

**POWER-SHARING AS A MODE OF CONFLICT MANAGEMENT IN POST-
CONFLICT SOCIETIES IN AFRICA: CHALLENGES AND OPPORTUNITIES**

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DECLARATION

I, Nyankieya Walter Nyamato, hereby declare that this research project is my original work and has not been presented for a degree in any other University.

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This project has been submitted for examination with my approval as University Supervisor,

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DEDICATION

To my daughter Alexia Aberille

LIST OF ABBREVIATIONS

AU – African Union

CNDD – National Council for the Defence of Democracy

CPA – Comprehensive Peace Agreement

DDR – Disarmament, Demobilization and Reintegration

DRC – Democratic Republic of Congo

FDD – Forces for the Defence of Democracy

FPTP – First-Past-The-Post

LURD – Liberians United for Reconciliation and Democracy

MDC – Movement for Democratic Change

MODEL – Movement for Democracy and Elections in Liberia

MP – Member of Parliament

MPLA – Popular Movement for the Liberation of Angola

MRND – Mouvement Révolutionnaire National pour le Développement

NCP – National Congress Party

NTGL – National Transitional Government of Liberia

NTGL – National Transitional Government of Liberia

ODM – Orange Democratic Movement

PALIPEHUTU-FNL – Party for the liberation of the Hutu People – National Forces of Liberia

PCP – Popular Congress Party

PNU – Party of National Unity

PSC – Peace and Security Council

REN – Religious, Ethnic, and/or National groups

RPF – Rwandan Patriotic Front

RUF – Revolutionary United Front

SPLM/A – Sudan People’s Liberation Movement/Army

UN – United Nations

UNAVEM I – United Nations Angola Verification Mission I

UNITA – União Nacional para a Independência Total de Angola

UNOMOZ – United Nations Operation in Mozambique

ZANU-PF – Zimbabwe African National Union-Patriotic Front

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ABSTRACT

Power-sharing transitional governments are becoming common ingredients of peacemaking and peace building efforts. Power-sharing as a mode of conflict management in guarantees the participation of representatives of significant parties in political decision making in the executive, the legislature, and the judiciary. By dividing power among the rival groups during the transition, power sharing hypothetically reduces the danger that one party will become dominant and threaten the security of others. To discuss the concept of power-sharing, the study uses two models three models for the study. These are: the consociational model which sees communal groups as the building blocks of a political order based on elite consensus and group autonomy; the second model is the incentivist model which advocates the design of political institutions to provide incentives for elite and mass moderation. The third model is the tri-polar model which brings together the relevant attributes of the consociational and incentivist models, and highlights the need to broaden the scope of power-sharing to various spheres of governance such as territorial, economic, and political where groups may want to share power. Data was gathered by means of reviewing academic published books, journal articles and public documents on the subject for the relevant concepts and current opinions and policies. The study findings power-sharing in post conflict societies, may work well in stable democracies when political elites are moderate and willing to compromise. However, this is unlikely in countries exiting civil conflict, where leaders are uncooperative and where majority group leaders are under pressure to not concede to minorities. Thus as a a mode of managing conflict in Africa such as Kenya and Zimbabwe, it is a successful means of building up a government and end conflicts that may have cropped in as a result of a flawed electoral process. Power-sharing in post-conflict contexts are transitional arrangements, but could also become permanent features of governance architecture. However, power-sharing may be seen as rewarding bad political behavior and as mechanism in which the alternative scenario could be one of destructive violence. The danger is that power-sharing are negotiated democracy and could become the end in itself, rather than a means to an end.

CHAPTER ONE

INTRODUCTION TO THE STUDY

1.0 Introduction

This chapter introduces the topic of the research study in a broader perspective by first setting the broad context of the research study, the statement of the problem, objectives, literature review, theoretical framework, hypothesis and the methodology of the study. It provides the stratification of the research. It systematizes the materials presented by previous efforts to understand power-sharing. The chapter will specify the meaning of power-sharing and examine the relevant academic debates relating to power-sharing. These debates in line with appropriate theories of power-sharing will be followed by a description of the research methodology.

The section on methodology will perform two sets of tasks. First, it will provide an account of the methods by which this study will be carried out, giving some insights into the scope and nature of the research that will be undertaken. Building on the theoretical discussion, the second task is to consider the kinds of lines and focus of investigation that are likely to prove appropriate to address the research questions raised in the study. This is intended to link the theoretical discussion with the practical observed findings.

Mukherjee uses a dataset that captures information regarding civil wars between 1944 and 1999, which counts 61 cases in which the ensuing peace agreement enshrined elements of power sharing¹. The prevalence of power sharing, particularly in Africa, has increased significantly in the post-1999 period, with power sharing agreements being undertaken in Mali, Cote d'Ivoire, Liberia, Sierra Leone, Chad, Sudan, the Central African Republic, the Congo, the DR Congo,

¹ B. Mukherjee .“Why Political Power-Sharing Agreements Lead to Enduring Peaceful Resolution of Some Civil Wars but not Others?” *International Studies Quarterly*, 50 (2006): 479-504

Djibouti, Somalia, Burundi, Angola, the Comoros, Zanzibar, Madagascar, Kenya and Zimbabwe in the decade between 1999 and 2009². This research will address the application of power sharing formulations in Africa in addressing peace in a post conflict society(s). It will examine the structure of conflicts by linking it to ethnic violence, abundance and scarcity of resources, and election. It will then probe into the utility and efficacy of the solutions crafted to address conflicts which in particular includes power-sharing arrangements in which key antagonists in a conflict have come together and constituted transitional governments of national unity. The analysis of this study will concentrate exclusively on post-conflict societies with a focus on the question whether power-sharing is a valid mode of managing conflict(s) in post conflict societies.

1.2 Statement of the Research Problem

Conflicts have been and are innate to human as humans are to nature. To attain sustainable peace, good governance, accountability, and transparency, a country needs to have mechanisms which must be put in place to manage or control conflicts. Contrary to that, in Africa scenario many of its leaders to organize do not allow democracy to work. Most conflicts which occur in Africa are associated with election, thus when the elections are disputed, conflict erupts and the state loses its legitimacy and violent conflicts ensue. Scholars such as Lijphart Arend talked of constructive management aimed at managing conflicts³. In a bid to resolve conflicts, the idea of non-coercive ways of resolving conflicts by negotiations of peace agreements is encouraged compared to coercive means. Power-sharing as a mode in managing conflict in Africa such as

² A. Mehler. "Introduction: Power-Sharing in Africa." *Africa Spectrum*, 44 (2009): 2-10

³ Arend Lijphart. The Wave of Power-sharing Democracy, in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. (Oxford: Oxford University Press, 2002)

Kenya and Zimbabwe indicate that it is a successful means of building up a government and end conflicts that may have cropped in as a result of a flawed electoral process.

Power-sharing in post-conflict contexts are transitional arrangements, but could also become permanent features of governance architecture; there is no one size that fits all situations. While it may be seen as rewarding bad political behavior by despots and reluctant democrats, it also provides a face-saving mechanism in some political cultures and in which the alternative scenario could be one of destructive violence. The danger is that power-sharing are negotiated democracy and could become the end in itself, rather than a means to an end.

1.3 Objectives of the Study

The overall objective of the study is to examine power sharing as a mode of conflict management in post conflict societies in Africa but more specifically the study aims to:

- i) Provide an overview of power sharing as a mode of conflict management in post conflict societies
- ii) Examine the challenges and opportunities of power sharing
- iii) Analyze the effectiveness of power sharing as a mode of managing conflicts in post conflict societies

1.4 Literature review

In the last two decades, power-sharing besides other pacific settlement of disputes as stipulated in the United Nations Charter Chapter VI has attracted tremendous attention in academic and policy discourse in terms of managing conflicts and sharing of resources. This development can be accredited to the fact that in the 1990s, ethnic cleavages and the pursuit for self-determination emerged as one of the most serious sources of violent conflicts in the world that which required

very constructive management⁴. The salience of the power-sharing discourse stems from the opportunities provided by the wave of democratic transition in Africa, Asia, and Eastern Europe for constitutional engineering. The contemporary significance of power-sharing was however preceded by the development of arguments in the 1960s and 1970s that challenged a common assumption that democracy and political stability would be difficult to achieve in multi-ethnic societies. Behind this assumption is the notion that deep social divisions and political differences within plural societies are elements which would ensure perennial instability and breakdown of democracy. Nevertheless, this claim was challenged when it was shown that power-sharing can facilitate democratic stability in these societies.

To discuss exhaustively the concept of power-sharing, three models are discerned for the study. The first is the consociational model which sees communal groups as the building blocks of a political order based on elite consensus and group autonomy⁵. The second model is the incentivist model which advocates the design of political institutions to provide incentives for elite and mass moderation. The third model is the tri-polar model which brings together the relevant attributes of the consociational and incentivist models, and highlights the need to broaden the scope of power-sharing to various spheres of governance such as territorial, economic, and political where groups may want to share power.

The consociation model was pioneered by Arthur Lewis who made one of the earliest calls for a re-examination of the idea of impracticability of democracy. He distinguished between two types of societies - plural society and class society⁶. Plural societies are divided by tribal, religious,

⁴ Arend Lijphart, *The Wave of Power-sharing Democracy*, in A. Reynolds (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. (Oxford: Oxford University Press, 2009)

⁵Matthijs Bogaards. *Democracy and Power-sharing in Multinational States: Thematic Introduction* *International Journal on Multicultural Societies*, 8, no. 2 (2006) 119-126.

⁶ A. Lewis. *Politics in West Africa*, London (Oxford University Press, 1965)

linguistic, cultural and regional differences, and they are found in colonized territories of Africa, Asia and Latin America. On the other hand, class societies are societies in which social class is the key source of political identification and differentiation especially in Western Europe. Lewis argues that majoritarian democracy is inappropriate in plural societies because of the risk that prehistoric groups may be pre-occupied with competition between them. Arend Lijphart's consociational model builds on the ideas articulated by Arthur Lewis in that the political stability of consociational democracies is explained by the cooperation of elites from different groups which outdo each other at the mass level⁷.

The consociational model explains democratic stability in such culturally fragmented and divided European societies as the Netherlands, Austria, Belgium, and Switzerland. Democratic stability in these countries is a product of deliberate efforts by the political elite to counteract the halting effects of cultural fragmentation⁸. Brian Barry⁹ in his critics argues that Switzerland is not a consociational democracy because the country was never a deeply divided society since political parties cross-cut and facilitate consensus rather than highly structured conflict of goals¹⁰. The institutions of referendum and popular initiative in Switzerland contradict the system of belief of consociational decision making¹¹. In an attempt to explain democratic stability in plural European societies, Lijphart extended consociationalism to the rest of the world as the most promising means of achieving democratic stability¹².

⁷ Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration*. (New Haven, CT: Yale University Press, 1997)

⁸ Arend Lijphart. "Consociational Democracy," *World Politic*, 21, no. 2 (1969): 207-225.:223

⁹ Brian Barry. Political Accommodation and Consociational Democracy, *British Journal of Political Science*, 5 ,no. 4 (1975) 477-505

¹⁰.Ibid

¹¹ Arend Lijphart, "Consociation and Federation" op cit.

¹² Ibid

The consociational pattern observed in Europe may contribute to stability if implemented in plural societies elsewhere around the world. Attempts to extend consociationalism from an empirical to normative model have been hotly contested. Critics like Barry and Steiner have pointed out that European society(s) such as Switzerland are not good examples of consociational democracy; as such their experiences may not be applicable to plural societies elsewhere¹³. Horowitz cautioned that consociationalism might not be appropriate for deeply divided societies in the Third World because of the possibilities that group mobilization around massive, politically hostile organizations may create conditions for serious inter-group conflicts¹⁴. Lijphart responded to these criticisms by listing conditions that are favorable to the implementation of consociationalism, he added that the conditions are helpful but neither essential nor sufficient for the success of consociational democracy¹⁵. This equivocation, as Lustick¹⁶ and Andeweg¹⁷ noted, makes the conditions unverifiable and allows Lijphart to recommend consociationalism whether the conditions are favorable or not. Lijphart failed to develop a clear-cut definition of the concept of consociational decision making. Lijphart interpreted consociational decision making primarily as absence of competition without showing the causes of the lack of competition¹⁸.

Unlike the consociational model which focuses on elite cooperation as the decisive element in decision making, the control model is characterized by the emergence and maintenance of a relationship in which the dominant group enforce stability by constraining the political actions

¹³ Jurg Steiner. "The Consociational Theory and Beyond" *Comparative Politics*, 13 no. 3 (1981): 339-354

¹⁴ Donald Horowitz. *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985)

¹⁵ Ibid

¹⁶, Ian Lijphart. Lakatos, and Consociationalism, *World Politics*, 50(1) (1997): 88-117.

¹⁷ Rudy Andeweg. "Consociational Democracy". *Annual Review Political Science*, 3 (2000:) 509-536.

¹⁸Jurg Steiner. "The Consociational Theory and Beyond" op cit.

and opportunities of the marginal groups. Lustick¹⁹ claims that the stability of such divided societies as apartheid South Africa, Israel, and pre-Revolutionary Ethiopia, depended more on the effective exertion of superior power of the dominant groups than on the cooperative efforts of rival elites. Although it may be difficult to find a contemporary society which presents itself as a typical example of the control model, the analytical insights in the model is useful in analyzing consociationalism.

The application of consociationalism to inter-group conflicts such as the dispute in Northern Ireland exposes more weaknesses of the model. The Northern Irish experience highlights the shortcomings of consociationalism like the model's endogenous or internalist focus, which has resulted in its neglect of the role external actors in promoting consociational settlements²⁰. They noted that because the consociational model springs from the experiences of small European democracies such as Netherlands, Austria, Belgium, and Switzerland that were threatened by bigger neighbours, Lijphart²¹ failed to consider the role of foreign intervention in facilitating consociational agreements. Attempts to correct the weaknesses in consociationalism have given rise to the emergence of the incentivist model of power-sharing.

Another model associated with power – sharing is the incentivist model which is based on Horowitz's²² contention that consociationalism failed to highlight. Horowitz claims that even if the elites commit themselves to a consociational arrangement at the outset in a competitive political environment, centrifugal forces emanating from their followers and political opponents

¹⁹ Ian Lustick. Stability in Deeply Divided Societies: Consociationalism versus Control, *World Politics*, 31(3), 325-344.

²⁰ John McGarry and O'Leary, Brendan. (2006), Consociational Theory, Northern Ireland's Conflict, and its Agreement: What Consociationalists can Learn from Northern Ireland, *Government and Opposition*, 41(1), 43-63.

²¹ ²¹ Ian Lustick Stability in Deeply Divided Societies op cit : 334

²² Ibid

may easily undermine the permanence of the agreement²³. He therefore, argues that what is needed to strengthen consociationalism is to create incentives for sustainable elite cooperation and inter-group accommodation. This incentive, according to Horowitz, can spring from modifications in the electoral systems. Horowitz suggests that incentives for elite cooperation can be cultivated by refining the electoral system. Horowitz proposes the creation of ethnically homogenous electoral areas if groups are territorially concentrated. He argued that the creation of ethnically homogenous electoral areas has the advantage of fragmenting formerly monolithic ethnic groups and reducing the ability of such groups to make consistent divisive claims at the national level.

In this case, issues that might otherwise have been contested at inter-group level may end up at the intra-group level; thus, relieving politics at the national level of frequent inter-group tensions. But where groups are intermixed, Horowitz advocates the creation of ethnically heterogeneous electoral areas. He claims that an ethnically heterogeneous electoral area encourages elites from different ethnic backgrounds to intermingle at the state level, creating opportunities for the development of inter-ethnic elite relations that can ease ethnic hostilities at the national level. Horowitz hypothesizes that heterogeneous electoral areas afford groups that are minority the opportunity to become majority in one or more states, thereby compensating for their marginal influence²⁴.

According to Horowitz suggests that the more electoral areas there are, the less the tendency of ethnic and sub-ethnic groups to be concerned with parochial alignments and issues, and the more their inability to collude across electoral lines to make coherent and divisive claims at the

²³ Donald Horowitz. *A Democratic South Africa? Constitutional Engineering in a Divided Societies*. (Berkeley: University of California Press, 1991)

²⁴Ibid

national level. In other words, proliferation of electoral areas introduces more complex issue agenda on which area, rather than ethnic groups, may disagree because the interest of the electoral areas, even the ones predominantly populated by a particular ethnic group, may differ from each other. Proliferation of electoral areas makes the emergence of ethnic hegemony more difficult. Horowitz points out first the tendency of the strategy of proliferation of electoral areas to inspire unending demands for new electoral areas; a possibility to which Horowitz did not offer any concrete remedy.

The second issue relates to how to deal with multiple minority demands that may arise due to the creation of many electoral areas. Proliferation of electoral areas tends to produce new or activate dormant minorities who did not have the capacity to articulate their demands in the former electoral areas. The emergence of these new minority groups may compound the woes of societies that are unable to deal with the existing minority demands. This situation places on the multiethnic electoral regions the burden of coping with the claims of the bigger minorities and the fresh claims activated by the creation of new electoral areas.

Horowitz argues that the electoral system can create incentives for elite cooperation. He noted that aspects of the electoral system such as the delimitation of constituencies, electoral principles like proportional representation, the number of members per constituency, and the structure of the ballot, all have a potential impact on elite alignments and electoral appeals in plural societies²⁵. The key ingredient of the electoral system which serves as a powerful lever of consociationalism and accommodation is what Horowitz called vote pooling. Vote pooling refers

²⁵ Donald Horowitz. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. Op cit

to an exchange of the votes of their respective supporters by politicians who have been conditioned by the electoral system to be marginally depend on votes by others for victory²⁶.

To secure pooled votes, politicians must behave moderately on issues that generate intergroup disagreement. Three elements that are needed to induce inter-group vote pooling can be identified. The first element is a multi-party system, the second is the creation of ethnically heterogeneous constituency; while the third element is the provision of electoral incentives that would make vote pooling politically profitable to politicians. Horowitz also highlighted three ways through which electoral incentives can be created. The first is through the enactment of distribution requirements for electoral victory, beyond the plurality or majority requirement - distribution requirements can also be imposed on politicians through the rules guiding party formation. The second way of creating electoral incentives is through the adoption of preferential voting, which requires that where there are three candidates in an election, each voter must specify his second preference; where there are more than three candidates, his second and third preferences. The third approach is through the adoption of a system where political offices are reserved for specific groups.

The consociational and the incentivist models are different in three major ways. Firstly, the consociational model suggests post-election elite coalitions while incentivist model seeks pre-election elite coalition through vote pooling. Secondly, while the consociational model focus primarily on elite level politics, the incentivist model emphasizes both elite and mass level politics. Thirdly, the consociational model supports parliamentarism because it offers a collegial

²⁶ Donald Horowitz. "Constitutional Design: Proposals Versus Processes in A. Reynolds" (ed) *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*. Oxford: Oxford University Press, 2002),

cabinet in which various segments can easily be represented²⁷, while the incentivist model favors presidentialism²⁸. The implication of this arrangement is that in the absence of an initial majority, all but the top two candidates are eliminated. The alternative preference voter whose first or second choices are not among the top two contenders but whose second or third choices are among the top are reallocated to them to compute a majority²⁹. The incentivist model favors presidentialism for two reasons. Firstly, presidentialism makes it impossible for one group to capture the state permanently by mere capturing a majority in the parliament, because presidentialism makes access to government more complex.

A group excluded from power in the parliament can still gain access to the government through the president. Secondly, the use of geographic distribution plus plurality rule as the basis for victory in presidential elections can create a system where the elected president can become a conspicuously pan-national figure, because the vote that earned him victory were pooled from different parts of the country. Vote pooling makes the president more than a representative of his own group, and this element can motivate politicians wishing to be president to cultivate relationship with politicians from other groups and parties. But, it can also lead to the opposite outcome where the nationally elected president may tend to favor his own region or party at the expense of the regions.

Another model is the tri-polar model which considers the multidimensional nature of group interests and includes other spheres of power-sharing that may have equal or greater significance

²⁷Arend Lijphart. "Power-Sharing Approach", in J.V. Montville (ed) *Conflict and Peacemaking in Multiethnic Societies*.(New York: Lexington Books, 1991)

²⁸ Donald Horowitz. *A Democratic South Africa? Constitutional Engineering in a Divided Society*. : op cit

²⁹ Donald Horowitz. (1985), *Ethnic Groups in Conflict*. Berkeley: University of California Press

than the political sphere³⁰. Although the consociational and incentivist models acknowledge different spheres of power-sharing, they focused primarily on the sharing of executive power. The diversity of group interests points to the need to broadly conceptualize power-sharing. For instance it is likely that groups with history of being economically marginalized would be more interested in exerting greater control over the national revenue than in occupying public offices. The initial attempt to extend the scope of power-sharing to multiple dimensions was made by Caroline Hartzell and Matthew Hoddie³¹ in their study of post-civil war settlements by developing a four-part model which divided power along political, territorial, economic, and military dimensions.

