——. 2001. "War making and peace making: the United Nations' post-Cold War record". In: Crocker et al., eds., op. cit., 529–60.

DUNN, J. 1983, 2003. *East Timor: A Rough Passage to Independence*. New South Wales, Australia: Longueville Books.

DURCH, W. J., ed. 1996. *UN Peacekeeping, American Politics, and the Uncivil Wars of the 1990s*. New York: St Martin's Press.

——. 2003. "Picking up the peaces: the UN's evolving post-conflict roles". *Washington Quarterly* 26 (4): 195–210.

Economist. 2005. "Multi-multi-party democracy". 22 October.

FEARON, J. D. and LAITIN, D. D. 2004. "Neo-trusteeship and the problem of weak states". *International Security* 28 (4): 5–43.

FORTNA, V. P. 2004. *Peace Time: Cease-Fire Agreements and the Durability of Peace*. Princeton, N.J.: Princeton University Press.

FUKUYAMA, F. 2004. *State-Building: Governance and World Order in the 21st Century*. Ithaca, N.Y.: Cornell University Press.

GALL, C. 2005*a*. "Afghan parties form opposition front to oppose Karzai in elections". *The New York Times*, 31 March.

——. 2005*b*. "Afghan parliament to vote on cabinet". *The New York Times*, 20 April.

GEORGE, A. L. and MCKEOWN, T. J. 1985. "Case studies and theories of organizational decision making". In: *Advances in Information Processing in Organizations*, Vol. 2. Oxford, UK, JAI Press: 21–58.

GOLDSTONE, A. 2004. "UNTAET with hindsight: the peculiarities of politics in an incomplete state". *Global Governance* 10: 83–98.

GOODSON, L. 2005. "Bullets, ballots, and poppies in Afghanistan". *Journal of Democracy* 16 (1), *Building Democracy After Conflict*: 24–38.

GOTTESMAN, E. 2003. *Cambodia After the Khmer Rouge: Inside the Politics of Nation Building*. New Haven, Conn.: Yale University Press.

HART, V. 2003. *Democratic Constitution Making*. Washington DC, United States Institution of Peace. (Special Report.)

HOROWITZ, D. 1985. *Ethnic Groups in Conflict*. Berkeley, Calif.: University of California Press.

HOROWITZ, D. L. 2002. "Constitutional design: proposals versus processes". In: Reynolds, ed., op. cit., 15–36.

HUNTINGTON, S. P. 1968. *Political Order in Changing Societies*. New Haven, Conn.: Yale University Press.

JONES, B. 2004. *Evolving Models of Peacekeeping: Policy Implications and Responses*. New York: United Nations. (External Study, United Nations Department of Peacekeeping Operations.)

KARL, T. L. 1990. "Dilemmas of democratization in Latin America". *Comparative Politics* 23 (1): 1–21.

KRASNER, S. D. 2004. "Sharing sovereignty: new institutions for collapsed and failing states". *International Security* 29 (2): 85–120.

LICKLIDER, R. 2001. "Obstacles to peace settlements". In: Crocker et al., eds., op. cit., 697–718.

LIJPHART, A. 1977. *Democracy in Plural Societies: A Comparative Exploration*. New Haven, Conn.: Yale University Press.

LINZ, J. J. and STEPAN, A. 1996. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe.* Baltimore, Md.: Johns Hopkins University Press.

MAHONEY, J. N. 2000. "Strategies of causal inference in small-N analysis". *Sociological Methods & Research* 28 (4): 387–424.

MIGDAL, J. S. 1988. *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World.* Princeton, N.J.: Princeton University Press.

NORRIS, P. 2002. "Ballots not bullets: testing consociational theories of ethnic conflict, electoral systems, and democratization". In: Reynolds, ed., op. cit., 206–47.

PARIS, R. 2001. "Wilson's ghost: the faulty assumptions of postconflict peacebuilding". In: Crocker et al., eds., op. cit., 765–84.

——. 2004. *At War's End: Building Peace After Civil Conflict.* New York: Cambridge University Press.

RATNER, S. R. 1995. *The New UN Peacekeeping: Building Peace in Lands of Conflict after the Cold War.* New York: St Martin's Press/Council on Foreign Relations.

REYNOLDS, A., ed. 2002. *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy.* Oxford, UK: Oxford University Press.

——. 2006. "Electoral systems today: the curious case of Afghanistan". *Journal of Democracy* 17 (2): 104–17.

ROEDER, P. G. and ROTHCHILD, D. 2005*a*. "Conclusion: nation-state stewardship and the alternatives to power sharing". In: Roeder and Rothchild, eds., op. cit., 319–46.

——, eds. 2005*b*. *Sustainable Peace: Power and Democracy After Civil Wars.* Ithaca, N.Y.: Cornell University Press.

ROTHCHILD, D. and ROEDER, P. G. 2005*a*. "Dilemmas of state-building in divided societies". In: Roeder and Rothchild, eds., op. cit., 1–25.

——. 2005*b*. "Power sharing as an impediment to peace and democracy". In: Roeder and Rothchild, eds., op. cit., 29–50.

RUSTOW, D. 1970. "Transitions to democracy: toward a dynamic model". *Comparative Politics* 2 (3).

SHAWCROSS, W. 1994. *Cambodia's New Deal.* Washington DC: Carnegie Endowment for International Peace. (Contemporary Issues Paper #1.)

SISK, T. D. 1996. *Power Sharing and International Mediation in Ethnic Conflicts.* Washington DC: United States Institute of Peace.

SOLTAN, K. E. 2002. "The United Nations and the development of constitutional order". Working draft paper, presented at the International Studies Association Meeting, 2002.

SURKHE, A. 2001. "Peacekeepers as nationbuilders: dilemmas of the UN in East Timor". *International Peacekeeping* 8 (4): 1–20.

THAKUR, R. 2001. "Cambodia, East Timor and the Brahimi Report". *International Peacekeeping* 8 (3): 115–24.

UNSC. 2006. *Report of the Secretary-General on Timor-Leste pursuant to Security Council resolution 1690 (2006).* New York: United Nations Security Council.

WEINSTEIN, J. 2002. "Mozambique: a fading UN success story". *Journal of Democracy* 13 (1): 141–56.

——. 2005. "Autonomous recovery and international intervention in comparative perspective". Paper presented at the Annual Meeting of the American Political Science Association, Washington DC, September 2005.

WIMMER, A. and SCHETTER, C. 2003. "Putting state formation first: some recommendations for reconstruction and peace-making in Afghanistan". *Journal of International Development* 15: 525–39.

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Decentralisation: The New Delusion of Ethnic Conflict Regulation?

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Through a case analysis of Kosovo, Macedonia and Bosnia, this paper aims to demonstrate the shortcomings of political decentralisation as implemented in the pursuance of ethnic conflict regulation in the Western Balkans. Indeed, decentralisation seems to have become a "one size fits all" device by the international community to "freeze" ethnic conflicts and to escape their responsibility in dealing with the sources of the conflict, in effect allowing tensions to brew and potentially making the situation worse. In 2004, as the international community was under increasing pressure to make a decision regarding the final status of Kosovo, talks on decentralisation were restarted. However, far from switching on the light at the end of the Kosovo tunnel, the "dialogue" between Pristina and Belgrade has given way to further tensions between Serbs and Albanians. In the cases of Macedonia and Bosnia, the implementation of political decentralisation has been increasingly questionable. Just a few years after the signing of the Ohrid Agreement, the much-acclaimed ethnic conflict settlement reveals unavoidable failures. In the same way, a decade after the settlement of ethnic violence in Bosnia, the Dayton provisions of power decentralisation between the two entities and the different cantons does not appear to have succeeded in taming violence between the protagonists.

Decentralisation, in all its forms,[1] has become an unavoidable topic in the literature dealing with ethnic conflict regulation in general, and of the former Yugoslavia in particular. As ethnic conflicts generally seem to result in deeply divided societies, where individuals have – willingly or not – to identify exclusively with their ethnic group, these groups often become the only source of political legitimacy capable of providing for their interests. From this empirical fact, new political arrangements often seek to reflect the new realities left by these

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[1] The term "decentralisation" has a number of different connotations, some particularly negative especially in the context of Kosovo on which I elaborate later. I use it here as a generic term that encompasses all the different forms of devolution of power from the central government to different institutional entities. A brief typology of the different forms of decentralisation models is given and defined hereafter.

vicious conflicts. However, redesigning political arrangements towards a form of decentralisation proves to be as difficult as stopping the conflict itself. In fact, in most cases the conflict originates from the will of one group to redesign the political arrangement and map out a new border. Numerous problems arise when applying decentralisation to areas of ethnic conflict, especially with regard to the territorial arrangement of new political structures. Although scholars consider non-territorial political arrangements to satisfy group demands (Lijphart 1977; Coakley 1994), their recommendations have only limited reach, for the realities of violent ethnic conflict have deeper "real world" implications for territorial restructuring and long-term ethnic conflict resolution than their recommendations can account for.

As the international community is under increasing pressure to make a decision regarding the final status of Kosovo,[2] the debate over decentralisation has reappeared as a means of sorting out possible alternatives for the future of the province. However, in the cases of the former Yugoslav Republic of Macedonia (hereafter Macedonia) and Bosnia and Herzegovina (hereafter BiH), the implementation of political decentralisation has become increasingly questionable. Merely a couple of years after the signing of the Ohrid Framework Agreement (13 August 2001), the much-acclaimed ethnic conflict settlement revealed unavoidable failures. In the same way, a decade after the settlement of ethnic violence in BiH, the Dayton provisions (General Framework Agreement for Peace in Bosnia and Herzegovina, Paris, 14 December 1995) for power decentralisation between the two entities and the different cantons, do not appear convincingly to have succeeded in taming the enmity between various groups, and have failed to smooth the divisions underpinning the roots of ethnic violence, let alone bring about some form of democratisation.

Through a comparative case analysis of Kosovo, Macedonia and Bosnia, this paper aims to demonstrate the possible shortcomings of decentralisation as implemented in the pursuance of ethnic conflict regulation in the Western Balkans. Indeed, decentralisation as a political system seems to have become a "one size fits all" device for the international community to "freeze" ethnic conflict and escape its responsibility for dealing with the reasons behind these conflicts. By implementing any sort of decentralisation while ignoring the roots of conflict and the specific difficulties of political transition, the international community is in effect allowing tensions to brew and potentially making the situation worse.

The paper critically examines the role of decentralisation as a tool for ethnic conflict regulation and explores the relevance of this model for a future Kosovo. Indeed, it argues that decentralisation as exercised in post-ethnic conflict regulation enhances ethnic entrenchment rather than fostering appeasement through democratisation. This thesis is supported, first, through an exploration of the theoretical concept of decentralisation in the context of ethnic conflict regulation

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[2] I use here the appellation of the internationally administered autonomous province also known as Kosovo i Metohija (Serb.) or Kosova (Alb.).

and the establishment of a typology of models. From this typology, an analysis of the successes and failures of the application of decentralisation to the post-conflict political system in BiH and Macedonia is provided. Finally, the paper examines the decentralisation debate in Kosovo and investigates issues that have arisen and require specific attention in the resolution of the question of Kosovo.

1. Decentralisation and Conflict Regulation

1.1. The concept of decentralisation

The issue of decentralisation commonly arises in so-called multi-ethnic states, where the population is segmented into different groups that are generally defined along ethnic lines and where individuals entrust political legitimacy within these stratified groups. As the literature demonstrates (Sisk 1996; Lapidoth 1997; Bauböck 2000; Weller and Wolff 2005), numerous decentralisation options are offered to multi-ethnic states to reach a political reorganisation that is more inclusive of all segments of the heterogeneous society and hopefully more democratic. The primary goal of what is referred to here as "decentralisation" is to respond to specific demands for access to political decision-making through an appropriate amount of devolution of power. In concrete terms, Donald Horowitz argues that "one of the strongest forces for devolution is the expectation that central offices in lower level units will be composed differently from central bureaucracies. The assumption may simply be that … the composition of the state civil service will generally resemble the composition of the region or state" (Horowitz 2000: 590). This concept is in no way new, but it has gained prime importance in recent years as the international community seems to favour this alternative when involved in the establishment of a new modern state apparatus in multi-ethnic territories.

The arguments generally advanced to justify the need for decentralisation in ethno-national states centre on the ability to find a mechanism to distribute political power among the different segments of the society in an equal manner that is perceived as legitimate and just by the various factions (Horowitz 2000). First, decentralisation provides limits to the central authority. "It introduces a type of control over central government … [it] allows a system of checks and balances which is likely to set limits on the central government in its attempts to overstep or abuse its powers" (Kälin 2000: 4). Second, decentralisation aims to enhance numerical minority group participation in the political process through enhancing their political weight in the decision-making process. It attempts to protect them from potential failures in political systems – such as the risk of a so-called "majority dictatorship". Third, it allows groups to deal with local issues on a localised level so that there is a possibility of immediate issues being dealt with more efficiently.

However, decentralisation mechanisms also give rise to a number of criticisms that are concerned with some practical implications of its implementation. First, the establishment of decentralisation mechanisms on an ethnic basis is often believed to reinforce and legitimise ethnic divisions instead of limiting conflicting antagonisms between groups (Lipset 1983; Smith 2000). Second, the territorial implementation of decentralisation may be difficult to apply in situations where ethnic groups are not homogeneously distributed. The new territorial division will inevitably create new numerical minorities which in turn will generate dissatisfaction towards the new political settlement (Lijphart 1977). Thirdly, the extensive devolution of political power is often viewed suspiciously by state-minded critics who are concerned with its implication for issues of state sovereignty. The devolution of too many state prerogatives to homogeneous territories could increase demands for secession (Nordlinger 1972). The failures of decentralisation in such cases as in the former USSR and Yugoslavia (but not only), which have allowed grave ethnic conflicts to foment, have spurred doubts within the international community as to the adequacy of decentralisation mechanisms to respond adequately to the needs of multi-ethnic states.

1.2. Decentralisation in post-conflict settlement

Despite the shortcomings of decentralisation that the Yugoslav and Soviet examples illustrate, and a palpable scepticism that can be sensed within certain sectors of academia, federalism and other forms of political autonomy arrangements are still on the agenda of international peacemakers. In cases of post-ethnic conflict, the realities of the multi-ethnic state are even more acute as the population is more divided as a direct consequence of the continued culture of violence embedded within the conflict. Fear and distrust of other groups is more intense, spurred by the displacement of a large part of the population who have usually suffered discrimination and abuse. More than ever, the challenges faced by the international community from claims to national self-determination have pushed peacemakers to reconsider the alternatives offered by decentralisation, in order to appease various ethnic demands without also threatening the sacrosanct balance of the international order. For the same reasons that made the model attractive in dealing with multi-ethnic states in the first place, decentralisation is used to deal with demands for self-government of the different groups (Lake and Rothchild 1998*a*; Rothchild 1998: 12; Bauböck 2000; Smith 2000). However, because of the more acute ethnic divisions and hatred left by the conflict, the international community is faced with the burden of trying to establish autonomous arrangements sensibly, while also operating in an environment that threatens to make the implementation and success of these models even less likely. Beyond trying to provide the different ethnic groups with equal access to decision-making, the international community expects the model to provide reassurance and legitimacy concerning the political system. However, reassurances are difficult for ethnic groups that have lost faith in both the system and the possibility of reconciliation due to the deep divisions left by the violent nature of the conflict. In the hope that the preservation of the international order can be maintained, the

international community has aimed to appease these secession claims with the goal of ultimately preserving a weakened and loosely knitted state. Decentralisation is thus less a factor of democratic advancement than a political device that aims to offer an alternative to secession.[3]

An attachment to decentralisation as a means of regulating conflict is strongly reflected in the contemporary literature, where advocates have re-actualised and refined the long-existing criticisms in an attempt to find solutions to some of the models' failures. A classic example can be found in studies of the Dayton or Ohrid settlements of the Bosnian and Macedonian crisis where Lijphart's "consociational" or Horowitz' "integrative" suggested arrangements are said to be unavoidable, even if in a hybrid form (Sisk 1996; Caspersen 2004; Dimitrova 2004). In other words, decentralisation is a major component of long-term solutions to post-conflict regulation. Yet this argument assumes that the decentralised entities should be drawn along ethnic rifts. Seymour Lipset, in *Political Man* (1983: 81), argues that in order to achieve a stable democratic political system, this system should encompass cross-cleavage politics. Hence, his theory suggests that, in order to achieve stability, decentralisation should foster, if not in the short term at least in the long term, a non-ethnic basis. If decentralisation is indeed pursued along ethnic lines, questions as to its effectiveness and sustainability should indeed be raised.

1.3. Typology

Two broad categories of decentralisation model are offered in both the academic literature and international practice. First, territorial decentralisation and, second, non-territorial arrangements. The first category is the most commonly implemented, for practical reasons. As John Coakley reminds us in the introduction to his book, the demands of ethnic groups nearly always entail territorial implications (2003: 1). In addition, modern states, through the exercise of their governmental prerogatives and sovereignty rights, involve an inescapable territorial dimension. Alternatively, in order to respond to the criticism that ethnic groups are rarely distributed homogeneously on a contiguous territory, some scholars have attempted to articulate a model of autonomy that would satisfy certain demands of dissenting groups through non-territorial autonomous arrangements (Kymlicka 2002). Each model has its advantages, disadvantages and inconveniences, which makes the practical implementation of decentralisation models in post-conflict situations arduous.

Within the territorial arrangements family, we find roughly four different types of political decentralisation systems, which can be placed in order along a decreasing scale of greater autonomy from central government:

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[3] Interview with former United Nations Interim Administration Mission in Kosovo (UNMIK) official, London, February 2006.

1. *Confederation*: The confederal system, placed at the "greater autonomy" end of the scale, entails a very loose association of territorial entities, which are granted their own government and which are independent from the influence of other confederal units and central government. Indeed, the particularity of the confederation is that the confederal units are themselves the provider for central government. Together, the units make the central government policies, which only apply to them with their agreement. At international level, they retain or delegate their sovereignty from/to the central government with their express agreement (e.g. arguably the proposed EU Constitution, the former State Union of Serbia-Montenegro).

2. *Federation*: As McGarry reminds us, "a [F]ederal political system is a family of systems in which there are features of both self-government and shared government", therefore becoming a generic term that encompasses all sorts of political devolution models (2005: 1, 17). However, as this definition would be encompassed within my definition of the term "decentralisation", I wish here to use the term "federal system" in its primary constitutional legal sense, which involves the association of territorial units in a closer manner than in a confederal model (McGarry and O'Leary 1994: 109–10). Although in theory they retain some sovereignty, in practice they are not immediately privileged to use their right to self-determination, which remains limited to extensive self-government. While they are still independent from the central government, the latter has more independence from and more power over the federal units. In particular, their internal sovereignty is delegated by the central government, in contrast to the confederal model (e.g. Germany, United States).

3. *Autonomy*: Autonomous regions are commonly found in multi-ethnic states that aim to accommodate minority groups. As Antonio Cassese (1979) and others have argued, this system is an adequate arrangement to respond to demands of groups that do not qualify as a "People" entitled to external national self-determination. The aim is to give a particular group living within a territory a certain degree of constitutional autonomy from central government in order to give them powers to administer themselves, without granting them sovereignty (e.g. Canada, Spain).

4. *Local self-government*: Local self-government would be the system with the lowest degree of autonomy from central government. It is however a mechanism that enables local communities to administer everyday life and needs, while respecting the overall guidelines from central government. This type of autonomy can be found at various degrees in numerous places.

In addition to these four classic decentralisation systems, some scholars have developed further literature on hybrid forms of these models: the "asymmetric federation" (McGarry 2002) and the canton system. *Asymmetric federation* can

theoretically transpose to any of these systems, and rests on the principle that some units within a state can gain additional autonomy from central government, in relation to the other units or, in some cases, to the rest of the state (e.g. Italy, Spain) (McGarry 2005: 3). The *canton system*, also referred to as "communisation", is an administrative territorial division that is usually specifically designed for territorialised ethnic groups in order to provide them with self-management. The degree of autonomy from central government is defined according to the decentralisation system adopted (McGarry and O'Leary 1994).

Finally, a word on the concept of *non-territorial autonomy*. Much less developed in the literature as in practice,[4] this type of model aims to provide non-homogeneous groups with a certain degree of autonomy in fields that are not of common interest, such as culture or education (Coakley 1994; Lapidoth 1997). This model specifically aims to grant ethnic groups satisfaction in fields relevant to them while not disturbing the ethnic territorial distributions, which can entail, as witnessed in BiH and elsewhere, large movements of population. Free from the burden of dealing with these core ethnic issues, a general administration in charge of current affairs can be established on a non-territorial basis. Some degree of local autonomy can be provided to these administrations, with specific power-sharing mechanisms, but such settlements cannot threaten the fulfilment of core ethnic interests through another apparatus that does not require ethnic territorial divisions. This type of autonomy arrangement appears particularly appealing in order to avoid ethnic entrenchments, yet it might be difficult to implement. In particular, specific mechanisms need to be developed to ensure the safety of isolated minority group members that a non-territorial arrangement does not provide for (Orentlicher 2003).

2. Balkan Precedents

2.1. Bosnia-Herzegovina

The Republic of Bosnia-Herzegovina, formally known as "Little Yugoslavia", had the unique characteristic under the socialist federal system of being the only republic without a clearly defined constituent people. As its nickname suggests, it has always been formed of various (three primary) ethnic groups with no clear majority: Serb (Orthodox), Bosniak (Muslim) and Croat (Catholic). Although, it would be far-fetched to say that the groups were not well-defined and self-conscious, it is unquestionable that, despite regional differences, the groups interacted on a daily basis, intermarriages were a common occurrence (Bose 2002) and portions of the society integrated within a syncretic culture. Yet, with the violent conflict that devastated the republic in the early 1990s, the populations who suffered ethnic cleansing and deportation on all sides were forced to identify with

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[4] Among others, this system has been used for cross-national stateless groups such as Roma in Hungary.

particular groups, and political divides between them grew to a quasi-irreversible degree. At the end of the conflict, political legitimacy and identification was well rooted within ethnic group membership, which was, as commonly encountered in such cases, defined and/or entrenched territorially.

The violence of the conflict and the intensity of its ethnic consequences are due to the ethnicisation of the political conflict that launched the violence in the first place. As BiH followed the wave of secession from the Socialist Federal Republic of Yugoslavia (SFRY) (Malcolm 1994; 2002), in the steps of Slovenia and Croatia, the Bosnian Serb elite declared that they would call on their constitutional right to national self-determination based on their constituent nation status and secede from the Federal Republic in order to remain in SFRY. In the Constitution of the Socialist Federal Republic of Yugoslavia of 21 February 1974, the right to national self-determination was granted to the republics of the federation, but also to the different constituent nations (*narodni*) that were an integral part of this federation (Art. 1). In theory, both the republics and the constituent nations had a right to self-determination and ultimately to secession. However, the constitutional interpretation of this right was heavily rooted in the Leninist approach to national self-determination: the de jure recognition of national self-determination was imperative to the stability of the country, but it could not have any kind of de facto application. In practice, this element became a source of great competence and sovereignty conflicts in cases where large ethnic minorities dissented from the principal nation's will. The problem lay in basing the sovereignty of the republic on national grounds, which crystallised the republic's citizenship on national criteria, leaving no choice to other national minorities but to feel excluded. From then onwards, the ethnic appurtenance polarised the population between the Bosniaks who aimed to keep the Republic of Bosnia-Herzegovina independent but unified within its constitutional/historical borders, and the Bosnian Serbs who aimed to secede all territories inhabited by Serbs within Bosnia in order to remain within SFRY. Later in the conflict, voices from Bosnian Croat elites were raised to express their wish to also enjoy their constitutional right as a constituent nation and to attach territories inhabited by Croats to their homeland. Nevertheless, since the different ethnic groups were not homogeneously distributed across the republic, but generally lived scattered across villages, the conflict that ensued became increasingly motivated by a clear policy of ethnic cleansing, where each side aimed to gain total control over their claimed territories.

The General Framework Agreement for Peace in Bosnia and Herzegovina signed on 14 December 1995 is a clear attempt by the international community to establish a balanced political and territorial division of the territory in order to satisfy all sides, while also preserving the international order. The international community established a complex political system, composed of a multilayered decentralisation system based on territorial divisions that reflected the post-conflict ethnic divisions. The state was divided into two entities: the Federation of Bosnia-

Herzegovina (FBiH) and the Republika Srpska (RS).[5] In ethnic terms, FBiH is composed of both Bosniaks and Croats, while RS is mainly inhabited by Bosnian Serbs. However, in order to satisfy Croat demands, FBiH was further divided into ten cantons, themselves established largely on ethnic terms.[6] Article 3 of the BiH Constitution regulates the "responsibilities of and relations between the institutions of Bosnia and Herzegovina and the entities". According to its disposition, BiH has a quasi-confederal structure, short however of sovereignty for its two confederal units. Although the central government is rather powerless, it retains sovereignty over the entire territory and is guarantor of the territorial integrity of the republic in line with the conclusions of the Badinter Commission Opinion No. 2.[7] The central government is composed of three main bodies: the presidency (executive), the parliamentary assembly (legislative) and a constitutional court (judicial) (Art. 4–6). Each of those bodies is designed according to strict consociational power-sharing principles, where each group, through their entities, appoints members of their community to represent them in those bodies.[8] In essence, those bodies have only jurisdiction in matters relative to the republic as an international actor (sovereignty, state emblems, constitutional matters, foreign relations and trade) leaving the two entities in charge of essential governmental prerogatives over their populations.

Within each entity, the self-approved Constitution regulates the distribution of political power among the inhabitants.[9] As mentioned above, in order to satisfy Bosnian Croat demands, FBiH was further divided into ten cantons (Section I Art. 2). The Federation and canton relationship is regulated by Section III of the entity's Constitution and is based on a federal model of decentralisation. The central government of the Federation has relative decision-making power over the territory of the Federation, shared with the cantons that deal with local issues. Although the Federation's central government retains reasonable power over general issues that influence the cantons, the latter are still independent enough to foster ethnic interest within their borders. Again, the limits of canton power was

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[5] Constitution of the Republic of Bosnia and Herzegovina, Art. 1(3). Annex 4 of the Dayton Agreement.

[6] In addition, the Brčko District is a multi-ethnic unit of local self-government under the direct sovereignty of the Republic of Bosnia and therefore independent from either entity. Cf. Statute of the Brčko District of Bosnia and Herzegovina, "Official Gazette" of Bosnia and Herzegovina, 9/00; 23/00 and "Official Gazette" of the Republika Srpska, 8/00.

[7] European Community Conference on Yugoslavia, Arbitration Commission (Badinter Commission), Opinion No. 2, 11 January 1992, Paragraph 1.

[8] The Parliamentary Assembly is divided between two houses: the House of People composed of fifteen delegates, five from each ethnic group; and the House of Representatives, composed of forty-two members, two-thirds elected from the Federation and one-third from Republika Srpska (Art. 4). The presidency is composed of three delegates, one representing each ethnic group and elected within their respective entity, and a council of ministers, two-thirds elected from FBiH and one-third from RS (Art. 5). The Constitutional Court is composed of nine members, four elected by FBiH House of Representatives, two members elected by the RS Assembly, while the three remaining members are international judges (Art. 6).

[9] Constitution of the Federation of Bosnia and Herzegovina, "Official Gazette" of the Federation of Bosnia and Herzegovina, 1/94, 13/97, 16/02, 22/02, 52/02, 60/02, 18/03, 63/03; Constitution of the Republika Srpska, "Official Gazette" of Republika Srpska, 6/92, 8/92, 15/92, 19/92, 21/92, 28/94, 8/96, 13/96, 15/96, 16/96 and 21/96.

designed to ensure a maximum of ethnic homogeneity (Section V), while at the entity level, an equilibrium of power-sharing mechanisms is assured between ethnic groups in order to maintain their access to decision-making (Section IV). Giving an explanatory account of the institutional structure of BiH is a challenging task and this has been noted by most scholars who have attempted it (Bose 2002).

The first and foremost positive result of the complex decentralisation design of the Dayton Agreement has been that it achieved its primary short-term aims: put an end to the violent ethnic conflicts, provide all parties of the conflict with access to decision-making power and, to a certain extent, provide some compromise between the very divergent demands of all groups. Although it is still unrealistic at this stage to be over-enthusiastic about the success of these decentralised institutions in achieving multi-ethnicity, it would also be unfair not to recognise the role of decentralisation in improving the immediate living conditions in BiH today. Although it is true that the international Cerberus of the Dayton Agreement implementation, the former High Representative Lord Paddy Ashdown, continuously made use of constitutional veto powers (the so-called "Bonn Powers") to ensure the good functioning of the decentralised institutions, it has been recognised that these interventions were less frequent, and in a general manner the different institutions are now functioning relatively efficiently in providing for the population within the limits of their proscribed capacities. Besides, this "normalisation" of political life in BiH has generally enabled positive improvements at different levels of the republic's political and social life: improvements in the transport of goods and persons across entities, in the running of elections, on the issue of returns, etc. Probably the best example of the positive achievements of the Bosnian institutions has been the successful deliberation of the Constitutional Court on the arduous case of the "Constituent People" question, by declaring unconstitutional the entities' provisions that attempted to enshrine ethnicity as a criterion of citizenship. As Anna Morawiec Mansfield emphasises, "the Court recognized and legitimized collective rights, but only to the extent that such collective rights do not invade and have the potential to empower, the individual's right to pursue his or her own liberty across the territory of Bosnia and Herzegovina" (2003: 2053), hence providing a legislative limit to the ethnicisation of decentralisation and the modest attempt to reverse the trend towards a more integrated society.

Despite these relative achievements, a number of shortcomings can still be attributed to the decentralisation system established by the Dayton Agreement. First, the complexity of the system has been criticised on several grounds: economic, political and practical (*Southeast European Times* 2005). Running so many different levels through tortuous administration is long, difficult, inefficient and expensive. Second, despite the aspirations of the international community for the system to provide peaceful coexistence, cooperation between the very independent entities is still far off. As critics of ethnic decentralisation feared, the creation of the two solid blocs has managed to entrench ethnic groups within their own territory, politically and socially. Although the border between the two entities

is loose and one will not notice crossing it; politically, exchanges between the two governments are still quite rare. Talks from RS politicians on seceding from BiH are not as high on the agenda as they used to be, but the issue still remains in the discourse of nationalist elites. One is left wondering to what extent the direct involvement of the High Representative in dismissing sixty elected members of the RS institution in July 2004 has toned down the nationalist agenda. In the same way, Croat nationalists still push at times to have their own specific entity formed. As it stands, their demands are not often taken seriously. However, it might be interesting to assess how much popular support these ideas would have if brought forward again in the future. Finally, the ultimate question that can be asked with regard to BiH's institutional system is to what extent the system is sustainable in the long term, especially if the international community were to withdraw its influence and control.

In March 2006, after months of negotiation among the three ethnic groups' elites, a set of constitutional amendments was proposed to revise an outdated Dayton Agreement and change what is perceived as an unworkably dysfunctional Constitution. The proposed amendments include "creating two new state-level ministries, changing the way parliamentary representatives are chosen, adjusting the rules about the state presidency … But the agreement fell short of abolishing the division between Bosnia's two entities ... It also held back from replacing the current tripartite, multi-ethnic rotating presidency with a single head of state" (Sadikovic 2006). The problems that surround such political change and implementation are a clear indication of the shortcomings of ten years of Dayton's decentralisation. The entrenchment of ethnic identification that has underpinned both the war and the post-conflict political environment has only been maintained and reinforced by the current system of decentralisation and, despite its best intentions, it has not managed to reduce ethnicisation as an important factor determining any future political or institutional change.[10]

2.2. *Former Yugoslav Republic of Macedonia*

After its independence from SFRY, Macedonia claimed to be the "Switzerland of the Balkans". Unfortunately, by 2001, the spectre of conflict that ravaged the former Yugoslavia began to be mirrored in the southernmost republic. To a certain extent, post-1991 Macedonia was a model of ethnic political collaboration. The 1991 Constitution[11] entailed political recognition of minority groups and some provisions to defend their political participation. In practical political terms, Albania's ethnic political groups were relatively well integrated in political life, as

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[10] Serbs are still opposed to a diminution of decentralisation, as they would lose substantial access to decision-making over their interests. In political terms, they would consider it as a setback as it would go along with the unification plans wanted by Bosniaks. As mentioned earlier, Croats still favour the creation of their own entity that would guarantee them not becoming the new minority in a redesigned Bosnia.

[11] Constitution of the Republic of Macedonia, Official Gazette of the Republic of Macedonia, No. 51/1991.

they managed to consistently remain within governmental coalitions (Dimitrova 2004: 173). Those multi-ethnic coalitions helped to shape the political scene of Macedonia into "non transparent and elitist modes of decision making" (Dimitrova 2004: 174) and had little effect on the reinforcement of a multi-ethnic society as was expected from this type of political cooperation. The different groups within the society lived side by side, but exchanges were kept to a minimum and allowed for deepened divisions between the groups. In fact, the elites' deals did little to enhance the development of a healthy democratic multi-ethnic state. As the decade passed, bargaining elites failed to resolve the growing discontent of the Albanian minority (concerning little representation in the police, armed forces and other civil services; breaches of language rights; etc.). Although the 1991 Constitution recognised minority groups, the state of Macedonia was recognised as the homeland for all Macedonian people, leaving a sense of non-belonging to the so-called "national minorities".[12]

The events that started the unrest in 2001 are still unclear. Violence from militarised Albanian groups started against Macedonian military forces and intensified with time to involve increasing attacks against civilians. Their demands were also unclear and evolved to include demands for total independence from Macedonia for any Albanian-inhabited areas, recognition of their status as constituent people, a simple revision of the Constitution and extended local self-government powers (Treneska 2004: 228). The first demand was negatively received by both the international community and the Macedonian Government, both of which feared the disruption of the region and ultimately, the international order. Furthermore, the carving out of an "Albanian" territory would prove difficult as the population is not homogeneously distributed on clearly demarcated territory. In any case, giving in to the Albanian nationalists' demands would be opening the door to further disruption in Kosovo, Southern Serbia and eventually to the Albanian populations living in Montenegro. The second Albanian demand proved equally as problematic for the Macedonian Government, as the title of "constituent people" in the Yugoslav context has traditionally gone with the right to national self-determination. Recognising the status of the Albanians as a constituent people would be a tacit agreement to give them the option to secede in the future, providing fuel for further nationalistic disruptions. The Ohrid Framework Agreement that was eventually signed on 13 August 2001 responded to the final and more acceptable Albanian demand for local self-government.

In contrast to Dayton, the Ohrid Agreement initially provided for a decentralisation system not territorially based on ethnic realities, along with improvements in public administration representation and further rights at central government level. In order to respond both to the legitimate demands of Albanians for more recognition and political participation, and to the Macedonian concern for the guarantee of their sovereignty and territorial integrity, the agreement provided for basic

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[12] '[A] common home for the Macedonian people with the nationalities living in the Republic of Macedonia', Amended Constitution of the Republic of Macedonia, November 2001, preamble.

constitutional amendments and provisions for the decentralisation of substantial political decision-making at municipal level. At constitutional level, Albanians, but also other ethnic groups, were granted the title of "people" and recognised as having the full citizen status on an equal footing to Macedonians (Preamble). In addition to a number of further amendments that reinforced the power of minority ethnic groups in decision-making at central and local levels, the Ohrid Agreement also called for the amendment of laws dealing with local self-government, local finances and territorial divisions. The aim of these provisions was to reinforce local self-government in existing administrative units. In other words, the idea behind the Ohrid decentralisation model was to devolve increasing power to municipal administrative units that were not established exclusively along ethnic lines.

After only five years of implementation, the results of the Ohrid Agreement are mixed. On the one hand, the settlement has appeased violence and normalised Albanian nationalist groups back into the political scene. On the other hand, the implementation of the agreement has failed to provide for the non-ethnicisation of the decentralisation system, leaving smouldering unrest and the possibility of violence reappearing. Again, it seems fair to credit the achievements of Ohrid. The ratification of the amendments to the Constitution by parliament gave minority groups legal reinforcement in the decision-making sphere. In addition, despite the fearful predictions of the international community, the holding of a referendum by the opponents to the Law on Territorial Divisions in November 2004 showed the growing political maturity of Macedonians, as illustrated by the fact that they used constitutional mechanisms to oppose political changes rather than resuming political violence. In addition, the failure of the referendum revived hopes in the future for the decentralised process.

Nevertheless, in a similar way to the BiH case, small institutional successes should not mask the failures of the process to address fomenting problems that might, in the long term, ruin these short-term achievements altogether. In practice, the agreement has failed to provide for the re-establishment of the pre-conflict multi-ethnic municipalities. Numerical minorities that were drawn out of their houses due to the conflict have failed to return to their homes, and the local authorities so far have not shown any effort to address these imbalances and therefore fulfil one of the requirements outlined within the Ohrid implementation process: multi-ethnicity (Treneska 2004: 234). In political terms, the settlement has not managed to change the old practice of ethno-political bargaining. Despite the reinforcement of power-sharing mechanisms, politics is still run heavily for short-term political advantage at the centre, without taking into account local needs (Dimitrova 2004: 181). These practices also seem to have an effect on the institutional terms and the implementation of the agreement. The closed-door negotiations on the Law on Territorial Divisions have been carried out along traditional coalition bargaining lines and, as a result, have led to a deviation from the initial non-ethnic territorial solution lauded by Ohrid. The supporters of the November referendum have denounced the territorial bill as promoting the redrawing of municipal borders along ethnic lines (Dimitrova 2004: 178–79). What all this suggests is that, despite

the constitutional and institutional arrangements, the Ohrid Agreement has not managed to settle ethnic divisions and to reinforce a feeling of citizenship among the various minority groups in the way that was intended.

3. The Decentralisation Problem in Kosovo

Seven years after the Kosovo conflict, the international community is increasingly faced with the problem of how to resolve the status and political future of the province. The precedents behind the settlement of ethnic conflict by decentralisation in Bosnia and Macedonia can provide useful guidance and some sort of "lessons learned" for peacemakers in Kosovo. In both cases, decentralisation has proved to have some positive achievements with regard to the appeasement of tensions and the immediate conflict. However, in both cases, it has failed to provide any substantial reconciliation, strong political cooperation and/or the taming of ethnic divisions. Due to the successes and failures of decentralisation strategies, the debate surrounding decentralisation has become extremely polemical.[13] This is because radically diverse solutions have been proposed that focus on significantly different outcomes, and from these debates springs a new fear among the different ethno-political actors in the province. In this last section I would like to distinguish between what I see as the two dimensions of Kosovo decentralisation: the external and internal aspects.

3.1. The future of Kosovo

Although the decentralisation debate in Kosovo mainly focuses on internal political arrangements, first and foremost should be considered the external dimension behind the devolution of power. In other words, to determine the future relationship of the province to what is, under international law, its sovereign state: the State Union of Serbia-Montenegro.[14] After the end of the Kosovo conflict in 1999, the international community through Security Council Resolution 1244 (10 June 1999) reaffirmed its recognition of the sovereignty of the Republic of Yugoslavia over the province (Preamble) while acknowledging the right to self-government of the province through "substantial autonomy" (Preamble) and while postponing the decision over the final status of the province for a future date. Due to the diplomatic nature of the document, it remained relatively vague over a number of key issues: the relationship that should exist between Serbia and the province, the

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[13] Controversy over the term "decentralisation": see ICG (2003).

