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**Negotiating Conflict in Deeply Divided Societies:
Complex power-sharing institutions in South Asia and Eastern Europe**

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Abstract

The thesis seeks to explain how and why power-sharing arrangements come into being, succeed or fail their purpose by combining negotiation theory with consociational power-sharing theory. The thesis compares case studies from South Asia (Punjab, Mizoram, in India and Sri Lanka) and Eastern Europe (Bosnia and Herzegovina, Transnistria and Gagauzia, in Moldova), while building its own model of negotiating conflict in deeply divided societies.

All selected case studies experienced different intensities of violent ethnical conflicts that were or still are managed by different patterns of power-sharing arrangements. In case of the Eastern European states, various degrees of involvement of international actors have taken place. I analyze the (re)action and support of domestic actors in terms of efficacy and legitimacy of and involvement with central state institutions, perceived as de facto or de jure protectorates of the external powers. Despite the growing number of cases in which ethnic conflicts are regulated by means of consociational power-sharing arrangements relatively little systematic comparative work has been undertaken. By means of mutually enriching and reciprocally completing syntheses of different approaches to power-sharing based on the selected case studies I intend to add to as well as extend the existing body of knowledge.

After the introduction and critical review of the literature, the thesis analysis case studies from South Asia and Eastern Europe. The thesis combines power-sharing and negotiation theories into a comprehensive theory of ethnic conflict management in deeply divided societies and develops a new model for successful negotiations in such settings. The analysis of each case study follows the levels-of-analysis approach and analytic narrative methods.

To my mother, my wife, and my daughter

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List of Abbreviations

ACTC	-	All Ceylon Tamil Congress
BiH		Bosnia and Herzegovina
BJP	-	Bharatiya Janata Party
BSP	-	Bahujan Samaj Party
CPI	-	Communist Party of India
CWC	-	Ceylon Workers Congress
DMK	-	Dravida Munnetra Kazhagam
DNZ		Democratic People's Community
EROS	-	Eelam Revolutionary Organisation of Students
EPRLF -		Eelam People's Revolutionary Liberation Front
EU		European Union
FPTP		First-Past-the-Post
GOI	-	Government of India
GOSL	-	Government of Sri Lanka
HR		High Representative
IDP		Internally Displaced Persons
IFOR		Implementation Force
INC	-	Indian National Congress
IPKF	-	Indian Peace Keeping Forces
JVP	-	Janatha Vimukthi Peramuna
LTTE	-	Liberation Tigers of Tamil Eelam
MNF	-	Mizo National Front
NATO		North Atlantic Treaty Organization
OBC	-	Other Backward Class
OHR		Office of the High Representative
PIC		Peace Implementation Council
PROTEG	-	Protection of Tamils of Eelam from Genocide
PTA	-	Prevention of Terrorism Act
RAW	-	Research and Analysis Wing
RS		Republika Srpska
RSS	-	Rashtriya Swayamsevak Sangh
SAD	-	Shiromani Akali Dal
SC	-	Scheduled Caste
SDSA	-	State of Democracy in South Asia survey
SDU		Patriotic Bloc
SFOR		Stabilization Force
SLFP	-	Sri Lanka Freedom Party
ST	-	Scheduled Tribe
TNA	-	Tamil National Alliance
TULF	-	Tamil United Liberation Front
UNHCR		United Nations High Commissioner on Refugees
UNP	-	United National Party
WVS	-	World Values Survey

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I. Conceptual Framework

The crucial problem in politics is the management of conflict. No regime could endure which did not cope with this problem. All politics, all leadership and all organization involve management of conflict.¹

I.1. Deeply Divided Societies: Conflict, Consociation and Negotiation

Due to the fact that power-sharing as an approach to conflict management has been recommended to and applied in one form or another during nearly all peace negotiations in the past three decades (since it has been introduced and advocated by Arend Lijphart), it becomes necessary to analyze its foundational principles for two reasons. First, the concept of power-sharing is mostly associated with two approaches – (1) the consociational theory by Arend Lijphart (1969, 1977, 1985, 1996, 2002, 2008, 2012) and (2) Donald L. Horowitz' (1989, 1990, 1992, 1993 2000) centripetal model, hence there is a need to assess both the practicality of power-sharing as well as its types. Second, since this particular mode of conflict management may be applied to various types of societies, it is eminent to classify those as well.

The theory of consociational democracy differentiates between cooperative and adversarial styles of elite behavior. Consociational democracy is defined by a coalescent style of elite behavior in plural societies where elite cooperation is characterized by power sharing and consensus decision making. Consensus is reached by leaders who engage in mutual compromises in order to avoid deadlock or stalemate and find common ground.

This broad distinction between competitive and consociational styles of decision making allows consociational theorists to identify grand coalitions as “the primary characteristic of the consociational democracy, where the leaders of all the important segments of the society cooperate”² to govern the state jointly. What the theory cannot explain is under what conditions grand coalitions (and other consociational devices) do in fact produce power sharing and consensus decisions. Furthermore, it fails to describe and predict the power relations and decision modes within such coalitions. If power is shared in a coalition, who gets what share of the power? If consensus is reached by means of mutual compromises, who concedes most, and who least?

¹ Schattschneider, quoted in Nordlinger, E.A. (1972). Conflict Regulation in Divided Societies. *Occasional Papers in International Affairs*, 29. Center for International Affairs. Harvard University, p. 1.

² Lijphart, A. (1977). *Democracy in Plural Societies: A Comparative Exploration*. New Haven: Yale University Press, p. 25.

The inability of the theory of consociational democracy to explain when and why power sharing will result and what exactly it will amount to derives, according to Jörg Steiner,³ from a lack of a common set of assumptions from which the “favorable conditions” for consociational democracy can be deduced. In what follows, I will argue that the negotiation theory can provide a basis from which the above questions can be addressed.

I.2 Definitions, Assumptions and Terminology

In the subchapter below some of key concepts will be presented and used throughout the thesis.

Conflict-regulating arrangements

Following Mitra, I define *conflict-regulating arrangements* as those decision-making procedures, institutional devices, and behavioral rules which are potentially capable of accommodating antagonistic groups to one another, thereby providing a framework within which conflicts are successfully regulated.⁴ This is similar to what Mitra calls “a level playing field”⁵ (i.e., a combination of policies and institutions, which provide the necessary means of trust in and legitimacy of the state and justify the participation of its citizens as well as respect of the rules to be played upon).

The arrangements analyzed in the next chapter include: 1) executive power-sharing, i.e. *grand coalition*; 2) *segmental autonomy*, i.e. both symmetrical and asymmetrical federalism; 3) the principle of *proportionality* that could be applied in several ways, with basic characteristic being that the influence on the decision-making process of groups is proportional to their numerical strength; and 4) *mutual veto* (i.e., minority blocking rights). Blocking rights could be extended to government decisions as a whole or only to those which bear upon the conflict’s central issues. They are formal and informal in character.⁶

Success

I define “*success*” as the realization of goals that the institutional designs and engineering set to achieve, the legitimacy of such institutions as well as citizens’ attitudes, perceptions and willingness not only to enjoy positive but also to accept negative freedom rights⁷ (e.g., their ability to tolerate and work together with others, who are “different” from themselves, their

³ Steiner, J. (1981). The Consociational Theory and Beyond. *Comparative Politics*, 13(3), 1241-50.

⁴ See: Figure 1, A neo-institutional model of democratic change.

⁵ See: Mitra, S.K. (2008). Level Playing Fields: The Post-Colonial State, Democracy, Courts and Citizenship in India. *German Law Journal*, 9(3), pp. 343-66.

⁶ Cf. Nordlinger, 1972, pp. 20-41.

⁷ See Berlin, I. (2004). *Liberty*. Oxford: Oxford University Press, pp. 1-54.

readiness and aspiration to promote the public good through participation in the political process and demand accountability of political authorities).

Conflict

Following Wolff (2006), who defines “conflict” as “a situation in which two or more actors, [who interact with each other], pursue incompatible, yet from their individual perspectives entirely just, goals.”⁸ Similarly to Wolff, I understand the “ethnic conflicts” as a form of conflicts in which at least one party defines its *raison d’être* and its goals in (exclusively) ethnic terms, and the primary cleavage is based on ethnic distinctions. Thus, “ethnic conflicts are a form of group conflict in which at least one of the parties involved interprets the conflict, its causes, and potential remedies along an actually existing or perceived discriminating ethnic divide.”⁹ For the thesis, not all ethnic conflicts are of interest. The focus will be on the outcome of *intense* conflicts, or in other words conflicts characteristic of *deeply divided societies*. If not prevented, the intense conflicts are not solved, but rather regulated, in the short run.

Deeply divided societies

The general definition of “deeply divided societies”, synonymously used to plural societies,¹⁰ infers an ethnically diverse society in which ethnicity is understood as a *politically salient* cleavage around which “interests are organized for political purposes, such as elections.”¹¹ In an ethnically *divided society*, then, ethnic differences are used as a ground for creation and preservation of *segments*—groups of individuals under ethnically constructed banners.

Deeply divided societies

While the concept “society” is usually favoured in literature, some argue that the term “society” is an unfortunate one as it often provides an inaccurate description.¹² Stefan Wolff defines deeply divided places as “the existence of two (or more) separate civil societies strongly aligned

⁸ Wolff, S. (2006). *Ethnic Conflict: A Global Perspective*. Oxford: Oxford University Press, p. 2.

⁹ Idem., p. 2.

¹⁰ “I shall use the terms *deeply divided society* and *plural society* as synonymous. A plural society that is sharply divided along religious, ethnic, or racial lines into virtually separate sub-societies with their own political parties, interest groups, and media communication. These sub-societies will be referred to as *segments*.” Lijphart, 2008, p. 67; consider also Nordlinger, 1972, p. 7: “when a sizeable proportion of individuals who share some class or communal characteristic become subjectively aware of their similarity to other such individuals, value that similarity positively, and attribute some importance to it in defining their relations with individuals who do not share that social characteristic – then these social differences may be said to draw people into *segmental divisions* or *segments*.” Contrary to Lijphart, I consider “deeply divided societies” as societies in a potential or actual state of conflict. Once conflict is managed, regulated or solved they become plural.

¹¹ McCulloch, A. (2009). *Seeking Stability Amid Deep Division: Consociationalism and Centripetalism in Comparative Perspective*. Ontario: Queen’s University Kingston.

¹² Ibid.

with different ethnic groups.”¹³ John McGarry claims that the concept “divided society” describes “a *single* society, which is plural or divided, when minority nations would prefer to see their state as being comprised of different *societies*.”¹⁴ Being aware of these limitations and the ongoing debate, I will use the concept of “deeply divided society”, “place” being too open-ended and vague.

Political stability

Lijphart argued that a stable democratic regime is likely to remain democratic and demonstrates a low frequency or threat of political violence.¹⁵ However, besides this “continued operation of specific patterns of political behavior”¹⁶ I do add a “*quality*”- variable when speaking of stability of the system. As Steiner has pointedly concluded: “[i]f the essence of democracy is defined as stability in the sense of the absence of political protests and political unrest, [then] too much tranquility and calm may be harmful for a good democracy. [Thus] democratic *stability* should be replaced with the concept of democratic *quality*, [...] which should include at least the following elements: civil liberties, citizen participation, competitive elections, elections, absence of severe violence, civility in the political discourse, respect for minorities, equal opportunities.”¹⁷

Ethnic group and ethnic identity

I use the term “ethnic” in its broader sense, by which I mean any group-based *ascriptive* identity, actual or imagined. This larger view is persuasively argued by Donald Horowitz (1985).¹⁸ In my thesis I follow the consociationalists’ opinion that ethnic and ethnonational

¹³ Wolff, 2006, p. 186.

¹⁴ McGarry, J. (2005). Consociationalism and Pluri-National States, Northern Ireland and Other Cases. Paper presented at the Conference *Implementing Peace Agreements: Israel/Palestine, South Africa and Northern Ireland*. Van-Leer Institute, Jerusalem, pp. 2-3, original emphasis.

¹⁵ Lijphart, 1977, p. 4.

¹⁶ Lustick, Ian S. 1979. “Stability in Deeply Divided Societies: Consociationalism Versus Control”, *World Politics*, 31(3), pp.324.

¹⁷ Steiner, J. (2002). Concluding remarks: Responses to critiques of consociational theory. *Acta Politica Special*, 37, p. 233.

¹⁸ Horowitz uses ethnicity as an umbrella concept that “easily embraces groups differentiated by color, language, and religion; it covers 'tribes,' 'races,' 'nationalities,' and 'castes’”, Horowitz, D. L. (2000). *Ethnic Groups in Conflict*. Berkley: UC Press, p. 53, also p. 224; consider also Chandra K. (2006). What is Ethnic Identity and Does It Matter? *Annual Review of Political Science*, 9, pp. 402–403; Kymlicka, W. (2007). *The New Debate on Minority Rights (and postscript)*. In Anthony Simon Laden and David Owen (ed.) *Multiculturalism and Political Theory*. Cambridge: Cambridge University Press; Varshney, A. (2002). *Ethnic Conflict and Civic Life*. New Haven: Yale University Press; and Varshney, A. (2003). Nationalism, Ethnic Conflict, and Rationality. *Perspectives on Politics*, 1(1), pp. 85-99; Wilkinson, S.I (2004). *Votes and Violence. Electoral Competition and Ethnic Riots in India*. Cambridge: Cambridge University Press; Minorities at Risk project, at <http://www.cidcm.umd.edu/mar/>.

identities are of frequent importance.¹⁹ This does not imply primordialism, but the fact that through political and social action ethnic communities are constructed over time, but their deconstruction especially in deep division and conflict situations is not easy.²⁰ At least in democracies, the distinctive feature of ethnicity over alternative identity forms can be directly measured as an empirical phenomenon through surveys and election results.

Minority

I use the term “*minority*” in an even broader meaning. Besides using it as a *synonym* for ethnic group, e.g. actual and ascriptive identity that both terms share, the term “*minority*” does implicate other facets as well. It gives me a wider framework to conceptualize and demonstrate the implications of my thesis. Factors and situations such as for example minority-majority status, or majority with a minority complex (self-consciousness being a crucial factor), could serve as additional motives for group mobilization, influencing decisively the origins, escalation as well as regulation of a conflict.

Consociation as power-sharing

In my thesis use the terms consociation and power-sharing²¹ interchangeably, being aware that it might be perceived as somehow limited in understanding. There are also other forms to share power.²²

¹⁹ Cf. O’Leary, B. (2005). *Debating Consociational Politics: Normative and Explanatory Arguments*. In Sidney Noel (ed.): *From Power Sharing to Democracy: Post-conflict Institutions in Ethnically Divided Societies*. McGill-Queen's Press – MQUP, p. 4.

²⁰ I adopt the stance of contextualism, which emphasizes changing nature of ethnic identity, seeing it as a socially constructed phenomenon that is also available for instrumental use. Cultural makers are frequently manipulated by ideologies, and cultural categories are “available for instant manipulation by those seeking power” – the “ethnic entrepreneurs”, in Bandarage, A. (2009). *The Separatist Conflict in Sri Lanka. Terrorism, ethnicity, political economy*. London: Routledge, p. 10.

²¹ “In my writing after 1969, I started using the term ‘power-sharing’ democracy more and more often as a synonym for consociational democracy. The main reason is that I started to use consociationalism not only as an analytical concept but also as a practical recommendation for deeply divided societies. The term ‘consociational’ worked well enough in scholarly writing, but I found it to be an obstacle in communicating with policy-makers who found it too esoteric, polysyllabic, and difficult to pronounce. Using ‘power-sharing’ instead has greatly facilitated the process of communication beyond the confines of academic political science”, Lijphart, A. (2008). *Thinking about Democracy, Power Sharing and Majority Rule in Theory and Practice*. London: Routledge, p. 6.

²² There are other ways by which to share power, among them, temporary coalitions in times of crisis, and not least of all, integrative method propagated by Horowitz. Nevertheless, on the one hand, I will not make use of “integrative power-sharing”, and on the other, the integrative approach, with unicameral legislative and Presidentialism (two quasi-majoritarian aspects) it propagates, has not entirely convinced me of the merits of being called an institutional design to share power.

State nation vs. nation state

Nation-state, which is “a product of European imagination”, has been associated with two processes: *state-building*, in which state gains centralized power over its territory, and by penetrating civil society constructs political and social infrastructure to enable decision implementation; and *nation-building*, in which elites use power acquired during the state building process to create a national identity and/or culture. Navaratna-Bandara asserts that in South Asian context, the penetration by the post-colonial state through its legal and administrative apparatus into the cultural space belonging to the minorities produced stiff resistance from the minorities, conscious of their ethnic identity, and finally paved the way for the emergence of minority self-determination movements demanding either the protection of cultural rights, regional autonomy or independence.²³ The penetration that was meant to make one nation out of a myriad of different ethnic communities was perceived not as a salad bowl-integration, but as a melting pot-assimilation, i.e. as prescribing a “partisan victory of one community over another.”²⁴

In an excellent comparative article on institutional engineering: “‘Nation State’ or ‘State Nation’? India in Comparative Perspective”, Linz *et al.* have introduced the concept of “state nation” as opposed to “nation state”.²⁵ According to the renowned scholars “state nation” policies involve building a sense of belonging (or “we-feeling”) regarding the state-wide political community, “while simultaneously creating institutional safeguards for respecting and protecting socio-cultural diversities.”²⁶ The authors continue by asserting that the sense of belonging may appear as definition of tradition, history and “shared culture in an inclusive manner, with attachment to common symbols of the state and/or inculcating some form of Habermasian “constitutional patriotism.””²⁷

In their comparative study, Linz, Stepan and Yadav give the example of Belgium, Spain, Canada, and India, asserting that “had political leaders in [the above-mentioned countries] insisted upon attempting to impose one language and culture on the country and insisted upon

²³ Navaratna Bandara, A.M. (2006). *Nation Building or Nations Building: A Critical Evaluation of the Theory and Practice of National Integration*. In Amal Jayawardane (ed.) *National Integration in Sri Lanka*. Colombo: Ministry of Ethnic Affairs and National Integration, p. 25.

²⁴ Cf. O’Leary, B. (2008a). Consociation. *The International Encyclopedia of the Social Sciences*. McMillan: Detroit, p. 58.

²⁵ See Linz, J.J. et al. (2003). *Nation State or State Nation? Comparative Reflections on Indian Democracy*. In K. Shankar Bajpai (ed.). *Democracy and Diversity. India and the American Experience*. New Delhi: Oxford University Press, pp. 50-106.

²⁶ *Idem.*, p 53.

²⁷ *Idem.*, p. 54; consider also another example of the “state” created before “nation” and in which “nation-building” is still perhaps incomplete. Massimo d’Azeglio, who uttered the famous words: “*L’Italia è fatta. Restano a fare gli Italiani*” (colloquial translation: “Now that we have made Italy, we need to make Italians”), in Bogaards, M. and Crepaz, M.M.L. (2002). Consociational Interpretations of the European Union. *European Union Politics*, 3(3), p. 372.

homogenizing French -style unitary nation state, the cause of social peace, inclusionary democracy, and individual rights would not have been served in any of these four, long-standing democratic states.”

In their final considerations they recommend “asymmetrical federalism”, a consociational arrangement, i.e. segmental autonomy, as a possible approach to democracy for deeply divided countries such as Myanmar and Sri Lanka that have “more than one territorially based, already politically activated, linguistic-cultural majority within the existing state.”

Negotiation

According to Pfetsch (2007) “negotiation is a social process in which two or more parties interact in the search for an acceptable position with regard to their differences and concerning the same issue of conflict.”²⁸ Negotiations are finite, having a beginning and an end.

Sri Lanka vs Ceylon

For historical and contextual suitability, I am aware of the fact that it would be right to use the names inter-changeably, due to the fact that until 1972, the name of Sri Lanka was Ceylon. In my thesis, however, for the period up to 1972 Constitution, I will use the name Sri Lanka as well. Furthermore, using Sri Lanka “inadequately” emphasizes the ethnic outbidding and nation-building policies sat long before 1972 (i.e., Citizenship Act of 1948 or language provisions of 1956). Ceylon, as name, will figure in quoted literature such as official acts, agreements, etc.

²⁸ Pfetsch, F. R. (2007) *Negotiating political conflicts*. Basingstoke England; New York: Palgrave Macmillan, see the Chapter “Conflict as the Subject of Negotiation”, pp. 16-34.

I.3 Research Questions, Propositions and Case Studies

This thesis makes use of qualitative and quantitative research methods and seeks to merge conceptual and empirical work on power-sharing practices and modes of negotiation. It consists of six case studies: two cases from India, Punjab (1947-1999) and Mizoram (1947-1987), Sri Lanka (1947-2009), Bosnia and Herzegovina (1989-2004) and two cases from Moldova, Transnistria and Gagauzia (1989-2014). All selected case studies²⁹ experienced different intensities of violent ethnical conflicts that were and still are managed by different patterns of complex power-sharing arrangements. In all cases both endogenous as well as exogenous factors play an important role in understanding conflict stages and its settlement. Thus, Bosnia and Herzegovina, Mizoram, Sri Lanka and Moldova experienced various degrees of covert and/or overt involvement of international actors.

Three research assumptions, shared by both Horowitz and Lijphart and criticized by many others and described by McCulloch, inform this thesis.³⁰ First, the institutional design is the most important assumption to ensure political stability and quality of life in deeply divided societies; proper institutions are “the most prominent, and often the only, channel of communication between disparate groups.”³¹ As Reilly and Reynolds observe in their work, institutions “must facilitate communication channels between groups who need to talk. If they exclude people from coming to the table, then their conflicts can only be solved through force, not through negotiation and mutual accommodation.”³² The first theoretical assumption on which this thesis is based is that institutions matter.³³

Second argument, underlining the importance of institutional design is the role of the political elites. As Ulrich Schneckener suggests, the consent of elites “is a *conditio sine qua non* for achieving an agreement in the first place” and “the extent of their participation helps to determine the long-term stability of any agreement.”³⁴ Elite level politics represents the necessary piece of the conflict management puzzle. This “top-down” perspective has to be balanced by a “bottom-up” approach, which however cannot replace it and is not as important. The “bottom-up” approach argues the importance of civil society and intra-group collaborations

²⁹ The case studies were selected both purposively and information-oriented. The Thesis combines both Most Similar Case Studies (MSSD) and Most Different Case Studies (MDSO) methods of comparison.

³⁰ See McCulloch, 2009.

³¹ Reilly, B. and Reynolds, A. (1999). *Electoral Systems and Conflict in Divided Societies*. Papers on International Conflict Resolution. Washington, D.C.: National Academy Press, p. 4.

³² *ibid.*

³³ Luckham, R. et al. (2003). *Democratic Institutions and Democratic Politics*. In Sunil Bastian and Robin Luckham (ed.) *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-Torn Societies*, London: Zed Books, p. 18; see also McCulloch, 2009.

³⁴ Schneckener, U. and Wolff, S. (2004). *Managing and settling ethnic conflicts: perspectives on successes and failures in Europe, Africa, and Asia*. New York: Palgrave Macmillan, p. 283; also see Nordlinger, 1972.

and relations as opposed to inter-group ones, to manage or prevent conflicts in deeply divided societies.³⁵

The second theoretical assumption is that democracy matters.³⁶ Democratic institutions “allow conflicts to formulate, find expression and be managed in a sustainable way, via institutional outlets such as political parties and representative parliaments, rather than being suppressed or ignored.”³⁷

Power-sharing thus entails a political system in which the “authority of state is administered jointly, and not only by one narrow constituency.”³⁸ In my opinion, power-sharing is the only means and it can be considered as a panacea for conflict prevention, management or settlement. It represents the best means by which to avert conflict and to foster conciliatory practices in divided societies but it can also fail (e.g., Lebanon).

The third assumption is that ethnic identities usually matter. This does not imply primordialism. Ethnic identities are constructed over time, by political and social action, but they are not easily deconstructed, particularly in conditions of deep division and conflict.³⁹

O’Leary asserts that consociational power-sharing arrangements do not need to be all-inclusive, holistic and complete, but can be applied in a focused manner to the areas and sectors that need attendance (e.g. language, self-rule, affirmative action, etc.). Moreover, consociational arrangements “need not be applied mechanically throughout the entirety of politics.”⁴⁰

Moreover, in the classical literature⁴¹, the sources of democratization are located in elite behavior. It asserts that the process of democratization emerges when a relatively small circle of elites decides to accept the existence of diversity in unity and solve their conflicts peacefully

³⁵ In this sense see the seminal Varshney, 2002, in which he talks about the members of the different groups and their “everyday forms of engagements” that cross the divide; see also Varshney, A. (2001). *Ethnic Conflict and Civil Society: India and Beyond*. *World Politics* 53, pp. 362-398; O’Flynn, I. (2007). Review Article: Divided Societies and Deliberative Democracy. *British Journal of Political Science* 37, 731-751, and; Taylor, R. (2001). *Northern Ireland: Consociation or Social Transformation?* In John McGarry (ed.) *Northern Ireland and the Divided World: The Northern Ireland Conflict and the Good Friday Agreement in Comparative Perspective*. Oxford: Oxford University Press, pp. 36-52.

³⁶ According to Norris (2008), “Using key developmental and stability indicators, it has been argued in a large-N study, supplemented by paired case studies, that all kinds of regimes, including non-democratic regimes, which exhibit some power-sharing institutions and practices, outperform those that do not” quoted in McCulloch, A. and McGarry, J. (ed.) (2017). *Power-Sharing. Empirical and Normative Challenges*. London: Routledge, p. 63.

³⁷ Luckham et al., 2003, p. 38.

³⁸ Bieber, F. (2005). *Power-Sharing After Yugoslavia: Functionality and Dysfunctionality of Power-Sharing Institutions in Post-War Bosnia, Macedonia, and Kosovo*. In Sid Noel (ed.) *From Power-Sharing to Democracy: Post Conflict Institutions in Ethnically Divided Societies*. Montreal: McGill-Queen’s University Press, p. 85.

³⁹ See O’Leary, 2005, pp. 3-43.

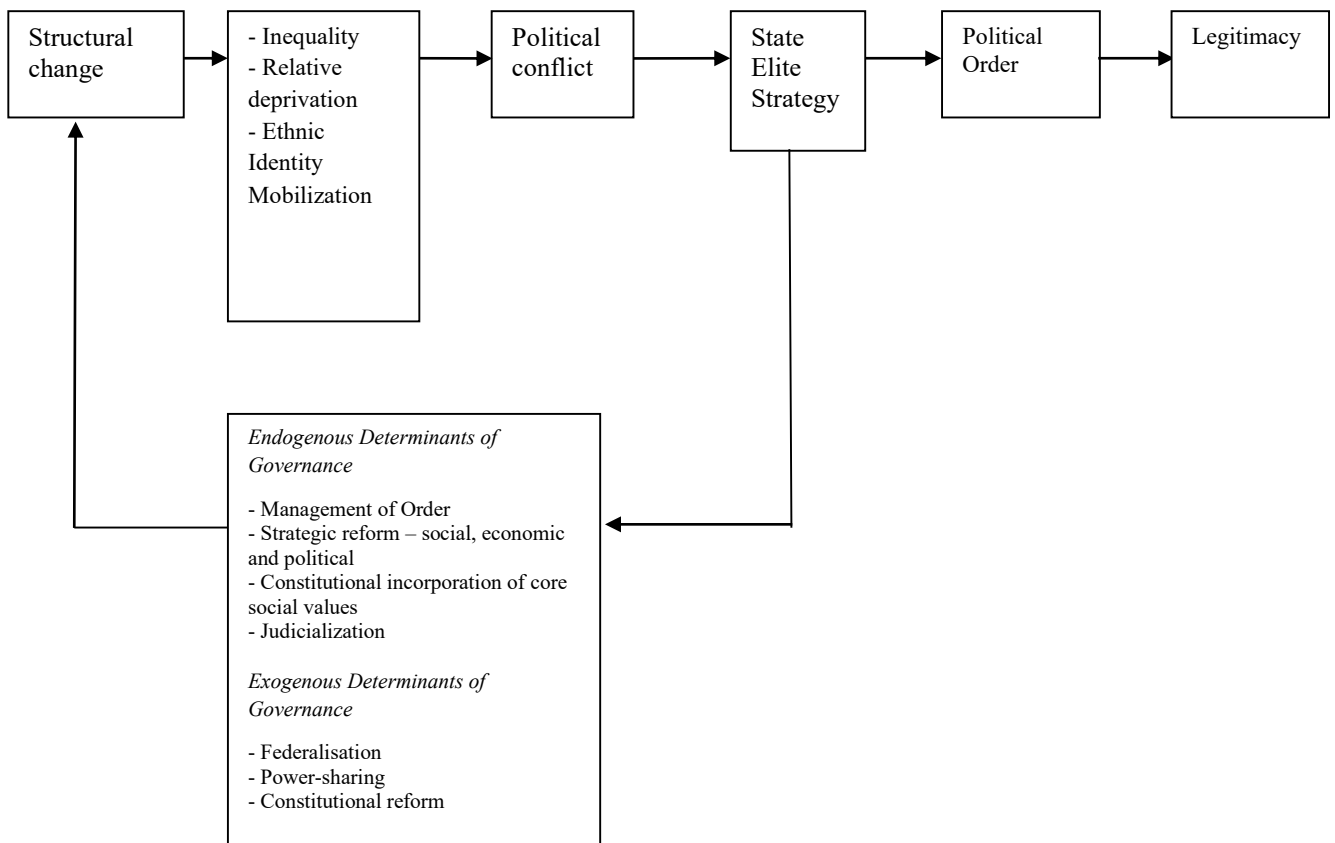
⁴⁰ Ibid.

⁴¹ Cf. Dahl, R.A. (1971). *Polyarchy: Participation and Opposition*, New Haven: Yale University Press.

through democratic rules and procedures.⁴² Their final goal being, what Mitra calls “a level playing field”⁴³, i.e. a combination of policies and institutions, which provide the necessary means of trust in and legitimacy of the State and justify the participation of its citizens as well as respect of the rules to be played upon.

Setting it in South Asian context and underlining the role of elite agency, Mitra in his superb comparative study on successful and failed cases of conflict management⁴⁴ develops a neo-institutional model of democratic change leading to legitimacy of the state and preventing it from failure, i.e. collapse:

Figure 1. A dynamic neo-institutional model of innovative regional governance⁴⁵



The neo-institutional model has two important aspects: 1) the maneuvering room the constitution allows the elites to have in accommodating and regulating conflicts and 2) “the

⁴² Linder, W. and Bächtiger, A. (2005). What drives democratization in Asia and Africa? *European Journal of Political Research*, 44, p. 863.

⁴³ See: Mitra, 2008.

⁴⁴ See Mitra, S. K. (1999b). Effects of Institutional Arrangements on Political Stability in South Asia. *Annual Review of Political Science*, 2, pp. 405-428.

⁴⁵ The figure is taken from Mitra, S. K. and Bhattacharyya, H. (2017). *Politics and Governance in Indian States. Bihar, West Bengal and Tripura*. World Scientific Publishing Co. Pte. Ltd., p. 40; the extended and comprehensive comparative study that subsequently followed the above-mentioned article Mitra, 1999(b).

political accountability of elites,”⁴⁶ which means precisely what I have stated before, i.e. elites’ commitment to the maintenance of the system and to the improvement of its cohesion and stability; and the assumption that the elites understand the perils of political fragmentation. Moreover, Bill and Hardgrave assert that political development, i.e. democratic change, involves “the creation of political institutions sufficiently adaptable, complex, autonomous and coherent to absorb and order participation of these new groups”⁴⁷ in a politically stable setting. Thus, institutions matter. A well-institutionalized democratic state both provides room for self-determination movements to emerge and possess a fair amount of legitimate coercion to repress these movements (i.e., two-pronged strategy).⁴⁸ Weak political institutions, on the other hand, are more often a cause than a consequence of growing social conflict.⁴⁹ Consequently, Rupesinghe claims that “the state is not an arbitrator, not neutral: it is itself a focal point of competition, a protagonist in the conflict.”⁵⁰

Figure 2. Developing Country Democracies: Political Context and the Trajectory of Self-Determination Movements⁵¹

		State/ Central Authority	
		Well institutionalized	Weakly institutionalized
Elites’ Strategy	Accommodating	1. the inverse “U” curve of ethnic politics	2. Peaceful breakup of the state
	Unaccommodating	3. Demands and repression cycle	4. Turbulence and/or breakdown

A well-institutionalized state that would be able to design appropriate political institutions to peacefully channel conflicts is of high importance to the politics of divided societies. Since these societies often exhibit fragmentation; political institutions in general should facilitate communication channels between assertive groups. In case they exclude groups from expressing the grievances and demands democratically, their conflicts cannot be solved through negotiation and mutual accommodation but only through force.

Sahadevan points out to the fact that institutional decay, i.e. weak[ening] state, will gradually set in “when the state’s rule-making, -applying, -adjusting, and -enforcing institutions show

⁴⁶ Mitra, 1999(b), p. 417.

⁴⁷ Bill, J.A. and Hardgrave, L. (1973). *Comparative Politics: The Quest for Theory*. Merrill.

⁴⁸ Cf. Kohli, A. (1997). Can Democracies Accommodate Ethnic Nationalism? Rise and Decline of Self-Determination Movements in India. *The Journal of Asian Studies*, 56(2), pp. 325-344.

⁴⁹ “State where the Central Authority is weak institutionalised is not able to share power with minorities. It is more often a cause than a consequence of growing social conflict” Weiner, M. (1989). *The Indian Paradox. Essays in Indian Politics*. New Delhi: Sage, p. 128.

⁵⁰ Rupesinghe, K. (1987). Theories of Conflict Resolution and Their Applicability to Protracted Ethnic Conflicts. *Bulletin of Peace Proposals*, 18(4).

⁵¹ This is an adaptation of the figure from Kohli, 1997, p. 329.

preferential treatment [to] a particular group while disregarding the legitimate grievances of other groups, admitting that there are limits to what institutions can do especially when demographics encourage politicians to disregard minority preferences.”⁵²

Additionally to Mill’s assertion and consociational approach of solving the puzzle (i.e., achieving stability and regulating the conflicts in deeply divided societies), there is another approach developed by Ian Lustick, called “control” approach.⁵³ It starts from the assumption made by Alvin Rabushka and Kenneth Shepsle that deeply divided societies cannot become full-fledged, mature and robust democracies, but through “the dominant majority configuration.”⁵⁴ This is characterized by “infrequent ethnic cooperation, immoderate ethnic politics at the expense of minority groups at the constitutional as well as the policy level, and eventual repression of minority political activity. Majoritarianism is the cause of the dominant community and electoral machination is its method of preserving its dominance.”⁵⁵ The basic point here is that it is possible to have stable democracy in a divided society in the absence of consociational arrangements, by means of a system of control.

Same community majorities may win control over all major offices and governments⁵⁶ propose discriminatory public policy and conceptions of merit, but most states are multi-ethnic and multi confessional, and many are pluri-national. For this reason, integrationist and assimilationist politics, even when motivated by high-minded considerations, and however historically vindicated elsewhere, are recipes for conflict in deeply divided territories. In O’Leary’s opinion, “[t]o commend integration, and especially, assimilation where there are rival national self-determination claims is partisan or, alternatively, utopian.”⁵⁷ It is partisan when one community seeks to nationalize the state or region in its image on no better claim than might (numbers) makes right, it is utopian when (potentially or actually) antagonistic communities are instructed to fuse. O’Leary concludes that partisans and utopians succeeded many times in the last two centuries, “too often after bloodbaths.”⁵⁸

As mentioned above, all six selected case studies I will analyze and compare experienced ethnical conflicts that were or still are managed by different patterns of complex power sharing

⁵² Sahadevan, P. (2006). Negotiating Peace in Ethnic Wars. *International Studies*; 43(3), p. 249. In his study Sahadevan explains the civil war from an institutionalist standpoint, arguing that to explain the Sri Lankan ethnic conflict one needs to understand the correlation between institutional decay and Tamil mobilization.

⁵³ Lustick, I.S. (1979). Stability in Deeply Divided Societies: Consociationalism Versus Control. *World Politics*, 31(3), pp. 325-344.

⁵⁴ Rabushka, A. and Shepsle, K. A. (1972). *Politics in plural societies: a theory of democratic instability*. Columbus, Ohio: Merrill, p. 90; pp. 141-142.

⁵⁵ Idem.

⁵⁶ McEvoy, J. and O’Leary, B. (ed.) (2013). *Power Sharing in Deeply Divided Places*. Philadelphia, P.A.: University of Pennsylvania Press.

⁵⁷ O’Leary, 2008, p. 48.

⁵⁸ Idem.

arrangements, which were reached at through a process of ‘principled’ negotiation.⁵⁹ In all six cases both endogenous as well as exogenous factors are crucial to understand conflict stages and its settlement.

I.3.1 India

Albeit many scholars, political scientists and area specialists have described democracy in India as being a kind of a puzzle or paradox, miracle or conundrum⁶⁰, and besides a short, but at least equally important⁶¹ for its democratic institutions, *intermezzo* during the Emergency years (1975-1977), India has been a democracy for over 70 years now. The problems it faced and still faces have been pointed out in Carciumaru (2012) such as the Naxalites’ insurgency, cross-border terrorism, separatist and secessionist struggles (Tamils, Sikhs, Nagas, Kashmiris etc.), atrocities against minorities, discrimination based on caste prejudice, as well as corrupted and criminalized politicians and police.⁶² This notwithstanding, India’s democracy is a fact⁶³, as well as a matter of pride of and rooted in the identity of its citizens, who cherish *their* achievement of being called “world’s largest democracy”. Consider the following survey, in which the respondents had to answer the question of how proud they are to be an Indian:

⁵⁹ Principled negotiation is a method developed by Roger Fisher and William Ury. It offers some negotiation norms that are developed to facilitate and enable reaching an agreement. According to the authors, there are four basic points-people, interests, options, criteria– which can be used under any circumstances to define a straightforward negotiation method. Requirements of principled negotiations are: separation of people from issues; focus on interests and not on positions; invention of new options for mutual gain and insistence on objective criteria to choose options. The main hypothesis states that following these four points negotiations will “have a greater chance of reaching a successful and lasting outcome.” Moreover, principled negotiators know their ‘best’ as well as ‘worst’ alternative to a negotiated agreement (i.e., BATNA and WATNA). See Fisher, R. and Ury, W. (1999). *Getting to Yes: negotiating an agreement without giving in*. London: Random House.

⁶⁰ “even sensational displays of Hindu Nationalism, civil war in Kashmir, and unending insurgency did not dislodge India from relatively high-capacity democracy. We might regard India either as a miracle or as conundrum.” in Tilly, Ch. (2007). *Democracy*. Cambridge University Press, p. 54; Some of them have not given India’s democracy even a fair chance to survive, see Harrison, S.S. (1960). *India: The Most Dangerous Decades*. Princeton University Press.

⁶¹ “By voting Indira Gandhi out of the office, India showed its commitment both to democracy and to the intrinsic value of its institutions” see Carciumaru, Radu. 2012. “Managing Diversity. Power Sharing or Control? A Comparison between India and Sri Lanka,” *Heidelberg Papers in South Asian and Comparative Politics*, 70, p.5.

⁶² See Carciumaru, 2012. Consider, in addition: “Among nearly 5,000 candidates in the current election [n.b. *the general elections of 1998*], hundreds are gangsters and criminals, men and women awaiting trial or already convicted but free on bail for crimes like murder, kidnapping and blackmail.”, Burns, J. F. (1998). *The World; The Front-Runner in India Is Deep Doubt*. *New York Times*.

⁶³ The country is labeled *free* by Freedom House, <https://freedomhouse.org/country/india>; and has a 7.23 composite democracy index, calculated by Economist Intelligence Unit, <https://www.eiu.com/topic/democracy-index>, accessed on July 13, 2018.

Table 1: Pride in India, 1990-2005⁶⁴

	WVS 1990	WVS 1995	WVS 2001	SDSA 2005
Very proud	67	66	67	61
Quite proud	25	19	21	28
Not proud	5	8	5	2
Not at all proud	3	1	2	1
Don't know/ No answer	0	6	5	8
N	2466	2040	2002	5387

Indian historian Ramachandra Guha, in describing the nature of leadership in India, pointedly reached to the following conclusion: “In India, the sapling [of democracy] was planted by the nation’s founders, who lived long enough (and worked hard enough) to nurture it to adulthood. Those who came afterwards could disturb and degrade the tree of democracy but, try as they might, could not uproot or destroy it.”⁶⁵

At Independence, however, India had a completely majoritarian constitution.⁶⁶ According to Carciumaru (2012), the question the founding fathers and constitution-makers had to deal with was “what kind of institutions and practices should be created to act as an incentive for ethnic groups to mediate their differences through legitimate institutions of a common democratic state?”⁶⁷

As to religion, India’s constitution-makers faced four big issues: (1) what relationship should be between religion and the state; (2) whether religious communities should continue to have “separate electorates” and reservations in government posts, as they did under British rule; (3) whether they should have their religiously given personal laws or a unified body of civil code for marriage, divorce, property inheritance, and so forth; and (4) whether religious minorities should continue to have educational institutions.⁶⁸

Regarding language: at Independence thirty different languages, almost all with their own scripts, were spoken by at least one million inhabitants of India. In descending order of number of speakers following languages were spoken by between thirty-two to thirteen million people:

⁶⁴ The question of pride has been asked in the widely used comparative public opinion survey *World Values Survey*. This can be confirmed with the *State of Democracy in South Asia* (SDSA) survey of the Centre for the Study of Developing Societies (CSDS), in Linz et al., 2003, p. 79.

⁶⁵ Guha, R (2007). *India after Gandhi: The History of the World’s Largest Democracy*. London: Macmillan, p. 745.

⁶⁶ Adeney, K. (2002). Constitutional Centering: Nation Formation and Consociational Federalism in India and Pakistan. *Commonwealth & Comparative Politics*, 40(3), p. 22; consider also Brass’ observation: “Nehru writes that the Indian mind was ‘completely conditioned to believing that whatever was British was best’ and calls it no wonder that the Indian Constitution is but an “amended version” of the 1935 Government of India Act.”, in Brass, P.R. (1994). *The Politics of India since Independence. The New Cambridge History of India, IV.1*. Cambridge University Press, p. 149.

⁶⁷ Carciumaru, 2012, p. 10.

⁶⁸ Cf. Stuligross, D. and Varshney, A. (2002). *Ethnic Diversities, Constitutional Designs, and Public Policies in India*. In Andrew Reynolds (ed.) *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press; see also Carciumaru 2012, p. 10.

Telugu, Bengali, Marathi, Tamil, Urdu, Gujarati, Kannada, Malayalam, and Oriya (excluding Hindi) According to the 1961 Census of India, the largest language, Hindi, was spoken by 30.37 percent of the total population. Urdu and Punjabi were listed as separate languages.⁶⁹

As comparativist Alfred Stepan pointedly observed, “[b]y Benedict Anderson's standards there would appear to have been more than enough raw material for territorial nationalists to imagine (and attain) separate independent nation(s) in South India. In the last decades of the British Raj more than ninety percent of the population in South India spoke languages in the Dravidian family, all of which had their own scripts and were unintelligible to the major language of the North, Hindi.”⁷⁰ Lloyd I. Rudolph, brilliantly captured the conflict-potential at the Independence: “With the coming of independence, anti-Brahmanism was increasingly accompanied by an anti-North, Dravidian nationalist outlook. Opposition to Hindi as the national language, the destruction of the caste system, and threats of secession from the Indian Union became major political themes.”⁷¹

The myriad of problems emerging, some of which I generically mentioned above (Nehru’s famously dismissed them as “the fissiparous tendencies”), have found at both the state and national level different solutions and strategies, ranging from repression, put in the words of a senior IPS officer, to “hit them over the head with a hammer, then teach them how to play the piano”⁷² to strategies of appropriation, that is dividing the movement, co-opting its leadership, and satisfying elite demands for power and patronage,⁷³ and of accommodation, leading to political integration.

Due to India’s extreme diversity (the country being *pluri*-ethnic, *pluri*-religious, and *pluri*-linguistic) the best way to achieve political stability and democratic quality was for elites “to accept the existence of diversity in unity and wage their conflicts peacefully through democratic rules and procedures.”⁷⁴ Pratibha Patil, India’s first woman to become President expressed the situation as follows: “We, in India, have understood that Unity in Diversity is the real strength of our country. By looking after the interests of each section of our diverse population we

⁶⁹ For an analytic discussion see Das Gupta, J. (1970). *Language Conflict and National Development: Group Politics and National Language Policy in India*. Berkeley: UCP, pp. 31-68.

⁷⁰ Stepan, A. (2006). *How Nation State “Grammar” Helped Construct Polar and Conflictual Identities: Sri Lanka and The Tamils*, pp. 46-47.

⁷¹ Lloyd, I. R. (1961). Urban Life and Populist Radicalism: Dravidian Politics in Madras. *The Journal of Asian Studies*, 20(3), pp. 286-287, also consider in the same edition of the Journal the following articles: Weiner, M. (1961). Violence and Politics in Calcutta. *The Journal of Asian Studies*, 20(3), pp. 275-281 and Hart, H. C. (1961). Bombay Politics: Pluralism or Polarization? *The Journal of Asian Studies*, 20(3), pp. 267-274.

⁷² Cohen, P. (2001). *India, Emerging Power*. Washington, DC: Brookings Institution Press, p. 113.

⁷³ Brass, 1994, p. 183.

⁷⁴ Linder & Bächtiger, 2005, pp. 861-880.

strengthen our unity".⁷⁵ So how did policymakers and decision-holders look after strengthening the democracy and making it meaningful even for the minorities to be a part of?

Ironically it is one of the fierce critics of consociationalism –Paul Brass– to assert, that it was due to consociational arrangements that India did succeed in managing the conflicts and accommodating both the demands of ethnic groups and assertive minorities that emerged after independence.⁷⁶ To extend Brass's statement, whenever a conflict emerged it was managed by means of a consociational practice, in terms of constitutional and policy engineering. I have selected two conflicts from India, which were successfully regulated, where both exogenous and endogenous factors played an important role in their emergence and escalation.

1.3.1.1 Punjab

In Punjab, I will be looking at the Khalistan movement. The movement's goal was the establishment of a separate state for Sikhs - Khalistan ("The Land of the Pure").

According to Mitra (1995, p.63), the movement for Khalistan "could not exist but for the sentiments of sacrifice, honour, dignity and pride inspired by the memories of the Sikh gurus - spiritual leaders of the community who in past centuries provided a focus of resistance against Muslim rulers."⁷⁷

1.3.1.2 Mizoram

As in Movement for Khalistan, the Indian government used a two-pronged strategy in regulating and settling the ethnic conflict. The case study of Mizoram fits both the consociational power-sharing institutions as well as 'principled' negotiation I analyze, explain and advocate for.

1.3.2 Sri Lanka

In case of Sri Lanka, I will compare two different approaches in managing and accommodating diversity – the system of control and the consociational power-sharing. Sri Lanka also

⁷⁵ MacLaren, M. (2007). 'Thank you India' - Reflections on the 4th International Conference on Federalism, New Delhi, 5-7 November 2007. *German Law Journal*, 9(3), pp. 367-388.

⁷⁶ India "has adopted many consociational devices, some permanently, some temporarily, to deal with interethnic conflicts and centre-state conflicts as they have arisen." in Brass, P.R. (1991). *Ethnicity and Nationalism: Theory and Comparison*. New Delhi: Sage, p. 343.

⁷⁷ Subrata K. Mitra (1995) The Rational Politics of Cultural Nationalism: Subnational Movements of South Asia in Comparative Perspective, *British Journal of Political Science*, Vol. 25, No. 1, (Jan., 1995), pp. 57-77; see also Mitra, Subrata K., (2016) Encapsulation without Integration? Electoral Democracy and the Ambivalent Moderation of Hindu Nationalism in India, *Studies in Indian Politics*, Volume 4, Issue 1, pp. 90-101.

represents the first case study I will be analyzing the hypotheses regarding the external (military) intervention and mediation.

I.3.3 Bosnia and Herzegovina

The only case study with a comprehensive role of the endogenous actors in imposing complex-power-sharing institutions based on the Dayton Peace Accords and, thus, ending the conflict, which did not have a winner.

I.3.4 Moldova

Former republic of the Soviet Union, which had and still has to deal with and mitigate two ethnic conflicts, civil war, frozen conflict, endogenous actors, EU conditionality and other policies and challenges, having important lessons to teach that exceed its geopolitical constraints.

One of the aims of the case studies is to have as different and yet as similar case studies that will enable me to draw conclusions and to generalize.⁷⁸

⁷⁸ Robert Putnam, in one of his public lectures at the University of Aarhus, held in 2013, stated “*as political scientists, we specialize in generalizations*”. While his assertion might seem crude and rude at the first glance, or it might have just been an innocent joke, it does capture the essence of my commitment as political scientist and conviction as a member of civil society, to be relevant, when other do not care; to be able to predict, when others speculate; to predict based on meticulous, profound knowledge and understanding, theoretical depth and empirical breadth. We should be able, based on recurring patterns, similarities as well as differences, to analyse, understand, explain or predict, independent of the context, and at the same time being aware of it.

I.4 Methodology

Selection bias

The levels-of-analysis approach undertaken in this study will be examining the Sri Lankan Tamil conflict, from its roots in the 1940s till 2009; Mizo conflict, in particular, from its escalation in 1958 to its resolution in 1986; Bosnia and Moldova from the dissolution of Yugoslavia and Soviet Union, respectively; whereas in Punjab's case; I will investigate the radicalization of the movement in the late 1970s, culminating with 1984 riots and subsequent 'banalization' in the 1990s.⁷⁹

The case studies are intentionally selected for certain characteristics, thus the case selection being both purposive and information-oriented. The thesis combines both Most Similar Case Studies (MSSD) and Most Different Case Studies (MDSM) methods of comparison. Thus, the case studies are different except for the variable of interest (management of ethnic conflict, which leads to durable peace/political order) and negotiation processes (how stakeholders negotiate).

Surveys

In 2017, the *State of Democracy in South Asia* (SDSA) project published its second report, containing questions on democracy's support common to five South Asian countries (India, Pakistan, Bangladesh, Sri Lanka, and Nepal), but also with a special set of questions for India and Sri Lanka.⁸⁰

In presenting the findings, a distinction between the "legitimacy of institutions" and the "efficacy of institutions" will be made. The survey's data enables to complete the picture by bridging the gap between policy implementation and its acceptance (i.e., between elite-driven policies and the efficacy of institutional engineering),⁸¹ concerning the accommodation of the demands of both minorities and majorities, on the one hand and on the other the legitimacy "in the eyes of the masses" of elite's enterprise (i.e., in implementing the arrangements to accommodate diversity).

Legitimacy and efficacy issues will be underpinned with data regarding the level of trust, positive identification with the state, support for democracy; the issue of political integration of "minorities" will be showed by the answers regarding political identities and loyalties.

⁷⁹ See the life cycle of an ethnic conflict in Mitra, 1995, p. 68.

⁸⁰ *State of Democracy in South Asia* (SDSA) Report II. 2017. SDSA Team, Lokniti-CSDS: Jain University Press.

⁸¹ Cf. Mitra, S.K. (2005a). *The Puzzle of India's Governance. Culture, Context and Comparative Theory*. London: Routledge, pp. 179-205; Cf. Carciumaru, 2012, p. 20.

Additionally, according to Norris, “if the rules of the game mean that some groups are systematically organized into politics and others are systematically organized out, ideally (one needs) to understand not just how groups voted but also how they regard democracy and the political system.”⁸² Given the existence of social and political disparities within every democracy, in general one would expect to find that ethnic minorities would prove more negative than majority populations. Conclusively, Norris’ hypothesis is that “within each country, *ethnic majorities will express greater support than minorities for the political system.*”⁸³ From the survey’s data mentioned above through which the “support” can be measured; I will refute this hypothesis as well.

I test the dependent variable ‘principled’ negotiations, based on its four constituent principles. Furthermore, I test, confirm or refute four hypotheses advanced by Biswas⁸⁴ on my case studies, and thus expanding and enriching the theory of negotiation and power-sharing:

Hypothesis 1: The probability of negotiations in democracies is higher compared to autocracies.

Hypothesis 2: In federal systems, chances of negotiations are higher.

Hypothesis 3: In general, intervention will increase the chances of negotiations.

Hypothesis 3.1: Military intervention decreases the probability of negotiations.

Hypothesis 3.2: Mediation will increase the likelihood of negotiations.

Hypothesis 4: Democracies increase the likelihood of negotiation, occurring after intervention.

⁸² Norris, P. (2002). *Ballots not Bullets: Testing Consociational Theories of Ethnic Conflict, Electoral Systems, and Democratization*. In Andrew Reynolds (ed.) *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. New York: Oxford University Press, 206-247.

⁸³ Idem, p. 218.

⁸⁴ Biswas, B. (2006a). *Managing Discontent: Institutions, Intervention and Ethnic Conflict*. pp. 38-41.

I.5 Comparative Area Studies: Combining Area Studies and Comparative Politics

The suggestion that the countries of the Eastern Europe, in particular Balkans, or South Asia, in particular India, are incomprehensible to outsiders and incomparable with other regions, has been a historical constant running through both political discourse and research in the past decades. The implied specificity of the region has in many ways reaffirmed the perception of the Balkans or India as exotic and distinct. This tension between claims to uniqueness and incomparability are also easily (mis)understood in the debates between scholars of particular disciplines and those defending area studies. The experts of a particular region emphasize the importance of specific local knowledge, while those who jump across regions with great ease in their research downplay regional specificities. This tension is particularly visible in the field of comparative political science.

