Territorial Autonomy, Ethnic Conflict and Secession – Between a Rock and a Hard Place?

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Introduction

Secessionist conflicts and minority grievances have become the main drivers of violence in the 21st century. As we are seeing a complete transformation of warfare and conflict since the end of the Cold War, it is becoming ever-more obvious that internal conflict over access to key state resources, including access to political power and decision-making, are the major security challenges of our contemporary world. As Kaldor argues in her discussion on 'New Wars', 'new wars arise in the context of the erosion of the autonomy of the state and in some extreme cases the disintegration of the state.' She highlights that 'they occur in the context of the erosion of the monopoly of legitimate, organized violence' and often involve 'identity politics' (Kaldor 2001: p.4; p. 7-9). This is not to say that all contemporary secessionist movements use excessive violence. Indeed, the Catalan movement discussed in this chapter, as well as movements in Scotland, Quebec and Flanders for example have strongly focused on political means to achieve their objectives (Duerr 2015; Keating and Laforest 2018). Yet, in contrast to these – notably Western – cases of mostly peaceful secessionist movements, we also find a long list of violent secessionist movements, both in the West (from the American civil war to long-term violent conflict in Turkey's Kurdish areas) and the Global South. Indeed, when looking at a map of contemporary global conflicts, it is hard to identify any one conflict in the 21st century that is not based on questions of identity, state access or recognition of different groups. As Harff and Gurr wrote already in 2004 (p.1), 'Ethnopolitical conflicts are here to stay' – and they have a profound impact both on the stability and functioning of individual states, as well as on the operation of the wider international system.

Defining ethnic (or ethnopolitical) conflict is no mean feat. As Brubaker (1998: p. 425) points out, ethnic conflict is often about more than ethnicity – 'ethnicity is not the ultimate, irreducible source of violent conflict'. While a conflict may be viewed through an ethnic lens, other factors are more likely to drive conflict, including 'competition for (increasingly) scarce resources, the agendas of political activists and more especially political elites and through the manipulation and essentialization of identity markers of which ethnicity is but one' (Cordell and Wolff, 2016: p.1). Wrapped up in demands for access to political power and a share in the governance of the state, ethnic conflicts are largely self-determination conflicts, and thus not just challenge the authority of the state but also threaten its territorial integrity. For some groups, self-determination aspirations can be fulfilled through the institutionalization of internal autonomy, yet this does not always abate calls for secession, that is, 'the creation of a new state by the withdrawal of a territory and its population where that territory was previously part of an existing state' (Pavković and Radan, 2007: p. 5). Around the world, support for secession continues to garner pace and affects established democracies as well as fledgling states. Yet, while there are various processes to achieve secession, for instance it may be constitutionally permitted, politically negotiated or more controversially unilaterally declared, it remains a rare event.

It is in light of increasing ethno-political conflicts, which combine the quest by different groups to either seek independent statehood or receive better recognition and access to state resources and power, that we discuss the links between these conflicts, territorial autonomy as a potential solution, and the continued support for secession that we are witnessing in a large number of ongoing conflicts. We attempt to de-mystify the assumption that territorial autonomy will be able to solve and get rid of ethnic conflicts and tensions. Instead, we highlight that the wider design of political institutions, inter-ethnic relations and factors such as economic development all play a major role in the complex transformation of contemporary conflicts. What is more, we also demonstrate that secession itself needs to be de-politized. States in which a variety of ethnic, linguistic, religious and cultural groups claim their homeland and requesting access to the state will always live in the shadow of secession, and like other major political issues such as the distribution of financial resources or the best framework for a state's foreign policy, it is important that secession as a political topic is allowed to be part of the political agenda. Its discussion within democratic forums has proven that it can actually have a secession-limiting effect, as evidenced by the two referenda on independence in Quebec (1980 and 1995). Likewise, it is an open discourse of secession that reminds not just minority groups but also majority stakeholders about their responsibility towards others in the joint state.

The chapter proceeds in four major parts. In the first section, we discuss the above-mentioned changing nature of conflict, and how this affects both international and domestic frameworks for conflict resolution. In the second part, we assess the potential of territorial autonomy, including federalism and decentralization, to act as tools of conflict resolution, taking into account the complex nature of contemporary ethnic struggles. This discussion is followed in the next section with an elaboration of the problems related to the use of territorial autonomy as a tool of conflict resolution. Here, we highlight the dangers that have been pointed out by other authors, but also criticize the limited understanding of territorial autonomy in many contemporary conflicts. In the fourth section, we discuss the cases of Bosnia and Herzegovina (BiH)[1], Spain and Myanmar as examples of past, present and future cases vis-à-vis territorial autonomy and conflict resolution. The final section concludes.

The Changing Nature of Conflict in the Post-Cold War Era

Over the last 3 to 5 decades, we have witnessed an astonishing shift in our understanding of conflict, war and violence both within states and between them. While, until the post-Second World War era, conflict was centered on violence between two states by organized actors of such violence (i.e. armies), this form of conflict, also known as inter-state conflict, has become a rare occurrence. There are a variety of reasons for this to do with new methods of warfare such as nuclear weapons, which make direct conflict between certain actors more unlikely (Waltz 1979), as well as the success of international law, international alliances such as NATO and global shifts between a bipolar, unipolar and multipolar international order (Jahn 2013). It is beyond the scope of this chapter to analyze these shifting dynamics in more detail, but it is important to mention that the unprecedented success of democratization and liberalization starting in the 1970s and seeing a high point with the end of the Soviet Union and the substantial increase in global trade, interaction and democratic governance everywhere in the world has

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[1] For Bosnia and Herzegovina, we use the short form BiH or Bosnia. This always refers to the whole territory of the country.

contributed to this unique achievement – the end of direct conflict between different states (Huntington 1991).

The conflicts of today are not between different state actors or between armies from different countries facing each other on the battleground. Instead, contemporary conflict is characterized by ethnic strife, by intra-state conflict between different groups, by fights between regular or irregular members of a state's security apparatus and guerrilla and paramilitary groups. Conflicts often blur the line between war and criminal violence, and, as pointed out by Kaldor (2001), they disproportionately affect civilians, either directly as victims of violence, or indirectly such as creating refugees, causing draught and starvation, preventing economic development, or forcing individuals to choose sides through forced recruitment, enslavement, human smuggling and their involvement in wider exploitative activities including prostitution, forced labor and the use of child soldiers. Add to this changing nature of conflict the increased use of terrorist tactics and the war on terror as exercised by the USA and its major allies extensively since the 9/11 attacks, and a picture emerges of a complex new structure of violence, war and its link to international organized crime and terrorism (Kaldor 2005, 2016).

This change in the nature of conflict, from inter- to intra-state conflict, and from one between different (official) agents of warfare (such as armies) to one between official and paramilitary forces, has a number of consequences that are relevant for our discussion. For one, these conflicts, while often concentrated in one country, also influence neighboring countries. Indeed, there is a growing risk of conflict spill-over, as seen for example with the rise of Islamic State in Syria and its expansion into Iraq, or the linkages between historical conflict in India's far-East and the violent civil conflict in Myanmar's Chin State. Likewise, conflicts such as those in the Democratic Republic of Congo, Cameroon, Burundi and Somalia all have a regional dimension. This means that any solution to these conflicts does not just have to address the grievances of internal actors within a country, but any sustainable peace arrangement also needs to take the regional context into consideration. The example of Bosnia discussed below is a good case at point – the constitutional framework for the country is embedded in a wider peace agreement, which includes the two big neighbors, Serbia and Croatia. Second, these new conflicts, due to their complexity and inter-linkages with regional (and in some cases, such as Syria or Iraq, also global) power dynamics, require more complex peace settlements, which take into account not just questions over access to the state, autonomy, and group rights, but also processes such as demilitarization and the reintegration of refugees and internally displaced persons (Caspersen 2017). It is therefore no surprise that peace agreements have become more complex, longer and often involve not just the warring parties within a country, but a mixture of regional actors and international organizations (Wiuff Moe and Stepputat 2018). Third, as most contemporary conflicts rarely end with a clear winner and a clearly defeated side, negotiations about access to the state, autonomy provisions, financial resources and wider policy implications (such as cross-border cooperation) become ever-more important. In this sense, it is no surprise that models such as 'complex power-sharing' have increased in prominence in recent years. Indeed, as highlighted by Rothchild and Roeder (2005: p.5), 'power sharing has become the international community's preferred remedy for building peace and democracy after civil wars' as it is 'an attempt to guarantee ethnic groups a role in governmental decision-making to ensure policy outcomes with a fair allocation of scarce governmental resources.' Within power-sharing, it is particularly territorial autonomy, often defined as a 'diffusion of powers' between different territorial levels (Lapidoth 1997: p.9) that

has found a lot of attention in academia (see for example: Brancati 2009; Anderson 2013; Walsh 2018; Schulte 2020). It is therefore the potential of territorial solutions to deal with the complexity of ethnic conflicts and demands for secession that we will discuss in the following section.

Autonomy, Conflict Resolution and Ethnic Conflict
In recent decades, ethnic conflict management strategies have gained increasing traction in response to the growing number of intrastate conflicts in deeply divided societies. While there are various strategies, including baleful responses such as genocide, ethnic cleansing and coercive assimilation, interest in recent years has focused on the promotion of institutional strategies that seek not just to regulate and thus end conflict, but institutionalize a solution that celebrates diversity and aligns with and promotes liberal democratic norms. In this vein, accommodation as opposed to elimination has become the international community's recognized territorial management and conflict resolution strategy, *par excellence*. In deeply divided societies, accommodation in its various institutional guises - federalism, decentralization and power-sharing regimes such as centripetalism and consociationalism - engenders the celebration and protection of difference through recognition of multiple ethnic, linguistic, national or religious groups. In mature democratic states as much as in fledgling democracies, innovation in institutional design has become a recurring feature in managing territorial tensions and mitigating the occurrence of ethnic conflict.

As noted above, there are a number of institutional responses in the constitutional toolbox to address ethnic conflict. Federalism, with its commitment to celebrating and protecting diversity and providing structures to manage tensions, temper polarization and ultimately resolve conflict, has become an increasingly used mechanism for conflict resolution (Anderson and Keil 2021; Keil and Alber 2020). By their very nature, the self-rule and shared rule structures of a federal system illuminate the accommodative capacity of this territorial measure, extending autonomous control to minority groups over their economic, political and social affairs while also increasing their stake in the state through facilitating their influence on central government decision-making processes. Further, federalism not only serves as a form of protection for minority groups, but the majority benefits too; federalism may not necessarily eliminate secessionist claims, but a proper functioning federal system ought to render the pursuit of independent statehood obsolete, thus maintaining the stability and territorial integrity of the state.

Akin to federalism, decentralization – understood broadly as 'the transfer of political power (administrative, fiscal and/or legislative competences) to a minority group (or multiple groups) residing within a particularly defined geographical area' – is a prominent tool of conflict resolution (Keil and Anderson, 2018: p. 91). Unlike federalism, the focus of decentralization is often limited to self-rule, that is, the creation of autonomous structures rather than a combination of both self- and shared rule. Similarly, however, decentralization is utilized to fulfil some of the same objectives behind federalization in divided societies: accommodation of diversity, minority protection and the prevention of secession. In comparison to federalism, decentralization is more limited in its commitment to carving a stake in the state for minority groups but its objective to accommodation via the creation of institutional autonomous structures underline its prevalence as a conflict-solving and secession-inhibiting tool.