[14] In its wording, Resolution 1244 recognises the sovereignty of Yugoslavia and not formally of the Republic of Serbia. Kosovo Albanians interpreted the wording as a clear indication that Kosovo is the third entity of the then Federation of Yugoslavia and on equal footing with the republics of Serbia and Montenegro. This interpretation is in total contradiction to Serbian sovereign claims to the province, which they consider to be only part of Yugoslavia as a sub-entity of Serbia. Furthermore, this interpretation became more problematic when, in June 2006, the Montenegrin parliament voted its independence from the State Union following an official referendum. This peaceful secession was welcome in Pristina, which considered that it could not be obliged to remain in a State Union where one of the members had already been given the right to secede (see Lama 2006; Buzhala 2006).

degree of autonomy that should be given to the province, and what alternatives would be available with regard to the final status of the province. In the meantime, the Constitution of the State Union of Serbia and Montenegro (14 March 2002), formerly the Federal Republic of Yugoslavia, explicitly stated that "the state of Serbia which includes … the Autonomous Province of Kosovo and Metohija" (Preamble), thus making Kosovo an official sub-entity of the Federal State of Serbia. This established the clear sovereignty of Serbia over Kosovo.

Despite attempts to postpone the major issues involved in the Kosovo situation to avoid further confrontation (Yannis 2001), the international community was increasingly pressed by both Belgrade and Pristina to come to terms with the question of status. Yet, as the international community launched talks over the status of the province in February 2006, it was faced with very diverging alternatives, complicated by the multiplicity of actors and expectations. Despite a common belief stated within the literature on ethnic conflicts, ethnic groups are rarely homogeneous in their expectations and demands. This is particularly true in the case of Serb demands over Kosovo, where there are diverging demands first within Belgrade and then also from Kosovo Serbs. In Belgrade, two main positions can be found: proponents of the return of the province to the total sovereignty of Serbia, and proponents of the secession of the province provided that there can be a change of borders and an exchange of ethnic populations. The former requests the implementation of international law and the return of the sovereignty of Serbia as provided by Resolution 1244. Before his assassination, Prime Minister Đinđić articulated a proposal where Kosovo could be decentralised on an asymmetric federal basis, in which Kosovo Serbs would be granted the status of "constituent people" of Kosovo and would be able to retain administrative links with the central government in Belgrade, while Albanians would enjoy strong autonomy power within the province, free from Belgrade's involvement.[15] The latter accept the realities of the situation and are ready to grant independence to the province provided that all the territories dominated by Serbs are returned to Serbia, with, eventually in exchange, Albanian-inhabited areas in Southern Serbia. In reality, proponents of the second option usually recognise that they will support it only if the first option fails. The divisions within Belgrade are also mirrored within the Kosovo Serb population, first reflecting the political spectrum of Belgrade, but also taking a more pragmatic approach due to their situation on the ground.[16] Despite support for the non-independence solution, some Serbs living north of the Ibar River, who are homogeneously distributed and contiguous to the Serbian border, would support the independence option as long as their territory is attached to Serbia. However, in Serb enclaves, few would even want to consider this alternative as they would be obliged to leave their houses and properties and move to Serbia, where little is waiting for them. In Pristina, no political party is ready to promote anything less than total and full independence.[17] As former Prime Minister Kosumi made clear, even conditional independence would not be an acceptable

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[15] This proposition was first suggested by the late Prime Minister Zoran Đinđić in 2003.
[16] Interviews, Pristina, May/June 2004.
[17] Interviews with party representatives and political leaders, Pristina, May/June 2004.

option.[18] According to Albanian political leaders, independence is their right and therefore, any negotiation with what they still consider their "oppressor" (i.e. Belgrade), is unacceptable.[19] Predictably, despite the change of political leadership in Kosovo[20] and the involvement of the international community in mediating between the two parties, the first high-level meeting on the status issue between Belgrade and Pristina leaders that occurred in July 2006 ended up at a clear political dead end.

Although in international circles, few still believe in the return of Kosovo to Serbian administration, none seem ready to make a committed prognosis on its final status.[21] Nevertheless, whatever the outcome, it is clear that Kosovo will be a political entity of its own, with territorial implications that in turn might create their own set of new ethnic problems. New political arrangements will need to be considered to meet the demands of dissatisfied minority groups, which will legitimately claim in turn access to decision-making. It is on this aspect that I conclude my analysis.

3.2. Kosovo and local self-government

In line with ethnic conflict regulation practice, decentralisation is considered as a tool to deal with the Serb problem within the boundaries of Kosovo. After the Kosovo conflict, a large part of the minority Serb population fled (or were strongly encouraged to leave) the province as the Yugoslav troops withdrew in line with the 9 June 1999 Military Technical Agreement (Kumanovo). The remaining Serbs continue to live either north of the Ibar River or within enclaves scattered across the province. As the international community established new self-governing institutions (in accordance with Resolution 1244), the problem of involving the Serb minority has weighed increasingly on the process of legitimisation that underpins Serb identification with these new institutions. In addition to not taking part in local political life, the Serb-inhabited territories voluntarily maintain a system of parallel institutions, supported by Belgrade, which allow them to live independently from Kosovo institutions. In order to secure the participation of Serbs in the first general elections and in attempts to solve the increasingly difficult and disgraceful situation in Mitrovica, the Special Representative of the Secretary General (SRSG) Michael Steiner tabled the idea of decentralisation in 2002. The decentralisation project, consisting of institutionalising ethnically based self-government, was first proposed in October 2002 as part of Steiner's "Seven Point Plan" to solve the problem of Mitrovica (Steiner 2002*a*). This plan entailed a bargain with the Serb population of North Mitrovica and a promise of the formation of self-governing municipal units if they were to take part in the general

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[18] Local newspapers, reported in UNMIK Local Media Monitoring, 1 April 2005.

[19] Local newspapers, reported in UNMIK Local Media Monitoring, 6 April 2005.

[20] Death of Kosovo President Ibrahim Rugova in January 2006 followed by a reshuffling of the party; change of Prime Minister in March 2006.

[21] Interviews with UNMIK officials and contact group liaison offices, Pristina, May/June 2005. See also ICG (2005).

election. This strategy was later extended to the rest of Serb-inhabited areas (Steiner 2002*b*). Municipal units could be established for sizeable non-majority communities within a municipality and could be composed of one or more villages, settlements and urban quarters. Such sub-units would be established on the basis of a request to have elected municipal assembly participants or through a petition from community residents (ICG 2005: 18). In practice, this project aimed to "cantonise" Kosovo along ethnic lines as designed in BiH and, as a result, was in total contradiction with the precedent set by the Ohrid Agreement signed a year earlier. This compartmentalisation of the province along ethnic lines was violently rejected by the Albanian community, which saw in the long-term possibility of territorially defined self-governing units the choice of future secession from Kosovo. Steiner's plan was eventually abandoned and the term "decentralisation" acquired a negative connotation. This forced the SRSG to entrust the Council of Europe (CoE) to look into a more appropriate model of what had now been labelled "local self-government". Unfortunately, by the time the CoE presented its report nine months later, the new SRSG Harri Holkeri did not strongly believe in the relevance of a decentralisation/local self-government model and allowed the CoE and different local initiatives to drift away without any concrete results.[22] As the March 2004 events occurred and scheduling for discussions on the future of the province was stepped up, the issue of local self-government was once again on the institutional and political agenda.

Given the history of the province and the particular political stakes, in the implementation of the decentralisation mechanism it might yet again prove difficult to gain the support needed from the different sectors of society. Nevertheless, some sort of agreement is crucial for the future of the province. The position of the ethnic groups is clearly diverging. The Kosovo Serbs, after Steiner's failure to deliver the promised self-governing municipal units, launched in early 2003 their own Union of Serb Municipalities. This movement, supported by the Coordination Centre for Kosovo and Metohija (Koordinacioni Centar Srbije za Kosovo i Methohiju) in Belgrade, a government body in charge of Kosovo affairs, aims to create "the reorganisation of Kosovo Serbs in the sense of federalisation or the forming of two entities".[23] It established a de facto ethnic self-governing unit, which ironically reinforces what Steiner aimed to weaken. This movement failed to gain the support of the United Nations Interim Administration Mission in Kosovo (UNMIK), which did not believe it was sufficiently well organised to be effective. In addition, the Union only succeeded in further alienating part of the Kosovo Serb population, especially within the enclaves that were not benefiting from what remained a northern Ibar movement. Within Belgrade, the issue of decentralisation in Kosovo did not manage to achieve a consensual view or change anyone's position on the overall status of the province. If most proponents agree that administrative divisions should reflect ethnic territorial distribution, internal political feuds continue to hamper any concrete decision-making, reflecting the multiplicity of

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[22] Interview with CoE officials, Pristina, May/June 2004.
[23] Rada Trajković, quoted in UNMIK Local Media Monitoring, 27 March 2003.

plans proposed. In Pristina, most Albanian parties have reconciled themselves to the idea of the creation of local self-government, but refuse to consider cantonisation. Along with some of the recommendations of the CoE, they favour the administrative units being drawn along non-ethnic criteria and retaining a degree of connection with central government.

Nevertheless, despite CoE recommendations, a series of drafts were drawn on an ethnic basis. In spring 2005, the first comprehensive draft, known as "Plan B", was presented in the Kosovo Assembly. The document gathered meagre support from a cross-spectrum of Albanian parties but, as expected, was rejected by the Kosovo Serbs and Belgrade. The plan proposed the creation of new municipalities, drawn along ethnic lines, which would be granted the same prerogative as existing municipalities.[24] Yet the plan was opposed by Serbs on the ground that the central government would still retain too much control over the municipalities (Xharra 2005). Despite these protests, pilot municipalities were designed across the province to test the plan's efficiency.[25]

When the launch of negotiations on the future of the province was announced in October 2005, the issue of local self-government became subordinate to that of status. Yet, as the negotiations proceeded through 2006, the issue of decentralisation proved to be a key and thorny issue. As a decision is yet to be adopted and given the political record of the province, it is difficult to speculate on the success of the implementation of local self-government in Kosovo. Nonetheless, whatever the outcome of these negotiations, as far as decentralisation is concerned it should be kept in mind that, to be successful, any agreement should be endorsed by all parties to secure the stability and legitimacy, hence the future, of a sustainable solution.

4. Conclusion

Decentralisation has already been extensively dealt with in the ethnic conflict literature. The aim of this paper is merely to add to the discussion through an analysis of decentralisation implementation in three post-ethnic conflict situations: BiH, Macedonia and Kosovo. As I argue, decentralisation is nowadays often used by the international community as a magic formula to "freeze" ethnic conflicts, providing a short-term solution that, if not thought through thoroughly, could have inverse implications in the long term. If decentralisation is only applied to crystallise ethnic divisions, the roots of the conflict will be sustained, and will eventually provide an adequate platform for further conflict.

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[24] Such as decision power regarding local health, education and economic development, as well as the management of a local budget; c.f. UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo.

[25] An interesting aspect of the pilot municipality implementation is that one of the five municipalities is inhabited and run by Albanians living north of the Ibar River, in Serb majority territory.

As the case of Bosnia demonstrates, decentralisation based on ethnic divides might bring positive achievements in the short term, especially after violent conflict in which the population is divided by fear and resentment. Access to political decisions might help to rebuild some confidence in the institutions. However, this case also demonstrates that if trans-ethnic and cross-decentralised exchanges are not appropriately institutionalised, those political structures will not help to bridge divisions in order to overcome the entrenched political separations. To reach a long-term solution, divisions made along ethnic lines need to give way to trans-ethnic politics and participation within mutual institutions. On the other hand, the case of Macedonia shows that non-ethnically divided territorial foundations for decentralisation after ethnic unrest is a feasible solution, as long as appropriate implementation mechanisms are in place. Central/local governmental relationships need to be adequately institutionalised in order to allow local government to perform its purpose free from central interference, while central government should keep to a coordinating and assessment role as regards local government achievements.

The "lessons learned" offered by those two examples could be borne in mind by the international community and local actors in post-ethnic conflict situations when institutionalising decentralisation to reach the ultimate aim: the appeasement of community relations through adequate and solid democratic power-sharing mechanisms; as neither decentralisation nor power-sharing alone have proved to be sufficient for the success of this scheme.

References

BAUBÖCK, R. 2000. "Why stay together? A pluralist approach to secession and federation". In: W. Kymlicka and W. Norman, eds., *Citizenship in Diverse Societies*. New York: Oxford University Press.

BOSE, S. 2002. *Bosnia after Dayton: Nationalist Partition and International Intervention*. London: Hurst.

BUZHALA, B. 2006. "Vu du Kosovo: la Yougoslavie est morte". *Express*, 22 May. (Translation Belgzim Kamberi for *Courrier des Balkans*.)

CASPERSEN, N. 2004. "Good fences make good neighbours? A comparison of conflict-regulation strategies in postwar Bosnia". *Journal of Peace Research* 41 (5): 569–88.

CASSESE, A. 1979. "Political self-determination: old concept and new development". In: A. Cassese, ed., *UN Law/Fundamental Rights: Two Topics in International Law*, 137–65. Netherlands, Alphenannden Rijn.

COAKLEY, J. 1994. "Approaches to the resolution of ethnic conflict: the strategy of non–territorial autonomy". *International Political Science Review* 5 (3).

——. 2003. *The Territorial Management of Ethnic Conflict*. London: Frank Cass.

DIMITROVA, K. 2004. "Municipal decisions on the border of collapse: Macedonian decentralisation and the challenges of post-Ohrid democracy". *Southeast European Politics* 5 (2/3): 172–86.

HOROWITZ, D. 2000. *Ethnic Groups in Conflict.* Berkeley: University of California Press.

ICG. 2003. *Kosovo's Ethnic Dilemma: The Need for a Civic Contract*. 28 May. Brussels, International Crisis Group. (Europe Report No. 143.)

——. 2005. *Kosovo: Toward Final Status*. 24 January. Brussels, International Crisis Group. (Europe Report No. 161.)

KÄLIN, W. 2000. "Decentralized governance in fragmented societies: solution or cause of new evils?". Working paper, Centre of Development Research conference "Facing Ethnic Conflicts", Bonn, 14–16 December 2000.

KYMLICKA, W. 2002. "Reply and conclusion". In: M. Opalski and W. Kymlicka, eds., *Can Pluralism Be Exported? Western Political Theory and Ethnic Relations in Eastern Europe*. Oxford, UK: Oxford University Press.

LAKE, D. and ROTHCHILD, D. 1998*a*. "Containing fear: the management of transactional ethnic conflict". In: Lake and Rothchild, eds., op. cit., 203–26.

LAKE, D. and ROTHCHILD, D., eds. 1998*b*. *The International Spread of Ethnic Conflict. Fear Diffusion and Escalation.* Princeton, N.J.: Princeton University Press.

LAMA, A. 2006. "Montenegro e Kosovo, destini incrociati?" Osservatorio sui Balcani 19 May.

LAPIDOTH, R. 1997. *Autonomy: Flexible Solutions to Ethnic Conflicts*. Washington DC: Institute of Peace Press.

LIJPHART, A. 1977. *Democracy in Plural Societies: a Comparative Exploration*. New Haven, Conn.: Yale University Press.

LIPSET, S. M. 1983. *Political Man: the Social Bases of Politics*, 2nd edn. London: Heinemann Educational Books.

MALCOLM, N. 1994, 2002. *Bosnia: A Short History.* London: Pan Macmillan.

——. 2002. *Kosovo: A Short History.* London: Pan Macmillan.

MCGARRY, J. 2002. "Federal political systems and the accommodation of national minorities". In: A. Griffiths, ed., *The Handbook of Federal Countries*. Montreal: McGill-Queen's University Press.

——. 2005. "Asymmetrical federalism and the plurinational state". Working draft paper, third International Conference on Federalism, Brussels, 3–5 March 2005.

MCGARRY, J. and O'LEARY, B. 1994. "The political regulation of national and ethnic conflict". *Parliamentary Affairs* 47 (1): 109–10.

MORAWIEC MANSFIELD, A. 2003. "Ethnic but equal: the quest for a new democratic order in Bosnia and Herzegovina". *Columbia Law Review* 103 (8): 2052–93.

NORDINGER, E. 1972. *Conflict Regulation in Divided Societies.* Cambridge, UK: Centre for International Affairs.

ORENTLICHER, D. 2003. "International responses to separatist claims: are democratic principles relevant?" In: S. Macedo and A. Buchanan, eds., *Secession and Self-Determination*, 19–49. New York: New York University Press.

ROTHCHILD, D. 1998. "Settlement terms and post agreement stability in ending civil wars". In: Lake and Rothchild, eds., op. cit.

SADIKOVIC, M. 2006. "Bosnia: constitutional amendments stir controversy". *Balkan Insight* 12 April.

SISK, T. 1996. *Power Sharing and International Mediation in Ethnic Conflicts.* Washington DC: Institute of Peace Press.

SMITH, G. 2000. "Sustainable federalism, democratization, and distributive justice". In: W. Kymlicka and W. Norman, eds., *Citizenship in Diverse Societies*. New York: Oxford University Press.

SOUTHEAST EUROPEAN TIMES. 2005. "Constitutional changes in Bosnia and Herzegovina: what's on the table". 14 March.

STEINER, M. 2002*a*. "A choice for Mitrovica: The Seven Point Plan". 1 October. (UNMIK/PR/837.) http://www.unmikonline.org/press/2002/pressr/pr837.htm

——. 2002*b*. Announcement by the SRSG Michael Steiner". 21 October.

(UNMIK/PR/850.)
http://www.unmikonline.org/press/2002/pressr/pr850.htm

TRENESKA, R. 2004. "Multiethnic coexistence in the Republic of Macedonia before and after the conflict of 2001". In: N. Dimitrijević and P. Kovacs, eds., *Managing Hatred and Distrust: The Prognosis for Post-Conflict Settlement in Multiethnic Communities in the Former Yugoslavia. Budapest: Local Government and Public Service Reform Initiative*. Budapest: Open Society Institute.

WELLER, M. and S. WOLFF, eds. 2005. *Autonomy, Self-Governance and Conflict Resolution: Innovative Approaches to Institutional Design in Divided Society.* London: Routledge.

XHARRA, J. 2005. "Local government offer fails to enthuse Kosovo Serbs". *Balkan Crisis Report* 571. 18 August.

YANNIS, A. 2001. *Kosovo under International Administration: An Unfinished Conflict.* Athens: Hellenic Foundation for European and Foreign Policy.

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Direct Democracy: a Risk or an Opportunity for Multicultural Societies? The Experience of the Four Swiss Multilingual Cantons

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Does direct democracy tend to endanger or to protect minorities in multicultural countries? The response to this question has been controversial. Some scholars believe that direct democracy may result in "disregard of basic minority rights"; others think that it "serves to protect minorities". This paper explores the experience of Switzerland, a longstanding multilingual democracy and the country in which half of worldwide referendums and popular initiatives have been held. First, it points out some major methodological problems that research trying to quantify the cases of "minorisation" of linguistic groups needs to face. Second, it illustrates the relation between popular votes and the deepening of the linguistic cleavage in Switzerland in the 1990s. Finally, four case studies explore the experience of the multilingual cantons. In the vast majority of cases, the use of referendums and popular initiatives in the cantons has not caused particular problems for minorities, although from time to time one group or another is outvoted. Nevertheless, direct democracy has been a source of intergroup tensions and misunderstandings when the issues at stake were closely related to identity, culture, language, or balance of power between linguistic communities.

