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NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

DECENTRALIZING DEMOCRACY: A GOVERNANCE PROPOSAL FOR POST-CONFLICT ETHNICALLY DIVIDED COUNTRIES

by

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December 2012

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The recent experience of nation building in Iraq, and more so in Afghanistan, calls for a deeper analysis of the pre-conditions for establishing an appropriate form of governance in post-conflict ethnically divided societies. While Afghanistan's democracy has become increasingly associated with the unwanted imposition of western liberal values, the need to build stable governance there raises critical questions about which form of governance is the best social fit for a given society. This thesis seeks to explore the relationship between the decentralization of governance and stability in deeply fragmented societies. Our research also seeks to validate the tenets of consociational democracy.

Drawing on lessons from six contemporary post-conflict cases, we conclude that a decentralized framework offers a more viable option than any other currently being proposed for deeply divided societies. Our findings suggest that the steadfast adherence to consociational democracy tenets and tailored decentralization of governance functions were consistent with the achievement of social fit in post-conflict ethnically divided countries. Although the involvement of external actors, economic growth or decline, and other geopolitical considerations can delay stability or serve as a catalyst for instability, it is the governance characteristic of social fit that endures.

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ABSTRACT

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LIST OF ACRONYMS AND ABBREVIATIONS

ALP	-	Afghan Local Police
ANSF	-	Afghan National Security Force
BiH	-	Bosnia and Herzegovina
CAST	-	Conflict Assessment Software Tool
CLJ	-	Constitutional Loya Jirga
FBiH	-	Federation of Bosnia and Herzegovina
GFAP	-	General Framework Agreement for Peace
GIRoA	-	Government of the Islamic Republic of Afghanistan
IDLG	-	Independent Directorate for Local Governance
ISAF	-	International Security and Assistance Force
KANU	-	Kenya African National Union
KPU	-	Kenya Peoples Union
LIP	-	Local Initiative Projects
MCO	-	Micro-Credit Organization
MOU	-	Memorandum of Understanding
NARC	-	National Rainbow Coalition
NGO	-	Non-Governmental Organization
ODM	-	Orange Democratic Movement
OHR	-	Office of the High Representative
PIC	-	Peace Implementation Council
PR	-	Proportional Representation
RPF	-	Rwandan Patriotic Front
RS	-	Republika Srpska
SNTV	-	Single Non-Transferable Vote
UNDP	-	United Nations Development Program
VSO	-	Village Stability Operations

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I. INTRODUCTION

A. STATEMENT OF PROBLEM

For the citizens of Afghanistan, its ten-year process of democratization in a centralized form has proven bitterly disappointing in its failure to deliver justice, equity, or services. Democracy itself has become increasingly associated with the unwanted imposition of western liberal values. The hundreds of billions of dollars' worth of aid pumped into the country by the United States and other donor nations have yet to yield the necessary degree of assured stability that would support a transition to independent governance from 2014 onwards. The recent experience of nation building in Iraq, and more so in Afghanistan, calls for a deeper analysis of the pre-conditions for establishing a particular type of governance in post-conflict ethnically divided societies.

Good governance is defined by effectiveness in the administration of sovereignty, legitimacy, justice, respect, and trust through the perception and sentiments of those who are governed.[1] Gaining legitimacy is by far the biggest challenge for a fledgling state in the aftermath of a conflict. The problem can be compounded when the government is externally imposed and "social fit" is lacking.[2] The social acceptance of a particular form of governance is complicated further when a society is plagued by unresolved internal conflict and strife derived from its inherent heterogeneity. Whether the heterogeneity is manifested in differences of class, culture, political party, race, religion, or ethnicity, groups of people will inevitably perceive or feel governance is unacceptable in one form or another and without regard for the government that exists.

For ethnically divided countries, the divisions are entrenched in society, especially when they have been the source of countless conflicts and the malicious subjugation and extermination of human beings during periods of ethnic cleansing. In

[1] Robert Jones, "USSOCOM Strategic Appreciation" (lecture, Naval Postgraduate School, Monterey, CA, 1 March 2012).

[2] In their thesis, John D. Bishop and Michael J. George argue that the people's social acceptance of a post-conflict government is critical to fostering long-term stability. For more, read John D. Bishop and Michael J. George, "Governing in a Post-Conflict Society: Social Fit" (master's thesis, Naval Postgraduate School, 2011).

addition to the intrinsic internal conflict and inhumane treatment as sources of ongoing problems, in many cases the state has proven inept at arbitrating and external actors have done little better. Although the hard-handed, authoritarian regimes have sometimes managed to quell revolutionary sentiment for periods of time, one need not look further than the Arab Spring movement in the Middle East and North Africa in 2011 and 2012 to see the eventual decline of such regimes. Although history offers examples of ethnic divisions resolved through the creation of new states, the dispersion of ethnicities, or the immersion of ethnicities within the larger culture or nationality, these methods of resolution have proven to be impractical, unethical, or impossible in some countries within the context of the modern world.

This thesis will address the problems with governance in post-conflict ethnically divided countries by studying governance frameworks of failed or failing states where such turmoil persists, as well as some of the cases where governance has managed to foster stability in the society.

B. BACKGROUND

Democratization and the democratic peace theory headlined the 2002 U.S. National Security Strategy. The democratic peace theory is based on the belief that democracies are less prone to conflict with other democracies.[3] The strategy and implicit theory led the U.S. and International Security and Assistance Forces (ISAF) to the subsequent construction of a "top-down" and highly centralized democratic form of governance in Afghanistan. After a decade of coaxing, cajoling, and nearly $100 billion of U.S. investment,[4] in January 2012 Afghanistan experienced its largest protests since the fall of the Taliban in 2001,[5] and its government's legitimacy is in question as it has failed to address the country's instability.

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[3] Michael Doyle, "Kant, Liberal Legacies, and Foreign Affairs," *Philosophy & Public Affairs* 12, no. 3 (Summer, 1983): 227.

[4] "Evaluating U.S. Foreign Assistance to Afghanistan," June 8, 2011, accessed March 5, 2012, http://www.foreign.senate.gov/imo/media/doc/SPRT%20112–21.pdf.

[5] Thomas Ruttig, "Afghanistan's 'Cumulative' Protests and the West's Dilemma," *Afghanistan Analysts Network*, January 3, 2012, accessed March 5, 2012, http://aan-afghanistan.com/index.asp?id=2567.

While legitimate governance and stability in Afghanistan are far from being a reality, this has not always been the case.[6] Currently, a large divide or gap exists between the central government and the majority of the people that live in rural villages. The civil society, which is essentially village-oriented, views international actors as upholding the power of the Afghan government and its "top-down" decision-making processes while imposing a superficial democracy without a truly representative foundation. The Afghan people view the present form of democratic governance as an imported western concept thrust upon them.[7] In fact, Afghans have always had a form of village governance called the *Malik* system. One of the important reasons for the failure of the Afghan government to achieve legitimacy is essentially its lack of "social fit."[8]Democracy for Afghanistan in the twenty-first century was never contextualized and is unlikely to take root in its present form as an acceptable western liberal democracy. Key elements of the existing civil society, like the *Shura*, *Jirga*, and the *Malik* system, have been largely ignored during the development of Afghanistan's government infrastructure. While there are few practical options that remain open for legitimizing the Afghan government before the impending withdrawal of U.S. and ISAF forces in the coming years, the Afghan case, along with those of other post-conflict ethnically divided countries, offers an opportunity to identify some of the key conditions that should be considered in formulating a suitable governance proposal for other post-conflict ethnically divided societies.

C. RESEARCH QUESTION

Under what conditions is governance likely to lead to stability in post-conflict ethnically divided countries? To answer this we intend to examine the validity of the following propositions:

- If governance accommodates existing ethnic diversity through autonomy, proportional representation, and a suitable coalition, then it is more likely to

[6] Thomas Barfield, "Afghan Paradoxes," in *Afghan Endgames*, eds. Hy Rothstein and John Arquilla (Washington, DC: Georgetown University Press, 2012), 39.

[7] Ruttig, "Afghanistan's 'Cumulative' Protests and the West's Dilemma."

[8] Bishop and George, "Governing in a Post-Conflict Society: Social Fit," 38.

foster stability through a balanced power-sharing agreement amongst the various stakeholders.

- A centralized approach to the governance construct is likely to be less successful than a decentralized, "bottom-up" approach in ensuring enduring stability.

D. SCOPE

The scope of this thesis concerns the governance frameworks and specific social conditions pertaining to stable governance in post-conflict ethnically divided countries. The United States Special Operations Command's 2012 Strategic Appreciation starts with the premise that "good governance nurtures stability; poor governance triggers revolution."[9] However, in any assessment of good governance, it must follow that while the effectiveness of governance can be perceived and is part of the stability equation, it is often how individuals feel about their situation that drives instability. Although this notion could preclude the relevance of rationally and systematically prescribing any particular form of governance for a given society or population, we postulate that there are inherent characteristics in post-conflict ethnically divided countries that require a more decentralized form of governance for long-term stability. We acknowledge that overall political stability is often affected by a wide array of factors such as economic development, topological factors, geopolitical interests, as well as the degree of heterogeneity (religious, ethnic, class, etc.) reflected in society. However, we limit our research to the ties between the social aspects and the type of governance framework adopted to foster stability in post-conflict ethnically divided societies as our initial literature review suggests a void when it comes to these dimensions of governance.

E. THEORETICAL FRAMEWORK

Our initial literature review regarding stable governance in heterogeneous societies led us to a number of references about consociational democracy and decentralized governance. While consociationalism dates back to 1917 when it was first seen in the Netherlands, it has only been implemented in handful of countries, but has

[9] Jones, "USSOCOM Strategic Appreciation."

proven successful as an administrator of lasting peace in post-conflict societies.[10] Arend Lijphart, credited as the founding theorist of consociational democracy, observes that "political culture and social culture are empirically related to political stability." As he groups democracies into several categories corresponding to their political institutions and the relative homogeneity of their respective populations, he distinguishes a deviant category, "consociational democracies," that refers to the fragmented but stable democracies of the European Low Countries.[11]Our extended research will draw upon the four political institutions of consociational democracy: a grand coalition, a mutual veto, proportional representation, and segmental autonomy.[12] We will also determine the conditions under which these aspects, along with decentralization, could provide stable governance in other post-conflict ethnically divided countries.

In the process of validating our propositions, we will narrow down a field of ethnically-divided countries and select those countries that have experienced internal conflict over the past fifty years as a result of societal divisions. We will then examine key aspects of their governance frameworks to determine whether they have either fostered stability or caused instability. We will measure the centralization of governance in terms of the degree of autonomy of local entities (province, district, etc.), the proportional representativeness to be found and the legislative coalition's social fit with the people. This thesis will extend social fit theory[13]by identifying common conditions among post-conflict ethnically divided countries and identifying a more stable form of governance for such societies.

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[10] Helga Malmin Binningsbo, "Consociational Democracy and Postconflict Peace. Will Power-Sharing Institutions Increase the Probability of Lasting Peace after Civil War?" January 7, 2005, accessed March 5, 2012, http://home.aubg.bg/students/DNH110/AUBG%20Classes /Spring%202012/Research%20Methods/Readings/Logit_regression_example.pdf.

[11] Arend Lijphart, "Consociational Democracy," *World Politics* 21, no. 2 (1969): 208.

[12] Binningsbo, "Consociational Democracy and Postconflict Peace," 2.

[13] Bishop and George, "Governing in a Post-Conflict Society: Social Fit," 38.

F. CASE STUDY SELECTION

In order to prioritize a selection of countries for a broad-spectrum analysis of governance frameworks, the Fund for Peace's Failed States Indices from 2006[14] and 2011[15] were used to identify the 177 least stable countries based on twelve key political, social, and economic conflict risk indicators and over 100 sub-indicators.[16] The breadth and depth of this analysis, while based solely on the Fund for Peace's proprietary Conflict Assessment Software Tool (CAST), offers the most rigorous available examination of the relevant characteristics for studying governance in post-conflict ethnically divided countries. Although CAST is a fairly recent innovation and limits its analysis to the past decade (with its first assessment completed in 2005), the tool is used here as a mechanism for numerically illuminating the degree of conflict risk that exists within a country and for capturing changes in the overall stability snapshot of a country using a more empirical and systematic (than qualitative) approach. Therefore, while it may be argued, citing insufficient data or erroneous algorithms, that the indices and rankings themselves potentially offer an inaccurate calibration of the degree of conflict risk that actually exists within a given country or comparatively between two countries, the Failed States Index provides one of the most objective means for measuring a particular country's stability (including its composite indices) over time. To the degree a similar quantity and quality of data can be acquired and analyzed for all countries and other time periods, the Failed States Index can provide greater resolution about the long-term effects and viability of a specific country's governance design towards addressing post-conflict ethnic fractionalization and minimizing the risk of conflict that exists.

In considering countries with a high ethnic fractionalization, three of the twelve indices comprising the Failed States Index were determined to be most representative of the degree to which ethnic division has manifested itself as a conflict risk in society: a

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[14] The Fund for Peace, "Failed States Index 2006," 2006, accessed July 18, 2012, http://www.fundforpeace.org/global/?q=fsi-grid2006.

[15] The Fund for Peace, "Failed States Index 2011," accessed July 18, 2012, http://www.fundforpeace.org/global/library/cr-11–14-fs-failedstatesindex2011–1106p.pdf.

[16] The Fund for Peace, "Conflict Assessment Indicators," 2011, accessed July 18, 2012, http://www.fundforpeace.org/global/library/cr-10–97-ca-conflictassessmentindicators-1105c.pdf.

legacy of vengeance seeking (group grievance or paranoia), the criminalization and/or de-legitimization of the state, and the rise of factionalized elites.[17] Although higher values in several other indices, including uneven economic development along group lines, the suspension of the rule of law, and widespread violation of human rights, may also be present in countries with high ethnic fractionalization, those indices are often also indicative of economic realities or an authoritarian system of government independent of the country's ethnic divisions. Thus, in selecting countries for further analysis we relied upon a critical review of the three aforementioned representative indices in relation to the overall stability score.

In order to determine whether a country's structure of governance could be reasonably assumed to have played a role in marginalizing the existing ethnic tensions, we considered three relational possibilities. In the first scenario, a corresponding increase or decrease in the three representative indices, in concert with an increase or decrease in the overall stability score, provided sufficient confirmation that some alteration in the country's governance either increased or decreased the conflict risk associated with the ethnic divisions in society. Alternatively, a negligible, opposing, or inconsistent movement of the three indices, with respect to the movement of the overall stability score, provided an inconclusive determination about whether governance or some other demonstrable internal or external conditions could be uniquely attributed with increasing or decreasing the conflict risk associated with the ethnic fractionalization in the country. In the last scenario, a country with high ethnic fractionalization but relatively low conflict risk scores associated with the three indices revealed a society in which the ethnic tensions were minimized either through some means of governance or some other unifying factor or factors (e.g., national homogenization, economic development, etc.). While a country in the last scenario could also be studied to determine whether its governance design might be credited with effectively addressing the potential conflict risk of internal ethnic fractionalization, this thesis has focused on selecting countries that

[17] The twelve conflict assessment indicators include demographic pressures, refugees and internally displaced people (IDP), group grievance, human flight and brain drain, uneven economic development, poverty and economic decline, legitimacy of the state, public services, human rights and rule of law, security apparatus, factionalized elites, and external intervention.

meet the first set of criteria in order to further analyze how governance was altered to try to decrease the conflict risk associated with an ethnically divided society.[18]

To narrow our list of potential case studies, we began by identifying a current and verifiable index of ethnic fractionalization scores. James Fearon published such an index in his 2003 study which updated the previously best known and widely used ethnographic study provided by Soviet ethnographers in the early 1960s, and published as *Atlas Naradov Mira* in 1964. In his index, Fearon's ethnic measures agree with a 2002 fractionalization study of ethnic, religious, and linguistic groups conducted by Alesina et al., but disagree with a series of fractionalization measures (1961–1985) carried out by Roeder in 2002 based on the aforementioned Soviet ethnographic sources.[19] This thesis has used Fearon's ethnic fractionalization scores because of his more pertinent and contextualized definition of ethnicity.

In his study, Fearon modifies the Soviet team's definition of ethnic group in order to standardize the use of ethnicity for the purposes of analyzing conflict between groups. While the definition of ethnicity in *Atlas Naradov Mira* is primarily based on sharing a language, but occasionally uses race and national origin, Fearon and David Laitin argue that the definition of ethnic group must be based in ordinary or everyday language.[20] Thus, they argue that "in common speech a group may be designated as 'ethnic' if the group is larger than a family and membership in the group is reckoned primarily by a descent rule."[21] To elucidate the definition and assist with the construction of a country list, Fearon analyzes the extent to which an ethnicity is a group based on the following seven prototypical ethnic group features:

---

[18] Although the aforementioned process for country case selection limits the scope of analysis to three of the twelve factors of stability and the period of time between 2006 and 2011, the Failed States Index's comprehensive analysis of conflict risk helps bolster our conclusions. In the case of countries with high ethnic fractionalization, where that fractionalization contributes significantly to the country's risk of conflict, any significant increase or decrease in the country's conflict risk is assumed to be primarily a result of the governance design. Limiting the scope of study by either excluding factors of instability that showed negligible or modest changes during the same time period, and excluding other factors.

[19] James D. Fearon, "Ethnic and Cultural Diversity by Country," *Journal of Economic Growth* 8 (2003): 196.

[20] James D. Fearon and David D. Laitin, "Ordinary Language and External Validity," September 2000, accessed July 18, 2012, http://web.ceu.hu/cps/bluebird/eve/statebuilding/fearon-laitin.pdf.

[21] Fearon, "Ethnic and Cultural Diversity by Country," 200.

- Membership in the group is reckoned primarily by descent by both members and non-members.
- Members are conscious of group membership and view it as normatively and psychologically important to them.
- Members share some distinguishing cultural features, such as common language, religion, and customs.
- These cultural features are held to be valuable by a large number of members of the group.
- The group has a homeland, or at least "remembers" one.
- The group has a shared and collectively represented history as a group. Further, this history is not wholly manufactured, but has some basis in fact.
- The group is potentially "stand alone" in a conceptual sense—that is, it is not a caste or caste-like group (e.g. European nobility or commoners).[22]

Although all of Fearon's ethnic groups do not meet all seven of his prototypical features, his scrupulous assessment and contextual definition provide a fairly comprehensive representation of the fragmentation by ethnic group within a country.

In order to systematically identify countries for further analysis, we pair Fearon's ethnic fractionalization and cultural diversity scores (by region and ethnic fractionalization)[23] with the three conflict risk indicators previously described from both the 2006 and 2011 Failed States indices. For the purpose of understanding how systems of governance did or did not effectively deal with inherent ethnic divisiveness, we based our preliminary country case selection on the following prioritized criteria: significant increase or decrease in all three of the indices representing group tensions, a corresponding increase or decrease in the overall stability index, and a high ethnic fractionalization score. Doing this generated seventeen countries in four different regions (Table 1). To lend more credence to the importance of governance design over other potentially region-specific stabilizing or destabilizing factors, we include countries representing each of the four regions. Additionally, while the process could have led us to select countries that were all substantial movers in terms of declining stability or substantial movers towards increasing stability, we attempted to achieve a balance. Consequently, we selected six countries for further study (Table -2).

[22] Fearon, "Ethnic and Cultural Diversity by Country," 201.

[23] Fearon, "Ethnic and Cultural Diversity by Country," 215–219.

Country	Overall Stability Score/Ranking		Legacy of Vengeance Seeking Group Grievance		Criminalization and/or De-legitimization of the State		Rise of Factionalized Elites		Ethnic Fractionalization Ranking/Score in Region		Cultural Fractionalization Ranking in Region
	2006	2011	2006	2011	2006	2011	2006	2011			
Afghanistan	99.8/10	107.5/7	9.1	9.3	8.3	9.7	8	9.4	3/23	0.751	1/23
India	70.4/93	79.3/76	6.9	8.2	4.8	5.8	5.7	6.8	2/23	0.811	2/23
Nepal	95.4/20	93.7/27	9.2	9	9.2	7.9	9	8	5/23	0.677	5/23
Myanmar	96.5/18	98.3/18	9	8.7	9.2	9.7	8	8.3	10/23	0.522	9/23
Indonesia	89.2/32	81.6/64	6.3	6.6	6.7	6.7	7.9	7	3/23	0.766	6/23
Nigeria	94.4/22	99.9/14	9.1	9.3	9	9	9	9.5	16/43	0.805	4/43
Rwanda	92.9/24	91.0/34	9	8.2	8.7	7.1	8.9	8.4	43/43	0.18	43/43
Zimbabwe	108.9/5	107.9/6	8.5	9	8.9	9.3	8.5	9.6	38/43	0.366	40/43
Somalia	105.9/7	113.4/1	8	9.5	10	9.8	9.8	9.8	15/43	0.812	32/43
Sudan	112.3/1	108.7	9.7	9.9	9.5	9.4	9.1	9.9	29/43	0.708	3/43
Kenya	88.6/34	98.7/16	6.7	8.7	7.3	8.9	7.6	8.8	11/43	0.852	9/43
Bosnia	88.5/35	80.9/69	8.6	8.4	8.1	7.6	8.7	9.2	3/31	0.681	26/31
Kyrgyzstan	90.3/28	91.8/31	7	8.3	8.3	9	7.9	8.3	4/31	0.679	1/31
Kazakhstan	71.9/88	70.2/107	5.1	6	7.5	7.2	7.7	7.7	14/31	0.664	2/31
Uzbekistan	94.4/23	88.3/39	7.5	7.4	9.3	8.4	9.1	8.7	6/31	0.485	6/31
Lebanon	80.5/65	87.7/43	7.8	8.7	6.4	7	8.3	8.8	1/19	0.78	14/19
Iran	84.0/53	90.2/35	6.9	8.5	8.1	9.1	8.8	9.2	4/19	0.669	2/19

Table 1. Country Case Selection – Preliminary Selection

Increasing Stability		**Decreasing Stability**	
India		Afghanistan	
Rwanda		Kenya	
Bosnia		Lebanon	

Table 2. Country Case Selection – Final

G. THESIS OUTLINE

This thesis seeks to explore the relationship between centralization or decentralization of governance and stability in deeply fragmented societies. Our research also seeks to validate the tenets of consociational democracy. The thesis draws on lessons

from six contemporary post-conflict cases for this purpose. Chapter II broadly discusses consociational democracy and its relevance to post-conflict deeply divided societies. This is followed by an analysis in Chapter III of the process of decentralization as an eventual outcome of adopting consociational democracy. The impact of decentralization on stability and development is also explored. In Chapter IV, the six selected cases are analyzed for the impact of their governance frameworks on political stability and their ability to meet group aspirations. In the concluding Chapter, the findings from each of the six case studies are summarized to arrive at the features of a governance framework that is likely to foster long lasting stability in post-conflict ethnically divided societies.

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II. DEMOCRACY IN POST-CONFLICT ETHNICALLY DIVIDED SOCIETIES

A. INTRODUCTION

Does democracy lead to stability? While empirical evidence does not convincingly show any preference between democratic institutions and more autocratic regimes for producing greater stability,[24] recent events associated with the Arab Spring in the Middle East and North Africa, as well as persistent conflict within countries in sub-Saharan Africa and a few other locations in the world (e.g. Burma, Nepal, Kyrgyzstan, and Kazakhstan), reveal a growing affinity for greater representativeness, individual rights, and inclusive governance. Repressive dictatorships and autocracies continue to be spurned by populations given their failure to deliver political goods and meet people's developmental needs. Many populations seeking a change in governance begin down the path towards a new democracy with elections and constitutional reform only to find that the newly implanted government does not offer sufficient representativeness or that the inclusive governance that was promised or envisioned by minority groups is not delivered. While democracy remains the preferred form of governance for the United Nations,[25] and the United States in particular, democracy often fails to take root in heterogeneous societies where a democratic government is no more representative or inclusive than an autocracy would be, and usually less stable in the near-term than continuing with autocratic government (or a mixed regime).[26]

The different make-up of countries around the world has made it clear that democracy, in and of itself, is not sufficient to address the respective needs of the sometimes multi-polar entities that comprise a country's populace. Although some countries have been modeled or remodeled to be like liberal democracies in the United States or Europe and have achieved lasting stability, no single form of democracy has

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[24] Edward D. Mansfield and Jack Snyder, "Democratization and War," *Foreign Affairs* 74, no. 3 (1995): 81.

[25] United Nations, "Democracy and the United Nations," accessed July 26, 2012, http://www.un.org/en/events/democracyday/pdf/infokit.pdf.

[26] Mansfield and Snyder, "Democratization and War," 81–83.

emerged as the preferred model for countries that have been plagued by internal conflict. It is almost as if a democratic institution must be able to achieve "social fit,"[27] taking into account the unique composition and corresponding aspirations of its constituent groups. Consequently, this chapter suggests that there needs to be a more nuanced application of democratic governance and the chapter outlines how the key foundational democratic concepts could be applied given various forms of democratic governance.

B. LIBERAL DEMOCRACY AND ETHNICALLY DIVIDED SOCIETIES

The classical and dominant model of governance in most of Europe and the United States continues to be the democratic nation-state. A more liberal form of democracy has tended to work where the population is presumed to be ethnically, linguistically, and culturally homogenous, or has at least resolved its most salient societal divisions through a process of assimilation and the adjudication of individual grievances. This holds in most European countries and the United States, where centuries of ethnic homogenization and cultural assimilation have allowed strong centralized governments to maintain internal stability and transition fairly smoothly from one leader and administration to the next.[28] The question for democratic forms of governance is whether the same ethnic homogenization and cultural assimilation can be replicated in societies with much deeper ethnic divisions and historical conflicts based on those divisions. The tremendous resilience of such differences within numerous countries in the Middle East, Africa, and Asia, despite concerted efforts towards assimilation, have left their governments and the international community unable to peacefully resolve internal conflicts through their current approaches to democratic governance.

Sammy Smooha, in his comparison between types of democracies (Table 3), analyzes how each type addresses individual versus collective rights. In addition to individual and republican liberal democracies, he identifies three alternative forms of democracy: multicultural, consociational, and ethnic, each of which uses different mechanisms to address the potential conflict that thrives on the heterogeneity. In a

[27] Bishop and George, "Governing in a Post-Conflict Society: Social Fit," 11–13.

[28] Sammy Smooha, "Types of Democracy and Modes of Conflict Management in Ethnically Divided Societies," *Nations and Nationalism* 4, no. 4 (2002): 424.

multicultural democracy, governance is "grounded [in] the recognition of ethnic differences but without making them official and without institutionalizing the essential mechanisms of consociationalism."[29] Examples include post-apartheid South Africa and the Netherlands. An ethnic democracy, on the other hand, such as the type evolving in the post-Communist states of Eastern-Central Europe and the former Soviet Union, "falls in between a consociational democracy and a non-democracy" with a somewhat "contradictory combination of democracy for all with ethnic ascendancy."[30] Although multicultural and consociational democracies both share some form of civic equality, ethnic democracy has not proven viable as a governance option for long-term stability because it violates the basic democratic tenet of equality as a means of addressing the ethnic divisions within society.[31]

By virtue of the collective rights a consociational democracy recognizes, it offers a higher degree of assured representativeness in deeply divided societies where minorities are under a constant threat of marginalization. Under these circumstances the best suited alternative to a liberal democracy is a consociational democracy. While individual and republican liberal democracies ignore cultural differences and do not provide for collective rights to minority groups, consociational democracy provides minorities with maximal recognition, separate institutions, autonomy, representation, and equal status. According to Arend Lijphart, such a society characterized by sharp cleavages and few overlapping memberships needs a radically different political system than do societies with cross-cutting cleavages and overlapping loyalty. A post-conflict society, with high levels of distrust and suspicion between the parties and with extensive security challenges, can reach a stable peace if its political institutions resemble those in a consociational democracy as opposed to those in a liberal democracy.[32]

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[29] Smooha, "Types of Democracy," 425.

[30] Smooha, "Types of Democracy," 425.

[31] Smooha, "Types of Democracy," 430.

[32] Arend Lijphart, *Democracy in Plural Societie*s (New Haven, CT: Yale University Press, 1977), 25.

	Individual-liberal democracy	*Republican-liberal democracy*	*Multicultural democracy*	*Consociational democracy*	*Ethnic democracy*
Procedural minimum definition of democracy	Yes	Yes	Yes	Yes	Yes
State's character	Collection of citizens	Civic nation-state	Multicultural state	Bi-national or multinational state	Ethnic nation-state
Equality of individual rights	Yes	Yes	Yes	Yes	To a large extent
Collective rights	None	None	Yes, but not legislated	Legislated	Legislated
Equality of collective rights	Not applicable	Not applicable	Yes	Yes	No
State's neutrality	Yes	No	Yes	Yes	No
Assimilation policy	No	Yes	No	No	No
Assimilation rate	High	High	Medium	Nil	Varies
Mechanisms of integration and conflict management	Equality of individual rights and opportunities, constitutional patriotism, assimilation	Equality of individual rights and opportunities, formation of a nation-state with cultural homogeneity and value consensus, assimilation	Equality of individual rights and opportunities, formation of a common super-community with recognition and cultivation of group cultural differences, some degree of assimilation	Equality of individual rights and opportunities, agreement over a bi-national or multinational state, proportional distribution of resources, extended autonomy, power-sharing, veto power, politics of compromise and consent	Gradual decrease of inequality of individual rights and opportunities, broadening of collective rights, majority's power and resoluteness, minority's protest and struggle, state's control and deterrence

Table 3. Comparison between Types of Democracies

C. WHAT IS CONSOCIATIONAL DEMOCRACY?

Consociational democracy recognizes group identities derived from ethnic, cultural, and linguistic differences and grants collective rights in addition to individual rights. This type of democracy demonstrates four unique characteristics in the process of recognizing and alleviating group differences in a country. The first and most important is a grand coalition with representatives from all the significant groups in the society. The other three consist of proportional representation, segmental autonomy, and a mutual veto.[33]

1. Grand Coalition

The main idea behind a grand coalition is that policy choices shall not only have majority support, derived from a partition of society with a numerical majority, but support from an *overwhelming* majority. A strong numerical opposition, which is a common feature of a majoritarian "winner takes all" democracy, is thereby avoided. When a trust deficit is present between segments after civil war or conflict, the grand coalition reflects the notion that one prefers to be represented in government with a counterpart, than trust the counterpart to govern with implicit support from the other opposing entities.[34] To best reflect a country's composition, the power-sharing or grand coalition may take a different form that includes the following:

- A grand coalition cabinet in parliamentary systems.
- A grand coalition of a president and other top officeholders in presidential systems, and broadly inclusive councils or committees with important advisory and coordinating functions.[35]

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[33] Lijphart, *Democracy in Plural Societies*, 25.

[34] Lijphart, *Democracy in Plural Societies*, 31.

[35] Arend Lijphart, *Power-sharing in South Africa* (Berkeley, CA: University of California, 1985), 7.

2. Proportional Representation

A second tenet of consociational democracy is the proportional distribution of influence. The most common use of the proportionality principle is as an instrument to distribute seats in the legislature and provide for representation in all institutions of state governance, including the judiciary, civil services, public sector undertakings, and the army.[36] The provisions of the constitution and the electoral system play a key role in assuring proportional representation.

3. Segmental Autonomy

In plural societies that are highly fragmented, it may be wise to leave as many decisions as possible concerning the different segments to the different segments themselves.[37] Issues of particular concern to minority factions may include decisions about religion, language, and education. The application of segmental autonomy can be based on the demographic distribution of people according to such factors as historical self-identification or territorial location. The type of federalism adopted and the degree of centralization or decentralization are important aspects of power-sharing that depend on the type and extent of divisions in the society. This will be analyzed in greater detail in the next chapter and in the case studies.

4. Mutual Veto

The aspect of mutual veto power also provides a crucial element of consociational democracy since it enables the minority group (or groups) to block any decision detrimental to its (or their) vital interests and self-preservation. There are a number of ways to implement a mutual veto so as to legitimize governance solutions for the various minority groups in a country. The form is less significant than the spirit of its implementation.

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[36] Lijphart, *Power-sharing in South Africa*, 38.

[37] Lijphart, *Power-sharing in South Africa*, 42.

D. CONSOCIATIONAL DEMOCRACY AND POST CONFLICT PEACE

By applying a quantitative analytical approach, Helga Malmin Binningsbo establishes the relationship between power-sharing institutions in post-conflict societies and lasting peace. She finds a "positive relationship between consociationalism and lasting peace in post-conflict societies." Although she finds that a "proportional representation system and autonomy, both individually and in combination, increase the probability of lasting peace," her results indicate that the "presence of a grand coalition has a negative influence on lasting peace, especially when the grand coalition is the result of a power-sharing agreement."[38] While her analysis includes data from more than 166 instances of conflict between 1985 and 1998, Lijphart disputes her conclusion, attributing power-sharing failures to constitution writers' choice of unsatisfactory rules and institutions rather than to power-sharing itself.[39] Although Binningsbo and Lijphart, the two most prominent consociationalism scholars, disagree about the specific tenet of a grand coalition (based on the result of a power-sharing agreement), Lijphart's objection to Binningsbo's analytical evidence only suggests that the power-sharing agreement was not satisfactory to the represented parties. This objection supports the need to tailor each of the consociational tenets to the society of the country in question.

Related to the implementation of other consociational tenets, Binningsbo finds lasting peace in conflict-ridden countries where all of the seats in parliament were allocated proportionately, authority was decentralized, the institutions were more (rather than less) autonomous, and more power-sharing institutions were present. She also describes a higher probability of establishing lasting peace when applying such practices in smaller countries.[40] Binningsbo concludes her analysis by recommending decentralization and the granting of territorial autonomy as a sound strategy to terminate

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[38] Helga Malmin Binningsbo, "Consociational Democracy and Postconflict Peace. Will Power-sharing Institutions Increase the Probability of lasting Peace after Civil War?" (paper prepared for presentation at the 13th Annual National Political Science Conference, Hurdalsjoen, Norway, 5–7 January, 2005), 29.

[39] Arend Lijphart, "Constitutional Design for Divided Societies," in *Journal of Democracy* 15, no.2 (April 2004):99. (96–109).

[40] Binningsbo, "Consociational Democracy and Postconflict Peace," 28.

violence when practicable.[41] The viability and advantages of decentralizing governance will be analyzed in the following chapter.

E. CRITICISM OF CONSOCIATIONAL DEMOCRACY

Several prominent criticisms have been made of consociational democracy. These criticisms include its creation of a weak democracy because it tries to force conciliation of opposing views that are still held; the laborious decision-making process of a grand coalition along with a mutual veto; proportional representation's inefficiency; the costliness of implementing segmental autonomy; and the lower probability of success in the more deeply divided societies of Africa and Asia.[42] In response to each of the most common criticisms of consociationalism, Lijphart stipulates the conditions under which the criticisms are valid and provides pragmatic suggestions about the optimal implementation of consociationalism in some of the more deviant cases.

For instance, in response to the perception of consociational democracy as a weak democracy because it militates against there being a strong opposition, Lijphart argues that if opposition is supposed to be an active ingredient of the definition of democracy, a regular government transition is required. However, this might not be possible in plural societies, and the result can ensure that a minority will be permanently excluded from government.[43] As for the criticisms about the inefficiency and costliness of the core tenets of consociationalism, Lijphart agrees with the notion that an adversarial system may offer a more viable short-term solution for economic growth and stability, but disagrees with the prospects of such a system maintaining stability due to the likely spread of inequalities and exclusive governance. Lastly, Lijphart confronts the notion that consociationalism will lead to more intergroup differences and competition instead of compromise and moderate attitudes. While he accepts the fact that consociationalism will not remove more deeply seated societal divisions, he contends that many of the most deeply divided countries in Africa and Asia have not even attempted a governance

[41] Binningsbo, "Consociational Democracy and Postconflict Peace," 29.

[42] Binningsbo, "Consociational Democracy and Postconflict Peace," 11.

[43] Binningsbo, "Consociational Democracy and Postconflict Peace," 11.

solution that has tried to truly implement the core tenets of consociationalism. Again, he points to many instances of constitution writers having chosen unsatisfactory rules and institutions which set the system up to be a power-sharing failure.[44]

F. CONSTITUTIONAL DESIGN FOR DEEPLY DIVIDED SOCIETIES - A CONSOCIATIONAL APPROACH

Lijphart offers a set of recommendations specifying some of the constitutional needs of countries with deeply divided societies, such as those with deep ethnic and other cleavages. To support his recommendations, Lijphart cites constitutional characteristics from the successful implementation of power-sharing solutions in the divided societies in Austria, Colombia, Cyprus, India, Lebanon, Malaysia, the Netherlands, and Switzerland.[45] Examples of the importance of power-sharing can also be drawn from the positive reception of the representative composition of the Governing Council in Iraq.[46] Lijphart acknowledges the biggest failures with respect to power-sharing systems—Cyprus (1963) and Lebanon (1975)—are countries with poorly framed constitutional provisions.

Again, while there are certain common features of consociationalism which have consistently contributed to a more lasting peace, Lijphart acknowledges that the power-sharing model must be tailored to the societal dynamics within each country.[47] Based on Lijphart's recommendations, the following characteristics of constitutional design will be reviewed for our specific case studies of post-conflict ethnically-divided countries:

1. The Legislative Electoral System

Three types of legislative electoral systems are possible: proportional representation (PR) systems, majoritarian systems, and intermediate systems. Amongst these, PR is best suited for societies with more pronounced divisions due to the fact that, in addition to producing proportionality and minority representation, PR treats all ethnic,

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[44] Lijphart, "Constitutional Design for Divided Societies," 99.

[45] Lijphart, "Constitutional Design for Divided Societies," 97.

[46] Lijphart, "Constitutional Design For Divided Societies," 99

[47] Lijphart, "Constitutional Design for Divided Societies," 99.

racial, religious and even non-communal groups in a completely equal and evenhanded manner.[48] Majoritarian systems are not suited for societies where divisions are distinct and people are already consumed with feelings of insecurity and suspicion, especially in post-conflict environments.[49] Semi-proportional systems, such as those that have adopted the cumulative and limited vote (seen at local and state levels in the U.S.) or the single non-transferable vote (SNTV, used in Japan until 1993),[50] lack the consistency to provide reasonable minority representation. Interestingly, successful mixed systems (e.g., those found in Germany and New Zealand) have shown an inclination towards PR and, in cases where plurality was preferred over PR (e.g., in Japan, Hungary, and Italy), the system has produced an inaccurate or inconsistent representation of minorities. Meanwhile, plurality combined with guaranteed representation for only specified minorities (as in India) has the potential to result in undesirable competition amongst the various groups vying for a secure status.[51]

2. Constituents of PR

Amongst the various forms of PR, Lijphart proposes the "list PR" system, "in which parties present lists of candidates to the voters." The "list PR" system is better suited to more divided societies because it encourages the formation and maintenance of strong and cohesive political parties.[52] In a divided society, political stability is closely linked to the effectiveness of political parties and their ability to transcend or cross-cut ethnic and cultural divisions. In comparison to the alternatives, the "single transferable

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[48] Lijphart, "Constitutional Design for Divided Societies," 99.

[49] Larry Diamond, *Developing Democracy: Toward Consolidation* (Baltimore: John Hopkins University Press, 1999), 104.

[50] All three voting systems involve multi-member election districts. The cumulative vote is similar to multi-member district plurality in that a voter has as many votes as there are seats in the district, except that each voter is allowed to allocate his or her vote to one or a few of the candidates. The limited vote restricts the number of votes to fewer than the number of district seats. The single nontransferable vote is a specific type of limited vote in which each voter's votes are reduced to one.

[51] Lijphart, "Constitutional Design for Divided Societies," 100.

[52] Lijphart, "Constitutional Design for Divided Societies," 101.

vote" and the "closed lists system,"[53] the "list PR system" scores best in providing the most comprehensive representation. Lijphart also proposes multi-member electoral districts that are not too large, in order to avoid creating too much distance between voters and their representatives.[54]

3. Executive Power-sharing: Parliamentary or Presidential Government

In deeply divided countries, the parliamentary form of government makes a broad power-sharing executive possible. The presidential form is often discounted by Lijphart and most scholars because it is majoritarian in nature, introduces a strong zero-sum or "winner take all" element,[55] can falter based on the personality or ideology of the executive, and has a greater likelihood of producing stalemates.[56] Also, the process of selecting the cabinet in parliamentary systems tends to facilitate the formation of power-sharing executives (though this must be written into the constitution). There are two options to institutionalize power-sharing while incorporating constitutional provisions to facilitate it. The first option involves reserving specific berths for various groups in the cabinet (e.g. Belgium). The second option involves linking party representation in the parliament to the number of seats in the cabinet (e.g. South Africa).[57] While the two options exemplify the institutionalization of power-sharing in parliament, other options may exist for countries with unique circumstances.

4. Cabinet Stability

The provisions for "vote-of-confidence" and "snap" elections in a parliamentary system may lead to cabinet instability, and ultimately, the regime's instability. Lijphart argues that this problem should not be overstated considering the fact that most

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[53] Single transferable vote systems require voters to rank order individual candidates, and the closed lists systems only allow voters to choose parties instead of individual candidates within the list.

[54] Lijphart, "Constitutional Design for Divided Societies," 101.

[55] Juan J. Linz, "Presidential or Parliamentary Democracy: Does It Make a Difference?" in *The Failure of Presidential Democracy*, ed. Juan J. Linz and Arturo Valenzuela (Baltimore: Johns Hopkins University Press, 1994), 18.

[56] Lijphart, "Constitutional Design for Divided Societies," 102.

[57] Lijphart, "Constitutional Design for Divided Societies," 103.

democracies in the world are parliamentary and not presidential.[58] The misuse of these two critical provisions can be thwarted by suitable checks and balances in the constitution.

5. Selecting the Head of State

In parliamentary systems, the prime minister is usually the head of the government, and a monarch or president occupies the position of the ceremonial head of state and custodian of the constitution. The choice for deeply divided societies should be based on the country's history and meet specific social fit criteria. The position of head of state must be as apolitical as possible. If the country has maintained a history of monarchy, the monarch can continue as head of the state with no executive powers and political affiliations. Alternatively, a president can be appointed to be the head of state based on joint nomination by the prime minister and the leader of the opposition, or through confirmation by a two-thirds majority of a joint session of the two houses of parliament (as in India).[59]

6. Non-territorial Autonomy

In cases where divisions in the society are not geographic in nature, autonomy can be arranged on a non-territorial basis. Autonomy, for example, can be granted to various groups in matters related to religion, education, or language. Such autonomy has been implemented effectively in deeply divided societies like India. However, the various legislative acts must be framed to maintain the neutrality of the state at the federal level.[60]

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[58] Lijphart, "Constitutional Design for Divided Societies," 103.

[59] Lijphart, "Constitutional Design for Divided Societies," 104.

[60] Lijphart, "Constitutional Design for Divided Societies," 105.

7. Power-Sharing Beyond the Cabinet and Parliament

In deeply divided societies, broad representation should be extended beyond the cabinet and the legislature to span all of the other branches of government.[61] However, the provisions of allocating quotas should be carefully arranged so as to preserve a meritocracy and prevent the institutionalization of ethnic divisions. The Indian civil services provide an example of a healthy balance between representation and meritocracy.

8. Federalism and Decentralization

A federal system provides a proven method for providing autonomy in deeply divided societies with geographically concentrated communal groups. As a broad guideline, Lijphart recommends that the federation be relatively decentralized and that the states or provinces be small enough to increase the prospects of homogeneity and avoid the dominance of larger states or provinces at the federal level.[62] The particular application of decentralization will be discussed in greater detail in the following chapter.

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[61] Lijphart, "Constitutional Design for Divided Societies," 105.

[62] Lijphart, "Constitutional Design for Divided Societies," 105.

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III. DECENTRALIZED GOVERNANCE IN POST-CONFLICT ETHNICALLY DIVIDED SOCIETIES

A. INTRODUCTION

In the post-colonial era, countries contemplating democratic governance have struggled to find the ideal balance between centralization and decentralization. Among those who argue for decentralization, John Stuart Mill held a very optimistic view, basing his democratic decentralization on the twin pillars of participation and local knowledge.[63] Others have promoted decentralization as a way to give greater political representation to diverse political, ethnic, religious, and cultural groups without destabilizing the state.[64] Although the notion of decentralization has been discussed generally for many centuries, ideas about its application have evolved considerably over the past several decades.

Until the early 1980s, "government" and "the state" were generally perceived to be interchangeable terms. The government was considered to be the institutional embodiment of state sovereignty and the dominant source of political and legal decision-making. In most developing nations during this time, debate over the structure, roles, and functions of government focused on the effectiveness of central power and authority to promote economic and social progress. People paid less attention to the potential advantages and disadvantages of decentralizing authority for sub-national units of administration, local government, or other agents of the state.

In more recent years, the process of globalization has increased interactions among governments with varying governance designs. These interactions have also made private enterprises and organizations from civil society more relevant to how governance

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[63] Peter Blunt and Mark Turner, "Poverty Reduction in Asia Pacific," *Decentralizing Governance*, eds., G Shabbir Cheema and Dennis A. Rondinelli, Washington, DC: Brookings Institute Press, 2007, 117.

[64] G Shabbir Cheema and Dennis A. Rondinelli, " From Government Decentralization to Decentralized Governance," *Decentralizing Governance*, eds., G Shabbir Cheema and Dennis A. Rondinelli, Washington, DC: Brookings Institute Press, 2007, 7.

is distributed and, consequently, have pointed to the need for decentralization as a means to prevent the monopolization of public policy by special interests that do not represent all sectors.[65]

To evaluate the need for, and efficacy of, decentralization, this chapter examines the various facets of decentralized governance and the conditions under which decentralization is a viable solution for post-conflict ethnically divided societies. The viability of decentralization for weak or failed states, and the impact of decentralization on political stability and development, will also be reviewed.

B. WHY IS DECENTRALIZATION DESIRABLE?

Legitimacy is critical to decentralization as is the understanding that the development of solutions to problems (or perspective on what the problems are) is a function of the people who conceive of them. While there may be as many potential solutions to problems or perspectives as there are people within a given society, decentralization aims to maximize the legitimacy of the governance structure, or minimize the collective dissatisfaction of people, by distributing a sufficient degree of decision-making power to the largest subordinate entity that can agree on how to arrive at solutions. While decentralizing governance could seem impractical if one were to take all potential perspectives into account, in reality, the general acceptance of a government's legitimacy by its people depends less on how governance matches their individual inclinations than on how it bridges their differences. Thus, in divided societies, decentralization can allow for collective decision-making at a local level thereby avoiding conflict at higher levels over the distribution of opportunities as perceived by various groups.

Traditional centralized governments are not well suited to address the myriad different problems and prospective solutions that can be generated at the local level. To solve local problems, a system of government must include the greatest degree of input from civil society and the private sector. While decentralization is not a panacea for all problems related to post-conflict governance in ethnically divided societies, it does offer

[65] Cheema and Rondinelli, *Decentralizing Governance*, 1.

a scalable tool for considering how the various tenets of functioning governance can best be distributed to achieve an optimal balance of power-sharing and autonomy for enduring stability.

For instance, in countries where political boundaries for units of sub-national government reflect social boundaries, an otherwise plural society can become homogeneous regionally, thereby reducing communal violence, promoting political stability, and facilitating the accommodation of diverse interests within the boundaries of a single state.[66] In fact, most plural societies contain multiple groups divided by linguistic, religious, racial, tribal, or class-based identities. In countries with geographically concentrated communities marked by administrative boundaries distinguishing political units, both federalism and decentralization serve important purposes. Such arrangements allow spatially-concentrated groups a considerable degree of autonomy to manage their own affairs and to protect the cultural, social, and economic interests important in their communities.[67]

C. DEFINING DECENTRALIZATION

Decentralization has been broadly defined as the transfer of authority, responsibility, and resources—through deconcentration, delegation, or devolution—from the center to lower levels of administration.[68] When thought about in the context of a state, decentralization refers to each of the following to some degree:

- Distribution of legislative, executive, and judicial power, or a combination of one or more powers, down one or more levels of government (essentially delegation).
- Division of responsibility for particular government functions and services between several levels of government (essentially deconcentration). Examples include education, policing, water, immigration, health, and the environment.
- Downward allocation of fiscal authority.

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[66] Arend Lijphart., *Patterns of Democracy*, New Haven: Yale University Press, 1999, 196.

[67] Pippa Norris, "Federalism and Decentralization," *Driving Democracy: Do Power-Sharing Institutions Work?*, New York :Cambridge University Press, 2008, 4.

[68] Dennis A. Rondinelli, "Government Decentralization in Comparative Perspective: Theory and Practice in Developing Countries," *International Review of Administrative Sciences* 47 (1981): 133–45.

- Giving sub-national levels of government the autonomy to make their own institutional arrangements, for which they are accountable to their own people, with little or no intervention by the central government.
- Creation of central institutions that involve the sub-national levels of government in collective decision-making.[69]

The features just listed are often included as a part of distinct arrangements that provide a framework for understanding where the authority and decision-making power resides. The following four arrangements are those most commonly seen:

1. Delegation

Downward allocation of power by the central government to other levels of government in what remains essentially a unitary state. The central government retains authority to withdraw the delegated power or to direct its use.

2. Devolution

Conferral of legislative and executive (and sometimes judicial) power on other levels of government with the intent to grant them substantial autonomy, without the complete surrender of formal control by the central government.

3. Regional autonomy

Conferral of a greater degree of self-government on one or more regions than on other parts of the state.

4. Federation

Division of governing authority between the central government and one or more other levels of government in a way that gives each of them overall autonomy in their respective areas of responsibility.[70]

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[69] Cheryl Saunders, "Options for Decentralizing Power: Federalism to Decentralization," *Constitution Making. Org: Resources for Constitution Making*, accessed on July 07, 2012, http://www.constitutionmaking.org/files/federalism.pdf.

[70] Saunders, "Options for Decentralizing Power," 1.

D. THE EFFECT OF DECENTRALIZATION ON POWER-SHARING AND AUTONOMY

The aforementioned types of decentralized arrangements are not necessarily distinct, but each arrangement should meet the social fit criterion, aligning with the cultural, traditional, religious, and ethnic aspirations of the people. In deeply divided post-conflict societies, the power-sharing equation and the degree of workable autonomy can have a profound effect on stability. Decentralization guarantees a certain degree of power distribution and autonomy in an attempt to minimize the potential for conflict between groups and increase the potential for stability with the following rationale:

1. Curb State Authoritarianism

Decentralization can mandate shared power. If the logic of decentralization is accepted and implemented correctly, it can diffuse power and provide checks and balances on the power of the central government.[71]

2. Reduce the Potential for Conflict

Decentralization enables all groups, including and especially minority groups, to enjoy some degree of self-governance by providing them a sense of ownership in the state and thus a commitment to it. This can be accomplished through formally recognized leadership roles, granting them a representative majority status in their parts of the country, and offering natural incentives to work constructively within the state.[72]

3. Provide for Political Opportunity and Absorption

Decentralization incentivizes warring groups at the sub-national level to withdraw from armed conflict and integrate with the political mainstream of society by allowing such groups to retain reasonable influence. This concept assumes that a sub-national group's representative leadership will be directly accountable to its people, and poor performance will erode its popular support.

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[71] Saunders, "Options for Decentralizing Power," 5.

[72] Saunders, "Options for Decentralizing Power," 5.

4. Better Policy Making

In a decentralized environment, the proliferation of decision-making units at sub-national levels strengthens contextualized public policymaking by encouraging creative new solutions to tough problems on a manageable scale. Such an arrangement will encourage learning through social innovation and experimentation as governance is liberated to deal with complex challenges.[73] By leaving day-to-day governance to the lower levels, the central government would be left to manage complex and resource-intensive issues like national security and foreign policy.

E. DECENTRALIZATION AND ITS EFFECTS ON DEVELOPMENT

Resistance to decentralization often comes from a belief that the results are potentially less consistent and worse overall than if a central authority were in place. For instance, if viewed in isolation, empirical data suggests a negative relationship between decentralization and various development variables. Some studies have found that fiscal decentralization is generally associated with lower economic growth and greater fiscal imbalance.[74] Decentralization can lead to increased costs in public infrastructure expenditure for services involving local benefits, while an increase in the provision of services and infrastructure by private enterprises may only occur when local government retains control over (and does not further decentralize) the infrastructure delivery process.[75]

Although there is no conclusive evidence to suggest a link between fiscal decentralization and economic growth, a strong correlation exists between the power-sharing aspect of decentralization and development.[76] Likewise, poverty can be created,

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[73] David Osborne and T. Gaebler, *Reinventing Government*, New York: Addison Wesley, 1992.

[74] Pranab Bardhan, "Decentralization of Governance Reform in Developing Countries," *Journal of Economic Perspectives* 16, no.4 (2002):19.

[75] John-Mary Kauzya, "Decentralization: Prospects for Peace, Democracy and development," Discussion Paper, UN department of Economic and Social Affairs, Division of Public Administration and Development Management, 2005, p 2.

[76] Gita Sen, "Empowerment as an Approach to poverty," Working Paper 97–07, Background Paper for the Human Development Report, Harvard University, Global Reproductive Health Forum (December 1997), p 4.

maintained, and even exacerbated by centralized power that does not protect equality of opportunity across various groups within a society. The relationship between power brokers and their constituents can affect how resources are distributed, both overtly and through corrupt officials.[77] Decentralization can aid in the amicable redistribution of power by providing the poor with more political representation through local leaders. However, a decentralization process devoid of adequate legal, technical, and financial reforms can result in corruption by local elites who capture power. In order to ensure development and poverty alleviation are inclusive, governance reforms that address property rights, labor rights, private entrepreneurship, and justice must be transparent and fairly administered.[78] Thus, as with the application of democracy, a more nuanced understanding of and approach to decentralization requires special emphasis on power-sharing.

According to Devyani Mani, in what can be described as a growing trend, over sixty countries around the world (with populations of more than five million) currently engage in some form of governmental decentralization,[79] citing a range of reasons related to power-sharing mechanisms and corresponding prospects for development, as described below:

- Decentralized governance produces greater accountability through transparency of government operations. The presence of multiple levels, jurisdictions, and units of government, each with some degree of autonomy, ensures that power, authority, and responsibilities are distributed and local accountability exists.
- Decentralization bolsters civil society and increases participation by new social groups such as non-governmental organizations (NGOs), grassroots organizations, business associations, labor unions, and indigenous groups. Such civil society actors contribute significantly to the creation of non-governmental centers of authority and power within a society. As long as

[77] Naresh Singh, "Decentralization and Legal Empowerment of the Poor," in *Decentralizing Governance*, eds., G Shabbir Cheema and Dennis A. Rondinelli, Washington, DC: Brookings Institute Press, 2007, 234.

[78] Naresh Singh, "Decentralization and Legal Empowerment of the Poor," 234–240.

[79] Devyani Mani, "Decentralization, Governance & the New Planning for Local-Level Development," in *New Regional Development Paradigms Vol. 3*, ed. Walter B. Stohr and Josefa S. Edralin,(Westport, CT, USA: Greenwood Press, 2001), 24, accessed on August 10, 2012, http://site.ebrary.com/lib/nps/Doc?id=10004893&ppg=37.

these alternate centers of power operate independently of governmental control, they are able to hold the central government accountable.

- Decentralized governance aids in the formation of plural politics. Instead of the monopolization of politics by a few large parties, decentralization provides opportunities for smaller political opposition parties to play an important role within the larger governance system, to participate in elections, and to ultimately exercise power and decision-making at the local level.
- Decentralized governance affords constituents a greater voice in tailoring government to suit local needs and to be more responsive. Local government officials can be held accountable for success or failure and can be clearly identified by the voters on the basis of their responsiveness to their constituents.
- Decentralized governance provides the opportunity for local economic initiatives and entrepreneurship. Whereas remote areas of a country can be disconnected from a highly centralized governance structure in terms of receiving community and economic development assistance, decentralized authority and resources will enable greater investment in infrastructure and thereby facilitate greater private economic development opportunities.[80]

The combination of decentralized governance and the emergence of local civil society institutions, while creating pluralism that is fundamental to democratic institutional development, also serve to reinforce local cultural identities that reflect individuals', family, clan, and community values.[81]

F. CHALLENGES TO DECENTRALIZATION

Attempts to decentralize have not necessarily been well-received in developing democratic countries. Nor have they always been found to be as effective as expected. This is because decentralizing governance cannot simply fill a hole in governance where it is lacking. The following are some of the drawbacks or limitations of decentralization:

- The threat of "elite capture" in the absence of adequate policy and institutional backing.

[80] Mani, *New Regional Development Paradigms*, 24.

[81] Mani, *New Regional Development Paradigms*, 25.

- The inability of local units to generate adequate funds for providing services efficiently.[82]
- The potential for economic divisions to widen and reignite existing social tensions.
- The potential for corruption and nepotism to become widespread.[83]

Any assessment of the prospects for decentralization must take into account the presence of other essential aspects: an effective security force, a functioning legal system, and the presence of some natural resources. Decentralization can have negative consequences, but most of its failures can be attributed to ineffective implementation rather than a failure of the concept itself.[84] Implementation is particularly challenging in post-conflict ethnically divided countries where the temptation may be for the government to become more authoritarian. A newly decentralized institution can face additional implementation challenges when governance proves transitory, weak, or failed.

A newly instituted system of governance that is substantially more decentralized than its predecessor will place greater demands on new fiscal allocations and power-sharing equations. Society must be committed, in terms of political will, to the new system and must be willing to accept the new changes. Decentralization assumes that a significant proportion of the population desires more independent and effective accountability mechanisms, such as courts, human rights commissions, and other audit agencies, that will provide the necessary transparency, checks, and balances. If such popular will is absent, or government authorities disregard it, a new decentralized structure will likely not succeed.

Another challenge pertains to a lack of familiarity with the implementation of such a structure. A steep learning curve will likely exist, especially in a post-conflict society where the state has effectively collapsed. In such situations, there may be no

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[82] Food and Agriculture Organization of the United Nations. "Country Experiences in Decentralization in South Asia," February 24–26, 2004, accessed September 28, 2012, http://coin.fao.org/cms/media/9/13171848129560/2004_11.pdf. Odd Helge Fjeldstad, "Decentralization and Corruption: Review of the Literature" (Bergen, Norway: Chr. Michelsen Institute, 2003).

[83] R. Fisman and R. Gatti, "Decentralization and Corruption: Evidence across Countries," *Journal of Public Economics* 83 (2002): 325–45.

[84] Cheema and Rondinelli, *Decentralizing Governance*, 9.

remaining functioning government institutions and few to no remaining leaders with the skills to provide interim governance, let alone manage a new and unfamiliar system. Due to the enormity of such a challenge, people may oppose decentralization because of a perceived conflict between what is required to satisfy short-term needs and the political capital required to achieve a more lasting governance solution. Though not optimal, international and non-governmental assistance may be necessary to help provide needed experience and skills.

A third challenge reflects the natural inclination to resist and distrust the implementation of any new governance structure. Authorities and constituents alike must understand and have a minimum level of trust or faith in the new system despite the inevitability of initial adjustments and perceptions of failure. The idea of power-sharing must be acceptable, or at least given a chance to be fully implemented as designed. Not only must the central government be willing to cede powers and authorities to lower levels, but those at the lower levels must be willing and able to perform the governance functions that devolve to them.

A fourth implementation challenge concerns the lack of participation by an educated and informed electorate. Decentralized governance will never achieve legitimacy if the population withholds its participation. A substantial portion of the population must possess a minimum level of education and information to understand how it can and must be involved in its own governance. This can be a huge challenge for people who have never played such a role and who have been accustomed to removing themselves from the political arena. Likewise, it can pose a challenge for communities that are culturally disinclined towards active participation by ordinary citizens.[85]

G. SOCIAL FIT

John Bishop and Michael George, in their thesis on "social fit," identify three critical components of social fit: ideological resonance, expectations regarding the social contract, and comfort and familiarity. They argue that ideological resonance is determined by the alignment of society's expectations with those of the government.

[85] Saunders, "Options for Decentralizing Power," 8.

Greater comfort or familiarity with the governance structure will essentially produce a greater social fit. Greater social fit will also increase the likely stability of a post-conflict government.[86] Their components of social fit are defined as follows:

1. Ideological Resonance

Ideological resonance refers to the degree to which a government's view of how humans should behave corresponds with the view of the governed. The more closely these views align, the greater the ideological resonance. The relative importance of various beliefs and values varies from society to society, and these may be driven by the historical dominance of a particular religion or some other experience that colors people's view of governance. It is essential for a new government emerging within a post-conflict ethnically divided country to understand people's values and beliefs.

2. Expectations and Social Contract

The expectations implicit in a social contract, between the government and the governed, determine the balance of functions and minimum level of performance deemed acceptable by both the government and its constituents. In establishing post-conflict governance, it is critical to understand the degree to which the pre-existing social contract was breeched and how expectations were not met by one party or the other. Understanding the current government's capacity and citizens' expectations are keys to properly aligning the social contract. The more a post-conflict government is able to provide the functions desired by members of society, the greater the likelihood of social fit and stability.

3. Comfort and Familiarity

The degree of comfort and familiarity a country's population feels towards governance is often a matter of the local history and culture. Citizens are less likely to participate in a political process that does not incorporate the traditional power structures

[86] Bishop and George, "Governing in a Post-Conflict Society: Social Fit," 14.

with which they are most familiar. In a post-conflict ethnically divided country, the governing body should seek to avoid a situation where its constituents reject the political process and refuse to participate due to a lack of comfort or familiarity, potentially leading individuals down a path of resistance or insurgency.[87]

H. HOW MUCH TO DECENTRALIZE?

To begin, it is necessary to recognize that decentralization is not an alternative to centralization. Any decentralization process must be able to distinguish and disentangle various government functions. Both centralized and decentralized functions and authorities are necessary, and their complementary relation should be analyzed and modified so as to achieve the overall objective.[88] Additionally, the efficacy of different approaches should be balanced with the attainment of social fit.

To guide the process of decentralization, the Management Development and Governance Division of UNDP has issued a series of principles. These are as follows`:

- Not all government functions should be decentralized. It may be more advantageous for a government function to remain centralized if the function is critical to the achievement of national goals, if its sustainability at the local level cannot be guaranteed, if the capacity to perform the function does not exist at the lower level, or if decentralization is not cost effective.
- The degree of decentralization should match the availability of regional and local capacities for governance. In post-conflict situations, this includes taking into consideration the form of governance prevalent in a society prior to the outbreak of conflict and the resulting damage to government institutions after the conflict's termination.
- Decentralization can be implemented most effectively if the process is incremental and iterative. Functions or authorities which may be more controversial should be implemented only after political support grows. Where vital resources for administration at lower levels of governance are lacking, functions and authorities should only be implemented as administrative capacity and competence increases.
- When possible, administrative capacity should be built from the "bottom up" without sacrificing significant functionality in the process. While capacity

[87] Bishop and George, "Governing in a Post-Conflict Society: Social Fit," 14–16.

[88] Robertson Work, "Decentralization, Governance, and Sustainable Regional Development," in New Regional Development Paradigms Vol. 3, ed. Walter B. Stohr and Josefa S. Edralin (Westport, CT, USA: Greenwood Press, 2001), 24.

building may require some "top down" assistance, social fit will be better achieved through a process that strengthens existing organizations and traditional decision-making procedures at the local level.

- Decentralization of responsibilities should be in accordance with available of financial and human resources. To effectively decentralize, the central government must be prepared to allocate appropriate financial and human capital in the form of technical assistance to the localities. Local levels of governance may require significant support in the near term and ideally a minimal amount of continued support from the central government.
- Decentralization may require incentivizing the private sector in certain regions of the country as a means to mobilize resources and deliver adequate services to lower levels of governance.
- The decentralization process should involve monitoring and evaluation procedures. To assess the impact of decentralization policies on perceptions of legitimacy, the process should be broken down into specific and tangible measures that can be used as reliable indicators of progress and the effectiveness of implementation. The central government should be responsible for monitoring and evaluating, and interjecting itself to correct the process in a timely fashion should this be necessary.[89]

I. A PROPOSAL – THE IDEAL MIX

Although decentralization aims to achieve equity or at least improve equality of opportunity, it is evident that some sort of balance between decentralized and centralized authority is necessary. In some countries, inequality has been reinforced over time, and some collective entities have been denied equality of opportunity due to the central government favoring some groups or individuals over others. Although a strong central government can maintain such a situation for some time, especially in the case of a submissive or numerically inferior opposition, not all governments can. Where instability or inequality have been long-lived, it may be necessary, or at least reasonable, to consider some degree of reallocation of resources and power to ensure that decentralization does not reproduce skewed local power-sharing, thereby exacerbating conflict-ridden conditions.[90] Although a country may be particularly vulnerable in the immediate

[89] Work, "Decentralization, Governance, and Sustainable Regional Development," 28–30.

[90] Janet Kodras, "Restructuring the State: Devolution, Privatization, and the Geographic Redistribution of Power and Capacity in Governance," in *State Devolution in America: Implications for a Diverse Society*, eds. Lynn Staeheli, Janet Kodras, and Colin Flint, Urban Affairs Annual Reviews 48, Thousand Oaks, CA: Sage, 1997, 79–96.

aftermath of an internal conflict, developing governance that incorporates some form of decentralized authority may turn out to be less problematic than reallocating resources and power.

In addition to considering the appropriate mix of centralized and decentralized authority and the appropriate prerequisites for decentralizing authority, one must also recognize that some countries, cultures, regions, and types of services are more suitable to decentralization than others. Decentralization is certainly useful and appropriate in some circumstances, but it is hardly a desired course of action in others. There is also likely a point beyond which smaller units of government will lack the authoritative capacity or incentive to engage in decision-making for some activity over which they have no control. It is important to acknowledge the limits of decentralization and to underscore that the optimal decentralization scheme ultimately depends on the degree of social fit that can be achieved.[91] In the modern era of nation-building, it is also essential that international assistance does not saturate governance institutions, thereby providing a false indicator of the viability of decentralized programs and authority, especially during recovery and rebuilding stages.

J. CONCLUSION

As a means of addressing conflict that emanates from permanent heterogeneity within a society, consociational democracy offers an alternative framework to the liberal democratic governance framework that has a poor track record in divided countries. By handling ethnic diversity via a modicum of autonomy, thorough proportional representation, by encouraging coalitions, and by decentralizing governance to diffuse tensions and achieve social fit, this thesis proposes that a formerly divided society stands a better chance of achieving lasting peace and stability. A decentralized approach to governance is more likely to bolster a balanced power-sharing agreement amongst the various stakeholders than the centralized approach undertaken recently in various nation-building efforts abroad. We argue that the long-term stability of ethnically divided

[91] Remy Prud'homme, "The Dangers of Decentralization," *World Bank Research Observer* vol. 10, no. 2 (1995): 201.

societies is best achieved through apportionment and a balanced of power-sharing arrangement. This proposition will be scrutinized in the selected case studies discussed in the next chapter.

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IV. CASE STUDIES

A. AFGHANISTAN

In the aftermath of the 2001 conflict in which the Taliban was driven from power, Afghanistan has not achieved a level of stability conducive to post-conflict governance. Although we have referred to the period as post-conflict, an insurgency in Afghanistan has presented a unique challenge to the government's ability to stabilize the country. While we used the case of Afghanistan, referring to it as a post-conflict country, the development of governance in Afghanistan has not taken place in an ideal post-conflict environment. Nevertheless, it still exemplifies the situation prevalent in a post-conflict ethnically divided society.

Between 2006 and 2011, only one of the twelve conflict assessment indicators analyzed by the Fund for Peace has decreased, namely the massive movement of refugees and internally displaced persons, while the indicator measuring intervention by other states or external political actors has remained at the top of the scale.[92,93] Although international efforts to rebuild the country's governance structure under a new constitution have been inhibited by consistent violence aimed at both International Security and Assistance Forces (ISAF) and those representing the Afghanistan government under President Hamid Karzai, our analysis will attempt to sort through the ways in which the governance structure does or does not address the country's ethnic fractionalization while taking the continuous state of conflict into account. It is, of course, within the realm of possibility that Afghanistan's enduring instability has little to do with the effectiveness, or relative centralization or decentralization, of its system of governance. However, our review of history suggests it does.

In order to understand the degree to which Afghanistan's current form of governance may be responsible for the country's decreasing stability (according to the Fund for Peace's Failed States Index), or continued instability, more than ten years after

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92 "The Failed States Index 2006," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi-grid2006.

93 "The Failed States Index 2011," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi2011.

the Taliban was driven from power, we will attempt to unravel the factors affecting the government's legitimacy in the eyes of the population and whether an alteration in its centralization or decentralization would increase this legitimacy. In order to do so, this case study will review the framework of Afghanistan's current Constitution, society's expectations of government, and any historical or current trends that may reveal the country's potential for achieving lasting stability given its ethnically fragmented population.

1. The 2001 Bonn Accord and Afghanistan Constitution of 2004

In January 2004, the Constitutional *Loya Jirga* (CLJ) approved (by referendum) Afghanistan's Constitution, which reflected many of the premises established during the 2001 Bonn Conference and subsequent agreements reached between Afghan delegations, representatives of the UN, and interested governments. Although the Bonn Conference produced many noble requirements in addition to an open electoral process and the establishment of democratic institutions, such as "a census and voter registration, the disbandment of militias, the reintegration of its members into new armed forces, and the provision of justice, particularly with regard to war crimes and human rights abuses," their implementation fell short, and the "Bonn conference itself already had substantial democratic deficits."[94]

Only four groups—the Tajik, Uzbek, and Shia-dominated Northern Alliance; the Peshawar Group sponsored by neighboring Pakistan; the Cyprus Group sponsored by Iran; and the Rome group consisting of followers of the former king of Afghanistan, Zahir Shah—participated in the conference. Both the Taliban and a delegation representing pro-democratic underground and exile groups were excluded. What also became apparent is that key Northern Alliance delegates had already chosen and confirmed what would become the future Afghan Interim Administration. Despite objections by the second-most powerful delegation, the Rome group, that the conference

[94] Thomas Ruttig, "The Failure of Airborne Democracy: The Bonn Agreement and Afghanistan's Stagnating Democratisation," in *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan's Decade of Assistance (2001–11)*, eds. Martine van Bijlert and Sari Kouvo (Kabul, Afghanistan: Afghanistan Analysts Network, 2012), 3–5.

should select an interim leader other than Hamid Karzai, the delegation was "forced to repeat the vote under pressure from the U.S. and the UN."[95]

While it is clear that the process for establishing a new Afghan government needed to satisfy international actors as well as Afghan leaders and the Afghan people, Lakhdar Brahimi (personal representative of the UN Secretary General) and U.S. Ambassador James Dobbins, the two prominent architects of the Bonn conference and accords, disagreed about whether outside players (e.g. Afghanistan's neighbors) should be included in the process.[96] Although they reached a compromise that attempted to preserve Afghan autonomy while seeking buy-in from those who would have an interest in subverting or undermining the Afghan government, according to Dobbins "Brahimi took the lead in moving the Afghans toward our [international community] desired goals."[97] Although Dobbins claims that efforts were made to preserve "the essentially Afghan nature of the negotiations" as well as ensure "interested governments had an opportunity to influence the results,"[98] the circulation of a draft interim constitution by international envoys during the conference, the insistence on certain democracy and human rights clauses by the international community, and the conference's development of a roadmap for Afghanistan's governance over the course of a mere seven days of meetings during the less-than-optimal month of Ramadan[99] suggest that the process was significantly weighted in terms of the international community's interests. Although the international community and Afghanistan's neighbors obviously had a stake in the future stability of Afghanistan and its governance design, it is questionable whether the history of governance or the need for social fit were analyzed and taken into consideration, or whether different models of democratic governance were considered for meeting Afghanistan's unique challenges.

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[95] Ruttig, "The Failure of Airborne Democracy," 5.

[96] Bishop and George, "Governing in a Post-conflict Society: Social Fit," 32–33.

[97] Ambassador James F. Dobbins, *After the Taliban: Nation-Building in Afghanistan* (Washington, DC: Potomac Books Inc., 2008), 36.

[98] Dobbins, *After the Taliban*, 80.

[99] Bishop and George, "Governing in a Post-conflict Society," 34–35.

To understand the composition and functionality of the central government under Afghanistan's 2004 constitution, there is little need to read much more than the 1964 constitution. One only needs to substitute the word presidency for monarchy and adjust the number of representatives in the national assembly, as well as the number of provinces and districts. Under the 1964 constitution, the legislature (*Shura*) was established as a bicameral body with 214 (now 249) delegates in the *Wolesi Jirga* (lower house of the people) and 84 (now 102) delegates in the *Meshrano Jirga* (upper house of elders). *Wolesi Jirga* members are still directly elected by single-member districts. *Meshrano Jirga* members still divide into thirds: one third directly elected by the district councils; one third appointed by the president (instead of the king) for a five-year period; and one third appointed by each provincial council.

The *Wolesi Jirga* has primary responsibility for making and ratifying laws as well as approving the actions of the president. The *Meshrano Jirga* does not have legislative power, but it does have some veto powers. Other than the requirement that at least sixty-four women and ten *kuchi* (nomad) delegates be elected to the *Wolesi Jirga* and that the president appoint at least seventeen women, two disabled or impaired delegates, and two *kuchis* to the *Meshrano Jirga*, there are no ethnic or tribal mandates codified in the constitution.

Although ethnicity and tribalism have played a significant role when it comes to concepts of justice, neither has been a source of significant conflict in terms of the election of the national assembly or its legislative functions. However, despite the legislative powers of the *Wolesi Jirga* and the veto powers of the *Meshrano Jirga*, both are largely ineffective due to barriers that restrict political party formation or coalitions in parliament,[100] resulting in internecine legislative squabbling, and impotence to challenging the president's ability to issue decrees.[101]

In addition to issuing legal decrees with minimal legislative input, the president maintains war powers, command of the security forces, and the power to appoint high-

[100] Under Article 80 of the 2004 constitution, officials during the course of their work cannot use their posts for linguistic, regional, ethnic, religious, and partisan purposes.

[101] Under Article 79 of the 2004 constitution, the president can unilaterally adopt emergency legislation during parliamentary recesses on matters other than budgeting and finances.

level ministers.[102] Despite removing references to the king from the 1964 constitution, the 2004 version maintains the "same authoritarian institutional structures" and a "weak system of checks and balances." Consequently, the balance of power remains skewed "heavily in favor of a powerful executive in Kabul, while the reach of government was sharply limited for the provinces."[103]

The sub-national government structure under the 2004 constitution has even fewer "checks and balances" than it did in 1964. Although contemporary Afghanistan is divided into 34 provinces, 398 districts, approximately 217 municipalities, and roughly 40,020 villages,[104] there are technically no local governments if local governments are defined as autonomous corporate entities with binding decision-making power and some discretion over their financial resources.[105] Instead the central government has offices in the provinces and districts for the appointed governors and provincial and district-level representatives of the country's "line ministries." Governments at sub-national levels have little to no control over their elections, levies, assessments, or budgets, and their governors and administrations are neither accountable to the people they serve nor have strong incentives to effectively serve the people with what few resources and limited capacity they do possess.

The provincial governors, representing the outstretched hands of the central government, exercise an ambiguous coordinating and oversight function through the ministries, and have primary control over the police and district governors. The district governors represent the provincial administration, maintain records of birth, death, and marriage, and have coordinating and oversight functions similar to those of the

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[102] Article 64 of the 2004 constitution enumerates ten separate presidential "authorities and duties" and Article 76 reinforces this.

[103] International Crisis Group, *Afghanistan: The Long, Hard Road to the 2014 Transition*, October 8, 2012, accessed October 24, 2012, http://www.crisisgroup.org/en/regions/asia/south-asia/afghanistan/236-afghanistan-the-long-hard-road-to-the-2014-transition.aspx, 2.

[104] World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, July 2007, accessed October 24, 2012, http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/Publications/448813–1185293547967/4024814–1185293572457/report.pdf.

[105] World Bank, *Intergovernmental Fiscal Relations and Subnational Expenditures in Afghanistan*, August 2008, accessed October 24, 2012, http://siteresources.worldbank.org/AFGHANISTANEXTN/Resources/305984–1213128265371/5090855–1213585276467/5111745–1217820647673/SNFinancesReport.pdf.

provinces.[106] The municipalities, technically under the purview of the Ministry of Urban Development and Housing and the Independent Directorate for Local Governance (IDLG), are expected to supervise their own budgets and urban planning activities while their municipal councils are to be elected.[107] However, their revenues, largely generated by taxes and user fees, have been insufficient to meet their needs, and the processes for receiving support from the central government have been inequitable, inefficient, and politicized.[108]

Although the Constitution specifies that elections are supposed to take place for provincial, district, and municipal councils, elections that were previously to be held in March 2011 have since been pushed by electoral officials from 2013 until 2014 due to security and financial concerns.[109] As a result, the senior provincial and district officials, including governors and ministry department heads, continue to be more or less appointed by Karzai through a process that lends itself to strengthening his patronage network rather than incentivizing a system that rewards merit and ability, or at least holds officials accountable in accord with local preferences.[110] In total, Karzai "controls more than a thousand direct appointments and many more indirectly controlled positions countrywide without any parliamentary oversight."[111]

The prominent features of Afghanistan's government are its extreme centralization and lack of accountability to the people it serves. While many have derided the central government's limited command outside of the capital city, the president in fact holds the constitutional and legal authorities that make Afghanistan "in theory, fiscally

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[106] Michael Shurkin, *Subnational Government in Afghanistan* (Santa Monica, CA: RAND Corporation, 2011), 5–6.

[107] Colin Cookman and Caroline Wadhams, *Governance in Afghanistan: Looking Ahead to What We Leave Behind*, May 2010, accessed October 24, 2012, http://www.americanprogress.org/wp-content/uploads/issues/2010/05/pdf/afghangovernance.pdf.

[108] Shurkin, *Subnational Government in Afghanistan*, 6.

[109] International Crisis Group, *Afghanistan: The Long, Hard Road to the 2014 Transition*, i.

[110] Martine van Bijlert, *Between Discipline and Discretion: Policies Surrounding Senior Subnational Appointments*, May 2009, accessed October 24, 2012, http://www.areu.org.af/EditionDetails.aspx?EditionId=73&ContentId=7&ParentId=7&Lang=en-U.S..

[111] Cookman and Wadhams, *Governance in Afghanistan*, 7.

and administratively one of the most centralized countries in the world."[112] The strong centralization of authorities naturally takes away from the potential capability of sub-national governments and their administrations.

Level	**Type of Government**			
Provincial Level	Provincial Governor (appointed)	Provincial Council (elected)	Line Ministries (appointed)	Provincial-level courts and prosecutors (appointed)
District Level	District Governor (appointed)	District Council (elected)	Line Ministries (appointed)	District courts and prosecutors (appointed)
Municipalities	Mayors (elected by voters)	Municipal Council (elected)	Line Ministries (appointed)	
Villages	None	Village Council (elected)		

Table 4. Afghan Subnational Government as Mandated by the 2004 Constitution[113]

Although leaders at sub-national levels of government lack the *de facto* powers to influence financial matters by setting policy or influencing decisions at the center, they informally consolidate power through a combination of personal ties to Karzai, tribal connections, controlling licit and illicit sources of revenue, and having access to armed force.[114] The inherent conflict between provincial and district officials, weak formal authorities, and the strong informal roles they often play means governance is determined by relationships that mirror kinship, tribal, or ethnic ties and often involve other forms of patronage. It is easy for the people of Afghanistan who are not privy to the negotiating and favoritism that takes place behind closed doors to become skeptical of higher levels of government when they see the disparities in financial investment and development

[112] Sarah Lister, "Understanding State-building and Local Government in Afghanistan" (London, UK: Crisis States Research Centre, 2007), 4.

[113] Shurkin, *Subnational Government in Afghanistan*, 6.

[114] Hamish Nixon, *Subnational State-Building in Afghanistan*, April 2008, accessed October 24, 2012, http://areu.org.af/EditionDetails.aspx?EditionId=65&ContentId=7&ParentId=7&Lang=en-U.S., 14-15.

across different parts of the country, if not from one district to the next. Thus, while the central government's control over provincial and district leaders through appointments and financial apportionment has strengthened ties between the sub-national governments and Kabul, the people of Afghanistan have been less inclined to see value in Afghanistan's central government or their respective leaders because of "the manner in which [the governors] were elected, poor candidate vetting, and their lack of any meaningful role.[115]

Since Afghan law treats provinces and districts as single constituencies during elections, and the system requires the use of the single non-transferable vote (SNTV) method, the law favors candidates who can gather support from a solid bloc of voters in a single area rather than appealing to voters in multiple areas (which likely would require them to span multiple tribes or ethnicities).[116] Consequently, provincial councils, and sometimes district councils, are often seen as only representing some groups at the expense of others.[117] Although this is viewed as corruption by the international community, patronage or collective opportunism can be more clearly understood if leaders' roles are seen in relation to their obligations to their families and members of their faith, tribe, or ethnic group instead of to the nation as a whole. While it is tempting to think that more coercive penalties on corrupt officials would solve the problem, if this is Afghans' default and expected behavior across ethnic groups; it points to a social reality best adjudicated through an alternative and more decentralized form of democratic governance.

2. Afghan Governance and Perceptions of Legitimacy

Although the 2001 Bonn Accords and Afghanistan Constitution of 2004 revived a centralized system of governance predicated on a constitutional monarchy established by the 1964 constitution, it is also worth noting that "the enthusiasm for restoring a highly

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[115] Fatima Ayub, Anotonella Deledda, and Patricia Gossman, *Vetting Lessons for the 2009–10 Elections in Afghanistan*, January 2009, accessed October 24, 2012, http://www.operationspaix.net/DATA/DOCUMENT/5261~v~Vetting_Lessons_for_the_2009–10_Elections_in_Afghanistan.pdf; Nixon, *Subnational State-Building in Afghanistan*, 18–23.

[116] Shurkin, *Subnational Government in Afghanistan*, 8.

[117] Nixon, *Subnational State-Building in Afghanistan*, 22.

centralized government was confined to the international community and the Kabul elite that ran it."[118] As the International Crisis Group indicates, Afghan history is replete with "repeated government failures to conduct comprehensive public consultations on its many constitutions," and its leaders "have failed to include institutional safeguards," such as provisions for a separation of powers across the *nine* constitutions adopted by various regimes since 1923.[119] While Afghanistan's numerous constitutions have produced questionable governance since 1978, the relatively weak central government under the Musahiban dynasty did keep peace from 1929 to 1978 and never faced an insurgency.[120]

In his attempt to discover "how [Afghanistan's] rulers gained and lost legitimacy, and why state power has always been so fragile," Thomas Barfield notes that in past centuries the model of state power and sovereignty left inhabitants in poor or geographically marginal areas to fend for themselves as long as they did not present a challenge to state authority. Rulers only sought direct control of urban centers and productive irrigated agricultural lands, and resorted to tactics well short of direct rule, such as denying access to vital markets or punitively using force to intimidate a population into acquiescence.[121] It was only in the late nineteenth century, beginning with Amir Abdur Rahman, that leaders abandoned the traditional model of governance for a more exclusive and centralized state.[122]

Although governments since the turn of the nineteenth century have used modern weapons to effectively suppress and administer geographically marginal regions, the people of these regions (often representing minority ethnic factions) "have never fully reconciled themselves to this change."[123] Nevertheless, the dissenting populations, to include those in largely rural areas, have been provoked to violent opposition only when

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[118] Thomas Barfield, "Afghan Paradoxes," in *Afghan Endgames*, eds. Hy Rothstein and John Arquilla (Washington, DC: Georgetown University Press, 2012), 53.

[119] International Crisis Group, "Afghanistan: The Long, Hard Road to the 2014 Transition," 1.

[120] Vartan Gregorian, *The Emergence of Modern Afghanistan: Politics of Reform and Modernization, 1880–1946* (Stanford, CA: Stanford University Press, 1969).

[121] Barfield, "Afghan Paradoxes," 40.

[122] Mohammad Hasan Kakar, *Afghanistan: A Study in Internal Political Developments, 1880–1896* (Kabul, Afghanistan: Punjab University Press, 1971); Kakar, *A Political and Diplomatic History of Afghanistan, 1863–1901* (Leiden: Brill, 2006).

[123] Barfield, "Afghan Paradoxes," 40.

"Kabul governments [have] attempted to use state power to make radical changes in Afghan society."[124] This violent opposition has resulted in state collapse twice in the twentieth century in response to modernizing governments: once during the short 1929 civil war that ousted the reformist King Amanullah, and then under the Soviet-backed government in the 1980s.[125]

When comparing these periods of violent opposition with Afghanistan's half century of peace (between 1929 and 1978), the most prominent distinction lies in the monarchy having retained legitimacy by restoring public order and occasionally putting down a rebellion or two, while also counting on "Islamic religious institutions, local economic power brokers, and other states to recognize them as legitimate rulers so as to minimize the disruption that would ensue by resisting such claims." The Musahiban dynasty, while using a degree of force similar to others who sought to govern Afghanistan in the twentieth century, typically also employed traditional methods of acquiescence to achieve stability rather than relying exclusively on "its ability to project coercive power."[126]

Successful Afghan governments have consistently linked their ability to maintain public order (as opposed to *fitna*, meaning disorder, sedition, or civil war), to Islamic legal traditions that deem rebellion against an established Muslim ruler by his subjects as illegitimate *because* it creates *fitna*.[127] At the same time, the ethnic tensions that have plagued Afghan society "have historically been resolved by traditional structures within a feudal system and a local governance structure known as the *jirga*."[128] When traditional authorities could not broker an adequate agreement between competing parties, "external elites would often intervene to broker peace or render equitable solutions to grievances,"

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[124] Leon B. Poullada, *Reform and Rebellion in Afghanistan, 1919–1929* (Ithaca, NY: Cornell University Press, 1973); Senzil K. Nawid, *Religious Response to Social Change in Afghanistan, 1919–1929: King Aman-Allah and the Afghan Ulama* (Costa Mesa, CA: Mazda Publishers, 1999).

[125] Martin Ewans, *Conflict in Afghanistan: Studies in Asymmetric Warfare* (London, UK: Routledge, 2005), 79–219; Ali Jalali, *The Other Side of the Mountain: Mujahideen Tactics in the Soviet-Afghan War* (Quantico, VA: U.S. Marine Corps, 1999).

[126] Barfield, "Afghan Paradoxes," 47.

[127] Gilles Kepel, *Fitna: Guerre au Coeur de L'Islam* (Paris: Gallimard, 2004).

[128] Dr. Sherman Taizi, *Jirga System in Tribal Life*, University of Peshawar, April 2007.

facilitating stability between tribes and the government.[129] Indeed, one of the reasons village stability operations (VSO) are said to have achieved credibility is due to the program's aim to re-empower the "traditional village governance structure of Khans, Maliks, and Jirgas," a culturally acceptable governance mechanism.[130] By fostering this "bottom-up" solution in areas that are often beyond the reach of the central government, the people have been able to take control of their own governance while also gaining a link to the local district for development and security needs that are beyond their capacity as villagers and members of tribes.

Despite the preference of locals for adjudicating their grievances locally and their relative indifference towards most of the policies coming from Kabul, local leaders recognize the importance of a central government. All communities in Afghanistan, even those most vocal about maintaining their autonomy, have accepted the necessity of a central government with higher-level responsibilities that include "preserving internal security, protecting the country from hostile neighbors, and negotiating on the nation's behalf for benefits from the larger international community."[131] However, strong centralized power in Kabul that encroaches upon the way of life of traditional Afghans does provoke a backlash and sets the population against *any* government in power because top-down control fundamentally ignores the ability and desire of the people to govern themselves. Resistance to encroachment by Kabul has been particularly strong whenever the central government is perceived to be in opposition to a particular subgroup's fundamental values and its understanding of justice given its customary rule of law.

3. Rule of Law and Islam in the Constitution

Through the course of its nation-building efforts, the international community has advocated a strong central government in Afghanistan that earns legitimacy by

[129] United States Special Operations Command Directorate for Intelligence, "Village Stability Operations 101: Understanding USSOCOM's Role in VSO and ALP in Afghanistan and Beyond," *The Donovan Review*, 2nd Edition (January 2012), 10.

[130] USSOCOM Directorate of Intelligence, "Village Stability Operations 101," 13.

[131] Thomas Barfield and Neamatollah Nojumi, "Bringing More Effective Governance to Afghanistan: 10 Pathways to Stability," *Middle East Policy* 17, no. 4 (2010): 40–52.

distributing development projects and building strong elements of an Afghan National Security Force (ANSF). However, there is significant evidence to suggest that, in addition to possessing a reliable safe haven outside of Afghanistan, the Taliban benefits from its ability to more effectively provide a system of justice and enforce an acceptable rule of law than the central government and its appointed leaders at the province and district levels are capable of providing. Due to the international community's obligation to support, for better or for worse, the system of governance it endorsed under the Bonn Accords and subsequent 2004 constitution, the "legitimacy of the American [and international community's] presence has become tied to the legitimacy of the Karzai government or, at the very least, of the centralized Pashtun-led conception of such a government."[132] This poses a significant challenge for the international community because the historic reality is that "justice has a particular link to legitimacy in Afghanistan" and "the state has been minimalist, in terms of what Afghans expected of it."[133]

Meanwhile, the state has not acquitted itself well when it comes to justice. According to the First Justice Advisor to the United Kingdom Provincial Reconstruction Team (PRT), "Although there is a state system of justice in operation in all provinces, the reality is that this is, at best, ramshackle and inefficient, at worst criminally corrupt on a huge scale."[134] The International Crisis Group likewise laments, "Afghanistan's legal system is broken… courts are either non-existent or are in disrepair. The majority of Afghans view justice institutions as the most corrupt in the country."[135] In other words, here, too, in terms of achieving social fit, the creation of a strong central state is contrary

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[132] Robert Reilly, "Shaping Strategic Communication," in *Afghan Endgames*, eds. Hy Rothstein and John Arquilla (Washington, DC: Georgetown University Press, 2012), 176.

[133] Stephen Carter and Kate Clark, *No Shortcut to Stability: Justice, Politics, and Insurgency in Afghanistan* (London, UK: Chatham House, 2010), 20.

[134] Frank Ledwidge, "Justice and Counter-insurgency in Afghanistan: A Missing Link," *The RUSI Journal* 154, no. 1 (February 2009): 8.

[135] International Crisis Group. "Reforming Afghanistan's Broken Judiciary." November 17, 2010. Accessed October 31, 2012. http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/195%20Reforming%20Afghanistans%20Broken%20Judiciary.ashx.

to the long-held traditions of the Afghan people, and the state's top-down governance has failed to deliver the minimal expectation they have regarding a system of justice defined by Islam.

Although the 2001 Bonn Accords simply affirmed that the Constitution will "embody the basic principles of Islam,"[136] there appears to have been either a failure to acknowledge or codify several distinct traditions pertaining to the rule of law. At the time Afghanistan's new constitution was framed, customary law included *Pashtunwali* (law among the Pashtun population), as well as its counterparts in other tribal configurations and ethnic groups (e.g. Tajik, Uzbek, and Hazara), while above customary law was "Islamic law and two of its schools of jurisprudence (*Hanafi* and *Jafari*, associated with the majority Sunni and the minority Shi'ite populations, respectively)."[137] Although the various ethnic and religious groups have all invoked *sharia* law as a legitimizing principle, one distinguishing feature over the course of Afghan history has been the role of the "ruler's law" (enforced by the *amir* in Kabul) and local interpretations of that law as pronounced by the *ulama* and tribal elders outside of the central justice system.[138] Tellingly, while the 1964 constitution is generally considered liberal and the model for the present constitution, matters of law remain a conservative preserve. In addition to affirming the subsidiary principle (namely, that courts would apply *sharia* in the absence of statutory law), the Constitution also included the repugnancy principle ("no law must be repugnant to the principles of the sacred religion of Islam").[139] Most importantly, the repugnancy principle "established Islam as the foundational law and positioned the *ulama* as the ultimate authority on the constitutionality of a given code,"[140] meaning "the

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[136] Khaled M. Abou El Fadl, et al., *Democracy and Islam in the New Constitution of Afghanistan*, (Santa Monica, CA: RAND Corporation, 2003), 2.

[137] Astri Suhrke and Kaja Borchgrevink, "Afghanistan: Justice Sector Reform," in *New Perspectives on Liberal Peacebuilding*, eds. Edward Newman, Roland Paris, and Oliver P. Richmond (New York, NY: United Nations University Press, 2009), 181.

[138] Bruce Etling, *Legal Authorities in the Afghan Legal System (1964–1979)*, accessed October 31, 2012, http://www.law.harvard.edu/programs/ilsp/research/etling.pdf.

[139] Muhammed Hashim Kamali, *Law in Afghanistan: A Study of the Constitution, Matrimonial Law and the Judiciary* (Leiden: E. J. Brill, 1985).

[140] Suhrke and Borchgrevink, "Afghanistan: Justice Sector Reform," 183.

government defines *qanun* [statutes]" but the local religious authorities "interpret and control *fiqh* [jurisprudence]."[141]

Although subsequent modernizers modified the Afghanistan Constitution in 1977, 1980, 1987, and 1990 to incorporate stronger statutory law and respect for other values associated with human rights, the Taliban reversed this perceived secularization of the law by de-privatizing religion such that "how and where people worshipped was now a matter of public law and state enforcement."[142] While it is clear that the understanding of civil versus religious law was more acceptable across Afghanistan's various ethnicities and tribes prior to the Taliban, the consistency with which the Taliban enforced the rule of law appears to be preferable to seemingly corrupt, arbitrary, and dysfunctional practices today. Indeed, overall, the greatest stability seems to have been achieved during periods when local religious authorities were empowered to interpret and control jurisprudence.

4. Summary of Findings

While ISAF continues to build ANSF capabilities and secure the gains that have been made in existing governance mechanisms and through post-Taliban development projects, it remains unclear which of these will last and how governance might change under a new president in 2014. Although we have included Afghanistan as if it is already post-conflict, the country remains in a highly contested counter-insurgency struggle involving external actors. Its conditions demand a different level of scrutiny than do those in countries that have achieved a greater degree of peace. Nevertheless, we can point to several sets of takeaways related to the degree of government and its perceived legitimacy and stability from the point of view of an ethnically fragmented society.

- An institutionalized devolution of power to the provinces and districts (instead of executive appointments) and greater bottom-up Afghan participation would increase segmental autonomy and should lead to increased perceptions of government legitimacy which should improve stability.

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[141] M. Cherif Bassiouni and Daniel Rothenburg, *An Assessment of Justice Sector and Rule of Law Reform in Afghanistan and the Need for a Comprehensive Plan*, July 2–3, 2007, accessed October 31, 2012, http://www.law.depaul.edu/centers_institutes/ihrli/pdf/rome_conference.pdf, 35.

[142] Suhrke and Borchgrevink, "Afghanistan: Justice Sector Reform," 184.

- The Executive branch has been favored over the legislative and judicial branches in the current constitution. Subsequently, the president issues decrees, appoints key officials, and executes powers with minimal checks and balances from the other branches. This has undermined the legitimacy with which the Executive branch could operate if the legislature's proportional representation and veto power were strengthened.
- A central government which acknowledges the limits of its authority and empowers sub-national levels of government in areas where it cannot adequately reach the people will increase its legitimacy in their eyes.
- The people of Afghanistan recognize the utility of a central government for preserving internal security, protecting the country from hostile neighbors, and negotiating on the nation's behalf for benefits from the larger international community, but there is little agreement about whether it can or should fulfill other functions exclusively.
- Local jurisprudence regarding the rule of law should be strengthened and to some degree interpretation of Islamic principles at the village or district level should be allowed in order to prevent ethnic or tribal dissent and instability based on fundamentally different concepts of justice.

B. INDIA

Beyond the methodological justifications for India's inclusion as a case (as described in Chapter I), the country's legacy of democratic governance, in spite of the prevalence of tremendous cultural and ethnic diversity, offers a wealth of insights. India is one of the most improbable of democracies. In spite of being dangerously divided by history, language, religion, and caste, Indian democracy has been able to thrive for seven decades.[143] As a success story, India can serve as a prognostic example for other similarly divided countries that have faced struggles rectifying ethnic identities with a concept of nationalism. The analysis to follow will look specifically at key factors related to constitutional design, elements of consociationalism, and the degree of decentralization as these have been developed in India post-independence.

[143] Patrick H. O'Neil, Karl Fields and Don Share, *Cases in Comparative Politics* (New York, NY: W.W. Norton & Company, 2010), 328.

1. Cultural and Ethnic Diversity of India

Ethnicities, religions, and languages comprise the major sources of cultural diversity in India. The country features three major ethnic groups (as well as numerous sub-groups combining ethnicity, religion, language, and caste), twenty-two major languages, more than one thousand six hundred dialects, and a population that practices all major religions of the world.[144] India ranks second (only to Afghanistan) out of the twenty-three countries in the region in terms of cultural fractionalization.[145]

While the Indian constitution protects religious freedom for individuals and prohibits religious discrimination, the country has witnessed enduring tensions and occasional conflict among its various communities, mostly between Hindus and Muslims. The caste system in the country has also had a profound effect on the country's politics. Though caste-based political affinities have remained region-specific, they have indirectly affected politics at the center with the evolution of coalition governments. Surprisingly, none of India's religious, language, or caste-based tensions has ever seriously affected the national fabric. Despite having a few separatist movements, the country has remained united and has been able to sustain its democratic institutions since its decolonization in 1947.

2. Post-colonial Challenges

In its initial years of independence, India faced many daunting challenges apart from being one of the most culturally diverse countries in the world. Some of these challenges included dealing with the trauma of religiously based partition and the settling of nearly five million refugees from East and West Pakistan, the resolution of territorial and political disputes, rejuvenating a largely agrarian economy with a very under-

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144 Library of Congress: Federal Research Division, "Country Profile: India December 2004," accessed on 15 Sep 2012, http://lcweb2.loc.gov/frd/cs/profiles/India.pdf.

145 James D. Fearon, "Ethnic and Cultural Diversity by Country," *Journal of Economic Growth* 8 (2003): 216.

developed industrial base, addressing high levels of poverty and unemployment, and instituting a democratic system in the absence of literacy, prosperity, and pre-existing liberal traditions.[146]

After the initial euphoria of being independent, over the next two decades India witnessed many states lobbying for greater authority and many ethnic groups requesting that state lines be redrawn to reflect the actual language and cultural differences on the ground (with some requests continuing even today). Although some sectarian differences have resulted in violent clashes, most differences over societal divisions have been settled in peaceful democratic ways.[147]

3. The Governance Framework

India's constitution, which is one of the longest in the world, establishes a federal republic that balances authority between the central government and the states in a very unique way. The central government consists of a parliamentary system, with legislative powers resting with the lower house of parliament and executive powers vested in the prime minister and his cabinet of ministers. The lower house is the house of the people and the upper house is the house of states. The division of power is federal with a fair degree of authority vested in the states. A similar legislative and executive structure exists at the state level. The government also has an independent judiciary and a single member district plurality electoral system.[148]

The balanced federal nature of India's constitutional design will be reviewed in greater detail in the next section so as to better appreciate its contribution to political stability immediately following India's independence.

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[146] O'Neil et al., *Cases in Comparative Politics*, 336.

[147] Harihar Bhattacharyya, "Federalism and Regionalism in India: Institutional Strategies and Political Accommodation of Identity," in *Heidelberg Papers in South Asian and Comparative Politics*, ed. Subrata K. Mitra, accessed on 20 Sep 2012, http://hpsacp.uni-hd.de/, 13.

[148] O'Neil et al., *Cases in Comparative Politics*, 342.

4. Constitutional Design

Constitution framers in India overcame the problem of diversity by including many potentially conflicting principles, such as modernity versus traditionalism, state intervention in religious affairs versus separation of church and state, liberalism and individual rights versus social conservatism.[149] Many legal and political scholars credit the subjectivity inherent in the Indian constitution with the successful crafting of a multi-tiered system of values and principles corresponding to the intricate needs of a diverse Indian society.[150] This aspect of the constitution is clearly visible in the provisions concerning the Uniform Civil Code and the official language of the State. By refraining from defining the Uniform Civil Code and the official language objectively and concretely, the constitution guarantees political and legal debates in the Parliament and the Supreme Court.[151] Notably, this has been purposely engineered with the aim of pushing final decisions to the political arena.[152] In other words, the effectiveness of the Indian constitution lies in its ability to facilitate, rather than stifle, the politics of accommodation of conflicting views. One lesson the Indian case thus offers is that for deeply divided societies, the legitimacy and ultimate effectiveness of the constitution should be measured by the scope of *disagreement* that it accommodates rather than the depth of the common vision it achieves.[153]

5. Features of Indian Federalism

In an effort to address cultural and linguistic differences across India, the constitution established a federal system with statehood recognized primarily on the basis of language and culture. Starting with 14 states and 6 union territories in 1947, the country presently consists of 28 states and 7 union territories. The growth in the number

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[149] Aliza Belman Inbal and Hanna Lerner, "Constitutional Design, Identity, and Legitimacy in Post-Conflict Reconstruction," in *Governance in Post-Conflict Societies: Rebuilding Fragile States*, ed. Derick W. Brinkerhoff (New York, NY: Routledge, 2007), 54.

[150] Inbal and Lemer, "Constitutional Design," 54.

[151] Inbal and Lemer, "Constitutional Design," 56.

[152] Inbal and Lemer, "Constitutional Design," 57.

[153] Inbal and Lemer, "Constitutional Design," 57.

of states is a result of a continuous attempt by the central government to accommodate the population of a given state and grant autonomy to the different cultural groups located within specific regions. Such arbitration of state boundaries is often a response to popular democratic demands made by various ethnic and cultural groups. This type of federalism has also promoted the creation of culture-based regional parties that have attempted to mobilize their respective political bases contending for leadership positions within their states to represent their constituencies.[154] As the parties have gained political strength, they have placed increasing pressure on the central government to relinquish yet more political authority to the states. Consequently, over the course of the past four decades, a balanced power-sharing structure has evolved that maintains well-defined central and state governments with concurrent jurisdictions.[155]

6. Division of Powers between Centre and State

In addition to distributing territorial authority between the states, the Indian Constitution also divides legislative authority between the union (central government) and the states according to three lists: the union list, the state list, and the concurrent list. The union list consists of 99 responsibilities or authorities. The Union Parliament (the lower house) has the exclusive authority to frame laws on subjects enumerated in the union list, to include foreign affairs, defense, the armed forces, communications, posts and telegraph, and foreign trade. The state list consists of 61 responsibilities or authorities that are exclusive to the states. Only states can make laws regarding public order, the police, administration of justice, prisons, local governments, and agriculture. The concurrent list, meanwhile, comprises 52 items that include laws regarding criminal and civil procedures, marriage and divorce, economic planning, trade unions, electricity, newspapers, books, education, population control, and family planning.[156] Both the parliament and state legislatures can make laws that affect subjects on the concurrent list, but in case of conflict between state and union law, the law of the parliament prevails.

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[154] O'Neil et al., *Cases in Comparative Politics,* 346

[155] O'Neil et al., *Cases in Comparative Politics,* 346.

[156] O'Neil et al., *Cases in Comparative Politics,* 346.

The parliament can also legislate on subjects from the state list and override state laws if the upper house deems a subject of national interest and passes a resolution by a two-thirds majority. Examples of parliament overriding state legislation can be found during times of emergency (when the democratically elected legislature is suspended), when the constitutional machinery in a state fails, or when a state's legislation impedes implementation of international treaties or agreements. Accordingly, the central government generally enjoys more extensive powers than the states.

In terms of administrative powers, the central and state governments each have jurisdiction over their respective lists. Although executive powers on the concurrent list are generally left to the states, the union government is capable of overriding them in national emergencies. Additionally, the central government can issue directives to the states to ensure compliance with laws made by the parliament with respect to matters of national security, as well as national administrative service, grants-in-aid, and the adjudication of interstate disputes. When constitutional machinery fails within a state, the union government automatically assumes the executive powers of that state.

Both the union and state governments have independent sources of revenue and taxes that are ultimately tied to their respective responsibilities and authorities as listed. Generally, no taxes can be levied on subjects found on the concurrent list. However, the central government reserves a large degree of fiscal control over the states and their finances by means of the Comptroller and Auditor General of India, via its granting authority, and during financial emergencies.

7. Federalism vs. Regionalism

Rajni Kothari and Harihar Bhattacharyya, leading political scientists in India, view the country's federalism as a method for accommodating regionalism.[157] Indian federalism, as a means of achieving political equilibrium, aims for an appropriate balance between shared rule and self-rule.[158] As a means of achieving this balance, Bhattacharyya concludes that federalism and regionalism must be complementary

[157] Bhattacharyya, "Federalism and Regionalism in India," 3.

[158] Bhattacharyya, "Federalism and Regionalism in India," 3.

political processes. A multi-tier federation (with powers further decentralized by the states or provinces) may be necessary for regional accommodation. Regional segmentation may be used to facilitate an ethno-regional distribution, with this form of federalism being better able to territorially accommodate ethnically distinct regions than others.

Bhattacharyya attributes India's success to how it has contextualized federalism for its people.[159] One of the unique features of India's federalism is how the federal government reconciles regional identity with autonomy. For instance, in order to manage political demands for statehood, a region must conclusively demonstrate popular support and mobilization. Additionally, authorities at all levels (state, regional, and village) must be elected, which is done via universal adult suffrage rather than by unelected appointments or some other proportional distribution.[160]

8. Other Stabilizing Features of India's Governance Framework

In addition to the uniqueness of India's system, stability has been achieved through other key features of its governance framework that include a politically neutral bureaucracy and firm civilian control over the military.[161] Given the character of political competition and the potential for "winner-take-all" repercussions of elections, the existence of an apolitical bureaucracy has prevented blatant favoritism of one group or another and ensured a greater degree of legitimacy for the system overall. As a result, development projects have been distributed across the states regardless of which particular executive happens to be in power. Firm civilian control over the military has prevented the military from being abused or used discriminately to quiet dissent or fill power voids within the country.

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[159] Bhattacharyya, "Federalism and Regionalism in India," 3.

[160] Bhattacharyya, "Federalism and Regionalism in India," 24.

[161] O'Neil et al., *Cases in Comparative Politics,* 341

9. Consociationalism in India

While the impact of these attributes on India's stability can be considered independently, scholars including Lijphart, Kothari, and Crawford Young, have attributed India's stability to its consociational nature.[162] It is possible to identify all four tenets of consociationalism: a grand coalition, segmental autonomy, proportional representation, and a mutual veto. The emergence of India's coalition cabinets provides evidence of the viability of a grand coalition. The accommodation of regionalism by India's federalist system is proof of segmental autonomy, especially when one considers India's accommodation of linguistic, cultural, and religious autonomy under a unified civil code. In order to account for proportional representation, India's central government has included parties of consensus within its legislating body and an apportionment of reserved seats for specific groups such as scheduled tribes and castes within the parliament. Meanwhile, the mutual veto power of Indian minorities has contributed to the continued use of English as an administrative language in the southern states, despite the use of Hindi as the national language.[163] Seen from this perspective, each of the principles of consociationalism is embraced by India within its constitution.

10. Decentralization of Governance in India

In his study of the various separatist and secessionist movements in the country since independence, Robert Federal has found numerous examples of decentralization related to India's governance. His research has explored the relationship between decentralization of various aspects of governance and the stability that results. In general, he finds evidence of both fiscal and political decentralization to varying degrees among India's states, resulting in different rates of development and patterns of ethnic strife within each state. Although he notes in his case studies of Punjab, the Northeast, and Tamil Nadu, that decentralization did not serve as an instigator of violence, there were specific instances when decentralization contributed to an escalation of violence. For

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[162] Arend Lijphart, "The Puzzle of Indian Democracy: A Consociational Interpretation," in *The American Political Science Review* 90, no. 2(June 1996):258–268.

[163] Lijphart, "The Puzzle of Indian Democracy," 258–268.

instance, given the relatively robust local governance structures within Punjab and Tamil Nadu, centralization of authority seemed to provoke further resistance efforts. In other cases, where people were already agitating against authority, such as in Tripura and several northeastern states, decentralization served to quell the momentum of violent movements.

Although India has decentralized political governance to a large extent, Federal observes that it has undertaken very little fiscal decentralization. The few examples he found only mildly correlate with successful poverty alleviation, a factor important to stability.[164] Overall, Federal's research indicates that devolving political authority to a relatively strong and capable local government has led to greater stability, and though India has avoided significant fiscal decentralization, it is likely that legitimacy endures due to other governance factors, especially those resulting in a fair and adequate distribution of resources and development by the central government.

11. Summary of Findings

In the aftermath of post-colonial rule, India adopted a system of governance that responded directly to the demands of an extremely diverse society. The following have been key features of India's governance framework:

- The national constitution has left it up to the lower levels of governance to deal with a multi-dimensional system of values and principles corresponding to the intricate needs of India's diverse communities. This has resulted in debates related to ethnicity, culture, language, and caste being effectively thrust into the political arena, further leading to politics of accommodation.
- A balanced power-sharing federal design has been able to effectively amalgamate regional aspirations spurred on by democratically organized popular support.

[164] Robert K. Federal, *Decentralization and Development: The Indian Balancing Act*, NPS Thesis (June 2008), 62, accessed on 11 Aug 2012, http://edocs.nps.edu/npspubs/scholarly/theses/2008/Jun/08Jun_Federal.pdf.

- The legitimacy of all political institutions (whether state, regional, or tribal council) has been established by electoral victory rather than rigid ethnicity-driven appointments.
- A politically neutral bureaucracy and firm civilian control over the military have ensured greater continuity of democratic institutions and national policies while keeping the military far from the political arena.
- A balance has been maintained through various political decentralization measures that have empowered governance institutions and ensured representativeness and inclusivity at lower levels. As a result of balanced power-sharing, secessionist and separatist movements have been restricted to the regional level without affecting the national fabric.
- Restricted fiscal decentralization has ensured effective subjugation of regionalism and enforced politics of accommodation at and from the center.

C. RWANDA

The 1994 genocide in Rwanda represents one of the worst atrocities of the past century. Ethnic rivalry between the Hutus and Tutsis (Rwanda's two major ethnic groups) led to a systematic massacre of three-quarters of Rwanda's Tutsi population and the murder of Hutus who opposed the regime.[165] Owing to the fact that there are only two major competing groups who share the same language, Rwanda features low on the ethnic fractionalization list when it comes to the number of ethnic and cultural divides. However, mutual distrust, hatred and fear run deep and span generations. Overcoming enormous challenges in the wake of the genocide, Rwanda has achieved remarkable political stability and economic growth over the last two decades.[166] One sees a slow but steady improvement in its rank in the failed state index over a span of just five years since 2006. We submit that this success is largely attributable to its visionary leader who

[165] Scott Straus and Lars Waldorf, "Introduction: Seeing Like a Post-Conflict State," in *Remaking Rwanda*, ed. Scott Straus and Lars Waldorf (Madison, Wisconsin: The University of Wisconsin Press, 2011), 3.

[166] Straus and Waldorf, *Remaking Rwanda*, 7.

adopted a contextualized democratic governance framework suited to the needs of the country. Considering the fact that Rwanda has been touted as a model post-conflict state, analyzing its governance framework is critical to our research.[167]

1. Ethnicity in Rwanda

Rwanda has the highest population density in Africa with most Rwandans living in rural areas.[168] There are three ethnic groups who speak the same language and live side by side. The Hutu group is the largest in number, followed by the Tutsis, and finally the Twa, who are a small minority group.[169] Ethnic rivalry between the Hutus and the Tutsis predates independence in 1962.[170] The majority Hutu (about 85% of the population) came to power after independence and many Tutsis took refuge in Uganda.[171] For nearly three decades thereafter, frequent ethnic clashes claimed many lives in Rwanda. By 1993, after several failed attempts, the Tutsi-led Rwandan Patriotic Front (RPF) finally forced the government of Rwanda to take it and Tutsis more seriously. The international community brokered an agreement in Arusha, Tanzania, referred to as the Arusha Peace Accords.[172] Unfortunately, the peace accords were not

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[167] Limited scholarly works on post-genocide Rwanda have hailed it as a remarkable success story until 2010. However, recent studies based on field research no longer find it as a paragon of virtue, but nevertheless acknowledge the tremendous progress made by the country since the genocide. For more see Straus and Waldorf, *Remaking Rwanda*, 6.

[168] Bibane Mbaye Gahamanyi, "Rwanda: Building Constitutional order in the Aftermath of Genocide," in *Human Rights under African Constitutions*, ed. Addullahi Ahmed An-Naim (Philadelphia, PN: Univ of Pennsylvania Press, 2003), 252.

[169] An-Naim, *Human Rights under African Constitutions*, 252.

[170] An-Naim, *Human Rights under African Constitutions*, 253.

[171] Ted Dagne, CRS Report for Congress, *Rwanda: Background and Current Developments*, 01 June 2011, 3.

[172] The Arusha Accords were an African initiative in which both the Organization of African Union (OAU) and several African states played a central role. The President of Tanzania was the facilitator of the process. Along with the UN, western nations involved included Belgium, Germany, France, and the U.S.. Other stake holders in the region, like Tanzania, Uganda, Zaire and Burundi, participated. