Conditioned consent.

Externally engineered post-conflict power-sharing agreements and the quest for elite cooperation. The Good Friday and Dayton Agreement in comparison.

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Roland Schmidt
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ABSTRACT

In its original conceptualization, power-sharing is premised on 'enlightened elites' who are cognizant of the dangers of competition in deeply divided societies. To avoid violence, elites strike deals which are acceptable to their interlocutors as well as their own constituencies. In sharp contrast, power-sharing's newer strand is largely applied in reaction to violence and features elites who hitherto have shown little inclination for self-restraint. Instead of 'amical agreements', elites' consent to post-conflict power-sharing becomes conditioned on third party's incentives and sanctions.

This genesis brings about two major challenges. First, externally engineered agreements pair non-consensual parties with formal institutions requiring moderation. This mismatch is a receipt for immobilism. Second, with consent conditioned on 'sticks and carrots', third parties become a surrogate for elite motivation. Once their influence attenuates, frictions arise. This context prompts the question how post-conflict power-sharing agreements can be transformative and facilitate an elite behavior which is congruent with the institutional framework and viable in the absence of third parties.

On a theoretical level, the thesis highlights the interdependency of elite motivation, elite intra-group predominance and institutional safeguards. To relax the inherent tensions, the thesis makes the case for not fully deterministic agreements. Rather than spelling out a final outcome with winners and losers, not fully deterministic agreements are sufficiently ambiguous to bridge the divide across the cleavage but also between elites and their constituency. The negotiation of an agreement becomes diffused from a high-stake moment into an ongoing deliberation. Potentially - but not necessarily -, the underlying incompatibility may become amenable to new solutions.

On an empirical level, the thesis investigates Bosnia's Dayton Agreement and Northern Ireland's Good Friday Agreement by means of cross-case study research and process tracing. Both agreements were concluded under the strong influence of third parties and feature a comprehensive set of accommodative institutions. However, both have been exhibiting markedly different patterns of elite interaction. While the development of Dayton Bosnia has been typical as to the theoretical expectations (strong intervention results in immobilism and attenuation problem), Northern Ireland featured - despite repeated crises - deviant patterns of elite cooperation and moderation. Notwithstanding each case's institutional and historical intricacies, the argument is presented that the openness of the Good Friday Agreement as to the future status of the region facilitated the constructive engagement of those initially opposed to the agreement. They did so, however, only once their parties had become the dominant representatives of their segment. In contrast, the elite cooperation under the Dayton Agreement has been largely a consequence of the OHR's resort to sanctions. With its attenuation, inter-elite antagonism returned with new vigor.

The results stress the need for a more nuanced differentiation between power-sharing as a means to end violence and a means to consolidate peace. Reconciling the requirements of elite motivation, elite predominance and an institutional accommodation can amount to squaring the circle. While there is a limit how far each can be manipulated, not fully deterministic agreements offer a means to expand the room to maneuver.

ACKNOWLEDGMENTS

Would it not be for the melodramatic sound of it, I could confidently claim that this thesis is the result of a journey. And this on many levels. In the late 1990s, I had just started my undergraduate studies in economics at the University of Innsbruck and was full of what later would be cured as naïve academic enthusiasm, I joined a group of students from various European countries for a case study trip to Moldova. For reasons I do not recall today, the meeting point was Budapest and before we embarked upon our trip which would have merited to be a case for research in its own right, we spent some days in the Hungarian capital. One of our colleagues studied at this 'international university' which was said to boast some leading scholars, host students from all over the world, and, how can it possibly be, even had a swimming pool in its dorm. I do not remember specific details, but I do recall the feeling I had when I left the building at Nádor utca 9 after my first visit. For me, then admittedly rather fresh to the world of academia and Central Europe alike, the encounter with CEU's community was nothing short of eye-opening and inspiring. This were the late 1990s, and there was (still) a contagious spirit of optimism, and if not 'the wind of change', I was convinced that I felt at least the breeze of transition at work. The vibrancy and sense of purpose among these young scholars ignited a curiosity and enthusiasm which were formative in many ways. However, I could hardly anticipate that the computer lab where I checked my emails then, would become one of my regular working places years later.

Back from our case study trip and soaked with new experiences, I had the feeling that if I were to study only economics I would intellectually miss out on the breadth of the topics and dynamics to which I had been exposed to. I had already previously contemplated studying political science but was put off by concerns for 'work-life balance' (it had then a different name) and daunting job prospects (has still the same name). But then a friend encouraged me

to simply join him for a lecture in comparative political science, held by this professor who was said to be really captivating and inter alia known for his clear stance when it came to the revisionist machinations of an Austrian extreme-right politician. The room was packed, people were sitting on the floor, and yet there was an attentive silence which would put most church services to shame (if people were actually attending it). After this first lecture with Anton Pelinka I knew that I would enroll in political science by the start of the following term. But I could hardly anticipate having him in my PhD supervisory panel many years later.

But if the start of this journey was as fortuitous as straight forward, the way eventually leading to this thesis' submission was full of dead-ends, seemingly endless roundabouts, and cross-roads without street signs. But as the Austrian saying 'Umwege erhöhen die Ortskenntnisse' (something like 'detours increase your knowledge of the area') goes, I certainly consider myself as privileged for having had the opportunity not only to write a thesis but to study at CEU with a group of incredibly talented people. To paraphrase Leonhard Cohen (or Jeff Buckley for the better), this 'thesis is not a victory cry, but it's a cold and broken 'submitted'. And if an acknowledgment section should remain true to its name, I am indebted to those who accompanied and supported me on this journey.

I am grateful to my panel members, first and foremost for their patience and general goodwill. At several instances, they must have wondered whether my project not only made sense, but if it even made sense to me. I am indebted to them for having stuck with me and my project until the end. To Carsten Q. Schneider whose apparently irrepressible optimism and wit infected even me at critical moments. To Zsolt Enyedi whose unpretentious intellect and kindness has been a refreshing aberration in an academic circus which is not immune to the imposter syndrome and prone to reduce individuals to their competitive edge. In challenging times as

this, CEU can consider itself lucky to have him as the Pro-Rector for Hungarian Affairs. And, as already noted, I am particularly grateful to Anton Pelinka, not least for having me got unknowingly prompted to study political science in the first place. His life's work as an academic as well as a public intellectual not hesitant to speak up will hopefully serve younger generations as an encouragement and role model, even if difficult to live up to. Needless to say, any shortcomings in this thesis remain only attributable to its author.

Also at CEU, I am grateful to my colleagues, particularly Jenna Althoff, Asli Karaca, Stefan Roch, and Sona Grigoryan, who made my time not only intellectually stimulating but also enjoyable. Wherever their paths may lead them, their future colleagues are enviable. On a more somber note, these acknowledgments would not be complete without mentioning my dear friend Artak Galyan, who would have merited a PhD much more than I do. Our overlapping interest in post-conflict institutional engineering and the pertaining discussions helped me tremendously to get a grip on my own project and to move from a hunch to an elaborated text.

Outside of CEU's community I was fortunate to count on my parents Brigitte and Rudolf whose concern whether leaving a nice job to start a PhD at the tender age of 35 is indeed an advisable career move I probably should have considered more thoroughly. Their support has been nothing but unreserved and loving. Likewise, I am grateful to my sister Carola as well as to my brother Matthias and his family for not only having been encouraging throughout, but also for being simply great siblings. (At this point, a special mention for my niece Mimi, who was born the month I enrolled and who learned to walk, talk, read, write and distinguish a white-tailed eagle from an imperial eagle by the time I submitted 80,000 90,000 words). I am grateful to my partner's parents Anna and Gerhard who together have spent fewer years in formal education than I spent in universities. Their magnanimity and life experience were a constant

reminder that happiness does not need a degree and that a vegetable bed can be as exciting as ggplot2.

I am indebted to my friends, who accompanied me on this journey and more than once patiently listed to my lamentations. Special thanks go to Stefan Lechner, Werner Huber, Monika Mayrhofer, Joe Streibl, Johanna Lober, Irene Moser, Fiona Steinert, Robert Hack and Verena Topitz and their daughter Pippa, who are all not only fun individuals, but whose friendship has been solid as a rock when life was particularly difficult.

Overall though, if there is one person who enabled me to eventually complete this thesis, it is my partner Margit. If she did not have already a PhD, she would merit a *honoris causa* one by simply keeping up with me during the last years. It was her who kept confidence in my abilities when I felt overwhelmed; it was her who restored a sense of direction and purpose when I felt lost. It was her who listened when I should have listened but rambled about incomplete data, methodological brinkmanship, and fuzzy research questions. And it was her who rightly reprimanded me when I digressed into the latest R graphic packages instead of making use of a simple table. Overall, this project took far too much space of our family life and I can only promise that I will try to make up for it. No more Saturdays and Sundays at the library. No more 70 – 30 chore splitting (or was it even less?!). And since life happens while you are busy doing other things, our kids Maja and Luis have been a source of unspeakable joy and daily amazement. Getting this PhD off my table so that I have more time for my family was definitely the strongest incentive pulling me over the line. Thank you!

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LIST OF ABBREVIATIONS

AIA	Anglo-Irish Agreement
APNI	Alliance Party Northern Ireland
BIC	British Irish Council
BIIC	British Irish Intergovernmental Conference
CCt	Constitutional Court
CEC	Central Electoral Commission
DSD	Downing Street Declaration
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
EUSR	EU Special Representative
FED	Federation
FPTP	First past the Post
HoP	House of Peoples
HoR	House of Representatives
IGC	Intergovernmental Conference (provided by the AIA)
IBD	International Body on Arms Decommissioning ('Mitchell Commission')
ICG	International Crisis Group
IICD	International Independent Commission on Decommissioning
MLA	Member of the Legislative Assembly
NSCM	North-South Ministerial Council
OSCE	Organization for Security and Cooperation in Europe
PIC	Peace Implementation Council
PM	Prime Minister
PoC	Petition of Concern
PR	Proportional representation
RIRA	Real IRA (IRA splinter group founded in response to the Good Friday Agreement)
RS	Republika Srpska
RUC	Royal Ulster Constabulary
SAA	Stabilization and Association Agreement
SBiH	Party for Bosnia and Herzegovina (Stranka za BiH)
SDA	Party of Democratic Action (Stranka demokratske akcije)
SDLP	Social Democratic Labor Party
SDS	Serb Democratic Party (Srpska demokratska stranka)
SF	Sinn Féin
STV	Single transferable vote
STV	Single transferable vote
UDR	Ulster Defense Regiment
USIP	US Institute for Peace

1 INTRODUCTION

With the rise of intra-state conflicts in the 1990s and third party interventions seeking not only to end violence but also to build viable democracies, post-conflict power-sharing became the 'default approach' (Sisk 2013a, 10). Contrary to the inductively formed and theory founding cases of consociational theory, the new wave of post-conflict power-sharing agreements has overwhelmingly been not the result of an enlightened political elite which was mindful of the perils of unrestrained majoritarian competition. Instead, external third parties have been seeking to bring an end to an armed conflict and establish an institutional order which would facilitate inter-group cooperation and peace. While the classic cases of power-sharing were largely homegrown and based on 'amical agreements' (Lijphart 1977; Steiner 1974), newer variants frequently amounted to 'coercive consociationalism'(O'Leary 1989). This development not only entailed a theoretical shift from description to prescription, it also implied an at least partial reversal of the causal chain which was purported to link a so-called deeply divided society with stability. Instead of embarking from elites' willingness to cooperate and to subsequently formulate appropriate institutional safeguards, the new approach has been at least implicitly premised on the understanding that accommodative formal institutions, a benevolent third party's sanctions and incentives will eventually engender the required elite behavior. In other words, third party interventionism, at least for a transitory period is thought to be acting as a surrogate for the missing elite voluntarism, with the latter hoped to eventually emerge.

However, irrespective of its popularity, the new power-sharing variant has been confronted with at least two problems. First, non-amical agreements combine non-compromising elites with formal institutions, including veto mechanisms, whose functioning is premised on a

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minimum of mutual moderation and willingness to cooperate. This incongruence of structure and agency risks is prone to result in immobilism (Horowitz 2014). Second, even if a third party's 'carrots and sticks' can engender a modicum of cooperation and hence an alignment of behavior and institutions, once the third party's presence declines, non-cooperative behavior may return. Hence, while short-term progress may materialize, long-term success is prone to remain elusive.

With this as the context the following pressing question arises: How can elite cooperation be forthcoming under externally engineered post-conflict power-sharing agreements? How can initially recalcitrant domestic actors constructively engage in a new institutional dispensation and what are the factors for them to remain engaged once a third party's role attenuates? How can a power-sharing agreement which was concluded on the basis of a conditioned consent develop into a framework for consociational exchanges free from third parties' involvement? This thesis seeks to contribute to answer these questions.

On a theoretical level, the thesis draws on the seminal work of Lijphart (1968; 1969; 1975; 1977; 2004; 2012), Nordlinger (1972) and O'Leary (1989) and presents a framework which emphasizes the requirement of both motivational and enabling factors for cross-cleavage cooperation to be forthcoming. For elites to moderate, they not only need to exhibit a principle readiness, they must be also able to do so without jeopardizing their own prominent position. Importantly though, there is a constraining relationship between elites' need to maintain their communal ties and the concessions stipulated in the agreement. While such tensions are typical for power-sharing agreements, they are particularly pronounced when concluded following a third party intervention.

As means to overcome this constraint, the thesis makes the case for not fully deterministic agreements as viable instruments which diffuse this tension and potentially facilitate the gradual integration of otherwise uncooperative elites into a new institutional framework. By refraining from spelling out a comprehensive settlement which requires far-reaching concessions at the moment when compromise is most difficult, not fully deterministic agreements seek to transform the high-stake-moment of an agreement's negotiation into a process which is at its inception sufficiently open to allow parties to engage in it and gradually may render pending issues amenable to a solution. On an empirical level, the thesis takes up the cases of Northern Ireland's Good Friday Agreement and Bosnia's Dayton Agreement. Both cases were concluded in the 1990s and have at their time been lauded as landmark agreements in pacifying inter-communal bloodshed in so called deeply divided societies. Notwithstanding each conflict's and agreement's intricacies, both agreements have been featuring a variety of accommodational provisions requiring parties to moderate and cooperate across the cleavage. Both cases have been also concluded under the strong influence of external third parties. Instructively though, both agreements have been markedly different as to their ability to evoke elite cooperation. While the Good Friday Agreement has been able to incorporate those parties, which were initially most hostile to the agreement, the Dayton Agreement has suffered from inter-elite antagonism. To account for these different outcomes, both agreements are analyzed in a comparative cross-case study design. Furthermore, to discern the interplay between third party 'sticks and carrots' and inter-elite cooperation within each case, process tracing is applied.

In terms of structure, following this introduction, chapter 2 sets out the empirical and theoretical context, presents the research question and details the theoretical argument. Chapter 3 expounds the thesis' methodological framework, delineates the argument's scope and details

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the rational for the selection of the two cases in light of the proposed theory. While the Dayton Agreement is presented as a typical case, in the sense that its imposed origin has been resulting in a protracted stalemate, the Good Friday Agreement is identified as a 'deviant case' exhibiting - up until relatively recently - the unexpected outcome of two parties that cooperated despite their initial resistance and the need for third party pressure to set the process in motion. The bulk of the study is contained in chapters 4 and 5 which present the two cases studies. Drawing on the work of Beardsley (2011) and his analytical framework of the exit dilemma of third parties, the analysis structures the development of the agreements in distinct phases. Starting from their inception (imposition phase), over subsequent attempts to modify them (recalibration phase), to the eventual decline of third parties' influence (attenuation phase), it traces the process of inter-elite cooperation and how it interacts with the third parties' interventions. Subsequently, and with the intent to explain the diverging developments of both agreements, the comparative chapter 6 contrasts both cases regarding the presence of factors effectively enabling elite cooperation to come forward. Chapter 7, the conclusion, summarizes the results, contrasts them with the wider literature and identifies promising areas for future research.

2 THEORETICAL FRAMEWORK

2.1 Overview

The point of departure for the proposed theory is that consociational power-sharing agreements are based on elite cooperation which is emanating from a voluntarism among the elites for self-restraint, moderation and cooperation. In the classical cases observed by Lijphart, consociational elite behavior was predominately the result of the presence of an enlightened elite which was mindful of a self-denying prediction (Du Toit 1989; Lehmbruch 1975; Lijphart 1968; 1969, 220; 1977; Steiner 1974). Accordingly, the combination of a deeply segmented society with unrestrained majoritarian contestation leads to violence which would eventually leave all parties worse off. Hence, 'in essence, fear of the costs of failure to conciliate is the underlying motive driving the parties to clinch and abide by settlements' (Sisk 2013a, 12). To avoid this scenario, elites would be ready to moderate and create an institutional framework, comprising the by now well-known four institutional elements, to facilitate and strengthen their cooperation. Figure 1 summarizes the at least implicitly proposed causal chain.

Figure 1: Consociational democracy in its original conceptualization
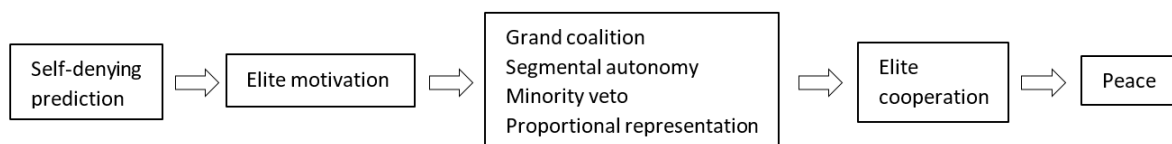
See also Sullivan (2005, 79) for similar figure.

With the rise of intra-state conflicts after the end of the Cold War and third party interventions seeking not only to end violence but also to build viable democracies, externally engineered power-sharing became a near dominant approach advocated by predominantly Western states and international organizations (McCulloch and McEvoy 2018; McEvoy 2014a; 2014b; Wolff 2011). This 'new wave of power sharing democracy' (Taylor 2009, 7) reflected a prescriptive turn of consociational theory, which originally had been first and foremost a theory inductively

Figure 2: Wave of post-conflict power-sharing

Wave of post-conflict power-sharing after the end of Cold War

Number of agreements concluded per year, 1945-2010

Agreements befor 1989

| 0% | 30% | 100% |
| 0 | 19 | 62 |

Agreements after 1989

| 0% | 75% | 100% |
| 0 | 49 | 65 |

■ power-sharing ■ without power-sharing

graph:author, data:Hoddie and Hartzel (2015)
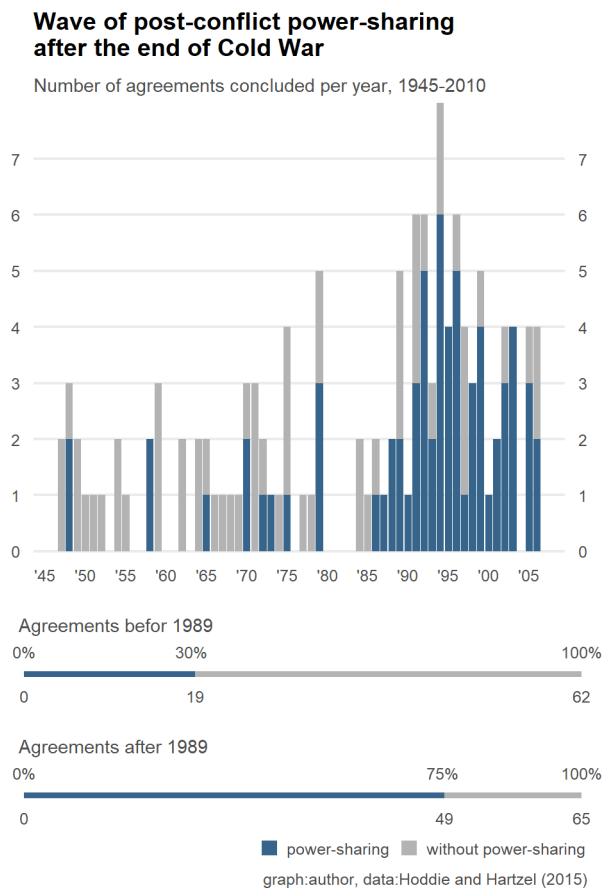
formed to explain the stability of a few Western European countries rather than deductively inferred for the pacification and cultivation of democracy in post-conflict countries. Promoted to no small extent by 'consociational evangelist' (Lustick 1997) and 'academic entrepreneurs' (Dixon 2011) prescriptions presented under the heading 'consociationalism' or 'power-sharing' however have been applied to most post-conflict societies since the late 1980s (see Figure 2).

For the advocates of externally prescribed power-sharing, the theory has been offering a viable means not only for the ending of war and the establishment of democracy, it also offers a tool even when some of the conditions which have originally been identified with the emergence of consociationalism are not present.[1] To substantiate this prima facie surprising assertion, its advocates generally put forward two additional claims: First, none of the elements which had been identified in the classic cases as contributing to the emergence of consociationalism should be considered as necessary conditions in a logical, causal sense (Bogaards 1998). Rather, the conditions put forward are, in Lijphart's own words, 'conducive to the emergence

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[1] The status and content of the favorable factors put forward by Lijphart have been at the center of considerable academic discussion. For a comprehensive overview see Bogaards (1998) who inter alia highlights the changing number and role attributed to the factors over time. Initially, Lijphart put forward six factors: 1) distinct lines of cleavage between the subcultures, 2) multiple balance of power among the subcultures, 3) an external threat , 4) a relatively low decision load on the system, 5) moderate nationalism, and 6) popular attitudes among the population towards government by grand coalition Lijphart (1968, 25–30; 1969, 216–22; 1977, 53–103; 1985, 119–28). The list subsequently was extended, inter alia, to include the internal political cohesion of the subcultures and traditions of elite accommodation. Overall, Bogaards identified four different lists comprising 14 different factors put forward by Lijphart (Bogaards 1998, 478).

and maintenance' and are hence placed in a probabilistic relationship with the outcome (Lijphart 1977, 53–103; 1982, 183; O'Leary 1989, 573). In other words, their presence is considered to be helpful, but not to constitute a *conditio sine qua non*. Second, if consociationalism is to be applied in an unfavorable context by a third party, then the third party can seek to create those missing conditions which eventually may lead to the emergence of a viable consociational democracy. Hence where originally 'enlightened elites' deliberately chose self-restraint it became now incumbent on external third parties to create the conditions for the political leadership to moderate and to cooperate. Furthermore, to adequately address the security dilemma prevalent in intra-state conflicts (Lake and Rothchild 1996; 1998; Posen 1993; Roe 2005; Snyder and Jervis 1999), an expanded set of power-sharing institutions in the political, territorial, economic and military domain has been advocated as well as taken up for scholarly analysis. Overall, the logic seemingly pursued is one of 'institutional bootstrapping': A new institutional framework, created by or with third parties, which requires elite cooperation to function seeks to provide the environment conducive for elite moderation and cooperation despite their initial absence. Figure 3 depicts the suggested causal chain of externally engineered power-sharing. Figure 4 groups post-conflict power-sharing agreements as to their combination of political, territorial, military and political power-sharing safeguards, displays their frequency and highlights whether agreements, i.e. peace, was still present five years after the agreements' conclusion.

Figure 3: Third party prescribed post-conflict power-sharing

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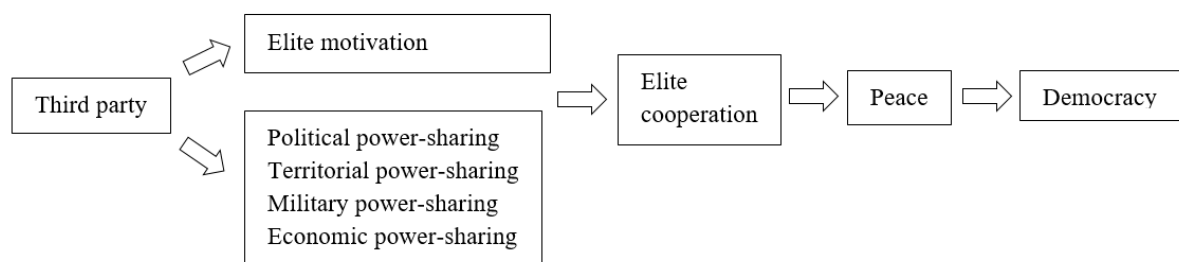
Figure 4: Combination of power-sharing provisions and stability of agreements (red = breakdown)
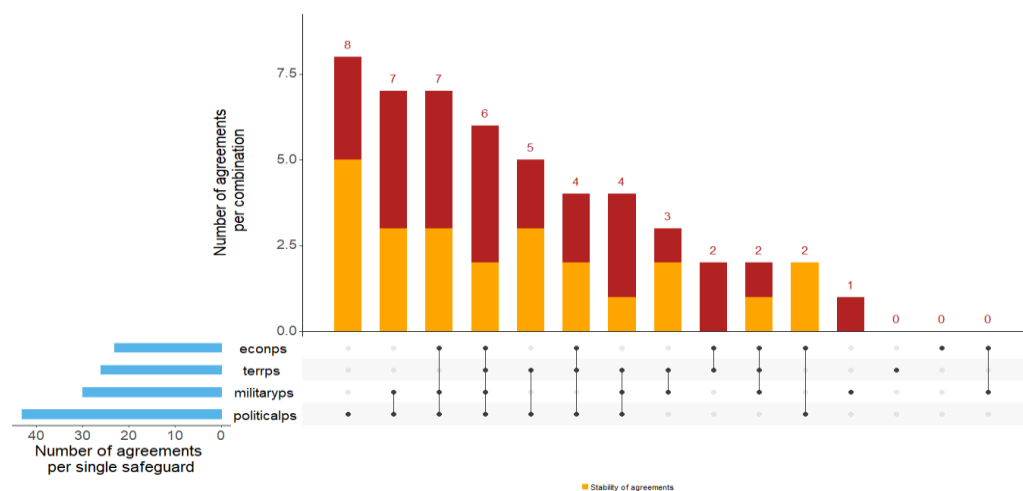
graph: author data: Cammet and Malesky (2012)

While the classic cases have been based on endogenously emerging 'amical agreements' (Steiner 1974) between the elites, post-conflict power-sharing agreements are typically concluded under the influence of an external intervention, altering the former belligerents' cost-benefit assessments. As Figure 5 highlights, peace-agreements – clustered in the '90s and 2000s – were overwhelmingly concluded with the involvement of some form of third party mediation.[2] While in the classic cases, the elite's voluntarism for cooperation has been the key element for the emergence and maintenance of peace, post-conflict power-sharing agreements are based on a diminished consent and elites' willingness to cooperate becomes a goal in itself which has to be achieved. The scope of the theory's

Figure 5: Outcome of conflict episodes

Outcome of conflict episodes and third party mediation, 1946-2007

Agreements are predominantely concluded with the intervention of mediators
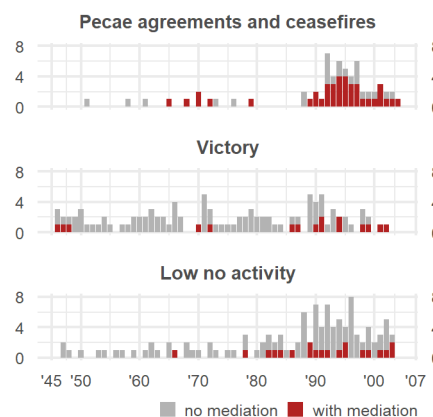
Note:Outcome category 'other' ommitted; graph:author data: DeRouen, Bercovitch, and Pospieszna (2011)

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[2] Note that the unit of observation in DeRouen, Bercovitch, and Pospieszna (2011) are conflict 'episodes', which are nested within a conflict. A conflict episode starts/ends when the annual number of battle related deaths crosses 25.

transformation is poignantly reflected on a semantic level with O'Leary (1989) using the term 'coercive consociationalism'. In the original reading of consociational theory with its emphasis on elites' voluntarism, such a wording would be an oxymoron (see also Bogaards 2012). Table 1 provides an overview of the ideal-typical differences between power-sharing in its classic and newer variant (Wolff 2011, 1781–84).

Table 1: Comparison 'classic' vs 'new' power-sharing

	Classic cases	**'New wave' cases**
Context	- Pre-emptive	- Post-conflict
Role of third parties	- Absent or facilitative	- Also 'coercive consociationalism'
Role of elites	- Motivated by self-denying prediction - 'Amical agreements'	- Reluctance, resistance to cooperate - Cooperation consequence of third party incentives and sanctions
Institutional safeguards	- Grand coalition, segmental autonomy, minority veto, proportional representation - Prominent role of informal institutions	- Political, territorial, military and economic power-sharing - Emphasis on formal institutions
Causal process	- Self-denying prediction => elite motivation => institutional safeguards => cooperation => peace	- 'Institutional bootstrapping'

2.2 The Problem: Viability of elite motivation in the absence of external sanctions and incentives

This difference in the origin of externally prescribed post-conflict power-sharing agreements has fundamental ramifications for the further functioning of the agreement. In particular, two distinct yet interrelated problems arise.

2.2.1 Incongruence of elite behavior and institutions

The first is a potential incongruence between parties' actual behavior and the behavior on which the functioning of the new institutional framework is premised on. While in the classic cases of consociationalism, formal institutions were largely created at the parties' own initiative and aligned with their actual preferences, externally prescribed post-conflict power-sharing arrangements are prone to feature a mismatch of institution and behavior (Bogaards 2012, 8–9). This incongruence of elites' preferences and the new institutional dispensation can be most vividly demonstrated by an excessive application of veto mechanisms. Originally intended to be the 'ultimate weapon that minorities will need to protect their vital interest' (Lijphart 1990, 496), their unrestraint use can result in protracted legislative deadlock, amounting to what Sisk called 'cold peace' (Sisk 2003, 140). Horowitz summarized this outcome under the term 'immobilism problem' (Horowitz 2014, 11–14) and identified asymmetric preferences between the majority and minority leadership as a critical driver. Majorities, constrained by a power-sharing agreement, will only agree to it during phases of weakness. Once this weakness is overcome, majorities are also likely to seek overcoming the constraints of power-sharing, including the taking of uncompromising positions.[3] Legislative stalemate is the consequence.

Despite this negative outcome, parties are frequently not willing or able to formulate a new institutional dispensation. Instead, fearing the unknown consequences of a new framework, parties remain trapped in non-cooperation with mounting costs (Horowitz 2014, 13). Eventually, powers-sharing agreements dominated by immobilism provide the hotbed for

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[3] Cases in point are the Greek Cypriots in 1963 and the current developments in Burundi where the leadership of the Hutu majority has been seeking to scale down power-sharing safeguards (Horowitz 2014, 8)

frustration and raising tensions which can de-stabilize the overall agreement (Sisk 2013a, 14; Sisk and Stefes 2005, 297).[4]

Lijphart was conscious of veto mechanisms' potential negative consequences, but argued that the mere availability of the veto mechanism would restrain majoritarian leaders and prompt them to put forward more consensual policy proposals (Lijphart 1977, 37- 38). Hence, vetoes would be used only sparingly, if at all. Related, Tsebelis (1990) argued in his game theoretic analysis of elite interaction in segmented societies that elites perceive the political situation as a 'game of chicken', implying that elites would stand firm to get the best possible deal but eventually compromise, knowing that a mutually uncompromising behavior would leave both side worse off. While Lijphart's and Tsebelis' analysis is enlightening for the functioning of power-sharing agreements, their pertaining descriptions were premised on the voluntary emergence of the agreements in the first place and presupposed a general acceptance of the overall framework, including the institutional dispensation as well as the territorial integrity of a state.[5] In the case of post-conflict power-sharing agreements which were concluded due to the intervention of a third party, the suggested moderating behavior, however, is not necessarily forthcoming.

The consequences of this mismatch of behavior and institutions may further be aggravated by the weakened signaling role of institutions. A paradoxical consequence of third party interventions is their unintended deflation of the very idea of power-sharing agreements. From their original intention, power-sharing institutions are a means for belligerents to signal their commitment to a peaceful resolution of a conflict (Hoddie and Hartzell 2003; 2005; Rothchild

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[4] Sisk (2013a) refers to the collapse of the power-sharing agreements in Angola, Cyprus, Lebanon, Sierra Leone and Sudan as exemplary cases.
[5] Tsebelis (1990) corroborates his theoretical proposition with an analysis of Belgium's consociationalism.

and Roeder 2005a, 13; Walter 1997; 2009). By agreeing that institutions 'tie their hands', parties credibly signal that they will not (be able to) pursue any hostile acts against each other. The conclusion of power-sharing agreements due to a manipulative intervention of a third party distorts this signaling function and risks rendering the agreement to a form of tokenism. This is an aspect which seems to be generally underappreciated. In their most prominent conceptualization, commitments are argued to be only likely to be perceived as credible 'when the act of sending it incurs or creates some cost that the sender would be disinclined to incur or create if he or she were in fact not willing to carry out' the obligation (Fearon 1997, 69). This definition fails to adequately account for the distorting influence of third party pressure to undertake a commitment.

In contrast, agreements which were concluded without any manipulative involvement of third parties are in principle conducive to a declining relevance of the agreement's safeguards. The former belligerents have comparatively more confidence in the credibility of their opponents' commitment. The signals they send by committing to an agreement are genuinely their own signals, and not modified due to an external third party. With this genesis, the power-sharing framework is better suited to be an environment conducive to the development of trust. As for the classic cases, Lijphart argued that 'sufficient mutual trust at both elite and mass levels may render pacts eventually 'superfluous' (Lijphart 1977, 228).

2.2.2 The 'exit dilemma' of third parties

The second potential problem emanating from the externally prescribed origin of power-sharing is their continuing dependence on external sanctions and incentives. With sanctions or incentives required to bridge the conflict parties' divergent views and to secure the agreement's conclusion in the first place, the subsequent functioning of the agreement becomes contingent

on their continuing presence. Consequently, once the third party impact attenuates, the danger arises that the former conflict parties will also rescind their engagement and the agreement risks unravelling.[6] Beardsley (2011) summarized this problem under the term 'mediation dilemma' or 'attenuation problem', implying that a mediator's intervention to end a war, subsequently entails the vexing decision whether to remain present and become embroiled in a protracted engagement without a clear exit scenario or to withdraw and see a return of violence. McCulloch (2018, 4) uses the equally apt term 'exit dilemma'. This concern overlaps with the more general charge that post-conflict power-sharing has been propagated as a transitional instrument, however with comparably little attention to how such a transition from power-sharing could actually look like (McCulloch 2018, 4; Wolff 2011, 1793). Those critical of power-sharing as a transitional approach argue that once its institutional properties are defined, they tend to ossify and become resistant to change (Jung 2012, 490). To make things worse, by defining the institutional properties in the immediate aftermath of a violent conflict, the dispensation will essentially 'lock in' the group differences a their antagonistic peak what may further effectively thwart any efforts seeking to bridge the divide. This claim speaks directly against the prevalent democratic reconstruction model according to which 'short-term peace making and long-term peace-building are sequential objectives that do not conflict with each other (Jung 2012, 487)'.

The above outlined dilemma will be more pronounced the stronger the third party had initially intervened and shaped the belligerents' preferences by manipulating their cost-benefit calculus in order to secure the conclusion of the agreement. The fall-out of the intrusive character is further exacerbated by the location of the 'contract zone', i.e. the substance of the agreement. At least since the end of the Cold War, direct third party interventions into civil wars have

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[6] On the viability of consocational institutions in post-conflict state building see also Wolff (2011, 1788).

taken place at least ostensibly under the normative imperative of humanitarianism and human rights (McCulloch and McEvoy 2018, 474–76). The official motivation goes regularly beyond the ambition to end fighting, and either aims to 'turn back the clock' and re-establish the status *ante bellum* which is considered to have been the just and legitimate order, or – when aimed to overcome the legacy of a suppressive regime – fill the power-sharing agreement with normative instruments to enshrine the principles of international law, accountability and transitional justice. In this context, it is not sufficient for the third party to reach a deal between the warring parties, but it also has to be in line with the norms, which the international community seeks to promote. While one may have sympathy with this motivation, it further adds to the manipulative or distorting nature of the third party intervention and exacerbates the potential for the attenuation effect.

Although much of the attenuation problem originates from conflict parties' bargaining position and their war ambitions, the problem can also be a consequence of third parties' own constraints. Third parties – states as well as international organizations – are quickly confronted with the need to justify their engagement to their own constituencies, raising the need to swiftly present tangible results, i.e. the end of fighting. In this context, third party representatives may seek to secure any minimum acceptable agreement to justify their engagement, rather than remaining empty handed. In Horowitz's words 'mediators have a bias that keeps them from focusing on good institutional arrangements, in favor of "getting to yes", any yes' (Sisk 1996, 94). To secure some rather than no agreement, third parties will be tempted, if able, to resort to incentives and sanctions as means to change conflict parties' positions. Consequently, the agreement becomes contingent on the third party's continuing involvement. However, once the third parties' constituencies cease to support the engagement in the conflict, the attenuation problem becomes acute.

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2.2.3 The problem of elusive elite motivation

At the center of both above outlined problems is power-sharing's reliance on the presence of an enlightened and self-restraining elite. Unsurprisingly, this aspect has also become a main point of criticism when it comes to externally prescribed power-sharing. For Horowitz, consociationalism in post-conflict societies has remained 'as common as the arctic rose' (Horowitz 2002b, 197). Daalder (1974) highlights that 'if consociationalism presupposes the earlier existence of a special elite culture rather than intelligent choice by particular elites […], its transfer to other societies is likely to meet with greater difficulties' (see also Bogaards 1998, 480). Against this background, any endeavor to promote consociationalism is prone to fail due to unfounded trust in domestic institutions (Chapman and Roeder 2007) as well as in elite's capacity to embrace the self-negating prediction and its required behavioral modifications (Belloni and Deane 2005, 223). Similarly, Luttwak calls under the tell-all title 'Give war a chance' that 'fighting must continue until a resolution is reached' (Luttwak 1999, 36; see also Toft 2010). Any third party intervention, including power-sharing, is only buying time and prone to aggravate the situation in the future. 'To save lives threatened by genocide, the international community must abandon attempts to restore war-torn multi-ethnic states' (Kaufmann 1996, 137). Accordingly, the negative consequences of power-sharing are inescapable and prohibitive. Implicitly, the proponents of this view refer to the 'temporal inconsistency' created by third party interventions and deny any conflict transformative capacity of power-sharing agreements. 'While ethnic fighting can be stopped by other means, such as peace enforcers by international forces or by a conquering empire, such peace last only as long as the enforcers remain (Kaufmann 1996, 137).' War fought until the end and partition are purported to create a 'tabula rasa', a clean slate on which a future peaceful state can be built. The victory or the creation of national homelands is argued to eradicate the resurfacing of the parties' conflict-driving preferences and therefore avoids the problem of 'temporal

inconsistency'. Calls for partition as a means to dissolve intra-state conflicts however run counter to a (still) dominant bias against partition shared by most states (Sisk 2003, 141; Wolff and Rodt 2013). Partition is either refuted due to the feared consequences, implying that one partition would lift the lid of a Pandora's box leading to an escalation of iterations of partitions, or by arguing 'partition theorists underestimate the potential for ethnic reintegration, offer political cover for ethnic cleansers, and prescribe more extreme solutions to ethnic war than are actually warranted (Jenne 2012).' Remarkably, while Lijphart's motivation was clearly to avoid such drastic measures, he himself referred to partition as 'solution of last resort' (Lijphart 1985, 34).[7] This raises the question how can a 'coercive consociationalism' be transformed into a genuine elite cooperation so that the overall agreement becomes self-enforcing? How can the destabilizing consequences of the attenuation effect be avoided?

2.3 Potential sources of elite motivation

Implicit in third parties' approach to externally prescribed post-conflict power-sharing is the assumption that a purposefully built institutional framework can provide the context for the emergence of sustainable peace, even if elites' genuine consent to cooperate is initially absent. By prompting parties to cooperate by means of external incentives or sanctions, iterations of cooperation should be forthcoming which eventually will yield peace as well as 'peace dividends' for the elites and the wider population alike. Hence, while elites may initially be opposed to cooperate, the benefits of prescribed cooperation will generate genuine elite motivation for cooperation and eventually make power-sharing the 'only game in town'.

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[7] There are recent indications for a return of partition as a seriously entertained policy option. The recent proposal of the Kosovo and Serbian government to exchange the Preševo Valley (in Serbia, mainly populated by ethnic Albanians) with Northern Mitrovica (in Kosovo, mainly populated by Serbs) is a case point. Tellingly, the proposal has caused considerable debate within the EU and other third parties, who have been predominantly seeking to promote peaceful multi-ethnic coexistence and pursue a policy emphasizing the integrity of international borders. Altering borders has been an anathema, particularly since the drive for ethnically homogenous areas was a prime ambition of ethno-nationalists fueling the war (Morina and Travers 2018; Economist 2018; Emmott 2018; Bassuener and Vogel 2019).

Against this background, externally created post-conflict power-sharing is hence seen as an instrument to transform elite interactions. External sanctions and incentives are necessary stop-gap measures until elites will *ex propiro motu* embrace the power-sharing framework. With this context two (related) arguments are put forward. First, drawing on a synthesis of Lijphart (1977), Nordlinger (1972) and O'Leary (1989), I argue that for power-sharing cooperation to be forthcoming, not only elite motivation is necessary, but also an enabling environment comprising intra-group elite dominance as well as an institutional framework which entails a substantive overlap between the parties' position and is sufficiently assuring to overcome the security dilemma. Crucially, these three levels or factors are distinct yet mutually constraining (Belloni and Deane 2005; Sebastián-Aparicio 2012). Elite motivation can only be forthcoming if elite predominance is ensured and the agreement sufficiently aligned with the conflict party's preference. Changes to one factor have ramifications for all other elements. In this context, third party interventions seeking to ensure cooperation have to strike a balance between these three mutually constraining factors.

Second, not fully deterministic power-sharing agreements can ease the constraining relationships between the three factors and render cooperation more likely. Instead of putting forward agreements which stipulate a zero-sum definite outcome on the contested substantive issue, leading to winners and losers, not fully deterministic power-sharing agreements can provide a framework within which parties are enabled to continue pursuing their war time ambitions in a peaceful and credible way. While such agreements have to be sufficiently robust to assure parties to engage in peaceful politics, they also have to remain sufficiently flexible to accommodate a continuing post-conflict deliberation process (Du Toit 2003; McCulloch 2018; Sisk and Stefes 2005). With this, not fully deterministic agreements can bridge the substantive differences between the conflict parties' leadership and allow them to agree to a deal without

overstretching their intra-group ties. The subsequent section will elaborate these two theoretical propositions in further detail.

2.3.1 Three sources of consociational behavior

The search for a means to avoid immobilism and the attenuation effect leads back to the originally proposed sources of elite cooperation. Drawing on the work of MacGarry and O'Leary (1995), O'Leary (1989, 575) and crucially Nordlinger (1972) I divide the sources of consociational cooperation into motivating and enabling factors. With external threats ceasing to be an available effective means to sustain the necessary motivation for the agreement and intrinsic or 'higher order' factors nascent at best, other elements come to the fore. Figure 6 provides the pertaining overview.

Figure 6: Sources of consociational elite cooperation

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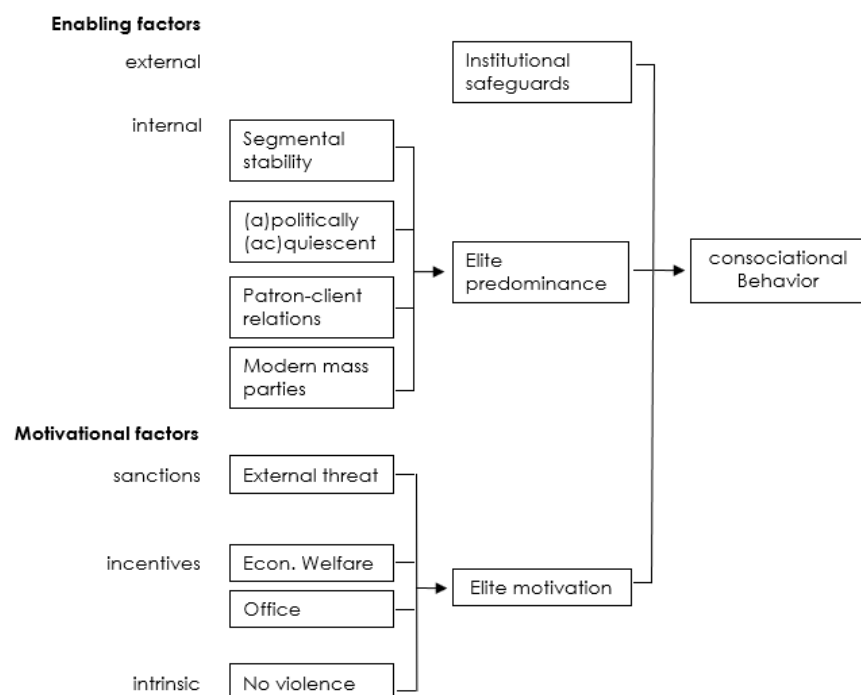
2.3.1.1 Motivational factors

   a) Incentives

Zartman distinguishes in his analysis of negotiation dynamics leading to the conclusion of peace agreements between 'mutual hurting stalemates' and 'mutually enticing opportunities' (Zartman 2000, 241–43; 2003).[8] While the former are characterized by parties' readiness to engage in negotiations due to the combination of a deadlock and prohibitively high costs to maintain the status quo, the latter refers to situations in which the prospect of a specific reward incentives cooperation. Equivalently relevant for the functioning of post-conflict power-sharing agreements, Zartman argues that 'negotiations completed under the shadow – or the push – of a MHS [mutually hurting stalemate] alone are likely to be unstable and unlikely to lead to a more enduring settlement. A negative shadow can begin the process but cannot provide for the change of mentalities to reconciliation (Zartman 2000, 242).' Mutually enticing opportunities, however, can create a 'ripe moment' in which parties are amendable for cooperation due to the promise of a specific benefit (C. Mitchell 1995, 45). For Zartman the perception of mutual enticing opportunities is a necessary but not sufficient condition for the continuation of negotiations to the conclusion of a conflict (Zartman 2000, 243). Generally, economic benefits or the holding of office can be such incentives.

Economic benefits accruing from inter-elite cooperation can be a luring incentive, with elites as well as their constituencies profiting. Economic development including an increase of standards of living and general welfare can be an important incentive for elites to remain engaged in a power-sharing agreement, even once a third party's coercive pressure has attenuated. If the absence of violence which resulted from the third party intervention was able

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[8] Zartman draws on earlier work by Pruitt and Olczak (1995), Pruitt (1997) and Ohlson (1998).

to engender the emergence of socio-economic development, members of a post-conflict society will try to make sure that their newfound prosperity is not endangered any time soon. In addition, elites who led their segment into an agreement can point at the improved conditions, what may protect them against any intra-group challenges. There might be however also cases where elites' motivation is not so much driven by the desire to improve their constituency's welfare, but rather to bolster their own resources. Power-sharing agreements, even if externally imposed, put the leadership of the respective segments in a powerful gatekeeper position with access to public funds, jobs and power. Hence, the settlements may effectively become instrumentalized by party leaders, who form 'consociational oligarchies' (Bochsler 2018) as means for control and extraction of spoils (Lustick 1979; Martin 2013, 347). Profiting from the status quo, parties may uphold cooperation even in the absence of third party pressure.

Related to the above, the access to offices may not only function as a safeguard to overcome the security dilemma, it may also act as a considerable incentive since it provides access to public funds and jobs. Aside from potential self-enrichment, the access can be instrumental in sustaining patron-client relations and ally grass-root discontent for the leadership's engagement in a power-sharing agreement. In post-conflict societies generally characterized by a weak formal private sector, employment in the public sector is particularly appealing.

The holding of political office as an incentive to the necessary elite motivation to cooperate across a societal cleavage is closely related to the electoral system (Horowitz 1985; 2003; 2004). Centripetal electoral mechanisms, first and foremost the alternative vote system, are generally associated with the seminal work of Horowitz and seek to tie electoral success to the requirement to pool votes from more than one side of the cleavage (Horowitz 1985; 2004).

Hence, parties seeking to win elections will have to campaign on a moderate platform. However, at least two issues stay in the way of centripetalism to evoke the required motivation.[9]

First, for a centripetal electoral system to be installed in the first place, it normally needs the agreement of those elites who will eventually be required to adapt their electoral strategy. In the immediate aftermath of a conflict, this is typically not the case. In fact, a readiness of parties who had recently been fighting each other to install a centripetal electoral system would be equivalent to elite's awareness of the 'self-denying prediction'. However, in the case of externally imposed power-sharing, it is precisely the absence of parties' acknowledgement of the self-denying prediction that third parties seek to compensate for. Empirically, this qualification is corroborated with Fiji being the only prominent example where a severely divided society set up a centripetal electoral system after inter-communal conflict.[10] However, even in this case, the framers counterbalanced the effect of centripetalism by also setting up the requirement for a grand coalition (McGarry and O'Leary 2015, 501).

Second, for centripetalism to evoke the intended moderating influence it presupposes that moderate parties command already a respectable size and that votes across the cleavage are needed for victory. Following warfare, the first premise is mostly absent (McGarry and O'Leary 2015, 501; Nordlinger 1972) and the second not necessarily present. If not adequately configured for the existing demography and distribution of preferences, the majoritarian

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[9] Horowitz argues that the scarcity of centripetal systems is also because ,international experts tend, for a variety of reasons, to favor proportional electoral systems and consociational guarantees' (Horowitz 2014, 9; see also Le Van 2011; Reilly 2006; Wilkinson 2005).

[10] Furthermore, Fraenkel and Grofman (2006) find in their analysis of the 1999 and 2001 elections that Fiji's moderate parties would have fared better under a PR than under the used AV system. However, Horowitz (2004) rejected their model as 'based on extreme assumptions' and holds that a more realistic model would have concluded that 'AV generally provides centripetal incentives that can contribute to interethnic coalition-building and accommodation.' Sisk (2013a, note 15) also identifies Liberia's 2005 and 2011 elections as a case in point.

element in centripetal system may even unintentionally increase instability and extremism (McCulloch 2012).

2.3.1.2 Enabling factors

The second group of factors contributing to the emergence of consociational cooperation are factors which essentially enable elites to extend concessions. This aspect has an intra-communal as well as an external dimension.

a) Internal dimension: Structured elite predominance

Internally, extending concessions and being ready to cooperate strains the relationship between the leadership and their constituency. Hence, only an elite which feels sufficiently assured of the ties with its constituency will be willing to engage in consociational cooperation (Nordlinger 1972, 73–87; O'Leary 1989, 577; Pappalardo 1981, 387).

(i) Criticism: marginalization of citizens

The disconnect between consociational elites and their constituencies has frequently been criticized as undermining the quality of democracy, a charge further corroborated by the frequently non-transparent decision making process at the detriment of a meaningful inclusion of bottom-up inputs by citizens (Esman 1994, 43). This criticism is generally refuted by the argument that it is essentially elites' non-representation of group preferences which makes peaceful politics in a deeply divided society possible. In the ideal typical case of consociationalism, elites are non-representative in the sense that they are not reflecting the level of antagonism prevalent between members of the different communities. The charge against consociationalism hence ignores, in the proponents' view, that it is either consociational democracy or no democracy at all. With this context, elite dominance has two distinct elements:

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the first is the leadership's autonomy to negotiate and conclude an agreement. The second is the elite's eventual ability to bring their segment into the agreement. The gulf between a constituency and its leadership and the latter's ability to ensure adherence to a deal are central tenets of consociationalism.

(ii) Sources of elite predominance

Nordlinger (1972) identified in his analysis of conflict regulation in six deeply divided societies the structured predominance of elites over their respective segments as a necessary but not sufficient condition for the emergence of inter-elite cooperation (Nordlinger 1972, 78).[11] Accordingly, 'leaders must enjoy sufficient authority to take actions and make commitments without being accused of ignoring, dominating or coercing their fellows (Nordlinger 1972, 82). Without the necessary elite predominance, inter-elite compromise will not be forthcoming, since 'the predominance of the leadership stratum of the non-elite affects [the] relations within the elite stratum (Nordlinger 1972, 75)'. Furthermore, for such an elite predominance to be forthcoming at least one of four factors has to be present: 1) a segment's members have to be apolitically quiescent, or 2) politically acquiescent and deferential; 3) members are constrained due to patron-client relations; or 4) members are integrated into modern political mass parties, entailing constraining relations of dependency and loyalty. For Nordlinger these four conditions constitute an 'inclusive list of all empirically realizable bases of elite predominance in open regimes confronting elite conflicts (Nordlinger 1972, 86).

- *Apolitical quiescent or politically acquiescent*

The first two aspects capture dominant beliefs within a society that 'leaders are expected to lead and followers are expected to follow (Nordlinger 1972, 79)'. Members of each segment are either not particularly interested in the decisions taken by their leaders, or if so, take them

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[11] Nordlinger's study from 1972 deals with Northern Ireland, Lebanon, Malaysia, Cyprus and then Ceylon, today's Sri Lanka.

as a matter of fact. Members of a segment have a clear hierarchical understanding of their society and do not question it. In post-conflict societies, former war timer leaders frequently enjoy an undisputed standing as the leader of their segment. The narrative of the leader having guided his people through the dangers of war bestows them with a distinct legitimacy and authority, which other contenders can hardly match. Patron-client relations empower the elites to ensure their segment's compliance by rewarding loyalists with access to different forms of spoils and excluding those who disagree. In the aftermath of a war, the formal private sector generally offers only limited sources of revenue, rendering the access to public funds particularly valuable. With power-sharing provisions assigning the control over these sources to leaders of the segment, 'consociational oligarchies' emerge (Bochsler 2018) who are able to entrench their dominance due to their privileged access. As long as their segment's members are unable to tap into other sources of income, they remain dependent on and hence compliant with their leadership.

- *Modern political mass parties*

Modern political mass parties with strong organizational capabilities, including a network of ancillary organizations can effectively integrate their constituency and make sure that its members comply with their leadership's decisions, including unpopular concessions towards (former) enemies. Typically, the life of constituency members unfolds in all its facets within the party controlled domain. Work, social, and family life exclusively takes place within areas institutionally controlled by their party. Members are encapsulated and hardly mix with those from outside. Typically, a system of dependencies and loyalties ensures member's compliance (Nordlinger 1972, 82). While Nordlinger argues that the four factors mentioned above form an exhaustive list, two further elements shall be highlighted:

(iii) Intra-segment stability

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First, for elites to be able to bring their communities into an agreement, their communities have to be stable. Lijphart's ideal type description of 'internally homogenous and externally bounded' groups underlines the key attributes. Intra-group instabilities challenge elites' leadership role and hence their ability to bring communities into the agreement. Overall, the threat of or actual counter-mobilizations constrain the independence of elites and fuel centrifugal party competition (P. Mitchell 1995, 779).

(iv) 'Invisible politics'

Party elites' ability to moderate, extend concessions and cooperate across the ethnic cleavage is also a function of the level of transparency under which they operate. Typically, consociational elite interactions have been characterized by backroom deals rather than competitive debates in public. 'Invisible politics' are instrumental when it comes to concealing or diffusing the actual gap between a segment's leadership and its constituency emanating from elite cooperation. The lack of transparency provides the elites with important room to maneuver, and to move away from the preferences of their constituency. However, without a minimum level of non-transparency, moderating behavior is likely to have high audience costs, particularly when seized upon by intra-group challengers (Beardsley 2008; 2011, 26–27). In such cases, intra-group challengers will seek to delegitimize the incumbent leadership's claim to represent the community by accuse it of 'selling-out' its interest (Sartori 2005, 126; Tsebelis 1990, 12). Therefore, the more transparency, the more the incumbent elites will feel constrained and the less willing they will be to offer any concessions to the other segment's elite.

b) External dimension: Institutional safeguards

As for the external dimension of elites' ability to engage in consociational behavior, an agreement's institutional framework is critical for overcoming the otherwise inhibiting security

dilemma. Only if the respective leaderships feel sufficiently assured against any deviant behavior, cooperation will be forthcoming. This not only applies to the inception of an agreement, but also for the cooperation's maintenance. While third party assurances can complement domestic safeguards in the early phase after a conflict, the agreement's institutions must be perceived by all parties as credible enough also once the third party's role ceases.

The second aspect of an agreement's pertinence for intra-group cooperation is evidently its substantive content seeking to address the conflict's underlying incompatibility. The larger the substantive overlap, the more likely it will be that elite cooperation is forthcoming.

2.3.2 Interdependence of three sources

Importantly, while the above enumeration presents the three elements as distinct, they are intertwined with the functioning of each element contingent on the other (Sebastián-Aparicio 2014). First, without the necessary elite motivation to actually moderate and cooperate, an institutional framework seeking to accommodate groups is likely to result in stalemate. Safeguards, such as veto mechanisms which are originally intended to protect groups will result in legislative gridlock. Second, even if third parties are able to engender the necessary elite motivation, in the absence of an elite's dominance intra-group fragmentation is likely to undermine efforts to cooperate across the cleavage. And third, without any institutional framework with which an elite can credibly signal its commitment, no inter-ethnic cooperation will be forthcoming. Table 2 maps these interactions.

Table 2: Interdependence of elite motivation, elite predominance and institutional framework

	Elite motivation	Elite predominance	Agreement
~ Elite motivation	-	no cooperation	stalemate, inertia

~ **Elite dominance**	intra-group fragmentation	-	intra-group fragmentation
~ **Agreement**	no cooperation due to security dilemma	no cooperation due to security dilemma	-

<div align="right">~ = absence of</div>

The interplay between these three elements is not specific to the new type of power-sharing. Elite motivation, predominance and institutional framework are also pertinent to the classical cases of consociationalism. What is different is that these three factors are the outcome of the interactions on three rather than two levels: Inter-group, intra-group and between elites and the third party. Drawing on the related work of Belloni and Deane (2005) and Sebastián-Aparicio (2014), the argument is made that the functioning of an externally prescribed powers-sharing agreement is the outcome of the interactions between these three layers. With the three layers mutually constraining, the key challenge for third parties is to adapt their intervention in such a way that it does not trigger any adverse reaction from any level (see also Mitchell 1991, 88).

2.3.3 Not fully deterministic power-sharing agreements as a means to facilitate cooperation

A generally underappreciated avenue to ease the mutually constraining relationships between these three areas is the conclusion of agreements which are not fully deterministic with regard to the issue at the center of the conflict. Not fully deterministic agreements do not seek to stipulate a definite answer for the contested issue (Lerner 2013). Instead of being a critical juncture, they limit their role to ensuring the absence of violence and setting-up a framework within which the contested issue will be determined at a later stage. Drawing on this framework, I argue that not fully deterministic agreements can play a particularly constructive role in the establishment and maintenance of post-conflict power-sharing agreements concluded under the influence of third parties. By avoiding the stipulation of a specific outcome

to the contested incompatibility, not fully deterministic agreements ease the above presented mutually constraining relationships between elite motivation, elite predominance and the institutional framework. Essentially, by not requiring from elites to abandon their war time ambition, the relation between them and their constituency becomes not excessively stretched. Elite predominance is more likely to be maintained. Hence, the risk of intra-group fragmentation and subsequent outbidding becomes reduced. Similarly, with elite predominance not challenged and not required to entirely abandon their wartime ambitions, elites will feel more at ease to engage in the agreement and cooperate. Consequently, the resort to vetoes will be relatively sparse and the risk of overall stalemate reduced. The openness of the agreement and the resulting ability for the different groups as well as their leadership to genuinely subscribe to it also implies that third parties can play a less intrusive role in the agreement's maintenance. Contrary to externally engineered agreements which prescribe a distinct outcome and subsequently require a prominent, ongoing presence, there is no comparable requirement for third parties in not fully deterministic agreements. Instead of remaining engaged in the implementation of a prescribed outcome against the preferences of the domestic parties, the role of third parties becomes ideally limited to one of a custodian seeking to ensure that parties remain within the boundaries of the stipulated agreement.

For conflict parties a not fully deterministic agreement can constitute an appealing 'second best option' (Arato 2004, 28). Balancing the high costs of continuing war and the slim chances for an immediate victory on the one hand side with the benefits accruing from the absence of violence and the likelihood to attain their war time goal at a later stage on the other hand side, not fully determined agreements can offer a viable avenue to pursue. Such agreements hence facilitate that all parties are ready to engage within the new institutional dispensation, and not against it. Parties, despite their lack of consensus on issues of high salience, are not 'anti-

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system'. There is a shared understanding on the desirability of preserving the system (see Lijphart 1968, 104–5). Elites' dominant strategy is, as Tsebelis (1990, 10) argued, that of a 'game of chicken'. Parties stand as firm as possible on their positions but are ready to compromise to avoid an overall standstill. Mutual intransigence, as in the cases of i.e. coercive consociationalism, becomes the less attractive.

2.3.3.1 Preconditions for engagement

Critically, for not fully deterministic agreements to make a positive contribution, it is paramount that they are perceived as legitimate and balanced by all parties. While circumventing conclusive answers on the contested issue, conflict parties must consider the upcoming process stipulated in the agreement as genuinely open and not skewed in favor of one specific outcome or party. Otherwise, in the absence of a consensus on the parameters of the process, at least one party will exit the process or not even join it in the first place. The imperative of unbiasedness pertains to the agreement itself as well as to the third party's role.

2.3.3.2 Conflict diffusion and conflict transformation

With these properties, not fully determined agreements essentially can serve two purposes. First, they are an instrument of conflict diffusion. By being sufficiently open they enable elites to find a common ground and engage in the agreement without overburdening their intra-communal ties. The agreement is spelled out in a manner sufficiently open to accommodate different aspirations and potential outcomes and hence also allows the different communities to subscribe to it. The agreements' functioning is less contingent on the continuing interference of a third party. Second, not fully deterministic agreements can be instruments of conflict transformation. Even if parties initially engage in the process with different intentions, over

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time, they may become amenable to solutions which had been categorically ruled out in the immediate aftermath of the war. Similarly, over time, new solutions may arise which originally have not been available at all. While not fully deterministic agreements cannot be propagated from the outset with a view that parties have to abandon their ambitions, the passing of time may effectively bring about such a transformation. As such, the agreements help to transform the negotiations of a power-sharing agreement from a high stake moment with a zero sum logic into the first step of an incremental process (Lerner 2013). By effectively compartmentalizing the dispute over a (long-term) incompatibility, space for negotiations of other, less salient issues, but with nevertheless important (e.g. good governance) implications become amenable to a solution. The subsequent iterations of tit-for-tat exchanges can further decrease uncertainty and build up trust, which ultimately may yield to a decline of the incompatibility's salience (Beardsley 2011, 172; Lerner 2013).

Typically though, with the level of insecurity high in the immediate aftermath of violence, parties will seek particularly robust safeguards and the agreements tend to rigidify and do not lend themselves to renegotiation. The agreements become 'sticky' (Horowitz 2014, 12). For not fully deterministic agreements to offer an attractive framework, they have to feature mechanisms which in some shape or form provide a flexibility facilitating continued bargaining and eventual opportunity for amendment (Sisk and Stefes 2005, 316). Lerner (2013) identified in her analysis of constitution making processes in divided societies[12] the avoidance of clear decisions, the ambivalence of legal language, and the ambiguity of constitutional provisions as the three principal approaches facilitating the development of viable material constitutions without triggering a violent conflict between the different parties concerned. Related, McCulloch (2018) identifies agreements specifically conceived as interim, judicial

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[12] Lerner analyzes the constitution making process in India, Israel, and Ireland.

intervention and purposeful political interventions as possible approaches leading to a change of a power-sharing agreement. She specifically highlights temporary power-sharing agreements as a means 'to defer particular difficult and contentious issue to a later date when the stakes are not as high (McCulloch 2018, 6). Du Toit (2003) highlights the need for 'post-settlement settlements' which effectively revisit the terms under which the end to violence had been concluded. All these different approaches have in common that they facilitate the continuation of the bargaining process beyond the 'peace negotiations' in a narrow sense. Obviously, the above is not meant to suggest that not fully deterministic agreements are a panacea for all post-conflict power-sharing agreements, which miraculously dissolve inter-communal tensions and render third party interventions obsolete. In some cases, inter-communal antagonism might be simply too high. As mentioned above, not fully deterministic agreements only constitute the second-best option for conflict parties since such agreements effectively rule out the immediate realization of war time ambitions. This shortfall may be unacceptable for some actors, who are i.e. adamant to pursue a military outcome. Similarly, by accommodating different aspirations, not fully deterministic agreements risk that the conflict around the unresolved issue at stake continues to dominate post-conflict politics and even spill over in other, otherwise unrelated areas. The danger can be that any policy decision, no matter how trivial, becomes perceived as a part of wider efforts of strategic positioning with a view to forestall the eventual outcome. Such a dynamic is likely to undermine any elite cooperation.

2.4 Summary

To sum up, this chapter presented the theoretical argument seeking to explain the emergence and durability of elite cooperation in externally prescribed post-conflict power-sharing agreements. Contrary to the power-sharing's classic cases, in which deviant democratic

stability was explained by self-constraining elite behavior, post-conflict power-sharing agreements are frequently brought about under the influence of third parties seeking to conclude an agreement by extending incentives and sanctions to the conflict parties. Elite motivation to conclude and engage in the power-sharing agreement is hence contingent on third party's intervention. This genesis raises two distinct but originally related problems. First, the combination of elites without genuine motivation and the institutional requirement of joint decision making renders the agreement prone to stalemate ('immobilism problem'). Second, with elite interaction contingent on third party intervention, the third party's withdrawal risks a breakdown of the agreement ('exit dilemma' or 'attenuation problem'). These two problems highlight the need for a transformative role of power-sharing agreements as to inter-elite relations. Fundamentally, whether genuine elite cooperation will be forthcoming is depending on enabling and motivational factors which are however mutually constraining. Elite motivation will not be forthcoming in the absence of sufficient elite dominance. And elite dominance will not be assured if an inter-group agreement is perceived to contain excessive concessions. An agreement with sufficient substantive and institutional overlap is however prone to (over)stretch elite-constituency relations. To overcome these mutual constraining relations, this chapter proposed not fully deterministic agreements. Contrary to typical post-conflict power-sharing agreements, not fully deterministic agreements avoid stipulating a final answer to the conflict's underlying incompatibility but seek to create a continuing deliberation process over the contested issue. By diffusing the otherwise prevalent zero-sum logic, they can provide a framework to which parties can genuinely subscribe to and engage constructively. Repeated patterns of interaction may engender new possible solutions or decrease the overall salience of the contested incompatibility. While not fully deterministic agreements may be beyond the realm of possible for particularly antagonistic cases, they can be instrumental in diffusing and possibly even settling conflicts in other cases.

3 RESEARCH DESIGN AND METHOD

3.1 Scope Conditions

For any research seeking to identify causal relationships applicable to a wider population of cases the setting of scope conditions is essential. Scope conditions define the boundaries within which the proposed theory or identified causal relationship is considered to hold and must be met by positive and negative cases alike (Rohlfing 2012, 26; Walker and Cohen 1985). Every case has a temporal, geographical and a substantive bound (Rohlfing 2012, 24).[13]

3.1.1 Temporal bounds

As for the temporal scope, the proposed theory is argued to hold for power-sharing agreements concluded in the period since the end of the Cold War up until to 2004. The substantive argument behind this delineation is the premise that the conclusion of intra-state conflicts after the end of the Cold War followed a different dynamic than those concluded before. As highlighted above, external interventions to end intra-state conflicts as well as to pursue a democratic peace building model by power-sharing rose to almost dominant prominence only after 1989. This different context and origin are likely to impact on the inner-working of power-sharing agreements, including elites' willingness and ability to cooperate.[14] The second temporal scope condition pertains to the age of the power-sharing agreement. Large N comparative studies on post-conflict power-sharing agreements have predominantly focused on the stability of agreements, i.e. the return of violence, within a time period of five years.[15]

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[13] The proposed theory has no geographical bounds.
[14] However, see Mattes and Savun (2009, 755), Salehyan (2007) and Hartzell and Hoddie (2003; 2007) for opposing views.
[15] See for example Hartzell (1999), Hartzell and Hoddie (2007), Jarstad and Nilsson (2008), Licklider (1995), Ottmann and Vüllers (2014), Walter (1997; 1999). Pospieszna and Schneider (2011) use a five year cut-off point to investigate the success (peace durability) of different mediation styles. Jung (2012) contrasts the polity scores two and five years after the end of a conflict. Nilsson (2012) includes only agreements which lasted at least two years and contrasts polity scores two and five years after the agreements' conclusion. For a similar approach see also Flores and Nooruddin (2009). A notable exception is Toft (2010) who investigates the consequences of different types of conflict outcomes 5, 10, 15 and 20 years after fighting ended. Strasheim and Fjelde (2014) also go beyond the crude five year threshold and stipulate the passing of at least 'one post-

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The present theoretical focus is however concerned with the medium to long-term development. While in the immediate aftermath of an agreement's conclusion the influence of third parties is likely to be high and hence with a direct bearing on inter-elite relations, this study is primarily concerned with the development of inter-elite cooperation once a third party's influence attenuates and domestic parties are less constrained. To capture this medium to long-term development, a threshold of minimum 15 years for the age of an agreement is set. Agreements which are younger or collapsed before are not included.[16]

3.1.2 Substantive bounds

The substantive scope of the proposed theory has three elements: post-conflict, power-sharing agreement and the involvement of a third party in its conclusion and maintenance. Whether a state experienced an armed conflict or not is delineated in accordance with UCDP's pertaining threshold of battle related deaths. Accordingly, a conflict is defined as 'a contested incompatibility that concerns government or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths per year (Högbladh 2012, 3; UCDP; Wallensteen 2012, 24–27).'[17] Similarly, an agreement is considered as failed if the 25 battle related threshold is crossed again. The substantive rational behind the post-conflict scope condition is the argument that the experience of a violent conflict renders the emergence of elite cooperation more difficult than, e.g. in cases

transitional legislative period' in their investigation of the consequences of interim institutional design on post-conflict democratization.

[16] Hence, as of the time of writing, the effective cut-off year is 2004 for the conclusion of agreements. See also Zeeuw (2010) who analyzes post-conflict El Salvador and Cambodia over a period of 15 years.

[17] For a discussion of the robustness of conflict research and the pertaining sensitivity to the definition of conflict, including the setting of a threshold see Sambanis (2004, 855) who concludes that 'the quantitative literature on civil war reveals a remarkable degree of disagreement on how to code the onset and termination of war'. The Correlates of War Project (CoW), arguably the most frequently used source along with UCDP's data sets a threshold of 1000 battle related deaths (Sarkees and Wayman 2010). The setting of a causality threshold for the definition of a conflict has major ramification for conflict research, inter alia by defining when a conflict started and ended as well as whether a conflict existed at all. As a case in point, the Northern Irish 'Troubles' are not included into the CoW dataset.

in which a power-sharing agreement was set up to avoid the outbreak of violence in the first place. Despite the lengthy track-record of empirical studies on (post-conflict) power-sharing agreements, there is a surprising lack of consensus on which agreements can actually be considered as power-sharing agreements (see also Ottmann and Vüllers 2014, 2; Binningsbo 2013). The differences between various empirical studies and their underlying datasets are primarily not due to disagreements on the assessment of empirical properties but emanate from the conceptual level. Consequently, different studies are based on different universes of cases and it becomes difficult for the audience to know whether new insights originate from differences in the selected agreements or other factors (Binningsbo 2013). One possible explanation for this development is likely to be the rising research interest in the consequences of specific formal institutions. Hence, rather than approaching power-sharing as a 'thick' or 'intense' concept, the presence of specific formal institutions has been considered to be sufficient for an agreement to be included into analyses' population of cases (Coppedge 2012, 206–14). A further possible explanation for this situation could be the vogue of quantitative analysis and the resulting need for a sufficiently large number of observations. In order to reach the necessary extension – a large number of observations – criteria which were initially considered to be definitional for the concept of power-sharing received less and less consideration leading to a decrease of the concept's intension. The theory, which had originally a rather small domain of thick cases (classic cases of consociationalism), became increasingly expanded and gradually reduced to a much thinner conceptualization defined by the mere presence or absence of specific formal institutions (Binningsbo 2013; Bogaards 1998; 2012; Coppedge 2012, 145; Sartori 1970). The 'thick' concept of power sharing slid to a considerably thinner one that is most frequently conceptualized by the mere presence or absence of specific formal provisions in a peace agreement. These different preferences for thick and thin concepts leads scholars to talk past one another (Coppedge 2012, 23). Finally, and probably most

consequential, much of the conceptual ambiguity of power-sharing may originate from the theory itself, considering its gradual shift from a thick descriptive to a thinner prescriptive theory. Depending on what 'version' of the theory one refers to, a different universe of cases becomes relevant.

Figure 7: Peace agreements with power-sharing executive

Peace agreements with power-sharing executives (1989-2011)

Power-sharing executive
no — yes — Dayton Agreement — Good Friday Agreement

graph:author data:Högbladh (2012) and modifications by author
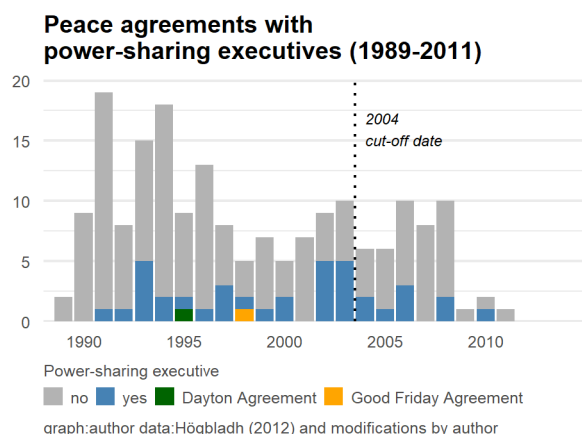
Embarking from the understanding that there are a priori no 'right' or 'wrong' concepts, but that their utility has to be assessed in the context of a specific theoretical framework, the scope of the present proposition is limited to peace agreements which stipulate formal requirements for 'inclusive decision making.' More specifically, the scope is limited to those institutional dispensations which formally stipulate power-sharing at the center, i.e. require the cooperation of elites in grand coalitions and/or empower them with mutual veto mechanisms. Agreements which exclusively stipulate divided decision making, i.e. by providing elites with non-overlapping areas of authority and hence effectively eschew cooperation are likely to feature different causal trajectories. This delineation draws on Roeder's insightful conceptual differentiation between 'inclusive decision making', 'partitioned decision making', and 'predetermined decision making' which makes an important, and yet relatively underappreciated, contribution to overcome an unfortunate fuzziness which frequently mares the meaning of 'sharing' in 'power-sharing' (Roeder 2005).[18]

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[18] To make this point clearer, an example: In some (quantitative) studies, i.e. the presence of 'military power-sharing' is coded to be present when a) former rebels are integrated into a joint army, but also when b) provided with the ability to keep their own armed forces (see e.g. Hartzell and Hoddie 2003). While in some circumstances both approaches might be indeed equivalent means to safeguard the rebel's community, there is no guarantee that these two approaches are indeed homogenous as to the underlying causal process. Depending on the specific theoretical proposition one is interested in, the subsumption of both approaches under the common heading 'military power-sharing' may conceal a relevant heterogeneity which further confounds empirical cross-case effects. To overcome this latent ambiguity, Roeder introduced the conceptually more stringent

Figure 7 provides an overview of the number of peace agreements and those providing for power-sharing executives.[19]

Finally, the third substantive bound is the imposing involvement of an external party in the conclusion of the agreement. As argued in the theory chapter, a fundamental difference between newer variants of (post-conflict) power-sharing agreements is their conclusion due to a manipulative intervention of a third party which (at least temporarily) substitutes for the absence of elite motivation. Figure 8 provides an overview of the scope conditions and their empirical domain.[20] Out of the 216 peace agreements covered by UCDP's Peace Agreement dataset, 188 were concluded after 1988 out of which 101 were still in operation fifteen years after their conclusion.[21] Out of those only fourteen stipulated a power-sharing executive. With the exception of two, all of them, twelve, were concluded with the involvement of a third party (bottom branch). These twelve agreements concerned eight countries.[22] The number of cases becomes effectively further limited if one considers that some agreements are nested in later agreements, e.g. the Washington Agreement of 1994 forms effectively part of the 1995 Dayton Agreement.

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differentiation into 'inclusive decision making', i.e. requiring consent and cooperation; partition decision making, i.e. providing for separated areas of authority, and 'predetermined decision making', i.e. the stipulation of rules which are *ex lege* not amenable to political contestation, e.g. international human rights norms incorporated into national constitutions.

[19] The graph is based on UCDP Peace Agreements database (Högbladh 2012). Surprisingly, and erroneously, the Good Friday Agreement is coded as not featuring a power-sharing executive. The coding was accordingly modified by the author. Note that the Peace Agreements dataset also includes procedural and partial agreements (e.g. concluded only between a specific dyad of conflict parties). Furthermore, some settlements may comprise several agreements. Hence, the dataset features a relatively high number of agreements.

[20] In terms of content the variable tree is equivalent to a nested cross-tabulation.

[21] Note that UCDP's dataset also includes partial and procedural agreements. Hence, the high number. UCDP's Peace Agreement dataset covers all peace agreements concluded between 1975 and 2011.

[22] The agreements are: Tajikistan (1997) Moscow declaration, Sierra Leone (2000) Abuja Ceasefire Agreement, Ivory Coast (2003) Accrra II, DR Congo (2002) Global and Inclusive Agreement on the Transition in the Democratic Republic of Congo, Comoros (2003) Agreement on the transitional arrangements in the Comoros, Burundi (2000) Arusha Peace and Reconciliation Agreement for Burundi, Burundi (2002) Ceasefire Agreement between the Transitional Government of Burundi and the Conseil national pour la defense de la democratie-Forces pour la defense de la democratie, Burundi (2003) Pretoria Protocol, Burundi (2003) Global Ceasefire Agreement; Bosnia (1994) Washington Agreement, Bosnia (1995) General Framework Agreement (Dayton Agreement), United Kingdom (1998) Good Friday Agreement.

Figure 8: Scope conditions and overview of population

All peace-agreements 1975-2011
216

Concluded after 1988   Agreement older than 15 years   Power-sharing executive   Third-party involvement

no 28 (13%)
yes 188 (87%)

no 22 (79%)
yes 6 (21%)
no 87 (46%)
yes 101 (54%)

no 21 (95%)
yes 1 (5%)
no 6 (100%)
no 77 (89%)
yes 10 (11%)
no 87 (86%)
yes 14 (14%)

no 8 (38%)
yes 13 (62%)
yes 1 (100%)
no 2 (33%)
yes 4 (67%)
no 10 (13%)
yes 67 (87%)
yes 10 (100%)
no 19 (22%)
yes 68 (78%)
no 2 (14%)
yes 12 (86%)
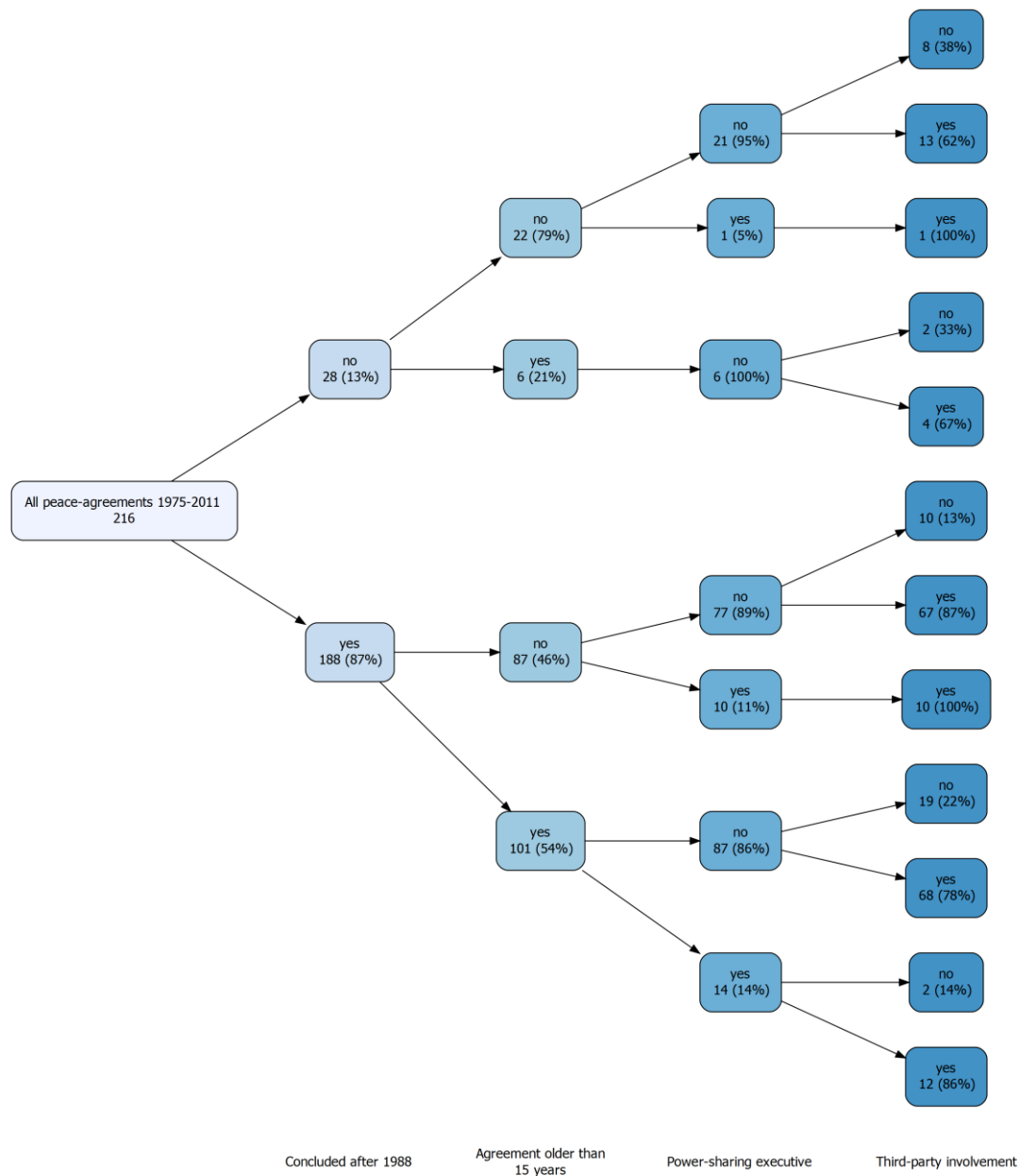
3.2 Case selection

Contrary to large N (quantitative) studies where random selection is generally advocated as a viable means for case selection, the approach is inappropriate and fraught with risks in small N case study research (Coppedge 2012, 143; King, Keohane, and Verba 1994; Lijphart 1971, 684). While random selection in large N studies is theorized to cancel out any potential bias, random selection in small N studies will often produce a sample that is substantively unrepresentative of the population and hence distorting any potential inference from the selected case to the larger population (Seawright and Gerring 2008, 295). To ideally overcome or at least mitigate this risk, methodological research has put forward a variety of case selection strategies which advocate a 'purposive selection' instead of selecting cases randomly (or for purely pragmatic reasons e.g. time constraints, costs of research). [23] Crucially, the appropriateness of a case is contingent on the subsequent analysis to be carried out. Or, to put it differently, 'in choosing cases, one also sets out an agenda for studying those cases' (Seawright and Gerring 2008, 294). Table 3 provides an overview of the relevant properties of the Good Friday and Dayton Agreement and its classification as typical and deviant cases.

Table 3: Case selection - cross case comparison

	Good Friday Agreement	**Dayton Agreement**
Origin	- Concluded by all parties except DUP in 1998 - Initially based on coalition of moderate middle (UUP, SDLP) - Unionist consent based on UK assurances regarding IRA decommissioning/SF exclusion - UK unwillingness to sanction SF and rise of DUP - DUP and SF led coalition of extremes following threat of UK-IRL joint governance (2007-2017)	- Concluded by Bosnia, Serbia, Croatia and western governments - Result of 'coercive diplomacy' and the use of force
Outcome	- Deviant: Elite cooperation, notwithstanding crises - Exception: breakdown 2017	- Typical: Elite cooperation absent, only fleeting periods

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[23] See e.g. Seawright and Gerring (2008) who identify seven different types of cases: typical, diverse, deviant, influential, most similar and most different. Similarly see also Lijphart (1971).

3.2.1 Deviant case: Good Friday Agreement

Deviant cases are cases that essentially constitute a puzzle since they are poorly predicted by a prevalent theory.[24] Deviantness is hence relative to a specific theory and exploratory research seeks to identify the ostensibly missing factor(s) accounting for the case's aberration. Once such factor(s) has(ve) been successfully identified and incorporated into the theoretical framework, a formerly deviant case becomes a 'normal' case, featuring an outcome in correspondence with the revised theory (Gerring 2006, 106; Seawright and Gerring 2008, 302). Deviant cases hence are the appropriate choice when it comes to exploring and eventually identifying previously unaccounted explanatory variables and integrating them into a new theoretical proposition amenable for further testing (George and Bennett 2005, 75; Lijphart 1971). Deviant case studies may weaken an original proposition, but suggest modified propositions that can be stronger (Lijphart 1971, 692). With this in mind, and against the background of the above presented theoretical framework and scope conditions, the case of Northern Ireland's Good Friday Agreement is selected as a deviant case.

The Good Friday Agreement falls within the scope of the proposed theory since it was concluded after 1989, stipulates a variety of power-sharing mechanisms, including a joint executive, and was concluded under the strong involvement of third parties. As for the latter point, and as will be detailed in the pertaining case study chapter, it is important to highlight that while the agreement's provisions pertaining to Northern Ireland's inner institutional dispensation (Strand 1) were negotiated by Northern Irish parties, they did so under the great pressure of the British, Irish and US government. While it was up to the domestic parties to

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[24] Their deviation from a proposed theory distinguishes deviant cases from extreme cases. The latter are not judged in relation to a theory, but to the mean of a population's distribution (Gerring 2006, 106). For a contradicting classification, see Rohlfing (2012) who argues that deviantness is always premised on an empirical pattern and that whether a case is 'least likely is dependent on a prevalent theory.

come to an agreement, all three governments, to different degrees, intervened with incentives, assurances and the threat of potential sanctions in the negotiation process (Kerr 2006, 83–86).

Their style of intervention was at times clearly facilitative, seeking to assist the parties in identifying common ground (Curran, Sebenius, and Watkins 2004). The balanced and procedurally versed chairmanship of former US Senate majority leader George Mitchell had the clear intent to accommodate all sides' concerns and identify solutions which were amenable to the parties. While this non-imposing approach was dominant for almost a year, it rendered little tangible results. Only after Mitchell had set the 'make it or break it' deadline of Good Friday in April 1998 the talks started to gain momentum (G. J. Mitchell 1999). Eventually, the agreement became concluded due to the intervention of the British, Irish and US government. Importantly, while Mitchell's mediation had prepared much of the ground for the successful conclusion of the talks, it was the British government's extension of assurances on the IRA's disarmament which tipped the balance for David Trimble, the leader of the comparably moderate Ulster Unionist Party (UUP). Hence, from the outset the consent to the agreement was contingent on the UK's continuing involvement. Moreover, while one may argue that the conclusion of the Good Friday Agreement in 1998 was possible due to the moderate leadership of the UUP and Social Democratic Labor Party (SDLP), the Sinn Féin (SF) and hence within the scope of classic consociationalism, the case becomes deviant to with the eventual ascendances of the SF and the Democratic Unionist Party (DUP) and their readiness to engage in the agreement following threads of the UK and Ireland to advance with a plan 'B'.

Crucially, and making it a deviant case, the Good Friday Agreement not only managed to secure an end to more than 30 years of violent 'Troubles', it also engendered after an initial period of 'stop and goes' a constructive cooperation of the former enemies. Most remarkably,

following the protracted disarmament of the IRA and the electoral victory of the segments'
respective hardliners over moderates in 2003, the DUP and Sinn Féin secured the post of the
First and Deputy First Minister. Critically, both parties were only willing to form a new
executive once the UK and Ireland had threatened to pursue a plan 'B' entailing joint-
governance of the region. For unionists, this scenario was threatening enough to consent to in
their view lesser evil, a joint-executive with republicans. Hence, starting from 2007, the
institutional dispensation was filled with two parties who for the longest time had vilified each
other and whose engagement was a result of UK and Irish pressure. Remarkably tough, despite
this coerced origin, both parties eventually subscribed to the new power-sharing dispensation
and worked within in and not against it. Hence, the Good Friday Agreement engendered the
unlikely outcome of a, for the longest time, functioning elite cooperation although its
institutions were led by the most hostile leaders whose consent had been conditioned on the
third parties' incentives and threatened sanctions.

The deviant outcome of a by and large functioning elite cooperation is demonstrated in the
patterns of cooperation in the joint executive and assembly. Rather than featuring chronic
standstill, parties made for the longest time only a restraint use of 'Petitions of Concern', the
mutual veto mechanism provided by the Good Friday Agreement. Similarly, and to be detailed
in the case study, legislative output was steady and only very few laws had a protracted
development in the assembly. The improved cooperation on an inter-elite level has been also
reflected on an inter-communal level. Survey results following the creation of the DUP-SF led
joint executive have been revealing predominately improving relations (Figure 9). Following
their electoral victory in 2003, with the exception of only a few years, an absolute majority of
respondents stated that the relations between Protestants and Catholics have been better than

five years earlier. The share of respondents arguing that inter-communal relations had worsened remained a comparably small minority.

Figure 9: Improvement of inter-communal relations

Are relations between Protestants and Catholics better now than 5 years ago? (1998-2016)
In almost all years, a majority of respondents saw an imporvemnt in inter-community relations. No data for 2011.

graph: author data: Northern Ireland Times and Life Survey (1998-2016)
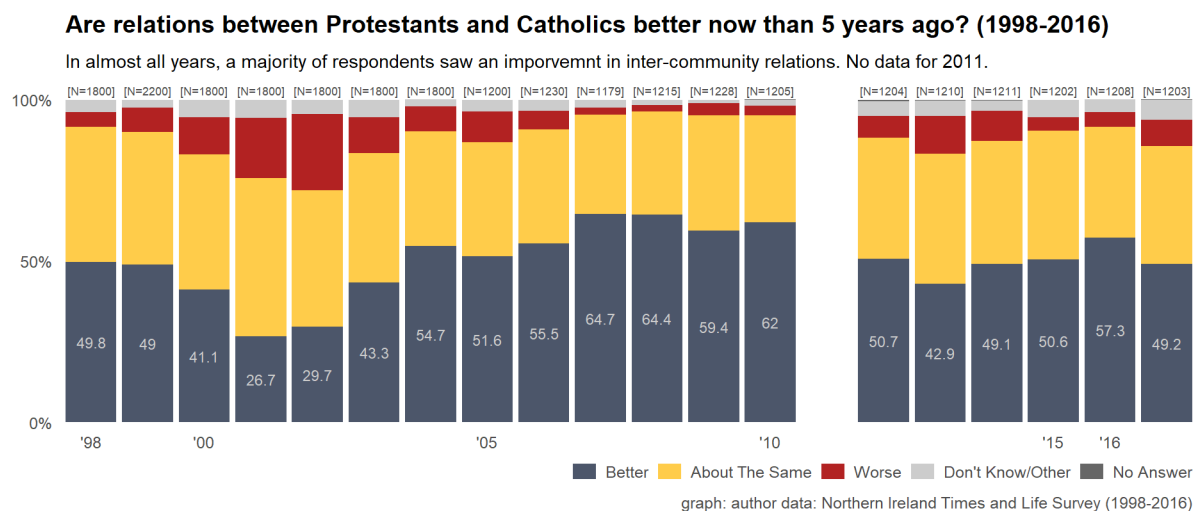
To be clear, the argument made is not that elite interaction under the Good Friday Agreement has been exclusively on good terms and free from friction. This was certainly not the case in the early years (up until 2003) as it is not the case since 2017 (breakdown of the executive). But also during the more constructive periods, the relationship between the leadership of DUP and SF at numerous occasions reached a breaking point. However, and notwithstanding the crises' severity, such frictions are not contradicting the proposition that the Good Friday Agreement so far has been a success when it comes to elite cooperation. Against the background of 30 years of 'Troubles', almost one hundred years of Irish partition and three hundred years of Anglo-Irish conflict[25], all contributing to a background most amenable to fueling inter-communal tensions, the requirement of a complete absence of any friction is arguably an unreasonably high threshold. From a methodological perspective, when seeking evidence for the presence of a certain outcome, research has to account for the likelihood under which such evidence can be forthcoming considering the presence or absence of factors

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[25] Or as Oscar Wild put it: Irish history is something the British should never forget, and the Irish never remember.

conducive or hindering its emergence. With this methodological reasoning in mind and combining it with the agreement's context, requiring the complete absence of an inter-elite crisis is argued to be excessive. This categorization of the Good Friday Agreement as a deviant success story is also not contradicted by the current crisis which has seen Northern Ireland without a joint executive and assembly for more than two years. While on the face of it triggered by a fiscal scandal and SF's Martin McGuiness's resignation as Deputy First Minister in protest in January 2017, the breakdown played out against the background of the Brexit referendum six months earlier. The vote – in contrast to the region's majoritarian support for EU membership[26] – put much of the basis on which the republican consent was premised into jeopardy. Hence rather speaking against the argument put forward, Brexit only highlighted the importance of the agreement's principal open tenet that any changes to the status of the region is contingent on the support of its peoples.

There is one additional angle which makes the study of the Good Friday Agreement particularly worthwhile. The utility of selecting Northern Ireland's Good Friday Agreement is not limited to its informative position as a deviant case. The 1998 agreement was the latest in a series of attempts to resolve the conflict. Already, in 1973 the Sunningdale Agreement and later in 1985 the Anglo-Irish Agreement sought to pacify the 'Troubles' by means of power-sharing mechanisms. In both cases, the agreements were put forward at the instigation of the British government and the issues of elite motivation and predominance were critical. This historical context provides an informative within-unit perspective and allows to contrast the analysis of the Good Friday Agreement, not least since the experience of the preceding failed attempts shaped actors believes and perceptions in the run-up to the 1998 agreement (Kerr 2006, 41–73; 2011; O'Duffy 2000; Tonge 2008).

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[26] 55.8 % of the casted valid votes were for 'remain'; 44.2 % for 'leave'. Turnout was 62.7 % (Electoral Commission 2017).

3.2.2 Typical case: Dayton Agreement

The conclusion of the Dayton Agreement is in many respects the paradigmatic example for an externally engendered and maintained agreement. After four years of unprecedented bloodshed in post-World War II Europe, and a large number of futile diplomatic interventions, the agreement was eventually concluded as the result of 'coercive diplomacy', first and foremost

Figure 10: Number of mediation episodes per country

Number of mediation episodes

The war in Bosnia was subject to the second highest number of extenal mediation episodes since 1989. Only top 10 countries shown.

Mediation efforts during Bosnia War

Graph:author Data:DeRouen, Bercovitch, and Pospieszna (2011)

Graph:author data: DeRouen, Bercovitch, and Pospieszna (2011)
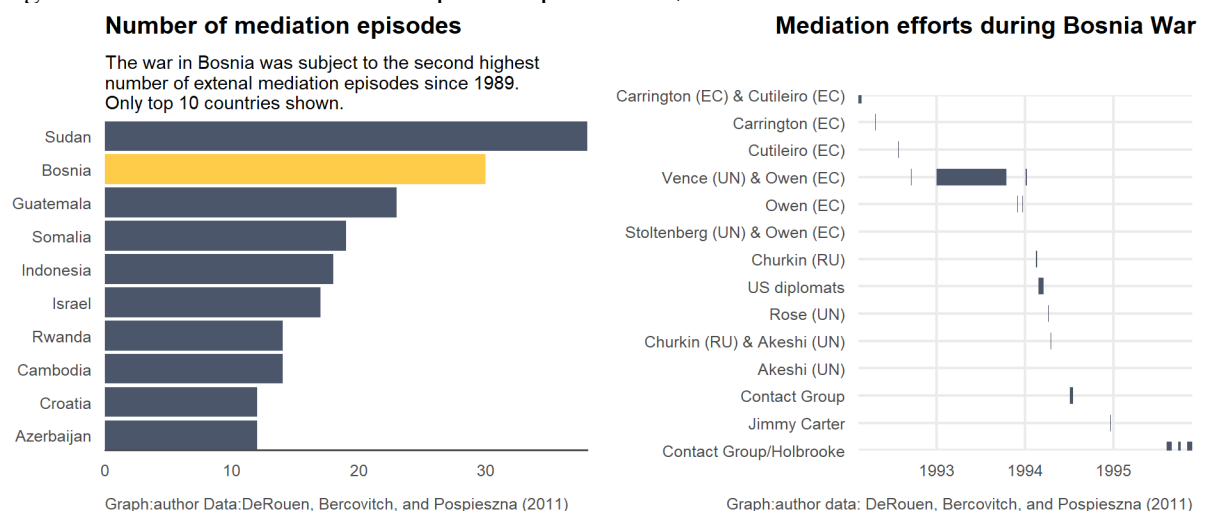
by the US, which combined a combative mediation style including sanction and incentives with the resort to the use of force. The intensity of the involvement of third parties in seeking to end the violence is partly reflected in the number of mediation episodes.

Between 1989 and 2004[27], only the conflicts nested in Sudan were subject to more instances of mediation efforts than the war in Bosnia. Overall, there were 30 instances in which a third party sought to facilitate an end to the conflict. Figure 10 provides a summary overview on the number and timing. As detailed in the case study, the eventual conclusion of the agreement was not the result of a gradual rapprochement between the parties, let alone a settlement of the war's driving incompatibility, but the consequence of a distinct application of incentives and sanctions. While these efforts were initially by and large procedural and facilitative, the application of sanctions and eventually force sought to ensure the signing of a peace deal.

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[27] The Civil War Mediation dataset covers conflicts up until 2004 (DeRouen, Bercovitch, and Pospieszna 2011).

Figure 11: Changes in elites' reference
to a common good 15 years after agreement

Only post-conflict power-sharing agreements since 1989 and
min 15 years old. Grey area indicates 68 % of propability mass.

NER-1995
PHL-1996
COL-1991
IND-1993
BIH-1995
GTM-1996
MOZ-1992
HRV-1995
DJI-1994
SLV-1992
KHM-1991

-3   -2   -1   0   1   2   3

decrease   increase   no change

-3:Little or no justification in terms of the common good is usually
offered.
3:Justifications are for the most part almost always based on
explicit statements of the common good for society, understood either
as the greatest good for the greatest number or as helping the least
advantaged in a society

Graph:author, Data:Coppedge et al. (2017), Pemstein et al. (2017)

The high level of international involvement has been continuing also after the war and is most strongly embodied by the Office of the High Representative (OHR). Specifically tasked to ensure the implementation of the Dayton Agreement and equipped with quasi executive powers, the OHR has been a central actor in the war to peace transition of Bosnia and any efforts for the agreement to engender a functioning state. Within the above presented theoretical proposition, the Dayton Agreement is a typical case since its non-consensual origin is paired with the absence of meaningful inter-elite cooperation. Despite one of the most comprehensive post-conflict reconstruction efforts ever mustered by the international community, Bosnia's development has been marred by repeated executive and legislative stalemate as the result of uncompromising elite behavior. While this dynamic was contained for some periods due to the direct intervention of the OHR into domestic politics, the situation has been aggravating since the OHR's attenuating influence. The outcome of this development is *inter alia* reflected in the Varieties of Democracy's 'Common Good' indicator, designed to measure to what extent political elites justify their positions in terms of a common, i.e. cleavage transcending, good (Coppedge et al. 2017; Pemstein et al. 2017). Figure 11 reveals that no other country with a post-conflict power-sharing agreement has experienced an as pronounced decline in its 'Common Good' score over a period of 15 years than Bosnia. On an intercommunal level, relations undoubtedly improved since the end of the war. While de facto

segregation is prevalent, incidents of inter-communal violence are almost entirely absent. Nevertheless, more than 20 years after the conclusion of the agreement, surveys still reveal perceptions of insecurity, particularly among the Serb population (Figure 12).

Figure 12: Do you think that your nation/ethnic group is still threatened today in BiH?

Data: Office of the UN Resident Coordinator in BiH/Prism Research 2013
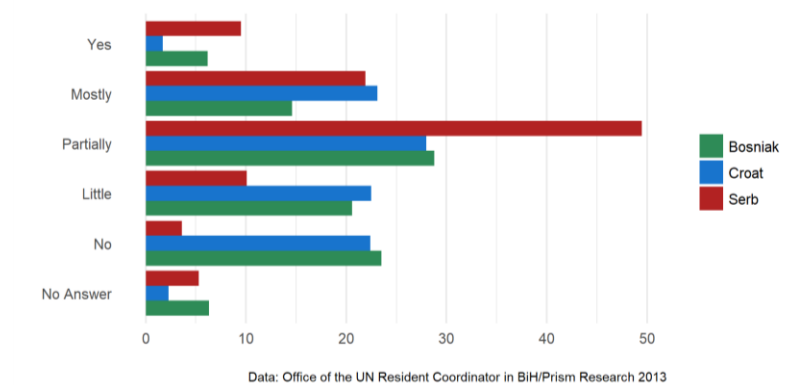
3.3 Level of analysis

To elaborate the above proposed theory, the analysis will focus on two levels: the cross-case level and the within-case level. The cross-case analysis seeks to identify the presence of the causal effect. This approach is complemented by a within-case analysis since any patterns of association on the cross-case level provide no information about how cause and effect are related to each other. Within-case process tracing intends to close this gap by seeking to identify the sequence of intervening factors that constitute the causal chain from the cause to the consequence, and hence explain cross-case level variation (Abbott 1998; Bunge 1997; Freedman 1999; Rohlfing 2012, 32–33). Overall, cross-case and within-case analysis provide two complementary bases for causal inference (George and Bennett 2005, 224). When across- and within-unit and temporal variations are enlisted in a single qualitative research design the resulting method is generally described as 'comparative historical' (Gerring 2004) or 'integrative case study' (Rohlfing 2012).

3.3.1 Cross-case study research

Case studies feature the strength of yielding what Coppedge calls 'thick' descriptions (Coppedge 2012, 58). By zooming in on the specifics of a case, case studies are able to produce conceptually detailed and multidimensional analysis which other approaches (i.e. statistical or experimental approaches) are typically not capable of. Case studies are able to build and investigate 'deep' theories exhibiting long chains of causation. The depth of a theory is best understood as 'the detail, richness, completeness, wholeness, or degree of variance that is accounted for by an explanation (Gerring 2004, 348).' Similarly, case studies are able to build theories with breath, implying a multitude of parameters which are connected in complex ways to yield the outcome of interest. Case studies are hence particularly appropriate when the unit of analysis is elusive to single, 'thin' indicators. With their rich description, cases studies are particularly valuable 'installments in the larger enterprise of theory building' (Coppedge 2012, 120).

The relative flexibility and freedom of case study research, however, comes with a cost. While quantitative studies typically capitalize on the large number of cases due to the focus on conceptually thin indicators and the assumption of confounding factors cancelling each other out, qualitative in-depth case study research is frequently confronted with an ever-increasing number of potentially causally relevant factors the more nuanced and fine-grained the analysis becomes. This, what Sartori called 'overconscious thinking', if pursued in all consequence, effectively renders any comparative effort an overwhelmingly complex, if not impossible endeavor (Lijphart 1971, 688; Sartori 1970). The more we know, 'the more we are faced with a proliferation of threads, and the less we seem capable of pulling them together (Horowitz 1985, 16; Sartori 2005, 59).

The problem of many variables and a small number of cases (Lijphart 1971, 685) implies an insufficient number of cases for the number of logically possible combinations of the possible scores of explanatory variables. The resulting problem of indeterminacy in turn means that from a purely logical point of view multiple inferences may be possible for one empirical phenomenon (Collier, Seawright, and Munck 2004, 47; Rohlfing 2012, 7, 20, 108). Hence, case study research risks that complex explanations are put forward on the basis of only a few cases and that 'researchers capitalize on chance and mistakenly attribute causality to spurious or coincidental associations (Coppedge 2012, 147). Differently put, case study research is prone to type 1 errors. Related, when it comes to identifying the cause for different outcomes, comparative methodology for small N research proposes to select two cases which are identical on all theoretically proposed causal factors except the variable of interest. This ideal-typical 'most similar systems' research design (Mill's Method of difference) offers an intuitively as accessible as compelling approach for inference. In practice, though, there are hardly ever two cases which are entirely identical bar one factor and hence the *ceteris paribus* assumption becomes violated.

At the core of the above outlined challenges is an inverse relationship or tension between case studies' ability to produce intense or thick description with a large number of attributes on one case on the one hand side, and a purported theory's size of domain on the other hand side (Rohlfing 2012, 8). The (thinner) thicker the analysis, the (larger) smaller the domain (Coppedge 2012, 147). Consequently, researchers 'invariably face a choice between knowing more about less and knowing less about more. The case study method can be defended, as well as criticized, along these lines (Gerring 2004, 348; Ragin 2000, 22). The formulation of 'middle range theories' which stipulate generalizations contingent on scope conditions and 'convert

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proper nouns into common nouns' (Przeworski and Teune 1970) seeks to strike an adequate balance.

3.3.2 Process tracing

One approach to mitigate if not overcome the limitations and pitfalls of case study research, is the analysis on the within case level by means of process tracing (van Evera 1997, 51–52). Overall, 'process tracing represents the empirical core of many, if not most, case studies because inference on causal mechanism and processes often are at the heart of small-n research (Mahoney 2007a; 2007b; Rohlfing 2012, 150).' By gathering 'causal process observations' (Collier, Seawright, and Munck 2004)for each intervening step, 'the process-tracing method attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of the dependent variable (George and Bennett 2005, 206).' Generally, process-tracing can identify single or different paths leading to a specific outcome (equifinality), point out variables that were otherwise left out in the initial comparison of cases (omitted variable bias), check for spuriousness, and permit causal inferences on the basis of a few cases or even a single case (Bennett and Checkel 2015, 29; George and Bennett 2005, 215). As for Mill's method of difference, 'when it is not possible to find cases similar in every respect but one – the basic requirement of controlled comparison – one or more of the several independent variables identified may have causal impact. […]. If all but one of the independent variables that differ between the two cases can be ruled out via a process-tracing procedure that finds no evidence that they were operating in the two cases, a stronger (though still not definitive) basis exists for attributing causal significance to the remaining variable (George and Bennett 2005, 214).' The contribution of process tracing for inference is however undermined if the analysis of the purported causal chain, which process tracing seeks to establish, is interrupted. Furthermore, in the presence of other pathways, the

observed outcome may potentially be the spuriously related with the purported cause or contingent on a complementary causal process (George and Bennett 2005, 223). In such instances, it is important to acknowledge the resulting uncertainty and flag it appropriately (Bennett and Checkel 2015, 30–31). Ultimately, albeit no solution in an epistemological sense, the inability to design a comparative method living up to the *ceteris paribus* can be countered by being transparent and highlighting those variables which potentially confound any inference (see Table 3).

4   BOSNIA AND HERZEGOVINA: DAYTON AGREEMENT

4.1 Overview

4.1.1 Context

The Dayton Peace Accords ('Dayton Agreement') to end Bosnia's war in the 1990s is undoubtedly among the most prominent examples for post-conflict power-sharing following a third party intervention. Signed on 21 November 1995 at the Wright-Patterson Airbase in Dayton/Ohio, the agreement stopped three and a half years of armed conflict in Bosnia which left more than 100,000 people dead, many more injured, about half of the population displaced, and its infrastructure in ruins. At the occasion of its 20th anniversary, the agreement was generally described as having been successful in ending the war, but unsuccessful in bringing peace to the country (e.g. Balkans Insight, 24.11.2015). Overall, the verdict on the agreement's impact is mixed at best. On the one hand, there is the acknowledgment that the Dayton Agreement succeeded in putting an end to the armed conflict and channeling political contestation back into the realm of non-violent politics. While there are still occasionally ethnically motivated crimes, particularly in the context of minority returns, the country has been free of any major, inter-ethnic violent incidences for the last 20 years. Most aptly summarized by the title of the memoires of Richard Holbrooke, the US chief negotiator, the agreement was first and foremost 'to end a war' (Holbrooke 1998).

On the other hand, there is also the recognition that Bosnia 20 years after the military conflict is confronted with severe shortcomings in terms of democratization and the quality of its peace. The phrase 'Dayton ended the war but did not start the peace' has become a common place. In a Galtung'ian framework (Galtung 1976, see also Keil and Kudlenko, 472), Bosnia reached with the signing of the Dayton Agreement a negative peace defined as the absence of violence,

but did not obtain a positive peace *inter alia* characterized by the absence of patterns of elite moderation and cooperation across the ethnic cleavage.

4.1.2 Dayton Agreement as an 'externally prescribed agreement'

For the focus of this thesis, the Dayton Agreement offers an instructive case due to the third party's high level of pressure to secure the peace agreement's signature, its subsequent efforts to maintain its stability and eventually the agreement's increasing fragility as the influence of the third party attenuates. Importantly, the conclusion of the agreement was to a considerable extent the outcome of the application of various sanctions and incentives ('sticks and carrots'), including the use of force. Largely due to these mechanisms, the third parties - first and foremost the US - succeeded in finalizing an agreement which otherwise was very unlikely to be concluded. Hence, the conclusion of the agreement was not a compromise based on a 'tit for tat' bargaining process among the parties in Dayton. For the three signing parties, the agreement was rather based on the concessions they were able to extend at a specific moment given the then present sanctions and incentives applied and offered by the third party. Without the third party's leverage, the bargaining positions of the parties would not have sufficiently shifted. This highly conditioned overlap of preferences became institutionally fixed. For the purpose of this thesis, three points are essential to be emphasized:

4.1.2.1 Peace treaty, but not a settlement

The Dayton Agreement ended the war without settling the underlying conflict between Bosnia's warring parties.

Most commonly, peace treaties, particularly when dealing with intra-state conflicts, constitute the first step in a wider war-to-peace process. While containing an agreement on some fundamentals to overcome the 'security dilemma', peace treaties also set out a framework within which the debate on the previously violence-generating issue is channeled into a non-violent, political process. This process is meant to function according to rules to which all parties have agreed. In such cases, the violent conflict is transformed into a non-violent one ('conflict transformation'). In some cases, the previously war generating issue may even decline in salience, cease to be of overarching importance to the former warring parties, and no longer require a specific institutional arrangement ('conflict settlement'). Crucially, for peace agreements to provide a context for a sustainable conflict transformation, all parties must genuinely subscribe to the institutional framework set-out in the treaty. Without the recognition of the basic mechanism, any subsequent effort to solve pending and upcoming issues pertaining to the conflict are unlikely to be amenable for a mutually acceptable solution. In the case of Bosnia, however, the heavy-handed negotiation style of the third party as well as the non-representation of the domestic parties who were supposed to comply with the new framework meant that the Dayton Agreement became a treaty to which none of the concerned parties genuinely subscribed. Torn between a confederal (the entities as the centers of power) and a federal (emphasis on the state level with its capital Sarajevo) understanding, the Dayton Agreement provided the context in which the issues that were neither settled during the war nor during the negotiations continued to be contested.

This has had two important consequences. First, the Dayton Agreement paired an institutional framework requiring elite moderation and cooperation with political elites who were actually not ready to show the required behavior. Second, in absence of a genuine domestic agreement on the new institutional framework, the third party was required to directly intervene into

Bosnia's domestic politics and apply sanctions and incentives in order to ensure the parties' compliance with the agreement as well as its stability.

4.1.2.2 Power-sharing institutions without power-sharing elites

The consequences of the lack of a genuine consensual basis became soon apparent after the signing of the agreement and continue to mar the country's development to this day. Where the Dayton constitution required joint decision making, the lack of cleavage-crossing cooperation and the frequent use of vetoes has been paralyzing the legislative process. Where it provided for divided decision making by means of ethno-territorial autonomy, the scope of it became a constant source of dispute and inter-group polarization. From a conceptual point of view, Bosnia's new institutional framework lived up to most of the prescriptions of consociational theory, however, its working has been undermined by the 'missing pillar' of elite cooperation. The incongruity of institutions and behavior resulted in legislative gridlock and overall inertia. Institutions meant to safeguard each group from domination became used in an extensive manner and as a continuation of the war by other means.

4.1.2.3 Ongoing involvement necessary

The second consequence of the 'externally prescribed' origin of the Dayton Agreement, and a direct reaction to the lack of elite moderation, has been the need for an engagement of the third party in Bosnia's domestic affairs beyond the conclusion of the agreement. As to be detailed, the international community's engagement has evolved over time and can be best described by a sequence of partially overlapping phases with distinct approaches seeking to align elite behavior with institutions.

Initially, international involvement has been seen as a stop-gap measure required to compensate for the 'externally prescribed' origin of the agreement, including the lack of a founding consensus among the former warring parties. While hardly ever spelled out explicitly, the underlying working assumption appears to have been that after the 'externally prescribed' conclusion of the agreement, an 'externally prescribed' behavior may serve to initiate a self-perpetuating circle of cross-cleavage elite cooperation and the consolidation of peace. While Bosnia's elites may require a (benevolent) initial push by means of sanctions to cooperate, the ensuing socio-economic benefits of a functioning state would lead to electoral rewards, which would further compel the elites to engage in the agreement by their own will. Hence, initial external intervention was hoped to trigger a virtuous circle of cooperation and reward which would gradually lead to a domestic appropriation of the previously 'externally prescribed agreement'. To paraphrase Linz and Stepan (Linz and Stepan 1996, 5), eventually, the 'externally prescribed' agreement, including inter-ethnic elite cooperation was hoped to become the only game in town. Previously held objections would lose their salience. Critically though, as long as no rewards from a functioning state would accrue, parties would also not be compelled to moderate on their own choice. Elite-cooperation would be mainly the consequence of third party pressure and hence contingent on its continuation.

Eventually though, the attempt to impose cooperative behavior fell short of expectations. Non-cooperative behavior remained prevalent. This development prompted a shift in the international community's engagement. Rather than seeking to evoke a cooperating behavior by pressure, the international community increasingly intervened as a *de facto* legislator and supported as well as imposed reforms of the institutional framework. If domestic actors were unwilling to pass laws which would be conducive for recovery, the third party would step in. If, in the eyes of the international community, an excessive use of safeguards continued to

paralyze institutions, a change of safeguards/institutions seemed to be in order. If the behavior of elites could not be changed, the change of institutions was taken as the logical next step. Crucially, and outlined in more detail later, the unilateral modification of the institutional framework only increased the discontent among the parties to agreement. For some of them, the (attempted) post-hoc, non-consensual modifications amounted to a transgression of the original agreement and a violation of what they had been previously assured. Eventually though, starting from 2006, the international community's ability to externally prescribe behavior attenuated. Less and less it was able to sanction those not complying with the framework. The opposition to the Dayton Agreement, including its subsequent modifications became increasingly expressed. The relations among domestic parties has been deteriorating ever since.

4.1.3 Overview of the chapter

To detail this outlined trajectory of Bosnia's power-sharing and to empirically corroborate the proposed theoretical framework, the remainder of this chapter is structured as followed: Setting the context and corroborating why the Dayton Agreement qualifies as an 'externally prescribed agreement' the chapter will start by providing a concise recap of the dynamics leading to the armed conflict in Bosnia. While this has been the subject of a large number of publications, it is important for the focus of this research to highlight how the inability to find a compromise over the future of the state led to majoritarian outvoting and eventually war. The same dispute leading to the outbreak of the war, remained also without a mutually accepted answer at the end of the war following the intervention of the third party. Sections 4.4 to 4.6 constitute the bulk of the analysis. While laying out the process in a largely chronological manner, the section's purpose is not meant to be a mere recount of events, but to establish the development of Bosnia's power-sharing as an interplay between elite cooperation and different modes of

third party intervention. Following the proposed theoretical framework, the analysis divides the development of Bosnia's power-sharing in an imposition phase, a maintenance and recalibration phase, and eventually an attenuation phase.

4.2 From Outbreak of War to Conclusion of Agreement

4.2.1 Dynamics leading to war

Bosnia's pathway to war was a sequence of escalating demands fueled by each party's (perceived) pressure to ensure self-preservation. The end of the single-party system in the late 1980s led to the emergence of ethnically defined parties which saw their purpose first and foremost in representing their own ethnic group. The Bosniak SDA, Croat HDZ, and Serb SDS were initially unified in their endeavor to oust the Communist party. With their overwhelming success in the 1990 elections, this unifying element, however, became obsolete and the differences in their conception of the future of Bosnia came to the fore. Against the backdrop of the overall disintegration of Yugoslavia, the three major parties found themselves soon in conflict. The competition over this issue triggered centrifugal dynamics, with the available institutional framework inadequate to contain them.[28] The 1974 constitution and the power-sharing government formed after the elections were too weak for the parties to put their trust in or feel sufficiently constrained. Instead of moderation and the search for consensus, majoritarian decision making took over. Bosnia's independence became the outcome of a series of ballots which were reduced to mere headcounts, before a new arrangement on the accommodation of the different groups in the newly emerging state had been agreed upon (Bieber 2014; Bieber and Wolff 2005; Wolff 2003b).

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[28] From a Dahl'ian perspective, Bosnia's pre-war institutional framework was characterized by a relative high degree of inclusiveness, however, little permissiveness for contestation. From a comparative perspective, this combination is particularly ill-suited as a point of departure for democratization processes. The lack of experiences with high level of contestation makes it prone to collapse, despite its experiences with high levels of participation (see. e.g. Bratton and van de Walle 1994).

On the one hand side, for Bosniaks and Croats, Bosnia's independence and international recognition as an independent state was seen as the sole protection against pan-Serbian hegemony, as pursued by Serbia's president Milosevic and forcefully demonstrated by the bloodshed in Croatia and Slovenia. The Bosniak SDA (apart from some few smaller multi-ethnic parties) was the only major party endorsing unreservedly a unified and multiethnic country. Given that the Muslim community has been the country's largest ethnic group and no neighboring kin-state to draw on (unlike Bosnia's Croats and Serbs), this position appeared to its opponents as the outcome of a lack of alternatives rather than genuine ideological orientation. On the other hand, from the perspective of the Bosnian Serbs, the push towards independence, entailing also the defiance of constitutional and power-sharing safeguards, was perceived as a looming marginalization and warning of things to come in the new state which they rejected.

In this context, the Badinter-Commission's demand for a crude majoritarian referendum to establish the 'will of the Bosnian people' was ill-suited and accelerated the zero-sum dynamics. Rejected as a majoritarian imposition by Bosniaks and Croats, Bosnian Serbs overwhelmingly boycotted the independence referendum. Eventually, the international recognition of Bosnia did not create a pacifying *fait accompli* as to the new states' internal and external sovereignty - as it was the case in Croatia - but rather triggered an escalation of the confrontation and resulted in a new state which was from the outset suffering in the eyes of some of its citizens from a legitimacy deficit (Bieber 2008, 197; Bose 2007, 124). [29] Confirming Dahl's

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[29] The topic of independence has not lost its contentiousness also 20 years after the war. In November 2015, the Constitutional Court of Bosnia ordered the RS to annul its public holiday on 9 January, the anniversary of the RS' declaration of independence in 1991. The application to the court had been filed by Bakir Izetbegović, the current leader of the SDA and Bosniak member in the state's three-party presidency. With the votes of three international and two Bosniak judges, and against the votes of their four Serb and Croat colleagues, the court decided that the public holiday was discriminatory against other ethnicities in the predominantly Serb populated entity [expand on religious overlap]. In response, RS president Dodik stated that '[t]he

proposition, the majority rule of the referendum turned out to be 'neither appropriate nor valid when the 'rightfulness of the unit' of sovereignty and governance itself is contested' (Bose 2007, 125; Dahl 1989, 207). The dissolution of Yugoslavia, including its monopoly over the expression of ethnicity in the political field, triggered a security dilemma in which each ethnic group felt potentially threatened by the others (Mansfield and Snyder 2002; 2007). 'Ethnic entrepreneurs' (Brubaker 2006) fueled these dynamics by whipping up memories of historic atrocities and mutually escalating demands for 'self-preservation', often in furtherance of their own political career. Eventually, the war was fought by all sides as a 'defensive war' (de Figueiredo and Weingast 1999; Walter and Snyder 1999).

4.2.2 'To End a War' - Dynamics leading to the conclusion of the Dayton Peace Accord

4.2.2.1 Factors leading to the negotiations of the Dayton Agreement

During the three and half years lasting war, at least four third party mediated attempts to end the war were started. While all of the peace agreements discussed appeared at one point close to being signed, in retrospect, it appears safe to conclude that 'neither the consent of the parties nor the participation in the negotiations were altogether in good faith, especially that of the Bosnian Serbs' (Bieber 2008, 199). As long as the Serb leadership had the expectation that military escalation would allow to expand its controlled territory, participation in the negotiations were a sideshow. Overall, the mediation attempts by the United Nations or the European Community were repeatedly outpaced by the developments on the battlefield. Despite their initial efforts to preserve the multi-ethnic character of Bosnia, the military advances as well as deliberate policies of ethnic cleansing behind the front lines, particularly by the Bosnian Serb forces, created new, ethnically homogenous territories which the

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Constitutional Court of Bosnia and Herzegovina is nothing but a Muslim court against Serbs' and demanded that all RS representatives should withdraw from the BiH institutions until the Court withdraws the decision (Kovacevic 2015).

international mediation efforts eventually had to acknowledge. As long as military progress was made, there was little reason for the Bosnian Serb leadership to consent to an end of the hostilities. Conversely, the more widespread the pattern of ethnic cleansing became, the more difficult it was for the Bosniak leadership to consent to any agreement recognizing the war's outcome. These dynamics casted the mediators as forlorn actors, with little to no means to enforce agreements or hold those in breach accountable. By summer 1995 it was clear that the approach of previous attempts had been futile. Eventually however, the situation started to change with at least three interacting factors: the engagement of the US as a 'mediator', who was willing to back up words with military action; the change of dynamics at the battle field with an increasingly capable and well equipped Bosnian Army putting Bosnian Serb forces on the back foot; and the largely completed destruction of multi-ethnic areas meaning war goals had already been achieved.

4.2.2.2 Factors leading to the conclusion of negotiations

a) Coercive mediation style by the US as mediator

The US engagement in Bosnia and the outcome of the Dayton negotiations became a critical test case for the US leadership in the post-Cold war era. Its outcome would send a strong signal on the US' role as the only remaining 'superpower', its ability to assume international leadership and bring conflicts to an end. The US therefore had invested considerable prestige and resources standing in the process, and any unfavorable outcome of the negotiations risked inflicting at least reputational damage. It had strongly lobbied EC Member States to internationally recognize Bosnia in 1992 in exchange for its own recognition of Slovenia and Croatia's independence. From the outset, the US administration had voiced its support of a unitary Bosnia. In this context, and with the Rwandan genocide and accusation of US idleness

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still very present, the public opinion disaster of the intervention in Somalia very fresh, and looming presidential elections in 1996, the US engagement in Bosnia was a high stakes engagement. Thus, it was in the US administration's own interest that the negotiations would lead to some result that could be presented as a success. In order to achieve these goals, Holbrooke and his team applied what Secretary of State Christopher then called 'aggressive tutelage' (Holbrooke 1998, 275) and Touval (1996) coined as 'coercive mediation' (see also George, Hall, and Simons 1972). Deviating from a mediator's traditional role to facilitate communication or provide procedural assistance, Holbrooke (nicknamed by the media as 'Mr. Bulldozer') exerted direct influence on the bargaining positions of the parties by making use of the US' economic, military and diplomatic leverage. The US role was not only that of a chief negotiator aiming at bridging gaps between parties, but also that of the principal actor in the bombing campaign against the Bosnian Serbs (Touval 1996). In Holbrooke's own words he and his delegation 'for twenty-one days, […], cajoled, harassed, and pressured the participants' (Holbrooke 2011, 220). The outcome of the negotiations was therefore not a *quid pro quo* between the parties which would allow each party to extend some concessions in exchange for equivalent gains. Neither the Bosnian Serbs, Bosnian Croats or Bosniaks actually deemed that their concessions were adequately compensated in the agreement by concessions which they would receive from their adversaries. The fact that the agreement was nevertheless signed was due to the pushes and pulls by the external mediator, the US.

b) Freezing out of Bosnian Serbs and Croats

In addition to the application of preset conditions as well as the extension of incentives and sanctions, the US delegation also sought to increase the chances for an agreement by excluding parties which it considered to be particularly obstructive. Rather than negotiating with all domestic leaders of the warring parties in Bosnia, their main interlocutors were Croat President

Tudjman for the Bosnian Croats, Yugoslav President Milošević for the Bosnian Serbs, and Bosnia's President Izetbegović for the Bosniaks. The choice of Milošević and Tudjman as leading representatives for the Serb and Croat communities in Bosnia was based on the premise that the road to Dayton would lead via Belgrade and Zagreb and not Pale or Mostar. Milošević and Tudjman were considered to be the actual veto players and principals, whose influence over the Bosnian Serb and Croat forces and politicians as agents were decisive. Without their consent and contribution aiming to reach an agreement would be futile. Furthermore, each of the two leaders was susceptible to their own distinct incentives and sanctions, rendering a positive conclusion of the negotiations more likely. Most importantly, the inclusion of Tudjman and Milošević was not an addition to the Bosnian Serb and Croat counterparts, but *de facto* a replacement of them. The latter were considered by the US delegation to be unreliable, uncompromising and not amenable to constructive negotiations. Putting Milošević and Tudjman at the helm of the Serb and Croat delegation was therefore not only a reflection of assumed internal power-relations at that moment in time, but also a conscious decision to sideline and marginalize their ethnic kin in Bosnia. At the heart of this approach was the perception of the Bosnian Serbs and Croats as spoilers rather than as representatives of demands distinct from those of Milošević and Tudjman. The eventual outcome, therefore, was for the Bosnian Croats and Serbs not merely a consequence of US 'carrots and sticks', but an agreement to negotiations in which they had ultimately only little influence. While the sidelining of the Bosnian Croats and Serbs was undoubtedly conducive for the conclusion of the agreement, it also laid the basis for a Bosnian Serb and Croat elite behavior incongruent to the accommodational institutions established in the Dayton Agreement, what in turn would result in protracted opposition and stalemate.

c) *No genuine settlement of conflict during the negotiations*

In addition to 'coercive diplomacy' and the freezing out of the Bosnian Croats and Serbs, the US delegation made - intentionally or not - use of formulations which were ambiguous enough to allow the different parties to consent to the relevant provisions without actually being compelled to give up their aspirations. The use of ambiguities is a standard technique by mediators in order to at least tentatively bridge substantive disagreements by mutually acceptable formulations. While this approach is limited for the settlement of territorial disputes, it played an important role in order to reach an agreement on the wider institutional framework (Touval 1996, 567). Most importantly, and with major ramifications for the agreement's implementation and practice, the constitutional provisions lent themselves to contradictory interpretations on the future development of the unity of the state. As presented above, the Bosniaks saw (and continue to see) the Dayton constitution as a platform for the creation of a unified state with a strong center. Fundamentally opposed to this reading, the Bosnian Serbs have been seeing in the constitution the guarantee for an autonomous Serb entity including the prospect for later secession (Touval 1996, 564).

d) Fragility of consent due to 'sticks and carrots', sidelining and ambiguity

In light of the above, it can be concluded that the eventual ability to sign the Dayton Agreement was due to the coming together of several factors: the application of 'sticks and carrots' as part of a coercive mediation style, the freezing-out of Bosnian Croat and Serb parties, and the use of ambiguous language in the agreement. The underlying consent to sign the agreement was contingent on the presence of these factors, and therefore fragile from the outset. The consent leading to the signature was a snapshot, a 'fleeting equilibrium of preferences', which however was the basis for the creation of permanent institutions. As such the Dayton Agreement was the common denominator among the parties at a specific moment during the negotiations.

Institutionally, this moment was 'locked-in' by the created framework which would outlast the (imposed) consent among the parties on which it was built. The issues which were not genuinely settled in Dayton, however, did not evaporate with the end of the negotiations, but were passed on to the 'post-settlement' phase (Du Toit 2003). Inevitably, disagreements were therefore to arise once it came to the implementation of the agreement and the actual application of the institutions. As elaborated in more detail later, the incongruity between the newly created institutional structure and the elite's uncompromising agency - originating from the external prescription of the agreement - has resulted in protracted stalemate. However, as long as incentives and sanctions ('carrots and sticks') equivalent to those present during the negotiations continued to be exerted by the international community, these conflicts were limited to a level which would not threaten the agreement itself or trigger a new resort to violence.

Today's contestation of the Dayton framework is a continuation of the conflict which was first attempted to be resolved with majoritarian decisions in the Bosnian parliament and the referendum in 1991 (Sebastián-Aparicio 2014, 44), later to be settled by means of violence, and eventually by the negotiations in Dayton. From an institutional perspective, the main issue at stake is the power relation between the ethnic groups. This issue manifests itself in the contested relation between the concept of a unitary and centrally governed state of Bosnia and the concept of the primacy of the ethnically defined territories (first and foremost the Serb entity). For the Bosniaks, the center of power rests with the unitary state and its capital Sarajevo. For most Serbs and some significant parts of the Croats, the power is vested in the decentralized sub-state units, the entities and the cantons (Bieber 2008, 196). In short, the nature of the statehood remains contested also after the conclusion of the agreement (Bose 2002; Sebastián-Aparicio 2014, 27; Woodward 1997; 1999).The agreement did not provide a

blueprint for the future to which all parties, particularly those in Bosnia, were subscribing unconditionally and free of the incentives and sanctions which were put to them. Furthermore, while the agreement was very comprehensive in scope, it remained sufficiently vague to leave all parties enough leeway to continue to pursue their wartime aims also during peace. As a consequence, the unresolved issue has been continuing to pop up continuously and to shape the discourse in Bosnia (Bieber 2008, 196). Against this background, the Dayton Agreement hardly qualifies as a peace 'settlement' that would have conclusively put to rest a contentious issue. It may not even be qualified in good faith as a framework which successfully facilitates "conflict management" since the contentious politics threaten to derail the overall process.

4.2.3 Institutional Framework

Table 4, Table 5, and Table 6 provide an overview of Bosnia's institutional framework.

Table 4: Institutional balance

‚thin' central state	‚thick' entities & cantons
Inclusive decision making	Divided decision making
Unified state	Ethno-territorial autonomy

Table 5: Overview of central level institutions[30]

Presidency	- 3 members: 1 Bosniak and 1 Croat directly elected in Federation; 1 Serb directly elected in the RS[31] - Appoints Council of Ministers ('semi-presidential' aberration)

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[30] The presentation is limited to those elements which are at the core of the attempt to accommodate the different ethnic groups with their incompatible views of the state. For this reason, the Central Bank is omitted, which was created as a central institution at Dayton. With the exception of its initial board, which was governed by a non-BiH expert and three members from the different ethnicity, later boards comprised five experts irrespective of their ethnic belonging. The Central Bank is therefore a noteworthy given its non-accommodating set-up (Annex 4, Article VII), but is of no relevance for the focus of this research.

[31] The Bosniak and Croat member are elected by voters in the Federation. The Serb member by voters in Republika Srpska. The ethno-territorial requirements for the election of the Presidency effectively deprive non-Serbs in the RS or Serbs in the Federation as well as 'Others', those not identifying with one of the three constituent peoples, from running for the presidency. The term in office is four years (the first presidency was elected in 1996 to serve only two years). Rotation takes place every eight month. There are no significant additional powers associated with the chairpersonship. The concept of the rotating presidency draws on the 1974 Yugoslav constitution which featured an eight members presidency comprising representatives of the six republics and two autonomous areas (Vojvodina and Kosovo). The chairmanship changed once a year. Furthermore, some of the Yugoslav republics, including Bosnia, featured multi-member presidencies (Bieber 2008, 227).

	- Consensus decisions, if not possible simple majority decisions[32] - 'vital interest' veto - Limited substantive agenda
Council of Ministers	- Ethnic parity - 2/3 from Fed, 1/3 from RS - Each ministers with deputies from different ethnicity[33] - Confirmed by House of Representatives - Initially limited scope[34]: Foreign Affairs, Foreign Trade, Civilian Affairs
House of Representatives[35]	- 42 members (28 Fed, 14 RS)[36] - No reserved seats based on ethnicity; de facto though overlap of ethno and territorial criteria - Simple majority decisions, but 'entity voting' veto (min. 1/3 from each entity)[37] - Rotating chair[38]
House of Peoples[39]	- 15 members: 5 Bosniaks, 5 Croats from Federation: elected from FED House of Peoples (HoP; 5 Serbs from RS: elected from RS National Assembly/House of Peoples[40] - minimum 3/5 per community to have quorum[41] - Vital interest veto mechanism[42] - Chair and two deputy chairs (rotating)
Constitutional Court[43]	- 3 international judges - 3 x 2 Bosnian judges (2 Bosniak/Croat/Serbs) - Decision with simple majority - Final arbiter over central state – entity relations, vital interest vetoes

Table 6: Overview of entity level institutions

Federation	**Republika Srpska**
- 51 % of territory	- 49 % of territory
- Bosniak-Croat dominated	- Serb dominated

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[32] Annex 4, Article V(2)(c)-(d). This dissent needs subsequently the support of two thirds of the members of the National Assembly of the RS, if the dissent came from the Serb member, or two thirds of the Bosniak or Croat members of the House of Peoples of the Federation, if the dissent came from the Bosniak or Croat member of the Presidency. Once the dissent is confirmed by the necessary quorum, the veto takes effect. In absence of any subsequent mediation mechanism which would provide a forum for further deliberations on the issue, the Presidency's vital interest veto is absolute. Due to the limited scope of the presidency's authority its vital interest veto has also been of minor relevance. Annex 4, Article V(3) of the Dayton Agreement stipulates the conduct of the country's foreign policy. Furthermore, the members of presidency are the civilian heads of the armed forces.

[33] Initially, Ministers and Deputy-Ministers were rotating.

[34] Annex 4, Article V (4).

[35] Article IV, Dayton Agreement.

[36] Annex 4, Article IV (2).

[37] Annex 4, Article V (3)(d).

[38] Annex 4, Article IV (3)(b).

[39] Annex 4, Article IV (1).

[40] The Dayton Agreement did not provide for second chamber in the RS. The delegate to Bosnia's House of Peoples were hence appointed by the RS National Assembly. Following the 2002 Constitutional Court decision, the RS House of Peoples was created which since then appoints the delegates.

[41] Annex 4, Article IV (2)(b).

[42] Annex 4, Article IV (3)(e)).

[43] Annex, Article VI.

- Created by Washington Agreement 1994 and confirmed in Dayton Agreement	- Recognized by Dayton Agreement
Main Institutions	
- Presidency	- Presidency
- Council of Ministers	
- House of Representatives	- National Assembly (no ethnic quota)
- House of Peoples	- House of Peoples[44]
- 10 Cantons	- No further devolution
- 3 Croat, 5 Bosniak dominated, 2 mixed	
In addition, the Brčko district as a self-governing administrative unit, independent from the Federation and RS (Bieber 2005).	

The institutional framework eventually ratified in Dayton represents an attempt to square the conflict parties' incompatible views on Bosnia's statehood and the inter-relations between their groups. Institutions providing divided decision making in the form of ethno-territorial autonomy for entities and cantons were meant to satisfy Serb and Croat demands for far-reaching self-determination. Overall, the agreement resulted in a 'thin' central state with limited powers the use of which was contingent on the consent of all three groups. In contrast, the 'thick' RS, and to a lesser degree Croat canton were insulated from any interferences of other groups.

The bulk of Bosnia's new formal institutions became stipulated in Annex 4[45] of the agreement, which contained its new constitution[46] and laid out a highly intricate system of joint and divided decision making mechanisms (Roeder and Rothchild 2005; Zahar 2005, 125).

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[44] Created in 2002.

[45] Overall, the Dayton Agreement comprises 11 annexes which include the substantive provisions of the agreement. Annex 1-A: Agreement on Military Aspects of the Peace Settlement; Annex 1-B: Agreement on Regional Stabilization, Annex 2: Agreement on Inter-Entity Boundary Line and Related Issues, Annex 3: Agreement on Elections, Annex 4: Constitution, Annex 5: Agreement on Arbitration, Annex 6: Agreement on Human Rights, Annex 7: Agreement on Refugees and Displaced Persons, Annex 8: Agreement on the Commission to Preserve National Monuments, Annex 9: Agreement on Bosnia and Herzegovina Public Corporation, Annex 10: Agreement on Civilian Implementation, Annex 11: Agreement on International Police Task Force.

[46] The Constitution, Annex 4 in the Dayton Agreement, has further annexes which deal with 'additional human rights agreements to be applied in Bosnia and Herzegovina' (annex I), and 'transitional arrangements' (annex II).

Featuring four different layers of governance[47] with more than 14 different prime ministers and governments it is no surprise that some scholars referred to it as a 'Frankenstein Constitution' with 'Byzantine institutions' (Belloni and Deane 2005, 233; Bose 2002, 216; Lyon 2000, 112).

4.2.3.1 Weak central state, strong RS and Cantons

From a theoretical perspective, with its 'thin' central state and 'thick' entities, the Dayton Agreement turned the classical prescriptions of power-sharing on their head. Power-sharing in post-war Bosnia became first and foremost a function of the entities' autonomy, rather than the autonomy of the entities being a function of the power-sharing at the center (Bieber 2008, 239; Horowitz 1985, 619–28; Lijphart 1977, 41–44). While consociational power-sharing agreements typically put the emphasis on the sharing of power at the center by means of joint decision making and conceptualizes decentralization as nested in the unified state, the Dayton Agreement made the RS and Federation's cantons a dominant locus of power. The mediator's careful navigation between the role of the central state and entities is already reflected on a semantic level by the usage of the rather generic and legally unusual terminology of 'entity' which avoids any implications regarding the hierarchy between the state of Bosnia and Herzegovina and the RS or the Federation. Before Dayton, the RS was generally considered as Bosnian territory occupied by Serbian forces, which expelled non-Serbs with the aim to create a mono-ethnic, (Bosnian) Serb state. The so-called 'inter-entity boundary line' which marks the border between the two entities did not draw on to any historical antecedent, but was the frontline, modified by the concessions made in Dayton (Bose 2007, 133).

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[47] The four levels are 1) state level, 2) entity level 3) cantonal level and 4) municipal level.

Following the logic of ethno-territorial decentralization, the allocation of the larger part of competences to the RS and the cantons was paired with divided decision making, hence leaving it up to the 'constituent people' dominant in the territorial unit to decide largely unilaterally in legislative and executive matters. In the center, however, where only few competences had been allocated, joint decision making was stipulated, what provided each constituent people ('vital interest veto') as well as entity ('entity voting') with safeguards against majoritarian dominance. As a consequence, the central state not only required the cooperation of the entities, but it was also dependent on the representatives of the 'constituent peoples' and entities to be cooperative in order to be functioning (Bose 2006, 326). The limited scope of the central state institutions as well as their group accommodating decision mechanism was the result of the concessions demanded by the Serb and Croat delegations in Dayton (Bieber 2008, 205). Reflecting their original opposition to Bosnia as an independent and unified country, the powers of the central level were bound to be minimal. A unified and independent Bosnia would only emerge with a central level featuring a limited scope of authority and if dependent on the willingness of the parties to cooperate. Importantly however, the entities were vested with the authority for 'all governmental functions and powers not expressly assigned' to the central level (Article III (3)(a)). The central level's areas of responsibility are exhaustively mentioned in the constitution, and are limited to ten specific areas which mainly relate to issues of foreign policy and international relations.[48] The residual powers, everything that does not fall under the ten areas, were granted to the entities. As a consequence, most of the issues which were contentious among the parties were not requiring an agreement among them. This included issues with a direct security dimension such as policing and military affairs - with each entity

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[48] Article III (1): 1) Foreign Policy, 2) Foreign trade policy, 3) Customs policy, 4) Monetary policy (as provided in Article VII), 5) Finances of the institutions and for the international obligations of Bosnia and Herzegovina, 6) Immigration, refugee, and asylum policy and regulation, 7) international and inter-Entity criminal law enforcement, including relations with Interpol, 8) establishment and operation of common and international communications facilities, and 9) regulation of inter-entity transportation, 10) air traffic control.

setting up its own police and army -, but also e.g. cultural and educational affairs - with each ethnicity eventually applying its own curriculum in schools (Bieber 2008, 203).[49] Similarly, the entities' and cantons' prerogative also covered fiscal matters, with the central state precluded from levying its own taxes (Annex 4, Article VIII; Jung 2012, 494).

4.2.3.2 Absence of consensus

Nevertheless, if the high complexity of the agreement was the consequence of the attempt to 'square the circle' and to console the warring parties' opposing ambitions, it did so insufficiently and the agreement's conclusion was still premised on the third party's extension of sanctions and incentives. For many Bosniaks the Dayton Agreement was seriously flawed. Not only led the recognition of the RS to an official entrenchment of ethnic cleansing, which had predominantly affected the Bosniak population, the agreement also undermined the very meaning of Bosnia as a unitary state in light of the very weak competences allocated to the central level. While the agreement was evidently welcomed since it ended the war, the existence of the RS as well as the weak central state were perceived as aberrations which should be corrected. For the Croats, the Federation as stipulated in the Dayton Agreement was a doubtful compromise. In their own view, Bosnia's Croats ended up being the only group which did not receive its 'own' entity in Dayton. Irrespective of the considerable autonomy enjoyed by the cantons, their numerical inferiority to the Bosniaks in the Federation made them highly skeptical of the group's accommodation. In the early years after its conclusion, many Serbs in the RS considered that the concessions made in Dayton were too far-reaching and that Milosevic 'sold' the interest of the Bosnian Serbs for his own political benefit. Irrespective,

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[49] In the Federation of Bosnia the concept of 'Two Schools under one Roof' became a frequent practice. Croat and Bosniak pupils were educated in the same school building but were separated into different classes who were taught according to different curricula. In many cases the schools also featured different entries – one for Croat and one for Bosniak pupils. Pupils in the RS are studying according to the curriculum of Serbia (Kovacevic 2018a; OSCE 2018).

many considered the RS as their 'home' state and not Bosnia. Would it not have been for the intervention of foreign Western powers, so their view, Bosnia would not exist and Bosnian Serbs would have their truly independent state or have joined Serbia. Against this background, the RS's 'sovereignty' had to be defended at all costs against any additional usurpation attempts by the central state or the international community.

4.3 Overview of Phases

In line with the theoretical framework, the following presentation of the dynamics of Bosnia's power-sharing arrangement is structured into three phases: 1) the facilitation and imposition phase, 2) the maintenance and recalibration phase, and 3) the attenuation phase. In each phase the international community tried with varying means and intrusiveness to build a unified Bosnia which would be a self-sustaining state and governed by inter-ethnic cooperation and moderation. At the center of the international community's engagement has been the OHR, equipped with its quasi executive 'Bonn Powers' and the EU with its reform-conditioned integration perspective as an incentive. However, the lack of a genuine consensus on the creation of 'Dayton-Bosnia' expressing itself in the contested relationship between the central state level, the RS and the Croat cantons permeated through all phases and continued to fuel the parties' uncompromising stance and resistance. In each phase the different parties responded distinctly to the international community's interference by adopting different strategies of how to engage with the institutional framework.

4.3.1 Phase 1: Imposition Phase

The immediate phase after the conclusion of the agreement was characterized by a stark contrast between the parties' actual unwillingness to engage in the new institutional framework

and the behavior on which the consociational prescriptions were premised (particularly, inclusive decision making at the central level). Defying pertaining hopes, years of bloodshed and destruction did not yield the insight that cooperation would be the way forward nor did the signing of the agreement spark a transformation of elite behavior. Instead of filling the new institutions with life, the same parties who were dominant during the war, continued to pursue their incompatible views of Bosnia also after the war. 'Zero-sum' politics dominated the elite interaction and compromise was elusive. With the exception of the Bosniak parties, for who the central state has been equivalent to a united Bosnia, no other group engaged meaningfully in the newly created central state institutions.

4.3.1.1 Reaction by International Community

This incongruence between institutionally required moderation and actual non-engagement or non-moderation resulted in the lack of any meaningful legislative activity and an overall stalemate of the post-conflict recovery process. Initially, the international community's efforts to make the Dayton framework function were predominantly focused on its support for parties which were considered to be moderate. By publically endorsing and strengthening actors which promised to exhibit cooperative behavior and to strike deals across the ethnic cleavage it was hoped to improve the situation. As this mode of intervention yielded little success, the international community shifted its initially facilitation-oriented engagement to a more directive and intrusive one. With this view, the OHR became equipped with the so-called 'Bonn Powers' including the authority to remove recalcitrant politicians and pass executive acts. The international community hoped to diffuse the incompatibility between the institutional framework and the elites' behavior. Rather than adapting the institutional framework, the behavior of the local actors was targeted.

4.3.1.2 Result of Phase 1: Behavioral compliance

In broad terms, this approach initially resulted in some tentative progress in the parties' engagement in the Dayton institutions and the readiness to cooperate. The achieved engagement, however, was frequently token and only 'behavioral compliance' bar any genuine transformation of elite behavior which would constitute a credible signal towards other parties.

Furthermore, the increasing fragmentation of the ethnic party (sub)systems rendered inter-ethnic elite compromise more difficult. While the war-time parties HDZ, SDA, and SDS remained initially unchallenged, they faced increasing competition. Rather than being a dominant 'ethnic tribune' parties, they became challenged from within their own segment. Dynamics of intra-segment outbidding rendered intra-group compromise even more difficult.

4.3.2 Phase 2: Recalibration phase

At the end of the first phase, parties overwhelmingly engaged in the Dayton institutions. But while fundamental obstruction *against* the framework declined, opposition *within* the framework continued. The requirement of inclusive decision making at the center, combined with the lack of a genuine consent on the distribution of power between the center on the one hand, and the RS and the Croat cantons on the other hand resulted in the regular resort to the veto mechanisms to which they were entitled by the Dayton Agreement. Contrary to theoretical assumptions of consociationalism, the prospect of an overall stasis has been no deterrent to the parties.

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4.3.2.1 Reaction by the international community: changing of institutions

Starting from the early 2000s, the international community expanded the scope of its involvement. Rather than limiting its engagement to the assurance of 'behavioral compliance', international reform efforts started to emphasize institution building at the central level. While state building activities in general had been part and parcel of the international community's engagement from the very beginning, and were framed as a necessary means to improve Bosnia's socio-economic development, these 'recalibration attempts' now affected the delicate balance of power between the center and the entities and cantons. Against the background of the negotiation results in Dayton, this intervention was not 'neutral' or 'equidistant' to all sides, but in line with Bosniak ambitions to strengthen the central state and against Croat and Serb insistence on far-reaching ethno-territorial autonomy and joint decision making at the center.

4.3.2.2 Reaction by domestic parties: growing discontent

This new form of interventionism was particularly controversial given that the Dayton Agreement itself had already been concluded without the genuine representation of the Croat and Serb concerns. The new post-hoc modification of the balance between the (Bosniak) central level on the one hand, and the RS and the Croat cantons on the other hand put additional strain on their relation with the state, the Bosniak leadership and the international community. However, as long as the international parties, first and foremost the OHR, disposed over an effective deterrent against challenges to the Dayton framework plus the subsequent institutional changes, the mounting discontent was contained.

4.3.3 Phase 3: Attenuation phase

4.3.3.1 Decline of third party sanctions ('Bonn Powers') and weak pull of incentives

   (European integration)

The third phase has been characterized by a decline of the international community's ability to actually contain the different parties' opposition to the Dayton Agreement and the institutional developments since its conclusion. Starting from 2005 onwards, the previously crucial 'Bonn Powers' started to lose their deterrent effect, and the newly extended perspective of closer European integration did not entice the intended cooperation and institutional reforms. As a consequence, inter-elite relations have been deteriorating again.

4.3.3.2 Reaction by domestic parties: Attack on the Dayton framework and later changes

Implicit in the international community's approach to Bosnia, including the use of coercion in the conclusion of the Dayton Agreement, was the assumption that by creating a functioning state which would improve the well-being of its citizens, the salience of externally prescribed origin of the agreement would eventually decline. Opposition to the agreement was hoped to eventually be replaced by a consensus on the desirability of the new *status quo*. The realization that cooperation would yield benefits to groups, so the hope, should lead to a routinization and eventually internalization of cooperation, which would also prevail without external involvement. But in striking contrast to this hope of 'institutional bootstrapping', also ten years after the war, Bosnian politics continued to be dominated by incompatible views on the state's institutional framework, and were a far cry from a *modus operandi* based on inter-ethnic cooperation, let alone a unifying national narrative. The persistent opposition to the foundation of the state combined with an attenuating influence of the international community emboldened Croats and Serbs alike to mount challenges on the integrity of the state, which in their eyes is biased pro-Bosniak. Since the mid-2000s Bosnia has found itself confronted with a string of

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challenges to its statehood and its institutional framework. Cooperation between the different elites has been decreasing ever since.

4.3.4 Development of willingness to cooperate - 'Common Good', 'Bonn Powers', and legislative output

Figure 13 visualizes the development of inter-group cooperation over the different phases, and highlights how this development has been conditioned by its externally prescribed origin and the subsequent, continuous need for third party involvement.