Drawing on Florian Bieber's seminal "Of Balkan Apples, Oranges, Grandmothers and Frogs. Comparative Politics and The Study of Southeastern Europe",⁸⁵ I argue that the Balkans and South Asia as well as the countries of the region need to be understood in a comparative perspective. Such a comparative perspective needs to tackle the challenge of self- and externally imposed uniqueness, while also engaging with scholarship, political science in particular, which downplays any need for specific local knowledge.

For decades, the relationship between area studies and comparative political science has been difficult. Area studies traditionally emphasized knowledge of the local, including the specificities of language, culture, and history. The complexity of local knowledge appears to stand in conflict with comparative political science, which by definition requires regions and countries to be cases that are comparable and generalizable. Although these tensions are by no means new, they have been accentuated by the global crisis of area studies and the rise of quantitative, large-n (i.e. large number of cases) political science.⁸⁶

Conventional area studies have been challenged from two directions. Cultural theorists and postcolonial theory have challenged area studies for its inherent cultural bias by either creating colonial frameworks of domination (Said) or by conceptualizing regions as passive objects of (Western) research.⁸⁷ A different criticism has been leveled against area studies by mainstream

⁸⁵ Bieber, F. (2014). *Of Balkan Apples, Oranges, Grandmothers and Frogs. Comparative politics and the study of Southeastern Europe*. In Promitzer et al. (ed.) *Southeast European studies in a globalising world*. Vienna: Lit Verlag, pp. 11-23.

⁸⁶ Mahoney found that around 90% of articles published in leading American political science journals are based primarily on quantitative methodology - Mahoney, J. (2007). Debating the State of Comparative Politics: Views from Qualitative Research. *Comparative Political Studies*, 40(1), pp. 34-35.

⁸⁷ Jackson, P.A. (2003). Space, Theory, and Hegemony: The Dual Crisis of Asian Area Studies and Cultural Studies. *Sojourn*, 18(1), pp. 1-41.

political science, especially in the United States, namely that of being methodologically unsophisticated and that the regional focus inhibits cross-regional and large scale comparisons that have become common in the discipline.⁸⁸

Area studies have evolved and provide four responses to these critiques: First, as Peter A. Jackson has argued in regard to Asian area studies, despite globalization, regional and cultural knowledge remains relevant, and down-playing the importance of culture, geography and regions merely re-affirms hegemonic Western discourses. Second, regional knowledge can prevent theory-driven research subordinating knowledge of the cases to the level of banality or distortion. Third, the use of geographic regions as one of the units of scholarly inquiry can also be justified from the perspective of a particular nexus of historical features that are neither given, unchanging or fixed, but which provide for a useful unit of analysis. Here, regions can provide a useful corrective to the state—and often implicit nation-state—bias. Fourth, the benefits of ‘thick description’ are not just about knowledge of the particular for the sake of the appreciation of detail or specificity, but for detecting relationships that large-n studies might neglect. This can thus help avoid the risk of false equivalencies or causal mechanisms⁸⁹ in comparative studies. Such ethnographic perspectives might stand in the way of parsimonious (and often reductionist) theory-building, but there is also increasing recognition in political science of the benefits of combining quantitative and qualitative research.⁹⁰

Even if different research methods can be combined, methodological and epistemological tensions remain between these different approaches that cannot easily be resolved. This debate is one area studies, including Balkan studies, has to confront. As Benedict Anderson already noted in the late 1970s, the response of area specialists should not be a superficial catching up with particular methodological and theoretical fashions or a withdrawal into the corner of special knowledge.⁹¹ Comparative methodology can help to overcome some of the earlier limitations of area studies. Area studies does not only have to confront the disciplinary criticism noted above, but also the risk of reifying a “sui generis world view” of individual, incomparable cases, as outlined above. The study of the Balkans and South Asia needs to avoid reproducing clichéd views and assumptions from outside and within the region. According to Bieber (2014), the concept of *comparative area studies* can be useful here. Basedau and Köllner have argued

⁸⁸ Munck, G.L. and Snyder, R. (2007). Debating the Direction of Comparative Politics: An Analysis of Leading Journals. *Comparative Political Studies*, 40(1), pp. 5-31.

⁸⁹ Lijphart, A. (1971). Comparative Politics and the Comparative Method. *The American Political Science Review*, 65(3), pp. 682-693.

⁹⁰ Coppedge, M. (1999) Thickening Thin Concepts and Theories: Combining Large N and Small in Comparative Politics. *Comparative Politics*, 31(4), p. 465-476.

⁹¹ Anderson, B. (1978). *Studies of the Thai State: The State of Thai Studies*. In E. Ayal (ed.) *The State of Thai Studies*. Ohio University Centre for International Studies, pp. 193-247, here p. 232, quoted in Jackson, 2003, p. 8.

that in comparative area studies “profound area knowledge of one or more areas is combined with methods of comparison across nations or other empirical entities, or other empirical entities.”⁹² Comparative area studies can be based on three levels of comparison, namely, within the region, between regions and between sub-sets of countries or other units across regions. Such an approach combines context with aims of generalization and theory, even if it may often be regionally bounded.⁹³ Only context and regional knowledge will help us identify apples as apples and oranges as oranges.

I.6 The Structure of the Thesis

The thesis seeks to explain how and why power-sharing arrangements come into being, succeed or fail their purpose by combining negotiation theory with consociational power-sharing theory. Additionally, by marrying the theories and based on the lessons learnt from the case studies, it analyses and proposes strategies to negotiate what seems non-negotiable and irrational. The thesis contributes to the existing research on conflict resolution and explains how traditional and modern approaches lead to innovative solutions, e.g. public policy, whereas the innovative solutions thus emerging lead to legitimacy, stability, robustness and efficacy of a power-sharing system. The thesis compares case studies from South Asia and Eastern Europe. With regard to the selected case studies from South Asia, these are India (Punjab and Mizoram), and Sri Lanka (Sinhala – Tamil, Sinhala - Tamil - Muslim), whereas in the case of Eastern Europe, the thesis focuses on the case studies from Bosnia and Herzegovina and Moldova (Transnistria and Gagauzia).

The thesis builds its own model of negotiating conflict in deeply divided societies; by combining and extending the neo-institutional dynamic model (Mitra 1999, 2005, 2018), Faure and Rubin’s model of structure and agency in negotiating cultural conflicts (1993) and the methods of levels-of-analysis approach (Cordell and Wolff 2014). The thesis fine-tunes its model of “multilevel ‘principled’ negotiation,” and claims its validity and applicability both in western as well as non-western contexts. The thesis consists of six chapters, besides a general Introduction.

Chapter 1 introduces the reader to the general theme of ethnic conflict and negotiation in post-conflict societies. Besides the research questions and hypothesis, it includes subchapters on definitions, terminology, methodology and the structure of the thesis. It first explains why the

⁹² Basedau, M. and Kellner, P. (2007). Area Studies, Comparative Area Studies, and the Study of Politics: Context, Substance, and Methodological Challenges. *Zeitschrift für Vergleichende Politikwissenschaft*, 1, pp. 110-111.

⁹³ Bunce, V. (2000). Comparative Democratization: Big and Bounded Generalizations. *Comparative Political Studies*, 33(6-7), pp. 703-734.

selected case studies are compared, whether the size matters, and how one can generalize from these findings. Moreover, given the fact that the case studies are selected from both post-colonial and post-communist contexts, the chapter seeks to explain whether it is the same by looking at similar characteristics such as post-conflict, post-traumatic and transitional societies. While being aware of deterministic-causal predictions, which could be disconfirmed by a single “critical” case, the case studies are probabilistic, theory-confirming and theory-informing. However, the case studies are picked in accordance with the hypothesis and not systematically and their number is inherently limited. Thus, the thesis analyses deeply divided societies.

Chapter 2 sets the analytical framework of the thesis. It undertakes a critical review of the existing body of literature on negotiation and (consociational) power-sharing (both liberal and corporate) theories. It analyses and explains what is ‘power-sharing’, how does it work and not work sometimes, and whether favorable conditions to achieving as well as maintaining power-sharing system matter. With regard to negotiation, it starts with analysis of two principles of negotiation process - positional and principled negotiations. The chapter looks at how one comes to the negotiation table and, eventually, to an agreement based on power-sharing institutional arrangements. It deconstructs the process of negotiation by showing how to ‘negotiate negotiation’ and what the conflicting groups have to give up in order to be able to negotiate and reach a durable solution. It starts from the premises of the ‘principled’ negotiation, which state that one can negotiate anything as long as the principles are followed, and critically examines their validity in a non-western, post-conflict, transitional setting. The chapter also shows why the parties should be interested in negotiating an ‘amicable solution’ in the first place, what are the incentives, who negotiates (regimes, rebels, etc.) and what are the parties prepared or willing to give up in order to reach an agreement. Moreover, additional concepts relevant to the analysis of the case studies, such as BATNA, asymmetry, mediation, mutually hurting stalemate, ripeness and prisoner’s dilemma, are discussed and thoroughly analyzed. The concluding part of the subchapter analyses whether principled negotiation is adequate in negotiating identity-based conflicts. The last subchapter merges negotiation theories and power sharing into a theory of ethnic conflict management in deeply divided societies.⁹⁴ It states that a durable settlement of an ethnic conflict can be reached through a “multilevel ‘principled’ negotiation”, whereas the durability and legitimacy of solutions depend on finding an appropriate formula made of identities and institutions for handling ethnic relations - a comprehensive consociational power sharing system.

⁹⁴ Cf. McCulloch and McGarry, 2017, pp. 405-424.

Chapter 3 analyses the case studies from South Asia and Eastern Europe. With regard to the selected case studies from South Asia, these are India (Punjab and Mizoram), and Sri Lanka (Sinhala – Tamil, Sinhala - Tamil - Muslim), whereas in the case of Eastern Europe, the thesis focuses on the case studies from Bosnia and Herzegovina and Moldova (Transnistria and Gagauzia). In case of the Eastern European states, various degrees of involvement of international actors have taken place. I analyze the (re)action and support of domestic actors in terms of efficacy and legitimacy of and involvement with central state institutions, perceived as de facto or de jure protectorates of the external powers. Bosnia and Herzegovina and Moldova constitute a part of a broader regional phenomenon such as transition from authoritarian to democratic systems, subsequent inclusion of minority demands, as well as both experience with different intensities of violence based on ethnic/cultural conflict and international actors' intervention and mediation. The knowledge gained from the European cases viewed as instances of complex consociational power-sharing serves as a viable tool and sheds a new light on mitigation and management of such seemingly intractable and protracted conflicts as Kashmir and Sri Lanka. The analyses of each case study follows the levels-of-analysis approach and analytic narrative methods. Thus, each 'story' has a 'prelude' explaining how and why did the conflicts emerge and escalate as well as how these were settled (in terms of structure, agency and process).

The dependent variable 'power-sharing' is measured through a 'power-sharing index' (PSI), which includes the following factors, which serve as explanatory and/or independent variables: (1) group representation; (2) proportionality; (3) separation of powers; (4) qualified majority for constitutional amendments; (5) inclusiveness of cabinets; (6) minority government; (7) functional veto players (8) veto power for political parties/groups; (9) segmental autonomy (including both symmetric and asymmetric autonomy); (10) federalism.⁹⁵ These are quantified in a scale going from zero to nine, with an additional point for each factor. For the second dependent variable "durable peace", which a conflict settlement should lead to, the data from Polity IV and v-dem used. The logic and empirical accuracy of the coding is done transparently in order to be easily verified. The dependent variable "'principled' negotiation" is measured through its four constitutive characteristics (people, interests, options, criteria), which are quantified by 1 (applicable) or 0 (non-applicable). Chapter 4 consists of conclusions and lessons drawn from the case studies, it revisits the theoretical framework and the hypothesis, and evaluates the proposed model of "multilevel 'principled' negotiation" across the cases. Chapter

⁹⁵ Linder & Bächtiger, 2005; Cf. Bogaards, M. (2014). *Democracy and Social Peace in Divided Societies. Exploring Consociational Parties*. Palgrave Macmillan.

5 spells out the contribution to the theories of conflict resolution, negotiation and power-sharing, whereas Chapter 6, the concluding chapter, comprises policy recommendations based on theoretical and empirical findings of the Thesis.

II. Power-Sharing and Bargaining Power between Theory and Practice

[...] if I may be permitted to conclude with a minor note of blasphemy, it may be said of new concepts as it was said of the salvation of souls “there shall be weeping and gnashing teeth, for many are called but few are chosen.”⁹⁶

II.1 Consociational Power-Sharing⁹⁷

II.1.1 The Model

O’Leary points out to the fact that “consociational thinking has a long history and its lineages may be traced to the sixteenth-century Protestant philosopher Johannes Althusius (1557-1638), the early-twentieth-century Austro-Marxists Karl Renner and Otto Bauer, and more recently, the Nobel laureate Sir Arthur Lewis. It is, however, inescapably associated in our times with Arend Lijphart, its contemporary creator and most important advocate.”⁹⁸

Besides Lijphart, a number of other authors⁹⁹ from about 1960 onwards have been working on the consociational theory. Thus, explains Lijphart “while the terms “consociation” and “consociational democracy” have become widely accepted, a number of other terms referring to basically the same concept have also been in use: *Proporzdemokratie*, *Konkordanzdemokratie*, “segmented pluralism,” the “*politics of accommodation*””.¹⁰⁰

According to Lijphart, the “essence of consociationalism is the search for broadly acceptable compromises; it does not require that decision-makers abandon their original preferences, that they whole-heartedly support the compromises, or that they never cast a vote against a particular compromise proposal. Amicable agreement and decision by interpretation are therefore the usual consociational modes, but the other two modes may also occur.”¹⁰¹

Thus, consociationalism, relies in particular on elite, i.e. political leaders, cooperation as the principal mechanism of successful conflict management in deeply divided societies, their acceptance and readiness to share power. According to Lijphart, “power-sharing does not

⁹⁶ Almond, G. (1956). Comparative Political Systems. *Journal of Politics*, 18(3), p. 409.

⁹⁷ The etymology of *consociation* derives from the Latin for “with” and “society”: *Consociation* translates as “union” or “connection”. Today, consociation describes a “society of societies”. The concept has some similarities with federation, but is not a synonym; consociations can exist in nonfederal states, See O’Leary, B. (2008b). *The Logics of Power-sharing, Consociation and Pluralist Federations*. In Marc Weller and Barbara Metzger (ed.) *Settling Self-determination Disputes*. Leiden: Martinus Nijhoff Publishers, pp. 277-278.

⁹⁸ O’Leary, 2005, p. 3.

⁹⁹ See Bibliography: besides Lijphart (1969, 1977, 1979, 1985, 1996, 2002, 2008), other authors that expanded, amended and enhanced the theoretical framework of consociationalism are, in alphabetical order, the following: Armingeon, 2002; Crepaz, 2002; Daalder, 1974; Elazar, 1985; Kerr, 2006; Lehmbruch, 1975 and 1993; McGarry, 2005; O’Leary, 2005; Schneckener, 2002; Steiner, 1981; van Schendelen, 1985; and Weller, 2008.

¹⁰⁰ Lijphart, A. (1979). Consociation and Federation: Conceptual and Empirical Links. *Canadian Journal of Political Science*, 12(3), p. 499.

¹⁰¹ Lijphart, A. (1985). *Power-Sharing in South Africa*. Berkeley, California: Institute of International Studies, University of California, p. 113.

deviate much from the basic principle of majority rule. It agrees with that fundamental premise that majority rule is superior to minority rule, but it accepts majority rule merely as *minimum* requirement: instead of being satisfied with narrow decision-making majorities, it seeks to maximize the size of these majorities.”¹⁰² O’Leary concludes by stating that “consociationalists want *majorities*, rather than *a majority* or *a plurality*.”¹⁰³ And that a negotiated consociational settlement “is better than a winner-takes-all outcome—especially where taking all implies killing, expelling, or assimilating the losers.”¹⁰⁴ Horowitz states in his seminal work that under conditions of simple majority rule: “Ethnic parties developed, majorities took power, and minorities took shelter. It was a fearful situation, in which the prospect of minority exclusion from government, underpinned by ethnic voting, was potentially permanent. Civil violence, military coups, and the advent of single party regimes can all be traced to this problem of inclusion-exclusion.”¹⁰⁵ A tyranny of majority is improbable in a consociational democracy. Sisk observes that “consociationalists suggest that conflict management is best promoted by accommodation among ethnic group leaders representative of their communities precisely through cooperative problem solving. When a sufficiently cohesive core of moderates does exist, power-sharing is a viable means of democratic governance. There is no single, transportable model of power-sharing, but rather a broad menu of conflict-regulating practices, institutions, and mechanisms.”¹⁰⁶

Conclusively, Lijphart lists following requirements for a successful consociational democracy: ability of elites to accommodate various interests and demands of the groups; ability to transcend cleavages and cooperate with elites of rival groups; elites’ commitment to maintain the system and improve its cohesion and stability; and, “all of the above requirements would be based on the assumption that the elites understand the perils of political fragmentation.”¹⁰⁷

¹⁰² Lijphart, 2008, p. 12.

¹⁰³ O’Leary, 2005, p. 10.

¹⁰⁴ Idem.

¹⁰⁵ Horowitz, 2000, p. 629.

¹⁰⁶ Sisk, T.D. (1996a). *Power Sharing in Multiethnic Societies: Principal Approaches and Practices*. In Gail W. Lapidus and Svetlana Tsalik (ed.): *Preventing Deadly Conflict. Strategies and Institutions*. Proceedings of a Conference in Moscow, Russian Federation; A Report to the Carnegie Commission on Preventing Deadly Conflict; Carnegie Corporation of New York, Moscow, p. 20.

¹⁰⁷ Lijphart, 2008, p. 32 and Lijphart, 1977, p. 25.

II.1.2 The Evolution of Consociationalism and Its Four Basic Principles¹⁰⁸

Lijphart defines consociational democracy in terms of four principles: *grand coalition*, *segmental autonomy*, *proportionality*, and *mutual veto*. All four principles deviate from the Westminster model of majority rule.¹⁰⁹

II.1.2.1 Grand Coalition

Grand coalition is defined by “joint governance of political leaders coming from all segments of the plural society.”¹¹⁰ In such grand coalitions power sharing may take a variety of forms. O’Leary distinguishes “between *complete*, *concurrent*, and *weak* democratic consociational executives,” reaching to the conclusion that “consociational executives need not be all inclusive grand coalitions.”¹¹¹

O’Leary points to the fact, that “consociations may exist, which do not include all segments in government.”¹¹² This situation arises in any large and complex state or region, such as India, for example, in which “there are numerous small ethnic minorities and categories of persons that are not sufficiently significant—demographically, electorally, or politically—to be organized into any consociational settlement.”¹¹³

An important aspect regarding executive power sharing/grand coalition is the quality of governing parties or coalitions. Based on O’Leary and Bogaards’ findings, “governing parties may be classified as consociational by four criteria: (1) the extent to which they draw support from each major segment of voters at plurality levels or above; (2) the extent to which they are descriptively representative in the legislature and the cabinet of the state or region that they govern; (3) their internal party organizational characteristics (i.e., the extent to which their internal governance follows consociational traits of executive power sharing, autonomy, proportionality, and veto rights); and (4) the extent to which they follow consociational practices to manage crises that have national, ethnic, linguistic, or religious roots.”¹¹⁴ According to the above mentioned criteria Bogaards distinguishes three types of consociational party: the Alliance type of consociational party, which is “made up of separate organizational entities that

¹⁰⁸ This subsection draws extensively on Lijphart, 1969; 1979; 2002 and 2008; O’Leary, 2005 and 2008; Sisk, 1996(a) and Sisk, T.D. (1996b). *Power Sharing and International Mediation in Ethnic Conflicts*. Washington D.C.: Carnegie Commission on Preventing Deadly Conflict. United States Institute of Peace; Schneckener, U. (2002). Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation. *Journal of Peace Research*, 39(2), pp. 203-228; as well as Schendelen, M. van (1985). Consociational Democracy: The Views of Arend Lijphart and Collected Criticisms. *Political Science Reviewer*, 15, pp. 143-183.

¹⁰⁹ See Lijphart, 1979, pp. 499-516.

¹¹⁰ Idem.

¹¹¹ O’Leary, 2005, p. 12.

¹¹² Idem, p. 13.

¹¹³ Ibid.

¹¹⁴ O’Leary, 2005, p. 17.

function as a unity in the context of competitive multi-party elections;”¹¹⁵ the Congress model and the single party model.¹¹⁶

II.1.2.2 Segmental Autonomy

Lijphart asserts that “the principle of *segmental autonomy* means that decision-making authority is delegated to the separate segments as much as possible,”¹¹⁷ and thus when compared to majority rule, it may be characterized as “*minority rule over the minority itself in matters that are the minority's exclusive concern.*”¹¹⁸ It complements the grand coalition principle: on all issues of common interest, the decisions are made jointly by the segments' leaders, but on all other issues, decision-making is left to each segment. The ideal consociation maximizes both the segments' power in the area of common concerns and their freedom to organize their own affairs autonomously (i.e. *asymmetrical or corporate federalism*). Moreover, federal institutions can accommodate territorially concentrated ethnic groups, (i.e. *ethnic federalism*). In ethnic federations the allocation of powers between central and regional governments is invariably a difficult, and ongoing, balancing act.¹¹⁹

Besides territorially concentrated groups the acknowledgment of the group rights or corporate federalism is also a stipulation of this principle.

Finally, an important aspect of the segmental autonomy is the principle of “voluntary affiliation”¹²⁰ or self-determination (as opposed to pre-determination).

II.1.2.3 Proportionality

Lijphart indicates that “proportionality serves as the basic standard of political representation.”¹²¹ The most important aspect of the consociational principle of proportionality is electoral system based on proportional representation that also includes proportionality in legislative representation that can occur without formal proportional representation, proportional appointment to the civil service, and proportional allocation of public funds. According to Lijphart, the importance of proportional representation (PR) is not only that it yields proportional results and permits minority representation –two important advantages from consociational perspective—but also that it permits the segments to define themselves—“the

¹¹⁵ Bogaards, M. (2005). *Power Sharing in South Africa*. In Noel Sidney (ed.) *From Power Sharing to Democracy: Post-conflict Institutions in Ethnically Divided Societies*. McGill-Queen's Press – MQUP, 164-183.

¹¹⁶ Cf. Bogaards, 2005, pp. 172-174; see also Bogaards, 2014, pp. 1-19.

¹¹⁷ Lijphart, 1979, p. 500.

¹¹⁸ Idem.

¹¹⁹ See Sisk, 1996(a), p. 17.

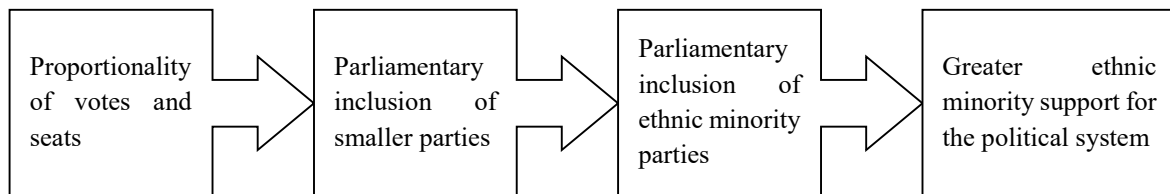
¹²⁰ Lijphart, 2008, p. 68; also Sisk, 1996(a), p. 18.

¹²¹ Lijphart, 1979.

principle of self-determination of the segments of a plural society”.¹²² Lijphart continues with advantages of self-determination stating that “it avoids the problem of discriminatory choices,”¹²³ especially serious in “countries where there are two or more large segments,”¹²⁴ and also one or more very small minorities. These minorities run the risk of being overlooked or disregarded. In many cases, the main segments of a plural society may want to be recognized as formally and specifically as possible. In these circumstances, it may make sense to use a combination of pre-determination and self-determination: for instance, a two-tier system of pre-determination of the large segments and self-determination of any other group that may aspire to similar, though not necessarily identical, rights of representation and autonomy.¹²⁵

Pippa Norris pointedly observes that “in contrast to majoritarian electoral systems, proportional representation produces a more proportional outcome facilitating the entry of smaller parties into parliament, which includes the election of ethnic minority parties and in its turn this producing greater diffuse support for the political system among ethnic minority populations.”¹²⁶

Figure 3. Advantages of proportional representation electoral system (after Pippa Norris)¹²⁷



Pippa Norris in her seminal article “*Ballots not Bullets: Testing Consociational Theories of Ethnic Conflict, Electoral systems, and Democratization*” reached an interesting conclusion, that although “under PR, minorities should display more positive attitudes towards the political system, and political leaders would learn to collaborate within parliaments through deliberation, negotiation, and compromise—“through ballots not bullets”—encouraging conciliation between their grass-roots supporters, the study found no evidence for the Lijphart’s proposition

¹²² Lijphart 2008, p. 69.

¹²³ Idem.

¹²⁴ Idem.

¹²⁵ Lijphart, 2008, p. 73.

¹²⁶ Norris, 2002, p. 210.

¹²⁷ Idem., p. 212.

that PR party-list systems are directly associated with higher levels of support for the political system among ethnic minorities.”¹²⁸

Moreover, according to O’Leary’s interesting findings¹²⁹ the “territorial concentration of communities may facilitate proportional representation of legislators by ethnic, racial, religious or linguistic origin.”¹³⁰ The Quebecois, for example, are proportionately represented in Canada’s parliament, although Canada uses a single member plurality electoral system. Furthermore, in countries which have majoritarian electoral systems, a proportional representation of communities may still be achieved, though it may be more difficult to guarantee, and will usually involve separate rolls or corporate, i.e. asymmetrical, representation. However, O’Leary demonstrates that “systems of reserved seats, or informal norms, are less likely to achieve proportionality smoothly than proportional electoral formulae. They may also involve pre-empting people’s identities and preferences, or adopting corporate (pre-determined) rather than liberal (self-determined) principles of representation.”¹³¹

II.1.2.4 Mutual or Minority Veto

The fourth consociational principle—the *minority veto*, is “at the heart of the concrete assurances of consociationalism.”¹³² A very important observation is that “minority veto may be either an informal or a formal rule.”¹³³ Although in a consociational democracy the grand coalition rule is supposed to be the mechanism to share power, “the purpose of the mutual veto is to provide such a guarantee. In contrast with majority rule, it may be called negative minority rule.”¹³⁴

Schneckener differentiates between three types of veto rights: (1) *the delaying veto*; (2) *the indirect veto*, and (3) *the direct veto*.¹³⁵ The first type aims at delaying a decision in order to reconsider the issue. The second type leads to indirect veto for each group since specific conditions have been met in order to pass legislation in parliament. The third type enables groups to declare a matter to be of “vital interest” and to stop any political action.¹³⁶ O’Leary rightfully points out that in consociational systems, formal veto rights should mostly apply to the domains of the politics of identity and security, i.e. in ethnic, religious or national domains,

¹²⁸ Idem., p. 214.

¹²⁹ O’Leary, 2008, pp. 52-54.

¹³⁰ Idem., p. 53

¹³¹ Idem., 2008, p. 64.

¹³² Sisk, 1996(a), p. 5, and Lijphart, 1979.

¹³³ See Lijphart, 1979.

¹³⁴ Lijphart, 1979, p. 501.

¹³⁵ Schneckener, 2002, p. 221.

¹³⁶ Sisk, 1996(a), p. 6.

and not to every policy sector. In effect, in these domains, groups require *parity of power*, rather than proportional power.¹³⁷

II.1.3 Characteristics of Power-Sharing Arrangements

Power-sharing is, broadly speaking, committed to the representation and participation of all major ethno-political actors in key decision-making channels. Institutionally, power-sharing consists of “those rules that, in addition to defining how decisions will be made by groups within the polity, allocate decision-making rights, including access to state resources, among collectivities competing for power”.¹³⁸ To assess the stability, effectiveness and fairness of power-sharing institutions, it is important to understand the range of ways by which power is shared. Caroline Hartzell and Matthew Hoddie conceptualize power-sharing along four dimensions.¹³⁹ The political dimension “details the distribution of political power among the parties to the settlement,” primarily through electoral, administrative and executive proportional representation at the centre¹⁴⁰ while the territorial dimension considers autonomy arrangements in either federal or regional form. Military and economic forms of power-sharing, respectively, distribute the state’s coercive power and economic resources among key groups. Many of the cases considered in this volume combine certain dimensions.

In terms of political power-sharing’s institutional design, there are three further distinctions that matter: whether the agreement to share power is formal or informal, whether power is shared directly or indirectly, and whether it is based on a corporate or liberal understanding of power-sharing.

Formal vs. informal

Political institutions, which have a constraining effect on political behaviour, operate either formally or informally. Formal rules operate within official channels and are often embedded in the legal and constitutional framework of the state¹⁴¹, whereas informal rules are “created, communicated and enforced outside of official sanctioned channels”¹⁴². As with other institutional frameworks, power-sharing arrangements may be the result of formal rules, either

¹³⁷ O’Leary, 2008, p. 56.

¹³⁸ Hartzell, C. and Hoddie, M. (2003). Civil War Settlements and the Implementation of Military Power-Sharing Arrangements. *Journal of Peace Research*, 40(3), p. 320.

¹³⁹ Hartzell and Hoddie, 2003; Hartzell, C.A. and Hoddie, M. (2007). *Crafting peace: power-sharing institutions and the negotiated settlement of civil wars*. University Park: Pennsylvania State.

¹⁴⁰ Hartzell and Hoddie, 2003, p. 320.

¹⁴¹ Koneska, C. (2014). *After ethnic conflict. Policy-making in post-conflict Bosnia and Herzegovina and Macedonia*. Farnham: Ashgate, p. 33.

¹⁴² Helmke, G. and Levitsky, S. (2004). Informal Institutions and Comparative Politics: A Research Agenda. *Perspectives on Politics*, 2(4), p. 725.

temporary or permanent, that are constitutionally enshrined or formalized as part of a peace agreement, or they may be a matter of political conventions and other informal practices. As the case of Lebanon demonstrates, both formal and informal rules can be enduring.

For many power-sharing advocates, such as Arend Lijphart, the preference is for informal arrangements. In a democratic setting, informal power-sharing provides a level of flexibility that allows the polity to respond to shifting demographic and voting trends. In Switzerland, the ‘magic formula’ for appointments to the Swiss Federal Council operates on an informal basis. Between 1959 and 2003, it divided the seven executive seats between the four main parties; the formula was later modified to accommodate shifts in voting patterns. Informal agreements also suggest the presence of mutual trust and the “spirit of accommodation” that is so important for effective power-sharing.¹⁴³ This was the case in the Netherlands, which, as the political salience of pillarization declined, was able to move away from consociationalism in part because the informal nature of its arrangements already suggested sufficient levels of trust and cooperation. However, informal arrangements are not always appropriate. They make it difficult for groups excluded from the initial informal pact to access political power and their ‘behind- closed-doors’ nature brings a lack of transparency that might facilitate corruption, clientelism and other illicit activities.¹⁴⁴ Moreover, because of the lack of trust that characterizes divided societies, minorities are reticent to accept informal arrangements and will use whatever bargaining power they have to push for strong guarantees and protections (Cyprus, for example).

As power-sharing theory and practice evolve, there has been a notable shift in where the model is applied. While Switzerland and the Netherlands are plural societies, they do not exhibit the violence and fractiousness of contemporary power-sharing cases, such as Bosnia, Moldova or Serbia. This shift implies the adoption of power-sharing, often on a coercive basis, amid conditions of a profound lack of trust or even a willingness to cooperate. Under such conditions, “there is probably no alternative to formal constitutional and legal rules to govern power-sharing and autonomy in deeply divided societies”¹⁴⁵. Moreover, how these formal and often highly contentious arrangements fare is contingent on two further distinctions in power-sharing theory: whether power is shared directly or indirectly, and whether it is premised on liberal or corporate rules.

¹⁴³ Lijphart, 1977.

¹⁴⁴ Koneska. 2014.

¹⁴⁵ Lijphart 2002, p. 54.

Direct vs. indirect

Power-sharing arrangements can be designed with the direct representation and participation of all major groups in government in mind, or they may be designed indirectly by having victorious political parties seek support from across the ethno-political divide. The former arrangement is referred to as consociationalism, whereas the latter is called centripetalism or the integrative approach. Consociationalism begins from the principle of inclusivity; its ultimate goal is to ensure the “widespread inclusion of all ethnopolitical groups in governing processes”¹⁴⁶ and that they are included on their own terms. This means direct political representation for all groups, regardless of whether they elect moderates or extremists to represent them.

As mentioned above, consociationalism is associated with four key institutions, all of which can be designed in multiple ways: executive power-sharing, proportionality, veto rights and autonomy arrangements. Executive power-sharing can function in both presidential and parliamentary systems and grand coalitions can include varying levels of group support. As O’Leary suggests, power-sharing coalitions can be complete (all major segments are included), concurrent (majority support from each segment) or weak (at least one segment has only plurality support)¹⁴⁷. The proportionality principle is intended to ensure that “all ethnopolitical groups are included in the processes of “executive, legislative, judicial, bureaucratic, military [and] cultural power.”¹⁴⁸. One mechanism for this is the use of proportional representation (PR) electoral systems. Lijphart (2008) has strongly advocated for a closed-list PR electoral system while others have advocated the single transferable vote, the electoral system used in Northern Ireland.¹⁴⁹ In other cases, such as Bosnia, an open- list PR system is employed. Veto rights are also incredibly diverse. They can be enacted in the legislature, the executive or both; as McCulloch remarks “a veto may prompt an immediate suspension of the proposed legislation or it may defer the vote and refer the issue to committee for further consideration;”¹⁵⁰ the issue areas to which veto rights pertain may either be constitutionally prescribed or open-ended.

¹⁴⁶ O’Leary, B. (2013). *Power Sharing: An Advocate’s Conclusion*. In Joanne McEvoy and Brendan O’Leary (ed.) *Power Sharing in Deeply Divided Places*. University of Pennsylvania Press, 386-422. Cf. McCulloch, A. (2017) *The Use and Abuse of Veto Rights in Power-Sharing Systems: Northern Ireland’s Petition of Concern in Comparative Perspective*. *Government and Opposition*, 53(4), pp. 735-756.

¹⁴⁷ O’Leary, 2005, pp. 12 -13.

¹⁴⁸ O’Leary, 2013, p. 4.

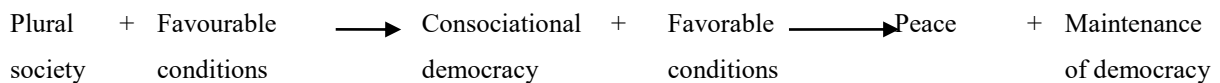
¹⁴⁹ See McGarry, J. and O’Leary, B. (2006). *Consociational theory, Northern Ireland's conflict, and its agreement*. *Government and Opposition*, 41(1).

¹⁵⁰ McCulloch, 2017.

II.1.4 Consociation: Facilitating Factors and Favorable Conditions

There has been a large variation in the lists of favorable conditions¹⁵¹, which could be explained partly by the detection of new empirical cases, partly by the discussion of these factors by other scholars.¹⁵²

Figure 4. The interaction between favorable conditions and maintenance of consociational¹⁵³



As far as Lijphart concerns, there are ten variables that may make the establishment and maintenance of a consociational democracy in a plural society more or less likely. Generally a factor that is favourable for the establishment of a consociation will also be a positive condition for its maintenance.¹⁵⁴ Accordingly, the favourable conditions are: 1) *no majority segment*; 2) *segments of equal size*; 3) *small number of segments*; 4) *small population size*; 5) *external threats*; 6) *overarching loyalties*; 7) *socioeconomic equality*; 8) *geographical concentration of segments*; 9) *traditions of accommodation* and 10) *special rights claim*¹⁵⁵.

First condition holds that in a plural society no segment of the population should be in majority. The second factor ties on the first stipulation that the segments in the society should have roughly the same size.¹⁵⁶ Andeweg pointedly posits that these factors emphasize the importance of the “absence of a solid majority, i.e. the existence of a *multiple balance of power among the social segments*. Minority status for all groups means that militant intransigence not only threatens political stability (a leader may not recognize the danger or may not care) but also reduces a segmental leader's influence to that of a voice in the wilderness, whereas by sharing power at least something can be gained. From the opposite point of view, if political elites could

¹⁵¹ Cf. Lijphart 1969, pp. 216-222; 1977, pp. 53-103; 1985, pp. 119-28 and Lijphart 1996, pp. 262-263 and Carciuraru, 2012.

¹⁵² Daalder 1974, Nordlinger 1972, Steiner 1974, see Andeweg, R.B. (2000). Consociational Democracy. *Annual Review of Political Science*, 3, p. 521; also Carciuraru, 2012.

¹⁵³ Figure adapted from Lijphart, 1985, p. 120.

¹⁵⁴ Lijphart, 1985, p. 119.

¹⁵⁵ In 2002 Lijphart added yet another condition based on his observation of Maori claims: “*When I was in New Zealand in 1998, I witnessed the frequently heated debate about the problems of the Maori community. One of the sources of tension is the Maori claim to special rights on the ground that the Maori are the original people of New Zealand. Claims to such special rights greatly complicate efforts to find consociational solutions. Hence the absence of such claims is a favorable condition –number 10– for consociational democracy*”, Lijphart, 2002, 20.

¹⁵⁶ Belgium is given a positive score on this, although terms of language spoken ca. 60% of the population speaks Dutch leading to the conclusion that segments other the Dutch may speak the language and nonetheless consider themselves not as being part of Dutch speaking segment.

count on a solid majority, why would they share power with and make concessions to the losing minority? It is not in their self-interest, democratic norms do not require it, and their followers may not accept it.”¹⁵⁷ In this sense an additional favorable variable in countries with a solid majority would have to be present: elites of the majority will cooperate in case they have *well-founded fear of casualties*.¹⁵⁸

The next two factors are also interconnected; the more segments whose interests have to be respected are involved, the longer it will take to reach a decision. Nonetheless, a decision thus reached would score better in terms of its implementation. Lijphart and Lehmbruch include the size factor as important, in the sense that small states are more manageable¹⁵⁹, i.e. easier to govern, because the “political elites all know one another, interact regularly, and therefore negotiate more easily without too much constituency pressure.”¹⁶⁰ However, in Federalist 51, Madison made an interesting point arguing that “minority rights are protected by extending the size of an area governed so that “society itself will be broken into so many parts, interests, and classes of citizens that the rights of individuals, or of minority, will be in little danger from interested combinations of the majority.”¹⁶¹ In other words, larger political units offer heterogeneity of interests that make it difficult for a cohesive majority to tyrannize a minority. Moreover, “personal contact between leaders depends more on psychological than on geographical distance; the social segmentation that characterizes consociational democracies already multiplies the number of organized groups and makes decision making complex, so that contribution of size in this respect can only be marginal.”¹⁶² Psychological and political closeness rather than geographical distance is stressed by O’Leary as well, who continues: “‘Great hatreds, little room’, was Yeats’ memorable line about intra-Irish ethno-religious relations.”¹⁶³ The fifth condition—points to the fact that “small states are likely to feel externally threatened and be more induced towards internal accommodation.”¹⁶⁴ Nevertheless, the direct external threat operates independently of its size. Shared external threats provide elites with significant incentives to accommodate each other’s communities whatever the state’s population size.

¹⁵⁷ Andeweg, R.B. (2000). Consociational Democracy. *Annual Review of Political Science*, 3, pp. 509-536; see also Lijphart, 2008, p. 34; Lehmbruch, 1975, p. 386.

¹⁵⁸ Andeweg, 2000, p. 524.

¹⁵⁹ Lehmbruch is of the opinion, based on Swiss, Austrian and Lebanese cases that consociational type of politics “seems to work in small states only”, quoted in Lijphart, 2008, p. 34.

¹⁶⁰ O’Leary, 2005.

¹⁶¹ Donovan, T. and Bowler, S. (1998). Direct Democracy and Minority Rights: An Extension. *American Journal of Political Science*, 42(3), p.1021.

¹⁶² Andeweg, 2000, p. 524.

¹⁶³ O’Leary, 2005, p. 31.

¹⁶⁴ Idem.

Taking into account the above mentioned, we could categorize the facilitating conditions in either structure-oriented or actor-oriented conditions, as follows:

Table 2: Conditions favouring power-sharing

Structure-oriented conditions	Actor-oriented conditions
1. No majority segment	8. Dominant elite ¹⁶⁵
2. Segments of equal size	9. External pressure
3. Small number of segments	10. Traditions of accommodation
4. Small population size	11. Absence of special rights claim
5. Socio-economic equality	
6. Overarching Loyalty	
7. Geographical concentration of segments	

Source: Author's table (see Carciumaru 2012, p.2), based on Andeweg 2000, Lijphart 2002, Schneckener 2002.

Schneckener added another two actor-oriented conditions: 1) *comprehensive participation*, stating that all relevant parties (including paramilitary organizations) should be represented in peace-making efforts and institutionalized power-sharing; 2) *respect for status quo*, presupposing that all parties in power-sharing executive respect the agreed type of consociationalism; and one structure-oriented condition—*moderate pluralism*—stating that the moderate multi-party system should neither be established according to monolithic 'national fronts' nor be fragmented in competing nationalist factions.¹⁶⁶

Besides four principles and fourteen favorable conditions, other constitutional choices for successful power-sharing would include: “a parliamentary instead of presidential system;¹⁶⁷ the head of state, i.e. the president -a primarily ceremonial office; at least two-thirds majority requirement for amending the constitutions, i.e. constitutional rigidity; an active judicial review, and an independent central bank.”¹⁶⁸

Lastly, an important point that still needs to be made is that consociational theory is not only an *empirical* theory of explaining political stability in divided societies (such as Austria, Belgium, the Netherlands, Switzerland, Lebanon and Nigeria, as well as European Union and India to name just a few), taking political system in each country as a given,¹⁶⁹ but also a *normative* theory. Based both on Lijphart's theory as well as on ingenuity and inventiveness of

¹⁶⁵ A condition that is implicit and not explicit mentioned by Lijphart, 1985 and 1996, whereby political elites are able to control and to persuade their support base.

¹⁶⁶ Schneckener, 2002, pp. 203-228.

¹⁶⁷ “[T]he cabinet in parliamentary system is a collegial decision-making body –it offers the optimal setting for forming a broad power sharing executive. [P]arties provide the vital link between voters and governments, and in divided societies they are crucial in voicing the interests of communal groups” in Lijphart, 2008, p. 80.

¹⁶⁸ Lijphart, 2008, pp. 75-88; Cf Bogaards, 2014.

¹⁶⁹ Lijphart, 1996, p. 265. Consider also the following assertion: “*consociational theory does not explain the presence and continuity of a political system, because it takes the political system as its starting point. The phenomenon to be explained is again elite cooperation within an established political system, not elite cooperation to become a political system.*” Bogaards & Crepaz, 2002, p. 361.

the politicians consociation/power sharing model has been prescribed, recommended to and implemented in a large number of countries (ranging from South Africa, Bosnia and Herzegovina, Macedonia, Northern Ireland, Burundi to Chechen and Dagestan Republic)¹⁷⁰ as a method of conflict regulation and a better type of democracy for plural or deeply divided societies.

II.1.5 Critique and Its Rebuttal: Debating power-sharing

Andeweg admits that “consociationalism has been a controversial theory”, however, he continues that “instead of one great debate about its validity there are numerous small debates about various aspects and applications.”¹⁷¹

The popularity of the consociational model among constitutional engineers is less a reflection of the model’s intrinsic merits¹⁷² than of the relative lack of coherent alternatives.¹⁷³ While criticizing consociationalism Barry admitted that: “*It is not my intention to suggest that I have any alternative panacea to offer. In fact my own view of the prospects is extremely bleak.*”¹⁷⁴

Proponents of consociation are regularly accused of racism, anti-Enlightenment thought, promoting apartheid, and even condoning ethnic cleansing.¹⁷⁵ To this type of criticism Lijphart counters by stating that “[i]t is not necessary for consociational theory to surrender to its critics, because all of the criticisms are unjustified and exaggerated.”¹⁷⁶

A common misbelief is that consociations invariably stop free electoral competition by forcing voters to vote for “their” national, ethnic, religious or tribal candidates.¹⁷⁷ Sisk pointedly states that “by “freezing” group boundaries in the political system, for example through statutory reservation of offices for specific group representatives, a consociational power-sharing system is said to be an undynamic model for conflict management.”¹⁷⁸

Finally, according to Barry “consociational institutions are arguably antidemocratic because they can cushion vigorous opposition politics. For example, the absence of an opposition party

¹⁷⁰ For Chechen and Dagestan Republics see Sakwa, Richard. 2005. *Chechnya: From Past to Future*; for South Africa see: Lijphart. 1985; for EU see Bogaards and Crepaz, 2002; for Burundi see Lemarchand, R. (2006). Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and The Democratic Republic of the Congo. *African Aff.*, 106, pp. 1-20.

¹⁷¹ Andeweg, 2000, 509-536.

¹⁷² Cf. Wilkinson, S.I. (2000). India, Consociational Theory, and Ethnic Violence. *Asian Survey*, 40(5), p. 790.

¹⁷³ Some of the alternatives will be discussed in the next section – III.5 Alternatives to Consociation.

¹⁷⁴ Barry, B. (1975). The Consociational Model and Its Dangers. *European Journal of Political Research*, 3, p. 404.

¹⁷⁵ O’Leary, 2005, p. 4.

¹⁷⁶ Lijphart, 2002, pp. 40-47.

¹⁷⁷ Cf. Brass, 1991, pp. 339-40.

¹⁷⁸ Barry, 1975, p. 396; see also Sisk, 1996(a), p. 7;

in a grand coalition may detract from the accountability of the government.”¹⁷⁹ He addresses the issues of freezing the identities, by making a strong stance for self-determination, I quote: “In systems of pre-determination, there is a strong temptation to fix the relative shares of representation and other privileges for the segments on a permanent or semi-permanent basis [...] self-determination has the advantage of being completely flexible, since it is based on a numbers of people supporting the different parties and registering as members of cultural groups. It is naturally and continually self-adjusting.”¹⁸⁰ Moreover, “consociationalists believe that certain collective identities, especially those based on nationality, ethnicity, language, and religion, are generally fairly durable once formed.”¹⁸¹ However, Barry’s idea of a “*co-operation without co-optation*” based on, i.e. alleged weakness of group autonomy,¹⁸² is not a plausible and viable choice for plural societies.¹⁸³ Barry misinterprets power-sharing by treating power-sharing and political moderation as clearly different and separable factors. In Lijphart’s view the best way to encourage moderation is to give a party the opportunity to participate in government.¹⁸⁴ In this sense Gurr’s supportive conclusion is well worth quoting: “[w]hat is the functional place of communal groups in the global system of states?”¹⁸⁵ According to Gurr the most pertinent approach is “the positive-sum coexistence of ethnic groups and plural states”, which means both “*recognizing and strengthening* [emphasize added], communal groups within the existing state system.”¹⁸⁶

Horowitz argues that Lijphart places much emphasis on the freedom of leaders to enter consociational arrangements, but little is placed on “structure of incentives” within which political leaders work. Consociationalism assumes that “political elites enjoy a high degree of freedom of choice, and that they may resort to consociational methods of decision-making as a result of the rational recognition of the centrifugal tendencies inherent in plural societies and a deliberate effort to counteract these dangers.”¹⁸⁷ In Horowitz’s opinion “such freedom does not generally characterize conditions in severely divided societies.”¹⁸⁸ Though leadership is important it has limited freedom to choose its own path. Moreover, since elite competition is

¹⁷⁹ Idem.

¹⁸⁰ Lijphart, 2008, p.71-73.

¹⁸¹ O’Leary, 2005, p.8.

¹⁸² Critics argue that even if it is not on a territorial basis group autonomy may encourage ethnic conflict by explicitly recognizing the legitimacy of ethnic groups and by making them stronger, more cohesive, and more distinctive. This could lead to an eventual secession. Cf. Barry 1975; Brass, 1991, Nordlinger, 1972.

¹⁸³ Cf. Lijphart, 200, pp.78-86; also Sisk, 1996(a), p. 7.

¹⁸⁴ Lijphart, 1985, p. 104.

¹⁸⁵ Gurr, T.R. (1995). *Minorities at Risk: a global view of ethno-political conflicts*. Washington D. C.: United States Institute of Peace Press, p. 323.

¹⁸⁶ Idem.

¹⁸⁷ Lijphart 1977, p. 165; Cf. Horowitz, 2000, p. 573.

¹⁸⁸ Horowitz, 2000, p. 573.

one of the sources of ethnic conflict, it would be a mistake to impute good intentions to leaders without good political reasons for thinking they would in fact entertain such intentions.¹⁸⁹ So why would political leaders compromise? First, Lijphart argues that “the only way for ethnic or any other parties not just to enter but also to stay in the cabinet is to reach compromises with their coalitional partners; they have a very strong incentive to compromise—*political power!*”¹⁹⁰ Moreover, minorities obviously have stronger incentives than majorities to enter coalition governments. That is why Lijphart emphasized that the first condition that favour power-sharing is the absence of a majority group. But what about deeply divided plural societies such as Sri Lanka where there *is* a solid majority—the Sinhalese? Nordlinger comes up with a list of incentives that would lead political leaders to accommodate: 1) the existence of a common external threat; 2) the recognition that conflict distracts from economic well-being; 3) the drive for power; and 4) the avoidance of bloodshed and suffering.¹⁹¹ The last motive is arguably the most powerful. Desire for conflict avoidance has been termed by Lijphart the “self-negating prophecy”: the belief that further escalation of violent conflict will not advance groups aims but will in fact make them unattainable. Steiner makes us aware, how crucial leaders can be and how difficult it is to incorporate great leaders into consociational theory by giving the example of Mandela and his strongly moderating influence on the masses when he came out of prison. Steiner concludes that consociational scholars should not *a priori* assume that elites are more reasonable and moderate than the general public with regard to inter-cultural relations, but this is an empirical question that needs to be carefully investigated in each case. Special attention should be paid to the middle level of elite, who are the most hostile towards other cultures.¹⁹² Another criticism is that consociations make no difference, because “they only work well where they are not needed or are redundant.”¹⁹³ Donald Horowitz maintains that: “the *sine qua non* of consociationalism turns out to have little applicability in the severe conflict conditions of Asia and Africa.”¹⁹⁴ Wilkinson comes to the same conclusion stating that those seeking to resolve conflict in new democracies in Africa, Eastern Europe, and the former Soviet Union, “would do well to look elsewhere for permanent solutions.”¹⁹⁵

¹⁸⁹ *Idem.*

¹⁹⁰ In this sense see the excellent and enlightening study in Mitra, S.K. and Singh, V.B. (2009). *When Rebels Become Stakeholders; Democracy, Agency and Social Change in India*. New Delhi: Sage.

¹⁹¹ Nordlinger, 1972, pp. 42-53. Apart from the second incentive, the other three were included in the extended list of favorable conditions; Cf. Steiner, 2002, pp.229-230.

¹⁹² Compare N. Modi (Chief Minister, Gujarat, India) and his role in Gujarat communal riots of 2002, S.W.R.D. Bandaranaike and his “Sinhala Only”-policy: key leaders that are or were far from exercising a moderating influence on the masses but helped to enflame inter-cultural hostility; Cf. Steiner, 2002, pp.229-230; Mitra and Singh, 2009.

¹⁹³ O’Leary, 2005.

¹⁹⁴ Horowitz, 2000, p. 576.

¹⁹⁵ Wilkinson, 2000, p.791.

Lijphart counter argues indefatigably that “there are clear cases where power-sharing has worked successfully in ethnically divided countries –Switzerland since 1943, Belgium since 1970, Lebanon from 1943 to 1975, Malaysia from 1955 to 1969, Suriname from 1958 from 1973, and the Netherlands Antilles from 1950 to 1985—as well as in three countries with deep religious-ideological cleavages—Austria from 1945 to 1966, the Netherlands from 1917 to 1967, and Luxemburg during the same period of about half a century.”¹⁹⁶

Additionally, as O’Leary rightfully points out, there are at least three current experiments of so-called “*complex consociations*,”¹⁹⁷ besides Northern Ireland, in Bosnia and Herzegovina, and Macedonia.

Consociational decision-making is also criticized on the ground that it is too time-consuming so that consociational countries are not able to react quickly enough in crisis situations. Furthermore, it is said that the political outcomes are not innovative enough in a fast changing world of globalization.¹⁹⁸ Consociational is also criticized for being economically inefficient since subsidies are distributed in a wasteful way to satisfy all groups. It is true, but once a change has been implemented a high degree of legitimacy persists and the change cannot easily be turned back.¹⁹⁹ Additionally, in response to immobilism, the critics should consider that proportionality and autonomy contain significant aids to decisional effectiveness. The former is an extremely valuable time-saving formula for allocating resources and appointments. The latter distributes the total decision-making load among several public and semi-public bodies, thus alleviating the burdens on each of them.²⁰⁰

Finally Brass asserts, that “consociationalists and the theorists of the plural society consistently ignore the experience of India, the largest, most culturally diverse society in the world that has, except for a period of two years, functioned with a highly competitive and distinctly adversarial system of politics [...] yet, it is not consociational democracy at all.”²⁰¹ Being aware of the fact that the exception of India may be a serious blow to the applicability of consociational theory and after carefully reexamining the type and quality of India’s democracy Lijphart reached an arguable conclusion that India “displayed all four crucial elements of power sharing theory”²⁰².

¹⁹⁶ Lijphart, 2008, p. 43, Cf. Schneckener, 2002, p.217.

