



Reform of consociationalism arrangements in deeply divided societies

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Question

What examples are there of countries that have undertaken/are undertaking reform (no matter how small) of consociationalism arrangements, especially those which moved towards other forms of democracy? What factors have affected the outcomes of these reforms?

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1. Summary

Consociationalism arrangements, a form of power-sharing, have been used in violently divided societies as a means to end wars and build peace. However, many deeply divided countries have struggled to implement their power-sharing arrangements and the transition to more 'normal' politics is difficult. Research into reform of consociationalism arrangements in deeply divided societies is scarce and there is little focus or detail provided about the factors which affect the outcomes of these reforms. The few papers found on the subject are from academic sources.

A paper by McCulloch (2017), which this report draws heavily upon as one of the only papers focusing specifically on this area, identifies several democratic, orderly and legal pathways from consociationalism in deeply divided societies, which will differ depending on timing and context. More details on the pathways are included in the first section of this report. The pathways identified by McCulloch (2017) include:

- *Power-sharing dissolution via politically initiated constitutional reforms:* Recognition that there are issues to be resolved in the consociationalism arrangement can lead to efforts at wholesale or incremental reform. Sometimes they arise as a result of consensus that a new agreement is needed and sometimes they result as a response to crisis or efforts to improve institutional functionality. Northern Ireland, for example, has made several institutional reforms, in response to various issues that have arisen. Trust and willingness to cooperate between the parties involved is important for creating the support needed for reform, especially as opening up the constitutional framework can lead to uncertainty and anxiety. A major barrier to reform is the unwillingness of (ethnic/sectarian) political elites to give up power.
- *Power-sharing dissolution via judicial interventions:* International and domestic courts have made rulings that tackle the terms of power-sharing agreements, especially in favour of the rights of individuals over consociationalism's emphasis on group rights. Courts may be able to make difficult choices politicians are reluctant to make. However, such decisions can be problematic if they do not appreciate why consociationalism was adopted in the first place or get the timing of the transition wrong. They can also undermine the legitimacy of the agreement and the state. In addition, unless there is the political will to implement the suggested reforms, there is little that the courts can do, and politicians may be reluctant to make changes that would affect their power. Decisions made by the European Court for Human Rights, for example, have called for the reform of Bosnia and Herzegovina's consociationalism arrangement but local politicians have not implemented these reforms.
- *Power-sharing adoption on an interim basis:* Power-sharing agreements can establish that they are temporary from the beginning, either through aspirational claims to transition or with a binding sunset clause. This can help with confidence building between the parties but can contribute to instability if the deadline approaches and parties are nervous about their place in the new system, or to lack of progress if there is no specified end date. The lack of a clear road map in Lebanon's Ta'if Agreement has meant that the transition has failed to move away from consociationalism and political leaders have been reluctant to reform a system which benefits them.

Of these pathways from consociationalism, McCulloch identifies constitutional tinkering, or adjustments to the original agreement over time approach (part of the power-sharing dissolution via politically initiated constitutional reforms), as the most promising pathway from consociationalism. Liberal, rather than corporate, forms of consociationalism may be more able to incorporate small changes over time.

However, it should be noted that a major pathway from power-sharing is through the collapse of the arrangement, rather than the democratic, orderly and legal pathways detailed above. Previous efforts at power-sharing in Lebanon have collapsed into civil war and Burundi's agreement is slowly unravelling into authoritarian rule and increased levels of violence, for example.

External actors have played a role in facilitating, supporting, or even driving reform of consociationalism arrangements in deeply divided societies. This has been both a help and a hindrance in different contexts, especially if external actors' actions are seen to favour one group. In Northern Ireland, for example, the British and Irish governments have supported the development of several key post-settlement agreements have streamlined and reformed the institutional process around the Good Friday Agreement (1998) in response to various power-sharing crises. Heavy handed external governance by the Office of the High Commissioner in Bosnia and Herzegovina did drive reform but meant that local parties could avoid making decisions on contentious issues. In addition, the external efforts were perceived to favour one side and therefore failed to gain the political support needed.

The second section of this report outlines several case studies of peace agreement consociationalism arrangements in Northern Ireland, Bosnia and Herzegovina, Lebanon, and Burundi which illustrate the various pathways away from consociationalism arrangements. None of these deeply divided countries has made a full democratic transition away from consociationalism yet, but reforms (and attempts at reforms) have been made to their consociationalism arrangements.

2. Consociationalism

Consociationalism, a leading form of power-sharing, has been used in violently divided societies as a means to end wars and build peace by aiming to ensure the widespread inclusion of all ethnopolitical groups in the processes of 'executive, legislative, judicial, bureaucratic, military [and] cultural power' (O'Leary, 2013, p. 4 in cited in McCulloch, 2017, p. 405, 407). It is a governance approach often 'favoured by external actors for building state capacity and legitimacy in post-conflict societies' (McCulloch & McEvoy, 2019, p. 216). McCulloch and McEvoy (2019, p. 217) note that 'power-sharing has been facilitated and even imposed by external actors in deeply divided societies ranging from Bosnia and Herzegovina, Burundi, Iraq, Kenya, Lebanon, South Sudan to Macedonia and it has been recommended by external actors for Cyprus, the Democratic Republic of Congo, Liberia, Nepal, and Syria'. Such support from external actors has 'gone beyond supporting the adoption of power-sharing to playing an integral role in its maintenance' (McCulloch & McEvoy, 2019, p. 217). There are disagreements as to whether this role is a good thing or means these agreements are unable to be self-sustaining (McCulloch & McEvoy, 2019, p. 219).