Figure 13: 'Common Good', 'Bonn Powers', and legislative output

a

'Common Good' as justification

4: Justifications are for the most part almost always based on explicit statements of the common good for society, understood either as the greatest good for the greatest number or as helping the least advantaged in a society
3: Justifications are based on a mixture of references to constituency/party/group interests and on appeals to the common good
2: Justifications are for the most part a mix of specific interests and the common good and it is impossible to say which justification is more common thanthe other
1: Specific business, geographic, group, party, or constituency interests are for the most part offered as justifications
0: Little or no justification in terms of the common good is usually offered

97'Dec creation of Bonn Powers

06'May HR Schwarz-Schilling

standard deviation

data: V-Dem Dataset v7 (v2dlcommon_osp/_sd), Coppedge et all, 2017
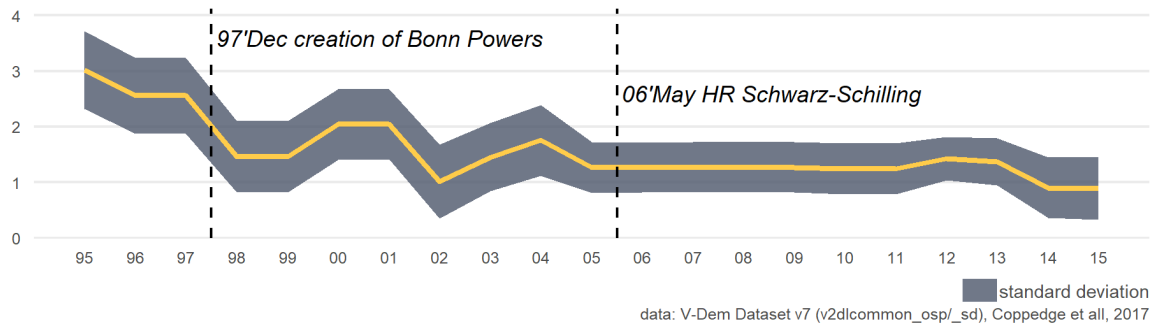
b

'Bonn Power' Decisions

Select areas

Removals and Suspensions from Office   State Symbols, State-Level Matters and Const. Issues

data: www.OHR.int
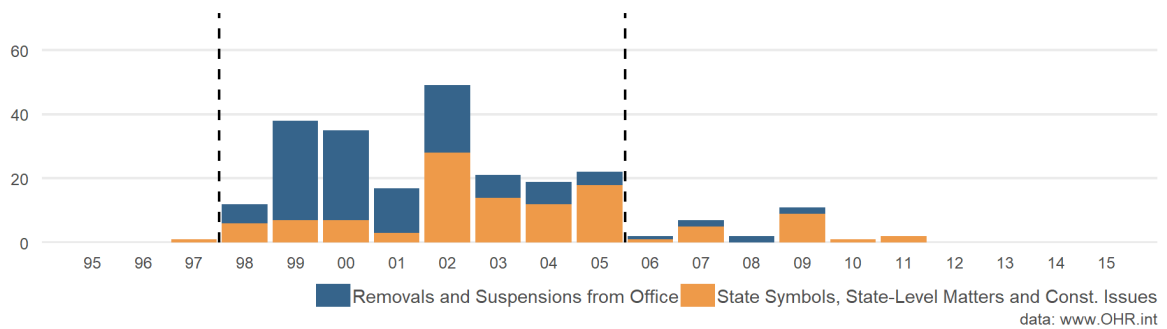
c

Number of laws per year in BiH Parliament

No data on rejected laws prior to 2006

passed   disputed, rejected, suspended   under consideration

data: www.parlament.ba

graph: author

78
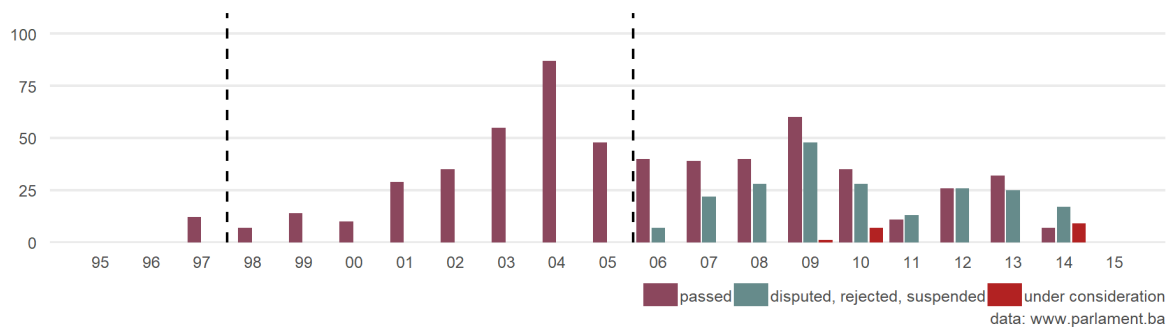
Figure 13 (a) displays the annual scores of the 'common good' variable of the 'Varieties of Democracy' dataset.[50] It intends to measure to 'what extent do political elites justify their positions in terms of the common good?' In the context of a divided society as Bosnia, the endorsement of a 'common good' is taken to be indicative for an elite's willingness to take positions not dominated by the ethnic cleavage, but which transcend the ethnically defined-group boundaries and encompass other groups as well. The endorsement of a 'common good' entails the understanding that different groups form, notwithstanding the ethnic cleavage, part of the same society and that they are interdependent in their development. This understanding should also bring about a willingness to moderate and cooperate.

Figure 13 (b) represents the annual total of 'Bonn Power' decisions by the OHR. The count contains decisions pertaining to 'Removals and Suspensions from Office' and 'State Symbols, State-Level Matters and Constitutional Issues'. Decisions of the first category have been included since they are a means to discipline for non-compliance with the Dayton Agreement and may hence be suitable to contain any opposition originating from the coerced conclusion of the agreement. Decisions dealing with 'State Symbols, State-Level Matters and Constitutional Issues' are included because they alter the contested relationship between center, entities and cantons.[51]

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[50] The scores represent answers to the question 'When important policy changes are being considered, to what extent do political elites justify their positions in terms of the common good?' The available answers are:

0 - Little or no justification in terms of the common good is usually offered. 1 - Specific business, geographic, group, party, or constituency interests are for the most part offered as justifications. 2 - Justifications are for the most part a mix of specific interests and the common good and it is impossible to say which justification is more common than the other. 3 - Justifications are based on a mixture of references to constituency/party/group interests and on appeals to the common good. 4 - Justifications are for the most part almost always based on explicit statements of the common good for society, understood either as the greatest good for the greatest number or as helping the least advantaged in a society (Coppedge et al. 2017, 201).

[51] Data for the analysis of the 'Bonn Power' decisions was obtained by 'web-scraping' the pertaining information from the website of the OHR as of January 2019. The code and data is available at https://github.com/rs2903/ceu. Decisions which lifted those previously imposed were excluded from the count in the category on suspensions and removals. Decisions falling into the categories 'Individuals indicted for War Crimes in the former Yugoslavia', 'Property Laws, Return of Displaced Persons and Refugees and Reconciliation', 'Media Restructuring Decisions', 'Federation, Mostar and H-N Canton', 'Economic Field', and 'Judicial Reform' have been not included since they are *a priori* not suitable to discipline domestic actors and have overwhelmingly no or little bearing on the distribution of power between the center, entities, and cantons.

Figure 13 (c) represents the legislative output by Bosnia's central level parliament from 1995 until 2015. The dynamic of the number of passed and rejected laws is taken as being indicative of the domestic actors' ability to compromise and to sufficiently satisfy all veto players' demands.[52] A limitation to the data on the legislative output is the lack of details on rejected laws prior to 2006. While the available information for subsequent years details whether tabled proposal have been passed or rejected, only the number of passed laws is available for the years before 2006. Although this introduces analytical limitations, the dynamic of the total number of passed laws over the entire period already offers an instructive indicator.

Taken the three graphs together, three partly overlapping phases can be discerned which are in line with the theoretical proposition for the development of peace agreements concluded in the absence of a genuine domestic consensus. The immediate aftermath of the Dayton Agreement was characterized by a decline in the elites' appeal to a 'common good'. While initially the elite's appeals were justified on a mixture of references to specific interests and the common good (score 3), references to the 'common good' became less and less frequent (score 1-1,5). Instead of engaging in the Dayton framework as a moderation and cooperation requiring institutional configuration, the parties refused to engage or put ethno-centric policies forward. Annual legislative output was minimal, ranging between seven and 14 approved laws in the first four years. In reaction to the party's non-engagement in the agreement, the OHR became equipped with the 'Bonn Powers' which have allowed it to assume a more direct and intrusive approach. The OHR's more assertive engagement as well as the recalibration of the Dayton framework were paralleled by an upswing in legislative output starting in 2001 and reaching a maximum of 87 laws passed in 2004.

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[52] The basis for the analysis of the legislative output is a newly created dataset comprising all passed and non-passed laws which were tabled in one of the two houses of the central level parliament.

The third phase, the attenuation phase, started in 2006 when the new HR Schwarz-Schilling decided that it was time to put 'local ownership' first and abandon the OHR's interventionist approach which often had amounted to a 'government above the government'. The combination of the elite's unwillingness or inability to compromise, as reflected by the low 'common good' measurements, with the decline of the 'Bonn Powers' was paralleled by a decline of the legislative output (with the exception of 2009). Bearing in mind that information on non-passed laws for the period prior to 2006 is missing, it is further noteworthy that an increasing share of laws introduced into the parliamentarian deliberation process became rejected. While in 2006, the first year for which information on rejected bills is available, only seven out of 47 bills were rejected, the corresponding share grew with eventually more bills rejected than passed in 2011 (13 rejected, 11 passed) and 2014 (17 rejected, seven passed). Taken together, the very low legislative output, the high number of rejected bills, the little readiness of elites to endorse cleavage crossing appeals paint the picture of a dysfunctional consociational system during the ongoing attenuation phase. Although there have been periods in which cleavage crossing appeals were on the increase, these developments were the exceptions in an overall declining trend, and mostly preceded or paralleled by the OHR's interventions by means of its 'Bonn Powers'. These dynamics are in line with the theoretical framework which suggests that externally prescribed agreements which require joint decision making and lack genuine domestic elite consensus are prone to result in stalemate without an ongoing external involvement. Contrary to the hope of its external creators, the Dayton Agreement together with the OHR's intervention did not constitute a context which was conducive for the emergence of elite compromise and moderation which would be self-sustaining once international engagement subsides. However, as intuitively appealing as Figure 13 may be, a few words of caution are in order at this point. The visual juxtaposition of the

three dynamics alone does not indicate any causal relationship between them. This will be the task of the following sections tracing the linkage of the different processes within and between each phase.

4.4 Phase 1: From agreement conclusion to imposition. Making the agreement 'work' in the absence of elite cooperation

4.4.1 Continuation of war-time elites

Bosnia's first elections after the Dayton Agreement were already held in 1996 in order to fill the newly created institutions with democratically elected office holders. The pre-election campaign was dominated by debates on the drawbacks and anomalies of the Dayton Agreement for each group (Osmic 2015, 92). The clear winners were those political parties which had been at the helm of each ethnic group since the country's independence and had also been dominant during the war. The HDZ, SDA and SDS won together 36 out of the 42 available seats in the House of Representative and formed the Council of Ministers.[53] While the early timing of the election was justified with the need to put domestic actors in charge and ensure their electoral legitimization, it severely undermined the emergence of new, moderate political parties. SDA, SDS, and HDZ had a 'first mover advantage' since they were the only parties which could draw on an already established party machinery and also had experiences with running an electoral campaign. With the experiences of the war still very fresh and inter-ethnic antagonism high, the three nationalist parties were able to present themselves as the sole legitimate defender of their group's interest and to fend off any serious intra-community challengers lacking a comparable track-record.[54] Moreover, during the war the boundaries between party

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[53] The election results are displayed in the appendix in Figure 60 to Figure 63 (page 303).

[54] The early timing of the first elections was also motivated by the understanding that elections could be presented as an event marking 'mission accomplished' and pave the way for a withdrawal of the troops (Bildt 1998, 256; Manning 2004, 63). In contrast the International Crisis Group (ICG) argued for the postponement of the 1996 elections since 'the minimum conditions' were non-existent (ICG 1996).

and (proto) state authorities had become increasingly blurred what allowed them to operate as a gate keeper over public resources, which were used to reward those who supported their electoral ambitions.

Importantly, the fostering of the ethnic cleavage during the electoral campaign was also driven by the group-accommodating emphasis of the new constitution and electoral law, effectively segmenting the electorate into three mono-ethnic political arenas. Seeking votes outside of one's group political arena was not intended to be rewarded, and hence electoral contestation was mainly intra-group. Tellingly, - and in contrast to general absence of major violence following the Dayton Agreement, - election related clashes were not between members of different ethnic groups, but between members of the same ethnicity who supported different parties (intra-group violence) (Manning 2004, 72).[55]

Generally, the Dayton Agreement contained a clearly defined electoral road map and stipulated four general elections (presidency, parliament, entity) within the first seven years (1996, 1998, 2000, and 2002). In addition, cantonal and municipal elections were to be held. As a consequence of this tight schedule, parties were in an almost permanent 'electoral campaign mode'. This dynamic further rendered any compromising behavior between the incumbent parties less likely. Extending concessions across the cleavage was feared to weaken the prospect of electoral success. Furthermore, the permanent suspense due to the short electoral cycle made it also more difficult for moderate, non-nationalist parties to get their messages across. With the ethnic divide of unabated salience, electoral programs focusing on e.g. socio-economic issues received little attention. The continuing 'siege' mentality in all groups led quickly to moderates being confronted with accusations of being not 'true' representatives of

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[55] Violence against displaced persons returning to their pre-war homes in areas predominantly populated by members of another ethnic group ('minority returnees') was another significant exception.

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their group or even traitors. As a consequence of the outcome of the 1996 elections, the representatives of the same parties who had been at least unable to avoid the outbreak of the war and who had all fundamental misgivings about the Dayton Agreement were tasked to form the Council of Ministers, Bosnia's government.[56] The lack of engagement in the new institutions on the central level and absence of any genuine willingness to cooperate resulted in a very small number of passed laws, which would become characteristic for the Bosnia's legislative process. In 1997 only twelve laws were passed, the year later as little as seven laws.

4.4.2 Facilitation - Need to evoke engagement and compromising behavior

Confronted with the unwillingness of the previously warring parties to fill the institutional framework with life, various international organizations were first and foremost occupied to make the agreement concluded in Dayton actually work. While the third parties had been able to create an institutional framework in Dayton, they found themselves now in a position in which they had to evoke a behavior of the previously warring parties which was in congruence to the institutional framework. Initially, these efforts were overwhelmingly 'indirect', meaning their aim was to create a context conducive for the emergence of moderate and cooperative parties which would replace the ethno-nationalist parties (Chandler 2000, 114; Kapidžić 2015). With this view, the international community tried to support parties it considered promising. These efforts also included public statements of support or the provision of professional trainings, but also repeated reforms of the electoral law leading to a context particularly permissive for the emergence of new political parties. In this context, the Organization for Security and Cooperation in Europe (OSCE), which had been tasked to organize Bosnia's

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[56] Tellingly, the Council of Minister initially operated on a basis which kept it more constrained than originally foreseen by the constitution. Rather than being headed by one single chairperson (whose mandate potentially may evolve into something resembling a prime minister), the Council of Ministers was presided by two co-chairs, who rotated every eight months, and a vice-chair (Bieber 2006a, 18). Reflecting the high contestation regarding the powers of the central levels on a semantic, the term 'government' was long rejected.

elections until 2002, required parties and candidates to sign statement of acceptance of the

Dayton Agreement.[57] While such an agreement could only ensure up-front and pro-forma

compliance, the OSCE's 'screening' nevertheless resulted in 'a few hundred' candidates being

removed from the electoral list (Osmic 2015, 93; quoting Hadzovic 1998). Furthermore, also

with a view to strengthen the emergence of new, moderate political forces, the electoral law

now allowed for the formation of pre-electoral coalitions. By providing this avenue, it was

hoped that moderate parties, otherwise too small to cross the effective electoral threshold,

would be willing to run for elections and able to secure seats (Osmic 2015, 94).

Initially, efforts to foster 'moderate middle' parties yielded some modest yet promising results.

In the RS, Karadzic's SDS fragmented in the lead up to the 1998 elections and the subsequently

formed coalition of Biljana Plavisc's new SNS and Milorad Dodik's SNSD ('Sloga

Coalition'[58]) emerged as the strongest list (Dodik became RS prime minister).[59] This crack in

the ethno-nationalist camp was hoped by many in Sarajevo and Western capitals to herald the

demise of the SDS and the emergence of a Serb political force willing to constructively engage

in the Dayton framework. More importantly, the 2000 general elections resulted in the first

Council of Ministers without any participation of the three major ethnic parties. The outcome

of the elections was heralded as a victory of 'moderates' and hoped to constitute a turning

point. The victorious 'Alliance of Change' promised to include the Peace Implementation

Council's (PIC)[60] objectives for Bosnia into its own program and was 'expected to undertake

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[57] In addition, parties were required to submit their programs detailing their stance regarding issues such return of displaced persons and refugees.

[58] 'Sloga' translates as 'harmony' or 'concord'.

[59] Plavšić was later sentenced to 11 years in prison by the ICTY after having pleaded guilty to the charge of crimes against humanity. A plea bargaining had resulted inter alia in the drop of genocide charges. While she expressed 'full remorse' at the hearing, after her release from a Swedish prison she backtracked from her previous confession and underlined the tactical aspect of her plea. The fact that Plavšić's split from Karadzic was considered as a step towards moderation highlights how weak the base for a moderate middle was. Similarly, with the benefit of hindsight, pinning hopes for a moderation on Milorad Dodik appear overly optimistic.

[60] The PIC comprises 55 countries and agencies that support the peace process. Its steering board provides the OHR with political guides.

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thoroughgoing reforms. A strong performance of the Alliance was hoped to constitute the proof that the Dayton Agreement might yet produce a viable state (Bieber 2008, 221; ICG 2002). Relations between the government and the international community increased significantly. The Alliance succeeded in securing Bosnia's membership in the Council of Europe and took important steps for the initiation of a feasibility study regarding a Stabilization and Association Agreement with the EU, fiscal reforms and enhanced revenue collection (ICG 2002, ii). Compared to the previous governments, legislative output under the governance of the Alliance multiplied. While e.g. during preceding Council of Ministers led by Martin Raguz (HDZ) less than 0.3 laws per week were passed, the subsequent Council of Ministers of the Alliance of Change (which comprised three different chairpersons) reached ratios of 0.5 to 0.8 (see Figure 14).

Figure 14: Average legislative output per week
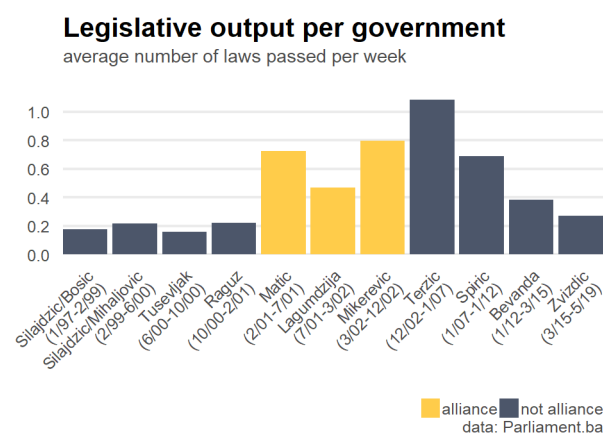
Importantly though, the formation of the new government was not the result of a clear victory for the challengers to the 'big three', but rather the result of heavy handed brokering by the international community, particularly the US and UK embassy after the elections.[61] In pursuing what could be termed an 'anything but SDA, SDS, and HDZ' approach, international actors

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[61] The support for parties leading the 'Alliance for Change' started already before the elections. At several occasions members of the embassies publicly expressed their support for parties other than the 'big three'. In the run-up to the elections, moderate parties received free training by Western foundations such as the National Democratic Institute (Osmic 2015, 96)

managed to assemble the Alliance which eventually included not less than ten different parties with diverging ideological orientations. Consequently, the Alliance was from its outset prone to internal conflicts (Bieber 2008, 219; Merdzanovic 2015, 9.3.2).[62] Furthermore, while the Alliance dominated the Council of Ministers, it won only 17 of the 42 seats in the House of Representatives (HoR). In order to secure a legislative majority in the second chamber it ended up being dependent on the support of all parties from the RS except SDS (PDS, SNS, SNSD, SPRS). Adding an additional layer of complexity, these four parties were partly in government and partly in opposition in the RS. Overall, when analyzing the victory of the 'Alliance of Change' it is important to note that the victory of parties considered to be moderates was largely limited to the Bosniak segment. While the relative decline of the SDA at the benefit of the SDP and SBiH was heralded a turning point, this development was largely limited to the Federation. No such development occurred in the RS. Here, the SDS won more than 40 % of all votes and thoroughly defeated the members of the 1998 'Sloga' coalition who had been hoped then to represent a step towards more cooperation.

In the larger context, the 'Alliance of Change' reign turned out to be an aberration, a fleeting intermezzo, from the otherwise dominant inter-ethnic antagonism. Irrespective of its successes in some areas, the Alliance failed voters' expectations to deliver tangible improvements of their socio-economic situation. The Alliance 'unnatural birth and incoherent membership' (ICG 2002, i) had limited from the outset the coalitions' room to maneuver. The short electoral cycle of only two years soon prompted individual members to put electoral tactics before coalition

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[62] The Alliance comprised: the Social Democratic Party (SDP), Party for BiH (SBiH), New Croat Initiative (NHI), Bosnia-Herzegovina Patriotic Party (BPS), Republican Party, Civil Democratic Party (GDS), Croat Peasant Party (HSS), Liberal Democratic Party (LDS), Democratic Party of Pensioners of BiH, and Party of Pensioners of the Federation of BiH (ICG 2002, 1). On the state level, the Alliance comprised only those parties which had secured a seat in parliament: SDP, SBiH, BPS, Democratic Party of Pensioners of BiH (DS Penzionera), DNZ and NHI.

discipline and internal compromise. Eventually, the Alliance disintegrated and did not run as one list in the next elections, which were marked by a return of the ethno-nationalists.

4.4.3 Outcome-oriented interventionism

The lack of progress in meaningfully anchoring the Dayton institutions so that they would effectively structure the parties' interactions fueled the realization that a more direct means of intervention would be required.

4.4.3.1 OHR as leading player among international actors

At the center of these efforts has been the Office of the High Representative (OHR), which is mandated as the 'final authority in theatre regarding interpretation of [the] agreement on the civilian implementation of the peace settlement' and 'to ensure cooperation between the parties in order to implement the agreement' (Dayton Agreement 1995; Annex 10, Art V).[63]

Table 7: Overview High Representatives

Mandate holder	Start of Mandate	End of Mandate
Carl Bildt	14/12/1995	17/06/1997
Carlos Westendorp	18/06/1997	17/08/1999
Wolfgang Petritsch	18/08/1999	26/05/2002
Paddy Ashdown	27/05/2002	31/01/2006
Christian Schwarz-Schilling	01/02/2006	30/06/2007
Miroslav Lajčák	01/07/2007	28/02/2009
Valentin Inzko	01/03/2009	in office

4.4.3.2 Creation of Bonn Powers: From facilitation to enforcement of compliance

At its summit in Bonn in December 1997, the Peace Implementation Council (PIC) granted the OHR new powers which included inter alia the authority to pass interim measures when parties

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[63] Holbrooke had been initially reluctant to accept their proposal, however, eventually acknowledged the important role the institution would later assume (Holbrooke 1998, 364).

are unable to reach an agreement and take 'actions against persons holding office' when 'absent from meetings' or 'in violation of legal commitments' (Merdzanovic 2015, 7.6; OHR 1997). In principle, the 'Bonn Powers' were still intended as a mechanism subsidiary to the domestic parties' activities and to serve as a fallback option should the facilitating role of the OHR be insufficient. Furthermore, should parties reach a 'home grown' agreement at a later stage, the domestically produced outcome would replace the OHR's measure. The OHR's approach was hence still one of a 'reluctant intervener' with the understanding that it would be incumbent on the domestic parties to produce legislation. [64] More imposing, the 'Bonn Powers' also authorized the OHR to take 'other measures to ensure the implementation' and 'smooth running' of the Dayton Agreement, including 'actions against persons holding office' when 'in violation of legal commitments' (OHR 1997, XI. 2 (c)). This broad clause granted the OHR sweeping powers and left it very much at its own discretion to decide when and how to apply it. With its vague formulation, it was up to the OHR to decide what 'other' measures were required and what 'smooth running' actually meant. Crucially, the OHR became empowered to punish elected politicians for i.e. non-compromising behavior which was considered to be unduly obstructive and running against the Dayton Agreement (Bieber 2006b, 84–85).

4.4.3.3 Application of 'Bonn Powers'

The establishment of the 'Bonn Powers' marked a turning point in the international community's engagement.

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[64] The scope of this provision was later extended by the so-called 'Madrid Powers', termed after the PIC meeting in the Spanish capital. It provided the OHR with the authority to sanction not only elected politicians, but also any rank and file members of a political party as well as public officials including civil servants if it deemed to be acting in contravention of the Dayton Agreement (PIC 1998).

a) Changing behavior by removing and sanctioning individuals considered to violate Dayton

Once it became clear that the facilitative role was insufficient to encourage domestic parties to pair the power-sharing institutional framework with moderating behavior, the OHR actively tried to influence the parties' behavior by punishing those who were considered to be obstructive. If the required consociational behavior would not emerge voluntarily, or 'endogenously engendered' by the Dayton Agreement, the OHR would now directly aim at changing the behavior. Importantly, while the removed individuals initially may have casted their removal in heroic terms and as a confirmation of their unwavering defense of their ethnic community, their removals had ramifications beyond their personal situation. Parties had to accept that the 'Bonn Powers' were like a Damocles sword continuously hanging over their head which could strike any moment. This realization shaped parties' deliberations when selecting a replacement for removed officials and frequently centered on the question whether new office holders should pay tribute to the OHR's demands for moderation and cooperation. This aggravated lingering frictions between 'hard liners' and those endorsing at least tactical moderation and formal compliance (Manning 2004, 77).

b) Changing the outcome by creating laws

Going beyond the authority to sanction domestic actors, the 'Bonn Powers' also authorized the OHR to pass domestic laws on an interim basis. Should, despite the availability of the numerous institutional safeguards, the facilitating role of the OHR as well as the OHR's ability to sanction disruptive behavior no moderation and cooperation between the parties emerge, the OHR still had the possibility to intervene directly by creating an outcome which would otherwise have been incumbent on the domestic actors to produce. The legislative prerogative

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of the OHR was initially largely used to implement swiftly needed post-war recovery measures, particularly when related to the return of displaced persons and the restitution of their property. Gradually though, the OHR's legislative activity became more expansive in scope as well as in numbers. While initially limited to areas in which the domestic parties failed to reach an agreement, the OHR increasingly took up a pro-active initiative and established the required law by decree under the residual mechanism contained in the 'Bonn Powers'. Facilitated by the peculiar arrangement to be the interpreter of its own mandate, the OHR gradually morphed in some areas from the 'reluctant intervener' to a legislative and governing body. This engagement in the domestic legislative process, however, also meant that the OHR became involved into every day politics and hence part of the political conflict. Rather than being merely an international intervener in exceptional circumstances, the OHR became more and more 'domesticated'.[65] Overall, OHRs subscribed to one of two different approaches when applying the 'Bonn Powers'. Some considered it as paramount that the domestic parties would adapt to the available framework, learn how to strike deals and compromise, and eventually pass laws, even if it required painful and potential unpopular concessions. From this perspective, legislative interventions were akin supervised learning in which the OHR would only step in if parties failed to reach an agreement. By providing the institutional framework for repeated interactions, so the hope, eventually a *modus operandi* would emerge on the basis of which parties would cooperate without external oversight.

Contrary to the 'elite learning' approach, others argued for a focus on the actual functioning of the state including its provision of public goods and services. For them, passing the adequate laws as swiftly as possible was necessary to alleviate the dire socio-economic situation in the country and eventually co-opt those hostile to the new state. How these necessary laws were to

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[65] The vast scope of the OHR's powers and its frequent application remained not without criticism, with observers characterizing the OHR as a 'European Raj' (Knaus and Martin 2003), or Bosnia as a de facto 'trusteeship' (Caplan 2001).

come about was secondary. Proponents of this approach considered the protracted debates between the domestic parties as a loss of precious time which the country and its population would not have. Hence, rather than engaging in behavior formation, direct intervention was required. In the long run, so at least the implicit reasoning, improving the socio-economic situation of the population may be instrumental to overcome the dominance of ethno-nationalist parties. The OHR's interventionism, however, was not without pitfalls. Initially, the new interventionism was seen as a measure of last resort to limit the damage resulting from non-compromising domestic actors. However, once established, it had the unintended adverse effect to incentivize domestic actors to refrain from any potentially costly compromises. Rather than striking a deal and being consequently confronted with high audience costs and intra-segment challenges, it became an appealing 'exit option' for those otherwise tasked to find a common ground. HR Petritsch (2000, 301) described this dynamic as a 'dependency syndrome' entailing that domestic parties would strategically approach the OHR to seek its intervention. In cases in which the expected OHR position was closer to the own preferred position than the outcome of any potential inter-party compromise, triggering the OHR's intervention became a shrewd means to further one's legislative agenda behavior (Bieber 2008, 217; Cox 2001, 12–15). Overall, the 'Bonn Powers' were conceived as a 'corrective' for both the unwillingness of the political elites to engage in the agreement's implementation as well as their attempt to preserve the divisions between the constituencies (Bieber 2008, 216). Put into the theoretical framework, the OHR's increasing engagement can be attributed to general inability of the institutional framework to entice any consociational behavior. Indirectly, OHR's interventionism was the consequence of a mediation style which put the conclusion of the agreement over the actual resolution of the underlying conflict and transferred the management of the pending contentious points to the post-mediation period.

4.5 Phase 2: Recalibration of Agreement

Table 8: Institutional recalibration

What	Change of institutions without changing Dayton constitution	
	- Strengthening of already existing central institutions	- New Ministries
	- Creation of new central institutions	- Creation of specialized agencies (State Border Service, Agency for Communication)
	- Cascading power-sharing	- RS: Creation of Council of Peoples
How	**Non-consensual decisions**	
	- 'Bonn Powers'	- OHR
	- Residual Clause in Constitution Article III(5)(a)	- Permissive interpretation of residual clause (OHR)
	- Constitutive Peoples Decision	- Constitutional Court (International and Bosniak judges)

4.5.1 Reasons for recalibration

The efforts of the international community in general and the OHR in particular to evoke a more compromising behavior had yielded only very modest results by the early 2000s. Neither the facilitation of a context which was hoped to strengthen moderate actors in elections, nor the sanctioning or removing of actors considered to be obstructive brought about a genuine transformation of politics in Bosnia. Any meaningful progress was fleeting and had been generally the result of strong external arm twisting or direct legal intervention rather than local engagement. Reform which had been agreed upon frequently faced implementation issues (Sebastián-Aparicio, 2014, 11). The relations between the central level, the RS and Croat cantons remained the dominating theme. Virtually every political issue was framed in this context; seemingly unrelated topics would become 'hijacked' by the logic of ethno-politics rendering any cross-segment compromise unlikely.

While the more intrusive intervention of the OHR and others had succeeded in making the different parties at least formally engage in the Dayton framework, the development did not amount to a transformation of behavior. Had the opposition initially been against the

framework, it was still articulated *within* the framework. Particularly the required joint decision making at the center (providing the possibility for 'vital interest' vetoes and 'entity voting') marred the legislative process. Making use of the veto mechanisms which had been guaranteed in the Dayton constitution could be hardly criticized as a violation of the Dayton Agreement, even if their - in the view of the OHR - unrestrained use meant further stalemate. From a conceptual, theoretical perspective this meant that even once the parties started to act within the formal boundaries of the agreement following the application of sanctions, there was little prospect that the institutional framework as stipulated in the Dayton Agreement would be indeed conducive for the emergence of a self-sustaining democracy and peace. Even when Bosnia's parties engaged in the framework it would not result in the cultivation of a political culture and elite behavior which would see the fate of the different ethnic groups mutually inter-dependent and nested in the overall development of Bosnia. This development led to the growing realization among the international community that efforts to alter the behavior of Bosnia's elites were likely to be insufficient, and that a revisiting of the institutional framework was needed (Bieber 2006a; Sebastián-Aparicio 2014, 63). This *post-hoc* modification would particularly require a strengthening of the central state and limit the scope and number of veto points which rendered the inclusive decision making process so unproductive. The intention to revisit and modify Bosnia's institutional order also received support by various international bodies, most importantly the Venice Commission. [66] Similarly the Bosnia's institutional framework had been at the center of reform proposals by think tanks (ESI 2004a; 2004b).

4.5.2 Substance of recalibration

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[66] The Venice Commission's 2005 Opinion contained concrete reform proposals and also highlighted the link between Bosnia's integration into the EU and institutional reform. The Opinion highlighted 1) the need to delineate vital national interests as the basis for a veto mechanism; 2) the removal of entity-voting, 3) the abolition of the House of Peoples and transferring their vital national interest veto to the House of Representatives; 4) a presidency held by one person who is elected by parliament; 5) a transfer of powers from the presidency to the Council of Minsters (Venice Commission 2005; Bieber 2006a, 28).

Starting from the early 2000s, the OHR and the wider international community intensified their state and institution building efforts.[67] Obviously, given the state of Bosnia in the immediate aftermath of the war, state and institution building had been on the agenda from the very beginning of their involvement. Increasingly, however, this engagement became more situated in the conflict on the distribution of powers between different institutions and hence between the different ethnic groups. This new emphasis was largely reflected in two areas: 1) The creation of new central institutions, with an internal decision making process which was insulated from veto players; and 2) the strengthening of already existing central institutions, including an expansion of their majoritarian elements.[68]This institution building agenda was complemented by efforts on a largely symbolic level ('nation building') including the creation of unified license plates, a flag, a national anthem[69] as well as a national currency.[70] Overall, all these developments eventually required pressure, if not the OHR's resort to the 'Bonn Powers', to be implemented.

The strengthening of the central institutions was most visible with the creation of new ministries of the central government. Demonstrating the initially 'thin' concept, the Dayton Agreement stipulated only three ministries: Civil Affairs and Communication, Foreign Trade and Economic Relations, and Foreign Affairs. From 2000 onwards the Ministry for Human Rights and Refugees, the Treasury, the Ministry for European Affairs and Integration, and later the Ministry for Justice and Security (2002) and the Ministry of Defense (2004) were created. In addition, the Ministry for Civil Affairs and Communication was split into two separate

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[67] The OHR's more active engagement in state building was decided at the PIC's meeting in May 2000 (PIC 2000). See also ESI (2000).

[68] See also Bieber (2006) who divides Bosnia's institutional development into four categories: the development of state institutions, the relation between power-sharing in the entities and at the state level, the functioning of ethnic representation, and constitutional debates.

[69] Following a public contest the OHR selected Bosnia's national anthem. To this day, Bosnia's national anthem does not have any lyrics due to political parties' failure to reach an agreement.

[70] Until the introduction of the *konvertibilna marka* in 1998, three currencies had been used on Bosnia's territory. The German Mark, Croatian kunas, and the Serbian dinars. Reflecting the far reaching extent of ethno-territorial accommodation, the *konvertiblina marka* bills are available in two sets with different symbols (one set for the RS, one set for the Federation).

institutions (Bieber 2006a, 19).[71] The state-level Ministry of Defense[72] was a particularly noteworthy development since it entailed a joint command as well as the end of entity intelligence agencies. While these ministries were initially rather limited in their capacity (e.g. size of staff, budget), their creation nevertheless introduced new competencies at the state level. Furthermore, the accommodative nature of the Council of Ministers was weakened by abolishing the rotation among Ministers and deputies. Paralleling the strengthening of the central government, several specialized agencies were created, which were all located at the central level. Most importantly, this included the creation of the State Border Service and the Regulatory Agency for Communication. Both institutions took over agendas which had previously been under the authority of entities or cantons and which had frequently been criticized as being dominated by the ruling political parties. Although the new agencies typically required proportional representation of the different ethnic groups, their operations were not further constrained by other safeguards (Bieber 2006a, 20; 2008, 229).[73]

4.5.3 Means of recalibration

4.5.3.1 Article III(5)(a)

As previously mentioned, the Dayton constitution assigns only those areas of responsibility to the center which are explicitly stipulated, and leaves all other arising tasks to the entities (residual clause). This would suggest that any modification of the distribution of power

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[71] For an overview see Figure 66, page 236 in the appendix.
[72] The creation of a state-level ministry of defense was a requirement for Bosnia to join the NATO-led 'Partnership for Peace' program.
[73] Education is another prominent field which was not regulated in the Dayton Agreement. Starting in 2000 the OHR got involved in pertaining reform efforts aimed to overcome the segregation of students ('two school under one roof' policy in the Federation) as well as the different curricula which frequently promote nationalistically charged narratives of the war and prior events (Bieber 2008, 232, legacy). However, these efforts have had so far only little impact. For recent developments see Brkanic (2017); Kovacevic (2018a); OSCE (2018); Spaic (2017).

between the center and the entities was to require a constitutional change.[74] While such a change has been within the hands of the Bosnia's political parties, it was de facto impossible in the early 2000s to secure the required majority for any modification of the constitution. Crucially, though, Article III(5)(a) introduced an exception by empowering the state level to create additional institutions 'as necessary' […] 'to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina […].'[75] By resorting to this article and applying an interpretation permissive to institutional change, the international community, largely in agreement with the Bosniak leadership, promoted an institutional evolution which led to a strengthening of the center and weakening of the entities. Hence, institutional change and with it the balance of power as agreed upon in Dayton, was not altered as a consequence of a deliberation process yielding a sufficiently large consent among the parties, but was the result of a specific legal interpretation endorsed by the international community and Bosniaks (who have been adamant in strengthening the center) (Bieber 2008, 207). The institutional evolution in the early 2000s was, however, not merely based on court judgments and constitutional interpretation. 'Even if the state competences could be enhanced without formal entity support, at least minimal acceptance has often been required to wrest competences from the entities. The progressive strengthening of the state has thus hinged on international pressure on the entities to condone the state accumulating institutions and competences (Bieber 2006a, 20).' The lower graph in

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[74] Article X of the constitution allows for changes following a two thirds majority in the House of Representatives and a simple majority in the House of Peoples. The constitution is the only part in the Dayton Agreement which can be altered by the political parties of Bosnia alone (Bieber 2008, 211).

[75] Constitution, Article III 5a: 'Bosnia and Herzegovina shall assume responsibility for such other matters as are agreed by the Entities or are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina, in accordance with the division of responsibilities between the institutions of Bosnia and Herzegovina. *Additional institutions may be established as necessary* to carry out such responsibilities (italics added).'

Figure 15 depicts the number of 'Bonn Power' decisions relating to 'state symbols, state-level matters and constitutional issues' and 'judicial reforms'. Their sharp increase in the early 2000s is indicative for the OHR's use of the 'Bonn Powers' leverage to further state building by creating or transferring competences to the central level.[76]

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[76] The OHR allocates each decision into different categories (e.g. 'Economic Field', 'Media Restructuring' etc.) which are used here.

Figure 15: 'Bonn Power' decisions as different means of intervention

Bonn Powers as different means of intervention
Number and type of Bonn Power decisions per year and mandate holder

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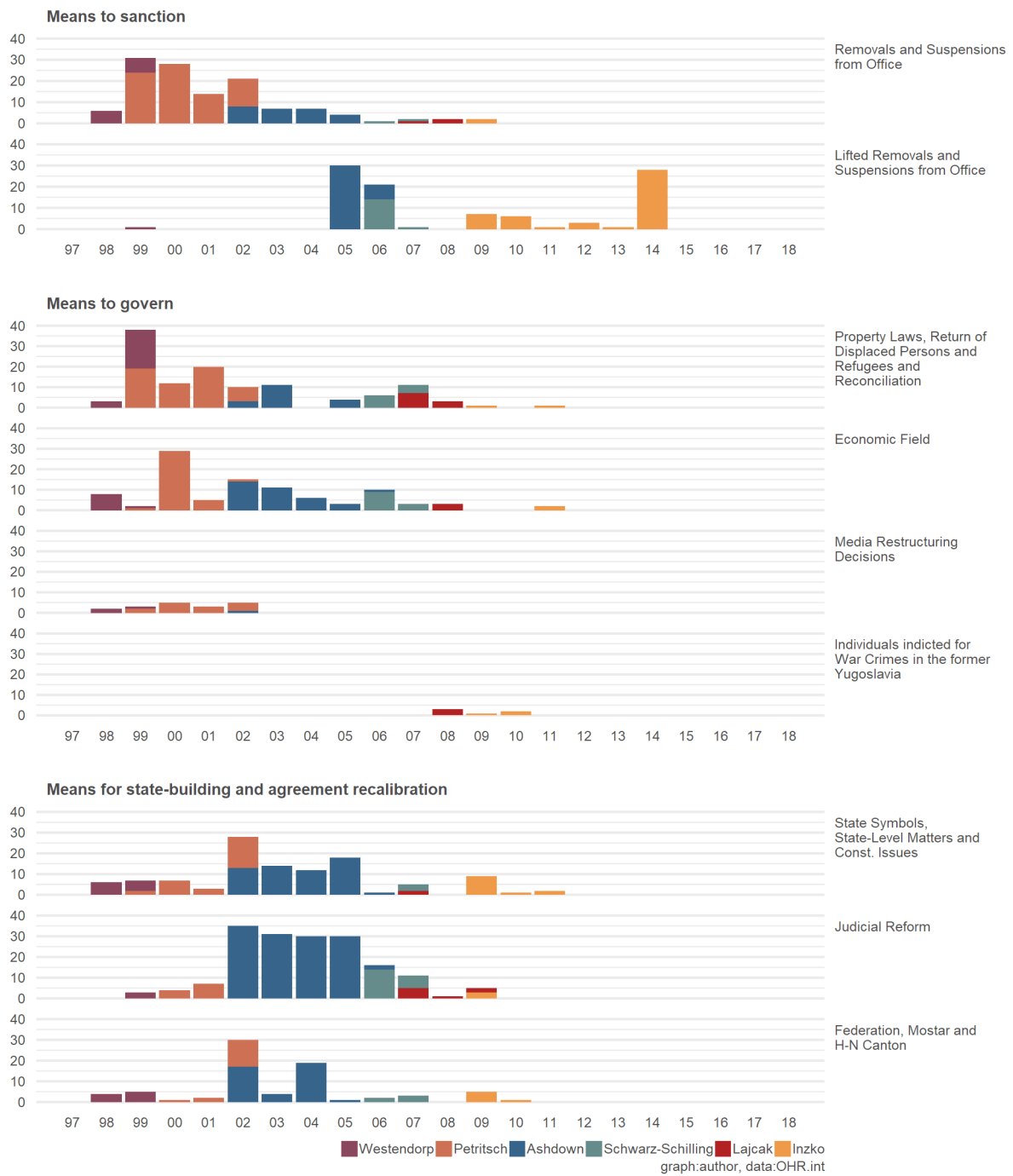
4.5.3.2 Constitutional Court decision

Similar to the no-consent-requiring creation of the new central institutions via Article III(5)(a) and the 'Bonn Powers' was the decision of the Constitutional Court in 2000 in the so-called 'constituent peoples case' which triggered one the most fundamental institutional changes in post-war Bosnia. Following a complaint lodged by Alija Izetbegović - at that time leader of the SDA and Bosniak member of the Presidency -, the Court concluded that Bosniaks, Croats, and Serbs were 'constituent peoples' on the entire territory of Bosnia, and not only within what colloquially would be called 'their' entities (Serbs in the RS, Bosniaks and Croats in the Federation) (Bieber 2006a, 21; 2008, 219; Bose 2007, 48; CCt BiH 2000; Merdzanovic 2015, 9.3.3.). Consequently, all three 'constituent peoples' were now entitled to reserved seats as well as access the entailed veto mechanisms on the entity and cantonal level. This implied an expansion of the shared decision making mechanism from the 'thin' central level to the until then largely autonomous entity and cantons. The 'cascading' power-sharing *de facto* amounted to a reduction of the scope of the areas decided by divided decision making (Belloni and Deane 2005, 236; Bieber 2006a).[77] For the Federation, the decision of the Constitutional Court meant a widening of the already stipulated inclusive decision making by including also Serbs.

The Court's decision also changed the election procedure of the Federation's president and vice-president. While their election previously required the majority support of all the Bosniak as well as Croat caucus in the House of Peoples, it required after the judgment only a simple majority plus at least a third from the Bosnia, Croat and Serb caucus. If no such majority was obtained in the first round, the second round allowed for the president and vice-president's election with relative majority. As a consequence, Bosniaks were now in the position to elect

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[77] The Court's decision also led to the formulation of a list aimed at delineating the scope of the 'vital interest' veto the interpretation of which had been previously left to the complete discretion of the parties. However, the new provision also features a clause allowing a two-thirds majority of each caucus in the House of Peoples to include issues not featuring on the list (Belloni and Deane 2005, 236).

the president and vice-president of the Federation against the majority of the Croats. While the RS constitution after the war had not featured any group accommodating provisions - what was equivalent to Serb majoritarian dominance due to the violently changed demography -, the Constitutional Court's decision required now the recognition of Bosniaks and Croats as 'constituent peoples' also within the RS and hence their accommodation. With the court's decision, inclusive decision making expanded from the central level into the entities. Out of the 16 ministers of the RS government, five were now reserved for Bosniaks and three for Croats.[78] The RS presidency, previously executed only by one single person, was now to comprise one president and two vice-presidents, with all belonging to different 'constituent peoples' (Bose 2007, 149). Mirroring the Federation's House of Peoples, the decision further required the creation of a second chamber in the RS, the Council of Peoples, in which the three constituent peoples would feature in equal numerical strength.

Notably, the court only found the entities' constitutions and their restricted definition of 'constituent peoples' to be a violation and ordered the entities to pass rectifying amendments. The court itself did not formulate any positive, specific prescription how a new arrangement would have to look like. This task was incumbent on the entities' parliaments. However, in light of the impending negative consequences for the autonomies of the Croat and Serb communities and hence the highly-contested nature of the judgment, neither the parliament of the RS nor of the Federation was able to put forward a draft bill which would obtain the required votes. The judgment was therefore not implemented. In response to the inability and unwillingness of the entity parliaments to implement a decision by the Constitutional Court, HR Petritsch appointed two constitutional commissions, comprising members of all

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[78] The results of the 1991 census are to form the basis for the allotment of seats until the Annex 7 of the Dayton Agreement, which regulates the returns process, is considered to be 'fully implemented'.

'constituent peoples', which were tasked to elaborate proposals for the implementation of the Court's decision.

Eventually, the leaders of Bosnia's major parties were indeed able to agree on the proposal elaborated in these commissions. However, and tellingly, the party leaders failed to secure the necessary two third majorities which were required to pass the constitutional changes. This renewed impasse eventually compelled HR Petritsch in April 2002 to make use of his mandate under the 'Bonn Powers' to impose the constitutional changes by decree (Solioz 2007, 96). What may appear as a procedural detail is noteworthy for at least two aspects: First, the most significant change to Bosnia's post-war institutional order came - like the creation of the Dayton constitution - to light without any democratic, bottom-up validation. Secondly, the main reason for the absence of a domestically owned amendment was not the inability of the party leaders to strike a (fragile) compromise. Typical for power-sharing arrangements which require moderating elites, the party leaders did not deliberate on the amendments in full transparency during parliamentary sessions, but rather struck a 'back room deal' without the scrutiny of the public or their intra-segment challengers to limit audience costs ('Mrakovica-Sarajevo Agreement'). Tellingly though, the envisaged deal eventually collapsed once the party leaders went with the negotiated amendment public and sought to obtain the required approval of two thirds of the parliaments' members (Merdzanovic 2015, 9.3.3; Solioz 2007, 96). Contrary to what consociational theory would prescribe, the leaders of Bosnia's main political parties were too weak to fend-off intra-segment challenges and push through the agreement they had previously struck. Somewhat paradoxically, while the OHR's reform endeavors had generally been aimed at strengthening cleavage-transcending institutions, its imposed reform in order to rectify the violations raised by the court, meant a further strengthening of the ethnic paradigm, the uncompromising implementation of which had been

considered to be a main stumbling block for Bosnia's progress.[79] Its implementation meant an expansion of the domain of joint decision making at the detriment of divided decision making. Ethno-territorial autonomy, which had been a crucial factor in the conclusion of the Dayton Agreement, became weakened by the introduction of ethnically reserved seats in the RS and their expansion in the Federation's cantons. Following the HR's imposition, the logic of joint decision making was no longer confined to the central level, but was now also applicable to areas in which at least one 'constituent people' had previously not been represented (Bieber 2008, 206–7).

Although the Constitutional Court's decision of 2000 did not formally change the Dayton Agreement - since the text of the entities' constitutions were not part of it -, its implementation was a fundamental modification of the balance between the central state and the entity level and hence to the basis on which the agreement had been agreed upon in 1995 (Bieber 2008, 214). Importantly for the focus of this thesis, this modification did not come about by a revisiting of the agreement's terms by its parties, but was the product of a judicial, i.e. non-legislative, interpretative process triggered by a complaint of the leader of the largest constituent people (Alija Izetbegović, Bosniak), decided by a majority of judges which 'only' entailed Bosnian and international judges (overruling Croat and Serb judges), and eventually implemented by a decision of the HR due to the political parties' inability to secure the required legislative endorsement for the measures. Deciding on a simple majoritarian basis and without any ethno-territorial veto mechanism, the Bosniak and international judges were able to outvote the Croat and Serb judges by five to four votes.

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[79] Notwithstanding the OHR's general support for moderation and cooperation, HR Petritsch acknowledged the salience of ethnicity and was skeptical towards ambitions of completely abolishing the ethnic accommodation (Solioz and Petritsch 2003; Bose 2006, 334).

This combination, a pattern which has repeatedly featured in the court's decision making, was taken by the members of the Croat and Serb political elite as the manifestation of an at least tacit alliance between Bosniaks and the international community and their ambition to trim Serb and Croat autonomy as secured during the war and in the negotiations in Dayton. In their eyes, the judgment was not the outcome of serious legal scholarly work – e.g. drawing on domestic as well as international norms - but rather a thinly veiled attack on their autonomy and a *de facto* unilateral *post hoc* change of the terms on which the agreement has been concluded. While there is nothing in the decision nor in its reception within the legal scholarly community what would suggest that the entailed reasoning would be not sound, it strengthened the already prevailing perception among the Croat and Serb community that the 'internationals' and Bosniak community were *post hoc* altering the rules decided in Dayton.

Overall, the above outlined approaches to alter the institutional framework without altering the Dayton constitution have in common that they are largely void of any requirement to be based on a political or popular consensus.[80] Neither the constitutional interpretation of Article III (5), the OHR's 'Bonn Powers' as a means for institution building or the Constitutional Court are contingent on securing the approval of all 'constituent peoples' or their political elites.

4.5.4 Integrationist push by the OHR

The OHR's direct interventions for the strengthening of the central level were perceived by Serb and Croat parties as biased in favor of Bosniak concerns. While the OHR had been initially

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[80] A precursor to the non-consensual, non-political institution building was the decision on the future status of the Brčko district in March 1999. During the negotiations in Dayton, no agreement was reached on whether the district should belong to the RS or the Federation. Threatening to derail the overall negotiations, the issue was put before an arbitration panel eventually deciding that the district would be 'a condominium', meaning that its territory would belong to both entities. The district is since governed by an own autonomous government outside the political control of either entity and administered by the American Principal Deputy High Representative who is also *ex officio* the Brčko International Supervisor OHR (1999). Considering the geo-strategic importance of the district - it is the only connection between the northern and eastern part of the RS - the decision particularly flared tensions in the RS.

established to ensure the implementation of the Dayton Agreement, it became more and more active in the pursuance of the creation of a functioning state the more it became obvious that the Dayton Agreement alone was insufficient to evoke elite compromise and the consolidation of peace. The evolution of the OHR's engagement suggests that the Dayton Agreement became increasingly seen as a means to an end, i.e. ending the war and putting Bosnia on a path to a self-sustainable peace. When it turned out that this means was not effective or appropriate, the means had to be recalibrated in order to overcome the encountered obstacles also against the opposition of some of the domestic parties (McEvoy 2014a, 57).

4.5.4.1 'Talking Dayton, Walking Centralization'

This development led to a growing gulf between what has been colloquially termed as 'the spirit' on the one hand and 'the letter' of the Dayton Agreement on the other hand. While the OHR saw - notwithstanding the legal reasoning for the expansion of its mandate - the strengthening of the center in line with 'the spirit' or 'teleological' ambition of the Dayton Agreement, the leadership of Croats and Serbs perceived this as a breach of the Dayton Agreement and a creeping dismantling of the previously granted ethno-territorial autonomy. Similarly, while public deliberations by Bosniak politicians regarding a 'Bosnia without entities' were hardly criticized for being in violation of Dayton (but rather tacitly taken as 'progressive' or 'moderate'), demands by Croats for a Croat entity or by Serbs for a referendum on the independence of the RS were at least threatened with the use of the 'Bonn Powers'. Hence, the OHR's equation of state building with increasing centralization contributed to its reputation of a 'biased intervener', rather than an 'unbiased arbiter'. Against the background of the dynamics during the negotiations in Dayton, such criticism easily resonated with many Croats and Serbs. From this perspective, the OHR 'paid lip-service to "Dayton" but in fact advocated strategies and tactics which if implemented would lead to the superseding of the

Dayton settlement […] (Bose 2006, 325)'.   Within the OHR there was enough awareness that

the drift towards more centralization was problematic. HR Petritsch himself cautioned against

'integrative demands' and recalled that that the Dayton Agreement is an international, binding

agreement (Bose 2006, 325). Nevertheless, it was *de facto* pursuing 'strategies similar to an

integrative approach, however, in the context of a group accommodating institutional

framework (Bieber 2008, 204).'[81] This approach was born out of necessity rather than genuine

normative preferences and based on the premise that a functioning central state would

eventually become a means 'by which divisions would be progressively overcome (IDEA

2014, 12)'.[82]

4.5.4.2 Bosniak demands for centralization and tacit OHR support

Most importantly, the OHR's gradual drift towards more centralization and integration was

largely in line with the ambition of the Bosniak elites. The more Croat and Serb parties started

to engage in the Dayton institutions, rather than abstaining from them, and the more they used

their formal veto powers with a view to defend their ethno-territorial autonomy, the more

Bosniak parties became dissatisfied with the framework itself. In the run-up to the 2000

elections, Haris Silajdžić, head of the SBiH and then Bosniak co-chair of the Council of

Ministers published a 'Memorandum on Change' in which he proposed a major overhaul of

the Dayton framework. According to Silajdžić, the agreement would 'favor nationally

exclusivist political options', and hence the entities had to be abolished.

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[81] The implementation of the Constitutional Court decision by the OHR is a prominent exception to this drift. Rather than strengthening cleavage-crossing mechanisms or transferring powers from the entities and cantons to the central level, it introduced further a requirement for group accommodation. This time, however, the newly introduced joint decision mechanism was not located at the center, but at the entity level what particularly effected the RS.

[82] An aberration to the 'integrationist drift' of the OHR's intervention was the previously mentioned decision of the Constitutional Court and its subsequent imposition by the OHR in the so-called 'constituent peoples' case. Rather than diminishing the importance of group accommodation it had resulted in a further 'cascading' of joint decision making into the RS and Federation. Importantly though for the present context, this expansion of joint decision making also meant a relative decline of power by some groups and hence a critical *post-hoc* modification to the basis of the peace agreement.

Three aspects are noteworthy: First, the opposition on the Bosniak side to the Dayton Agreement was spearheaded with Silajdžić by a person who had been member of the Bosniak negotiation team in Dayton, but was sidelined due to this non-compromising stance. Secondly, Silajdžić and his SBiH had then been the junior partner in the SDA dominated 'Coalition for a United and Democratic Bosnia' since the elections in 1998. By demanding the abolition of the RS, SBiH outflanked the SDA with its leader Izetbegović, who after all had signed the agreement. Hence, opposition to the Dayton Agreement served within the Bosniak community as a platform for electoral mobilization. In contrast to the dynamics on the Croat and Serb side, where outbidding was aimed at defending or enhancing ethno-territorial autonomy or even seeking independence, outbidding on the Bosniak side sought to push back group-accommodation. Eventually, in autumn 2000 SBiH campaigned with the election slogan 'Bosnia without entities'. Thirdly, while the demands of Silajdžić were in essence an attack on the Dayton Agreement, they did not trigger any sanctioning response by the OHR. Silajdžić framed his call as demands for a more civic and multi-ethnic Bosnia, an idea which on a normative level found much more resonance among the OHR and other international actors than e.g. demands for a strengthening of ethno-territorial autonomy. Critically though, little (at least public) attention was given to the fact that the concept of a civic Bosnia was by and large equated with a more majoritarian framework and that it was demanded by a representative of the largest ethnic group.[83]

4.5.5 Counter-reactions

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[83] In this regard, Bose (2006, 325) concluded that 'the "multiethnic" and apparently "civic" vision of integration in post-war BiH is an attention-seeking device for some sectarian Bosniak political elements who want to appear "liberal" to Westerns - distinguishing them both from ethno-nationalist in their own group and from the incorrigibly nationalist "enemy" group(s) - and the preserve of either naïve or motivated Westerners who do not, and perhaps do not wish to, understand the historical context and institutional antecedents of the present Bosnian state.'

From a theoretical perspective, the OHR's institutional recalibration and push for reforms amounted to a unilateral modification of credible commitments (Walter 2002) which are at the core of any attempt to overcome the 'prisoners' dilemma' in which warring parties find themselves. In the absence of a genuine conflict transformation, any modification of credible commitments risks upsetting the delicate balance of 'gives and takes' which facilitated the conclusion of the peace agreement and may trigger a resort to extra-institutional means, including violence (Lyon 2000, 112).

In the case of Bosnia, the risk was additionally heightened by the 'externally prescribed' origin of the agreement. As previously demonstrated, for none of the three major ethnic groups the agreement had been concluded on the basis of an acceptable exchange of 'gives and takes' but was additionally dependent on the 'pushes and pulls' of the third party mediator. This dependency continued also after the conclusion of the agreement as demonstrated by the need to equip the OHR with 'Bonn Powers' as means to ensure agreement compliance and overcome legislative inertia due to recalcitrant elites. The eventual step to move from an enforcement to a *de facto* modification of the agreement was hence particularly prone to evoke resistance from some of the local parties. From the perspective of the international community, first and foremost the OHR, as well as the leading Bosniak parties, the modification of the institutional context was the consequence of 'institutional learning' (Belloni and Deane 2005) and an attempt to rectify the incompatibility between institutions and elite behavior. Revisiting the terms of the Dayton Agreement was the latest step in the international community's constant search for a configuration of institutions and actors which should set in motion a 'virtuous circle' leading to a consolidation of peace and rewarding cooperation.

4.6 Phase 3: Attenuation of international influence and patterns of non-cooperation (2006 – today)

4.6.1 The end of Ashdown's mandate as a turning point

The end of HR Ashdown's mandate in 2006 was a turning point for the OHR, its intervention into Bosnia's domestic politics and hence for the functioning of the power-sharing arrangement (Keil and Kudlenko 2015, 482). Ashdown, who had been the most intrusive mandate holder (in total numbers) of the application of the 'Bonn Powers' and who had largely pursued an outcome oriented approach, was replaced by Christian Schwarz-Schilling, who emphasized local ownership and subscribed to a 'hands-off' role of the OHR (see Figure 16). Table 9 presents the average number of 'Bonn Power' decisions per week and HR.[84] While Ashdown passed on average 1.79 decisions per week, Schwarz-Schilling's use amounted to only 0.92. Rather than making extensively use of the 'Bonn Powers' as a disciplinary or quasi-legislative tool, the new approach was built on the premise that the prospect of European integration would entice meaningful elite cooperation in order to fulfill the EU's conditionality (see e.g. Sebastián-Aparicio 2014, 28).

Figure 16: 'Bonn Power' decisions per High Representative

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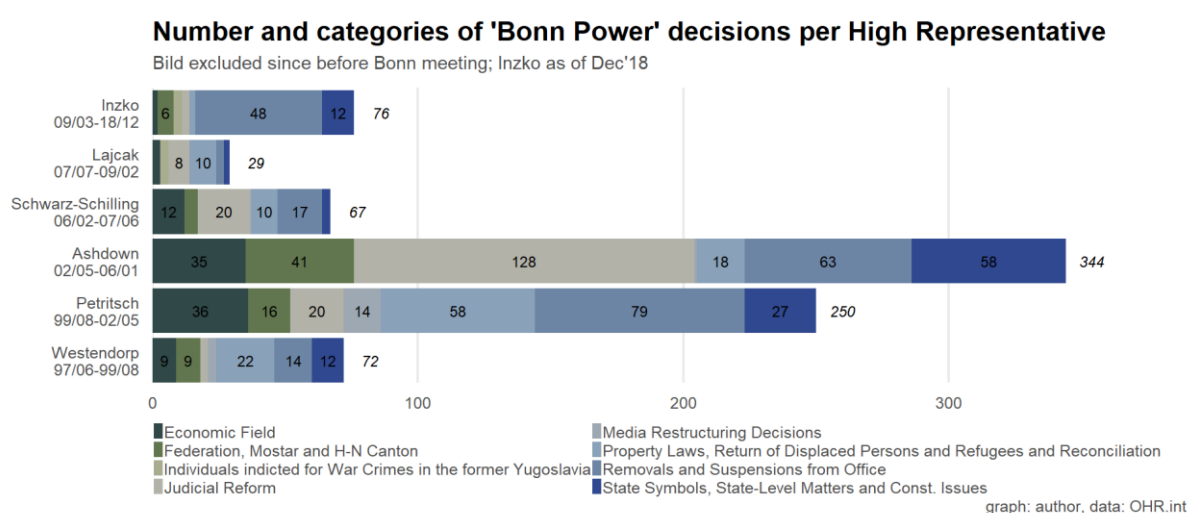
[84] The weekly ratio was calculated in order to account for the different mandate lengths of the different HRs.

Table 9: 'Bonn Power' decisions per OHR, weekly average

Bonn Power decisions per HR and per week

HR	number of decisions	mandate in weeks	weekly ratio
Westendorp 97/06-99/08	72	113	0.64
Petritsch 99/08-02/05	250	145	1.72
Ashdown 02/05-06/01	344	192	1.79
Schwarz-Schilling 06/02-07/06	67	73	0.92
Lajcak 07/07-09/02	29	87	0.33
Inzko 09/03-18/12	76	513	0.15

graph: author: data: OHR.int

Situated in the theoretical framework of this thesis, the end of Ashdown's mandate introduced the 'attenuation phase' defined by a decreasing ability of the third party to effectively steer domestic parties and ensure compliance with the peace agreement. Despite a decade of comprehensive engagement, the international community as a whole, and the OHR at its helm, were not successful in transforming the 'externally prescribed' agreement into a consolidated framework regulating inter-group relations also in the absence of external sanctions. Crucially, as this chapter will describe, once Schwarz-Schilling had abdicated the application of the 'Bonn Powers', it was effectively impossible to return to the *status ante* and revert to them.

Figure 17: Number of laws passed during different OHR's mandate (per week)
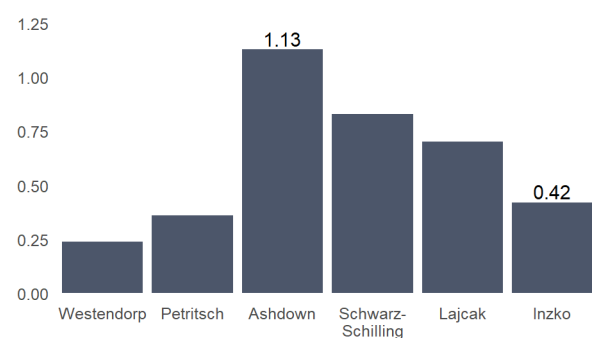
graph: author, data: OHR.int, Parliament.ba

As a consequence of the attenuating impact of the OHR, the domestic parties felt increasingly unconstrained in articulating and executing their opposition to the Dayton framework. Cooperating behavior which previously had been evoked by the OHR's sanctions started to decline. The attenuating influence of the OHR became, among others, reflected in the overall declining legislative output. As shown in **Error! Reference source not found.**, legislative output peaked during Ashdown's office, and started to decline subsequently.

The relation of the decline of the 'Bonn Powers' with the legislative output is further detailed in

Figure 18. By plotting the number of passed laws and the number of 'Bonn Power' decisions, each adjusted for the length of a HR's mandate, a trajectory distinct for the different phases becomes visible. Following the end of Ashdown's tenure, the diminished use of 'Bonn Powers' was paralleled with a decline in legislative output.

Figure 18: Average number of passed laws and 'Bonn Power' decisions per HR; arrow indicates sequence of individual HRs

Average weekly number of passed laws and Bonn Power decisions per HR

data:OHR.int, Parliament.ba
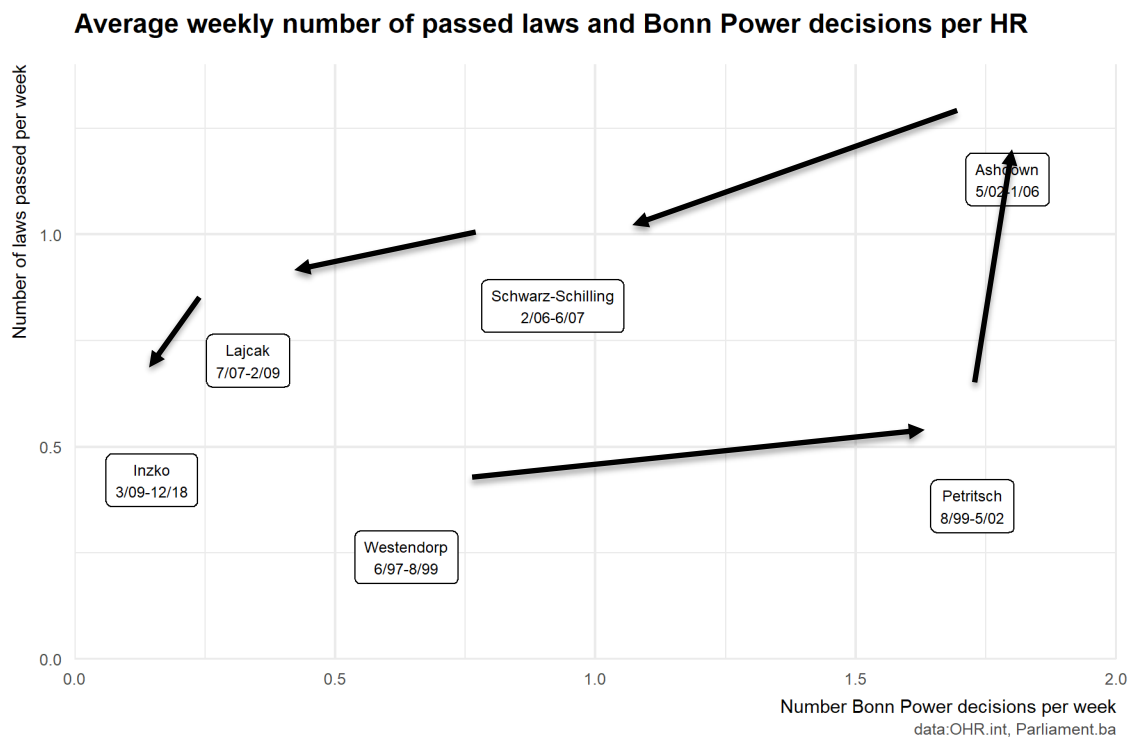
The deterioration of inter-party relations during the 'attenuation phase' became also vividly reflected by an increasing number of rejected laws.[85] Notwithstanding the caveat that data prior to 2006 is missing, an increasing number of laws became rejected in Parliament following the end of Ashdown's mandate. Figure 19 represents the ratio of passed to non-passed laws. While in e.g. in 2008 ratio was still 1.5 passed for every non-passed law, it

Figure 19: Ratio passed to non-passed laws

Number of adoped to disputed, rejected or suspended laws; no data prior to 2006 available

graph:author data: Parlament.ba

declined and has reached its absolute low in 2018. With the exception of three years, since 2011 the number of non-passed laws exceed those which passed parliament. On a more fine-grained level, the analysis of MP's individual voting behavior for the legislative period from 2014 and 2015 shows a clear concentration of non-affirmative votes with the largest Serb party, the SNSD of Milorad Dodik (Figure 20).[86] Instructively, SNSD delegates did not only cast more 'no' votes than those of any other party, they also attended fewer sessions (Figure 21).

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[85] The data on the status of individual bills/laws of the Parliament differentiates between 'rejected', 'disputed', 'suspended', 'pending', 'passed' and 'previously passed'.
[86] The analysis is based on a new dataset, compiled by extracting individual MP's votes (in total 19863) from the voting records published on the parliament's website. For the pertaining code see github.com/rs2903/ceu/.

Figure 20: Individual voting behavior 2014-2018

HoR: Individual voting behavior 2014-2018

1 tile = 1 vote

NA yes reserved not present no vote against

data:parliament.ba
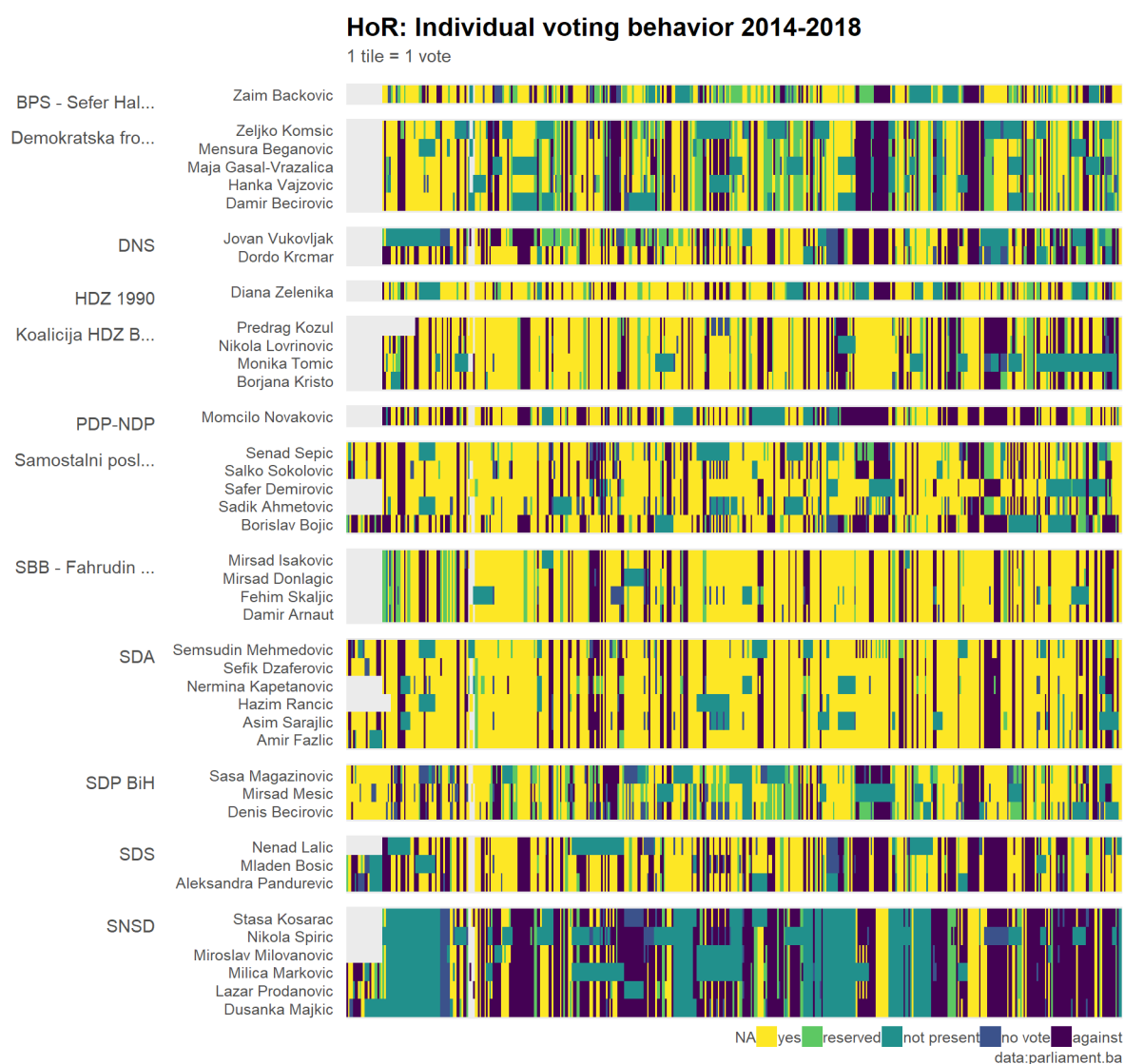
Figure 21: Voting behavior of entities and SNSD

Distribution of votes per entity 2014-2018

against
no vote
not present
reserved
yes
NA

data:parliament.ba

Voting behavior of SNSD members in HoR (2014-2018)

1 dot = 1 delegate
% of all decisions casted in HoR

other
SNSD

100
200
300

data: parliament.ba, compilation by author

113
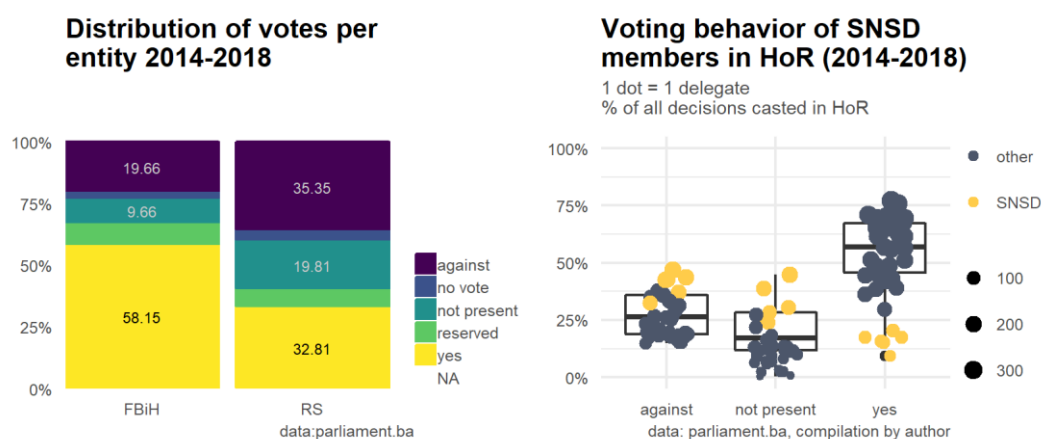
The attenuating ability of the OHR to sanction domestic actors also resulted in their increasingly open rejection of the Dayton Agreement and confrontation with the OHR. Domestic parties felt more and more emboldened to challenge the OHR and its policies intended to shape inter-group relations. At the center of these challenges were particularly those measures and institutions which had previously been shifting the power-relations between the three constituent peoples by strengthening the central level. Furthermore, the weak pull of potential EU integration and hence the little leverage of the entailed conditionality combined with the absence of sanctions put the EU as well as the OHR in a frail position. On the one hand poised to further Bosnia's European integration, the EU became on the other hand confronted with counterparts who were hardly ready to implement the demanded reforms, particularly when they required a strengthening of the center. This weakened bargaining position resulted in the EU agreeing to face-saving compromises, which however fell short of the intended reform.

Overall, and reflecting the theoretical trajectory of 'externally prescribed' power-sharing agreements, Bosnia's 'attenuation phase' has been characterized by a dramatic increase of conflicts between ethno-nationalist parties and their leaders since 2006 (Džihíc and Wieser 2011, 1809). Following the end of Ashdown's mandate, elections have largely resulted in victories of parties which pursued uncompromising campaigns and focused on the distribution of power within Bosnia and the institutional reforms that had previously altered it. Milorad Dodik, on whom the international community had previously pinned hopes to become the moderate answer to Serb ethno-nationalism, became the dominating leader of the RS largely due to his aggressive challenges against the OHR, the EU and Bosniak leaders. Any attempt to alter the distribution of power as agreed upon in Dayton for the sake of EU integration has been

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easily framed as an attack on Serbs and vigorously rejected, including with the threat of a referendum on secession. Similarly, reforms which had previously resulted in a shift of the relative balance of power between the ethnic groups and strengthened the central level, were taken up with a view to undo them. On the Bosniak side, challenges against the RS' existence provided a rewarding mechanism for intra-group outbidding.

4.6.2 Schwarz-Schilling (2006-2007)

4.6.2.1 Premature hopes in local ownership

Schwarz-Schilling's intention to transform the OHR's role from intervention to facilitation was driven by his conviction that the time was ripe for 'local ownership' and that the 'Bonn Powers' should be reserved for genuine emergencies (ICG 2007; Merdzanovic 2015, 9.5.1; Radio Free Europe/Radio Liberty 2005). More than ten years after the war, the point had come to rescind the OHR's imposing role and make way for Bosnians to fully take care of their country. Schwarz-Schilling's appointment was also a reflection of a new assessment of Bosnia's situation within the PIC. The members of the steering body took the developments during Ashdown's mandate as sufficient progress to close down the OHR by mid-2007 and shift their resources to other, in their view, more pressing crises (Afghanistan, Iraq). Instead of the 'Bonn Powers' sticks', it would be now upon the prospect of European integration to act as a 'mutually enticing opportunity' and induce cooperation and moderation (Zartman 1995; 2003; Zartman and Faure 2006). However once in office Schwarz-Schilling had to realize that much of what had been taken as genuine progress was far from consolidated. Instead of filling the space left by the OHR with constructive engagement, the leaders of Bosnia's parties escalated their antagonism to new heights. The collapse of the constitutional reform package in April and the electoral victories of Milorad Dodik and other hardliners in October 2006 were taken as

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setbacks undoing much of the progress of previous years. However, when seeking to reverse his 'hands-off' approach and lobbying for an extension of the OHR, Schwarz-Schilling encountered strong resistance by the PIC, particularly by the US, which considered it to be up to the EU's integration policy towards Bosnia to respond to any challenges once the OHR has left.[87] For Schwarz-Schilling, however, European integration could only function if Bosnia and its political system was sufficiently democratically consolidated and indeed functioning without a supervision which included the threat of sanctions. This, however, as he became to realize was not the case. Eventually, Schwarz-Schilling's mandate was dominated by the stasis between local parties on the one hand, and his struggle to ensure the continuation of the OHR on the other hand.

4.6.2.2 Constitutional Change (April Package)

How misplaced the hopes that local ownership would prompt cooperation and moderation were, became vividly demonstrated with the failure of the constitutional reform package in April 2006 ('April Package') (Mustajbegovic 2007; Sebastián-Aparicio 2009, 269–77; 2012, 601–2). Triggered inter alia by the Venice Commission's assessment that the present constitutional arrangement would render further EU integration impossible, Bosnia's parties had been tasked to come up with a new institutional dispensation. Constitutional reform was hoped to directly address the issues which had been marring the political process since Dayton, settle disputed issues, bestow the state with a new sense of legitimacy and prepare its institutions for the future. Importantly, the resulting negotiation process was not directed by the OHR, but by the US Institute for Peace (USIP) which brought together the leaders of Bosnia's main political parties for direct talks and assumed a largely facilitative role.

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[87] One proposal to facilitate the closure of the OHR and preserve the authority to sanction challenges to the Dayton Agreement was to equip the EU's Special Representative to Bosnia with authorities similar to the 'Bonn Powers'. The idea was, however, dismissed by the EU on legal grounds.

Initially, the fact that the party leaders were able to find an acceptable compromise seemed to vindicate those who had advocated for local ownership and a withdrawal of the OHR. Eventually though, when the compromise was put up for a vote in the assembly, it failed to secure the necessary support with the votes of SBiH's delegates generally considered as having been decisive.

4.6.2.3 2006 elections

The failure of the 'April Package' introduced a 'new phase in post-Dayton development and fueled a surge of inter-ethnic antagonism and mutual accusations' (Dzihic and Wieser 2011, 1816). The 2006 elections led to the rise of parties which escalated ethno-nationalistic rhetoric and succeeded to outflank those parties which had previously dominated their respective segment. SBiH's Silajdžić's non-compromising stance during the negotiations of the constitutional reform package was rewarded at the elections in October. Milorad Dodik's SNSD became strongest performing party for in the entire country. Its victory marked a turning point for the distribution of power within the RS and heralded the beginning of Dodik's reign as the largely undisputed leader of the RS for the coming years. Crucially, Dodik's transformation from a politician who was considered to be a 'moderate' by the international community in the late 1990s to the leader of the Bosnian Serb nationalist cause by the mid-2000s was driven by the gradual strengthening of the central state what served him as the platform to rally against the OHR and the Bosniak leadership.

Facilitated by the 'hands-off' approach of the new HR, and additionally ignited by the in retrospect ill-timed constitutional debate, the electoral contest between SBiH and SNSD, who both epitomized detrimentally opposed concepts of Bosnia's state structure, led to a new level

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of inter-group polarization. The premise of Schwarz-Schilling's approach to his mandate to scale down the OHR's interventionism so that domestic parties would be required to live up to their legislative responsibilities turned out to be wrong. The newly provided space was seized by a new surge of uncompromising actors who were not afraid to pursue an aggressive ethno-nationalist agenda and hence, directly or indirectly, confront the OHR. Instead of observing the attenuation of the OHR's influence as the hotbed for new inter-ethnic cooperation, inter-group relations worsened.[88]

4.6.3 Miroslav Lajčák (2007-2009)

Following Schwarz-Schilling's departure, Miroslav Lajčák became the new OHR whose appointment was taken as a sign to strengthen the European 'pull' (Peters 2016, 141). Reforming Bosnia's institutions in order to enhance their efficiency became a precondition for further European integration.

4.6.3.1 Emphasis on European perspective

From the outset though, Lajčák's mandate was confronted with the political dynamics which emerged during Schwarz-Schilling's tenure. Lajčák's efforts to regain the upper-hand were largely limited to the prospect of further EU integration in exchange for inter-group cooperation and reform. Although introducing a new guideline on the use of the 'Bonn Powers', his application remained limited to the protection of already achieved reforms, and did not amount to - due to practical constraints - a return to the 'outcome oriented' interventionism of Ashdown (Merdzanovic 2015, 9.6.1).

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[88] See e.g. the decline of legislative output following the first Špirić government and the rise of the application of vetoes from 2006 onwards (Figure 14, p. 66).

The OHR had promoted Bosnia's integration into Euro-Atlantic structures as a long-term vision for the country as early as from 1999. Starting from 2002, this overlap of goals became institutionally recognized by appointing the HR *ex officio* as the EU's Special Representative for Bosnia (EUSR). HRs became hence 'double hatted' and therefore not only tasked to fulfill their role under the Dayton Agreement as head of the OHR, but also to further Bosnia's integration into the EU as EUSR.[89] While it was in practice difficult to distinguish when a HR was acting as the HR or as the EUSR, the latter gradually outgrew the OHR's activities as European integration and its conditionality was meant to replace the 'Bonn Powers' as the main steering instrument (Bieber 2011, 1790; Juncos 2011, 374).[90] From a conceptual point of view conditionality is based on the premise that the extended incentive is able to sufficiently alter the outcome of the elites' internal cost-benefit calculation. If the expected benefit for complying with a condition is expected to outweigh the entailed costs, elites are understood to alter their behavior and comply with the set condition. Behavioral change (i.e. interethnic cooperation) is hence considered to be the outcome of a rational deliberation process. Work on previous enlargement processes has identified a variety of factors, which are crucial to effectuate the intended transformation (Juncos 2011, 372; Schimmelfennig and Sedelmeier 2005a, 12–17). For the case of Bosnia, three elements are particularly noteworthy:

1. *Magnitude of the adoption costs*: The severer the negative consequences for elites who comply with conditions, the less likely it becomes that they will adopt their behavior to meet set conditions.

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[89] For some time, the personal union of the HR as well as the EUSR had the paradoxical consequence that the tying of European integration to certain conditions on the one hand and the push for reforms in order to fulfill these criteria, inter alia, by means of the 'Bonn Powers' on the other hand, were all tasks of the same person. Although the EU Commission rejected the direct application of 'Bonn Powers' in order to fulfill EU conditions, their application by the OHR nevertheless, at least indirectly, led to compliance. As long as the 'Bonn Powers' were applied and genuine local ownership was missing, the international community was effectively fulfilling its own conditions (Juncos 2011, 374).

[90] See Table 40, page 347 in the annex for an overview.

2. *Threats and rewards must be credible*: Any doubt blurring the relationship between behavior and consequence (sanctions or rewards) undermines the deterrence of sanction and the pull of rewards. Compliance becomes less attractive if rewards are doubtful even if one would comply. Similarly, compliance becomes less attractive if rewards can be obtained, even if one does not comply.

3. *Size and speed of rewards:* The larger the rewards and the quicker they can be attained the stronger the pull of the incentive. Rewards which are large, but distant (e.g. in the far future) exert a comparatively weaker pull.

In the Bosnian context, these factors undermined the pull of European integration. Generally, conditions on EU integration were framed as the logical consequences emanating from a technocratic and performance-oriented evaluation. Unless the Bosnian elites would cooperate and implement the required reforms, the state of Bosnia would not dispose of the required capacity to cope with the demands which an EU membership would (allegedly) inevitably entail. On the face of it, this 'logic of efficiency' was *a priori* not favoring a specific institutional arrangement but portrayed to be merely the outflow of a neutral, technocratic assessment. Importantly, and in contrast to previous enlargement processes, the reforms required of Bosnia went beyond the scope of Europeanization by democratization and market reforms, since they entailed state building measures directly pertaining to the internal dimension of Bosnia's statehood. In the context of Bosnia, this meant that EU conditionality has had a direct bearing on the dispute which had been at the center of the war and continued to be structured along and to mobilize the ethnic cleavage (Džihíc and Wieser 2011, 1805–6).

Taken together, EU conditionality entailed adoption costs which became prohibitively high for the different domestic actors. Particularly for Serbs and Croats, consenting unreservedly to the EU's conditions has been equivalent to surrendering powers to the central level, something

they were already vigorously opposed to in Dayton and in many regards had fought against during the war. Hence, in the eyes of domestic actors, the debate on the fulfilment of EU conditions was less about reforming Bosnia and closer EU integration but dominated by the question how reforms would impact on the scope of divided decision making (ethno-territorial autonomy) and veto mechanisms in the area of inclusive decision making (Ďzihíc and Wieser 2011, 1803, 1807). [91] But the weakness of EU integration to entice a moderating and cooperating behavior among Bosnia's parties cannot be entirely attributed to domestic factors. Contrary to the enlargement process for Central and Eastern European countries, the EU's commitment for an accession of Bosnia has been undermined by ambiguity from the side of the EU and its member states. Enlargement fatigue, internal challenges in the wake of the global financial crisis of 2007 as well as pending institutional questions (particularly up until the 2009 Treaty of Lisbon) casted doubt on Bosnia's EU membership in a foreseeable future. For Bosnians, EU membership became increasingly seen as a distant goal on a road which was full of unknown factors. Today, according to survey data, in no other country of the Western Balkans the share of those believing that EU accession will never happen is as high as in Bosnia (Figure 22).

Figure 22: Expected EU membership among Western Balkan countries

'In general, when do you expect the accession to the EU to happen?'

data: Regional Cooperation Council/Balkan Barometer (2016), N=7002

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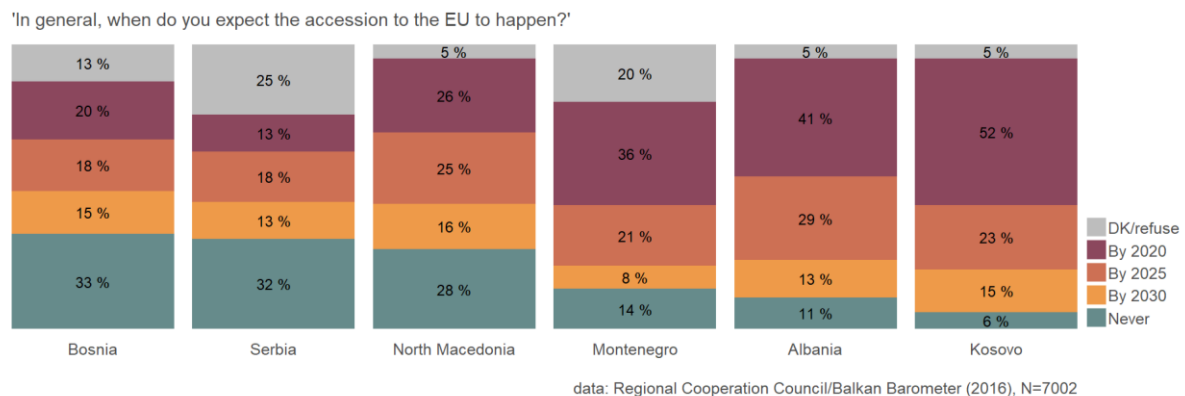
[91] On effectiveness of conditionality see e.g. Schimmelfennig and Sedelmeier (2005b), Kelley (2010), and Grabbe (2001).

Similar detrimental to the EU's conditionality, Bosnia's domestic parties also realized that the EU would hardly ever drop entirely its support for the country. Irrespective of the country's compliance with any conditionality, Bosnia has been considered as too important for the stability in the EU's immediate neighborhood to allow a backsliding into violence. This would not only constitute a major reputational setback for the EU's growing role as an international actor, it would also pose a genuine security risk for the EU itself. With this realization, the originally asymmetric power-relation between the EU and Bosnia's elites became seriously counteracted and conditionally lost much of its leverage (Juncos 2011, 382; Schimmelfennig and Sedelmeier 2005a, 14). The incentive of EU integration as a means to facilitate inter-ethnic cooperation had less traction since its reward appeared attainable also without genuine cooperation. Furthermore, more recently, the appeal of conditioned EU integration became challenged by Russian and Chinese presence in Bosnia, offering investments without any comparable strings attached (Heath and Gray 2018; Hopkins 2019; Lakic 2019c).

But even in those cases when conditionality 'worked' and the extension of an incentive indeed triggered a specific behavior an important caveat is in order. With its 'tit-for-tat' logic, conditionality is agnostic on the genuine motivation why the set condition was complied with and why the intended behavior was triggered. From an inter-temporal perspective, the application of conditionality always means that the transformation of behavior precedes the transformation of the norm according to which the new behavior would be preferable. The new behavior (e.g. inter-ethnic cooperation) is performed in order to attain an extended reward (e.g. signing of Stabilization and Association Agreement) and not because it is considered normatively as the first choice (e.g. the fate of the communities is interdependent, non-

cooperation is hurting all). For conditionality to contribute to a sustainable transformation of behavior it has hence to be understood as the first stepping stone towards norm transformation. It assumes that by regularizing and institutionalizing the new behavior (including by delivering the promised reward) new behavioral patterns ('routinization') will emerge which will further lead to a gradual internalization of the underlying norm.

Crucially, without this normative 'trickling down', conditionality is unlikely to yield a sustainable transformation of behavior (i.e. a consolidation of inter-ethnic elite cooperation). Unless norms are internalized, there is basically no reason why a new behavior should be continued once the desired reward has been obtained or is no longer available. In contrast to the classic cases of Austria, Belgium, Netherlands, and Switzerland, which provided the basis for the inductive development of consociational theory, elite cooperation in response to conditionality is (at least initially) not the consequence of a societal learning and hence not based on a norm which would be considered 'appropriate' (Juncos 2011, 373; Schimmelfennig and Sedelmeier 2005a, 18–20).

4.6.3.2 Decline of sanctioning authority

With the European pull 'conditional' at best, Lajčák had to realize that he had only little sway over increasingly recalcitrant Bosnian actors, first and foremost Milorad Dodik. In an unprecedented act of defiance, the leader of the SNSD and PM of the RS rejected the OHR's preferred reform of the police service and escalated tension to a point where Lajčák felt compelled to retreat to a (hardly) face-saving compromise (ICG 2009b, 11–12). His subsequent effort to impose a reform of the law regulating the Council of Ministers with a view to reduce party's ability to sabotage legislative efforts similarly backfired (BalkanInsight 2007; BIRN 2007a; 2007b; 2008; ESI 2007; Juncos 2011, 380; Latal 2007; Muehlmann 2008; Stiglmayer

2007). As with the police reform, Lajčák did not withdraw his already imposed decision on the Council of Ministers but issued an 'authentic interpretation' which effectively amounted to a repeal of some of the introduced modifications (ESI 2007, 7; OHR 2007).[92] A full-blown crisis was only avoided due to the OHR's unprecedented climb-down. In the context of the increasing fragmentation within the PIC and confronted with the RS new strong man, Milord Dodik, who did not shy away from an outright conflict with the OHR, the 'Bonn Powers' became not only more difficult to apply but also lost their weight once put forward (ICG 2009a; Peter 2015, 142). In colloquial terms, like the tale of the emperor's new clothes it became obvious to all parties in the wake of the stand-off in October 2007 that the OHR's 'stick' lost much of its threat potential. The 'Bonn Powers' were no longer the tool which equated implementation, but were nothing more than a formal, legalistic instrument the impact of which disappeared if the parties felt not bound by it.

4.6.4 Valentin Inzko (2009 - today)

The appointment of Lajčák's successor in 2009 revealed increasingly incompatible visions among the PIC members as to the OHR's mandate. While the US sought the return of a pro-active mandate holder who would rekindle the dynamics lost during the Schwarz-Schilling area, an increasingly assertive Russia opposed these ambitions. With European states divided, but generally favoring the middle ground, eventually Valentin Inzko, a career diplomat with comparatively little own political weight, emerged as a compromise candidate (Peter 2015).

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[92] The new regulation on the legislative process in parliament left it open whether the one third quorum would refer to the number of sitting or all MPs. The eventual agreement stipulated that it would be upon the Constitutional Court to decide on this issue should the diverging interpretations become practically relevant (Peter 2016, 142). Furthermore, regarding the already imposed rule on decision making within the Council of Ministers, Lajčák issued an 'authentic interpretation' of his own decision which partially backtracked on the initially presented implications. This was an unprecedented development (Peter 2016, 143). While initially it would have been possible for any member of the Council of Ministers to satisfy the consent requirement, it would be now contingent on the vote of the Chair or the Deputy Chairs. It became therefore more difficult to fulfil the veto safeguard.

Importantly, instead of continuing to extend the OHR's mandate for another one or two years, the PIC concluded that the closure of the OHR itself would be tied to progress in the country's development towards a self-sustaining democracy. More specifically, the PIC specified the so-called '5 + 2 Agenda' which entailed five objectives and two conditions (PIC 2008).[93] This new 'exit strategy' was partly prompted by two realizations: Firstly, following the failure of the police reform as well as the stand-off in relation to Lajčák's imposed reform of the Council of Ministers, it became accepted that a fundamental change permitting the closure of the OHR would not come within a short period. Secondly, the new 'merit-based' closure of the OHR was motivated by the realization that stipulating a specific date for the OHR's closure had the unintended consequence of domestic parties trying to sit-out the OHR in anticipation of the time after it left (Peter 2015, 137). Inzko hence indirectly tied the completion of the 'Agenda 5 + 2', including the closure of the OHR, to the country's progress in terms of European integration. The sooner Bosnia's parties would cooperate to live up to the European conditionality, the sooner the OHR would also close (Ahmetasevic 2008; Merdzanovic 2015, 9.6.2).

4.6.4.1 Approach to mandate

In this context, Inzko continued to pursue the trajectory already set by Lajčák. He subscribed to a minimalistic application of the 'Bonn Powers' and a dominant role of incentives. Overall though, from today's perspective Inzko's mandate has been dominated by a string of crises, facilitated by the OHR's attenuating ability and willingness to intervene and the insufficient

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[93] The five objectives were: 1) acceptable and sustainable resolution of the issue of apportionment of property between State and other levels of government; 2) acceptable and sustainable resolution of defense property; 3) completion of Brčko final award; 4) fiscal sustainability; and 5) entrenchment of the rule of law (demonstrated through adoption of national War Crimes Strategy, passage of Law on Aliens and Asylum, and adoption of National Justice Sector Reform Strategy). The two conditions were: a) the signing of the Stabilization and Association Agreement (SAA), b) a positive assessment of the situation in Bosnia by the PIC Steering board based on full compliance with the Dayton Peace Agreement .

pull of European integration. With the OHR's imposing role gone and the EU's appeal hardly transformative of elite interactions, Bosnia has been drifting from one crisis to the next for the last ten years with some observers warning of a 'slow but inexorable and accelerating dissolution of the state (Kovacevic 2018b)'. The new rise of conflicts demonstrated that the reputed progress made as a result of interventionist policies during the imposition and recalibration phase did not result in a genuine transformation of elites' behavior. The 'consent gap', which emanated from the externally prescribed genesis of the agreement and which had temporarily been bridged by the international community's involvement, did not close. The group-accommodative framework (largely) void of any mechanism rewarding cleavage crossing politics and the intra-segment fragmentation which fueled out-bidding dynamics have been a combination inapt to cultivate an elite which would genuinely subscribe to the agreement and engage in cooperation.

4.6.4.2 String of crises

In lieu of detailing each crisis **Table 16** provides a synopsis of the most relevant episodes.[94] Important for the focus of this thesis is that most of them are counter-reactions to 'state-building' efforts pursued by the international community. Overall, most of them fall in one of the following two categories.

a) RS vs OHR

The contested relationship between the central state and the RS has remained the dominant fault line, pitting Serb against Bosniak parties as well as the OHR.

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[94] The table's purpose is not to present every conflictual situation during the last ten years nor to detail each crisis with all its intricacies. While informative, this would go beyond the word limit of the thesis. The purpose is first and foremost to highlight an agglomeration of crises following the attenuating role of the OHR.

Milorad Dodik, who has been at the helm of the RS since 2006, built a political career on

challenging Bosnia as a unified state and challenging international actors pursuing a state

building agenda (Toal 2013). Over time, paralleling the OHR's declining role, Dodik has

become more and more assertive in rejecting and rewinding institutional reforms which implied

a transfer of authority to the central level. Be it in 2009 over the OHR's intended reform of the

control over state electricity companies (ICG 2009a, 4; 2009b, 9–10) or the creation of a new

state court and prosecutor with competences to investigate cases in the RS (ICG 2011, 6),

Dodik has not shied away to openly challenge international actors. Survey results empirically

corroborate the inter-group differences as to strengthening the central level (Figure 23). While

almost 70 % of Bosniaks indicated to have full or some support for a strengthening of the

center, only 30 % of Serbs do so. 31,3 % of Serbs indicate to have 'no support at all' for a

further strengthening of the center, while only 8,8 % of Bosniaks do so. Among Croats, those

supporting (44,5 %) and opposing (37,4 %) further centralization keep roughly a balance.

Figure 23: Support for strengthening BiH state authority

To what extent would you support the strengthening of the BiH state authority over the entities in certain domains, if it meant giving power to the entities in some other domains?
Source: Office of the UN Resident Coordinator in BiH/Prism Research 2015
Single response per question, n=1500

prism.plot
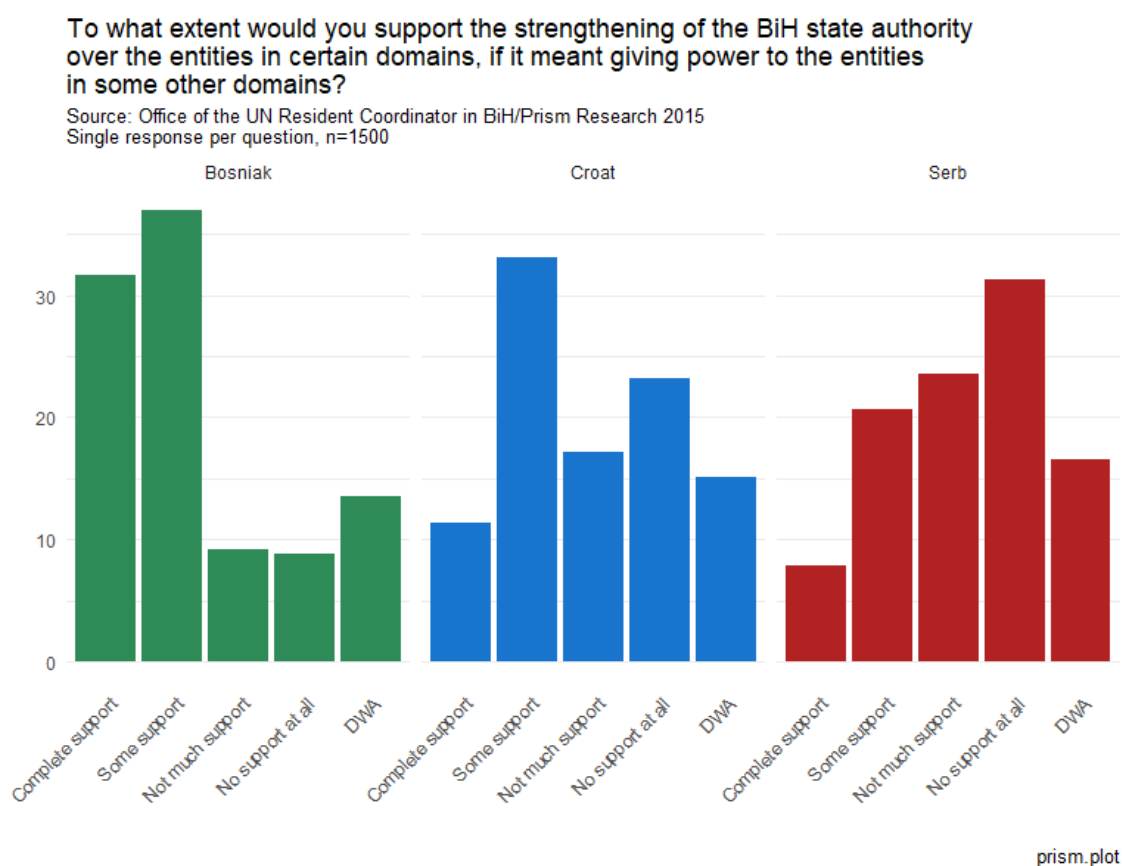
As an escalating element, Dodik brought up at numerous times the issue of a RS wide referendum which at least indirectly would be casted as a plebiscite on the entity's independence (BalkanInsight 2009; Jukic 2014; N1 2019; Toal 2013). While at the high time of the OHR's 'Bonn Power'-ed interventionism such endeavors would most likely have led to a removal of any official publicly entertaining such referendum, the international community's response during the last years has been largely limited to diplomatic admonitions due to a mix of unease to use essentially undemocratic means of governance 20 years after the war, and the fear of an open conflict which may easily spin out of control (ICG 2011). Decisions by the Constitutional Court which strengthen central institutions or challenge the mono-ethnic, discriminatory conceptualization of the RS are openly rejected as 'politically motivated' (Lakic 2019d) and the court vilified as anti-Serb (Lakic 2019a; 2019d; Rovcanin 2018). The push-

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back on a formal institutional level has been complemented by efforts on symbolic level to further (Bosnian) Serb nationalism.[95]

How little the Dayton Agreement has been embraced across the three constituent peoples and how contested it continues to be is shown in survey data. Reflecting the outlined discontent among Bosniaks and Croats with the arrangement, more than 80 % among those surveyed in 2015 agreed with the statement that 'Bosnia cannot move on without changing the Dayton Agreement' (UN Resident Coordinator/Prism Research 2015). In contrast, and reflecting preferences for a maintenance of strong ethno-territorial autonomy, 73 % of Serbs disagreed with the statement. Importantly, while the Bosniaks and Croats are united in their demands for a reform of the agreement, they are divided in their views of how any future arrangement should look like.

Table 10: Preferred territorial arrangement (2018)

Which of the following best describes your view about the territorial arrangement of Bosnia and Herzegovina?			
	Bosniak	*Croats*	*Serbs*
Entities should be abolished	63	42	6
Arrangement should be unchanged	17	9	51
BiH should be divided into three independent states	5	8	27
BiH should be divided into several economic regions	13	9	9
Croatian entity should be formed	2	8	6

NDI and Ipsos Public Affairs (2018); N=2059; +/- 2.2 % sampling error

When it comes to the preferred institutional arrangement, clear differences between the three groups are prevalent (Table 11). On the one hand, more than 80 % of Bosniak respondents would prefer a Bosnia without entities and cantons (but strong local authorities and municipalities). On the other hand, 53,3 % of Serbs prefer the RS as an independent country

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[95] This also includes the banning of lessons touching on the siege of Sarajevo or the genocide in Srebrenica from RS schools (Reuters 2017; Kovacevic 2017) or the adoption of the Serbia's school curriculum (Kovacevic 2018a).

or in unification with Serbia. Another 27 % of them prefer the status quo, including a strong

Serb entity. Among Croats, the creation of a Croat entity is the most frequently preferred option

(28,6 %). Only slightly less frequently is the preference for the a Bosnia without cantons and

entities, but with strong municipalities (27,9 %).

Table 11: Preferred institutional framework by ethnic group

Irrespective of what you think is realistic or not, in what kind of country would you most wish to live in?			
	Bosniaks	*Croats*	*Serbs*
In BiH without cantons or entities, with the strong local authority of municipalities	81.7	27.9	8.8
In RS as an independent country or a part of Serbia	0.2	0.0	53.3
In BiH with the current structure or entities and cantons	7.6	9.9	27.0
In BiH with three entities, without cantons	0.9	28.8	3.2
In BiH with the current structure of entities, without cantons	4.6	1.7	5.3

Source: Office of the UN Resident Coordinator in BiH/Prism Research 2015; Single response. Five most frequent answers are presented

Group distinct preferences not only continue to be prevalent regarding the preferred and

expected institutional arrangement. They are also prevalent when it comes to the desired role

of the international community. Bosniaks overwhelmingly continue to be favorable of the

international community with more than 70 % of respondents supportive of its 'active'

engagement (Figure 24). The high approval rating is likely to be a reflection of the international

community's support when it came to strengthening the central level of the state. This strong

support is clearly contrasted by the preferences prevalent among Serbs. Among them, more

than 52 % are opposed to any form of engagement by the international community in Bosnia.

Another 20 % is only favorable towards its passive engagement. Less than 20 % of Serbs

believe that the international community should pursue an active engagement in the country.

Preferences among members of the Croat community are somewhat less favorable than those

among the Bosniak community, but still clearly supportive of an active international engagement.

Figure 24: Desired role of international community

The International Community should have ... ?

Data: UN Resident Coordinator BiH/Prism Research (2015); N=1
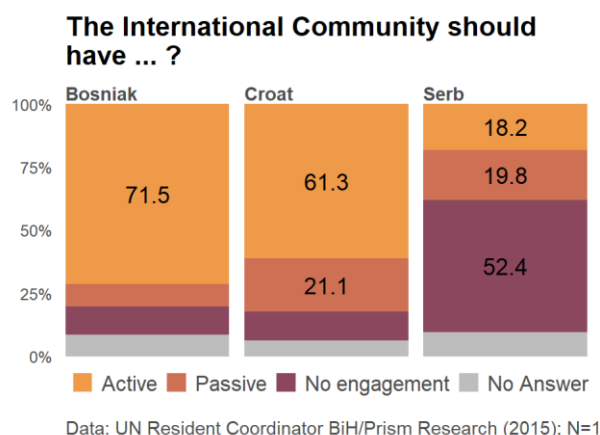
Irrespective of this result, more than 75 % of Bosniaks' are positive about the statement that 'the international community should impose a better long-term solution' for Bosnia. Reflecting a clear gulf when it comes to the role of the international community in Bosnia, only 28.7 % of Serbs agree with it (Table 12).

Table 12: Selected Statements on future of BiH

Percentage of agreement is presented	Bosniak	Croat	Serb
BiH cannot move on without changing Dayton organization	82.4	86.2	26.9
International community should impose a better long-term solution for BiH	76.3	63.9	28.7

Office of the UN Resident Coordinator in BiH/Prism Research 2015

b) Call for Croat entity

The second fault line remains the accommodation of Croats in the Federation. With representing merely 25 % of the population in the Federation, Bosnian Croats have been taking issue with what they perceive as piecemeal dismantlement of accommodative safeguards and the growing majoritarian competition in the Federation. Two developments are particularly noteworthy:

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The sense of growing marginalization as a consequence of majoritarian voting became fueled on the state level by the election of moderate Croat Željko Komšić to the Croat seat of the state presidency in 2006, 2010, and most recently in October 2018. A candidate of the civic-oriented, yet Bosniak dominated SDP in 2006 and 2010 and his founded civic-oriented Democratic Party in 2018, Komšić defeated the candidates of the traditional Croat nationalist parties. Crucially, Komšić did so in all likelihood by securing the votes of moderate Bosniak voters who preferred him over a Bosniak candidate of the SDA. As previously outlined, according to the Dayton constitution the Bosniak and Croat members of the three-headed Presidency are directly elected by the electorate living in the Federation. Surprisingly, and at odds with the otherwise group-accommodating character of the Presidency, the Dayton Agreement did not impose any link between the ethnicities of the voter and the candidate. Hence, Bosniaks could also cast their votes for a Croat aiming to secure the seat in the Presidency reserved for a Croat. While this scenario could be discarded as a mere thought experiment in the early stages after the war when cross-cleavage voting was second to ethnic polarization, it became a surprising reality with the election of Komšić. And while this development was generally welcomed by those who saw Bosnia's future premised on a decline of the salience of ethnicity, the result has been triggering strong opposition by the nationalist Croat parties. For them, the fact that the Croat seat in the State Presidency was filled with a candidate who was effectively elected by Bosniaks has been a legal travesty bordering electoral fraud. For them, Komšić was lacking the intra-group legitimacy which would make him a genuine representative of their group. The fact that Bosniaks could have a say in the election of the Croat seat amounted to an undoing of their

group's accommodation due to majoritarian dynamics in which Bosniaks with their superior size would always come out first.[96]

The second institutional aspect pertains to the Croats' representation in the Federations' House of Peoples. Initially, the Federation's constitution had provided the communities with two important legislative safeguards: 1) Parity of ministerial and deputy ministerial posts in the Federation's government as well as seats in the Federation's House of Parliament[97]; and 2) the possibility to cast a veto if they considered their 'vital national interest' threatened. Since the parity in government and House of Peoples de facto required consensus between Bosniaks and Croats in any legislative matter, the 'vital interest veto' was however redundant.[98] This (formal) institutional protection of the Croat community had been in decline since the reform of the electoral law in 2002 and the imposition of the 'constituent peoples' judgment by HR Petritsch. The introduction of 'cascading power-sharing', i.e. the inclusion of Serbs into the Federation's institutions, resulted in a reduction of the Croats' (and Bosniaks') relative share of seats in the government and House of Peoples. Although parity between the groups remained, the consent of Croats was no longer required since the votes of Bosniaks and Serbs were sufficient to reach a simple majority.[99]

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[96] Komšić's ability to invoke centripetal electoral behavior and to win his election with the support of Bosniak votes is a striking aberration to the otherwise accommodational logic of the Dayton framework. The fact that the electoral law permits these dynamics is more likely to be due to a lapse in the negotiations, rather than due to the ingenious thinking of those working on Bosnia's constitution. There is no indication in the surveyed literature that the inclusion of this centripetal element formed part of any discussion in Dayton.

[97] Bosniaks as well as Croats had each 30 seats in the Federation's House of Peoples; Serbs and 'Others' were only marginally represented.

[98] The 'vital national interest' veto could be invoked by the simply majority of Bosniak or Croat delegates. The ensuing dispute was then submitted to the Federation's Constitutional Court for resolution.

[99] Following the 2002 reform, the FED HoP comprises 17 reserved seats for each 'constituent people' and seven seats for members of minorities. Importantly, most Serb representatives in the Federation were not members of distinctly nationalist Serb parties, but coopted into moderate, although predominantly Bosniak parties, e.g. SDP. Of the Serb members to the HoP elected in 2014, only three members belonged to Dodik's SNSD.

The consequences of this new configuration became severely exacerbated by a reform of the 'vital national interest' veto. While the invocation of the veto previously only needed a simple majority of Bosniak or Croat delegates, it required after 2002 that either a) two of the three speakers or b) one speaker plus two thirds of her caucus claim and that the Federation's Constitutional Court subsequently confirms that such a violation is present. Hence, the bar for unilaterally raising a violation of vital interests was raised. In the view of the traditional Croat nationalists the consequence of the new rule became further exacerbated by the mechanism assigning Cantonal representatives to the House of Peoples. Until recently, the pertaining rule stipulated that delegates from each of the ten cantons have to include at least one member of each ethnicity. While in principle accommodative of the ethnic group, the leadership of the HDZ took issue with this rule since it implied that a) non-Croat dominated Cantons were also sending Croat delegates, which were likely to be elected by non-Croats, and b) that non-Croats were sent from Croat-dominated cantons resulting in a relative underrepresentation of Croats. In sum, while Croat representation was in principle assured, it undermined HDZ representation and effective ability to resort to the 'vital interest veto' in the FED HoP and hence over the entire legislative process in the Federation.[100] Table 13 and Table 14 provide the pertaining details (ESI 2018).

Table 13: Cantonal quotas for Croat delegates to Federation House of Peoples

Cantons	Number of Croat delegates from cantons to Fed HoP		
	1996-2002	*2002-2018[101]*	*Since 2019*
3 Croat dominated [102]		5	6
2 Mixed[103]		6	6
5 Bosniak dominated[104]		6	5
Croat share in HoP	17/34	17/54	17/54

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[100] Laws require support in both the Federation's House of Representatives and House of Peoples.
[101] Election Law of Bosnia, Article 20.16A, number 18/12.
[102] West-Herzegovina, Posovina, Canton 10.
[103] Central, Herzeg.-Neretva.
[104] Bosansko-Podrinje Gorazde, Una-Sana, Sarajevo, Tuzla, Zenica-Doboj.

Table 14: HDZ representation in Federation House of Peoples

2002-2006	2006-2010	2010-2014	2014-2018
12/17	7 (HDZ) 5 (HDZ-1990)	9/17	13/7

It is against this background that the Federations Constitutional Court found in December 2016, following a complaint lodged by HDZ member, that parts of the Federation's electoral law would violate the principle of equality.[105] With parties in the State parliament unable to agree on a new law, the October 2018 elections were conducted without a law specifying how the FED HoP would be actually filled. What followed was stand-off between nationalist Croat and other parties and a looming shut-down of the Federation's institutions since neither a government could be formed nor a new budget concluded without the HoP being operational. Eventually, in December 2018, after some considerable pressure from all sides (including the OHR), the Central Electoral Commission passed a new rule based on a majoritarian vote, this time outvoting Bosniaks (Latal and Lakic 2018).[106]

Notwithstanding the accidental root of the evoked centripetalism (non-Croats voting for moderate Croats), for many within the Croat nationalist camp, these dynamics were seen as a confirmation of the long held believe that the Federation as provided by the Dayton framework was skewed against them. The origin of this grievance goes back to the conclusion of the Federation in the Washington and later Dayton Agreement. This outcome fell significantly short of the originally aspired autonomy for their wartime statelet 'Herceg-Bosna', let alone a unification with Croatia, but was considered to be a difficult, yet acceptable compromise given

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[105] The sentence 'Each constituent people shall be allocated one seat in every canton' in Article 10.12 (2) of the Election Law of Bosnia was ruled to violate the principle of equality by the Decision of the BiH Constitutional Court of 29 July. 2017.

[106] See CEC (2018). Critically, the CEK's new rule is based on the 2013 census (not the pre-war 1991 census). The Dayton Agreement stipulates that 'until the returns process is complete' the pre-war census should be used for electoral matters. Although the new demographic pattern has largely consolidated over the last years and no significant returns process is ongoing, Bosniak parties either disputed or refused to formally acknowledge this dynamic by insisting on the use of the pre-war census. Komšić's subsequently lodged a complaint against the CEC's decision at the CCt which was eventually declared non-admissible (N1 2018).

the prevailing circumstances at that time. Over the years though, this compromise seemed less supportable and demands for a third entity have been resurfacing, e.g. most recently after Komisic's electoral victory (Vladisavljevic and Lakic 2018). With 34 % of Croats in the Federation supporting the creation a third entity, it is among the most popular views as for the territorial reorganization of the Federation.

Table 15: Which of the following statements best describes your personal view about the territorial arrangement of the Federation BiH? (in %)	2-3/2016		3-4/2017		4-5/2018	
	Bosniak	Croat	Bosniak	Croat	Bosniak	Croat
The territorial arrangement of the Federation should remain unchanged	12	16	14	7	14	7
The Federation should remain one entity, but cantons should be abolished	56	26	48	30	51	33
The Federation should be reorganized into two entities, one for Croats one for Bosniaks	3	36	4	24	5	34
The Federation should be reorganized through a merger of cantons	19	10	20	19		
Federation should be divided economically into several regions					23	12
Do not know/Refuses to answer	19	12	14	20	7	14

Source: NDI and Ipsos Public Affairs (2017); N=1000; +/- 3.1 % sampling error; NDI and Ipsos Public Affairs (2018); N=1142; +/- 3.1 % sampling error

Table 16: Major (institutional) crises since 2009			
Date	Parties	Content	Outcome
2009, Sep	Dodik/RS - OHR	- Conflict with Dodik triggered by 'Bonn Power' decision to reform management of public electricity company[107] - RS threat to withdraw from central institutions, vows to ignore OHR decisions - Threat to call RS referendum on acceptance of OHR's authority	
2009, Dec	Sejdic-Finci case	- ECtHR finds Dayton constitution in violation of ECHR since discriminating against members of non-constitutive groups e.g. in the presidency and HoP.	- Parties unable to pass amending legislation as of today
2010	Komšić victory	- Moderate Croat candidate wins Croat seat in State presidency, most likely due to Bosniak votes (as in 2006 and 2018) - Main Croat parties consider Komšić as illegitimate representative and his presidency as marginalization of Croat interests[108]	- Demands for reform of Dayton constitution and third entity
2011	HDZ, HDZ-1990 vs SDP & OHR	- HDZ and HDZ-1990 refuse to send delegates to FED HoP with a view to bloc formation of SDP-led gov in FED[109] - After six months stalemate SDP forms government despite absence of main Croat parties and constitutional requirements[110] - Central Electoral Commission (CEC) rules SDP move as impermissible[111]	- OHR overrules CEC to ensure gov formation[112] - reinvigorated calls for third, Croat, entity[113] - Triggered creation of 'Croat National Assembly'
2011	Dodik/RS	- April: RS President Dodik announces referendum on new state court and prosecutor which has competence to investigate also	- EU High Representative Ashton intervenes, meets

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[107] Latal (2009); OHR (2009).

[108] ICG (2011, 3).

[109] For detailed analysis see ICG (2011).

[110] The polarization between the SDP and Croat nationalist parties was not limited to the level of the Federation but was also fueled by developments on the state level. Zlatko Lagumzija, SDP's leader, initially claimed the Council of Ministers' Chair for himself and defied the informal rule that the incumbent's ethnicity would rotate and hence a Croat would be eligible for the function ICG (2011, 4).

[111] CEC (2011).

[112] OHR (2011).

[113] ICG (2011, 3).

		crimes committed in RS, vows to defy OHR decisions and equates strengthening of central state with islamisation[114] - State court was created by OHR in 2000, legal basis was upheld by CCt with Serb judges dissenting in 2008 - OHR – Dodik stand-off	directly with Dodik and promises review of law - Dodik withdraws referendum threat, but reputational damage for OHR[115]
2014	Riots and Plenums	- Public riots and mass demonstrations against socio-economic malaise; predominantly in the FED	- Shifted focus on socio-economic issues, but with little tangible results
2018	Komšić victory (Croat 'marginalization')	- Moderate Croat candidate wins Croat seat in State presidency, most likely due to Bosniak votes (as in 2006 and 2010)	- Main Croat parties consider Komšić as illegitimate representative and his presidency as marginalization of Croat interests - Demands for third, Croat entity Croatian EMP and PM voice support[116]
2016-2018	Fed Electoral Law ('Croat marginalization')	- HDZ-1990 member lodges complaint against FED electoral law; demands delegates sent from cantons to FED HoP should be proportionate to ethnic composition (= larger Croat share from Croat cantons); context: fears of marginalization among Croat hardliners[117] - Dec' 16 CCt annuls part of FED electoral law; mechanism to fill FED HoP with delegates from Cantons violates principle of equality[118]	- Intense pressure on Electoral Commission, including international actors[120] - Dec'18 Electoral Commission renders 'technical decision'; no consensual decision (2 Serbs 2 Croats 1 Other vs 2 Bosniaks)[121]

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[114] ICG (2011).

[115] Merdzanovic (2015, 9.7.1); Hadzovic and Remikovic (2011); Parish (2011).

[116] Lakic (2018b; 2018a).

[117] Fed HoP comprises 58 members delegated from the ten cantons. They comprise 17 Bosniaks, Croats and Serbs, and seven Others. Part of the motivation for the complaint was that no Croats should be delegated by Bosniak dominated Cantons since these Croat delegates were arguably moderates, i.e. not HDZ or HDZ-1990 loyalists. Moderate Croats were effectively 'crowding out' HDZ representatives from the 17 reserved seats.

[118] CCt BiH (2016). For a detailed analysis of the context and institutional properties see ESI (2018).

[120] Latal and Lakic (2018).

[121] Latal and Lakic (2018).

		- International community 'actively involved in drafting' election law[119]. Turkey and Croatia also intervene. - Oct'18 elections held without functioning electoral law - No legal avenue to form FED HoP, FED Gov and BiH HoP - Risk of 'shut-down' of FED institutions due to missing 2019 budget	- HoP filled on basis of new 2013 census (instead of pre-war census) and by applying Sainte-Lague formula => electoral recognition of ethnic-cleansing/post-war demography; - Rising demands for 'Croat entity'[122] - Bosniak SDA challenges decision before Constitutional Court; Court declares case inadmissible - Feb'19 FED HoP eventually formed[123]
2015-19	RS Statehood day	- 2015: CCt rules RS 'Statehood day' commemorating 1992 creation of RS and coinciding with Serbian religious holiday as unconstitutional when only Serbian symbols are displayed. - 2016: Despite protests, RS holds referendum endorsing 'Statehood day'; CCt rules referendum illegal. New RS law defines 'statehood day' as secular holiday. - 2019 CCt rules law providing for the RS 'Statehood day' as violating constitution following complaint from Bosniak and Croat members of RS CoP;	- RS leaders declare to defy court decision[124]

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[119] N1 BiH (2018); ESI (2018, 3–4); Klix (2018).
[122] Vladisavljevic and Lakic (2018).
[123] Lakic (2019b).
[124] Lakic (2019a; 2019d).

4.6.5 Conclusion

Finally, survey data also reveal clearly group distinct expectations when it comes to the attenuating influence of the international community (**Table 17**). Among Bosniaks more than 50 % expect that the situation would deteriorate if all international representatives would withdraw. Out of those, roughly 10 % expect a renewed outbreak of war, about 20 % expect a break-up of the country, and another 26 % expect a general deterioration of the situation without violence or disintegration. In stark contrast, Serbs are far less pessimistic with only about 27 % expecting a worsening of affairs. Strikingly as little as 3,3 % expect renewed violence. Only 4,4 % would expect a disintegration of Bosnia in case of an international withdrawal. For the majority of Serbs, the absence of international representatives would finally compel local politicians to step up and move the country forward. A view which is only shared by about 26 % of Bosniaks and 28 % of Croats. Overall, the responses reveal that Bosniaks are far more pessimistic regarding Bosnia's ability to be self-sustaining than Serbs who largely see the withdrawal of the international community as an avenue to move forward. The expectations of Croats are situated between these poles with the largest group among them expecting a worsening of the situation but no break-up or war.

Table 17: What would most likely happen if all international representatives would give up on the engagement in BiH?			
	Bosniaks	*Croats*	*Serbs*
Domestic leaders would be forced to take the responsibility and move forward	26.6	28.1	56.3
Bosnia would stagnate, nothing would happen	11.2	9.2	12.5
Situation would get worse, but it would not cause a breakup or conflict in the country	26.3	39.5	19.8
Bosnia would fall apart	19.9	15.4	4.4
Eventually the war would break out again	10.2	6	3.3

Source: Office of the UN Resident Coordinator in BiH/Prism Research 2015

This general pattern is further corroborated by data specifically pertaining to the closure of the

OHR and the withdrawal of EUFOR. Irrespective of the large share of 'neutral' expectations

pertaining to the withdrawal of the international community, fears of a dissolution of the state

and a renewed outbreak of war have not been placated. Almost half of all Bosnians believe that

ethnic tension are at least 'somewhat likely' to lead to a dissolution of the state. Although

balanced out by 51 % who consider such a scenario as unlikely, the high number nevertheless

highlights how weakly consolidated Bosnia as a state remains and how limited the

transformation as intended by the Dayton framework has been. Noteworthy, with 58 % Serbs

considering a break-up 'likely', the share is considerably higher than that among Bosniaks (44

%) or Croats (50 %). When it comes to the consequences of a possible break-up of Bosnia,

strong majorities in all three groups believe that a peaceful dissolution is unlikely (Figure 25).

With 73,2 % the expectation of new violence in case of the state's dissolution is highest among

Bosniaks, who are also most adamantly opposed to the division of the country. But also among

Serbs, where preferences for a separation are strongest, more than 60 % believe that a peaceful

dissolution is improbable.

Figure 25: Could Bosnia break up peacefully?
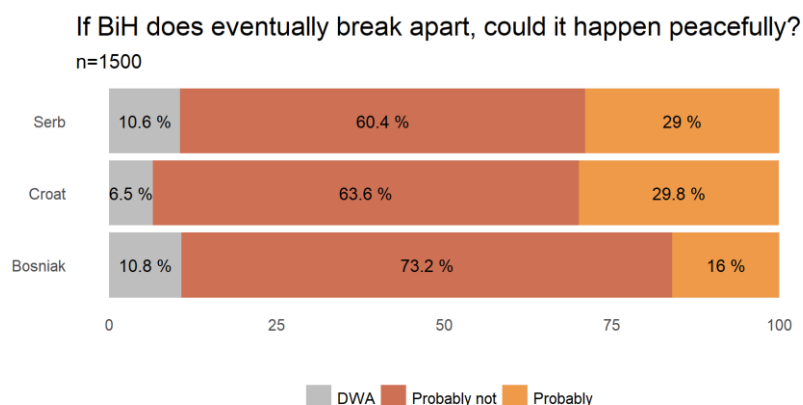
Table 18: How likely do you think it is that the ongoing ethnic tension might lead to the dissolution of the state? (in %)				
	BiH Total	*Bosniaks*	*Croats*	*Serbs*
very likely	15			
somewhat likely	34			
not very likely	25			
not at all likely	21			
do not know/refuses to answer	6			
likely	49	44	50	58

In summary, survey data highlight that Bosnia also 20 years after the war is characterized by a stark schism between the three constituent peoples when it comes to the state's territorial and institutional arrangement, the role of the international community, and the country's overall future. Much of the assumption that the 'externally prescribed' powers-sharing agreement would eventually be embraced by local elites as well as by its population hinged on the framework's ability to yield tangible socio-economic improvements. Growing standards of living for all was expected to constitute a 'mutually enticing' opportunity for elites to cooperate and diminish the salience of the ethnic cleavage. Furthermore, a functioning state improving the well-being of its citizens was hoped to diminish challenges to the state's legitimacy and consolidate citizens' identification with it. While the independence referendum of 1992 constituted an act of public endorsement, the legitimacy of the poll as well as the new state had remained disputed with Serbs overwhelmingly boycotting it. Similarly, the conclusion of the Dayton Agreement did not provide an act of 'bottom-up legitimization' since neither the agreement nor the entailed constitution were subject to any public referendum. In the absence of a founding act which could have provided a shared reference point for a narrative encompassing all groups within Bosnia, the state's legitimacy has remained challenged.

From a theoretical point of view, the absence of such 'up-stream' legitimacy ('bottom-up') can be mitigated by a 'down-stream' legitimacy ('top-down') when the provision of public welfare

gradually leads to citizens' cooptation and identification with the new state. Questions pertaining to the 'rightfulness' of the state are, if not answered, put in the background by the state's output. However, also 20 years after the Dayton Agreement the socio-economic situation remains dire and has done little to contribute to the state's 'downstream legitimacy'. Overall, there is a prevailing sense of pessimism among Bosnians, including the widely shared impression that things move in the wrong direction (93 % in the Federation, 73 % in the RS; Table 19). Many observers see the grave economic situation at least as potentially destabilizing as the absence of meaningful inter-ethnic elite cooperation and institutional impasse (e.g. Bose 2006, 330). With unemployment at high levels (Figure 26) popular discontent is high.[125] Socio-economic grievances are by far the most pressing problems for ordinary Bosnian citizens, and considered to be far more important than nationalism. Tellingly, unlike with other present survey results, there is almost no difference between respondents from the two different entities when asked of their main problems (**Table 20**).

Table 19: Generally speaking, do you think that things in the Federation/RS are moving in the right or wrong direction? (in %)		
	Fed	*RS*
Right Direction	5	17
Wrong Direction	93	73
Do not know/Refuses to answer	2	10
Source: NDI and Ipsos Public Affairs (2017, 7), p 7, N=1000/1000; +/- 3.1 % sampling error		

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[125] Tellingly, the single most violent post-war incident occurred in spring 2014 when mass demonstrations against high unemployment and the general low standard of living turned violent (including the torching of the Presidency's building). Rather than being able to coopt citizens of all ethnic backgrounds into the new state, citizens revolt against it.

Figure 26: Selected economic indicators

2017 GDP per capita, PPP (constant 2011 international $)

Unemployment rates BiH

data:World Bank

data: World Bank
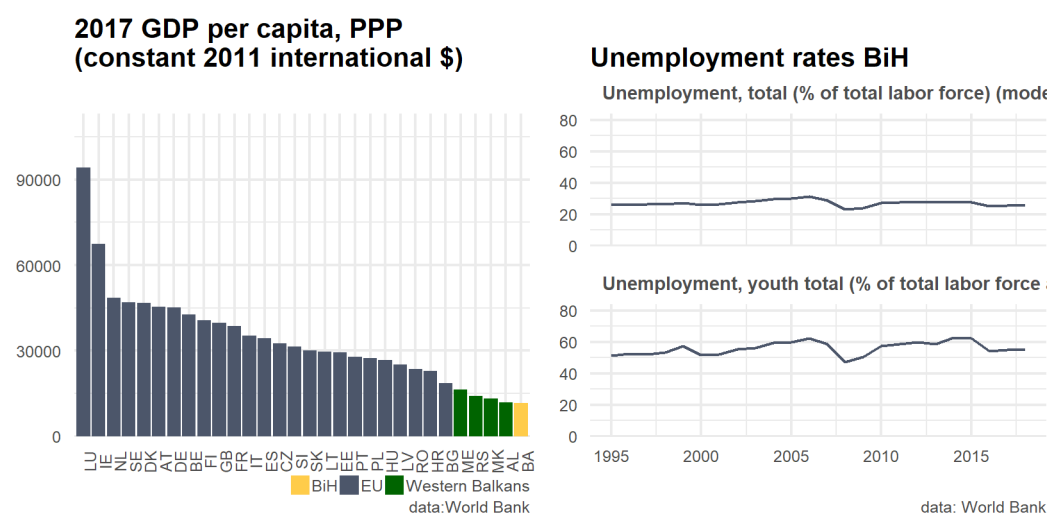
Table 20: What would you name as the two biggest problems that FBiH/RS is facing today? (in %)		
	Federation	*RS*
Unemployment	51	55
Corruption	11	9
Political Situation	9	4
Economics and Poverty	7	11
Youth Unemployment & Emigration	6	5
Crime	2	4
Nationalism	2	2
Other (<2%)	4	4
Do not know/Refuses to answer	7	6
Source: NDI and Ipsos Public Affairs (2017, 7); N=1000/1000; +/- 3.1. % sampling error		

5 NORTHERN IRELAND: GOOD FRIDAY AGREEMENT

5.1 Overview

5.1.1 Case selection justification

Contrary to Bosnia's Dayton Agreement, the Good Friday Agreement[126] has long been lauded as a success story. Not only did it succeed in ending the violence which had cost more than 3,000 lives during the so-called 'Troubles', the arrangement eventually also succeeded in bringing together the most recalcitrant actors from both sides of the ethno-national cleavage. the agreement's inception in 1998 most observers did not consider it within the realm of possibility that a former IRA commander, Martin McGuiness, and a firebrand protestant evangelical minister, Ian Paisley would jointly govern Northern Ireland and become known as the 'chuckle brothers'[127] less than ten years later. For the focus of this thesis, contrasting the Good Friday Agreement and the Dayton Agreement is particularly relevant when it comes to heighten the understanding of the interplay between a) the efforts of external parties seeking to entice elite motivation for power-sharing, b) intra-segmental outbidding dynamics in the absence of elite dominance and c) inter-segmental cooperation. As with the Dayton Agreement, third parties have been crucial in reaching the Good Friday Agreement's conclusion and maintaining its operation. In a significant departure from their historical inimical relations, the British and the Irish government have been working closely together to compel the conflict's parties to strike a deal in 1998 and since then have repeatedly intervened when the agreement was on the verge of collapse.

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[126] Unless otherwise specified the term 'Good Friday Agreement' (GFA) is used here as a summary term referring to the outcome document to the all-party talks ('multi-party agreement'), the pertaining treaty between the United Kingdom and Ireland ('Agreement between the Govern of the United Kingdom and Northern Ireland and the Government of Ireland) as well as the Northern Ireland Act 1998 stipulating the new institutional dispensation for Northern Ireland. Indicative for the level and substance of the inter-communal contestation, the agreement is also frequently called 'Belfast Agreement' instead of the religiously loaded 'Good Friday' term. However, since the term 'Good Friday Agreement' is most commonly used, it is also used here.

[127] 'Chuckle brothers' was the title of popular UK comedy series featuring two elder man who were, not unlike Paisley and McGuiness, constantly joking and laughing over their own jokes.

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The Good Friday Agreement's institutional dispensation was concluded on the basis of voluntary negotiations rather than under any military duress as in Bosnia. However, already soon after its conclusion, support for the agreement dwindled within the unionist community. From their perspective, assurances which had been critical for attaining their consent were not honored. Issues which had been left pending or were fudged by 'constructive ambiguity', eventually resurfaced with results which unionists perceived as biased. Most prominently, the stalling decommissioning of the IRA and the scope of the police reform made many unionists change their views. Consequently, the peace agreement's main architects, the moderate UUP and SDLP, were voted out and replaced by the 'hardline' DUP and the IRA affiliated SF as their segment's leading parties. With them, two parties were set to lead the executive which held irreconcilable views of each other and Northern Ireland's past and future.

Despite this prima facie recipe for stalemate the two parties gradually established a constructive working relationship. To detail this process, the chapter will provide a comprehensive analysis of the legislative dynamics under the Good Friday Agreement, with a particular attention given to cross-community voting and mutual vetoes. The analysis is based on a newly compiled dataset which goes in scope and depth beyond previous studies. In addition to serving an informative contrast to the Dayton Agreement, the Good Friday Agreement is also instructive due to its historic precursors in Northern Ireland. The 1974 Sunningdale Agreement and the 1985 Anglo-Irish Agreement were already attempts to pacify the conflict by means of power-sharing. The circumstances of their creation, their institutional features and eventual demise are instructive to adequately appreciate the development of the Good Friday Agreement. Presenting their genesis as the background for the Good Friday Agreement will hence complement the analysis.

5.1.2 Structure in Phases

As with the chapter on the Dayton Agreement, the following sections are not intended to be a mere recount of events. This has been done at length and in more detail by other authors (Clancy 2010; Coakley 2009; Kerr 2006; McEvoy and O'Leary 2013; McGarry 2001; McGarry and O'Leary 2004; McGrattan 2010). The purpose of the chapter is rather to trace the developments presented in the theoretical chapter and detail their empirical manifestation in Northern Ireland with a view to elaborate the argument. Since the presented argument unfolds over time, a recap of events is however unavoidable. The following elaboration intends to strike a balance between conveying sufficient context and detail and to be parsimonious enough to emphasize the theoretical argument. To analyze the development of the Good Friday Agreement, the time since its inception is divided into four phases, with each featuring a distinct interaction of third party intervention, intra- and inter-segment dynamics.

The section on *Phase 1*, the '*implementation and post-agreement bargaining phase'* spans from 1998 to 2003 and highlights how issues which were left pending during the negotiations dominated the early years of the agreement. Largely pushed by the UK which tended to accommodate the republican Sinn Féin in order keep the IRA on board of the peace process, unionists were increasingly disillusioned with the agreement and turned away from its moderate leadership under David Trimble's UUP. The agreement which was initially based on a majoritarian unionist endorsement started to lack unionists' support.[128]

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[128] In the terminology of Beardsley (2011), a 'natural agreement' became an 'unnatural agreement'.

The section on *Phase 2*, the *'recalibration and imposition phase',* comprises the years from the 2003 election to the 2007 reinstatement of devolution. For the major part of these four years, the devolution of powers from Westminster to Stormont Parliament had been suspended following a SF incriminating spying scandal. Importantly though, in order for devolution to be reinstated and effectively functioning, it needed the willingness of the newly emerged 'ethnic tribune' parties, the Democratic Unionist Party (DUP) and SF, to govern jointly. Both parties had hitherto been uncompromising and at the extreme end of their respective segments. The watershed elections of 2003 put these two parties at the helm of an executive which requires joint decision making. To overcome their antagonism, it required the push of the British and Irish governments as well as the pull of an overhaul of the institutional parameters which resulted in the St. Andrews Agreement of 2005. With the preceding phases characterized by 'stop-and-go' power-sharing (Feargal Cochrane 2006) and the eventual replacement of the moderate unionist UUP and nationalist Social Democratic and Labour Party (SDLP) by hardliners DUP and SF, power-sharing started in earnest only from 2007 onwards. During *Phase 3*, 'Maintenance Phase'*,* the (revised) power-sharing institutions provided a framework in which the former enemies felt comfortable enough to cooperate. Despite their antagonistic views on issues of ethno-national salience and the institutional requirement for joint governance, the phase saw no breakdown of devolution or overall stalemate.

As an institutional means to safeguard the two designations from outvoting, the Good Friday Agreement provides for so-called 'Petitions of Concerns' as veto mechanism. If invoked, the bill in question will require cross-community support to pass. Analyzing the pattern of their use, it is shown that the two 'ethnic tribune' parties have made a relatively restraint use of the mechanism for most of the time. Only with the beginning of the fourth Assembly in 2011, their numbers increased and eventually culminated during the 2014-2015 legislative session. With

the benefit of hindsight, the gradually increased use of vetoes were the portents of a profound crisis of Northern Ireland's power-sharing. The current *Phase 4*, *'Attenuation Phase'*, has been dominated by a renewed breakdown of power-sharing in 2017 and the absence of an executive for more 550 days, making it the longest democratic government formation process in the world. While at the face of it triggered by a fiscal scandal implicating the DUP, the ensuing conflict revealed a new vigor of inter-segment contestation and brought issues with clear ethno-national salience to the forefront (i.e. Irish language bill). The break-down of the joint Executive and Assembly and the new level of antagonism between the leadership of the DUP and SF becomes further complicated by the uncertainties introduced by the pending Brexit[129] and different strategic bargaining calculations undertaken by all sides. Crucially, the conclusion of the Good Friday Agreement was enabled by a fundamental reconfiguration of both the UK and Ireland's claim for sovereignty over Northern Ireland. The looming Brexit and the prospect of a new inner-Irish border reintroduces this issue which has so long been diffused by both countries' EU membership and the Good Friday Agreement.

5.2 Developments leading to Good Friday

To fully appreciate the emergence, nature and functioning of the Good Friday Agreement, it is necessary to acknowledge its historical context. The 1998 Good Friday Agreement was not the first attempt to mediate the sectarian cleavage which has been shaping Northern Irish society since as early as the 17th century when settlers from Great Britain moved to Ireland. The partition of the island in 1921 creating a largely Catholic dominated Ireland and a majoritarian Protestant Northern Ireland is an example for the frequently futile attempts to pacify sectarian conflicts by drawing new boundaries.

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[129] Strictly speaking Brexit should be called UKxit. Would it be only Great Britain and not the United Kingdom leaving the EU, Northern Ireland would remain a member. Despite this inaccuracy, since the term Brexit has become an established term by now, it will be used in the text.

5.2.1 Home Rule

'Home rule' – the devolution of legislative and executive powers to the region – up until 1972 was characterized by the hegemonic control of the protestant majority over basically all important institutions in the province resulting in what Catholics experienced as a systematic discrimination of their community (O'Leary 1989, 564). Irish culture and language found no meaningful accommodation within British Northern Ireland. Access to jobs and welfare were in practice highly conditioned on ethno-religious belonging. Socio-economic disparities between the two groups were strong and there were little efforts to effectively address them. The UUP[130] was the largely undisputed political force in Northern Irish party politics and the embodiment of Protestant dominance.

Starting from the mid-1960s, the Catholic community became more and more vocal in expressing their grievances. Partly overlapping, partly in parallel, Catholic discontent became articulated as a civil rights movement aimed at ending Catholic marginalization as well as the continuation of pan-Irish nationalist liberation struggle against (perceived) British colonialism. Demonstrations organized by the Northern Ireland Civil Rights Association (NICRA) were overwhelmingly 'Catholic marches' and were soon taken by Protestant hardliners as spearheads of nationalist machinations not merely aimed at addressing socio-economic grievances but challenging Northern Ireland's status quo within the United Kingdom. Any other response than strict law and order enforcement, let alone concessions, was feared to put the Protestant community in danger and bring the region on a slippery slope towards eventual re-unification

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[130] During the 'Troubles' the UUP was frequently also called the Official Unionist Party (OUP):

with Ireland.[131] Irredentist rhetoric form officials in the Republic of Ireland contributed to this fear (Clancy 2010, 12).

Before long, at the end of the 1960s violence eventually escalated. Demonstrations, partly as a reaction to excessively violent policing by the loathed Royal Ulster Constabulary (RUC) or unimpeded attacks by unionists, turned into riots. Eventually, in 1969, British military troops were sent to the province, following a request by the unionist government. However, what was meant to be a short-term military operation to restore public order soon resembled, at least in the eyes of most Catholics, the military presence of an occupational force. The presence of British troops as well as the UUP government's authorization of an indiscriminate internment policy (diplock courts), leading also to sweeping detentions of innocent civilians, accelerated the conflict dynamics, culminating in the (re-)emergence of the Irish Republican Army (IRA). The presence of British soldiers provided the IRA's purpose with new urgency and a rallying cry for what it called 'armed resistance'. Overall, paramilitary organizations which had all emerged with a narrative of defending their respective communities, escalated their activities, targeting security personnel as well as civilians.[132] Eventually, with violence reaching a grim peak with the 'Bloody Sunday' and no sight of any political actors in the province willing and able to stop the bloodshed, the British government decided in 1972 to end 'home rule' and to transfer powers from Stormont Parliament to London. The break-down of Protestant dominated 'home rule' marked a turning point for the province as it heralded the beginning of a search for

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[131] The creation of the Ulster Volunteer Front (UVF), the first major unionist paramilitary group, in 1966 is indicative for this development. In the eyes of its members the Northern Irish authorities had been too soft in response to Catholics' insubordination and it was hence upon the members of the Protestant community itself to take matters into their own hands.
[132] Noteworthy, the UVF was already formed in 1966 as the military wing of the Ulster Constitution Defence Committee (UCDC) which had been founded by Ian Paisley. Paisley later became the leader of the DUP and eventually Northern Ireland's First Minister under the BA/GFA. The creation of the UVF hence predated the (re)emergence of the (Provisional) IRA which had been until 1969 largely dormant and only weak structured (the exception being a rather symbolic bombing attack of Nelson's Pillar in Dublin (!) at the occasion of the 50th anniversary of the Easter Rising). The motivation to establish the UVF came from the conviction that the Northern Irish authorities under the UUP leadership of Terrence O'Neil were too lenient with the Catholic insubordination and preemptive action was needed.

a new institutional arrangement which would be acceptable for both communities, despite their largely inconsolable positions (reunification with Ireland vs remaining part of the UK).

5.2.2 Direct Rule and failed experiments in devolution (1972-1998)

The transfer of powers from 'home rule' to 'direct rule' was premised on the UK government's understanding that the escalating conflict was first and foremost inter-communal and required a mediating authority *in lieu* of the concentration of power in Protestant hand. The UK government was hence under the impression to be able to act as an honest broker between the two communities and to contribute to a reconciliation of the different interests (O'Leary 1989, 568–70). At first sight, the approach seemed to have some merit. For (some) Catholics, direct rule was an improvement over majoritarian domination by Ulster Protestants. For Protestants, although a loss of power in comparison to home rule, direct rule was still preferable over any power-sharing deal with Catholics which otherwise might be brought upon them (O'Leary 1989, 570). Hence, at least from the perspective of the British government, 'direct rule' constituted a reasonable step to manage the conflict. Confidence building measures, i.e. the end of internment without trial in 1975, were intended to demonstrate this new role. However, if there ever has been a genuine attempt by the UK government to act as an honest broker, it eventually failed to convince most Catholics. By governing through Northern Irish institutions, such as the Royal Ulster Constabulary (RUC) or the Ulster Defense Regiment (UDR) which were primarily staffed by Protestants, the British state was not perceived as an ethnically-blind, equidistant actor, but as an instrument if not identical to the unionist efforts to entrench their dominance and quell any emerging resistance (O'Leary 1989, 570–71).

5.2.3 Sunningdale Agreement (1973)

In the early 1970s, the British government did not think of 'direct rule' as a long-term approach to manage the conflict. Although in principle opposed to any Irish reunification ambitions, there was an understanding that for the tensions to deescalate a rebalancing of the inter-communal relations on an institutional level was required. Against this background, the British government published already in March 1973 a white paper in which it argued for the establishment of a power-sharing arrangement providing Catholics with a more substantive say in the running of the region (Secretary of State for Northern Ireland 1973).[133] Furthermore, the government was also cognizant that the conflict was not 'merely' an issue of inter-communal relations, but had an 'Irish dimension' which would require some form of institutionalized involvement of the Republic in the conflict's solutions (McGrattan 2010, 182).

The white paper became the defining issue of the June 1973 Assembly elections and divided the party landscape into pro- and anti-white paper candidates. The UUP, led by pro-white paper Brian Faulkner, however, was unable to reach a common stand and eventually ran in different electoral districts with different positions. Overall, the 'pro-white paper' parties came out victorious, and subsequently formed a cross-community government (UUP, SDLP and Alliance Party) with Brian Faulkner becoming the chief executive.[134] The fundamental fault line within the UUP, however, did not disappear after the elections. Following the elections, in December 1973, the UK government invited UUP, SDLP, the Alliance Party as well as the Irish government to Sunningdale castle to negotiate Northern Ireland's new institutional framework. For the focus of this thesis, there were two particularly important outcomes (Kerr 2006, 41–72; Wolff 2001):

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[133] 'The purpose of the Secretary of State's consultations with parties in the Assembly will be to find an acceptable basis for the devolution of powers which will meet prescribed conditions, in particular as to the formation of an Executive which can no longer be solely based upon any single party, if that party draws its support and its elected representation virtually entirely from only one section of a divided community (Secretary of State for Northern Ireland 1973, para 116 (xi)).'
[134] UUP (6 ministers), SDLP (4) and the Alliance party (1).

First, the reached agreement stipulated the establishment of a 78 member strong Northern Ireland Assembly which would be elected on the basis of the single transferable voting system (STV).[135] Replacing the applied 'first-past the post system' (FPTP), the reform was intended to broaden Catholic representation and engender a power-sharing executive.[136] Second, and with a view to address the 'Irish dimension' of the conflict, the Sunningdale Agreement provided for the creation of a 'Council of Ireland' which would have an executive function in a strictly defined domain and also comprise delegates of the republic's government.[137]

5.2.3.1 Externally evoked elite motivation, lack of elite dominance and the fragmentation of unionism

While the UK most likely considered it as a success to have secured Faulkner's consent to the agreement, it soon had to realize that the obtained concessions were a step too far for the UUP leader. Presented with the details of the agreement, the power-relations within the party shifted and those who previously opposed the 1973 white paper and now rejected the final agreement got the upper hand. Opposition to the agreement centered largely on the scope of the 'Council of Ireland'. For staunch loyalists, any transfer of executive power, no matter how marginal, to the republic was an anathema and feared to fuel any future ambitions for re-unification. Within days after the new power-sharing executive took office, the UUP rejected the 'Council of Ireland', triggering Brian Faulkner's resignation as party leader a few days later.[138] While

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[135] Elections to the Northern Irish House of Commons were initially held under the PR-STV system, which was however replaced in 1929 with the FPTP system, bringing Northern Irish elections in line with the British standard (Melaugh 2018).
[136] In contrast to the power-sharing executives later stipulated in the GFA, the Sunningdale executive was based on a coalition voluntarily formed by its participating parties. The GFA assigns membership to the power-sharing executive on the basis of the D'Hondt formula. Above a certain size, parties form automatically part of the government, irrespective of their programmatic orientation.
[137] The 'Council of Ireland' had a historic precursor in the 1921 Anglo-Irish Treaty, which was never implemented. The Council envisaged in the Sunningdale Agreement comprised two elements: First, a Council of Ministers which would include seven members from the Northern Irish as well as the Republic's executive. It was meant to have an executive function in the areas of tourism, conservation and animal health. Second, a Consultative Assembly including 30 members from the North and the South's parliaments. The assembly was intended to assume an advisory and review function.
[138] UUP voted against the continuing participation in the Assembly.

Faulkner had succeeded in maintaining the anti-white paper faction in check during the previous Assembly elections, his intra-party authority eventually turned out to be too weak for the party base to accept the concessions granted by him in Sunningdale.[139] The split within the UUP triggered by the UK's 1973 white paper and the eventual resignation of Faulkner in response to his party's rejection of the Sunningdale Agreement were reflective of a wider fragmentation process of the unionist camp. While the UUP had been for decades the unrivaled unionist catch-all party, the encapsulation of its segment started to decrease from the 1970s onwards with voters being at one point able to choose from five non-nationalist parties. Foreshadowing dynamics which would later also strain the Good Friday Agreement, the resulting competition for hegemony within the unionist camp was detrimental to cross-cleavage elite cooperation.