¹⁹⁷ See subchapter II.1.4 “Complex Power-Sharing”

¹⁹⁸ Consider Bogaards’ following statement: “Consociationalism belongs to the ‘statist’, and one would add ‘static’, models that may obscure rather than illuminate future possibilities for the EU”, in Bogaards and Crepaz, 2002, p. 368.

¹⁹⁹ Lijphart, 2002, p.41.

²⁰⁰ See Lijphart, 1985, p. 100.

²⁰¹ Brass, 1991, p. 343; Cf. Lijphart, 1996, pp. 258-268.

²⁰² Lijphart, 1996, p. 259.

Thus, according to his findings, “India is not a deviant case for consociational theory but an impressive confirming case.”²⁰³

Power-sharing advocates make the pragmatic argument that broad inclusion is needed when groups are deeply or violently divided; in such circumstances political exclusion represents too high a cost. Power-sharing is seen as a critical political strategy for dealing with protracted conflicts: conflict parties are more likely to accept settlements when they are included in power-sharing institutions²⁰⁴, and external mediators are increasingly likely to promote the adoption of power-sharing deals as a way of ending war and building peace.²⁰⁵ Beyond these short-term considerations, power-sharing is believed to offer a “parity of esteem” between groups - to use the language of Northern Ireland’s agreement - which suggests that the state is obliged to treat both majorities and minorities in a reasonable and respectful manner in exchange for the acceptance of the legitimacy of political institutions.²⁰⁶ Moreover, its proponents emphasize its ability to democratically accommodate linguistic, religious, ethnic and national differences. Sid Noel notes, “power-sharing mechanisms are intended to serve the dual purpose of promoting post-conflict peace building and serving as a foundation for the future growth of democratic institutions”²⁰⁷.

Further critique is centered on the alleged inability to produce peace and stability, either through perverse incentives or through an “adoption problem.” Rupert Taylor (2009) laments the “injustice” of a consociational system premised on what he sees as a kind of systemic sectarianism that only serves to entrench and exacerbate divisions, thereby denying citizens in divided societies both peace and justice. Donald Horowitz (2014) meanwhile suggests that power-sharing suffers an “adoption problem.” Ethnic minorities do not want to settle for anything less than consociationalism, while ethnic majorities prefer majoritarian rules but may be willing to settle on centripetal arrangements. The intractability of positions means that any agreement may be difficult to achieve, which prolongs conflict and instability. The instability critique stems from an underlying belief that consociational power-sharing in particular simply entrenches and exacerbates divisions.

Another line of criticism focuses on the governability of power-sharing systems. Executive formation is frequently a protracted affair as parties bargain for a share of power. It can often

²⁰³ Lijphart, 1996, p. 268; Lijphart, 2008, p. 42; see also Lijphart, 2007, pp. 14-49.

²⁰⁴ Walter, B. (2002). *Committing to Peace: The Successful Settlement of Civil Wars*. Princeton: Princeton University Press.

²⁰⁵ Vandeginste, S. and Sriram, C.H. (2011). Power Sharing and Transitional Justice. A Clash of Paradigms? *Global Governance*, 17(4), pp. 489-505.

²⁰⁶ Thompson, 2002.

²⁰⁷ Noel, S. (ed.) (2005). *From Power-Sharing to Democracy: Post Conflict Institutions in Ethnically Divided Societies*. Montreal: McGill-Queen’s University Press, p. 1.

take months - even more than a year - to agree to a cross-community coalition amenable to all sides. Bosnia and Herzegovina, Lebanon and Belgium have all struggled with prolonged executive formation whereas executive formation in Northern Ireland benefits from the automaticity of sequential portfolio allocation (SPA) procedures. McGarry and his long-standing co-author Brendan O'Leary consider the stability and adoptability of executive power-sharing arrangements from the perspective of the consociationalism-centripetalism debate.

Once formed, power-sharing coalitions also face several legislative challenges. Veto rights run the risk of thwarting the legislative agenda and bringing it to a standstill.²⁰⁸ Even without vetoes, it is alleged that power-sharing may result in a dearth of policy innovation with parties only able to agree to lowest common denominator strategies. Particularly in its consociational guise, power-sharing has been accused of overemphasizing constitutional issues, keeping ethnonationalism alive and bread-and-butter issues off the agenda.²⁰⁹ The effectiveness of power-sharing governance is thus called into question.

Many scholars perceive power-sharing to be in tension with the normative pursuit of transitional justice; Vandeginste and Sriram (2011) go so far as to suggest that power-sharing and transitional justice may represent “a clash of paradigms.”²¹⁰ Part of the issue is that “those who are given the greatest benefits in power-sharing arrangements are usually those who engaged in armed violence; they are also highly likely to have engaged in human rights abuses”.²¹¹ As a result, the protection of human rights and the prosecution of past wrongs may not receive adequate attention at the peace table. Power-sharing, it is claimed, may be required for peace but that peace comes at the cost of justice. While this may satisfy in the short term, it is unlikely to facilitate stability, effectiveness or fairness over the long term.²¹² Vandeginste and Sriram note that there has been little attempt at the global level to either reconcile transitional justice and power-sharing, or to at least prioritize one over the other.²¹³

Another normative line of inquiry, suggests that power-sharing scholarship sets gender aside as an identity or social location that does not motivate people in the same way as ethnonationalism does. From a feminist perspective, such thinking serves the interests of ethnicized elites while continuing to exclude women and other marginalized communities from key sites of political

²⁰⁸ Bieber, 2005; McEvoy&O'Leary, 2013.

²⁰⁹ Hulsey, John W. (2010) 'Why did they vote for those guys again?' Challenges and contradictions in the promotion of political moderation in post-war Bosnia and Herzegovina, *Democratization*, 17(6), p. 1139; see also

²¹⁰ Vandeginste and Sriram, 2011, pp. 489-505; see also McCulloch & McGarry, 2017.

²¹¹ Sriram, 2013, in McEvoy&O'Leary, 2013, p. 275.

²¹² See Sriram, Chandra Lekha and Marie-Joëlle Zahar (2009) *The Perils of Power-Sharing: Africa and Beyond*, *Africa Spectrum*, 44(3), pp. 11-39.

²¹³ Vandeginste and Sriram, 2011, p. 498.

power.²¹⁴ By being fair to one identity grouping - ethnic and ethnonational groups - power-sharing manifests a form of unfairness for others. This also impacts upon power-sharing's ability to provide the conditions under which justice may be pursued.

Writing in 1972, Alvin Rabushka and Shepsle identified four configurations of ethnic politics: (1) competitive (where no group enjoys dominance); (2) majority domination; (3) minority domination; and (4) fragmented. In each configuration they suggested that the prospects for stable democracy "appear dim as the historical record has indicated"²¹⁵. Competitive ethnic configurations were predicted to polarize, to become centrifugal through "ethnic outbidding," and to generate civil wars or coups; dominant majorities were predicted to stay dominant (with moderate reformers among them kept in line by the threat of hard-liners' outbidding them); dominant minorities were thought unlikely to concede democracy in which they would lose; and fragmented ethnic configurations were considered unlikely to develop state-wide brokerage parties and likely to succumb to military dictatorships or one-party rule. The authors did consider Switzerland a counterexample to the thesis that deeply divided places cannot be democratically stable. They took care of the anomaly, at least in their eyes, by attributing its stability to its being a confederation (in which largely homogeneous cantons hold most power, and potentially divisive ethnic or linguistic competition is therefore minimized). The take-home message from *Politics in Plural Societies* was that neither majoritarian nor power-sharing democracy offered much hope of stability for deeply divided places (what they called "plural societies").

Retrospectively, the authors were correct in 1972 to doubt the prospects for democratic stability in Ceylon (Sri Lanka) and in some Caribbean cases (e.g., Guyana and Trinidad). The same may certainly be said for Cyprus, Rwanda, and some of Zanzibar's history, as well as for the Congo, Sudan, Nigeria, Lebanon, and Yugoslavia. Yet the subsequent picture across the cases they picked has not all been doom and gloom. In their terms, Northern Ireland has moved from majority domination closer to the competitive configuration and now appears to have a stable power-sharing system.²¹⁶ Belgium has morphed from a consociation in a unitary state to a consociational federation and it has not yet broken up. Power sharing has, however, sometimes worked, even among the grim cases Rabushka and Shepsle looked at in 1972, but it is not clear

²¹⁴ Cf. Rebouche and Fearon, "Overlapping Identities: Power Sharing and Women's Rights" in O'Flynn&Russel (2005), pp. 155-171; Deiana, Maria-Adriana (2016) To settle for a gendered peace? Spaces for feminist grassroots mobilization in Northern Ireland and Bosnia-Herzegovina, *Citizenship Studies*, 20 (1), 99-114.

²¹⁵ Rabushka and Shepsle, 2009 [1972], p. 206.

²¹⁶ See Mitchell, Paul, Geoffrey Evans and Brendan O'Leary (2009) "Extremist Outbidding in Ethnic Party Systems is Not Inevitable: Tribune Parties in Northern Ireland," *Political Studies*, 57(2), pp.397-421.

that their approach can explain why, though it can help explain instability in power-sharing bargains.

According to O’Leary (2013), future rational choice-driven comparative work on power sharing in deeply divided places should generate novel insights from modelling the dynamics of power-sharing successes and failures in deeply divided places (varying the institutional and ethnic configurations more systematically).

The allegations against power-sharing - on stability, effectiveness and justice - merit serious attention but, as John McGarry (2017) demonstrates blanket critiques of power-sharing are unsustainable. Rather, we should focus on the variables that explain the variance in power-sharing practice. He highlights four factors that account for power-sharing’s mixed record: the role of external actors, provisions on security matters, the treatment of self-determination claims and the precise institutional rules in place.

II.1.6 Conclusion: Consociationalism, Majoritarianism and Control

It should be clear by now that consociational democracy is by and large the very opposite of a majoritarian democracy. Nevertheless, for the comparative research to be conducted and serving as an explicative tool to our analysis I considered necessary to include the following box underlining the differences between power-sharing and majority rule political systems.

Table 3: The Characteristics of Majoritarian and Power-Sharing Democracy – a Toolbox²¹⁷

	Majoritarian Democracy	Consociational Democracy
Ethos	Classic winner-take-all Westminster-style democracy. Two broadly based political parties alternating in government and opposition.	Government includes the representatives of all significant groups and revolves around interethnic cooperation. Minority rights are protected through minority vetoes.
	<i>or</i>	
	Winner-take-all democracy moderated by PR (making coalition governments more likely), rectifying minority exclusion through affirmative action remedies and providing multi-access points to political power.	
	Systems in which legislatures have the final word on the constitutionality of their own legislation	Systems in which laws are subject to a judicial review of their constitutionality by supreme or constitutional courts
Institution	Unicameralism, i.e. concentration of legislative power in an unicameral legislature	Parliamentarism, grand coalition
	Majoritarian and disproportional electoral system	proportional representation
	Unitary, centralized government	Federal and decentralized government; Segmented society
	Flexible constitution, can be amended by simple majorities	Constitutions that can be changed only by extraordinary majorities
	Dependent central bank, i.e. Central banks that are dependent on the executive	Independent central banks

²¹⁷ Adapted from Lijphart, 2008, Chapter: *Majority Rule in Theory and Practice*, pp. 111-124; Reynolds, (2002). Majoritarian or Power-Sharing Government, p.156; Andeweg, 2000, p. 513; Armingeon, 2002, p. 150 and Sisk 1996(a), p.6.

Heavily drawing on majoritarian practices is the “control” approach I mentioned in the Introduction. According to Lustick, democratic stability in deeply divided societies could be reached when the majority segment “democratically” and effectively controls the minority segment.²¹⁸ The conceptual distinctions between consociational and control approaches are shown in the Table below:

Table 4: Control vs. Consociational System (Ian Lustick 1979)²¹⁹

Criteria	Consociational System	Control System
<i>Effective govern of the authoritative allocation of resources</i>	The common denominator of the interests of the two segments as perceived and articulated by their respective elites	The interest of the majority segment as perceived and articulated by <i>its</i> elite.
<i>Linkages between the two sub-units or segments</i>	Political or material exchanges: negotiations, bargains, trades, and compromises.	Penetrative in character: the majority segment extracts what it needs from the minority segment and delivers what it sees fit.
<i>The significance of bargaining</i>	Hard bargaining between sub-unit elites as a necessary fact of political life; bargains are concrete signs that consociationalism is operating successfully.	No bargaining between elites of the majority and minority segments. It would signal the breakdown of control as the means by which the political stability of the system is being maintained.
<i>The role of the State (i.e. civil service bureaucracy, law enforcement agencies, the courts, the public educational system, and the armed forces)</i>	Consociational societies develop regimes that are in the nature of "umpires." ²²⁰ In its role as umpire, the official regime in the consociational system must translate the compromises reached between sub-unit elites (or leaders) into appropriate legislation and effective administrative procedure.	Official regime as legal and administrative instrument of the majority segment or group. ²²¹
<i>The type of normative justification for the continuation of the political order</i>	The political status quo is likely to be legitimized by vague and general references to the common welfare of segments, and by specific and detailed warnings of the chaotic consequences, for each segment, of consociational breakdown.	Legitimacy is reached by an elaborate and well-articulated group-specific ideology; specific, that is, to the history and perceived interests of the majority segment.
<i>Visual metaphor²²²</i>	“a delicately but securely balanced scale”	“puppeteer manipulating his stringed puppet”

As stated above, according to Lijphart, “[f]or many plural societies of the non-Western world [...] the realistic choice is not between the British [majoritarian] model of democracy and the consociational model, but between consociational democracy and no democracy at all.”²²³

²¹⁸ Lustick, 1979, p.325.

²¹⁹ Idem., pp.330-2; Carciumaru, 2012, p. 3.

²²⁰ “Most of an umpire's time is spent in seeing that the existing rules are obeyed and that deviant competitors are brought back into line. But the role also includes modifying the existing rules and even making new rules to cope with unanticipated disorders which may break out in the arena. But his goal is always the preservation of that arena.” In Lustick, 1979, p. 330; Carciumaru, 2012, p. 3.

²²¹ “The bureaucratic apparatus of the state, staffed overwhelmingly by personnel from the majority segment, uses what discretion is available in the interpretation and implementation of official regulations to benefit the segment which it represents at the expense of the minority segment.” In Lustick, 1979, p. 330.

²²² Metaphors from Lustick, 1979, p. 332; cf. Carciumaru, 2012.

²²³ Lijphart, 1977, p.238.

Apart from the above schematic juxtaposition there is another theoretical approach to power-sharing in plural and deeply divided societies—*integrative approach*, propagated by and associated with Donald L. Horowitz.²²⁴ The main difference between consociational and integrative approaches²²⁵ is that the latter overtakes some majoritarian principles, i.e. presidential system, albeit president elected by a “super-majority and unicameralism. The main weakness of the integrative approach is the lack of whole-country empirical examples of working systems and the assumption that “citizens will vote for parties not based on their own group.”²²⁶

Categorically dismissing Abba’s lines “the winner takes all” for deeply divided societies, O’Leary suggests an appropriate poetic alternative:

The wise winner shares
Those who want it all must postpone their cares
It’s complex, and yet elegant and plain,
If you are not included you should certainly complain.²²⁷

²²⁴ See Bibliography: Horowitz, 1993 and 2000.

²²⁵ Apart from the criticism Horowitz expressed vis-à-vis the problem of “elite-initiated conflict” and some consociational institutions such as mutual or minority veto – see subchapter II.4 Consociation: Critics and Rebuttals.

²²⁶ Cf. Sisk, 1996(a), pp.1-20; Lijphart, 2002.

²²⁷ O’Leary, 2013, pp. 386-422.

II.2 Negotiation

II.2.1 Conflict, Negotiation, De-escalation, Agreement

As Biswas (2006) pointedly argues both negotiations and agreements are impacted by the same factors, due to the fact that both of them undergo the same process. Some of these factors are found in the Table 5 and will be analyzed further in text.

Table 5: Factors encouraging negotiations and agreements²²⁸

Negotiations	Agreements
Democracy (+)	Democracy (+)
Military intervention (-)	Military intervention (-)
Security guarantees (+)	Security guarantees (+)
Mediation (+)	Mediation (+)

Following up on Biswas (2006a), I posit that democracy, security guarantees and mediation have a significant positive impact on the dependent variable - negotiations. On the other hand, military intervention, in most cases, will hinder negotiations. A sample review of the factors influencing agreements revealed that security and democracy assurances equally affected the outcome of agreements and negotiations. Literature on negotiation²²⁹ unequivocally concludes that mediation plays a substantial positive role in negotiations and reaching a peaceful agreement. Biswas determines that whilst negotiations are determined to substantially affect dialogues, their role in determining outcomes of agreements is insignificant

Factors facilitating or hindering negotiation and agreement: Security guarantees and mediation

Mediation has a significant positive influence on the likelihood of dialogue. Nonetheless, mediation plays a lesser role in the approval of an agreement between the involved parties. Mediation and security assurances were determined to be largely correlated, demonstrating that in most cases, the variables act simultaneously. In most cases, security assurances strongly

²²⁸ Cf. Biswas, 2006(a), p. 117. The table will be applied at the end of the case studies section.

²²⁹ See Pfetsch, F. R. (2007). *Negotiating political conflicts*. Basingstoke England; New York: Palgrave Macmillan; Zartman, I.W. and Faure, G.O. (2005). *Escalation and negotiation in international conflicts*. International Institute for Applied Systems Analysis. Cambridge: Cambridge University Press; Zartman, I.W. and Touval, S. (2007). *International Mediation*. In Crocker, C. et al. (ed.) *Leashing the Dogs of War. Conflict Management in a Divided World*, Washington D.C.: United States Institute of Peace Press, to name just a few seminal monographies or edited books.

influence the possibility of agreement. Although mediation may not be as strong a determinant as security promises in effectuating agreements, its role is vitally important.²³⁰

Mediation aids dialogue, which is the first step to agreements. However, other additional factors potentially affect the outcome of dialogues and agreements, and therefore, a process-based approach of controlling and preventing violent conflicts should not overlook these factors. As mentioned earlier, mediation is a necessity and occurs more often than security assurances, possibly since security guarantees are relatively expensive. It is also plausible that security assurances are only sought after once there is a likelihood of adoption of an agreement. The cost of these assurances therefore becomes inordinate, and necessitates implementation of other alternative measures such as mediation from a policy perspective. In most cases, security assurances occur simultaneously with mediation, indicating a strong interactive impact that has yet to be quantitatively expressed.²³¹

Presuming that negotiations are a gateway to legal agreements, their determinants are therefore important elements of the peace process Wilkenfeld et al. note that in global predicaments, activities such as manipulative mediation may not necessarily offer a long-term solution to conflicts in comparison to mediations.²³² A similar occurrence is observed in domestic disputes. The involved parties must all be mutually convinced that the agreement they seek will be beneficial to them for the peace process to work. Moreover, it is potentially more productive for an agreement to be suggested from the parties in conflict as opposed to it being imposed by external international sanctions.

In order to explicitly comprehend the role of mediation and security assurances on the agreement process, Biswas requests us to consider a case of military intervention. Military intervention, in her opinion, contradicts security assurances, and is always unfavorable to negotiations; and by extension, agreements.²³³ Military action can also be conducted without the participation of the host government, and as a result, exacerbate mistrust. In most cases, military action is a product of a third party that aims to benefit from the clashes. An example of this is in Moldova and Bosnia, where the military intervened in an attempt to prevent the government from exploiting the minority groups. In both cases, however, conflict was resolved through forced intervention, and may not have necessarily catered for the needs of all conflicting parties. Similarly, in both situations, the military was used as an agent of controlling uncertainties in conflict. The factors that impel the military to get involved (or not to) are

²³⁰ Biswas, 2006(a), pp. 117-118.

²³¹ Idem.

²³² Wilkenfeld, J. et al. (2003). *Mediating International Crises: Cross-National and Experimental Perspectives. Journal of Conflict Resolution*, 47(3), pp. 279-301, quoted in Biswas 2006(a), p. 1.

²³³ With a few notable exceptions.

diverse, and they strongly determine the outcome of the activity. Needless to say, forced intervention hinders negotiations and agreements.

According to Biswas, in some cases, alternative means of negotiation have to be developed.²³⁴

To what extent does military intervention alter the process of negotiations? Is military action such a necessary evil that some parties are willing to overlook how it exacerbates mistrust, even if for a short period? Do some circumstances necessitate military action to ameliorate further instability? These are some of the critical issues that need to be addressed in future research in order to ensure that whenever military intervention is carried out, it is for the right reasons and under the right circumstances.

Democracy

As convincingly hypothesized by some authors,²³⁵ democracy is a foundation that facilitates successful agreements and dialogues. Sovereign regions appreciate this specific property of democracy, and present explicitly defined tools and principles of power-sharing. Additionally, autonomous states are more likely to respond or be willing to address any grievances arising from their citizens. However, the association between democracy and agreements is not always forthright. Autonomous states are not always immune to clashes and conflicts: In fact, self-governing countries are as susceptible to disputes as regions that are not independent. Consider the case of the Indian nation, which is an autonomous developing country. Most of the disputes in the region have consistently shown a significant influence on the relationship between agreements and the democratic system of the country. The Indian government has been impressively successful in managing issues raised by the minority groups. Other nations of the world, particularly third world countries, should be ready and willing to study the response of the Indian administration to conflict, and if possible, implement similar measures in their conflicting communities.²³⁶ Additionally, it is worth looking into as to why a stronger relationship is not being exhibited between official agreements and systems of democracy in the world today, particularly since researches have put forward that democracy helps in alleviating civil disputes.²³⁷

At this stage, the argument being raised is that the interaction between democracy and conflict resolution is complex. Findings of the review indicate that social equality or rather equity is, potentially, a stronger driver of dialogue in comparison to weak or no democratic systems and

²³⁴ 'principled' negotiation.

²³⁵ Biswas, Carciumaru, Dahl, Gurr, Mitra.

²³⁶ See an extensive analysis Indian responses, tools, tactics and strategies, in the next chapter.

²³⁷ Gurr, T.R. (1993). *Minorities at risk: A global view of Ethnopolitical Conflicts*. Washington, DC: United States Institute of Peace Press.

even when the Indian circumstances are not in operation.²³⁸ Although states with social equality have a higher incidence of signing agreements, social fairness is weakly related to dialogue. This creates further concern: Why is this relationship weak? What makes a nation with a democratic system desist from committing to power-sharing agreements regardless of participation in dialogue? Does international intervention play a part in such a peace process? In response to these questions and as mentioned above, I will focus on six case studies from South Asia and Eastern Europe. South Asian case studies have a vast background in negotiations and less in agreements, whereas in the case of the Eastern European countries vice-versa is true (i.e., they have a vast background in (imposed) agreements and less in negotiations).

In some situations, official agreements between conflicting parties are not a necessity in democratic systems.²³⁹ In some cases, for instance, the Indian administration solved hostility in regions that exhibited militancy by assuring the militant leaders of the opportunity to join politics.²⁴⁰ The assurance is credible, keeping in mind that the Indian democratic system allows integration of opposing political views into the national structure. Occasionally, the move has enabled militant leaders to join politics and, in some cases, this did not happen. However, the conflict will have already been solved even in the absence of a formal agreement. Additionally, most democratic systems have decisional constraints that may make militant leaders refrain from signing a formal agreement with the government. Therefore, it is important to determine how peace processes with no formal agreements succeed, including the determinants of a genuine affirmation. The progression from negotiations to agreements is complex in nature, as will be demonstrated by the findings of my case studies. The table below gives a list of non-democratic states where security assurances were used to facilitate peace contracts.

Table 6: Non-democracies that signed agreements with external security²⁴¹

Country	Group
Sudan	Nuba
Sudan	Southerners
Angola	Ovimbundu
Angola	Bakongo
Democratic Republic of Congo	Tutsis
Sierra Leone	Temne
Bosnia	Croat
Bosnia	Serb

²³⁸ Biswas, 2006(a), p. 123.

²³⁹ This shows the importance, legitimacy and robustness of informal agreements & institutions in democracies.

²⁴⁰ See Mitra and Singh, 2009.

²⁴¹ Biswas, 2006(a), p. 127.

Biswas argues that a non-democratic system limits the government’s role in creating fair and just power-sharing methods to minority groups, and the listed countries demonstrate this property.²⁴² As a result, security guarantees from foreign countries are the alternative courses of action. Non-democratic countries require interventions different from those required in states that have strong and well-functioning democratic and political systems.

II.2.2 Types, Strategies and Actors

Table 7 shows the advantages and disadvantages of different types of negotiation (i.e., hard, soft, principled and communicative) forms. In my thesis, I argue that ‘principled’ negotiation is the best suited, most successful, pro-active type of negotiation. Both hard and soft types of negotiation are characteristic of asymmetric relations between conflictual parties, whereas the “communicative negotiation” while having its merits, is too passive and might lead to stalemates.

Table 7: Strategic vs Communicative Negotiation²⁴³

Strategic Negotiation		Principled Negotiation	Communicative Negotiation (“Luke Cold Hand” Approach) also Culture (Cohen, Faure, Zartman)
Positional Negotiation			
Hard	Soft		
<i>Participants</i> are adversaries The <i>goal</i> is victory over adversary	<i>Participants</i> are friends The <i>goal</i> is agreement	<i>Participants</i> are problem-solvers The <i>goal</i> is a wise outcome reached efficiently and amicably	<i>Participants</i> are communicators The <i>goal</i> is understanding and respect
Demand <i>concessions</i> as a condition of the relationship Be hard on <i>the problem and the people</i> <i>Distrust</i> others	Make <i>concessions</i> to cultivate relationship Be soft on <i>the problem and the people</i> <i>Trust</i> others	<i>Separate</i> the people from the problem	Solving problem through people’s communication

²⁴² Biswas, 2006(a), p. 127.

²⁴³ Adapted from Liyanage, S. (2006). *Negotiating Identity-Based Conflicts: Discourse Theoretic Approach*. In Amal Jayawardane (ed.) *Perspectives on National Integration in Sri Lanka*. Colombo: NIPU, pp. 112-113; Fisher & Ury, 1999, p. 13.

Dig into our <i>position</i> Make <i>threats</i>	Change your <i>position</i> Make <i>offers</i>	Be soft <i>on the people</i> and hard <i>on the problem</i> Proceed independent of trust	Be respectful <i>for people</i> and treat position criticisable Proceed with respect
<i>Mislead</i> as to your bottom line Demand <i>one-sided gains</i> as price of agreement	<i>Disclose</i> yours bottom line Accept <i>one-sided losses</i> to reach agreement	Focus on <i>interest</i> not positions Explore <i>interests</i> <i>Avoid</i> having a bottom line	Focus on mutual respect Recognize differences
Search for <i>single answer</i> : the one you will accept	Search for the <i>single</i> <i>answer</i> : the one they will accept	Invent options for <i>mutual</i> <i>gain</i>	Accept criticizability of positions Invent options that ensure mutual respect
Insist on <i>your position</i>	Insist on <i>agreement</i>	Develop <i>multiple option</i> to choose from; decide later	Develop and promote mutual respect
Try to <i>win</i> a contest of will	Try to <i>avoid</i> contest of will	Insist of using <i>objective</i> <i>criteria</i>	
<i>Yield to pressure</i>	<i>Apply</i> pressure	Try to reach a result based on <i>standards</i> independent will <i>Reason</i> and be open to reason; yield to principle, not pressure	

II.2.3 Multilevel Principled Negotiation²⁴⁴

According to Gurr, contemporary research concurs that autonomous structures with strong democratic systems have the potential to facilitate easier and simpler negotiations.²⁴⁵ Intervention or mediation efforts are also a vital part of the peace process, provided they

²⁴⁴ See Mitra, S.K. and Carciumaru, R. (2015). Beyond the ‘Low-Level Equilibrium Trap’: Getting to a ‘Principled Negotiation’ of the Kashmir Conflict. *Irish Studies in International Affairs*, 26, pp. 1-24., where the authors experimented with the a very incipient idea of multilevel principled negotiation that ripened to its full-fledged form in my thesis.

²⁴⁵ Gurr, T.R. (2000). *People versus States. Minorities at Risk in the New Century*. Washington D. C.: United States Institute of Peace Press.

alleviate the concerns of the minority groups and the state in general.²⁴⁶ The literature also contains research on how endogenous and exogenous factors and actors can be used to resolve disputes. Contemporary research has also addressed the role of third-party intervention and mediation in regions that have functional internal units. The political field stands to gain if research proposes methods to create clearly-defined internal units that favor the participation of both domestic and exogenous parties towards conflict resolution. A high proportion of current research focuses on one area of analysis and overlooks the challenges that domestic and foreign parties face when managing, and if possible, preventing ethnic conflicts. The thesis acknowledges existence of the gap and seeks to address this problem through a levels-of – analysis approach that examines the comparable and integrative elements of different levels²⁴⁷. Thus, Cordell & Wolff split the two levels suggested by Singer into four. They highly recommend to perform the analysis on each level, with respect to activities and impacts of both actors and systems during the onset, duration and resolution of cultural disputes. The four levels are given below:

1. *The Local (Sub-State) Level:*

This is the first level, and the local leaders, economic and social activities, laws and regulations of a country among others are crucial players. The local ethnic and religious groups (and their leaders), members of the private sector, local NGOs, delinquents and rebel groups constitute the non-state actors and systems, and their operations have a significant influence on the conflict.

2. *National (State) Level:*

The state level is the second classification. Although all major activities at a national level may seem inconsequential to some local conflicts, they play a considerable role. Local activities are usually a low-level manifestation or expression of nation-wide systems, and therefore, changes at a national level have the power to positively or adversely affect localized processes. Examples of these deterministic national level

²⁴⁶ Cf. Walter, 2002; see also Biswas 2006(a) and Biswas, B. (2006b). The Challenges of Conflict Management: A Case Study of Sri Lanka. *Civil Wars*, 8(1), 46-65.

²⁴⁷ I am grateful to Karl Cordell and Stefan Wolff for updating & upgrading Stinger's two levels-of-analysis approach. Cordell & Wolff's approach is much more comprehensive and helpful a tool to examine, understand, explain and predict ethnic conflicts as well as their resolution. See Cordell, K. and Wolff, S. (2009). *Ethnic conflict: causes, consequences, and responses*. Cambridge; Malden, MA: Polity.

processes include economic, political, social and cultural activities, power of the administration, threats by opposing political groups, and threats of territory invasion.

3. *Regional Level:*

Region is the third level of analysis. A region is made of the country in question and its neighboring states, regional international organizations (IOs), regional administrations and leaders, and accredited facilities and organizations. The region in which a county exists strongly determines the structuring of a nation's laws and regulations, business activities, organized crime, ethnic groups and societal standards. The relationship between a country's leaders and leaders of the neighboring countries may also influence the level of cooperation in a region, which may in turn affect the willingness of the region to maintain harmony in a given country.

4. *International/Global level:*

International governments are the fourth level of analysis. For instance, most national governments, especially in the developing countries, receive substantial financial aid from allied governments that exist outside the regional level. International trade is also facilitated by numerous international alliances that in most cases, fall outside the regional trading blocs. Therefore, it follows that in the similar manner that IOs and NGOs exert influence, international non-governmental organizations (INGOs) are significant non-state players. In particular, INGOs, diaspora lobbies, TNCs, international crime networks, and their respective leaders are considered as noteworthy none-state actors and systems.

In addition to performing analysis of systems and actors, it is important to examine the impact of factors that are challenging to group as to whether they arise from the system or from the actors. Some of these factors include environmental degradation, food and energy security, and (over)utilization of resources. The following tables gives an overview of the multilevel analysis.

Table 8: The levels-of-analysis approach

	State structures and actors	Non-state structures and actors	Issues
Local	Local leaders or distinguished individuals, governance, national icons, recognized institutions, social elements, economic elements	local religious/ethnic groups, communities and their leaders, community icons, members of the private-sector stakeholders, local NGOs, delinquents and rebel groups	(over)utilization of resources, energy and food security, environmental degradation
State	National leaders and icons, state administration, acknowledged institutions, social elements, economic elements	National religious/ethnic groups, communities and their leaders, national icons, state NGOs, private-sector stakeholders, nation-wide delinquents and rebel groups.	
Regional	Neighbouring countries and their governance, regional IOs, regional leaders, regional icons, regional economic and political relationships	Multinational ethnic, trade, religious groups, organized crime, rebel groups	
Global	Powerful governments and their IOs, world-famous leaders and global icons international relationships, certain powerful institutions and their leaders	diaspora lobbies, NGOs, TNCs and internationally structured crime networks alongside their corresponding elites or leaders	

Exogenous and Endogenous Factors

Biswas asserts that if “uncertainty and mistrust are among the principal causes of conflict, they also form the major barriers to finding solutions.”²⁴⁸ Thus, the factors that cause conflicts to emerge and escalate are the same factors that pose challenges in finding solutions for their resolution. In particular, exogenous and endogenous factors may determine the course of a conflict. For instance, exogenous factors may attenuate uncertainties in conflicting parties and at the same time affect the major conflicting agents, the rebels and the state. According to the rebel group’s viewpoint, a compromise may enhance the legality of the group and quite possibly reduce destruction of property and loss of lives. On the other hand, the state may view a compromise as an expensive venture and an indication of vulnerability and weakness.

Thus, for example, the minority group demands can be managed with the use of local organizations and facilities that enable the minority groups to interact with policy makers and be involved by participating actively in formulation of policies that directly affect them. However, if a conflict occurs, the necessity of a third party mediator should not be downplayed or ignored. The third party should be impartial and seek to solve conflict through equitably treating the parties, fair approach, but also sanctions and incentives that thus facilitate negotiations. However, an impartial third party mediator is difficult to agree upon. As a result, the chances to come to the negotiating table may be hindered or even compromised. Walter indicates that in such cases, only an active external party can facilitate productive and meaningful negotiations.²⁴⁹ For example, international mediators may act as channels of communication between the opposing parties, schedule dialogs, suggest penalties for failing to honor the agreement, and similarly, rewards for honoring the contract.²⁵⁰ Moreover, Walter points out that a genuine peace agreement is difficult to structure; in her opinion, an international system overseeing power-sharing arrangement at national level and ensuring that the involved parties fully deliver on their commitments and promises is the only way through which peace agreements during civil wars and ethnic conflicts can be effectively implemented.²⁵¹

In some cases, conflicts arise due to change. Therefore, mediation should be included in every process that alters the familiar political structure of a region to ensure that all stakeholders

²⁴⁸ Biswas, 2006(b).

²⁴⁹ Walter, 2002, p. 63.

²⁵⁰ See Bercovitch, J. (ed.) (1994). *Mediation in international relations: multiple approaches to conflict management*. Basingstoke: Macmillan, in particular the Chapters: “The Structure and Diversity of Mediation in International Relations,” by Jacob Bercovitch, pp. 1-29, and “Conclusion: International Mediation in Context” by Rubin, Jeffrey Z., pp. 249-272.

²⁵¹ Walter, 2002, p. 64.

recognize and acknowledge their functions. Governments of collapsed states lack the power, or authority, rather, to trigger and sustain change. The governments do not operate at a full potential and are prone to numerous weaknesses of administration: In such situations, strong international intervention compensates for the deficiency in an authoritative governing structure. Third-party interventions such as deployment of soldiers to the affected regions may also be considered, and such measures have proved to be important in facilitating dialogues between the warring parties, and as a result, adoption of genuine peace agreements. For instance, the civil wars that occurred in Bosnia, Moldova, Mizoram and Sri Lanka took place either under weak or non-institutionalized government structures or during a systemic collapse and a structural change. The Bosnian and Moldavian governments were virtually non-existent at the time of the conflict, and there was a considerable lack of administrative legality and authority. Interestingly, the conflicts in these countries were solved through active international mediation. On the other hand, third-party involvement in conflict resolution in Sri Lanka and Mizoram was not as dominant as in the Bosnian and Moldavian case, and as a result, conflicts in these countries continued to intensify.

The government has a responsibility of ensuring that it does not discriminate when delivering its promises, particularly to the minority populace. If a government is made up of democratic and resolute political parties, leaders of these parties should also see to it that the government delivers. On the other hand, a government that is biased or poorly delivers its obligations is more likely to witness more protesting groups than an effectively functioning executive. Armed rebel groups are a strong indication of a government that discriminates against its minority groups and weak institutions. In such a case, the government should acknowledge it requires international assistance, and be willing to waive its mediatory function in favor of international intervention. Collapsed states require abolition of current systems and the creation of new systems of governance. However, functioning governments that face opposition from rebel groups need only to restructure and gain control of the crisis. Similar circumstances have been evident in countries such as Sri Lanka, Mizoram and India. However, current literature fails to provide an in-depth analysis of these scenarios and thereby limits the enhancement of intervention strategies. Intervention is a cost effective conflict management tool that is most suitable in circumstances where there is no threat of loss of authority to the domestic government. Sometimes, autonomous states are affected by civil wars. In such cases, international intervention is more effective if it works in unison with the functional structures and establishments of the host government. The host government may then readily welcome mediation since the peace process does not conflict with its operationalization. According to

Biswas, “high-impact intervention” should be avoided at all costs, especially since genuine security assurances are not so particularly forthcoming.²⁵²

II.3 Conclusion: Towards a Comprehensive Power-Sharing Based Model of Multilevel Principled Negotiation

Du Toit infers that the meaningfulness of using bargaining theories in explaining interethnic relations has been pointed out before.²⁵³ He posits that a basic challenge with the attempts to combine both theories is that the previous approaches viewed “bargaining theory and consociational theory as contrasting rather than complementary perspectives.”²⁵⁴ Following up on du Toit, I hypothesize that these two theoretical perspectives can be integrated into a coherent, meaningful way. The conceptual link, according to du Toit, lies in the nature of the executive power-sharing (i.e., grand coalitions) in deeply divided societies. Thus, the elites who represent the interests of different segments, and might be essentially incompatible with those of other segments, participate in a coalition in the hope of settling these conflicts of interest, but at the same time, being segmental leaders, they hope to achieve a settlement most favorable to their supporters. The extent of the concessions every coalition member will have to make in order to reach common ground is dependent upon the concessions every other participant is prepared to make. This is what Young describes as “strategic behavior.” According to Young:

“strategic behavior is the behavior of any individual member of a group involving a choice of action contingent upon that individual’s estimates of the actions (or choices) of others in the group, where the actions of each of the relevant others are based upon a similar estimate of the behavior of group members other than himself.”²⁵⁵

A bargaining party’s alternatives depend upon whether it can obtain similar or substitutable resources from other relationships. Commitment is determined by the importance of the outcome and/or issue about which the conflict arose in the first place. From this perspective the

²⁵² Biswas, B. (2006). The Challenges of Conflict Management: A Case Study of Sri Lanka. *Civil Wars*, 8(1), pp. 63-65.

²⁵³ Covell, M. (1981). Ethnic Conflict and Elite Bargaining: The Case of Belgium. *West European Politics*, 4, pp. 197-218; and Covell, M. (1982). Agreeing to Disagree: Elite Bargaining and the Revision of the Belgian Constitution. *Canadian Journal of Political Science*, 15, pp. 451-469.

²⁵⁴ Young, O.R. (1975). *Strategic Interaction and Bargaining*. In Oran R. Young (ed.) *Bargaining: Formal Theories of Negotiation*. Chicago: University of Illinois Press, pp. 5-6; Cf. Du Toit, P. (1991). Bargaining power: dependence capabilities and tactical options in South African politics. *Politikon: South African Journal of Political Studies*, 18(2), pp. 74-90; see also Du Toit, P. (1989). Bargaining about Bargaining. Inducing the Self-Negating Prediction in Deeply Divided Societies-The Case of South Africa. *Journal of Conflict Resolution*, 33(2), pp. 210-230.

²⁵⁵ *Ibid*, p. 5.

following propositions emerge. (2) “A party’s bargaining power should be greater, the lower the opponent’s alternatives and the higher the commitment of the opponent to the outcomes at issue in the relationship.”²⁵⁶

The fundamental assumption is that bargaining as a means of conflict settlement can be initiated once all those contestants involved in a conflict acknowledge that none of them can emerge from the conflict as an outright winner who has conceded nothing and gained everything at the expense of his opponents. This is the crucial threshold which has to be crossed before bargaining about the substantive issues in a conflict can proceed.²⁵⁷

According to du Toit, “bargaining about bargaining” is the first and most important stage on the process of consociational power-sharing conflict settlement.²⁵⁸

Power sharing and consensus politics do not have to be justified only by the negative consequences of their alternative (that is, group domination, internal strife, and civil war), but on a more positive basis as well.

Consociational engineering, aimed at achieving the elusive goal of elite cooperation, should not just concentrate on drawing up constitutional coalitions, mutual vetoes, proportionality, and segmental autonomy, but should also adopt a wider perspective and concentrate on institutional mechanisms which create, maintain, and reinforce mutual dependence between societal groups.²⁵⁹

This chapter set the analytical framework of my thesis, by discussing both negotiation and (consociational) power-sharing (both liberal and corporate) theory. It analyses and explains what is ‘power sharing’, how does it work and not work sometimes, and whether favourable conditions to achieving as well as maintaining power sharing system matter. With regard to negotiation, it started with analysis of two principles of negotiation process - positional and principled negotiations. The chapter looked at how one comes to the negotiation table and, eventually, to an agreement based on power-sharing institutional arrangements. It deconstructed the process of negotiation by showing how to ‘negotiate negotiation’ and what the conflicting groups have to give up in order to be able to negotiate and reach a durable solution. It started from the premises of the ‘principled’ negotiation, which state that one can negotiate anything as long as the principles are followed, and critically examines their validity in a non-western, post-conflict, transitional setting. The chapter also showed why the parties should be interested in negotiating an ‘amicable solution’ in the first place, what are the

²⁵⁶ Ibid., p. 180.; see also the concept of BATNA (Best Alternative to a Negotiated Agreement).

²⁵⁷ See the concept of MHS (Mutually Hurting Stalemate).

²⁵⁸ Du Toit, P. (1987). Consociational Democracy and Bargaining Power. *Comparative Politics*, 19 (4), p. 423.

²⁵⁹ Idem, p. 426.

incentives, who negotiates (regimes, rebels, etc.) and what are the parties prepared or willing to give up in order to reach an agreement. In the following chapter, the reader will be presented with a comprehensive narrative of my case studies, my hypotheses will be tested and the dependent variables for each case study measured.

III. Case Studies: Conflict Stages, Negotiation Process, Assessment and Evaluation

In what follows I will analyze the case studies. Each case study will consist of three subchapters: 1) background; 2) conflict management or resolution 3) outcome and assessment of the negotiation process. Each case study will have a timeline, which will not be comprehensive, but will offer a good overview of the conflict stages and its resolution or management.

III.1 South Asia

Figure 5. Map of India²⁶⁰



India's Constitutional Provisions

According to Weiner: “India contains such a medley of religious, caste, and linguistic groups that the sense of belonging to a minority depends upon where one lives, how much power and status one has, and one’s sense of community threat [...] to regard oneself as part of minority in India is to suggest that one ought to take group action to remedy one’s situation. To declare one’s group a minority is, therefore, a political act.”²⁶¹ To a minority community symbol sharing is as equally important as power sharing.²⁶²

²⁶⁰ Source: India political map copyright mapsofindia.com

²⁶¹ Weiner, 1989, pp. 101-102; Carciumaru, 2012, p. 7.

²⁶² Idem, p. 102.

The Constitution of India does not define the word “minority” anywhere. It uses the word 'minority' or its plural form in some Articles – 29 to 30 and 350A to 350 B. The National Commission for Minorities Act, 1992, avoids such a definition either. Nonetheless, under this Act the Government through its Social Welfare Department issued a list of Minority Groups on 23.10.1993, which included all-religious groups (Muslims, Christians, Sikhs, Buddhists and Zoroastrians) except Jains. Jain community opposed this decision and demanded to be included into the list of Minority Religious Group. The demand was granted and Jains are also part of the list now.²⁶³

In terms of political rights, the Constitution of India adopted two methods for protecting the minorities: (1) the guarantee of what might be described as negative quality, which protected them from the possibility of discriminatory treatment. (2) granting of positive rights, also known as affirmative actions, to members of minority groups.

Some of the special provisions of the Constitution are presented shortly in what follows²⁶⁴: *Article 14* confers equality before law; while *Article 15* prohibits of discrimination on grounds of religion, caste, sex or place of birth; *Article 16* provides equality of opportunity in matters of public employment.²⁶⁵ according to the Misra Report “do take adequate cognizance of the fact that there had been a wide disparity in the social and educational status of different sections of a largely caste-based, tradition-bound society with large scale poverty and illiteracy.”²⁶⁶ Therefore, the Constitution permits positive discrimination in favour of the weak, the disadvantaged and the backward. In this sense, Article 15 permits the State to make "any special provisions" for women, children, "any socially and educationally backward class of citizens" and Scheduled Castes and Scheduled Tribes. According to Misra, Article 15 speaks of "any socially and educationally backward class of citizens" and the Scheduled Castes and Scheduled Tribes without qualifying backwardness with social and educational attributes and without a special reference to Scheduled Castes/Scheduled Tribes, Article 16 speaks of "any backward class of citizens," whereas Article 16's provisions enable and permit the State to act proactively in terms of positive discrimination initiatives in public sector for "any backward class of citizens

²⁶³ “Shri Rajesh Balia, the Rajasthan High Court Justice accepted the demand and declared that Jains to be included into the minority group.” see Jain, B. (2006). *Jain Community a Shift from Majority to Minority*. In Joseph Benjamin (ed.) *Minorities in Indian Social System*. New Delhi: Gyan Publishing House, p. 194.

²⁶⁴ This section draws heavily on the Constitution of India up to 94th Amendment Act, available at: <https://www.india.gov.in/my-government/constitution-india>.

²⁶⁵ However, the provisions of these two Articles (Art. 15 and Art. 16) do take adequate cognizance of the fact that there had been a wide disparity in the social and educational status of different sections of a largely caste-based, tradition-bound society with large scale poverty and illiteracy. Therefore, the Constitution permits positive discrimination in favour of the weak, the disadvantaged and the backward.

²⁶⁶ Government of India, Ministry of Minority Affairs (2007) *Report of the National Commission for Religious and Linguistic Minorities*, Volume I, p. 10.

which, in the opinion of the State, is not adequately represented in the services under the State".²⁶⁷ *Article 17* abolishes "Untouchability"; *Article 19* spells out seven rights of freedom. *Article 23* speaks about prohibition of traffic in human beings and forced labour and prohibition of children in factories. Under freedom of religion provision *Article 25* enumerates right to freedom of consciousness and free profession, practice and propagation of religion; *Article 26* speaks about freedom to manage religious affairs given to religious denominations or sections thereof, *Article 28* speaks of freedom of attendance at religious instruction or religious worship in certain educational institutions. *Article 347* stipulates the special provisions relating to language spoken by a section of the population of a State, whereas *Article 350* defines the language to be used in representations for redress of grievances; *Article 350A* assures facilities for instruction in mother tongue at primary stage. *Article 350B* provides for appointment of a Special Officer for linguistic minorities by the President.

Cultural and Educational Rights are secured in Articles 29 and 30. *Article 29*, also known as protection of interests of minorities, declares in its first clause that "Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same." Clause 2 of the same Article states: "no citizens shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of *religion, race, caste, language*, or any of them. (emphasis added)" *Article 30* Clause 1 states that "all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.", whereas clause 2 prohibits the discrimination against any educational institution, on the ground that it is under the management of a minority, whether based on religion or language.²⁶⁸ *Article 32* speaks about remedies for enforcement of right conferred to move Supreme Court for seeking justice. Thus, there are rights given to all the citizens, and there are some rights that are exclusively for the minorities.

Thus, in fact, the Constitution, does give, albeit indirectly, a definition of minorities (!) in *Article 29, protection of interests of minorities*: in the first clause it speaks about the minorities based on *language, script, or culture*; in clause 2 of the same Article it does extend the

²⁶⁷ Misra Report findings state that "the words 'class' and 'caste' are not synonymous expressions and do not carry the same meaning. While Articles 15 and 16 empower the State to make special provisions for backward "classes", they prohibit discrimination only on the ground of 'caste' or 'religion'. In other words, positive discrimination on the ground of caste or religion coupled with other grounds such as social and educational backwardness is constitutionally permissible and, therefore, under a given circumstance it may be possible to treat a caste or religious group as a "class".", see Government of India, Ministry of Minority Affairs (2007) *Report of the National Commission for Religious and Linguistic Minorities*, Volume I, p. 10.

²⁶⁸ See also Alam, A. (2007). Political Management of Islamic Fundamentalism. A View from India, *Ethnicities*, 7(1), pp. 30-60.

definition. Respectively in India there are, or there could be, *minorities* based on *religion, race, caste* and/or *language*.

These correspond precisely to Myron Weiner's typology of minorities in India. Weiner distinguishes between linguistic, religious, caste and tribal minorities; and further divides them along three dimensions, depending on whether they have a conception of territorial homeland; the extent of their sense of cohesion within the community; and whether community regards itself as disadvantaged or as an achieving minority.²⁶⁹

Linguistic Minorities

As already mentioned, the term linguistic minority or minorities has not been defined in the Constitution. If the country is taken as the unit, all who speak a language other than Hindi can be treated as linguistic minorities. However, this cannot be deemed true if the State is taken as the unit. Within a State, there may be minorities speaking a language or languages other than the language spoken by the majority in that State. However, it is settled in *T.M.A. Pai v. Union of India* (reservation in private educational institutions) that a linguistic minority is determinable with reference to the State as a unit.²⁷⁰

Since each of India's states has an official language, those who speak another language as their mother tongue regard themselves as belonging to a linguistic minority.

Based on the multi-lingual profile of the states, these can be grouped into five broad categories, from A to E. The ten States in set "A" namely Kerala, Punjab, Gujarat, Haryana, Uttar Pradesh, Rajasthan, Himachal Pradesh, Tamil Nadu, West Bengal and Andhra Pradesh have negligible percentage of minor speech groups in terms of population, with the majority language spoken by more than 85 per cent inhabitants of the State. Under set "B" namely Madhya Pradesh, Bihar, Orissa, Mizoram and Maharashtra, the majority language groups are over 70 per cent of the total population. Set "C" has States namely Goa, Meghalaya, Tripura and Karnataka that experience language tensions because they have a dominating linguistic minority group, i.e. Bengali in Tripura, Telugu speaking in Karnataka and Marathi speaking in Goa. In set "D" States namely Assam, Sikkim and Manipur, the linguistic tensions have been quite volatile due to their linguistic composition as well as their intergroup attitudes. Assam, for example, although better integrated as most of the North-eastern States, has been segmented number of times and has also witnessed large scale migration of outsiders. Set "E" comprising States of

²⁶⁹ Weiner, 1989, p. 103.

²⁷⁰ Government of India, Ministry of Minority Affairs (2007). *Report of the National Commission for Religious and Linguistic Minorities*, Volume I, p. 10.

Arunachal Pradesh and Nagaland is the most diverse geo-space in India with numerous tongues.²⁷¹

Table 9: India: The multi-lingual profile of the states²⁷²

Set	States	Major Language	Minor 1	Minor 2	Others	Languages (Major + Two Minor)
A.	Kerala	96.6	2.1	0.3	1.0	Malayalam (Tamil, Kannada)
	Punjab	92.2	7.3	0.1	0.4	Punjabi (Hindi, Urdu)
	Gujarat	91.5	2.9	1.7	3.9	Gujarati (Hindi, Sindhi)
	Haryana	91.0	7.1	1.6	0.3	Hindi (Punjabi, Urdu)
	Uttar Pradesh	90.1	9.0	0.5	0.4	Hindi (Urdu, Punjabi)
	Rajasthan	89.6	5.0	2.2	3.2	Hindi (Bhili/Bhilodi, Urdu)
	Himachal Pradesh	88.9	6.3	1.2	3.6	Hindi (Punjabi, Kinnauri)
	Tamil Nadu	86.7	7.1	2.2	4.0	Tamil (Telugu, Kannada)
	West Bengal	86.0	6.6	2.1	5.7	Bengali (Hindi, Urdu)
	Andhra Pradesh	84.8	8.4	2.8	4.0	Telugu (Urdu, Hindi)
B.	Madhya Pradesh	85.6	3.3	2.2	8.9	Hindi (Bhili/Bhilodi, Gondi)
	Bihar	80.9	9.9	2.9	6.3	Hindi (Urdu, Santali)
	Orissa	82.8	2.4	1.6	13.2	Oriya (Hindi, Telugu)
	Mizoram	75.1	8.6	3.3	13.0	Lushai (Bengali, Lakher)
	Maharashtra	73.3	7.8	7.4	11.5	Marathi (Hindi, Urdu)
C.	Goa	51.5	33.4	4.6	10.5	Konkani (Marathi, Kannada)
	Meghalaya	49.5	30.9	8.1	11.5	Khasi (Garo, Bengali)
	Tripura	68.9	23.5	1.7	5.9	Bengali (Tripuri, Hindi)
	Karnataka	66.2	10.0	7.4	16.4	Kannada (Urdu, Telugu)
D.	Sikkim	63.1	8.0	7.3	21.6	Nepali (Bhotia, Lepcha)
	Manipur	60.4	5.6	5.4	29.6	Manipuri (Thadou, Tangkhul)
	Assam	57.8	11.3	5.3	25.6	Assamese (Bengali, Boro/ Bodo)
E.	Arunachal Pradesh	19.9	9.4	8.2	62.5	Nissi/Dafla (Nepali, Bengali)
	Nagaland	14.0	12.6	11.4	52.0	AO (Sema, Konyak)

Religious Minorities

Based on Census data from the Table below, Hindus form a clear majority. Nonetheless, because Hindus are divided by language and caste they do not have a clear political majority.²⁷³

Although Muslims, Christians and Sikhs are on the national scale minorities, Muslims form a majority in the state of Jammu and Kashmir, as well as they are concentrated in selected districts of the states (Kerala, West Bengal, Uttar Pradesh, Bihar, Karnataka);²⁷⁴ Sikhs form a majority

²⁷¹ Idem, p.38.