Consociationalism typically includes four key institutional arrangements outlined by Lijphart, the leading authority on consociationalism: executive power-sharing (grand coalitions

representing different societal groups); proportionality rules in political representation; mutual vetoes, allowing communities to contest decisions against their interests; and group autonomy, or right to run their own affairs (McCulloch, 2017, p. 407; Fakhoury, 2019, p. 10).

Consociationalism comes in two forms: liberal consociationalism, which 'rewards whatever salient political identities emerge in democratic elections, whether these are based on ethnic or religious groups, or on subgroup or transgroup identities' and corporate consociationalism, which 'accommodates groups according to ascriptive criteria, such as ethnicity or religion' using quotas, reserved seats and other mechanisms (McGarry and O'Leary 2007, p. 675 cited in McCulloch, 2017, p. 407; McCulloch & McEvoy, 2019, p. 218). Benefits such as autonomy, parity of esteem, inclusion and inter-community cooperation are thought more likely to accrue under a liberal consociational arrangement (McCulloch, 2017, p. 407).

However, many of the societies where consociationalism has been used as part of the peace process, have 'struggled to implement their power-sharing agreements, to consolidate a sustainable peace, and to move to a more 'normal' (i.e., majoritarian) form of democracy' (McCulloch, 2017, p. 405; see also Fakhoury, 2019, p. 20). Many of these countries have been affected by periods of 'immobilisation, elite intransigence and recurring political crises', that have often only resolved through external engagement (McCulloch & McEvoy, 2019, p. 217). Critics of consociationalism argue that it can obstruct longer-term goals of peacebuilding and democratisation by locking in divisive identities as a basis of governance at the moment when they are at their most acrimonious, which makes them 'prone to instability, intransigence and collapse' (McCulloch, 2017, p. 406, 407; see also Fakhoury, 2019, p. 20). It has been suggested that consociationalism is a 'temporary device without an exit' and that because it does not lend itself to renegotiation it is prone to 'stickiness', which makes the transition to more 'normal' politics very difficult (McCulloch, 2017, p. 406-408).

McCulloch (2017, p. 406, 408-409) also notes that concerns about exiting consociationalism have not been helped by power-sharing advocates who have not yet 'effectively theorised the appropriate time at which to initiate the transition to a new arrangement, how the process might unfold and what the new arrangement might look like'.

Pathways from consociationalism in deeply divided societies

McCulloch (2017, p. 406) presents a typology of three non-violent pathways from power-sharing, that proceed on a 'democratic, orderly, and legal basis'. Which pathway suits a divided society may differ depending on its circumstances and as realities on the ground are often complex and multi-faceted, they may not 'always fit neatly into the categories as identified' (McCulloch, 2017, p. 409). McCulloch (2017, p. 409) argues that empirical examples show that while transitions from consociationalism are difficult, they are not impossible. Their success is contingent on timing and context (McCulloch, 2017, p. 419). There is no ideal pathway out of power-sharing but McCulloch (2017, p. 419) suggests that, of the approaches she outlines, 'constitutional tinkering', or politically initiated constitutional reforms and adjustments to the original agreement over time, may be the most promising.

A. Power-sharing dissolution via politically initiated constitutional reforms

One pathway from power-sharing identified by McCulloch (2017, p. 415) is through a process of institutional reform. An example of this can be seen in the case study of Northern Ireland in Section 3 below. These reforms, driven by local political actors (sometimes supported by external actors) can either be 'wholesale (i.e., the establishment of a constitutional review commission

and the intentional replacement of power-sharing with some other constitutional dispensation) or they can be marked by a piecemeal attempt, a kind of institutional ‘tinkering’ that, over time, renders power-sharing obsolete’ (McCulloch, 2017, p. 416). The intent behind reform can vary and more wholesale revisions tend to arise when there is ‘both consensus between major parties that the time for power-sharing has lapsed and sufficient trust between them to reopen the settlement and reach a new agreement’ (McCulloch, 2017, p. 416). More incremental reform can also be intentional (particularly in conjunction with aspirational clauses in agreements), or they can be the result of ‘ad hoc attempts to streamline institutional functionality’ (McCulloch, 2017, p. 416).

For attempts at wholesale reform to be successful ‘all major players must recognise the need for a new institutional configuration and be more or less on the same page about what that new arrangement entails and whether it can be sustained’ (McCulloch, 2017, p. 416). However, these conditions are generally rare in deeply divided societies and opening up the constitutional framework ‘can breed uncertainty and anxiety, particularly if minority guarantees are at stake’ (McCulloch, 2017, p. 417). The whole system could be thrown into turmoil if such talks fail (McCulloch, 2017, p. 416).