In a similar vein to both federalism and decentralization, power-sharing regimes equally seek to stabilize fragile political systems through mechanisms designed to end existing conflict, encourage a culture of cooperation and consensus and foster trust among ethnic groups. According to Esman (2004: p. 198), power-sharing describes 'an inherently accommodative set of attitudes, processes, and institutions, in which the art of governance becomes a matter of bargaining, conciliating, and compromising the aspirations and grievances of its ethnic communities'. Centripetalism and consociationalism are the principal power-sharing approaches promoted in the pursuit of conflict resolution and political stability (McCulloch 2014). The focus of centripetalism is to foster cooperation among ethnic groups through institutional incentives for moderation while consociationalist regimes are more concerned with group representation. Yet, while both schools differ in their prescription, the goals of power-sharing regimes share the same overarching accommodative outlook as federalism and decentralization in divided societies: rebuilding trust, protecting minorities, facilitating inclusion, managing conflict and consolidating democratic norms. As pointed out by Lijphart (1985: p.4), both federalism and consociational power-sharing share 'a rejection of majoritarian democracy.'

The promotion of autonomy as a conflict ameliorating, regulating, and solving device is rooted in its perception as a reciprocal compromise. As noted supra, this is shaped by the ability of autonomy regimes to make it possible, at least to a certain extent, for both minority and majority groups to pursue some of their principal aims within the confines of the existing state and importantly without resorting to violence. For minorities, autonomy provides (limited) control over numerous ambits, some of which may be essential in protecting the ethnic identity and cultural heritage of the group (e.g., control over education in the autochthonous language). The provision of institutional apparatus not only provides an arena in which the political aspirations of the minority group(s) can be illuminated, but simultaneously, through institutional recognition, legitimizes the existence of the group(s). This in turn has the potential effect of increasing the confidence of the group(s) that their aspirations, short of independent statehood, can be fulfilled within the parameters of the state and thus reduce the threat of continued or further conflict. This is further enhanced by the promotion of autonomy as a check on central governments and the perceived threat of majority rule, 'a significant concern of regional minorities fearful of being swept aside by national majorities' (Bakke and Wibbels, 2006: p. 5-6).

For majority groups, and more specifically central governments, a principal attraction in supporting the rolling out of autonomy is the ability of autonomy to help dissipate demands and support for secession. As noted earlier in this chapter, the pursuit of political power is a prominent cause of ethnic conflict and is typically framed by groups in demands for internal self-determination (autonomy) and/or external self-determination (independence). In an attempt to reduce secessionism then, central governments see autonomy as a pragmatic response that has the potential to dampen existing tensions and ensure the territorial borders of the state in question remain intact. This, as we have argued elsewhere, is seen not only as beneficial for the political stability of the given state, but equally 'contributes to sustaining the stability of the international system' (Keil and Anderson, 2018: p. 93). Autonomy, however, is not a panacea in eliminating or even abating secessionism, but as pointed out by Tierney (2009: p. 251), while the secession-inducing or secession-preventing evidence remains inconclusive, 'the denial of meaningful self-government to sub-state nations seems to be ill-conceived since

it may hasten processes towards secession in less happy ways'. Examples such as the Soviet Union or East and West Pakistan before Bangladesh's independence are cases in point. In fact, as is discussed in the next section, the absence of territorial autonomy is often the main reason for territorial conflicts and secessionist violence, rather than functional autonomy arrangements. Notwithstanding the promise of autonomy as a conflict resolution tool, territorial solutions to ethnic conflicts are often not enough and require further institutional mechanisms to render the pursuit of independence by secessionist movements an unnecessary endeavor.

The Challenges of Territorial Autonomy as a Tool of Conflict Resolution in Ethnic and Secessionist Conflicts

Territorial autonomy is nowadays a key element of domestic and international efforts to solve violent ethnic and secessionist conflicts. As highlighted above, the advantage of territorial autonomy provisions, whether federalism or other forms of decentralization, lies in its combination of providing substantial autonomy for minority groups within their historic home territory on the one side, while on the other side ensuring the territorial integrity of the state, which is often a key priority for majority groups and the international community (Keil 2019).

Yet, other studies (Wolff 2009; Walsh 2018) have demonstrated that territorial autonomy alone is often not enough to address the more complex issues involved in contemporary ethnic conflicts. Indeed, as mentioned above, the complicated international and domestic structure in which these conflicts take place, plus the requirements for peace agreements to be more inclusive and detailed, has also resulted in a shift towards the promotion of wider power-sharing provisions, of which territorial autonomy is one element. Evidence from peace agreements in cases such as Bosnia and Herzegovina (1995), Northern Ireland (1998), Sudan (2005) and Nepal (2015) suggests that peace is best established not just through the provision of autonomy for different groups, but also through their inclusion in the wider institutions of a state, often based on consociational mechanisms such as grand coalitions, proportional representation and the ability to veto key decisions at the center.

Even in established democracies such as the United Kingdom and Spain, it has become evident in recent years that 'building-out' through extended autonomy for minority groups is not enough to address and deal with secessionist demands and tendencies (Anderson 2021b). Instead, as mentioned above, a wider need for 'building-in' i.e. focusing on the shared-rule dimension of territorial autonomy and federalism, has become ever-more prevalent. This form of building in, however, requires complex institutional provisions, often focusing on strong second chambers and well-functioning intergovernmental relations, which ensure a permanent representation and voice of minority groups in the center. These institutions, however, risk further complicating state consolidation after conflict, as discussed below in the case of Bosnia, or seriously affecting the overall functionality of the political system, as is regularly witnessed in countries such as Belgium (Caluwaerts and Reuchamps 2015) and Iraq (Belser 2020). Power-sharing, in other words, might be a key element in transforming ongoing ethnic conflict behaviors into more cooperative and peaceful engagement, but it also risks the danger of creating what Nagle (2020) labels 'Zombie Power-Sharing' provisions, which stall political decision-making and limit the ability of institutions to function effectively. The choices made when designing institutions therefore become incredibly important for the long-term functionality of any post-conflict arrangement, and its likelihood to lead to sustainable peace.