Does direct democracy tend to endanger or to protect minorities in multicultural countries?* This question is critical, bearing in mind that in recent years there has been widespread dissatisfaction with representative forms of government and growing discussion of alternative forms of citizen inclusion in the political process, for example through direct-democratic procedures. In fact, in many Western countries institutions are changing to accommodate more direct citizen participation (Scarrow 2001). The use of direct-democratic institutions has also been growing rapidly in the post-communist countries of Central and Eastern Europe (Bützer 2001). Now, as many of these countries are "plural" or "multicultural" societies – that is, composed of more than one autochthonous cultural community – the question of the potential impact of direct democracy on relations between majority and minority populations deserves a closer examination.

1. Theoretical Framework

Much has been said on the general advantages and shortcomings of direct-democratic institutions such as referendums and popular initiatives (see Butler and Ranney 1978; Papadopoulos 1998; Gerber 1999; Kriesi 2005). But where impact on multicultural societies is concerned, scholarship tends to point in contradictory directions and does not offer a clear answer.

Some researchers have warned against the introduction of direct-democratic instruments in multicultural societies. Barry (1975: 485), for example, claimed that direct democracy is the "antithesis" of consociational democracy, as in a referendum a majority of 50 per cent + 1 is usually sufficient to win.[1] In fact, the idea that a country with a considerable number of societal cleavages and cultural minorities should design institutions according to which the majority can constantly rule is far from being self-explanatory. Gerber, for example, states that "empowering the state's majority through direct [democracy] may result in disregard for basic minority rights" as direct democracy "lacks the checks and balances that provide minority groups with multiple points of access in the legislative process" (1999: 142–43).

A look at the United States' experience with direct democracy shows that in many cases parliaments of the American states have adopted provisions against discrimination of minority groups (blacks, women, gays), while referendums have tended to overturn them (Butler and Ranney 1978: 36). And Gamble (1997) has found that in American states voters have approved over three-quarters of citizen initiatives that aimed at *restricting* the civil rights of minority groups.

Similar examples also exist in Switzerland, the country in which approximately half of all worldwide popular votes have been held (Papadopoulos 1998: 42).[2] For example, on three occasions – 1983, 1995 and 2004 – Swiss voters rejected the laws previously adopted by the federal parliament aiming at facilitating access to citizenship for the second and/or third generation of immigrants who were either born or have grown up in Switzerland.

If we focus on *national minorities* – that is, autochthonous populations that are often geographically concentrated and share a distinct culture with respect to the majority group – it is also possible to find examples of countries where direct democracy has been seen as a potential threat to minorities. Consider, for example, the   following   quotation   that   refers   to   the   relations   between   the

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[1] There are some exceptions to this rule. For example, in Italy the so-called "abrogative" referendums are invalid if the turnout does not reach 50 per cent. Such a rule may constitute a significant burden for the majority, if a minority is determined to boycott the referendum. In Switzerland, obligatory referendums and popular initiatives require a "double majority" (of the people *and* of the cantons).

[2] From 1848 to 2004, Swiss citizens were called upon to decide 531 national projects (220 obligatory referendums, 151 facultative referendums and 159 popular initiatives). *Source*: Centre d'Études et de Documentation sur la Démocratie Directe, Geneva; my calculation (http://c2d.unige.ch).

Macedonian(Slavic)-speaking majority and the Albanian-speaking minority in Macedonia.

> While the holding of a referendum is a basic democratic principle, it has dangerous implications for the stability of an ethnically divided society. This type of direct democracy is easily transformed into a *tyranny of the majority*, whereas the minority is *permanently outvoted* and a situation can emerge where their rights are revoked or otherwise violated. It is not surprising, then, that the call for a referendum in Macedonia produced an immediate [negative] reaction by Albanian parties (Dimitrova 2004: 179; my emphasis).

And, again in relation to Switzerland, Steiner and Obler (1977: 328) write that the direct-democratic procedure "undermines the consociational character of the decision-making process [because] by its very character, the referendum is an institution that permits a majority to impose its will on the minority". Reilly (2005: 169) also claims "such direct majoritarian institutions as the initiative and referendum" are in contrast with consociational theory.

However, other scholars have stressed that direct-democratic institutions may be a good instrument for *protecting minorities* and for *promoting minority rights*. Kobach (1993: 26) calls it a "paradoxical effect" of direct democracy: although it operates in a majoritarian manner it nonetheless "serves to protect minorities". Moreover, its combination with consociational structures "has proven effective in coping with demands of an extremely heterogeneous society" (ibid.: 261). Vatter (1997) has pointed out that the popular initiative and the facultative referendum are closer to consociational mechanisms and shall be considered as an opportunity for minorities, whereas the obligatory referendum or the plebiscite are closer to majoritarian rule and, thus, may constitute a risk for minorities.

A further, albeit not explicit, support for direct-democratic procedures in multicultural settings can be found in the concept of *power dividing* (as opposed to power sharing or consociationalism), recently advanced by Rothchild and Roeder (2005). The authors stress that in divided societies some decisions have to be taken out of the hands of the government and parliament and left to the "private sphere and to civil society". They also emphasise the importance of institutions that allow "multiple majorities".

> Divided-power institutions that empower multiple majorities increase the likelihood that members of ethnic minorities will be parts of political majorities on some issues and many members of any ethnic majority will be members of political minorities on some issues (Rothchild and Roeder 2005: 17).

This is exactly what happens in polities with strong direct-democratic institutions. As a matter of fact, Rothchild and Roeder (2005: 65–66) advance the claim that Swiss institutions, including direct democracy, are best described as power dividing and not as power sharing, as generally assumed. And Kriesi observes:

> As the Swiss experience shows, the introduction of elements of direct democracy
> into a system of representative government does *not* lead to an entirely new
> system involving all kinds of *uncontrollable risks* but to a system that opens up
> *new opportunities for participation* and *codecision* of the citizens without
> preventing the elites from playing their key role in the political system (Kriesi
> 2005: 228; my emphasis).

Finally, sometimes we can spot the controversial role of direct democracy in multicultural societies in the works of the same scholar. Consider, for example, the seminal work of Arend Lijphart, the main advocate of consociational or power-sharing democracy. In his early studies he argued that direct democracy, together with majoritarian rule, is the "polar opposite" of consociationalism (1977: 40). Then he assumed a rather neutral stand, claiming that direct democracy cannot be regarded "as either typically majoritarian or typically consensual" (Lijphart 1984: 31–32). And later he wrote, in a discussion about Switzerland, that "direct democracy is an integral part of the consociational system" (Lijphart 1985: 91).

To sum up, the role of direct democracy in multicultural societies is controversial. On the one hand, it is seen as a real or potential *threat*, on the other hand as a *chance* for minorities. How can we empirically test these hypotheses? It is certainly a fortunate circumstance that Switzerland, the country with the highest rate of popular votes, is at the same time one of the "six longstanding democracies that score highest on an index of linguistic and ethnic [*sic*] diversity" (Stepan 1999: 20). Besides a large German-speaking numerical majority[3] (72.5 per cent) there are three numerical minorities: French speakers (21.0 per cent), Italian speakers (4.3 per cent), and Romansh speakers (0.6 per cent).[4] In addition, the Swiss citizens vote on numerous cantonal and communal projects (see Trechsler and Serdült 1999).

Therefore, an answer to this puzzle cannot but take into consideration the Swiss case, "a kind of real-life laboratory for the analysis of direct-democratic choice" (Kriesi 2005: 2). Has direct democracy had negative effects on Swiss linguistic minorities? Is the phenomenon of "minorisation" – that is, cases in which a linguistic minority is outvoted by the majority in a direct-democratic procedure – a frequent occurrence?

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[3] I speak of "numerical" majorities and minorities, as historically, institutionally and sociologically the different linguistic "groups" do not constitute compact blocs and do not necessarily share a strong common identity. The very term "minority" was absent from Swiss legal documents and public discourses before the 1980s (see Coray 2004). It is mentioned only once in the new 1999 Constitution, Art. 70: "The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages, and take into account the indigenous linguistic minorities" (www.admin.ch/ch/itl/rs/1/c101ENG.pdf). Interestingly, this article speaks of "indigenous linguistic minorities" within the cantons and not within Switzerland. For example, German speakers are a minority in the bilingual cantons of Fribourg and Valais.

[4] The figures stem from the 2000 census (www.statistik.admin.ch). They refer to Swiss citizens only, as foreign residents (20.5 per cent of the population) do not have the right to vote, except in a couple of cantons on cantonal and communal projects only.

This paper begins by addressing some major methodological problems that researchers face when they explore patterns of minorisation direct-democratic procedures. Second, it illustrates the relationship between popular votes and the growing linguistic cleavage between the two largest Swiss linguistic groups in the 1990s. Finally, it turns to a more detailed examination of four case studies, one from each of the four multilingual cantons. It shows that, all things considered, direct democracy should be considered as an opportunity, rather than a threat, for minorities. Nevertheless, tensions and misunderstandings may arise if a vote is particularly salient, if a minority is constantly overturned by the majority, and if the media overplay intergroup differences and influence the public perception of linguistic cleavage.

2. Methodological Problems in Detecting Cases of Minorisation

The task of discovering cases of minorisation of linguistic minorities is particularly difficult (see Kriesi et al. 1996: 20–28). When can we speak of "minorisation" of a given linguistic group? Clear-cut situations – when, for example, all citizens of one linguistic group express one opinion, and all citizens of another group another – simply do not exist. There are at least seven methodological problems that should be taken into consideration.

(1) We should not speak of *the* opinion of linguistic groups, because groups, as such, do not have opinions or wishes. We could, at best, say that a majority of citizens of a given group has voted "yes" or "no" in a referendum. But there is always a minority within that very group that has expressed a different opinion.

(2) From the mid-twentieth century until the late 1970s there was a continued decline in participation rates in popular votes in Switzerland (Kriesi 2005: 112). At times participation rates reached a level as low as 30 per cent. In the 1980–92 period the average turnout was 42 per cent (Kobach 1993: 79). In recent years (2000–05) it climbed to 46 per cent, but it remains relatively low by international standards.[5] A lot of Swiss citizens do not vote, or do so only occasionally. Hence this situation does not allow broad assumptions about the "general will" of a group.

(3) When citizens vote in a referendum they, of course, do not indicate their first language on the ballot. So we shall at best speak of the vote of linguistic regions or areas, rather than of communities or groups, bearing in mind that no territory is 100 per cent linguistically homogeneous. In Switzerland, this is especially the case of some multilingual cantons such as Bern, Fribourg or Grisons.

(4) There are situations in which a linguistic region is outvoted, although only a relatively small proportion of ballots separates it from the general outcome of a popular vote. If, for example, 69 per cent of the citizens from German-speaking areas and 57 per cent of those from the Italian-speaking canton of Ticino say "no"

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[5] www.admin.ch/ch/d/pore/va/liste.html; my calculation.

to a project, whereas 56 per cent of citizens from the French-speaking regions say "yes", producing the average national outcome of 62 per cent of "no" votes, can we really speak of minorisation of French speakers?[6] How large would the gap have to be between the average "yes" (or "no") votes of citizens of different linguistic regions in order to speak of minorisation of a given linguistic group?

(5) Let us convene that a gap of more than 25 per cent shall count in order to speak of minorisation.[7] But situations still arise in which the majority of citizens from all linguistic groups has expressed a "yes" or a "no" vote, but with a different intensity. For example, if 85 per cent of French speakers, 80 per cent of Italian speakers and 53 per cent of German speakers accept a proposal, producing the general outcome of 58 per cent of "yes" votes, we cannot affirm that one or another linguistic group has been minorised.[8]

(6) In national votes a majority of one linguistic group can be on the winning side at the national level but be minorised at the cantonal level. For example, there have been occasions in which the vote of the linguistic majority in Fribourg or Valais (French speakers) determined the cantonal result against the "will" of most of the citizens belonging to the minority linguistic group (German speakers), but at the national level French speakers were on the losing side, whereas German speakers were among the winners.

(7) Finally, it should not be taken for granted that only groups in numerical minority are minorised. In some votes it is the majority group that ends up on the losing side. For example, Kriesi et al. (1996: 31) have found that between 1872 and 1994 – considering only the votes in which the gap between average votes of German and French speakers was above 25 per cent – French speakers were minorised 15 times out of 29. But on eight occasions the same happened to German speakers.[9]

These methodological problems do not imply that we should abandon every attempt to detect cases of minorisation in the multilingual cantons. They simply show that the task is particularly difficult and that researchers should be particularly cautious in interpreting the results of such an inquiry.

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[6] This pattern occurred in November 1989, in a vote over the popular initiative "for speed limits of 130 and 100 km/h". See Kriesi et al. (1996: 38).

[7] For example, Kriesi et al. (1996) have looked at this gap, as well as at the gaps of more than 20 per cent.

[8] This happened in September 1985, in a vote over "standardised beginning of school year in all cantons" (ibid.: 31).

[9] For example, in May 1920, in a very important vote on joining the League of Nations, 85 per cent of French speakers and 84 per cent of Italian speakers, but only 46 per cent of German speakers, said "yes". The general outcome was a "yes" vote of 56 per cent. So in this case a majority of German speakers were outvoted by the two (numerical) minorities" (ibid.: 31).

3. Direct Democracy and Linguistic Cleavage in Switzerland in the 1990s

The impact of direct democracy on minority linguistic groups is not a new research question in Swiss political science. Especially in the 1990s, several scholars undertook such a task and tried to find out how often linguistic communities have been minorised at national level (see Knüsel 1994; Wernli 1995; Kriesi et al. 1996).

Through an analysis of popular votes held in the 1968–93 period, Knüsel discovered that in approximately 10 per cent of cases a linguistic cleavage divided German speakers from French/Italian speakers. Major differences have been detected in the votes concerning national defence, social policy, energy, transport and foreign policy (Knüsel 1994: 340). An especially deep, lasting and politically salient cleavage occurred in 1992, when a majority of German (56 per cent) and Italian speakers (62 per cent) rejected the proposal for joining the European Economic Area, whereas a large majority of French speakers (73 per cent) were in favour of it.

Kriesi and his collaborators analysed popular votes in Switzerland over a longer period (1875–1994) (Kriesi et al. 1996). In 29 out of 430 votes the difference between the average votes of French speakers and German speakers was larger than 25 per cent. But only in fifteen cases (3.5 per cent) were French speakers minorised (ibid.: 30–31). In the same period such a gap occurred thirty-nine times between Italian and German speakers (ibid.: 37). The authors particularly looked at a more recent period (1983–84) and a smaller gap (above 20 per cent) between linguistic regions. They discovered ten cases (out of 116) in which a difference of 20 per cent or more was displayed between French and German speakers. Only four (3.4 per cent) of them were cases of minorisation of French speakers. In nine votes such a gap occurred between Italian and German speakers, and six times (5.2 per cent) Italian speakers were outvoted (ibid.: 38–39).

The authors have come to the conclusion that over the years the linguistic cleavage has become less and less important in relative terms (number of minorisations per year). Nevertheless, in absolute terms the number of minorisations of French- and/or Italian-speaking regions has increased since the 1970s (Kriesi et al. 1996: 28). The Swiss media have tended to overplay the differences between linguistic communities and, thus, have contributed to increase the *perception* of the existence of a linguistic cleavage (see also Knüsel 1994: 330).[10]

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[10] According to a 1994 survey, 42 per cent of French speakers and 41 per cent of Italian speakers, but only 16 per cent of German speakers, believed that a "deep linguistic cleavage" was dividing linguistic communities. At the same time, 46 per cent of German speakers but only 13 per cent of French and 18 per cent of Italian speakers said that such a cleavage did not exist. It should also be mentioned that the issue of relations between linguistic communities was not the primary concern of the Swiss: only 4 per cent said that it was one of the "most important problems", after unemployment (61 per cent), pensions (36 per cent), or crime rate (19 per cent) (Kriesi et al. 1996: 53, 63).

> [C]ette augmentation en termes absolus peut donner l'*impression* que le fameux fosse [linguistique] s'agrandit, puisque les *occasions* de le mettre en évidence deviennent *plus fréquentes*. A ce phénomène s'ajoute depuis la même période une plus *forte médiatisation*, une publicité plus grande faite autour de ces résultats de votations, autant dans les journaux que dans les supports audiovisuels, qui… sont en mesure de *déformer la perception* de certaines tranches de la population en la matière, ce dernier phénomène faisant référence à la dimension organisationnelle du clivage opéré par les medias. ([T]his increase in absolute terms may give the *impression* that the [linguistic] cleavage has become deeper, because the *occasions* in which it is possible to highlight it are *more frequent*. At the same time there is a *stronger mediatisation* – that is, greater publicity given to the results of popular votes, both in the newspapers and in the audiovisual media. [The media] are capable of *deforming the perception* of some categories of population in this respect. This phenomenon stands in relation to the organisational dimension of the [linguistic] cleavage provided by the media.) (Kriesi et al. 1996: 28; my emphasis).

And Büchi, in his historical and sociological study on the relations between French and German speakers in Switzerland, shows that in the 1990s the issue of "linguistic cleavage" (also known as *Röstigraben*) was primarily being evoked in relation to a couple of national votes in which French speakers have been minorised (Büchi 2000: 265–70). Büchi, too, emphasises the importance of the media and he especially points out the crucial (and negative) role that some newspapers and magazines in French-speaking Switzerland have played in exaggerating the differences between linguistic communities, often by stretching and misinterpreting the outcome of a vote. "A person reading the newspapers in those days could have got the impression that Switzerland was about to fall apart" (Büchi 2000: 269; my translation).[11]

For present purposes I sum up that what counts is less the reality of the facts – that is, a *decrease* in the relative number of minorisations of linguistic minorities in Switzerland – but, rather, the *perception* of the reality.

4.   Direct Democracy in the Multilingual Cantons

In most studies on the Swiss experience with direct democracy the unit of analysis has been the national level. Yet Switzerland is a highly decentralized federal country where substate units – the cantons – enjoy substantial political autonomy. This concerns also direct democracy: in all Swiss cantons citizens are frequently called to vote on cantonal (and communal) issues.

Now, twenty-two out of twenty-six cantons and semi-cantons are *monolingual*, as far as the official language is concerned. Against this background it is interesting to

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[11] This quotation refers to the 1995 referendum on "acquisition of real estate by foreigners living abroad", which was rejected by 46 per cent of the Swiss and by all German-speaking cantons, but was accepted by almost 60 per cent of citizens in the French- and Italian-speaking cantons. In the aftermath of that vote a member of the cantonal government of Geneva said that "the situation [was] extraordinary serious" and a French-speaking member of the federal parliament declared that French speakers were "colonized" by German speakers (Büchi 2000: 269; my translation).

look at the four *multilingual* cantons – Bern, Valais, Fribourg and Grisons – and to explore institutional mechanisms that they have developed in dealing with linguistic diversity. Scholarly research has been surprisingly silent here. A systematic comparative account of democratic institutions of the multilingual cantons, both in terms of representative democracy and direct democracy, is lacking.[12] In the light of the present paper I explore direct-democratic institutions in the multilingual cantons and discuss possible problems that they may have caused to linguistic minorities.

Table 1: Population and Languages in Switzerland and the Multilingual Cantons, 2000

	Switzerland	**Bern**	**Valais**	**Fribourg**	**Grisons**
Population (thousands)	7,288	950	281	243	186
Official languages	German, French, Italian, Romansh	German, French	French, German	French, German	German, Romansh, Italian
Languages: all residents (%)	German 63.7 French 20.4 Italian 6.5 Romansh 0.5 Other 8.9	German 84.0 French 7.6 Other 8.4	French 62.8 German 28.4 Other 8.8	French 63.2 German 29.2 Other 7.6	German 68.3 Romansh 14.5 Italian 10.2 Other 7.0
Languages: Swiss citizens (%)	German 72.5 French 21.0 Italian 4.3 Romansh 0.6 Other 1.6	not available	French 66.3 German 32.5 Other 1.2	French 65.9 German 32.5 Other 1.6	German 73.4 Romansh 16.9 Italian 8.5 Other 1.2

Source: Ufficio Federale di Statistica, Neuchâtel, Switzerland.

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[12] Knüsel (1994: 341–42) has affirmed that political scientists have not yet drawn lessons from the multilingual cantons and that a comparative analysis of their experiences in dealing with multilingualism is necessary. One exception is a research note by Keech (1972). And Windisch et al. (1992) have explored everyday relations between French and German speakers in the bilingual cantons of Fribourg and Valais.

Table 1 shows the linguistic composition of Switzerland and the four multilingual cantons, and Table 2 illustrates the instruments of direct democracy in these cantons. In all four cantons the citizens have very extensive direct-democratic rights. The burdens (number of signatures per inhabitant and the time required to collect the minimum number of signatures) are very low and are generally under the Swiss average for national votes. There are no special provisions for protection of minorities against the "tyranny of the majority" that could result through the exercise of direct democracy.

Table 2: Direct-Democratic Institutions in Switzerland and in the Multilingual Cantons

		Obligatory referendum		Facultative referendum		Popular initiative	
	Mainly for Cst reforms	Necessary signatures	Time (days)	Citizens/ signatures	Necessary signatures	Time (days)	Citizens/ signatures
Switzer-land (national votes)	Yes	50,000	100	115.9	Cst 100,000	540	57.9
Bern	Yes	10,000	90	83.3	Tot Cst 30,000 Leg 5,000	– 180	27.8 55.6
Valais	Yes	3,000	90	77.8	Cst & Leg 4,000	–	58.4
Fribourg	Yes	3,000	90	68.9	Cst & Leg 6,000	90	34.5
Grisons	Yes	1,500	90	107.2	Cst 4,000 Leg 3,000	– –	40.2 53.6

Sources: Fribourg, 2004 Constitution (Articles 41, 42, 45); Grisons, 2003 Constitution (Articles 12, 16, 17); Bern, 1995 Constitution (Articles 58, 61, 62); Valais, 1907 Constitution (Articles 30, 31, 35); Switzerland, 1999 Constitution (Articles 138–142).

Abbreviations: Constitutional initiative (Cst), Legislative initiative (Leg), Initiative for a total revision of the constitution (Tot Cst).

In the available literature there are almost no accounts of the phenomenon of minorisation of linguistic groups in the multilingual cantons. One exception is the research of Windisch and his collaborators, who in their extensive sociological study of the relations between French and German speakers in the cantons of Fribourg and Valais have looked at the results of national referendums held in the 1974–88 period (Windisch et al. 1992: ch. 4). The authors first sorted out the popular votes in which a majority of citizens of Valais, and of Fribourg, expressed a different vote in relation to the average vote of the Swiss. In the second step they analysed these divergent votes in order to spot the differences between the linguistic groups.

Their main finding is that in the 1974–88 period only in seven national votes out of 116 did the linguistic communities within Valais and Fribourg express clearly divergent opinions. It should be stressed that these differences did not concern votes on delicate issues from the linguistic/cultural standpoint, but mainly on issues relating to the environment and transport policy (Windisch et al. 1992: 422–23).

This shows that the number of minorisations of one linguistic community by another is relatively low. However, generally speaking, I do not believe that such a quantitative analysis is an appropriate answer to our puzzle (see methodological problems explained in Section 2). To what extent has direct democracy produced tensions and misunderstandings between linguistic groups that could hardly have surfaced if they had been dealt with within the institutions of representative democracy? Here, the emphasis is not on the outcome of a popular vote. Public discussions that precede a vote are an essential aspect of direct democracy and must be taken into consideration. Finally, I believe that we shall especially look at the cases in which the issues relating to linguistic/cultural identity and to the general balance of power between linguistic groups were at stake.

I have identified one such vote in every multilingual canton in the 1995–2005 period. In order to explore the general context in which they took place I have relied mainly on a qualitative analysis of newspaper articles published, parliamentary debates, and press releases of political parties.

4.1. The 2000 "war of languages" in Fribourg

On 22 December 1999 Alfons Gratwohl, the mayor of a small French-speaking village in the canton of Fribourg, launched a referendum against the cantonal law on bilingualism in public schools. According to this law, in French-speaking cantonal schools 10–15 per cent of the classes would be held in German, and vice versa. The law had been adopted in November 1999 by almost all members of the cantonal parliament from both linguistic communities, and all major political parties were in favour of it.

A referendum committee was set up. Within a few weeks it succeeded in collecting over 10,000 signatures, well above the legal threshold of 3,000. The referendum was carried out on 24 September 2000. Despite the overwhelming support of the cantonal political elite, the law fell short of gaining a majority. 50.4 per cent of citizens voted against it, 49.6 per cent were in favour.

But this outcome overshadows a considerable gap between the average votes of the two linguistic groups. In the German-speaking districts over 70 per cent of the population accepted the law, whereas in most French-speaking districts it convinced less than 40 per cent.

As the referendum results were announced the first reaction of the mayor of Surpierre was that of "relief". And then he added: "I didn't expect at all that this

[issue] would have been transformed in a *war of languages*. I didn't know that so many French-speaking Fribourgeois think that German speakers have been treading on their toes".[13] As a matter of fact, Mr Gratwohl opposed the law because of its possible impact on the public spending of local municipalities. But he had underestimated the power of ethnolinguistic mobilisation. Indeed, the referendum campaign was soon instrumentalised by a number of charismatic and well-known French-speaking opinion leaders, representing some influential but disputed associations such as the Communauté Romande du Pays de Fribourg. They played the ethnolinguistic card and exploited the fears of "Germanisation" among French speakers.

Bernhard Altermatt, an expert on bilingualism in Fribourg, described the referendum campaign as "rough and disgusting". He stated that that the arguments used by the adversaries of the law were "ethnolinguistic, anti-German and Franco-centrist".[14] In his detailed analysis of opinion columns and readers' letters published in the main French-speaking newspaper in Fribourg, *La Liberté*, in the months preceding the vote, Altermatt demonstrates that ethnolinguistic arguments clearly prevailed over other concerns: 102 arguments out of 272 fell into this category (Altermatt 2003: 285–302). Thirty of them expressed anti-German sentiments by advancing the "myth of Germanisation" and the wish to safeguard the French language and culture (ibid.: 291).

What was the impact of such a discourse in the German-speaking community? On the basis of some declarations published in the local newspapers before the referendum, we deduce that the ethnolinguistic discourse of some French speakers became a source of major irritation among German speakers. Ursula Krattinger-Jutzet, a German-speaking member of the cantonal parliament, claimed that it would be a "disaster" for Fribourg if a majority of French speakers voted against the law. She said that never before were the linguistic communities so openly opposed one to another in a cantonal vote.[15] Josef Vaucher, president of the influential Deutschfreiburgische Arbeitsgemeinschaft, an association founded in 1959 with the remit to defend the German language in Fribourg, affirmed that such arguments were "populist" and that they were the source of "negative emotions". He said that German speakers were in favour of bilingualism because it would foster "harmony between the two linguistic communities". He also claimed that in the case of a refusal by French speakers the linguistic cleavage would grow deeper.[16]

4.2. The protection of minority languages in Grisons

In 1996 the Swiss voted on a national referendum over an article of the Constitution that explicitly mentioned the possibility of granting federal aid for

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[13] *Le Temps*, 25 September 2005, my emphasis and translation.
[14] Interview published at www.culturactif.ch/invite/altermattprint.htm
[15] *Der Bund*, 5 September 2000.
[16] *Le Temps*, 21 and 23 September 2000.

measures undertaken by the cantons of Grisons and Ticino in order to safeguard and promote Romansh and/or Italian languages. The proposal was accepted in all cantons with a large majority (76 per cent). Interestingly, however, the share of "yes" votes was lower in Grisons (68 per cent). It was the third-lowest result of all cantons.

The relatively low acceptance of this constitutional article in Grisons was, of course, noted. Newspaper comments outside Grisons spoke of an "astonishing result". They also stressed that some German-speaking districts in Grisons voted against the proposal and that, generally speaking, the acceptance was particularly low in the German-speaking areas.[17] In the Italian-speaking districts the proposal was well accepted. "There is still a lot to do in German-speaking areas in order to weaken the antique anti-Romansh resentment", said Bernhard Cathomas, secretary-general of Lia Rumantscha, the main association that defends the Romansh language.[18] The newspaper comments within Grisons also pointed out that Romansh-speaking areas voted clearly in favour of the proposal and that those to "blame" were undoubtedly the German speakers. "The not so splendid 'yes' vote [in Grisons] is due to a problem concerning the contrasts between Romansh and German speakers", observed one commentator.[19]

Some authors speak of a "mentality of rivalry among the linguistic groups" in Grisons when it comes to public aid for cultural and linguistic matters (Fritsche and Romer 2000: 366). Besides the 1996 referendum, this "rivalry" became manifest on a couple of other occasions. For example, in 1959 the referendum on cantonal subsidies in favour of Lia Rumantscha was refused. The proposal was rejected primarily in the German-speaking areas. And in 1984 a tiny majority of voters refused the proposal to create an institute for cultural research, although the political elite (parliament and all political parties) had expressed their explicit support for it. It was assumed that this institute would have favoured primarily the German-speaking community. So the highest proportions of "no" votes were registered in some Romansh-speaking areas, as well as in the Italian-speaking municipality of Poschiavo.

4.3. The 2005 referendum in Valais over the introduction of PR

"*Le Haut-Valais a dicté sa loi*." This was the headline in *Le Nouvelliste*, the main French-speaking daily newspaper in Valais, on 26 September 2005. In the context of the bilingual (French/German) canton of Valais the correct socio-political translation of this title would be: "The German-speaking minority has imposed its law upon French speakers". The day before, a majority of citizens had rejected a popular initiative demanding the abolition of majoritarian rule for cantonal

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[17] Urs Buess, "Ja zu den vier Sprachen", *Tages-Anzeiger*, 11 March 1996; Claudine Böhlen, "Ein Ja ohne Dialog", *Der Bund*, 11 March 1996.
[18] *Tages-Anzeiger*, 11 March 1996.
[19] Andrea Masüger, "Die Zeit der Zögerer ist nun vorbei", *Bündner Zeitung*, 11 March 1996.

government elections and the introduction of an open-ballot proportional representation (PR) in a single multi-member district.

What happened? A majority of Valais citizens (54 per cent) voted against this popular initiative that had been launched by Social-Democrats. However, in the French-speaking part of the canton there were slightly more "yes" (51 per cent) than "no" votes (49 per cent). In the German-speaking region of Oberwallis a strong majority (69 per cent) rejected the initiative. In short, on this occasion the vote of the linguistic *minority* determined the cantonal result, against the preference of a majority of French speakers (see Section 2, point 7).

Political commentators had no doubt about the reasons for such an overwhelming refusal in Oberwallis. A majority of German speakers feared that the PR electoral system would have negative effects on the representation of Oberwallis in the five-member cantonal government. Under open-ballot PR, applied in one multi-member electoral district, French speakers would prevail simply because of their numerical majority which, in turn, would modify the linguistic balance of the government from 3–2 to 4–1 in favour of French speakers. The cantonal government shared such worries. In an official document the executive spoke of "high risk" and said that PR would constitute a threat to the "unity of the canton".[20]

My analysis of the press releases of major political parties and of opinion columns and readers' letters published in Valais' two main newspapers during the four weeks that preceded the vote confirms the assumption that this was the main reason of the refusal in Oberwallis. The issue of an adequate representation of German speakers in the government was, in fact, the central argument of *both* defendants *and* opponents of the proposal. In the French-speaking districts, however, the emphasis was much more on the importance of fair representation of all major political parties in the government.

Still, the opposition in Oberwallis was not unanimous. The Christian-Social party spoke of a "dangerous proportional system". Social-Democrats, on the other hand, defended the proposal. They admitted that if it were accepted, the second seat of German speakers could be at risk. But they claimed that majoritarian rule was no guarantee of maintaining the second seat, simply because the population of Oberwallis is numerically smaller. "In any case – said the president of German-speaking Social-Democrats – Oberwallis depends on the goodwill of French speakers if it wants to preserve its second seat."[21]

All in all, the 2005 vote on the introduction of PR for governmental elections was a sensitive issue, especially in the German-speaking community. The final outcome, however, does not simply reflect a linguist fragmentation. The primary issue at stake was the political balance of power. French and German-speaking Social-

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[20] Conseil d'Etat du canton du Valais, *Message concernant l'initiative populaire cantonale pour l'élection du Conseil d'Etat au système proportionnel*, 7 June 2004: 8.
[21] Susanne Hugo-Lötscher, *Walliser Bote*, 21 September 2005: 21.

Democrats were largely in favour of the proposal. Christian-Democratic parties from both linguistic regions were against it because they feared losing the absolute majority in the cantonal government.

4.4. Accommodation of French speakers in Bern under the "threat" of direct democracy

Since the separation of northern Jura from the canton of Bern in 1979, the use of direct democracy has not created particular tensions between German speakers and the remaining French-speaking minority, which is concentrated in the Jura Bernois region, as well as within and around the town of Bienne. Nevertheless, there is at least one interesting case in which the institutions of direct democracy *might have* become a source of tensions.

A recent reform has reduced the number of parliamentary seats in the canton of Bern (from 200 to 160), as well as the number of electoral districts (from 27 to 8). The reform was applied for the first time in the April 2006 cantonal elections. It was accompanied by two special constitutional provisions that warrant an over-representation of the French-speaking minority in Bern's legislative. First, the number of parliamentary mandates attributed to the Jura Bernois has been fixed at twelve, as was the case before the reform. Without this special provision, Jura Bernois would have received eight or nine mandates. Second, within the mandates attributed to the new electoral district of Bienne-Seeland, the French speakers obtained a fixed quota of seats corresponding to their share in the district's population. Before the reform such a provision was not necessary, as the French speakers represented around one-third of the electorate in the former (much smaller) "electoral" district of Bienne and, thus, had a fair chance of seeing some of their representatives elected. Now, in the new Bienne-Seeland electoral district, they represent only 5 per cent of the population, which might justify the introduction of a quota.[22]

My analysis of the transcripts of the 2001 parliamentary debates over this reform suggests that the very existence of direct-democratic institutions played a crucial role in the decision of Bern's parliament to grant a special protection for the French-speaking minority. This is a well-known effect of direct-democratic institutions in Switzerland. Direct democracy is generally seen as a strong incentive to the search for compromise and consensual solutions in the parliamentary arena (Neidhart 1970). Political elites have an interest in seeking a consensus before

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[22] Constitution of the canton of Bern, Art. 73: "Les mandats sont attribués aux cercles électoraux proportionnellement au nombre d'habitants. Douze mandats sont garantis au cercle électoral du Jura bernois. Une représentation équitable doit être garantie à la minorité de langue française du cercle électoral de Bienne-Seeland" (www.sta.be.ch/belex/F/1/101_1.html). Loi sur les droit politiques. Art. 24c: "Des mandats sont garantis à la population de langue française du cercle électoral de Bienne-Seeland proportionnellement à la population totale du cercle électoral. Les décimales sont arrondies au chiffre supérieur à partir de 5 dixièmes" (www.sta.be.ch/belex/F/1/141_1.html). In the 2006 cantonal elections French speakers gained 4 out of 26 mandates (15 per cent) in the district of Bienne-Seeland.

facing the judgement of the people. If too many political actors are not satisfied with parliamentary decisions, the risk that a majority of citizens will reject a proposal is high.

In this case, it was clear that the members of parliament were all well aware that the reform was subject to the obligatory referendum. Thus, the advocates of the reform had a strategic interest in avoiding potential sources of political conflict in the forthcoming referendum campaign and, especially, the emergence of a linguistic cleavage. They had to make sure that most of the French-speaking political elite were on their side. So they ended up accepting special rules for representation of French speakers, that de facto ensured over-representation of this linguistic group in the cantonal parliament.

There is no doubt that the guarantee of an adequate representation of French speakers from the area of Bienne would not have been granted without the pressure of an obligatory referendum. As a matter of fact, even with that guarantee the French-speaking politicians were not unanimous in the referendum campaign. Even though, after the adoption of the two special provisions, a majority of French-speaking members of the cantonal parliament were in favour of the reform, considerable resistance came from local politicians who advocated the preservation of a separate electoral district of Bienne. This was, in particular, the official position of Bienne's executive. Pierre-Yves Moeschler, a French-speaking member of the executive, said that the quota rule would "endanger the linguistic peace" in Bienne because it would oblige the voters to declare themselves as members of one or another linguistic community: an unpleasant exercise in an area where a lot of citizens have developed a truly bilingual identity.[23] The French-speaking section of Bienne's Social-Democratic party stated in a press release that it was "resolutely" against the creation of the new Bienne-Seeland district. They claimed that the introduction of a linguistic quota would put the French speakers in the position of a "protected minority". This, in turn, would create a "precedent" for the introduction of quotas at the level of municipality that could break "the balance *à la biennoise* that has assured the coexistence [of linguistic communities] up to now".[24]

But the outcome of the referendum has shown that the reform, together with the special provisions for French speakers, did convince a large majority of the voters in all linguistic regions. The share of "yes" votes in the town of Bienne (79 per cent) was not significantly lower than the approval rate at cantonal level (84 per cent) or in Jura Bernois (81 per cent). Finally, the low participation rate indicates that we should not overestimate the effective salience of this issue and its importance for citizens. Only 35 per cent of Bienne's voters participated in the referendum against 38 per cent in the Jura Bernois region and 41 per cent in the canton of Bern.

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[23] *Der Bund*, 16 August 2002.
[24] Parti Socialiste Romand de Bienne (PSR), "Le PSR dit résolument NON au cercle électoral Bienne-Seeland", *Communiqué de presse*, 26 August 2002 (www.sp-ps-biel-bienne.ch).

5. Discussion

How shall we interpret these four case studies, bearing in mind the initial question of this paper? First, in direct democracy the general rule is that the majority always wins. This, in turn, means that advocates of direct democracy in multicultural societies must accept the intrinsic risk that linguistic (or other) majority groups every now and then prevail over minorities.

Second, all four examples indicate the relative salience of identity-based issues and their potential amplification through the institutions of direct democracy and the media. It is one thing to be on the losing side, say, in a referendum over the construction of a new motorway. It is a different thing to belong to an identity group that loses a popular vote on an issue closely relating to that identity. In the multilingual cantons such examples typically include popular votes over the issues relating to language and culture: allocation of state resources for the promotion of Romansh and Italian idioms in Grisons, introduction of a new electoral system that could have put at risk the second German-speaking seat in the cantonal executive of Valais, or the law on bilingual education in Fribourg. In these cases direct democracy reveals some of its shortcomings and suggests that delicate issues are best dealt with at elite level, that is, within bodies of representative democracy.

Third, the instruments of direct democracy represent a splendid "window of opportunity" for individuals and groups to exaggerate linguistic differences in the public space and to advance ethnolinguistic arguments that may cause misunderstandings and tensions within and across linguistic communities. The risk of populist manipulations is, indeed, one of the classical critiques of direct-democratic procedures (Dahrendorf 2002: 89). Moreover, as Kriesi notes, "this objection needs to be taken all the more seriously given the increasing importance of the media and the transformed role of political communication in present day politics and, related to this, the crucial role of the elite-led campaigns in the Swiss direct-democratic process" (Kriesi 2005: 239). The example of the 2000 referendum on bilingualism in Fribourg schools is telling. Moreover, in the privacy of the voting booth expressions of distrust, fear or dislike towards members of another community are more likely to become manifest, as they are usually not seen as "politically correct" within the institutions of representative democracy and at the interpersonal level. Any multicultural society has an interest in avoiding such opportunities for tensions that deepen societal cleavages and dampen inter-communitarian dialogue and cooperation.