²⁷² Source: Census of India 1991, in Government of India, Ministry of Minority Affairs (2007). *Report of the National Commission for Religious and Linguistic Minorities*, Volume I, p. 37. The Table does not include data on Jammu & Kashmir, as well as States established in the year 2000, namely Chhattisgarh, Jharkhand, and Uttarakhand. Moreover, considering the fact that Chhattisgarh was carved out of Madhya Pradesh and Jharkhand out of Bihar, the content of Sets "A" and "B" could change.

²⁷³ See also Mahajan, G. (2005). *Can Intra-Group Equality Co-exist with Cultural Diversity? Re-examining Multicultural Frameworks of Accommodation*. In Avigail Eisenberg and Jeff. Spinner-Halev (ed.) *Minorities within Minorities. Equality, Rights and Diversity*. Cambridge: Cambridge University Press, p. 93.

²⁷⁴ Weiner, 1989, p. 106.

of the Punjab; whereas Christians form a majority in Meghalaya, Mizoram and Nagaland, but also have sizeable pockets in southern states (Kerala, Karnataka, Maharashtra and Gujarat), and in the main are converts from tribes or low castes;²⁷⁵ Buddhists form a plurality in Sikkim – 30%.

Moreover, considering multiple-identity variable of communities both stratified and internally diverse, Asghar Ali Engineer in his Article “*The Minority Question in India*”²⁷⁶ rightfully observed that Christians and Muslims do differ within their communities in India. The Kashmiri Muslims claim separate ethnic identity from rest of Indian Muslims. The Muslims of Kerala and Tamil Nadu are of Dravidian origins too and so are Muslims of Karnataka and Andhra Pradesh. The Christians of North East do not share same ethnic identity with Christians of North or South India. Thus in Kashmir Muslims are double minority religious as well as ethnic and Christians of North East are, similarly, double minority religious as well as ethnic.

The Muslims of North India in states like U.P. Bihar or Madhya Pradesh share same ethnicity as that of Hindus but are minority in religious sense. The Christians and Muslims of Kerala and Tamil Nadu share same ethnic identity with rest of Hindus there yet they are religious minority.

Table 10: India: Religious Minorities, in %²⁷⁷

Religions	1961	1971	1981	1991	2001	2011
Hindu	83.45	82.73	82.30	81.53	80.46	79.80
Muslim	10.7	11.21	11.75	12.61	13.43	14.23
Christians	2.44	2.6	2.44	2.32	2.34	2.30
Sikhs	1.8	1.9	2.0	2.0	1.9	1.72
Buddhists	0.74	0.70	0.70	0.77	0.77	0.70
Jains	0.46	0.48	0.47	0.40	0.41	0.37
Others	0.4	0.4	0.4	0.43	0.6	0.66

Last but not least important is the continuously superior growing rate of Muslim community as opposed to Hindu community. According to the last Census, Muslims had a growth rate of 34.5 per cent, between 1981 and 1991 and 36 per cent between 1991 and 2001; whereas for the same period of time Hindus had a growing rate of 25.1 and 20.3 per cent respectively.²⁷⁸ This fact does play a role in the “Hinduism is in danger!”-Right-wing-discourse as well as does not necessarily make the work for the proponents of separate personal law (segmental autonomy) any easier.²⁷⁹

²⁷⁵ Idem, p. 109.

²⁷⁶ Engineer, A.A. (2005). *The Minority Question in India*. Centre for Study of Society and Secularism.

²⁷⁷ Census 1961, 1971, 1981, 1991, 2001, 2011 (Religion).

²⁷⁸ Source: Census of India 2001, *Growth Rate of Population by Religious Communities*.

²⁷⁹ See Khan, Z.-I. (2006). *Hindu Fundamentalism in Contemporary India: A Muslim Perspective*. In Ibrahim M. Abu-Rabi' (ed.) *The Blackwell Companion to Contemporary Islamic Thought*. Malden: Blackwell Publishing, pp. 509-526.

Tribal Minorities

According to Stuligross, scholars and policy-makers have never agreed on a definition of a “tribal person” or “tribe”. Most commonly, the “tribal” category has been conceived as an “*amalgam of otherness*”: the tribespeople traditionally do not practice high-tradition Vedic Hinduism, they are not Muslim, not economically or ritually stratified, and not integrated into the “modern economy or civilization” that surrounds them. The National Commission for Scheduled Tribes basic approach has been to devise lists rather than definitions. Those communities whose names appear on the schedule of tribes, which varies by State, are scheduled tribes; those whose names do not appear are not.²⁸⁰

The six largest tribes are the Gonds of central India; the Bhils of western India; the Santals of western Bihar, West Bengal and Orissa; the Oraons of Bihar and West Bengal; the Minas of Rajasthan; and the Mundas of Bihar, West Bengal and Orissa. These tribes constitute nearly one-half of India’s tribal population.²⁸¹ While tribals are a minority nationwide, they constitute a majority of the population in the north-eastern States of Nagaland (89%), Meghalaya (80%) Arunachal Pradesh (63%) and form a plurality in Manipur (43%), outside of the north-east they constitute a majority in 19 districts.²⁸²

Caste Minorities

Table 11: The Distribution of Scheduled Castes and Scheduled Tribes²⁸³

State Union Territory	Total/ Rural/ Urban	Scheduled Castes (%)				Scheduled Tribes (%)			
		1981	1991	2001	2011	1981	1991	2001	2011
INDIA	T	15.75	16.48	16.20	16.60	7.76	8.08	8.20	8.60
	R	17.34	18.04	17.91	18.50	9.54	10.08	10.41	11.30
	U	10.63	11.99	11.75	12.6	2.03	2.32	2.44	2.80

According to Weiner, “none of India’s several thousand castes is in the majority in any region of the country.”²⁸⁴ To speak of a minority caste, Weiner continues, is to refer to its status not number. Unlike tribes, Sikhs, or linguistic groups, scheduled castes do not identify themselves with any homeland or have any territorial demands.²⁸⁵

²⁸⁰ “Today, 4,635 tribes are included on the schedule. This number overstates the number of tribal communities because the list is a composite of 25 States lists and several tribes have populations that cross State boundaries and are recognized as scheduled tribes in several States”, see Stuligross & Varshney, 2002, p. 446.

²⁸¹ Weiner, 1989, p. 111.

²⁸² Idem, p. 112.

²⁸³ Government of India, Ministry of Social Justice and Empowerment (2007). *Annual Report 2007-2008*; Chandramouli, C. (2013) *Scheduled Tribes in India*. As revealed in Census 2011. Government of India, Ministry of Home Affairs.

²⁸⁴ Weiner, 1989, p. 114.

²⁸⁵ Idem.

Besides Scheduled Castes (*Dalits*), another self-proclaimed minority caste should be mentioned— “other backward classes.” According to most estimates, the OBCs constitute about half of the Indian population, so that along with the scheduled castes and tribes they form about three-quarters of the country’s population.²⁸⁶

III.1.1 Punjab

Table 12: Chronology – Sikh nationalism²⁸⁷

1799	Ranjit Singh establishes a kingdom in the Punjab with its capital in Lahore and borders extending from Kabul in the west to the river Sutlej in the east and from Ladakh and Lhasa in the north to Rajasthan in the south.
1849	Punjab becomes the last kingdom in India to be annexed by the British.
22 October 1909	India's British rulers pass the Anand Marriage Act, thereby reinforcing a distinct Sikh identity.
1920	Gurdwara Reform Movement (G.R.M.) is formally launched to regain control of gurdwaras from <i>mahants</i> (hereditary custodians).
1925	G.R.M. is concluded with the Sikhs regaining control of their major gurdwaras via the passage of the Sikh Gurdwaras Act, the formation of the Akali Dal and the Shiromani Gurdwara Parbandhak Committee (S.G.P.C.), an elected body responsible for the management of major Sikh gurdwaras.
1946	The Akali Dal floats the idea of an independent Sikhistan or Khalistan but is unable to gain the attention of the British.
15 August 1947	India's independence is accompanied by its partition into India and Pakistan. Lahore goes to Pakistan, Amritsar to India.
1966	The Indian state of Punjab is reconstituted along linguistic lines
1969	Former finance minister of Punjab and medical doctor Jagjit Singh Chauhan proclaims the 'Sovereign Republic of Khalistan.'
1969	Darshan Singh Pheruman fasts to death to secure the award of Chandigarh to Punjab.
16-17 Oct. 1973	Anandpur Sahib Resolution (A.S.R.) is authored.
28-29 October 1978	The 18th All India Akali Conference of the Shiromani Akali Dal (S.A.D.) held in Ludhiana (Punjab, India) adopts a softer version of the A.S.R.
September 1979	The Akali Dal splits into two factions, one led by Harchand Singh Longowal with support from Prakash Singh Badal, and the other led by Jagdev Singh Talwandi with support from Gurcharan Singh Tohra, president of the Shiromani Gurdwara Parbandhak Committee (S.G.P.C.).
20 March 1981	The flag of the 'New Republic of Khalistan' is hoisted at Anandpur Sahib (Punjab, India).
September, 1981	New Delhi receives a list of forty-five demands from S.A.D.
16 October 1981	The first round of talks between Delhi and S.A.D. The top demand is the unconditional release of the arch extremist Jarnail Singh Bhindranwale.
5 April 1982	The third round of talks between Delhi and S.A.D. The Akalis unilaterally announce that the talks failed.

²⁸⁶ Weiner, M. (2001). *The Struggle for Equality: Caste in Indian Politics*. In Atul Kohli (ed.) *The Success of India's Democracy*. Cambridge: Cambridge University Press, p. 202.; see also Varshney, A. (2000). Is India Becoming More Democratic? *The Journal of Asian Studies*, 59(1), p. 8.

²⁸⁷The data for the chronology of Sikh nationalism is available as open-source, internet public space, on several websites. The one present here was taken entirely from THE SIKH TIMES, available at: http://www.sikhimes.com/sikhism_timeline.html, accessed on July 1, 2018; see also Mitra, 2016.

26 April 1982	Two severed heads of cows are found hanging at two Hindu temples at Amritsar. (Cows are sacred to Hindus.) The Dal Khalsa issues a statement claiming responsibility.
1 May 1982	India bans the Dal Khalsa and the National Council of Khalistan. The Dal Khalsa had been formed as a counterweight to the Akali Dal in 1978 with the support of Zail Singh, then a senior cabinet minister in the Indira Gandhi-led Congress (I) government in New Delhi.
4 August 1982	The Akali Dal launches the DharamYudhMorcha (religious war). An Indian Airlines flight from Delhi to Srinagar with 126 passengers on board is hijacked to Lahore by a Sikh.
19 November 1982	The inaugural day of the Ninth Asiad (Asian Games) in New Delhi. The S.A.D. vows to protest. All Sikhs attempting to enter Delhi are searched and, in many cases, humiliated, especially in the state of Haryana.
29 August 1983	S.A.D. launches the <i>KamRokoMorcha</i> , an entrenchment/agitation aimed at obstructing work (i.e. a call for a general strike) in Punjab.
6 October 1983	Punjab's Congress (I) government, headed by Darbara Singh, is dismissed and replaced with President's rule, a euphemism for direct rule from New Delhi.
6 June 1984	The Indian Army storms Darbar Sahib (Amritsar) resulting in the deaths of hundreds including extremist leader Bhindranwale, Lt.-Gen. Shahbeg Singh, and president of the All India Sikh Students Federation (A.I.S.S.F.), Amrik Singh. The action is labelled Operation Bluestar.
7 June 1984	About 500 soldiers belonging to the 9th Battalion of the Sikh Regiment stationed at Ganganagar (Rajasthan) mutiny upon hearing reports about Operation Bluestar. Smaller revolts involving Sikh soldiers are reported.
31 October 1984	Prime Minister Indira Gandhi is assassinated by two Sikh members of her security staff. In the anti-Sikh riots that follow 5,000 die in pogroms led by members of Indira Gandhi's Congress party and aided by the complicity of local security forces.
December, 1984	The Congress party led by Indira Gandhi's son Rajiv Gandhi, campaigns on the issue of India's territorial integrity.
24 July 1985	Harchand Singh Longowal and Prime Minister Rajiv Gandhi sign a Memorandum of Settlement awarding, among other things, Chandigarh to Punjab.
20 August 1985	Harchand Singh Longowal is assassinated while speaking at a <i>gurdwara</i> (Sikh place of worship).
25 September 1985	Akali Dal wins elections in Punjab. Surjit Singh Barnala becomes chief minister with a sweeping majority (73 / 117).
26 January 1986	Khalistan, an independent Sikh state, is proclaimed amidst a SarbatKhalsa gathering (a large gathering of Sikhs, figuratively representing the entire Sikh community) at Darbar Sahib (Amritsar).
11 May 1987	The S.A.D. government is dismissed. President's rule is imposed.
August 2008	High factionalism of S.A.D: six groups claiming to be the 'real' Akali Dal

Background: Conflict stages

The conflict started escalating with Akali Dal losing the elections of 1972.²⁸⁸ As a consequence, Akali Dal returned to a one-issue ethnic party acting as the sole representative of Sikh interests. Respectively, the Anandpur Sahib Resolution was drafted in 1973, defining Sikhs as quasi-

²⁸⁸ See Mitra, S.K. (2006). *The Puzzle of India's Governance: Culture, Context and Comparative Theory*. London: Routledge, pp. 87-95.

(nation) and demanding a radical decentralisation. The following seven demands and objectives were outlined by the Resolution:

- The transfer of the federally administered city of Chandigarh to Punjab.
- The transfer of Punjabi-speaking and contiguous areas of Haryana to Punjab.
- Decentralisation of states under the existing constitution, limiting the central government's role.
- The call for land reforms and industrialisation of Punjab, along with safeguarding the rights of the weaker sections of the population.
- The enactment of an all-India gurdwara (Sikh house of worship) act.
- Protection for minorities residing outside Punjab, but within India.
- Revision of government's recruitment quota restricting the number of Sikhs in the armed forces.²⁸⁹

The Sikh religious leader Jarnail Singh Bhindranwale entered the Punjab politics at the end of 1970s. Indira Gandhi, the INC party leader, instrumentalized Bhindranwale, using him as a 'countervailing force' to Akali Dal, INC's main adversary in Punjab. INC was responsible of making Bhindranwale a strong political leader, advocating Sikh self-determination. Initially, Akali Dal were suspicious of Bhindranwale true intentions, accusing him of being "an agent for the Congress party."²⁹⁰ However, given his overwhelming popularity, Akali Dal decided to join forces. Consequently, securing the support of Bhindranwale, Akali Dal started Dharam Yudh Morcha ("Assembly for the Fight for Justice") in August 1982.²⁹¹ The main objective of the movement was to implement the demands of Anandpur Sahib Resolution.²⁹² As a consequence, Indira Gandhi categorized Akali Dal a secessionist party, though the Resolution did not explicitly demand Khalistan (a separate own state for Sikhs).²⁹³

Indira Gandhi viewed the Anandpur Resolution as a secessionist document and evidence of an attempt to secede from the Union of India. Thus, Akali Dal was classified as a separatist party and the decision was taken to use force and suppress it.²⁹⁴ The Akali Dal officially stated that Sikhs belong to India and the Anandpur Sahib resolution did not foresee an autonomous Sikh

²⁸⁹ See Khalistan movement, available at: http://research.omicsgroup.org/index.php/Khalistan_movement, accessed on July 1, 2018.

²⁹⁰ Desai, A.R. (1991). Expanding Governmental Lawlessness and Organized Struggles. *Popular Prakashan*, pp. 64–66.

²⁹¹ See Dharam Yudh Morcha, available at http://www.sikhiwiki.org/index.php/Dharam_Yudh_Morcha, accessed on July 1, 2018.

²⁹² Ibid.

²⁹³ Ibid.

²⁹⁴ For example, within two months security forces arrested over 30,000 Sikhs! See Deol, H. (2000). *Religion and nationalism in India: the case of the Punjab*. New York: Routledge.

State of Khalistan.²⁹⁵ Very fast, the whole situation escalated into a major violent clash between Bhindranwale followers and the GoI.

It was widely known that the rebels who conducted the bombings and killings were hiding in gurdwaras. The Congress-run administration, however, refrained from entering into the gurdwaras to avoid injuring Sikh feelings.²⁹⁶ This strategy changed in October 1983, after six Hindus, traveling by bus, were killed. As a consequence, the emergency rule was imposed in Punjab. The emergency rule lasted for more than a decade.²⁹⁷

After this occurrence, in February 1984, the Akali Dal escalated the agitation disputing the Article 25 of the Constitution of India (section (2) (b)). Akali Dal demanded the amendment of the constitution to eliminate any confusions, such as applying the term Hindu when referring to Sikhs. Thus, for example, a Sikh couple who were united in conformity to the rituals of the Sikh belief were expected to register either under the Hindu Marriage Act or the Special Marriage Act, 1954. The Akalis pressed for the replacement of these laws with Sikhism-based laws.

Jarnail Singh Bhindranwale, in the meantime elevated to one of the uncontested leaders of the movement for Khalistan, relocated into the Harimandir Sahib (mainly referred to as the Golden Temple – unequivocally the holiest Sikh shrine) followed by many of his supporters. The fortification of the temple and the installation of heavy machine guns as well as self-loading rifles started instantly. In June 1984, Indira Gandhi, the Indian Prime Minister then, launched the Operation Blue Star to kick out Bhindranwale and his followers from the temple. The Operation involved the Punjab Police, Border Security Force, Central Reserve Police Force and Indian Army. Though Bhindranwale was killed, the costs, both in terms of civilian and military casualties as well as the destruction of the temple were immense. Most Sikhs strongly condemned the Operation and viewed it as a desecration of the holiest Sikh sanctuary. 1984 and as a direct result of the impact the Operation Blue Star had on the Sikh community, Indira Gandhi was assassinated by two of her Sikh bodyguards. As a consequence of Indira Gandhi's murder, thousands of Sikhs were slaughtered in Delhi by anti-Sikh insurgences thought to be Congress activists and mobs.²⁹⁸

The implementation of Operation Blue Star that the Sikhs responded using the murder the anti-Sikh riots and of Indira Gandhi that was brought about by her demise, allowed for the upsurge of Sikh aggressiveness not counting terrorism actions. The level of violence of the conflict that lasted a decade and a half might be seen from the fascinating and pointed perspective of what

²⁹⁵ Deol, 2000, pp. 102–106.

²⁹⁶ Ibid.

²⁹⁷ This section draws heavily from Khalistan movement, available at: http://research.omicsgroup.org/index.php/Khalistan_movement, accessed on July 1, 2018.

²⁹⁸ Deol, 2000, p. 109.

Mark Juergensmeyer called a “cosmic war”. In his view, the existence of particular conditions increases the probability of violence based on religious conviction.²⁹⁹ In Juergensmeyer opinion, the following three features are responsible for religious terrorism to take place in a cosmic war:

- a) The conflict is viewed as essential in upholding dignity as well as in affirming identity
- b) The pain and trauma of defeat are incommensurable
- c) To hinder a struggle defeats the purpose exposed in the first point a), which views the conflict as essential.³⁰⁰

The 1984 attack of the Temple, as well as the killing of Jarnail Singh Bhindranwale, the movement leader, might be perceived as the most crucial developments in categorizing the Sikh struggle in terms of a cosmic war. The fact that Gol’s operation presupposed an attack on a sacred Temple was deeply distressful and humiliating to the majority of Sikhs, who felt alienated from the Indian state.³⁰¹

The demonstrations against Sikh, which followed after the assassination of Indira Gandhi, only intensified their sense of discrimination. It is estimated that more than 10,000 people died as a direct consequence of violence hitting Punjab after Gandhi’s murder, whereby several Sikhs were afflicted and executed by gangs led by the Congress leaders. Ultimately, the civil population (the bystanders) that was initially indifferent to the rebels was forced to retaliate and join in, in particular, after their families were directly impacted by the violence.

Thus, the events analyzing the stages of escalation of the conflict fit into Juergensmeyer's framework and characteristics of a cosmic war.

Conflict Management & Negotiation Process

According to Gill, the Khalistan movement represented one of the most violent terrorist movements in the world.³⁰²

Consider the flowing excerpt from a 1981 New York Times article entitled “In India, Sikhs Raise A Cry For Independent Nation”³⁰³:

²⁹⁹ Juergensmeyer, M. (2003). *Terror in the Mind of God: The Global Rise of Religious Violence*. Vol 13 edition. University of California Press, p. 164.

³⁰⁰ Ibid.

³⁰¹ Compare to two different cases a similar one - the Tamils in Sri Lanka and a dissimilar one - the Russians in Transnistria.

³⁰² This subchapter draws extensively on Gill, K.P.S. Endgame in Punjab: 1988-1993, available at <http://www.satp.org/satporgtp/publication/faultlines/volume1/fault1-kpstext.htm>, accessed on July 1, 2018.

³⁰³ Kaufman, M.T. and Special to The New York Times (1981). *In India, Sikhs Raise a Cry for Independent Nation*. New York Times; see also Sathian, S. *The Nation That Declared Independence in The New York Times*. OZY.

Gajender Singh spends his days in the Sikh hostel attached to the Golden Temple, Sikhism's holiest shrine. It is from this sanctuary that they maintain contact with the 1,500 activists they say belong to their two groups.

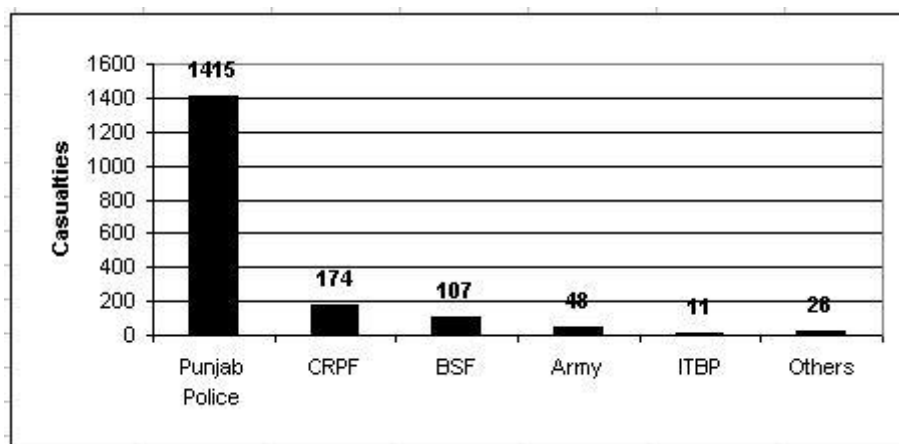
"We are maturing," said Gajender Singh. "We have finished with the organizational stage and are now involved in propagation. Next will come direct action and then, finally, full-scale confrontation. Like the P.L.O., we are seeking international recognition, and at home we are prepared to use terror, the political language of the 20th century."

Furthermore, consider another activist interviewed by NYT asserted the following:

"The British were willing to provide us with our homeland, but we were talked out of this by Nehru and Gandhi," said Mr. Sandhu, who calls himself the secretary general of the national council of Khalistan. "The Hindus said that we would share with them in the Government, but they lied. What we are facing is Hindu imperialism, which threatens our integrity."³⁰⁴

As a direct consequence of the violent clashes an estimated 21,469 people were killed (see Figure 6). The intervention by the GoI and subsequent bilateral negotiations (the two-track strategy GoI ever so often uses) that followed led to the decrease in violence, decline of the secessionism movement and resolution of the conflict. movement declined and the conflict was regulated in 1993.

Figure 6. Force Casualties in Punjab³⁰⁵



Outcome and Assessment

According to the United States Department of State, there was a notable decline in Sikh radicalism between 1992 and 1997, although the 1997 report noted that "Sikh militant cells are active internationally and extremists gather funds from overseas Sikh communities."

³⁰⁴ Idem.

³⁰⁵ Gill, K.P.S. Endgame in Punjab: 1988-1993, available at <http://www.satp.org/satporgtp/publication/faultlines/volume1/fault1-kpstext.htm>, accessed on July 1, 2018 <http://www.satp.org/satporgtp/publication/faultlines/volume1/fault1-kpstext.htm>

Punjab case study confirmed all my hypotheses,³⁰⁶ including intervention hypothesis, which showed beyond any doubt that military intervention will exacerbate rather than settle a conflict. The negotiated territorial and political power sharing arrangements and existing representative institutions led to a considerable decrease in militancy and secessionist ambitions.

III.1.2 Mizoram

According to Goswami, since 1956 the northeast of India has been under armed conflict started by the Naga National Council (NNC). The armed struggle was considered the only means that NNC could achieve their political objective of independence. Like in a domino effect, armed clashes and violent conflicts followed in Manipur, Mizoram, Assam and Tripura. The environment of physical insecurity that has been perpetuated by armed conflict has not led to consolidation of governing structures, making economic development a fallacy. The GoI perceived these movements, conflicts and escalations as aggravations derailing the agenda of integrative nation building and views them as an obstacle to economic development in the northeast region.³⁰⁷

Goswami points out to an interesting aspect stating that for Gandhi conflicts gave a window of opportunity for change.³⁰⁸ Her argument is that occasionally conflicts are intentionally incited with the goal that issues that are troublesome, severe, and disruptive or to a great extent overlooked yet which have profound importance for a specific culture are brought to the public limelight and in this way they are addressed in a rash manner.³⁰⁹ This brings about a transparent and speedy handling of disruptive issues and sets base where the protagonists can address the issues without fear nor favour. Such a procedure prompts consolidation and gives the systems through which the contention elements can be changed. For Gandhi, conflict is likewise a method for communicating that one is not a victim of a specific situation; that protection from it can change and change things. Gandhi himself had faith in provoking conflict (non-violent civil resistance) against British colonialism with a goal of ensuring that people are not governed in their own territory in a way that was considered unfair and inhuman.³¹⁰

³⁰⁶ Hypothesis 1: The probability of negotiations in democracies is higher compared to autocracies; Hypothesis 2: In federal systems, chances of negotiations are higher; Hypothesis 3: In general, intervention will increase the chances of negotiations; Hypothesis 3.1: Military intervention decreases the probability of negotiations; Hypothesis 3.2: Mediation will increase the likelihood of negotiations; Hypothesis 4: Democracies increase the likelihood of negotiation, occurring after intervention. (see Biswas 2006a and p.27, before)

³⁰⁷ See Goswami, N. (2013). Transforming Conflicts. *Economic and Political Weekly*, 48, pp. 45-46.

³⁰⁸ Ibid.

³⁰⁹ Ibid.

³¹⁰ Ibid.

At the root of most of the armed ethnic conflicts in the northeast is an assumption that these societies have been handed out an unfair deal by India. Be it on issues of social empowerment, political representation, participation in the visual arts, respect for specific histories, and sense of self-worth, societies in the northeast genuinely believe that they have been left at the margins of Indian polity and society. While the Indian state has responded to the various armed ethnic conflicts by granting separate statehoods and offering legal protection under the Constitution, the feeling of being somehow deprived of respect, dignity and honor continues to exist.

One of the reasons for the continuing violence in the northeast is that most of the efforts at conflict resolution have been short term and transactional, rather than transformational. Since the conflicts in the northeast are of an asymmetric variety, a framework of showing respect to the weaker side is critical to changing the dynamics of the conflict.

Goswami unequivocal recommendation is for policymakers and to travel deep inside remote areas where most of the armed groups draw their support and cadres from, in order to observe and discern the needs of those societies.³¹¹ Too many of the policy engagements with the northeast appear patronising, telling people that they are well off with India and scolding them for being unpatriotic instead of simply listening to them. Clues on how to change this can be drawn from Gandhi's life and work. In Goswami's opinion, instead of lecturing people about what they should do, and what was good for them, India's present policymakers should emulate Gandhi who travelled across India for a year after he returned from South Africa, listening, investigating and understanding the pulse of India.³¹²

The main reason for choosing Mizoram as my next case study is that the Mizos were in a strong position to secede from India in the 1960s. Not only did they give up secessionist claims, the conflict was successfully managed in 1986 with Mizoram continuing to enjoy peace. This outcome makes it stand out among the other "seven sisters" (as the States in north-east India are called) and most other ethno-regional conflicts. Analysis of this case is vital as it can provide lessons for the future.

³¹¹ Goswami, 2013.

³¹² Ibid.

Table 13: Chronology – Mizoram³¹³

Time	Key events
1960	The Mautam of 1959, is particularly violent, not only in the damage that it causes, but also because of its political repercussions, thousands dying or starving. ³¹⁴ The non-political organisation, Mizo National Famine Front, transforms into Mizo National Front.
1964	Assam Regiment disbands its 2nd battalion, composed predominantly of the Hill people. The soldiers who lost their jobs join the MNF to form its military wing: the Mizo National Army.
1966	MNF releases a twelve-point declaration stating why India is unfit and unworthy of ruling the Mizo people and declares independence from the Indian Union. Aizawl comes under air-strikes (first and only time the military bombs an Indian city)
1967	The Mizo National Front is outlawed.
1967-69	Regrouping of hill population in 'protected and progressive villages' is adopted to supplement counter-terrorism measures.
1969	Laldenga sends his emissary, Vanlalngaia, to assess the climate for negotiations with the Union government.
1969-70	Army carries out counter-terrorism operations against the MNF.
1970 November (to February 1971)	Laldenga visits China along with 'foreign minister' Lalhmingthanga. The Chinese reportedly assure him of continued help, training facilities and supply of arms.
1971 February	Laldenga sends emissaries to explore the possibility of a negotiated settlement with the Government of India
1971 August	Union government offers general amnesty and economic help such as a rehabilitation package to surrendering MNF cadres.
1971 December	MNF 'foreign secretary' Lalhmingthanga, 'finance minister' Lalkhawliana and 'education secretary' Thangkima and 14 other top-ranking MNF cadres surrender to the Indian authorities.
1972 January	The Union Territory of Mizoram comes into being.
1972 April	Mizo Union Party forms the first government in Mizoram after elections are held to the 30-member Mizoram Union Territory (UT) Legislature. The party wins 21 seats.
1974	Mizo Union Party merges with Indian National Congress.
1975	Differences surface between Laldenga on the one hand and MNF 'vice president' Tlangchhuaka, MNA 'chief' Biakchhunga and MNF 'president' K. Chawngzuala, on the other, in Cologne, Germany, over the matter of talks with the Union government. The meet decides Laldenga would seek the mandate of an MNF convention in Arakan.

³¹³ The data for the chronology of Mizoram is available as open-source, internet public space, on several websites. The one present here was taken entirely from Mizoram Timeline, available at: http://www.satp.org/satporgtp/countries/india/states/mizoram/timeline/1966_86.htm, accessed on July 23, 2018; see also <http://mizoram.nic.in/about/history.htm#INSURGENCY>.

³¹⁴ <https://www.boomlive.in/a-brief-history-of-mizoram-from-the-aizawl-bombing-to-the-mizo-accord/>.

1976	At a secret meeting with Indian authorities, an MNF delegation led by Laldenga agrees, among other things, to lay down arms and to seek resolution of all existing problems within the framework of the Indian Constitution.
1976 February	MNF delegation led by Laldenga and comprising of Tlangchhuaka, Chawngzuala and Biakchhunga holds discussions with Union Home Secretary S.L. Khurana, Lieutenant Governor S.K. Chibber, and Joint Secretary (North East) M.L. Kampani. The MNF delegation, among other things, acknowledges that Mizoram is an integral part of India.
1976 July	Union government and MNF issue a Joint communiqué based on the January 1976-secret talks.
1977	Union government asks Laldenga to leave India by November 21. He, however, manages to stay on in Delhi and pursues further dialogue with Home Minister Charan Singh through informal channels.
1978	MNF's informal talks with the government are discontinued as Laldenga refuses to give up the demand for an interim government to be headed by him and his 'party'. Laldenga continues to stay on in Delhi. On the other hand, he allegedly asks the MNA to step-up subversive activities against India. MNA asks non-Mizos employed in Mizoram to leave area by July 1979.
1979	Laldenga is arrested. Subsequently, Biakchhunga and his followers also return to India and surrender arms.
1980 April	Laldenga holds talks with Prime Minister Indira Gandhi. All charges against him are dropped. Laldenga also orders an MNF ceasefire and publicly disavows terrorism.
1980 June	Laldenga is released from prison. Charges against him are also withdrawn. Government suspends counter-terrorism operations in Mizoram.
1982	MNF and MNA are banned under Unlawful Activities Act. Laldenga is asked to leave the country. April 21: Laldenga leaves for London.
1984	Mizo National Front, Mizo National Army declared unlawful, once again.
1984 April	Indian National Congress wins 20 of the 30 seats in the Legislative Assembly elections. Prime Minister Indira Gandhi declares her intention to negotiate with the MNF. December 20: Talks are held between MNF and Prime Minister Rajiv Gandhi held.
1986	June 26: Mizo National Front chief Laldenga formally renounces terrorism. June 30: Mizo Accord signed between Union government and MNF. The document is signed by Laldenga, on behalf of the MNF, and Union Home Secretary RD Pradhan, on behalf of the Government of India. Mizoram Chief Secretary Lalkhama, too, signs the agreement. August 5: Constitution Amendment Bill to confer Statehood on Mizoram is passed in the Lok Sabha, India's Lower House of Parliament.

	<p>August 20: Ban on Mizo National Front is lifted.</p> <p>August 21: Laldenga sworn in <u>as</u> Chief Minister of Mizoram.</p> <p>Chief Minister Laldenga announces general amnesty for all MNF cadres who came over-ground.</p>
1987	Elections to the first Mizoram State Legislative Assembly are held.

Background: Conflict stages

Two main and three subsidiary incidents in the late 1950s and early 1960s represent the turning point of the Mizo case. The indifference with which the government treated the 1958 famine coupled with the introduction of Assamese as the official language of the Mizo Hills were the principal events that steered the Mizos to support secessionist ideas. Internal politics, the creation of Nagaland due to the violent struggle by the Nagas and external support from China and Pakistan, also played a crucial role.

Two main events directly contributed to the increasing intensity of Mizo separatist aspirations. The indifference of the Assamese government during the famine of 1959, and the passage of the language bill despite Mizo protests, are the most crucial episodes that pushed the Mizos to support secessionist ideas. These incidents together represent the turning point of the conflict, since they propelled the Mizo movement in a risky direction, which culminated in the proclamation of independence³¹⁵ by the Mizo movement.

Event 1: Famine hits the Mizo Hills in 1958

The Mautamp (rat famine) that ravages the Mizo Hills every fifty years was expected in 1958. These famines begin with the flourishing of the bamboos, whose seeds provide an abundant supply of protein to rats.³¹⁶ As a result, the rats multiply faster than the amount of bamboo seeds available for consumption. After devouring the bamboo seeds, the rats destroy the crops in the fields, and then proceed to min the granaries.

On noticing the flowering of bamboos and anticipating its consequences (famine), the leaders of the Mizo hills (mainly members of the District Council) asked the Assamese government for stocks of rice as a precautionary measure. In the event that sufficient rice was not stockpiled in advance, the lack of proper roads between the plains and the hills would make famine unavoidable. However, the government dismissed the warnings as exaggerations and ignored

³¹⁵ Bhaumik, S. (1996). *Insurgent Crossfire: North-East India*. New Delhi: Lancers Publishers, pp. 191-192.

³¹⁶ While there is no scientific evidence of a causal relationship between the flowering of the bamboo seeds and the rapid increase in the rat population, some experts claim that a triggering mechanism in the bamboo seed make the rat population boom.

the situation.³¹⁷ By the time the Assamese government realized that the anxieties of the Mizo leaders were not unfounded, famine was pervasive in the hills.

While the Mizos were angry with the Assam government for their inadequate response, relations between the Mizo Union and Assam government were also strained.

The Mizo Union was a close ally of the state government but now its faith in the Assam administration was shaken. In fact, the leaders of the Mizo Union were embittered by the behavior of the state government. The Mizo Union leadership had supported the Assam government in shaky times, yet in this crucial period, the attitude of the state was fraught with indifference and callousness. By not receiving relief from the Assam government, not only did the Mizo Union's relationship with the state leadership sour, the Mizo Union also lost the confidence of the people. The (in)actions of the state government led to the realization that the union of the Mizo Hills with Assam was neither meaningful nor useful.³¹⁸

It is true that the Mizo Union officials pressured the Assamese government to provide relief. However, since they did not physically interact with the villagers, the Mizo Union leadership gave the impression that it was only making formal protests, which were not serving any useful purpose. It is here that Laldenga scored and won the support of the Mizos.

Laldenga converted the Mizo Cultural Society into a famine relief organization, and christened it the Mizo National Famine Front (MNFF- The MNFF carried out relief work in the hills, and its volunteers crossed into the Chin Hills (Burma) to collect rice. The work of the MNFF also won favour with the Church, which was a crucial body in Mizoram.

The only way to surmount this threat was to create a Greater Mizoram, wherein the Mizos determined their own destiny. The MNFF led by Laldenga adopted the slogan. "Mizoram for Mizos," and alongside relief work painted a rosy future for a separate Mizoram. Laldenga was seen as the protector of Mizo identity and the promoter of Mizo interests, and became the symbol of Mizo struggle against the plains administration.

As a consequence of the famine, there was a rupture in relations between the Mizo Union and the State government because the Mizo Union blamed the administrators of Assam for the abysmal situation. Moreover, since the people identified the Mizo Union with the state government, the pro-Indian Mizo Union's popularity waned. To win back support, it was imperative that the Mizo Union be seen as a body independent of the Assam administration. If there could be a winner in a famine situation, it was Laldenga. He took advantage of the conflict between the Mizo Union and the Assam government to consolidate his position in the hills, and

³¹⁷ Nibedon, N. (1980). *Mizoram: The Dagger Brigade*. New Delhi: Lancers Publishers.

³¹⁸ See Verghese, C.G. and Thanzawna, R.L. (1997). *A History of the Mizos: Volume I and II*. New Delhi: Vikas Publishing Ltd.

spread anti-Indian propaganda. While the Mizo Cultural Society succeeded in attracting Mizos, Laldenga's work during the famine pushed him into prominence.

Event 2: Assam Language Bill

The Mizos vociferously opposed the introduction of Assamese in schools. The Mizos (along with the other hill people and the Bengalis) demanded the withdrawal of the proposition to institute Assamese as a state language. In spite of opposition, the Assam Pradesh Congress Committee passed a resolution on April 20, 1960 demanding the immediate introduction of the Assamese State Language Bill, which was immediately complied with by the Assam government.³¹⁹

In the Mizo Hills, the impact of the passage of Assamese as a state language was three-fold. First, the language act came close on the heels of the famine, and reinforced the belief that Mizos must chart out their own destiny, if they were to prosper. Both these events interacted with each other in such a manner that the alienation of the Mizo populace was absolute. Second, the break between the Mizo Union and the Congress-run state government, which began during the famine, was now final. The Mizo MLAs resigned from the state legislature, and made it clear that they could not work with the Assam government in the prevailing circumstances. Instead, the Mizo Union began to re-build its support base in the Mizo Hills, and won the village council elections in 1960. This victory demonstrated that despite the resentment harboured towards the Mizo Union and the simultaneous growth in popularity of the MNFF and Laldenga due to the famine, they were not recognized as political contenders in the Mizo Hills. Finally, the MNFF played a crucial role in ensuring the success of the relief operations during the famine, although its utility was coming to an end. However, Laldenga wanted to continue, and even increase, his involvement in the hills. The developments in the region (his successful role in famine- relief operations and the language act) made it propitious to transform the MNFF into a political party. Thus, on 22 October 1961. the MNFF dropped the word "famine" from its name, and became the Mizo National Front. While the real objectives of the MNF was to create a state independent of India. Laldenga positioned the MNF as a political party, which like the Mizo Union would work for the improvement of the hills.³²⁰

Other events also helped strengthen the Mizo movement. External events, in the form of Indo-Pakistan rivalry and the ensuing Pakistani support to the Mizo cause, the Indo-China war and the subsequent Chinese aim of creating disturbances in northeast India, and the dismemberment

³¹⁹ Chaube, S.K. (1973). *Hill Politics in North-East India*. Kolkata: Orient Longman, p. 165.

³²⁰ Verghese & Thanzawna, 1997.

of Assam (Nagas were given a separate state), also provided an impetus to the pace of the conflict.

To prevent the balkanization of India, the centre hurriedly agreed to give the Nagas their own state. However, in the process, the Indian government set in motion the disintegration of Assam as it encouraged separatism among the hill tribes. The impact of the creation of Nagaland was felt most strongly and immediately in the Mizo Hills.

Though the MNF was preparing for violent confrontation as a long term strategy, so far it had relied on non-violent methods. However, it was increasingly convinced that insurgency paid huge dividends since the Nagas received special attention and assistance for development only after their revolt. According to Verghese and Thanzawna, the Mizos perceived themselves as being more educated than the Nagas, and thus expected to be able to extract many more concessions from the Indian government, by means of violence, which became an attractive option.³²¹ In general, the violent methods employed by the Nagas and the subsequent creation of Nagaland played a crucial role in inspiring the Mizos for armed revolt.³²²

Role of External Actors

The Mizo National Front received funds, training, weapons from Pakistan and China, both hostile to India.³²³

The Pakistani authorities gave Laldenga large amounts of cash for propaganda work, so as to tempt an increasing number of Mizos to join the MNF. These recruits formed the basis of the Mizo National Volunteers (MNVs), and were organized along the lines of a regular army. Laldenga, with the support of the Pakistani military commanders, organized regular training sessions for the Mizo National Volunteers, along the border of East Pakistan and Burma. Based on discussions with the army officials of the Directorate of Military Intelligence of the Pakistani army, Laldenga selected the most competent personnel to serve as instructors for imparting training in the Mizo villages. To boost the morale of the MNVs, the Pakistani military generals visited the training camps and reassured the Mizos of continuous aid.³²⁴

After attaining victory in the Indo-China war of 1962, China took advantage of India's vulnerability in the northeast by encouraging the destabilization of the northeast, and expressing

³²¹ Idem.

³²² Idem.

³²³ See Wangchuk, R.N. (2018). Mizo Peace Accord: The Intriguing Story Behind India's Most Enduring Peace Initiative! *The Better India*.

³²⁴ Prasad, R.N. (1994). *Mizo Autonomy Movement: Formation of Autonomous District Council and Regional Council: Issues and Problems of their Operation*. In R.N. Prasad (ed.). *Autonomy Movements in Mizoram*. New Delhi: Vikas Publishing House.

its willingness to help internal groups in their fight against the Indian government. Since the MNF was the most organized insurgent group in the northeast, it was best able to take advantage of Chinese benevolence. Besides receiving moral and material support, the MNF also became the primary beneficiary of Chinese-Pakistani enmity with India. Pakistan and China developed close ties mainly because they shared a common enemy, and were determined to accelerate simmering disturbances in India. The Chinese spread anti-India propaganda in the hills, and assured the MNF of all the possible assistance for their cause. Most of the Chinese aid came to the MNF through East Pakistan (training in guerrilla warfare, arms and funds for the movement), and further strengthened the MNF. Thus, guarantees of Pakistani and Chinese financial assistance coupled with assurances from ex-army personnel (one of the twin sources of support of the MNF) of their ability to secure independence, convinced Laldenga that a take-over of Indian administration in the hills was possible.

The Rise of the Mizo National Front (MNF)

The formation of the MNF is a crucial chapter in the history of the Mizo Hills since it marks the launch of the secessionist movement. The birth of the MNF also represents an important step in the political evolution of Laldenga, from a clerk in the Mizo Union-led District Council, via the Mizo Cultural Society and the Mizo National Famine Front (co-founder of both), to the undisputed leader of the Mizo Hills.³²⁵

The founders of the MNF were extremists, who were convinced that the union with India was detrimental to Mizos interests, and, hence, made the creation of an independent Mizoram (i.e. Mizo Hills) the foremost priority. Consistent with this goal, the MNF outlined the party's objectives in their manifesto. The principal aim of the MNF was to secure a separate state of Mizoram.

First, once the goal of Mizoram was attained, the next step was to create a "Greater Mizoram" by including the Mizo-dominated areas of Assam and Manipur. With Mizos under one political umbrella, prosperity and development was a certainty. Interestingly. Second, Christianity was the official religion of the future independent Mizoram, and maximum efforts would be made to ensure its protection. Giving Christianity a special status was a direct function of securing support of the powerful clergy and the common people, who were deeply religious. Third, it was crucial that the MNF acquired support from a foreign power. The leadership realized that it was not possible for the MNF to achieve its goals, unless it could depend on an external actor

³²⁵ See Hluna, J.V. and Tochwawng, R. (2012). *The Mizo Uprising: Assam Assembly Debates on the Mizo Movement, 1966-1971*. Cambridge Scholars Publishing.

for financial assistance, ammunition and training. Hence, some officials were assigned the specific task of establishing contacts and acquiring support of third-parties. Next, to achieve their final goal of secession, it was initially imperative that the MNF capture the District Council, and the seats in the Assam Legislative Assembly. This would enable the MNF representatives to introduce policies that made the transformation to independence easier. Finally, while the MNF primarily relied on non-violence, it would simultaneously prepare for a violent movement as a long-term strategy, to achieve a separate state. Almost immediately, divisions over the methods to be employed in the struggle for independence arose in the MNF. Some MNF officials proposed the use of violence, and unity with the Naga rebels to fight the Indian Army.³²⁶

Although the MNFs actions (manifesto and propaganda) were clearly secessionist, the Assam government chose to ignore them on the assumption that the MNF was using extremist language to increase its popularity and win the support of the Mizos. The Chief Minister of Assam, B.P. Chaliha dismissed suggestions of a hidden agenda on part of the MNF. He only focused on the last two objectives of the MNF charter (victory in local elections and use of non-violence), and rejected claims of the Mizo Union (centred around the MNFs separatist tendencies) as efforts to discredit the MNF. Even though the MNF propaganda was explicitly anti-Indian, the Chief Minister overlooked it and stressed that Laldenga's only aim was to strengthen his support base. Internal politics motivated the Assam government not only to overlook the anti-national activities of the MNF, but to deliberately encourage Laldenga so as to subvert the Mizo Union. Simultaneously, the army, which had all along suspected and warned the Chief Minister that preparations for revolt were underway, found huge amounts of arms hoarded in the hills. Finally, in February 1966, the Chief Minister realized his folly of trusting Laldenga, and realised the gravity of the situation. The Assam government decided to induct another battalion of the Assam Rifles as a reinforcement to contain, and if necessary, overcome, the challenge of the MNF. Even at this time, Laldenga tried to compel Chaliha to withdraw the military force from Mizoram on the grounds that the Mizos detested violence. The Chief Minister was no longer fooled by Laldenga's pleas and refused to retract his order. However, it was too late, and before the Assam Rifles could reach the hills.

In response to the outbreak of the Mizo insurgency, the Indian government used the army and air force to quell the rebellion, which increased use of violence by the Mizos and intensified the conflict. Fortunately, the Indian government recognized the folly of its strategy and switched

³²⁶ Chatterjee, S. (1994). *Making of Mizoram: Role of Laldenga*. New Delhi: M.D. Publications.

to the carrot-and-stick method, the other alternative to coercion outlined in the scheme.³²⁷ The change in strategy gradually impacted the response of the Mizos. As portrayed in the scheme, over time, the number of Mizos, including those belonging to the MNF, willing to change their position from a reliance on violence to negotiations increased.

Though the Indian government did not declare martial law for the Mizo Hills, it did not interfere in the actions of the army. The army high command issued instructions that the armed forces were to function strictly in "aid of civil power". Next, it was crucial to assist the Assam Rifles regiments in the Aizawl headquarters and other posts, so that they did not surrender to the MNVs (Mizoram National Volunteers). However, the MNF continued to inflict losses on the army battalions such that they were forced to retreat. The situation was so completely out of control that Indian Air Force bombers were requisitioned to strafe the MNF positions. The bombings created deep resentment against the Indian government because the Indian Air Force, that is usually deployed for inter-state conflicts, was used to deal with an internal situation. The bombings did play a critical role in forcing the MNVs to abandon captured posts and take refuge in the hills.³²⁸

The Indian government's carrot and stick strategy was based on development, amnesty and regrouping of villages, created a positive environment. As a result, an increasing number of Mizos felt that the government was serious about improving the situation in the Mizo Hills.

Two other government decisions played a critical role in helping India secure an advantage. First, in accordance with the directives of the central government, the Chief Minister of Assam declared in December 1966 that Mizo rebels who surrendered with arms, within three months (March 1967), would be granted amnesty. Despite no large-scale surrenders, the government persisted with its policy. In November 1967, amnesty was again approved for a period of three months. The government expanded its offer and announced that rebels who voluntarily surrendered would be granted amnesty as well as rehabilitation benefits.³²⁹ In contrast, rebels captured by the security forces would be severely punished and would not avail of any rehabilitation facilities. Alongside amnesty, the Indian government decided to hold by-elections for the three seats to the Assam Legislative Assembly.³³⁰

Finally, grouped villages would accelerate economic development. Since the terrain of the region made it difficult to construct a communications network between villages, by grouping distant villages together, development schemes and social services could be provided to

³²⁷ Verghese, B.G. (1996). *India's Northeast Resurgent: Ethnicity, Governance, Development*, New Delhi: Konark Publishers.

³²⁸ Verghese & Thanzawna, 1997, p. 60.

³²⁹ Chatterjee, 1994.

³³⁰ Prasad, R.N. (1987). *Politics in Mizoram: 1947-1986*, New Delhi: Northern Book Centre.

villagers. Invoking Rule 57 of the Defense of India Rules, from 1967, the grouping of villages was implemented in three phases, with priority given to areas that were badly affected by the activities of the MNF. The government hoped that the Mizos would take advantage of these facilities and achieve economic development in the long-term, i.e. they could produce crops, and easy access to the plains would lead to profitable sales.

Negotiate or Fight

Army operations and the regrouping of villages led to a decrease in motivation among MNVs. The MNVs saw that former colleagues (who surrendered as opposed to being captured) and friends in the Mizo Hills were reaping the benefits of government development, while they spent their time escaping the security forces. As the Mizos³³¹ in the hills began to prosper, they in turn considered the MNVs as impediments to progress and no longer "hero-worshipped" them.

In an independent Mizoram, Christianity was to be the official religion. By according Christianity special protection, the main motive of the MNF was to win the support of the clergy and the masses, who were extremely religious. The lower clergy supported the MNF and refused to lose faith in the MNF, which was a descendent of the Mizo Cultural Society, a by-product of the Church. The upper clergy, on the other hand, realized that the employment of violence would not help the MNF achieve its goals.

Though it made several efforts to encourage negotiations, it was not successful. One possible explanation for this is that though the Church was the most dominant institution in Mizo society, and over 86% Mizos were Christians, yet in the Mizo Hills, tribal identity was so strong that religion could not serve as a binding force.³³²

As the conflict went on the Church leaders became increasingly critical of the methods of the MNF and even issued a declaration to this effect. The MNF leadership was extremely angry and insisted that violence was imperative to counter the "indiscriminate" bombings and coercive tactics of the Indian armed forces. They further ordered the Church to detach itself from the political affairs of the Mizo Hills. At this stage, the Mizo villagers also extended loyalty to the MNF rather than the Church, since they believed that the MNF would lead them to prosperity and sovereignty.

To conclude, several developments intersected to lead to the outbreak of the Mizo rebellion in February 1966. The military wing of the MNF, consisting of former members of the Indian

³³¹ Verghese and Thanzawna, 1997.

³³² Prasad, 1987.

Army, planned Operation Jericho so meticulously that for a short period Indian authority lapsed in the Mizo Hills. The Indian government assigned the armed forces with the responsibility of restoring law and order in the hills. Unfortunately, in the early stages, the armed forces depended solely on coercion and bombings to manage the situation. Instead of leading to any kind of management, the situation in the Mizo Hills exacerbated. Not only did the Mizos increasingly sympathize with the MNF and become more conscious of their distinctive identity, there was a surge of anti-India sentiments. Fortunately, the Indian government reviewed the situation and changed its strategy to deal with the MNF. As per the new strategy, plans for the economic development of the Mizo Hills were introduced, amnesty and rehabilitation benefits for those who surrendered were announced, and a harsher policy of regrouping villages to isolate the MNF was initiated. As the benefits of this combination of carrot and stick began to trickle down, an increasing number of Mizos appeared willing to accept a settlement within the Indian Union. In fact, the educated leaders of the MNF also felt that negotiation with the Indian government was in the best interests of the Mizos. Moreover, they realized that though Pakistani and Chinese financial support was abundant, neither appeared inclined to officially recognize an independent Mizoram. However, Laldenga and the military wing were against any form of settlement, and were committed to securing a separate state. At this point, the armed wing was stronger than the civilian wing, and refused to follow their recommendation of surrender and negotiation. Thus, a change in government strategy led to a willingness to accommodate among a large section of the Mizos, including some crucial leaders of the MNF.

Outcome

In the 1960s, the Indian government realized its folly of depending on coercion to bring about a peaceful arrangement with the Mizos. Its tactic of ‘hitting hard over the head with a hammer and then teaching how to play the piano’ (i.e., punishing aggression while rewarding cooperation) yielded positive results. Many Mizo rebels, including some crucial leaders, renounced violence since they believed that the GoI was committed to its policy of rehabilitation and forgiveness. Development projects in the Mizo Hills also had a trickle-down effect such that the local population began to withdraw support from the MNF. The Mizos were willing to give the Indian government the opportunity to improve the situation in the hills.