As well as arising from emerging consensus on the need for reforms, attempts at wholesale or incremental reform may be the result of acute crisis moments, where the viability of existing arrangements is called into question (McCulloch, 2017, p. 416). Crisis moments can come from below, for example as a result of protest movements, or from above, as with the 2017 renewable energy heating scheme scandal in Northern Ireland which led to the collapse of power-sharing (McCulloch, 2017, p. 416). Such crises can heighten tensions, resurface underlying grievances, and ‘disagreements not related to the conflict may become ethnicised and parties are often ill-disposed to compromise’ (McCulloch, 2017, p. 416).

However, crisis moments may also provide the opportunity for incremental reforms, as has occurred in Northern Ireland (McCulloch, 2017, p. 417). An incrementalistic approach ‘provides an opportunity to flesh out the details of the original peace deal, which itself may have been intentionally vague in order to reach agreement’ (McCulloch, 2017, p. 417). Post settlement negotiations can improve or finetune a working agreement, salvage an eroding one, deal with specific shortcomings or an obsolete arrangement, and address any unanticipated consequences of the original pact (McCulloch, 2017, p. 417). This may take place during ad hoc, high-level all-party talks, often mediated by external actors, convened in response to power-sharing deadlock (McCulloch, 2017, p. 417). Ongoing talks can also ‘help to routinise dialogue with the other side, thereby facilitating the ‘spirit of accommodation’ needed for power-sharing to work, reminding parties that they are capable of cooperation’ (McCulloch, 2017, p. 418). This can lessen groups existential anxieties (McCulloch, 2017, p. 418). McCulloch (2017, p. 418) notes that post-agreement mediation and arbitration ‘give existing parties a continued stake in the system while also widening the basis of participation for new parties to join the process’. However, there is a risk that the process can stall over time and of constitutional fatigue (McCulloch, 2017, p. 418).

B. Power-sharing dissolution via judicial interventions

Judicial interventions are another pathway from power-sharing identified by McCulloch (2017, p. 413) and are ‘often advocated by those who may be discomfited by the potential legal ramifications of consociationalism’s emphasis on group rights – which they see as in conflict with robust individual rights protections’. Such interventions may come from international law or from

domestic courts willing to tackle the terms of the power-sharing agreement (McCulloch, 2017, p. 413).

However, the record of courts as unwinders of ethnic political bargains is mixed (McCulloch, 2017, p. 413). International courts have ruled against consociational arrangements (for example in the case of Bosnia and Herzegovina seen below in Section 3) but have also propped them up (for example in the case of Belgium) (McCulloch, 2017, p. 413). They have the 'potential to loosen sticky rules, or can at least get the process of reform on the agenda, and may 'unwind the political settlement more gently' than political actors' (Sapiano, 2017, p. 164 cited in McCulloch, 2017, p. 413).

However, McCulloch (2017, p. 414) notes some areas of concern in relation to international courts playing the role of unwinder of power-sharing arrangements. They may 'miss key local contextual factors, and may not understand or appreciate why it was that consociationalism was adopted in the first place' or 'get the timing of the transition wrong, pushing society away from power-sharing before it is ready, thereby regressing any gains made in terms of political stability' (McCulloch, 2017, p. 414). In addition, local politicians may not comply with the proposed reforms of the international court, which has the potential to undermine the court's legitimacy (McCulloch, 2017, p. 414). In addition, while the intention of such rulings may be to ease the country away from rigid power-sharing and any constraints on human rights, by ruling against the agreement it could be seen as 'confirming the illegitimacy of the existing political arrangement' and have the 'unintended consequence of undermining the pursuit of a multiethnic state by reinforcing the notion that the state itself is illegitimate' (McCulloch, 2017, p. 414).

Domestic constitutional courts, where they are, or at least appear to be, sufficiently impartial and independent with respect to rival ethno-political factions, are suggested as a potential solution (McCulloch, 2017, p. 415). The domestic courts have a firm understanding of local complexities and are not subject to public opinion in the same way as politicians, which means 'they may be able to make the difficult choices that politicians are hesitant to undertake' (McCulloch, 2017, p. 415). However, in some cases they may choose to uphold power-sharing, rather than set up the conditions to move away from it – see section on Bosnia and Herzegovina below (McCulloch, 2017, p. 415).

McCulloch (2017, p. 415) notes that while courts may help to 'get the ball rolling', 'their success remains dependent on the political will to undertake the necessary institutional reforms' as constitutional courts cannot create new laws. Politicians may be 'reluctant to undertake such reforms, either because it risks jeopardising their own political standing or because they worry about the relative gains made by other groups during such negotiations' (McCulloch, 2017, p. 415).

C. Power-sharing adoption on an interim basis

Another pathway out of power-sharing is to establish that the arrangement is temporary from the beginning (McCulloch, 2017, p. 410). However, the exit of interim power-sharing arrangements is not always well signposted (McCulloch, 2017, p. 410).

Sometimes there is an aspirational claim to transition, with an understanding that the goal is to move beyond power-sharing but the timeline or procedures for doing so are not specified (McCulloch, 2017, p. 410). The 'how' of transition beyond power-sharing is left to future political actors (McCulloch, 2017, p. 410). A benefit of this is that it allows parties to collectively articulate the speed of the transition, and this consensus can help bolster the odds of a successful

transition (McCulloch, 2017, p. 410). A temporary power-sharing agreement can 'allow parties to defer particularly difficult and contentious issues to a later date when the stakes are not as high' (McCulloch, 2017, p. 410). However, without a specified end date to the agreement there may be little incentive or motivation to change the arrangement, especially if political elites benefit from the status quo (McCulloch, 2017, p. 410).