Finally, the considerations that I have made so far hint at some (real and potential) problematic aspects of direct democracy in multicultural settings. Yet, at the end of the day positive elements probably prevail. In fact, I have looked only at the examples in which direct democracy has caused some tensions and/or misunderstandings between different communities and/or their representatives. Such a selection bias is justified, I believe, by the salience of certain popular votes and the lasting impact on the interlinguistic relations that such votes may have caused (see Fribourg's 2000 referendum or the 1992 Swiss referendum on joining

the European Economic Area). But they have not resulted in a real *conflict*, nor have they caused public manifestations, protest marches, or other incidents. Moreover, they represent only a tiny fraction of hundreds of popular votes – at federal, cantonal and communal levels – in which the citizens of the multilingual cantons have taken part and that have not caused any problems between linguistic communities. Finally, I have presented one interesting case – the reform of Bern's parliament – in which the very existence of direct democracy has actually guided the political elite towards a consensus that accommodated the demands of the linguistic minority *before* the vote. In fact, there are no doubts that the French-speaking minority would have politically mobilised against the reform if it had not included special measures guaranteeing its adequate representation in parliament.[25]

Note

References

ALTERMATT, B. 2003. *La politique du bilinguisme dans le canton de Fribourg/Freiburg (1945–2000). Entre innovation et improvisation.* Fribourg, Switzerland: University of Fribourg.

BARRY, B. 1975. "Review article: political accommodation and consociational democracy". *British Journal of Political Science* 5: 477–505.

BÜCHI, Ch. 2000. *"Röstigraben". Das Verhältnis zwischen deutscher und französischer Schweiz. Geschichte und Perspektiven.* Zurich, Switzerland: NZZ Verlag.

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[25] That being said, I do not believe that the introduction of linguistic quotas for French speakers from the area of Bienne was a good solution. Such rigid quotas may foster politicisation of (ethno)linguistic identity and ethnicisation of politics that should be avoided in multicultural societies. Instead, the maintenance of a separate electoral district of Bienne would have avoided these important shortcomings without undermining the parliamentary representation of this linguistic minority.

BUTLER, D. and RANNEY, A. 1978. "Theory". In: D. Butler and A. Ranney, eds., *Referendums: A Comparative Study of Practice and Theory*, 23–37. Washington, DC: American Enterprise Institute.

BÜTZER, M. 2001. "Introduction". In: A. Auer and M. Bützer, eds., *Direct Democracy: The Eastern and Central European Experience*, 1–12. Aldershot, UK: Ashgate.

CORAY, R. 2004. "Minderheitenschutz und Beziehungspflege: die zweite Revision des Sprachenartikels (1985–1996)". In: J. Widmer, R. Coray, D. Acklin Muji and E. Gode, eds., *Die Schweizer Sprachenvielfalt im öffentlichen Diskurs. Eine sozialhistorische Analyse der Transformationen der Sprachenordnung von 1848 bis 2000*, 247–427. Bern, Switzerland: Peter Lang.

DAHRENDORF, R. 2002. *Die Krisen der Demokratie. Ein Gespräch.* Munich, Germany: C. H. Beck.

DIMITROVA, K. R. 2004. "Municipal decisions on the border of collapse: Macedonian decentralization and the challenges of the post-Ohrid democracy". *Southeast European Politics* 5 (2–3): 172–86.

FRITSCHE, B. and ROMER, S. 2000. "I Grigioni dal 1945". *Storia dei Grigioni. Volume 3. L'età contemporanea*, 323–80. Coira/Bellinzona, Switzerland: Pro Grigioni Italiano/Edizioni Casagrande.

GAMBLE, B. S. 1997. "Putting civil rights to a popular vote". *American Political Science Review* 41 (1): 245–69.

GERBER, E. R. 1999. *The Populist Paradox. Interest Group Influence and the Promise of Direct Legislation.* Princeton, N.J.: Princeton University Press.

KEECH, W. R. 1972. "Linguistic diversity and political conflict. Some observations based on four Swiss cantons". *Comparative Politics* 4 (3): 387–404.

KNÜSEL, R. 1994. *Les minorités ethnolinguistiques autochtones à territoire: l'exemple du cas helvétique.* Lausanne, Switzerland: Éditions Payot.

KOBACH, K. W. 1993. *The Referendum. Direct Democracy in Switzerland.* Aldershot, UK: Dartmouth.

KRIESI, H. 2005. *Direct Democratic Choice. The Swiss Experience.* Lanham: Lexington Books.

KRIESI, H., WERNLI, B., SCIARINI, P. and GIANNI, M. 1996. *Le clivage linguistique. Problèmes de compréhension entre les communautés linguistiques en Suisse.* Bern, Switzerland: Federal Office of Statistics.

LIJPHART, A. 1977. *Democracy in Plural Societies.* New Haven, Conn./London: Yale University Press.

——. 1984. *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*. New Haven, Conn.: Yale University Press.

——. 1985. *Power-Sharing in South Africa.* Berkeley, Calif.: University of California, Institute of International Studies.

NEIDHART, L. 1970. *Plebiszit und pluralitäre Demokratie. Eine Analyse der Funktionen des schweizerischen Gesetzreferendums*. Bern, Switzerland: Francke.

PAPADOPOULOS, Y. 1998. *Démocratie directe*. Paris: Economica.

REILLY, B. 2005. "Does the choice of electoral system promote democracy? The gap between theory and practice". In: Roeder and Rothchild, eds., op. cit., 159–71.

ROEDER, Ph. G. 2005. "Power dividing as an alternative to ethnic power sharing". In: Roeder and Rothchild, eds., op. cit., 51–82.

ROEDER, Ph. G. and ROTHCHILD, D., eds. 2005. *Sustainable Peace. Power and Democracy after Civil Wars.* Ithaca, N.Y.: Cornell University Press.

ROTHCHILD, D. and ROEDER, Ph. G. 2005. "Dilemmas of state-building in divided societies". In: Roeder and Rothchild, eds., op. cit., 1–25.

SCARROW, S. E. 2001. "Direct democracy and institutional change. a comparative investigation". *Comparative Political Studies* 34 (6): 651–65.

STEINER, J. and OBLER, J. 1977. "Does the consociational theory really hold for Switzerland". In: M. Esman, ed., *Ethnic Conflict in the Western World.* Ithaca, N.Y.: Cornell University Press.

STEPAN, A. 1999. "Federalism and democracy: beyond the US model". *Journal of Democracy* 10 (4): 19–34.

TRECHSLER, A. and SERDÜLT, U. 1999. Kaleidoskop *Volksrechte. Die Institutionen der direkten Demokratie in den schweizerischen Kantonen 1970–1996.* Basle, Switzerland: Helbling and Lichtenhahn.

VATTER, A. 1997. "Die Wechselbeziehungen zwischen Konkordanz- und Direktdemokratie. Ein Vergleich am Beispiel westlicher Industriestaaten und der

Schweizer Kantone". *Politische Vierteljahresschrift* 38 (4): 743–70.

WERNLI, B. 1995. *Le clivage linguistique dans les votations fédérales 1872–1994 (Mémoire de diplôme d'études supérieures).* Geneva: University of Geneva, Department of Political Science.

WINDISCH, U. et al. 1992. *Les relations quotidiens entre Romands et Suisses allemands. Les cantons bilingues de Fribourg et du Valais. Tome II.* Lausanne, Switzerland: Éditions Payot.

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Legitimacy, Democracy and Diversity in the European Union

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Taking the European Union's motto as its point of departure, the paper argues that even in a Europe in which the historical record seems to have made important segments of the citizenry relatively immune to the temptations of a relapse into an exacerbated nationalism, to be "united in diversity" in a substantial sense requires much more than a combination of good will and sophisticated constitutional engineering. While celebrating diversity in very broad and abstract terms, Europe's constitutional process has failed to specify the concept's proper meaning in the context of transnational polity-building. First, the impact that diversity has on Europe's political architecture is assessed, maintaining that the EU can be conceived of as a multinational polity that combines consociational and federal elements; it may also be considered, to some extent, to constitute a post-sovereign order, which departs from former models of national integration. At the same time, however, the politics of diversity in the Union is largely constrained by the dynamics of intergovernmentalism. This entails two major problems: biased recognition and a deficient input legitimacy. Their interplay is leading to a situation in which neither deeper political unity is achieved nor diversity properly protected. The paper finally claims that overcoming this impasse will be contingent upon a constitutional politics which actively confronts the task of redefining the basis of a common European citizenship without violating diversity.

Since the rejection of the Treaty establishing a Constitution for Europe in the referenda held in France and in the Netherlands in spring 2005, the European Union finds itself in an uncomfortable stalemate, and the view is increasingly shared that the previous political rationale of the integration process will have to be modified. From the perspective adopted in this paper, what became manifest with the turbulences of May and June 2005 were the symptoms of a crisis of political legitimation that had been more or less latent for a longer period of time. The crisis is closely related to the failure of an approach which I call *first-order* constitutional politics. Using this concept, I refer to a constitutional politics whose focus is basically twofold: it defines rules for institutional decision-making, and it aims at

integrating by designing political institutions in a narrow sense. Relying on such an approach implied that the architects of the emerging European polity neglected the challenges of a *second-order* constitutionalism. A constitutional politics of such a kind would have to concentrate on setting the foundations for a European community of citizens giving support to Europe's institutional order.

My analysis sticks to the premise that in contemporary Europe, as elsewhere in the world, political legitimacy must be grounded on democratic principles. Moreover, I think that to maintain democratic priorities does not imply abandoning the perspective of a deeper political integration beyond the realm of the established nation-states. Yet, if I am right, the current developments make it highly recommendable to reconsider the work of pioneers of integration studies such as Karl Deutsch (1966, 1976), who attributed a paramount role to the question of the sociocultural embeddedness of processes of integration when assessing their political dynamics. From the corresponding angle, the democratic legitimation of the European polity is hardly conceivable without consolidating the structures of a European civil society. Ultimately, the precarious character of these structures reflects the difficulties experienced when it comes to constructing a *Europe of the citizens* as a counterweight to the *Europe of the states*. In the present context of European politics, one aspect of the problems related to the making of a Union of citizens seems to be particularly relevant: it refers to the question of how to constitute political unity – be it conceived of as a democratic collective subject or as an integrated sphere of political communication – under conditions of pronounced cultural diversity.

When we look at European history, reconciling citizenship and diversity is not a minor challenge. In general terms, the processes of constructing nation-states and creating citizens in Europe were hostile to diversity. State-building elites saw diversity essentially as a problem for political integration. Typically, mainstream versions of state theories formulated in the European tradition have postulated that a state should have a uniform identity, a single source of sovereignty and a unitary conception of the rights and obligations of "its" citizens. They thus have generally presupposed societies which are culturally homogeneous (Parekh 2000). We must not forget that the units of the state system that evolved in modern Europe were frequently formed in a context of intense and protracted conflict. Often enough, these conflicts culminated in open military clashes between neighbouring units. In a Westphalian world, cultural uniformity within a given unit was meant to increase the loyalty of the population towards the state, a state eager to protect or even expand a territorial sovereignty constantly threatened by the sheer existence of other sovereign states.

Against this background, it has often been held that European integration is the result of an ambitious attempt to overcome the legacy of nationalism or, at any rate, to contain its negative effects. Thus, the official discourse of integration establishes a close link between the concept of European citizenship and the protection of diversity. The understanding of European identity that permeates the Constitutional

Treaty, for example, revolves around two main axes: while, on the one hand, a catalogue of common political values defines the normative framework for European unity, cultural diversity, on the other hand, is assigned a central status within this framework. The Union's official motto, as included in the constitutional document, reads "united in diversity". The normative relevance of the principle of diversity for European polity-building is strongly emphasised in several sections of the Constitution.

At first sight, such normative claims seem to be confirmed by an empirical analysis of the institutional structure of the EU, which indicates that the Union shares some important features with political systems of a consociational and a federal type. In several respects, the EU might even be characterised as a multinational federation of a novel kind. One of the main normative challenges this emerging polity has to confront, then, would consist in creating an institutional frame for transnational integration which allows a "transcending" of cultural differences without negating them. Nevertheless, the EU faces serious constraints when it deals with this challenge: its ways of coming to grips with the multinational moment are marked by contradictions, and its approach to diversity management is dominated by the rigid imperatives of intergovernmentalism.

The experience since Maastricht shows that the making of a political community of Europeans "united in diversity" will not be the result of a process whose focus is primarily on constitution-making as legal politics. Moreover, Europe's constitutional crisis has made it impossible to ignore that the bases of a common European identity cannot simply be created "from above", in a top-down process. Collective identities will hardly become "Europeanised" along lines similar to those which were typical of political integration in the nation-state. Although European identity may ultimately reflect an overlapping of cultural orientations in the Union, it may express a moment of enduring tensions between alternative identity options as well. Hence, when the catchy concept of "multiple identities" is used to point at the sociocultural foundations of a European transnationalism, it should not be forgotten that, in many cases, the intertwining of different dimensions of collective belonging entails a potential for conflict. Obviously, to a varying extent, this last observation also applies to other "diverse" political systems characterised by consociational or federal features.

The core argument developed here is that even in a Europe in which the historical record seems to have made large segments of the political public relatively immune to the temptations of an untamed nationalism, to be "united in diversity" requires much more than a combination of goodwill and skilful constitutional engineering, if the motto is not to be taken only as a simple rhetoric formula. While celebrating diversity in very broad and abstract terms, the constitution-makers have remained silent about the more specific meaning to be given to the concept in the process of European polity-building. All in all, for reasons discussed below, the EU has thus far not been able to live up to its normative potential and to develop an innovative

frame sustaining a European politics of "deep diversity".[1] This contribution begins with a brief empirical assessment of the impact that diversity has on Europe's political architecture. It is argued that the EU can be conceived of as a multinational polity that combines consociational and federal elements; it may also be considered, to some extent, to constitute a post-sovereign order, which departs from former models of national integration. At the same time, however, the intergovernmental "capture" of diversity in the Union entails two major problems: biased recognition and a deficient input legitimacy. Their interplay is in fact leading to a situation in which neither deeper political unity is achieved nor diversity properly protected. The weight of intergovernmentalism in the EU institutional structure leads to a combination of a quasi-consociational power sharing with technocratic rule that ultimately works against democratic principles. Finally, I claim that overcoming these problems requires a constitutional politics that actively confronts the task of redefining the basis of a common European citizenship without violating diversity.

1. The European Union as a Diverse Polity

In day-to-day political discourse, it has almost become commonplace to speak of the European Union as an institutional order characterised primarily by its diversity. Diversity is a category frequently used when social structures, levels of economic development, welfare provisions or state traditions are compared across EU territory. Most often, however, the term refers primarily to *cultural* diversity, i.e. to the diversity of the basic patterns of identification that frame collective orientations within Europe's citizenry, thereby affecting the structures of interaction and the information flows both *within* given societies and *between* different societies. Ethnicity, religion and language are generally assigned a central role among such patterns. It is important to bear in mind that, when it is employed in this sense, the concept of diversity points at forms of difference that must be tolerated or even protected, in contrast with differences reflecting social inequalities which may well be considered unjust and, accordingly, should be overcome. Thus, in Europe's "official" political discourse – articulated in treaties, charters and other legal documents – diversity is not just supposed to describe an empirical reality characterised by the pluralism of cultures, languages, customs and historical legacies; it rather is introduced as a normative commitment to respecting the patchwork of different collective allegiances which result from that pluralism (Kraus 2004).

When we turn to the more specialised realm of academic political analysis, the EU is often portrayed in similar ways and classified as a polycentric, segmented or

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[1] To apply a concept introduced by Charles Taylor (1994: 183) in the debate on Canadian federalism to the European context.

heterogeneous political system.[2] The Union's system of multilevel governance is generally regarded as a complex system of negotiations taking place within a variegated set of policy arenas; these arenas exhibit specific territorial and functional characteristics, but are nevertheless interconnected. This makes for a particularly high level of institutional complexity, which frequently leads social scientists to view the EU as a political order *sui generis* (Grande 2000: 12, 14). To define the EU as a highly complex polity does certainly not imply to make a controversial statement. Nor does it seem too risky to maintain that a good deal of the complexity of the European system of multilevel politics is caused by the need to deal with structural diversity in transnational decision-making. However, the use of the *sui generis* label for categorising the Union fosters the tendency to turn the analysis of EU politics into a highly specialised subdiscipline, and is perhaps more questionable. In the manifold universe of comparative politics and political sociology, the case of the EU may be not quite as unique as the *sui generis* classification would have us believe. Ultimately, the EU shares some distinctive features with exponents of "complex" and non-unitary forms of statehood; as a multilevel or multiform polity it offers interesting points of comparison both with federations and with consociations.[3]

Let us start with the federal aspect: although it is true that the EU should not be viewed as a state in the sense of a union of individual citizens into a political association, this does not mean that it is better understood as constituting primarily an alliance of states. Its institutional development seems to be located somewhere between the realms of federal and confederal polities. Although it does not exhibit too many graspable state-like qualities, it does share several important features with political systems of a federal type, as Burgess (2000: 29, 41) has argued:

- European decision-making relies on mechanisms of cooperation and co-decision which comprise both the intergovernmental and the supranational level.

- The European Parliament is elected in direct elections; the parliament represents the voters not just as members of single states, but also as citizens of the European Union as a whole.

- The European Court of Justice holds an institutional position which is remarkably strong, and its ruling trumps national law.

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[2] See, for example, Hooghe and Marks (2001: 66), Lepsius (1999: 220), Preuß (1999: 165). For a more detailed elaboration of the argument sketched out in the following sections see Kraus (2007: ch. 3).

[3] For contributions comparing the EU and federal models see, among many others, Burgess (2000), Koslowski (1999), Nicolaidis and Howse (2001) and Scharpf (1994). Interpretations of the EU based on the consociational approach are offered by Chryssochoou (1998), Schmidt (2000) and Taylor (1990). A synthesis of the two views, which applies the "consensus" model of politics to the EU, can be found in Lijphart (1999). For a recent critical overview of consociational interpretations of the EU see Bogaards (2002).

- The introduction of citizenship of the European Union in 1992 has created a common legal and political status which transcends national borders.

The concepts of confederation and federation do not delineate empirical realities of a substantially different political quality; they are rather to be considered as dynamic manifestations of an overarching "federal moment" or "federality", if such a term were accepted.[4] In addition, when we focus on patterns of institutional interaction, the EU does come close to the federal universe even if we are not prepared to classify it as a federation according to strict formal criteria (Koslowski 1999: 563). Despite the absence of federal statehood in a definite sense, political relations may well follow a federal rationale.

Another recurrent point of departure for comparative analyses of the European Union's institutional framework has been the concept of consociation.[5] Political arrangements of a consociational type developed in societies that were split into distinct sociocultural segments. In general, their raison d'être was to reinforce modes of decision-making which had to fulfil the criteria of, on the one hand, being functional for the reproduction of the polity as a whole, while, on the other, preserving the autonomy of particular communities linked to different societal segments. In this respect, there obviously is an overlap between consociationalism and federalism, as Lijphart (1999) has acknowledged by subsuming the two forms of dividing up power under the category of consensual politics. Consociations are characterised by the following features (Schmidt 2000: 41):

- In those areas where political issues of common concern are at stake, power is shared consensually between the sociocultural segments.

- In all other areas of political regulation, the segments largely retain the autonomy to make their own decisions.

- In the fields of political representation and public administration, the principle of proportionality applies.

- The segments have veto capacities in those policy areas of concern for their existential interests.

It has to be added that – to the extent that the consociational label is applicable – consociationalism in the EU is of a very peculiar kind, as the segments which compose the overall polity are represented by nation-states (Bogaards 2002: 364).

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[4] Cf. the argumentation in Elazar (1998: 308) and Stepan (2001: 320–23).