The tri-polar model categorizes power-sharing arrangements into three major dimensions - political, territorial, or economic. The territorial dimension of power-sharing is made up of arrangements that define the territorial structure of the country and specifies the process of devolution of powers. The fiscal dimension of power-sharing constitutes principles and practices of national revenue sharing. The political dimension of power-sharing includes principles and practices of distributing political and bureaucratic offices.

Not all models of power sharing were created equal and there is considerable conceptual variance between models. Hoddie and Hartzell³² distinguish between four levels of power-sharing, these are: central or political power-sharing, territorial such as federalism or decentralization, military and economic power-sharing such as the 2005 Comprehensive Peace Agreement that ended the civil war between North and South Sudan. These authors conclude that

³⁰ Caroline Hartzell and Matthew Hoddie. Institutionalizing Peace: Power-sharing and Post-civil War Conflict Management *American Journal of Political Science*, 47 no. 2 (2003): 318-332.

³¹Ibid

³²Matthew Hoddie. and Caroline Hartzell. "Power Sharing in Peace Settlements: Initiating the transition from civil war", in P. Roeder & D. Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil War* (New York: Cornell University Press, 103

while military and territorial power sharing impact positively on peace processes and their sustainability, political power sharing often does not lead to sustained peace.

Anna K. Jarstad³³ suggests that in order to achieve conceptual clarity, it is necessary to distinguish between different modes of power sharing which are dependent on the context, legal basis and forms of arrangement. The context of the agreement refers to the difference between power sharing implemented in a situation of civil war compared with those achieved in stable democracies. For example power sharing in New Zealand and Switzerland would not be comparable with that in Rwanda (1993) and the DRC (2002-2006). While in Switzerland and New Zealand, sharing power is associated with stability and democracy; in the latter cases it is associated with instability and civil war³⁴. Although the Kenyan and Zimbabwean were not examples of civil war, there was sufficient violence perpetrated to justify placing them in the latter group. The second distinction aims to differentiate between the different bases for power sharing, whether they are informal, part of electoral law or agreement. It can be a result of informal agreements or as part of electoral law such as the proportional representation of all parties in the South African transitional government of 1994. In the Kenyan and Zimbabwean, the power sharing formulation was as a result of agreements to end electoral violence or rather civil conflict. The final distinction is between power sharing as a temporary measure compared with one that is a permanent governance structure. In contexts of war and violence, power sharing agreements are usually a transitional mechanism as part of an agreement to undertake constitutional reform and hold new elections, such as Kenya and even Zimbabwe. It is important to distinguish between the different contexts of power sharing as it is misleading to compare

³³A K. Jarstad (2009), "The Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace," *Africa Spectrum*, 44, 3, 46-47

³⁴Ibid: 46-47

permanent democratic power sharing such as that in Switzerland with temporary power sharing in contexts of political instability³⁵.

1.5 Research Questions

The study is guided by the following research questions:

- i) What models are involved in examining power sharing as a mode of conflict management in post conflict societies in Africa?
- ii) What does power sharing entail as a mode of conflict management in post conflict societies?
- iii) What are the challenges and opportunities of power sharing?
- iv) How effectiveness is power sharing as a mode of managing conflicts in post conflict societies?

1.6 Justification of the Study

Power sharing as mode of conflict management has been used in managing post election violence which was experienced in Kenya in 2007/08 and before the time elapsed for the agreement to expire, Zimbabwe also applied power sharing method to solve an election stalemate between ZANU and MDC in 2009. This study will justify that power-sharing is a successful means of managing conflict(s) since it proved successful in the two (Kenya and Zimbabwe) conflicts.

Due to a lot of literature touching on conflict interventions and mitigations to resolve conflicts, the study will seek to contribute in providing comprehensive analysis of the relationship between resolutions and conflicts. The study will thus add up the literature on effective conflict resolution

³⁵ A Mehler. "Not Always in the People's Interest: Power-Sharing Arrangements in African Peace Agreements." *Brooks World Poverty Institute*, BWPI Working Paper 40, no. 6 (2008)

processes including power sharing though not envisaged in Chapter VI – Pacific settlement of disputes - of the United Nations Charter. This view depicts that the ideal situation where effective conflict resolution is achieved will be through democracy. Further the study will be aimed to give new areas of study in order to develop a free inclusion of all parties to the conflict embracing conflict resolution.

In policy justification, the study will provide the importance of legislating power sharing ingredients into law by the policy makers so as to curb in-eventualities that arise during elections. It is understood that effective conflict resolution requires effective policy and institutional framework. When ending the research it will provide policy makers and analysts a point of reference which will enable them re-drafting so of the government and political policies in view of in-building issues of conflict resolution since conflict is an endemic phenomenon.

1.7 Theoretical Framework

Theorists of power-sharing have argued that majority democracy is particularly unsuited for societies with deep REN (Religious, Ethnic, and/or National groups) divisions and a history of tension and conflict for three primary reasons: Minority group based political parties may be permanently excluded from participation in governance and therefore have no incentive to "play by the rules of the game;" there are few "floating" voters whose preferences are based on non-ascriptive characteristics. Hence, politicians do hardly broaden their appeal to members of other REN groups and have few or no incentives to do so; and politicians have incentives to participate in radical outbidding on potentially divisive ethnic issues³⁶.

³⁶ Timothy Sisk. *Power-Sharing and International Mediation in Ethnic Conflicts* (United States Institute of Peace Press, 1996),

Proponent of consociational theory argues that power-sharing institutions have many important consequences for 'kinder, gentler' governance, not least that they are most likely to facilitate accommodation among diverse ethno-political groups, making them most suitable for transitional and consolidating democracies struggling to achieve legitimacy and stability in plural societies. Two major approaches to power-sharing exist: Arend Lijphart's consociational model and Donald Horowitz's integrative model³⁷. Lijphart suggests four basic principles of consociational democracy, thus grand coalition government that fosters cross-ethnic elite cooperation, minority veto that reduces minority group fears, proportionality in allocation of shared resources, such as public funds and civil service positions, and ethnic group autonomy³⁸. In contrast, to this model has been criticized for relying too much on elite cooperation. Horowitz in his integrative power-sharing model suggests that territorial and electoral reforms can create cross-cutting cleavages and promote inter-ethnic cooperation and intra-ethnic competition³⁹.

This can be achieved by "five mechanisms of conflict reduction": dispersions of conflicts by "proliferating the points of power so as to take the heat off of a single focal point"; emphasizing intra-ethnic rather than inter-ethnic competition through reservation of some local posts and territorial devolution; policies to promote inter-ethnic cooperation, such as electoral laws promoting inter-ethnic coalitions; encouraging alignments around interests other than ethnicity, strengthening cross-cutting cleavages; and finally distributing resources to eliminate disparities between groups⁴⁰.

³⁷ Ibid

³⁸ Michael Keating. *The creature from the Dayton Lagoon' or, Institutional design in BiH*, Puls demokratije, no. 6(2007),

³⁹, Donald L Horowitz.(1985), *Ethnic Groups in Conflict*, University of California Press – Berkeley, Los Angeles and London, 598-599

⁴⁰ Ibid pg 597-600

The two models offer substantially different approaches to reducing conflict: the consociational model reduces conflict by granting autonomy, reducing interaction between ethnicities, and fostering elite cooperation, while the integrative model attempts to promote inter-ethnic cooperation and intra-ethnic competition thus creating cross-cutting cleavages⁴¹. In brief, consociational theory proposes that ethnic tensions and fears can be reduced by minimizing the need for interaction between ethnic groups except at the elite level, while the integrative model of power-sharing proposes that conflict can be reduced by creating a web of interests and cross-cutting cleavages that result in incentives for more moderate behavior.

The power-sharing literature has centered on a debate between which of the two ideal-typical power-sharing models have the most potential for prevention and reduction of conflict between REN groups, focusing primarily on issues of governance, electoral systems, cultural autonomy, and constitutional design. In practice in societies exiting from violent conflict, though, this debate is moot, as neither model is likely to be implemented in full. Power-sharing theorists do not create ideal power-sharing arrangements; instead, a host of competing interests, local and international, shape constitutional frameworks and power-sharing governance through intense negotiations and compromise⁴². Negotiators may or may not be familiar with power-sharing theories. Instead of consociational or integrative approaches, the outcome is likely to be a complex mixture of the two models, often in combination with other conflict reduction

⁴¹ Palmer, L. Kendall. (2005), *Power-Sharing Extended: Policing and Education Reforms in Bosnia-Herzegovina and Northern Ireland*. A Dissertation at University of North Carolina, Chapel Hill

⁴² Palmer, L. Kendall. (2005), *Power-Sharing Extended: Policing and Education Reforms in Bosnia-Herzegovina and Northern Ireland*. A Dissertation at University of North Carolina, Chapel Hill

mechanisms not easily categorized as consociational or integrative⁴³. In brief, there is no particular theory which can address vividly the concept of power-sharing.

1.8 Research Methodology

This section will explore the methodology of the study in responding to the research objectives, the study sample and instruments for the study. This study employs the method of process tracing with an emphasis of the previous case studies of power-sharing agreement that preceded the post elections violence in African countries. Process tracing is a method of intensive case study, involving a re-description of history, with detective consideration of causal factors and their effects, drawing possible different paths through which the factors cause their effects⁴⁴. This method is typically useful at accounts of time order and at identifying new explanatory elements. The method of process tracing seeks to generate and analyze data on the causal mechanisms, processes, events, and the intervening variables that link putative causes to observed effects.

The application of process tracing involves tracing the causal or process mechanism(s) at work in a given case. A mechanism is a set of propositions that could be the explanation for some social phenomenon or event, the explanation being in terms of interactions between individuals and other individuals, or between individuals and some social aggregate⁴⁵. Using the process tracing method, the study will analyze two premises that guide the explanation of the power-sharing in bringing peace in a post conflict society(s). The premises include: That there is a relationship between the structure of enhancing peace through power sharing and ethnic division

⁴³ Timothy Sisk. *Power-Sharing and International Mediation in Ethnic Conflicts* (United States Institute of Peace Press, 1996)

⁴⁴ Andrew Bennett and Alexander George *Case Studies and Theory Development in the Social Sciences* (Cambridge: MIT Press, 2005),

⁴⁵ Peter Hedstroem and Richard Swedberg. *Social Mechanisms: An Analytical Approach to Social Theory*. (Cambridge: Cambridge University Press, 1998)

possible in an already divided society(s), and that the consociation model of power-sharing employed to deal with ethnic conflicts can also be used to address divisions in a post conflict society(s). The process tracing method will also be useful in tracking significant junctures in Kenyan politics, periods when decisions leading to the violence were made. The study also will focus on the historical developments in terms of power sharing in Kenya between the periods 2008 to 2012. The study will use the post-elections violence of the 2007 as a point of reference in setting the context for my analysis of power-sharing.

The main sources of data to be used for this research include public reports (such as memoirs, media reports, publications by groups and organizations like political parties), opinions (like editorials, speeches, pamphlets, letters to the editor, personal notes, paid announcements, and comments on internet sites), government documents and reports, and summaries and analyses of events (in books, monographs, journal articles, and encyclopedias). Specifically, the study will draw on the rich and vast literature on ethnic relations and political developments in Kenya; focusing primarily on studies in relevant disciplines⁴⁶. Substantial materials will also be drawn from the popular debates and commentaries on power-sharing published in the Kenyan press - the Nation, Standard and various internet sites like the BBC and wikileaks.

The study will obtain access to the above sources through a number of libraries and archives. During the research for this project, the study will visit several libraries and information centers in Kenya, including the libraries of University of Nairobi, The National Archives, and the Kenya National Library. Kenya Human Rights Commission resource Centre, the Centre for Law and Research Institute, the Independent Electoral and Boundary Commission in Nairobi, Institute for

⁴⁶ Bolaji Akinyemi. Patrick Dele-Cole and Walter Ofonagoro. *Readings on Federalism* (Lagos: Nigerian Institute of International Affairs, 1979)

Education in Democracy, the Institute for Diplomacy and International studies of the University of Nairobi and the Life and Peace Institute. The study will also make use of a variety of other historical sources in Africa.

Data analysis is the process of bringing order, structure and meaning to the mass of information collected⁴⁷. In this study, data analysis will involve three concurrent flows of activities namely; data reduction, data display, and conclusion drawing, all of which are accepted methods of qualitative data analysis⁴⁸. The study will approach the task of data reduction through selecting, simplifying and focusing of the data collected from field research. Since most of the data for this study will be drawn from secondary documents, data reduction will be achieved through summarizing, paraphrasing, and subsuming of relevant data under a broader theme or narrative. Also as part of data reduction, the study will convert some qualitative data into quantitative data.

The second step in the process of data analysis will involve the construction of data displays. Data displays are simply an organized assembly of information that facilitates conclusion drawing. Looking at such displays makes it easy for one to understand or further analyze a given event or phenomenon. This way, findings that relate to the problem provide insights that are critical to decision-making. In this study, the construction of data displays entails setting up of various descriptive and explanatory statements. The last step in the process of data analysis is conclusion drawing.

This will involve drawing meaning from the reduced and displayed data – noting patterns, themes and possible configurations, subsuming particulars under the general, drawing conceptual

⁴⁷ G. A. Mugenda and O. Mugenda. *Research methods: Quantitative and qualitative approaches* (Nairobi: ACTS 1999)

⁴⁸ Matthew B. Miles and Michael A. Huberman. "Drawing Valid Meaning from Qualitative Data: Toward a Shared Craft" *Educational Researcher*, 13 (1984): 20-30.

and theoretical linkages, as well as building explanations based on logical chain of evidence. Narratives will be used as data presentation technique⁴⁹. Narratives have since been recognized as part of the methods in social science research⁵⁰. Narratives refer to the ways in which we construct disparate facts and weave them together cognitively in order to make sense of our reality⁵¹. The process of narrative construction was guided by the theoretical framework, which ensured that the narratives reflected the theoretical arguments.

The theoretical framework will be the basis for determining the salient points. In line with Buthe's observation, narratives will be useful in – presenting information about correlations at every step of the causal process, in contextualizing the steps in ways that make the entire process visible rather than leaving it fragmented into analytical stages⁵². Through narratives the study will be able to include detailed analysis of various events as well as to simplify the reality by determining the elements of the historical accounts that are salient and worthy of attention, and those that are insignificant and require omitting.

Considering ethical issues, the study will sought the required permission from relevant sources before compiling the data. This way, participation will be voluntary and from an informed point of what is going on. The study will ensure that the information will be handled and analyzed appropriately without any prejudices. Contributors will be properly briefed and debriefed that the purpose of the study will be purely academic.

⁴⁹ Ibid

⁵⁰ Rhodes, Carl and Brown, Andrew D. "Narrative, Organizations and Research". *International Journal of Management Reviews*, 7, no. 3(2005): 167–188.

⁵¹ Molly Patterson and Kristen R. Monroe. "Narrative in Political Science". *Annual Review of Political Science*, 1, (1998): 315-331.

⁵² Tim Büthe. "Taking Temporality Seriously: Modeling History and the Use of Narratives as Evidence." *The American Political Science Review*, 96, no. 3 (2002): 481-493.

1.9 Chapter outline

This section provides the layout of the research study. It lays the sequence in which the chapters of the whole research project will run. It gives the chapter titles and some detail of the contents as the researcher visualizes. The chapter outline for this study will thus:

Chapter one introduces the topic of the research by first looking at the broad area of the research study then narrowing it down to the specific, the statement of the problem, objectives of the study, literature review, justification of the study, theoretical framework, research hypotheses, and methodology of the study.

Chapter two will assess the historical overview of Power Sharing, Power Sharing, Conflict Management, and Democracy, Structure and Processes of Inter-Group Conflict Management, Power-Sharing Challenges and Opportunities, and Effects of Power-Sharing

Chapter three will address the Case Studies in Africa in Relation to the Concept of Power Sharing which will include the cases of Power-Sharing and Peace Agreements in African States, the Institutional Avenues to Political Inclusion, the Outlook on the African Union and PowerSharing in Africa, and the entire conclusion of the chapter.

Chapter four will carry out the Analysis of Power Sharing as a Mode of Conflict Management in Africa touching on Designing Effective Power-Sharing Arrangements for Conflict Management, the Effective Power-Sharing Institutions, Questioning Power-sharing as an Outcome of Democracy, Analysis of the Effectiveness and Pitfalls of Power-Sharing, the Challenges of Implementation of power sharing agreements and the conclusion.

Chapter five will provide conclusions based on the study, give recommendation and then provide suggestions on areas of further research.

CHAPTER TWO

POWER SHARING AS A MODE OF CONFLICT MANAGEMENT: AN OVERVIEW

2.0 Introduction

Worldwide, scholars as discussed in the previous chapter, have become increasingly critical of the current formulation of power-sharing agreements which has been silent for quite a while. For the last six years the emergence of a new trend has been witnessed that has arrived largely unnoticed and has been the focus of little international dialogue; this is the use of power-sharing agreements, which have up till now been utilized as a tool of post-conflict reconstruction and to instances of democratic deadlock and heightened civil tensions resulting from either electoral crises, scarcity and abundance of natural resources, ethnicity, race, religion and many more⁵³.

In an attempt to mitigate intra-state conflicts and reduce the likelihood of conflict(s) to occur, power sharing conditions have become an increasingly important factor in negotiations and peace agreements. Conflicts not only trigger instability, undermine peace and security, but also postpone socio-economic development and the achievement of Millennium Development Goals⁵⁴. This part of the study, seeks to provide historical overview of power sharing in Africa. This includes the study and discussions on power sharing as a method of conflict management, its relations to democracy, the structure and processes of inter-group conflict management. As part of the historical overview the challenges and opportunities that power sharing holds.

⁵³ N. Cheeseman and B. M. Tendi. “ Power-Sharing in Comparative Perspective: the dynamics of unity government‘ in Kenya and Zimbabwe”, in *The Journal of Modern African Studies*, 48 (2010)

⁵⁴ K. Matlosa, G. Khadiagala and V. Shake *When Elephants Fight: Preventing and Resolving Election-Related Conflicts in Africa*, (Johannesburg: EISA), 14 (2004)

2.1 Background

Power-sharing transitional governments are common ingredients of peacemaking and peace building efforts. Power sharing guarantees the participation of representatives of significant groups in political decision making, and especially in the executive, but also in the legislature, judiciary, police and army. By dividing power among rival groups during the transition, power sharing hypothetically reduces the danger that one party will become dominant and threaten the security of others.⁵⁵ Liberia, Burundi, the Democratic Republic of Congo, Kenya, Nepal, Iraq and Afghanistan are examples of countries where power-sharing transitional governments were responsible for guiding the complex processes of demobilization and re-integration of combatants, return of displaced persons, and preparation of elections and the negotiation of new constitutions, as will be discussed in this paper.

With the increase of negotiated settlements to civil wars in the past two decades, power-sharing arrangements have proliferated. In Africa, power-sharing is a prevalent tool of conflict resolution: Sudan's 2005 Comprehensive Peace Agreement, Liberia's 2003 Accra agreement, Burundi's 2001 agreement and the DRC's (Democratic Republic of Congo) 2003 Sun city agreement all contained elements of power-sharing. Power-sharing arrangements bring former belligerents into joint governments and guarantee them representation in the executive, the legislature, the army and/or the management of the country's wealth. Guarantees of inclusion are intended to reassure weaker parties that they will not be exploited or marginalized in the new political order and to give them an incentive to commit to the agreement.⁵⁶

⁵⁵ Jacob Bercovitch and Leah Simpson. "International Mediation and the Question of Failed Peace Agreements: Improving Conflict Management and Implementation." *Peace and Change*, 35, no.1 (2010): 68-103

⁵⁶ Donald Rothchild. *Power Sharing Institutions as a Response to Insecurity after Africa's Civil Wars*, (Davis: University of California, 2001)

Pragmatists point out that power-sharing is a useful tool to convince all parties to sign peace agreements and to commit to joint state institutions and a common political process. Critics, however, emphasize that power-sharing freeze war-time power balances, prevents the evolution of the political process, and closes the door to new entrants to the political scene.⁵⁷ The key debate, therefore, is between those who argue pragmatically for using power-sharing to win acceptance of a peace agreement by recalcitrant parties and those who warn that such compromises may impede the long-term transformation of war-torn societies.⁵⁸

This paper will present the key characteristics of power-sharing arrangements and discuss the advantages and disadvantages of such mechanisms. It will argue that, indeed, power-sharing arrangements are often necessary for settlements to be reached. However, it will also argue that such arrangements should be transitional and that, during transitional periods, efforts should be made to expand political participation beyond the members of power-sharing governments. Thus, mediators need to be aware of the pitfalls of power-sharing agreements and, when possible, to consider ways in which agreements may encourage wider political participation during transitional periods. It is important to understand the different variables that are elemental in the proper functioning of the mechanisms of power sharing. As will be noted, power sharing have both negative and positive effects, especially in the context of managing inter-group conflicts.