Another alternative is to have a binding timeline or sunset clause (an end date), 'at which point the parties can either choose to renew the agreement for another set period of time or they can choose to shift to a new arrangement' (McCulloch, 2017, p. 411)¹. The power-sharing agreement in post-apartheid South Africa is an example where this occurred, although it was not a fully consociational configuration due to lacking mutual-veto rights (McCulloch, 2017, p. 411). McCulloch (2017, p. 411) notes that sunset clauses can 'get parties through the vast uncertainty and mistrust that characterises the immediate post-war period; they provide a period of confidence-building between distrustful actors, and in asymmetrical relations, they can represent a gesture of goodwill on part of the dominant group'. In addition, they 'avoid locking any single party into power permanently' (McCulloch, 2017, p. 411).

However, they may also contribute to instability as the deadline for the agreement to expire may make parties nervous about their place in the new system (especially minorities) and could lead to renewed violence (McCulloch, 2017, p. 411-412, 419). This is especially the case if the sunset clause does not provide enough time to instil norms of cooperation between the parties (McCulloch, 2017, p. 412).

Collapse of power-sharing arrangements

McCulloch (2017, p. 419) notes that while there are democratic pathways from power-sharing, as detailed above, 'a dominant pathway from power-sharing is simply through the collapse of the arrangement'. In Cyprus, for example, a three-year experiment in power-sharing ended in deadlock, a coup d'état, an invasion by Turkey and the de facto partitioning of the country (McCulloch, 2017, p. 419). A prior informal power-sharing arrangement in Lebanon was ended by the civil war in 1975 (McCulloch, 2017, p. 419). Burundi's power-sharing agreement has slowly unravelled, alongside a consolidation of authoritarian rule and an increase in levels of violence – see Section 3 below for more details (McCulloch, 2017, p. 419; Vandeginste, 2017). However, in all these cases, the countries have previously experienced, returned to, or power-sharing remains the dominant proposed solution to resolving the crisis (McCulloch, 2017, p. 419).

Thus McCulloch (2017, p. 406, 230) suggests that perhaps consociationalism may be beneficial as an enduring institutional fixture rather than viewed as a transitional device. It is often adopted to deal with a 'demographic configuration ill-suited to majoritarian rules' and attempts to move towards majoritarianism are not likely to induce 'normal' politics but be more likely to retrigger mistrust and exclusion (McCulloch, 2017, p. 420). A well-designed power-sharing arrangement, on the other hand 'not only contributes to political stability, it can also ensure minority inclusion

¹ McCulloch (2017, p. 412) also mentions emergency power-sharing pacts, which are an increasingly common strategy designed to quell electoral violence, as an interim power-sharing arrangement, although they generally do not introduce full consociationalism. Used in places like Kenya and Zimbabwe, they have been designed to stop violence that follows from disputed election results and are intended as a holding arrangement (McCulloch, 2017, p. 412). They 'come with significant risks, including the fact that they trade effective governance for short-term stability' (McCulloch, 2017, p. 412).

and democratic politics for all groups' (McCulloch, 2017, p. 420). However, McCulloch (2017, p. 420) notes that it is important that power-sharing agreements are able to incorporate small-scale changes over time as contexts change, which is 'likely to entail a liberal form of power-sharing instead of a corporate consociation' (McCulloch, 2017, p. 420).

The role of external actors in supporting constitutional reform

External actors have played a role in power-sharing transitions and political reforms (as well as in supporting power-sharing) (McCulloch, 2017, p. 418; McCulloch & McEvoy, 2019). This can be done in a 'direct fashion through conditionality measures (e.g., constitutional reform requirements for EU accession) or through an arbitration process' (McCulloch, 2017, p. 418). They may act as facilitators and convene interparty negotiations, provide technical expertise on institutional reform, or draft the text of an agreement (McCulloch & McEvoy, 2019, p. 222). Their approach may be 'light touch' or heavy handed' (McCulloch & McEvoy, 2019). Examples include Northern Ireland and Bosnia and Herzegovina, which can be seen in Section 3 below.

A light touch strategy of convening talks and proposing measures to resolve power-sharing crises can enable the process to continue, provide stability, and make progress when parties are ready to resolve issues (McCulloch & McEvoy, 2019, p. 226). However, if their engagement appears too light, and is 'perceived as detached and indifferent, they risk alienating groups and even signalling to elites that their intentions to thwart power-sharing in the interests of their own group will remain unchecked' (McCulloch & McEvoy, 2019, p. 227). Parties may choose to walk away from talks and blame their opponents or external actors for the lack of progress, or feel that external actors detached and indifferent approach favours one party, resulting in inter-party relations deteriorating (McCulloch & McEvoy, 2019, p. 226). A lot depends on parties willingness to cooperate, and if they choose to renege on their commitments, external actors are faced with the 'difficult decision of whether to re-engage with another 'light touch' effort or adopt a more heavy-handed approach to address power-sharing instability' (McCulloch & McEvoy, 2019, p. 227).