Critical Juncture

From late 1970, three main events gradually pushed the conflict towards regulation. First, while the GoI persisted with its three-tiered strategy of amnesty, rehabilitation and development, it

upgraded the status of the Mizo Hills to Union Territory because this was in the best interest of the Mizos. This action demonstrated that the Indian government was determined to improve relations with the Mizos. Second, the support that the concessions evoked also encouraged Laldenga to consider negotiations but fear of the hard-liners prevented him from pursuing talks with the Indian government in a straightforward fashion. Finally, the break-up of Pakistan (an external event) and the consequent loss of sanctuary and funds, had an effect on the internal situation in the hills. These three events represent the critical juncture of the Mizo movement because they had a decided influence on the direction of the conflict.

Event I: Mizo Hills converted into the Union Territory of Mizoram

As a result of an increasing number of surrenders, the Indian government seriously considered separating the Mizo Hills from Assam, and converting it into the Union Territory of Mizoram. The Mizo Union, the District Congress, and other liberal groups (church leaders) in the hills encouraged this move. The belief was that the Mizos would be better able to integrate into the Indian polity, if the Mizo Hills were independent of Assam. Subsequently, discussions between the Indian government and the Mizo representatives commenced, and the likelihood that the Union Territory of Mizoram would soon become a reality was high.

Since such an action was detrimental to the struggle for secession, the hard-liners in the MNF were determined to sabotage it. Though they attacked government targets and killed civilians in an attempt to spread fear and panic among the Mizos—, they were unsuccessful. More importantly, the Government of India refused to be intimidated by the MNF threats and continued with its plans to confer Union Territory status on the Mizo Hills. It also stepped-up its offers of amnesty (reward and rehabilitation) and encouraged "Mizos living as fugitives" in East Pakistan to surrender. In addition, the government made efforts to win over MNF rebels and assuage the fears of the Mizos.³³³

Given the improved situation in the hills, the Indian government confirmed its resolve to elevate the Mizo Hills into the Union Territory of Mizoram, and implemented this decision on 21 January, 1972. The new Union Territory of Mizoram was completely independent of Assam and was administered by a Council of Ministers with a Lt. Governor as the administrative head. It also had its own Legislative Assembly (30 elected and 3 nominated members) and one seat in the lower chamber of Parliament (Lok Sabha). Though the formation of the Union Territory of Mizoram did not meet the early Mizo aspirations for independence, this arrangement was accepted as a temporary measure by the Mizo parties and the Mizo people. Union Territory

³³³ Bhaumik, 1996.

status conferred greater decision-making power to the Mizos and a higher level of autonomy to Mizoram. For the time being, the Mizos were satisfied with an intermediate compromise between a (Mizo) District Council and the creation of a separate state (Mizoram within the Indian Union). In general, the formation of the Union Territory of Mizoram played an important role in increasing support and allaying the insecurities of the Mizos, and pushed the conflict a step closer to management.³³⁴

Event 2: Laldenga's double-role weakens the movement

The Indian government's success with development schemes, increasing support in the hills, the rapid rise in surrenders, and the fall in Pakistani support due to the rebellion in the East, compelled Laldenga to review his decision to continue the violent struggle for Mizo independence.

Laldenga wanted to negotiate with the Government of India but did not want this known to the hawks in the MNF and the Pakistani government. Hence, he made secret advances to Indian intelligence, while simultaneously vetoing proposals calling for political negotiations. This double-role of the chief certainly created confusion among the MNF cadre as well as the over-ground Mizos (who were serving as Laldenga's emissaries), and played a vital role in gradually weakening the movement.³³⁵

Event 3: External (Break-up of Pakistan) factors

The rebellion in the East Wing of Pakistan had simmered since the mid-1960s and full-fledged conflict erupted in 1970. The Pakistani army arrested and killed East Pakistani (Bengali) intellectuals and crushed civilian dissension brutally. As a result, the Pakistani authorities shifted the MNF rebels, including Laldenga, from their luxurious sanctuary in Dhaka to the Rangamati forests. The MNF cadre were disappointed by the transfer, and worried about the consequences of a complete withdrawal of Pakistani support. Hence, many of them took advantage of the Indian offer of amnesty and slowly returned to their old villages.

With the support of the Indian Army, the revolutionary forces of East Pakistan (Mukti Bahini) defeated the Pakistani army in 1971 and the new state of Bangladesh came into being. The Bangladeshi leadership had close ties with the Indian government and did not allow the MNF to continue operations in its territory. This compelled several batches of the MNF cadre to surrender to the Indian security forces and seek amnesty from the Indian government.

³³⁴ Prasad, 1987, p. 227.

³³⁵ Ibid.

The concessions (rehabilitation, amnesty, development, increased political autonomy) of the Indian government led many Mizo rebels to recognize the futility of armed conflict and they surrendered in large numbers. The deteriorating situation in East Pakistan, and the likely loss of a base and funds, if Pakistan was defeated, further urged Mizo rebels to surrender. Finally, the defeat of Pakistan and its surrender to the Indian army accelerated the return of Mizo rebels.³³⁶ Thus, while the Indian government's commitment to improve the condition in the Mizo Hills and pardon past offenses of the Mizo rebels encouraged surrenders, the (expected and actual) loss of an external benefactor expedited this process.

The three events discussed above created a favorable environment that set in motion the process towards conflict resolution. The formation of the Union Territory of Mizoram, involvement of ex-MNF rebels in over-ground politics, continuance of the amnesty policy and a rise in the number of surrenders thereof, and emphasis on development signaled new beginnings but they also had adverse repercussions. First, to demonstrate that normalcy was returning to Mizoram, the government held elections, which met with considerable success. Though many MNF returnees joined politics, their loyalties were still with the MNF such that they used their newly-acquired political power to harass the functioning government. Second, the government also decided to expand its amnesty policy and withdraw security forces from Mizoram. The MNF grabbed this opportunity to regroup and engage in severe violence. The situation worsened and it seemed that the situation in Mizoram would continue to exacerbate.³³⁷

With the election of Lawrence Chal Chhunga—, a respected visionary of the Mizo Union, as leader of the Mizoram Assembly, the First elected government of the Union Territory of Mizoram began functioning. However, from the onset, the government was plagued with problems. The MNF let loose a reign of terror in Mizoram, which the government could not contain. As the weakness of Chhunga government became apparent, the Congress leadership suggested that a merger between the Mizo Union and the Congress party was in both their interests. As a result, at the 36th Session of the Mizo Union, its leaders explained the advantages of merger. They argued that peace and stability in Mizoram were of foremost importance, and hence, a merger would bridge the divide between the Mizo Unionists, ex-chiefs and their descendants, and ex-MNF members. Moreover, a successful merger would lead to the emergence of a national party, which would win the confidence of the government more easily and be able to negotiate more effectively than a regional party. Consequently, the resolution for dissolving the Mizo Union was passed, and the Mizo Union and Congress merged to form the

³³⁶ Ibid.

³³⁷ Ibid.

Mizo Congress party.³³⁸ Thus, to prevent political instability in Mizoram, a major political party which was in power (for almost 27 years) abandoned its identity and united with a minor party. With the formation of the Union Territory of Mizoram and the establishment of an elected government, the Mizos were optimistic about the future of their region. This reemergence of democracy made them more conscious of their rights and privileges as citizens. Gradually, government development and rehabilitation projects started producing huge benefits such that normalcy began returning to Mizoram. However, the selective killing of Mizo (particularly ex-MNF) officials, harassment and random attacks by a revived MNF made the Mizos extremely upset.³³⁹ Considering that the government was making an effort to bring peace and progress to Mizoram, the Mizos believed that the MNF's violence was ruining this possibility and Laldenga was prolonging the misery of the Mizos, in the hope that the MNF would receive support from Communist China. As a result, the Mizos increasingly opposed the MNF cadre, who were regarded as impediments to order and prosperity.

Role of the External Actor

The loss of a sanctuary as well as the creation of a state (Bangladesh) antagonistic to the MNF cause was a severe blow to the Mizo movement. While Pakistan could no longer support the MNF directly (training camps, shelter), it continued to abet the MNF by providing asylum and financial assistance to its leaders. The Pakistani authorities helped Laldenga escape from its former East Wing via Burma into Pakistan, where he was provided with refuge and aid to keep the movement alive. With the assistance of the Pakistani government, Laldenga maintained links with MNF hard-liners in the Arakans and also traveled to London so as to gain international recognition and support for the MNF.³⁴⁰

The Chinese government played a more active role in assisting the MNF struggle against India. It set up camps in its border areas to train new volunteers in the art of subversive activities but gradually impressed on the Mizos that it was imperative that they became independent of foreign support.³⁴¹ Moreover, though the Chinese government supplied funds and substantial consignments of weapons and equipment to the MNF through the pro-Chinese Communist Party of Burma (based in the Arakan Hills), it was not willing to officially recognize the MNF. The Communist Party of Burma, like the MNF, challenged the authority of the state and was engaged in an insurgency against the Burmese government. However, at no stage did Burma

³³⁸ Lalchungnunga (1994). *Mizoram: Politics of Regionalism and National Integration*. New Delhi: Reliance Publishing House.

³³⁹ For details, see Verghese & Thanzawna, 1997.

³⁴⁰ Bhaumik, 1996, pp. 175-176.

³⁴¹ see Verghese & Thanzawna, 1997.

help the MNF. instead, the Burmese army regularly launched anti-guerrilla offensives, which forced the MNA to flee into the Mizo Hills.

Thus, after the fall of East Pakistan, the MNF was in dire need of sanctuary, funds, arms and training to continue its struggle against the Indian government. While direct Pakistani support waned due to the new geographical situation, enmity with India pushed it to continue helping Laldenga develop plans and spread anti-Indian propaganda. By providing refuge (Arakan Hills), weapons and funds, the Chinese and the Communist Party in the Arakans played a more direct role in helping the MNF sustain its struggle against India. A reexamination of the external dimension leads one to argue that if Pakistan and China had withdrawn their support for the MNF in the aftermath of the creation of Bangladesh, the movement may have slowly faded away, or Laldenga would have been forced to operate from the Arakans (which he did not want to do), seek exile abroad, or more likely negotiate with the Indian government.

Response of the Indian Government – two-track strategy

Fortunately, the government realized the mistakes associated with employing either negotiations only—played into hands of hawks who did not want any agreement—or coercion alone—indiscriminate harassment of Mizos alienating the ordinary man—and adopted an approach of carrot and stick, which pushed the autonomy-seekers towards management.

First, the MNF and MNA were declared unlawful organizations. The government adopted a tough policy to deal with the MNF underground and a more sympathetic attitude towards ex-MNF members. Law and order was strictly enforced and policemen caught supporting the MNF were punished. The new policy began to pay dividends such that large quantities of arms and ammunition were seized and MNA insurgents apprehended. Second, the government made the utmost efforts to win over the moderates (*Dumpawls*) among the MNF and persuade them to return to normal life.

Laldenga renewed efforts to talk peace with the Indian government in mid-1975. two months after Indira Gandhi imposed Emergency. The Indian government flew top MNF hard-liners to Cologne, where Laldenga conveyed his failure to secure foreign assistance for the Mizo cause, and more importantly, for the first time, broached the topic of negotiations. Laldenga persuaded the hawks to enter preliminary discussions with the Indians.

The discussions in Cologne formed the basis for formal negotiations conducted in Delhi from 24 January, 1976. From the onset, the talks were marred by disagreements within the MNF representation. Differences in opinion arose over the question of the timing of the talks, as well

as the validity of the MNF being the sole representative of the people.³⁴² However, Laldenga argued that the Indian government was in a precarious position (state of emergency), and the MNF could extract major concessions from it. Furthermore, though elections were held after the formation of the Union Territory of Mizoram, Laldenga asserted that the MNF won a mandate in the last fair and free elections in 1962. Hence, he said that the MNF automatically had the endorsement of the Mizos.³⁴³ Laldenga seemed to forget that the political scenario and the level of development in the region had undergone a significant change since the outbreak of conflict. In the end, Laldenga prevailed and convinced other MNF officials to cooperate in negotiations with the Indian government.

The Government of India used Laldenga's letter to Indira Gandhi, confirming the MNFs intention to work out an agreement within the Indian Constitution, as the reference for peace talks. However, other MNF leaders had no clue of this letter and thought that the Indian government was referring to the MNF Declaration of Independence, March 1 1966. Still, the government and MNF reached a tentative verbal agreement, which both parties mutually agreed to keep secret, till the re-election of Laldenga as President of the MNF.³⁴⁴ Finally, a peace agreement, soon thereafter termed by Laldenga as a press communique and not an accord, was signed on 1 July, 1976.

The "agreement" consisted of four main elements. First, the MNF acknowledged that Mizoram was an integral part of India and expressed its willingness to accept a settlement within the Indian Constitution. Second, the MNF vowed to abjure violence, and agreed that underground personnel would surrender with their arms and ammunition in mutually acceptable camps. Next, the Indian government resolved to cease all security operations in Mizoram, except those at the international borders. Finally, talks were to be continued between representatives of the Indian government and MNF.

The "accord" was received with enthusiasm in Mizoram; the Mizoram government declared a "thanksgiving" day to offer prayers in churches all over the region. The Chief Minister also publicly announced that MNF rebels would be welcomed and given the necessary assistance for rehabilitation. However, the hard-liners were furious with the agreement and the betrayal of the Mizo cause by Laldenga. Hence, in a total volte face, six days after the announcement of the "accord," Laldenga denied entering into any agreement with the Indian government, and instead claimed that it was only a press communique. He further retracted the entire agreement,

³⁴² Bhaumik, 1996.

³⁴³ Verghese & Thanzawna, 1997.

³⁴⁴ The "Accord" was signed by Laldenga (as chief representative of the MNF) and S.L. Khurana, Home Secretary, Government of India.

stressing that the Indian government and the media misinterpreted the points of the communique to discredit his reputation in the MNF.³⁴⁵ Laldenga repeated his commitment to secure an independent homeland for the Mizos and continue the struggle to achieve this goal. Thus, to prevent losing a grip on the MNF and to demonstrate his commitment to the goals of the MNF, Laldenga instructed the rebels to step up hostilities against the Indian government. He hoped that violence would lead to the dismissal of the elected Chhunga ministry and his ascension to power through constitutional means. This did not happen. Instead, the Centre imposed Presidents Rule and then held elections, which led to the Peoples Conference gaining power.

In May 1984, elections to the Mizoram Legislative Assembly were held. The Congress (I) contesting on the slogan of "peace at any cost" defeated Sailo's Peoples Conference. The victory demonstrated that the Mizos were keen to achieve peace as a step towards higher economic development.

In general, a combination of the inability of the MNF to resist the Indian army, the reduced morale of the MNF and MNA, the increasing number of MNF rebels wanting to return to a normal life, the economic growth of Mizoram, and the mandate of the Mizos indicating their desire of peace, convinced Laldenga that it was imperative that he worked out an agreement with the Indian government, if he wished to capture legitimate political power. The MNF announced a cease-fire but this time the Indian government did not reciprocate by suspending counterinsurgency operations. It made clear that the talks in Delhi were to be accompanied by security operations in Mizoram. Formal talks between the Indian government and the MNF were scheduled for 31 October, 1984. Despite Mrs. Gandhi's assassination on that day. Rajiv Gandhi, the new Prime Minister of India, took over the negotiation process and talks proceeded steadily.³⁴⁶ Four features stand out in the period leading upto the formal signing of the accord and are useful lessons for successful management. First, the government agreed to sign the accord only³⁴⁷ when it was certain that Laldenga had regained control of the MNF and believed that there was consensus in the MNF on accepting statehood within the Indian constitution, i.e. no stray group was left behind.³⁴⁸ At the same time, the government warned that if there was violence despite the peace accord, it would crackdown brutally on the dissidents. Second, instead of the accord being signed by the government and Laldenga, the government thought it more prudent to involve the Congress, which agreed to share power with the MNF in the

³⁴⁵ see Verghese & Thanzawna, 1997.

³⁴⁶ Bhaumik, 1996.

³⁴⁷ Pradhan, R.D. (1995). *Working with Rajiv Gandhi*. New Delhi: Harper Collins Publications.

³⁴⁸ Bhaumik, 1996.

settlement. Hence, Laldenga first entered into an agreement with the All India Congress, to which the ruling Congress in Mizoram belonged. This indicated the acceptance of the MNF as an Indian political party as well as the acknowledgment of the Constitution of India by the leader of an outlawed party. Finally, the usual custom of surrender of arms involves a public, formal ceremony where each rebel presents his arms and then promises to abide by the Indian Constitution. Many rebels prefer to continue conflict since they find this means of laying down arms humiliating. To avoid this form of disarming rebels in the Mizo case, the Home Secretary of India and Laldenga's lawyer, Swaraj Kaushal worked out a new mode of surrender. There was to be no public ceremony, instead, each MNF rebel would deposit his weapons in a hut on the Indian border and then be greeted by Indian army personnel. Laldenga as well as the MNF members appreciated the consideration shown to them by the Indian government, and accepted the laying down of arms in privacy.

The stage was set for the formal signing of the Accord, and on 30 June, 1986, Laldenga for the MNF, Lalthanhawla for the Mizoram government, and Home Secretary R. D. Pradhan on behalf of the Government of India signed the "Memorandum of Settlement,"³⁴⁹ In accordance with this accord, the Indian Parliament passed the 53rd Amendment Bill of the Constitution and the State of Mizoram Bill upgrading Mizoram to a state within the Indian Union. In the end, Indian federalism provided Mizoram real autonomy while Laldenga achieved the authority he always desired; i.e. the Mizos got statehood while India maintained its territorial integrity.

Conflict Management & Negotiation Process

The MNF began as a political party in 1960, went underground and fought for secession from India, and finally, due to the flexibility of the Indian political system, returned to national political life in June 1986. Soon after signing the Memorandum of Settlement in 1986, the MNF amended its Constitution, and promised to abide by the Constitution of India. Laldenga assumed leadership of the Interim Assembly of the Mizoram government. Elections were held in the following year, and the MNF led by Laldenga became the first regional guerrilla organization to win elections in an Indian state after having challenged Indian rule for two decades.³⁵⁰ The MNF lost the next elections held in January 1989, but did not resort to violence and insurgency. Laldenga died soon thereafter, and was accorded a state funeral, demonstrating that the Indian government forgave him for past offenses. Since then, the MNF has split, with the dissidents forming their own party or joining the Congress (I), but personality problems rather than goals

³⁴⁹ See Verghese & Thanzawna. 1997. p. 268; and Singh, B.P. (1987). *The Problem of Change: A Study of North-East India*. Delhi: Oxford University Press.

³⁵⁰ See Bhaumik, 1996.

(secession or not) of the party have motivated divisions. In the most recent elections to the Mizoram Legislative Assembly, the MNF-led coalition returned to power.

Mizoram is a case of successful management, for over thirty years after the signing of the accord, there are no indications of a return to insurgency in the region. Politicians use elections as the means to acquire power and implement their agendas. The rebels are successfully turned into stakeholders,³⁵¹ central assistance to Mizoram has increased, the minorities (Pawis, Lakhers and Chakmas) are protected, and it can be argued that Mizoram is the most peaceful state in India's conflict ridden northeast.

Outcome and Assessment

According to Goswami, the Mizo case of conflict management has certain important lessons for conflict resolution policies for other ongoing peace processes in the northeast and beyond.³⁵² Furthermore, it is essential to address the roots of a conflict, its causes, to be able to try to negotiate and, eventually, meet the demands. The Mizo peace process was successful due to the fact that the demands of Mizos were met by the GoI. The significance of the consensus reached at by a 'principled' negotiation is the key lesson drawn from the Mizo conflict settlement. When the negotiations started, the positions of GoI and MNF were different (e.g., the GoI position to preserve the territorial integrity and sovereignty of the state and MNF's demand for independence) and there seemed to be no little chance to reach a mutually acceptable agreement. However, the GoI was able to distinguish between the MNF's *position* and its *interests*, which included autonomy from Assam, self-regulation of its internal affairs as well as the preservation of its cultural heritage (language, holidays, education, etc.) Meeting these demands by establishing a Mizo state within India exemplarily shows a successful case of both negotiations done on lines of multilevel 'principled' negotiation as well as accommodation of demands and integration based on consociational power-sharing (executive power-sharing, segmental autonomy, proportionality and minority veto). Furthermore, Mizo case study shows us the importance of political will and elite level politics (i.e., the leadership of Rajiv Gandhi).³⁵³

Another vital aspect of Mizo peace process is the significance of civil society and other non-government agencies in settling the ethno-political conflicts, underlining the 'multilevel' approach to conflict settlement. The Mizo case study exemplarily shows how rebels like

³⁵¹ See Mitra, 1999, 2005, 2009; Mitra & Carciumaru, 2015.

³⁵² This section will draw extensively on Goswami, 2009, pp. 585-586.

³⁵³ Goswami, 2009, p. 585.

Laldenga and other separatist and secessionist leaders become stakeholders³⁵⁴, choosing ballots instead of bullets.

Another positive aspect, the “overarching identity” factor facilitating power-sharing, can be observed through the establishment of a “strong and inclusive pan-Mizo identity”.³⁵⁵

Conclusion

The analysis of the Mizo peace process shows the two-track strategy pursued by the GoI in similar cases – first, sending in the military and then organizing elections and thus, sharing power. What is new is almost ideal type pattern of Mizo conflict resolution with regard to the multilevel principled negotiation. Furthermore, one can learn several lessons from the Mizo case study, such as the importance of both political elites as well as leaders of the civil society in trying to solve or prevent an ethno-political conflict (i.e., top-down and bottom-up approaches); the significance of timing in politics and, in particular when trying to solve an ethnic conflict.³⁵⁶

It was an open framework of the negotiations which facilitated ‘room to maneuver’ both for the rebels as well as GoI, to enable both parties to reach amicable agreement.

³⁵⁴ Mitra & Singh, 2009.

³⁵⁵ Goswami, 2009, p.585

³⁵⁶ More on the importance of timing in politics in the case study on Sri Lanka.

III.1.3 Sri Lanka

Figure 7. Map of Sri Lanka³⁵⁷



Figure 8. The area of Sri Lanka claimed by the LTTE as Tamil³⁵⁸

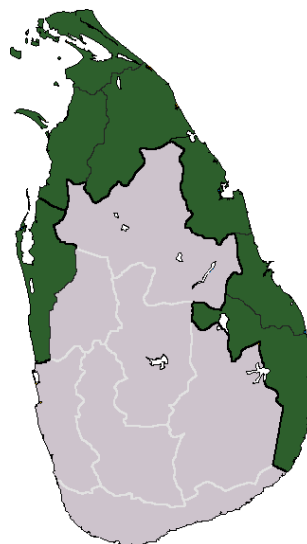


Table14: Chronology Sri Lanka³⁵⁹

Time	Key events
1948	Ceylon gains full independence
1949	Indian Tamil plantation workers disenfranchised and many deprived of citizenship.
1956	Solomon Bandaranaike elected on wave of Sinhalese nationalism. Sinhala made sole official language and other measures introduced to bolster Sinhalese and Buddhist feeling. More than 100 Tamils killed in widespread violence after Tamil parliamentarians protest at new laws.
1958	Anti-Tamil riots leave more than 200 people dead. Thousands of Tamils displaced.
1959	Bandaranaike assassinated by a Buddhist monk. Succeeded by widow, Sirimavo, who continues nationalisation programme.
1965	Opposition United National Party wins elections and attempts to reverse nationalisation measures.
1970	Sirimavo Bandaranaike returns to power and extends nationalisation programme
1972	Ceylon changes its name to Sri Lanka and Buddhism given primary place as country's religion, further antagonising Tamil minority.

³⁵⁷ Source: Encyclopaedia Britannica, available at: <https://www.britannica.com/place/Sri-Lanka>, accessed on July 1, 2018.

³⁵⁸ Source: Sri Lanka Civil War, Map “The area of Sri Lanka claimed by the LTTE as Tamil Eelam, where the vast majority of the fighting took place”, Wikipedia, https://en.wikipedia.org/wiki/Sri_Lankan_Civil_War, accessed on August 31, 2018.

³⁵⁹ The entire relevant open-source data present in Table 14, “Chronology of Sri Lanka” is taken from source: BBC, Sri Lanka Profile, available at: <https://www.bbc.co.uk/news/world-south-asia-12004081>, accessed on July 1, 2018.

1976	Liberation Tigers of Tamil Eelam (LTTE) formed as tensions increase in Tamil-dominated areas of north and east.
1977	Separatist Tamil United Liberation Front (TULF) party wins all seats in Tamil areas. Anti-Tamil riots leave more than 100 Tamils dead.
1983	13 soldiers killed in LTTE ambush, sparking anti-Tamil riots leading to the deaths of several hundred Tamils. Start of what Tigers call "First Eelam War".
1985	First attempt at peace talks between government and LTTE fails.
1987	Government forces push LTTE back into northern city of Jaffna. Government signs accords creating new councils for Tamil areas in north and east and reaches agreement with India on deployment of Indian peace-keeping force.
1990	Indian troops leave after getting bogged down in fighting in north. Violence between Sri Lankan army and separatists escalates. "Second Eelam War" begins. Thousands of Muslims are expelled from northern areas by the LTTE.
1991	LTTE implicated in assassination of Indian premier Rajiv Gandhi in southern India.
1993	President Premadasa killed in LTTE bomb attack.
1994	President Kumaratunga comes to power pledging to end war. Peace talks opened with LTTE.
1995	"Third Eelam War" begins when rebels sink naval craft.
1995-2001	War rages across north and east. Tigers bomb Sri Lanka's holiest Buddhist site. President Kumaratunga is wounded in a bomb attack. Suicide attack on the international airport destroys half the Sri Lankan Airlines fleet.
2002	February - Government and Tamil Tiger rebels sign a Norwegian-mediated ceasefire. De-commissioning of weapons begins; the road linking the Jaffna peninsula with the rest of Sri Lanka reopens after 12 years; passenger flights to Jaffna resume. Government lifts ban on Tamil Tigers. Rebels drop demand for separate state.
2004	Suicide bomb blast in Colombo - the first such incident since 2001.
2005	Row over deal reached with Tamil Tiger rebels to share nearly \$3bn in tsunami aid among Sinhalese, Tamils and Muslims.
2005	Mahinda Rajapaksa, prime minister at the time, wins presidential elections. Most Tamils in areas controlled by the Tamil Tigers do not vote.
2006	Attacks begin to escalate again.
2006	Tiger rebels and government forces resume fighting in the north-east in worst clashes since 2002 ceasefire. Government steadily drives Tamil Tigers out of eastern strongholds over following year. Peace talks fail in Geneva.
2008	Government pulls out of 2002 ceasefire agreement, launches massive offensive.
2009 January	Government troops capture the northern town of Kilinochchi, held for ten years by the Tamil Tigers as their administrative headquarters. President Mahinda Rajapakse calls it an unparalleled victory and urges the rebels to surrender.

2009 March	Former rebel leader Karuna is sworn in as minister of national integration and reconciliation. United Nations High Commissioner for Human Rights Navi Pillay accuses both sides of war crimes.
2009 May	Government declares Tamil Tigers defeated after army forces overrun last patch of rebel-held territory in the northeast. Military says rebel leader Velupillai Prabhakaran was killed in the fighting. Tamil Tiger statement says the group will lay down its arms.
2010	President Rajapaksa's ruling coalition wins landslide victory in parliamentary elections. Parliament approves a constitutional change allowing President Rajapaksa to seek unlimited number of terms.
2011 April -	UN says both sides in the Sri Lankan civil war committed atrocities against civilians and calls for an international investigation into possible war crimes. Sri Lanka says the report is biased.
2011 July	Sri Lanka's largest ethnic Tamil party, the Tamil National Alliance, wins two-thirds of local councils in the former war zone in the north and east.
2012 November	The government dismisses a UN report that it intimidated UN staff investigating abuses at the end of the civil war in 2009.
2013 September	Tamil National Alliance opposition party wins first elections to semi-autonomous provincial council in the north, with 78% of the vote. Commonwealth observers say army intimidation compromised the vote's environment.
2013 November	Sri Lanka hosts the Commonwealth Heads of Government Meeting (CHOGM). The leaders of Canada, India and Mauritius refuse to attend amid calls for a boycott over Sri Lanka's human rights record.
2015 January	Maithripala Sirisena becomes president.
2015 September	Sri Lanka rejects a UN call for international involvement in an investigation into war crimes.
2015 October	Sri Lanka co-sponsors a UN Human Rights Council resolution calling for a special judicial mechanism to prosecute war crimes.
2016 June	Sri Lankan government acknowledges for the first time that some 65,000 people are missing from its 26-year-long war with Tamil Tiger rebels and a separate Marxist insurrection.
2016 July	The government announces its aim for Sri Lanka to become completely demilitarized by 2018, a significant development which would see the end of the army's involvement in civilian life after decades of ethnic war.
2016 August	Parliament passes a law to establish an office to trace the thousands of people who disappeared during the war and separate Marxist insurrection.
2017 February	Government implements Right to Information Act meant to curb corruption and provide timely information to the public.

“Minorities” of Sri Lanka

Ethnic groups

The Constitution of Sri Lanka does not give a definition of “minority”.³⁶⁰ The constitutional provisions or any other legal stipulations lack the concept of “minority” in any form altogether. Tables 15 and 16 show the ethnic and religious composition of the country:

Table 15: Population of Sri Lanka by ethnicity, 1921 – 2011, in %³⁶¹

<i>Ethnic Group</i>	1921	1931	1946	1953	1963	1971	1981	2001*	2012
Sinhalese	67.0	65.3	69.4	59.3	71.0	72.0	74.0	74.5	74.9
Sri Lankan Tamil	11.5	11.2	11.0	10.9	11.0	11.2	12.7	11.9	11.2
Upcountry Tamil	13.4	15.4	11.7	12.0	10.6	9.3	5.5	4.6	4.2
Sri Lankan Moor	6.3	5.6	5.1	6.3	6.5	6.7	7.0	8.3	9.2
Others	1.8	2.5	1.6	1.4	0.9	0.8	0.8	0.7	0.5
*estimated population. Census was not completed in the Northern and Eastern Provinces except for Ampara District									

Table 16: Population of Sri Lanka by Religion, in %³⁶²

Religion	2001	2012
Buddhists	69.3	70.2
Hindus	15.5	12.6
Muslims	7.6	9.7
Christians	7.5	7.4
Others	0.1	0.05

The majority community in Sri Lanka is *Sinhalese* consisting of 74.9 per cent of the population, which is predominantly differentiated by the language it speaks (i.e., Sinhala).

According to Russell and Matles, the solidarity of the Sinhalese ethnic community is fortified by the Buddhist religion.³⁶³ The data presented by the authors show that in 1988 approximately the overwhelming majority of the Sinhala speakers were Buddhists (93 percent), and that almost all Buddhists in Sri Lanka were Sinhala speakers (99.5 percent).³⁶⁴ Furthermore, authors’ observations point to the “long relationship between Buddhism and the culture and politics of the island, focused on “the importance of preserving this fragile cultural inheritance.”³⁶⁵

³⁶⁰ This chapter builds upon Carciumaru, 2012, pp. 8-10.

³⁶¹ Source: Sri Lanka Department of Census and Statistics, 1921-1981; Sri Lanka Population and Housing Census, 2001, in Bandarage, 2009, p. 3; Census of Population and Housing 2012 - Final Report.

³⁶² Sri Lanka Department of Census and Statistics, *Statistical Pocket Book-2009*.

³⁶³ Ross, R.R. and Savada, A.M. (2002). *Sri Lanka: A Country Study*. In Walter Nubin (ed.) *Sri Lanka: current issues and historical background*. New York: Nova Science Publishers, pp. 77-220. Cf. Ross, R.R. et al. (ed.) (1990). *Sri Lanka – a Country Study*. Federal Research Division, Library of Congress.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

Björkman shows that even sharing a language and religion, the Sinhalese, in the nineteenth and first half of the twentieth centuries, “self-consciously divided and defined themselves as either “Kandyen” or the “low-country” Sinhalese.”³⁶⁶ However, the Sinhala linguistic nationalism has made the importance of such cleavages as the one described above (i.e., between Kandyen and low-country Sinhalese) irrelevant, prioritizing exclusively the linguistic identity, through which all Sinhala speakers defined themselves against those speaking Tamil.

The largest ethnic minority, and the only national minority in Sri Lanka, based on Kymlicka’s categorization³⁶⁷, is *Sri Lankan Tamils*, also called “Ceylon”, “Jaffna” or “indigenous” Tamils.³⁶⁸ They formed a majority in Northern and Eastern Provinces of Sri Lanka, especially in the Northern Districts of Jaffna where they represented 99.9 per cent,³⁶⁹

According to Ross, the overwhelming majority (almost 80 percent) of the Sri Lankan Tamils were Hindus and the rest are Christians. They were brought up and educated to be and feel different from their Sinhalese counterparts. Ross points out that the entire cultural and social sources (e.g., myths, legends, caste structure, etc.) of the Sri Lankan Tamils were distinctive from the Sinhalese.³⁷⁰

Sri Lanka Moors commonly referred to as *Muslims*, Sri Lanka's second-largest minority after Tamils, share close linguistic and cultural ties with Tamils and speak Tamil language.³⁷¹ However, the Muslim community perceives itself as a separate ethnic community, distinct from the Sinhala, Tamil and other ethnic groups. Religion, rather than language or history linked to territory, forms the basis of their identity.³⁷²

³⁶⁶ Björkman, J.W. (1996). *On Lions, Tigers and Peacocks: Indo-Lankan Ethno-Political Relations*. In Paul A. Groves, (ed.) *Economic Development and Social Change in Sri Lanka. A Spatial and Policy Analysis*. New Delhi: Manohar. p. 332 as well as de Silva, K.M. (1981). *A History of Sri Lanka*. London: C. Hurst.

³⁶⁷ Kymlicka speaks about “national minorities”, which are: “[...] groups that formed complete and functioning societies on their historic homeland prior to being incorporated into a larger state. The incorporation of such national minorities has typically been involuntary, due to colonization, conquest, or the ceding of territory from one imperial power to another, but may also arise voluntarily, as a result of federation. The category of national minorities includes both “state-less nations” (like the Québécois, Puerto Ricans, Catalans, Scots) and “indigenous people” (like the Indians, Inuit, Sami, Maori).”

³⁶⁸ See Daniel, E.V. (1996). *Charred Lullabies*. Princeton University Press, pp.16-19.

³⁶⁹ Source: Department of Census and Statistics – Sri Lanka, Population and Housing Statistics Special Enumeration 2007, Basic Population Information of Jaffna District 2007.

³⁷⁰ See Ross, 1990.

³⁷¹ Imtiyaz, A.R.M. (2009) The Eastern Muslims of Sri Lanka: Special Problems and Solutions. *Journal of Asian and African Studies*, 44(4), pp. 407-427.

³⁷² In this sense see Raheem, M. (2007). *Muslims and the Peace Process*. In Alok Bansal et al. (ed.) *Sri Lanka. Search for Peace*. New Delhi: Manas Publications, p. 86.

Table 17: Number and Percentage of Muslim Population, 1963 - 2007³⁷³

Year	Districts					
	Trincomalee		Ampara		Batticaloa	
	No.	%	No.	%	No.	%
1963	40,775	29.4	97,621	46.1	46,038	23.5
1971	59,924	31.8	126,365	46.4	60,889	23.7
1981	75,039	29.3	161,568	41.3	78,829	23.9
2007	151,692	45.4	268,630	44.0	128,964	25.0

Daniel tells us that the ancestors of *Upcountry Tamils*, also referred to as “Estate Tamils”, “Tamils of Indian Origin” or simply “Indian Tamils”,³⁷⁴ were predominantly laborers, working on coffee and (subsequently) tea plantations in Sri Lanka.³⁷⁵ According to Valentine E. Daniel, “notwithstanding many cultural changes that followed after their arrival from South India, upcountry Tamils never lost their sense of continuity with village India,” which was one of the factors leading the Sinhalese to perceive Upcountry Tamils as foreigners.³⁷⁶

As could be observed from the Census data presented in the Table on ethnic groups, the total number of upcountry Tamils is continually decreasing. At its peak (1953) this group constituted 12 per cent of the island’s population, 1 per cent more than the number of Sri Lanka Tamils at that time.³⁷⁷ Presently, upcountry Tamils constitute a majority of 47.3 per cent in the Central Province District Nuwara Eliya.³⁷⁸

Constitutional Safeguards – from Soulbury Constitution to present day³⁷⁹

³⁷³ Source: Department of Census and Statistics – Sri Lanka, Population and Housing Statistics Special Enumeration 2007, Basic Population Information of Ampara, Batticaloa and Trincomalee Districts 2007.

³⁷⁴ Daniel, 1996, p. 16.

³⁷⁵ For the origins and causes of Indian immigration see de Silva, 1981, pp. 282-296.

³⁷⁶ “[t]he multiple crops characteristic of villages in India were replaced by a single cash crop. Whereas in their ancestral Indian villages most of what was grown was consumed by the residents, on the estate almost entire yield of this single crop was to be exported. Caste distinctions that might have been kept clear by distinct residential patterns in village India were threatened and often effaced as all workers were compelled to live in identical, barracks-style line rooms, regardless of caste.”, in Daniel, 1996, p. 75.

³⁷⁷ Daniel, 1996, pp. 74-75.

³⁷⁸ Source: Department of Census and Statistics, Census of Population and Housing 2001.

³⁷⁹ This section draws extensively from Carciumaru, 2012.

The Sri Lanka's Independence Constitution, based on the recommendations made by the Soulbury Commission, sought to protect the ethnic minority rights. Thus, under Article 29(2) it contained provisions that Parliament was not competent to pass laws that:

- (a) prohibit or restrict the free exercise of any religion; or
- (b) make provisions of any community or religion liable to disabilities or restrictions to which persons or other communities or religions are not made liable; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or
- (d) alter the constitution of any religious body except with the consent of the governing authority of that body.³⁸⁰

Although Article 29 (2) represented certain cast-iron guarantees given to the minorities by the departing colonial government as a *quid pro quo* for their accepting a constitution establishing a unitary State for independent Sri Lanka, de Silva rightfully observed that the lack of the entrenchment in the Constitution of guarantees of fundamental rights, on the lines enacted in the constitutions of India, Malaysia, and other post-colonial states, enabled the Sinhalese decision-makers to ignore it, passing laws most of which adversely affected the minorities.³⁸¹

Within a few months of Independence, the government of Sri Lanka (Ceylon) enacted the *Citizenship Act of 1948*, eliminating the vast majority of Indian plantation workers (upcountry Tamils) from the electoral registers by the simple device of defining the right to citizenship far more rigidly than previously;³⁸² and the *Indian and Pakistani Residents (Citizenship) Act of 1949*, both of which completely changed the representational picture. Quoting the Sinhalese political scientist I.D.S. Weerawardena, Wilson writes that the disfranchisement of the Indians was “a broken pledge to all the minorities”, adding that: “[t]he moral basis of the Soulbury Constitution has been wiped away”³⁸³

Thus, it is shown that constitutional “ironclad guarantees” were not an obstacle as long as the restrictions were interpreted to be viewed as applicable to all sections of the people and not to a specific ethnic community. Just to give one example, Marasinghe pointedly observes why was it not difficult to understand the reason *the Official Language Act of 1956* was never challenged.³⁸⁴ The Act did not violate Article 29(2) of the Soulbury Constitution simply because it was not viewed as a constitutional amendment and therefore required only a simple majority.

³⁸⁰ See the full text of Ceylon Constitution Order in Council 1946, which at Sri Lanka's independence became the country's first Constitution, at: <http://www.tamilnation.org/srilankalaws/46constitution.htm>. Consider also Marasinghe, L. (2004). *Constitutionalism: A Broader Perspective*. Colombo: International Centre for Ethnic Studies., p.14; also de Silva, 1981, pp. 510-539; see also Carciumaru, 2012.

³⁸¹ De Silva, 1981, p. 511; it should be added that the Constitution was a heritage from the British, and it made no mention of fundamental rights because, “according to the British tradition, the protection of such rights is left to the due process of law.” in Rothermund, D. (2010). *The Republic*. In Hermann Kulke and Dietmar Rothermund. *A History of India*. Fifth Edition, London: Routledge.

³⁸² De Silva, 1981, p. 511.

³⁸³ Wilson, A.J. (1988). *The break-up of Sri Lanka: The Sinhalese-Tamil conflict*. London: C. Hurst, pp. 18-19.

³⁸⁴ Marasinghe, 2004, p. 19.

Compared to Soulbury Constitution, the present Constitution, promulgated in 1978,³⁸⁵ does guarantee fundamental rights to every citizen, such as every person the freedom of thought, conscience and religion (*Articles 10*), the freedom from torture and cruel, inhuman or degrading treatment (*Article 11*), *Article 12* secures the right to equality, whereas *Article 13* speaks about the freedom from arbitrary arrest, detention and punishment, and prohibition of retroactive penal legislation. The Constitution of Sri Lanka also guarantees, under *Article 14(1)(a-i)*, the freedom of speech and expression to every citizen, the freedom of peaceful assembly, the freedom of association including the freedom to join a trade union, the freedom to manifest his or her religion or belief in worship, observance, practice and teaching, the freedom to promote his or her culture and to use his own language, the freedom to engage in any lawful occupation, profession, trade, business or enterprise, and the freedom of movement, residence including the freedom to return to Sri Lanka.

Moreover, Chapter IV – Language, proclaims under *Article 18(1)* that while the Official Language of Sri Lanka shall be Sinhala, “Tamil shall also be an official language” (*Article 18(2)*). The Constitution also regards English as the “link language” (*Article 18(3)*)³⁸⁶. In this Chapter, there is express provision permitting the use of Tamil language in Parliament, local authorities, courts, universities, schools and in official correspondence (*Articles 20-24*). Under *Article 25* the State obliges itself to provide adequate facilities for the use of the languages provided in this Chapter.

Nonetheless, there are several issues in the Constitution that both fail to guarantee the security of the minorities and arouse their concern in terms of equal rights and justice for all.³⁸⁷ *Article 9* of the Constitution, for example, proclaims that “the Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha *Sasana*, while assuring to all religions the rights granted by *Articles 10* and *14(1)(e)*.”³⁸⁸

³⁸⁵ Next section draws heavily on Constitution of Sri Lanka (as amended up to 17th Amendment, 3rd October 2001), revised edition 2008, available at: http://www.parliament.lk/about_us/constitution.pdf, accessed on September 1, 2018; see also Carciumaru, 2012.

³⁸⁶ *Article 18(1-3)* where amended by the Thirteenth Amendment to the Constitution of Sri Lanka in 1987.

³⁸⁷ See Carciumaru, 2012.

³⁸⁸ According to Stepan “*this stipulation was already introduced in 1972 Republican Constitution. Compare this to India, where “secularism” is one of the major principles of the Constitution, meaning both equal and due respect for all religions and faiths as well as separation of the state from the church. The preamble of the Constitution of India declared one of the objectives to be to secure to all citizens of India the freedom of faith, belief, and worship. The chapter on fundamental rights provided a constitutional guarantee to minority groups, incorporating a separate group of rights in Articles 25-28 focusing on the right to freedom of religion.*”, in Stepan, 2006, p. 7; also see the Constitution of India (updated up to 94th Amendment Act), available at: <https://www.india.gov.in/my-government/constitution-india>.

According to Bandarage, the purpose of including this Article into the Constitution was not to discriminate against other minorities, but to protect and foster the Buddha *Sasana*'s unique cultural heritage.³⁸⁹

Though the provision allowing each religious group to manage its own affairs³⁹⁰ was included in the Soulbury Constitution Article 29(2)(4), prohibiting the enactment of legislation restricting the free exercise of any religion or altering the constitution of any religious body without the consent of that body, this is not present in the current Constitution anymore.

*Sinhalese – a majority with a minority complex*³⁹¹

The minority complex of the Sinhala majority and the majority complex of the Tamil minority in Sri Lanka can be understood only by taking into account the regional, demographic and political dimensions.³⁹² The Sinhalese represent an overwhelming majority on the island. However, some, including the elites, see themselves as a minority endangered by the larger Tamil community in southern India as well as Jaffna and Trincomalee (north and north-east of Sri Lanka).³⁹³ The Indian state of Tamil Nadu is almost double the geographic area of Sri Lanka and also more than three and half times its population (72,147,030 versus 20,359,439)³⁹⁴.

This minority complex led the Sinhalese elites to portray the conflict with Tamils as a primordial conflict based on mutual distrust and violence spanning over more than two millennia. According to the Sinhala nationalist position, pre-colonial Sri Lanka prior to the advent of European invaders was a mono-ethnic and mono-religious Sinhala Buddhist state where the Tamils were migrant aliens. This position emphasizes that even today; Tamil Nadu

³⁸⁹ See Bandarage, *op.cit.*, 2009; Roberts, M. (2001). *The Burden of History: Obstacles to Power Sharing in Sri Lanka. A History of Ethnic Conflict in Sri Lanka: Recollection, Reinterpretation & Reconciliation*. Monograph No. 21. Sri Lanka: Marga Institute; Wilson, A.J. (1988). *The break-up of Sri Lanka: The Sinhalese-Tamil conflict*. London: C. Hurst, – particularly interesting his point of view, because between 1978-1983 he acted as an unofficial constitutional adviser to the President of Sri Lanka.

³⁹⁰ Cf. Article 26 of the Constitution of India.

³⁹¹ Consider Kishore Dash's pointed analysis: "Since ethnic minorities in all states of South Asia have close affiliation with their kinfolds in neighboring states, cross-border ethnic identities widely prevail in South Asia. There are majority groups-apart from the Sinhalese-of other small South Asian states that suffer from a minority complex, e.g. the Indian Nepalese of the Tarai region together with their co-ethnics in the Indian states of Bihar and Uttar Pradesh outnumber the Nepalese in Nepal; Bhutan's Nepalese groups together with Indian Nepalese outnumber Bhutan's majority Drukpas," in Dash, K. (2008). *Regionalism in South Asia: Negotiating Cooperation, Institutional Structures*. Routledge Contemporary South Asia Series. Routledge, p.126.

³⁹² See also Korf, B. (2006). Who is the rogue? Discourse, power and spatial politics in post-war Sri Lanka. *Political Geography*, 25(3), pp. 279-297.

³⁹³ See Carciumaru, 2012.

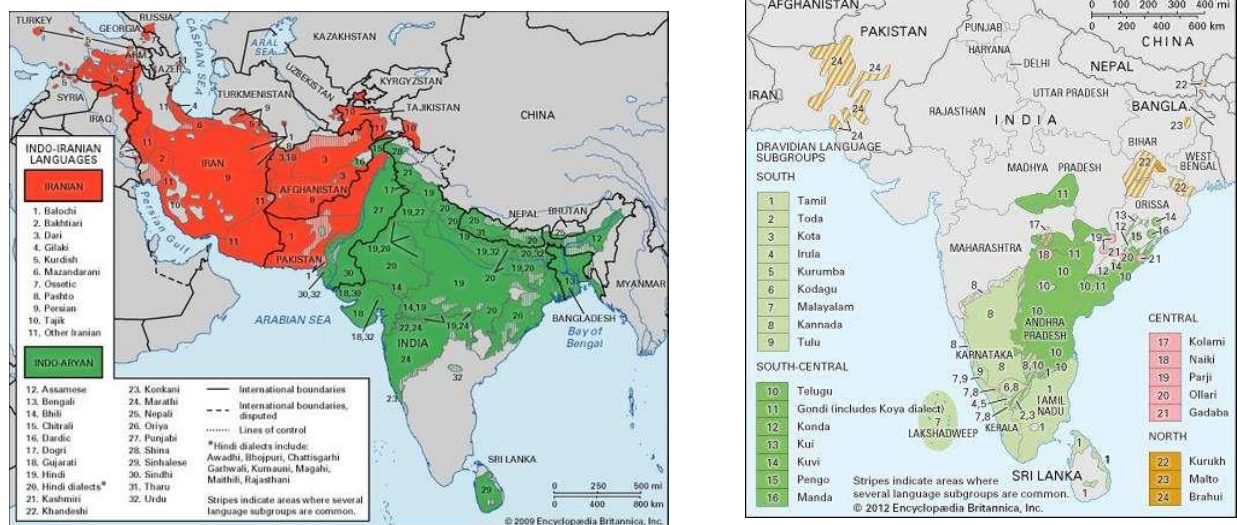
³⁹⁴ Source: Census 2011, for Tamil Nadu available at <https://www.census2011.co.in/census/state/tamil+nadu.html>; Census of Population and Housing 2012 for Sri Lanka, available at <http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/SriLanka.pdf>. Also compare Romanian speaking Moldovans' "minority complex" to Russian minority's "majority complex" (though, the former is in majority in Moldova, it is in overwhelming minority in the region, i.e., compared to Russia, see Chapter III. Case Studies from South Asia and Eastern Europe).

is the “country of Tamils” or the “land of Tamil”, not Sri Lanka. Invoking these historical and contemporary claims, the 2003 Report of the National Joint Committee of Sinhala Organizations (NJC) argued against a federal constitution that would lead to devolution of power to the Tamils:

The “Tamil Ethnic Problem” [...] is a fiction [...] crafted by relatively recent migrants whose historical homelands lie in South India. [...] A migrant population never qualifies for national status in the host country [...] the 5% Turks who live in Germany do not make a “nation” – their nation is Turkey. Similarly, the nation of the Tamil speaking Dravidian groups exists in South India. So the “nation” thus defined is inconsistent with international norms of nation making, nationalism and aspiration to national self-determination. [...] Tamil nationalism [...] makes a logical application in South India and not in Sri Lanka.³⁹⁵

The above cited report exemplarily depicts Sinhala people’s attitude towards the Tamils from Sri Lanka and Tamil Nadu. The latter are perceived by the former as alien conquerors rooted in a different culture and with distinct and (foreign, sic!) religious as well as linguistic affiliations, who ready to invade and assimilate their country. See the Figures below.

Figure 8. Indo-Iranian vs Dravidian Languages³⁹⁶



Moreover, at the independence, due to historical reasons, the Tamil minority was more favorably situated in educational (students), business (entrepreneurs) and professional branches (doctors, engineers) than the Sinhalese majority. Stepan depicts a very bleak picture regarding the deplorable state of Sinhalese schools, heritage and cultural monuments at the Independence.³⁹⁷

³⁹⁵ *A Case Against a Federal Constitution for Sri Lanka: Report of an Independent and Representative Committee*, Colombo: The National Joint Committee, September 2003, p. 12, cited in Bandarage, 2009, p. 19.

³⁹⁶ Source: Encyclopedia Britannica, available at: <https://www.britannica.com/place/Sri-Lanka>, accessed on 01.02.18

³⁹⁷ “...at the Independence, Buddhist monuments were in a sad state of disrepair. Also, during the British period, much of the public expenditures for schooling went to “state assisted” English language privately run schools. These schools, the best in Ceylon, often had British and American missionary origins. They were attended disproportionately by the minority community of Sri Lankan Tamils, who due to their high quality education in

Sinhalese political leaders under the GoSL tried to address and redress the challenges faced by the Sinhalese majority through positive discrimination policy initiatives. However, their polarizing policies and initiatives led to the exacerbation of the emerging conflict and consolidation of two distinct nations, Sinhalese and Tamils.³⁹⁸

Background: Conflict stages

Sri Lanka-a multiethnic, multi-religious country, in its more than seventy years of independence from the British rule, has always had a Sinhala Buddhist as the executive head of government or president.³⁹⁹ Does this banal statistical aspect allow me to draw the conclusion that minorities did not matter or did not stand any chance in Sri Lanka?

Compared to India or to any other post-colonial state, for that matter, Sri Lanka was in a much better position at the Independence. The Sri Lankan founding fathers and constitution-makers were not facing such issues as balkanization of the country (e.g., such secessionist movements as Dravida Nadu in the South India). However, despite the favorable conditions at the Independence, the country faced a protracted civil war, which lasted for over 25 years. Sri Lankan case study exemplifies the path dependency of the policies and actions of its political elites, restricting their actions and strategies to prevent the escalation of the conflict and to settle it through negotiations.⁴⁰⁰

At Independence, the Constitution established a Westminster style two tiered parliamentary system, whereas the minorities were protected by the Article 29. Regarding minority politics, Jayasuriya characterizes this immediate phase, which lasted until 1956, as “integrative secularism,” based on a fruitful collaboration between the Sinhalese and Tamil elites.⁴⁰¹

English, won a larger relative share of appointments, via competitive exams, to the highly coveted Ceylonese Administrative Service than did the Sinhalese.” Stepan, 2006, p. 7.

³⁹⁸ See Stepan, 2006, pp. 1-7.

³⁹⁹ Sri Lanka Freedom Party founder and later prime minister S.W.R.D. Bandaranaike, as well as the former president J.R. Jayewardene-originally Christian-later returned to Buddhism as well, see Björkman, 1996, p. 332.

⁴⁰⁰ Cf. Uyangoda, J. (2000). *A State of Desire? Some Reflections on the Unreformability of Sri Lanka's Post-Colonial Polity*. In S.T. Hettige and Markus Mayer (ed.) *Sri Lanka at Crossroads: Dilemmas and Prospects after 50 Years of Independence*. Delhi: McMillan, pp. 93-118; as well as Wilson, 1988, pp. 86-88; Bandarage, 2009; Chadda, M. (2006). *Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland*. Minority Rights Group International; de Silva, K.M. (1997). Sri Lanka: Surviving Ethnic Strife. *Journal of Democracy*, 8(1), pp. 97-110.