⁵⁷ Donald L. Horowitz, , Conciliatory Institutions and Constitutional Processes in Post- conflict States, *William & Mary Law Review*, 49, 4 (2008), <http://scholarship.law.wm.edu/wmlr/vol49/iss4/7>

⁵⁸ Andreas Mehler, “ Peace and Power Sharing in Africa: A not so obvious relationship” *African Affairs*, 108, no. 432, (2009): 453-473

2.2 Power Sharing, Conflict Management, and Democracy

Post-conflict societies face a high risk of conflict renewal. Compared to countries that have never experienced an internal armed conflict, the risk is almost double⁵⁹. Between 1975 and 2005, 91 civil war onsets occurred in post-conflict societies whereas only 50 armed conflicts were counted in countries without a civil war background. The costs of these conflicts were and are still high, not only in economic terms but also and in particular, in terms of injury, disease and mortality rate. Having realized that these countries seem to need help, more and more scholars and politicians propose specific institutional arrangements which, in their point of view, will help to provide and keep peace.

However, scholars and politicians disagree about the best institutional setting. Overall, two competing theories of constitutional engineering have emerged: Power-Sharing and Power-Dividing. Supporters of the power-sharing theory favor either consociational or integrative⁶⁰ institutions, whereas supporters of the power-dividing theory in the long run favor the American model of democracy. In particular, Roeder and Rothchild⁶¹ stress the sequential effect of a transition to democracy: While in the initiation phase confidence-building measures, i.e. power-sharing institutions, are strongly required, the consolidation phase is dominated by stability aspects, that is, power-dividing institutions have to be implemented. Following their argument, there should be a trade-off between the short-term benefits and the long-term costs of having included all political relevant groups.

⁵⁹A. Ligphart, *Thinking about democracy. Power sharing and majority rule in theory and practice*. (London: Routledge, 2008)

⁶⁰ Donald L. Horowitz, "Making moderation pay: the comparative politics of ethnic conflict management" in *Conflict and Peacemaking in multiethnic societies*, ed. Joseph V. Montville, 451 -475 (Lexington, MA: Lexington Books, 1990)

⁶¹ Philip G. Roeder and Donald S. Rothchild, eds., *Sustainable Peace. Power and Democracy after civil wars* Ithaca, (NY: Cornell University Press, 2005): 52-82

Whether the transition to democracy succeeds is not only a factor of the institutions to be implemented but also a factor of the characteristics of the groups. In particular, ethnicity is seen as one of the most decisive factors⁶². Constitutional changes in ethnically diverse societies can be observed twice as often as in ethnically homogeneous countries, on average every eight years.⁶³ Even if other social divisions are included in the analyses, ethnicity is still an important factor. In ethnically diverse societies, the risk of conflict renewal even enforces. In some instances, political parties even create terrorist organization⁶⁴. As the forms of ethnic (or other) division vary widely across failed (or failing) states, there are no one-size-fits-all ready-made solutions. Hence, the institutional engineering procedures should take the particular situation in a country into account. Additionally, the conditions that promote instability are particularly acute in post-conflict situations in ethnically divided societies"⁶⁵.

Since inter-group power sharing has become “the international community’s preferred remedy for building peace and democracy after civil wars”⁶⁶, the preliminary questions of the conditions for its applicability rise. Given the disputable record of the power sharing, it becomes important to understand the favorable conditions that can ensure the proper application of the power sharing mechanisms. According to Lijphart, there are nine background variables that, when present, can favour the establishment of consociative democracy. Five of these variables are strongly linked to the size of the ethnic groups and to their distribution over the territory: the absence of a single majority group, groups of roughly equal size and a balance of power among them, the geographic concentration of ethnic residence, small number of groups and a country

⁶² Stefan Wolf. *Ethnic conflict (A Global Perspective)*. Oxford: Oxford University Press, 2006)

⁶³ Zachary Elkins and John Sides.” Can institutions build unity in multiethnic states?” *American Political Science Review*, 101 no. 04 (2007): 693-708.

⁶⁴ Ibid

⁶⁵ Philip G. Roeder and Donald S. Rothchild, eds. “Sustainable Peace. Power and democracy after civil wars”, op. cit.,

⁶⁶ Ibid: 5

with small total population. Among these, the absence of a single majority group, according to the author, is one of two most important favourable conditions.

According to Lijphart,⁶⁷ the most serious obstacle to power sharing in divided societies is the presence of a solid majority that, understandably, therefore preferring pure majority rule to consociationalism. A similar condition can be found developed in Schneckener who adds that the state or region is not dominated by a clear majority group, but there exists a relative equilibrium concerning the size. There are either a number of groups among which no one has an absolute majority of the total population or two almost equal segments.⁶⁸

There seems to be a particular tension between consociativism and democracy, for where the intergroup conflict prevails and there is no overall acceptance and support for the power-sharing mechanisms, the political struggle within the segments puts the status quo and survival of the state under continuous pressure. Such a trap can be avoided only under the condition that internal competition is not concentrated exclusively on the ethnic cleavage, but it involves others among the main issues present in society. It appears necessary that the elite is “predominant” (or better, that it enjoys a large, undisputed support) in those matters concerning the necessity of consensus between the segments, but at the same time it is kept accountable and responsible on matters other than the inter-ethnic relations: a situation possible only when there is an overall support for the institutional framework of the state and a widespread acceptance of the arrangements keeping the polity together – a condition that would allow to pursue at the same time both the consociative and the democratic goals. Otherwise, the in-group competitiveness that would give

⁶⁷ A. Lijphart, *Thinking about democracy: power sharing and majority rule in theory and practice* (London: Routledge, 2008), 51

⁶⁸ U. Schneckener, “Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation”, *Journal of Peace Research*, 39 (2002) 203-228: 211

the basis for the elite's accountability could contribute to a further intensification of the inter-ethnic conflict.

The sharp political competition between the political parties within the segments, combined with the overall prevalence of the ethnic cleavage, brings to a situation where the political competition takes directional/salience rather than positional connotations: the candidates seek to present themselves credibly as the real tutors of the interests of the segments. Once in power, they will be called to respond for their capacity to protect their ethnic group, and will not be held accountable for other issues. The corruption, state capture and, consequentially, the unequal allocation of the resources within the group are (at least in parts) consequences of such a setting where the "group" prevails over the citizens.⁶⁹

2.2 Inter-Group Conflict Management: Structures and Processes

The democratic governance of ethnically divided societies poses particular challenges especially in cases in which territorially concentrated groups demand to exercise their right to self-determination. While the international community is generally reluctant to accept unilateral declarations of independence, there is a significantly greater degree of enthusiasm to promote regimes of self-governance, that is, is the legally entrenched power of territorial entities to exercise public policy functions (legislative, executive and adjudicative independently of other sources of authority in the state, but subject to the overall legal order of the state and any relevant international obligations.⁷⁰ Self-governance as a strategy of preventing and settling ethnic

⁶⁹ Philip G. Roeder, "Power Dividing as an Alternative to Ethnic Power Sharing," In Philip G. Roeder and Donald Rothchild (eds) *Sustainable Peace: Power and Democracy after Civil Wars* (Ithaca NY: Cornell University Press. (2005,) 51–82

⁷⁰ Ibid

conflict, thus, must be based on the recognition of group-specific concerns alongside and on par with concerns of individuals (independent of their ethnic identity) and the state.⁷¹

The promotion of self-governance by the international community normally goes hand-in-hand with the promotion of other mechanisms of conflict resolution, including power sharing, human and minority rights legislation, specific participation rights for members of minority groups, etc. As such, recent conflict resolution practice has manifested itself in institutional designs of a certain complexity that combine a range of mechanisms that are treated separately in most of the existing academic literature on the subject and some of which are rejected as morally unacceptable by some, while others are considered unfeasible to deal with the realities of self-determination conflicts. A situation, thus, exists in which conflict resolution practice is substantially different from significant parts of traditional conflict resolution theory.⁷² Examining three main schools of conflict resolution - integrative and consociational power sharing and power dividing - and contrasting their analysis and recommendations with current policy to resolve self-determination, it can be argued that there is an emerging practice of what can be referred to as complex power sharing, that is, a hybrid model of conflict resolution that has a regime of self-governance at its heart, which is complemented, however, by a range of other mechanisms advocated by different schools of conflict resolution.

In their 2008 published study, Schneider and Wiesehomeier⁷³ evaluated the effect of different institutions for various ethnic settings. In a first step, their analysis included all countries, in a

⁷¹ S. Wolff and M. Weller. "Self-determination and Autonomy: A Conceptual Introduction", in *Autonomy, Self-governance and Conflict Resolution: Innovative Approaches to Institutional Design in Divided Societies*, ed. by Marc Weller and Stefan Wolff. (London: Routledge, 2005)

⁷² Ibid

⁷³ Gerald Schneider and Nina Wiesehomeier, , Rules That Matter: Political Institutions and the Diversity-Conflict Nexus, *Journal of Peace Research*, 45, no. 2 (2008) 183-203

second step, only democratic countries. Their two fold analysis lends support to the proposition that, first of all, democratic countries are more peaceful than autocratic ones. However, a fractionalized society seems to be the biggest challenge to a democratic country”⁷⁴ Neither do polarized nor ethnic dominated societies face such a challenge. There are, however, certain institutional settings which decrease the likelihood for civil war onset, such as a parliamentary system is best in ethnically fractionalized societies. Chneider and Wiesehomeier conclude that their results lend support to the hopes of those 'constitutional engineers' who advance certain institutions as a tool to alleviate social conflict".⁷⁵ It is important to point out, however, that their analysis measures civil war onsets in general and not only for post-conflict societies.

Most studies, however, do not differentiate between power-sharing and power-dividing institutions. Walter⁷⁶ concludes that the greater the access to political participation in general, the less likely recurring civil war. However, her measure of the dependent variable (civil war onset) is based on the definition by the Correlates of War project, i.e. measuring an onset if at least 1,000 battle-related deaths were counted. Albeit Hegre et al. and Collier, Wiesehomeier, and Soderbom⁷⁷ also do not concentrate exclusively on power-sharing or power dividing institutions; their analysis reveals that for democracy, the effect on the risk of internal armed conflict is inverted u-shaped. Both, completely autocratic and democratic countries face fewer challenges in keeping peace; in transitional societies, the risk increases. Therefore, \international pressure for democracy should be justified by criteria other than peace-strengthening".⁷⁸ Another major

⁷⁴ Ibid: 194

⁷⁵ Ibid: 205

⁷⁶ Barbara F. Walter Does “Conflict beget Conflict? Explaining recurring civil war”. *Journal of Peace Research*, 41, no. 3 (2004),: 371–388

⁷⁷ Paul Collier, Anke Hoeffler, and Mans Soderbom “Post-Conflict Risks”. *Journal of Peace Research*, 45, no.4 . (2008): 461–478

⁷⁸ Nils B. Weidmann and Michael D. Ward. “Predicting conflict in space and time.” *Journal of Conflict Resolution*, 54, no.6 (2010): 883 –901

finding is the time-stationary effect: None of the variables that they had included in their models have proven to be non-stationary the effect over time remains the same. By including fractionalization as a major independent variable in their analysis, the effect on the (exponential) hazard rate is negative, i.e. the higher the degree of fractionalization, the less is the likelihood of civil war recurrence.

Following a different approach of measuring power-sharing, Hartzell and Hoddie⁷⁹ determine that the more power-sharing dimensions, the lower the risk of recurring internal armed conflict. In total, four power-sharing dimensions are included in their analyses: political, economic, territorial and military power-sharing. Implementing one more power-sharing dimension, e.g. not only political but also military power-sharing, the risk of civil war onset reduces by 53%.⁸⁰ Territorial and military power-sharing have the greatest effects on the likelihood of civil war onset. However, their measure of power-sharing is not sophisticated. Single changes in the institutional setting which might have a significant effect on the risk of armed conflict are not captured the dummy variable remains the same. Additionally, their approach assumes an equal effect of the power-sharing dimensions for autocratic and democratic countries. Finally, a third empirical approach analyzes the effect for ethnopolitical dyads, including ethnic diversity through ethno-political groups indirectly as a proxy for ethnic diversity. Roeder⁸¹ demonstrates the effect of power-dividing institutions by analyzing ethnopolitical dyads consisting of leaders of governments versus ethnopoliticians from an ethnic group within the state. The results yield support for the power-dividing theory, as the signs of 23 of 28 coefficient estimates are as

⁷⁹ Caroline Hartzell, Matthew Hoddie, Donald Rothchild. "Stabilizing the Peace After Civil War: An Investigation of Some Key Variables," *International Organization*, 55, Winter. (2001)

⁸⁰ Ibid : 327

⁸¹ Philip G. Roeder and Donald Rothchild (eds. *Sustainable Peace: Power and Democracy after Civil Wars*, (Ithaca and London: Cornell University Press, 2005), 68

expected"⁸² versus five coefficients for power-sharing. Additionally, time is incorporated inappropriately: the independent variables and also the dependent variable can only vary at the beginning of each 5-year time interval, changes during that interval are integrated in the next quinquennium.

This can lead to inappropriate results since the outcome - violence, would not have taken place till the covariate had changed. Therefore, in my analysis, time and ethnic diversity are incorporated in a more direct manner. The most refined method of measurement of a country's ethnic structure is based on three manifestations of diversity - polarization, fractionalization and ethnic dominance. The effect on the risk of civil war onset varies not only per manifestation, but also on the combinations of these three forms of ethnic diversity. Polarization is largest when two equally powerful groups compete for power. The higher the index, the more polarized the country. Based on a formal model, it has been shown that polarization decreases the risk of recurrent civil war.⁸³

If power-sharing or power-dividing institutions are implemented adequately, both groups are able to participate in the policy process, either through multiethnic coalitions and cooperations at the executive level or through changing majorities - therefore, reducing the risk. Fractionalization is largest if every individual belongs to his/her own ethnic group. Hence, the measure counts the number of ethnic groups within one country by asking the hypothetical

⁸² Ibid:74

⁸³ Joan Esteban and Debraj Ray. "On the salience of ethnic conflict". *American Economic Review*, 98, no. 5 (2008): 185–2202.

question to which ethnic group an individual belongs⁸⁴, and secondly, calculates the probability that two individuals selected by chance belong to different ethnic groups.

Contrary to polarization, there is some evidence that the effect of fractionalization on the risk of civil war recurrence is non-linear and inverted u-shaped⁸⁵. The less groups there are, the easier it is to incorporate all of them in the power-sharing or power-dividing institutional setting; the more groups there are, the greater the collective-action problem is when organizing violence. For an intermediate number of ethnic groups, however, civil war risk is lowest. Yet, the risk for power-sharing institutions should be lower than for power-dividing institutions since power-sharing is, at least in a short-term view, more concrete to ethnic groups. Contrary to power-dividing, governmental power is shared directly between ethnic groups.

Since majoritarian power-dividing institutions manifest the rule by an ethnic dominant group, the risk of conflict recurrence should decrease compared to power-sharing regimes. The literature on the concept of power sharing is divided along two separate strands of research on the related goals of democracy in all societies and conflict management in post-conflict societies. The former is associated with the works of Arend Lijphart⁸⁶ and the obstacles to establishing a functioning democracy in ethnic-divided societies. Lijphart strictly opposes majoritarian rule since it carries the risk of civil strife within the society. Besides the main argument – power sharing as means of promoting “good” and stable democratic regimes – the underlying

⁸⁴, James D. Fearon. “Ethnic and cultural diversity by country”. *Journal of Economic Growth*, 8, no.2: (2003): 195–222:191

⁸⁵ Tanja Ellingsen, “ Colorful community or ethnic witches’ brew?” *Journal of Conflict Resolution*, 44, no.2 (2000): 228 –249.

⁸⁶ Arend Lijphart. *The Politics of Accommodation. Pluralism and Democracy in the Netherlands*. (Berkeley: University of California Press, 1968)

assumption is that power sharing also produces peace⁸⁷. While the works of Lijphart and Norris⁸⁸ put a strong emphasis on democratic representation and elections, the literature of conflict-management tackles the question of what political strategies and institutions sustain peace in post-conflict societies and hinder the recurrence of civil wars⁸⁹. Scholars examine three analytical aspects; namely the presence, mandate and conditions of peacekeeping forces, the way in which civil wars terminate, and the design and implementation of peace agreements.⁹⁰

The latter strain of literature is more important for the research question. Scholars focus on three questions analyzing power-sharing agreements. First, do they contribute to longer peace periods and if so, how? Including power-sharing provisions in the agreements helps to reduce this commitment problem as well as insecurities, argue Hartzell and Hoddie⁹¹. They examine de jure power-sharing concessions included in the peace agreements (political, territorial, military and economic) as the independent variable for lasting peace. The results indicate a positive effect of the power-sharing arrangements on peace periods. In a similar study Mattes and Savun⁹² draw upon the bargaining theory of war arguing that political power sharing reduces fears on both sides, and combined with third party guarantees, reduces fear among the conflict parties. Using a similar research design they find strong empirical support for a positive result – positive in the sense of lasting peace – of power-sharing institutions in 48 countries.

⁸⁷ Norris Pippa, *Driving Democracy: Do Powers-haring Institutions Work?* (New York: Cambridge University Press, 2008)

⁸⁸ Ibid

⁸⁹ Roland Paris. *At War's End: Building Peace After Civil Conflict*. (Cambridge / New York: Cambridge University Press, 2004)

⁹⁰ Joakim Kreutz “How and when armed conflicts end: Introducing the UCDP Conflict Termination dataset.” *Journal of Peace Research*, 4, no.2, (2010): 243-250.

⁹¹ Caroline Hartzell and Hoddie Matthew. *Crafting Peace: Powersharing Institutions and the Negotiated Settlement of Civil Wars*. (Pennsylvania: Pennsylvania State University Press, 2007)

⁹² Michaela Mattes and Burcu Savu. “Fostering Peace After Civil War: Commitment Problems and Agreement Design”. *International Studies Quarterly*, 53, no. 3 (2009):737-759.

Therefore, power-sharing provisions offered by the incumbent party send a clear signal to insurgent groups to stop fighting, acknowledge their political requests by peaceful means and help overcome the security dilemma. Secondly, scholars investigate situations when power-sharing agreements are offered to rebel parties. Svensson⁹³ analyses power-sharing arrangements included in peace agreements and suggests that biased mediators seek to protect their side's interests through power-sharing institutions. The results suggest that government-biased mediation efforts are associated with favorable outcomes for the government, such as amnesties, whereas rebel-biased mediation efforts seem to result in political-power agreements securing them a share of political power. Gent⁹⁴ analyses the military balance between government and rebel combatants and finds support for his hypothesis that powerful rebels are more likely to be offered a power-sharing agreement.

Thirdly, the question of which conditions power-sharing agreements support stable power-sharing agreements in a post-conflict environment is raised. In this framework, Mukherjee⁹⁵ argues that the outcome of the conflict determines whether power sharing is successful or not. He distinguishes between power-sharing negotiations with complete – military rebel or government victory – or incomplete – military stalemate – information about the government's military capacity. The results predict that political power-sharing arrangements offered after military victory by the government or the insurgents increases the period of peace.

When power sharing is offered after military stalemate the probability of peace failure becomes

⁹³ Isak Svensson, "Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace". *Journal of Peace Research*, 44, no. 2 (2007):177-194

⁹⁴ Stephen E. Gent. "Relative Rebel Strength and Power Sharing in Intrastate Conflicts." *International Interactions*, 37 (2011):215-228.

⁹⁵ Bumba Mukherjee, "Why Political Power-Sharing Agreements Lead to Enduring Peaceful Resolution of Some Civil Wars, But Not Others?" *International Studies Quarterly*, 50, no. 2 (2006): 479-504.

more likely.⁹⁶ Two other studies are concerned with the question of whether power-sharing agreements are more successful when they are actually implemented in the post-conflict country, rather than just being promised or planned. One small-N study suggests that the implementation level of military power-sharing agreements affects the likelihood of durable peace and that support exists for it more often in these situations⁹⁷.

The current research on power-sharing agreements has several shortcomings and the purpose of this article is to investigate some of them. The general agreement among writers of the comparative studies is that they make a positive difference in terms of establishing peace. The more power shared the better. Power-sharing may work well in stable democracies when political elites are moderate and willing to compromise. However, this is unlikely in countries exiting civil conflict, where leaders are uncooperative and where majority group leaders are under pressure to not concede to minorities. In such cases, power sharing arrangements may simply maintain the war-time balances of power. Thus, although power-sharing is a sensible transitional device, in the long-run a more fluid form of politics that allows for the creation of flexible coalitions that cross the war-time divides is preferable.⁹⁸ Power-sharing arrangements, by definition, share political powers among the leaders of the main parties to a conflict. Depending on how peace agreements were negotiated, these governments often fail to include important social actors who did not participate militarily in the conflict. They also may lack grassroots support, if they are seen by the population as an effort by elites to share the spoils as opposed to move the country toward reconstruction and reconciliation.

⁹⁶ Ibid: 501

⁹⁷ Matthew Hoddie, and Caroline Hartzell.. "Civil War Settlements and the Implementation of Military Power-Sharing Arrangements"op cit.

⁹⁸ Timothy D. Sisk. "Power Sharing," op cit.

Finally, because elites are guaranteed representation in power-sharing institutions, they are not accountable to their communities and constituencies. The above is aptly demonstrated in the case of the National Transitional Government of Liberia (NTGL) which was inaugurated in October 2003.⁹⁹ One rebel politician summarized the character of the NTGL as follows: “this is an administration for warring factions. They control the government. People need to accept this reality. Civilians have no role in the cabinet, they are virtually voiceless”¹⁰⁰. Furthermore, due to the lack of accountability mechanisms during the transitional period and as discussed earlier, the members of the NTGL devoted more attention to the division of the spoils of the state as opposed to making and implementing public policies. Also, in Somalia, most of the national reconciliation conferences convened since 1991 focused on hammering out power-sharing agreements for transitional central governments. In some of the conferences the agenda was reduced to allocation of cabinet positions by clans and factions in typical sharing-the-spoils exercises.¹⁰¹

However, it is important to remember that, in the short- to medium-run, the drawbacks of power-sharing agreements may be outweighed by their potential benefits. Power-sharing does reward those who engaged in violence during the conflict, but by allowing them to enter parliament and the political system it contributes to their cooptation by the system¹⁰². For example, supporters of Dayton’s power-sharing institutions note that, despite the extremely slow progress in Bosnia, the institutions contributed significantly to the country’s transition from war to non-violent politics: by participating in the elections for the various positions of the Dayton architecture, political

⁹⁹ Ibid

¹⁰⁰ International Crisis Group. “Rebuilding Liberia; Prospects and Perils,” *ICG Africa Report*, no.75, Freetown, Brussels, January 30, (2004)13

¹⁰¹ Ken Menkhaus “Mediation Efforts in Somalia,” HD Centre Background Paper, *African Mediators’ Retreat*, April, (2007)

¹⁰² Andrew Reynolds, “Constitutional Engineering in Southern Africa,” *Journal of Democracy*, 6, no. 2,(1995): 90

leaders signaled acceptance of the institutions and began interacting with each other in a common political process¹⁰³. Also, by bringing all parties to a grand coalition and a common political process, power-sharing institutions create possibilities for relationship-building among former adversaries.¹⁰⁴

Importantly, and as will be discussed below, power-sharing may be accompanied by other forms of wider political participation during the transitional period in order to compensate for its elite character. For example, public awareness campaigns and public participation efforts may take place at different points of the transitional process in order to slowly expand political participation beyond the usual suspects.

2.3 The Effects of Power-Sharing

By any measure the power-sharing agreement has been a success in achieving the primary goal of ending the conflict and restoring stability. The electoral violence that had engulfed Kenya for instance, ended with the signing of the agreement. Most of the internally displaced people have now left the camps that were set up after the violence. Equally important, the power-sharing agreement received widespread public approval, a sign that Kenyans by and large endorsed its adoption. An opinion poll conducted in April 2008, about a month after the power-sharing agreement was reached, showed broad support, with 75% of respondents saying they approved of the accord.¹⁰⁵ The poll also found strong support across partisan lines, with 75% of ODM supporters and 72% of PNU supporters approving. Moreover, the survey found significant optimism about the future of Kenya. In response to a question about the future of ethnic

¹⁰³ Sumantra Bose. The Bosnian State a Decade After Dayton,” *International Peacekeeping*, 12, no. 3, Autumn (2005)

¹⁰⁴ Donald Rothchild, “Power Sharing Institutions as a Response to Insecurity after Africa’s Civil Wars,” *op cit.*

¹⁰⁵ Data from a survey (n=2,011) conducted by the Steadman Group from March 28 – April 2, 2008.

relations, the largest share of respondents (43%) said that they thought relations between communities would improve in the coming year. At the same time, Kenyans remained concerned about the durability of the power-sharing agreement and the consequences if it were to collapse. Only 36% of respondents thought that the agreement would survive until the next election in 2012. Moreover, 47% of respondents said that there would be renewed violence if the power-sharing agreement collapsed¹⁰⁶.

Despite the positive effects in terms of stability, the power-sharing agreement in Kenya may be prone to negative side effects. First is the concern that power-sharing agreements may create excessive transaction costs in decision-making, due to supermajority or unanimity provisions, leading to inefficiencies or immobilization. In the Kenyan case, no such provisions were included in the agreement with regard to policy making.¹⁰⁷ The only area in which guarantees were provided was with regard to the dismissal of cabinet ministers, which requires consent from both ODM and PNU. Otherwise, the legislative process is subject to the same rules that existed prior to the power-sharing agreement. Therefore, the concern that minorities may be able to extract an unreasonably high price for cooperation does not apply in the Kenyan case. The inefficiencies that may exist in the legislative process are a function of the political system that existed before the agreement, not the agreement itself.¹⁰⁸

A second concern is that power-sharing agreements may create an adverse selection problem whereby extremists and ethno-nationalists are favored over moderates. This does not appear to be the case in Kenya. To the contrary, the leaders of the two parties that signed the agreement, Kibaki and Odinga, appear to be relatively moderate compared the hardliners in each side's

¹⁰⁶ Ibid

¹⁰⁷ Data from a survey (n=2,011) conducted by the Steadman Group from March 28 – April 2, 2008.

¹⁰⁸ Ibid

camp. At several critical points in the negotiations process and after, these leaders have shown a willingness and ability to constrain hardliners within their own ranks, facilitating compromise across party lines. For example, in the final stages of the negotiations over the accord, Kibaki and Odinga retreated with Annan in a private session to hammer out the last details of the agreement.¹⁰⁹ Again during the negotiations over the distribution of cabinet portfolios, the two party heads retreated behind closed doors to break an impasse that threatened to destroy the Grand Coalition government.

Finally, the third concern is that power-sharing agreements may create moral hazard problems by eliminating the oversight role played by opposition parties. Without an opposition party to check the government, corruption and theft may increase. While it is premature to offer a definitive assessment, there are signs that the entry into the Grand Coalition has not undermined the oversight role that ODM would have played if it had remained in the opposition. Joining the Grand Coalition does not require ODM to abdicate its oversight role.¹¹⁰ While ODM and PNU became partners in the governing coalition, they were also adversaries in the electoral arena, keenly aware that they had to face each other again in the next election. For its part, ODM appeared determined to demonstrate its competence as a partner in the Grand Coalition government in order to enhance its reputation between now and the next electoral round. The fact that ODM and PNU eventually face off again in the not-too-distant future also created an incentive for the two parties to expose instances of corruption in the other's ranks. In June 2008, for example, a prominent ODM MP brought to light allegations that the Finance Minister, a

¹⁰⁹ Ibid

¹¹⁰ BBC News "Probe into Kenya Sell-off" BBC News, June 30, 2008.
<http://news.bbc.co.uk/2/hi/africa/7481140.stm>, accessed August 10, 2014

senior PNU member, had acted improperly in selling off a government-owned hotel to a group of Libyan investors.¹¹¹

The power-sharing agreement also created new opportunities for oversight within government bodies. Under the accord, the parties agreed to the principle of portfolio balance in the allocation of cabinet positions. In practice, this principle has been interpreted to mean that there would be balance in the distribution of Ministerial position and that there would be balance within each Ministry. If a top position within a particular ministry was filled by PNU, the second position would be filled by ODM, and vice-versa. In principal, this system of balance within ministries allows each party to keep an eye on the other, making it difficult for any one party to create a fiefdom within a particular agency. In practice, however, the potential benefits of this arrangement can only be realized if the various leaders within the ministries are willing to work collaboratively.

2.4 Challenges and Opportunities

Several factors can be found for the failure to reach or implement the power-sharing agreements. They can be grouped into: inappropriate external pressure, a lack of a structural power-sharing solution, leadership characteristics and ambitions, mistrust after a prolonged war and the role of resources in shaping incentives for the parties.

External pressure has had an effect on parties to any conflict in the world including the 2007/08 Kenya post-election violence/conflict impacting on: organizational capacities and options; negotiation attitudes and signals; and their degree of responsiveness towards agreements.

¹¹¹ Ibid

Hartzell and Hoddie¹¹² identifies that third party actor pressures leads local parties to signal intentions that do not correspond to their real states of mind and gives the example of the 1989 Gbadolite negotiations where Mobutu's interest might have led the parties into signing an agreement significantly different from the real intentions each had at the time. At the same time, the Gbadolite process was able to change MPLA and UNITA attitudes towards each other and got them involved in a change and negotiation process.¹¹³ In addition, when there is unity among external parties about how to deal with an issue and a consensus about what are legitimate and illegitimate solutions to a country's civil war, history shows better results are achieved as this provides clear signals to the local parties¹¹⁴ of the framework for political action. For instance, in Angola this consensus was lacking right after UNITA returned to war in 1992, only latter would a common be established to pressure UNITA into compliance. An important aspect of the third party role is as an enforcer of the agreement. Hampson considers that the "inability of third parties, notably the United Nations, to provide resources needed to implement peace accords doom conflicting parties to failure in the face of widespread cheating and non-compliance".¹¹⁵

The power-sharing provisions established in power sharing agreements are supposed to be relevant facet from one another. Hartzell and Hoddie considers that a broader and quicker array of power-sharing and power-dividing institutions should be included in the settlement to create the environment for an effective chance of genuine commitment to negotiated peace.¹¹⁶ Taking an example of Angola conflict, Stedman also identifies the lack of power-sharing provisions in

¹¹² Caroline Hartzell, A., and Matthew Hoddie, "Institutionalizing peace: power sharing and post-civil war conflict management".op cit. 332.

¹¹³ Caroline Hartzell and Matthew Hoddie. *Crafting Peace: Power-sharing Institutions and the Negotiated Settlement of Civil Wars*. Penn State Press (2007)

¹¹⁴ Ibid

¹¹⁵ Hampson F. Osler. *Nurturing peace: why peace settlements succeed or fail* (US Institute of Peace Press, 1996), 88

¹¹⁶ Caroline Hartzell and Matthew Hoddie. *Crafting Peace: Power-sharing Institutions and the Negotiated Settlement of Civil Wars*. Op cit.

the 1991 Bicesse accords as a reason for the resumption of the conflict, although this author extensively identifies moments before and after the elections where power-sharing proposals were unsuccessfully presented both to the MPLA and UNITA by a range of external actors, in particular the United States and South Africa.¹¹⁷

Another factor is leadership characteristics and ambitions which is largely applicable with African leaders. Jarstad in his argument regarding Angola conflict, he claimed that the Lusaka power-sharing provisions were good because they were able to attract some UNITA factions, isolating the militarist Jonas Savimbi group, eventually leading to this group's defeat and its leader's death in combat. When that occurred, the implementation of the agreement could resume without additional militaristic factions emerging rendering Lusaka, and its provisions, a positive contribution to peace. Nevertheless this argument is based on the assumption that Savimbi's group would not settle for peace in any case.¹¹⁸ Even if the inducement only opened the UNITA appetite for power in 1992, as Stedman argues, Jonas Savimbi's behaviour is one of a "greedy spoilers" where a heavy dose of coercion combined with extremely high costs for noncompliance, might have been a better option for achieving peace. He also refers to how privileged observers like Ambassador-designate Edmund De Jarnette identified Savimbi's personality and his hegemonic ambitions for Angola as the problem.¹¹⁹ Spears also identifies the challenge on how both parties to a conflict will desire total power thereby limiting the use of power-sharing and fostering the incompatibility of their leaders, with a track record of leading

¹¹⁷ Stephen J. Stedman., "Spoiler Problems in Peace Processes", *International Security*, 22, no.2 (1997): 5- 53

¹¹⁸ A. Jarstad. "Power-sharing for Peace and Democracy", Paper prepared for presentation at the 47th annual meeting of the *International Studies Association*, San Diego, USA, 22-25 March 2006, and at the Vail Symposium (2006):27-29

¹¹⁹ Stephen J. Stedman. "Spoiler Problems in Peace Processes", *International Security*, 22, no.2 (1997): 5- 53

their parties against each other in the midst of fervent denunciations.¹²⁰ Part of this gap is the significant personality differences of the leaders which were identified by UN Special Envoy to Angola, Margaret Anstee at the time of elections as another source of incompatibilities.¹²¹

Another dimension of the leadership factor is the dimension that each leader assumes in a conflict, both as a result of circumstances and of personal characteristics. This projection of leadership, with its particularities, like claiming to be the exclusive representative envision any agreement as anything other than a temporary compromise on the road to total power. Finally, the key role of resources in shaping the incentives of the parties is almost unanimously identified as a factor contributing to the prolonged continuation of the conflict.

2.5 Conclusion

The overarching loyalties, or, as Roeder and Rothchild put it, the existence of some, even feeble, level of the shared national identity, appears to be the most important pre-condition of the proper functioning of the power sharing mechanisms. Yet, it is possible to argue, in the final analysis such condition is also tautological, for the inter-ethnic power sharing is actually thought of as a solution for strongly divided societies where such conditions are not present. Moreover, we saw how the power sharing actually tends to undermine, rather than to strengthen, the identification of the citizens with the common state and strengthens the identification with the sub-group. It thus, ironically, appears that the power sharing is only well-suited for those societies where it is actually not needed (the inter-ethnic conflict is not the most prevalent one and there is, even if weak, a certain level of shared national identity), where it will most probably end up

¹²⁰ Ian S. Spears. "Understanding inclusive peace agreements in Africa: the problems of sharing power", *Third World Quarterly*, 21, no. 1 (2000): 105-118

¹²¹ Margaret J. Anstee. *Orphan of the cold war: the inside story of the collapse of the Angolan peace process, 1992-1993* (Basingstoke/ New York : Palgrave Macmillan, 1996), 147

undermining the only necessary condition for its stability, bringing, rather than solving, inter-ethnic tensions.

CHAPTER THREE

POWER-SHARING AS A MODE OF CONFLICT MANAGEMENT IN POST- CONFLICT SOCIETIES IN AFRICA: A COMPARATIVE ANALYSIS

3.0 Introduction

For managing and settling conflicts, power-sharing arrangements often seem an appropriate solution not only in Africa but also internationally.¹²² The parties are forced to work together and make decisions by consensus; the ultimate goal is to turn opponents into partners. Obviously, this concept can only be successful under specific conditions and by specific arrangements as discussed in the introductory part of this study. Based on a historical overview of power-sharing, part two of the study has identified favorable conditions. Thus for power sharing to be a successful mode of conflict management, the conditions have to be favorable, if not, 'bad' or insufficient rules and procedures prevail, then even the presence of comparatively beneficial factors will probably not avoid failure. Success can be understood as achievement and sustainability of a particular solution.

This part of the study does a comparative study of the African cases. By comparing these cases, the relevance of a set of conditions - usually assumed to be favourable for success - will be examined. Fourth, the quality of the institutional design of power-sharing regimes will be evaluated in order to distinguish 'better' regulations from more problematic or even counterproductive ones. Thus these experiences being peculiar per case, help in future relevant cases of power sharing as a mode of conflict.

¹²² Chandra Lekha Sriram. *Peace as Governance: Power Sharing: Armed Groups and Contemporary Peace Negotiations*. (London: Palgrave Macmillan, 2008), 107-142

3.1 Peace Agreements and Power-Sharing Arrangements in African States

Power-sharing is mostly advocated as a short term, peace and security-oriented, ‘cake-sharing’ arrangement. Its mere objective is to bring an end to hostilities by offering the carrot of (political, economic, military and/or territorial) power to elites. On the other hand, power-sharing has been considered as a longer term strategy of promoting representative and inclusive governance in deeply divided, in particular ethnically segmented, societies.¹²³ While recognizing the difficulties of transplanting power-sharing mechanisms from well-established democracies to societies that are negotiating their exit from internal armed conflict, proponents have strongly recommended the use of consociational power-sharing as a tool for post-conflict state reconstruction, including as far as constitutional design is concerned.¹²⁴

Some authors have warned against the inherently ‘escalating’ nature of consociational power-sharing. Among them, some recommend more centripetal, moderating power-sharing modalities¹²⁵, while others recommend power-dividing corrections¹²⁶ as an alternative means of curbing the risk of political oppression of minorities by the (demographic and political) majority in purely majoritarian systems.

In some situations, peace accords can contain power-sharing agreements that are inspired by both objectives. This is particularly relevant when the segmental cleavages in society are also reflected in the leadership of the armed opponents and when the armed struggle is – at least

¹²³“Constitutionalism in divided societies” of the *International Journal of Constitutional Law*, 5, no. 4, 2007 and Sujit Choudhry (ed.) *Constitutional Design for Divided Societies. Integration or Accommodation?* (Oxford, Oxford University Press, 2008), 492

¹²⁴ Arend Lijphart. “Constitutional design for divided societies”, *Journal of Democracy*, 15, no. 2 (2004): 96-109

¹²⁵ Donald Horowitz. *Ethnic Groups in Conflict*. Berkeley, University of California Press (2000)

¹²⁶ Philip Roeder. “Power dividing as an alternative to ethnic power sharing”, in Philip Roeder and Donald Rothchild (eds.) *Sustainable peace. Power and democracy after civil wars* (Ithaca and London: Cornell University Press, 2005), 51-82

partly – motivated by collective grievances of one or more of the societal segments. In the case of Burundi, for instance, successive peace agreements have included both types of power-sharing. The Arusha Peace and Reconciliation Agreement of 2000 contained a constitutional blueprint with important consociational elements aimed at pacifying the political cohabitation between ethnic segments. The 2003 and 2006 peace accords were, in the first place, a matter of ‘cake-sharing’ power-sharing.

In theory, power-sharing agreements are not necessarily incompatible with the existing constitutional order. It may well be possible to attribute positions in the political, military, economic sphere in a way that is fully compatible with the constitutional order. This is particularly the case when the power-sharing agreement does not involve the most senior positions.

In the 2006 power-sharing agreement between the Government of Burundi and the rebel movement Palipehutu-FNL, a total of 33 posts (at the level of embassies, state owned enterprises, ministerial advisors and others) were granted to the FNL in return for the latter’s agreement to lay down arms. The agreement was fully in accordance with the Constitution. Generally much more problematic are situations in which strong executive power is shared. In particular in Africa’s strongly presidential systems, in which executive power is largely concentrated in the hands of the presidency, political power-sharing – mostly through the creation of positions of vice-president or prime minister with autonomous executive power - is particularly difficult to organize without violating or amending the Constitution.¹²⁷

¹²⁷ Christine Bell, (2008), *On the Law of Peace. Peace Agreements and the Lex Pacificatoria*, Oxford, Oxford University Press: 149-153

In some situations, the text of the power-sharing agreement does not deal with its own legal status and simply fails to address its compatibility with the prevailing constitution. In the situation of Guinée, the Ouagadougou Joint Declaration of 2010 was signed by leading members of the CNDD, the movement responsible for the coup d'Etat and by the international mediator. It was agreed to establish a National Council of Transition composed of 101 members representing all segments of society. The agreement confirmed the interim de facto presidency of Konate (CNDD) and provided for the appointment of a Prime Minister from the 'Forum des Forces Vives du Guinée' opposition movement as the head of a government of national unity. The AU PSC repeatedly welcomed the Ouagadougou Agreement which, undoubtedly, violated the Constitution, but which was seen as a necessary interim agreement prior to the organization of elections.¹²⁸

In the situation of Chad, the N'Djamena August 2007 power-sharing agreement clearly violated the Constitution on several points, for instance by indefinitely (until the time of election of a new national assembly) extending the legislature which - under the prevailing constitution - ended in 2007. While no explicit wording was included regarding its legal or constitutional status, the Agreement also stipulated that no laws adopted as a result of the power-sharing agreement could possibly be amended in a way that derailed them from their original objectives as put forward by the agreement. In other situations, this incompatibility is explicitly acknowledged, but provisions have been included which either rule out the possibility of challenging the constitutionality of the power-sharing agreement or which award supra-constitutional status to the power-sharing agreement.

¹²⁸ AU, PSC, Communiqué of 19 February 2010, Para. 6.

Article 35 of the Comprehensive Peace Agreement for Liberia (Accra, 18 August 2003)¹²⁹ stipulates that to give effect to paragraph 8 (i) of the 17th June 2003 Ceasefire Agreement signed by the LURD, the GOL, and the MODEL, for the formation of a Transitional Government, the Parties agree on the need for an extra-Constitutional arrangement that will facilitate its formation and take into account the establishment and proper functioning of the entire transitional arrangement, (para. 1a).¹³⁰ The Agreement itself ruled out the possibility for Liberians to challenge its constitutionality. In fact, the Agreement stipulated that upon the installation of the National Transitional Government of Liberia, all members of the Supreme Court of Liberia shall be deemed to have resigned (art. XXVII, para. 2).¹³¹

In the case of Madagascar, the 2009 Maputo Charter of the Transition – in addition to announcing that a new Constitutional order will be designed (art. 35) – stipulates that the Charter constitutes the constitutional law of the transition (art. 42) and that all constitutional and legislative provisions that are not contrary to the Charter remain in force (art. 43), clearly granting supra-constitutional status to the Charter. The PSC repeatedly expressed its support for the power-sharing agreement, urging the de facto authorities borne out of the unconstitutional change of government to formally accept the Maputo Agreement and the Addis Ababa Additional Act of 6 November 2009 and “to revoke any domestic legal instrument which contains contrary stipulations.”¹³²

¹²⁹ Article 35 (Para 1) of the Comprehensive Peace Agreement for Liberia (Accra, 18 August 2003)

¹³⁰ Ibid

¹³¹ Ibid

¹³² AU, PSC, Communiqué of 19 February 2010, Para. 6.