Keil and McCulloch (2021) point out that the adaptability of power-sharing systems is essential – in other words, any arrangements put in place to end violent conflicts and deal with secessionist movements, need to be able to adapt, change and evolve over time. This adaptability requires both institutional flexibility that is open to change, whilst still providing the security necessary to gain parties' consent to the peace arrangement in the first place, as well as the willingness of political elites to allow and support evolution and institutional change. As discussed in the case studies section below, while Spain has demonstrated that ability at least until 2010, in Bosnia both institutional flexibility and elite consensus on reforms and institutional evolution have been absent. It has yet to be seen if both criteria will emerge in the case of Myanmar, where a debate of wider constitutional reform towards federalism and inclusive institutions has been ongoing since 2016.

Another problem pointed out by a variety of authors concerns the issue of what has become known as 'the paradox of federalism' (Erk and Anderson 2012). The paradox argument has been hinted at above – it highlights autonomy arrangements in deeply divided societies as a double-edged sword, which on the one side are necessary to accommodate different groups and ensure their self-rule within their territorial units, but on the other side, while providing these groups with autonomous institutions and independent financial resources might also enable them to make a claim towards complete self-governance, i.e. secession and subsequent independence, more strongly (Anderson 2010). While the jury on the paradox is still out, a general pattern has emerged in recent years – secessionist movements tend to be present in most, if not all multinational states. However, their secessionist claims for independence, and the danger of violent ethnic conflict, is substantially reduced through the implementation of functional federal and democratic structures. Belser (2020) for example explains the move of Iraqi Kurdistan's elites towards an independence referendum with the dysfunctionality of the Iraqi federal system, where key institutions such as a second chamber have never been established. A similar argument is presented by Anderson (2020) in relation to Catalonia. Likewise, while Popelier (2021) demonstrates that Belgium has become harder to govern and pushed closer towards dysfunctionality, she also points out that so far both federalism and consociational power-sharing have held the state together and protected democratic decision-making in this deeply divided country. McCulloch and McEvoy (2020) also conclude that evidence suggests that power-sharing, including territorial autonomy arrangements, has contributed to ending violence in a number of cases. However, they highlight that states are not necessarily more functional and democratic once territorial autonomy and power-sharing have been introduced. This finding links to Keil's (2019) claim that there is no empirical evidence to support the paradox of federalism phenomenon in established federations, but that territorial autonomy, mixed with complex power-sharing provisions, might support secessionist claims and new ethnic tensions when implemented in countries that are characterized by weak institutions, a dysfunctional or non-existent rule of law, and in which political elites see access to political power, first and foremost, as a resource to enrich themselves.

Whatever the verdict on the paradox in the long-term, what the discussion above demonstrates is that states that are characterized by a diversity of different ethnic, linguistic, religious and cultural groups, in which rival nationalist projects proclaim the same territory as these groups' homelands, debates about secession, and the question of internal versus external self-determination will remain salient. It is therefore important that both domestic and international constitutional engineers keep this in mind, not only when they design institutions, but also

when they consider the political long-term development of these institutions and the polity as a whole. As discussed below in the case of Spain, making secession a forbidden topic that was not to be debated at all because it contradicted key articles of the Spanish Constitution, has become a major reason for the constitutional crisis in Spain and the push for a unilateral independence referendum in Catalonia. When comparing the handling of independence referendum requests by political parties representing secessionist movements within minority nations between the Spanish authorities in 2016 and 2017, and the British authorities after 2012, stark contrasts become visible (Cetrà and Harvey 2018). There are no contemporary multinational states, in which groups do not directly or indirectly request more autonomy, or even outright independence. Rather than inhibiting the debate on these issues, they should be discussed openly, directly and inclusively. This will give minority nations the chance to have their voice heard, and feel integrated and respected, while it will give majority communities and their elites the chance to highlight the benefits of the common state and make the case for the advantages of staying together.

We are, of course, not promoting that each ethnic group worldwide should be able to demand a referendum on independence and should have this request granted, as the instability this would create internationally would be highly problematic (and key questions such as what constitutes an ethnic group are highly political and contested). But a key lesson learnt from Spain, Iraq, the long-term violence in Myanmar and many other places around the world is the fact that forbidding debates about autonomy and secession usually leads to increased polarization, tensions, and ultimately violence.

This is why a number of more recent peace agreements addressing growing violent and non-violent ethnic conflicts, have included secession clauses, as seen in Serbia-Montenegro (2001), Sudan (2005) and Timor-Leste (1999). While this practice is far from becoming the established norm in international politics, is has set precedents which may become relevant for other secessionist conflicts around the world. The alternative to internationally negotiated secession clauses and independence referenda are domestic constitutional provisions allowing secession, as can be found in states such as Ethiopia and St. Kitts and Nevis. While only a small number of countries have formalized secession clauses as part of their constitutional frameworks, this practice might be a way forward for deeply divided societies, giving additional guarantees to different groups, and ensuring that all groups need to be regularly reminded and convinced about their integration, equality and inclusion in the common state. A quick look at a contemporary map of unrecognized states (see for example Caspersen 2012; Potapkina 2020, Griffiths and Muro 2020) demonstrates the need for wider discussion, both about state inclusion and integration strategies such as territorial autonomy and power-sharing, but also about secession.

Autonomy and Ethnic Conflict in Practice: Bosnia, Spain and Myanmar

This section assesses the relationship between autonomy arrangements, ethnic conflict and secession in three states, Bosnia, Spain and Myanmar. The aim is to provide comparative empirical insights, which demonstrate how the theoretical discussions above play out in a variety of cases, with very different outcomes and challenges.

Bosnia

Bosnia's current federal system goes back to the General Framework Agreement for Peace in Bosnia and Herzegovina, also known as the Dayton Agreement, which was negotiated by the Presidents of Bosnia, Serbia and Croatia in Dayton, Ohio in November 1995, and signed the same year in Paris. The agreement ended 3.5 years of conflict in Bosnia, in which ethnic conflict and secession played a major role.