A more heavy-handed approach by external actors tends to involve more assertive or coercive measures, as external actors move 'beyond facilitating talks as a way to overcome stalemate to imposing a decision on the power-sharing institutions or dictating the way forward' (McCulloch & McEvoy, 2019, p. 227). This more assertive approach, especially if it is seen to favour one group over another, can have complex or difficult consequences (McCulloch & McEvoy, 2019, p. 227). 'Promoting self-government and local ownership via heavy-handed measures has an adverse impact on the political institutions and inter-communal relations' (McCulloch & McEvoy, 2019, p. 229).

McCulloch and McEvoy (2019, p. 230) suggest that external actors could continue to support power-sharing stability while also supporting local actors as they 'go it alone' through two broad strategies of 'designing a set of 'living' power-sharing institutions and building in deadlock-breaking mechanisms at the outset'. The first strategy takes a 'there's always more talks' approach to power-sharing practice, recognising that the moments in which the power-sharing agreements are negotiated are not necessarily ideal and that more may need to be discussed (McCulloch, 2019, p. 230). This becomes easier if corporate consociational rules are avoided as much as possible, as these rules tend to entrench ethnic positions and make cooperation difficult, and if the original peace agreement is not held up as the single definitive statement of inter-communal relations (McCulloch & McEvoy, 2019, p. 230). Cochrane et al (2018, p. 73 cited in McCulloch & McEvoy, 2019, p. 230) call this approach 'living consociationalism', which

involves a 'combination of flexible procedures for institutional reforms with extensive sets of institutional incentives for cooperation'. The second strategy suggests that building robust dispute resolution/mediation processes into the initial agreement, which may be facilitated by external actors, would help in situations where political elites have not been inclined to cooperate with each other (McCulloch & McEvoy, 2019, p. 231).

3. Country case studies

A few examples of deeply divided societies that are taking various pathways from consociationalism are detailed below. They are at different stages in their pathways away from, or in refining, their consociationalism arrangements, although the factors affecting these reforms and their impacts are not always clearly set out in the available literature.

Northern Ireland – politically initiated reforms

Northern Ireland has features of liberal consociation and is an example where an incrementalism approach has occurred (McCulloch & McEvoy, 2019, p. 218; McCulloch, 2017, p. 417). There have been five key post-settlement agreements that have streamlined the institutional process around the Good Friday Agreement (1998) (McCulloch, 2017, p. 417). These agreements have been brokered by the British and Irish governments, who are co-guarantors of the Good Friday Agreement, and have been key to keeping power-sharing on track (McCulloch & McEvoy, 2019, p. 216). At times, though, the British government has taken a more heavy-handed approach, which has not always been helpful to relations between the parties involved (McCulloch & McEvoy, 2019, p. 227-228, 230).

The 2006 St Andrews Agreement, for example, altered the rules for the election of the First Minister (FM) and deputy First Minister (dFM) so that the previous contentious strategy requiring inter-ethnic rivals to support candidates from the other side was replaced by the FM now coming from the party with the largest seat share in the Assembly and the dFM coming from the largest party in the largest national designation other than the FM's (McCulloch, 2017, p. 417). It was drafted by the British and Irish governments, who convened inter-party talks (McCulloch & McEvoy, 2019, p. 222). The 2010 'Hillsborough Agreement devolved justice and policing to the region and the 2014 Stormont House Agreement set out principles for dealing with the contentious issues of welfare reform, parades and flags, and recommendations on an overall reduction in the number of [Members of the Legislative Assembly (MLAs)] elected to the Northern Ireland Assembly' (McCulloch, 2017, p. 417; McCulloch & McEvoy, 2019, p. 223). New talks in late 2015 when the agreement failed to be effectively implemented led to the Fresh Start Agreement, which addressed the functionality of the Northern Ireland Assembly 'through the reduction of the total number of executive portfolios and seats in the Assembly (from 108 to 90), the creation of an official opposition and restructuring the Petition of Concern, a kind of veto right in place for the region's two communities' (McCulloch, 2017, p. 417). The creation of an official opposition 'incentivises a kind of combativeness more closely associated with majoritarian government and opposition style politics', although the government-and-opposition arrangement stalled with the failure of the DUP and Sinn Féin to agree to a new Programme for Government after the snap 2017 elections (McCulloch, 2017, p. 418).

These agreements were not intended to move away from power-sharing but to refine and streamline the power-sharing institutions, making them more efficient (McCulloch, 2017, p. 417). One official suggested that each crisis and the response has resulted in issues being addressed

and put away (McCulloch & McEvoy, 2019, p. 221). McCulloch (2017, p. 418) suggests that these examples indicate that power-sharing agreements are not inherently 'sticky' and that this kind of tinkering over a long period of time can add up to big changes. However, not all parties support this talks strategy and they have been accused of resulting in politics that 'perpetually exists in the realm of high-stakes crisis mediation, not in the everyday business of 'normal' politics' (McCulloch, 2017, p. 418).

Despite these reforms, and subsequent elections and talks, power-sharing was suspended in 2017 for three years as a result of a renewable heating energy scandal, marriage equality, an Irish language act, and Brexit, amongst other things (McCulloch & McEvoy, 2019, p. 216, 223-224). Power-sharing has restarted this week (13th January 2020) with the support of the British and Irish governments, who drafted a New Decade New Approach deal to restart power-sharing and provided substantial sums to sweeten the deal (The Guardian, 2020). The governments have provided a compromise 'whereby the rights of Irish speakers are balanced with rights for the Ulster Scots/loyalist tradition' (McDonald, 2020). Unhappiness with the main parties had led to the loss of thousands of votes in the recent general election, which added to the pressure on the parties to return to devolution and power-sharing (McDonald, 2020).