In the case of Burundi, the 2000 Arusha Peace and Reconciliation Agreement provides for the establishment of transitional, power-sharing institutions for a period of up to three years stipulating that “The constitutional provisions governing the powers, duties and functioning of the transitional Executive, the transitional Legislature and the Judiciary, as well as the rights and duties of citizens and of political parties and associations, shall be as set forth hereunder and, where this text is silent, in the Constitution of the Republic of Burundi of 13 March 1992. When there is a conflict between the Constitution and the Agreement, the provisions of the Agreement shall prevail¹³³. Furthermore, the Agreement stipulates that, by its signature, the National Assembly agrees, within four weeks, to (a) adopt the present protocol as the supreme law without any amendments to the substance of the Agreement.¹³⁴ Also, it is agreed that during the transition period, a new Constitution will be drafted which must be in conformity with the principles – including the consociational power-sharing rules - set forth in the Arusha Agreement.

The Constitutional Court was charged with verifying the conformity of the post-transition Constitution with the constitutional framework put forward by the Arusha Agreement. Although in practice, this did not occur,¹³⁵ it clearly indicates the intention of the signatory parties to award supra- constitutional status to the Agreement. The power-sharing provisions in the 2003 peace agreement between the Transitional Government established in accordance with the Arusha Agreement and the CNDD-FDD rebel movement, also award themselves supra-constitutional status. They do so, on the one hand, indirectly by stipulating that the GCA constitutes “an integral part of the Arusha Peace and Reconciliation Agreement for Burundi” and, on the other,

¹³³ Protocol II Democracy and Good Governance, Chapter II Transitional Arrangements, article 15, Para. 2

¹³⁴ Ibid

¹³⁵ Stef Vandeginste. *Stones Left Unturned. Law and Transitional Justice in Burundi* (Antwerp: Intersentia, 2010), 392-393.

directly by stating that “any constitutional, legislative or regulatory provisions which are inconsistent with this Agreement shall be amended as soon as possible in order to bring them into line with this Agreement”¹³⁶

In the situation of Kenya, a power-sharing “Agreement on the principle of partnership of the coalition government” was signed on 28 February 2008, with a draft “National Accord and Reconciliation Act as an integral part to it. The latter Act was adopted in parliament on 6 March 2008. The power-sharing agreement and the Act provided for the creation of the position of a prime minister as head of the grand coalition government. The autonomous executive power granted (at the request of one of the negotiating parties) to the prime minister was clearly contrary to the prevailing constitution.

The Agreement stipulated that the Act shall be entrenched in the Constitution. The Act stipulated that it shall cease to apply upon dissolution of the tenth parliament, if the coalition government was dissolved or a new Constitution enacted. There was a clear intention to give quasi-constitutional status to the Act. The Act also stated that Parliament will convene at the earliest moment to enact these agreements, in the form of an act of Parliament and the necessary amendment to the Constitution. Upon entry into force, on 17 April 2008, opposition leader Odinga took office as prime minister. At the same moment, a Constitution of Kenya Amendment Act and a Constitution of Kenya Review Act were adopted, in order to facilitate a comprehensive review of the Constitution.¹³⁷ A Constitution of Kenya review committee was established, which submitted a draft Constitution in November 2009. A new Constitution was approved by

¹³⁶ Arusha Peace and Reconciliation Agreement for Burundi, Articles 2 and 3

¹³⁷ Henry Amadi. “Kenya’s Grand Coalition Government – Another Obstacle to Urgent Constitutional Reform?” *Africa Spectrum*, 49, no. 3, (2009) 149-164

referendum in 2010, which, quite interestingly, does no longer provide for the position of a prime minister. But, as part of its transitional arrangement, the 2010 Constitution itself stipulates that some of its provisions (including on the executive) will not apply and states that the power-sharing Agreement and the National Accord and Reconciliation Act will continue to apply until the 2012 elections (which retroactively confirmed their quasi-constitutional or ‘transitional constitutional’ status).¹³⁸ In the case of Sierra Leone, the power-sharing agreement did not elaborate on its constitutionality, but contained provisions in order to ensure that possible incompatibilities between the agreement and the existing constitution or other legislation were retroactively removed.

The 25 May 1999 Lome Agreement for Sierra Leone stipulated (under Art. X – Review of the present Constitution) that to ensure that the Constitution of Sierra Leone represents the needs and aspirations of the people of Sierra Leone and that no constitutional or any other legal provision prevents the implementation of the present Agreement, the Government of Sierra Leone shall take the necessary steps to establish a Constitutional Review Committee to review the provisions of the present Constitution, and where deemed appropriate, recommend revisions and amendments, in accordance with Part V, Section 108 of the Constitution of 1991”.¹³⁹ In Zimbabwe, the need to ensure conformity with the Constitution through a constitutional amendment was explicitly recognized and an ‘urgency amendment’ of the Constitution was adopted at the time of entry into force of the power-sharing agreement. In the situation of Zimbabwe, article XX of the 2008 power-sharing agreement laid down the ‘Framework for a New Government’ and stipulated that the executive authority of the power-sharing government

¹³⁸ Ibid

¹³⁹ The 25 May 1999 Lome Agreement for Sierra Leone stipulated (under Art. X – Review of the present Constitution)

was to be vested in and shared among the President, the Prime Minister and the Cabinet. Further provisions – clearly contrary to the prevailing constitution – detailed the powers of these institutions. In accordance with article 20.1.6 of the power-sharing agreement, opposition leader Tsvangirai was sworn in as new prime minister on 11 February 2009.

Constitutional Amendment Act No.19 was adopted in parliament on the very same day. This amendment was adopted in accordance with article XXIV (‘Interim Constitutional Amendments’) of the power-sharing agreement in which it was agreed “that the constitutional amendments which are necessary for the implementation of this agreement shall be passed by parliament and assented to by the President as Constitution of Zimbabwe Amendment Act No 19. The Parties undertake to unconditionally support the enactment of the said Constitution of Zimbabwe Amendment No 19”. In addition to this ‘urgency amendment’ of the Constitution, Article VI of the power-sharing agreement provided for a longer term constitutional review process.

In Côte d’Ivoire (2002), use was made to a ‘state of emergency’ clause in the Constitution itself so as to allow for the implementation of a power-sharing agreement provision which otherwise, that without application of that clause, would have been unconstitutional. In order to implement a power-sharing agreement provision on the eligibility of presidential candidates – stating that that it should suffice if the candidate is born of a father OR (and not AND) a mother born Ivorian, which was contrary to the strict ‘Ivoireté’ citizenship requirement laid down in article 35 of Constitution - incumbent president Gbagbo, under strong international pressure and despite his personal reluctance to do so (see below), used his powers under article 48 of the Constitution.

This ‘state of emergency’-clause grants exceptional powers to the president allowing him to adopt measures needed to save the integrity of the country.¹⁴⁰ On this basis, a presidential decree was adopted to implement part of the power-sharing agreement, stipulating that exceptionally and for the sole purpose of the presidential election of October 2005, candidates presented by the political parties signatories to the Linas-Marcoussis power-sharing agreement are automatically eligible (contrary to other candidates who had to meet the constitutional requirement under article 35). The decision also disabled the Constitutional Council from verifying the eligibility of presidential candidates presented by the parties to the Linas-Marcoussis agreement.¹⁴¹ A final observation, be it of a somewhat different nature, is that the requirement of constitutional conformity of power-sharing can be instrumentalized when it serves the interest of one of the negotiating or signatory parties.

As noted above, in the situation of Côte d’Ivoire (2002), the power-sharing agreement called for an amendment of article 35 of the Constitution of 23 July 2000 on the conditions of eligibility of presidential election candidates. Apart from this proposed amendment, it was agreed that the constitutional order should be fully respected. The AU and the wider international community called for implementation of the power-sharing agreement. However, incumbent president Gbagbo argued that under the terms of 126 of the Constitution, the agreed amendment required a two-thirds majority in parliament and needed to be passed by referendum. He also argued that, in line with art. 127 (ruling out the possibility of a constitutional amendment when the integrity of

¹⁴⁰ Marie-Agathe Baroan. *Démocratie et élections en Côte d’Ivoire: Ombres et lumières*, Paper presented to the World Congress of the International Association of Constitutional Law (2010): 26p.

¹⁴¹ Ibid

the territory is under threat), this was not possible until there was a disarmament of rebel forces. In the end, a compromise was found through the use of article 48 of the Constitution.¹⁴²

In the case of Kenya, a major point of disagreement between the two parties to the power-sharing negotiations concerned the position and powers of the prime minister. The government and the PNU party of incumbent president Kibaki only accepted changes that could be accommodated by article 16 of the Constitution (which clearly established presidential control over the government, including the yet to be created post of 'prime minister'). Opposition party ODM wanted to make sure that a newly created ministerial position was constitutionally enshrined since otherwise that position and the powers that come with it could be removed at the discretionary decision of the President. ODM claimed autonomous executive powers for the prime minister. AU mediator Kofi Annan brought in former UN Legal Counsel Hans Correll to help and solve the dispute about the power and responsibilities of the prime minister, the process for nominating ministers and dissolving the government (the security of tenure) as well as to advise on whether the changes required an act of parliament and also an amendment of the Kenyan constitution.

Burundi is often presented as the most complex and complete case of power-sharing in Africa. Colonial past and the choice of an influential mediator are frequently invoked to explain this status: In fact, both Belgium and South Africa have important experiences with consociational democracy. A third convincing argument advanced by Vandeginste¹⁴³ is the trial and error approach in finding lasting solutions to a recurrent and extremely violent conflict pattern with about 300,000 dead between 1993 and 2005 (and perhaps 500,000 since independence in 1962).

¹⁴² Ibid

¹⁴³ M. Weller, M. and S. Wolff, 'Recent Trends in Autonomy and State Construction', in *Autonomy, Self-governance and Conflict Resolution: Innovative Approaches to Institutional Design in Divided Societies*, ed. by Marc Weller and Stefan Wolff (London: Routledge, 2005): 262-270

Not all details of the current power-sharing provisions can be described here.¹⁴⁴ The final regulation is not transitional.

Assuming that the cleavages in society and in particular the everyday Hutu-Tutsi divide are a given, the main provisions are fixed within the country's permanent Constitution. This should have major effects on actor behaviour. A Constitutional Referendum was in fact held in 2005 and the resulting Constitution is regulating access to power positions. The two vice-presidents are from distinct ethnic background (and party affiliation), they represent the dominant ethnic group within their party- article 124. Parliament would consist of 60% Hutu and 40% Tutsi article 164. Laws have to be voted by a two-thirds majority (i.e. necessitating Tutsi consent to veto) article 175, same goes for senate decisions article 186.

In Senate a Hutu and a Tutsi would represent each of the 17 provinces.¹⁴⁵ All parties obtaining more than 5% of the votes would hold ministerial positions in government which would have a fixed 60:40 Hutu/Tutsi composition. Similar provisions were fixed for all other public positions . Legislative elections are by proportional representation on provincial level, party lists can consist to 67% maximum of one ethnic group. An article of the Constitution that can be altered by the senate provisionally fixes ethnic quota for the security forces 50:50.¹⁴⁶ Burundi's power-sharing agreement contains some provisions on administrative devolution as it reinforces the provincial level by the introduction of governors originating from the provinces they administer, but the patterns of settlement and the small size of the country does not permit to fully play out the

¹⁴⁴ Ibid

¹⁴⁵ Ibid: 266

¹⁴⁶ Burundi Constitution, articles 129, 168 and 257

familiar idea of guaranteeing group autonomy by creating largely autonomous provinces or federal states¹⁴⁷

In spite of the diversity of settings in which power-sharing arrangements have been put in place, three key factors seem to affect their ability to ensure a sustainable transition from war to peace and, subsequently, to provide a framework for the conduct of democratic politics: the nature of the state – more specifically the extent of its centralisation and/or repressive power; the capacities and interests of armed group(s) involved in, and excluded from, the agreement; and the nature and/or robustness of the involvement of external actors in either supporting or undermining the agreement. In many instances, such factors converge to create situations not only unfavourable to the success of power-sharing arrangements, but in which such arrangements create new risks. These include the creation of new grievances and perverse incentives, the risk of importing conflictual behaviour into weak state institutions which are unable to manage them, and alternatively including new participants in governance who lack the background and capacity to function properly, or who may be sidelined by embedded political and bureaucratic practices. These risks, and their consequences, often result in a situation where the short-term reliance on power-sharing runs at odds with the long-term objective of creating robust, sustainable, non-violent states. In this article, we argue that the risk(s) associated with power-sharing arrangements are particularly acute in the context of weak or collapsed states such as exist in the African context.

In conflict-affected countries, the new grievances and perverse incentives often associated with power-sharing further decrease the state's ability to effectively deter and assure¹⁴⁸. States whose

¹⁴⁷Orlandrew E. Danzell. "Political parties: when do they turn to terror?" *Journal of Conflict Resolution* (2011)

institutions cannot easily accommodate the grievances of new players (assurance) will often fall back on (more or less violent) methods of exclusion which, in turn, increase the potential for the emergence of violent challenges. And states that cannot effectively wield the threat of legitimate violence (deterrence) are ill-equipped to address these challenges. In other terms, in such conditions, power-sharing arrangements might in fact speed the decline of the state. In this article, we elaborate on these challenges with illustrative lessons from a number of African states that have been the sites of power-sharing arrangements, including Burundi, the Democratic Republic of the Congo, Côte d'Ivoire, Liberia, Rwanda, Sudan, Sierra Leone, and Zimbabwe.¹⁴⁹

While African states have been the subject of an unprecedented range and number of peacemaking and peace-building experiments that involve power-sharing, this is not only a risk in power-sharing arrangements in Africa; our argument is founded on broader comparative analysis of such arrangements in Bosnia, Nepal, Colombia, Lebanon, and elsewhere¹⁵⁰. Based in part on the results of earlier in-depth research of a number of power-sharing agreements¹⁵¹, and using our findings inductively to look at other cases and develop theoretical propositions, this study is a first step for future research by ourselves and others. As such, it utilises a wide range of comparative examples rather than large-N analyses or a number of in-depth case studies. This enables us to develop a number of theoretical critiques and analytic categories which may be tested in subsequent research.

¹⁴⁸ Stephen M. Saideman and Marie-Joëlle Zahar (eds.) (2002) *Intra-state Conflict, Governments and Security: Dilemmas of De Schneckener, Ulrich, Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict*, in: *Journal of Peace Research*, 39, 2, (2008) 203-228. terrence and Assurance, London: Routledge.

¹⁴⁹ Ulrich Schneckener, *Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict*, in: *Journal of Peace Research*, 39, no. 2 (2002): 203-228

¹⁵⁰ Chandra Lekha Sriram, Olga Martin-Ortega, and Johanna Herman (eds.) "Peacebuilding and the Rule of Law" in *Africa: Just Peace?* (London: Routledge, 2010)

¹⁵¹ Ibid

In Kenya, due to the fact that political institutions have been subject to the power of a highly centralized and personalized presidency, politicians are strongly driven to gain access to state resources and patronage.¹⁵² Elections are mainly seen as an opportunity to compete for the control of the state.¹⁵³ Winning elections is overwhelmingly necessary, which turns the game into one either “to secure control of the state ‘to eat’ or to die”¹⁵⁴ The SMDP electoral system combined with the politics of ethnicity reinforces the zero-sum game.

Kenyan political parties are largely constructed on the base of ethnicity (tribalism), the loyalties and identification toward their own tribe/ethnic groups and group antipathy against others.¹⁵⁵ Political parties, supported by distinct ethnic groups, are highly motivated to win the election battles to protect the tribal interests on one hand; political parties have strong incentives to manipulate ethnic feelings to campaign for elections on the other hand. Institutionalists have long argued that rules and regulations provide incentives for the political actors within the system to perform strategically in order to maximize the utility of outcomes. It is well recognized that, under SMDP, elections are a winner-take-all game.¹⁵⁶ Considering that there is only one chance of winning in each district (district magnitude one), the fear of violence or “ethnic others” gaining advantages over their own tribe, politicians and political parties are even more driven to mobilize voters by using ethnic arithmetic and clientage.¹⁵⁷ Under this circumstance, the SMDP electoral rule strengthens the pattern of ethnic politics in Kenya.

¹⁵²Andreas Mehler, “Peace and Power Sharing in Africa: A Not So Obvious Relationship”, *African Affairs*, 108, no. 432 (2009)453-473.

¹⁵³ Ibid

¹⁵⁴ R. Southall “Alternatives for Electoral Reform in Kenya: Lessons from Southern Africa.” *Journal of Contemporary African Studies* 27, no. 3 (2009): 445-61

¹⁵⁵Ibid: 448

¹⁵⁶ Oyugi, Walter O. "Ethnicity in the Electoral Process: The 1992 General Elections in Kenya." *African Journal of Political Science*, 2, no. 1 (1997) 41-69

¹⁵⁷R. Southall. “Alternatives for Electoral Reform in Kenya: Lessons from Southern Africa.” *Journal of Contemporary African Studies*, 27, no. 3 (2009): 445-61

3.3 Political Inclusion

Where representation fails or provokes demands based on exclusionary claims, the remedies entail some active principle of proportionality ultimately implemented through institutions. The menu of options includes electoral systems, party systems, executive selection procedures and cabinet formation, minority assurances through federalism, judicial protection of civil rights and civil liberties, and fixed guarantees such as quotas. Starting from nine dichotomous attributes of inclusion, Staffan Lindberg counts at least 512 possibilities based on Lijphart's criteria.¹⁵⁸ This does not include novel variables such central bank independence or Norris' ¹⁵⁹ press freedom measure. Thus even if we limit the institutional options to the four features of consociationalism, there are far more possibilities than known cases. Africa's emerging democracies have struggled with this large range of possibilities. One reason stems from the context of extreme social heterogeneity, not because it makes inclusion impossible but because the successful application of any principle depends on the unit of analysis. For example, candidates and political parties in Zambia build political coalitions on either four tribes or 72 language groups.

In Nigeria, the standard for inclusiveness grows increasingly nuanced as the unit shifts from two regions (north and south), to six geopolitical "zones," and then to 36 states. For example, a constitutional reform committee required two members from each state, and political parties organize internally on the basis of zonal representatives. National Assembly leadership positions are also subject to quotas related to the location of the three largest ethnic groups¹⁶⁰. In this

¹⁵⁸ Ian S. Spears "Africa: the Limits of Power-Sharing." *Journal of Democracy*, 13, no.3 (2002):123-136

¹⁵⁹ Pippa Norris. "Driving Democracy: Do Power-Sharing Institutions Work?" Cambridge and New York: Cambridge University Press, 2008)

¹⁶⁰ Iro Abubakar Dan-Musa ed. "Party Politics and Power Struggle in Nigeria" op cit.

complex federal context, achieving an ethic of inclusion depends upon where one defines the boundaries of representation.

The variety of institutional configurations also introduces inclusive practices whose objectives conflict with the incentives generated by majoritarian institutions. Nigeria's zoning provisions and its "federal character" quotas (which promote ethno-regional diversity in the civil service) operate alongside presidentialism and a first-past-the-post (FPTP) electoral system – institutions meant to facilitate cooperation across social cleavages. Foreign aid implementers and politicians in Kenya openly look to Germany's coalition government as a model, despite its entirely different process of coalition formation through parliamentary elections with mixed member system (compared to Kenya's FPTP).¹⁶¹

In Djibouti, an elaborate arrangement to form a governing coalition allocates seats according to clan and sub-clan. But alongside a largely majoritarian electoral system, opposition parties there complain about a permanent state of exclusion. Incumbents in these countries get the best of both worlds: an opposition handicapped at the polls and a perception of inclusiveness that bestows legitimacy on the national government.

A further complication in Africa stems from accepted traditions of inclusion not officially enshrined in law. Africanists often argue that institutional approaches fail to capture critical dimensions of politics. Formal institutions supposedly have "played a minor role, if any at all"

¹⁶¹ Hoddie, Matthew and Caroline Hartzell. "Power Sharing in Peace Settlements: Initiative the Transition from Civil War." In *Sustainable Peace: Power and Democracy After Civil Wars*, eds. Donald Rothchild and Philip Roeder. Ithaca: Cornell University Press, (2005) 83- 106

in party system formation, for example ¹⁶². Informal institutions are evident in a number of post-war agreements covering critical compromises on issues such as reintegration of hostile forces or economic policies to remedy regional inequities.¹⁶³ The tradition of “power shift” in Nigeria,¹⁶⁴ alternating the presidency between north and south, is now an entrenched political norm – even though it is codified nowhere .