The leadership change in UUP meant a reversal of the party's orientation with respect to the Sunningdale Agreement. For the elections to the new Assembly in February 1974, the UUP - in coordination with other unionist parties - vowed to undo the agreement which its previous leader had just signed two months earlier.[140] Eventually UUP's joint-list celebrated a sweeping success by winning ten out of 11 seats in the Westminster Parliament. Faulkner, still chief of the Northern Irish executive, had campaigned with his own pro-agreement unionist list and was convincingly beaten.[141] While there were already big question marks behind the future of the Sunningdale Agreement following the split of the UUP and the election victory of anti-agreement parties, the final push leading to its collapse came from outside of formalized

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[139] Northern Ireland's electoral system has been pointed at as one institutional factor contributing to the weak elite predominance. With the first past the post electoral system, party leaders had comparatively little leverage over their party. While e.g. PR closed list systems would have provided party leaders with a powerful tool to advance their agenda within their own party, the rift within the UUP came to the fore as early as with the 1973 elections, which focused on white paper.

[140] For the 1974 Assembly elections the UUP formed a joint-list with the Vanguard Progressive Unionist Party and the Democratic Unionist Party, all opposed to the Sunningdale Agreement. By avoiding to run competing candidates in the same electoral district and cannibalize their chances, UUP and its partners succeeded in winning 11 out of 12 seats to the Westminster Parliament.

[141] Following the victory of UUP's joint-list, pro-agreement unionists also revised the positon and conditioned their endorsement of the agreement on changes of Article 2 and 3 of the Irish Constitution. Article 2 and 3 of the Constitution defined the Republic's state territory as comprising the entire island (including Northern Ireland); and claimed the application of its law also over Northern Ireland. The two article remained a conflict.

unionist party politics. For almost two weeks in May 1974, the Ulster Workers' Council (UWC) together with loyalist paramilitaries[142] organized a general strike with the ambition to end the agreement. A mass strike, including road blocks, disruption of electricity supply, blocking of harbors brought large parts of the region to a standstill. Sectarian killings, including the most lethal bomb attacks in the history of the 'Troubles', brought tensions to a new peak.[143] In response the UK government declared a state of emergency, condemned the strike as a 'sectarian strike' pursuing 'sectarian purposes' and sent additional troops. However, it refused to directly negotiate with the strike's leaders and did little to buttress Faulkner's intra-community standing, from who it had previously demanded the concessions which were now at the center of the crisis. Eventually, Faulkner resigned as head of the executive what amounted to an end of the Northern Ireland's first attempt to power-share.[144]

5.2.3.2 Relevance of Sunningdale for analysis of Good Friday Agreement

The above account is not merely meant to set the context for later developments. The developments leading to the conclusion and eventual collapse of the Sunningdale Agreement are enlightening from at least three angles:

First, the conclusion and collapse of the agreement are an instructive example for the vulnerability of inter-elite compromise in the absence of the elites' intra-party and segment dominance. During the negotiations in Sunningdale, Faulkner was under pressure from all sides to make way for the end of Protestant majority rule. Although Faulkner was as the leader of the dominant UUP the adequate interlocutor, all parties, including Faulkner himself, overestimated

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[142] First and foremost the Ulster Volunteer Force (UVF) and the Ulster Defence Association (UDA).
[143] The UVF claimed responsibility for the attacks in Dublin and Monaghan killing at least 34 people and injuring more than 300. The victims were almost exclusively Catholic civilians, who were targeted randomly.

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his intra-party as well as intra-segment authority. When attempting to ensure the implementation of the concessions he had consented to at the urgency of the UK government, he was confronted with resistance within his own party, other parties within the unionist segment who had not been included into the negotiations, and eventually the constituency itself. The UK, by refusing to engage in negotiations with the UWC strikers, did little to corroborate Faulkner's leadership and with it the agreement. Secondly, the experiences of the Sunningdale Agreement exerted an important influence on the 1998 negotiations of the Good Friday Agreement and informed the behavior of domestic and third parties alike. The fear of demanding too far-reaching concessions from party elites became a guiding principle. However, as detailed below, the UK's restraint not to overburden party elites was primarily to the benefit of SF with its links to the IRA. In contrast, the moderate unionist leadership was again suffering from this approach. Third, the failure of the Sunningdale agreement revealed the shortcoming of non-inclusive deals. The failure to create a coalition of the moderate middle, prompted a rethinking as to the approach's viability (Tonge 2008).

5.2.4 Anglo-Irish Agreement (1985)

5.2.4.1 Emergence of republicanism as an electoral force

Following the collapse of the Sunningdale Agreement it took almost a decade, until 1985, when the British and Irish governments launched with the Anglo-Irish Agreement (AIA) a new attempt to find a comprehensive peace settlement for Northern Ireland.[145]

The search for a new settlement was largely driven by two factors. First, in the early 1980s paramilitary violence against members of the security forces remained unabated, putting the

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[145] The UK attempted in 1982 to revive the Northern Irish Assembly. However, with SDLP never taking its seats it remained non-operational and was eventually closed down in 1986 (O'Leary 1987, 7; Mitchell 1991, 84).

fight against the IRA high on the list of priorities of the UK' new Prime Minister, Margret Thatcher. Second, while republicanism had been throughout the 1970s mainly pursuing a military campaign with comparatively little traction among voters, the 1981 hunger strikes and deaths of its main protagonists triggered an unprecedented mobilization of the Catholic electorate in support of republicans (McLoughlin 2014, 117).[146] In the 1983 general elections, Sinn Féin won 13.6 % of all Northern Irish votes, only 4 % less than the SDLP.[147] The SDLP had been so far the dominant Catholic party and was generally considered as moderate and, if possible at all, the sole nationalist interlocutor to strike a deal with. A further growth of SF was taken to be at odds with moderation and cooperation between the region's two segments. Concluding a deal which would strengthen the position of Catholics was hoped to strengthen the moderate SDLP's position and hence forestall any further SF advances (Mitchell 1991, 84).

5.2.4.2 Role of UK and Ireland

A fundamental difference between the AIA of 1985 and the Sunningdale Agreement of 1973 was that the AIA was concluded only between the governments of the UK and Ireland.[148] Domestic parties had no say in its negotiation and were also not signatories to it. This approach was overwhelmingly driven by the governments' intent to circumvent any Ulster Unionists veto (Mitchell 1991, 85). In the absence of the required elite motivation for any reforms, let alone power-sharing, it was considered only prudent to bypass them. The agreement's conclusion was indicative for the gradually improving bilateral relations between the two governments, not least to their regular interactions within the European Community (O'Leary 1987, 16).[149]

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[146] Bobby Sands, the most prominent hunger striker was elected to Westminster in by-elections on 9 April 1981. He died less than a month later.
[147] SF's increased emphasis on constitutional politics was also reflected in the republic where it decided in 1986 to end its policy of abstention from taking seats in the Irish *Dáil* (parliament).
[148] As international bi-lateral treaty between the UK and the RI, it did not form part of domestic legislation. Unionists therefore had no domestic judicial avenue to challenge the treaty.
[149] Furthermore, in the early 1980s the US administration under President Reagan became increasingly amenable to lobbying by the Irish community. The US used its influence to encourage Thatcher for new negotiations regarding Northern Ireland.

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While the two states were in agreement over the conclusion of the treaty, they had different motivations for it. For Prime Minister Thatcher, the AIA was first and foremost intended to improve the security cooperation with the Irish government, which was hoped to advance the fight against the IRA. For the Republic of Ireland, however, the signature to the AIA was driven by two considerations. First, by cooperating with the UK, the government hoped to induce reforms of those policies which were particularly alienating the nationalist community (e.g. policing, discrimination in labor market). Second, the conclusion of the AIA was hoped to strengthen the moderate SDLP's position within the nationalist segment and counteract SF's electoral growth.

5.2.4.3 'Coerced consociationalism'

The AIA's institutional core pillar was the 'Intergovernmental Conference' (IGC), a new forum of cooperation between the Irish and British government. While stopping short of granting Dublin any executive authority, it formalized its inclusion in political matters, security issues, legal matters, and the promotion of cross-border cooperation (O'Leary 1987, 7).[150] With this wide scope of authority, the 'Irish dimension' of the AIA went far beyond what had previously been included in the 'Council of Ireland' of the Sunningdale Agreement (O'Leary 1987, 12). Importantly, Northern Ireland's parties were subject to the work of the IGC without having any say in its operation. The only way for domestic parties to avoid being governed by the 'Irish dimension' was to compromise and to share power.[151] In other words, the IGC was subsidiary

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[150] See Article 2 (a) AIA. This provided the government of RI with the possibility to provide input into the work of the Standing Advisory Commission on Human Rights, the Fair Employment Agency, the Equal Opportunities Commission, the Police Authority for Northern Ireland, and the Police Complaints Board, which all were implementing policies highly pertinent to the standing of the Catholic community.

[151] Article 4(b): 'It is the declared policy of the United Kingdom Government that responsibility in respect of certain matters within the powers of the Secretariat of State for Northern Ireland should be devolved within Northern Ireland on a basis which would secure widespread acceptance throughout the community. The Irish Government support that policy.'

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to the local parties' ability to moderate and strike a bargain. According to Thatcher '[t]he people of Northern Ireland [could] get rid of the inter-governmental conference by agreeing to devolved government (Belfast Telegraph, 17 December 1985 as quoted by O'Leary 1987, 12)'. From the theoretical perspective of this thesis, the AIA is hence instructive, since the imposition of the 'Irish dimension' was a stick to evoke power-sharing what makes it a case for 'coerced consociationalism' (McLoughlin 2014, 121; O'Leary 1989; O'Leary and McGarry 1996, 220). The conditionality of the IGC's working was particularly directed at the Ulster Unionists, who had – as forcefully demonstrated by bringing down the Sunningdale Agreement – fundamental misgivings about any involvement of the government of Ireland in Northern Irish affairs. 'Coercive consociationalism' was hence a reaction to the failed previous voluntary attempt (O'Leary 1989). For O'Leary (1987, 12) 'the political education of the British and Irish élites since 1973 must have persuaded them that a voluntary internal settlement was impossible as long as salient groupings of unionists outside of APNI (Alliance Party) have no selective incentives to induce them to accept power-sharing, and as long as the SDLP have felt threatened on their Green flank.'

5.2.4.4 Reaction to the AIA

For unionists the AIA was a major blow. The fact that the British government had negotiated and signed a treaty with the Irish Republic without providing unionists any say in it, was from their perspective 'a dramatic illustration of unionism's marginality within Westminster's priorities' (McGrattan 2010, 131). While for decades, if not centuries, unionism was understood not to be one-way but reciprocal relationship, the AIA evidenced that things had changed, and that unionists no longer could count on the British government. For O'Leary (1987, 7) the AIA signified 'the formal end of unionist supremacy in Northern Ireland' as it meant 'Unionism without an Ulster Unionist veto on the structure of the union'.

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If the AIA's intention was to evoke power-sharing by imposing the IGC, it backfired and increased the level of polarization between the communities in the short-run. Unionists condemned the treaty as London-Dublin 'Diktat' and opposed it on every possible level: UUP members resigned from their seats in Westminster in protest;[152] UUP and DUP members pledged not to engage in any talks at all as long as the AIA would be operational (McGrattan 2010, 124); 100,000s gathered in the streets of Belfast under the slogan 'Ulster says No' and demanded the withdrawal of the agreement; protestant para-militaries stepped up their violent campaign, including sectarian attacks against Catholics and assaults on members of the RUC (O'Leary 1987, 15).

Overall, the AIA failed to 'coerce' power-sharing upon unionists. However, unionists also failed to bring down the agreement. Deprived of their veto power, neither the rule by the Secretary of State for Northern Ireland nor the Irish dimension required their consent. Hence over time, as the AIA remained operational, unionists gradually accepted that the treaty is reality, even if not considered legitimate (O'Leary 1989, 584). Eventually, after five years of opposition, in the early 1990s, unionists gradually started to engage in negotiations with SDLP on future constitutional arrangements. In direct contrast to the UUP, the SDLP had been welcoming of the AIA even if it originally had hoped for a stronger mandate of the IGC (McGrattan 2010, 124). The SDLP's leadership had lobbied since the early 1970s for a closer cooperation between both governments and, behind the scenes, had a direct influences on the bi-lateral negotiations (McLoughlin 2014, 122; O'Leary and McGarry 1996, 122). From its perspective, the imposition of the IGC was not a sanction and there was no reason for it to moderate in order to make power-sharing work. The IGC. a form of pressure on unionists, was

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[152] The subsequent by-elections were intended to serve as a public referendum against the AIA. This plan, however, partly backfired with unionists losing one of the contested seats to a SDLP member.

for SDLP an important stepping stone towards Irish unity.[153] 'The role of the Irish government, however tenuous, was a leg in the door [in Northern Ireland]… And once the door was opened, it could never be shut again' (senior SDLP member quoted in McLoughlin 2014, 121).

5.2.4.5 Consequence of AIA

In the late 1980s, the UK government's evaluation of the AIA was disappointing. Signing the AIA was one of the few things Thatcher regretted from her time in office (Bew 2011, 42; McLoughlin 2014, 119). Security cooperation with the Republic was short of expectations and did not deliver any success against the IRA. Inter-communal relations were as polarized as ever, and the IGC had not triggered any readiness among unionists to engage in power-sharing.[154] The cost of alienating unionists was not balanced out by any rewards (McGrattan 2010, 134). Similarly, for the Irish government, the AIA fell short of expectations. Its engagement in the IGC did not yield the policy reforms it had hoped for. Somewhat ironically, the upswing of paramilitary violence which was partly triggered by the signing of the AIA rendered it more difficult to prompt the British government to reform e.g. the police. However, while the AIA failed to ameliorate inter-segment relations, it (unintendedly) provided the basis for a modification of intra-segment relations. A major innovation included in the AIA was the introduction of the 'majority consent formula' in Article 1. With it, both, the British and the Irish governments agreed 'that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland' (Anglo-Irish Agreement,

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[153] SDLP's leader John Hume framed the IGCs as 'the framework for a solution, not the solution' (O'Leary and McGarry 1996, 220).
[154] Sisk (1996, 38) argues with respect to the AIA that 'even though political elites may agree on a formula for accommodation, peace cannot endure without grass roots backing'. This seems to imply that he considers the AIA, similar to the Sunningdale Agreement, as a failure due to the lack of elite predominance. This reading is only valid if one considers unionist leaders as 'grass root', which inflates the meaning of elites. Rather than the lack elite predominance, the failure of the AIA has been due to the lack elite motivation and the agreement's inability to evoke it in the first place.

Article 1(a)). [155] The formulation amounted to nothing less than the UK stating that it would have no own agenda as far as the future status of Northern Ireland was concerned, and that it would not bar any reunification with the Republic should the majority of Northern Irish decide to do so. Although initially refuting the AIA as nothing more than another 'imperialist manoeuver' (O'Leary 1987, 9) to secure British rule over Northern Ireland, to weaken its position in respect to SDLP, and to enhance the fight against IRA[156], the 'majority consent formula' was seminal for an eventual internal reassessment of IRA's future strategy. The 'majority consent formula' would gradually open up a new, although long-term, non-violent avenue, gradually steering it from its emphasis on violence to a more constructive and engaging role in Northern Irish politics (McLoughlin 2014, 128).[157] Hence, eventually, the AIA did not result in an insulation of SDLP from SF's electoral growth, but provided the republicans with an inroad to moderation and thereby broadening its appeal to voters.[158]

5.2.5 Contribution of failed attempts

Although failed endeavors, in retrospect, both the Sunningdale Agreement as well as Anglo-Irish Agreement were important stepping stones in a process of institutional learning when it comes to third parties trying to evoke elite motivation for power-sharing. From a theoretical point of view, at least implicitly, the British and Irish governments' approaches amounted to an

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[155] Article 1: 'The two governments (a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland; (b) recognize that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland; (c) declare that, if in the future a majority of people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support the respective Parliaments legislation to give effect to that wish (AIA 1985).'

[156] In response to the enhanced security cooperation between the UK and Ireland, the IRA expanded its list of legitimate targets by including also workers supplying or servicing British military or police facilities (O'Leary and McGarry 1996, 270).

[157] A first step in this process were the formal talks between SF and SDLP in 1988. Initially still doubtful over the British commitment to Northern Irish self-determination, it sought further assurances via its interlocutors within the SDLP. This eventually contributed to the December 1993 Downing Street Declaration in which the British and Irish government reconfirmed their commitment to the 'majority consent formula'. The governments' insistence on IRA's renouncement of violence prior to the start of any further peace negotiations prompted SF to reject the declaration (Clarity 1994).

[158] McLoughlin (2014, 130) notes that Thatcher had been strongly opposed to any dilution of British sovereignty over Northern Ireland, and that it is hence very unlikely that it was her intention to see the AIA read as a statement of British neutrality on the region.

attempt to compensate for missing elite motivation and elite predominance. In the case of the Sunningdale Agreement, the necessary elite motivation was present. UUP's leader Faulkner, however, did not dispose of the necessary elite predominance to follow through with his concessions among his party and wider constituency. Not only did the agreement lack the traction within the unionist community, the (moderate) unionist elite was unable to impose it.

Figure 27: Fragmentation of unionist segment from 70s onwards
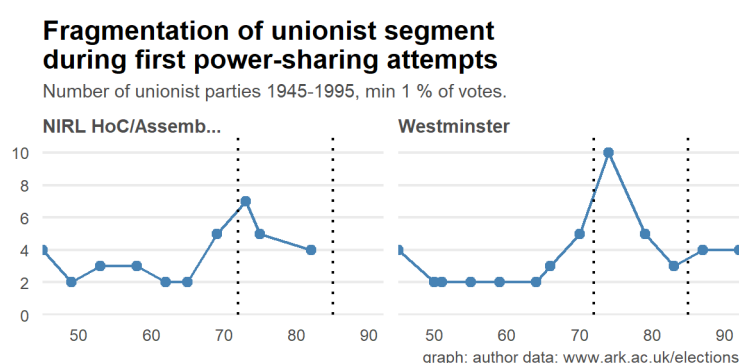
5.3 Conclusion of Good Friday Agreement

5.3.1 Overview

The following section presents the process leading to the conclusion of the Good Friday Agreement with the purpose to detail two aspects. First, the section elaborates how the British and Irish government created an environment in which the necessary elite motivation for the conclusion of the agreement could emerge. Instead of a crude imposition, the agreement was the culmination of a year-long process of enticing and persuading parties that the conclusion of the agreement would be the best available avenue to pursue their ambitions. To achieve this, both governments had to work in close cooperation, what also entailed the unprecedented step to adjust their hitherto mutually exclusive claims to the sovereignty over Northern Ireland. While acting jointly, each government used its special relationship with their respective group.

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Second, governments' efforts to mobilize the necessary motivation to engage in the power-sharing arrangement were contingent on elites' intra-group dominance. With each incentive offered not only altering inter-group but also intra-group dynamics, both governments were required to carefully balance their interventions. On the one side, informed by the breakdown of the Sunningdale Agreement due to leadership overreach, the UK sought to bolster UUP's David Trimble, with unionists required to carry most of the concessions entailed in the agreement. On the other side, both governments were determined to keep SF leadership in the process since only its inclusion would provide an end to the violence. Eventually, when pressed to decide on the timing of decommissioning, both governments prioritized SF's sway over the IRA over Trimble's control over the unionist segment. As a consequence, unionists became (further) divided in their support of the agreement. While both governments were creative in their ability to reconcile parties' otherwise mutually exclusive bargaining positions, the issue of decommissioning became the single most important issue undermining unionist elite dominance and eventually motivation.

Against the backdrop of the previous, failed attempts, two aspects came to the fore. First, the insight that any future settlement would have to be inclusive and incorporate also the extremes on both sides. Without the inclusion of the paramilitaries, violence would continue, rendering it impossible for moderates to cooperate with the other side. Second, in order to entice the necessary motivation for republicans to exclusively engage in a peace process, it would require a clear perspective to pursue their long-term goal in a non-violent manner. Such a perspective could only be forthcoming from a close cooperation of both, the UK and Ireland.

In the mid-1990s, the British government's main concern was to see an end of the violence and ensure the 'Troubles' do not spill into Great Britain.[159] While counter-terrorism measures had dented IRA's campaign, they were unable to secure a complete defeat of the organization. The government under John Major became increasingly of the opinion that the best means to reach a pacification of the conflict, was to reintroduce devolved government to Northern Ireland and seek an arrangement which would integrate those hitherto at the political fringes. With this in mind, the UK informed via backchannels the IRA already in the early 1990s that the armed campaign was unnecessary, if SF was willing to engage in constitutional politics (O'Kane 2013, 518–19).

Concurring with the UK, the Irish government's interest was to see an end of the violence and ensure that the conflict would not spill into domestic politics of the republic. While the republic's constitution included provisions which effectively laid claim to Northern Ireland, the issue was overall of low salience and the Irish government had not actively been pursuing re-unification. However, there was the acknowledgment that any solution to the conflict would require an 'Irish dimension', meaning an institutionalized involvement of the republic to provide safeguards to the nationalist community (O'Kane 2013, 523).

5.3.2 1993 Downing Street Declaration (DSD)

The 1993 Downing Street Declaration was an important stepping stone towards the Good Friday Agreement. Jointly formulated by the UK government under John Major and the Irish government under Albert Reynolds it was an early example of a new mode of cooperation between the two states which would become decisive to make both designations amenable to a

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[159] The IRA's attacks outside of Northern Ireland, including a 1991 attack on Downing Street, 1994 on Heathrow airport or 1996 on Manchester's city center, increased the urgency to end the violence.

solution (O'Leary 1997, 667). Substantively, the document reflected important elements of what had transpired from the secret Adams-Hume talks (1988 and 1993) and been put forward to the Irish government. Crucially, in the DSD both governments confirmed that Northern Ireland's future status should be only decided on the basis of majorities both in Northern Ireland and the republic (British and Irish Governments 1993, para 4, 5). As such, the declaration was important in two regards: a) by confirming that it would be up to a Northern Irish majority to decide on the region's future, both governments sought to convince the republican movement that there was a viable, peaceful path towards unification,[160] b) the declaration set both governments on a joint track in order to deal with the conflict (Kerr 2006, 82–83; O'Duffy 2000, 413).

5.3.3 'Irish America', strengthening of SF's leadership and the first IRA ceasefire

While the DSD set out the incentive, moderates within the republican movement were initially constrained by their own constituency. Even if SF's leadership would have wanted to actively pursue the perspective extended in the DSD, it did not sway sufficient authority over the entire republican movement, e.g. the IRA. Since the early 1980s republicans were pursuing a twin-track strategy of electoral contestation and violence, and for hardliners within the movement a mere declaration by the two governments was no convincing evidence justifying a change (McAllister 2004). Crucially though, moderate nationalists had recognized that any attempt to broker an inclusive peace deal would be futile as long as SF's leadership was hampered by intra-republican constraints. At the same time, it was also clear that moderate nationalists could not be the source of such support for SF's leadership since they lacked the required legitimacy among republicans. Similarly, neither the Irish nor the British government would be able to fill

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[160] The reaction of SF's leader Adams reflected the fundamental shift in the two governments' approach. While he refused to accept the DSD, he also did not reject it, indicating a shift in the republican analysis of the UK's interests (Kerr 2006, 82).

this role, be it a lack of credibility among republicans or due to their own constraints (Kerr 2006, 91).

Eventually, the support for SF's leadership came from the US when US President Clinton issued a visa for Adams in 1994.[161] Breaking with what has been a long-standing US policy, Clinton issued the visa following a proposal by Irish *Taoiseach* (prime minster) Reynolds and against the advice of his own State Department and without consulting the UK.[162] 'The Greening of the White House' and Adams' presence in the US lifted SF on an international stage and provided the party with a hitherto unknown international publicity (Belloni and Deane 2005, 228; O'Clery 1996, 87).[163] More importantly, and as intended by Reynolds, Adams' presence in the US was an early and hence particularly important contribution to strengthening his authority within republicanism and those willing to entertain the possibility of ending violence (Clancy 2010, 64; Kerr 2006, 92; O'Duffy 2000, 415). Furthermore, by involving the US in the peace process, the Irish government as well as republicans sought to engage an actor who would be able and willing to act as a 'honest broker' when faced with the UK's opposition (Kerr 2006, 82). If the extension of the visa was an upfront investment into Adams' ability to convince republicans to engage in a peace process then the IRA's ceasefire declaration in August 1994 was its return. The decision of the paramilitary organization to suspend all hostilities was not only an important development in its own right, but also a much-needed vindication of those

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[161] The process leading to the extension of the visa is a remarkable development in itself and highlights how eventually crucial developments can be the result of fortitude and personal relations. Clinton had previously refused to issue a visa to Adams, partly with a view to the US 'special relationship' with the UK and the two states' close cooperation in the ongoing crisis in Bosnia. The decision to refuse Adams' visa was partly on the advice of Senator Edward Kennedy, then an influential voice of Irish-America, who had advocated for supporting the moderate middle. When Kennedy privately visited his sister, who Clinton had appointed as US Ambassador to Ireland, over Christmas in 1993, he also met Irish *Taoiseach* Reynolds. Reynolds changed Kennedy's assessment and convinced him of the potential benefits of a visa for Adams, i.e. to strengthen his position towards the IRA. Back in the US, Kennedy informed Clinton of his new assessment what contributed significantly to Clinton's eventual decision in January (Brook Lapping Productions/BBC 2002).

[162] During the Cold War the doctrine of non-interference and the primacy of military alliance precluded a stronger US involvement in Northern Ireland. This context had changed by the early 1990s (Clancy 2010, 63)

[163] To illustrate the significance of the publicity: Most British had never heard Adams speak prior to his trip to the US. His voice was banned from broadcasts in the UK and dubbed with the voice of an actor. At the occasion of his trip to the US, Adams was guest to CNN's David Letterman's show, which was also broadcasted to the UK.

who had advocated to support SF's leadership and its (alleged) efforts to bring the republican movement into constitutional politics. Following the ceasefire declaration, the number of annual casualties dropped to an all-time low (Figure 28).[164]

Figure 28: Number of casualties 1969-2010

Number of casualties 1969-2010

Number of indiviudals killed over time

Irish Security*   Loyalist Paramilitary   Republican Paramilitary*   British Security   Civilian

Number of persons killed per category

162	399	1117	1879

graph: author data: Sutton (1994) and updates; Melaughn (2018)
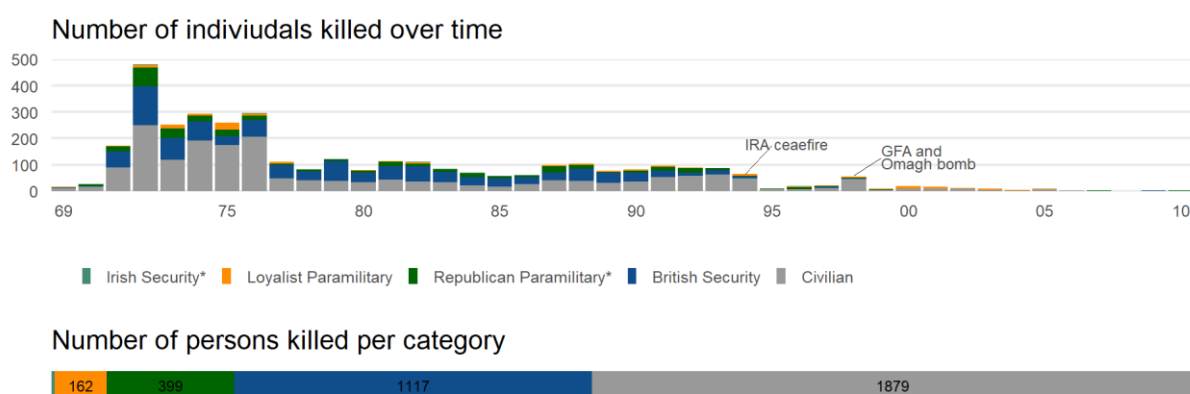
5.3.4 Framework Documents

With the ceasefire in place, both governments initially sought to advance the process to concrete negotiations. Stepping up their bilateral approach, the Northern Ireland Secretary of State and Ireland's Foreign Minister drafted the 'Framework Documents' which were to set out the basic parameters along which a possible deal could be struck. The documents already proposed a three strands structure including a) the establishment of an assembly with devolved powers and a power-sharing executive, b) the creation of North-South institutions with joint-executive powers, and c) an East-West dimension strengthening the ties between the UK and Ireland (British and Irish Governments 1995).

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[164] In response to the IRA's ceasefire declaration, loyalist paramilitary organizations announced their cessation of hostilities in October.

Furthermore, building upon the DSD, the documents explicitly identified the incompatible claims over Northern Ireland's sovereignty as a root of the conflict and offered the prospect of changes to the UK's government of Ireland Act of 1920 and Article 2 and 3 of the Irish Constitution, in which the republic laid claim to the region. With both governments pledging to adjust their claims to sovereignty over Northern Ireland 'to reflect the diverse aspirations, to reconcile as fully as possible the rights of both traditions' (British and Irish Governments 1995, para 18), the document broke new ground (O'Duffy 2000, 415).[165] Continuing with their inter-governmental approach, both governments had initially intended to present the documents to the parties as the basis for negotiations and use their distinct leverage with 'their' respective designation to steer them towards a compromise. However, when the Framework Documents got prematurely leaked to the press, it caused a major crisis within the Conservative Party. The revelation that the UK government was entertaining the establishment of North-South bodies including the transfer of sovereignty was for unionists a betrayal. Furthermore, for unionists and their constituency it was inconceivable to start negotiations with republicans while the IRA was still operational. For negotiations to start, the IRA would have to start decommissioning.

Two ensuing dynamics have to be highlighted: First, by drafting the Framework Documents without the prior input of unionists, the British (and Irish) government sought to present unionists largely with a *fait accompli* and to confine their room to maneuver to a bargaining space where the two governments suspected that a compromise could emerge. For unionists, the fact that the UK government had drafted such an important document without consulting them in advance, was a major breach of trust which required an assertive response by the UUP leadership. For an increasing number of UUP members, however, such a response was not forthcoming under its leader John Molyneaux, who had been at the helm of the party already

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[165] The formulation on the UK government's position is particularly noteworthy: The government 'reiterate that they have no selfish strategic or economic interest in Northern Ireland' (British and Irish Governments 1995, para 20).

since 1979. Under mounting pressure, Molyneaux eventually resigned in September 1995 and gave way to David Trimble, who had won the reputation of a strong defender of unionism, *inter alia* by pushing through the Orange Order's march in Portadown (McGrattan 2010, 146). In short, the UK's strategy of bypassing unionists in the formulation of the Framework Documents contributed to the rise of a new UUP leadership, which pledged to be more forceful in defending unionists' position. The governments' attempt to bridge the inter-group divide had unintended intra-group ramifications. Second, Major's approach to confront unionists with a *fait accompli* was premised on his believe that he would have sufficient sway over unionists for them to eventually accept a compromise. However, following a revolt of conservative backbenchers over the Maastricht Treaty, his authority got hamstrung as his government's majority got dependent on the votes of UUP's MPs in Westminster Parliament. With this as the background, Major became accused of appeasing unionists by entertaining their new precondition for all-party negotiations: the decommissioning of the IRA (O'Duffy 2000, 416; O'Kane 2007, 90–91).[166]

5.3.5 Impasse over decommissioning, the 'Mitchell Report', and breakdown of ceasefire

Unionists argued that it would be a flagrant violation of democratic standards to engage in negotiations with one party continuing to be armed and not having renounced violence. If republicans were earnest about their intention to negotiate then they should start handing over their weapons. Republicans as well as nationalists considered this condition as unacceptable and ill-intentioned. If the requirement of decommissioning would have been known in advance, the ceasefire would not have been extended in the first place. To demand upfront

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[166] The current UK government's dependence on the votes of the DUP and the latter's leverage in the Brexit negotiations has a remarkable similarity.

decommissioning revealed, in their view, that unionists were actually not willing to negotiate a new institutional dispensation. Consequently, decommissioning started to create an impasse.

In order to avoid that decommissioning would derail the peace process, the UK and the Irish government tried to 'outsource' the issue by setting up the Independent Body on Arms Decommissioning (IBD, 'Mitchell Commission'). Under the leadership of US Senator Mitchell, who had previously also advised Clinton on Northern Irish affairs, the commission was *inter alia* tasked to come up with an assessment how to remove all arms from the political process. Eventually, the commission concluded that there was 'no commitment to decommissioning prior to all-party negotiations (International Body on Arms Decommissioning 1996, para 25)' and proposed 'an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after (International Body on Arms Decommissioning 1996, para 34).' Irrespective of the fact that it had co-established the commission and pledged to heed its advice, the UK government's response to the recommendations fell short of an unequivocal endorsement. The government claimed 'to accept it but in reality sidelined it' (O'Kane 2007, 90) and concluded that SF would only be admitted to all-party talks if a) the IRA were to disarm upfront, or b) by obtaining a mandate through an electoral process preceding the all-party talks and pledging to renounce violence. The UK's new suggestion of elections preceding the negotiations - originally a proposal put forward by UUP's Trimble[167] - surprised and outraged nationalists on both sides of the border and caused a serious strain on the UK's relations with the Irish government (Elliott 1997, 111; O'Kane 2007, 92).[168] Adams disparaged Major and demanded 'to retract this election diversion […] and to clearly drop the precondition of an IRA-

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[167] The Mitchell report also took up the possibility of elections and concluded that it 'could contribute to the building of confidence' if 'broadly acceptable, within an appropriate mandate, and within the three-strand structure (International Body on Arms Decommissioning 1996, 56).'
[168] The sudden introduction of elections preceding the negotiations was also met with little understanding in the White House.

decommissioning of weapons (Belfast Telegraph, 30 June cited in Elliott 1997, 112).' When the IRA eventually ended its ceasefire in February 1996[169], nationalists in Northern Ireland and the republic pointed fingers at the UK government for having ceded to unionist demands for upfront decommissioning and pursuing their proposal of elections before talks (Elliott 1997, 112). [170] With already twelve months passed since the publication of the Framework Documents, the government was accused of having rested on the benefit of the ceasefire, instead of using the window of opportunity to corroborate the peace process by exerting pressure on unionists. Ironically, with the breakdown of the ceasefire, any demands for decommissioning were rendered illusive (Clancy 2010, 73). Despite the severe crisis in British Irish relations, both governments continued to cooperate on the furtherance of the peace process. While initially adamantly opposed to the UK's proposal of elections, the Irish government - partly for a lack of any other options - started to support the idea. Importantly for the entire process, both governments issued soon a joint-communiqué in which they stipulated that all-party talks were to begin on 10 June 1996. With the UK's commitment to a specific date for talks, the process became more acceptable to nationalists and republicans alike.

5.3.6 1996 Forum Elections: rise of SF

The elections to the Northern Ireland Forum on 9 May 1996 were the mechanism to select the parties participating in the actual peace negotiations. The electoral system applied in the election was a matter of intense debate, with a list system with one region-wide constituency and the Single Transferable Vote system the main options. Eventually, five candidates in each of the 18 electoral districts were elected from a closed party list using the D'Hondt formula.[171]

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[169] A bomb in London's Canary Wharf killed two, injured hundreds and caused damage estimated to be more than 100m Euros. A second bomb exploded in the center of Manchester in June.
[170] Former Irish *Taoiseach* Reynold called the demand for elections 'the straw that broke the camel's back' (Belfast Telegraph, 15 February 1996 cited in Elliott 1997, 112). Still before the breakdown of the elections, SDLP's John Hume had accused Major of wasting the previous eighteen months and of buying the votes of Ulster Unionists to stay in power (Elliott 1997, 111).
[171] In contrast to the later elections to the Assembly under the GFA, voters had only one categorical vote at the Forum Elections.

In addition, with a view to reduce the effective threshold and facilitate the inclusion of parties with scattered support[172], 20 top-up seats contested on a regional list were allocated to the ten parties with the highest aggregate of votes (with the maximum of top-up seats limited to two per party). The outcome of the elections was disappointing for the UUP, SDLPL and the non-designated Alliance party (

Figure 29). While they remained the largest parties of their segments, their decreased vote share was not the popular endorsement which they had hoped for. In contrast, SF featured its best electoral result in its history. Remarkably, most of SF's new support emerged in areas which were previously considered to be 'save' SDLP areas. While previous victories of SF were largely based on the mobilization of new or previously abstinent republican voters, the party succeeded now in winning votes of former SDLP supporters. Such switches would have been inconceivable only a few years earlier (Elliott 1997, 120; Elliott and Smith 1996, 28–29). Arguably, voters were hoping for a new ceasefire by rewarding SF for its engagement in peaceful politics and hence strengthening the authority of its leadership towards the IRA. However, an IRA statement released soon after the elections disappointed these hopes (Belfast Telegraph 4 June 1996, cited in Elliott 1997, 121). As expected, small parties were overwhelmingly reliant on top-up seats from the region-wide electoral list.[173]

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[172] In addition to 'civic' parties, i.e. NI Women's Coalition or the Alliance Party, the increased inclusivity by the top-up seats was also intended to ensure the participation smaller loyalist parties with ties to paramilitaries, i.e. PUP and UDP (Clancy 2010, 24).

[173] The only exception was the UK Unionist Party of Robert McCartney, a hardline unionist party advocating for the integration of Northern Ireland into Great Britain.

Figure 29: Results Forum Elections 1996

Results of Forum elections 1996

	Seats		% of votes
UUP	30		24.2
DUP	24		18.8
SDLP	21		21.4
SF	17		15.5
Alliance	7		6.5
UK Unionists	3		3.7
PUP	2		3.5
Ulster Democratic	2		2.2
NI Women's Coalition	2		1
Labour coalition	2		0.8

unionist ■ nationalist ■ other ■ unknown
Graph:author Data:www.ark.ac.uk/election
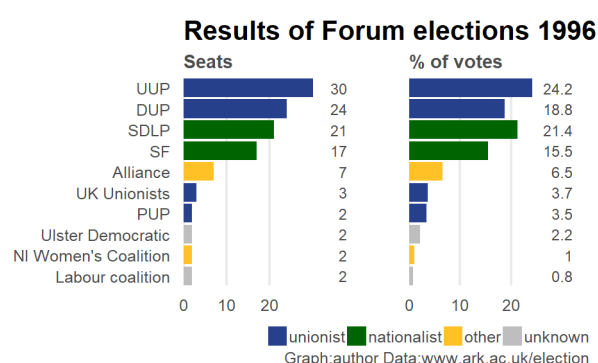
5.3.7 All-party talks and active engagement by the UK and Ireland

Overall, the elections produced 110 delegates from ten different parties. However, when the talks began in June 1996, only nine were allowed to participate. In the absence of an IRA ceasefire, SF was considered not to adhere to the 'Mitchell principles' which required a clear commitment to non-violence from any party participating in the talks.[174] After months without tangible progress, the peace process gained a new dynamic following the election of Tony Blair as UK's prime minister in May 1997. Empowered by a strong Labor majority, and hence not dependent on any unionist MPs in Westminster, Blair made it clear within days after his inauguration that 'the settlement train is leaving' and that he 'will not allow it to wait for [unionists] (Blair 1999).' If unionists would not engage in the process, decisions were to be made without them. Furthermore, to keep the process going, Blair moved away from upfront decommissioning and made it clear that the door to the negotiations is open for SF, provided it pledged adherence to the 'Mitchell principles', i.e. a new ceasefire by the IRA. With Bertie Ahern winning the Irish general elections a few months later, the inter-governmental approach

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[174] Parties had to affirm their 'total and absolute commitment' 1) to democratic and exclusively peaceful means of resolving political issues; 2) to the total disarmament of all paramilitary organizations; 3) to agree that such disarmament must be verifiable to the satisfaction of an independent commission; 4) to renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all party negotiations; 5) to agree to abide by the terms of any agreement reached in all party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree, and 6) to urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions (International Body on Arms Decommissioning 1996 para 20).

became further fastened by a close personal rapport between the two prime ministers (Clancy 2010, 76).

The election of Blair, his intent to advance the process irrespective of unionist opposition and his willing approach towards SF were followed by the IRA's announcement of a new ceasefire in June 1997. While this paved the way for SF to join the negotiations, it triggered the exit of the DUP. The unionist hardliners were adamantly opposed to SF's participation as long as decommissioning was not forthcoming (McGrattan 2010, 123). Considering its persistent opposition to any meaningful arrangement with republicans, its departure was arguably conducive to the eventual conclusion of the agreement. However, as to be detailed below, DUP's abstention from the agreement undermined the weight of the UUP-led delegation and the agreement's standing within the unionist constituency.

5.3.8 April 1998: Conclusion of negotiations

5.3.8.1 'Unity of purpose' of UK and Irish government

The eventual conclusion of the agreement was the culmination point of a decade of efforts by the UK and Ireland to facilitate an environment in which republicans were willing to exclusively engage in peaceful politics and unionists ready to share power. The UK and Ireland's approach was not one of crude imposition, but neither was the agreement the result of elite's own impetus (Clancy 2010, 82; Kerr 2006, 104–5). Together, they formulated draft documents, shared them among their respective designations and sought to identify common ground and means to bridge disagreement (Horowitz 2002b, 201). When the relations between the parties were too fractious, both governments shuttled between them. By deciding to work under an (artificial) deadline, they created the necessary momentum for parties to move and

eventually steered them to an area where both governments assumed that the final agreement could be feasible (Kerr 2006, 102).

Underlying the close cooperation between the two governments was a fundamental transformation of their relations. The repeated failures of the past and the closer integration of both states during the preceding decade fueled the readiness for a new, bilateral approach to address the conflict (O'Duffy 2000, 403). In contrast to Thatcher, first with Major and Reynolds, then with Blair and Ahern, a new area of politicians came into office who 'were lacking the baggage of Anglo-Irish animosity (Kerr 2006, 90)'. By the time Blair and Ahern became prime ministers, a generation of British and Irish civil servants and diplomats had been already working closely together within the various institutions of the European Union (Kerr 2006, 90). Similarly, their shared experiences of the failures of the Sunningdale agreement and the AIA contributed to a convergence of assessments of the conflict's root cause, i.e. the need for a reconfiguration of their otherwise mutually exclusive claims to sovereignty over Northern Ireland (O'Duffy 2000, 401). To complement their own efforts, both governments resorted to the support of the US. By appointing George Mitchell to chair the negotiations, they aimed to corroborate the process with an impartiality which the British and Iris government could not offer (Clancy 2010, 77). Furthermore, at critical moments when the negotiations got stuck, President Clinton's direct interventions persuaded parties to continue (Leahy 2017).[175]

a) UUP motivation and fragile elite dominance

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[175] Nevertheless, Blair had reservations about the inclusion of the US as they, in his view, tended to support the Irish side. The US' reading of the conflict has long been dominated by an emphasis on anti-colonialism and the Catholic civil rights movement. US policy makers generally were quick to draw parallels with the civil rights movement in the US (both starting in the late 1960s), and put comparably little attention to the ethno-national dimension of the conflict (Clancy 2010, 105).

For unionists, the prospect of power-sharing had been long unattractive and a moral anathema. For many, to share the government with those responsible for terrorism was too much to take. Their engagement in the negotiation process played out against the background of a gradually, yet continuously weakening stand. While for decades the dominant political and demographic force, unionists at the end of the 20th century began to see themselves as minority in need of protection (Horowitz 2001, 96) . 'For unionist politicians, history provided a sense of ticking clock. This erosion was a function of the sense of Ulster Protestants being a besieged group, declining on several fronts… demography, voter turnout, and support from the British government (Horowitz 2002b, 204).' While the elections in the run-up to the 1974 Sunningdale Agreement resulted in a 62:25 % majority for unionists, the number had shrunk to 52:36 % by the 1996 Forum Elections. With this context, the task for the UK and Irish governments was hence to convince the unionist leadership that despite of painful concessions a power-sharing arrangement would eventually yield a better long-term outcome than staying put. The government provided unionists with bilateral assurances, acted as their advocate when it considered proposals as 'too green' and emphasized the strengthening of the union by the 'consent formula'. Critically, informed by the collapse of previous attempts, the third parties were conscious that pushing unionists too far may lead to breakdown.

However, while much of this relation was based on trustful encouragement, Blair made it also clear that he was willing to bring republicans into peaceful politics also without unionist contribution. Hence, for the British it was not a question of if, but merely of which framework would be set up. Validating fears of weakening ties with Great Britain, unionists had not been party to the early back-channel meetings between the UK and the republican movement. Fearing that an early inclusion may had triggered a unionist veto and derailed any nascent rapprochement between the UK and republicans, unionists were informed only late into the

process with republicans ready to join the process. With the negotiations between the UK, Ireland, SF and IRA and partly the SDLP already well advanced, unionists were basically confronted with some *fait accompli.* Hence, overall unionists were left with relatively little choice when deciding whether to participate in the negotiations or not. With the UK and Ireland adamant to go ahead with negotiations to see an end of the violence, unionists' abstention from the negotiations would deprive them of the possibility to actually influence the outcome of the negotiations. Against this backdrop, Trimble's motivation to engage in the negotiations can be explained from two angles. On the one hand, staying at the sidelines was likely to mean that others were to take decisions on unionists' behalf, leading to a stronger say of Ireland in Northern Irish affairs and even more steps towards unification. Engaging in the negotiations was hence reasonable with a view to defend unionists' position today. On the other hand, the engagement in the negotiations was also reasonable from a long-term perspective. As long as unionists were a dominant majority, power-sharing was an unattractive perspective. Faced with a declining numerical strength and the long-term, yet realistic prospect of becoming a minority similar to nationalists' size, negotiating the terms of a power-sharing provided an avenue to entrench unionists' position for the foreseeable future (Figure 30 and Figure 31). Under the 'shadow of the future', today's concessions became tomorrow's safeguards, and what may have been framed as present day altruism of an enlightened elite, was also future self-interest (Horowitz 2002b, 202).[176]

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[176] Horowitz aptly calls this 'veil of ignorance with a peep hole' (Horowitz 2002b, 203).

Figure 30: Demographic development by religious affiliation

Demographic development and religious affiliation

Religion by age cohort in 2011 — Affiliation 1861-2011, absolute — Affiliation 1861-2011, relative

Catholic ■ None ■ Not stated ■ Other ■ Protestan

Data: NIR Statistics and Research Agency, Census 2011; Department of Health and Social Services, Census 1991

Figure 31: Vote share per designation

Vote share per designation

A:Assembly, CC:Constitutional Convention, EP:European Parliament, F:Forum,L:Local NIHC:NI House of Commons, W:Westminster

■ unionist ■ nationalist ■ other ■ unknown
graph: author; data: www.ark.ac.uk/elections/

While Trimble's motivation to conclude an agreement was present, his inability to bring along the unionist segment became a structural weakness to the agreement. First, as detailed above, unionists entered the negotiations because they had to. Second, the consent of the unionist delegation to the agreement was premised on the IRA's upcoming decommissioning. A last minute letter by Blair ensuring Trimble support on the issue of decommissioning and a 'emergency' phone call by Clinton are said to have tipped the balance (McDonald 2001). When pressed to provide concessions on highly emotive issues such as decommissioning (or early release of convicted IRA members) cracks in Trimble's delegation emerged which would eventually widen into a full cleavage of pro- and anti-agreement unionists.[177] For many

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[177] The most prominent defection during the negotiations was Jeffery Donaldson, who would become the figure head of the anti-agreement faction within the UUP and eventually joined the DUP.

unionists the prospect of sitting with SF in a joint executive with the IRA not having handed over weapons but its prisoners released, was too much to take (Kerr 2006, 98).

Mindful to have a mandate as broad as possible, Trimble had smaller loyalist parties included into his delegation.[178] But with the DUP refusing to engage in the process his mandate as the leader of unionism was limited from the outset (Kerr 2006, 97). Reminiscent of the Sunningdale Agreement, at a time when the UUP leadership tried to move unionism into a post-majoritarian age its ability was hampered by a lack of elite predominance and overall intra-segmental instability (MacGarry and O'Leary 1995, 341–44). This time however, both governments were conscious of Trimble's weak standing and tried to strengthen him by building up his credentials as peace-maker and visionary leader of a 'new unionism'. While this support was motivated by both governments' overarching interest in the conclusion of the agreement, it was an important difference to the failed Sunningdale Agreement, where the moderate unionist leader did not receive the support necessary to insulate him from intra-segment challenges (Kerr 2006, 104). The UK's support to strengthen Trimble's position within the unionist camp was second to the governments concern for the dominance of the SF leadership within the republican camp. As detailed below, when pressed to decide, the UK government was willing to trade pledges which had corroborated Trimble's intra-segment position with concessions to the SF leadership with the intent to secure its (alleged) ability to keep the IRA at bay.

5.3.8.2 Republican motivation

On the republican side, both governments had been trying to lure SF's leadership into the agreement by convincing them that their ultimate goal, a united Ireland, became a realistic

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[178] These were the PUP and UDP. Furthermore, both parties' inclusion was important due to their close ties with loyalist paramilitaries. Their consent to the agreement was essential for the stability of the agreement.

prospect within the new institutional dispensation. With this outlook as the incentive and the violent campaign seizing to yield any comparable political progress, the fundamentals for a context conducive for the emergence of elite motivation were set in place. Nevertheless, engaging in the process and participating in constitutional politics also meant to effectively acknowledge the partition of the island and to participate in institutions which reflect and represent the division. For hardline republicans this was highly controversial. The SF leadership had therefore to convince its constituency that the chance to reach unification via the peace process outweighed the danger of entrenching the island's division by participating in Northern Irish institutions and cooperating with unionists.

Once SF's leadership was brought into the peace process, it became crucial to strengthen its position in the republican movement. Without sufficient dominance, the peace process risked triggering a fragmentation of republicans, with dissidents again resorting to violence. Hence, strengthening the leadership of Adams and McGuiness with a view to keep the IRA engaged in the peace process was a prime concern for both governments. While it effectively meant that those with links to arms had a stronger bargaining position than moderates who had shunned violence, the desire to ensure an end to violence trumped other legitimate demands.

This context also explains SF's selective engagement in the negotiations. Once admitted, its leadership remained largely at the side lines as far as the bargaining over institutional details was concerned and left it to the moderate SDLP to reach a deal. However, issues with clear ramifications for its military wing - i.e. the early release of IRA prisoners, the reform of the unionist-dominated police service, demilitarization and no unambiguous commitment to decommissioning - were all effectively indispensable conditions for the SF leadership. With this approach it was able to secure important symbolic as well as quickly tangible victories in

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areas of high salience to its constituency and furthermore elegantly avoided to be associated with the concessions which moderate nationalists had to extend when bargaining over institutions (Kerr 2006, 96). Throughout this process, Adams and McGuiness were acutely aware of the danger to overstretch their leadership. Contrary to the other parties who endorsed the Good Friday Agreement, SF did not confirm its support on Good Friday, but only a week later after having called a party conference and secured the demanded approval.

5.3.9 Referenda as bottom-up validations to corroborate elite dominance

Once concluded among the parties, the agreement was submitted to referenda in Northern Ireland and the republic. With 71.1 % of the votes in the North[179] and 94 % in the Republic, the agreement was accepted.[180] On all sides, leaders had granted far-reaching concessions which stretched their ties with their respective constituencies. By submitting the agreement to a referendum, party leaders secured an important bottom-up validation which eased their constraints and corroborated the agreement's standing (Belloni and Deane 2005, 228; Reilly 2003). The relatively high approval rate of 71.1 %, however conceals that only 53 % of unionists casted their vote for the agreement. With particularly sensitive concessions granted by UUP's David Trimble, the agreement suffered from the outset from a comparably weak support among the unionist community. With further concessions wrung from the unionist leadership in the post-agreement phase, unionists' support for the agreement would further dwindle.

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[179] It is noteworthy that the agreement only stipulated a 'consultative referendum' for the North.
[180] Taking both referenda together, an all-Ireland majority of 85.4 % supported the agreement (O'Duffy 2000, 420).

5.4 Institutional framework

Table 21: Formal institutional framework of Good Friday Agreement

Strand 1 ('Northern Irish dimension')	
Legislative Assembly	
Composition	- 108 Members (MLAs)[181] - Members have to self-declare as 'nationalist', 'unionist' or 'other' at first meeting
Election	- STV 6 from 18 electoral districts
Veto	- Parallel consent (min 50 % total and within each designation)[182] - Weighted majority (min 60 % total, min 40 % each designation)[183] - Petition of concerns; triggered by 30 MLAs; requires parallel consent[184]
Executive	
	- Based on composition of Assembly (D'Hondt) - First and Deputy First Minister elected with parallel consent
Strand 2 ('Irish dimension')	
North-South Ministerial Council	
- Members of Irish and Northern Irish Executive - North-South implementation Bodies - Jointly-staffed joint secretary	
Strand 3 ('East-West Dimension')	
British Irish Council (BIC)	
- UK and Irish government, representatives of Scotland, Wales and Northern Ireland - Cooperate on matters of mutual interest	
British-Irish Intergovernmental conference (BIIGC)	
- Forum for regular meetings between UK and Irish government - 'promote bilateral cooperation at all levels on all matters of mutual interest within the competence of both governments' - Deals with non-devolved ('reserved') matters	

5.4.1 Strand One: Power-sharing and devolved powers

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[181] Number of MLAs was reduced to 90 in 2017.
[182] GFA (1998), Strand One, 5(d)(i).
[183] GFA (1998), Strand One, 5(d)(ii).
[184] GFA (1998), Strand One, 13.

5.4.1.1 Legislative Assembly

At the heart of the Good Friday Agreement's power-sharing institutions is the newly created Legislative Assembly comprising 108 members (MLAs), with six delegates elected from each of the 18 electoral districts. While clearly accommodative of the two designations, the agreement deviated from Lijphart's consociational prescription of a list-PR system by stipulating the Single Transferable Vote (STV) system as electoral system (GFA 1998 Strand One, para 2).[185] Non-designated parties[186] (i.e. Women's Coalition) whose support has been geographically scattered were largely opposed it.[187] However, with the STV system applied in local elections since 1972, the European Parliament since 1979 and the 1996 Forum Elections as well as with the system's principal ability to evoke moderating vote pooling[188], the selection of STV was an obvious choice (Horowitz 2002b, 213).[189]

Reflecting the accommodative nature of the agreement, members of the Assembly have to identify as 'nationalist', 'unionist' or 'other' at their first meeting (GFA 1998, Strand One, para 6). These self-identifications are subsequently the basis for ensuring cross-community consent in those matters which require it. Unless otherwise specified, decisions are taken with simple majorities (GFA 1998, Strand One, para 26(b)). In particularly sensitive instances, however,

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[185] Generally, two arguments are held against the use of the STV system: 1) the transfer of lower preference votes may distort proportionality, which Lijphart considers as a main tenet of his consociational formula. 2) With its basis on constituencies, party leaders have less leverage over their own party in comparison to the advocated list PR system. Considering that consociationalism is premised on a 'cartel of elites' (Lijphart 1969), with party leaders sufficiently dominant over their own segments, the STV may undermine inter-communal pacts (O'Leary 1998, 1636).

[186] 'Non-designated' or 'designated others' refers to parties who do not identify themselves with one of the two designations (unionism, nationalism). Examples are the Alliance Party, Green party, Women's Coalition.

[187] To alleviate the STV's negative impact, the Women's Coalition demanded top-up seats based on a country-wide electoral list. Instead, the UUP and SDLP agreed to increase the number of seats per constituency from 5 to 6, causing the Droop rate to drop from 16.7 to 14.3 %.

[188] Centripetalism was, however, of no major concern during the negotiations. no party was proposing to introduce an electoral system which would have stronger incentives to galvanize cross-cleavage cooperation (Horowitz 2001, 100). The First-past-the-post system as it is used for general elections was not considered to be a viable option.

[189] The usage of STV has a long history in Northern Ireland. Before partition in 1921, general elections were held on the basis of the SVT with the intention to facilitate some accommodation for Catholics in the North, and Protestants in the South. After partition in 1921, STV remained in place until 1929 when unionists, entrenching their numerical dominance, switched to the FPTP system. With then end of home rule, the UK reintroduced STV for local elections. Starting from 1979 onwards, the STV system was also used for the elections to the European Parliament. Hence, in 1998 voters were largely familiar with the system (O'Leary 1998, 1637).

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the agreement requires cross-community support, with parallel consent or weighted majority as the specified thresholds. In the first case, a proposed measure is passed if it obtains the majority of those members present and voting as well as the majority of the unionist and nationalist members present and voting. Hence, no measure can be passed against the will of the majority of one group. The second case requires a 60 % majority of members present and voting, but only a support of minimum 40 % within each designation.

In addition to those legislative issues for which the requirement of cross-community support is stipulated in advance,[190] a minimum of 30 Assembly members can submit a petition of concern (PoC) demanding that a specific measure under consideration may only be decided on the basis of parallel consent. In other words, the request to submit a measure to cross-community support can only be overruled with the approval of a majority within the nationalist as well as unionist community. Hence, PoCs can constitute a crucial veto mechanism (Conley and Dahan 2017; McCulloch 2017; Schwartz 2014). The Assembly's legislative scope remains, however, limited to those issues which are devolved from the UK to the region.[191] 'Reserved matters' such as policing or criminal justice matters initially remained under the legislative authority of the Westminster Parliament (GFA 1998 Strand One, paras 27 and 33).[192]

5.4.1.2 Grand Coalition and joint leadership of First and Deputy First Minister

Institutionally, Northern Ireland's Executive is clearly consociational. Importantly, the composition of the Executive is not the outcome of any coalition negotiations but follows

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[190] Key decisions requiring cross-community support include the election of the Chair of the Assembly, the First Minister and Deputy First Minister as well as the yearly work program including its budget (The Northern Ireland Peace Agreement, 1998 Strand One, para 5(d)).

[191] Putting the scope of the Assembly's authority into perspective, O'Duffy (2000, 421) notes that with no tax-raising or security powers, it has less power than the Scottish parliament.

[192] In 2010, under the Hillsborough Agreement, competencies for policing and the administration of justice were transferred to the Assembly's authority (NIO 2010).

directly from the composition of the Assembly. Applying the D'Hondt method, all parties above a certain size are entitled to seats in the Executive, proportionately to the number of their seats in the Assembly. [193] While hence living up to the consociational prescription of a grand coalition, its composition is not necessarily reflective of a common programmatic orientation. Crucially, parties have no say with who they will share the executive. This automatism potentially brings parties together who are tasked to jointly take decisions but are not only divided by an ethno-religious cleavage but also by their ideological stance. [194] This inclusive approach, composing the Executive on the basis of the D'Hondt is a clear break with previous attempts to form executives on the basis of coalitions of the moderate middle (McEvoy 2007a, 455–59; 2014a). In contrast to the Sunningdale Agreement which was based on an Executive compromising the 'moderate middle' (OUP, SDLP, and the Alliance Party) and leaving out non-compromising unionists and nationalists, the Good Friday Agreement was from the outset meant to encompassing all major parties. [195] The Executive is jointly headed by the First Minister (FM) and Deputy First Minister (DFM). [196] Initially, the FM and DFM were elected jointly on the basis of parallel consent (GFA 1998 Strand One, para 15). The approach was in

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[193] This also applies to the allocation of Committee Chairs and Committee membership. The Executive authority may include up to 10 Ministers with Departmental responsibilities (McGarry and O'Leary 2015, 499–500; Hix and Høyland 2011, 96; O'Leary, Grofman, and Elklit 2005; GFA 1998, Strand One, paras 14, 16.).

[194] The formation of the joint executive on the basis of the D'Hondt formula is a major difference to the Sunningdale Agreement (O'Leary 1998, 1635). With this context, SDLP' Seamus Mallon aptly described the GFA as 'Sunningdale for slow learners' (Belloni and Deane 2005, 222; Horowitz 2002b, 219). Strictly speaking, while the Executive is highly inclusive, the agreement does not stipulate any predefined quotas in terms of office holders' designation (in the Executive and in the Assembly). In line with liberal consociationalism, everyone can become FM or DFM as long as he or she obtains the required support by each designation (McGarry and O'Leary 2015, 501).

[195] Remarkably, with UUP's Trimble and SDLP'S Hume as the architects of the agreement, the new Executive was shaped by two individuals who had experienced the collapse of the Sunningdale Agreement at first hand and were adamant to draw the right lessons from history (McGarry and O'Leary 2015, 504). Hume was Secretary of Commerce in the Sunningdale Executive, Trimble a member of the Vanguard Unionist Party which opposed the agreement. The idea to form an all-inclusive executive was advocated early on by SDLP's John Hume whose position was particularly motivated by his experiences as Minister of Commerce during the Sunningdale Agreement. Analyzing the breakdown of the Sunningdale Agreement, Hume came to the conclusion that as long as hardliners were not integrated into the political process, violence would continue. This violence, in turn, would make it impossible for moderates to cooperate, since cooperation with those allegedly responsible for violence was harming moderates. In contrast, however, if hardliners could be included into the government, violence may stop and those ready to moderate will be able to effectively do so (McGarry and O'Leary 2015). Horowitz also sees the formation of the Executive on the basis of D'Hondt as a reaction to the collapse of the Sunningdale Agreement. In his view, however, the reaction is based on a wrong reading of the pertaining developments (Horowitz 2002b). Nevertheless, at the beginning of the negotiations UUP and SDLP's position were still detrimental. UUP had initially hoped to settle for 'non-executive form of power-sharing' (proportionately staffed committees governing ministries), while SDLP envisaged even the direct inclusion of representatives of the EU and the Republic of Ireland into the power-sharing executive. Eventually, an agreement was reached only on the very end of the negotiations (Clancy 2010, 78–79; McEvoy 2014a, 72).

[196] There is no significant difference in power between the two offices.

principle conducive to evoke centripetal dynamics since candidates had to be acceptable for both designations (O'Leary 1998, 1633–34).[197] Instead of swearing an Oath of Allegiance to the Crown or the United Kingdom – a no-go for republicans –, members of the Executive make a pledge of office in which they promise to discharge effectively and in good faith all the responsibilities attached to their office. Furthermore, the pledges also requires a commitment to non-violence and to serve all people of Northern Ireland (GFA 1998 Strand One, para 23). Members of the Executive, although accommodated on the basis of their self-ascription to one community, are tasked to serve all communities and not only their own. While one may dismiss such formulations as mere semantics, they are nevertheless indicative for an ambition among the agreements' framers to emphasize elements transcending the ethno-national cleavage.

5.4.1.3 Recognition of legitimacy of different aspirations and open-endedness of agreement

A key feature of the Good Friday Agreement is its openness as to the settlement of the underlying conflict. As for the conflict's underlying core incompatibility, the status of Northern Ireland, the agreement recognizes the ambitions of both designations as legitimate and equal ('parity of esteem'): nationalist's ambition to seek a re-unification with Ireland, unionists ambition to remain part of the union with the Great Britain.[198] None of those two mutually exclusive options is ruled out or prioritized.[199] As such, the Good Friday Agreement is more than merely an institutional framework regulating inter-group relations (Clancy 2010, 79). It effectively also accommodates two mutually exclusive visions of Northern Ireland. Crucially,

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[197] Their 'jointness' is reflected by the common name of their office: The Office of the First Minister and Deputy First Minister, resulting in the hardly elegant 'OFMDFM' abbreviation. The parallel consent requirement was eventually removed following the St. Andrews Agreement in 2006. Since then the election of the FM and DFM also follows the D'Hondt formula with posts assigned to the strongest parties of each designation (Clancy 2010, 79; Northern Ireland Office 2006).

[198] Importantly, the 'parity of esteem' of both communities is not only enshrined as long as Northern Ireland forms part of the UK, but also for the period following a referendum leading to unification. See e.g. Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland, Article 1(v).

[199] 'We acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations. However, we will endeavor to strive in every practical way toward reconciliation and rapprochement within the framework of democratic and agreed arrangements.' (The Northern Ireland Peace Agreement, 1998Declaration of Support, para 5)

with the agreement the government of the UK also rescinds its own say in that matter and leaves it to a majoritarian decision of the people of Northern Ireland. Similarly, the Irish government pledged to remove those provisions of the Irish constitution which sought to unify the island. The agreement hence provides for an open-endedness which accommodates both aspirations. This aspect was critical for militant republicanism willing to engage in it. Rather than settling the conflict, the agreement provides a framework in which parties can peacefully pursue their objectives (see also Sisk 1996, 38).

On a more specific level, the agreement left also a number of critical issues pending for the post-agreement period. The task of settling these issues was primarily assigned to newly created commissions. The intention behind this approach was to withdraw the unresolved issues from the conflict parties' contestation and submit them to independent and unbiased bodies, who would endorse recommendations based on their subject know-how. To ensure unbiasedness the commissions were staffed according to proportional principles and frequently included international experts who further corroborated the commissions' expertise. While not necessarily legally binding, the commission's mandate, composition and expertise were meant to have sufficient weight to make the conflict's parties feel bound by them (Walsh and Doyle 2018).[200]

5.4.2 Strand Two: The North/South Ministerial Council (NSMC) and Implementation bodies ('Irish dimension')

The second strand of the agreement stipulates the North-South Ministerial Council (NSMC), representing the 'Irish dimension' which had been a highly contested feature in previous

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[200] The most important commissions were the Independent Commission for Policing ('Patten Commission'), Independent International Commission on Decommissioning (IICD), International Monitoring Commission, and the Consultative Group on the Past. For a detailed analysis of their work see Walsh and Doyle (2018).

settlement attempts.[201] The Council brings together members of the Irish and Northern Irish Executive, including the First and Deputy-First Minister as well as the Irish *Taoiseach* 'to develop consultation, co-operation and action within the island of Ireland – including through implementation on an all-island and cross-border basis – on matters of mutual interest within the competence of the Administration, North and South (GFA 1998, Strand Two, para 1).' Effectively, this means that the Irish government is granted a share of executive power on an all-island basis (O'Duffy 2000, 421). The agreement sets out a list of six areas where common policies and approaches may be agreed upon but implemented separately on each side of the border by already existing bodies. Strand Two, however, also provides for the creation of new 'implementation bodies' which are authorized to operate 'cross-border, on an all-island level'.[202] Furthermore, it stipulates the creation of a joint standing secretariat staffed by members of the Northern Irish and Irish civil service.

As on previous occasions, this inner-Irish element was strongly opposed by unionists. A recurrent theme, the fear was that a formalized involvement of Ireland, particularly when equipped with executive power, in Northern Irish affairs would constitute a stepping stone towards reunification (Belloni and Deane 2005, 227). To alleviate this concern, unionists required changes of Article 2 and 3 of the Irish Constitution, making it clear that the Republic would seek unification only if the majority of Northern Irish wished so.[203] Furthermore, Trimble succeeded in limiting the number of areas of cooperation for North-South bodies to six

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[201] E.g. 'Council of Ireland' in the Sunningdale Agreement of 1972.

[202] These areas are agriculture, education, transport, environment, waterways, social security and welfare (entitlements of cross-border workers), tourism, relevant EU programmes, inland fisheries, aquaculture and marine matters, health, urban and rural development. As of May 2018 six implementation bodies have been created (Food Safety Promotion Board, Waterways Ireland, Trade and Business Development Body InterTradeIreland, Special European Union Programmes Body, the Language Body for the promotion of Irish language and the Foyle, Carlingford and Irish Lights Commission) (GFA 1998 Strand Two, Annex).

[203] Article 2: 'It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage. Article 3: 1. It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, *recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island*. Until then, the laws enacted by the Parliament established by this Constitution

(Kerr 2006, 100).

5.4.3 Strand Three: East-West dimension

If Strand One concerned the internal and Strand Two the North-South dimension, then Strand Three was set up to deal with an East-West dimension, the relations between Ireland and the UK. It comprises the British-Irish Council (BIC) and the British-Irish Intergovernmental Conference (BIIC), and was intended to counter-balance the North-South dimension (McEvoy 2014a, 67). The BIC comprises representatives of the UK and Irish government, representatives of the devolved institutions in Scotland, Wales as well as Northern Ireland and representatives of the Isle of Man and Channel Islands. The Council's members are tasked to cooperate 'on matters of mutual interest' (e.g. transport, agriculture, environment, health) and operates on a consensus basis. The inclusion of the Council helped unionists to present the agreement as being not about the republic gaining a say in Northern Irish Affairs but of 'a recalibration of relations between all parts of the British Isles' (see also McEvoy 2014a, 67; Powell 2008, 22; 2009, 22).

Related, the BIIC has been established as a forum for regular meetings between the UK Prime Minister and the Irish *Taoiseach* to 'promote bilateral cooperation at all levels on all matters of mutual interest within the competence of both governments' (GFA 1998 Strand Three, British-Irish Intergovernmental Conference, para 2). More specifically, the Conference entitles the Irish government to put forward views and proposals regarding matters which have not been devolved to Northern Irish institutions, and hence remain under the direct authority of the UK. However, the Council does not include any transfer of sovereignty from the UK to Ireland,

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shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution. 2. Institutions with executive powers and functions that are shared between those jurisdictions may be established by their respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island.' Emphasis added.

leaving it at the discretion of the UK whether to take up any input by the government in Dublin. The BIIC is further tasked to review the functioning of the institutions created under Strand 1 but has no power to override them.

5.4.4 Rights, Safeguards and Equality of Opportunity

Next to the institutional arrangements of Strand One to Three, the Good Friday Agreement stipulates a number of rights and safeguards aimed to accommodate the members of the two communities. This includes the direct applicability of the European Convention of Human Rights (ECHR), the creation of a Bill of Rights for Northern Ireland meant to complement the ECHR[204], and the UK's commitment to promote the Irish language.[205] A highly sensitive topic, which would resurface at numerous instances later in the post-agreement period, was the reform of the Royal Ulster Constabulary (RUC), Northern Ireland's police service. In the Good Friday Agreement the parties reached a consensus that a new police service 'attracting and sustaining support from the community as a whole' was necessary and that any reform would require changes to the organization's composition, training, culture, ethos and symbols (GFA 1998, Policing and Justice, Annex A).[206] The UK as well as the Irish government also pledged to accelerate the release of prisoners, who had been sentenced for offenses committed in relation to the 'Troubles'. As an incentive for active paramilitary organizations, but likely also as a means to soften the public reactions, the scheme was only opened to members of organizations

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[204] The Northern Ireland Bill of Rights has not yet been established and the related protracted process has become a source of frustration for many Northern Irish. After a public consultation process led by the NIRHC until 2008, the Northern Ireland Office rejected most of the proposed additional rights as being not specific to Northern Ireland (as required by the GFA). The bill remains an outstanding commitment under the GFA. It received new attention from 2016 onwards, particularly by Sinn Féin, but future steps remain unclear (Harvey 2016; Harvey and Smith 2018).

[205] Subsequent to the conclusion of the agreement, the UK government joined the Council of Europe's Charter for Regional and Minority Language and recognized Irish (in Northern Ireland) as minority language.

[206] In the agreement the parties pledged to set up an independent Commission tasked to elaborate a reform of the police service. The Commission's terms of reference, including detailed instructions on the future nature of the agreement, are attached in Annex A to the agreement.

who maintained 'a complete and unequivocal ceasefire' (but not disarmament) (GFA 1998, Prisoners, para 2).

5.5 Phase 1: Implementation and post-agreement bargaining

In stark contrast to the generally celebratory mood following the conclusion of the agreement, the Good Friday Agreement's implementation became a protracted process. With crucial details fudged by 'constructive ambiguity' during the negotiations, the first five years of the agreement became dominated by post-agreement bargaining over these issues what brought the agreement at numerous occasions at the brink of collapsing. Instead of witnessing a functioning consociation led by the moderate UUP and SDLP, its initial phase was characterized by stop-and-go powers-sharing and repeated suspension of devolution (Conley and Dahan, 2017; O'Kane, 2013; Ruane and Todd, 2001).

Taking the decommissioning of the IRA as the most prominent pending issues, the following section will highlight how the constructive ambiguity introduced by the UK government lent itself to the conclusion of the agreement and non-compatible readings of it at the same time. The resulting clash between the UUP and SF over the actual timing of decommissioning required the repeated intervention of the UK, Ireland and the US. Eventually, instead of following up on assurances previously provided to Trimble, the UK and Ireland considered it more important not to risk SF's link with the IRA and did not insist on upfront decommissioning. As a consequence, Trimble's consent to the agreement, which was premised on assurances from the UK to act decisively should the IRA not decommission, harmed the UUP and made it vulnerable to DUP's outbidding.

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Figure 32: Overview over decommissioning and intra-unionist dynamics during Phase 1
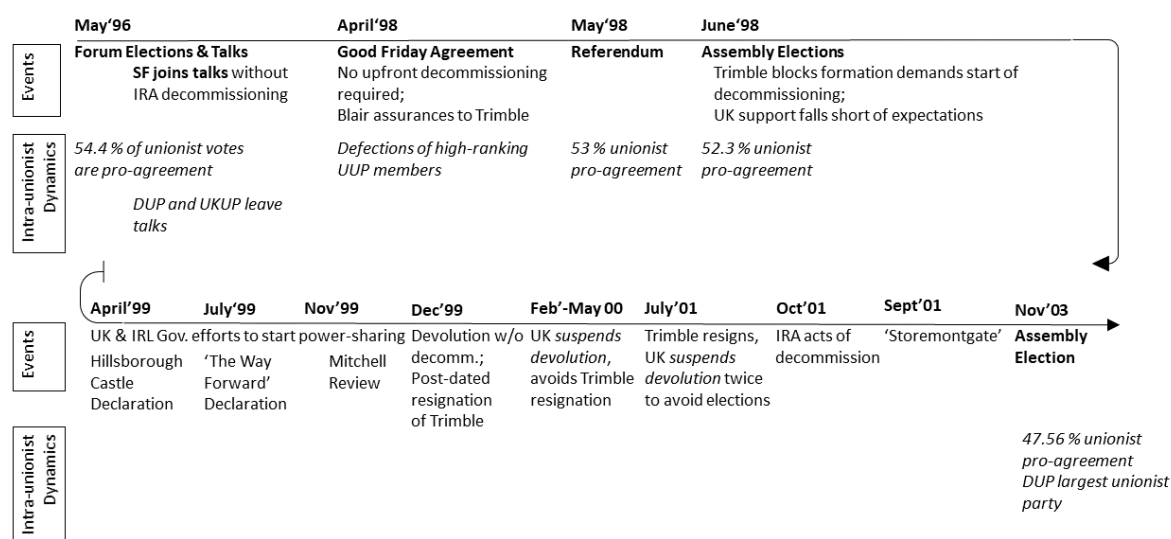
5.5.1 Attempts to start devolution/Making the Agreement Work

5.5.1.1 1998 Assembly Elections

Two months after the referendum, in June 1998, the first elections to the newly created Assembly took place. As expected, the two main protagonists of the negotiations, the UUP and SDLP, came out as the two largest parties and DUP and SF as the runners-up (Figure 33, 210, Figure 39, 223). Overall, the election results were clearly structured along the ethno-religious cleavage, 90 out of the 108 seats were won on the first preference of the STV. Those few candidates who won their seats with transferred, lower preferences obtained their votes from voters from their own community. The STV had little effect on cross-cleavage voting, and hence without any centripetal impetus (Horowitz 2001, 100). Although some SDLP or SF voters casted their second preference vote for the UUP in order to strengthen it with regard to the anti-agreement DUP, their number had no consequence for the eventual allocation of seats (Mitchell 2014; O'Leary 1998, 1636–37). Importantly, within the unionist camp, there was only a very small majority of MLAs (Members of the Legislative Assembly) in support of the agreement. Out of the 58 unionist MLAs, 28 had campaigned with an anti-agreement

position.[207] This weak support for the agreement put the unionist leadership, first and foremost UUP's David Trimble, in a precarious position when pressed for further concessions. From the outset of the implementation phase Trimble's position was suffering from a weak control over his own segment and challenges to his leadership.

5.5.1.2 Failure to form Executive as fallout of 'Constructive Ambiguity'

While the election of the Assembly took place without any major obstacles, the subsequent attempt to appoint the executive and start devolution became a crisis ridden process. Trimble, as the leader of the largest party the designated First Minister, refused to participate in the constitution of executive, arguing that the IRA had first to start decommissioning its weapons before he would be willing to sit with SF in the executive. This also meant that as long as the IRA would not start decommissioning, there would be no devolution. For unionists it was self-explicatory from the spirit of the agreement as well as the negotiations leading to the agreement that a party, which they considered as being synonymous with a paramilitary organization, could only join the executive if the latter had started to lay down its arms. For SF, however, there was nothing in the text of the agreement what would require the IRA to decommission before SF joining the executive. In their view, the letter of the agreement obliged them only to use any influence they may have to prompt IRA's decommissioning. Whether these efforts would succeed were not up to them and was immaterial for their fulfilment of the obligations under the agreement (Mitchell 2010, 342). In SF's view, Trimble's demand was nothing but the attempt to introduce *post-hoc* a new precondition for the sharing of power, what was in clear contravention of SF's electoral mandate to sit in the executive. The SF leadership argued that the unionists' insistence on decommissioning was just another red herring to disguise their

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[207] The 28 anti-agreement MLAs comprised 20 from DUP, five from UKUP and three dissident UUP MLAs. The 30 pro-agreement MLAs were 28 from UUP and two from PUP.

principal unwillingness to live up to the commitments of the agreement (Mitchell 2010, 347). The text of the Good Friday Agreement indeed provides no details on the process other than the parties' pledge to 'use any influence they have, to achieve the decommissioning of all paramilitary arms within two years' following the referenda (GFA 1998, para 7). Instead of additionally burdening the already fragile negotiation process, the specification of the decommissioning process was left pending for the post-agreement process. Now confronted with its implementation, the 'constructive ambiguity took the strain (Powell 2008, 315).' Significantly though, as mentioned above, Trimble had sought assurances from the UK during the negotiations that the start of decommissioning had to coincide with the start of devolution. Blair had provided Trimble at the eleventh hour of the negotiations with a now (in)famous hand-written letter in which he assured him that the UK was of the view that 'the process of decommissioning should start straight away' and that it would otherwise seek measures to exclude SF from the joint executive (Clancy 2010, 85; Powell 2008, 105). This pledge, irrespective of its informality, had allegedly been decisive for Trimble's readiness to sign the agreement in the first place.

a) Decommissioning and intra-segment dynamics

Conceptually, decommissioning triggers a security dilemma. Turning over weapons before new reliable safeguards are in place renders parties vulnerable and exposes them to potential attacks by enemies (Hartzell 1999; Posen 1993; Roe 2005; Snyder and Jervis 1999). Hence, sequencing becomes critical. In the case of the IRA, this aspect, however, is only partly pertinent. In contrast to e.g. two armies who are confronted with a security dilemma when decommissioning, paramilitary organizations which operate underground and engage in an asymmetric warfare are hardly protected by the relatively limited weaponry they possess. As some observers noted, it would not require much for the IRA to decommission on one day and to rearm on the next

(Clancy 2010, 54).[208] Rather than actual security considerations, and crucially for the focus of this thesis, much of the (disproportionate) salience of decommissioning was driven by the concern of party elites for the consequences of concessions on intra-bloc dynamics. Trimble's 'guns before government' position was already the latest in a series of concessions. As detailed above, the UUP had initially been adamantly opposed to an inclusion of SF into the negotiations of an agreement as long as the IRA had not handed over its arms. Unable to uphold this condition, it had demanded decommissioning during the negotiations. As before, it failed to impose this demand. Against this background, Trimble's unwillingness to form the executive unless the IRA started decommissioning must be seen as the latest iteration in a sequence of concessions which all took a toll on his intra-community standing.

Hence, for the unionist leadership, the IRA's decommissioning would be an important signal to sustain Trimble's own position. Engaging otherwise in the new executive with SF and with the IRA still fully armed was for many unionists too difficult to accept. Confronted with the slim majority of pro-agreement unionists, Trimble was ready to stall on the executive's formation (Horowitz 2001, 102; 2002b, 214; McDonald and Wintour 1999; Mullin 1999a; Mullin and Watt 1999; O'Leary 1998).

Similar to UUP's insistence on decommissioning, SF and the IRA's intransigence was less due to actual security considerations, but rather owed to the issue's instrumental value. Its recalcitrant stance on decommissioning strengthened SF on numerous fronts. On the one hand, and from an intra-segment perspective, it helped to calm those hardline members of the republican movement who remained skeptical of SF's engagement in constitutional politics and

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[208] It is noteworthy that the decommissioning of loyalist paramilitaries played no significant role during the conclusion or the attempts to implement the agreement. In contrast to the IRA and SF, loyalist paramilitaries had no links to any unionist party which was entitled to sit in the new parliament, let alone form part of the executive. In general, loyalist paramilitaries and their violence were casted as a reaction to the IRA. It was hence taken that loyalist paramilitaries would decommission as soon as the IRA did so. Indeed, in 2008 the UDA and UVF surrendered their weaponry.

still considered the 'Armalite and ballot box strategy' (McAllister 2004) as a necessary means (Mitchell 2010, 348; Moloney 2007, 527). On the other end of the republican spectrum, the ongoing debate over decommissioning and the party's central role in it made SF the agenda setter and effectively sidelined the moderate SDLP (Mitchell 2010, 348). For the moderate SDLP it became difficult to remain a relevant actor in the polarizing conflict on decommissioning. On the one hand, the party shared SF's assessment that Trimble's demands and blockage of the executive were in violation of the agreement. However, anxious to keep the peace process working and in principle opposed to the continuing existence of paramilitaries, it appealed to all parties to pursue a pragmatic approach and go beyond the letter of the agreement for the sake of the peace process. SDLP was hence navigating a thin line. Criticizing Trimble without appearing to support the IRA to keep its weapons on the one hand and encouraging SF to go beyond its contractual obligations without betraying the republican cause on the other hand, constituted a nuanced position which got easily lost in the polarized discourse. With regard to its relations with the UK and Ireland, decommissioning was SF's main bargaining chip, for which in return it could extract important concessions. Paradoxically, the more the UK government was willing to concede in order to achieve decommissioning, the more valuable it became for republicans to refrain from it. Only once the possession of arms was no longer of an instrumental value, republicans were ready to disarm (Mitchell 2010, 349; Trimble 2002, 140).

b) Third party's patience with SF and the risk of IRA fragmentation

A fundamental element in SF's position was the narrative that the party and the IRA would be two distinct organizations and that the former had no direct control over the latter. SF continuously emphasized this dichotomy and argued that while it would try to persuade the IRA of positions which SF considered as agreeable, the party would be unable to govern IRA's

actions. Consequently, SF's ability to influence the IRA would be contingent on the concessions granted by the unionist parties and the UK, but it would be ultimately the IRA's autonomous decision for which SF should not be held accountable. Crucially, the UK and Ireland were generally concerned that Trimble's insistence on 'guns before government' could derail the process. Continuing with their conflict avoiding approach from the negotiations, both governments tried to circumvent the issue as long as possible (Clancy 2010, 85). While the resulting declining control of Trimble over the unionist segment was accepted as long as it did not endanger the agreement, there was the tacit understanding that SF's leadership had to be strengthened by not pushing for decommissioning.

How far the narrative of the dichotomy of SF and IRA was a shrewd negotiation strategy or indeed reflecting intra-republican power-dynamics remains hotly debated. Fact is that on the day after SF's party congress (*ard fheis*) approved the Good Friday Agreement in 1998, the Real IRA (RIRA) announced its foundation (Clancy 2010, 86). Only a few months later a car bomb planted by the RIRA killed 29 civilians in Omagh.[209] Although the attack prompted universal condemnation across the island, it was taken as a clear sign that the link between those in the republican movement arguing for an engagement in the peace process on the one side, and the paramilitaries on the other side was at a breaking point. Hence, so the argument put forward by SF and subscribed to by the UK and Ireland, pushing for decommissioning would risk a further fragmentation of the paramilitary, lead to more violence, and ultimately be counterproductive for the peace process.[210]

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[209] See Figure 28, page 183.
[210] According to Jonathan Powell, then Prime Minister Blair's Chief of Staff, Martin McGuiness argued that any further commissioning would provide the RIRA with an opening to challenge the IRA and possibly kill SF leader Adams (Clancy 2010, 88; Powell 2008, 145–48).

5.5.1.3 Mitchell Review

Subsequent efforts to overcome the stand-off included the 'Hillsborough Hill Declaration' and the 'The Way Forward' Document, which inter alia proposed a role for the Independent International Commission on Decommissioning (IICD) as well as a 'failsafe' legislation which would trigger the suspension of the institutions should the IRA not decommission once the executive had been formed (British and Irish Governments 1999a; 1999b; McEvoy 2014a, 83). SF nevertheless rejected any demands for up-front decommissioning as 'unacceptable departures' and attempts to 'rewrite important aspects' of the agreement (RTÉ 1999) and maintained that SF 'cannot and will not enter into any commitments on behalf of the IRA (Adams 1999a).' Sixteen months after the singing of the agreement, none of the power-sharing institutions had actually been set up. For SF, the situation was 'not a blip but the possible meltdown of the political conditions that led to the agreement (Adams 1999b)'.

Eventually, the two governments re-invited former US-Senator Mitchell to Northern Ireland. Mitchell's leadership during the negotiations resulting in the conclusion of the agreement was widely credited as crucial and his renewed engagement was hoped to yield again a breakthrough. Resorting to Mitchell's services was also indicative for the two governments' acknowledgement that their own entanglement in the conflict hampered their ability to broker a deal between unionists and republicans and that a party further removed from conflict and perceived to be relatively unbiased was likely to be better suited (Clancy 2010, 96). During the negotiations, the UK, Irish as well as the US government put pressure on Trimble to accept a deal, even in the absence of preceding decommissioning. On the one hand, the UK emphasized that 'jumping first' would provide unionists with the moral high ground and put pressure on nationalists to live up to their commitments, particularly regarding decommissioning (Clancy 2010, 97). Furthermore, the start of devolution would finally trigger changes to the Irish

constitution, ending the republic's legal claim to the region and hence strengthen the union. On the other hand, should unionists abstain, nationalists would present their refusal as the confirmation of long held suspicions that unionists had not engaged in the process in good faith in the first place. More importantly though, the outcome of the Mitchell review was likely the best possible outcome. Not joining the executive now was very likely to mean that the UK would move ahead with devolution, leaving unionists sidelined and the influence of SF and Dublin in Northern Irish affairs strengthened. With this scenario evoked as an implicit threat, the relationship between the UK and Trimble became increasingly strained. Among unionists there was a growing sense that London was no longer a partner supporting them, but that they were on their own in defending their interest.

Eventually, after eleven, instead of the initially planned six weeks, the Mitchell review reached a breakthrough in mid-November. Under pressure from the British, Irish and US governments, Trimble gave in (O'Kane 2013, 526). The compromise saw both, SF and UUP, issuing statements in which they reiterated their commitment to the full implementation of the agreement (G. Mitchell 1999). Crucially, SF explicitly acknowledged that its members to the executive will have to honor their pledges of office, including the commitment to non-violence, and that a failure to meet its requirements can result in a removal from the executive (Adams 1999c). Furthermore, a day after the end of the talks, the IRA released a statement in which it committed itself to cooperate with the IICD by appointing a contact person (CAIN Web Service 1999).

Irrespective of these developments that were generally heralded as a break-through, the outcome of the Mitchell review remained a difficult compromise for Trimble and a hard sell towards his own constituency. For hardliners in the unionist camp, the outcome of the Mitchell

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review did effectively not address their concerns. Instead of 'guns before government' and despite all previous assurance to the contrary, SF was to sit in the executive without the IRA having handed over a single weapon. Strictly speaking, there was even no unambiguous statement by the IRA that it would be willing to decommission. Other than the appointment of an interlocutor tasked to engage in discussions with the IICD, the IRA had made no commitment.[211] To make things worse for moderate unionists, the compromise also no longer included the passing of a failsafe legislation in Westminster, which would also have provided for the automatic suspension of institutions with an 'Irish dimension', first and foremost the NSMC and its implementing bodies. After the Mitchell review, transgressions in relation to decommissioning would only be met with sanctions limited to the assembly and the executive. Hence, for many unionists the outcome was another climb down by Trimble, a man who had assumed UUP's leadership in 1995 with the reputation of a staunch defender of unionist interests (Mullin 1999b; 1999c). Against this background and considering that an end to Trimble's leadership could mean an end to the agreement, it became immediately paramount to foster Trimble's control over his own constituency. With this intent, Mitchell as well as the UK government went at great length to laud Trimble as a circumspect leader who had put the greater good of Northern Irish society before parochial politics and that his readiness to strike a deal were a testimony of his statesmanship rather than a sign of weakness (G. Mitchell 1999; Mandelson 1999). Worryingly for them though, shortly before the conclusion of the deal, there were rumors that not even the majority of UUP's MLAs, Trimble's closest allies, would support the deal (Mullin 1999b). The DUP, which vowed to engage only superficially in the institutions, accused Trimble of 'appeasement' (O'Kane 2013, 527). Having criticized his readiness to negotiation with SF in the first place, it condemned now his apparent willingness

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[211] 'The IRA is willing to further enhance the peace process and consequently, following the establishment of the institutions agreed on Good Friday last year, the IRA leadership will appoint a representative to enter into discussions with General John de Chastelain and the Independent International Commission on Decommissioning (CAIN Web Service 1999).'

to join the executive. Less aggressive in tone, but not much different in substance, an increasing number of Trimble's party colleagues had misgivings about his actions, and considered him as too weak towards republicans, Ireland and the UK alike.

When Trimble put the compromise to the Unionist Union Council to vote a few days later, many saw the vote as a repetition of the 1974 poll on the Sunningdale Agreement (Mullin 1999c). Then as now, the unionist base was strongly split over the concession its leadership had made. Then, the poll ended in a defeat of the leadership of Brian Faulkner, the end of the Sunningdale agreement, and the continuation of direct rule which the Good Friday Agreement was now intended to end. In a move as shrewd as desperate to defend his intra-UUP majority and to strengthen his hand toward the UK, Trimble submitted a post-dated letter of resignation which would automatically enter into force in early 2000 should the IRA not have started to decommission by then. As stipulated in the agreement, the resignation of the First Minister would trigger new elections. Since new elections were very unlikely to produce another UUP leadership which would be willing to sit in the executive with SF, Trimble effectively redirected some of the pressure put on him towards the UK. Unless the IRA would decommission, the resignation of Trimble would result in an end of the power-sharing executive. Eventually, the Unionist Union Council endorsed the Mitchell compromise and paved the way for the formation of the Executive and the start of devolution. With only 58 % in support of the deal, UUP's support for power-sharing in Northern Ireland was fragile. [212]

5.5.2 Formation of the Executive and Start of Devolution (Nov/Dec 2000)

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[212] Mullin (1999c) makes the important note that the 1974 poll was open to non-party member unionists, who held particularly staunch views against a compromise with nationalists. The 1999 poll was only open to UUP members what might have tipped the balance in Trimble's favor.

Eventually with a delay of 18 months, the first executive under the Good Friday Agreement was formed on 19 November 1999 and powers were devolved from Westminster to Stormont a few days later. David Trimble led the Executive as First Minister despite the IRA's pending decommissioning. The moderate UUP and SDLP each held three seats, the DUP and SF each two seats (see Table 22, 204).[213] However, any expectations that the stuttering formation of the executive would be followed by a harmonious cooperation were soon disappointed.

Table 22: Number of ministries per party

Executive	DUP	SF	UUP	SDLP	Alliance	Ind' unionists
1 (1998-2003)	2	2	3	3	0	0
2 (2007-2011)	4	3	2	1	0	0
3 (2011-2016)	4	3	1	1	2	0
4 (2016-2017)	4	3	0	0	0	1
Note: The first and second Executive had a total of ten ministries. Following the addition of a ministry of justice, the total increased to eleven for the third Executive. Following a wider re-organization, the fourth Executive comprised only eight.						

Overall, and in contravention of consociational blueprints for grand coalitions, the first executive under the Good Friday Agreement was marred by a lacking sense of common purpose. Rather than seeking consensus, individual ministers, particularly those belonging to SF, embarked on 'solo runs' and took far reaching decisions without seeking any approval from the overall executive (McEvoy 2014a, 80; see also Wilson and Wilford 2001, 84–85). Instead of joint decision making, a permissive interpretation of ministerial independence prompted divided decision making by each minister.[214] Similarly, the relation between First Minister Trimble and SD.LP Deputy First Minister Seamus Mallon were characterized by a lack of partnership. Particularly Trimble's approach to the mandate conveyed that he did not subscribe to an equal but hierarchical understanding of the two positions, with the DFM inferior to him (McEvoy 2014a, 79). The DUP, whose leader Ian Paisley had previously called the Good

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[213] As the largest party, the UUP came first to select a ministry. Tellingly, it did not select ministries generally considered as high profile, but those with a strong link to North-South cooperation. Most likely with the intent to forestall the emergence of particularly strong institutions in this area, it selected the ministries for Environment and Culture, Arts and Leisure. As a consequence, SF received the particularly prominent ministries of Education and Health Kerr (2006, 94).

[214] An instructive exemption to the otherwise marginally cooperating Executive was its response to the foot and mouth crisis in spring 2001. Departments which were otherwise in defiance were cooperating and able to deliver an effective policy response.

Friday Agreement as 'treacherous', pursued a 'half-in, half-out' policy towards the executive. The DUP accepted the ministries which it was assigned to in line with the D'Hondt procedure, but regularly refused to attend the executive's meeting and also voted against the executive's program for government. Arguing that it would de facto not be cooperating with SF, the DUP accused UUP of selling out Northern Ireland by sitting together IRA's political wing. Procedurally, the DUP justified its 'free-floating' and non-cooperative approach with the independence which in the view of the DUP the agreement bestowed to ministers (McEvoy 2014a; 2014a).

5.5.3 UK suspends devolution to avert Trimble's resignation (11 February – 30 May 2000)

After little more than three months, Northern Ireland's devolution was suspended, and direct rule was re-introduced. When the IICD published in early 2000 its interim report on decommissioning and concluded that the IRA so far had not handed over any weapon, it became increasingly clear that Trimble's post-dated letter was about to enter into force. Unionists felt betrayed first and foremost by SF and the IRA, but also by the UK who had pressured them to accept the Mitchell compromise instead of supporting their position to exclude SF. With a view to forestall Trimble's resignation and a potentially ensuing collapse of the agreement, the Northern Ireland Secretary of State Peter Mendelson introduced legislation in Westminster Parliament suspending devolution. The consequence was a severe conflict between UK and Irish government, which otherwise were operating in close coordination (McEvoy 2014a, 83–84). For the UK, the suspension of devolution was a necessary short-term intervention to save power-sharing in the long run, which it was legally entitled to undertake. For the Irish side,

however, Mandelson's intervention was not only an unnecessary and inadequate step, it also amounted to a legal violation of the agreement.[215] In their view, the agreement did not foresee any authority with the UK to suspend or dissolve the Assembly (Clancy 2010, 102). The fact that Mendelson had to seek new, ad-hoc legislation passed by the Parliament in London was seen as a corroboration of their misgivings.[216] When the Irish government realized that it could not forestall Mendelson's initiative, it contacted US President Clinton seeking his assistance to convince the UK government. For SF and SDLP, the suspension of power-sharing was only counter-productive and rendered any IRA decommissioning more difficult. The IRA maintained that it had made no commitment to have started decommissioning by early 2000.

Eventually, the devolution was reinstated at the end of May 2000 following a number of concessions by the UK on the issue of flags and the incorporation of a new police service. The IRA had opened two weapon dumps and issued a statement according to which it was ready to begin a process that would 'completely and verifiably' put its arms beyond use. With the original deadline of May 2000 passed, the IICD fixed 30 June 2001 as the new date until when IRA would have to decommission. Overall, however, the suspension had done little to strengthen Trimble's position. The IRA felt entitled not to honor the May 2000 deadline and SF continued to sit in the executive (Clancy 2010, 107). Trimble continued to link his personal and hence the agreement's future with the decommissioning of the IRA by issuing a new pre-dated later of resignation (1 July 2001).

5.5.4 Trimble's resignation, suspension of devolution and IRA decommissioning

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[215] The dispute over the legality of Mendelson's suspensions originates from different interpretations of section 75 of the Government of Ireland Act.

[216] The Suspension Act was later repealed with the St. Andrews Agreement. The Irish government has never recognized the legality of the act O'Leary (2018, 225).

When the IRA also made no meaningful progress with decommissioning by 30 June 2001, Trimble eventually resigned as First Minister. Trimble had already sacrificed this 'guns before government' policy twice and was not ready to do it a third time. The IRA's failure to decommission meant also the end of the bond between Blair and Trimble. The British Prime Minister had repeatedly pushed Trimble to make the first step and assured him of the UK's backing in case the republican side would renegade. With the UK's sanctions against SF not materializing, Trimble's intra-segment position was continuously weakened. By resigning from his post as First Minister, Trimble tried to oppose this dynamic. Again, in order to forestall new elections, which were likely to lead to a victory of anti-agreement unionists, the UK government suspended devolution. At two occasions, the Northern Ireland Secretary of State suspended devolution for one day, each time resetting the clock of the six-week time limit for the assembly to elect a new First and Deputy First Minister.

Eventually, in October 2001 the IRA released a statement declaring that it had put some of its weapons 'beyond use' and that the IICD had been overseeing the decommissioning (IRA 2001). The development was widely described as a historic breakthrough in the Northern Ireland peace process. Tellingly though, for many observers, the eventual start of decommissioning was less due to Trimble's resignation or a newfound vigor by the UK, but rather the changing international context following the September 11 attacks and the beginning of the so-called 'war on terror'. With its strong Irish-American links, the IRA 'needed to demonstrate that they were not in the same moral category as the jihadists (Mitchell 2010, 349).' Against this background, Trimble was ready to become First Minister again. His election, however, became a protracted affair with anti-agreement unionists withholding cross-community consent for his election. It was only after three MLA's from the non-designated Alliance party decided to change their affiliation to 'unionist' that the required majority was obtained (Hunter 2001).

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5.5.5 Suspension: 14 October 2002 – 7 May 2007 (Stormont Gate)

While previous suspensions of the power-sharing agreement were by and large short-term, things would change with the discovery of spying activities in the Northern Ireland assembly, led by SF members.[217] Following the revelations, DUP announced that its ministers would resign and UUP put an ultimatum to Prime Minister Blair to expel SF from the executive (McEvoy 2014a, 85). What followed was the fourth suspension in three years, which only ended with the conclusion of the St. Andrews Agreement in 2006 (Birrell and Heenan 2017, 474)

5.5.6 Summary Phase 1

As detailed above, the implementation phase of the Good Friday Agreement from 1998 to 2003 was dominated by the issue of decommissioning which over long periods stood in the way of forming a power-sharing executive. Overall, from the conclusion of the agreement in 1998 to the end of October 2002, the power-sharing was formally constituted for less than 27 out of 51 months. During this short period, the executive's working was characterized by a lack of inclusive decision making and little genuine elite cooperation or effort to attenuate inter-group tensions. Much of the stop-and-go working of the executive can be attributed to the 'constructive ambiguity' with which the third parties circumvented issues which were considered as insurmountable during the negotiations but amenable to a solution once the agreement was concluded. De facto though, the agreement's ambiguity resulted in an extension of the bargaining process into the implementation phase. Given the sensitivity of the pending

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[217] Among others, SF members had collected the otherwise non-disclosed private addresses of police officers. Eventually, the suspects were not held accountable since the prosecutor decided that prosecution would 'not be in the public interest'. In a further complicating twist, it turned out that one of the suspects (Denis Donaldson) had been a MI5 agent for more than 20 years. Soon after the revelation, he was murdered.

issues, i.e. decommissioning, as well as the implications for inter-group dynamics, parties were very reluctant to make any compromises and tied their concessions to issues which were considered to be already settled, i.e. tying the formation of the executive to the issue of decommissioning. In the end, the third parties, first and foremost the UK, were continuously preoccupied with intervening into Northern Irish affairs in order to save the agreement from collapsing. While in principle aimed to strike an adequate balance, much of the third parties' interventionism focused on the UUP and its leader David Trimble. Concerned about the fragility of SF's ability to bring the IRA into constitutional politics, there appears to have been a conscious decision by the UK to pressure David Trimble for concessions even if it entailed him losing his constituency. However, at those occasions in which Trimble's position as the First Minister risked to end, the UK intervened unilaterally and suspended devolution with a view to forestall a likely ensuing electoral victory of anti-agreement unionists.

5.6 Phase 2: Recalibration and integration of extremes

As the following section will detail, the efforts by the UK to sustain Trimble's sway over the unionist segment were eventually in vain. While the government had succeeded in averting early elections by suspending devolution, the regularly scheduled assembly elections in 2003 yielded a victory of the anti-agreement DUP. Consequently, the power-sharing institution was to be led by a party which had secured victory on an anti-power-sharing rhetoric.

5.6.1 Assembly Elections 2003

5.6.1.1 Rise of the DUP and SF as 'ethnic tribunes'

Notwithstanding the suspended devolution, assembly elections were held in November 2003. The outcome amounted to a watershed moment in Northern Irish politics and heralded a major

transformation of the Northern Irish party system with the DUP and SDLP becoming the strongest parties in their respective segments. The segment's historic leaders, the UUP and SDLP, who were generally credited as the architects of the Good Friday Agreement and whose leaders' contribution was acknowledged with the award of the Peace Nobel Prize, suffered a historic electoral defeat (see Figure 33).

Figure 33: Northern Ireland Election Results
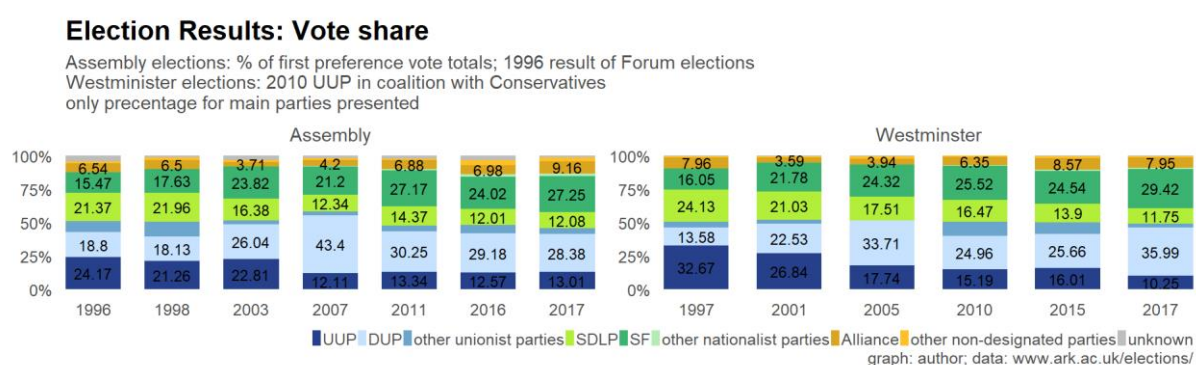
The DUP and SF held particularly antagonistic views of each other. The DUP had left the negotiations leading to the agreement due to SF's inclusion and had refused to effectively share power with them in the joint executive. While both parties were previously considered as the 'extremes' and as incompatible with power-sharing, they were now designated to fill the posts of the First and Deputy First Minister (Belloni and Deane 2005, 229). Together with the already pending issues to restore the devolution, DUP's and SF's victory increased the challenges to make the Good Friday Agreement eventually operational.

a) Party system

The result of the 2003 election was the first culmination point of a major transformation of the Northern Irish party system. Typical for a 'divided society', Northern Ireland's party system has been structured by the ethno-national cleavage into distinct camps. Competition for voters has been overwhelmingly intra-segmental (Mitchell, Evans, and O'Leary 2009, 401). The 2003

elections left the relative size of the two blocks largely unaltered, but changed their internal composition. The salience of the socio-economic cleavage which had hitherto some influence on the electorate nested within each segment, lost further in importance and parties' ethno-national strategy became the dominant factor in shaping voters' choice (Tilley, Evans, and Mitchell 2008).

b) Outbidding

Table 23 shows the respective shifts of voters from the UUP and SDLP to the DUP and SF. While the transfer of votes from the moderate to the anti-agreement parties before the agreement was relatively moderate and partly softened by transfers in the opposite direction, the net-transfer increased considerably after 1998. While 13 % of those who voted for UUP in 1996 voted for DUP in 1998, 22 % of UUP's voters in 1998 voted for DUP in 2003. A similar, albeit less pronounced increase can be also observed with SDLP voters. 11 % of those who voted for SDLP in 1996 shifted to SF in 1998. This number increased to 19 percent for the 2003 election (Mitchell, Evans, and O'Leary 2009).

Table 23: Destination of votes

		Origin								
		1996					1998			
		UUP	*DUP*	*SDLP*	*SF*		*UUP*	*DUP*	*SDLP*	*SF*
Destination										
Alliance		2		3			1		1	2
UUP		68	13				72	4		
DUP	1998	13	80			2003	22	91	2	
SDLP			1	85	8		1		73	5
SF			2	11	92				19	94
Other unionist		8	1							
Others		9	3	2			4	5	6	
Sum		~100	~100	~100	~100		~100	~100	~100	~100

Note: Sums do not add up to 100 % due to rounding. Numbers in percentage (Hayes et al. 2003; see also Mitchell, Evans, and O'Leary 2009, 405–6).

5.6.1.2 Unionists' declining support of the agreement and rise of DUP

As a means to describe the roots of DUP's and SF's almost symmetrical rise on both sides of the ethnic cleavage, Mitchell, Evans and O'Leary argued that parties had been competing on the 'relative perceptions of how effective each party has been in representing the community's ethno-national interest' (Mitchell, Evans, and O'Leary 2009, 411). DUP and SF won this competition and established themselves as 'ethnic tribunes'. Results from the 2003 Northern Ireland Assembly Election Study clearly demonstrate this development and show how the DUP had established itself as the 'most effective voice' for unionist voters. While it is of little surprise that DUP supporters overwhelmingly considered their party as the 'most effective voice', the DUP is also highly regarded in this respect among voters of other unionist parties (Figure 34).

Figure 34: Party support and unionists' 'most effective voice'
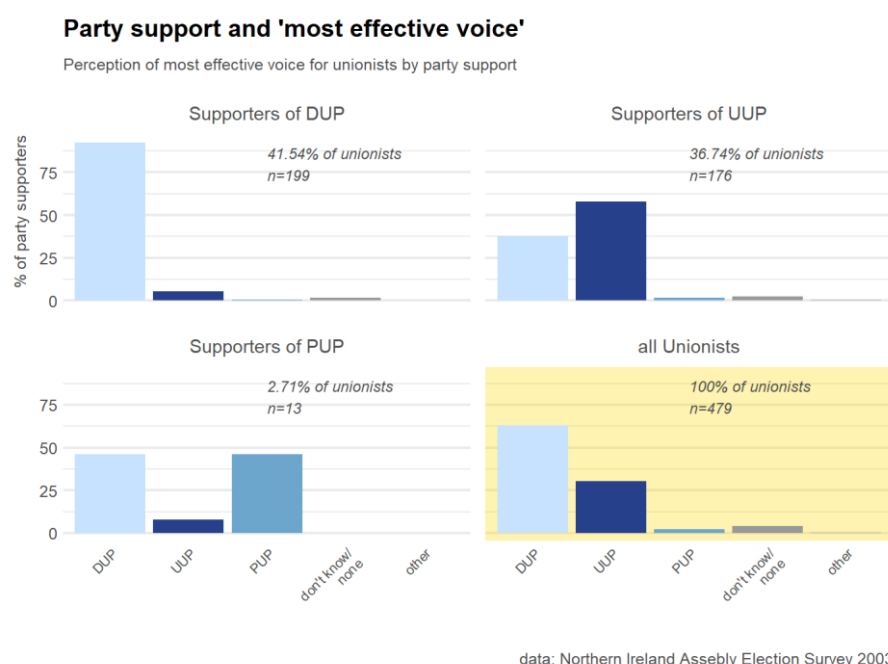
a) Decreasing approval of Belfast Agreement over time

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The rise of the DUP to the status of unionists' tribune was overwhelmingly built on unionists' growing discontent with the agreement's implementation. While the DUP and UUP had previously electoral pacts in order not to split the unionist vote, the DUP increasingly started to file its own candidates from the mid-80s onwards (

Figure 35). The Good Friday Agreement accelerated this dynamic institutionally and substantively: Institutionally by the shift from the First-past-the-post system to the STV electoral system with multi-member constituencies, what reduced the potential damage of splitting the unionist vote. Substantively, by the DUP's fundamental rejection of the agreement.

Figure 35: Number of constituencies contested by DUP and UUP in General Elections

Number of seats contested by UUP and DUP in General Elections
Single member constituencies to the UK Parliament are contested under the 'First-past-the-Post' system.

data: http://www.ark.ac.uk/elections/
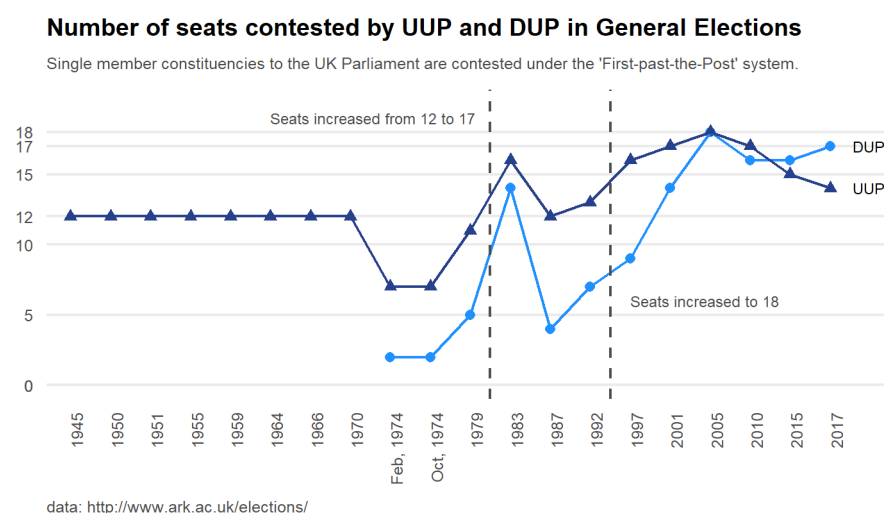
As the attempts to implement the agreement were advanced and one concession after the other was wrung from the UUP, unionist voters became increasingly disappointed. While in 1998 about 40 % of unionists were of the opinion that unionists and nationalists 'benefited equally' from the agreement, less than 20 % shared this view by 2003 (Figure 36, Clancy 2010, 126). Instead more than 60 % of unionists thought that nationalists benefited 'a lot more' than unionists. The failure to secure the IRA's decommissioning, a police reform perceived to be excessive and the impression that unionists' concessions were in vain were a central element to this disenchantment (Clancy 2010, 27). Generally, 'many Protestants have interpreted the post-1998 events as representing something less than the vision of political stability that they

believed they had been promised' (Hayes, McAllister, and Dowds 2005, 148). DUP's uncompromising rhetoric resonated strongly among many unionists who were disappointed by the implementation of the agreement and the UUP. Almost 75 % of DUP's supporters saw the nationalists benefiting a lot more. In no other party was the perception so skewed as among its supporters.

Figure 36: Who benefited from the Good Friday Agreement and party support

Who benefited from the Good Friday Agreement?

- Nationalists benefited a lot more than unionists
- Nationalists benefited a little more than unionists
- Unionists and nationalists benefited equally
- Unionists benefited a little more than nationalists
- Don't Know/Other
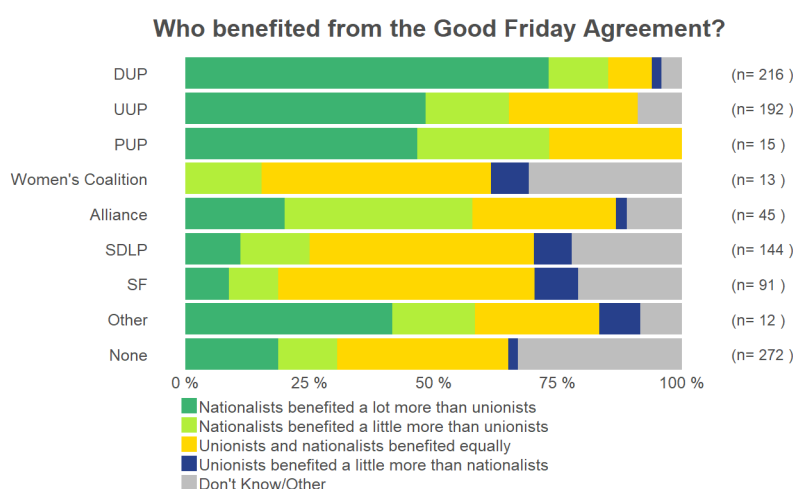
Unionists' support for the agreement had been already meagre during the 1998 referendum. More problematic, unionists' support was not only tight, but also short-lived. By 2000, only a third of polled unionists indicated that they would vote for the agreement if the referendum would be re-run. With an increasing number of unionists of the opinion that the agreement's implementation would disproportionately benefit nationalists, their support for the agreement dwindled (Figure 37). By the 2003 elections only one out of four unionists supported the agreement.

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Figure 37: How would you vote if the Good Friday referendum was held again?

How would you vote if Good Friday Referendum was held again?

data: Northern Ireland Times and Life Survey 1998-2003, 2005
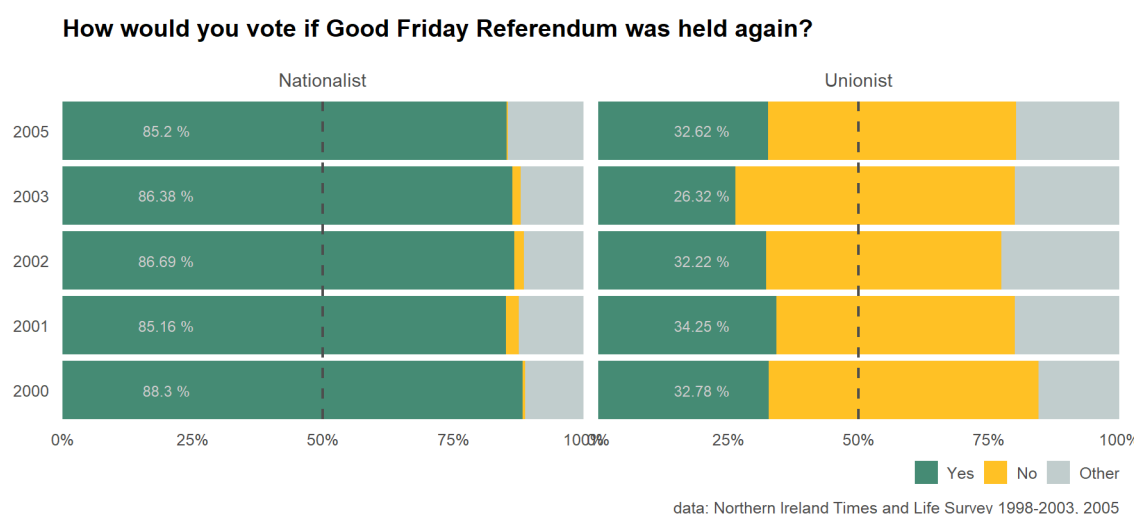
By the time the executive was constituted in late 1999, Trimble was de facto the First Minister in a constitutional order, which the majority of his constituency no longer supported, and the gulf grew in the run up to the elections in 2003. The inability of a comparably moderate unionist leader to secure the majority of his segment for a power-sharing agreement and his failure to repel intra-segmental outflanking evoked memories of the collapse of the 1974 Sunningdale Agreement.[218] Rabushka and Shepsle's 1972 observation that 'in Ulster, Protestant extremists, led by the Reverend Ian Paisley, have held the governing unionist party in check, rendering moderation impossible' could have easily also been written 30 years later (Mitchell, Evans, and O'Leary 2009, 399; Rabushka and Shepsle 1972, 86). In sum, by the time elections were held in 2003, the majority of unionists did not support the agreement's implementation and was convinced that the DUP would be better positioned to rectify this development. The rise of the DUP however should not be equated with voters being supportive of DUP's position without any reservations. Contrasting the polling results on the peace process and voting behavior

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[218] See below the section on institutional learning and how experiences of preceding failures of power-sharing arrangements can contribute to the identification of appropriate institutions. Remarkably, three of the main protagonists had been already directly involved in developments around the Sunningdale Agreement. Ian Paisley was one of the main opponents of the agreement and led the opposition against UUP's Faulkner. Trimble was a legal adviser to the Ulster Worker's Council and hence also opposing the deal. John Hume was SDLP's minister responsible for energy in the short lived power-sharing executive.

reveals that voters casted their votes for the DUP and SF even if their personal preferences were less radical than those advocated by both parties (Mitchell, Evans, and O'Leary 2009). Having observed the ongoing bargaining in the post-agreement period, e.g. on decommissioning, voters were conscious of the fact that most policy decisions were eventually compromises which entailed a movement away from parties' original bargaining positions, particularly as far as the UUP was concerned. Consequently, otherwise moderate unionists preferred extremes in anticipation of such compromises and compensated for it by voting for parties which endorsed more radical positions but were likely to eventually secure policies close to voters' actually preferred positions (see also Kedar 2005). A second factor contributing to DUP's ascent was the party's carefully managed transformation from a single-identity entity to a party which was ready to address issues with less pertinence to the ethno-national cleavage. Although the latter became more important, opening up to other issues allowed the party to broaden its electoral reach into areas of the unionist segment which it traditionally had neglected. The new attention to 'bread and butter' issues also complemented the party's profile which had been dominated for decades by its leader Ian Paisley and his Presbyterian religious orientation. Consequently, working-class, urban voters who were previously put off by the party's narrow, confessional base came within the party's reach (Gormley-Heenan and Mac Ginty 2008, 52, 56). With the view to become a 'catch-more party' (Mitchell, Evans, and O'Leary 2009, 404), the party transformed itself to a more encompassing entity. The third factor generally put forward to explain the rise of the DUP has been its striking ability to combine its position as uncompromising defender of unionism with an eventual shift towards more pragmatic and moderate policy positions. The ability to find a balance between these conflicting approaches allowed it to make inroads into the more moderate unionist electorate and eventually also strike a deal across the ethno-national cleavage and cooperate with SF (Gormley-Heenan and Mac Ginty 2008).

b) First steps towards cooperation

Cooperation across the ethno-national cleavage was the eventual result of a gradual, but not linear process of the DUP's moderation. In the early phase of the agreement, up until 2003 the DUP's emphasis was on cultivating its image as unionism's defender, attacking republicans and criticizing the UUP for its ineffective attempts to cooperate. During the short periods when the assembly and the executive were operational, DUP sought to avoid SF and boycotted the meetings of the NSMC with a view not to strengthen ties with Ireland. Nevertheless, and notwithstanding the DUP's unconstructive behavior prior to 2003, the intermittent and selective involvement in the institutional framework was an important first step in DUP's transformation from an 'anti-agreement' party to the party providing the First Minister. Its readiness to take up its executive posts as assigned by the D'Hondt formula marked in hindsight a critical departure from the previous rejectionist attitude towards an incipient constructive engagement. This should not mean that the DUP's subsequent transformation was the consequence of a preconceived strategic master plan by its leadership. DUP's initial engagement in the institutional framework was more the result of a lack of appealing alternatives. Assessing its options, it was for the leadership of the DUP more reasonable to be involved in the Good Friday Agreement institutions and have some influence over its actual and future functioning than to be outside and without any formal means to shape developments. Gradually though, this half-hearted 'wait-and-see' engagement got the party more and more entangled in constitutional politics and integrated it into the consociational arrangement. Outbidding became less and less a 'blunt instrument of total opposition' to the Good Friday Agreement, but a carefully dosed means to navigate between establishing and maintaining dominance within the unionist segment and positioning itself as a constructive force (Gormley-Heenan and Mac Ginty 2008, 44). Broadening the party's appeal on the one hand and establishing and maintaining its position

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as uncompromising defender of the unionist cause on the other hand involved a delicate balancing act, which required shifting emphasis at different times. In some cases, this meant that the DUP remained adamantly uncompromising on a rhetoric level, while its actual deeds were more pragmatic and amendable to compromise. Furthermore, with a view to show to its constituency that the party was more than a perpetual naysayer ('Ulster says No', 'No surrender'), the party had to put pragmatism before dogma and show that it was ready to assume leadership (Gormley-Heenan and Mac Ginty 2008, 56). Importantly, in the course of this rapprochement from fundamental opposition to substantial engagement the DUP's leadership had sufficient dominance over its segment as not to see a fragmentation (Gormley-Heenan and Mac Ginty 2008, 58)

As for the intra-party level, it is important to note that the DUP, already before considering cooperation across the ethno-national cleavage, has been traditionally featuring a hierarchical and disciplined party organization, with its members displaying considerable deference towards its leadership (Gormley-Heenan and Mac Ginty 2008, 55; Mitchell 1991). Internal dissent, particularly if voiced publicly, was generally quickly sanctioned to quell any nascent fragmentation tendencies. Indicative for the DUP leadership's awareness for the danger which internal fragmentation can pose, it issued de facto contracts to its candidates in the run-up to the 2007 elections and the party's cooperation with SF. These contracts reportedly required candidates to sign prepared letters of resignation which the party's leader could invoke should the respective members be considered to have violated party policies. Similarly, fines of up to 20,000 GBP were stipulated as sanctions (BBC News 2007; McEvoy 2007b, 370). On an intra-segment level, if not by 2003 than at the latest by 2007, there was no indication that any unionist party could mount a worthwhile attempt to outflank DUP on issues with ethno-national salience. Out of the 60 unionist seats in the 2003 Assembly, only two were held by parties other

than UUP and DUP (UKUP and PUP had each one seat). By 2003 the DUP won more than 50 % of the first preference votes and seats in the Assembly (Figure 38).

Figure 38: Intra-segment dominance of the DUP and SF
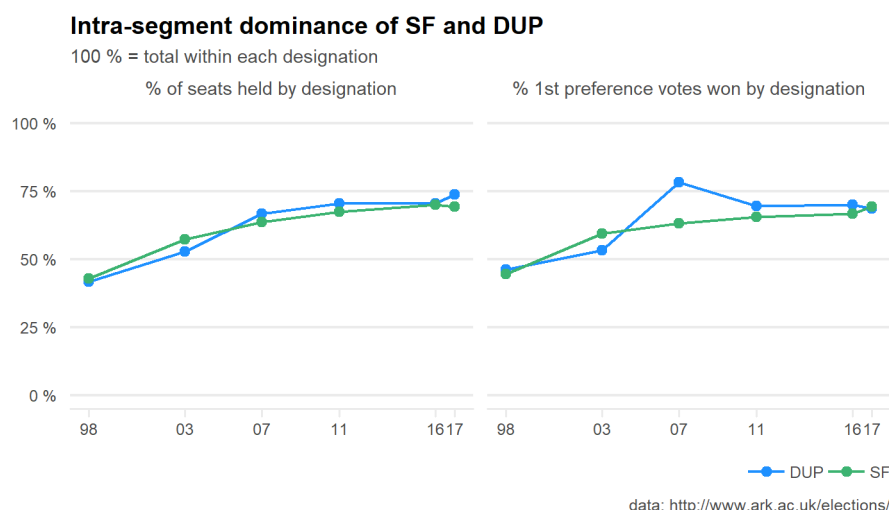
Eventually, the agreement forged between the two 'extremes', the DUP and SF, left no space for any significant outbidding challenge.

5.6.2 St. Andrews Agreement (Oct, 2006)

The efforts to restore devolution by revisiting the terms of the agreement culminated in the October 2006 meeting in St Andrews.

5.6.2.1 New agreement as result of UK and Irish pressure ('Plan B')

Crucially for the focus of this thesis, the eventual conclusion of the St. Andrew's Agreement was largely driven by the UK and Ireland's increased pressure and threat to pursue their 'Plan B' (McEvoy 2014a, 87–88). In their view, the St Andrews Agreement was sufficiently accommodative of DUP's demands. Should DUP reject it, the UK and Ireland threatened to

pursue alternative avenues which would include a strengthening of the 'Irish dimension' and hence weaken unionists' future say.

With the IRA's partial decommissioning, a major obstacle for progress had been removed. For the British government any further wavering by the parties became unjustifiable and it decided that the time was ripe to increase the pressure on the Northern Irish parties. The UK announced that unless parties would come to an agreement, it would convene an interim assembly (based on the 2003 election results) and form an executive following a positive assessment by the IICD. Should the parties be unwilling to form an executive, the UK would again suspend the assembly, cancel the elections, and move to 'Plan B' which would include partial UK-Irish joint governance of the region. The pressure was hence mainly directed at the DUP, for which power-sharing with SF was hoped to be the lesser evil in comparison to joint governance by the UK and Ireland. Justifying his acceptance of the agreement, DUP's leader Ian Paisley stated that 'we were told that if we didn't do this then it was going to be curtain for our country… How would I have faced my people, if I had allowed this country to have the union destroyed and the setting up of a joint government by the south of Ireland? (McEvoy 2014a, 97).' By the same token, Jonathan Powell, who was Prime Minster Blair's Chief of Staff and directly involved in the negotiations, stated that the greater engagement by the two governments had 'been a useful way of galvanizing the parties and it was a threat we kept coming back to even as late as the end of 2006, as a way of forcing progress. It was our perennial Plan B (McEvoy 2014a, 97).'

5.6.2.2 Changes to the Northern Ireland Act (1998)

Table 24: Changes introduced with St Andrews Agreement

St Andrews Agreement
- FM appointed by largest party of largest designation, DFM appointed by largest party of second-largest designation
- New Ministerial code strengthening veto mechanism

| - Strengthened Assembly oversight of Executive |
| - Strengthening of Strand 2 and Strand 3 participation |

One of the most significant changes introduced by the St. Andrews Agreement was the modification of the selection procedure of the First and Deputy First Minister. DUP's emergence as the strongest unionist party entailed its entitlement to the post of First Minister, but also its requirement to vote for a SF Deputy First Minister. Given the requirement of cross-community consent, there would be no power-sharing executive unless DUP would vote for a SF Deputy First Minister (McEvoy 2008, 162). This prospect was clearly at odds with the campaign rhetoric the party had put forward long before the 2003 election campaign. For years, the party had rallied supporters against UUP's concessions to SF and accused Trimble of selling out the unionist cause and giving in to terrorists. Deviating from such a central theme was considered to have prohibitively high audience costs. With the conclusion of the St Andrew's agreement the First Minister was appointed by the largest party of the largest designation (DUP; unionists) and the Deputy First Minister was appointed by the largest party of the second largest designation (SF; nationalists) (see also Birrell and Heenan 2017, 474; McEvoy 2014a; Northern Ireland Office 2006, para 16A). Consequently, any moderating, centripetal dynamic which previously could have been engendered by the requirement of a cross-community vote for both offices was now abolished (McGarry and O'Leary 2015). The DUP and SF became enabled to appoint their candidates of choice without any consideration whether he/she would be acceptable to other parties and designations. The conclusion of a new treaty instead of the mere formulation of amendments to the Good Friday Agreement allowed DUP to signal to its supporters that it did not make a U-turn on its previous opposition to the Good Friday Agreement. While it previously categorically ruled out any power-sharing with SF, it argued that a future cooperation was to take place on different terms. While there is a paradox in DUP's unwillingness to vote for a SF Deputy First Minister and its readiness to cooperate with him

once elected, the issue was of great symbolic importance (O'Leary 2018, 226). The changes to the selection of the executive leadership allowed the DUP to form part of a joint-leadership without voting for a SF Deputy First Minister.

A further important change introduced by the St. Andrew Agreement concerned the decision making in the executive and was aimed to curtail ministerial 'solo runs'. Amendments introduced into the Northern Ireland Act (1998) established a statutory Ministerial Code, which following a cross-community vote of the assembly, altered the executive's decision making. Accordingly, the executive has to seek a consensus in order to pass a decision. If this is not attainable, decisions can be taken on the basis of a simple majority. Should, however, three or more members of the executive demand so, a cross-community vote on the pending decision will be required (Birrell and Heenan 2017, 474; McEvoy 2014a, 92). The stipulation of the Ministerial Code addressed, at least in parts, DUP's demands that ministerial decisions would need the approval of the executive as a whole and hence strengthened the body's oversight over individual ministers. Similarly, with a view to strengthen ministerial accountability and to put a limit on 'solo-runs', the St. Andrew's Agreement provided also 30 or more MLAs with the authority to send ministerial decisions to the executive for review (Northern Ireland Office 2006, para 6). Hence, even in cases which were not subject to deliberations in the executive as a whole, members of the assembly became empowered to refer them to the executive which may revise them. To counter the systematic non-attendance by the DUP, the Pledge of Office was amended so as to make participation in the meeting of the NSMC and BIC mandatory (Birrell and Heenan 2017, 474; Northern Ireland Office 2006, para 8).

5.6.2.3 New Assembly and return to devolved government

If there were any doubts that the 'hardline' parties would be punished by their voters for assuming the executive's leadership, these were quickly dispersed with the assembly elections in March 2007. The elections which had the highest turnout so far, not only confirmed DUP and SF as the strongest parties of their segment, but even increased their share. With winning more than 43 % of all first-preference votes, DUP achieved its best result so far. Those parties, which had been previously considered as the 'moderate middle' (UUP and SDLP) became increasingly squeezed between by the new dominant parties (Figure 39). Following the elections, and after almost five years, devolution was eventually restored on 26 March 2007.

Figure 39: Party and ethno-national segmentation of assembly

Ethnic segmentation of parties as per seats in NIRL Assembly
108 seats in total, 2017: only 91 seats filled; 2003 & 2016: only 107 seats filled

data: http://www.ark.ac.uk/elections/
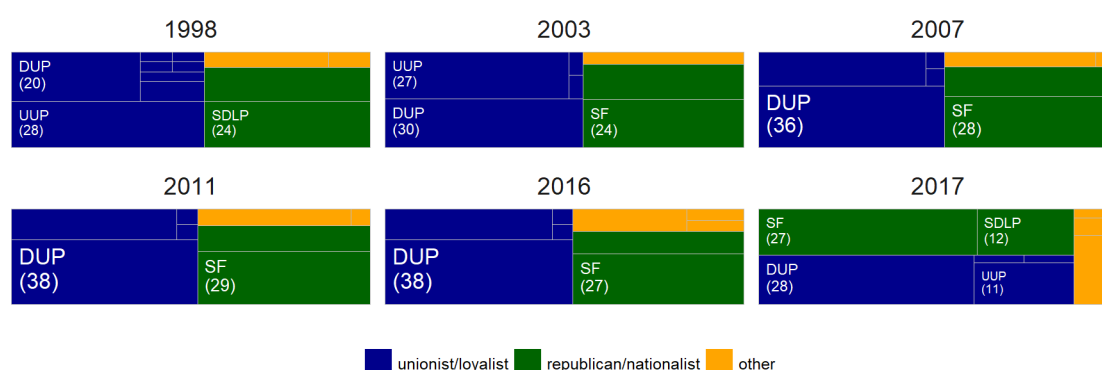
5.6.3 Summary Phase 2

The break-down of power-sharing in 2003 was triggered by a spy scandal, but for it to be reinstated much more than a mere criminal case had to be resolved.[219] The review phase comprised the tackling of the postponed issues from the negotiation phase, first and foremost

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[219] Eventually, although some SF member had been questioned as suspects, no one was ever formally charged or sentenced in relation to 'Storemontgate'.

decommissioning as well as a reform of some properties of the institutional framework. The 2003 elections were the hitherto culmination point of unionists' increasing discontent with how the peace process under the Good Friday Agreement unfolded. Disappointed by what they perceived as unreciprocated concessions and an agreement that disproportionately benefited nationalists, unionists' thin support for the agreement and those who endorsed it disappeared. Instead, unionist voters turned towards the DUP with its pugnacious leader Ian Paisley. On the nationalist side, SF's ascent to the segment's strongest party was predominately driven by its ability to secure concessions in areas of high salience to its constituency. With its links to the IRA, it had a bargaining power which the moderate SDLP could not match. Hence following the 2003 assembly elections, parties once considered to be at the extreme ends of the polarization scale replaced those considered to be moderates. This made the reinstatement of power-sharing particularly challenging.

Two factors were decisive in producing a power-sharing executive with the two 'hardline' parties at its helm. First, the conclusion of the St. Andrews Agreement provided the DUP with some of the institutional reforms it had demanded, and which it considered as sufficient to present its cooperation with SF as distinctly different from UUP's previous engagement (which it had criticized as appeasement). Second, after almost five years of suspension, the UK were adamant to reinstate devolution and credibly signaled to the DUP that a rejection of the St. Andrews Agreement would mean an imposition of 'Plan B', implying a more comprehensive say of the Irish government in Northern Ireland's affairs.

5.6.3.1 Evolution of inclusivity

From a historical perspective, the formation of the SF-DUP led executive constituted the ultimate stage when it comes to including hardline parties. The 1973 Sunningdale Agreement

as well as the 1985 AIA were all based on a 'coalition of moderates' (UUP and SDLP) and set up with the intent to sideline and eventually marginalize those at the extreme ends (DUP and SF). Against the background of these failed attempts, the Good Friday Agreement took a radical new approach by de facto guaranteeing the inclusion of SF and the DUP in the executive via the application of the D'Hondt formula. At its inception in 1998, however, the general expectation was that the executive would be led by UUP and SDLP, the moderates. A joint leadership by the anti-agreement DUP and SF seemed unrealistic. Five years later, the unrealistic became reality.

5.6.3.2 Making anti-agreement parties cooperate

a) D'Hondt and automatic executive formation

The application of the D'Hondt formula has been implying that the executive is constituted by parties irrespective of their programmatic orientation or, arguably even more relevant, of their position towards the peace process and their relations with other parties.[220] On the one hand, the mechanism has the advantage that it circumvents lengthy and possibly paralyzing coalition negotiations. Furthermore, the automatism with which seats in the executive are assigned by the D'Hondt formula, provided anti-agreement parties with some protection when it came to justifying their participation in government. Instead of being a question of choice or the outcome of a deliberate decision to cooperate with their opponents, engagement in the executive was presented as the mechanical translation of the party's electoral success into governmental power over which the party had no influence.

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[220] With the caveat that all members of the executive have to take the pledge of office which implies a commitment to some fundamental rules.

This perspective on the government formation process, however, was largely owed to an imprecise (yet widely shared) reading of the agreement. Although not explicitly stated, there is nothing in the Good Friday Agreement what would have barred parties from not assuming their assigned seats in the executive. Notwithstanding the explicit introduction of a formal opposition only in 2015, if a party would have been indeed that appalled by the prospect of sitting together with their adversary in the executive, it would have been free to reject its assigned seats. However, until the formal introduction of an opposition, parties staying outside of the executive have not profited for any specifically earmarked funding.

b) Potential drawbacks of D'Hondt executive formation

On the other hand, the inclusive nature of the executive was also risky from at least two perspectives. First, by automatically placing parties which share little common ground and dispute each other's basic legitimacy into an executive meant to operate on a joint decision making basis, the prospect of executive stalemate became a likely scenario. Second, the risk of non-compromising behavior was additionally heightened with the DUP's acceptance of the St. Andrews Agreement being the result of the UK's pressure. With no shared acceptance of the body of rules meant to regulate cooperation, it was doubtful whether the DUP (but also SF) would display a behavior in congruence with the institutional framework. Furthermore, the prospect of stalemate was increased with the removal of the sole institutional element meant to induce a centripetal dynamic to the executive formation. While the Good Friday Agreement required cross-community consent for the elections of the First and the Deputy First Minister, the St. Andrews Agreement did away with this requirement upon insistence by the DUP. Hence, DUP and SF were entirely free to fill their respective position with their party member of choice. Any restraint by e.g. filing a moderate candidate for the post of First Minister in order to secure cross-community support was no longer needed. At the end of the 2003-2007 phase

there was an anxious wait-and-see attitude as to the future development of the peace process. On the one hand, with decommissioning considered to be finally on track and those parties now at the center of power, which had previously been responsible for obstructions, power-sharing could finally start in earnest. On the other hand, many were doubtful as to the DUP's and SF's genuine willingness to moderate and exhibit the behavior required for joint decision making.

5.7 Phase 3: Patterns of cooperation

Starting from 2007 onwards, following the recalibration of the arrangement as well as the UK and Ireland's threat to impose 'plan B', those who hitherto had the strongest reservations towards power-sharing were now to hold the position of First and Deputy First Minister as well as seven out of ten ministries. The composition of the new executive was a clear break with previous power-sharing attempts which had sought to forge an alliance of the moderate middle and to exclude and eventually marginalize the extremes. In order to evaluate how well inter-ethnic elite cooperation under a DUP and SF led executive worked, this section analyzes the legislative dynamics starting from 2007 until the breakdown of the executive in January 2017. First, it takes up the aggregate legislative output as well as the duration of the legislative process to see whether any patterns indicative for non-cooperative behavior are present. Second, and intended to be a more sensitive indicator, the analysis looks into DUP and SF voting behavior in so called 'division votes'. Among others, division votes are called on issues which are particularly contested. Third, and arguably most insightful, the analysis enquires into DUP and SF's resort to Petitions of Concern (PoCs), the de facto veto mechanism provided by the Good Friday Agreement.[221]

5.7.1 Analysis of legislative activates

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[221] The analyses draw on data extracted from the Northern Ireland Assembly Information System API. The code for the retrieval and manipulation of the data is available at http::\\www.github.com\rs2903\ceu\NIRL.

In terms of legislative output, Northern Ireland's assembly has been working relatively

smoothly from 2007 onwards (

Figure 40(a)).[222] While there have been seasonal peaks since the end of its suspension, which are presumably attributable to upcoming elections, there is no indication of a decline in legislative output or emerging inertia. The executive led by the hardliners DUP and SF was at least as capable of passing its bills as its UUP–SDLP predecessor. Similarly, when taking a look at the duration of the legislative process (from the introduction of the bill to its final vote in the assembly), it becomes clear that most bills have been concluded within less than 52 weeks (

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[222] The duration of bills does not account those cases in which a bill has previously failed and was later re-introduced under a new legislative number. The graph only reflects the period of time from the introduction of the new bill until its passing under the same number.

Figure 40(b)). While there are some bills which span over several legislative sessions, the overall duration of their legislative processes exceeds only in a few cases one year.

Figure 40: Number of bills, duration of legislative process, and joint voting on division votes

a

Number of bills passed per legislative session

No executive until 2 Dec'99 and in July-Nov'01; Feb-May'00 suspension of Assembly.

graph:author; data:http://data.niassembly.gov.uk/

b

Duration of legislative process in weeks

Number of weeks from introduction to final passing of bill. Only bills which were eventually passed.
No executive until 2 Dec'99 and in July-Nov'01; Feb-May'00 suspension of Assembly.

●multi-session bill ●single-session bill
graph: author; data: http://data.niassembly.gov.uk/

c

Number of Division Votes in which DUP and SF voted together

Irrespective of whether vote was for or against motion/amendment; irrespective whether vote was joined by other parties;
No executive until 2 Dec'99 and in July-Nov'01; Feb-May'00 suspension of Assembly.

■DUP & SF vote together ■DUP & SF do not vote together
graph: author; data: http://data.niassembly.gov.uk/

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5.7.2 Analysis of Division Votes

An indicator for DUP-SF relations more sensitive than the total legislative output is both parties' actual voting behavior in the assembly. Generally, decisions in the assembly are passed by a majority of MLA's oral votes. As long as it is clear to the speaker whether the 'Ayes' or the 'Noes have it', the voting behavior of individual MLAs is not recorded. Hence, from the assembly's voting records it is not discernable whether DUP or SF members voted together.

There are, however, several instances in which the votes of individual MLAs have to be recorded. These instances are summarized under the term 'division votes'. Should oral voting not result in a sufficiently clear outcome, should the result be challenged by MLAs, or be a particularly sensitive item at stake, the Speaker calls for a division vote which requires individual votes to be recorded. Hence the records allow to infer how different parties voted. Another instance in which individual votes are recorded is the vote on decisions requiring cross-community support. These are the election of the Speaker and Deputy Speaker; decisions on changes to the rules of the assembly (so-called 'Standing Orders'); the ratification of the budget, decisions about how many ministries the executive should comprise and what areas of responsibility they should be entrusted with; the exclusion of a minster, or member of a political party from holding office; and petitions of concern, when 30 or more MLAs submit a request that a particular vote should require cross-community support.

Figure 40(c) presents the total number of division votes per legislative session and highlights those votes in which the DUP and SF voted together. During the first assembly (1998-2003), a period in which both parties were still in the process of establishing themselves as 'ethnic tribunes' and sought to outdo their intra-segment rivals, the DUP and SF voted only in very few instances together on division votes. Following their electoral win in 2003 and the reinstitution of devolved government following the conclusion of the St Andrews Agreement, however, a clear increase can be observed. During the third Assembly (2007 to 2011), DUP and SF joint-voting varied between 28.1 % and 50.9 %. Similarly, during the fourth Assembly (2011-2016), the DUP and SF voted together between 20.6 % to 38.1 % of all division votes per legislative session. In contrast, during the first Assembly the maximum had been only 17.9 %.

5.7.3 Analysis of Petitions of Concern

A further indicator providing insights into the relationship between the DUP and SF is their resort to vetoes. As detailed above, 30 MLAs or more can file a Petition of Concern (PoC) which delays a vote on the specified item and introduces the requirement of cross-community support for the item to pass the assembly. Hence, PoCs are effectively a veto mechanism which allows the two designations to ensure that no measure is passed against their will. The resort to PoCs is a clear indication that efforts to reach an agreement within the executive and assembly have failed, and that the issue in question is considered to be of such salience that it warrants the resort to the veto.[223]

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[223] The following analysis is based on the data provided via the Assembly's information system and provides to my knowledge the most comprehensive and detailed analysis of PoCs as of today (Schwartz 2014; Assembly and Executive Review Committee 2014). For a recent similar analysis see McCulloch (2017).

Figure 41: Petitions of Concern per Session and tabling party

Number of Petitions of Concern per legislative session

Source: http://data.niassembly.gov.uk/
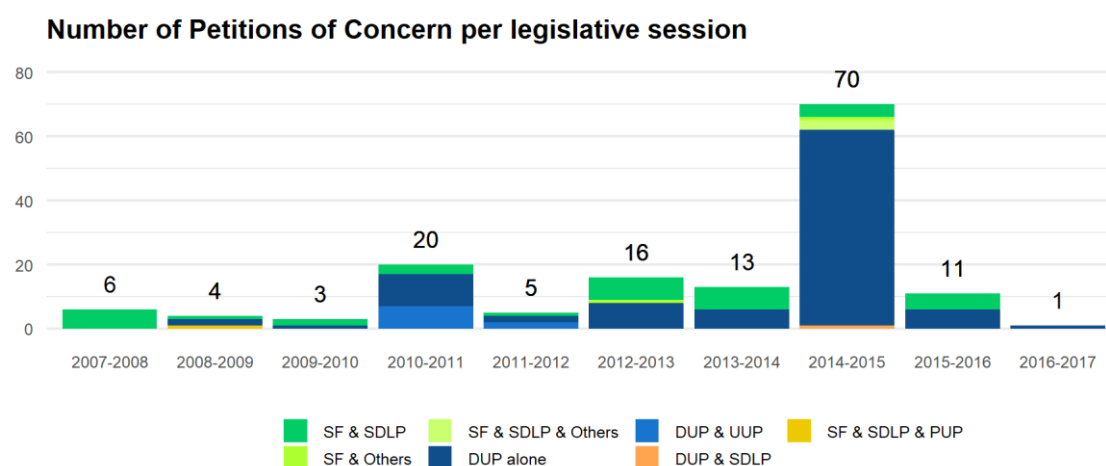
Since the start of the DUP-SF led executive in 2007, a total of 152 Petitions of Concerns have been filed. Figure 41 presents their number per legislative session up until to January 2017, when the power-sharing executive broke down. Initially, the number remained relatively modest (three to six petitions), with a noticeable increase prior to the 2011 elections (20 petitions). During the subsequent fourth Assembly (2011-2016), the numbers were slightly higher, but remained – with one exceptional legislative session – on an overall moderate level. A striking aberration is the high number of PoCs filed in the 2014-2015 session. With 70 PoCs almost half of all PoCs originate from this session. The picture becomes however more balanced when considering not the mere aggregate of PoCs, but the number of plenary items which were subjected to PoCs. While the 2014-2015 session remains most prominent, its magnitude is severely reduced (to 12, see **Error! Reference source not found.**).

Figure 42: Number of plenary items subjected to PoCs

graph:author data:data.niassembly.gov.uk
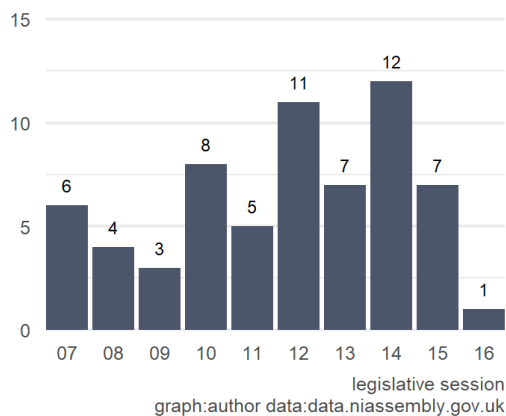
In short, the recourse to PoCs was highly concentrated on a few legislative items. As displayed in Figure 43, the welfare reform bill alone accounted for 46 PoCs. Four plenary items accounted for 73 of the 152 PoCs. The remaining 79 PoCs were dispersed over 61 different items.

Figure 43: Number of Petitions of Concern per plenary item

Petition of Concerns (PoCs) per plenary item

The application of PoCs has been highly concentrated. Four plenary items accounted for 73 of 152 PoCs; the remaining 79 PoCs concerened 61 different itmes.

Source: http://data.niassembly.gov.uk/
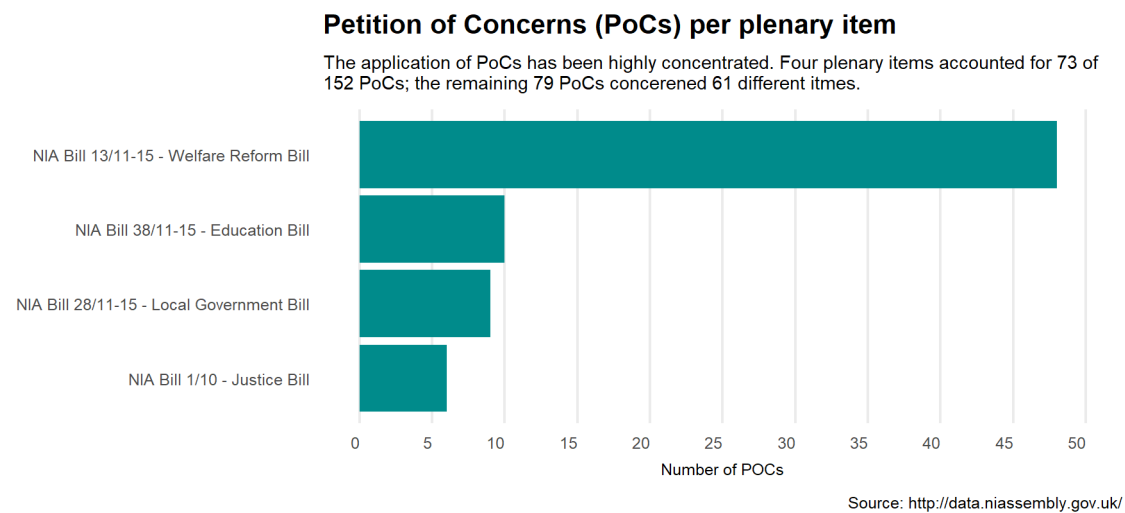
Thus, for a long time PoCs were used relatively sparingly with the exception of some more recent items which were particularly contested. The frequency and distribution of PoCs does not reflect an excessive resort to PoCs leading to wider legislative stalemate. Nevertheless, contrasting the third and fourth Assembly reveals a slight increase in the number of plenary items subjected to PoCs (third Assembly: three to eight items; fourth Assembly: five to 12 items).

To make any inferences about the relationship between the DUP and SF on the basis of PoCs, it is necessary to consider who actually submitted each petition. Figure 44 and Figure 45 present this information.

Figure 44: Petition of Concern per parties in 3rd Assembly (2007 – 2011)
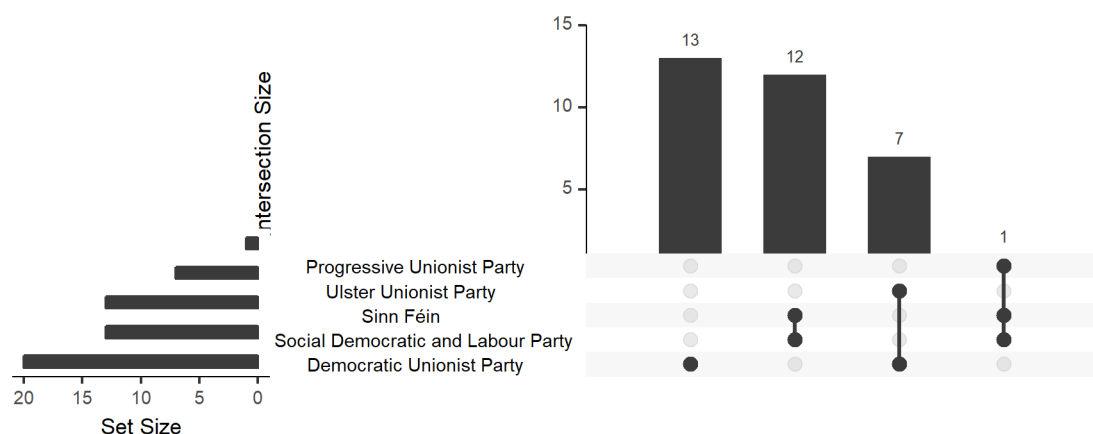
Figure 44 shows that during the third Assembly (2007 to 2011), the filing of PoCs was clearly structured along the ethno-national cleavage. 20 petitions were tabled by unionists (13+7, DUP and UUP), 12 by nationalists (SF, SDLP). Only one petition was filed by a cleavage-crossing coalition of parties (SF-SDLP- PUP). Overall, the DUP was the most prolific party in terms of PoC submissions. Of the 33 PoCs filed during the third Assembly, 20 were filed by the DUP. SF and the SDLP filed each only 13 PoCs in total. Out of its 20 PoCs, the DUP filed 13 alone. With its 36 seats in the Assembly, the DUP was the only party able to muster on its own the necessary 30 MLAs to file a petition. All other parties were required to join forces with other parties. While the distribution of PoCs between the two designations was skewed towards the unionist camp, the difference was nevertheless relatively modest during the third Assembly.

The fourth Assembly (Figure 45) was strikingly different. With 115 PoCs, the total number of petitions increased by more than the threefold. The overwhelming part, 86, was filed by the DUP. In contrast, SF and SDLP submitted only 29 and 28 petitions respectively, what was nevertheless a significant increase in comparison to the third Assembly. To put it into perspective, overall the DUP filed almost three times more PoCs than all other parties together. Enabled by the number of its MLAs (38), the DUP submitted the overwhelming part of its PoCs alone (83 out of 86). On the nationalist side, the coalition between SF and SDLP was the most frequent combination. As a further contrast to unionists, both nationalist parties also formed coalitions with smaller, 'designated other' parties (Alliance, Green Party, NI21) to file PoCs.

Figure 45: Petition of Concern per parties in the 4th Assembly (2011 – 2016)
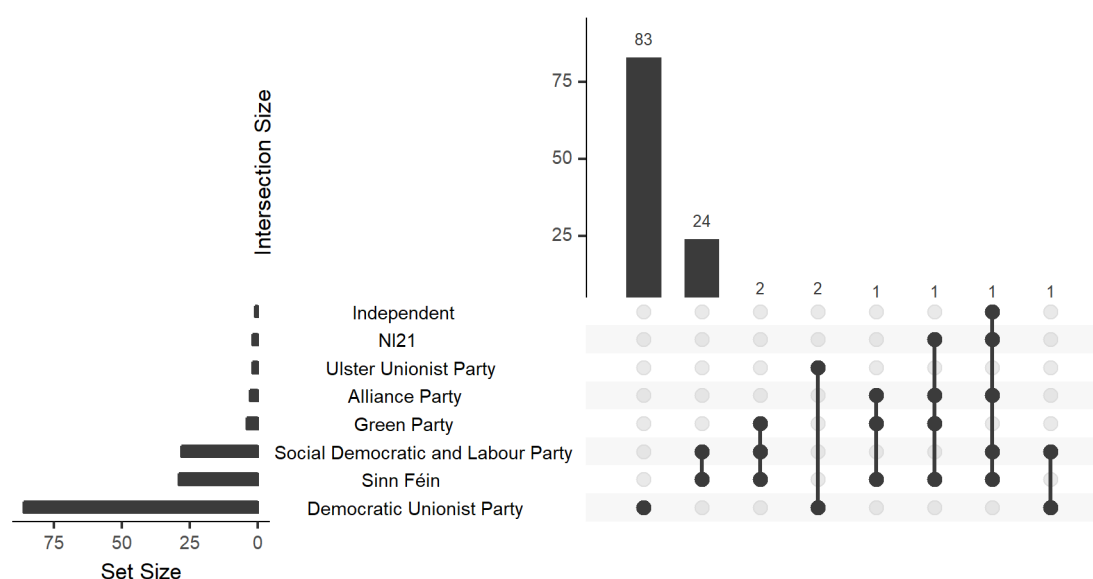
Reflecting the high concentration of PoCs, 45 of the DUP's PoCs were filed with regard to the Welfare Reform Bill and ten regarding the Education Bill. The DUP's remaining 31 petitions were spread out over 28 distinct bills. Clearly, the Welfare Reform Bill and the Education Bill were very important to the DUP. For nationalists the Local Government Bill was the bill most

often subjected to a PoC, followed by the Criminal Justice Bill and the Assembly and Executive Reform Bill (see Figure 46).

Figure 46: Bills with most PoCs per designation and parties

Source: http://data.niassembly.gov.uk/

In addition to the frequency and origin of the PoCs, it is also informative to inquire into the substance of the plenary items which were subjected to PoCs. Figure 47 provides an overview of the different issues addressed by the PoCs. McCulloch (2017) and Schwartz (2014) note in their analysis a growing trend of parties invoking the veto mechanism for issues which are only loosely, if at all, linked to the ethno-national cleavage or conflict.

Figure 47: Distinct issues addressed in PoCs

Data: http://data.niassembly.gov.uk/

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If the rationale behind the inclusion of a veto mechanism is to give groups the ability to protect themselves against being outvoted on issues which are clearly tied to their ethno-national belonging, then an application as described above amounts to a misuse of the mechanism. However, whether such tie is present or not is to a considerable degree a matter of perspective. With the ethno-national cleavage dominating, it is typical for divided societies that otherwise civic issues have quickly ethnic implications. A case in point is SF's resort to a PoC regarding the welfare bill. Although the text of the bill applies across the board and makes no reference to any designation, SF considered the application of the PoC justified since the austerity measures were expected to disproportionally affect nationalists, and hence discriminatory in its outcome. Arguably, the fact that nationalists were disproportionally dependent on state welfare was a consequence of the ethno-national cleavage and the legacy of decades of nationalists' marginalization.

With this caveat in mind, Figure 47 presents an attempt to classify the bills which were subjected to PoCs into those with a clear relation to the cleavage and those where the application of the PoC was questionable. While many of the 2007 to 2011 PoCs were raised in relation to plenary items with a clear link to the ethno-national cleavage or the legacy of the conflict (e.g. Victims and Survivors bill, Irish language, Irish Medium Schools, North South Ministerial Council), PoCs were also raised in a significant number on issues which did not have a direct relation with the conflict (e.g. 'Act on CO2' Advertising Campaign, Safe Passage to Gaza for the MV Rachel Corrie). A further look at PoCs reveals that also in the period from 2011 onwards their application was not limited to issues with a direct link to the ethno-national cleavage or the legacy of the conflict. For critics, the application of PoCs to forestall

disciplinary measures against MLAs[224], DUP's blockage of same sex marriage[225] or mundane issues as caravan homes[226] went – in their view – beyond the originally intended purpose of the petitions system and amounted to an abuse. As indicated by the different colors the share of non-related PoCs has been growing, particularly during the fourth and short-lived fifth Assembly. This finding hence confirms the trend already observed by Schwartz (2014) and McCulloch (2017). Overall, PoCs were a potent means to fend off any undesired legislation. Out of the 89 PoCs which triggered a vote, only a single one was able to secure the required cross-community support (

Figure 48).

Figure 48: Outcome of votes triggered by PoCs
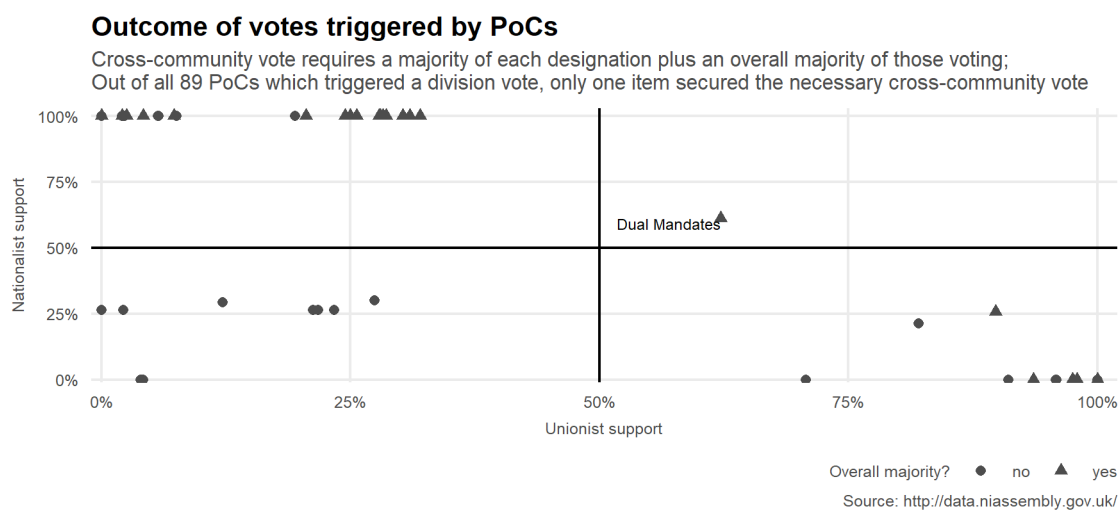
The above section provided an analysis of legislative behavior in Northern Ireland's Assembly, with a focus on the third and fourth Assembly during which the DUP and SF were their

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[224] Two MLAs from DUP (Jim Wells) and SF (Gerry Kelly) were to be investigated for alleged disciplinary misconduct. PoCs by DUP as well as SF and SDLP brought the complaints procedure to a halt. This prompted the Assembly's Commissioner for Standards, Douglas Bain, to call in June 2016 for an end of PoCs as a means to stifle inquiries into politicians' conduct (Smyth 2016).

[225] Same sex marriage was backed by a narrow majority (53 to 52) in the Assembly in November 2015. A PoC filed by DUP, however, made the bill fail (Walker 2017; Devenport 2018).

[226] The 'caravans bill' regulates the agreements between caravan owners and site owners. It seems fair to assume that the drafter of the GFA did not have this or similar issues in mind when including PoCs as a veto mechanism.

designations' largest party and heading the executive. With both parties considered as 'hardliners' and the institutional framework only accepted by the DUP under strong pressure from the UK, the theoretical expectation was that the power-sharing arrangement would be prone to stalemate and inertia. Using the legislative output, division votes and petitions of concerns as indicators for the level of cooperation between the two parties, the analysis finds however for the larger part of the observed period no indication of legislative gridlock due to uncompromising elite behavior. Legislative output and duration was largely stable. The strongest deviations were attributable to elections.

5.7.4 Patterns of moderation and consolidation

The above analysis is however not meant to say that the DUP-SF relations were without crises. In at least three instances, conflict over issues left pending in the Good Friday and St Andrews Agreement led to a stand-off and brought the institutions on the brink of suspension (see Table 25 for an overview and Table 41 in the Annex). Critically though, in each case parties eventually returned to the negotiation table and with the facilitating intervention of the British and Irish government were able to identify a compromise. Instructively, these crises were essentially the consequence of the 'constructive ambiguity' and fudging approach of the UK and Ireland, which had enabled the conclusion of the Good Friday Agreement in the first place but transferred contentious issues to the future. While critics may argue that the crises were indicative of a fragile peace, one may also argue that the eventual compromises on these issues in retrospect vindicate Blair and Ahearn's incremental approach. After having already cooperated for years within the new institutional dispensation, parties not only had established some form of personal rapport with the former enemy, the peace dividends accrued during these years also committed them to remain engaged in the agreement and made contested issues

amenable for compromise. While the leaders of the DUP and SF did not shy away to escalate

the stand-off up to a breaking point, they refrained from crossing it.

Table 25: Overview of post-Andrews crises

2013, Sep-Dec: Haass-O'Sullivan talks[227]		
Participants	*Issues*	*Outcome*
Local parties under chairpersonship of US experts	- Dealing with the past - Parades - Flags	- Parties unable to reach conclusion - Issues taken up in Stormont House Agreement

2014, Dec: Stormont House Agreement[228]		
Participants	*Issues*	*Agreed points*
5 parties, 2 governments US Special Envoy[229]	- Parades of Orange Order	- Parades issues devolved to Assembly
	- Flying of flags[230]	- Creation of Commission on Flags, Identity, Culture and Tradition - Filled by representatives of parties
	- Dealing with past[231]	- Creation of Oral History Archive and Historical Investigations Unit
	- Corporate tax	- Corporate tax devolved; provided parties agree to balance budget
	- Welfare reform[232]	- Parties obliged to implement reform like GB
	- Reform of institutions[233]	- 6 to 4 MLAs per district - Provision of official opposition - Reduction of executive from 12 to 9
	- Irish language	- UK and IRL govs confirm commitment to recognize Irish language, but no obligation to recognize as official language
Outcome		
- Aug' 2014: Police reports of active IRA structures, implicating senior SF official - DUP seeks suspension of SF and assembly; PM Cameron refuses; - UUP withdraws from executive - DUP 'rolling resignations'[234]; Power-sharing institutions not suspended, but dysfunctional		

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[227] Haass and O'Sullivan (2013); O'Shea (2014); Mallinder (2014).
[228] Bowers et al. (2015).
[229] The US Special Envoy for Northern Ireland, Senator Gary Hart, also provided 'support and engagement Bowers et al. (2015, 8).'
[230] Birrell and Heenan (2017, 475); Bowers et al. (2015, 8); Northern Ireland Office and The Rt Hon Theresa Villiers (2014, para 19).
[231] McGrattan (2016).
[232] Bowers et al. (2015).
[233] Northern Ireland Office and The Rt Hon Theresa Villiers (2014, paras 50, 60, 62).
[234] BBC News (2015); Secretary of State for Northern Ireland (2015).

- Oct' 2015: Panel concludes that IRA leadership committed to non-violence political process; DUP returns to executive		

2015, Nov: Fresh Start Agreement[235]

Seeking to kick start implementation of Stormont House Agreement (10 weeks of negotiations)

Participants	*Issues*	*Outcome*
5 parties 2 governments	- Welfare reform	- Commitment to tax reform and institutional reform; 500 m GBP UK funding
	- Paramilitaries	- Modification to pledge of office: includes reference to obligation to end paramilitaries[236]
		- Dealing with the past not resolved
		- Reform of petition of concerns agreed, but pending implementation

Overall, and notwithstanding the crises from 2007 to 2016, both the DUP and SF had expanded their intra-group vote share by moderating and cooperating with those previously considered as the extremes on the other side of the cleavage. As O'Leary (2018, 227) noted SF increasingly resembled SDLP and the DUP increasingly resembled the UUP. The declining polarization became also reflected in the results of the 2016 Assembly elections (Matthews and Pow 2017). Turnout reached a historic low and DUP and SF joint vote was the lowest since they assumed executive leadership in 2007 (Figure 49). Elections had less and less the character of 'high stake' moments at which polarizing dynamics would drive voters to SF and DUP. Newer parties (Green, People before Profit) with cleavage crossing offers have been entering parliament and pushed the dominant parties to update their agendas (O'Leary 2018, 235). Similarly indicative for attenuation of the sectarian cleavage, UUP and SDLP decided to refrain from taking their executive seats assigned by the D'Hondt mechanism, but assumed the newly created role of a (funded) parliamentary opposition. Arguably, most importantly, during the DUP-SF led executive the security situation stabilized on a comparatively low level.

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[235] Birrell and Heenan (2017) Northern Ireland Executive (2015).
[236] Northern Ireland Executive (2015, 15).

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Figure 49: Election turnout, SF-DUP joint-vote and security situation
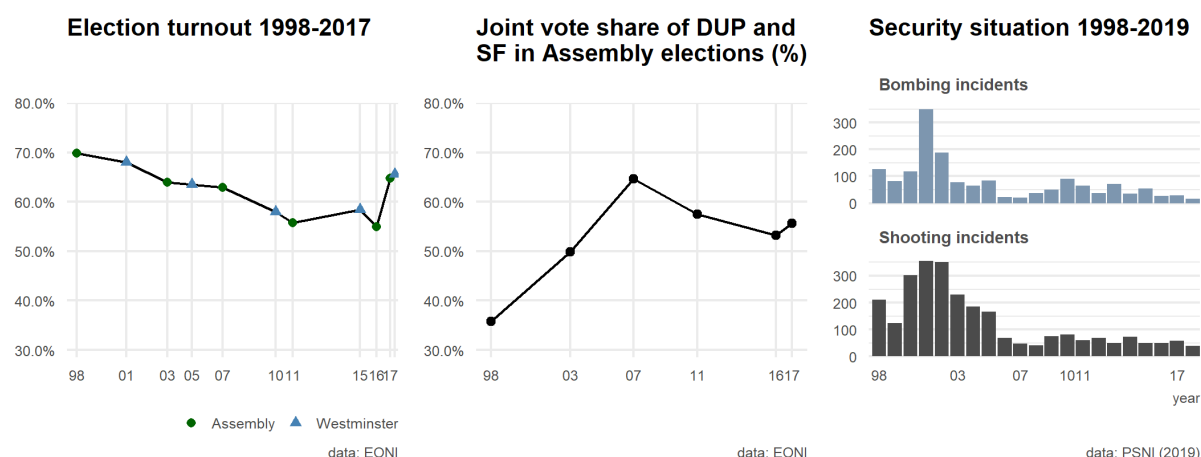
5.8 Brexit and break-down of power-sharing executive

If the analysis of Northern Irish inter-elite compromise would stop in 2016, the Good Friday Agreement's successful track record would stand firmly. However, following the Brexit[237] leave vote, a period of new polarization and instability took off, including the break-down of the power-sharing executive and a by now more than two-year lasting stand-off between the parties, where the hitherto ability to compromise at the critical moment did not materialize. From an analytical point of view, however, the Brexit vote is an instructive external shock since it highlights the importance of the agreement's openness for it to integrate the conflict parties, and hence corroborates the argument made in this thesis. With the leave vote a fundamental background condition for the conclusion and functioning of the Good Friday Agreement was put into question. While not expressly stipulated, joint EU membership has been integral to the making and design of the agreement (O'Leary 2018, 223).

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[237] It is a telling inaccuracy that the UK's departure from the EU became colloquially called BREXIT. Would it be indeed only Britain to leave the EU, Northern Ireland were to remain part of the EU. A more adequate term would be UKXIT (O'Leary 2018).

Part of the new instability is due to the referendum itself. For nationalists, devolution has meant that it is upon the people of Northern Ireland to decide on constitutional issues, particularly when pertaining to the region's relation with the republic. However, the UK-wide 'leave' majority trumped Northern Ireland's remain vote (55.8 %) and legal challenges seeking a veto role for devolved parliaments was struck down as part of what has been called the most important UK Supreme Court decision in history (McCrudden and Halberstam 2018; UKSC 2017). The scenario that the British parliament unilaterally decided on the introduction of an inner-Irish border went against the very essence of nationalists' support and understanding of the Good Friday Agreement. For O'Leary (2018, 233) the 'doctrine of Westminster sovereignty is returning in full force'.

Figure 50: Brexit-Remain vote and nationalist support
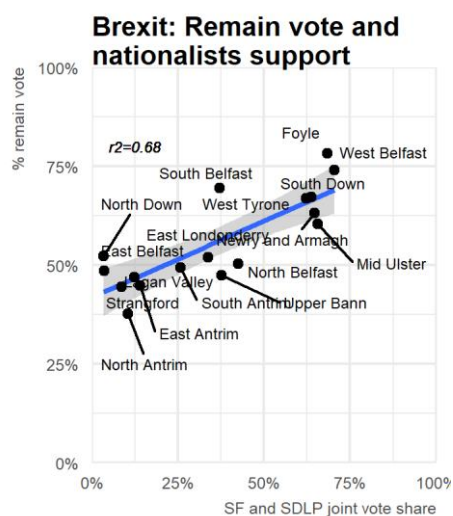
While not a condition expressly stated in the Good Friday Agreement, the importance of British-Irish joint EU membership as a facilitating background condition can hardly be overstated. The absence of an inner-Irish border aided the diffusion of the conflict inherent in the opposing territorial aspirations and took out much of its day-to-day relevance. Now, where the Good Friday Agreement's ambiguity used to facilitate compromise, Brexit's dichotomy risks undoing this aspect and is likely to prompt parties to reevaluate the agreement's instrumental value for the furtherance of their aspirations. With republicans having supported remain and adamantly opposed to any future arrangement that may distance the region from the republic, and unionists equally opposed to any arrangement that may in some form or shape detach the region from Britain ('anti-backstop'), Brexit has dramatically raised the stakes of competition and made compromise more difficult (Figure 50).

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While substantively not linked to Brexit, DPFM McGuiness' resignation in protest over a DUP-caused fiscal scandal six months after the referendum was the first consequence of this new dynamic.[238] The subsequent Assembly elections resulted in a historic victory of SF and unionists for the first time since 1920 without a majority in the Northern Irish legislative. Furthermore, not only will unionists need partners to pass laws, with less than 30 seats DUP also lost its ability to unilaterally file PoCs. Their defeat in the Assembly election was however soon softened by PM's May call for early elections which provided DUP with a 'confidence and supply agreement' to ensure the Conservative government's Westminster majority (Figure 51). The elections, however, did not provide the required impetus for parties to overcome the new antagonism. Since January 2017 Northern Ireland has been without an executive and *de facto* governed by civil servants in Belfast and London. In a clear break with previous patterns, and in disregard of the D'Hondt mechanism, SF introduced pre-conditions for the party to join the executive. Instructively, the stumbling blocs are unrelated to the initial 'Renewable Heat Initiative' scandal, but – at least partly – draw on to issues which remained pending since the 'Fresh start agreement' (Table 26).

Figure 51: Post-Brexit election results
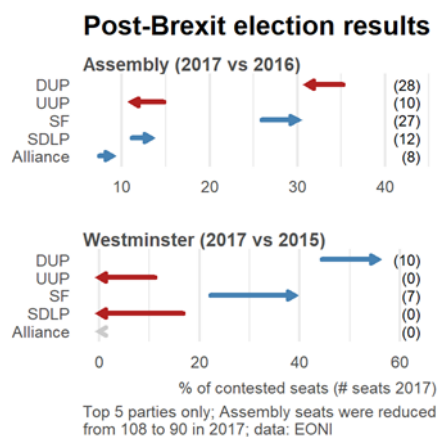
Table 26: Issues blocking executive formation

Issues blocking formation of executive
- Irish language bill
- Reform of petition of concern
- Dealing with the past
- Recognition of marriage equality

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[238] Minister Martin McGuiness resigned in protest, calling not only the renewable heating initiative as his motivation but also Foster's 'lack of respect and integrity in the power-sharing arrangements, particularly in regard to the Irish language, a bill of rights and differences over Brexit' Birrell and Heenan (2017, 476).

The fact that both parties have not budged for more than 550 days indicates that parties are not in a 'mutually hurting stalemate' (Birrell and Heenan 2017, 477) and that the suspension of devolution does not constitute a situation with which their leadership parties cannot live (at least for some time). The negative consequences of the mutually non-compromising behavior are by no side considered to be sufficiently high to engender moderation.

Figure 52: Brexit and support for Irish unification

Borderpoll and support for Irish unification

If there was a referendum tomorrow about whether Northern Ireland should leave the UK and unite with the Republic of Ireland, how do you think you would vote?

data: NIRLTLS 2017 (POLPART2,BORDPOLL)

Brexit, support for unificaiton and party affiliation

Does the UK leaving the European Union make you nyourself feel more in favour of a United Ireland, less in favour, or has it made no difference? Do you think of yourself as a little closer to one political party than to others?

data: NIRLTLS 2017 (POLPART2,UNIRFAV)

Reminiscent of the stalemate between parties in Bosnia, Northern Ireland's Secretary of State had to intervene inter alia to introduce a budget to avert a wider institutional shut-down. The Secretary of State also reduced MLAs' salary twice, since 'it can't be right that they continue to receive their full salary until the Executive and the Assembly are restored (Preston 2018; see also Rogan 2018).' For some observers, the rigidity of republicans could be already indicating a new assessment of the hitherto status quo and the attainability of alternatives. Eventually, so the view, the current gridlock may escalate to a point requiring a new direct rule, however, under the joint governance of the UK and Ireland or may even tip the balance for an affirmative referendum for united Ireland within the EU (Birrell and Heenan 2017, 478; O'Leary 2018, 235). While the latter may yet seem illusive, the scenario of a 'hard' inner-Irish border and dysfunctional Northern Irish institutions may render unification more attractive.

5.9 Summary Good Friday Agreement

At its outset in 1998, the Good Friday Agreement was based on a consensus among the two segments' leading parties, the UUP and SDLP, and further corroborated by a majoritarian support of both communities in a referendum. The new power-sharing arrangement was further strengthened by a North-South and an East-West dimension, aimed at balancing the 'Irish dimension' of the conflict with unionists' concern for firm ties with Great Britain. Overall, matching power-sharing institutions und two parties ready to moderate, the arrangement was in principle well equipped to be a success. Importantly though, during the negotiations critical issues were either left explicitly pending for later or fudged by 'constructive ambiguity' which allowed for conflicting interpretations of the agreement. This approach pursued by the UK and Ireland was instrumental in concluding the agreement but burdened its subsequent implementation. The outcome of the resulting post-agreement bargaining process led to a reassessment of the agreement's benefits. Unionists, who had endorsed the agreement with a small majority in 1998, became increasingly disillusioned by its implementation, with the protracted decommissioning of the IRA particularly damaging to the moderate unionist leadership. Initially, Trimble was adamant on 'guns before government' and conditioned the formation of the Executive on the IRA's decommissioning. Under pressure from the UK, however, he eventually 'jumped first' in the understanding that the UK would sanction SF should the IRA not follow. When decommissioning did not materialize, and the UK refrained from excluding SF, his leadership waned and the UUP became vulnerable to outbidding. Ultimately, the post-agreement bargaining phase provided the context conducive for the rise of the antagonistic DUP and SF as the 'ethnic tribunes' of their respective segments, with the 2003 elections being their preliminary culmination.

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In a striking contrast to the agreement's onset in 1998, at the end of the post-agreement bargaining phase in 2003, the consociational institutional framework became paired with two parties who were fundamentally opposed to each other. Furthermore, the DUP, which had so far pursued a 'half-in, half-out' strategy, had fundamental misgivings about the institutional parameters themselves. This combination resulted in a four-year long suspension of the power-sharing institutions and Northern Ireland's governance by Westminster and Northern Irish civil servants. Most strikingly though, at the end of this period, the two previously irreconcilable parties were ready to form a government and embarked on almost ten years of relatively constructive cooperation. By analyzing the legislative output, division votes and the resort to vetoes (Petitions of Concern), this chapter demonstrated that the two parties were willing and able to moderate and cooperate. Notwithstanding repeated crisis which brought the agreement on the verge of collapse, the DUP-SF led executive featured for the longest time a pattern of elite behavior consistent with consociational moderation and cooperation. While escalating stand-offs up to a breaking point, at critical moments they stepped back, suggesting that the present arrangement was considered as the best available by all sides. However, since the fourth Assembly (2011-2016) the agreement's record became more ambivalent, as heralded by the increasing number and scope of PoCs. The new antagonism found its culmination in the resignation of the 2017 Deputy First Minister, the eventual suspension of devolution, and world record breaking unwillingness of the DUP and SF to form a new government. If the worsening of the inter-party relations alone was not enough to worry about the state of power-sharing in Northern Ireland, then it was certainly the case after the Brexit vote in June 2016. The outcome of the referendum undoubtedly constituted an external shock to the agreement. With much of the future relations between the EU and the UK left unclear, the referendum removed the institutional predictability inherent in the Good Friday Agreement and vital to inter-communal relations. For nationalists, Brexit is fundamentally at odds with the Good Friday Agreement's

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core principle of devolution and threatens to imply impermissible modifications to the agreement itself or the basis on which the agreement was concluded. While much will depend on the eventual details of Brexit, it is safe to say that it has the potential to unhinge the delicate balance found in the text of the Good Friday Agreement. While the ongoing break-down of the power-sharing executive as well as the issues hackled over for its reinstatement have at least substantively no direct link to Brexit, it is clear that the caused protracted uncertainty, particularly concerning the Irish border, made it even less amenable to a solution. The eventual status of post-Brexit Northern Ireland is likely to let the (former) conflict parties reassess the Good Friday Agreement's instrumental value for the furtherance of their ambitions. As argued in this chapter, much of the agreement's attractiveness originated from its openness and accommodation of different aspirations. The outcome of the majoritarian UK wide Brexit referendum risks undoing much of this instrumental ambiguity and dissolve the bargaining space where parties so far have been able to meet. With basically all previously made decisions premised on the joint EU membership of the UK and Ireland, the danger arises that some groups may no longer feel bound by them. The republican movement has been willing to subscribe to the Good Friday Agreement, because it saw engaging in the new institutional dispensation as compatible with its long-term ambition of reunification. Will this be still the case in a possibly fundamentally altered context with the UK not in the EU? On the other side, with unionists' support for the agreement already weak and their concerns for the future of the union high, what will be their reaction to any special arrangement which may preserve the Irish dimension, but weaken the ties with Great Britain? And while the leadership of all political parties repeatedly downplay the return of violence, it would be irresponsible to discard it. The biggest test to the Northern Irish peace process is likely to be ahead.

6   CROSS-CASE COMPARISON

6.1 Overview

This chapter distills the developments detailed in the case studies and contrasts them with a view to the research question. The point of departure for the preceding analysis was the ambition to highlight the different levels of inter-elite cooperation in post-conflict power-sharing agreements. More specifically, both the Dayton and the Good Friday Agreement were negotiated under the strong influence of third parties and the conclusion of the agreement was premised on incentives and sanctions. With this origin and joint decision making as an institutional requirement, the question arises how elite cooperation can prevail even in the absence of third party sanctions and incentives. Drawing on the seminal work Lijphart (1977), Nordlinger (1972) and O'Leary (1989), the theoretical proposition has been put forward that a combination of enabling and motivational factors is required for cross-cleavage cooperation to be forthcoming. Critically though, in externally engineered post-conflict power-sharing agreements the elements elite motivation, elite predominance and institutional accommodation are in a mutually constraining relationship. Contrasting the Dayton and the Good Friday Agreement, the argument is made that agreements which are not fully deterministic as to the conflicts underlying incompatibility can ease the tension between motivation, predominance and accommodation. Not fully deterministic agreements can transform the high-stake moment of an agreement's conclusion into a rolling process and defuse zero-sum logics. Table 27 and Figure 53 provide an overview of the answer.

Table 27: Comparison of Dayton and Good Friday Agreement

Dayton Agreement	Good Friday Agreement
Conclusion	
14 December 1995	10 April 1998
- Conclusion based on coercive diplomacy, incentives and sanctions, incl. use of force - Exclusive negotiations - No bottom-up legitimization	- Consent of unionists based on assurances by UK - Inclusive negotiations - Bottom-up legitimization by referenda
Imposition Phase	
1995-2003/6	1998-2003/7
- Electoral victory of anti-agreement parties and lack of elite motivation - Response: Efforts to facilitate coalition of moderate middle; 'Bonn Powers' to sanction and directly legislate - Failure to create coalition of moderate middle	- Conflict over implementation of pending issues weakens moderates - Suspension of devolution to protect moderate unionists ('Stop-and-go power-sharing') - Eventually, SF influence over IRA more important than UUP over unionists - DUP selective participation in institutions
Recalibration phase	
2003-2006	2003-2007

- State building agenda, incl. strengthening central institutions
- Means:
  ▪ OHR 'Talking Dayton, Walking Centralization'
  ▪ Legal interpretation
	- Defeat of 'moderate middle' and suspension of devolution
	- Threat of UK-NIRL joint governance
	- Settlement 'update' by St Andrews Agreement
	- Integration of extremes into agreement (DUP & SF)

Attenuation Phase	
Since 2006-today	2007-2017
- Declining power of OHR authority, also due to weakening international support - Insufficient pull of EU integration - Repeated crises and legislative inertia	- Successful substantive integration of previous anti-agreement parties - Relative stability and cooperation of extremes, despite repeated 'bumps'
Outcome	
- Weak elite cooperation	- Elite cooperation - Coalition of the extremes leads to moderation - But: since 2016 Brexit vote breakdown of executive and new non-compromising behavior

Figure 53: Overview of argument
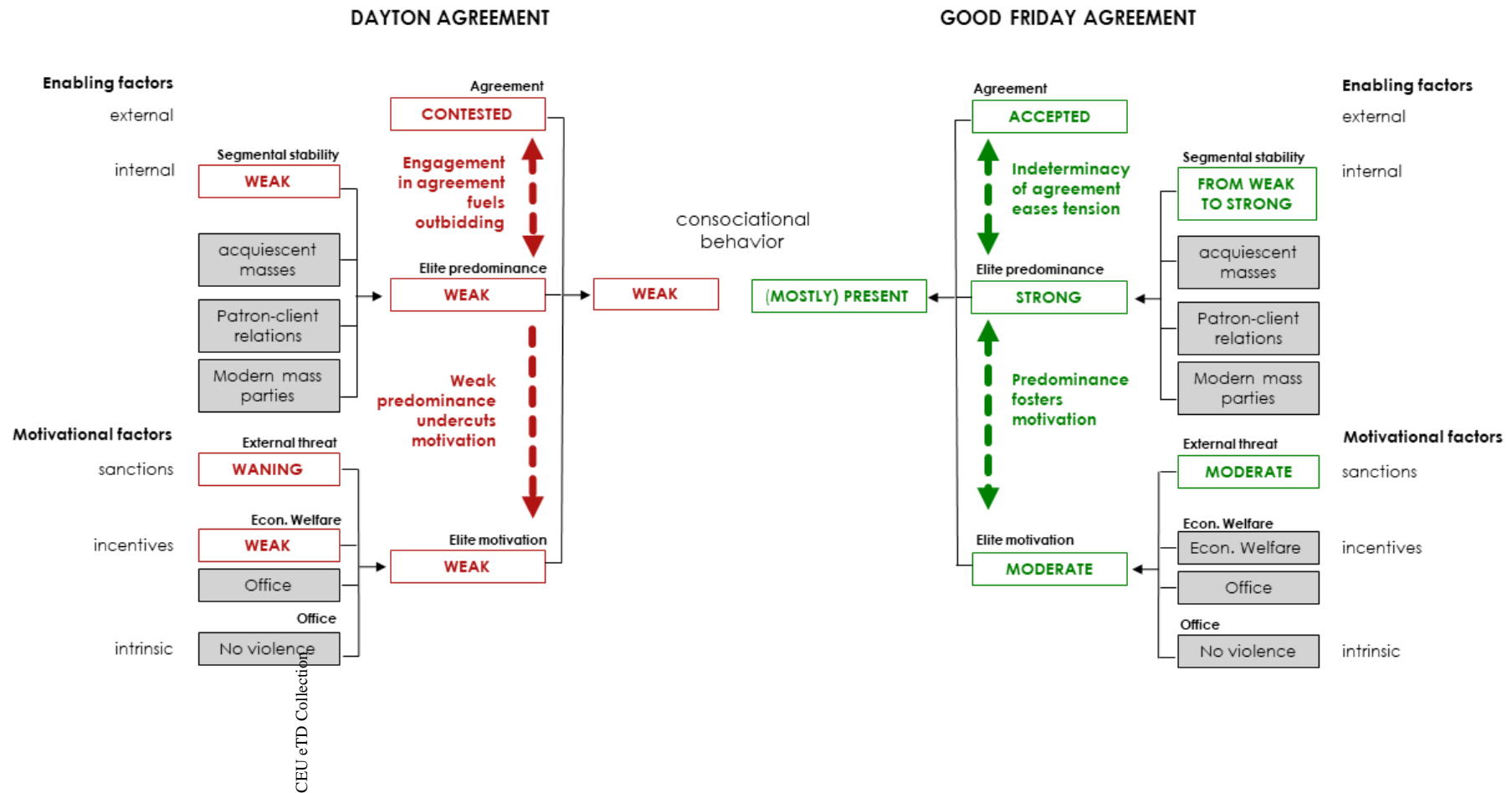
6.2 Different outcome

As demonstrated in the case studies, Dayton Bosnia and Good Friday Northern Ireland experienced markedly different levels of cross-community cooperation by political elites. Northern Ireland's Good Friday Agreement not only facilitated the end to (most) violence in the region, it also constituted the institutional basis for the emergence of constructive cooperation of former enemies. Notwithstanding the period of stop-and-go powers-sharing in its early years and repeated crisis moments later, for almost a decade, up to 2016, the joint-executive leadership of the former hardliners DUP and SF was characterized by patterns of moderation and compromise. As demonstrated, legislative output has been stable, and Petitions of Concern were only used sparingly.[239] This development is particularly remarkable since the DUP's eventual readiness to join the (revised) Good Friday Agreement was only after the UK and Ireland threatened to resort to 'Plan B', entailing British-Irish joint governance over Northern Ireland. Bosnia's trajectory since the conclusion of the Dayton Agreement has been clearly different with legislative inertia and latent secessionism as an almost constant feature. The initially minimal legislative output increased temporarily in response to the OHR's imposing interventionism, only to decline again once the international authority's vigor started to wane.[240] Self-sustaining elite cooperation has not been forthcoming. The requirement for joint decision making, institutionally enshrined by various veto-mechanisms, combined with the absence of elite motivation has been a recipe for repeated stalemate.

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[239] See

Figure 40, page 228 and Figure 41, page 230.
[240] See Figure 14, page 115.

6.3 Enabling factors

As emphasized in the theory chapter, for elite moderation to be forthcoming, not only elite motivation is needed but also an enabling environment. The following section will contrast both agreements in this regard.

6.3.1 External enabling factors: Institutional safeguards

For elites to cooperate across the cleavage, the institutional dispensation must feature sufficient safeguards to assuage fears of marginalization or any majoritarian exploitation of moderation. As detailed in the cases studies, both agreements exhibit a variety of such safeguards. However, the following differences can be discerned (Table 28).

Table 28: Comparison of institutional safeguards

Dayton Agreement	Good Friday Agreement
- Corporate, rigid consociationalism with quotas	- Liberal, flexible consociationalism with no quotas
- Contested institutional framework	- Consensual basis on inner-Irish formal institutions
- Non-consensual post-settlement updates (state building agenda) perceived as undermining accommodation	- Post-settlement updates (i.e. St Andrews Agreement) integrate those initially opposed ('coalition of extremes')

6.3.1.1 Corporate vs liberal consociationalism

The formal institutions provided by the Dayton Agreement fall largely in the category of corporate consociationalism with its pre-defined ethnic and territorial quota.[241] This includes

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[241] Aberrations from the corporate consociational prescriptions are the presidency's authority to appoint the Council of Ministers and the electoral law providing for election of the Croat and Bosnia member of the presidency.

the required ethnic parity among members of the Presidency, the House of Peoples; the pre-defined allocation of seats in the Council of Ministers and the House of Representatives between the entities; and the stipulated veto mechanisms to block unwanted decisions ('entity voting', 'vital interest veto'). Hence, in principle the numerous and overlapping (ethnic and territorial) safeguards constitute a comprehensive net to accommodate the different groups. In contrast, Northern Ireland's institutional framework is closer to the prescriptions of a liberal consociationalism with no reserved seats or other comparable quota. Elected members of the Assembly have to declare their affiliation (unionist, nationalist, non-designated other) only after they have been elected. Similarly, the application of the D'Hondt formula to fill the executive is ignorant of the designations of those elected. The self-assignment to a designation becomes only relevant when voting on issues requiring cross-community consent.[242]

6.3.1.2 Contested nature of the institutional framework

Critically though, the institutions which are meant to safeguards Bosnia's constituent peoples are highly contested. As detailed in the case study, the relationship between the 'thin' central state on the one hand and the 'thick' RS and cantons on the other hand has been at the center of a conflict since the agreement's inception. The institutions were not only non-consensual at their creation, the dispute over them increased during the 'imposition phase' with the OHR as well as the Bosniak leadership seeking to strengthen the central level in the furtherance of a state building agenda. While this agenda was intended to put the state apparatus on a more effective footing and prepare it for the endeavored European integration, it implied a reduction of what was perceived as paralyzing veto points and had the inadvertent effect to further

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[242] Formally, neither the First nor the Deputy First Minister have to belong to either designation. The Good Friday Agreement only requires their election on a cross-community basis in the Assembly. The later modification by the St. Andrew's Agreement also only specified that the right to nominate the First Minister is reserved to the largest party of the largest designation. The Deputy First Minister is to be appointed by the largest party of the second largest designation (Northern Ireland Office 2006 16A). Theoretically, the two largest designations could propose individuals who do not identify with any designation.

undermine the already weak 'buy-in' of Serbs and Croats into the institutional framework. By seeking to enlarge the scope of the central state's authority and creating new institutions which do not stipulate any rigid group-accommodation, the safeguards provided in the Dayton Agreement were challenged. Such efforts have been susceptible to be framed as e.g. 'attacks on Serbs and the RS' and have been providing a platform for nationalist hardliners, first and foremost Milorad Dodik, to campaign against the international community and the allegedly Bosniak dominated central state.[243] Similarly, the international community's efforts to foster the emergence of moderate, cleavage-transcending parties is at least conceptually at odds with consociationalism's idea of group accommodation. The consequence of such, arguably well intended, efforts, is a heightened (electoral) instability within the different segments, which ideal-typically should have clear and stable external boundaries. The hybridity or 'internal' contradiction between a predominant accommodational emphasis on the one hand and an integrative push on the other hand, was however not only the result of electoral preferences of the international community. The tension was already, by all accounts more inadvertently than intended, introduced in the institutional framework itself with the procedure to elect the Bosniak and Croat member of the presidency open to all eligible residents in the Federation.

In 2018, as in 2006 and 2010, the election of the Croat member to the three-member presidency triggered considerable controversy with the leader of the multi-ethnic Democratic Front and ethnic Croat Željko Komšić winning the seat.[244] For the traditional Croat parties, first and foremost the HDZ, Komšić's victory amounted to an illegitimate dispossession of the Croat

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[243] This dynamic finds its most recent episode in the SDA's announcement to challenge the name of the Serb dominated entity before the constitutional court (Kovacevic 2019; Radiosarjevo.ba 2019; Aljazeera Balkans 2019). Drawing on the 'constituent peoples' decision' from 2000 which held that Bosniaks, Croats and Serbs are 'constituent' in all parts of the country, the SDA leadership argues that the entity's name discriminates against Bosniaks and Serbs. Unsurprisingly, this announcement led to unified condemnation by Serb parties. Remarkably though, the OHR clearly condemned the SDA's announcement as 'irresponsible and counterproductive' and highlighted 'that the PIC Steering Board has repeatedly expressed its commitment to BiH's fundamental structure as a single, sovereign state comprising these two entities (OHR 2019)'.
[244] In 2006 and 2010 Komšić was a candidate of the SDP.

presidency since his victory was likely owed to Bosniak voters who preferred supporting a moderate Croat rather than the Bosniak nationalist candidate.[245] The centripetal incentive runs counter to consociationalism's emphasis on group representation. While both centripetalism and accommodation seek to facilitate inter-ethnic compromise, put together the 'inner-logics' of both approaches lead to frictions. In contrast to Bosnia's contested institutions, the power-sharing safeguards stipulated in the Good Friday Agreement and regulating the inner-Northern Irish political contestation have been largely embraced by all parties. The DUP's initial rejection of the agreement was subsequently overcome by the conclusion of the St Andrews Agreement (October 2006) which also stipulated SF's acceptance of the new Police Service of Norther Ireland, and further envisaged the devolution of policing and justice powers. While termed as 'Belfast Agreement for slow learners', the institutional update was instrumental to end the suspension of devolution and integrate those who had previously been against the new institutional dispensation. But this is not to say that the Good Friday Agreement has been uncontested. Those aspects pertaining to the inner-Irish strand which were too controversial for a consensus to emerge were delegated to independent expert commissions tasked to come up with proposals (e.g. police reform, decommissioning, parades) (Independent Commission on Policing 1999). But by externalizing the contested issues to variants of arbitration, the issues' potential to derail inter-party contestation was reduced. The UK and Ireland have remained particularly involved with regard to these contested issues and have sought to keep the peace process afloat when consensus seemed elusive. Importantly though, the agreement's 'left-overs' did not, with the exception of Petitions of Concern, pertain to regulation of the legislative process.

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[245] Komšić's recent victory sparked further controversy with various politicians in Croatia criticizing the electoral outcome in the neighboring country. Croatia's Prime Minister and President argued that the election of Komšić by Bosniak votes would undermine Bosnian Croats' protection. Similarly, Croat members of the European Parliament raised the issuewithin European institutions and argued for a modification of Bosnia's electoral law (Lakic 2018a; Mujanovic 2018). Komšić in return accused Croatia of seeking to 'meddle' in Bosnian affairs (Lakic 2018b).

6.3.1.3 Openness of agreement as a means to ease constraining relationship of elite

motivation, elite dominance and agreement.

Table 29: Indeterminacy of agreements

Dayton Agreement: deterministic	**Good Friday Agreement: open-ended**
- Deterministic regarding territorial integrity of Bosnia	- Open as to the future status of Northern Ireland
- *Sui generis* institutional arrangement with creation of entities	- Diffusion of sovereignty
- Contested relationship between 'thin' central state and 'thick' RS and cantons	- Deferral of 'left-over' issues to independent commissions
- Attempts to strengthening central state	- Manner of implementation of pending issues leads to rise of DUP and SF
- Zero-sum contest	

Table 30: Overview of constraining factors

	Elite motivation	**Elite Predominance**	**Institutional Framework**	**(In)determinacy of agreement**
Dayton Agreement	Weak	Weak	Contested	Fixed
Good Friday Agreement	Yes (until Brexit)	Yes (after 2003/7)	Largely Unconsented	Procedural

A fundamentally important lesson to take from the Good Friday Agreement is its restraint as to the ultimate outcome of the conflict. Or, to put it differently, the strength of the Good Friday Agreement has not only been due to what it stipulates, but equally due to what it refrains from specifying. By accommodating both unionist and republican aspirations on an at least formally equal footing ('parity of esteem') and by leaving it up to a referendum at an unspecified point in the future, the agreement's framers succeeded to bridge a gulf which had previously inhibiting elite cooperation across the dominant cleavage. Already during the negotiations

leading to the Anglo-Irish Agreement (1985), both governments refrained from spelling out any definition of the constitutional status of Northern Ireland (O'Duffy 2000, 406). Importantly, with the Good Friday Agreement, both countries further amended their sovereignty claims to the region by altering the Government of Ireland Act 1920 and the Irish constitution.[246] Instead of seeking to entrench any incompatible claims, emphasis was put on the principle of consent and that it would be upon the people of Northern Ireland to change the status if a majority wanted so. Furthermore, the agreement's three strands (power-sharing and devolution, North-South, and British-Irish cooperation) allowed to assuage potential fears from either side, with each strand potentially counterbalancing others. In sum, the Good Friday Agreement did not seek to formulate a solution for the contested issue, but rather circumvented it by providing a framework which was perceived by all parties as a feasible avenue towards the fulfillment of their aspiration. The diffusion of the conflict over the region's sovereignty was further helped by both country's accession to the European Community in 1973 and the subsequent closer integration over the years. With the establishment of the Common Market in 1993, border controls were abolished for goods and services. Furthermore, in the wake of the Good Friday Agreement, military posts along the inner-Irish border were removed and individual travel became again unimpeded.[247] For everyday life, the issue of the region's sovereign status became less important.[248]

The indeterminacy of the agreement not only provided the basis for something the leadership on both sides could agree on. It also provided them with enough leeway to keep their respective segments on board and manage intra-segment centrifugalism. On the one hand, by clearly

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[246] The new article 3 of the Irish constitution has been Ireland's first legal recognition of Northern Ireland as part of the United Kingdom.

[247] The free passage of persons across the border was provided for since partition in 1921. However, during the 'Troubles' military check-points at border crossings were installed. Following the Good Friday Agreement these check-points were gradually removed.

[248] With the Brexit vote, and the as of now unresolved future of the ('soft' vs 'hard') Irish border, the previously defused issue resurfaced and has been largely approached in a zero-sum logic.

spelling out the criteria under which Northern Ireland could reunite with the south, and with these criteria considered to be not only possible but also eventually probable, the moderate republican leadership was not only enticed to join the agreement, but also enabled to bring the more radical wings of the movement into the peace process. For republicans, the Good Friday Agreement has not been a settlement in the sense that the conflicts underlying incompatibility would be resolved. The republican's reading of the agreement is focused on the procedural character of the treaty with the pact as an intermittent step towards re-unification. Hence, republican consent to the agreement was not a deviation from their ultimate goal, but rather a shift in their strategy how to achieve it (McGrattan 2010, 153).

On the other hand, while the agreement's indeterminacy has been a key to facilitate the conclusion and maintenance of the agreement, one cannot elude the fact that the different aspirations remain dominant rallying points and have not lost their mutual incompatibility. As highlighted in the case study chapter and underscored by more recent events [249], the incorporation of the militant republican strand has been and remains a fragile undertaking. For some, the Good Friday Agreement led republicans to a slippery slope which, irrespective of the progress in the political, economic and social arena (e.g. SF's participation in the joint executive), gradually transformed their 'struggle' into a permanent adjournment. For them, engaging in the new institutions and assuming a constructive role was likely to lull nationalists to a gradual acceptance of the status quo, with reunification an explicit yet effectively elusive outcome. While the strategy of 'Armalite and ballot box' resulted in the agreement, it was a severe error of judgment to assume that the ballot box alone would indeed pave the way to

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[249] On 19 January 2019 a car bomb exploded in Derry city center. A relatively new republican splinter group, the 'New IRA', claimed responsibility (Carrol 2019). Tellingly, in one of its first statements, the 'New IRA' pointed out the 'failure among the leadership of Irish nationalism and fractures within republicanism' as key reasons for alleged setbacks on the road to a united Ireland. The Good Friday Agreement led to a 'a phony peace, rubber-stamped by a token legislature in Stormont (The Guardian 2012)'. In March, the 'New IRA' announced to have sent five letter bombs to the UK (Vikram Dodd and Harron Siddique 2019).

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reunification. Functioning institutions would only contribute to a 'phony peace' (The Guardian 2012) which undermined their cause's urgency. From their perspective, at the end of the day the agreement failed to deliver re-unification, but rewarded unionists and Britain with the end of violence and the integrity of the union.[250] While this lingering discontent has remained largely idle as far as targeted inter-communal violence has been concerned, the result of the 2016 Brexit referendum risks mobilizing those willing to resort to violence. The ability to keep the more radical segment of the republican movement in the peace process had been premised on the republicans' perception that re-unification is indeed within reach. The specter of a 'hard border' is clearly at odds with this and risks triggering the defection of radical republicans and a return to violence. The changed context brings the issue of elite predominance again to the fore and raises the question whether the current republican leadership disposes over a similar authority as Gerry Adams and Martin McGuiness did in the early phase of the peace process. While Mary Lou McDonald[251] and Michelle O'Neill[252] have deep personal roots in the republican movement (including former IRA members in their families) and have been enjoying the endorsement of McGuiness and Adams (who remains a towering figure), it remains to be seen whether their leadership has sufficient traction to thwart any intra-republican fragmentation dynamics. Adams' and McGuiness' biographies endowed them with an unrivalled traditional and charismatic authority which later generations of republican leaders can impossibly match. In contrast to the Good Friday Agreement, the Dayton Agreement has been deterministic as to the territorial integrity of Bosnia and a clear rejection of the Croat and Serb nationalists' aspirations to create their independent statelets or to unify with their respective kin states. However, with the incorporation of the Bosniak-Croat Federation and the

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[250] The vote of SF's party assembly to join the Good Friday Agreement inter alia led to the resignation of nine senior party members in protest, including Bernadette Sands McKevitte, sister of Bobby Sand (Hayes and McAllister 2001 fn 11). They subsequently formed the 32-County Sovereignty Movement, which has frequently been described as the political wing of the 'Real IRA'; parts of it morphed later into the 'New IRA'.
[251] McDonald became the leader of Sinn Féin in February 2018.
[252] O'Neill became leader of Sinn Féin in Northern Ireland in January 2017.

RS as entities – a constitutional construct *sui generis* – sufficient ambiguity was introduced as to the internal sovereignty of the central state to fuel competing interpretations and to nurture aspirations pursued during the war.

For the international community, these different aspirations had clearly no 'parity of esteem', not least since the mono-ethnic areas of Bosnia were intentionally created by ethnic cleansing and genocide. In the eyes of most members of the international community, this criminal origin effectively rules out any potentially legitimate demands for Bosnian Serb or Croat secessionism. Any space provided by the interpretational latitude of the agreement was filled by the international community's state building agenda, primarily meaning the strengthening of the central state. Contrary to the role of Senator Mitchell or the UK since 1998, the international community had a relatively clear understanding of what Bosnia should not become. The partisan – in contrast to that of a neutral arbiter – engagement resulted in the conflict over the primacy of the 'spirit' over the 'letter' of the agreement. What was a necessary institutional evolution to ensure the functioning of the state has been for the Bosnian Serb and Croat leadership biased transgressions. Where ambiguities were replaced by state-building measures, conflict ensued.

6.3.2 Internal enabling factors: Elite predominance

The second enabling factor for elite cooperation to be forthcoming is elite predominance. As detailed in the theory chapter, without the necessary elite predominance, pacts between elites on different sides of the cleavage are either not forthcoming or short-lived.

6.3.2.1 Inclusivity in the conclusion of the agreement

By committing to a peace agreement, party leaders render themselves vulnerable to intra-group challengers who typically will criticize compromising behavior as a bad deal or even betrayal of their own group. This spoiling

behavior is however only possible, if intra-group competitors have not been party to the agreement. Broad-based, inclusive agreements can effectively dent spoilers and insulate those cooperating.

Table 31 provides an overview of the pertaining differences between the Dayton and the Good Friday Agreement.

Table 31: Inclusivity of the negotiations leading to the agreements

Dayton Agreement	Good Friday Agreement
- Potential inner-Bosnia spoilers were excluded to facilitate conclusion of agreement	- Emphasis on inclusion of 'extreme' parties with ties to para-militaries
- Parties to negotiations selected by US	- Negotiating parties selected by elections; region-wide compensatory list to lower effective threshold
- Concluded between three heads of states and third parties	- Signed by ten Northern Irish parties and two governments[253]

a) Good Friday Agreement

The negotiations leading to the conclusion of the Good Friday Agreement were meant to be inclusive from the outset. The 1996 Forum Elections which effectively led to the selection of the parties in the negotiations were conducted with a closed party list system and the D'Hondt formula but were complemented by 20 top-up seats for the ten largest parties in the region.[254] The consequently lowered effective threshold allowed parties with cross-community but regionally scattered support to join the Forum. This not only benefited parties with a cross-community appeal (NI Women's Coalition and the Alliance Party), but also smaller loyalist parties with ties to paramilitaries (PUP and UDP) (Clancy 2010, 24).[255] In addition to the electoral mandate, parties were required to commit to the 'Mitchell principles', stipulating the pledge to use exclusively non-violent means in the furtherance of their agenda. This condition had initially barred SF's participation, but following the IRA's renewed ceasefire declaration,

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[253] The agreement comprises two documents. One signed by the ten Northern Irish parties and one international treaty signed between the UK and Ireland which further stipulated the enactment of respective legislative changes.

[254] With one party being able to receive a maximum two top-up seats.

[255] The loyalist Progressive Unionist Party (PUP) was traditionally linked to the Ulster Volunteer Force (UVF) and the Red Hand Commando (RHC). The Ulster Democratic Party (UDP) had, until its dissolution in 1991, close ties with the Ulster Defense Association (UDA).

republicans were able to join in 1997. The inclusion of SF, and with it – at least indirectly – of the IRA, was the culmination point of a process which had started about a decade earlier. In the early 1990s, following the trailblazing of SDLP's leadership, a new consensus among British and Irish officials had emerged that any successful attempt to broker peace would require the inclusion of the 'representatives of physical force republicanism' (Hayes and McAllister 2001, 73) into formal electoral politics. Although both governments had been pursuing 'back channel' contacts with the IRA for some time, it was a clear change of policy from the previous approach aiming at building a devolved government based on the 'moderate middle' (UUP, SDLP, Alliance Party) (McEvoy 2014a, 69). As long as militant republicanism and loyalist para-militaries would not be on the table, continuing violence would effectively weaken moderates and undermine their ability to bring their respective segments into any agreement. The admission of SF to the negotiations, however, prompted Paisley and his DUP to leave the negotiations in protest. Critically though, this absence of DUP was self-imposed and not the result of any intentional freezing out of hardline unionists as it has been the case during the negotiations of the Sunningdale Agreement (O'Duffy 2000, 419).[256]

The inclusive approach entailed the risk of getting embroiled in high transaction costs with multiple potential veto players and what seemed *prima facie* inconsolable bargaining positions. However, after a lengthy lead time with little tangible progress, Mitchell's non-partisan stewardship of the negotiations and his emphasis on deliberation rather than insisting on one specific outcome paid off (Curran, Sebenius, and Watkins 2004). By providing even paramilitaries a seat at the table, it imbued them with a sense of legitimacy and enabled them to grant concessions with less fear of being seen defeated (O'Duffy 2000, 419). The inclusive character of the talks is also not diminished by the eventual frantic eleventh-hour talks leading

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[256]Somewhat strikingly, two smaller unionist parties (UKUP, UDP) which had ties to unionist paramilitaries, did not feel compelled to leave the talks following SF's admission to the talks.

to the conclusion of the agreement on Good Friday 1998. At the closing stage, the negotiations were largely bilateral between Trimble and Hume as well as Blair and Ahern, with little input by other parties (Horowitz 2002b, 202). Nevertheless, at its end, all parties to the negotiations - ten political parties and two states - consented to the agreement. The inclusive nature of the agreement's genesis is important insofar as it laid the basis for the formalization of a common ground and mitigated otherwise potentially derailing interference of spoilers. This does not belittle later crises in the implementation of the agreement. Arguably though, the process would not have come that far without a principal consent among almost all relevant players beforehand. Irrespective of the later problems, due to its inclusivity the agreement became and has remained an authoritative point of reference to which parties have felt committed.

b) Dayton Agreement

The inclusivity of the negotiations leading to the Good Friday Agreement is in stark contrast to the approach applied in Dayton. Critically, Holbrooke limited the parties to the negotiations in Dayton to Izetbegovic, Milosevic and Tudjman and effectively sidelined the representatives of Bosnian Croats and Serbs. Their freezing-out was premised on the understanding that Milosevic and Tudjman would be the *de facto* principals over their alleged respective Bosnian agents, who were taken to be unreliable and unyielding parties in previous settlement attempts. Furthermore, the interests of Tudjman and Bosnian Croats or Milosevic and the Bosnian Serbs were by no means entirely aligned. While the Bosnian parties were first and foremost concerned with the establishment and entrenchment of their mono-ethnic statelets, both Tudjman and Milosevic had different priorities, including the consolidation of their positions at home. For Milosevic, it was paramount to achieve an end to the economic sanctions on Serbia which started to fuel wider public discontent. For Tudjman, a primary concern was to regain control over East Slavonia, the only part of Croatia which remained under the control of Serb forces. Tudjman's engagement in the negotiations in Dayton was hence primarily driven by the ambition to

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achieve the return of East Slavonia to Croatia, rather than the furtherance of Bosnian Croat's agenda.[257] Overall, with priorities distinct from those of their Bosnian kin, Milosevic and Tudjman were considered to be more susceptible to the US incentives and sanctions and hence render the conclusion of the agreement more likely. Holbrooke's focus on Milosevic, Tudjman and Izetbegovic was premised on the assumption that once the heads of states had signed the treaty, domestic Bosnian actors would be compelled to follow. Their presence was rather *pro forma* and their objections were given little consideration.

c) Differences

The contrast between both agreements as to their inclusivity becomes further highlighted by contrasting their eventual signatories. The Dayton Agreement is essentially an agreement between three states[258], Bosnia, Croatia and Serbia, but remarkably with no inner-Bosnian party being official signatory to it. In contrast, the Good Friday Agreement was signed by two governments, the UK and Ireland, but also by ten Northern Irish parties. While the international dimension of the war in Bosnia is well established and the inclusion of the Croat and Serbian government undoubtedly a necessary element for any settlement, the far-reaching disregard of the Bosnian Croats and Serbs laid the basis for the agreement's contested implementation. The attempt to side-line recalcitrant hardliners found its post-war continuation in the international community's ambition to foster the emergence of moderate parties which would be willing to cooperate across the ethnic cleavage. In contrast, the Good Friday Agreement's inclusive approach had been – as outlined above – informed by the failure of previous attempts to forge an alliance of the moderate middle. The inclusivity of the agreement had subsequently important ramifications for the party elite's ability to cooperate. Not only had been many of the

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[257] Tudjman had previously already signed the 'Washington Agreement' on behalf of the Bosnian Croats.

[258] In addition to the heads of states of Bosnia, Croatia and Serbia, the treaty was also signed by the US, France, the UK, Germany, Russia, and the European Union.

concerns already addressed in the agreement, the inclusivity of almost all parties insulated them against potential attacks of spoilers who had remained outside. The prominent exception to this development was the DUP which successfully used its anti-agreement position to eventually outbid moderate unionists and only fully joined the power-sharing institutions after the signature of the St Andrews Agreement.

6.3.2.2 Bottom-up legitimization

The ability of party leaders to cooperate can further be bolstered by an unambiguous endorsement of the agreement by the members of their communities. A clear public mandate can amount to a post-hoc approval and democratic validation of the concessions extended during the negotiations and protect leaders against criticism of having gone too far (Reilly 2003). Referenda or elections which are substantively linked to the outcome of negotiations can provide such a 'bottom-up' legitimization and strengthen those who negotiated it. The Good Friday Agreement and Dayton Agreement clearly differ in this regard. Crucially, while the Good Friday Agreement received a public endorsement in the 1998 referendum (on both sides of the Irish border), the outcome of the negotiations in Dayton was never specifically subjected to the popular vote. However, Bosnia's first elections were dominated by parties who had rallied against the agreement.

Table 32: Bottom-up legitimization of agreements

Dayton Agreement	Good Friday Agreement
- No specific vote on outcome of negotiations or new institutional framework	- Referendum on Good Friday Agreement
- Early elections won by parties opposing the agreement	- Overall endorsement, but slim majority among unionists

a) Good Friday Agreement

In Northern Ireland - although unionists' endorsement of the agreement was hesitant and far from the resounding support among nationalists - the referendum's outcome corroborated unionists and nationalist leaders and insolated them for some time from intra-group challenges.[259] The referendum empowered the moderate UUP and SDLP, but equally important SF, to continue pursuing the path set out in the agreement. The outcome of the referendum constituted a key element which had been missing from previous settlements: the ability of political elites to deliver the consent of their respective communities for a political accommodation (Hayes and McAllister 2001, 83; Wilford 1999). Furthermore, before the agreement was put to the popular vote, party leaders sought to secure their parties' respective backing. In the immediate aftermath of the negotiation's conclusion, Trimble put the outcome before UUP's executive committee for a vote. The result, while clearly supportive, however, also highlighted the division lingering within UUP's leadership and was an early portent of the UUP's internal upheaval (Hayes and McAllister 2001, 77).[260] A week later the agreement was put to the Ulster Union Council and received a similarly clear majoritarian support.[261] But also in this case, the unresolved issues were clearly on members' mind by passing a pertaining resolution tasking Trimble to resolve them (Hayes and McAllister 2001, 77).

Compared to the unionist camp, support among nationalists was more wholesale. Critically, 331 of 350 of SF delegates voted in the party's conference for the agreement.[262] Those

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[259] The importance assigned to the public's endorsement is illustrated by the fact that every Northern Irish household received a copy of the agreement. A flurry of talk shows and debates on the merits of the agreement were broadcasted in run-up to the referendum.

[260] The vote was on 11 April 1998 and resulted in a 55 to 23 vote.

[261] The vote was on 18 April 1998. The outcome was 540 to 210.

[262] The vote as insofar particularly remarkable as convicted IRA members were temporarily released to participate in the meeting.

republicans who rejected the agreement were opposed to it because it did not go far enough. For them, the agreement risked entrenching partition and was argued to grant unionists a veto on unification. These misgivings were severe enough to eventually fuel the resignation of several SF members, the formation of the 32 County Sovereignty Movement and the 'Real IRA' (Bréadún 2001, 73–75; Hayes and McAllister 2001, fn 11; McIntyre 2001). While the outcome of the referendum was unambiguous with 71.1 % in favor in the north, and even 94.4 % in the south, it is important to highlight the diverging levels of support within in the different designations.[263] According to a post-referendum survey Catholics voted almost unanimously for the negotiations outcome, but only 53 % of Protestants did so in the North.

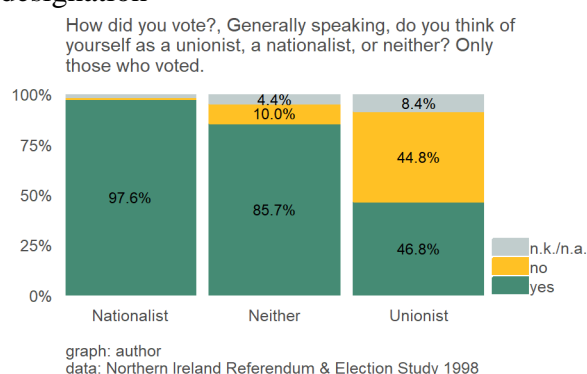Figure 54: Referendum 1998: Voting by designation

graph: author
data: Northern Ireland Referendum & Election Study 1998

Table 33: Referendum vote by religion (%)

	Catholic	**Protestant**	**No religion**
Yes	98	53	76
No	1	40	20
Don't know	0	1	0
Refused/ Not answered	1	7	4

Source: NIRES Study 1998

The reservations among skeptical unionists about the agreement were less about constitutional issues. On the contrary, unionists were overwhelmingly for a reintroduction of devolution and in principle also open to a power-sharing dispensation. Unionists' reservations emanated

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[263] Note that turnout in the North was above 81 % but only 56.26 % in the Republic. In the North, results were only published as an aggregate outcome for the entire region. Turnout numbers for the different constituencies were however made public, showing high turnout in predominantly nationalist and low turnout in predominantly unionist areas. Citizens in Northern Ireland were asked to cast their vote on the encompassing question 'Do you support the Agreement reached at the multi-party talks on Northern Ireland and set out in Command Paper 3883?' Citizens of the Republic were not asked whether they approve the agreement, but rather whether they are supporting the changes to the Irish constitution which the parties to the negotiations agreed upon.

primarily from the negotiations' left-over issues and the yet to be specified terms of decommissioning, the reform of the police and the particularly sensitive early release of convicted paramilitaries (Hayes and McAllister 2001, 75). While the outcome of the different votes was instrumental to buttress the respective leaders' position, the preceding intra-party dynamics revealed the latent schisms as to the agreement's desirability and triggered the emergence of pro- and contra-agreement intra-party factions. This development was particularly the case in the UUP, foreshadowing later defections of prominent UUP members to the DUP. Overall though, irrespective of the necessary qualifications as to the general support for the agreement within the unionist camp and later fragmentation dynamics, the 1998 referendum constituted an irreversible base which not only allowed but which to no small extent also obliged leaders to engage and remain engaged in the cooperation across the sectarian cleavage.

b) Dayton Agreement

In stark contrast to the bottom-up legitimization of the Good Friday Agreement, no similar developments can be pointed out with regard to the Dayton Agreement. Initiatives, as those brokered under UN or EU mediation, which were submitted by Karadzic to the Bosnian Serb assembly failed (e.g. Vance-Owen Plan in 1993). The weak roots of the Dayton Agreement in a considerable part of the Bosnian population became exemplified by the outcome of the first elections. With the sweeping victory of the SDS in the RS, voters casted their vote in support of a party which had been adamantly opposed to the agreement. At no point, a moderate Serb leadership could refer to an explicit public mandate to implement the agreement. On the contrary, opposition to the agreement became a platform to mobilize supporters. Implicitly though, the elections were also an attempt by the international community to achieve a bottom-up validation of the new state structure. Neither the Dayton Agreement in its entirety, nor the

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contained constitution alone had been submitted to some form of referendum after 1995.[264] A strong performance of parties which had indicated to engage actively in the agreement was therefore hoped to send a strong signal that Bosnia's population would be ready to embrace the agreement and give their leaders the mandate to engage and cooperate. However, the landslide victory of the three nationalist parties, particularly the strong performance of the SDS under Karadžić and the HDZ, could not be read as a public endorsement and post-hoc bottom-up validation of the agreement. Overall, while Northern Ireland's elites could point towards a public mandate emanating from the affirmative outcome of the referendum, Bosnia's elites, if intending to moderate, were never able to draw on to a comparable form of legitimization. This deprived the latter of an important form of insulation against intra-group challengers and made any attempts to cooperate across the ethnic cleavage a fragile undertaking.

6.3.2.3 Segmental stability

A critical factor in the attainment of elite predominance is a country's electoral system and its permissiveness as to the emergence of intra-group challengers. Table 34 contrast both countries' electoral system for the lower chamber.

a) Electoral systems

Table 34: Overview electoral systems

	House of Representatives (BiH)			Legislative Assembly (NIRL)
	Total	*Federation*	*RS*	
Number of delegates	48	28	14	90 (before 2017: 108)
Number of districts	8	5	3	18

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[264] In the absence of pertaining polling data at the moment of the Dayton Agreement's signing one can only speculate, but it appears highly unlikely that the referendum would have secured majority support among Serbs and Croats in Bosnia.

District magnitude		3 4 (3+1*) 7 (4+3) 7 (6+1) 7 (5+2)	4 (3+1) 4 (3+1) 6 (3+3)	5 (before 2017: 6)
Electoral system	PR open list			STV
Formal electoral threshold	3 %			
Seat allocation	Sainte-Laguë			D'Hondt

* compensatory seats

Bosnia's 42 delegates to the House of Representatives are elected within eight electoral districts, five in the Federation (28) and three in the RS (14). The electoral system is a PR open list system with a formal electoral threshold of 3 %. Seats in the multi-member constituencies of different sizes are assigned on the basis of the Sainte-Laguë formula, while seven seats in the Federation and five in the RS are allocated on the basis of a compensatory list. In contrast, Northern Ireland features for the election to its Legislative Assembly[265] the STV system with delegates from multi-member constituencies elected after the reassignment of lower preference votes. The Good Friday Agreement's STV electoral system is a clear deviation from the prescription of classical consociational theory, which generally puts forward the PR system. The PR system's endorsement has been corroborated by a variety of empirical investigations (Huber 2012). Norris (2008) concluded in her survey of power-sharing agreements that PR is conducive to elite cooperation by facilitating minority representation. Once minorities are represented, they tend to cooperate what further strengthens democratic attitudes within the population once its members see that their concerns are represented and effectively taken up. Cammett and Malesky (2012) identify closed-list proportional representation systems as particularly important elements when it comes to power-sharing arrangements' contribution to

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[265] The STV system is also used for the elections to the European Parliament and municipal councils. Elections to the UK House of Commons, however, are conducted under the FPTP system.

good-governance. Critically, the authors argue that the positive contribution of the closed PR system emanates from an entailed heightened party discipline and reduced incentives for personalistic voting. The dominant account of PR's positive role has not been without its critics, who primarily caution against a sweeping endorsement and emphasize the conjectural contingency of its effect. Bogaards (2013) comes to nuanced assessment by concluding that OR has a good record in securing peace, though less so of democracy. Most prominently, Horowitz notes that PR's positive evaluation originates primarily from its ability to facilitate inter-group representation, a perspective, however, which neglects its implications for intra-group dynamics and subsequent ramifications. Accordingly, a highly proportional list system can fuel intra-group fragmentation. Consequently, 'if many social groups are organized into separate parties, each which can gain a small fraction of the total seats, the likelihood is that political differences will be magnified rather than compressed (Horowitz 2003, 121–22).'

This charge appears pertinent to the case of Bosnia. With a relatively low formal threshold of three percent, an open (instead of closed) list system and the Sainte-Laguë formula, Bosnia's electoral framework has been comparably permissive when it comes to intra-group fragmentation. Hence, it has been featuring an unfavorable background condition for elites seeking intra-group protection in order to moderate and cooperate. In contrast, Northern Ireland's STV system has been a clear deviation from the institutional canon of consociationalism including its emphasis on proportionality. Furthermore, and not unlike the criticism held against open list systems, STV are argued to weaken party leaders' intra-party authority by - at least formally - depriving them of the control over the electoral lists (O'Leary 1998, 1636). With the resulting need of party leaders to share authority with representatives elected at the constituency level, STV runs counter to consociationalism's premise of hierarchically organized 'cartel of elites' (Horowitz 2002b, 195; Lijphart 1969). Its institutional

thrust is less to facilitate the electoral emergence of otherwise marginalized groups, but to bolster moderate candidates by potentially winning lower preference votes (from within or outside of their own segment) (Coakley et al. 2017; Mitchell 2014; O'Leary, Grofman, and Elklit 2005).

Notwithstanding this potential drawback, in the case of Northern Ireland, the STV had the important side effect to protect the (ethnic) sub-party systems from new entrants. With a district magnitude of six (since 2017 five), new entrants had to overcome a Droop Quota[266] of 16.7 % (since 2017: 20 %) to win at least one seat in one of the eighteen multi-member districts. For any newly emerging party, this can constitute an effectively insurmountable threshold. Furthermore, the application of the D'Hondt formula has been further supportive for larger parties when it comes to the allocation of seats, if compared with Sainte-Laguë (Horowitz 2002b, 210; McEvoy 2007a, 455–59; McGarry and O'Leary 2015, 499; Taagepera and Shugart 1989). Consequently, established parties have been relatively well protected against new entrants. Smaller parties tend to be squeezed out or prompted to form pre-electoral coalitions with other candidates (O'Leary 1998, 1632). With no threat of new parties emerging which could outbid incumbents, the latter have more leeway to moderate and engage in inter-elite compromises across the ethnic cleavage (Mitchell, Evans, and O'Leary 2009; Rabushka and Shepsle 1972).

b) Entry of new parties

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[266] The Droop quota is defined as the minimum share of votes a candidate has to win in order to secure a seat under the STV and is generally calculated as $\left(\frac{total\ of\ valid\ votes}{district\ magnitude+1}\right) + 1$ (Mitchell 2014).

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To corroborate both agreements' different levels of permissiveness, Table 35 presents the number of new parties entering the legislative per party sub-system per election.[267]

Table 35: Number of new parties entering legislative

indicator	country	ethnicity	1998	2000	2002	2003	2006	2007	2010	2011	2014	2016	2017	2018	development
# parties newly entering Assembly	BIH	Bosniaks	1	3	1		1		1		2			2	
		Serbs	4	4	1		1		0		0			1	
		Croats	1	0	1		1		0		0			0	
		Multiethnic	1	0	0		1		0		1			1	
	NIRL	Unionists	3			0		0		2		0	1		
		Nationalists	0			0		0		0		1	0		
		Others	0			0		1		0		0	0		

Overall, Bosnia's sub-party systems were more open to new entrants than those in Northern Ireland. In stark contrast to the dynamics in Bosnia, the nationalist/republican sub-party system saw only one single instance of a new party joining the Assembly.[268] The unionist segment saw three new parties entering in 1998, following a fragmentation after the Forum elections in 1996, but saw two and one new entrant in 2011 and 2017 respectively.

c) Fragmentation of party system

The differences in elite predominance are furthermore reflected in the number of parties in the Lower House (Table 36). The number of effective parties[269] is generally put forward as a meaningful indicator for a party system's fragmentation. Table 36 highlights that Bosnia and Northern Ireland's party systems were roughly similarly fragmented in the wake of their respective agreement's conclusion. Since then, however, Bosnia's party system fragmentation has been continuously increasing and featured about twice as many effective parties in its House

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[267] In this context, a party is considered to be new if it has not been present in the preceding parliament.
[268] 'People before Profit' is a self-declared left-wing party running in the Republic and in the North.
[269] The number of effective parties is calculated as the sum of the relative share of each party. The number of effective parties based on votes is calculated solely on those parties which entered the legislative.

of Representatives than Northern Ireland's Legislative Assembly. The higher number of effective parties in Bosnia is relatively unsurprising considering that the dominant ethnic cleavage yields three and not two groups as in Northern Ireland. What is remarkable, though, is the scale of the fragmentation's increase over time, resulting in more than a doubling of effective parties.

Table 36: Party system fragmentation

indicator	country	1996	1998	2000	2002	2003	2006	2007	2010	2011	2014	2016	2017	2018	development
# parties running	BIH	21	35	18	32		31		26		20			28	
	NIRL		33			20		28		20		24	20		
# parties winning seats	BIH	6	10	13	14		12		12		12			14	
	NIRL		11			8		8		8		9	9		
# effective parties (votes)	BIH	4.33	5.97	7.73	8.78		8.88		9.83		9.34			10.68	
	NIRL		6.06			4.87		3.77		4.77		5.52	5.09		
# effective parties (seats)	BIH	3.41	4.59	7.29	7.95		7.17		7.67		7.6			8.73	
	NIRL		5.41			4.54		4.3		4.16		4.32	4.43		

d) Fragmentation of party sub-systems

Table 37 further dissects the fragmentation process and depicts the development of the number of effective parties within each ethnically delineated party sub-system. Considered over the period from the agreements' inception to the latest elections, all but one of Bosnia's party sub-systems featured an increased fragmentation. Most noteworthy, the effective number of Serb parties in the House of Representatives increased from 1.4 in 1996 to 3.3 as of 2018. A similar substantial increase experienced the Bosniak segment with its number of effective parties increasing from 1.2 to a peak of 2.4 in 2010.[270] In contrast, Northern Ireland's nationalist and unionist sub-party systems did not feature any comparable increase but saw a stable or even decreasing number of effective parties.

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[270] Note that this development is in contrast to Ishiyama (2014) who argued that intense civil wars tend to lead to dominant party systems with less electoral volatility than transitional states that did not experience a civil war.

Table 37: Party-subsystem fragmentation

country	indicator	ethnicity	1996	1998	2000	2002	2003	2006	2007	2010	2011	2014	2016	2017	2018	development	change
BIH	# effective parites (seats)	Bosniaks	1.21	1	2.18	2.11		2.22		2.45		1.92			1.42		increase
		Serbs	1.42	2.91	3.27	4.12		2.77		2.71		2.68			3.31		increase
		Croats	1	1.32	1.38	1.38		1.92		1.92		1.47			1		stable
		Multiethnic	1	2	1	1		1.38		1.25		1.88			2.63		increase
	# effective parteis (votes)	Bosniaks	1.2	1	2.03	1.97		2.31		2.64		2.05			1.46		increase
		Serbs	1.45	2.61	3.17	3.75		2.29		2.53		2.7			3.42		increase
		Croats	1	1.39	1.27	1.29		1.96		1.73		1.59			1		stable
		Multiethnic	1	1.96	1	1		1.44		1.33		1.95			2.54		increase
NIRL	# effective parites (seats)	Unionists		2.77			2.13		1.87		1.84		1.78	1.81			decrease
		Nationalists		1.96			1.96		1.86		1.78		1.89	1.83			decrease
		Others		1.6			1		1.28		1.25		1.47	1.47			decrease
	# effective parteis (votes)	Unionists		2.9			2.15		1.54		1.97		2	2.01			decrease
		Nationalists		1.98			1.93		1.87		1.83		1.99	1.9			decrease
		Others		1.47			1		1.6		1.26		1.67	1.48			increase

e) Volatility

A further indicator capturing aspects of segmental stability is volatility. Elite compromise in Bosnia was further undermined by the initially short electoral cycle. With general elections held every two years from 1996 to 2002, parties remained for most of the time in a campaign mode, what further inhibited moderation and the extension of concessions.

Figure 55: Volatility of segment's electoral size
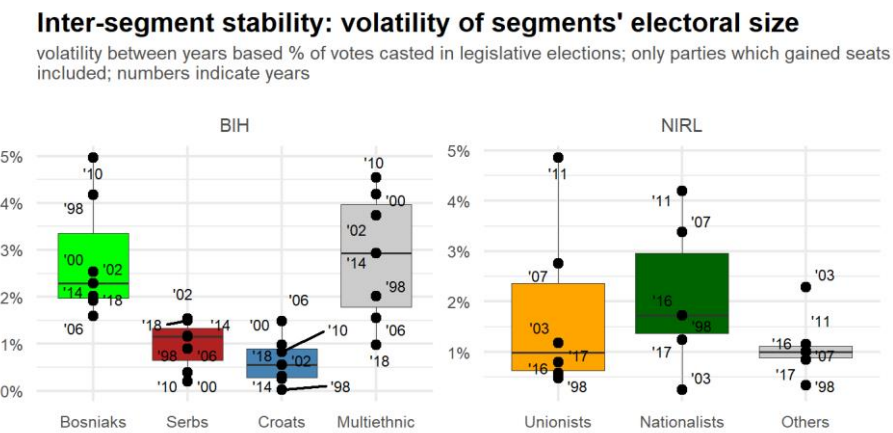
presents the vote share per ethnic segment in both countries' general election. Embarking from the proposition that inter-elite moderation requires segmental stability, the figure does not provide any indication for fundamental differences between both countries.

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Overall, the most volatile segments were Bosnia's Bosniak and multi-ethnic electoral segment. A closer look suggests that these two volatilities are directly related, with voters partly alternating between parties with Bosniak and multi-ethnic self-identification. The most prominent cases in point is the rise (and later decline) of the Social Democratic Party under the leadership of Zlatko Lagumdžija and its inroads into the SDA electorate in 2000 and 2010. In contrast, the Serb and Croat segments featured comparably low volatility, meaning their relative sizes remained by and large stable.

(i) Party system volatility

When it comes to party systems, a low party system volatility has been put forward as a necessary, yet not sufficient condition for the consolidation of a country's democracy (Mainwaring and Scully 1995; Morlino 1998). Low volatility is tantamount to reduced uncertainty and fosters a more programmatic representation of citizens' preferences (Mainwaring and Zoco 2007, 157). Similarly, for the present focus, a low party system volatility is argued to be conducive to inter-elite cooperation by providing leaders with a stable context and reduced uncertainty as to future developments (Casal Bértoa, Deegan-Krause, and Haughton 2017; Chiaramonte and Emanuele 2017; Weghorst and Bernhard 2014).[271] High volatility is likely to undermine the emergence of exchanges other than short-term iterations.

Figure 56 presents the electoral volatility of Bosnia's and Northern Ireland's party systems.[272] The development of Northern Ireland's volatility follows an inverted U-shape. While its

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[271] For a counter-argument see O'Dwyer and Kovalčík (2007).

[272] The Pedersen index or volatility is calculated as $\frac{\sum_{i=1}^{n} |P_{i,t+1} - P_{i,t}|}{2}$ where $P_{i,t}$ is the vote share of party i at time t (Pedersen 1979). The Pedersen volatility scores are calculated on the basis of the votes of all parties which obtained more than 0.5 % of the total vote. The respective inter-year changes are calculated with transition pairs, i.e. including neighboring values also if these values where below the threshold. Pre-electoral coalitions and party-splits were accounted for by 'relaxed linkage' by

volatility increased as long as the moderate UUP and SDLP were heading the joint executive, it reached its peak with the electoral victory of the 'extremes' DUP and SF and has been declining ever since. In contrast, Bosnia's party system experienced a significant drop in volatility in 2003 (largely due to the previous break-up of pre-election coalitions) but remained on a higher level ever since.

Figure 56: Party system volatility

Party system volatility (Pedersen Index)
Calculated on the basis of relaxed party linkages, transition pairs and 0.5 % threshold; see Casal Bértoa et al (2017)

Graph:author, Data:www.ark.ac.uk/elections, www.izbori.ba
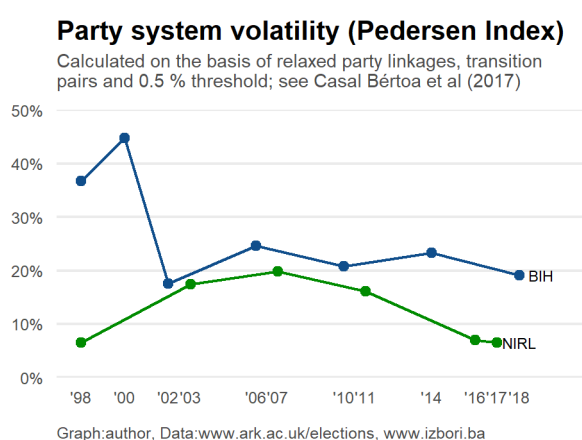
In sum, the different levels of volatility have been constituting markedly different contexts for party leaders in Northern Ireland and Bosnia. While the leadership of the DUP and SF was able to build relations on the context of an increasingly stable party landscape, forging an inter-ethnic bargain in Bosnia has been challenged by party system instability.

f) Intra-segment dominance

Finally, Table 38 present the size of each segment's largest party, relative to the total of votes per segment. While the largest parties not necessarily remained the same throughout the entire period (i.e. DUP overtaking UUP), the tables highlight that Northern Ireland's largest parties, by and large, have been enjoying an increasing or stable intra-group dominance over time. In contrast, those in Bosnia saw continuous decline of their respective share(s).

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assigning predecessors and successors to the largest party (for a detailed description as to which coalitions were assigned to which party see Table 42 in appendix). This approach errs on the side of continuity and has a conservative sensitivity for volatility. Considering that changing pre-electoral coalitions and party splits have been overwhelmingly limited to Bosnia (and not Northern Ireland), the presented difference in volatility is a particularly robust (Casal Bértoa, Deegan-Krause, and Haughton 2017). The 1996 Forum elections were used as the basis for Northern Ireland's first Assembly elections in 1998.

Table 38: Share of segments' vote of segments' largest party (intra-group dominance)
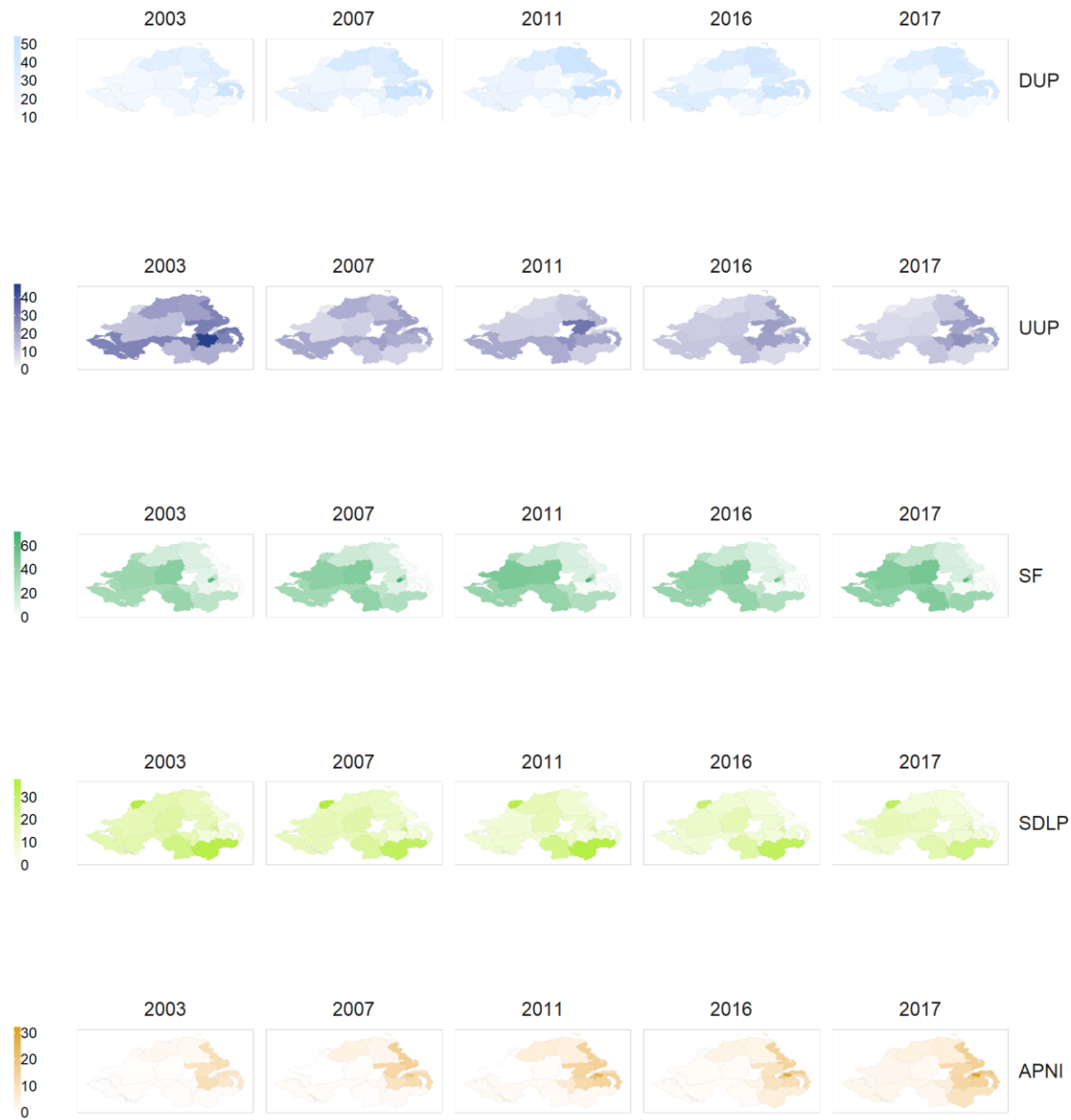
indicator	country	ethnicity	1996	1998	2000	2002	2003	2006	2007	2010	2011	2014	2016	2017	2018	change	spark
intra-segment vote share largest party	BIH	Bosniaks	0.91	1	0.6	0.63		0.48		0.5		0.63			0.8	decrease	
		Serbs	0.81	0.49	0.5	0.4		0.61		0.56		0.46			0.43	decrease	
		Croats		1	0.83	0.88	0.87		0.57		0.7		0.75			1	stable	
		Multiethnic		1	0.57	1	1		0.81		0.85		0.58			0.51	decrease	
	NIRL	Unionists		0.44			0.51		0.78		0.65		0.65	0.64			increase	
		Nationalists		0.55			0.59		0.63		0.65		0.63	0.66			increase	
		Others		0.8			1		0.75		0.88		0.72	0.8			stable	

6.3.2.4 Stability of Executive

To complement the analysis of the electoral dynamics in the legislatures, it is instructive to inquire also into the related indicators pertaining to the executives.

NIRL: Territorial segmentation of party system
% of votes in assembly elections

graph: author data: https://cain.ulster.ac.uk/

Figure 66 and Figure 67 (page 314) present an overview of the government's composition over time.

a) Formation of executives

A fundamental difference between both agreements is their respective mechanism to fill the executive. Critically, while the Dayton Agreement stipulates a territorial quota as to the composition of the Council of Ministers, it leaves it up to parties' post-election bargaining process to form a coalition with the necessary size to govern. In contrast, the composition of Northern Ireland's executive is directly derived from parties' seats in the Assembly by applying the D'Hondt formula. Hence, in procedural terms, there has been little uncertain or controversial as to the formation of the Executive. One consequence of the different government formation logics is the difference in time with which governments are formed. Figure 57 shows the duration of the government formation process in days. With the notable exceptions of the first executive[273] and the current ongoing stalemate, Northern Ireland's executives were relatively swiftly set up when compared to Bosnia's Council of Ministers. The automatisms to fill seats in the joint-executive by applying the D'Hondt formula removed the potentially derailing need for coalition negotiations in the wake of elections. Hence, up until recently, the DUP–SF led executive formation process followed a relatively predictable pattern on which all parties could count on. In contrast, the formation of Bosnia's Council of Minister has been regularly consuming several months with different configurations of potential coalition partners vying for their respective best deal. The protracted government formation process has regularly resulted in an overall paralysis of the legislative process.

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[273] As for the formation of the first executive, the First and Deputy First Minister were already appointed within one week following the first elections to the Assembly. However, as detailed in the Northern Ireland chapter, the issue of IRA disarmament rendered the formation of the first executive a protracted affair.

Figure 57: Duration of government formation

Duration of governemnt formation process

\# of days from election to start of executive

* formation process ongoing as of 31/01/19
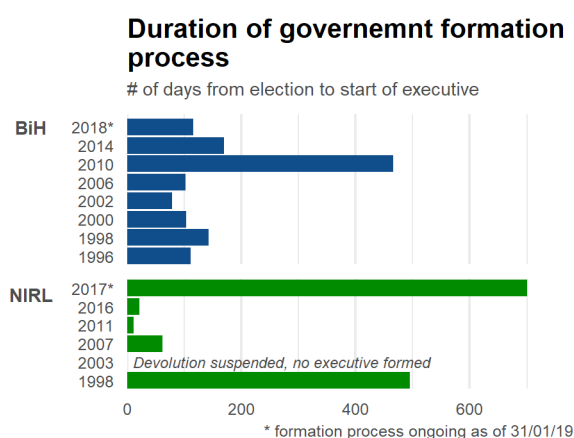
But there is more to the D'Hondt formula than the mere swiftness of forming a new executive. The formula how to form the government has direct ramification for party's eventual ability to cooperate. When it comes to the integration of hardliners, Horowitz points out two distinct approaches: One approach is to seek to marginalizing the extremes by displaying the benefits of compromise. These benefits will foster the support for moderates and deprive extremes of their popular base. The other approach seeks to include extremes into the agreement and let them reap the benefits of the compromise (Horowitz 2002, 193). While the Good Friday Agreement falls squarely into the latter, the Dayton Agreement sought to implement the former category.

By deciding to fill the Executive by means of the D'Hondt formula, the Good Friday Agreement has been highly inclusive as to its government formation process. This was a lesson drawn from the collapse of the Sunningdale and the Anglo-Irish Agreement which showed that elites' discretion was constrained by their ties with their own constituency and potential intra-group challengers. Should a group or parts of it mobilize against its own leadership, the outcome of any preceding cross-cleavage bargaining would be prone to break down (Tsebelis 1990). The inclusivity of the government formation process was one answer of the Good Friday Agreement to this danger (Belloni and Deane 2005, 227). As a consequence to the formation process' permissiveness, the spectrum of those entitled to sit in the government runs 'the gamut from those who deny the legitimacy of the regime whose offices they will inhabit – and whose denial

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was so explicit during the negotiations that they failed to advance serious proposals for any Stormont government – to those for whom it is regarded as an act of treachery to sit with them. This is consociationalism to the maximum degree (Horowitz, 2001, p. 91)'.

Importantly, the automatism of assigning (sufficiently large) parties to government posts was instrumental for the gradual, substantive integration of anti-agreement parties into the new framework. By presenting e.g. DUP's (initially lack-luster) participation in the agreement as an unavoidable consequence of the party's electoral success and rigid formal procedures, its leadership was able to participate in the institution without being perceived by its own constituency as making an excessive compromise. In short, the automatism has been important to avoid prohibitively high audience costs which would otherwise have burdened elite-constituency relations. How eager DUP's leadership was to ensure that cooperation is not conflated with compromise is further demonstrated *inter alia* by its insistence on the St Andrews Agreement and the removal of the parallel consent majority requirement in the appointment of the First and Deputy First Minister.

Furthermore, despite its initially selective participation in the executive, DUP's inclusion provided the party with important demonstration effects as to the robustness and reliability of the new institution. By being included, the party could familiarize itself with the inner-workings of the executive what helped reducing reservations and made the party's leadership amenable to a more comprehensive and profound engagement. Without the permissive D'Hondt mechanism no such demonstration effects would have been forthcoming. In hindsight, the inclusivity of the executive formation process contributed to a regularity of exchanges between anti-agreement and pro-agreement parties which is unlikely to have transpired if one side had remained outside of government. The initially largely token and selective participation had a

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knock-on effect in the sense that it laid the ground for cooperation between parties which not long ago had no qualms to endorse violence target at one another.

b) Stability of executives

The inclusivity of the D'Hondt procedure had as a consequence that the composition of the Northern Irish Executive has been relatively stable over the years. **Error! Reference source not found.** presents the percentage of seats held by parties which were already part of the previous government. In clear contrast to most of Bosnia's governments, Northern Ireland's power-sharing executive has been dominated by parties already forming part of the preceding government. In no year, the share of executive seats held by new parties exceeded 10 %. Bosnia's Council of Ministers, however, has been featuring a considerable discontinuity, with executive turnover increasing up until 2002 (only 12.5 % of all executive seats were held by parties previously in government). Since 2006 – overlapping with the start of the international community's waning influence – government continuity has been on the rise again.

Figure 58: Government continuity
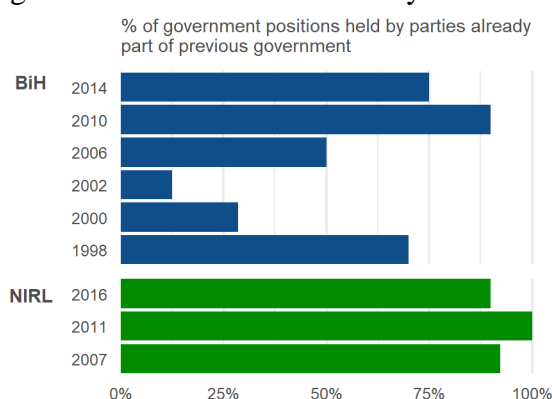
Critics, however, pointed out that the benefits of D'Hondt's inclusivity have to be contrasted with the negative consequences of the absence of a formal opposition. With all major parties integrated into the executive questions over accountability and parliamentarian oversight came to the fore. The possibility of a formal opposition became only introduced in 2015 (Northern Ireland Executive 2015) following the introduction of the Fresh Start Agreement and practically relevant with the elections in 2016. This new feature addressed one issue raised by the advocates for an abolition of D'Hondt who

argued that it would increase accountability of ministers to the Assembly and may also strengthen a sense of collective responsibility within the Executive (McEvoy 2014a, 77; Wolff 2003a, 20). Following the elections in 2016 for the first time there was an 'official opposition' meaning that the SDLP, the UUP, and the Alliance party did not join the executive, but remained outside.

6.4 Motivational factors

6.4.1 Need for continuing maintenance

The case of Dayton Bosnia clearly highlights the limits of coercive consociationalism. Despite more than two decades of international efforts to foster a functioning consociational regime, inter-elite cooperation has remained superficial and the country plagued by legislative inertia. Elite cooperation was peaking when the OHR's involvement was most imposing but abated in its absence. From its inception, third party interventionism in Dayton Bosnia escalated from the initially emphasis on the facilitation of a 'moderate middle', over the OHR's role as sanctioning instance to its role as a quasi-legislature seeking to cut the Gordian knot of mutual vetoes by creating new institutions. Inadvertently though, while most of these efforts were intended to ensure that elite motivation would be forthcoming, these measures were frequently ill-suited to create a context which would be conducive for hardliners to moderate. Non-moderation was punished rather moderation facilitated. To be clear, Bosnia's political landscape has been and continues to be marred by politicians who openly advocate unrestrained ethno-nationalism and do not stop short of inciting hatred. War crimes are denied, belittled, condoned or even celebrated. For the most ardent proponents even the most enabling context will not be sufficient to evoke moderation. But any ambition to create an institutional framework for cooperation has to embark from the status quo and cannot be premised on properties of the eventual desired

outcome. As the above section has highlighted, the context for party leaders to be actually able to moderate has been already stacked against them.

6.4.2 Sanctions

Table 39: Overview sanctions

Dayton Agreement	Good Friday Agreement
Imposition phase	
- Support for coalition of moderate middle - Creation of 'Bonn Powers' - Attempt to change elite behavior - Opposition within instead of outside the framework	- Suspension of devolution - insulate moderate unionists from fading elite predominance - UK restrained to keep SF involved in the agreement
Recalibration phase	
- OHR as sanctioning and legislating authority - Removal of officials - Legislative interventionism - Change of institutions	- Threat of UK-Irish joint governance; DUP joins St Andrews
Attenuation phase	
- Ambiguous perspective for European integration - Conditionality not equidistant as to group's power; conflict of logic of efficiency with logic of appropriateness	

6.4.2.1 External threats

The international community in Bosnia and the UK faced a similar challenge in the sense that both sought (some) domestic parties to display a specific behavior to which the latter were opposed to. However, both countries differed as to the applied approach. While the UK and Ireland sought to forge inclusive coalitions and build institutional bridges to incorporate the anti-agreement parties, the OHR's emphasis had been on marginalizing them for the benefit of an (intended) coalition of moderates. In the case of Bosnia, contrary to initial hopes, the need for sanctions did not decline as time progressed. Neither were sanctions sufficiently rigorous to permanently curtail those obstructing the new institutional and normative order, nor did the new

state deliver the 'peace dividends' which were hoped to co-opt those who were opposed from the outset. 'Institutional bootstrapping', the idea that agency would follow structure fell short of expectations. The need for a continuing external, third party intervention remains. Furthermore, the OHR's authority yielded only the required power as long as its actions were unambiguously backed-up by the members of the Peace Implementation Council. Once a rift among its members started to appear and disagreement over the OHR's strategic orientation emerged, the OHR's authority also started to suffer. Since the OHR itself did not dispose of any enforcement mechanism to follow up on its legal and para-legal decisions, it was dependent on the support of other states. As detailed in the case study, from the mid-2000s onwards a mixture of shifting priorities and factual diverging assessments of Bosnia's state of play among the PIC's members, and a changing geo-political balance undermined the OHR's standing. With its attenuating role, elite cooperation became also more elusive.

As for the Good Friday Agreement, third parties resorted to sanctions and incentives which served distinctly different purposes at different times. The pressure for unionists to participate in the negotiations emanated from the realization that staying on the sideline was tantamount of relinquishing any remaining influence over the eventual outcome. By the mid-1990s the moderate unionist leadership had recognized that every time unionism had walked away from the table, it was offered less than the time before (Horowitz 2002b, 207) and engaging now was likely to yield the best possible agreement. The fact that the UK and Ireland had entertained preceding 'back-channel' negotiations with republicans to which unionists were not privy, further compelled them to engage. Critically though, both the UK and Ireland were mindful that the viability of the agreement was contingent on Trimble's ability to lead unionists into the agreement. Without the latter, the consent of unionist's leaders to any agreement would be (again) mere tokenism and fall short of providing a viable base for the implementation of the

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agreement. The challenge for the UK and Ireland was not simply 'to getting to yes', but a 'yes' which was sufficiently well anchored in the unionist and nationalist community. Hence, rather than pushing through one specific idea of the agreement, Anglo-Irish interventionism was modulated and restrained.

Subsequently, the repeated suspensions of devolution were less a means intended to sanction Northern Ireland's parties for their failure to strike a compromise on the pending issue of decommissioning. If this would have been the intention it would have been certainly counterproductive since radical republicans took it to confirm their suspicions as to the UK's genuineness when it comes to devolution. The purpose of the suspension of devolution was to circumvent the fading intra-unionist dominance of Trimble and to avert elections which would have most likely resulted in his defeat. The UK's intervention was hence to insulate moderates from the intra-group consequences of their own moderation, i.e. Trimble's willingness to join the agreement despite the unresolved issue of IRA decommissioning. Unwilling and/or unable to follow through on its promises to sanction SF, the suspension of devolution provided the UK with a much-needed reprieve and allowed to ensure SF's influence over the IRA and keeping moderates on board. Protecting Trimble from intra-unionist discontent without sanctioning SF for the protracted decommissioning by suspending devolution was however only a stop-gap measure. Eventually, with the electoral victory of the two extremes in 2003, the coalition of the moderate middle had come to an end and the cooperation of both 'extremes' had to be ensured. The threat of 'Plan B', a British-Irish joint governance of Northern Ireland was anathema to the DUP and rendered it amenable to a constructive engagement in the Good Friday institutions. As noted elsewhere, the utility of the St Andrews Agreement was not so much in a substantive revision of the Good Friday Agreement's terms, which it did not constitute, but rather in enabling DUP to signal to its supporters that its engagement in the institutions was (allegedly)

not based on the Good Friday Agreement, which it had previously vilified. Hence, the St Andrews Agreement strengthened DUP's leadership's ability to bring along its supporters into the agreement.

Overall, the UK and Ireland's interventionism has been characterized by the ambition to facilitate consensus and balance concerns they considered legitimate. Importantly, this approach was also guided by an awareness for the contingency of leaders' ability to moderate on their intra-group standing. In contrast, the international community's sanctioning interventions in Bosnia were first and foremost intended to punish the extremes. Sanctions were imposed to remove hardliners for non-confirmatory behavior. Institutional reforms expanding the scope of non-consensual institutions were (also) introduced with a view to reduce their role as veto players and hence diminish their influence. Clearly different to the Northern Irish experience, there was little in the OHR's interventions which would indicate a concern for intra-group dynamics and an environment effectively enabling moderation in the first place.

6.4.3 Other factors

The above analysis demonstrated that both agreements differ profoundly as to their enabling context as far as segmental stability is concerned. Unless parties feel sufficiently assured over their own position, they will be unlikely to moderate and extend potentially costly concessions.

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The theoretical framework presented at the outset includes several other factors which the empirical analysis so far only indirectly considered. Can these factor account for the difference between both agreements? Do these factors confound the above presented analysis and suggested link between elite predominance and cooperation? Without claiming to provide an exhaustive treatment of the remaining factors, the following point can be made: For the remaining enabling factors to explain the difference in outcome between Northern Ireland and Bosnia, the factors 'politically acquiescent masses', 'patron client relations' and modern mass parties' would have to be stronger in Northern Ireland than in Bosnia. Since the underlying theoretical proposition is that the presence of these elements strengthens the party leaders in their ability to extend concessions, Northern Ireland's elites – who were able to moderate – would have to have benefited from these factors and Bosnia's elite not. However, the contrary is more likely to be the case. Bosnia's political elite-mass relations have been characterized by strong clientelistic arrangements, inter alia as reflected in the pertaining VDem scores (**Error! Reference source not found.**). Hence, empowered by their clientelistic arrangements, party leaders in Bosnia would be expected to have more sway over their constituencies.

Figure 59: Party linkages

7   CONCLUSION

Since the mid-1990s, post-conflict power-sharing has become the means of choice of international actors when it comes to ending intra-state conflicts and seeking to facilitate the

emergence of democracies. The list of examples spans a diverse range of countries – Afghanistan, Bosnia, Burundi, Iraq, Ivory Coast, Kosovo, Northern Ireland, Northern Macedonia, and Sierra Leone to name only a few. Notwithstanding their institutional intricacies and distinct conflict histories, what all cases have in common is that their new institutional dispensation emerged under the clout of external third parties which to various degrees pressured and incentivized domestic elites to consent to the new agreement. With this genesis, the newer strand of power-sharing agreements reflects a fundamental shift in power-sharing theory and its application. In its original conceptualization, power-sharing had been premised on the presence of an 'enlightened elite' which was cognizant of the dangers emanating from unrestrained competition in a society with a dominant (ethnic) cleavage. Motivated by this insight, elites sought to avoid violence by striking a deal which was acceptable to their interlocutors as well as their own constituencies. In sharp contrast, power-sharing's newer strand has been largely applied in reaction to violence and regularly features elites who hitherto have not shown any inclination for self-restraint. Instead of 'amical agreements' (Steiner 1974) with a homegrown willingness to cooperate, elites' consent to post-conflict power-sharing agreements has been largely conditioned on the presence of 'sticks and carrots'.

This context has been bringing two major challenges to the fore. First, externally engineered power-sharing agreements have been pairing non-consensual parties with formal institutions whose functioning is premised on a minimum level of moderation and cooperation. The resulting mismatch of institutions requiring joint decision making on the one hand, and intransigent elites on the other hand has been a receipt for immobilism. Second, with the consent to the agreements conditioned on third parties' 'sticks and carrots', their presence becomes a surrogate for elite motivation. Once, third parties' influence attenuates, frictions are likely to rise and risk unravelling the agreement. This prompts the question how post-conflict

power-sharing agreements can be actually transformative and facilitate the emergence of an elite behavior which is congruent with the institutional framework and viable in the absence of third parties. The thesis sought to contribute to answer these questions.

On a theoretical level, the thesis embarked from the conceptual proposition that for inter-elite cooperation to be forthcoming elite motivation, elite predominance and credible institutional safeguards are needed (Nordlinger 1972; O'Leary 1989). While none of these three factors is taken to be individually sufficient, they are argued to be necessary. Furthermore, and most importantly, the thesis highlights that these three elements are not isolated factors but are in a mutually constraining relationship. Elites who are ready to engage in a treaty due to third party pressure are likely to stretch the ties with their communities, potentially rendering themselves vulnerable to outbidding by intra-group challengers. Elites who remain entirely representative of their communities will not extend the necessary motivation and refrain from engaging constructively in the agreement. As a means to relax these tensions, the thesis has made the case for not fully deterministic agreements (Lerner 2013). Rather than spelling out a final outcome with winners and losers as to the conflict's underlying incompatibility, not fully deterministic agreements are sufficiently ambiguous to bridge the divide across the cleavage but also between elites and their own constituency. By providing an avenue to pursue essential parts of their war time ambitions in a peaceful manner, the negotiation of a power-sharing agreement becomes diffused from a high-stake moment into an ongoing post-agreement deliberation process. Instead of seeking to settle the underlying incompatibility in the immediate aftermath of the conflict when antagonism is particularly high, the agreements postpone the issue to a later stage. This deferral can provide space and time for iterations of inter-elite exchanges, which can build trust and encourage genuine cooperation. Potentially but

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not necessarily, the underlying incompatibility may become amenable to solutions which were either not available or rejected when a zero-sum logic was dominant.

On an empirical level, and to elaborate the theoretical argument, the thesis took up the cases of Bosnia's Dayton Agreement and Northern Ireland's Good Friday Agreement. Both agreements were concluded under the strong influence of third parties in the 1990s and feature a comprehensive set of accommodative institutions, including inter alia the requirement for joint decision making. However, both cases have been exhibiting markedly different patterns of elite interaction. While the development of Dayton Bosnia has been typical as to the theoretical expectations (strong intervention results in immobilism and attenuation problem), Northern Ireland featured notwithstanding repeated crises deviant patterns of elite cooperation and moderation.

The Dayton Agreement has been the paradigmatic example for the '*pax Americana'* with coercive diplomacy and US firepower critical to get to parties' 'yes'. Despite an overarching international presence equipped with quasi executive powers, Bosnia's political system remains plagued by elusive elite cooperation also more than 20 years after Dayton. Today, the saying 'Dayton ended the war, but did not start peace' is a commonplace. In contrast, the Good Friday Agreement has been featuring with ups and downs a constructive engagement of those parties which at its outset were adamantly opposed to it. While elites did not shy away from escalating negotiations over contentious issues, they regularly returned to the negotiation table, with the notable exception of the currently ongoing stalemate. This latest episode is however not a deviation of the theoretical proposition, but an instructive and confirmatory development driven by a change in one of the agreement's background conditions: the UK's membership in the European Union.

Conceptually inter-elite cooperation is conceived as the outcome of an interplay of inter-elite, intra-group and elite-third party relations (Jenne 2015; Sebastián-Aparicio 2014). Drawing on Beardsley (2011), third parties' interventions are divided into imposition, maintenance and re-calibration efforts and their subsequent attenuation. To empirically trace these different phases the thesis presented a variety of indicators with a focus on the legislative process and the resort to veto mechanisms. As for the case of Bosnia, the data highlighted how legislative output, i.e. elite cooperation, only increased when the international community's pressure was the strongest. Overall, international efforts to engender a functioning Bosnian state escalated from a facilitator via a reluctant intervener to a 'European ray' (Knaus and Martin 2003), with quasi executive powers. However, despite the ability to sanction uncooperative actors and pursue a state building agenda, efforts to overcome the legacy of the coerced origin of the Dayton Agreement have fallen short of expectations. With the decline of the OHR in the mid-2000s, inter-elite antagonism returned with new vigor and has dominated Bosnian politics ever since. In contrast, and notwithstanding repeated crises, Northern Ireland's parties made only sparingly use of the available veto mechanism and featured considerable inter-elite cooperation. Within this proposed theoretical framework, the thesis put forward two critical differences which are argued to account for the markedly different trajectories of the Dayton and the Good Friday Agreement: the openness of the Good Friday Agreement as to the eventual status of Northern Ireland and a stable predominance of the agreement's main protagonists over their respective segments. Only once the DUP was sufficiently predominant over its segment it was ready to compromise.

The results of the thesis stress the need for a more nuanced differentiation between power-sharing as a means to end violence and power-sharing as means to facilitate democratization

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and consolidate peace (Jarstad 2008; Reilly 2011; Wolff 2010, 136–37; 2011, 1780–81). The application of post-conflict power-sharing frequently seeks 'to co-join the principles of ethnic conflict management and the practice of democracy' (Sisk 2013a, 10), however with varying suitability. Power-sharing as a means to end wars is first and foremost concerned with addressing the security dilemma, what typically entails a strong emphasis on group accommodating institutions. Eventually though, the same safeguards become an impediment to peace and democracy (Rothchild and Roeder 2005b). What is helpful and maybe even necessary in the short run, can turn out to be detrimental in medium to long run. Dayton Bosnia vividly demonstrates this development.

A critical point here is that power-sharing may eventually cut both ways. While the accommodation of groups may in some cases coopt them and their elites into the pluralistic state, power-sharing will in other cases act as the launch-pad and facilitator for more far reaching, e.g. secessionist aspirations (Aalen 2013; Hechter 2000). As e.g. highlighted by Mehler for the African context, power-sharing agreements can be a tempting context to frame non-ethnic issues in ethnic terms and induce an escalation of demands (Mehler 2008). If the state is not 'the only state in town' (Elkins and Sides 2007, 694), the accommodation of groups risks to backfire and strengthen those who seek a future of their community not within the current borders (Rabushka and Shepsle 1972, 693). The same institutions which are propagated by the advocates of post-conflict power-sharing may in effect even exacerbate state disintegration (Nordlinger 1972; Norris 2004; Rabushka and Shepsle 1972, 217).

This charge against power-sharing as an inapt means to co-opt groups is particularly pertinent for ethno-territorial arrangements (Roeder 2009). By making minorities majorities within a region of the state, and granting them powers, the hope is that groups will feel content to stay

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within the state within which they are a minority (Lijphart 1999; Stepan 1999). However, instead of crossing a dominant cleavage what may facilitate the emergence of reference points for different allegiances, the overlap of territoriality and ethnicity is prone to further exacerbate divisions (Chapman and Roeder 2007; Elkins and Sides 2007; Lipset 1981; Wolff 2009; 2011, 1784). While autonomy can serve the stabilization of states facing self-determination conflicts, it generally needs 'a well-balanced approach that draws on elements of consociational techniques, moderated by integrative policies and tempered by a wider regional outlook' (Weller and Wolff 2005, 269). This need for a counter-balance is arguably even stronger in externally engineered ethno-territorial units. In the case of the RS, this counter-balance has been largely missing once the OHR's role attenuated.

The message of this thesis is definitely not that the engagement of third parties is per se detrimental to the pacification of intra-state conflicts. Typically, with formal institutions still nascent and mistrust high, post-conflict states are characterized by information asymmetries, a prevailing security dilemma, and parties reduced ability to credibly signal their commitment to peace (Lake and Rothchild 1998, 8; Mattes and Savun 2010, 513; Sisk 2013a). In this phase, external third parties can step in and provide the otherwise elusive assurances (Fearon 1994; 1995; 1998; Fearon and Laitin 1996; Lake and Rothchild 1998, 11–12; Walter 1997, 337–38). The gist of the thesis rather emphasizes that third parties assume different roles at different times and that their early interventions have track-setting ramifications for their later engagement. It hence underlines the need for a dynamic understanding of power-sharing agreements. This implies that power-sharing agreements are neither concluded in a historical vacuum nor are they static phenomena which remain rigid throughout their implementation. Research limiting its focus on the mere conclusion of the agreement and their durability of peace during the subsequent five years cannot pick up such dynamics. The tension between

power-sharing as a means to end war and a as means to ensure peace is particularly pronounced if the conclusion of the agreement was the outcome of 'sticks and carrots' in the first place. Intervening parties have to be mindful as to the long-term consequences of their intervention. Werner and Yuen (2005) demonstrate in their quantitative analysis that 'unnatural' ceasefires that come about as a consequence of third party pressure are significantly more likely to fail. While they acknowledge the role of 'sticks and carrots' to facilitate cooperation, they argue that such measures will often be inadequate and that getting the terms of an agreement 'right' outweighs the role of subsequent incentives and sanctions.

At the center of power-sharing arrangements is elites' recognition that continuing to pursue their exclusivist agenda will leave everybody, including themselves, worse off. Hence, in essence, 'fear of the costs of failure to conciliate is the underlying motive driving the parties' (Sisk 2013a, 12). As noted at the outset of this thesis, from a game-theoretic perspective, power-sharing elites may perceive the interactions with their political opponent to follow 'a game of chickens' or a 'prisoner's dilemma' (Tsebelis 1990). According to the 'game of chicken' logic, elites know that mutual non-compromising behavior leads to the worst possible outcome. In Bosnia, but also in the most recent episode in Northern Ireland, the consequences of non-compromising behavior seems in the eyes of its elites not to equate such a negative outcome. For Serb nationalists a tied up central state does not constitute an outcome which has to be avoided. The opposite is more likely to be true. A dysfunctional state makes an easy target to put blame on and serves as a strong argument justifying any secessionist aspirations. Why should one want to be part of a state if it falls short of providing the most basic public services? In this context, contributing to the emergence of a state capable of serving its citizens runs only counter to one's own political aspirations. Similarly, the current stalemate in Northern Ireland may actually serve a purpose. As already outlined, for republicans, a breakdown of devolved

government may potentially turn out to be instrumental when it comes to taking the next step towards re-unification: British-Irish joint governance. For some in the republican movement, the devolved government as provided by the Good Friday Agreement and its subsequent updates may have served its purpose. SF has become the largely undisputed leader of republicanism and the engagement in constitutional politics may have brought the movement as far as it gets. This is not meant to suggest that those in power are plotting a return to violence. This may or may not be the case. The non-compromising dynamics which they have been fueling, however, may eventually catch up with them and deprive them of the possibility to compromise when they actually would like to do so. In a political climate where compromise becomes a sign of weakness, if not equated with treason, nationalist leaders may eventually no longer be able to control the dynamics they have triggered in the first place. The most recent killing of a young Northern Irish journalist – which was also condemned by republican party leaders – is an alarming case in point.

On a more general level, the thesis speaks to the debate on the role of electoral systems to facilitate cooperation in deeply divided societies (Horowitz 2003; Lijphart and Aitkin 1994; Mozaffar, Scarritt, and Galaich 2003; Reilly 2002; Reilly and Reynolds 1999; Wagner 2014; Wolff 2005). As emphasized in this text, for the necessary elite motivation to emerge, party leaders have to feel sufficiently safe to take a risk and moderate. If party leaders continuously have to 'look over the shoulders' (O'Leary 1989, 577), the willingness to take unpopular decisions, i.e. moderate, extend concessions, and cooperate, is unlikely to be forthcoming. Crucially though, the pertaining need for elite predominance is at odds with the promotion of relatively permissive PR systems by third parties seeking to end intra-state conflict. While the advocates of PR can invoke the Lijphartian canon of power-sharing institutions as well as their frequent intention to cultivate the emergence of new, civic parties as justification, the

qualification remains that a permissive PR may have unintended, negative consequences (Cammett and Malesky 2012; Wagner 2014). Lijphart's recommendation of PR was predominately intended to ensure the representation of all groups in the public offices, and largely left aside the possibility of fueling intra-segment instability, the undermining of leaders taking unpopular position and hence the motivation for consociation. If a low electoral threshold is able to facilitate the emergence of new moderate parties, it also entails the risk to facilitate the emergence of new non-moderate parties.

The described dynamics in Bosnia strengthen the charge that consociational arrangements, including its prescription of open list PR systems, would be motivational inadequate. This re-prompts the question whether a more centripetal and integrative system would have not been more suitable in the long run. The dynamics relating to the election of the Bosniak and Croat member of the presidency could be read as supporting evidence. Rather than following the group focus of consociationalism, institutions which require elites to win votes across the ethnic cleavage can potentially counteract non-compromising behavior (Horowitz 1985; 2002a; Reilly 2001). Group accommodation is likely to be necessary in the immediate aftermath of a conflict, with security considerations particularly high. Eventually though a shift to a more open and integrative framework may be required as a means to overcome the problems of immobilism and the attenuation effect. An electoral framework which requires parties to win votes across the dominant cleavage incentivizes parties to pursue policies beyond narrow community based interests and engender a programmatic re-orientation on good governance issues (Sisk 2013b). Obviously, such a change in the electoral system would constitute a fundamental modification of a country's post-war framework and is likely to entail a variety of risks and unknown side effects. A change of the electoral system against the will of parties is likely to require yet another intrusive intervention of the third party. Why should domestic parties favor an electoral

system which requires them to make appeals to those which they may consider forming part of the enemy. This raises the question whether third parties are willing and able to muster such an effort. Under the (premature) impression that there is no immediate risk of a return to war, third parties will be more inclined to pack up their bags and fade out their presence rather than triggering a new confrontation. Furthermore, there might be little understanding in third parties' own constituencies at home, why after some considerable time a third party should get further embroiled in a conflict over technicalities. The fear of mission creep is powerful to end interventions prematurely.

But aside from third parties' willingness and ability to ensure the modification of formal electoral institutions, there is no guarantee that the change will indeed engender the desired results. With the effect of formal institutions mediated by a host of contextual factors, the risk of unintended side effects cannot be easily dismissed. Replacing a known problem with an unknown is hardly a compelling argument to act. Instructively, in 2000 the OSCE experimented with the Alternative Vote system and sought to foster moderation during the RS presidential elections (Belloni 2004, 342; Bose 2002, 342; Gromes 2009, 104). However, the attempt was short-lived not because of overwhelming resistance from the local parties, but due to its unintended consequences. With the RS population comprising overwhelmingly Serbs, the presidency was up for grabs without needing Bosniak or Croat voters. Serb candidates campaigning with a moderate agenda fell short of expectations. The episode was hence a lesson underlining an electoral system's contingency on contextual factors rather than a fundamental argument against the introduction of a centripetal electoral system in the first place.

This is not to say that efforts to shift from an accommodative to more integrative system are destined to fail and should not be seriously entertained. The point is to caution that there is no

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silver bullet and that institutional engineering is about balancing different constraints. This raises further the question how third parties can ensure that power-sharing arrangements are not only devices which stop the killing, but can transform into pacts facilitating long-term stability (Sisk 2013a, 13). Irrespective of these challenges, it is unlikely that a shift from an accommodational to an integrative framework can be forthcoming without the involvement of an external third party. No matter how peaceful a society has been, the shift from power-sharing as an accommodative tool to end violence to a centripetal framework as means to facilitate cooperation entails a delicate 'untying' of institution constraints and may evoke a return of the security dilemma. The security guarantees of third party presence can compensate for this. So far, though, the transition from an accommodative to a less constrained or integrative framework has received surprisingly little systematic scholarly attention. Research on e.g. interim power-sharing governments or sunset clauses seems particularly promising (Arato 2004; Guttieri and Piombo 2007; Papagianni 2008; Schmidt and Galyan 2016; Sisk and Stefes 2005; Strasheim and Fjelde 2014; Wolff 2011, 1793).

Furthermore, the thesis also underlines the instrumental, positive role of European integration on intra-state conflicts. The United Kingdom's and Ireland's membership in the EC/EU has undoubtedly been transformative for the relations between both states as well as between communities within Northern Ireland. The routinized interactions of politicians and civil servants within various European fora facilitated as a side effect the emergence of a common understanding of the conflict and eventually the cooperation between two states whose relations were hitherto burdened by century long animosities. Within Northern Ireland, and as vividly demonstrated by the looming Brexit, European integration contributed to a diffusion of the conflict over the region's sovereignty. The argument only gets stronger when considering economic factors. The critical point here is that European integration not only deepened the

peace process, it also preceded and prepared the ground for the Good Friday Agreement and subsequent elite cooperation. This experience raises doubts as to the currently dominant approach towards Bosnia and other Western Balkan countries. In the latter cases, European integration is primarily conceptualized as a reward resulting from elite cooperation rather than as a means to actually engender it. The limited return of the 'pull of Brussels' has been highlighted in the thesis. In contrast, the experiences of Northern Ireland can be read as in support of a bolder approach. Notwithstanding a variety of prerequisites on a technical level, integrating e.g. Bosnia, after all a country with a population only insignificantly larger than that of Berlin, should not overstretch the EU's capacities. Aside from the inner-Bosnian relations, a Southeastern European enlargement has at least the potential to alter the role of Serbia and Croatia. In contrast, to the UK and Northern Ireland in the Northern Irish case, Bosnia's neighboring countries have not played a similarly positive role. Although both Croatia and Serbia have repeatedly declared their support for the Dayton Agreement, both governments have seen their task predominantly in bolstering the leaders of their respective communities rather than supporting the wider functioning of the agreement. While the agreement provides for the possibility of special relationships between the entities and their neighboring countries, an unambiguous and resolute signal of both states to their Bosnian kin that their future only lies in a unified Bosnia would likely help denting any secessionist aspirations. Without such a clear signal, aspirations detrimental to Bosnia's stability will be kept alive and continue to burden the political system and the country's progress (Gallagher 2013; see Jenne 2004; 2006; 2015).

8 APPENDIX

Figure 60: BiH Election Results: House of Representatives

Percentage of votes in elections to House of Representatives

Categorized by ethnic affiliation and entity; only parties which won seats

Bosniak • Croat • Serb • Multiethnic/'Civic'

Data:Central Election Comission BiH

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Figure 61: Composition and ethnic segmentation of House of Representatives

Ethnic segmentation of parties as per seats in House of Representatives
changes largely within segments

1996
SzBiH (2)
SDA (19)
HDZ (8)
Zdurzena Lista'97 (2)
Alliance for Peace and Progress (2)
SDS (9)

1998
SDS (4)
Sloga (4)
RS (1)
SRS (2)
Socijaldemokrati (2)
SDP (4)
Coalition for Unity & Democracy (17)
DNZ (1)
NHI-HKDU (1)
HDZ (6)

2000
SDS (6)
SNSD & DSP (1)
SNS (1)
SP (1)
HDZ (5)
PDP (2)
SDA (8)
DNZ (1)
BPS (1)
DS Penzionera (1)
SzBiH (5)
SDP (9)

2002
SDS (5)
PDP (2)
SRS (1)
SP (1)
SDP (4)
SNSD (3)
SDA (10)
BOSS (1)
DNZ (1)
Ekonomski Blok HDU (1)
NHI-HKDU (1)
SzBiH (6)
HDZ & Demokrscani (5)

2006
SNSD (7)
DNS (1)
PDP (1)
Croats Together (2)
SDS (3)
HDZ, HNZ, HSP (3)
SDA (9)
BPS (1)
DNZ (1)
SzBiH (8)
NSRzB (1)
SDP (5)

2010
SNSD (8)
DNS (1)
PDP (1)
HDZ 1990, HSP (2)
SDS (4)
HDZ (3)
SDA (7)
SzBiH (2)
DNZ (1)
SBB (4)
SDP (8)

2014
SNSD (6)
DNS, NS, SRS (1)
PDP, SNS (1)
HDZ 1990 (1)
SDS (5)
HDZ, HSS, HKDU, HSP, HS (4)
SDP (3)
SDA (10)
A-SDA (1)
BPS (1)
SBB (4)
DF (5)

CEU eTD Collection

Bosniak   Croat   Serb   Multiethnic/'Civic'

Data: Central Election Commission BiH

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Figure 62: Composition of House of Representatives, ethnic affiliation of parties

Composition of House of Representatives per seats
Categorized by ethnic affiliation

Data: Central Election Commission BiH

Municipal Elections: Percentage of votes per party

Coalitions included; Grey areas: Party did not run.
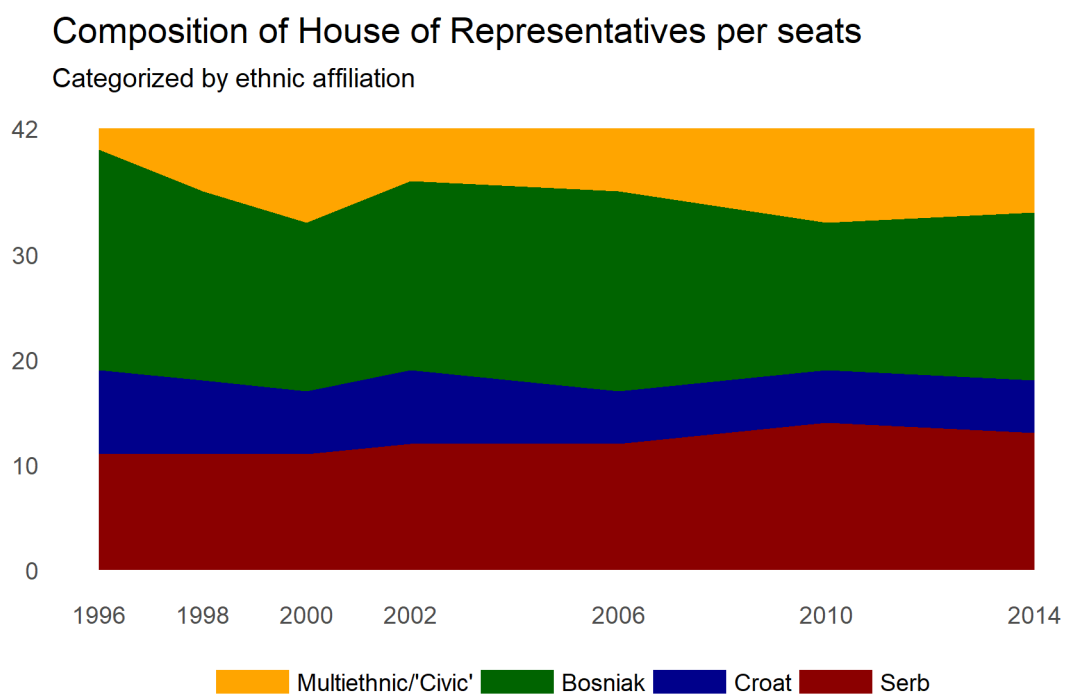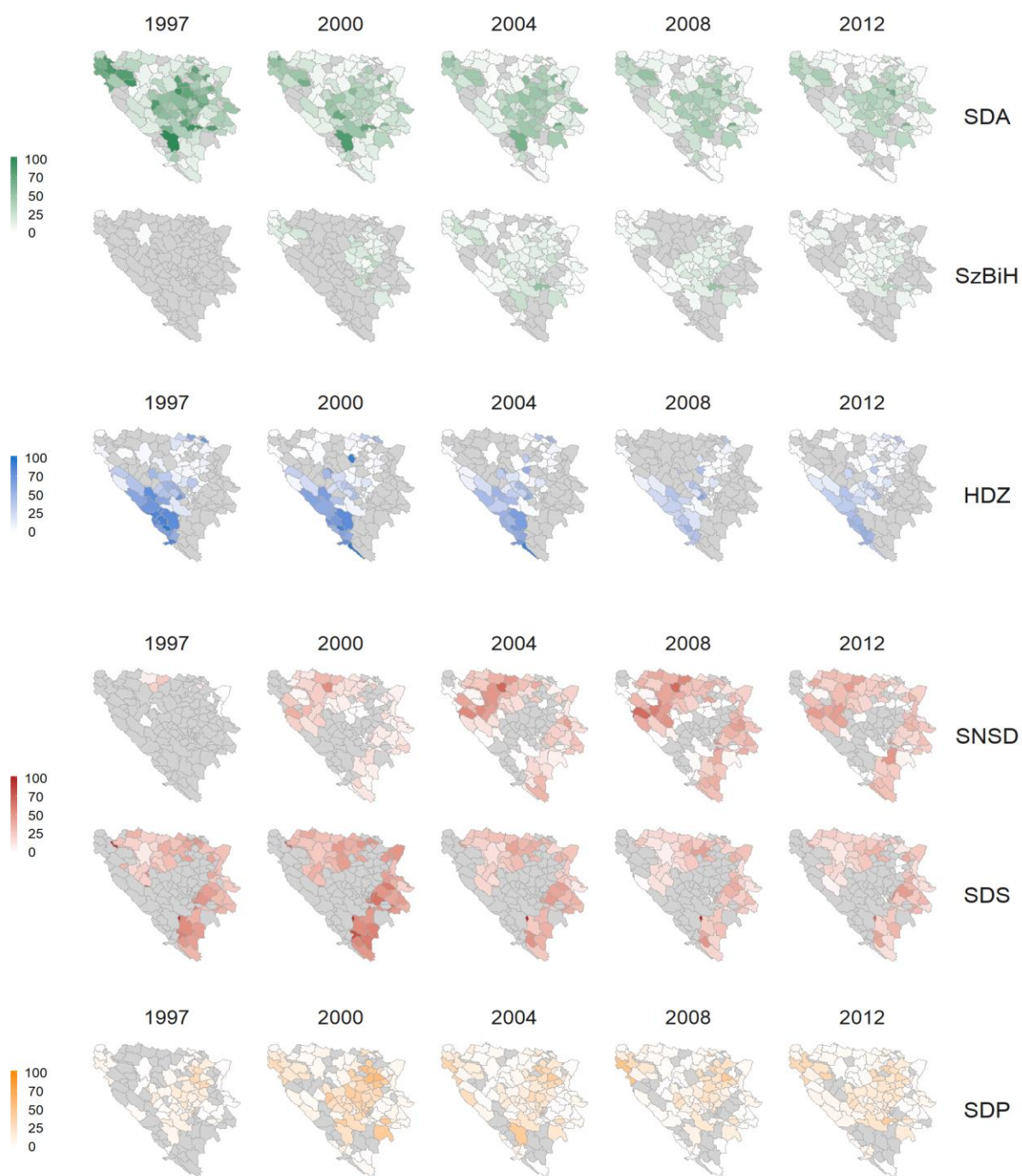
Data: Central Election Commission BiH

Figure 64: Increasing intra-segment contestation in presidential elections

Increasing contestation in presidential elections

Difference of votes between 1st and 2nd presidential candidate (10,000)

	Bosniak	Croat	Serb
2014	Party of Democratic Action vs. Union for a Better Future of BiH	Croatian Democratic Union vs. Croatian Democratic Union 1990	SDS–PDP–NDP–SRS RS–PUP vs. SNSD–DNS–SP
2010	Party of Democratic Action vs. Union for a Better Future of BiH	Social Democratic Party vs. Croatian Democratic Union	SNSD vs. Together for Serbia
2006	Party for Bosnia and Herzegovina vs. Party of Democratic Action	Social Democratic Party vs. Croatian Democratic Union	SNSD vs. Serbian Democratic Party
2002	Party of Democratic Action vs. Party for Bosnia and Herzegovina	Croatian Democratic Union vs. Economic Bloc	Serbian Democratic Party vs. SNSD
1998	Party of Democratic Action vs. Democratic People's Community	Croatian Democratic Union vs. Social Democratic Party	Sloga¹ vs. Serbian Democratic Party
1996	Party of Democratic Action vs. Party for Bosnia and Herzegovina	Croatian Democratic Union vs. Joint List¹	Serbian Democratic Party vs. Democratic Patriotic Bloc

lead in 10,000 votes

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Table 40: Overview Bosnia's European Integration

Date	Event
1997	EU sets up Regional Approach to Western Balkans including political and economic conditionality
2000, Nov	BiH part of Stabilization and Association Process (SAP) which sets out the framework for the development of EU-BiH relations; European Council stated already in June that all SAP countries are 'potential candidates'
2002-2011	OHR mandate holder becomes also EU Special Representative
2003	European Council in Thessaloniki confirms status as 'potential candidate country'
2003, Nov	Commission publishes feasibility study evaluating BiH's readiness for Stabilization and Accession Agreement (SAA); Commission concludes that negotiations should start once BiH has made progress on 16 key priorities;
2004	European Union Police Mission (EUPM) starts; EUFOR replaces NATO's SFOR
2004, June	EU adopts first European Partnership for BiH
2005, Nov	Start of SAA negotiations which are expected to be concluded by late 2007; pending police reform leads to delay;
2006, Dec	Technical negotiations on SAA are completed; agreement cannot be initialed and formally concluded due to lack of progress on key reforms including police reform; Bosnia joins NATO's Partnership for Peace pre-membership programme
2007, Dec	SAA initialed following Commissioner for Enlargement's assessment that there is sufficient reform;
2008, Feb	BiH signs IPA Framework Agreement, access to IPA funds;
2008, Feb	PIC sets 5 objectives and 2 conditions to be met for the closure of the OHR ('Agenda 5 + 2')
2008, April	Police reform adopted
2008, June	Signature of Stabilization and Association Agreement (SAA); Signature of Interim Agreement (enters into force in July)
2011	SAA ratified by all member states but frozen by EU since BiH did not comply with previous obligations;
2011, Sep	Decoupling of OHR from EUSR
2014	German-British Initiative for accelerated accession of BiH
2015, June	Entry into force of SAA
2016, Feb	BiH submits application for EU membership

Table 41: Northern Ireland: Chronology of main events

Date	Event
1975	Constitutional Convention
1985	Anglo-Irish Agreement
1986	IRA ceasefire
1988	Secret Hume – Adams talks; Hume sees chance to incorporate SF into constitutional politics;
1991	Brooke-Mayhew talks
1993, December	Downing Street Declaration (Joint Declaration) by UK and IR government
1994, January	Clinton administration grants 48 hours visa to SF leader Adams.
1994, August 31	IRA announces ceasefire
1994, October 13	Loyalist ceasefire
1995, February 22	Joint Framework Documents
1995, September	Trimble becomes UUP leader
1995, December	Clinton visit to Northern Ireland
1996, January 22	Mitchell Commission: recommends decommissioning parallel to the all party negotiations
1996, January	Major supports election to all-party forum, but without firm day for negotiations
1996, February 9	Breakdown of IRA ceasefire (Canary Wharf bombing)
1996, May 30	Forum Elections SF wins 15 % but is excluded due to end of IRA ceasefire
1996, June	Start of all-party talks
1997, May	Tony Blair becomes UK Prime Minister with strong majority; no need of unionist support
1997, June	IRL elections, SF wins first seat in Irish Parliament (*Dáil Éireann*)
1997, July 20	IRA ceasefire calls second ceasefire
1997, September	SF signs 'Mitchell principles' and joins all-party talks; DUP leaves negotiations in protest
1997, August	Establishment of International Independent Commission on Decommissioning
1997, October	Start of substantive all-part talks
1998, April 10	Agreement reached on Good Friday
1998, May 22	Referendum in Northern Ireland
1998, June 25	1st Assembly Elections; UUP leader and First Minister elect David Trimble refuses to form executive over pending IRA decommission
1999, April 1	Hillsborough Declaration by UK and IRL government
1999, July 2	Way Forward Declaration by UK and IRL government
1999, Nov 18	Report of Mitchell Review
1999, Nov/Dec	Formation of Executive and start of devolution
2000, Feb - May	UK suspends devolution to avert Trimble's post-dated letter of resignation taking effect
2000, May	IRA decommissioning deadline passes
2000, Oct	Trimble excludes SF from NSMC meetings; SF sues at High Court and wins
2001, June	General Elections with gains for SF and DUP
2001, June 30	IRA decommissioning deadline passes

2001, July 1	Trimble resigns as first minister in protest to missing IRA decommissioning
2001, August 7	IRA agrees to method of decommissioning with IICD
2001, August 11	Secretary of State suspends devolution for one day. Provides another six weeks for election of new executive leadership.
2001, Oct 21	Secretary of State suspends again devolution for one day. Provides another six weeks for election of new executive leadership.
2001, Oct	IRA puts some weapons 'beyond use'
2001, Nov 5	Trimble re-elected as First Minister
2001, Nov	re-start of devolution
2002, Oct	'Stormont Gate'; suspension until 2007
2006, October	St. Andrews Agreement
2008,	SF blocs executive meetings for five protest due to in its view insufficient progress on devolution of justice matters
2012, December	Belfast City Council decision to fly the Union Flag at City Hall only on designated days (rather than every day) triggered unrest by loyalist communities
2014, December	Stormont House Agreement
2015, Aug-Sept	Police indicate that IRA still exists and its members were responsible for recent killing of ex-IRA member DUP engages in 'rolling resignations' in protest over IRA related murder; executive comes effectively to a halt for two months; institutions technically not dissolved, but dysfunctional
2015, October 20	DUP ministers resume their posts
2016, June 23	Brexit referendum; Northern Ireland with a 'remain' majority;
2017, January	Deputy First Minister Martin McGuiness resigns, triggered by 'Renewable heat scandal'
2017, March	Assembly elections; DUP with major losses; SF almost as large as DUP; first time that unionists have no majority in Assembly. Parties have three weeks to reach a deal. But Secretary of State refrains from calling new elections. Northern Ireland is effectively governed by civil servants
2017, April	General elections; DUP with strong performance and critical for Conservative government

Table 42: Assignment of coalitions to individual parties

Party	Coalition
DNS	Demokratski Narodni Savez (Dns) [2006, 2010, 2018], Demokratski Narodni Savez (Dns) - Ns - Srs [2014]
HDZ	Hdz–Hss–Hsp-Hns–Hkdu–Hsp-As Bih–Hdu Bih [2018], Hdz Bih, Hss, Hkdu Bih, Hsp Dr. Ante Starcevic, Hs Herceg-Bosne [2014], Hrvatska Demokratska Zajednica (Hdz) [1996, 1998, 2000, 2010], Koalicija - Hdz, Demokrscani [2002], Koalicija - Hdz, Hnz, Hsp [2006]
HDZ 1990	Hrvatsko Zajednistvo (Hdz 1990 Hz-Hss-Hkdu-Hdu-Demokrscani) [2006], Koalicija - Hdz 1990, Hsp [2010]
NHI	Nova Hrvatska Incijativa - Hkdu [1998], Nova Hrvatska Inicijativa (Nhi) [2000, 2002]

PDP	Koalicija - Pdp, Sns [2014], Partija Demokratskog Progresa (Pdp) [2000, 2002, 2006, 2010, 2018]
SDS	Sds–Ndp–Ns–Srs [2018], Srpska Demokratska Stranka (Sds) [1996, 1998, 2000, 2002, 2006, 2010, 2014]
SNSD	Koalicija - Snsd, Dsp [2000], Savez Nezavisnih Socijaldemokrata (Snsd) [2002, 2006, 2010, 2014, 2018]

Figure 65: NIRL - Territorial segmentation of party system

NIRL: Territorial segmentation of party system
% of votes in assembly elections

graph: author data: https://cain.ulster.ac.uk/

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Figure 66: Composition of Bosnia's Council of Ministers

Composition of BiH Council of Ministers
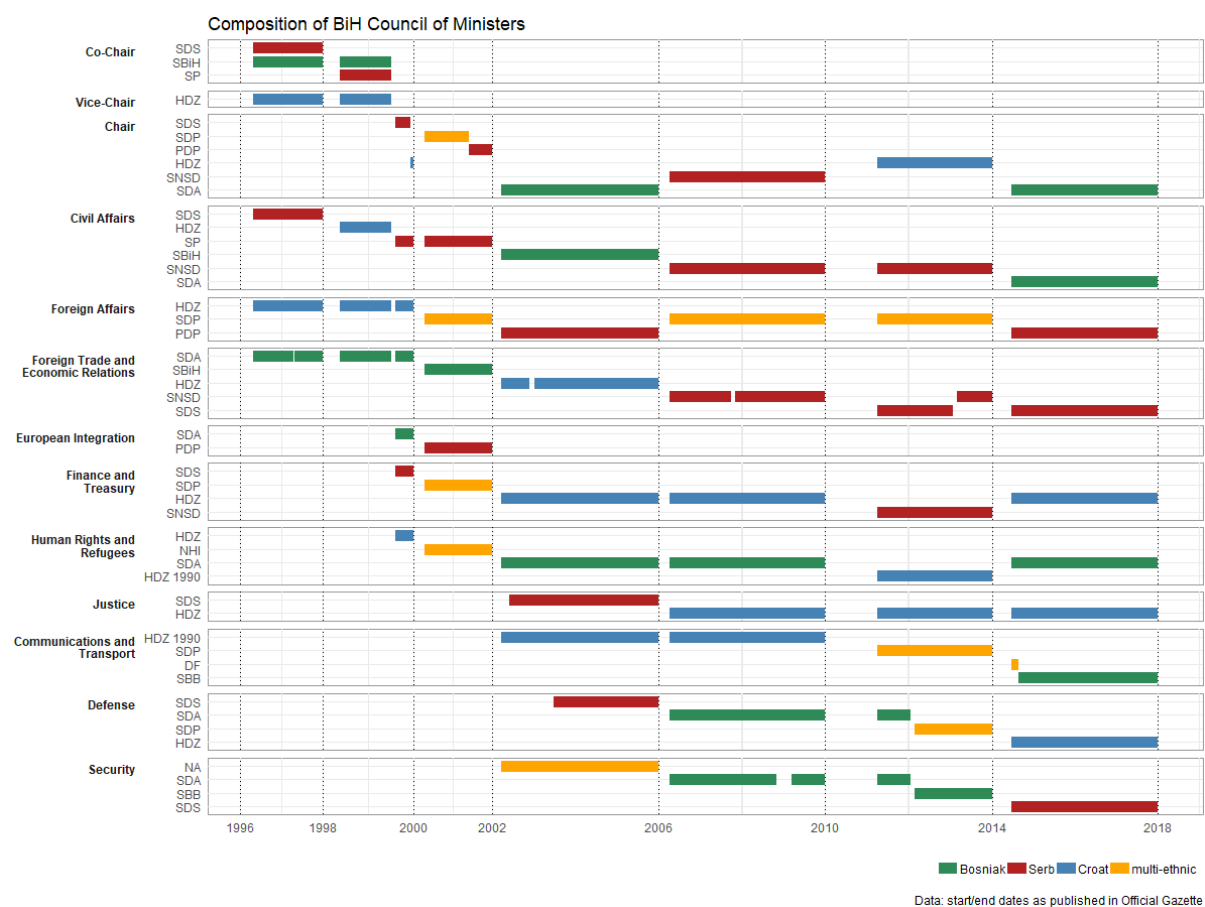
Figure 67: Composition of Northern Ireland Executive

Composition of NIRL Executive

Note: Ministry for Health, Social services and Public Safety reorganized into Health Ministry; Ministry for Finance and Personnel reorganized into Ministry of Finance in 2016; Ministry for Environment and Ministry for Agriculture merged in 2016.
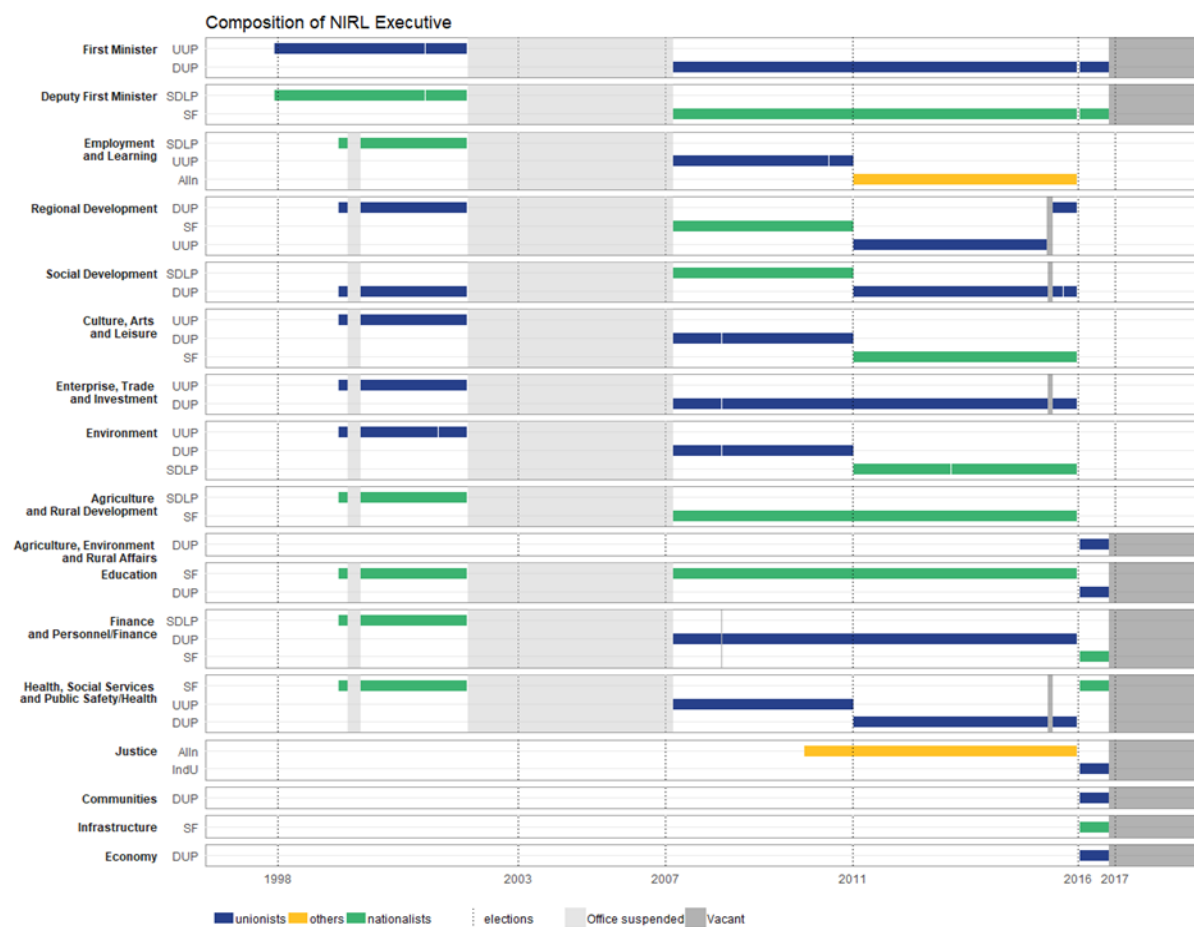
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