After the death of long-term dictator Tito in 1980, economic crisis and political instability took hold in Socialist Yugoslavia, and the arrival of Slobodan Milosevic, and his policy of re-centralization and Serb domination, further pushed the state towards violent break-up. Before Tito's death, a major constitutional reform of 1974 established a federal system in Yugoslavia, that Ramet (1992: p.4) has described as a 'balance-of-power system', in which each of the six Republics[2] and the two autonomous communities enjoyed substantial self-rule, while decisions that affected all of Yugoslavia required consensus and cooperation amongst the different Republican elites. Milosevic's aim was to recentralize the state in order to deal with the growing economic crisis at the end of the 1980s, and to enhance the influence of Serbia as the largest and most populated Republic. However, his actions were rejected by Slovenian and Croatian elites, and after several showdowns which saw the break-up of the Yugoslav League of Communists, Slovenia and Croatia declared independence in June 1991, followed by Macedonia in September.

These declarations of independence resulted in brief and limited violence in Slovenia, while excessive conflict broke out between Serb paramilitaries, which were supported by the Yugoslav army, and Croatian police and security forces. Bosnian elites were now stuck between a rock and a hard place – on the one side there was a clear willingness amongst Bosniaks (Bosnian Muslims) and Croats to push for Bosnian independence, on the other side, there was also a real danger that conflict would quickly spill into Bosnia, and that the country would be subject to excessive violence due to its ethnic make-up, with more than a third of the population identifying as ethnic Serbs which wanted to remain in a state union with Serbia. When Bosnia eventually declared its independence in April 1992, ethnic conflict between Bosniaks and Croats on the one side, and Serb forces supported by the Yugoslav army on the other, followed. The aim of Serb forces was to establish their own state – the Republic of Serbia in Bosnia, which would later join Serbia (Silber and Little 1995). When in 1993 the alliance between Bosniak and Croat forces broke apart, Croat paramilitaries also attempted to create their own state – the Republic of Herzeg-Bosna (Hoare 1997), which would eventually join Croatia. Neither of these secessionist projects were successful, but the extended fighting between the different groups left 100,000 people dead, and fundamentally altered the ethnic composition of the Bosnian territory (Burg and Shoup 2000).

Bosnia's conflict ended after the intervention of NATO air forces and heavy American involvement with the Dayton Agreement (Holbrooke 1999), which in Annex IV also included the Constitution of Bosnia and Herzegovina that remains in place today. Yet, the institutional framework provided by the Dayton Agreement has been subject to some academic debate – while Bose (2002) refers to Bosnia as a confederation, Bieber (2006) calls it a loose multinational federation. This confusion is a result of a variety of constitutional provisions, which allow for different interpretations of Bosnia's system of governance. For example, while it is made clear that only the state of Bosnia and Herzegovina has international legal

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[2] In addition to Bosnia, these were Serbia, Montenegro, Macedonia, Slovenia and Croatia.

personality, the two entities (the Federation of Bosnia and Herzegovina (FBiH), itself made up of 10 cantons and mainly inhabited by Bosniaks and Croats, and the Republika Sprska (RS), mainly inhabited by Serbs) have extensive autonomy, including the right to collect taxes, to keep their own military forces and to maintain foreign relations with neighboring countries (Keil and Woelk 2017). This substantial decentralization, which also allows the entities to remain the main collectors of taxes and decide on education, health, economic and social policies, is connected to a strict consociational power-sharing system in central institutions, which require elites of the three main groups to cooperate and makes vetoing decisions very easy (Bieber 2006; Bahtic-Kunrath 2011; Keil 2012; Hulsey and Keil 2021). What we find in Bosnia is a system in which territorial autonomy for the three main groups (Bosniaks, Croats and Serbs) has been combined with one of the strictest consociational power-sharing regimes in the world.

While this system has been able to keep Bosnia together and ensure peace in the country, little progress has been made in terms of democratization and consolidating Bosnian statehood (Keil and Kudlenko 2015). Indeed, the country continues to face ongoing tensions between the elites of the three main groups, with questions over territorial autonomy and secession still looming in everyday political decisions. For example, in recent years leading politicians representing the Bosnian Croats have requested reform of Bosnia's federal system, as they feel that the current architecture disadvantages them (Perry 2019). They are requesting their own entity, and thereby push for the full implementation of a federal system based on ethnic criteria. At the same time, Bosnian Serb elites, especially long-term Prime Minister and President of the RS and current Serb Member of the Bosnian Presidency Milorad Dodik has again and again threatened to hold a referendum on independence if further state-strengthening reforms were implemented (Toal 2013). Indeed, when looking at contemporary constitutional politics, it is obvious that none of the major groups is particularly happy with the arrangements of the Dayton Peace Agreement, and that its loose multinational federal architecture remains contested (Keil 2013).

This is further enhanced by years of international involvement in Bosnian politics through various international offices, most notably the Office of the High Representative (OHR), which between 1997 and 2006 initiated a series of state-strengthening reforms, including a military reform and a Value-Added-Tax reform. However, these international involvements have resulted in a political system which is unable to function properly by itself and relies on outside input. It is what Merdzanovic (2017) refers to as 'imposed consociationalism', where the power-sharing institutions cannot function without support and pressure from international actors. Indeed, as Keil (2020: p.480) has pointed out, 'The use of the federal toolbox as a tool to overcome the violent conflict in Bosnia continues to challenge local elites and international academics alike' – while particularly domestic actors continue to challenge federalism, power-sharing and Bosnia's territorial integrity. The legacy of the war, which provided for ethnically homogenous territories, plays an important role in continued state contestation (Toal and Dahlmann 2011; Piacentini 2018), and helps to explain why the institutional framework has not contributed to state consolidation and why ethnic distance between the different groups has increased. While both, domestic actors and international representatives agree that a wider state reform is needed, and that the current – Dayton – structures are not suitable for a country more than 20 years after the end of the war, there is little agreement on what should be changed and how (Keil and Anderson 2021). Bosnia is a good example for the 'Zombie power-sharing'

(Nagle 2020) mentioned above, a system in which the territorial and power-sharing frameworks have failed to adapt and evolve, and in which ethnic conflict is continuing in the political arena, coupled with permanent attacks on Bosnian statehood and its territorial integrity.