Bosnia and Herzegovina – judicial interventions

The 1995 Dayton Accords ended war in Bosnia and Herzegovina and created the cooperate consociationalised political, governmental, and judicial structures in Bosnia and Herzegovina (Bell, 2018, p. 17). The power-sharing system put in place by Dayton has been criticised as flawed and is seen to be a major factor as to why the country has not moved on from ethnic discord (Bell, 2018, p. 17, 19-20). The different layers of power-sharing (local, cantonal, entity, and federal) can make it difficult to 'accomplish a reform agenda' (Bell, 2018, p. 20). Rice (2017, p. 9) notes that nearly every proposed resolution or amendment to Bosnia and Herzegovina's consociationalism arrangement has failed, and there has been a lack of willingness by domestic actors to pursue reforms.

Bosnia and Herzegovina is an example of consociationalism arrangement where attempts have been made to reform it through judicial interventions (McCulloch & McEvoy, 2019, p. 218). There have been three rulings against the consociationalism arrangement in Bosnia and Herzegovina at the European Court for Human Rights (*Sejdić and Finci*, *Zornić* and *Pilav*)² (McCulloch, 2017, p. 413). In their judgement on *Zornić*, the court noted that the original constitutional arrangement was never meant to be permanent and concluded that 'more than 18 years after the end of the tragic conflict, there could no longer be any reason for the contested constitutional provisions to be maintained' (European Court of Human Rights 2014 cited in McCulloch, 2017, p. 413). However, these judgments against the Bosnian arrangement were not unanimous and the dissenting judge in the *Sejdić* case, noted that: 'I, for my part, doubt that any state should be

² 'In *Sejdić and Finci vs. Bosnia and Herzegovina* (2009) Jakob Finci and Dervo Sejdić, who are Jewish and Roma respectively, challenged the rules for election for the tripartite presidency and the House of Peoples at the European Court of Human Rights, alleging ethnic discrimination against 'others' (i.e., anyone who does not identify with the constituent peoples). In *Zornić vs. Bosnia and Herzegovina*, (2014) the court found that the rules on election to the presidency and House of Peoples discriminated against Azra Zornić who could not contest the elections because she was unwilling to declare an ethnic affiliation and instead identified as 'a citizen of Bosnia and Herzegovina'. In *Pilav vs. Bosnia and Herzegovina*, the court also ruled that the presidential rules were discriminatory against Ilijaz Pilav, a Bosniak living in the Republika Srpska town of Srebrenica, who could not contest the presidential elections on the basis of his residence.' (McCulloch, 2017, p. 421).

placed under any legal or ethical obligation to sabotage the very system that saved its democratic existence' (European Court of Human Rights 2009, p. 56 cited in McCulloch, 2017, p. 414). There is lack of local consensus on the reforms proposed by these judgements and they have not moved forward significantly since the judgements were made (McCulloch, 2017, p. 414; Bell, 2018, p. 23).

Other judicial interventions have extended the power-sharing arrangements in Bosnia and Herzegovina (McCulloch, 2017, p. 415). In 2000, Bosnia's Constitutional Court made the controversial ruling that the constitutions of both Entities had to extend 'constituent peoples' status to all three recognised groups (McCulloch, 2017, p. 415). This introduced reforms that would constitute the upper chambers of the two entities on the basis of parity (regardless of population) and mandated that government be formed on the basis of proportional representation, moving away from ethnic homogeneity in the Entities (McCulloch, 2017, p. 415).

Other external efforts to reform the system

A heavy-handed external governance approach was taken by the Office of the High Commissioner, which controversially had powers to 'impose measures when the domestic parties are unable to agree and to take action against politicians and officials deemed 'in violation' of the agreement' (McCulloch & McEvoy, 2019, p. 228; see also Rice, 2017, p. 9). These powers have been used to drive reform (McCulloch & McEvoy, 2019, p. 228). For example, a new rule was imposed that changed the number of representatives required to be present in order for the government to take decisions, which minimised the chronic absenteeism used by Ministers to block parliamentary decisions (Rice, 2017, p. 9). However, the use of these powers 'created a problem of dependency on the part of the local parties, whereby they could avoid making decisions on contentious issues, knowing that the High Representative would eventually step in' (McCulloch & McEvoy, 2018, p. 228). Having external governance reduced the incentives for local actors to compromise on contentious issues which deprived consociationalism of its positive inducement of elite cooperation and the development of unity and trust between them (McCulloch & McEvoy, 2019, p. 229; Rice, 2017, p. 9; Merdzanovic, 2017, p. 34). In addition, the heavy-handed approach resulted in 'the entrenchment of nationalist positions and regular standoffs between the High Representative and nationalist political parties, in particular, Bosnian Serbs' (Juncos, 2012, p. 699 cited in McCulloch & McEvoy, 2019, p. 229). Such external intervention has meant that it could be argued that Bosnia and Herzegovina's consociationalism has not had the opportunity to start working properly, although it could also be argued that external intervention was needed to overcome both 'the uncooperative behaviour of the domestic elites and the inadequate political structures' (Merdzanovic, 2017, p. 34).