⁴⁰¹ Jayasuriya, L. (2005). *The Changing Face of Electoral Politics in Sri Lanka (1994-2004)*. Singapore: Marshall Cavendish Academic, pp. 8-10.

According to Stepan, notwithstanding 70% of Sinhalese and 22% of Tamil population, at the Independence, “there had been no riots, or any form of collective violence, between Sinhalese and Tamils for hundreds of years before Independence.”⁴⁰²

According to Wriggins, in addition to the lack of violent clashes between two major ethnic groups, “of the ten newly independent countries of South and South East Asia, Ceylon [had] more of the attributes of a modernized social and political system than any other”⁴⁰³ Wriggins continues by enumerating some of them such as 60 per cent literacy rate,⁴⁰⁴ highest per capita income of any country in Asia except for Japan”, the civil service consisting exclusively of local experts⁴⁰⁵ Thus, taking these facts into consideration, the ethnic conflict cannot be explained either by “historic hatreds and bloodshed” nor “absolute poverty.”⁴⁰⁶

I argued that a policy based on that majoritarian control system was at the root of the ethnic conflict in Sri Lanka, caused and exacerbated by the rise of Sinhala-Buddhist nationalism.⁴⁰⁷ Furthermore, Westminster style form of parliamentary democracy introduced Sinhalese nationalists to an unnuanced, almost crude in a multi-ethnic setting, principle of the democratic rule – democracy understood as the winner-take-all rule of the majority.⁴⁰⁸ Thus, Stepan observes that in the second phase, particularly from 1956 to 1983, “the very aggressive nation state policies ended up in constructing two warring aspirant nation states in one state,”⁴⁰⁹ on a “slippery slope” to the rapid deterioration of the democratic system⁴¹⁰ Thus, Sri Lankan case confirms one of consociationalists’ hypothesis of how easily majoritarian democracy can degenerate into majority dictatorship. In reaction to the Sinhalese majoritarian practices, Tamil minority have begun to articulate a demand for a constitutional arrangement of power sharing since early 1950s. The argument for power sharing was based on the construction that the state of Sri Lanka was the home of two nations: Sinhalese and Tamil. Tamil leaders argued that if

⁴⁰² Stepan, 2006, pp. 1-2; Moreover, the only ethnic riot had been between Sinhalese and Muslims in 1915. For “public peace” and lack of riots, as well as future prospects see Wriggins, H. (1965). *Ceylon: Dilemmas of a New Nation*. Princeton: Princeton University Press, and compare it to Harrison, 1960.

⁴⁰³ Wriggins, 1965, p. 6.

⁴⁰⁴ Cf. “Poverty ‘At a glance’”, World Bank Database on India, 2008, however, according to official statistics, available at <http://india.gov.in/knowindia/literacy.php>, the literacy rate in India was almost 65 per cent already in 2001.

⁴⁰⁵ Wriggins, 1965, p. 68.

⁴⁰⁶ Wriggins, 1965; Stepan, 2006.

⁴⁰⁷ Cf. Carciumar, 2012.

⁴⁰⁸ Cf. Uyangoda, 2000, pp.103-107; For Horowitz: “The Sri Lankan language and state religion provisions symbolically wrote the Sri Lankan Tamils out of the polity.” Horowitz, D.L. (1989). Incentives and behaviour in the ethnic politics of Sri Lanka and Malaysia. *Third World Quarterly*, 11(4), p. 28; Chadda, M. (2004). *Between Consociationalism and Control*. In: Schneckener U. and Wolff, S. (ed.) *Managing and Settling Ethnic Conflicts*. New York: Palgrave Macmillan, pp 94-114.

⁴⁰⁹ “There were many more Sinhalese votes to be had by being extreme than there were Tamil votes to be had by being moderate.” remarks Horowitz, 1989, p. 26.

⁴¹⁰ Stepan, 2006, p. 7.

two nations were to peacefully coexist in a single state, sovereignty and state power should be organized on the principle of federalism.⁴¹¹

The Federal Party leaders were the most important spokespersons and supporters of Tamil cause for more autonomy within the boundaries of the state, during the second phase of political development and escalation of the ethnic conflict in Sri Lanka. This phase lasted until 1983. Federal Party's manifesto of the 1970 general election claimed: "It is our firm conviction that the division of the country in any form would be beneficial neither to the country nor to the Tamil-speaking people. Hence we appeal to the Tamil-speaking people not to lend their support to any political movement that advocates the bifurcation of the country."⁴¹²

According to Chadda, the intervention of Indian Peace Keeping Forces (IPKF) while ending Eelam War I⁴¹³ left behind "an unfinished devolution design which acted as a constant reminder that Colombo ought to offer power sharing proposals that might end the state of war."⁴¹⁴

According to Stepan, although there have been various peace efforts since the 1990s, "the extreme nation state policies implemented earlier have massively eroded the Sri Lankan states' internal capacity even to communicate to their Tamil speaking citizens."⁴¹⁵ This points out to the importance of timing in politics.

Outcome and Assessment

External Interventions I

The Indian Factor: Indian Peace Keeping Force (IPKF)

Due to the geographical location of the island and the cultural, political and economic relationship that they have with the Tamil community as well as shared colonial past, India could not be impartial in what was happening in the neighboring country. When the Sri Lankan Tamils were demanding own home (sovereignty) the Indian government was concerned with the impact that it will have on Tamil Nadu, India's own uneasy southern State. Due to conflicts of interest, India did not have a clear position on this matter. This is because of the assertions that Tamil militancy would have led to secessionist movements in India's own troubled backyard rather than GoI and the state government of Tamil Nadu ethnically outbidding each other. The main political parties in Tamil Nadu (AIDMK and DMK) were jointly supporting

⁴¹¹ Also see Carciumaru, 2012.

⁴¹² Wilson, 1988, p. 86.

⁴¹³ For what happened in-between, see the chronicle. The initial stage of the armed conflict between Government of Sri Lanka and Liberation Tigers of Tamil Eelam.

⁴¹⁴ Cf. Chadda, 2004, pp. 94-114.

⁴¹⁵ "[o]ne often also hears in Sri Lanka that, if the government had been willing in 1956, or even in 1975, to offer half of what they have been talking of offering in the last few years, the Tamil elected politicians probably could have convinced their fellow Tamils to accept such terms as the price of peace and democracy." Stepan, 2006, p. 40.

LTTE secessionist demands and struggle for own state. The GoI did not actively oppose this issue due to their concern with garnering as much votes as possible from the Tamil community. The Sri Lankan President Jayewardene's tenure in office was also an issue of unease for the Indian government. Jayewardene was accused for harboring and supporting adversary western interest, which GoI did not support.⁴¹⁶ As a result of these divergent positions based on conflicts of interest, the Indian government adopted a two-track policy, giving first class training to LTTE (as in the case of Mukti Bahini) its intelligence agency RAW (the Research and Analysis Wing) as well as condemning the separatism and secessionist endeavors.

When the Indian Prime Minister Rajiv Gandhi came to power in 1984, relations between Sri Lanka and India improved for the better. Rajiv Gandhi convinced the President, Jayewardene, to have a dialogue with LTTE, which at that point was already considered a separatist group. The talks were to be mediated by India.

The concrete outcome of the first meeting was the recommendation to set free 600 Tamil Guerilla fighters, which the GoSL agreed to do. The autonomy issues and thus provincial councils were also discussed. According to Biswas, there was no consensus in this as it raised issues on how the council was to exercise its powers on its subjects in enforcing law and order and also in handling land issues which was a very sensitive issue in the area.⁴¹⁷

As the dialogue stumbled Jayewardene restored to nationalist rhetoric to soothe Sinhala nationalists. There were public announcements that the government would not condone any behavior from terrorists and in his tenure any terrorist activities were to receive the full force of the law. The Sri Lankan government was ready and willing to devolve power to district councils and nothing more than that (i.e., autonomy and self-rule of Tamil majority provinces by Tamils), this did not auger well with the Tamil group.

During the second phase of the dialogue the GoSL's position had received a lot of resistance from an alliance between Sinhalese rival parties (joining forces for a common cause, sic!), the People's Alliance and the Buddhist priests. The Sinhala nationalists were openly against the peace talks threatening to expel Tamils from Kandy - a major centre of Buddhist Pilgrimage in Sri Lanka. Following the collapse of talks because every side as focusing on positions and their proposals were to be fulfilled unconditionally, more fuel was added to violence.

According to Tambiah, the Indian government continued with its urge to have reconciliatory dialogue, to try and salvage the issue.⁴¹⁸ However, it was difficult to have direct meetings with

⁴¹⁶ Biswas, 2006(a), pp. 137.

⁴¹⁷ Idem, p. 139.

⁴¹⁸ See Tambiah, S. (1992). *Buddhism Betrayed? Religion, Politics and Violence in Sri Lanka*. Chicago: University of Chicago Press.

the conflict parties, neither was it possible to try and overcome the wide gap that had developed between the two groups.⁴¹⁹ On June 1985, Indian negotiators reached a ceasefire agreement between LTTE representatives and the government of Sri Lanka and used this window of opportunity to at least try to convince the government to accept the demands of the Tamil group and have a security team monitor and evaluate the actions of both the Tamil and Sinhala leaders for further direction.

On October 1985, Rajiv Gandhi met Jayewardene during a Commonwealth summit, to persuade the president to talk with LTTE. This was followed by the development of a working paper in New Delhi to set the rules and steps for a meaningful devolution of power to provincial councils. The proposals were rejected by LTTE with claims that these did not incorporate their demands. By 1986 the negotiations flopped and violence rekindled in Jaffna. Furthermore, the Sri Lankan government blamed the authorities in Tamil Nadu for harbouring Tamil militants. This was followed by a rather controversial move of the Indian government to airdrop food to the Jaffna region following months of economic blockade by GoSL.⁴²⁰ This unexpected initiative by the Indian government led to the signing of the 1987 Indo-Sri Lanka Peace Accord, including the recommendation the Indian peacekeeping force should be present in Jaffna region.⁴²¹

The move received a lot of resistance from the Tamil militant and the Sinhala nationalist groups, both citing issues of exclusion and lack of direct involvement. The Sinhala Nationalists were pointing to two problematic aspects of the agreement - the unitary character of the country, which in their view was endangered, and, secondly, the direct Indian involvement was perceived with suspicion and as yet another instance of Indian hegemony and dominance in the region. The Sinhala hostility reached its apex through the violent backlash of the JVP (Sinhala left extremists) against the government.⁴²²

As the result of the Peace Agreement, the Indian Peace Keeping Force (IPKF) were assigned to the northern province of Jaffna to restore normalcy. According to Biswas, from the start the operation was mismanaged.⁴²³ Consequently, the relationship between the Sri Lankan Tamils and IPKF deteriorated and by October 1987 IPKF was considered an enemy and not a security guarantor, anymore. The relationship between Rajiv Gandhi and Jayewardene started deteriorating too, with the latter insisting on the withdrawal of IPKF. This happened once President Premadasa succeeded Jayewardene in office, the IPKF's withdrawal being sealed by V.P. Singh (the successor of Rajiv Gandhi) and Premadasa.

⁴¹⁹ Tambiah, 1992.

⁴²⁰ Biswas, 2006(a), p. 140.

⁴²¹ For an excellent analysis of IPKF see Biswas, 2006(b), pp. 46-65.

⁴²² See Tambiah, 1992 for a comprehensive analysis of the involvement of the IPKF and its repercussions.

⁴²³ Biswas, 2006(a), p. 141; idem, 2006(b).

Scholars working on this topic, consider IPKF involvement a failure as it did not lead to de-escalation of the conflict and its peaceful settlement, but, on the contrary, the involvement exacerbated the hostilities between the LTTE and the Government of Sri Lanka.⁴²⁴ The withdrawal of the Indian Peace Keeping Forces ended the truce immediately and, subsequently, hardened the commitment of the Tamil's to fight for their sovereignty and independence – Tamil Eelam (a land of their own).

In conclusion, the lessons learnt from IPKF involvement shows that without a meaningful support by both warring parties (GoSL and LTTE), support which would ensure legitimacy to the foreign peacekeeping presence, the dialogue has its limitations and is prone to fail. The third-party mediation will not succeed if the parties are not fully committed, and, for example, use the cease fire to re-group, delay, do not or implement only part of the issues agreed upon. Moreover, an intervention is bound to fail, if the local population is perceiving the intervening, peacekeeping forces as occupants.⁴²⁵ Finally, the failed mission shows how sensitive post-colonial countries are with respect to their territorial and policy making sovereignty; and how reluctant these states are to solutions imported or recommended by outsiders, which are accepted either by imposition⁴²⁶ or after a prolonged process of elucidating and confidence-building dialogue.⁴²⁷

External Interventions II

Norwegian Mediation

By the beginning of the 1990s it became clear that the war was not winnable by military means. 1994 landslide victory of Chandrika Kumartunga's People's Alliance (PA) was possible, due to the fact that PA promised to renew the dialogue with LTTE. One of Kumaratunga's first decisions was to lift the ban on LTTE and to initiate the talks. Moreover, as a sign of goodwill and to conform the intentions of having a dialogue and try to convince LTTE to come to the negotiating table again, the government of Sri Lanka released thirteen LTTE prisoners – a gesture welcomed by the international community, too. Finally, the initiative of having a dialogue between LTTE and the government enjoyed a wide support amongst the Sri Lankan population, tired of war and ready to go on with living their normal lives.

⁴²⁴ See Tambiah, 1992, Biswas 2006(a) and 2006(b), Bose, S. (2007). *Contested Lands*. New Delhi: Harper Collins, in particular the Chapter on Sri Lanka, pp. 6-54.

⁴²⁵ Compare this to Russian peacekeeping forces, (i.e., 14th Army), in Transnistria (see the subchapter on Moldova).

⁴²⁶ See the aspect of "imposing consociational power-sharing" in the case of Bosnia-Herzegovina (next chapter).

⁴²⁷ More often than not, the misunderstandings, suspicions or irritations leading to conflicts are caused by the lack of communication between parties.

In July 1995, leaked information disclosed that the GoSL was supposedly willing to accept a central LTTE demand and reorganize the country on federal principles, by creating eight regions, which would be part of the newly created federation.⁴²⁸ When confirmed, the plan was met by fierce opposition coming from Sinhalese parties and Buddhist leaders, in particular. As a result of several attacks on Tamils, the military confrontation restarted. However, President Kumaratunga pursued a double-track strategy and kept negotiating with LTTE, while the intense fighting was going on, parallel to the talks.

In spite of the peace talks and occasional cease fire agreements, LTTE continued to arm themselves, not being really committed to negotiations, whereas the GoSL “flexed its muscles”, too, by postponing elections and at the same time continuing the military operations in the north, without much success or advancement, however. At this point, neither the Government nor the LTTE were showing any commitment or taking credible preventive actions in averting violence and finding a lasting solution to the conflict. The stalemate was mutually hurting and ripe for yet another effort not tried before.⁴²⁹

In 1998, as a result of the mutually hurting political and military stalemate, both sides of the conflicting parties were more willing to negotiate than ever before. In addition, the willingness to negotiate was facilitated by Norway’s readiness to act as a mediator. In addition, between 1998-2000, the government of Sri Lanka experienced several military defeats against LTTE. Though in diplomatic relations GoSL was enjoying a much more positive public opinion and international press, compared to LTTE.

Thus, the mediating intervention by Norway has to be seen as quintessential in succeeding bringing the conflicting sides to start the dialogue at the negotiating table. Norway’s initiative in mediating the peace process in Sri Lanka was facilitated and encouraged by the support from Indian government. Not being a great military power, such as the United States, the Indian government did not perceive the intervention of Norway in the region as a threat.⁴³⁰

Both the GoSL and LTTE agreed on the necessity of changing the constitution with regard to the devolution of power and reorganisation of the political structure on federal principles. Nevertheless, Sinhalese nationalists, including Buddhist leaders opposed this, stating that it was

⁴²⁸ See Biswas, 2006(a), p. 145.

⁴²⁹ For the concepts of ‘ripeness’ and ‘mutually hurting stalemate’ see Zartman and Faure, 2005; Zartman, I.W. (2001). The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments. *The Global Review of Ethnopolitics*, 1(1), pp. 8-18; and the Chapter 6 on “Ripeness: The Hurting Stalemate and Beyond” by I.W. Zartman in Committee on International Conflict Resolution; Stern, P.C. and Druckman, D. (ed.) (2000). *International Conflict Resolution After the Cold War*. Washington D.C.: National Academy Press, pp. 225-250.

⁴³⁰ India made no exception from the position of any regional hegemon or major power towards the intervention of foreign (adversarial or not) powers in its spheres of interest and influence. In this sense, see the Monroe Doctrine (USA).

offering too much, too many concessions, to the Tamils. Due to this internal pressures, the president and opposition leader decided to postpone the referendum from August 2000, which would have cemented the policies mutually agreed upon. President Kumaratunga and the opposition leader, Ranil Wickremesinghe, did so to avoid losing the vote based on determined opposition for Sinhala nationalists and declared that they would consult nationalist and Buddhist monks before a new date is set for constitutional reform vote.⁴³¹ The growing influence of JVP, Sri Lanka's nationalist party, led both parties to not take adventurous or hasty decisions, which were determined to fail.⁴³²

Nevertheless, the LTTE felt irritated by a watered-down proposal (at least in their opinion) and, in addition, by the delay in implementing it. Moreover, the initial support from LTTE and other Tamil parties, who were benignly inclined towards the agreement, began to decline and the opposition to its stipulations was growing. It also became clear that would not get the necessary votes (2/3 supermajority) needed for it to pass the constitutional reforms and thus, the initiative was put on hold (for better times). These internal impediments notwithstanding, the mediating efforts to facilitate a peace agreement were continued. Even for setting the agenda, Norway already had to overcome some hindrances and try to appease the parties. On the one hand, LTTE insisted the ban should be lifted before the talks begin, whereas on the other, the GoSL insisted LTTE should give up its demand for a separate state. In addition, there was some irritation caused by the closeness of the Scandinavian mediators to LTTE, suspecting a favourable treatment of the LTTE by Norwegian mediators, leading to an unbalanced and thus unfair outcome of the negotiations.

In 2001, two developments endangered the future of the talks. The first development threatening the talks was the increase in intensity of military hostilities in Jaffna, and the suicide attack carried on by LTTE on the international airport in July 2001. The other threat on the peace process was instability of the GoSL. President Kumaratunga lost the parliament majority after her allies left the governing alliance. To re-establish her popularity, president Kumaratunga attacked the opposition party, UNP, for being too close to LTTE. There was also disagreement between UNP and the PA regarding lifting the ban imposed on LTTE. The tensions within the government and between UNP and PA, transformed negotiation process into a "blame game" and giving ultimatums to LTTE.⁴³³

⁴³¹ See DeVotta, N. (2000). Control Democracy, Institutional Decay, and the Quest for Eelam: Explaining Ethnic Conflict in Sri Lanka. *Pacific Affairs*, 73(1), pp. 55-76; and DeVotta, N. (2005). From Ethnic Outbidding to Ethnic Conflict: The Institutional Bases for Sri Lanka's Separatist War. *Nations and Nationalism*, 11(1), pp. 141-159.

⁴³² See Biswas, 2006(a), p.148.

⁴³³ See Bullion, A. (2001). Norway and the peace process in Sri Lanka. *Civil Wars*, 4(3), pp. 70-92.

To conclude, the Norwegian efforts were destined to fail because of Sri Lanka's domestic political instability and disagreement on a common negotiating position the GoSL should have had.

However, the negotiations continued and the efforts by the international community (USA, India, Canada) were still being taken to try and solve the conflict by peaceful means and at the negotiating table. Late 2001, the opposition party UNP won the parliamentary election and opposition leader Ranil Wickramasinghe was elected prime minister. The most important commitment made by UNP to the electorate was to solve the conflict with the LTTE by means of a peaceful dialogue.

After three years, since the Norway acted as the mediator between the conflicting parties, a breakthrough was achieved, the parties signing a historic ceasefire deal and agreeing to hold direct negotiations, to settle the conflict. Furthermore, the deal also included the creation of the so called Sri Lanka Monitoring Mission (SLMM).⁴³⁴ The role of the SLMM was to superintend the ceasefire initiative ensconced in the agreement.

Subsequently, in September and October 2002, two meetings of direct discussion between warring parties were held in Thailand. The dialogue generated optimism and encouragement by both United States and India. However, concerns on the impact of Sri Lanka's internal political instability on the talks still remained. In particular, the bitter rivalry between president Kumaratunga and prime minister Wickramasinghe was a great obstacle and hindering the process. Another breakthrough in the negotiation constituted the press conference by Prabakaran, the uncontested leader of LTTE, who was addressing the press for the first time in more than a decade. As a consequence, and to reiterate his allegiance to a peace deal, Wickramasinghe toured Jaffna, together with a delegation consisting of Buddhist priests and met US official, Christine Rocca, who emphasized the US support on peace process and agreement.

In December 2002, another talk was held in Oslo, Norway, and the parties agreed in principle on Sri Lanka's federal structure of governance, though, initially, GoSL was unwilling to explore the issue of federalism. This was caused by Sinhala nationalists' concern that federal arrangements will lead to the physical division and, subsequent, emergence of two countries. However, in spite of this challenges, the parties agreed on the need to reform the constitution and thus send their representatives on working visits to countries with a federal system of

⁴³⁴ The SLMM was headed by Norway and included other European countries, see Biswas, 2006(a), p. 150.

government to study their models, exchange and be inspired, implementing the changes mutually agreed upon.⁴³⁵

However, setbacks did not hesitate to follow, such as the one in April 2003, caused by the US refusal to lift the ban on LTTE, leading to the latter unilaterally suspending the talks. These difficulties notwithstanding, Norway set forth its attempts and support of the peace process, encouraging the parties to keep dialogue option open.

There are several incentives for conflicting parties to reach a peaceful resolution to a violent military conflict. The first one is the avoidance of bloodshed and escalation of the conflict, the second is the mutually hurting stalemate and the third one is the pressure by the international community, in particular donor countries. All three reasons led to the parties opting to keep returning to the negotiating table. However, why did the negotiations keep failing? One obvious reason was the lack of (courage to) trust from both parties. The GoSL and Sinhala nationalists level of mistrust towards LTTE's 'real' agenda was considerable. The LTTE was accused of continued violation of terms of ceasefire document and to forcibly recruit children and women as soldiers. On the other hand, the LTTE did not trust the interests or intentions of the government, like many Tamils, speculating the existence of a 'hidden' agenda. Subsequently, both sides had a negative perception of each other's interests and intentions causing an incommensurable obstacle in solving the conflict through a peaceful process.⁴³⁶

The second hindrance to the peaceful resolution of the conflict was the relationship between the two main Sinhalese parties engaged in a process of 'ethnic outbidding' (DeVotta) and thus competing for Sinhala votes as well as the relationship between GoSL and Sinhalese nationalists and Buddhists leaders.

With regard to external intervention, the failure of IPKF involvement created an atmosphere of suspicion towards the intentions of Norwegian mediation efforts, right from the beginning. This attitude of mistrust was misused by political elites to suit their needs.

Sri Lanka case study highlights the some of the difficulties democracies are facing when trying to regulate or solve an ethnic conflict. One of my accompanying hypothesis states that democracies are more prone on solving a conflict peacefully than autocracies. This is still true, given the fact that the democracy is much more than holding elections and does include power-sharing and accommodation as well as inclusion of all segments of the society (in our case the second largest ethnic group).⁴³⁷ Even in a "defective" democracy as Sri Lanka was, the process was transparent and encouraged the continuation of dialogue. However, Sri Lanka's electoral

⁴³⁵ See Bullion, 2001, pp. 70-92.

⁴³⁶ See DeVotta, 2005; Biswas 2006(a); Carciumaru, 2012.

⁴³⁷ Sri Lanka is not considered a full-fledged democracy based on the scores from Polity IV, EIU or v-dem.

politics played a crucial role in ethnic outbidding from the outset. In addition, the supermajority needed for a constitutional reform coupled by the adversarial attitude of the major parties, made every peace effort and negotiation almost impossible. The opposition was unwilling to support the government to secure a peace deal. Thus, a state of unpredictability became the defining and constant characteristic of Sri Lanka's politics, which largely affected the peace process.⁴³⁸

⁴³⁸ DeVotta, 2005.

III.2 Eastern Europe

III.2.1 Bosnia and Herzegovina

Figure 9. Map Bosnia and Herzegovina⁴³⁹



Table 18: Chronology of Bosnia and Herzegovina⁴⁴⁰

Time	Key events
1918	Austria-Hungary collapses at the end of the war. Bosnia-Herzegovina becomes part of the Kingdom of Serbs, Croats and Slovenes.
1941	Bosnia-Herzegovina annexed by pro-Hitler Croatian puppet state. Thousands of Serbs, Jews and Gypsies are sent to the death camps.
1945	Bosnia-Herzegovina liberated following campaign by partisans under Tito.
1945-1991	Bosnia is part of Socialist Federal Republic of Yugoslavia.
1991	Following collapse of communism, nationalists win first multi-party elections and form coalition government despite having conflicting goals: Muslim nationalists want centralised independent Bosnia, Serb nationalists want to stay in Belgrade-dominated rump Yugoslavia, Croats want to join independent Croatian state.
1992	Croat and Muslim nationalists form tactical alliance and outvote Serbs at independence referendum. Serb nationalists are incensed as constitution stipulates that all major decisions must be reached through consensus.

⁴³⁹ Source: Encyclopædia Britannica, available at: <https://www.britannica.com/place/Bosnia-and-Herzegovina>, accessed on 01.07.2018.

⁴⁴⁰ The data for the Chronology of Bosnia and Herzegovina is available as open-source, internet public space, on several websites. The one present here was taken entirely from Source: Chronology Bosnia and Herzegovina quoted from BBC Bosnia-Herzegovina country profile, available at: <https://www.bbc.co.uk/news/world-europe-17211415>, accessed on 01.07.2018.

	War breaks out and Serbs quickly assume control of over half the republic. Ethnic cleansing is rampant in the newly proclaimed Serb Republic but also widespread in Muslim and Croat-controlled areas.
1993	As tensions rise, conflict breaks out between Muslims and Croats, culminating in the destruction of much of Mostar, including its Old Bridge. The bridge had graced the city since it was built by the Ottomans in the 16th century and was a symbol of Bosnia's cultural diversity. The conflict is extremely complex. Muslims and Serbs form an alliance against Croats in Herzegovina, rival Muslim forces fight each other in north-west Bosnia, Croats and Serbs fight against Muslims in central Bosnia. UN safe havens for Bosnian Muslim civilians are created, to include Sarajevo, Gorazde and Srebrenica
1995	Safe haven of Srebrenica is overrun by Bosnian Serb forces under General Ratko Mladic. Thousands of Bosnian Muslim men and boys are separated from their families and massacred, despite the presence of Dutch UN troops. Nato air strikes against Serb positions help Muslim and Croat forces make big territorial gains, expelling thousands of Serb civilians on the way. Dayton peace accord signed in Paris. It creates two entities of roughly equal size, one for Bosnian Muslims and Croats, the other for Serbs. An international peacekeeping force is deployed.
1996	The International Criminal Tribunal for the former Yugoslavia begins work in the Hague. Drazen Erdemovic, a Croat who fought for the Serbs and took part in the Srebrenica massacres, is the first person to be convicted. He is sentenced to five years in prison.
2000	Moderate parties do well in elections in the Muslim-Croat entity but nationalists gain the upper hand in the Serb entity. Results force main Serb nationalist party to form a coalition headed by moderate Prime Minister Mladen Ivanic.
2002 October	Nationalists win back power in federation presidential, parliamentary and local elections.
2004 July	Celebrations mark the reopening of the rebuilt 16th century bridge at Mostar.
2004 December	NATO hands over peacekeeping duties to a European Union-led force, EUFOR.
2006 October	General elections reflect ethnic divisions, with Serb entity voting to maintain split from Muslim-Croat entity. In run-up to vote, Bosnian Serb leadership threatens to seek complete secession in event of moves to end autonomy of Serb entity.
2008 October	Nationalist parties do well among all three ethnic groups in local elections, leaving Bosnian politics divided firmly along ethnic lines.
2011 December	Bosnia's Muslim, Croat and Serb political leaders reach agreement on formation of new central government, bringing to an end 14 months of deadlock since 2010 general election.

2015 March	European Union foreign ministers and Bosnia sign Stabilisation and Association Agreement that has been on hold since 2008, raising possibility of Bosnia's joining Union if it carries out key political and economic reforms.
2016 February	Bosnia submits formal application to join EU.

As presented in Dayton Peace Accords, the institutional design in Bosnia and Herzegovina (further in text Bosnia as well as BiH) after the conflict shows a two-fold lesson for the constitutional engineering in post-conflict deeply divided societies. The case study of BiH acts as a positive example and an argument for the proponents of consociational power-sharing arrangements, such as ending the war and ensuring political stability of a post-conflict and post-war, deeply divided society. Furthermore, BiH case study demonstrates that such institutional arrangements have to be ‘handled with care’ and do not represent a panacea for all challenges faced in similar situations, but different contexts. Besides the issue of in-built inflexibility⁴⁴¹ to various provisions concerning power sharing between ethnic groups, the other significant concern is the massive involvement of exogenous actors into the issues of day-to-day running of the country as well as shaping of the constitutional design and institutions of accommodation and inclusion. The involvement of exogenous actors makes such countries as BiH de facto and de jure protectorates. Consequently, Bosnia and Herzegovina represents an instance of complex consociational power-sharing system. Due to its institutional engineering and constitutional design, the probability of the violence reigniting or that of the conflict re-emerging has been significantly reduced.

Two factors have been responsible for lack of conflict and political stability in BiH. The first one is the Office of the High Representative (OHR) the de facto head of the country, an international diplomat entrusted with the highest political power and in charge of the administration of the country. The second factor represents the consociational power-sharing constitutional arrangements. These two factors, the OHR and the consociational constitutional design and institutions are considered the primary tools to ending the war, ensuring political stability and enabling or enforcing groups’ accommodation in the post-conflict Bosnia and Herzegovina.

⁴⁴¹ One of the criticism of consociational power-sharing arrangements refers to their rigidity (see Subchapter II.1.6 *Critique and its Rebuttal: Debating Power-Sharing*)

Background: Conflict stages

Weller and Wolff indicate that from the very beginning Dayton Agreement was viewed as both “a curse as well as a blessing.”⁴⁴² These accords were commonly referred to as General Framework Agreement for Peace and was negotiated together with other relevant documents at Dayton, USA. After it has been initialled on 21st Nov. 1995, the Framework Agreement were then officially signed 3 weeks later in Paris. After the agreements were signed, the war in BiH ended. The agreement caused a general relief amongst the civil population and political leaders alike. In particular, after the war was fought with particular brutality, Bosnia and Herzegovina experiencing instances of ethnic cleansing as well as genocide. During this conflict, more than 100,000 citizens had been murdered and half of BiH’s citizens had been displaced.⁴⁴³ Experts and observers alike speculated on the duration of BiH’s constitution, which was included into the Annex 4 of the Agreement, until it collapses. Consequently, most people believed that Bosnia and Herzegovina would definitely fall apart and disintegrate, the very moment the exogenous military presence that were deployed to promote peace would leave. The settlement was considered politically unviable as well as morally wrong. Nonetheless, the agreement was important as it ended the war that was of such magnitude and intensity that Europe had never experienced within its borders since the Second World War came to an end.⁴⁴⁴

Thus, challenges to the success and chances of reinstating Bosnia and Herzegovina back to a politically stable, secure as well as responsible state in the World seemed incommensurable. Moreover, the agreement lack credibility as it has been deliberated, negotiated and agreed upon in a foreign state and on a foreign soil. In fact, the Dayton agreement never had representatives of Bosnian Croats or Bosnian Serbs at the negotiating table, acting as direct parties to the accord. Instead, the agreement was formally signed by the leaders of two of the constituent entities of the Federal Republic of Yugoslavia, Franjo Tudjman and Slobodan Milosevic, who acted as guarantors of BiH’s peace and stability. Thus, by not involving local, domestic actors into the negotiation process and subsequent agreement, a widespread feeling of imposition was justifiably present in BiH.

The agreement’s structure represented a further challenge. This structure seemed to deny both sides the objectives they fought for and aspirations they had anticipated to achieve after the conflicts ended. For instance, one of the key ethnic Serb entities known as Republika Srpska, was never given a chance or allowed to unite with the then Yugoslavian Federal Republic or

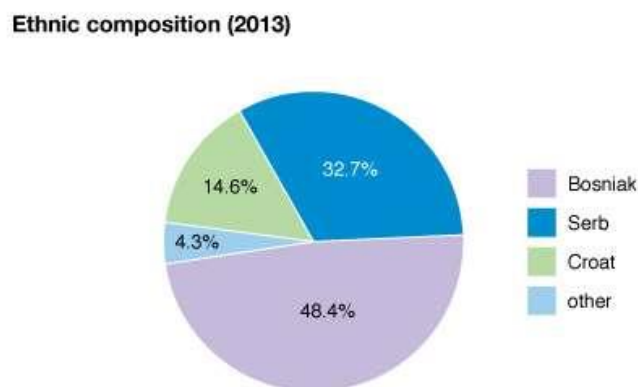
⁴⁴² Weller, M. and Wolff, S. (2006). Bosnia and Herzegovina ten years after Dayton: Lessons for internationalized state building. *Ethnopolitics*, 5(1), pp.1-2.

⁴⁴³ Ibid.

⁴⁴⁴ Idem.

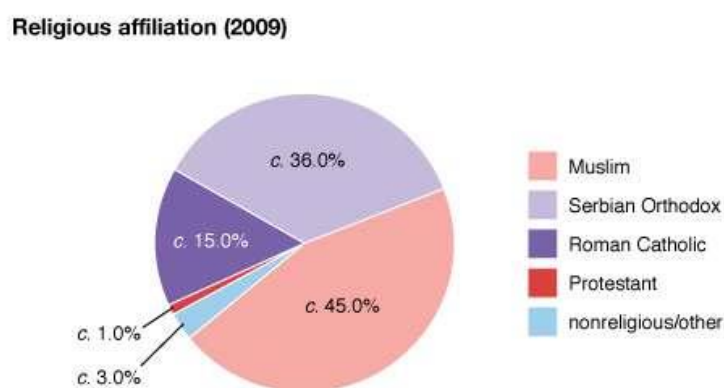
become an independent state. Moreover, the Croat ethnic group had been bound through the 1994 Washington Agreement, to become a part of a problematic federation with the Muslims. These communities were consolidated to form a single state, however the resultant state lacked strong institutions, legitimacy as well as power to function properly. Thus, Croats and Serbs, which are two of the constituent communities, had very little (if any) concern to have Bosnia and Herzegovina work as a sovereign and independent state and a reliable member of the international community.

Figure 10. Ethnic Composition Bosnia and Herzegovina



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Figure 11. Religious Affiliation Bosnia and Herzegovina



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At Dayton, the international negotiators analyzed Bosnia's divisions and cleavages. Based on their findings, they reached the conclusion that Bosnia required a rigid interpretation of consociationalism, which would constitute, eventually, the current political system, institutions and constitutional design of BiH. Furthermore, BiH is an instance of complex power-sharing,

exhibiting all four basic principles of consociationalism, such as executive power-sharing, mutual veto, proportionality and segmental autonomy, but exhibiting additional arrangements, which were not originally stipulated by Lijphart (policies regarding the internally displaced persons, for example and, the evident factor originally missing from Lijphart – the role and direct involvement of the external powers)

In itself, this design based on Dayton accord was very comprehensive.⁴⁴⁵ The country consisted of three ethnic groups, two entities (i.e., the Federation of Bosnia and Herzegovina for Muslims and Croats and Republika Srpska for Serbs) and a very complex system of governance. As a result of this, the country had the highest number of cabinet ministers, Prime Ministers and Presidents in a single state as compared to any country across the world. Also, Bosniaks, Bosnian Serbs and Bosnian Croats are the main ethnic groups and they are actively involved in a power-sharing system that has multiple tiers and the power amongst them is shared based on consociational arrangements. BiH has a decentralized central government system and a presidency shared among all three constituent ethnic groups, with a rotating chair that keeps changing after every 8 months between the three ethnic groups' representatives. This arrangement is a clear instance of the first principle of consociationalism – the executive power-sharing (grand coalition).

Conflict Management & Negotiation Process

The likelihood for success of the Dayton agreement (i.e., it being implemented fully to strengthen the institutions and stabilize BiH) did not seem to be high, in particular given all other problems the region was facing (e.g., self-determination conflicts in Macedonia, Kosovo and Montenegro; economic crises, higher levels of poverty, organized crime, corruption, as well as increasing numbers of IDPs as well as refugees). These pessimistic views given the challenges the region was facing were shared by experts working on the region who were trying to determine the viability and prolonged suitability of the Dayton accord. The majority of scholars were of the opinion that such settlements as Dayton Peace Agreement could have only become successful provided they fulfilled the following conditions: First, one of the parties in the conflict and to the agreement should have attained a conclusive victory during the war. Secondly, it could have been possible to reach a peaceful resolution, in case the parties would have experienced a mutually hurting stalemate. Towards the end of 1995, when Dayton Agreement was being finalized, the conditions mentioned above were absent. The then

⁴⁴⁵ See Bose, S. (2002). *Bosnia after Dayton: nationalist partition and international intervention*. London: Hurst; as well as Bose's chapter on Bosnia in Bose, 2007, pp. 105-153.

dominant Muslim government was of the opinion that the settlement came at a time when they had gained substantial power and control. For this reason, the settlement could deny them the chance to have control over the ethnic Serb community. The Serb community, on the other hand, was frustrated too, because it has been denied statehood necessary for its own pursuit of the unification with Serbia. Finally, Croat community was frustrated too, as it did not get the name unequivocally mentioning their group as the Serbs did (i.e., Republika Srpska).

However, in spite of putting an end to the brutally violent war, the Dayton agreement exemplarily represents an accord between the parties in a conflict that was never fully resolved at the time of concluding the peace agreement (i.e., never settled either at the negotiating table or on the battleground).

Dayton agreement is considered to be a transformative conflict settlement.⁴⁴⁶ The transformative character is given by the institutional arrangements, which were agreed upon and imposed by the international actors, but acted as a level playing field for all parties involved in the conflict, allowing them to solve the conflicts amongst themselves in a democratic and peaceful manner within the framework of the agreement. Moreover, the agreement encouraged the parties to come up with mutually beneficial solutions and innovative ways to solve their issues. Thus, the transformative conflict agreements are different from temporary/transitional conflict regulating agreement. Furthermore, in the case of BiH, the transformative conflict agreement does not allow for an entity to unilaterally secede. Instead, it establishes institutions that are rather permanent in nature and scope. For this reason, this transformative conflict settlement provides a guideline for accommodation of demands and interests of conflicting parties. In addition, it forms the basis on which constitutional arrangements are established, in order to protect the state's territorial integrity and its sovereignty.

Unequivocally, Dayton accord can be regarded as a consociational agreement, displaying all four basic principle outlined by Lijphart more than forty years ago (i.e., grand coalition, proportionality, minority veto and segmental autonomy). However, the institutions and constitutional stipulations provided by the accord are remarkably flexible. Moreover, for the past few decades, various institutions within BiH have significantly evolved due to the implementation of the Dayton accord as well as going beyond the agreement in particular essential aspects, underlining the transformative character of the accord. The Office of the High Representative played a key role in promoting institutional evolution. It achieved this by intensively and meaningfully engaging with the international community. However, based on

⁴⁴⁶ On transformative conflict settlement see: Weller and Wolff, 2006, pp. 1-13; also see Dayton, B.W. and Kriesberg, L. (ed.) (2009). *Conflict Transformation and Peacebuilding: Moving from Violence to Sustainable Peace*. Routledge Studies in Security and Conflict Management.

the assumptions concerning the conflict settlement's transformative nature, Dayton agreements represented a gradual evolution in the constitutional design focused on transformative aspects of institutional arrangements, rather than abrupt and prompt changes.

The presence of international military and military equipment in the area played a crucial role in preventing the deterioration of an already fragile state. The military offered effective protection to the general public. In addition, the OHR intended to perform both a monitoring and advisory functions in relation to the civil war, however it ended performing governmental functions. Indeed, some crucial institutional as well as legislative reforms were necessary, including security services, customs' relations, etc. Some of the policies that helped tackle these challenges came from and were the direct result of the international actors' actions, which underscores the dual identity and the Janus-faced nature of exogenous actors.⁴⁴⁷

The international involvement and the role played in Bosnia and Herzegovina has been criticised regularly. The international community permitted the local leaders and political elites to shirk from taking full political responsibility and coerce officials from the OHR to make decisions that they deem necessary for the state. As a consequence, in case the decisions were not popular and these were not supported by public opinion, they could distance or dissociate themselves from such laws. In addition, the absence of both international and local mechanisms to establish checks and balances as far as public power is concerned was also frequently pointed out. Regarding the OHR, their source of power is something that was legally disputable, since it appeared to be based on the key pronouncements of an informal peace implementation council, instead of the UN's Security Council Resolutions as stipulated in the UN charter, Chapter VII.⁴⁴⁸

Outcome and Assessment

Once the Cold War came to an end, the European security architecture's key principles had been altered: it was no longer simple to achieve collective security, in a wider area, through prevention, military alliances or deterrence (i.e., though threats of a mutually assured destruction). As the risk of inter-state wars diminished, the numbers of intrastate conflicts increased.⁴⁴⁹ Although the primary institutions of the European cold-war security architecture

⁴⁴⁷ See Bose, 2007, pp. 105-153 on the role of international actors.

⁴⁴⁸ See Chapter VII: Action with Respect to Threats to The Peace, Breaches of The Peace, and Acts of Aggression, available at: <http://www.un.org/en/sections/un-charter/chapter-vii/>, accessed on September 1, 2018.

⁴⁴⁹ See the HIIK (Heidelberg Institute for International Conflict Research) database, available at: <https://hiik.de/?lang=en>, accessed on 01.09.2018, in particular the data from "Conflict Barometer"; as well as Peace Research Institute Oslo (PRIO)'s Data on Armed Conflict, available at: <https://www.prio.org/Data/Armed-Conflict/>, accessed on 01.07.2018.

(including the Western European Union, North Atlantic Treaty Organization, United Nations, etc.) were not abolished, but on the contrary, developed more advanced instruments as well as policies in order to solve the challenges emerging from and created by the new security situation. The European Union, formerly referred to as the European Community, was trying to profile itself as one of the key security guarantors, securing its role in the newly created security architecture as an institution focused on managing crises and preventing conflicts.

In the late 1980s as well as circa 1990s, after the failure of communism within Eastern and Central Europe, the then so-called Yugoslavia gained popularity as the state that ever experienced intense incidents of violence and disintegration as compared to all European nations in history. The successive wars experienced in Yugoslavia the entire 1990s (ranging from the brief skirmishes to the campaign by NATO against Serbia concerning Kosovo conflict), caused thousands of people to lose their lives as well massive numbers of the civil population to displace. Indeed, the communism legacy, the wars and ethnonationalistic mobilization are memories that can never be lost in this part of the world, and to some extent, it has prompted a complex situation in which various factors work together to reconstruct the community. For instance, in Bosnia and Herzegovina, a lot of progress has been reported for the past two decades in terms of state-building efforts. This legacy involves: partly resolved conflicts on self-determination in Kosovo, Serbia Montenegro, Macedonia, as well as BiH.⁴⁵⁰ Furthermore, the legacy also involves such factors and developments as: political as well as economic instability in the entire region is caused by partial implementation of economic reforms, incomplete democratization process (the institutions only work to a certain extent) as well as ‘usual suspects’ in Eastern European transitional societies (from communism to capitalism and from an autocratic to a democratic political system) such as a result of brain and skills drain in the civil and private sector; organized crime as well as corruption, civil society that is not independent and inadequately developed; over-reliance on actors from the international community as well as their personal priorities that are acknowledged deliberately, thus decreasing the potential of local leaders in engaging in matters that affect various sectors. Regardless of one’s perspective on the role of the EU in Western Balkans as well as Bosnia and Herzegovina, this body remains the largest organization that provides donations to the affected populations. Furthermore, the EU has played a crucial role in promoting peace and democracy in these areas as well as overseeing their reconstruction to functional, stable states with full-fledged political institutions. For the case of Western Balkans, the EU has managed the crisis

⁴⁵⁰ The Section on the role of the EU draws on the brilliant analysis by Weller and Wolff, 2006, pp. 9-12. See also Houten, P. van and Wolff, S. (2008). *The Dynamics of Ethnopolitical Conflict Management by International and Regional Organizations in Europe*. *Jemien*, 7, European Centre for Minority Issues.

situation with a lot of success attributed to it as compared to the 1990s. Policy of conditionality is one of the unique advantage that is attributed to the European Union in this region. EU policy of conditionality is very effective among various countries where potential accession or closer association with the EU is being considered or negotiated.⁴⁵¹ Thus, one should look at and analyze from a larger perspective the role of the European Union's crisis management in Western Balkans after 1995.

In the emerging European security architecture, the European Union has a key role. In 2018, 28 member states were numbered and this strengthened the EU's political weight via accession, on-going enlargement as well as association process (regardless of the Brexit), more capable both militarily and diplomatically due to its growth in terms policy, defense identity as well as security developments. In fact, the EU is currently a key guarantor to both peace and stability at Western Balkans. The roles of EU in this region include economic aid programs, police and military missions, as well as the larger processes of upholding democracy as well as market economies that are associated to the EU membership.

The other essential learning lesson is that circumstances are temporal and nothing is permanent. Not even the immutable consociational approach that is adopted in the Dayton constitution. Together with strong international ties as well as security guarantees, and coupled with provision of minority rights, it is apparent that rather than eliminating ethnic identities permanently, consociational designs play a crucial role in transformative institutional designs that could provide time and space required by the conflicting parties to go beyond the rigidity of their institutions. Institutional rigidity is aimed at safeguarding weaker parties when implementing conflict settlements.

Therefore, internationalized state building can only stabilize nations that are emerging from wars provided they employ the appropriate consociational approach, which is moderated by integrative policies, sustained by skilled and resourceful international participation and tempered with the general outlook. Bosnia and Herzegovina's experience may not have recorded the highest scores compared to the other categories, particularly where there was lack of appropriate policies to promote internationalized state-building efforts. These lessons are as important as they can be employed in comparable contemporary as well as future difficulties that may face the international community.

⁴⁵¹ There is an extensive body of literature on EU conditionality. A very good and thorough introduction to the topic is given by Florian Bieber in his edited book: Bieber, F. (ed.) (2017). *EU Conditionality in the Western Balkans*, London: Routledge.

III.2.2 Moldova (Transnistria and Gagauzia)

Figure 12. Map of Moldova⁴⁵²



Table 19: Chronology of Moldova⁴⁵³

Time	Key Events
Soviet years	
1939	Romania carved up in pact between Hitler's Germany and Stalin's USSR. Bessarabia is one of the areas to go to the USSR.
1940	Russia annexes Bessarabia and combines it with most of the Moldovan Autonomous Soviet Socialist Republic to form Moldavian Soviet Socialist Republic.
1941-1945	Following Nazi attack on USSR a Romanian puppet regime is installed in Moldavian SSR but driven out shortly before the end of the war when the Soviet Union regains control.
Late 1980s	Resurgence of Moldovan nationalism in the wake of the era of 'openness' introduced in the Soviet Union by Mikhail Gorbachev.
1989	Romanian is reinstated as the official language. The Latin script is adopted to replace the Cyrillic script (Russian).
1990	Moldova declares its sovereignty. The Gagauz people in the southwest declare their independence, followed by the Trans-Dniester region. The central power in Moldova annuls the declarations.
1991	Moldova declares its independence. It joins the Commonwealth of Independent States, the successor to the Soviet Union.

⁴⁵² Source: Encyclopaedia Britannica, available at: <https://www.britannica.com/place/Moldova>, accessed on 01.06.18

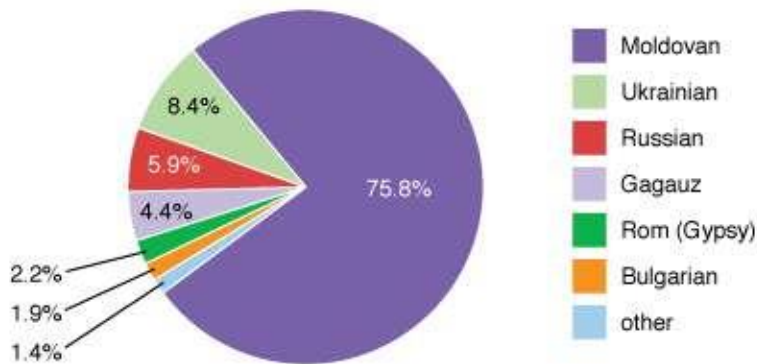
⁴⁵³ The data for the Chronology of Moldova is available as open-source, internet public space, on several websites. The one present here was taken entirely from Source: BBC Moldova Profile, available at: <https://www.bbc.co.uk/news/world-europe-17601579>; accessed on 01.07.2018.

Post-Soviet era	
1992	<p>Moldova becomes a member of the United Nations.</p> <p>An upsurge in fighting in the Trans-Dniester region leads to a state of emergency being re-imposed. Hundreds die in the fighting. Russian peacekeepers are deployed after a ceasefire agreement.</p>
1994	A new constitution proclaims Moldova's neutrality, grants special autonomy status to Trans-Dniester and the Gagauz region, and declares Moldovan to be the official language.
1997	Negotiations resumed with Trans-Dniester. Agreement is signed granting further autonomy and calling for more talks.
2001	Trans-Dniester authorities halt withdrawal of Russian arms which had been proceeding in accordance with international agreements.
2002	OSCE extends deadline for withdrawal of Russian weapons from Trans-Dniester until end of 2003. The deadline is later extended into 2004. Russia says its troops will stay until a settlement is reached.
2006	Trans-Dniester referendum VOTE overwhelmingly backs independence from Moldova and a plan eventually to become part of Russia.
2007	Government accuses Romania of undermining the country by easing Romanian citizenship application procedures for Moldovans. Romanian citizenship allows Moldovans to travel without visas within the EU. Government reverses decision to allow Romania to open two new consulates in Moldova.
2009	Ruling Communists declared winners of disputed election. Result triggers violent protests and political deadlock.
2009	Four pro-western parties form coalition government. Liberal Democratic Party leader Vlad Filat becomes prime minister. Mr Voronin resigns as president, and is succeeded by Mr Ghimpu on an acting basis.
2011	Anti-corruption campaigner Yevgeny Shevchuk defeats pro-Russian candidates in Trans-Dniester's presidential election. Pledges to establish "friendly relations" with Moldova while continuing to press for the independence of the separatist region.
2013	Moldova initiates an Association Agreement with the EU, which says that the move paves the way to establishing a privileged trade relationship with the country. The agreement is due to be signed in September 2014.

2014	President Timofti warns Russia against trying to annex Moldova's breakaway Trans-Dniester region in the same way as it has taken control of Ukraine's Crimea.
2014	Moldova signs association agreement with the European Union, prompting Russia to impose import restrictions on the country's agricultural produce.

Figure 13. Ethnic Composition Moldova

Ethnic composition (2004)*, †



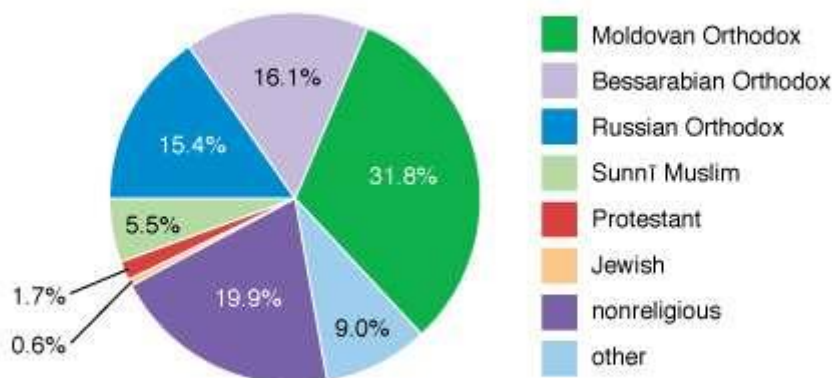
* Excludes Transdniestria.

† Transdniestria ethnic composition (2004): Moldovan 31.9%; Russian 30.4%; Ukrainian 28.8%; other 8.9%.

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Figure 14. Religious Affiliation Moldova

Religious affiliation (2005)



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Background: Conflict stages

As a result of the Soviet Union's implosion in 1991, new independent nations were formed from the Union's ruins.⁴⁵⁴ Most of the successor nations as well as their citizens looked forward to a future of uncertainty. In various cases, this resulted to prolonged struggles for control of military assets, as well as economic, political spoils between the former and the emergent elites. The same case was witnessed in Moldova, as the country separated from its former close and self-imposed ally from Moscow. Encountering both economic and political power loss, and from their perspective threatened by the aggressive Romanization campaigns as well as the likelihood of unification with Romania that was facilitated by Moldova's Popular Front, Tiraspol elites, the future-to-become capital of Transnistria, aggressively opposed any such policies.

The Moldova was sought to first ensure that the relations with Moscow did not discontinue as well as proceed with its own independence as a state. Eventually, increasing radicalization (Moldova and Transnistria) on the two sides caused open conflict. At first assisted by the equipment and staff from the Russian Soviet 14th Army situated on the left bank of the river Nistru, Transnistrian irregulars defeated the Moldovan security forces and requested them to clear the left bank region.⁴⁵⁵ Though these military confrontations were intense, they ended upon the arrival of a Russian General known as Alexander Lebed.⁴⁵⁶ General Lebed took over as the Russian forces commander for the army that was located at Transnistria. In fact, General Lebed declared overall authority and control over both the Transnistrian and Russian forces. In July 1992, during the ceasefire a Moldovan-Russian-Transnistrian peace-keeping force (PKF) was established. The PKF was located at the buffer zone region along the river Nistru. Joint-Control Commission oversaw the PKF.

At the roots of the conflict in Transnistria are two interrelated causes: the status of the mostly Russian-speaking left-bank region, and, secondly, the presence of the Russian troops in Transnistria.

Furthermore, in spite of being a small republic of just over 3 mln people, Moldova faces a second frozen conflict in Gagauzia. Gagauzia is a small, unrecognized independent part in the southern part of Moldova. In this area, similar to Transnistria, remarkable opposition arose to

⁴⁵⁴ Malyarenko, T. and Wolff, S. (ed.) (2012). *Crisis Management and Conflict Prevention in Eastern Europe and the Balkans: Lessons for Ukraine-EU Cooperation*. Donetsk: 'Skhidniy Vidavnichiy Dom' Publishing House.

⁴⁵⁵ Wolff, S. (2011b). The Prospects of a Sustainable Conflict Settlement for Transnistria. Paper presented at the University of Birmingham; Malyarenko and Wolff, 2012.

⁴⁵⁶ Wolff, S. (2010). A resolvable frozen conflict? The domestic and international politics of self-determination in Moldova and Transnistria. Paper presented at the Liechtenstein Institute on Self-Determination, Princeton University. "This ceasefire agreement was entitled "Agreement on the Principles of a Peaceful Settlement of the Armed Conflict in the Transnistrian Region," and established Russia as an official party to the settlement process.

the Romanisation of Moldova since circa 1980s and onwards. As a matter of fact, the unrecognized proclamation of Gagauzia's independence came prior to that of Transnistria. However, contrary to Transnistria, Gagauzia only experienced sporadic violence. Also, it did not take even two weeks after the declaration of their own independence when half of the Gagauz deputies (out of twelve) in Moldovan parliament cast their vote in support of Moldova's declaration for the independence. The remaining six deputies abstained. The OSCE mediation played a crucial role in promoting settlement in 1994 and it became effective in 1995. During this period, Gagauzia was accorded with a constitutionally secured autonomy status within the larger Moldova. Although significant challenges were experienced during the implementation as well as adoption of this autonomy status, Gagauzia acts as the point of reference for Transnistrian conflict, which it has links to. Even though Moldovan authorities are keenly pointing out that Gagauzia exhibits the viability of mitigating a conflict within Moldova, Transnistrian authorities do not agree to any status that would be lower compared to that of Gagauzia. For this reason, a number of people that reside in the Gagauzia never, although they are limited, acknowledge the state of independence that is lesser compared to the one in Transnistria. There are limited links between Transnistria and Gagauzia however both are not significant enough to create a well-thought through alliance.

The various incidents witnessed in all the years that followed Moldovan's independence, which was proclaimed on the 27th August 1991, significantly shaped the Transnistrian conflict's dynamics for the subsequent two decades. They created a local, self-declared *Transnistrian Moldovan Republic* (i.e. *Pridnestrovskaya Moldavskaya Respublika*) that developed quickly and merged its institutions as well as functions like that of an independent state. All the functions were consolidated except that of official international recognition. Moreover, from 1992, Transnistria's presence in the neighbouring Ukraine and both parts of Nistru has given rise to very powerful economic and political interest groups. These groups' interest is to maintain the status quo, particularly in Transnistria's political as well as economic interests.⁴⁵⁷ Furthermore, there is an identity dimension to the conflict and, most probably, it aggravated over the last 20 years of separation. There has been an increasing sense of distinct identities for some time: the Transnistrian identity that is more oriented to Russia as well as the Russian cultural ways, and the Moldovan culture where Transnistrian identity is perceived as a less important as a result of positive orientation towards European Union, because the initiation of the European Neighbourhood Policy Union as well as its Eastern collaborations that offer various noticeable benefits to Moldova.

⁴⁵⁷ Wolff, 2011(b).

Coming back to identity question, both Romanian as well as Russian languages are popular and most Moldovans are raised bilingually. However, the potential of Russian language to serve as lingua franca, has been limited generationally. Equally, regardless of the fact that people consider Transnistria as an ethnical plural community, consisting of traditional Russians, Ukrainians as well as Moldovans with every group accounting for about 30 percent of the general population, it did not experience significant inter-ethnic conflicts.

In fact, since 1993, a report generated by CSCE Mission to Moldova (Report No.13), indicated that there is a Transnistrian feeling of identity and it is strongly anchored in geography (the natural isolation from the other Moldova by River Nistru), language (Russian), history (i.e. Transnistria is considered as being part of Russian empire, instead of the historic Bessarabia), as well as perceptions— wrongly or rightly—impacted by Moldovan's efforts to address the conflict by using force in 1992. The shared identity implies that Transnistria's economic and political system has acquired some level of legitimacy. Also, this is based on the fact that people perceive Moldova's general situation as bad if not worse as compared to that of Transnistria. All the key political players within Transnistria have remained strong supporters of the Transnistrian independence and this objective is extensively and jointly shared among Transnistrian people. Compared to the left bank of the river, the right bank is diametrically opposed, the population is pro-Romanian, mostly anti-Russian, holding Russia responsible for promoting conflict and its duration. Divisions experienced within Moldovan political system as well as violent conflicts between the two coalitions after the hotly disputed parliamentary elections of 2009, has so far not impeded the significant bi-partisanship in the strategy of Chisinau.

Figure 15. Gagauzia and Transnistria Conflicts⁴⁵⁸



Besides Moldova, conflict in Transnistria at its initial stages legally as well as firmly established Russia's role as a crucial power broker in conflict as well as arguably the state that can single-handedly achieve a permanent settlement. The centrality of Russia in the process of settlement is derived from 1992 conditions for ceasefire agreement, its association with Transnistria as well as Moldova's economic dependence on Russia. Equally, Russia has always maintained about 1,200 soldiers, who are situated in Transnistria, and entrusted with the responsibility to protect the Soviet period military equipment as well as installations. Moreover, Russia does not approve the idea of Moldova joining NATO. In a transatlantic alliance, without guarantees in the settlement against the Moldovan membership, there is a low possibility that Russia will support a deal. Romania also remains as crucial player, however, in a different manner. The associations between Romania and the Moldovan political elites act as a 'confirmation' to alert Transnistria that they lack shield against the Romanization, whereas the kind of association with Romania also splits political parties on the right bank thus inhibiting a shared approach towards Transnistria.

The negotiation process was significantly hindered by these factors. OSCE-one of the leading international organization-has been involved since the cease fire was initiated in 1992, and its

⁴⁵⁸ Source: Eastern Partnership, map available at: <http://eapmigrationpanel.org/en/news/moldova-starts-de-facto-take-over-control-over-state-border-transnistrian-region>, accessed on July 18, 2018.

current mission began on February 1993 when OSCE opened offices in Chisinau and later extended them to Transnistria around April 1995. The format of negotiations is in such a way that OSCE, Russia and Ukraine serve as co-mediators.⁴⁵⁹ They all oversee the periodical negotiations between Moldova and Transnistria, while the European Union and the US became part of the process as observers in 2005. Various proposals for conflict settlement have so far yielded tangible results that shows progress towards a permanent settlement.

As a result of the Russian-German Meseberg Memorandum of 2010,⁴⁶⁰ there are presently encouraging signs the parties are close to an agreement. Thus, from the beginning of 2010 to Mid-November the same year, there were 5 meetings held by the parties in the format of 5+2. They agreed to take stock of previous agreements that had been signed before and commence to elaborate a guarantee system for future settlements. Moreover, in 2010, a substantial progress to enhance the relationship among the parties was initiated, involving issues around railway transportation (Chisinau-Tiraspol-Odessa railway line reopening), goods movement (across Nistru as well as both directions), and procedures of export (particularly Transnistria-based companies' products through Moldova), as well as the re-establishment of the land-line telephone communication network between Transnistria and Moldova.

Between November 9 and 10, 2017, a conference on confidence building measures in Transnistria was organized. The conference took place at George Marshall European Center for Security Studies that is situated at Garmisch-Partenkirchen, Germany, and was intended to evaluate progress pertaining to confidence-building as well as come up with strategies to improve the engagements between various parties in the current working groups. Ever since, there has been similar meetings, in order to create opportunities for senior officials and leaders from both sides to engage in committed conversations in a formal as well as informal environment.⁴⁶¹ Making progress on 2010 momentum, a major break-through was witnessed in 2011 due to the official re-opening of (5+2) talks around September. About three months later, Transnistria's political landscape had significantly changed. The region's long-time president, Igor Smirnov, was thoroughly defeated. He never made it to the second round of the elections. The candidate who surprisingly won was not backed by the Russia. However, Yevgeni Shevchuk, who was Transnistrian Supreme Soviet's previous speaker emerged as the winner. Shevchuk was following closely the negotiations between Moldova and Transnistria and his election created further momentum in the negotiations. Consequently, in April 2012, all the

⁴⁵⁹ This section draws on Wolff, S. (2011a). Post-Conflict State Building: the debate on institutional choice. *Third World Quarterly*, 32(10), pp. 1777-1802.

⁴⁶⁰ Available at <https://russiaeu.ru/sites/default/files/user/files/2010-06-05-meseberg-memorandum.pdf>, accessed on September 1, 2018.

⁴⁶¹ Houten and Wolff, 2008.

parties reached a consensus on the OSCE- mediated agreement. This agreement pointed out the principles and procedures in the conduct of the negotiations of the comprehensive agenda. However, there has not been any actual progress towards settlement since the agreement was signed.

Conflict Management & Negotiation Process

The 1993 OSCE report was clear in its evaluation that in Transnistria, ‘special status’ could not address all the challenges.⁴⁶² . Besides ‘special status’ there was a demand for proportionality (e.g., reserved seats in Parliament as well as other important governmental agencies, ministries, courts). However, by just relying on representation rules (as to who is responsible for the decisions) instead of considering those concerning participation (how various key decisions are reached at) would have distorted the extent of their representation in various governmental bodies. Moreover, what was needed and should have been explicitly incorporated in Kozak Memorandum were the rules that should be applied in making key decisions regarding power-sharing at the national level. Concerning the participatory power-sharing dimension in Kozak Memorandum, minority veto powers have been proposed in two major areas. Any constitutional changes require adoption of the federal constitutional laws by four-fifths majority within the upper-house and two-thirds majority at the lower-house. Also, appointed of official to oversee executive bodies in Transnistria and Gagauzia necessitates the latter’s consent. Certainly, in order to change federal ordinary as well as organic laws, then majority of the votes must be cast in the two houses. Also, a rejection by the president or senate may be overturned by an absolute (two-thirds) majority rule within the Representatives’ House. For the intermediate period, which lasted until 2015.

Outcome and Assessment

According to Wolff, the power sharing arrangements at the centre are established across all arms of government (judiciary, executive and legislature) as well as the civil service.⁴⁶³ Quite often, it is the executive power-sharing, which is perceived as the crucial element among various power-sharing arrangements. One of the most relevant and interesting approaches⁴⁶⁴ to representation was the proposed multiple-asymmetric federacy, involving formal arrangements that make the central cabinet members to be heads of federated executives (the same requirement applies for the line ministries). Already, Moldova has encountered this experience

⁴⁶² Wolff, 2011(a).

⁴⁶³ Wolff, 2011(a), p. 21.

⁴⁶⁴ See also: Houten and Wolff, 2008.

in relation to the Gagauzia. Minimum representation would be guaranteed with no need for wieldy unmanageable, overblow executives.

Wolff observes that based on the legislative power-sharing agreement, various irregular federacy provisions would not necessitate governance system with two tiers as predicted by Kozak Memorandum. The selection of electoral systems that generates proportional results will ensure representation of entities.⁴⁶⁵ The judicial power-sharing arrangement can be achieved through compulsory representation by judges who are nominated by various legislative institutions. These institutions comprise of federated units within higher courts, such as the constitutional court as well as the Supreme Court. In each entity, there is need for local branches to represent these courts regionally.

The co-optation that was employed in Gagauzia's case and Moldovan Package proposal of 2007, is considered a significant mechanism for policy coordination, ensuring that all the federated entities' special circumstances will be taken into account during the debates on national legislations and policies.

A number of these approaches can either be reduced or increased to reflect precise requirements during the period of transition. Particularly, during the initial settlement implementation stages, international involvement in various mechanisms (like the presence of an international constitutional court) or certain bodies that are actively involved, for instance the Conciliation Committee that the Ukrainian plan proposed (as well as in implicit Mediator Proposals).

One of the challenging issues involve discussing how to address demilitarization, foreign troop's presence and neutrality, and, in particular, to determine whether the negotiated agreement will be implemented at all. To ensure a higher level of responsiveness, responsibility and commitment, the agreements should either be guaranteed by international actors or the international actors should be directly involved in the negotiation and drafting processes. These kinds of agreements should replace local arrangements between Tiraspol and Chisinau.

The Romanian dimension is comparable to that of the Gagauzia settlement and should be able to offer options to Transnistria in case Moldova wants to join Romania.

There are various dimensions to Transnistrian conflict. These dimensions require particular mechanisms to ensure they are implemented and remain operational. Some of these mechanisms require guarantors and guarantees so that their parties will remain committed to them. The necessity for various guarantees is acknowledged, although in different detail, in the various proposals discussed and examined in this section.

⁴⁶⁵ Wolff, 2011(a), p. 22.

In this sense, three main types of guarantees can be identified. To start with, there are formal and informal agreements. These agreements are often legally-binding arrangements that involve a particular provision or the entire settlement, and give detailed information on how the parties foresee the implementation as well as adoption of the settlement provisions. For instance, parties usually agree on various principles that will control their joint conduct in terms of policy and legislation coordination. Transitional period is the other alternative the can make current working groups to be extended or remain permanent in their presence. However, the permanency or extension has its own terms of reference and mandates.

Second, various federated entities must ensure that their settlements are embedded into the constitution and legislation. For the case of Gagauzia, this is already achieved: Gagauzia's status is anchored in the constitution as one of the special entities of Moldova⁴⁶⁶ as well as the organic law that dated back to 1995, which specifies Gagauzia's rights and competencies. This could be employed for Bender and Transnistria settlements. Currently, in order to modify this legislation, parliament must reach a threshold of three-fifths majority.

In line with various suggestions presented in Mediator Proposals and the Kozak Memorandum, this can be strengthened by getting parliament's consent on each of the entities that require alternation on its competencies or status.

Both soft and hard international guarantees will play a crucial role not only in establishing agreements, but also in persuading external parties to remain committed and to fulfil the stipulations of the agreement. For the case of Transnistrian conflict, this can take two major forms. First, in order to attain settlement using the 5+2 approach, Russia and Ukraine will be involved as the guarantor states, with EU and the US acting as observers and OSCE as the leading mediator.

As various conflicting parties become eager to accomplish additional guarantees and both observers and mediators of the 5+2 model have recognized and agreed to this, each of the actors must be realistic on what is delivered by the guarantees. They can decide to enhance compliance or discourage non-compliance to the settlement provision using various political means, such as non-judicial dispute resolution, dispute avoidance, peace-keeping and negative conditionality, as well as judicial means (i.e. international courts like permanent Arbitration courts, as well as the EU court that deals with matters Human rights.) Nevertheless, guarantees serve a very special purpose: ensuring the institutions are working and promises/commitments are being respected, assist to bridge the trust gap, promote a secure and safe environment, where

⁴⁶⁶ Article 111 of the Constitution of the Republic of Moldova, available at: http://www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf, accessed on 1.09.2018.

institutions can prove themselves as valuable, create opportunities to revise or review previous agreements. In simple terms, guarantees assist to implement as well as operationalize agreements, and they are unable to replace any agreement.

For this reason, a proposal for multi-asymmetric federacy arrangement was created in order to discuss within the current format of 5+2 and ensure it is embedded on both the constitution and domestic legislations as well as multi-lateral international treaties.

While there are various contrasting features in the case of Transnistrian conflict in Moldova, this is not entirely unique. There are conflicts that entail similar territorial conflicts and their consequences are felt beyond the conflict's neighbourhood, including the external powers. that have a significant impact on the outcomes. In elucidating the agreement elements of Transnistrian conflict in Moldova, there is no blue-print created for the same conflict anywhere in the world, however it can aid in understanding in detail the settlement frameworks as well as how they solve various issues. Beyond regional and local consequences, the importance of settlement for Transnistria is demonstrated as it enables one to comprehend better as well as know the appropriate way to handle international and domestic politics to achieve self-determination.

Table 20: Group-Based Representation an international involvement in complex power sharing systems⁴⁶⁷

	Parliamentary representation	Veto rights	Proportionality in administration	Segmental autonomy	International involvement
Bosnia and Herzegovina	PR electoral system; Bi-cameralism; House of People (15 Member): reserved seats (5 for each entity, i.e. Bosniacs, Serbs and Croats)	Yes. "vital national interest of constituent people", (1/3 from each entity, ½ in HoP) mediation procedure, constitutional court	Generally reflect the ethnic structure	Symmetrical federalism: Two entities (Federation of Bosnia and Herzegovina and Republika Srpska), one district	Direct intervention by international community as a mechanism to coordinate law and policy-making; judicial review and arbitration
Gagauzia (Moldova)	Two Round Voting System	Yes. In case Moldova decides to join	Reflect the ethnic structure	Asymmetrical federalism: Autonomy	No extensive international involvement,

⁴⁶⁷ Source: Bieber, F. (2004). Institutionalizing ethnicity in the Western Balkans: managing change in deeply divided societies. *ECMI Working Paper*, 19. Flensburg: European Centre for Minority Issues; Weller, 2008.

		Romania, Gagauzia has the option to opt out of Moldova		conflict solved bilaterally
Moldova (Transnistria)	Unicameral Parliament, FPTP Electoral System	Since 1992 a separate, de jure unrecognized, de facto independent state within Moldova, with its own parliament, government, military, police, postal system and currency.		Extensive involvement through the Russian 14 th Army, acting as a peace keeping force and CSCE Missions

III.3 Lessons Learnt from the Case Studies

Following Biebers pertinent observations, the former Yugoslavia has experienced sharing of power and the accommodation of the various ethnic groups despite depending on foreign imposition.⁴⁶⁸ In spite of having an authoritarian framework Yugoslavia had had experience with federal system and decentralization. Ethnic representations – known as ethnic key - were dissolved in 1991 after dominating Yugoslavian political system for a long time. The experiences with the decentralization and coping with diversity up till 1991 resulted in both instability and accommodation after the collapse. States such as Sri Lanka facing demands of federalization and devolution of power, reject these based on lessons learnt from the Yugoslavian territorial autonomy case and the equation of federal arrangements with secessionist movements, decay and subsequent dissolution of Yugoslavia. Thus, the threat of the latent secessionist movements from any kind of territorial autonomy. The various kinds consociational power-sharing arrangements in Bosnia (BiH), Kosovo, Macedonia, and Serbia were results and consequences of international interventions. However, the intervention pattern was varying. For instance, in Kosovo, the special people representing the UN Secretary-General Hans Haekkerup, created a constitutional framework in 2001 to establish an effective power sharing moderate framework. As much as there were consultations with political forces in Kosovo, the institutions that were incorporated in the framework of the constitution were directly imposed. The pressure from the U.S significantly influenced the Dayton Peace

⁴⁶⁸ Bieber, F. (2013). *The Balkans: The Promotion of Power Sharing by Outsiders*. In Joanne McEvoy and Brendan O’Leary (ed.) *Power Sharing in Deeply Divided Places*. Philadelphia, P.A.: University of Pennsylvania Press, p. 312.

Agreement (DPA). Concisely, the DPA's constitution was written by the U.S state department lawyers in the native English language. Moreover, Bieber observes that the negotiated mechanisms ensuring weak institutions and the group protections showed the involvement in framing of the peace agreement of persons with wartime parties mentality. The international bodies were less forcefully prominent in the power-sharing deals in Macedonia and Serbia and Montenegro (SCG). The EU and NATO mediated the Ohrid Framework Agreement in 2001 and the principles sharing of power arrangements were suggested through the international forces. Moreover, the role of the third party was made irrelevant by a number of factors including the power-sharing arrangements in Macedonia and Albania's grand coalition since 1991, and also the Ohrid Agreement did not highlight the rules for sharing power while the particulars and the legal provisions were enacted by the parliament of Macedonia. The mediated agreement in 2002 by the EU led to the establishment of the new state in Serbia and Montenegro, outlining the principles of creation of the new states. The two-member states negotiated the details for one year leading to the formal establishment of the new state - SCG in 2003. In April 2008, the Kosovo parliament passed the new constitution to replace the 2001 power-sharing arrangements. As much as the document was initially adopted by the domestic institutions, the drafting was heavily associated with the international actors. There was a negotiation about the inclusion of the communities from Serbia in the Kosovo institutions, unlike the other systems of power-sharing that were analyzed and discussed in the thesis. The mediation and the level of imposition by the international actors are vital in evaluating the legitimacy of the agreement for the political players and the citizens. However, the arrangements that have been imposed are less legitimate, if at all and are not considered by the parties and do not show the levels of concentration to the structures that have been imposed or the country which is being governed.⁴⁶⁹ The role of the international players is significantly equal to the working of the system of sharing power. For instance, the external bodies were formally and informally associated with the power-sharing institutions in both Kosovo and BiH. The SRSG⁴⁷⁰ in Kosovo and the OHR⁴⁷¹ in BiH and also the ICR⁴⁷² between 2008 and 2012 have the powers to impose and refute and disconsider the local institutions' decisions. The problems that associate with the way the international officials override the institutions that have been elected democratically have been discussed adequately and precisely for the scenario of BiH as instances of

⁴⁶⁹ In a sense, BiH and Kosovo experienced a 'catch 22' situation. The new power-sharing institutions could not emerge and consolidate without the support of international actors, but these could not sustain and collapsed without the support from international actors.

⁴⁷⁰ Special Representative of the Secretary-General for Kosovo.

⁴⁷¹ Office of the High Representative for Bosnia and Herzegovina.

⁴⁷² International Civilian Representative.

undermining democracy, democratization, and sharing of power.⁴⁷³ The degree of impositions of consociational power-sharing institutions in BiH vary greatly from the ones in Kosovo. While the external intervention in BiH happened in the form of OHR impositions, breaking the standstill that existed among the various ethnic groups, in Kosovo, the result was that the SRSG annulled the decisions often and the Albanian who were the majority in parliament decided to disregard other minority communities, such as the Serbs. After the independence, the ICR in Kosovo has been silent despite being affected by the extensive formal powers. The external imposition has affected the process of seeking a compromise of local parties and created a way for the posturing of the confrontational politics since imposition could be a stalemate breaker in both cases. According to Bieber,⁴⁷⁴ besides the exercise of formal powers, the actors from international bodies in both nations are arbitrating and mediating informally among their communities and depending on the circumstances. In BiH but not particularly in Kosovo, the actors from the International bodies have been included into the domestically available institutions. Significantly, this has been noticed in the decisive voting of the three international constitutional court members apart from the two Bosniak, two Croat, among others in BiH.

External bodies have witnessed a diminished role in Macedonia. NATO monitored the agreement pact regarding peace aspects of the military, but the Ohrid agreement established a civilian authority that was non-comparable. The post-conflict period has furthermore limited the roles of the Organization for Security and Cooperation in Europe (OSCE) and the EU Special Representative (EUSR). The conflict over the implementation of the Ohrid Agreement was informally mediated by the EUSR and the representatives of the involved embassies.⁴⁷⁵ The external intervention taking place in SCG was of lowest. After just three years, however, the SCG disintegrated hence making it difficult to render the joint state functions. The EU engaged again for mediation to negotiate the conditions for dissolving the state.

Kosovo and BiH are “a reflection of the provisional nature of the arrangements” of the consociational power-sharing institutions. For example, in Kosovo, the framework of the 2001 constitution and the constitution of 2008 are interim arrangements both with the regard to Kosovo sovereignty and the interethnic negotiations and interactions.⁴⁷⁶ The Dayton constitution is thought to be a permanent settlement, however the international actors were

⁴⁷³ See Bieber, F. (2006a). *Power-Sharing After Yugoslavia: Functionality and Dysfunctionality of Power-Sharing Institutions in Post-War Bosnia, Macedonia, and Kosovo*. In Sid Noel (ed.) *From Power-Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*. Montreal: McGill-Queen's University Press; and Bieber, F. (2006b). *After Dayton, Dayton? The Evolution of an Unpopular Peace*. *Ethnopolitics*, 5(1); Weller and Wolff, 2006, pp. 1-13.

⁴⁷⁴ Bieber, 2006(a); see also Bose, 2007, pp. 105-153.

⁴⁷⁵ Bieber, 2013, p. 315.

⁴⁷⁶ *Ibid*, p. 315.

strong and particularly the powers of OHR were improved at the Peace Implementation Council meeting that happened in 1997 Bonn, which shows that arrangements that are thought to be permanent are of temporary nature in BiH. As a matter of fact, the framework of Dayton did largely change both de facto and de jure as a consequence of numerous interventions from the international parties that enhanced the institutions of the state to destroy the entities that led to the expansion of the power-sharing in the entities themselves.⁴⁷⁷ The efforts to incorporate and widen the amendments in the structure of the institutions did not succeed after a package of the constitutional reforms was closely turned down in parliament and subsequently, there was a crisis in the consociational power-sharing arrangements causing delays and impacting the closure of the OHR.⁴⁷⁸

The ability of external actors to annul, abolish, modify, impose power-sharing principles and institutions that were reached at and based on consensus and thorough negotiation was the primary criticism point regarding the international intervention in the consociational power-sharing institutions both in the BiH and to a less extent in Kosovo. In most cases, the intervention is often initiated by the imposition that is done contrary to the agreement of at least one party and not by the mediation and arbitration methods. As a consequence, the political players of the various communities have suggested that their rights have not been protected effectively by the frameworks of the institutions since the intervention from the international framework and the system of power-sharing had already been conflated. In essence, there has been a frequent undermining of the practices of building consensus and trust in the consociational power-sharing institutions, which are supposed to represent and protect group interests.⁴⁷⁹

The degree of consociational power-sharing arrangements and institutions varies in BiH, Kosovo, Macedonia, and SCG. As previously, denoted, the systems of sharing power have considerable varying technicalities. However, all the systems can be grouped as the consociational power-sharing arrangements and not as other power-sharing models such as the centripetal power-sharing.⁴⁸⁰ In spite of evident differences, all four cases of externally imposed power-sharing arrangements show the presence of four key principles of consociationalism, (i.e., 1) the executive power-sharing, ensuring the representation of the important ethnic groups in government, 2) minority veto, providing tools preventing the majority dictatorship and protecting minority rights; 3) proportionality in the public administration sector⁴⁸¹ and 4)

⁴⁷⁷ Ibid, p. 316.

⁴⁷⁸ Idem.

⁴⁷⁹ See Bieber, 2013, pp. 312-326.

⁴⁸⁰ Propagated and advocated by Horowitz, see the introductory chapter "Conceptual Framework".

⁴⁸¹ As in India, see the Chapter on the case studies, in particular the part on India.

segmental autonomy, ensuring different levels of autonomy). Autonomy is vital and will form the difference throughout the cases and hence will be explained in the subsequent sections after evaluating the contentious power-sharing aspect; which is the mechanisms of power-sharing that does not allow the exclusion of the minority.

Bieber considers the veto power mechanisms based on the Dayton agreement destructive and extensive.⁴⁸² The parliamentary procedures of BiH accept two veto rights forms; the entity veto and the constituent people veto. Therefore, all the laws need the support of one-third or more Members of Parliament from the respective entities in all the two parliament chambers. However, the minority's vital interest is crucial and can therefore be invoked since it is not properly stipulated in the constitution. It is therefore concise that the Constitutional Court is mandated to come up with the jurisprudence on the definition of the vital interests and has since taken up a firm stand in resisting loose interpretations.

The voting mechanisms of Serbia and Montenegro were similar to the concept of the veto entity in Bosnia and Herzegovina. In essence, the decisions were subjected to the support of the majority from the republics plus the overall majority. The Constitutional Charter required majority support from the 126 deputies (91 from Serbia and 35 from Montenegro). That led to the cancellation of the sessions of parliament because numerous MPs from Montenegro failed to attend the sessions and thus their blockage did not directly affect the veto in the making of decisions but was used as a tool to make the existing weak institutions further inefficient. The veto mostly involved rectifying the international treaties.⁴⁸³

The double majority established the veto rights in Macedonia. The decisions of the parliament in the specific fields of relevance to the Albanian and the other communities and also the places of wide significance need the acceptance of the overall majority from the MPs and a majority from the MPs elected among the minority communities. The principle of voting was commonly known as the Badinter majority,⁴⁸⁴ a name derived from the French lawyer of the constitution who was responsible for the 2001 proposed mechanisms. Concisely, the constitution helped in ensuring the fundamental legislation was favorable to the Albanian and the minority group. The 2006 elections and the formation of a government that followed showed that the system of voting has significantly impacted the formation of the government and the government abilities to have the necessary majorities for the laws they wanted passed in the parliament.

The 2006 elections were won by the conservative VMRO-DPMNE (Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity) after co-

⁴⁸² See Bieber, 2013, p. 317.

⁴⁸³ See *ibid*, pp. 317-318.

⁴⁸⁴ *Ibid*, p. 318.

operating with the minor parties such as the ones representing Roma, the Turks, the Vlachs, and the Bosnians. Therefore, the party decided to conspire with the second largest party in Albania known as the Democratic Party of Albanians (DPA), instead of the winning party the Democratic Union for Integration (DUI). DUI, therefore, boycotted parliament stating that it was the most active party in Albania and consequently it should join the government.⁴⁸⁵ Party inclusion in Macedonia is an informal practice and not a formal requirement by law, hence the inclusion of the largest party of the minority does not mean that it is the base for power-sharing. The result of this decision was that the government did not have a parliament majority for double majority voting of their choices. DUI controlled only 17 seats out of the 36 total seats held by the minority community.⁴⁸⁶ The decisions to be voted and other laws needed consent from the Albanian communities of the DPA and the other smaller communities. The governing aspect was made difficult and the powers of the smaller communities were enhanced. Furthermore, the constellation also showed the tension that existed in Macedonia between the binational system of the interethnic tensions and the addition of other communities to the system. The arrangements in Macedonia led to the constitution of Kosovo heavily rely on and be inspired by them. The constitution was passed in 2008. It establishes same patterns of voting as those from Macedonia and predicts autonomy of the territories by enhancing the powers of the municipalities. Therefore, the laws that affect the minority groups required the consent of the majority of the communities in possession of the reserved seats. However, the provision is not likely going to be efficient in Kosovo. The majority can easily adopt the relevant laws. The ability of the minorities to meddle in the creation of the legal framework is therefore undermined.⁴⁸⁷

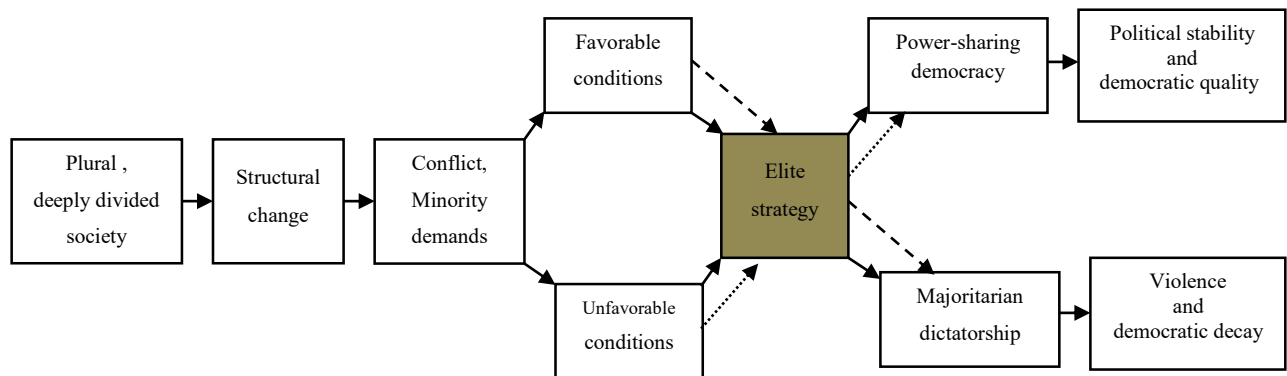
The various ways of preventing the outvoting of the majority and the other power-sharing considerations influence the system performance with regard to the ability of the elites to govern the country efficiently and be ready to reach consensus-based decisions based on compromise and 'principled' negotiation. The inefficiency in the governance system is not a result of the problems associated with the veto mechanisms.

⁴⁸⁵ Bieber, 2013, pp. 318.

⁴⁸⁶ Out of a total of 120 seats in the parliament.

⁴⁸⁷ Bieber, 2013, p. 319, Bieber, F. (2006). *Post-war Bosnia: ethnicity, inequality and public sector governance*. Basingstoke: Palgrave MacMillan.

Figure 16. Case Applied Composite Model for Conflict-Regulation in Plural Societies⁴⁸⁸



Note:▶ for India
 - - - ▶ for Sri Lanka

The findings from the case studies show that by applying consociational power-sharing principles the conflicts resulting from demands of minorities, such homeland and linguistic recognition can be settled through provisions based upon the principle of segmental autonomy; demands for proportional representation in political decision-making were met on the one hand through the specificity of “centric-regional” parties and, on the other, through policies of reservation; demands for security, such as preservation of cultural identity among other things, were also met through segmental autonomy as well as formal and informal blocking rights (minority veto principle).⁴⁸⁹

The case study of Sri Lanka proved again the validity of crucial importance of elite agency not only in institutional engineering but also in the maintenance of power-sharing arrangements. Although originally blessed with favorable conditions, but without an independence movement that could have served additionally a unifying force, it was not blessed with accommodative and moderate leaders. Instead of delicate and balancing institutional engineering, the Sinhalese elites chose the path of preferential treatment of majority, and unfortunate misunderstanding of democratic principles. Sri Lankan case demonstrated also the validity of Lijphart statement that in a deeply divided society there can be either “consociational democracy or no democracy at all.” In his seminal work “Patterns of Democracy”, Lijphart asserts that “*In the most deeply divided societies, like Northern Ireland, majority rule spells majority dictatorship and civil strife rather than democracy. What such societies need is a democratic regime that emphasizes*

⁴⁸⁸ Carciumaru, 2012, p. 22.

⁴⁸⁹ Cf. Carciumaru, 2012.

*consensus instead of opposition, that includes rather than excludes, and that tries to maximize the size of the ruling majority instead of being satisfied with a bare majority.*⁴⁹⁰

Sri Lanka: From Power-Sharing to Majority Rule⁴⁹¹

Favorable Conditions at the Independence

Sowell observes that at the Independence Sri Lanka expected “a promising future” and there were good reasons for such a positive anticipation: “... although the Sinhalese and the Tamils differed in ethnicity, language and religion there was much evidence of goodwill across the social lines that divided them. The elites of both groups were Westernized, English-speaking, and cosmopolitan, and were used to working together.”⁴⁹²

Another favorable aspect, according to Wriggins, constituted the fact that “of the ten newly independent countries of South and South East Asia, Ceylon has more of the attributes of a modernized social and political system than any other”⁴⁹³ “Some of these attributes were 60 per cent literacy rate, the highest per capita income of any country in Asia except for Japan” and that “the civil service by 1949 was almost exclusively indigenous.”⁴⁹⁴

As I have mentioned above, the first Constitution of Sri Lanka (then Ceylon), an adjusted version of the Soulbury Constitution, though not having provisions on fundamental rights, contained entrenched safeguards for the protection of minority groups and prohibition of their discrimination under Article 29(2). It stated that Parliament was not competent to pass laws that:

- a) prohibit or restrict the free exercise of any religion; or
- (b) make provisions of any community or religion liable to disabilities or restrictions to which persons or other communities or religions are not made liable; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or
- (d) alter the constitution of any religious body except with the consent of the governing authority of that body.⁴⁹⁵

According to Wilson, “the unexpressed premise of the Soulbury Constitution was a *consociational arrangement* between the English-educated elites, of all island’s principal groups: communal (Sinhalese, Tamil, Muslim), religious (Buddhist, Hindu, Muslim, Catholic,

⁴⁹⁰ Lijphart, A. (1999). *Patterns of Democracy*. New Haven: Yale University Press, p. 33.

⁴⁹¹ Carciumaru, 2012.

⁴⁹² Sowell, T. (2004). *Affirmative action around the world: an empirical study*. New Haven: Yale University Press, p. 78.

⁴⁹³ Wriggins 1965, p. 6.

⁴⁹⁴ Wriggins 1965, pp. 66-8, 100-101, 458-70.

⁴⁹⁵ See the full text at: <http://www.tamilnation.org/srilankalaws/46constitution.htm>. Consider also Marasinghe, 2004, p. 14; de Silva, 1981, pp. 510-539; Wilson, 1988, pp. 36-37.

Protestant) and social (the various castes among the Sinhalese and Tamil communities).⁴⁹⁶ Besides Article 29, the consociational arrangements included, other important safeguards, such as “weightage in representation including Appointed Members (not exceeding six in number) in the popular House of Representatives, a second chamber (the Senate), [...] and independent public services and judicial services commissions.”⁴⁹⁷

Moreover, Sowell observes that “there had never been a race riot between Sinhalese and Tamils during the first half of the twentieth century.”⁴⁹⁸ Furthermore, the interactions between different ethnic groups were “cordial, unmarred by the sort of friction that exists between Hindus and Moslems in India.”⁴⁹⁹ Sowell concludes that this inclusive and integrative approach was not limited to politics or elites, but that in general “the situation seemed to provide an impressive basis for a solid start in state- and nation-building.”⁵⁰⁰

Based on the above mentioned, Stepan asks pertinently whether Sri Lanka’s ethnic conflict could be understood and explained “by any resource to arguments about “historic hatreds” or “absolute poverty.””⁵⁰¹ Thus, how can one explain the emergence and escalation of the unparalleled violence leading to a civil war that lasted over 25 years?

A possible answer provides Wilson, stating that “the consociational that could have cemented the foundations of a pluralist democratic society disintegrated in stages ...”⁵⁰² The institutional arrangements as well as causes and stages of disintegration of such a favorable basis to build upon, will be analyzed in the next section.

*Majoritarian Practices and Gradual Minority Exclusion*⁵⁰³

There are strict definable stages that led to the escalation of an incipiently mild conflict into a full-blown war on secession and a near break-down of the state. These stages include both cause and effect as well as action and reaction variables. On part of Sinhala elites that is the development of a majoritarian control strategy, concerning policy implementation and institutional engineering. On part of Tamil minority that is the radicalization of their demands, from parity within a unitary state to commitment and pledge of loyalty to the idea of a separate state of Tamil Eelam. These stages, in chronological and conflict-escalation order, are:

⁴⁹⁶ Wilson, 1988, p. 34, (emphasis added).

⁴⁹⁷ Wilson, 1988, p. 34.

⁴⁹⁸ “The only riot between Muslims and Hindus in 1915 was the only blemish on this record in the first half of the twentieth century,” Sowell, 2004, p. 79.

⁴⁹⁹ Sowell, 2004, p. 79.

⁵⁰⁰ Ibid; Cf. de Silva, 1997, pp. 97-111; Horowitz, 1989.

⁵⁰¹ Stepan, 2006.

⁵⁰² Wilson, 1988, p. 34.

⁵⁰³ This chapter draws on my working paper on the conflict in Sri Lanka, see Carciumaru, 2012.

Citizenship Act of 1948, peasant settlement policies, Official Language Act of 1956, affirmative action policies such as University Entrance System of 1972, and the Constitution of 1972.

*a. Citizenship Act of 1948 and the “ethnic outbidding”*⁵⁰⁴

According to Stepan, the Upcountry Tamils (also known as Tamils of Indian origin) that participated in elections since the universal franchise was introduced in Sri Lanka in 1931, were disenfranchised on the grounds. That they “were not really part of the Ceylonese nation and thus should not be voters in Ceylon”, coming to the island as workers in the 19th Century.⁵⁰⁵ As a result, ten per cent of Sri Lanka’s population were without civic status, with neither citizenship nor right to vote, becoming de facto stateless people.

Consequently, Wilson pointedly observed that the disfranchisement reduced the total number of Upcountry Tamils from seven to nothing, and increased the Sinhalese seats by exactly the number of the seats Upcountry Tamils lost; the Sinhalese thereby increased their representation from 68 in 1947 to 75 at the 1952 general election.

Table 21: Ethnic distribution of Parliamentary Seats, 1947-1977⁵⁰⁶

	General elections	Sinhalese	Sri Lankan Tamil	Muslims	Upcountry Tamil	Others	Total
Seats due on the basis of population		66	12	6	10	1	
Seats obtained	1947	68	13	6	7	1	95 ^a
	1952	75	13				
	1956	75	-	-	-	-	-
Seats due on the basis of population		106	17	10	18	0	151 ^b
Seats obtained	1960 March	123	18	9	0	1	
	1960 July	121	18	11	0	1	
	1965	122	17	11	0	1	
	1970	123	19	8	0	1	
	1977	137	18	12	1	0	168 ^c
a - The total number of seats in the House was 101, 6 being reserved for “Appointed M.P.’s” by the Governor-General on prime ministerial advice. b - The total number of seats had been increased to 157, 6 being reserved for “Appointed M.P.’s” c - The total number of seats was 168, the class of “Appointed M.P.’s” was abolished in the 1972 Republican Constitution.							

⁵⁰⁴ Mendis, D. (2008). *Democratization in Sri Lanka*. In Pai V.A. Panandiker and Rahul Tripathi (ed.) *Towards Freedom in South Asia*. New Delhi: Konark Publishers, pp. 113-115; Cf. DeVotta, 2005; de Silva, 1981; Stepan, 2006; Wilson, 1988; Wriggins, 1965.

⁵⁰⁵ Although more than a million Tamil plantation workers were disfranchised, G.G. Ponnambalam, Jaffna Tamil and the founder and head of the Tamil Congress opportunistically condoned the Citizenship Act by accepting a ministry in the United National Party government, in Daniel, 1996, p. 113; consider also Stepan, 2006, p. 7; and Wriggins, 1965, pp. 212-228 on backgrounds of disfranchisement.

⁵⁰⁶ Wilson, 1988, p. 35.

After the disfranchisement of the Upcountry Tamils, S.J.V. Chelvanayakam, a prominent leader of the All Ceylon Tamil Party (ACTP), left the party and founded the Tamil Federal Party. The reason for founding a new party was his conviction that Tamils needed an party based in the north to protect their interests and demand self-rule.⁵⁰⁷ According to Wilson, the party's name was clear in English, but its Tamil translation left room for speculation meaning: "the Ceylon Tamil state party."⁵⁰⁸

The disfranchisement of Upcountry Tamils impacted the politics within the Sinhalese majority. The considerable reduction of Tamil voters led to the increase in the attractiveness of the main Sinhalese parties to outbid each other for Sinhalese votes. Thus, the Tamil voters were perceived as too small to count.⁵⁰⁹ As Horowitz observes, in spite of the fact that some Tamils were members of mostly-Sinhalese parties, such as United National Party (UNP),⁵¹⁰ "by the mid-1950s virtually all politically-active Sri Lankan Tamils had opted for either the Tamil Congress or the Federal Party, leaving the UNP, the Sri Lanka Freedom Party (SLFP) as well as the various left-wing parties to the Sinhalese."⁵¹¹

As a result, Sri Lanka's party system could be basically described as having two major Sinhalese parties outbidding each other for Sinhalese votes and two main Tamil parties competing for Tamil votes. The Tamil parties merged in 1972.⁵¹²

Disfranchisement of Upcountry Tamils had also direct consequences on the shift of intent of the language movement.

b. Official Language Act of 1956

At first, the intent was to replace English by the two indigenous languages-Sinhalese and Tamil-as main political languages. The term "swabasha" or "mother tongue" had been applied to this aspiration.⁵¹³ However, the demand for "mother tongue" was erroneous. As Sowell pointedly observes, "there was no "mother tongue" of the Sri Lankan people as a whole, but two different languages representing the two largest population groups."⁵¹⁴ According to Sowell, the demand for "mother tongue" was made at the beginning of 1940s, but Prime Minister D. S. Senanayake

⁵⁰⁷ Stepan, 2006, p. 10.

⁵⁰⁸ Wilson, 1988, pp. 37-38.

⁵⁰⁹ Sowell, 2004, p. 79.

⁵¹⁰ Stepan, 2006, p. 11.

⁵¹¹ Horowitz, 1989, pp. 18-35.

⁵¹² Horowitz, 1989, pp. 21-22.

⁵¹³ Wriggins, 1965, p. 248.

⁵¹⁴ Sowell, 2004, p. 84.

“sensed the explosive potential of issues like language and religion in a newly independent and ethnically divided country” and thus kept delaying the implementation.⁵¹⁵

Moreover, Sinhalese political leaders realized that there is no need in respecting the agreements of “swabasha”-movement anymore, due to insignificance of Tamil voters, and became aware that nothing and no-one stops them to establish Sinhala language as the sole official language of the country. This led the two main Sinhalese parties, UNP and SLFP, as DeVotta&Sahadevan put it, “to outbid each other on who could provide the better deal for the Sinhalese community.”⁵¹⁶

Consequently, the 1956 general election saw the institutionalization of outbidding process. The key actor to make use of the opportunity to dismiss Tamil language rights was Bandaranaike, the leader of SLFP. According to Sowell, Bandaranaike was not representative of those for whom he spoke for, being a “Oxford-educated, Christian, Sinhalese aristocrat, who grew up speaking English and unable to speak Sinhala.”⁵¹⁷ However, “like some other Sinhalese politicians of his time, Bandaranaike became Buddhist, Sinhala-speaking and an extremist on language, religion, and Sinhalese culture. His own goals were neither religious nor ideological. He wanted to become prime minister—and he succeeded.”⁵¹⁸

To his electorate Bandaranaike had a very simple and direct message “Sinhala Only and within twenty-four hours”.⁵¹⁹ The bill to make Sinhala the “one official language” of Sri Lanka was introduced on June 14, 1956 and passed nine days later. Wriggins captured “the tone of the nation state policy”⁵²⁰ making process that followed:⁵²¹

Proponents of changing the language of government rapidly advanced within public service.

The Minister of Education argued in public that the English medium for schools should be abolished in 1958. It was announced that one of the leading teacher training colleges would be reserved for Sinhalese teachers only.

The government made no moves to allay the Tamil fears.

⁵¹⁵ Ibid.

⁵¹⁶ Sahadevan, P. and DeVotta, N. (2006). *Politics of Conflict and Peace in Sri Lanka*. New Delhi: Manak Publications, p. 5; see also Björkman, 1996, p. 334; and DeVotta, 2005, pp. 141-159.

⁵¹⁷ Sowell, 2004, p. 85.

⁵¹⁸ Ibid; consider also the following brilliant analysis: “Bandaranaike was both a utopian idealist and an avid opportunist, relentlessly pursuing short-term political gains. [...] He had hoped to use chauvinism as a means to achieve power, believing that he could disarm it by making modest, long-overdue concessions to Sinhalese-Buddhist interests, and then by concentrating on reform to remove social injustice and soothe the anxieties of would-be communalists. He did not succeed, partly because the problems that he had inherited were so severe, partly because his ruling coalition contained too many contradictions, partly because his government functioned so sluggishly, but very substantially because of the way Bandaranaike himself thought and acted.” In Manor, J. (1989). *The Expedient Utopian: Bandaranaike and Ceylon*. Cambridge: Cambridge University Press, pp. 326-27.

⁵¹⁹ Wilson, A. Jeyaratnam (1974) *Politics in Sri Lanka, 1947–1973*, Macmillan: London and Basingstoke, p. 142.

⁵²⁰ Stepan, 2006, p. 11.

⁵²¹ Wriggins, 1965, pp. 262-263.

The ‘Sinhala Only’ policy exacerbated the polarization in the electoral campaign, already started as a consequence of the disenfranchisement of Upcountry Tamils.⁵²² Thus, Sri Lanka had ceased to have any major broad parties but only ethnic parties without any incentives to be accommodative- the party system became almost exclusively ethnic in form.

Additionally, Stepan draws our attention to an important aspect that refutes the master narrative of Bandaranaike giving in to the pressures of Sinhalese Buddhist nationalists.⁵²³ Thus, for example, in January 1956 the president of the All Ceylon Buddhist Congress wrote that Buddhists “have no desire to make Buddhism the State religion—in spite of the cry raised by self-seeking politicians—but they do want the State to help them rehabilitate themselves and undo some, at least, of the injustices perpetrated against them during the days of their [colonial] subjection.”⁵²⁴

Sowell remarks that the lack of opportunities in education or employment, as a direct result of the policies mentioned above, led to increasing dissatisfaction amongst the Tamil population. Tamils resorted to *Satyagraha* (peaceful protests in the tradition established by Gandhi) in parliament and in the entire country. This in turn led to anti-Tamil mob attacks “in the frenzied atmosphere whipped up by Sinhalese politicians and Buddhist monks”⁵²⁵ that saw at least 150 Tamils killed.⁵²⁶ These were only the first casualties in what would become a long series of bloody and lethal riots in the years ahead.

Thus, the implementation of the Official Language Act of 1956 can be considered as a turning point with regard to several political, cultural, social, ethnic and linguistic problems in Sri Lanka. The introduction of the Sinhala Only affirmative action policy by this act became highly discriminatory to Tamil-speaking minority⁵²⁷ and, as a result, several long-lasting and unsolvable problems including the struggle for secession surfaced. Instead of polity-wide measures of inclusion and empowerment of discriminated minorities, such as in India, affirmative action in Sri Lanka led not to “ceylonisation” (Wriggins 1960), i.e. according to its plural ethos, but to its sinhalisation, being exclusively tailored for the needs of the majority.

⁵²² Stepan, 2006, p. 11.

⁵²³ Cf. Wilson, 1974; Manor, 1989.

⁵²⁴ Stepan, 2006, p. 11.

⁵²⁵ Sowell, 2004, p. 87.

⁵²⁶ Sahadevan and DeVotta, 2006, pp. 14-15; DeVotta, 2005, p. 150.

⁵²⁷ For example, Tamils in government positions were given a year in which to pass an examination in Sinhala or lose their employment, in Björkman, 1996, p. 338.

c. Affirmative action policies

Under its affirmative action and positive discrimination programmes, the government's preference to hire Sinhalese into the government service saw Tamil representation, who due to historical reasons had been overrepresented in public employment,⁵²⁸ in certain government sectors decrease drastically.⁵²⁹

Based on the findings of Stepan in 1955, "26% of the cadre in the elite, and politically powerful, Sri Lankan Administrative Service (SAS), were Tamils. By 1979 this figure had been cut in half. But, for younger Tamil aspirant professionals, recruitment trends into the SAS were even more ominous. According to Stepan, from 1970 to 1977, of the 467 admissions via the Open Competitive Examination route 34 (only 7.2%) were Tamils. In 1977-81, of the 159 new admissions via this route, none were Tamils."⁵³⁰ Additionally, according to Phadnis, "while 30 per cent of the Ceylon Administrative Service, 50 per cent of the clerical service, 60 per cent of engineers and doctors, 40 per cent of the labour forces were Tamil in 1956, those numbers plummeted to 5 per cent, 3 per cent, 10 per cent, 5 per cent respectively by 1970s."⁵³¹

The consequences of the official language policy implementation led to the following situation in the state sector employment:

Table 22: The state-sector employment of minorities in Sri Lanka (1990)⁵³²

Minorities	population (%)	state services (%)	provincial services (%)	semi-government services (%)
Sri Lankan Tamil	12.7	5.9	7.1	8.2
Muslim	7.4	2.0	4.6	1.0
Upcountry Tamil	5.5	0.1	0.2	0.5

Concerning the education sector, in 1959 Sri Lankan Universities' Committee reported that the proportion of Tamil students compared to their ethnic population was 1:320 while that of the Sinhalese was 1:3,212.⁵³³ As a result, according to Sowell the government implemented the so called "preferential admissions policies" called "standardization" at the university level, to

⁵²⁸ In 1949, Tamil representation in public employment stood at 41 per cent; for other data on Tamil overrepresentation see Sowell, 2004, pp. 78-94.

⁵²⁹ DeVotta, 2005.

⁵³⁰ See Stepan, 2006, p. 15.

⁵³¹ Phadnis, U. (1979). Ethnicity and Nation-Building in South Asia: A Case Study of Sri Lanka. *India Quarterly: A Journal of International Affairs*, 35(3), p. 348.

⁵³² Source: Census of Government and Public Sector employees, Sri Lanka Department of Census and Statistics, 1992; table reproduced from Sri Lanka: A Bitter Harvest, Minority Rights Group, 1996, in Wilson, A.J. and Chandrakanthan, A. (1998). Tamil Identity and Aspirations. Accord 4, available at: <http://www.c-r.org/our-work/accord/sri-lanka/tamil-identity-aspirations.php>, accessed on September 1, 2018.

⁵³³ Björkman, 1996, p. 337.

attempt to reduce Tamils' over-proportionate representation. Under the 'standardization' system, the proportion of Tamil university students in the sciences fell from 35 percent in 1970 to 19 percent by 1974.⁵³⁴

Finally, Horowitz points to the fact that UNP-party did try to cancel the standardization policies, in 1977. However, this initiative was met by a decisive protest from the Sinhalese, which led the UNP to give it up the initiative.⁵³⁵ The official purpose of the instituted system of weighted application for admissions to universities in favour of Sinhalese youths was to level the playing field for the Sinhalese. It outdid itself in its effect.

*d. Peasant settlement policies*⁵³⁶

Another state-sponsored discrimination against the Tamils represented the peasant settlement policies with ethnic bias during the 1950s. Indeed, according to Bandarage, significant changes were occurring in the ethnic composition of the Dry Zone population, especially in the Ampara and Trincomalee districts in the Eastern Province due largely to the Gal Oya scheme in the former and the Kantalai and Morawewa peasant settlement schemes in the latter. In the Ampara and Batticaloa Districts, the Sinhala population increased from 5.9 per cent to 17.7 per cent while Tamil population declined from 50.3 per cent to 46.4 per cent and the Muslim population declined from 42.2 per cent to 35.1 per cent between 1946 and 1971. During the same period, the Sinhala population in Trincomalee district increased from 20.6 per cent to 28.8 per cent and the Tamil population declined from 44.5 per cent to 38.2 per cent and the Muslim population increased from 30.5 per cent to 32 per cent.

Bandarage's findings confirm that D.S. Senanayake was keen to reclaim the Sinhala Buddhist civilization of the Raja rata, i.e. the Northeastern region, including Jaffna peninsula, from which monarchs ruled the country from approximately the 5th Century BCE to the 11th Century CE. D.S. Senanayake wanted "to settle Sinhalese in Trincomalee and the hinterland in Padaviya in the North and in Seruwila and Ampara in the North and the East to block a contiguous and homogenous Tamil speaking area in the Northeastern region."⁵³⁷ This state-sponsored targeted manipulation in terms of destabilization of the ethnic composition could be contrasted with differentiated land settlement policies in India, regarding Kashmir as well as Northeastern states. It also shows the role history and mythology started to play in the Sinhalese consciousness and political discourse. The institutionalization of this factor occurred in 1972.

⁵³⁴ See Sowell, 2004, p. 88.

⁵³⁵ Horowitz, 1989, pp. 30-31.

⁵³⁶ The following paragraph draws on data presented by Bandarage, 2009, pp. 47-48.

⁵³⁷ Bandarage, 2009, p. 48.

e. The Constitution of 1972

The climax of “sinhalisation” of the state and imposition of the will of majority represented the Constitution of 1972. The new constitution abrogated the preceding constitution, which derived authority from the British Crown and Parliament. According to Jayasuriya the constitution was, in essence, meant to be an expression of a new nationalism as well as the embodiment of progressive socialist ideals of people’s power and centralized planning.⁵³⁸ However, the “new nationalism” meant not a Sri Lankan nationalism, but that of the Sinhala Buddhist majority.

In this sense, the country’s colonial name, Ceylon, was replaced with Sri Lanka, according to Bandarage, a term used in ancient Indian epics over Sinhala, the pre-colonial name which claimed the island as the land of the Sinhala people.⁵³⁹ Additionally, the new constitution stated: “The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster Buddhism” virtually ignoring the presence of other religions (Hindu, Christian, and Muslim) in the country. It also removed the safeguards that had been in place to protect minorities- Article 29(2)⁵⁴⁰ and incorporated the provisions of the Official Language Act of 1956.⁵⁴¹ Moreover, Article 2, declared Sri Lanka to be a unitary state and Article 3, declared that sovereignty was inalienable: “In the Republic of Sri Lanka sovereignty is in the people and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise.”⁵⁴²

Thus, Sinhala Buddhist nationalism was institutionalized and becoming one with the state.

f. the Constitution of 1978

The 1978 Constitution followed closely the contents of the 1972 Constitution. The only official language of Sri Lanka was still Sinhala (Article 18), but in a new provision the 1978 Constitution introduced Sinhala and Tamil as the two national languages. (Article 19 and Article 21). Marasinghe pointedly sums up: “what was meant by this new category or status was not clearly specified.”⁵⁴³

However, three changes with far reaching consequences for political system were also introduced. First change represented the shift from parliamentary to presidential system. Stepan pointedly observed that the constitution “gave the president more powers than in France.”⁵⁴⁴

⁵³⁸ Jayasuriya, 2005, p. 12.

⁵³⁹ Bandarage, 2009, p. 64; see also Marasinghe, 2004, p. 18; Jayasuriya, 2005, pp. 13-14.

⁵⁴⁰ Chadda, 2004, pp. 104-05.

⁵⁴¹ Marasinghe, 2004, p. 19.

⁵⁴² Ibid., p. 20.

⁵⁴³ Ibid., p. 21.

⁵⁴⁴ Stepan, 2006, p. 18; the Constitution was based on the model of the Fifth French Republic, see Wilson, 1988, p. 134.

Just to enumerate some of the power mentioned by Stepan, these included: the right to “be head of the Cabinet of Ministers” (Article 43); appoint all members of the “Public Service Commission”(Article 56); “in his discretion submit to the people by Referendum any Bill” so long as it does not change the constitution (Article 85); appoint the Chief Justice, and after ascertaining his views, appoint “every other Judge of the Supreme Court and Court of Appeals” (Article 151); and with some minor limitations the president “may, from time to time, by Proclamation summon, prorogue and dissolve Parliament” (Article 70).⁵⁴⁵ Because of such a powerful presidential office, executive power-sharing, as is possible in a plural society with a parliamentary system, was made extremely difficult to reach. As I have argued in the theoretical chapter, parliamentary system represents a favorable condition for the establishment and maintenance of a power-sharing system.

The second change was the introduction of the Referendum principle (Article 85). According to de Silva, it had a three-fold role. It was essential for constitutional amendments to entrench clauses of the Constitution, a means of testing public opinion, and, a way of resolving conflicts between the President and Parliament.⁵⁴⁶

The third change was the introduction of proportional representation instead of plurality, first-past-the-post voting system. Mainly, it was introduced to avoid the wild electoral swings experienced under the previous system.⁵⁴⁷ Moreover, proportional representation, based on consociational theory, should have been of remarkable benefit to and had an accommodative effect on religious and ethnic minorities, under normal circumstances. However, as Horowitz pointedly stated “[s]oon after these changes came into effect [...] conditions were anything but normal. The Tamil United Liberation Front [...] had been excluded from parliament; separatist violence had begun in earnest; and Sinhalese and Tamil opinion had become so polarized that, in the short term at least, no electoral system could foster moderation.”⁵⁴⁸ Thus, he continues, timing variable should be also taken into account.

Representation is one of the primary concerns to the minorities. However, as I have exemplarily argued, on vital questions of individual and group identity, social and economic opportunity, access to state sector employment, as well as the crucial issue for a plural society such as form and character of the state (unitary/federal based on secular principles), minorities have not stood

⁵⁴⁵ Precipitating the events, the President did dissolve the Parliament in 2004, neither on a successful vote of no-confidence nor the loss of a vote on the budget, but purely on presidential discretion, see Mendis, 2008, pp. 119-20.

⁵⁴⁶ So far there has been only one Referendum – in 1982 – to extend the life of the 9th Parliament elected in 1977, for a further period of six years until 1989, in de Silva, 1997, p. 101; also consider Jayasuriya, 2005, p. 21.

⁵⁴⁷ See Marasinghe, 2004, pp. 20-21; Mendis, 2008, pp. 118-9.

⁵⁴⁸ Horowitz, 1989, p. 23; Stepan, 2006.

a chance. On these crucial issues with direct relevance to the majority group, the major political parties UNP and SLFP were either united or not open in their opposition. The democratic stability⁵⁴⁹ from an originally power-sharing system to majoritarian “control” system was established. In the Figure below I show how the analyzed processes fit the pattern of the “control” system:

Figure 37. Sri Lanka’s majoritarian “control” system

Criteria	Control System	Laws, policies and institutional arrangements
<i>Effective govern of the authoritative allocation of resources</i>	The interest of the majority segment as perceived and articulated by <i>its</i> elite.	Citizenship Act of 1948; Official Language Act of 1956; affirmative action; peasant settlement; 1972 and 1978 Constitutions
<i>Linkages between the two segments</i>	The majority segment extracts what it needs from the minority segment and delivers what it sees fit.	Tamil Language (Special Provisions) Act of 1958 ⁵⁵⁰ ; propotional representarion, 1978.
<i>The significance of bargaining</i>	No bargaining between elites of the majority and minority segments.	Bandaranaike-Chelvanayakam Pact; Senanayake-Chelvanayakam Pact ⁵⁵¹
<i>The role of the State</i>	The bureaucratic apparatus of the state uses what discretion is available in the interpretation and implementation of official regulations to benefit the segment which it represents at the expense of the minority segment	Citizenship question, affirmative action; language policy, respectively state employment etc.
<i>The type of normative justification</i>	Legitimacy is reached by an elaborate and well-articulated group-specific ideology.	Sri Lanka instead of Ceylon; Buddhism-foremost place etc. but also the “minority complex”
<i>Visual metaphor</i>	“puppeteer manipulating his stringed puppet”	Solomon & Sirimavo Bandaranaike; J.R. Jayewardene.

Source: Author’s figure (see also Lustick, 1979, and Carciumaru, 2012, p.18).

Radicalization of Minorities’ Demands

In what follows, I will show how majoritarian practices exacerbate a conflict in a deeply divided society. The theoretical and practical recommendations stipulated by Ian Lustick (1979) regarding the establishment of a “control” system for plural societies will also be refuted. The “control” political system starts from the premise made by Rabushka and Shepsle (1972) that deeply divided societies cannot develop as stable democracies, but through “the dominant majority configuration.”

⁵⁴⁹ Some analysts usually point to the fact that from 1956 until 1977, six successive Sri Lankan general elections saw government in office defeated at the polls, evaluating it as a pattern for stable democracy (see Wagner, Ch. (1999). *Democracy and State in South Asia: Between Fragmentation and Consolidation? Asian Survey*, 39(6), p. 912; Mendis, 2008, p. 113.). But democracy, as we have established, means more than holding elections.

⁵⁵⁰ This act provides for Tamil as the language of administration in the Northern and Eastern Provinces where the Tamils are the majority of the population. However, the provisions of this act were implemented only in 1965, see Gunasena, S. (2006). *Language Policy: An Overview of the Sri Lankan Experience*. In Amal Jayawardane (ed.) *Perspectives on National Integration in Sri Lanka*. Colombo: NIPU, p. 234.

⁵⁵¹ Both pacts could be retrospectively perceived, due to “ethnic outbidding” and no concessions that could detriment the majority, as pseudo-bargaining efforts. The devolution promised to Tamil minority was never honored.

My analysis of the Sri Lankan case study follows the logic of cause and consequence espoused by Wilson (1988), who made the following observation:

There is an unstated law—that of escalation of demands when reconciliation between ethnic groups is delayed. The majority ethnic group’s response is generally negative. If the minority ethnic groups show solidarity and inhabit contiguous territory, it becomes difficult to resist their demands. The better course is then to effect a compromise on the demands, but the general trend has been to deny concessions until they have lost their appeal, which result in a stepping-up of the minority ethnic group’s demands. These demands take form of separately carved-out communal electorates, and a measure of autonomy within a unitary or federal set-up. If these too fail, there is civil disobedience and non-violent non-cooperation from the minority ethnic leaders and their followers. If the strategy still fails to bring results, the politicized younger groups in the minority ethnic groups take up arms against a sea of troubles and win or lose in the resulting war. The stages are usually of this pattern.⁵⁵²

a. Tamils

According to Wilson, the Sri Lankan Tamil political leaders, despite the Citizenship Act, were willing to enter into consociational power-sharing relationships, but no longer in a centralized unitary set-up.⁵⁵³ Respectively, Federal Party pressed claims for Tamil self-determination within the Sri Lankan state.⁵⁵⁴

The disfranchisement also had an impact on electoral politics. The “ethnic outbidding” radicalized during the electoral “the Sinhala Only” campaign of 1956. Even before the Official Language Act was enacted, in July 1956, already in June 1956, and also as a consequence of land settlement policies, the Federal Party held a meeting in which it confirmed the objective of establishing an “autonomous Tamil linguistic state within a Federal Union of Ceylon” as the only chance of protecting the “cultural freedom and identity of the Tamil-speaking people.”⁵⁵⁵ The government was warned that “unless the Government took measures to constitute a Federal Union in Ceylon within a year the Federal Party would undertake a campaign of non-violent direct action (*Satyagraha*) to achieve its objectives.”⁵⁵⁶

The polarization of the two ethnic groups –the Sinhalese and the Tamils– has proceeded unabated since 1956. However, through the 1960s the Federal Party sought to collaborate with Sinhalese politicians of the UNP in pursuit of immediate equality within a unified polity. It expected restoration of the status quo ante wherein Sinhalese hegemony and particularly the Sinhala-only law would be excised.⁵⁵⁷ This was the still the moderate solution to the ethnic

⁵⁵² Wilson, 1988, p. 39.

⁵⁵³ *Idem.*

⁵⁵⁴ Cf. Wriggins, 1965, pp. 143-147; also see the Chelvanayakam’s inaugural address on 18 December 1949, formal launch of the Federal Party, and demand for self-determination, in Wilson, 1988; p. 100.

⁵⁵⁵ *Times of Ceylon*, June 25, 1956, quoted in Wriggins, 1965, p. 264.

⁵⁵⁶ *Ceylon Daily News*, August 20, 1956, quoted in Wriggins 1965, p. 264.

⁵⁵⁷ Björkman, 1996, p. 337.

strife. The strategy was unsuccessful as the return of the SLFP to power in 1970 was followed by the promulgation of the republican constitution.

As a direct consequence of language provisions, Tamils in government positions were given a year in which to pass an examination in Sinhala or lose their employment. A stagnating economy under SLFP government worsened the situation. While figures are difficult to obtain, Kearney (1978) reports for Tamil districts a rate of unemployment of 80% among those with college degrees in 1969-70.⁵⁵⁸ Many Tamils in the professions therefore migrated to Canada, Australia, the USA and Western Europe.⁵⁵⁹ But in Sri Lanka a generation of Tamils remained who feel grossly victimized, who lost jobs and promotions, and whose own children lost the opportunity of a university education, as a result of standardization policies and quotas for university admission. Stepan pointedly remarks that by such measures, “a half generation of recruits for Tamil separatist organizations was created.”⁵⁶⁰

Even before the constituent assembly enacted the new constitution, the previously fractious Tamil political parties, Ceylon Workers' Congress representing Upcountry Tamils and All Ceylon Tamil Congress representing Sri Lankan Tamils, formed in May 1972 the Tamil United Front (TUF). Among other things, its platform advocated secularism, a defined place for the Tamil language, fundamental rights of ethnic minorities, and decentralization of administration.⁵⁶¹ Exactly four years later, in May 1976, the Federal Party joined the TUF, out of this merger Tamil United Liberation Front (TULF) was constituted. At its first convention at Vaddukottai it resolved “that the restoration and reconstitution of the Free, Sovereign, Secular, Socialist State of Tamil Eelam, based on the right of self-determination inherent to every nation, has become inevitable in order to safeguard the very existence of the Tamil nation in this country.”⁵⁶² Thus, Sowell indicates that “moderate leadership among the Tamils gave way to more militant and extreme leadership, eventually led by a guerilla group called the Liberation Tigers of Tamil Eelam”⁵⁶³. The LTTE was founded by Velupillai Prabhakaran⁵⁶⁴, a former student activist. Sri Lanka was now on the road to civil war.

⁵⁵⁸ Quoted in Björkman, 1996, p. 338.

⁵⁵⁹ Daniel, 1996, p. 115.

⁵⁶⁰ Stepan, 2006, p. 16; “a drying up of educational opportunities was especially serious for Tamils, because of their concentration in a part of Sri Lanka with poor geographic conditions for making economic progress without relying heavily on education.” In Sowell, 2004, p. 88.

⁵⁶¹ Wilson, 1988, p. 132; Björkman, 1996, p. 337.

⁵⁶² The full text of the resolution available at: <http://www.tamilunitedfront.org/articles/Vattukottai.html> (22.11.09).

⁵⁶³ Sowell, 2004.

⁵⁶⁴ In 1972 Prabhakaran formed a small organization called the Tamil New Tigers (TNT). The symbol of a tiger seemed “to represent a deep-rooted nostalgia for the era of Cholas when the Tamils were supreme.” In 1976 TNT was renamed the Liberation Tigers of Tamil Eelam (LTTE), which began to pursue its demand for the creation of a separate Tamil state by violent means, in Björkman, 1996, p. 342.

In response to Tamil population's campaign for a separate state, the government enacted the Prevention of Terrorism Act (PTA) in 1979.⁵⁶⁵ Correspondingly, according to Daniel, a situation was reached where "for the average Sinhala soldier, every Tamil was not only an anti-Sinhala but an antinationalist."⁵⁶⁶ Respectively, for many young Tamil men the choice was flight from the atrocity of the Sri Lankan armed forces or flight into the membership in one of the many militant separatist groups.⁵⁶⁷

By 1983, according to Marasinghe, the ethnic problem in Sri Lanka reached a political climax resulting in the birth of five or more Tamil militant groups whose chosen path for establishing a separate Tamil State of Eelam was one of armed struggle.⁵⁶⁸

b. Muslims

Because the Muslims have been largely absent from the Sinhalese-Tamil conflict, they have been labeled as a "forgotten minority".⁵⁶⁹ Indeed, until the conflict, Muslim politics had largely been dominated by the Muslim politicians of the south.⁵⁷⁰ Many of these politicians were from the two main national parties – UNP and SLFP. There were Muslim politicians who contested with Tamil political parties, but they would defect to the ruling party and join the government after having won their seats.⁵⁷¹ Muslims came to be seen as allies of the state, but after experiencing the consequences of Sinhala-oriented policies with regard to language rights, land colonization and constitutional stipulations of 1972, Muslim leaders joined TULF during the Vaddukoddai Declaration of 1976, jointly calling for creation of a separate Tamil state in Sri Lanka.⁵⁷²

In the early 1980s, M.H.M. Ashraff, a lawyer from the Eastern Province, formed the Sri Lanka Muslim Congress.⁵⁷³ It made use of the Islamic both of religious and ethnic symbols for the electoral purposes and mosques as its base.⁵⁷⁴ Thus, yet another ethnic party emerged as a direct consequence of "ethnic outbidding" process and majoritarian policies.

⁵⁶⁵ Wilson, 1988, p. 164.

⁵⁶⁶ Daniel, 1996, p. 169; see also Bandarage, 2009, p. 101.

⁵⁶⁷ Daniel, 1996, p. 170.

⁵⁶⁸ The five organized militant ethnic groups were Peoples Liberation Organisation of Tamil Eelam (PLOTE), Tamil Eelam Army (TEA), Tamil Eelam Liberation Organisation (TELO) – these three later joined together to form the Eelam People's Revolutionary Liberation Front (EPRLF). The fourth and the fifth militant groups did not join into any axis. These two are Liberation Tigers of Tamil Eelam (LTTE) and Eelam Revolutionary Organisation of Students (EROS). In addition to this there was a non-combative research unit established in Madras called Protection of Tamils of Eelam from Genocide (PROTEG); Marasinghe, 2004, p. 52.

⁵⁶⁹ "Sri Lanka's Muslims: Homeless and Homesick", *The Economist*, 13 October 2007, p. 45.

⁵⁷⁰ Imtiyaz, 2009, p. 411.

⁵⁷¹ *Idem.*, p. 412.

⁵⁷² *Idem.*

⁵⁷³ Ameerdeen, V. (2006). *Ethnic Politics of Muslims in Sri Lanka*. Kandy: Center for Minority Studies, p. 232.

⁵⁷⁴ Imtiyaz, 2009, p. 412.

c. exogenous factors: India

In the previous chapter, I have outlined some of the main causes of the Sinhalese “majority with a minority complex.” This aspect may have played a role in institutional engineering, e.g. unitary instead of federal and policy making, e.g. Sinhala as the only official language, taking into account that there were at least, at that time, 30 million Tamil speakers just over the Palk Strait; special provisions for Buddhism etc.⁵⁷⁵ Nevertheless, one exogenous factor that certainly did not favor a relationship of trust and cooperation between Tamil minority and unaccommodative majority was India’s direct implication into the Sri Lanka conflict and its disputable role as “the protector and patron of Sri Lankan Tamils.”⁵⁷⁶ According to Bandarage, from the early 1970s, the politics in Tamil majority Northeastern provinces were viewed in India as “part of internal Tamil Nadu politics.”⁵⁷⁷ As de Silva has remarked, “seldom has a constituent unit (a province or state) of one country influenced the relationship between it and a neighboring country with the same intensity and to the same extent that Tamil Nadu did.”⁵⁷⁸ M.G. Ramachandran, the Sri Lankan-born Upcountry Tamil and Chief Minister of Tamil Nadu, offered its “patronage”, i.e. covert support, to LTTE.⁵⁷⁹

According to Bandarage, a number of camps were thus established in Tamil Nadu as well as in various parts of India training Sri Lankan Tamil guerilla groups.⁵⁸⁰ The support for Tamil separatism alienated the relations between the governments of Sri Lanka and India: “Sri Lanka accused India of interfering in her internal affairs. India on the other hand accused Sri Lanka of violating the human rights of Tamils”.⁵⁸¹ In background, an additional factor certainly augmented Sri Lanka’s anxieties and lack of trust regarding India’s intentions—the inevitable vivid recollection of India’s role during the Bangladesh Liberation war and Mukti Bahini. Thus, parallels were legitimate to be drawn.

⁵⁷⁵ I showed, by quoting Bandaranaike that one of the reasons for “Sinhala only” was indeed the anxiety of being “assimilated” by a superior culture, at least concerning numbers, see pp. 60-61.

⁵⁷⁶ Bandarage, 2009, p. 100.

⁵⁷⁷ *Ibid.*, p. 99.

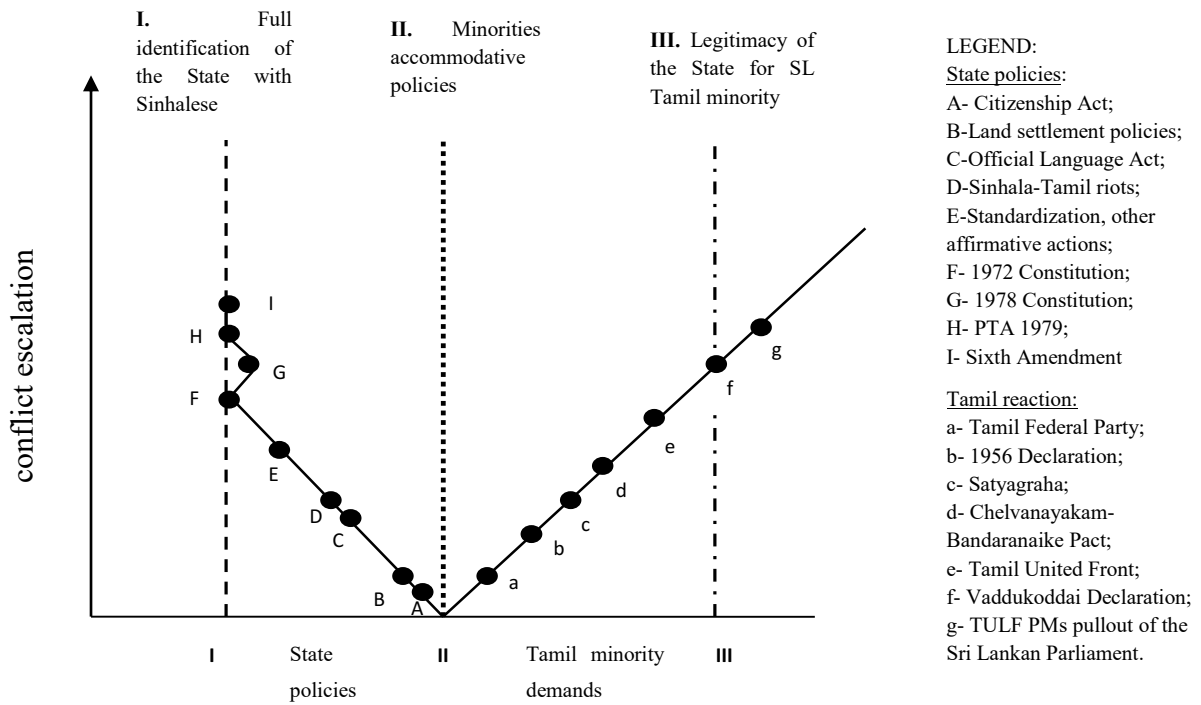
⁵⁷⁸ de Silva, quoted in Bandarage, 2009, p. 99.

⁵⁷⁹ Wilson, 1988, p. 204; Björkman, 1996, p. 343.

⁵⁸⁰ Bandarage, 2009, p. 113; see also Sowell, 2004, pp. 91-93.

⁵⁸¹ Balasuryia cited in Bandarage, 2009, p. 114.

Figure 18. Conflict escalation and legitimacy of the state in Sri Lanka



Source: Author's figure, see Carciumaru, 2012, p.20.

The constitutional stipulations from 1978 were perceived as “too little, too late”.⁵⁸²

⁵⁸² Carciumaru, 2012, p. 20.

IV. Conclusion

The findings of my thesis confirmed all four hypotheses, including the chances of the dialogue, which are much higher to happen in a democracy than in an autocracy; the advantage of federal political systems as opposed to the unitary ones, in terms of accommodation of diversity, the general beneficial and peace promoting effects and impacts of mediations and, even (military) interventions.

As Sri Lanka and BiH case studies have shown, finding a solution is hard if the parties involved in negotiating a peaceful cessation of a violent conflict are deeply distrustful of each other and, in addition, the government, representing the state, does not have the backing of the opposition parties and, even worse, is constantly harassed. The case studies have shown how crucially important a mediating party to a conflict marred by mistrust between parties can be and how difficult the role of such a mediating party is to keep treat both parties fairly and equitably. The findings of my thesis will certainly form the basis of future research that I will outline in my summary to the thesis.

IV.1 Theoretical and Empirical Findings for Negotiating Conflict in Deeply Divided Societies

The thesis has shown that consociational power-sharing arrangements lead to cessation of violent conflicts, secure stability, and it also enhances and ensures moderation and conflict mitigation in deeply divided societies. Consociational power-sharing arrangements facilitate the inclusion of both the moderates and the extremists. Turning rebels into stakeholders may prove to be difficult or noisy, but the benefits are obvious – access to the privileges of governance, to power! If the parties realize that the government is beneficial, they have an incentive to hang on to the system.

Consociational power-sharing institutions enable regulation of conflicts and management of divisions. As Bosnia and Herzegovina's example shows, consociational arrangements should not be rigid and should offer room to maneuver, having the capacity of evolving into classical (majoritarian) forms of democracy. Some scholars recommend the temporary implementation of such arrangements (i.e., with an "expiry date," as in the case of South Africa, between 1994 and 1999). However, as we have seen from the case studies, those arrangements that are informal in nature do not have an 'expiry date,' whereas the formal ones need time to institutionalize and once they enjoy legitimacy, the institutions are ensconced into the political system of a country and

internalized in the DNA of its citizens. Should the institutions work and not be misused, there is no need to put a limited date on them, in particular if these are informal, but consolidated. Moreover, the conflict groups and in particular the minorities are usually not willing to accept the “expiry dates” in advance because they are not sure the time the transition to a society in which the conflict has been solved or is being managed will occur. Should one however accept the temporary nature of the consociational power-sharing institutions, one should have the answer to the question, what kind of institutions, if not power-sharing would be able to prevent the re-emergence and escalation of a dormant or latent conflict?

The inherent dynamic of ethnic relations is continuously evolving, as such, none of the things stated in the thesis should preclude the statement mentioned above. The preference to choose a certain consociational power-sharing institution or another conflict settling arrangement, as in a menu a la carte, depends on the context, its specificity and characteristics and on historical settings and periods of time (critical junctions). One of the main arguments of the thesis illustrates the point that context and process (path dependence) are inherently meaningful and do matter.

The following Tables 24-28 below summarize the analysis of the case studies, structure the main argument based on the concepts and ideas from the Thesis as well as measure the variables and test the hypotheses advanced and applied to the six case studies.

Before testing, the information contained in Table 23 offers a succinct overview and some pertinent information tailored to the forthcoming requirements and expectations from the subsequent tables. Upon a closer analysis of the Table 23, one is able to see what are the countries' indicators regarding democracy index score as evaluated by the leading specialized institutions analyzing democracy indices such as Economist Intelligence Unit (EIU), Polity IV and varieties of democracy. The second row categorizes the case studies according to the type of violent conflict they have experience (all of them had been or are still confronted by the most violent form of conflicts, i.e., the ethnic conflicts). A quintessential part of the ethnic identity, as defined by me in the introductory chapter as an ‘umbrella’ concept,⁵⁸³ and quite often one of the root causes of the ethnic conflict is the language and the policies regulating its use and status. Thus, the language issue features prominently in at least four out of six case studies⁵⁸⁴ and represents one of main

⁵⁸³ ... an umbrella concept that “easily embraces groups differentiated by color, language, and religion; it covers 'tribes,' 'races,' 'nationalities,' and castes”, Horowitz, 2000, p. 53.

⁵⁸⁴ Some would argue that language issue is relevant in all six case studies.

causes for conflict emergence and escalation (Mizoram, Sri Lanka, Transnistria and Gagauzia). Based on one of the main defining values of the ‘principled’ negotiation approach, the table offers an important differentiation between positions and interests of each conflicting party. Insisting on one’s position and not being aware of one’s interests is always prone to exacerbate a conflict, which might still be in its incipient stages. Several case studies experienced the instance of majorities with a minority complex, which will certainly need further research. This is per se not a new finding to have discovered or challenge to be confronted by, as there have been (economic, cultural or political) dominant minorities before. What these case studies show and analyze are those instances where this is a volatile issue that leads to violent clashes, partly because it is accompanied by positive discrimination policies for the majority population.⁵⁸⁵ One of the most important variable explaining the emergence or escalation of ethnic conflicts, when adopting the levels-of-analysis approach as well as the quintessential actor in a multilevel principled negotiation is the presence of and the role played exogenous actors. The involvement of the exogenous actors can stop the bloodshed, manage or solve a conflict (see imposition of power-sharing arrangements in BiH or mediation of such arrangements in Gagauzia) or either cause a conflict to freeze (i.e, unnecessarily or artificially prolong its existence) or escalate its level, sometimes causing even more bloodshed (see the involvement of Russian army in Moldova, the involvement of NATO in the Balkan region, or the involvement of diaspora or regional actors, Pakistan and China, in the secessionist movements for an independent Khalistan or Mizoram). Thus, the involvement of the exogenous actors can have a benefic effect, when acting in a balanced and partisan (towards the discriminated) manner or conflict-exacerbating effect, when acting as an enforcer, destabilizer or imposer. Very often the external actors can have a dual impact, acting concomitantly as a protector and facilitator as well as imposer and destabilizers.

⁵⁸⁵ As mentioned, it is not a new finding as there have been (economic, cultural or political) dominant minorities (see elitism) before, what I am interested in is those instances that lead to violent conflicts and are accompanied by positive discrimination policies for the majorities (e.g. Moldovans vs Russians in the Republic of Moldova or Sinhalese vs Tamils in Sri Lanka. As a matter of fact, one finds such a conflict generating asymmetric stricture in all Soviet republics but the Baltic states after the collapse of the Soviet Union).

Table 23: Typology of Conflicts, Negotiation Techniques and Methods

	Sri Lanka	India		Moldova		Bosnia
		Mizoram	Punjab	Transnistria	Gagauzia	
Political regime, polity IV, v-dem, democracy index (EIU ⁵⁸⁶)	(Flawed) Democracy (6.48)	(Flawed) Democracy (7.23)		Hybrid regime (5.94)		Hybrid regime (4.87)
Identity	Ethnic	Ethnic	Ethnic	Ethnic	Ethnic	Ethnic
Language policies	Yes (Sinhala Only)	Yes (Assamese)		Yes (Moldovan)	Yes (Moldovan)	No
Goal / Interests and /or Positions	Territorial, representation, devolution, federalism, secession / statehood	Territorial, representation, devolution, federalism, secession / statehood	Territorial, representation, devolution, federalism, secession / statehood	Territorial, representation, devolution, federalism, secession / statehood	Territorial, representation, devolution, federalism, secession / statehood	Territorial, representation, devolution, federalism, secession / statehood
Majority with minority complex	Yes (Sinhalese vs Tamils)	Yes, Mizos vs Indians	No	Yes, Moldovans vs Russians	No	No
Exogenous factors (regional)	India, China	Myanmar, China, Pakistan	Pakistan	Ukraine, Romania	Turkey, Bulgaria	Croatia, Serbia
Exogenous factors (international)	UK, US, EU, Canada, Tamil Diaspora	UK	Sikh diaspora	Russia, EU, US,	EU, Russia	US, EU, Russia
Facilitating exogenous and endogenous factors/events		Indo-Chinese War, famine		Collapse of the Soviet Union		Collapse of Yugoslavia
Post conflict Nation and state-building	Yes	Yes	Yes	Yes	Yes	Yes

⁵⁸⁶ Index consists of scores in 1) electoral process and pluralism; 2) functioning of government; 3) political participation; 4) political culture; 5) civil liberties; see The Economist Intelligence Unit (2018). *Democracy Index 2017. Free speech under attack*. The Economist Intelligence Unit Limited.

As mentioned above, the following Tables 24-28 below summarize the analysis of the case studies, structure the main argument based on the concepts and ideas from my thesis as well as measure the variables and test the hypotheses advanced and applied to the six case studies.

Thus, Table 24 draws on the factors stated in the chapter on Negotiation (II.2) and the scores show how high is the probability of reaching an agreement through a bargaining process. Here, the understanding of the concept of democracy is based on Robert Dahl’s seven principles,⁵⁸⁷ which would qualify all countries as democracies, but Bosnia and Herzegovina. Interestingly, the score and thus probability of coming to the negotiating table and reaching the agreement is higher in the case of Gagauzia, the only country which have not experienced external or internal military intervention, confirming the hypothesis that military intervention would decrease the likelihood of negotiations.

Table 24: Factors Encouraging Negotiations and Agreements⁵⁸⁸

States	India / Mizoram	India / Punjab	Sri Lanka	Moldova / Transnistria	Moldova / Gagauzia	Bosnia- Herzegovina
Democracy (+)	+1	+1	+1	+1	+1	-1
Military intervention (-)	-1	-1	-1	-1	0	-1
Security Guarantees (+)	+1	+1	+1	+1	+1	+1
Mediation (+)	0	0	+1	+1	+1	+1
Score	1	1	2	2	3	0

Source: Author’s own table

In Table 25, I measure the dependent variable ‘power-sharing’ by means of the power sharing index developed by Linder and Bächtiger in 2005.⁵⁸⁹ The highest negative PSI is scored by the

⁵⁸⁷ 1 – universal suffrage, 2 – free elections, 3 – free speech, 4 – free access to information not controlled by the government, 5 – freedom to join autonomous organizations, such as political parties, as well as 6) responsiveness and 7) accountability of the government.

⁵⁸⁸ 1 applicable/relevant and 0 – not applicable/not-relevant; (-)1 for not present

⁵⁸⁹ See Linder and Bächtiger, 2005, pp. 861-880.

countries, which have experienced most violent ethnic conflict (BiH and Sri Lanka). Fascinatingly, the data from Table 25 regarding Gagauzia can only be fully understood by corroborating it with the scores from the Table 24. Thus, even if Gagauzia scores the third highest negative PSI score, due to the fact that it also scored highest on willingness to negotiate and reach an agreement, it did not experience a violent protracted conflict, but a rather a short and mild one.

Table 25: PSI (Power-Sharing Index) of the Case Studies⁵⁹⁰

States Factors	India Mizoram /	India Punjab /	Sri Lanka (Tamils)	Moldova Transnistria /	Moldova Gagauzia /	Bosnia- Herzegovina
Group representation	-1	1	-1	1	0	-1
Proportionality	-1	-1	-1	1	-1	-1
Separation of powers	1	1	1	0	0	-1
Qualified majority for constitutional amendments	1	1	0 ⁵⁹¹	1	1	0
Inclusiveness of cabinets	-1	-1	-1	-1	-1	-1
Minority government	0	0	0	0	0	0
Functional veto players	-1	-1	-1	-1	-1	-1
Veto power for political parties/groups	-1	-1	-1	-1	-1	-1
Segmental autonomy (symmetric and asymmetric autonomy)	-1	-1	-1	-1	-1	-1
Federalism (national level)	1	1	-1	-1	-1	-1
Score	(-3)	(-3)	(-6)	(-2)	(-5)	(-8)

Source: Author’s own table

Table 26 tests, measures and confirmed the hypotheses espoused in the methodology section of the introductory chapter (Conceptual Framework, I.4 Methodology). There is one notable and important exception – the military intervention in BiH, which could point to the fact that when

⁵⁹⁰ PSI, measuring the power-sharing institutions or the lack thereof at the time of the escalation of a latent into a violent conflict: 1 for present/available/applicable and (-)1 for not present and 0 for not available/applicable

⁵⁹¹ Article 29 viewed as an Amendment and required only a simple majority.

used as ‘ultima ratio’, military interventions do facilitate rather than hurt chances of coming to the negotiating table and try solve or mitigate the conflict peacefully.

Table 26: Testing the Hypotheses

States	India / Mizoram	India / Punjab	Sri Lanka	Moldova / Transnistria	Moldova / Gagauzia	Bosnia- Herzegovina
Hypothesis 1: The probability of negotiations in democracies is higher compared to autocracies.	Confirmed	Confirmed	Confirmed: negotiation and military force (two-track strategy)	Confirmed	Confirmed	Confirmed: Collapsed political system, negotiation and military force (two-track strategy)
Hypothesis 2: In federal systems, chances of negotiations are higher.	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed
Hypothesis 3: In general, intervention will increase the chances of negotiations.	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed
Hypothesis 3.1: Military intervention decreases the probability of negotiations.	Confirmed	Confirmed	Confirmed	Confirmed (in spite of the presence of the 14 th army – Russian troops involvement)	Confirmed	Not-Confirmed (power-sharing imposed, quasi protectorate of the

						external powers)
Hypothesis 3.2: Mediation will increase the likelihood of negotiations.	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed
Hypothesis 4: Democracies increase the likelihood of negotiation, occurring after intervention.	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed	Confirmed

Source: Author's own table

The Table 27 tests whether the conditions posited by Lijphart are facilitating or encouraging power-sharing arrangements. Due to the fact that the findings are quite controversial and, more importantly, inconsistent (e.g., BiH has the highest score, whereas Sri Lanka the lowest), they support my argument that conditions, be it structure or actor-oriented, are not as relevant as long as there is political will to mitigate or regulate a conflict. Ideally, it should be a two-way process, initiated and driven by political elites (top-down) and supported by the civil society (bottom-up), ensuring legitimacy of the decisions that are taken, institutions that are established or initiatives that are implemented.

Table 27: Conditions Favoring Power-Sharing Applied

States	India / Mizoram	India / Punjab	Sri Lanka (Tamils)	Moldova / Transnistria	Moldova / Gagauzia	Bosnia- Herzegovina
Structure-oriented conditions favouring power-sharing						
1. No majority segment	-1	-1	-1	-1	-1	1
2. Segments of equal size	-1	-1	-1	-1	-1	1
3. Small number of segments	1	1	1	1	1	1
4. Small population size	1	1	1	1	1	1
5. Socio-economic equality	-1	1	-1	1	-1	1
6. Overarching Loyalty	1	1	-1	-1	-1	-1
7. Geographical concentration of segments	1	1	1	1	1	1
Actor-oriented conditions						
8. Dominant elite	1	1	1	1	1	1
9. External pressure	-1	-1	-1	-1	-1	-1
10. Traditions of accommodation	1	1	1	-1	-1	1
11. Absence of special rights claim	-1	-1	-1	-1	-1	-1
Score ⁵⁹²	1	2	(-1)	(-1)	(-3)	5

Source: Author's own table

⁵⁹² Represents the sum of conditions applicable and relevant (the same weightage system 0,1 and (-)1 is used)

As Table 28 below demonstrates, out of six case studies only Mizoram could fit the ‘principled’ negotiation and power-sharing conflict resolution approach recommendations. No other cases have experienced instances of ‘principled’ negotiation either to reach a peaceful resolution of the conflict or to prevent its emergence in the first place.

Table 28: Testing the Dependent Variable of ‘Principled’ Negotiation

States	India / Mizoram	India / Punjab	Sri Lanka (Tamils)	Moldova / Transnistria	Moldova / Gagauzia	Bosnia- Herzegovina
Principles of PN						
Separate people from issues	YES	NO	NO	NO	NO	NO
Focus on interest and not positions	YES	NO	NO	NO	NO	NO
(jointly) Invent new options for mutual gain	YES	NO	NO	NO	NO	NO
Objective criteria in choosing these options	YES	NO	NO	NO	NO	NO
Know your BATNA&WATNA	YES	NO	NO	YES	YES	YES

Source: Author’s own table

IV.2 Recommendations

According to McCulloch and O’Leary,⁵⁹³ consociational power-sharing is always preferable as a recommendation for settling or preventing conflicts as the arrangement have come to be viewed as an immediate and effective “painkiller”, a panacea to all problems. In essence, the appeal for consociation originates from a necessity standpoint which states that “it is best not to have to build democracy after filling graveyards.”⁵⁹⁴ Consociation is sometimes compared with alternative approaches and models that preferred to the armed violent conflict. However, in deeply divided societies, the only possibility to regulate a conflict are consociational power-sharing arrangements, other strategies, institutions and policies will most likely exacerbate the conflict (e.g., Sri Lanka, Punjab, BiH, Moldova). The negotiated agreements based on consociational power-sharing are sometimes regarded as “the most rational choice to be made in the circumstances of potential or actual civil strife.”⁵⁹⁵

As mentioned above, the case studies analysed in my thesis emphasize the importance of time, context, critical junctures and path dependency. Furthermore, the conflicts in deeply divided societies can only be solved through complex power-sharing institutions as propagated by McCulloch, McGarry, O’Leary, Wolff and through my own work in my thesis,⁵⁹⁶ rather than only through four basic principles as originally advocated by Lijphart. Consociation forms the basis of conflict management and institutional design. Consociation is more than capable of enhancing and ensuring political stability in deeply divided societies.

IV.3 Future Prospects

John Stuart Mill asserted that democracy is “next to impossible in a country made up of different nationalities” –that is, in a multiethnic society– and completely impossible in linguistically divided countries, where the people “read and speak different languages”.⁵⁹⁷ Not only the scholars representing the consociational school of thought and Lijphart’s successors, such as Bieber, McCulloch, McGarry, O’Leary, Wolff, state that conflicts in multiethnic deeply divided societies are *not* intractable if they are mitigated by means of power-sharing arrangements.

⁵⁹³ O’Leary, 2005, pp. 8-9; McCulloch, 2009, p. 207.

⁵⁹⁴ O’Leary, 2005, p. 8.

⁵⁹⁵ Lijphart, A. (2007). *Thinking About Democracy: Power-Sharing and Majority Rule in Theory and Practice*. London: Routledge, p. 278.

⁵⁹⁶ See more on this in last part of my thesis, summarizing what is new and the contribution done to conflict settlement theories as well as the theory of complex consociational power-sharing.

⁵⁹⁷ Quoted in Lijphart, A. (2002). *The Wave of Power Sharing Democracy*. In Andrew Reynolds (ed.) *The Architecture of Democracy. Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press, p.38.

Other scholars that were not a part of consociational school of thought⁵⁹⁸, e.g. Nordlinger⁵⁹⁹ and Gurr, accurately concluded that settling and managing ethnic conflicts would and should imply “some combination of the policies and institutions of *autonomy* and *power-sharing*.”⁶⁰⁰ Thus, power-sharing, *rightly*, became a standard prescription for protracted national, ethnic and communal conflicts in deeply divided societies, especially ones focused on antagonistic self-determination claims.⁶⁰¹

Out of the four basic principles of the consociation, segmental autonomy is considered crucially important, if not vital to be present in any agreements that manage the diversity of a deeply divided society. To give groups autonomy, it is necessary to ensure that the groups are self-determined and that they have the self-governing institutions.

The arrangements of liberal consociation (McGarry & O’Leary are its main proponents) have an advantage since they give the political space to ensure that there is a de-escalation in ethnic divisions (self- vs pre-determination of groups). Liberal consociations have the flexibility to include the forms of divisions that may come up in the future. Thus, liberal approach is much better and relevant than the corporate one. The factors that are interrelated concerning the size and group number implies, thus, the choice tackles its adoption dilemma. Lijphart also asserts that liberal consociation has a weakness because it tends to preclude how the overrepresentation of the minority is handled and applied.⁶⁰² It is therefore difficult to implement the principle of proportionality. However, it is commonly considered that the liberal arrangements are preferred because they can take care of the unavoidable dissimilarities of the demographics in deeply divided societies. Finally yet as importantly, based on Lijphart’s brilliant distinction,⁶⁰³ the case studies selected by me were interpretative, hypothesis-generating, theory confirming and theory-infirming, enabling me to formulate generalizable recommendations based on the findings from my case studies.

⁵⁹⁸ End of the 60s and beginning of the 70s such scholars as Lehmbruch, McRae, Steiner—to name just a few.

⁵⁹⁹ Nordlinger, 1972, the meaning of *conflict-regulating arrangements* as well as other concepts used in this introductory part will be explained in the next subchapter.

⁶⁰⁰ Gurr, 1995, pp. 290-2.

⁶⁰¹ Empirical examples on “internationalization”, i.e. consociational institutional designs, of power-sharing as theory and practice will be discussed in the next Chapter.

⁶⁰² Lijphart, A. (1995). *Self-Determination versus Pre-Determination of Ethnic Minorities in Power-Sharing Systems*. In Will Kymlicka (ed.) *The Rights of Minority Cultures*, Oxford: Oxford University Press, p. 286.

⁶⁰³ Lijphart, 1971, p. 691 indicates that there are six types of case studies. He differentiates between - atheoretical, interpretative, hypothesis-generating, theory confirming theory-infirming, and deviant case studies.

V. Summary

The thesis sought to explain how and why power-sharing arrangements come into being, succeed or fail their purpose by combining negotiation theory with consociational power-sharing theory. Additionally, by marrying the before mentioned theories and based on the lessons learnt from the case studies, it analyzed and advanced strategies to negotiate what seems non-negotiable and irrational. The thesis contributes to the existing research on conflict resolution and explains how traditional and modern approaches lead to innovative solutions, e.g. public policy, whereas the innovative solutions thus emerging lead to legitimacy, stability, robustness and efficacy of a power sharing system.

The thesis compared case studies from South Asia and Eastern Europe. With regard to the selected case studies from South Asia, these are India (Punjab and Mizoram) and Sri Lanka (Sinhala – Tamil, Sinhala - Tamil - Muslim), whereas in the case of Eastern Europe, the thesis analyzed Bosnia and Herzegovina and Moldova (Transnistria and Gagauzia).

The thesis built its own model of negotiating conflict in deeply divided societies; by combining and extending the neo-institutional dynamic model (Mitra 2005), Faure and Rubin's model of structure and agency in negotiating cultural conflicts (1993) and the methods of levels-of-analysis approach (Cordell and Wolff 2014). The thesis fine-tuned its model of "multilevel 'principled' negotiation," and claimed its validity and applicability both in western as well as non-western contexts.

Chapter 1 introduced the reader to the general theme of ethnic conflict and negotiation in post-conflict societies. Besides the research questions and hypothesis, it includes subchapters on definitions, terminology, methodology and the structure of the thesis. It first explained why the selected case studies are compared, whether the size matters, and how one can generalize from these findings. The case studies were selected both purposively and information-oriented. The thesis combined both Most Similar Case Studies (MSSD) and Most Different Case Studies (MDSD) methods of comparison.

Chapter 2 set the analytical framework of the thesis. It undertook a critical review of the existing body of literature on negotiation and (consociational) power sharing (both liberal and corporate) theories. It analyzed and explained what is 'power sharing', how does it work and not work sometimes, and whether favorable conditions to achieving as well as maintaining power sharing system matter. With regard to negotiation, it started with analysis of two principles of negotiation process - positional and principled negotiations. The chapter looked at how one comes to the negotiation table and, eventually, to an agreement based on power-sharing institutional arrangements. The chapter deconstructed the process of negotiation by showing

how to ‘negotiate negotiation’ and what the conflicting groups have to give up in order to be able to negotiate and reach a durable solution. The concluding part of the subchapter analysed whether principled negotiation is adequate in negotiating identity-based conflicts. The final subchapter combined power sharing and negotiation theories into a comprehensive theory of ethnic conflict management in deeply divided societies. It posited that a durable settlement of an ethnic conflict can be reached through a “multilevel ‘principled’ negotiation”, whereas the durability and legitimacy of solutions depend on finding an appropriate formula for handling ethnic relations - a “hybrid” consociational power sharing system.

Chapter 3 analyzed the case studies from South Asia and Eastern Europe. With regard to the selected case studies from South Asia, these are India (Punjab and Mizoram) and Sri Lanka (Sinhala – Tamil, Sinhala - Tamil - Muslim), whereas in the case of Eastern Europe, the thesis focused on case studies from Bosnia and Herzegovina and Moldova (Transnistria and Gagauzia).

In case of the European states, various degrees of involvement of international actors have taken place. I analyzed the (re)action and support of domestic actors in terms of efficacy and legitimacy of and involvement with central state institutions, perceived as de facto or de jure protectorates of the external powers. Bosnia and Herzegovina, Moldova and Serbia constitute a part of a broader regional phenomenon such as transition from authoritarian to democratic systems, subsequent inclusion of minority demands, as well as both experience with different intensities of violence based on ethnic/cultural conflict and international actors’ intervention and mediation. The knowledge gained from the European cases viewed as instances of complex consociational power sharing serves as a viable tool and sheds a new light on mitigation and management of such seemingly intractable and protracted conflicts as Kashmir and Sri Lanka. The analysis of each case study followed the levels-of-analysis approach and analytic narrative methods. Thus, each ‘story’ had a ‘prelude’ explaining how and why did the conflicts emerge and escalate as well as how these were settled (in terms of structure, agency and process).

The dependent variable ‘power sharing’ was measured through a ‘power sharing index’ (PSI), which includes the following factors, which serve as explanatory and/or independent variables: (1) group representation; (2) proportionality; (3) separation of powers; (4) qualified majority for constitutional amendments; (5) inclusiveness of cabinets; (6) minority government; (7) functional veto players (8) veto power for political parties/groups; (9) segmental autonomy (including both symmetric and asymmetric autonomy); (10) federalism. These are quantified in a scale going from one to ten, with an additional point for each factor. For the second dependent variable “enduring peace”, which a conflict settlement should lead to, the data from Polity IV

and v-dem used. The logic and empirical accuracy of the coding is done transparently in order to be easily verified. The dependent variable “‘principled’ negotiation” is measured through its four constitutive characteristics (people, interests, options, criteria), which are quantified by 1 (applicable) or 0 (non-applicable).

Chapter 4 consisted of conclusions and lessons drawn from the case studies, it revisited the theoretical framework and the hypothesis, and evaluated the proposed model of “multilevel ‘principled’ negotiation” across the cases.

Chapter 5 spelled out the contribution to the theories of conflict resolution, negotiation and power sharing, whereas Chapter 6 comprised policy recommendations based on theoretical and empirical findings of the thesis.

What is new?

In my thesis I have tried to marry the ‘principled’ negotiation with the complex consociational power-sharing institutions, showing under what circumstances and how both power-sharing and bargaining can be combined into a *multilevel principled negotiation* approach ensuring prevention or regulation of violent ethnic conflicts in deeply divided societies. This finding has not only contributed but represents something new, expanding the general body of literature on and the theory of conflict resolution. The thesis enriched the complex consociational power-sharing arrangements by proposing *informal arrangements* to be considered as when analyzing or recommending such arrangements. Another literature enriching contribution of my thesis is the comparative endeavor of case studies from South Asia and Eastern Europe that represent a trans- and interregional comparative approach exceeding area studies. Moreover, being interpretative, hypothesis-generating, theory confirming and theory-infirming, the case studies enabled me to formulate generalizable recommendations. Interestingly, South Asian case studies have a vast background in negotiations and less in agreements, whereas in the case of the Eastern European case studies vice-versa is true (i.e., these have/had a vast background in (imposed?) agreements and less in negotiations). Finally, yet importantly, the practice of complex consociational power-sharing is still unsatisfactorily studied and researched. My thesis contributes to the better understanding of this theoretical approach and to advancement of its normative recommendation in settling and regulating ethnic conflicts in plural, deeply divided societies.

To sum it up, the thesis tried and hopefully achieved:

1. Marrying power sharing and bargaining theories

2. Extend the systematic comparative work on complex power sharing systems;
3. Comparison between South Asia and Eastern Europe;
4. Understudy of India's power-sharing institutions;
5. Unsatisfactory exploration of the (relatively) new practice of complex power sharing;
6. Contribute to the existing research on conflict resolution

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National Commission for <http://ncst.nic.in/index.asp?langid=1>

Scheduled Tribes

Sikhism Resource site <http://www.allaboutsikhs.com/>

South Asia Terrorism Portal <http://www.satp.org/>

The Hindu <http://thehindu.com/>

TamilNet <http://www.tamilnet.com/>

Tamilnation.org <http://www.tamilnation.org/index.htm>

Khalistan movement http://research.omicsgroup.org/index.php/Khalistan_movement

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