Spain

For the last few years, and likely for years to come, the Catalan push for secession is one of the most contemporary and widely discussed self-determination disputes in the 21st century. The Catalan Government's decision to hold a referendum on October 1st 2017, notwithstanding opposition to the vote by the Spanish Government and the Constitutional Court which declared the referendum illegal, represented a pivotal juncture in the constitutional clash between the pro- and anti-independence camps. Marred by scenes of police violence, the referendum caught the attention of the world's media and personified the ongoing challenges encountered by central governments vis-à-vis the management of minority nations and their aspirations for enhanced autonomy and/or independent statehood.

The Spanish state's experience in managing its internal diversity has a rather convoluted history, one that has oscillated between periods of accommodation and decentralization on the one hand, and vehement hostility towards minority nationalism on the other. The Franco dictatorship (1939-1975) was a primary example of the latter. Having won the civil war in 1939, General Franco sought to eliminate any form of minority nationalism, including cultures, languages, political organizations and regional institutions that did not conform to his uninational vision of Spain. In territories like the Basque Country and Catalonia, repression and attempts to foist uniformity had the opposite intended effect and heightened as opposed to dampened minority nationalist feeling (Guibernau 2004). In conjunction with and as a result of this clandestine resistance and sustained sense of collective identity, support for the reinstatement of political autonomy grew. In the aftermath of Franco's death in 1975 and the ensuing transition, democratization and decentralization became mutually reinforcing processes embodied in the commitment to accommodate Basque and Catalan demands for political autonomy (Moreno et al 2019).

The Spanish Constitution, promulgated in 1978, reflects the fundamental center-periphery tension that has characterized Spain since the state's creation. In an effort to reconcile unity and diversity, the Constitution sought to balance the aspirations and concerns of the different groups, specifically between those who advocated for a centralized, unitary state and those who proposed political decentralization in the shape of regional autonomy and federalism. Article 2, arguably the most contentious in the Constitution, asserts 'the indissoluble unity of the Spanish Nation' while at the same time 'recognizes and guarantees the right to autonomy of the nationalities and regions of which it is composed'. The reference to nationalities – which are not enumerated in the Constitution – was taken as tacit recognition of the historic territories that had secured autonomy prior to the Civil War – the Basque Country, Catalonia and Galicia – but the Constitution fell short of recognizing Spain as a plurinational state, notwithstanding support for this position among political elites on the left. Instead, the Constitution enshrined a mononational vision of the state in which Spain is conceived as a traditional nation-state with one official language and one *demos*.

An open-ended autonomy model was provided for by the Constitution with a fast-track process which facilitated a quicker and greater degree of autonomy for the historic regions. In the end, 17 autonomous communities emerged, 4 under the fast-track procedure (Andalucia, the Basque

Country, Catalonia and Galicia) and the remaining 13 from the slower process. The two-track route to autonomy established an asymmetric territorial model, further reflected in special fiscal arrangements for the Basque Country and Navarre (as part of protection of their historical rights) and a specific tax regime for the Canary Islands (Bossacoma Busquets and Sanjaume-Calvet, 2019). The territorial model represented a clear break with the hyper-centralist policies of the Franco era, but fell short of the requisites of a federal state (Anderson 2021b). Little attention was paid to elements of shared rule.

The commitment to autonomy in the Spanish transition, while shrouded in the rhetoric of democratization, was inherently a conflict resolution strategy. It was widely accepted that dismissal of demands for autonomy would jeopardize the already fraught democratization process, thus, as noted earlier, the democratization and decentralization processes went hand in hand. It is a truism that the autonomy processes were conceived as tools 'of reconciliation, state-building, economic efficiency and democratization', but this built upon the underlying strategy to ensure respect and recognition, however implicit, for Spain's internal composition and the resolution of ethnoterritorial tensions through democratic mechanisms and procedures (Anderson, 2020: 344). This process of 'gradual accommodation' was achieved through a combination of consensus politics and the conferral of legitimization on the self-determination aspirations of Spain's internal minorities (Moreno et al 2019). Yet, while there is no denying the success of the democratic transition and the entrenchment and development of the territorial model, in recent years optimism that it would embed a long-lasting mechanism of accommodation has significantly waned.

The secessionist turn in Catalonia can be traced to the 2010 Constitutional Court ruling on the reformed Catalan statute. Despite having passed votes in both the Spanish and Catalan Parliaments and a referendum in Catalonia, in 2010 the Constitutional Court nullified and altered various provisions in the Statute, including reference to Catalonia as a nation and preferential status for the Catalan language. Combined with this, complaints about competence symmetriziation, fiscal imbalances, policy uniformity and a lack of willingness and at times outright hostility on the part of central government elites toward further autonomy, led increasing numbers of Catalans to couch the autonomy model as a failure (Guibernau 2013). For many, independent statehood became seen as an easier feat than territorial reform.

Akin to a number of other plurinational states, such as Canada and the UK, territorial autonomy in Spain did not entirely abate secessionism. For three decades in the aftermath of the transition, Catalan independence garnered only marginalized support. Since 2012, however, support for an independent Catalonia has remained the most popular territorial preference for a significant number of Catalans, albeit support has never reached 50%. Such high levels of support have precipitated unprecedented civil society movement (Anderson 2019) and the spawning of debate across Catalonia and Spain on the merits and limitations of the territorial model (Anderson 2020). Yet, prospects of further reform – certainly enough to dilute support for independence – have not been forthcoming. Indeed, the judicialisation of the center-periphery tension has witnessed a hardening of positions on both sides and a stalemate in resolving the situation. This has been further compounded by increasing support for parties on the right of the ideological spectrum, not least Vox, whose opposition to Catalan independence and the territorial model as a whole, has been an overwhelming factor in its electoral rise (Turnbull-Dugarte 2019).