Neither informality nor the complexities identified by Lindberg present serious barriers to an informed analysis. Informality is not unique to Africa, and institutionalists long ago noted the importance of customs as constraints¹⁶⁵. And if the lessons of constitution crafting in the 1990s are any guide, the sheer complexity of institutional options requires holism, not conformity. Even where the evidence leads to differing prescriptions, with Lijphart arguing for maximizing the number of interests represented in government and Philip Roeder advocating dividing power (rather than sharing it), the essential interconnectedness of the options remains widely accepted.

3.4 The African Union and Power-Sharing in Africa: The Current Outlook

Over the past decade, the African Union (AU) had put in place an important normative framework to promote constitutional rule as well as, in particular, orderly constitutional transfers of power in its member states. Through its the Peace and Security Council (PSC), the AU has keenly opposed, including through use of sanctions, unconstitutional changes of government. As an important element of its policy, the PSC thoroughly advocates a return to constitutional order as a solution for unconstitutional changes of African governments. Free in addition to fair

¹⁶² Gero Erdmann. "Party Research: Western European Bias and the 'Africa Labyrinth'." In *Votes, Money and Violence: Political Parties and Elections in Sub-Saharan Africa*, eds. Matthias Basedau, Gero Erdmann and Andreas Mehler. Sweden: Nordiska Afrika institutet, (2007) 34-64

¹⁶³ Ibid

¹⁶⁴ A. Carl LeVan and Patrick Ukata. "Nigeria." In *Countries at the Crossroads 2009: A Survey of Democratic Governance*, eds. Sanja Kelly, Christopher Walker and Jake Dizard (New York: Freedom House, 2010)

¹⁶⁵ North, Douglass ed, *Institutions, Institutional Change and Economic Performance* (Cambridge and New York: Cambridge University Press, 1990)

elections are an important element in the PSC policy of legitimating a new constitutional as well as political order. On the other hand, while opposing unconstitutional means of obtaining or transferring power, the AU has normally been supportive of the use of power-sharing agreements as a mechanism for negotiated conflict settlement.¹⁶⁶

Most power-sharing agreements are not in accordance to the prevailing constitutional order and, as part of a larger peace agreement, often contain new constitutional blueprints. This dual policy of, on the one hand, opposing certain types of unconstitutional changes of government, in particular military coups, and, on the other, advocating power-sharing agreements in the absence of a regulatory framework or normative guidance on such agreements poses an obvious challenge for the consistency of AU policy. Ad far as the African Union wishes to nurture a culture of constitutionalism in its member states, it might help from developing policy guidelines about how to enhance the legitimacy of a new constitutional order - as well as of the political regime exercising political authority – be it in the aftermath of a coup or as a result of power-sharing.¹⁶⁷

The promotion of democratic principles and institutions, popular participation and good governance is one of the objectives of the African Union. Member states of AU on 30 January 2007 adopted an African Charter on Democracy, Elections and Governance, which reaffirms and specifies the AU's adherence to the rule of law and to the principle of constitutionalism. In recent years, the AU has repeatedly condemned coups d'Etat and urged its member states to respect constitutional rule as a way of promoting security, stability and peace on the African

¹⁶⁶A. Carl and Patrick Ukata. "Nigeria." Op cit.

¹⁶⁷ African Union, Assembly of Heads of State and Government, Decision on the prevention of unconstitutional changes of government and strengthening the capacity of the African Union to manage such situations, Assembly/AU/Dec.269(XIV) Rev.1, 2 February 2010

continent. Originally inspired by the (limited) ambition to prevent coups in Africa, the AU has gradually developed a broader normative environment for African constitutions and, in particular, orderly constitutional transfers of power.¹⁶⁸

Types of situations in which the AU supports power-sharing agreements which are sometimes resorted to as a temporary arrangement in the aftermath of unconstitutional changes of government. Here, power-sharing is advocated by the AU as an interim measure to enable a return to constitutional order through elections. Secondly, and more frequently, power-sharing has become the dominant mode of ending internal armed conflicts. Today, intrastate wars rarely end through a military victory of one the parties

Most of the time, internationally mediated peace accords (generally made up of a series of agreements between belligerent parties) are the main strategy to arrive at an end of the armed conflict. Such negotiated settlements frequently involve power-sharing agreements between the parties.¹⁶⁹ Power-sharing agreements, in this case, essentially amount to a compromise which, on the one hand, reflects the prevailing balance of (bargaining) power between the negotiating parties and which, on the other hand, addresses their concerns and serves their interests. These power-sharing agreements generally include provisions on the exercise of political authority in one or more of four dimensions (political, economic, security and territorial power-sharing).¹⁷⁰

These dimensions are a backbone of all constitutional orders and it therefore comes as no surprise that power-sharing agreements may be hard to reconcile with the prevailing

¹⁶⁸Paul D. Williams. "From non-intervention to non-indifference: the origins and development of the African Union's security culture", *African Affairs*, 106, no. 423 (2007): 253-279

¹⁶⁹ Ibid

¹⁷⁰ Ibid

constitutional order. Thirdly, ‘crisis’ power-sharing agreements have been used in the context of post- electoral violence. Two well-known cases are the situations of Kenya and Zimbabwe (both in 2008), where in the wake of contested and ‘collapsed’ electoral processes, a power-sharing agreement was resorted to prevent a further escalation of political violence. It would be erroneous, however, to assume that this has now developed into a new norm. In the situation of Côte d’Ivoire (2010), with two self-declared winners of the presidential elections – incumbent president Gbagbo being declared the winner by the constitutional court and challenger Ouattara being declared the winner by the national electoral commission, with the support of the UN operation in Côte d’Ivoire and international election observers.¹⁷¹

Looking back the experience in Kenya and Zimbabwe, the AU Commissioner for Political Affairs in September 2009 noted that a response to violent contestations of the outcome of electoral processes through power-sharing is problematic. “In many instances, the response to the violence experienced has been to prescribe negotiated arrangements for stabilization purposes. Whilst such an approach is understandable, prescriptions of power sharing arrangements will have the consequence of weakening the momentum towards building the rules of competition that invariably embody winners and losers. Whilst a consensus government may be a good thing in itself, building this through rewarding the violence of losing parties makes a mockery of electoral competition”¹⁷².

In its 2010 report on election related disputes and political violence, the AU Panel of the Wise equally observed that the use of post- electoral crisis power-sharing arrangements, if not well

¹⁷¹ Guillermo O’Donnell and Philippe C. Schmitter., “Negotiating (and Renegotiating) Pacts.” In *Transitions from Authoritarian Rule: Prospects for Democracy*, eds. Guillermo O’Donnell, Philippe C. Schmitter and Lawrence Whitehead. (Baltimore and London: Johns Hopkins University Press, 1986)37-47

¹⁷² Ibid

managed, “may spiral out of control and become a political tool, abused for purposes of manipulating the democratic process and annulling the people’s vote”,¹⁷³ The latter observation refers to a common danger of power-sharing in the context of all three types of situations. The use of power-sharing inevitably comes with an important demonstration effect and creates incentives for those actors possibly considering the use of armed violence (be in the context of a coup, of an internal armed conflict or in the aftermath of elections) as a way of gaining access to political power.

Power-sharing arrangements can – as far as their objectives are concerned – be subdivided in two categories. On the one hand, as referred to above, power-sharing is mostly advocated as a short term, peace and security-oriented, ‘cake-sharing’ arrangement. Its mere objective is to bring an end to hostilities by offering the carrot of (political, economic, military and/or territorial) power to elites. On the other hand, power-sharing has been considered as a longer term strategy of promoting representative and inclusive governance in deeply divided, in particular ethnically segmented, societies.¹⁷⁴

3.5 Conclusion

Conceptual problems in Africa: The term “power sharing” has also come to imply different things where it solves different kinds of problems. While this is sometimes attributed to an exceptionalism of Africa’s democratic cultures, from a comparative perspective the problem is more conceptual than regional. Power sharing is therefore taken here as merely one variety of political inclusion, understood as a purposeful distribution of government posts among the most

¹⁷³Chipso Sithole., "High Cost of Inclusive Government." *In Institute for War and Peace Reporting*. Zimbabwe, (2008)

¹⁷⁴ Fred Oluoch “Power-Sharing Bad for Continent, Says Kriegler.” *The East African*, Nairobi (2008)

powerful political parties or groups¹⁷⁵. Power sharing thus distributes rights to make decisions according to formally defined procedures¹⁷⁶.

Centering inclusion on representation recognizes the role of elections as well as other essential ingredients of democracy. At this point defining democracy broadly seems almost banal; even President Barack Obama noted during his June 2009 speech in Cairo that “elections alone do not make true democracy.” For example, the systematic use of violence by the ruling party in Zimbabwe during the country’s runoff elections clearly impeded open political competition and the exercise of broader political freedoms essential to democracy. A focus on representation also draws attention to ongoing struggles for suffrage and political rights. The 10.5 million refugees in Sub-Saharan Africa also lack political voice, and 12.7 million Internally Displaced Persons face substantial barriers to participation.¹⁷⁷

Finally, inclusion as defined here honors Africa’s traditions of citizen activism, which drove so much of democratization – not to mention decolonization. When citizens in Francophone Africa demanded political accountability through better representation, direct participation animated sovereign national conferences. Corrupt elections for instance in Nigeria’s Niger Delta states in 2003 and again in 2007 produced a dramatic failure of representation. This has fueled militant violence in the region and revived calls for a sovereign national conference to reconstitute the republic. Referenda in the Sudan, Kenya, and the Western Sahara, along with the provision of

¹⁷⁵Ian S Spears. "Africa: the Limits of Power-Sharing." *Journal of Democracy*; 13, no.3 (2002):123- 136

¹⁷⁶ Donald Rothschild and Philip Roeder. (2005b) "Power Sharing as an Impediment to Peace and Democracy." In *Sustainable Peace: Power and Democracy After Civil Wars*, eds. Donald Rothschild and Philip Roeder. Ithaca: Cornell University Press, 29-50.

¹⁷⁷ Ibid

foreign aid directly to civil society organizations (rather than the state), all point to Africa's living spirit of direct participation.

Indeed power-sharing mechanisms have been used especially to attain short-term goals of ending violence. A critical challenge here is situations in which incumbents amend the Constitution in a way that is most likely to favour the continuation of their rule. Considering AU practice in recent years, there are good reasons to believe that this incoherence is due to the fact that while orderly constitutional transfers of power and, more generally, constitutional rule are seen as indispensable for the long term promotion of sustainable peace and security on the African continent, power-sharing agreements are primarily used as instruments to respond to short term stability imperatives, most notably to obtain an immediate cessation of hostilities.

CHAPTER FOUR

POWER SHARING AS A MODE OF CONFLICT MANAGEMENT: A CRITICAL ANALYSIS

4.0 Introduction

Much has been discussed in this study about the use of power-sharing as a tool to mitigate or prevent conflict in ethnic, plural, or divided societies. Indeed, Ted Gurr¹⁷⁸ includes power- and resource-sharing as part of what he terms an emerging “doctrine” in the international practice of managing conflicts. Such political arrangements are expected to ensure that grievances that could promote conflict are addressed through nonviolent means. While recognizing the difficulties of transplanting power-sharing mechanisms from well-established democracies to societies that are negotiating their exit from internal armed conflict, proponents have strongly recommended the use of consociational power-sharing as a tool for post-conflict state re-construction, including as far as constitutional design is concerned.¹⁷⁹

While power-sharing solutions and theories emerge from work on ethnically divided societies,¹⁸⁰ power-sharing is a mechanism used in both ethnic and non-ethnic conflicts. However, it is worthwhile to first examine the reasons why power-sharing is generally thought to be a useful tool in ethnic or identity conflicts. The case was first cogently made in Arend Lijphart’s *Democracy in Plural Societies*¹⁸¹ Though Lijphart’s work focused on mitigating tensions in

¹⁷⁸ Ted Robert Gurr, “Attaining Peace in Divided Societies: Five Principles of Emerging Doctrine,” *International Journal of World Peace*, 19, no. 2 (2002):27-51: 28

¹⁷⁹ A. Carl LeVan and Patrick Ukata. "Nigeria." In *Countries at the Crossroads 2009: A Survey of Democratic Governance*, eds. Sanja Kelly, Christopher Walker and Jake Dizard. (New York: Freedom House, 2009)

¹⁸⁰ Christopher J. Anderson, and Christine A. Guillory. Political institutions and satisfaction with democracy: a cross-national analysis of consensus and majoritarian systems. *The American Political Science Review*, 91, no. 1 (1997): 66–81

¹⁸¹ Arend Lijphart. *Democracy in plural societies: A comparative exploration*. (New Haven, CT: Yale University Press, 1977)

democratic societies, his analysis remains relevant even for undemocratic societies emerging from conflict. Specifically, the consociational arrangements he advocates may help to mitigate risks of conflict, because decisions are taken by consensus, which may help to prevent majorities from controlling minorities.

Dealing with the demands of plural rival groups is clearly a challenge in democratic societies, but it is obviously a far greater challenge where groups have engaged in armed conflict. This is true whether the conflict is based on ethnic rivalries or not. Peace processes and transitions are often more unstable and insecure than even the preceding periods of conflict, in situations where fighting may have reached a stalemate. Indeed, transitions may provoke the fears and insecurities that helped to spark and maintain conflict initially – the fear that if a party makes any concessions, the adversary will take advantage of them. As a result, both governments and armed groups are often wary of making concessions, and in particular of laying down arms, unless they believe that their own interests will be protected in any new institutional arrangements. Parties thus need, and negotiations often result in, confidence-building measures such as power-sharing. In general, power-sharing is thought to offer parties institutionalized insurance that they will not face future policies that are discriminatory, retributive, or otherwise harmful to their interests. At the same time, it has increasingly been acknowledged that while these tools have their merits, they also have their limits¹⁸², as elaborate upon throughout this research.

Power-sharing arrangements in peace agreements, as discussed in part three of this study, include at least one of four dimensions – security, territory, politics, and economics – with many

¹⁸² Brendan O’Leary. Debating consociational politics: normative and explanatory arguments.” In *Power sharing to democracy. Post-conflict institutions in ethnically divided societies*, ed. Sidney J. R. Noel, (Montreal: McGill-Queen’s University Press, 2005), 3-43

processes involving more than one.¹⁸³ Each of these is thought to be particularly helpful in addressing specific past grievances and subsequent concerns over the future. Political power-sharing, or the allocation of specific posts in government or specific proportions in the executive, legislature, or judiciary, is but one type of power-sharing. Power-sharing in the security realm is specifically geared to reassuring groups that have experienced violence or repression at the hands of the state and its agents. Groups that experience repression are particularly likely to eventually decide to take up arms; in the absence of reassurance they may be wary of laying those arms down. Territorial autonomy has historically been used to address the self-determination demands of minorities that are both ethnically, linguistically or religiously distinct from the rest of the country and geographically concentrated¹⁸⁴.

Economic power-sharing is often used where discrimination has resulted in differential distribution of state resources, and economic development among the various regions of a country, and particularly where grievances over misdistribution of resources have generated conflict. However, each specific type may face particular unique challenges, and indeed in some circumstances different types may offer different incentives for key players and even work against one another. Their capacity to function effectively may also be affected by different factors.¹⁸⁵ Thus, for example, governance or political power-sharing incentives may prove difficult to implement where an armed group is insufficiently capable of operating in competitive politics or complex bureaucracies, or where the state apparatus is successfully resistant to the

¹⁸³ Chandra Lekha Sriram, *Peace as Governance: Power Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave Macmillan, 2008),

¹⁸⁴ Ruth Lapidot. *Autonomy: Flexible Solutions to Ethnic Conflicts*, (Washington D.C.: USIP Press, 1996)

¹⁸⁵ Ian O'Flynn and David Russell (eds.) (2005), "Power Sharing: New Challenges for Divided Societies" in *War's End: Building Peace After Civil Conflict*, (Cambridge: Cambridge University Press, 2004)

incorporation of armed groups. At the same time, political or security power-sharing provisions may be less appealing where there is a real prospect for territorial autonomy or independence.

4.1. Emerging Issues

Power-sharing arrangements are common in agreements ending conflicts in Africa and are being proposed as elements of solutions in several on-going conflicts. Is this a good thing? What common problems arise in such mechanisms and are there steps that can be taken to avoid them? Drawing on examples from Africa and elsewhere, this section of the paper summarizes knowledge to date on these issues.

As a starting point, it should be stated that power-sharing arrangements are almost inevitably an element of peace agreements, especially in situations where conflict arises from minority ethnic, linguistic or religious grievances. At the end of civil wars, conflict parties often demand both territorial autonomy and guaranteed inclusion in state institutions, independent of the outcome of elections. The motivation behind such demands is the fear of being exploited in the future by the majority group or the winner of the elections. There is substantial evidence that power-sharing guarantees do indeed facilitate peace. Such guarantees allow each party to distinguish during the negotiations whether their opponents are serious about respecting interests other than their own.¹⁸⁶ Furthermore, some scholars argue that the more political, military and territorial power is disaggregated and shared, the more credible are the promises of all parties to commit to and to implement peace agreements.

Ahmedou Ould-Abdallah, the UN Secretary General's special envoy to Burundi in the mid-1990s wrote that "in times of crisis, the presence of a community's representatives within a

¹⁸⁶ Barbara F. Walter. *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002)

government acts as some reassurance to that community that its vital interests will not be ignored¹⁸⁷. As a result, peace agreements often include the guaranteed distribution of key ministries and shared control over executive positions regardless of election outcomes. There are, of course, exceptions. In civil conflicts that are not fought along ethnic lines, as in the cases of Mozambique and El Salvador, security guarantees, including representation in the new army and police, were offered to the parties during the process of disarmament, but guaranteed power-sharing in political institutions was not established.

Importantly, research findings also point to the fact that power-sharing not only facilitates the signing of agreements, but also contributes to their longevity. Specifically, research has found that the more dimensions of power-sharing among former combatants specified in a peace agreement, the higher the likelihood that peace will endure.¹⁸⁸ However, it is also true that very often power-sharing arrangements freeze the war-time realities and do not allow politics to evolve. They limit power in the hands of war-time elites and fail to create adequate political space for the expression of other interests. Furthermore, because power-sharing arrangements rely heavily on elites, they suffer from a continued lack of trust among their chief participants. Therefore, although the ability of power-sharing institutions to balance power among groups is essential for reaching peace agreements, long-term peace depends on whether groups learn to transact with each other and whether they develop new rules of conflict management.

International supervision is vital for the implementation of power-sharing arrangements. Power-sharing institutions in the immediate post-agreement period are fragile and weak. Routine

¹⁸⁷ Caroline Hartzell, Matthew Hoddie, and Donald Rothchild, *Stabilizing the Peace After Civil War: An Investigation of Some Key Variables*, in: *International Organization*, 55, no. 1 (2001): 183–208.

¹⁸⁸ *Ibid*: 212

interaction and relationships among the parties are not yet established. New institutions can easily be captured by the stronger party. The participants of power-sharing arrangements share few, if any, common interests, have low expectations about their partners' reliability and are plagued by fears for their security. Therefore, while institutions are being built, the security guarantees offered by third parties are essential. The absence of such strong international guarantees in Rwanda in 1994 doomed a power-sharing agreement challenged by extremist factions.¹⁸⁹

Peace agreements that endure usually provide both for power-sharing among former combatants and for third party, international monitoring¹⁹⁰. Also, statistical evidence indicates that the presence or the potential for a third party presence reduces the risk of the collapse of the peace agreement during its first five years of implementation. However, it should be noted that third parties are vital to the implementation of most negotiated settlements, not only power-sharing agreements. There is considerable evidence that negotiated settlements in general are unlikely to endure in the absence of a third party guarantor.¹⁹¹ Thus, the fragility of power-sharing agreements is not unique. There is reason to believe that, through careful implementation and international assistance, power-sharing arrangements may facilitate the transition to a political process that relies on informal coalitions and electoral politics as opposed to rigid representation quotas and mutual vetoes. Over time, power-sharing institutions may grow roots and generate norms of trust and cooperation.¹⁹²

¹⁸⁹ David-Russell Ian O'Flynn (eds.) *Power Sharing: New Challenges for Divided Societies* (London: Pluto Press, 2005)

¹⁹⁰ Caroline Hartzell and Matthew Hoddie "Institutionalizing Peace: Power Sharing and Post- Civil War Conflict Management," *American Journal of Political Science*, 47, no. 2 (2003)

¹⁹¹ Barbara F. Walter. "Designing Transitions from Civil War: Demobilization, Democratization, and Commitments to Peace," *International Security*, 24, no. 1, Summer (1999)

¹⁹² Timothy D. Sisk. "Power Sharing in Beyond Intractability," (eds) Guy Burgess and Heidi Burgess, *Conflict Research Consortium* (University of Colorado, Boulder, 2003)

4.1.1 Effective Power-Sharing Institutions

Advocates of power-sharing institutions argue that these institutions promote moderate behavior among contending groups by encouraging a positive-sum perception of politics.¹⁹³ However, although cooperative behavior may emerge in the long-term, power-sharing governments are likely to stagnate in the short- to medium-term. Power-sharing institutions are designed to make decision-making slow and consensus-based in order to reassure parties that they will be consulted on matters of importance. Given divergent interests and effective veto powers by each party, power-sharing governments usually fail to embark on a serious process of reconstruction and reconciliation. Thus, the extensive guarantees power-sharing agreements offer to the parties reduce their incentives to compromise.