[5] The concept of *consociatio* goes back to Johannes Althusius and his *Politica Methodice Digesta* [1603, 1610, 1614]. It was introduced into contemporary comparative politics through the work of Arend Lijphart, who distinguished consociational democracies from majoritarian systems (see e.g. Lijphart 1977). Lehmbruch (1983) uses the category *Konkordanzdemokratie* in similar political contexts.

Accordingly, segmentation would have to be considered as institutionally more entrenched than in the case of typical former or contemporary exponents of consociational politics, such as Belgium, the Netherlands or Switzerland. Moreover the consociational structures in the EU have not developed in correspondence with the principles of democratic sovereignty. For this reason, Schmidt (2000: 34) classifies the EU not as a democratic, but as a bureaucratic consociation. One may even go further and speculate about a possible antithesis between consociationalism and democracy in the EU, considering the setback the constitutional referenda have implied for a process of constitution-making widely marked by a consociational approach. Still, it can also be argued that, being composed of democratic subunits, the Union is facing an increasing pressure to reform its institutional framework according to democratic criteria.

In spite of the peculiarities the EU has a "complex" polity, which is not – and which is unlikely to become – a state in the proper sense of the term, it seems sensible to use well-established comparative concepts in order to better understand some important elements of Europe's political architecture. Due to differentiated integration, which makes for varying degrees of Europeanisation of specific policy areas across the member states,[6] politics in the EU has significant points in common with politics in asymmetrical federations. In addition, the federal moment overlaps with consociational imperatives which protect the political autonomy of the segments constituting the Union, i.e. the member states.

Against this background, I argue that there is one aspect that should possibly be stressed more explicitly when we adopt a comparative view of EU politics. It is an aspect that remains somewhat neglected in current approaches to the dynamics of European integration: the European Union is a *multinational* polity. In fact, its federal and consociational features largely correspond to its multinational character. Let us briefly point out some indicators of the impact that the multinational factor has on the Union's institutional framework. In this respect, it may be helpful to begin with a general overview[7] of the major characteristics which can be regarded as typical of multinational democratic states of the West (such as Belgium, Canada, Spain or the United Kingdom):

- A multinational democracy is a constitutional association which consists of two or more nations or "peoples". These nations are supposed to possess an equal status vis-à-vis the state and its institutions.

- The association of "peoples" generally combines both confederal and federal features. The structures of political participation and representation reflect the variegated (multi)national identity patterns within the citizenry.

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[6] The establishment of the Eurozone, which has not been joined by all EU member states, is a striking case in point.
[7] The criteria used in the overview are taken from Stepan (2001: 323–28) and Tully (2001: 2–6).

-   The national units composing the multinational association and the association as a whole are all committed to maintaining the principles of democracy and the rule of law.

-   Multinational democracies are also to be seen as multicultural polities, which host significant proportions of migrant populations. In this sense, the nation does not have a normative monopoly as the sole legitimate platform for articulating sociocultural identities.

-   Conflicts over the political interpretation of freedom and self-determination in a multinational context may imply that the constitutional rules regulating the accommodation and recognition of diversity are subject to continuous negotiations. The institutionalisation of reciprocal recognition is an open process that resists being "frozen" into a "conclusive" agreement.

-   Regarding the political status and the competences of the subunits, the criterion of asymmetry tends to play a prominent role in the constitutionally sanctioned vertical division of powers within multinational federations.

Neither can the EU be considered a state, nor does it qualify as a democracy. Hence, the list of features defining a multinational *and* democratic state cannot be used without reservations in the context of analysing politics in the EU. Nonetheless, Europe's institutional system has more and more become the target of political pressures of a kind which might well be called "protodemocratic". Thus, the reform of the system of European governance envisaged in the process of constitution-making might ultimately also have implied moving the Union closer towards the universe of multinational democracy.

An appropriate understanding of the federal and consociational dynamics at work in the Union's institutional order would require, then, that the multinational dimension of European politics is taken into account too. The multinational moment finds its most pronounced expression in those institutional domains dominated by the logics of intergovernmentalism. Here, being a nation-state carries a particularly strong weight in terms of having political "voice". Thus, in a European Union with (prospectively) 27 member states, Germany, whose population is approximately 82 million (that is 17 per cent of the EU total), is assigned 29 votes in the Council (8.4 per cent); in the case of Luxembourg, one of the smallest member states, the corresponding figures are 429,000 (0.09 per cent) and 4 (1.16 per cent). Evidently, the distribution of voting powers in this organ (as in the European Parliament) strongly reflects the general fact that in the political system of the European Union the principle of equality of states trumps the principle of equality of citizens.

The multinational moment also plays a significant role within those European institutions whose supranational orientation should outweigh the constraints of the system of intergovernmental bargaining. This applies, in the first place, to the European Commission, an organ which is supposed to act in the general interest of the Union. In the enlarged (and still enlarging) EU, the criterion of parity between states continues to be an important aspect for choosing the commissioners; all member states are to be granted at least a symbolic presence in the Commission. In principle, the same rule holds when it comes to appointing the members of the European Court of Justice, regardless of this organ's commitment to underlining the supranational quality of European legislation.

Moreover, the multinational factor is accorded great symbolic weight in the body of European treaties sustaining the process of integration. Documents such as the Charter of Rights of the EU, which has been integrally subsumed into the Constitutional Treaty, identify the "peoples of Europe" as the subjects of unification. Although the identity of the European peoples is not specified, it can be reasonably assumed that the term refers to the peoples as represented by the member states.

The multinational dimension is a salient feature of EU political structure, and also occupies a prominent place in the institutional discourse on integration. In the emerging European polity, collective interests continue to be predominantly defined as national interests, i.e. as the interests of nation-states. Although there are institutional discourses and practices that refer to other kinds of Europe, be it the Europe of the citizens, the Europe of the regions or the Europe of organised interests, the EU has evolved as a Union of nation-states in the first place. Hence, the protection of their more or less "frozen" identities – to apply a concept taken from the famous analysis of the cleavage structures of European societies put forward by Lipset and Rokkan (1967) to the EU – is deeply embedded in the Union's semi-constitutional architecture.

At the same time, however, it must be conceded that the multinational factor in EU politics is articulated in ways that contrast the Union with multinational states of a more traditional type. This also has important implications for the institutional articulation of the EU's consociational and federal elements.

First, the EU lacks a hegemonic integrating force. It is a multinational polity without a titular nation. As there is no structural majority, even the identities embodied by larger nation-states are to be considered minority identities in the EU (Lepsius 1999: 219). Neither is the making of Europe controlled by a hegemonic force, nor does the process involve geopolitical coercion (Marks 1997). In contrast with the historical experience of the paradigmatic cases of nation-state building, European polity-building is free from the use of violence and the forceful incorporation of minorities; in Stepan's terminology, *coming together* aspects clearly prevail over *holding together* imperatives (Stepan 2001: 320).

Second, and to a great extent as a reflection of the lack of particular hegemonic aspirations within its realm, the EU has a political structure that is markedly polycentric. In spite of Brussels, which may be seen as Europe's unofficial capital, political, economic and cultural power in the EU is dispersed among many centres. If we apply the terminology introduced by Stein Rokkan (1999), we have to classify the EU as a polycephalic (multi-headed) polity. Its polycephalic character is explicitly acknowledged in the geographic allocation of the Union's institutions and administrative bodies as well; they are distributed among a great number of European cities.

Third, the EU has developed on an open and flexible constitutional basis; this makes it particularly difficult to conceive of it as a "state". The increasing significance of differentiated integration accentuates the institutional multidimensionality of the European project. Openness and differentiation make it hard to predetermine the "finality" of the integration process. At the same time, the process can go on notwithstanding the divergence of member state priorities regarding its ultimate direction.

For these reasons, the EU appears to be a multinational polity of a novel kind. The political dynamics of Europeanisation have transformed the meaning of sovereignty within and among the member states. As the EU does not claim to become a super-state with a strong identity of its own, the nation-states constituting the Union are not compelled to stick to their old aspirations to be the exclusive or, at any rate, the hegemonic channels for the institutional articulation of collective identities. Accordingly, for some observers the European project bears a considerable normative potential, as it entails an ambitious attempt at overcoming the legacy of nationalism on the Continent. From such an angle, the EU may even be seen as the harbinger of an approaching postnational age.[8] In addition, integration has contributed to loosening up the strong interconnections of political and cultural identities that were characteristic of sovereign statehood in Europe. The bulk of the member states seem to be abandoning a rigid view of former prerogatives regulating the representation of collective identities, while the EU itself has no claims to obtain prerogatives of its own in the corresponding domains. In this regard, minority protection in the EU may well have a normative quality that goes beyond traditional consociational standards. Hence, the development of the Union has been interpreted in terms of the making of a post-sovereign polity, a process which would indicate a straight departure from national forms of rule.[9]

Nevertheless, the trends culminating in Europe's constitutional crisis reveal that the Union might ultimately not be functioning according to the high normative expectations often associated with transnational polity-building. A closer look at the realities of day-to-day intergovernmental bargaining may well have sobering effects for those who are hoping for smooth transition to a postnational age in the

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[8] For different versions of the postnational view see Habermas (2001) or Beck and Grande (2004).
[9] Such an interpretation is offered by MacCormick (1999); cf. also Preuß (1999).

wake of the European Union. The intergovernmental perspective evidences that a "thin" version of nationalism has permeated the EU's institutional framework from the beginning, as integration was never supposed to challenge the continuity of the nation-states involved in the European project. At any rate, the popularity that the formula of a "federation of nation-states" enjoys even with the advocates of moving towards "deeper" forms of integration must raise some doubts about the impact postnational intentions have actually had on Europe's political architecture. The way intergovernmentalism has been institutionalised in EU politics has important consequences for the articulation of the different layers of cultural diversity that make for the European identity mosaic. Diversity in the EU is politically framed, in the first place, as diversity of, and diversity between, states. This has significant consequences for all attempts at strengthening a European demos, as the "coming together" at the top levels of the Union's institutional system is not balanced by a dynamic of social integration at the level of the citizenry.

2. Biased Recognition and Lacking Input Legitimacy

In central areas of European Union politics the multinational factor is translated into the methods of intergovernmental decision-making. Intergovernmentalism also is the main stronghold the principle of state sovereignty retains in the EU. To a significant degree, a "thin" version of nationalism[10] continues to shape the politics of cultural identity in the European Union. The interplay of intergovernmentalism and the multinational moment creates a situation in which cultural diversity becomes all but synonymous with the diversity of the national cultures of the member states. It is true, as pointed out, that the respect of diversity – which, in the Union's institutional setting, has primarily to be understood as linguistic diversity – plays a salient role in Europe's official political discourse. Here, on the one hand, the recognition of cultural diversity is expected to act as a normative safeguard against potential hegemonic pretensions within the EU, which could lead to conflicts hampering the project of integration. On the other hand, the intercultural sensibility the EU claims to adopt in its dealing with the issue of diversity, which finds its most salient expression in the Union's embracing of multilingualism, is frequently presented as a normative plus when Europe is compared to other poles of regional integration in the world.

Nevertheless, the European "politics of recognition" is not exempt from significant contradictions.[11] Recognition is biased towards the identities embodied by nation-states. Subnational, transnational or intercultural and "hybrid" patterns of identification play a clearly subordinate role in the institutional approach taken by

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[10] The term "thin" is meant to mark a contrast to a "thicker" and ideologically loaded nationalism. "Thin" nationalism thus comes close to the banal nationalism of everyday politics lucidly analysed by Billig (1995).

[11] For a critical assessment of the relationship between cultural pluralism, recognition and language policies in the EU see Kraus (2007).

the Union when it confronts diversity. It is true that European legal bodies, when elaborating transnational right standards in the name of the European Union, the Council of Europe or the Organization for Security and Co-operation in Europe, have made considerable efforts to secure an independent status for cultural rights, including linguistic rights, as a necessary complement of civil, political, economic, and social categories of human rights. A new discourse on rights and recognition, which establishes a close connection between issues concerning the material dimensions of citizenship and questions related to the field of symbolic representation and cultural identity (Fraser and Honneth 2003; Pakulski 1997), has had a great impact on the redefining of the legal status of minorities all over Europe. Up to now, the main targets of the regulating activities of European organs have been the autochthonous groups who are "officially" entitled to be considered as regional or national minorities.[12] Yet it appears to be increasingly difficult to draw a clear-cut line of delimitation between the claims of collectivities of this kind and, for instance, the claims of migrants who are firmly established in their host countries. Accordingly, it is hard to see how a spilling over of rights from "old" to "new" minorities should ultimately be avoided. Thus, Europe is certainly facing a growing pressure to include immigrant groups in its transnational minority rights regime.

However, regardless of the increasing importance of extending cultural rights to different types of minority groups, it must be remembered once more that the recognition and protection of cultural diversity in the EU refers primarily to those cultural identities which are institutionally embodied by nation-states. A consequence of this situation is that the pressure to recognise minorities is particularly strong when the status of these minorities is an issue of inter-state relations in Europe. The language regime applied in European Union institutions is another case in point in the same context: Officially, it grants an equal status to all state languages, irrespective of demographic, economic or sociolinguistic criteria. Such status equality is only granted to languages that are the languages of states. Accordingly, the speakers of Maltese (approximately 340,000) or Estonian (1 million) enjoy a privileged position in comparison with the members of linguistic communities such as the Welsh (500,000) or the Catalans (7 million), whose languages have an official status on (a great part of) their respective territories, but are still not the languages of states.

As a result of the statist bias in the recognition of diversity, cultural identities often enter the political stage as tactical devices, and are primarily used to underpin the articulation of nation-state interests in a system of protracted and tough intergovernmental bargaining. Identity politics then take the stage as a sublime surrogate for what otherwise would be considered plain national interest politics, as has sometimes been criticised with regard to the French calls to defend the *exception culturelle* in the field of audiovisual policies, for example. Ultimately,

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[12] Such as the Saami in Finland and Sweden, the Tyrol Germans in Italy, the Hungarians in Slovakia or the Russian-speaking groups in the Baltic Republics; see Toivanen (2001: 211–50) for a general account.

the Union's institutions seem overwhelmed by the dilemma involved in finding a balance between the protection of diversity and the development of a common framework of political identification for European citizens. The resulting institutional inertia, however, will not provide a proper defence of diversity against the dynamics of "negative" integration. The term has been coined in order to describe the tendency that, due to the absence of explicit political deliberation and regulation, the norms of political accountability are replaced by the "soft" mechanisms of economic governance, or matters of collective concern end up becoming the object of "invisible" market forces. As long as the institutional mechanics of intergovernmentalism keeps on obstructing a proper *political* debate on the concrete meaning to be given to diversity in the Union, Europe will not be able to realise its normative potential for elaborating innovative responses to the great challenge of fostering overarching civic commitments while at the same time embracing cultural pluralism.

If we consider that the problem of both representing and transcending diversity is one of the principal challenges to be tackled by all attempts at strengthening the links between the still precarious structures of a transnational civil society and the system of multi-level governance in Europe, we will also have to concede that, to a significant degree, the challenge also lies at the core of the question of democratic legitimacy in the EU. At this point, it may be worthwhile to recapitulate a line of argument elaborated by Fritz Scharpf. According to Scharpf (1999), democratic rule can be justified from two different perspectives. The first perspective focuses on input-oriented legitimation. At its core is the definition of democracy as "government *by the people*" (Scharpf 1999: 6, emphasis in original). Input legitimation means that the "authentic preferences of the members of a community" (ibid.) are articulated in an open process of participation. This requires that the community members share a strong collective identity which ultimately enables them to deal with the tensions that may be caused by intense political conflict. In contrast, the second perspective on legitimation is output-oriented. Output-oriented legitimacy "is *interest based rather than identity based*" (Scharpf 1999: 12, emphasis in original). In this case, it is the capacity of political institutions to find effective solutions to collective problems which translates into legitimacy as "government *for the people*" (Scharpf 1999: 6, emphasis in original). According to such a view, an effective problem-solving in correspondence with common interests does not have to rely on a framework of strong collective bonds. (Measures directed at reducing air pollution, which are in the interest of virtually everybody, may be taken as an example.)

Distinguishing these two perspectives plays a central role not only in the work of Scharpf but, be it directly or indirectly, in the work of other authors as well, when it comes to determining the normative basis of EU politics and policies. Thus, the point is often made that the resources for generating legitimacy on Europe's identity side are scarce. As the collective political identification with the Union across Europe remains weak, European policy cannot adopt the standards of

government *by* the people, but is to reflect the priority of the principle of government *for* the people.

In explicit or, more frequently, in implicit ways, the distinction between the two types of legitimation has attained great significance not only in the more or less specialised field of integration studies, but also in the factual context of Europe's institutional politics.[13] Intergovernmentalists, on the one hand, generally hold that the lack of solid input-structures makes it necessary to keep up nation-state prerogatives in Europe, as "true" democratic legitimacy only obtains in the realm of the nation-state. Supranationalists, on the other hand, tend to expect that input legitimacy will successively materialise as a result of the political institutionalisation of the EU, or that it can be substituted by functional equivalents, as democratic authenticity is subordinate to the formation of political institutions, or is anyway to be seen as an obsolete category.[14]

From a normative angle, there is only limited plausibility in establishing a sharp dichotomy between input- and output-legitimacy. Nevertheless, it may be reasonable to use the distinction for analytical purposes. Such a strategy, then, leads us to a general assessment that could be summarised as follows: At present, Europe has major deficiencies regarding its democratic input-structures. In the long run, concentrating on its strengths on the output-side will not outweigh these deficiencies. Adopting such a strategy rather brings the danger that the input-problems end up shattering the output-structures. Hence, the EU has to respond to the challenges involved in giving its input-dimension a more graspable meaning by fostering processes of collective self-determination among European citizens.

There is growing evidence that the "permissive consensus", which had been carrying the dynamics of European integration for a long time, does not hold anymore. The turnout rates at the elections to the European Parliament have been falling since Maastricht, and reached an all-time low in 2004. The bulk of European citizens continue to express only little interest for European politics. The little concern a broad segment of the public shows for "European affairs" goes hand in hand with the weak commitment to a genuinely European identity component among EU citizens (Nissen 2004). Against this background, the argument that a primarily instrumental and benefit-oriented perception of what it means to belong to Europe is a sufficient basis for integration does not really eliminate the problem. Even predominantly utilitarian views of the EU will ultimately lose their persuasiveness if European identity components disposing of a normative grounding of their own continue to be weak. Up to the present, the Union's successes in constructing a stable framework for the formation of an overarching political identity among its citizens have remained quite limited. The weight of such an identity should certainly not be exaggerated by adopting a substantialist approach (as the discussions on the existence of a European "people"

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[13] In addition to Scharpf, see von Bogdandy (2000), Eriksen and Fossum (2000), Majone (1996), Moravcsik (2002), or Zürn and Joerges (2005), to mention just a few examples.

[14] See Cederman and Kraus (2005) for a more systematic discussion of such positions.

sometimes seem to do). The point rather is to develop a dynamic and process-oriented understanding of identity, focusing in the first place on the structures of political communication and on a public sphere built upon diversity. Yet these very structures currently seem to demarcate one of the most problematic areas of European politics.

The example of the European Parliament shows the weak profile EU institutions have when it comes to the production and representation of transnational publicity. When we look at the realm of civil society, however, we realise that the problems we encounter at the level of the Parliament in Strasbourg are just the tip of an iceberg. In the realm of transnational mass communication, a discursively integrated public only exists in very rudimentary forms. The EU can hardly claim that it constitutes a vibrant intercultural space of political communication, thereby fulfilling the requirements of a critical public sphere.

Models of issue-specific public spheres formed by experts and interest groups (as they may apply in the domain of comitology) do not really tackle the problem, because they neglect the question of the overarching communicative context relating these particular public spheres to each other. Nor can a vertical shift of publicity (from bottom to top) be an adequate substitute for processes of horizontal communication within a European civil society. To the extent that such tendencies prevail, the normative force of the project of European integration is undermined. Ultimately, the integrative power of a political order has to rely on the fact that political developments taking place on the "public stage" are made comprehensible for a broad community of people by being presented in a symbolic-dramatic form (Geertz 1980). The "incomprehensibility" and the representative deficiencies of politics in the EU can be seen as important aspects of the developments that brought the constitutional process to a halt in 2005.

3. Political Identity and Legitimacy in the European Union

Against the background sketched out here, it seems not exaggerated to argue that the EU is actually confronting the interplay of a crisis of political representation and a crisis of political identity.[15] In the process of constructing the Union, the functional primacy of market integration made for an understanding of legitimation that saw the citizens mainly as consumers of political products, thereby "relieving" them of an active participation in the political process. One may well speculate about the elective affinities between such an understanding of citizenship and the obviously "top-heavy" consociational features of decision-making in the EU. Deriving legitimacy from great technocratic success stories rather than from the complex routes defined by the democratic process has been for a long time a characteristic feature of the politics of European integration (Weiler 2004). To adopt such a strategy has entailed nourishing the potential of an anti-European

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[15] As Manuel Castells (2004) succinctly put it in a newspaper contribution published before the rejection of the European Constitution in the French and Dutch referenda.

populism, as many citizens perceive the EU as a political order shaped by technocracy in the first place. Europe's legitimation problems touch in an elementary form upon the cognitive dimensions of the citizen status. Citizens who think that they lack possibilities to properly understand and influence the political process do not conceive of themselves as citizens in a full sense anymore. This creates the soil for feelings of deprivation and powerlessness that ultimately turn into anti-democratic resentment.

Such an argument does not necessarily lead to the conclusion that regulatory policies in the transnational realm cannot be justified at all as long as they are not based upon a strong democratic legitimation. The point I want to make here rather is that even if we adopt a plain functionalist and output-oriented approach to the transnational policy process, it will be difficult to deny that governing Europe by focusing primarily on the standards of effectiveness has become a more and more arduous task due to the lack of correspondence between the institutional patterns that may make the EU appear as a "technocratic consociation" and the "Europe of the citizens". In other words: the mechanisms of a decision-making dominated by intergovernmentalism have come under stress, and the legitimation deficits to be made out on the input-side are "spilling over" from the sphere of the normative into the realm of the functional.

At any rate, the developments since Maastricht indicate that there are good reasons to doubt that the collective identity of a European community of citizens will emerge more or less automatically, following the direction intended in strategies of institution-building devised "from above", as functionalists have sometimes tended to assume. It should be emphasised that this is *not* to say that democratic collective identities are inextricably linked to the nation-state. Political identities must not be conceived of as static categories. In the context of democratic politics they rather reflect processes of collective self-determination which define (and redefine) the status of being a citizen. The institutional framework of the EU can hardly be considered an exception in this respect. The opposite is the case: as I have argued earlier, the aim of constructing a novel form of political identity which supports integration, yet at the same time embraces diversity involves great challenges. Against this background, however, it must be questioned that the "freezing" of Europe's multinational moment at the level of a consociationalism of member states will contribute to fostering a new politics of diversity.

At this point, it may be worthwhile to briefly recapitulate an important strand of early modern democratic theory. For this strand of political thought, democracy constitutes, in the first place, a practical realm, which is shaped by the political activities of citizens.[16] If democracy is viewed as field of collective activity, the specific conditions of political action become a central element for assessing the quality of democratic politics. From such an angle, securing the capacity of citizens

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[16] For a general discussion of *politics as an activity* versus *politics as a sphere*, an opposition that lies at the core of many past and present controversies on what politics ultimately is about, cf. Palonen 2006.

to act in an autonomous way is a key factor for providing the political institutions of a democratic society with solid foundations. Regardless of their otherwise contrasting positions on many substantial problems, both Rousseau and Tocqueville, to mention just two pioneers of democratic theory, shared a great concern for this issue.

For Rousseau, the fate of a democratic polity is largely contingent upon institutionally embedded processes of political socialisation, which enable individuals to act primarily as citizens when they act politically. Rousseau links democratic politics to a dynamics of continuous collective self-determination, whose prospects depend on citizens having the capacity to look beyond their particular interests and to relate their decisions to the common good.[17] This is necessary for transforming the merely additive and pre-democratic *volonté de tous* into the democratically sound *volonté générale*. To protect himself from being accused of advocating an abstract utopianism, Rousseau stresses how important morals and customs are if the democratic approach to political socialisation he postulates is to succeed. These morals and customs are a reflection of specific social practices that serve as the ground on which citizens acquire the potential to deliberate freely on the general will. The preoccupation with democracy as a social practice explains a great part of Rousseau's interest in determining the proper size of a republic and his preference for establishing small political units.

Although Tocqueville certainly does not share many political priorities with Rousseau, he also places great emphasis on the civic dispositions and motivations of the individuals who constitute the demos, as they offer the best protection against popular sovereignty turning into the tyranny of the majority. Tocqueville shows a clear proximity to Rousseau when he argues that the manners (*mores*) of the citizens are a key for explaining the success of democratic rule in America. Such manners, as embodied in the tradition of the trial by jury, play a decisive role when it comes to sustaining a political culture in which democracy is primarily a matter of practical learning. Thus, the manners contribute even more than the laws "to the maintenance of the democratic republic in the United States" (Tocqueville 2000 [1835/1840]: 368). The extensive local freedoms are another important element that offers the Americans manifold incentives to develop a practical spirit of civic-mindedness. Finally, Tocqueville considers the web of associations covering the United States, a web which in the first half of the nineteenth century appeared to be particularly dense from a European perspective, a genuine school for learning democracy.

Why are the views expressed by Rousseau and Tocqueville some 200 to 250 years ago relevant for addressing the problems of legitimacy and diversity in the EU today? If I am right, a highly important point of departure for answering this question lies in the spatial dimension of democratic politics, and in the changes this dimension has been undergoing in recent times. The rise of democracy anticipated

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[17] See Rousseau (1968 [1762]); see also Fetscher (1993).

and analysed in the writings of the two classics was to a great extent concomitant with the rise of the nation-state and of collective affiliations of a national kind. In this sense, the civic "manners" and practices sustaining democracy emerged in a social context structured by national institutions, even if these institutions operated at the local level, as was the case in the America portrayed by Tocqueville. From the corresponding angle, civic communities evolve within specific worlds of experience, which are territorially bounded. In the age of transnational politics, however, this connection seems to have become increasingly problematic. As the case of the EU exemplifies, substantial domains of political decision-making have been "relocated" to a realm beyond the nation-state. The "direct effect" of EU politics thereby continues to have a very abstract character for a great number of European citizens. The situation is additionally aggravated by the limited democratic accountability of decision-making organs in the EU.[18] Hence, the need to work towards more democratic structures of transnational governance has been a recurrent motive in the discourse of many advocates of a European Constitution. Yet ultimately, such a view also begs the question of the civic dispositions and identities that could be supportive of these structures.

What is at stake here is how "integration in diversity" could be achieved in combination with forms of a materially graspable collective experience involving large-scale horizontal communication and interaction among European citizens. This would imply to define mechanisms that could bolster at the transnational level a dynamic which, at first sight, might look similar to the processes of social mobilisation observable in the high time of nation-state formation (Deutsch 1966). Nonetheless, a substantial difference between the present and former historical periods is that the dynamic cannot operate on the basis of the rigid and rather static identity attributions which were characteristic of many variants of nationalism, and which still reverberated in the intertwining of a multinationalism of states with the quasi-consociational consensus strategies at work in the elaboration of the European Constitution.

The unfortunate constitutional process has shown that to the extent that it lacks solid civic supports, Europe's institutional order ultimately faces the risk of disintegration when confronted with a political crisis. Therefore, the mechanisms that can contribute to sustaining a European civic space must not be assigned less importance than the decision-making procedures in European institutions when it comes to assessing the consequences of transnational polity-building. Transnational communication and the construction of a European public sphere are bound to play a central role in the processes which constitute the political identity of Union citizens. Until now, the external communication of the EU suffers from the fact that the flow of information from the Europe of institutions to the Europe of citizens has had not produced an increase of popular political participation. There is only little exchange between the European political stage and the European public, as both the cognitive (generalised multilingual competence) and

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[18] See Schmitter (2000) for an overview of the discussion on the democracy deficit of the EU.

the technical (European media) infrastructure available for establishing a transnational community of communication remain weak (Gerhards 2000). At any rate, the EU is still far away from constituting an interculturally networked space of generalised political communication among European citizens.

Regarding the political architecture of such a space in a context of complex diversity, the patterns of identification required for deeper integration should not be seen as a simple addition of pre-established categories (with each member state supposedly representing one such category), but as an outcome of intercultural negotiations based on mutual recognition. On the one hand, the concept of recognition reminds us that the identities of citizens are socially and culturally embedded, and that this embeddedness must not be discounted when we are expected to act civically in public. On the other hand, recognition is a condition allowing citizens to act as reflexive subjects in the realm of transnational politics and bolstering the formation of an integrated public sphere, in which the protection of diversity and the definition of common standards of solidarity are no incompatible aims.[19] Thus, to the extent that European institutions remain open for the articulation of plural identities, they may contribute to the making of a shared civic sphere, which at the same time respects and transcends diversity.

If the analysis sketched out here holds, "grand" constitution-making, whose failure we have just experienced, will not be the all-decisive factor in determining Europe's political future. At least as important will be a constitutional politics which operates at the micro-levels of integration and offers citizens options for breaking into new ground for self-determination. Only a "constitutional politics" of this kind can provide a basis for a transition from the permissive consensus to a more reflexive collective involvement in the process of European integration. Only a "second-order" constitutionalism will be able to base the integration of Europe on new forms of citizenship, thereby providing the Union with a legitimising potential which it bitterly needs, yet which it will not get if it relies on strategies of institutional engineering alone.

In the long term, a common political project which aims at more than at implementing market regulations and harmonising service infrastructures can hardly be sustained if it does not rely upon a shared identity. The balance of the institutional "identity politics" practised by the EU in the past two decades indicates that European identity cannot be successfully manufactured from above, by reverting to propaganda, ideology or mythology. What will count much more, in the end, are materially understandable collective experiences of communicating and of acting together. Against this background the legacy of one of the great pioneers of integration studies seems to be particularly relevant. In a vein that shows strong affinities with the approaches of Rousseau and Tocqueville, Karl Deutsch (1976: 14) argues that integration has to be understood primarily as a praxis-driven process of collective learning. In his view, a web of sociocultural

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[19] This view of recognition obviously draws on the seminal essay by Taylor (1992).

relations provides the proper cement of political integration. It is this very web that ultimately decides on the success (or failure) of the institutions built in the integration process.

Therefore, if the structures of a citizens' Europe are to solidify, the main task to confront will consist in developing strategies for fostering an approach towards political integration that may serve as a "soft", i.e. normatively sound, equivalent to the processes of mobilisation typical of the age of nationalism, yet has still to be free of quasi-nationalist pretensions. The "grand" (and, as it seems by now, obsolete) master plan that was the product of complicated constitutional negotiations cannot provide a proper answer to the question of how the bases for large-scale political communication in the EU are to be properly organised. However, from the perspective of the "second-order" constitutionalism advocated here, finding innovative ways of dealing with cultural pluralism, ways conducive both to respecting and to transcending particular identities, must be considered one of the most challenging aspects of constructing a Union in diversity beyond the constraints of a quasi-consociational consensus of its member states.

References

ALTHUSIUS, J. 2003. [1614]. *Politik*. Berlin: Duncker & Humblot.

BECK, U. and GRANDE, E. 2004. *Das kosmopolitische Europa*. Frankfurt am Main, Germany: Suhrkamp.

BILLIG, M. 1995. *Banal Nationalism*. London: Sage.

BOGAARDS, M. 2002. "Consociational intepretations of the EU: a critical appraisal". *European Union Politics* 3 (3): 357–70.

BOGDANDY, A. VON. 2000. *Gubernative Rechtsetzung*. Tübingen, Germany: Mohr Siebeck.

BURGESS, M. 2000. *Federalism and European Union: The Building of Europe, 1950–2000*. London: Routledge.

CASTELLS, M. 2004: "¿Europeos contra Europa?" *La Vanguardia*, 19 June.

CEDERMAN, L.-E. and KRAUS, P. A. 2005. "Transnational communication and the European demos". In: R. Latham and S. Sassen, eds., *Digital Formations: Information Technology and New Architectures in the Global Realm,* 283–

311. Princeton, N.J.: Princeton University Press.

CHRYSSOCHOOU, D. N. 1998. *Democracy in the European Union*. London: Tauris.

DEUTSCH, K. W. 1966. *Nationalism and Social Communication*. Cambridge, Mass.: MIT Press.

——. 1976. *Die Schweiz als ein paradigmatischer Fall politischer Integration*. Bern, Switzerland: Haupt.

ELAZAR, D. J. 1998. *Covenant and Civil Society. The Constitutional Matrix of Modern Democracy* (The Covenant Tradition in Politics, Vol. IV), New Brunswick, N.J.: Transaction Publishers.

ERIKSEN, E. O. and FOSSUM, J. E., eds. 2000. *Democracy in the European Union. Integration through Deliberation*? London: Routledge.

FETSCHER, I. 1993. *Rousseaus politische Philosophie*. Frankfurt am Main, Germany: Suhrkamp.

FRASER, N. and HONNETH, A. 2003. *Umverteilung oder Anerkennung*. Frankfurt am Main: Suhrkamp.

GEERTZ, C. 1980. *Negara. The Theatre State in Nineteenth-Century Bali*. Princeton, N.J.: Princeton University Press.

GERHARDS, J. 2000. "Europäisierung von Ökonomie und Politik und die Trägheit der Entstehung einer europäischen Öffentlichkeit". In: Maurizio Bach, ed., Die Europäisierung nationaler Gesellschaften. *Kölner Zeitschrift für Soziologie und Sozialpsychologie*, Sonderheft 40/2000: 11–35.

GRANDE, E. 2000: "Multi-level governance: Institutionelle Besonderheiten und Funktionsbedingungen des europäischen Mehrebenensystems". In: E. Grande and M. Jachtenfuchs, eds., *Wie problemlösungs-fähig ist die EU?*, 11–30. Baden-Baden, Germany: Nomos.

HABERMAS, J. 2001. *The Postnational Constellation*. Cambridge, Mass.: MIT Press.

HOOGHE, L. and MARKS, G. 2001. *Multi-Level Governance and European Integration*. Lanham, Md.: Rowman & Littlefield.

KOSLOWSKI, R. 1999. "A constructivist approach to understanding the European Union as a federal polity". *Journal of European Public Policy* 6 (4): 561–78.

KRAUS, P. A. 2004: "A union of peoples? Diversity and the predicaments of a multinational polity". In: L. Dobson and A. Follesdal, eds., *Political Theory and the European Constitution*, 40–55. London: Routledge.

——. 2007. *A Union of Diversity? Language, Identity and Polity-Building in Europe*. Cambridge, UK: Cambridge University Press.

LEHMBRUCH, G. 1983. "Konkordanz-demokratie". In: M. G. Schmidt, ed., *Westliche Industrie-gesellschaften. Wirtschaft-Gesellschaft-Politik*, 198–203. Pipers Wörterbuch zur Politik, Band 2, Munich, Germany: Piper.

LEPSIUS, M. R. 1999. "Die Europäische Union. Ökonomisch-politische Integration und kulturelle Pluralität". In: R. Viehoff and R. T. Segers, eds., *Kultur. Identität. Europa. Über die Schwierigkeiten und Möglichkeiten einer Konstruktion*, 201–222. Frankfurt am Main, Germany: Suhrkamp.

LIJPHART, A. 1977. *Democracy in Plural Societies*. New Haven, Conn.: Yale University Press.

——. 1999. *Patterns of Democracy*. New Haven, Conn.: Yale University Press.

LIPSET, S. M. and ROKKAN, S., eds. 1967. *Party Systems and Voter Alignments: Cross-National Perspectives*. New York: The Free Press.

MACCORMICK, N. 1999. *Questioning Sovereignty*. Oxford, UK: Oxford University Press.

MAJONE, G. 1996. *Regulating Europe*. London: Routledge.

MARKS, G. 1997. "A third lens: comparing European integration and state building". In: J. Klausen and L. Tilly, eds., *European Integration in Social and Historical Perspective*, 23–43. Lanham, Md.: Rowman & Littlefield.

MORAVCSIK, A. 2002. "In defence of the 'democratic deficit': reassessing legitimacy in the European Union". *Journal of Common Market Studies* 40 (4): 603–24.

NICOLAIDIS, K. and HOWSE, R. eds. 2001. *The Federal Vision. Legitimacy and Levels of Governance in the United States and the European Union*. Oxford, UK: Oxford University Press.

NISSEN, S. 2004. "Europäische Identität und die Zukunft Europas". *Aus Politik und Zeitgeschichte* 38: 21–29.

PAKULSKI, J. 1997. "Cultural citizenship". *Citizenship Studies* 1 (1): 73–86.

PALONEN, K. 2006. "Two concepts of politics. Conceptual history and present controversies". *Distinktion* 12: 11–25.

PAREKH, B. 2000. *Rethinking Multiculturalism. Cultural Diversity and Poltical Theory*. Houndmills, UK: Palgrave.

PREUß, U. K. 1999. "Auf der Suche nach Europas Verfassung". *Transit* 17: 154–74.

ROKKAN, S. 1999. *State Formation, Nation-Building, and Mass Politics in Europe*. Oxford, UK: Oxford University Press.

ROUSSEAU, J.-J. 1968 [1762]. *The Social Contract* (transl. Maurice Cranston). Harmondsworth, UK: Penguin.

SCHARPF, F. W. 1994. *Optionen des Föderalismus in Deutschland und Europa.* Frankfurt am Main, Germany: Campus.

——. 1999. *Governing in Europe: Effective and Democratic?* Oxford, UK: Oxford University Press.

SCHMIDT, M. G. 2000. "Der konsoziative Staat. Hypothesen zur politischen Struktur und zum politischen Leistungsprofil der Europäischen Union". In: E. Grande and M. Jachtenfuchs, eds., *Wie problemlösungsfähig ist die EU?*, 33–57. Baden-Baden, Germany: Nomos.

SCHMITTER, P. C. 2000. *How to Democratize the European Union ... And Why Bother?* Lanham, Md.: Rowman & Littlefield.

STEPAN, A. 2001. *Arguing Comparative Politics.* Oxford, UK: Oxford University Press

TAYLOR, C. 1992. *Multiculturalism and "The Politics of Recognition".* Princeton, N.J.: Princeton University Press.

——. 1994. *Reconciling the Solitudes. Essays on Canadian Federalism and Nationalism.* Montreal: McGill-Queen's University Press.

TAYLOR, P. 1990. "Consociationalism and federalism as approaches to international integration". In: A. J. R. Groom and P. Taylor, eds., *Frameworks for International Co-operation*, 172–84. London: Pinter.

TOCQUEVILLE, A. DE. 2000 [1835/1840]. *Democracy in America* (transl. Henry Reeve). New York: Bantam Books.

TOIVANEN, R. 2001. *Minderheitenrechte als Identitätsressource. Die Sorben in Deutschland und die Saamen in Finnland.* Münster, Germany: LIT.

TULLY, J. 2001. "Introduction". In: A.-G. Gagnon and J. Tully, eds., *Multinational Democracies*, 1–33. Cambridge, UK: Cambridge University Press.

WEILER, J. H. H. 2004. *Ein christliches Europa. Erkundungsgänge*. Salzburg, Austria: Pustet.

ZÜRN, M. and JOERGES, C., eds. 2005. *Law and Governance in Postnational Europe.* Cambridge, UK: Cambridge University Press.

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