Having come under significant strain in recent years, the ability of the extant Spanish territorial model to serve as a tool of conflict resolution has been severely limited. This is a result of the political actors within the system and the shift from the consensus-driven approach that characterized the first few years of the transition to the identifiable majoritarian turn that took root soon after. This preponderance of majoritarian thinking has seen successive attempts by different central governments to homogenize the territorial model and a gradual centralization process that undermined the original commitment to autonomy. This majoritarian thinking is also enshrined in the constitution, evidenced in the 'monistic definition of sovereignty and territorial inviolability' ensconced in Articles 1 and 2 (Mueller, 2019: p. 153). As noted earlier in this chapter, while autonomy is oft-promoted as a mechanism to manage ethnoterritorial tensions within a given state, it is not always enough to accommodate the aspirations of minority nations. In this sense, autonomy is a key component in managing conflict but maximizing its efficacy as a tool of conflict resolution often requires a combination of other mechanisms, including the shared rule element of federalism or power-sharing devices, such as consociational government (McGarry and O'Leary 2009).

In the context of Spain, an absence of willingness on the parts of both Spanish and Catalan political elites to address current territorial limitations through consociational means renders the pursuit of power-sharing a limited affair. There is, however, much to be learned from the consociational approach that would be useful in resolving the constitutional impasse between the Catalan and Spanish governments (Anderson 2021a). Short of the aforementioned, a more robust and encompassing approach to shared rule would certainly improve the territorial model and its conflict resolution potential, including transformation of the Senate into a proper territorially representative chamber and the establishment of more robust and efficient intergovernmental relations (Umaner-Duba 2020). Such changes are unlikely to alleviate all of the grievances that have spurred the secessionist trend in Catalonia, but would certainly help achieve a better territorial model and enhance its conflict-ameliorating and accommodation capacities.

As was pointed out in the previous section, territorial autonomy is not a panacea to address the many ills that come to pass in plurinational states. The Spanish case demonstrates the success of using autonomy to facilitate a democratic transition, but simultaneously underlines its limitations. Tellingly, it illuminates the shortcomings of autonomy models focused largely on self-rule, as well as the pernicious effects of majoritarianism within plurinational contexts.

Myanmar

Myanmar[3] is different from Bosnia and Spain. While in the latter, models of territorial autonomy were implemented alongside democratization in order to moderate demands for self-determination and secession, in Myanmar, there has never been a proper application of territorial autonomy. Despite the 2008 Constitution's reference to a 'Union system' (Article 8) and the mentioning of States and Regions (Article 9), as well as a reference to the powers of

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[3] Until 1989, the country was known as Burma. The military junta changed the name to Myanmar, but this has remained contested both internationally and within the country until today. Many ethnic groups still refer to the country as Burma in order to avoid recognizing the oppressive policies of the military junta and its quest to enforce one state identity on the different groups. We will refer to Myanmar when talking about the country after 1989, and to Burma before that.

States and Regions in Schedule Two of the Constitution, it remains a highly centralized system (Crouch 2019) in which the States and Regions as territorial units have little decision-making autonomy, hardly any independent financial resources, and remain for the most part completely dependent on guidance and financial resources from the center.

This continued centralization is even more surprising when taking into account that Myanmar's federal debate started nearly 100 years ago – even before the state became independent from British colonial rule in 1948. After the Second World War, there was a discussion about the future of the country, which resulted in the Panglong Agreement – a legally binding treaty committing the then Government of Burma to accommodate and provide autonomy for the 'frontier peoples' in particular the ethnic Chin, Shan, Kachin (and also Karen).[4] This foundational agreement, which can be compared with the Philadelphia Convention in the USA, however, was never implemented in post-independence Burma. Instead, the country has been haunted by ethnic conflict, secessionist demands and ongoing violence since the 1940s (Steinberg 2013). While federalism, and the different ethnic groups'[5] requests for self-determination have remained a constant in the country's post-independence political era, so too has inter-ethnic violence and continued military presence after the first coup d'etat in 1962.

The 1948 Constitution included a right of secession for the Shan, Kachin, Chin and Karen territories, which was to become active after 10 years of constitutional implementation. However, the need to defeat a Communist insurgency, and the continued unrest in many ethnic minority territories in Burma limited the ability of the 1948 Constitution and leading political elites to address claims for self-determination, and instead laid the ground for further tension, including the military take-over in 1962, which was a response to state instability and the quest of the Shan people to become independent, in line with the 1948 Constitution (Taylor 2015: pp 207-270; Callahan 2003; pp. 157-206). When looking at the country's discourse on federalism today, these historical legacies continue to play an important role (Siegner 2019). The military remains a key factor both in formal politics (it is represented in the legislative and executive branches of government) and in informal decision-making. Ethnic groups continue to demand autonomy and self-determination, although the quest for secession from some ethnic groups has substantially reduced, not least because of a lack of international support. Finally, despite its democratic reform process, which started in 2010, and included a comprehensive Nationwide Ceasefire Agreement (NCA) in 2015 that reconfirmed the elites' commitment to establish a 'a union based on the principles of democracy and federalism'[6], elites from different sides struggle to agree on a common perception of the future Myanmar state (Kipgen 2016).