Other external efforts have been made to introduce constitutional reforms, including those needed for prospective EU membership (McCulloch & McEvoy, 2019, p. 224; Bell, 2018, p. 23). External actors, even where they frame their engagement as support and facilitation, can be interpreted by internal actors as imposing and interfering (McCulloch & McEvoy, 2019, p. 227). The EU's fairly strict reform parameters which have led to a push for stronger central institutions, have mobilised secessionist sentiment, fanned power struggles and undermined reform (McCulloch & McEvoy, 2019, p. 227). Attempts to pass these reforms, such as the 2006 'April package' and the 'Butmir process', failed to get the domestic political support needed (McCulloch & McEvoy, 2019, p. 224-225; Bell, 2018, p. 23-24; Rice, 2017, p. 10). The 'perception of Bosnian Serbs that constitutional reform was intended to favour the Bosniak position via centralization has shaped the process in zero-sum terms' (McCulloch & McEvoy, 2019, p. 226). Ethnic

nationalism has fuelled the political culture in the country, creating a hostile environment for the ideals of consociationalism (Rice, 2017, p. 10). Bell (2018, p. 20) also argues that one of the key reasons constitutional reform has not progressed in Bosnia and Herzegovina is that 'political elites are seemingly unwilling to compromise in scenarios where they will lose power and control over some territory'. In addition, none of the main parties share a common vision, which make working towards constitutional change harder (Bell, 2018, p. 26). It was hoped that working towards EU membership could be a common goal for the country's leaders, but this has not been the case (Bell, 2018, p. 39). In addition, some argue that 'there has been limited public support for constitutional reform as everyday citizens do not necessarily see how this impacts their daily lives' and for many people, the current structure represents stability (Bell, 2018, p. 41).

However, the lack of improvement in inter-party relations which followed the failed 'Butmir process' and dissatisfaction with government inactivity fed into a series of political protests in 2013 and 2014 organized by civil society, the so-called 'Baby revolution' ('Bebolucija') and 'plenum movement' (McCulloch & McEvoy, 2019, p. 225; Merdzanovic, 2017, p. 34). People took to the streets to 'voice opposition against patronage networks, a political elite uninterested in social welfare, and a political system that neither works for their interests nor manages to produce socially acceptable results' (Merdzanovic, 2017, p. 34). Merdzanovic (2017, p. 34) notes that it remains to be seen what effect these political protests will have in the long term.

Rice (2017, p. 11) notes that attempts at reform have not addressed 'underlying issues of distrust and disunity between Serbian, Muslim, and Croatian political elites' which she suggests has ultimately 'prevented the development of cross-cutting state loyalties and resulted in the failure of consociationalism'. Subsequent external efforts focused on 'socio-economic reform and putting constitutional reform on the back burner for the time being', with the idea that constitutional reform will come over time as parties become more cooperative (McCulloch & McEvoy, 2019, p. 225).

Lebanon – interim arrangements

Lebanon has a history of both formal and informal consociational arrangements (Bogaards, 2019, p. 27). Fakhoury (2019, p. 11) notes 'three core dilemmas that have recurred in Lebanon's political transition: the power-sharing formula's proneness to deadlock, its dependence on the external environment as an avenue for partisanship and sectarian leverage, and its weak responsiveness to demands from below', strongly linked to the politics of sectarianism.

Lebanon's consociational arrangements have been criticised for their inflexibility and the seeming impossibility of change (Bogaards, 2019, p. 28). However Bogaards (2019, p. 28) notes that the main difficulty lies with 'reforming the country's *informal* institutions' rather than the rigid constitution. He argues that it is the informal nature of the understanding between the country's leading communities that the most powerful national offices are allocated to designated denominations that makes it so hard to change (Bogaards, 2019, p. 28, 35). Over time there has been a tendency for informal consociational institutions in Lebanon to become formal (Bogaards, 2019, p. 37).

The Ta'if Agreement of 1989, a peace agreement ending the civil war, is an example of an aspirational pathway away from consociationalism (McCulloch, 2017, p. 410). Rosiny (2015 cited in McCulloch, 2017, p. 410) notes that the 'Ta'if Agreement was designed as transitory. However, he argues that part of the reason it has failed to move past the consociational stage is because 'the signatories underestimated the need for a clear roadmap that would also have been

compelling for those politicians who were elected later and did not participate in drafting the agreement' (Rosiny, 2015, p. 498 cited in McCulloch, 2017, p. 410; see also Bogaards, 2019, p. 37). Most of the consociational features have been constitutionalised, which suggests change needs to come from parliament to reform it (Bogaards, 2019, p. 37). However, 'ethnic entrepreneurs', have been blamed for the failed transition, and therefore advocates of change might need to look beyond parliament toward the leaders of the various ethnic communities (Bogaards, 2019, p. 37).

A variety of crises have developed since the Ta'if Agreement. The Doha Agreement of 2008, which was intended to stop violence, end the political crisis between the anti-Syrian majority and Hezbollah, and restore order in Lebanon, involved foreign mediation (Bogaards, 2019, p. 32; Machnouch, 2018, p. 5). It helped to 'settle a dispute about the drawing of electoral districts and provided for an interim government of national unity' and was felt by some to be a 'weakening of parliament, limiting majoritarian rule, and overall deepening consociationalism' (Bogaards, 2019, p. 32). However, since 2011, cabinets have collapsed, others have been on the verge of breakdown, and elections have been postponed (Fakhoury, 2019, p. 12).

Efforts to reform and actual reforms have occurred during this time. During the term of the former Prime Minister, Tammam Salam, he attempted to loosen the dominance of sectarian identities over the cabinet by proposing that ministers rotate so that there was not a sectarian grip over certain ministries, and held negotiations with a goal of introducing a deadlock-breaking mechanism (Fakhoury, 2019, p. 13). Electoral law reforms had to balance a number of different objectives to try and ensure 'both proper communal representation and national integration within a democratic environment' (Machnouch, 2018, p. 14). In 2017 a new electoral law was passed which 'reduced the number of Lebanon's districts, introduced proportional representation (PR), and sought to promote cross-cutting allegiances through the introduction of a preferential vote' (Fakhoury, 2019, p. 13). Some felt that the law 'allowed voters to strongly identify with their representatives', while others felt that 'it empowered sectarian allegiances at the expense of national unity' (Fakhoury, 2019, p. 13). Machnouch (2018, p. 2) notes that electoral reforms are seen as the 'the single most important institutional reform' in consociational regimes, as they shape behavioural incentives for candidates. The 2018 elections led to moderate political shifts in the parliament but led to a period of high sectarian fragmentation, and inter- and intra-sectarian struggles over the distribution of strategic ministerial portfolios (Fakhoury, 2019, p. 13-14). This sectarian elite wrangling, has contributed to inefficient governance and deterioration of public services (Fakhoury, 2019, p. 14).

A number of incidents, such as the 2013 Tomato Revolution protests and the 2015 trash crisis protests indicate how 'the power-sharing formula has poorly responded to calls for reforms and to the citizenry's grievances' (Fakhoury, 2019, p. 18). A factor in the demobilisation of these protests was sectarian leaders crafting of a 'counter narrative that the movement threatened civil peace and undermined Lebanon's precarious stability' (Fakhoury, 2019, p. 18). Political leaders have been especially reluctant to reform laws which 'may erode the religio-political model on which Lebanon's power-sharing is built, despite lobbying by civil society' (Fakhoury, 2019, p. 18). Lack of responsiveness to pass laws to address citizens' concerns in relation to areas such as health, water, or employment, has resulted in a sharp decline in citizens' satisfaction with the performance of the political system (Fakhoury, 2019, p. 19). Fakhoury (2019, p. 19) argues that Lebanon's system's 'focus on sectarian representation hampers nonsectarian forms of mobilization and weakens politicians' interest in citizens' concerns'.

A variety of proposals for constitutional reform exist, including those which seek to improve the functioning of the consociational system (Bogaards, 2019, p. 35). The proposal for a referendum mechanism to settle major issues 'could make the decision making more majoritarian, depending on how it is done' (Bogaards, 2019, p. 35).

Burundi – (attempted) de-consociationalism

The 2000 Arusha agreement marked the end of ethnic civil war in Burundi with a consociational power-sharing arrangement (Vandeginste, 2017, p. 7). A major achievement of the agreement was felt to be the 'de-ethnicization of political competition' (Vandeginste, 2017, p. 7). However, Vandeginste (2017, p. 6) details how Burundi's consociational power-sharing arrangement came under increasing threat, against a wider background of democratic backsliding towards a de facto one party state.

A variety of factors, including structural features and elite choices, contribute to the '(attempted) end of consociationalism in Burundi' (Vandeginste, 2017, p. 6). Weaknesses in the consociational arrangement itself, such as where rules were not clearly formulated, became a problem in the climate of distrust that has prevailed since the 2015 political crisis (Vandeginste, 2017, p. 7). Vandeginste (2017, p. 8) also suggests that consociational arrangements may decline if 'their institutional set-up does not match (or no longer matches) with the underlying social groups and divisions and their political relevance', as then 'maintaining the consociational status-quo risks being out of phase with social realities'. As the political salience of ethnicity seems to be declining, this could be a factor (Vandeginste, 2017, p. 8). Some parties in Burundi have increasingly questioned the legitimacy of the Arusha peace process, making the case that the current consociational institutions are illegitimate as well (Vandeginste, 2017, p. 9). The main objections come from a party who were absent during the peace negotiations (Vandeginste, 2017, p. 9). Post-conflict elections in Burundi have promoted autocratisation and undermined power-sharing, with the three post conflict elections fundamentally altering Burundi's political landscape compared to the political context at the time of the Arusha Agreement (Vandeginste, 2017, p. 10). International engagement with the process has also waned, and international actors have generally been vague about what they expect from respect for the Arusha Agreement (Vandeginste, 2017, p. 11). The consociational power-sharing arrangements have been 'informally altered (evaded, eroded and hijacked)' and Vandeginste (2017, p. 12) suggests that unilateral initiatives to 'amend the constitution might well be the formalisation of an informal degradation process' by the ruling party, which is not in favour of the Arusha Agreement.

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