Importantly, leaders participating in power-sharing governments may be under pressure from extremist elements within their constituencies who oppose compromise and the sharing of power with opponents. Thus, power-sharing institutions may foster ‘outbidding politics’, where extremist politicians within a group make radical demands on moderate leaders of their own group who participate in the government. In such cases, reaching joint decisions is extremely difficult and leaders do not have strong incentives to move beyond the positions they held during peace talks. In the worst type of scenario, this dynamic can lead to the collapse of the agreement as the case of Rwanda after the Arusha agreement demonstrates.

Examples of deadlocked power-sharing governments abound. In Cambodia, the shared government between Hun Sen and Prince Sihanouk, which was created in 1993, was paralyzed

¹⁹³ Caroline Hartzell and Matthew Hoddie “Institutionalizing Peace: Power Sharing and Post- Civil War Conflict Management,” op cit.

by fighting between the two prime ministers and ultimately fell victim to a coup in 1997.¹⁹⁴ Paralysis can also be observed in Bosnia and Herzegovina, where most of the decisions implementing the Dayton peace agreement and moving forward the country's economic development and reconstruction have been taken by the Office of the High Representative. Also, Liberia's power-sharing transitional government has been marred by corruption scandals and lack of progress in key issues. Observers argue that the leaders of armed factions blocked disarmament until they received more government jobs. Although the government had a two-year mandate to bring back basic services to the population, it spent several months debating the sharing of high-level posts within the state institutions¹⁹⁵.

Thus, power-sharing may work well in stable democracies when political elites are moderate and willing to compromise. However, this is unlikely in countries exiting civil conflict, where leaders are uncooperative and where majority group leaders are under pressure to not concede to minorities. In such cases, power-sharing arrangements may simply maintain the war-time balances of power. Thus, although power-sharing is a sensible transitional device, in the long-run a more fluid form of politics that allows for the creation of flexible coalitions that cross the war-time divides is preferable¹⁹⁶.

4.1.2 Questioning Power-sharing as an Outcome of Democracy

Power-sharing arrangements, by definition, share political powers among the leaders of the main parties to a conflict. Depending on how peace agreements were negotiated, these governments often fail to include important social actors who did not participate militarily in the conflict.

¹⁹⁴ Barbara F. Walter, (1999) "Designing Transitions from Civil War: Demobilization, Democratization, and Commitments to Peace," *International Security*, Vol. 24, No. 1, 143

¹⁹⁵ International Crisis Group "Rebuilding Liberia; Prospects and Perils," *ICG Africa Report No 75*, Freetown, Brussels (January 30 2004)

¹⁹⁶ Timothy D. Sisk "Power Sharing in Beyond Intractability," *op cit.*, 4

They also may lack grassroots support, if they are seen by the population as an effort by elites to share the spoils as opposed to move the country toward reconstruction and reconciliation. Finally, because elites are guaranteed representation in power-sharing institutions, they are not accountable to their communities and constituencies.¹⁹⁷

The above is aptly demonstrated in the case of the National Transitional Government of Liberia (NTGL) which was inaugurated in October 2003. One rebel politician summarized the character of the NTGL as follows: “this is an administration for warring factions. They control the government. People need to accept this reality. Civilians have no role in the cabinet, they are virtually voiceless”¹⁹⁸. Furthermore, due to the lack of accountability mechanisms during the transitional period and as discussed earlier, the members of the NTGL devoted more attention to the division of the spoils of the state as opposed to making and implementing public policies.

Also, in Somalia, most of the national reconciliation conferences convened since 1991 focused on hammering out power-sharing agreements for transitional central governments. In some of the conferences the agenda was reduced to allocation of cabinet positions by clans and factions in typical sharing-the-spoils exercises¹⁹⁹.

However, it is important to remember that, in the short- to medium-run, the drawbacks of power-sharing agreements may be outweighed by their potential benefits. Power-sharing does reward those who engaged in violence during the conflict, but by allowing them to enter parliament and the political system it contributes to their cooptation by the system. For example, supporters of Dayton’s power-sharing institutions note that, despite the extremely slow progress in Bosnia, the

¹⁹⁷ Ibid

¹⁹⁸ Ibid: 3

¹⁹⁹ Ken Menkhaus, (2007) “Mediation Efforts in Somalia,” HD Centre Background Paper, African Mediators’ Retreat, April.

institutions contributed significantly to the country's transition from war to non-violent politics: by participating in the elections for the various positions of the Dayton architecture, political leaders signaled acceptance of the institutions and began interacting with each other in a common political process.²⁰⁰ Also, by bringing all parties to a grand coalition and a common political process, power-sharing institutions create possibilities for relationship-building among former adversaries²⁰¹.

Importantly, and as will be discussed below, power-sharing may be accompanied by other forms of wider political participation during the transitional period in order to compensate for its elite character. For example, public awareness campaigns and public participation efforts may take place at different points of the transitional process in order to slowly expand political participation beyond the usual suspects. Gradually, public participation in the context of national dialogue efforts or constitution-making processes may open politics even more and prepare societies for electoral politics. For example, there is an abundance of evidence that lengthy and participatory constitution-making processes lead to durable and legitimate constitutions. In South Africa, once the basic principles of the constitution were agreed upon in late 1993 and 1994, the deliberations of the elected Constituent Assembly were opened up to extensive public participation in 1994-96.²⁰² Public participation included numerous components: media broadcasts and publication of all constitutional debates, radio broadcasts educating the public on the constitutional process, consultation by each of the parties at the village level, and 2 million submissions from the general population.²⁰³ As a result, the constitution has a high degree of

²⁰⁰ Sumantra Bose. "The Bosnian State a Decade After Dayton," *International Peacekeeping*, 12, no. 3, Autumn, (2005)

²⁰¹ Donald Rothchild. *Power Sharing Institutions as a Response to Insecurity after Africa's Civil War*. (Manuscript, University of California, Davis, 2001), 25

²⁰² Timothy D. Sisk (2003), "Power Sharing in Beyond Intractability" op cit.

²⁰³ Ibid

legitimacy. Likewise, in Namibia, there was intensive and long-term public participation in the constitution-making process both before as well as during the work of the Constituent Assembly elected in 1989. The public was well informed regarding constitutional issues through the election campaigns of the political parties.²⁰⁴ In addition, the well-developed radio system contributed to the education of the public on the key issues.

Although power-sharing agreements usually succeed in keeping the war parties engaged in the peace process, they contribute little toward a political transition unless they open up to a wider range of political actors. Therefore, mediators should consider agreements which define the expiration day of power-sharing arrangements and which during the transitional period mandate the gradual expansion of political participation beyond the signatories of agreements.

4.1.3 Analysis of the Effectiveness and Pitfalls of Power-Sharing

Negotiating peace agreements of any sort is clearly difficult, given that parties will have very different interests and agendas, and understandings about why armed conflict was waged and what might constitute a just solution, as well as their mistrust of one another and security fears. Therefore, in a general sense, the challenges of negotiating peace agreements with power-sharing incentives are not necessarily greater than negotiating ones without them. However, the particular ways in which power-sharing incentives may be difficult to negotiate. While power-sharing incentives may logically offer a way out of the security dilemma faced by armed groups, mistrust among them may result in fear of disarming.²⁰⁵ This is particularly likely to be the case where one group is left in a privileged position, as the SPLM (Sudan Peoples' Liberation Movement) was by the CPA (Comprehensive Peace Agreement), in relation to all other armed

²⁰⁴ Timothy D. Sisk, "Power Sharing in Beyond Intractability," *op cit*.

²⁰⁵ Barbara F. Walter, "Committing to Peace: The Successful Settlement of Civil Wars, Princeton".

groups in the South of Sudan, which were to be disarmed while the SPLM became the government and sole security provider in the South.²⁰⁶

Governments may also be unprepared to offer such incentives, believing either that armed groups will use the negotiation or cease-fire period to rearm, or that, once empowered with such access to governance, the groups will harm those currently in power or the state itself. Here the nature of the state and of the armed group may combine to limit options. Furthermore, such incentives may foster trust only if a third-party guarantee is also present.²⁰⁷ The negotiation of Sudan's CPA was arguably bolstered by the presence of strong regional mediators and the prospect of a United Nations peacekeeping force, while the limited participation in the Darfur negotiations may reflect the poor prospect for a robust international force there.²⁰⁸

4.1.4 Challenges of Implementation

As with the challenges of negotiating power-sharing arrangements, implementing power-sharing arrangements is not necessarily more difficult than implementing other types of peace deals. Indeed, while experts disagree on the precise statistics, a significant percentage of negotiated settlements fail within five years. However, there are specific types of challenges which are specific to the implementation of power-sharing arrangements. One or more parties may sign an agreement but easily violate it, either because the incentives were not important to it/them, or because they can achieve key goals through violence. An example is the 1999 Lomé Accord²⁰⁹ in Sierra Leone, which provided the RUF (Revolutionary United Front) leadership with access to

²⁰⁶ Chandra Lekha Sriram. *Peace as Governance: Power Sharing: Armed Groups and Contemporary Peace Negotiations*. (London: Palgrave Macmillan, 2008): 107-142

²⁰⁷ Arend Lipjhart. "Constitutional Design for Divided Societies," *Journal of Democracy*, 15, no. 2, (2004)

²⁰⁸ Andreas Mehler. "Peace and Power Sharing in Africa: A Not So Obvious Relationship" *African Affairs*, (108, 432, 2009): 453-473

²⁰⁹ "The Agreement between the Government of Nepal and the United Democratic Madhesi Front" (28 February 2008), online: <<http://www.unmin.org.np/downloads/keydocs/2008-02-28-Agreement.SPA.Govt.UDMF.ENG.pdf>>

control over resources, directly and indirectly. Not only was Foday Sankoh made a vice president and a minister with control over diamond mines, but fellow RUF leader Johnny Paul Koroma was also made the head of the government commission for peace consolidation, and provisions were made for the incorporation of some RUF members into the state security forces. Yet, the RUF rapidly returned to fighting – control over diamonds was an insufficient incentive, as the RUF already had attained de facto control over many mines. And evidently, broader political rule was not of significant interest to the RUF either. In Zimbabwe, in spite of the power-sharing deal between the ruling the ZANU-PF (Zimbabwe African National Union-Patriotic Front) and the opposition the MDC (Movement for Democratic Change), senior ZANU- PF officials have balked against the deal and worked to undermine it using violent and non-violent means, including the arrest of MDC ministerial nominees and the detention, and torture, of human rights activists and MDC sympathizers.²¹⁰ According to some analysts, resistance to the deal within ZANU-PF is partially due to the fact that power-sharing threatens economic benefits that senior officials within the party have secured from their hold onto power.²¹¹ Likewise, it became apparent in 1992 that the UNITA (União Nacional para a Independência Total de Angola) leader Jonas Savimbi would not settle for anything less than the presidency of Angola when his failure to achieve this objective in the first post-conflict electoral contest resulted in his decision to revoke his commitment to the terms of the Bicesse Accords.

This illustrates how the nature, interests, and capacities of the state or of the armed group may affect the success of implementation. Parties may sign an agreement involving incentives that are

²¹⁰ “Zimbabwe’s Power Sharing Government: The Struggle Goes On” *The Economist*, 4 June 2009, online: <http://www.economist.com/world/mideast-africa/displayStory.cfm?story_id=13788284>; see also, Alex Perry and Simba Rushwaya, “Mugabe Pushes Back Against Zimbabwe Power Sharing Deal,” *Time*, 7 October 2008, online: <<http://www.time.com/time/world/article/0,8599,1847979,00.html>> .

²¹¹ Ibid

of lesser interest to them, or that they are unable to partake of adequately. This will particularly be the case where armed groups are not structurally prepared to participate in governance activities. In Sudan, for example, many suggest that the SPLM really was interested in the possibility of complete independence, interim autonomy, resources, and autonomous security forces. The CPA gave it all of these things, as well as proportional participation in the central government, and in joint security forces. But many in the SPLM/A resist the idea of participating in joint security forces and being redeployed outside what they expect to be their own country in the future. Many of the SPLM members who have taken up posts as heads of government ministries appear to have been unprepared for their roles, or are unable to actually direct embedded bureaucracies²¹².

In Colombia, when the rebel group M-19 (Movimiento 19 de Abril) disarmed and formed a political party, it was considered unusually prepared, as a group led by many urban educated people, to function in politics. Yet while a few individual politicians were able to thrive, the party failed, an object lesson to future groups considering negotiation and disarmament.²¹³ In Côte d'Ivoire, the Marcoussis power-sharing agreement did little to overcome mistrust between southern and northern political leaders. The former perceived it as a French-mediated sellout to terrorism, while northern leaders claim that Prime Minister Laurent Gbagbo reneged on private and public promises he made regarding the powers to be exercised by the Prime Minister and appointments to the cabinet.²¹⁴

²¹² Ibid

²¹³ Chandra Lekha Sriram. "Peace as Governance: Power Sharing: Armed Groups and Contemporary Peace Negotiations" (London: Palgrave Macmillan, 2008), 143-180

²¹⁴ Donald Rothchild. "Africa's Power Sharing Institutions as a Response to Insecurity: Assurance Without Deterrence," in: Stephen M. Saideman and Marie-Joëlle Zahar (eds.), *Intra-State Conflict, Governments and Security: Dilemmas of Deterrence and Assurance*, (London: Routledge, 2008), 143

In Sudan, many of the institutions developed by the peace agreement to ensure implementation of specific governance incentives – the petroleum commission, the DDR (Disarmament, Demobilisation and Reintegration) commissions, and the like – have not been created, or have been highly dysfunctional. Furthermore, when SPLM members were placed at the head of key ministries, many of the functions of those ministries were first transferred to presidency, which was dominated by the National Congress Party and the old government. Such cheating and manipulation of institutional structures can increase mistrust and, where it is severe, provoke a revival of tensions or even conflict. The result could be the collapse of a peace agreement, the failure of state institutions, or a more violent resolution of disputes. The nature of the state, either due to strength and resistance to accommodating new participants, or due to the weakness of institutions, may thus compound the effects of the previous challenge, where state institutions resist accommodation and groups are not well equipped to challenge them or fully function within them. Power-sharing may also fail to create a grand coalition and instead create incentives for extremism and ethnic or political hard-liner outbidding. Centrist parties may be pulled to one extreme and find themselves able to reach or maintain power only by forming coalitions with extremist parties, or by taking more extreme stands themselves.²¹⁵ The Arusha Accords which distributed power in cabinet equally between Rwandan President Juvénal Habyarimana's MRND (Mouvement Révolutionnaire National pour le Développement) and the RPF (Rwandan Patriotic Front) were perceived so negatively by Hutu extremists that Habyarimana was forced to pursue what Alan Kuperman described as a two-track strategy: seeking to coopt Hutu moderates while working to develop a forceful option with extremists.²¹⁶

²¹⁵ Ibid

²¹⁶ Donald Rothchild, "Africa's Power Sharing Institutions as a Response to Insecurity: Assurance Without Deterrence", in: Stephen M. Saideman and Marie-Joëlle Zahar (eds.), *Intra-State Conflict, Governments and Security: Dilemmas of Deterrence and Assurance* (London: Routledge, 2008), 253

Likewise, in the Sudan, parties organising for the upcoming parliamentary elections to be held in 2010 have clustered in loose coalitions. A closer look at the coalitions headed by the NCP and the SPLM – coalitions that are necessary if these parties are to win a majority of votes nationally for the NCP and in the South for the SPLM – indicates that the smaller parties tend to hold more extremist views. For example, the NCP is often outflanked on religious issues by its partner the PCP (Popular Congress Party). Smaller parties in the South, particularly those that are not currently represented in government or in parliament, tend to make more extremist demands in pursuit of their objectives. The nature of both state elite groups and armed groups may thus have a devastating effect on politics.²¹⁷

Territorial power-sharing arrangements may encourage secessionist tendencies and the breakup of the state. Alternatively, such strategies may encourage the homogenization of populations. Where pre-conflict populations were mixed and were displaced into new largely single-identity communities by conflict, they may not remix after the conflict, or may do so very slowly; if internal borders are made more significant, people may not return to areas they previously inhabited, which may have been more plural. Or population shifts may be more coerced, with groups compelled out of fear to migrate to regions identified as belonging to “their” group. Furthermore, autonomous territories may not be sustainable without serious resource commitments from the central government or the international community.

Obviously, central governments, which are likely to be dominated by a group that is ethnically, linguistically, or religiously distinct from the majority of the autonomous region, may not be committed to supporting that autonomy financially. This may promote, not the breakup of the

²¹⁷Stephen M. Saideman and Marie-Joëlle Zahar (eds.), (2008) *Intra-state Conflict, Governments and Security: Dilemmas of Deterrence and Assurance*, London: Routledge

state, but simply the failure of autonomy arrangements. Some analysts suggest that this explains the breakdown of Sudan's 1972 Addis Ababa Agreement; conversely, the presence of oil and the development of oil extraction in Southern Sudan today could, in theory, assist its governments own capacity over time.²¹⁸

Power-sharing arrangements are unlikely to be sustainable where parties have committed themselves to power-sharing arrangements out of short-term pragmatism rather than as part of long-term policy. If they see governance arrangements as mere tools to achieve power through nonviolent means, they may be unlikely to comply with the agreement if they feel the strategy is failing – for example, because an adversary is likely to do better outside elections. Thus, in Liberia, the leaders of the LURD (Liberians United for Reconciliation and Democracy) and of MODEL (Movement for Democracy and Elections in Liberia) resisted the disarmament of their militias although they were members of the transitional cabinet.²¹⁹ This reluctance was partially attributed to their desire to “keep their militias intact should their services be required again by their respective sponsors in Guinea and Côte d’Ivoire”²²⁰.

Where politics is historically clientelistic, corrupt, personalistic, or absolutist, parties committing themselves to democratisation and power-sharing may do so for cynical or short-term ends, and will eventually seek to obtain absolute power. Again, the nature and interests of state and/or armed group(s) will shape prospects for implementation of agreements. Power-sharing arrangements run the risk of the creation of new conflicts, or the stoking of existing conflicts,

²¹⁸, Chandra Lekha Sriram Olga Martin-Ortega, and Johanna Herman (eds.) (2010) *Peacebuilding and the Rule of Law in Africa: Just Peace?*, London: Routledge

²¹⁹ Donald Rothchild. *Africa's Power Sharing Institutions as a Response to Insecurity: Assurance Without Deterrence*. op cit.

²²⁰ Ibid

when they exclude significant parties or interests.²²¹ The pragmatic choice to include only warring parties, or only powerful parties, at the negotiating table spawns potential new spoilers. The CPA in Sudan appears to have incited groups in the east and Darfur to use violence to get their demands heard regarding land, resources, and discrimination, out of concern that the north, under the peace agreement, will divide the power and resources of the country while keeping them marginalized.²²² In 1966, the Nigerian military government sought to placate minorities in the secessionist region of Biafra and elsewhere by dividing the country into twelve states. This ushered in a process of conflict-management by territorial fragmentation.²²³ In 1979, the amended Nigerian Constitution introduced the notion of “indigeneity” to refer to those citizens of a Nigerian state whose parents or grandparents historically originated from a community within that state. Indigeneity has since become the source of new and increasingly violent local conflicts between “indigenes” and “settlers”, particularly in the Middle person included in the agreement than of those excluded that may shape the fate of the agreement.

After an agreement, violence may erupt not among former enemies but among former allies. This is not a problem unique to power-sharing arrangements, but may well emerge in them.²²⁴ Peace agreements generally seek to address the grievances that initiated the original conflict, and power-sharing seeks to address the fears and demands of the original combatants in relation to each other. However, in either a former government or a former rebel group, one or more

²²¹ Philip G. Roeder and Donald Rothchild (eds), *Sustainable Peace: Power and Democracy after Civil Wars*, (Ithaca and London: Cornell University Press, 2005)

²²² Marie-Joëlle Zahar. Foreign Intervention and State Reconstruction: Bosnian Fragility in Comparative Perspective, in: Denisa Kostovicova and Vesna Bojicic-Dzelilovic (eds.), *Persistent State Weakness in the Global Age* (London: Ashgate, 2009b) 117-130

²²³ Ulrich Schneckener. “Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict” *Journal of Peace Research*, 39, no. 2 (2002): 203-228

²²⁴ Ibid

factions may be privileged over others in the division of the “spoils” of peace. If this is the case, fighting and factional divisions among former allies, or rifts within groups, may result²²⁵.

Here it is not just the commitment (or lack of it) by external actors to the agreement transition together in conflict while in fact rather diverse in a range of ways, may splinter if an agreement is tailored which fails to take account of this. Finally, implementation of power-sharing may be difficult if not impossible in “bad neighborhoods”. Neighboring states may foster or destabilize power-sharing in multiple ways. Neutrality has often been invoked to explain the success of the Swiss experiment; likewise, the intrusions of Syria and Israel into the internal politics of Lebanon have been partially blamed for the instability of its power-sharing experiment²²⁶. When geo-strategic interests or ethnic kinship considerations draw neighboring states into the politics of a power-sharing state, they might destabilize the internal pacts. Thus scholars have pointed to the destabilizing role of neighboring states and refugee flows in Rwanda, on power-sharing arrangements that matters; some external actors may actively undermine it.

4.2 Conclusion

There are those who argue that peace agreements should clearly define the constitutional design of post-conflict states. As Manuel Tome, the secretary-general of Mozambique’s ruling party (Frelimo) said that the peace accord was a means to an end, and not an end [in] itself. It was an exceptional regime for a predetermined length of time, after which we return to the full norms of the constitution.²²⁷ Therefore, this argument goes, short-term needs should not influence

²²⁵ Pierre M. Atlas and Roy Licklider, “Conflict Among Former Allies After Civil War Settlement: Sudan, Zimbabwe, Chad, and Lebanon” *Journal of Peace Research*, 36, no. 1 (1999): 35-54

²²⁶ Marie-Joëlle Zahar. “Power Sharing in Lebanon: Foreign Protectors, Domestic Peace, and Democratic Failure”, in: Philip G. Roeder and Donald Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil Wars* (Ithaca and London: Cornell University Press, 2005a), 219-240

²²⁷ Donald Rothchild, “Assessing Africa’s Two-Phase Peace Implementation Process: Power Sharing and Democratization,” (Manuscript, University of California, Davis (2001b), 9

society's long-term development. First, agreements may define the way the country will be governed during a brief interim period and the way in which competing groups will share power during that period. They may also define the process through which political actors will decide the permanent constitution. Such agreements do not define the permanent constitution of the country: they guarantee to the major factions participation in the interim period, but they do not guarantee a share of power in the permanent state institutions. South Africa is an example albeit for a longer interim period. South Africa adopted in 1993 an interim constitution, which provided for governing the country through power-sharing between the incumbent government and the opposition. The agreement was to expire within five years and indeed it was eventually replaced by a majority-rule democracy.²²⁸

A second alternative is offered by the cases of South Sudan and Bougainville, for instance, both of which were given in 2005 and 2001 respectively lengthy transitional periods before deciding whether to remain within Sudan and Papua New Guinea (PNG).²²⁹ In the interim period of six and eleven years respectively, South Sudan and Bougainville are given significant autonomy within the borders of Sudan and PNG as well as a stake in the national governments.²³⁰ Critics of these arrangements argue that they are bound to lead to secession and to prevent the strengthening of regional institutions due to the absence long-term constitutional clarity. Given the fact that power-sharing arrangements frequently lead to deadlock and given their largely undemocratic nature, the option of their being transitional and eventually leading to a political process relying on norms of trust and cooperation is preferable to them being enshrined in long-

²²⁸ Arend Lipjhart "Constitutional Design for Divided Societies," *Journal of Democracy*, 15, no. 2, (April, 2004)

²²⁹ Ibid

²³⁰ Sarah-Myriam Martin-Brûlé. "Tackling the Anarchy Within: The Role of Deterrence and Great Power Intervention in Peace Operations," in: Stephen M. Saideman and Marie-Joëlle Zahar (eds.), *Intra-State Conflict, Governments and Security: Dilemmas of Deterrence and Assurance* (London: Routledge, 2008), 182-204.

term constitutions. By including long-term constitutional arrangements in agreements, the opportunity is missed to lengthen the dialogue among elites and to expand political participation beyond the elites at the negotiating table.²³¹

As discussed earlier, power-sharing arrangements tend to privilege the leaders of armed factions and exclude political actors who did not participate in armed violence. Mediators, therefore, need to consider ways in which agreements may encourage the evolution of power-sharing arrangements to more integrated forms of representation.²³² A transitional process leading to elections and new constitutions should ideally create political space for debate to take place outside the power-sharing arrangements in order to facilitate the emergence of new leaders and the strengthening of civil society. An expanded political process may gradually weaken the influence of war-time leaders and offer the opportunity for alternative voices to emerge.

Participation can be expanded at the elite-level beyond the signatories of agreements, but also to society in general. At the elite-level, consultative mechanisms inclusive of a wide range of political leaders may be incorporated at several stages of transitional periods: the drafting of electoral laws, the administering of elections, the vetting of state institutions from persons who committed crimes under the previous regimes, the reform of public administration, and the drafting of constitutions. Such consultative mechanisms serve as arenas where elites continue talking. They also allow all sides to assess whether the new order will protect their interests and whether agreements will be implemented.

²³¹ Ibid

²³² Timothy D.Sisk, (2003) "Power Sharing," in *Beyond Intractability*, Eds, Guy Burgess and Heidi Burgess, Conflict Research Consortium, University of Colorado, Boulder. 2

CHAPTER FIVE

CONCLUSION

5.1 Summary

Power-sharing arrangements are common in agreements ending conflicts in Africa and are being proposed as elements of solutions in several on-going conflicts. Is this a good thing? What common problems arise in such mechanisms and are there steps that can be taken to avoid them? How effective are they? Drawing on examples from Africa and elsewhere, this section of the paper summarizes the finding from the research as done in previous chapters.

Power-sharing arrangements are almost inevitably an element of peace agreements, especially in situations where conflict arises from minority ethnic, linguistic or religious grievances. At the end of civil wars, conflict parties often demand both territorial autonomy and guaranteed inclusion in state institutions, independent of the outcome of elections. The motivation behind such demands is the fear of being exploited in the future by the majority group or the winner of the elections. There is substantial evidence that power-sharing guarantees do indeed facilitate peace. Such guarantees allow each party to distinguish during the negotiations whether their opponents are serious about respecting interests other than their own.²³³ Furthermore, some scholars argue that the more political, military and territorial power is disaggregated and shared, the more credible are the promises of all parties to commit to and to implement peace agreements.

As a result, peace agreements often include the guaranteed distribution of key ministries and shared control over executive positions regardless of election outcomes. There are, of course,

²³³ Walter, Barbara F. "Designing Transitions from Civil War: Demobilization, Democratization, and Commitments to Peace," *International Security*, 24, no. 1 (1999).

exceptions. In civil conflicts that are not fought along ethnic lines, as in the cases of Mozambique and El Salvador, security guarantees, including representation in the new army and police, were offered to the parties during the process of disarmament, but guaranteed power-sharing in political institutions was not established.

Importantly, research findings also point to the fact that power-sharing not only facilitates the signing of agreements, but also contributes to their longevity. Specifically, research has found that the more dimensions of power-sharing among former combatants specified in a peace agreement, the higher the likelihood that peace will endure.²³⁴ However, it is also true that very often power-sharing arrangements freeze the war-time realities and do not allow politics to evolve. They limit power in the hands of war-time elites and fail to create adequate political space for the expression of other interests. Furthermore, because power-sharing arrangements rely heavily on elites, they suffer from a continued lack of trust among their chief participants. Therefore, although the ability of power-sharing institutions to balance power among groups is essential for reaching peace agreements, long-term peace depends on whether groups learn to transact with each other and whether they develop new rules of conflict management.²³⁵ The rest of the paper examines the opportunities and impediments that power-sharing arrangements present to the durability of peace. International supervision is vital for the implementation of power-sharing arrangements.

5.2 Key Findings

Power-sharing institutions in the immediate post-agreement period are fragile and weak. Routine interaction and relationships among the parties are not yet established. New institutions can

²³⁴ Caroline Hartzell and Matthew Hoddie, "Institutionalizing Peace: Power Sharing and Post- Civil War Conflict Management," *American Journal of Political Science*, 47, no. 2 (April, 2003)

²³⁵ Ibid:320

easily be captured by the stronger party. The participants of power-sharing arrangements share few, if any, common interests, have low expectations about their partners' reliability and are plagued by fears for their security. Therefore, while institutions are being built, the security guarantees offered by third parties are essential. The absence of such strong international guarantees in Rwanda in 1994 doomed a power-sharing agreement challenged by extremist factions.

Peace agreements that endure usually provide both for power-sharing among former combatants and for third party, international monitoring. Also, statistical evidence indicates that the presence or the potential for a third party presence reduces the risk of the collapse of the peace agreement during its first five years of implementation.²³⁶ However, it should be noted that third parties are vital to the implementation of most negotiated settlements, not only power-sharing agreements. There is considerable evidence that negotiated settlements in general are unlikely to endure in the absence of a third party guarantor.²³⁷ Thus, the fragility of power-sharing agreements is not unique.

There is reason to believe that, through careful implementation and international assistance, power-sharing arrangements may facilitate the transition to a political process that relies on informal coalitions and electoral politics as opposed to rigid representation quotas and mutual vetoes. Over time, power-sharing institutions may grow roots and generate norms of trust and cooperation.²³⁸ The potential for political deadlock is significant

²³⁶ Caroline Hartzell, Matthew Hoddie, Donald Rothchild. "Stabilizing the Peace After Civil War: An Investigation of Some Key Variables," *International Organization*, 55, (Winter, 2001)

²³⁷ Barbara F. Walter, , "Designing Transitions from Civil War: Demobilization, Democratization, and Commitments to Peace," *International Security*, 24, no. 1 (Summer, 1999)

²³⁸ Timothy D. Sisk "Power Sharing, in Beyond Intractability, eds, Guy Burgess and Heidi Burgess (Conflict Research Consortium, University of Colorado: Boulder, 2003)

Despite the multiple challenges arising from the negotiation and implementation of power-sharing arrangements in Africa, it has remained a dynamic and attractive option for resolving the multitude of protracted conflicts on the continent. It remains an appealing means of conflict resolution to external policymakers, even if it drastically underestimates the complexity of the conflicts and the intransigence of the respective leaderships. The short-term peace and stability that it provides is welcome. In a situation where there appears to be a general lack of mechanisms for bringing about peace, power-sharing appears to one of few viable options. It is, however, likely to succeed only where there is a genuine desire and commitment among the respective leaders towards peace, and sufficient imagination and innovation to create appropriate structures and institutions which simultaneously accommodate all groups. It must be driven by the spirit of reconciliation among the warring parties.²³⁹ It also calls for changes in the electoral processes dominated by a winner-takes-all political mentality and the perception of the control of the state as a prize to be won rather than as one to be shared. Furthermore, power-sharing should be seen as a temporary measure – a transitional system that leads to a political system based on norms of trust and cooperation.

The transitional period should be utilized to work out long-lasting constitutional agreements to govern the country. As a transitional process leading to elections and a new constitution, power-sharing should ideally create a political space for debate to take place outside the power-sharing arrangements in order to facilitate the emergence of new leaders and the strengthening of civil society.

²³⁹ Ibid.

The study contributes three important findings to the scholarship, which is concerned explaining why peace contracts break down or endure. First, whether power-sharing peace agreements are drafted more flexible or rigid does not affect the probability of survival. While the specificity of agreements matters in the resolution of intrastate conflicts, Hampson's concern that "agreements may be formulated too rigid and therefore, fail to adapt to the changing nature of the post-conflict environment" seems to be less relevant in civil war peace processes. Second, political power-sharing has a substantive effect on peace duration. Using a new and continuous measurement for the inclusion of former rebels in post-conflict governments the probability of contracts lasting longer increases sufficiently.²⁴⁰

Consequently, political power-sharing does not appear to be destabilizing but rather seems to be a viable instrument to mitigate social conflict and strengthen the cooperation between former warring parties in the post-conflict political order. Third and somewhat surprisingly, smaller rebel groups are less likely to spoil the peace, when they are part of a peace agreement. According to the paradox-of-power argument one might expect that they have a higher marginal utility of returning to the battlefield.²⁴¹ Therefore, these agreements should be more prone to failure. This is not the case. This means, when the military balance is relatively even signatories are more likely to return to conflict. For smaller rebel groups one might alternatively argue that they are either victims of a divide-and-rule strategy of the incumbent government and are militarily marginalized. Or that they are simply satisfied with the shares of the peace deal and do not consider fighting as an option to gain more power. The findings on the probability of

²⁴⁰ Andreas Mehler. Peace and Power Sharing in Africa: A not so obvious relationship, in: *African Affairs* 108, no. 432 (2009)453-473

²⁴¹ Ibid : 478

agreement survival for larger rebel groups must be considered carefully and require additional in depth investigation.

5.3 Recommendations

Advocates of power-sharing institutions argue that these institutions promote moderate behavior among contending groups by encouraging a positive-sum perception of politics. However, although cooperative behavior may emerge in the long-term, power-sharing governments are likely to stagnate in the short- to medium-term. Power-sharing institutions are designed to make decision-making slow and consensus-based in order to reassure parties that they will be consulted on matters of importance. Given divergent interests and effective veto powers by each party, power-sharing governments usually fail to embark on a serious process of reconstruction and reconciliation.²⁴² Thus the extensive guarantees power-sharing agreements offer to the parties reduce their incentives to compromise.

Thus, power-sharing may work well in stable democracies when political elites are moderate and willing to compromise. However, this is unlikely in countries exiting civil conflict, where leaders are uncooperative and where majority group leaders are under pressure to not concede to minorities.²⁴³ In such cases, power-sharing arrangements may simply maintain the war-time balances of power. Thus, although power-sharing is a sensible transitional device, in the long-run

²⁴² Bogaards, Matthijs. "Democracy and Power-sharing in Multinational States: Thematic Introduction." *International Journal on Multicultural Societies*, 8, no. 2 (2006): 119-126. Also see Brendan O'Leary, Debating consociational politics: normative and explanatory arguments, in *From power sharing to democracy. Post-conflict institutions in ethnically divided societies*, ed. Sidney J. R. Noel Montr`eal: McGill-Queen's University Press, 2005), 3 - 43

²⁴³ Bumba Mukherjee, (2006), Why Political Power-Sharing Agreements Lead to Enduring Peaceful Resolution of Some Civil Wars, But Not Others? *International Studies Quarterly* 50 (2): 479-504

a more fluid form of politics that allows for the creation of flexible coalitions that cross the war-time divides is preferable.²⁴⁴

Power-sharing arrangements, by definition, share political powers among the leaders of the main parties to a conflict. Depending on how peace agreements were negotiated, these governments often fail to include important social actors who did not participate militarily in the conflict. They also may lack grassroots support, if they are seen by the population as an effort by elites to share the spoils as opposed to move the country toward reconstruction and reconciliation.

Finally, because elites are guaranteed representation in power-sharing institutions, they are not accountable to their communities and constituencies. The above is aptly demonstrated in the case of the National Transitional Government of Liberia (NTGL) which was inaugurated in October 2003. One rebel politician summarized the character of the NTGL as follows: “this is an administration for warring factions. They control the government. People need to accept this reality. Civilians have no role in the cabinet, they are virtually voiceless”.²⁴⁵ Furthermore, due to the lack of accountability mechanisms during the transitional period and as discussed earlier, the members of the NTGL devoted more attention to the division of the spoils of the state as opposed to making and implementing public policies. Also, in Somalia, most of the national reconciliation conferences convened since 1991 focused on hammering out power-sharing agreements for transitional central governments. In some of the conferences the agenda was reduced to allocation of cabinet positions by clans and factions in typical sharing-the-spoils exercises.²⁴⁶

²⁴⁴ Timothy D. Sisk. “Power Sharing,” in *Beyond Intractability*, op cit.

²⁴⁵ International Crisis Group “Rebuilding Liberia; Prospects and Perils” *ICG Africa Report* no. 75, (Freetown, Brussels, January 30, 2004), 13

²⁴⁶ Ken Menkhaus, “Mediation Efforts in Somalia,” HD Centre Background Paper, *African Mediators’ Retreat*, April, (2007)

However, it is important to remember that, in the short- to medium-run, the drawbacks of power-sharing agreements may be outweighed by their potential benefits. Power-sharing does reward those who engaged in violence during the conflict, but by allowing them to enter parliament and the political system it contributes to their cooptation by the system. For example, supporters of Dayton's power-sharing institutions note that, despite the extremely slow progress in Bosnia, the institutions contributed significantly to the country's transition from war to non-violent politics: by participating in the elections for the various positions of the Dayton architecture, political leaders signaled acceptance of the institutions and began interacting with each other in a common political process. Also, by bringing all parties to a grand coalition and a common political process, power-sharing institutions create possibilities for relationship-building among former adversaries.²⁴⁷

The study recommends that power-sharing should be accompanied by other forms of wider political participation during the transitional period in order to compensate for its elite character. For example, public awareness campaigns and public participation efforts may take place at different points of the transitional process in order to slowly expand political participation beyond the usual suspects. As discussed earlier, power-sharing arrangements tend to privilege the leaders of armed factions and exclude political actors who did not participate in armed violence. Mediators, therefore, need to consider ways in which agreements may encourage the evolution of power-sharing arrangements to more integrated forms of representation.²⁴⁸ A transitional process leading to elections and new constitutions should ideally create political space for debate to take place outside the power-sharing arrangements in order to facilitate the

²⁴⁷ Donald Rothchild. "Assessing Africa's Two-Phase Peace Implementation Process: Power Sharing and Democratization," *op cit*.

²⁴⁸ Timothy D. Sisk. "Power Sharing in Beyond Intractability."

emergence of new leaders and the strengthening of civil society.²⁴⁹ An expanded political process may gradually weaken the influence of war-time leaders and offer the opportunity for alternative voices to emerge.

Participation can be expanded at the elite-level beyond the signatories of agreements, but also to society in general. At the elite-level, consultative mechanisms inclusive of a wide range of political leaders may be incorporated at several stages of transitional periods: the drafting of electoral laws, the administering of elections, the vetting of state institutions from persons who committed crimes under the previous regimes, the reform of public administration, and the drafting of constitutions. Such consultative mechanisms serve as arenas where elites continue talking. They also allow all sides to assess whether the new order will protect their interests and whether agreements will be implemented.

Gradually, public participation in the context of national dialogue efforts or constitution-making processes may open politics even more and prepare societies for electoral politics. For example, there is an abundance of evidence that lengthy and participatory constitution-making processes lead to durable and legitimate constitutions. In South Africa, once the basic principles of the constitution were agreed upon in late 1993 and 1994, the deliberations of the elected Constituent Assembly were opened up to extensive public participation in 1994-96²⁵⁰. Public participation included several components: publication and media broadcasts of all constitutional debates, consultation by each of the parties at the village level, radio broadcasts educating the public on the constitutional process, and 2 million submissions from the general population. As a result,

²⁴⁹ Andrew Reynolds. "Constitutional Engineering in Southern Africa." *Journal of Democracy*, 6, no. 2, (1990), 90

²⁵⁰ Akinyemi, Bolaji; Dele-Cole, Patrick and Ofonagoro, Walter. (1979), *Readings on Federalism*. Lagos: Nigerian Institute of International Affairs

the constitution enjoys a high degree of legitimacy. Similarly, in Namibia, there was intense and long-term public participation in the constitution-making process both before and during the work of the Constituent Assembly elected in 1989.²⁵¹ The public was well informed about constitutional issues through the election campaigns of political parties. Also, the well-developed radio system contributed to the public's education on the key issues.

Although power-sharing agreements usually succeed in keeping the war parties engaged in the peace process, they contribute little toward a political transition unless they open up to a wider range of political actors. Therefore, mediators should consider agreements which define the expiration day of power-sharing arrangements and which during the transitional period mandate the gradual expansion of political participation beyond the signatories of agreements.

One big concern of the study of peace agreements is whether the statistical results are subject to a systematic selection bias. The main source of selection problems is that the dependent variable is observed for a restricted, non-experimental data sample. More specifically, the underlying assumption for the source of bias is that power-sharing peace agreements are not created under equal conditions. Rather these conditions might differ and have an impact on the results.²⁵² Three sources of errors might distort the reported results. First, the government might strategically choose whom to offer power sharing in the first place. Second, there might be civil wars, in which conditions for resolution are more or less favourable influencing the outcomes of the peace process. For this concern, a "baseline for the prospects of peace" needs to be defined but so far the author lacks an appropriate instrumental variable. Third, some conflict parties may sign

²⁵¹ Andeweg, Rudy. (2000), Consociational Democracy, *Annual Review Political Science*, 3 509-536

²⁵² Andreas Mehler. "Peace and Power Sharing in Africa: A not so obvious relationship." *African Affairs*, 108, no. 432 (2009): 453-473.

peace agreements but may not be interested in peace in the first place. This concern can only be eradicated by further systematic qualitative research on leaders and mediators in peace processes.

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