The establishment of the Myanmar Union Peace Conference (also known as the 21st Century Panglong Conference, echoing the landmark event that took place in 1947) heralded a new era in the pursuit of federalism in Myanmar. The conference, framed as a series of meetings to take place over a number of years, initiated the start of a process in forging a peace-building solution facilitated by the development of federal democracy. By the end of 2020, four meetings of the

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[4] The full text of the Panglong Agreement from 1947 is available at:
https://peacemaker.un.org/sites/peacemaker.un.org/files/MM_470212_Panglong%20Agreement.pdf
[5] The 2008 Constitution mentions 135 national races. However, the main ethnic groups are the Shan, the Chin, the Kachin, the Karen, the Mon, the Kayah and Rakhine people. There also numerous smaller groups, but these 7 groups each have a State named after their ethnic group in the country.
[6] The full-text of the Nationwide Ceasefire Agreement can be found here:
https://peacemaker.un.org/sites/peacemaker.un.org/files/MM_151510_NCAAgreement.pdf

Conference had taken place and a series of principles agreed by attending parties. The purist of federal democracy, however, is hindered by problems with the Peace Conference and preceding NCA (for example, not all Ethnic Armed Organizations (EAOs) have signed the agreement), as well as competing and at times opposing views on the federalization and democratization processes. Indeed, while State Counsellor Aung San Suu Kyi and her political party, the National League for Democracy (NLD) are 'rhetorically committed to federalism', there is a lack of concrete detail on their federal vision (Breen, 2018: p. 128). This is further compounded by the fact that there are diametrically opposing viewpoints on federalism among the different political elites. On the one hand, minority groups supportive of the peace process consider federalism an integral component in the pursuit of peace in Myanmar, while others, particularly the military, consider federalism a recipe for state disintegration. The latter, for example, was laid bare in the second Peace Conference in which progress was stalled because of disagreements among ethnic armed groups and the military over the inclusion the principle of 'non-secession'.

Article 10 of the Myanmar Constitution prohibits secession. The commitment to a 'non-secession' clause is supported by the NLD government and the military, but is opposed by the EAOs. Support for secession itself among EAOs is rather marginalized, but their support for a right to secede is framed as 'a safeguard rather than because they wish to act on it' (Breen, 2018: p.130). This is rooted in the lack of trust among the different actors involved in the peace process, including among the EAOs themselves which are more fractured and fragmented now than was the case in 1947, but more specifically between those who see federalism as an opportunity to establish democracy and tangible recognition and autonomy versus those who see it as the beginning of a process to disintegration. This is further complicated by the fact that some political elites, particularly the ruling NLD, which supports both federalism and democracy, also support a commitment to prohibit secession. As we noted earlier, secession clauses are the exception rather than the rule, but continue to be a hurdle inhibiting the necessary consensus to entrench federalism and democracy in Myanmar.

The ongoing peace initiative and evolution of the federal debate in Myanmar underline the idea that federalism should be understood as a process (Friedrich 1968). This applies as much to the establishment of a federal system as to its ability to adapt and change post-establishment. In Myanmar, the commitment to federalism amongst political elites, save military personnel, remains strong, bolstered by 'overwhelming' public support among citizens from Bamar and other ethnic groups (Breen et al 2018). Yet, while it may be that the rolling out of federalism in Myanmar has much to offer the country in terms of conflict resolution, entrenching democracy and facilitating peace, the objective of a federal state remains elusive. Hitherto, debate on the principle of secession illuminates the lack of consensus in the political arena, potentially solidifying rather than dissipating division. Since 2015, the commitment to using autonomy to resolve Myanmar's longstanding conflict has made remarkable progress but serves as a reminder that while theoretical observations vis-à-vis autonomy, secession and ethnic conflict remain sound, the practical application of autonomy in divided societies is nonetheless a complex and cumbersome affair.

Conclusion

Over the last century, there has been a steady rise in the number of ethnic conflicts. These conflicts, characterized by a grievance of at least one party along an existing or perceived discriminating ethnic divide, shed light on the changing nature of conflict witnessed in the last century, an identifiable shift from conflict between states to conflict within states. These intra-state group-based conflicts are predominantly defined by a struggle over political power, reflected in aspirations and demands of groups for autonomy and/or independence. Consequently, strategies of conflict management have grown in prominence with a particular focus on autonomy provisions to calm tensions, forestall violence and ultimately alleviate divisions. Resolving conflict is no mean feat and is often dependent on historical specificities, contextual peculiarities as well as a willingness of parties involved to seek a palatable resolution. Yet, while such processes of institutional engineering can be found in states across the world, there is no one size fits all prescription. That is, that while state restructuring is promoted as a potential medicine to reduce ethnic conflict and discourage secession, it is not a cure-all remedy.

As the discussion in this chapter shows, and the use of various autonomy strategies around the world demonstrates, autonomy provisions remain viable, attractive and long-term institutional options to remedy some of the underlying incompatibilities that precipitate ethnic and self-determination conflicts. It would be remiss, however, to treat autonomy as a stand-alone solution. As both the theoretical and empirical discussions above demonstrate, while autonomy remains an effective institutional mechanism for conflict resolution, its efficacy is context-dependent and influenced by other factors, not least institutional innovation beyond self-rule. As the case of Spain demonstrates, autonomy helped to facilitate and consolidate the democratization process in the late 1970s, but in the absence of official recognition, shared rule and consensus among political elites, has failed to entrench an accommodation model equipped to abate secessionism. The study of Bosnia paints a similar picture. In this case, a more accommodative territorial model was implemented in the shape of federalism and power-sharing, but while institutional reform brought an end to violent conflict (a crucial achievement), it has failed to entrench a culture of cooperation and consensus among Bosniak, Croat and Serb elites. This, as noted above, is further complicated by the design of post-war institutions and an over-reliance on international actors post-1997. In Myanmar, the lack of progress on federalization, despite its prominence in constitutional debates prior to and post-independence in 1948, is rooted in several factors, not least diametrically opposed conceptions of federalism by the various political stakeholders. In this vein, while federalism may have much to offer in bringing an end to one of the world's longest civil wars, competing historical narratives and visions for the future preclude progress. In the main, autonomy may serve as an effective means to manage and alleviate tensions in deeply divided societies, but its application, development and success are highly dependent on context and case-specific particularities.

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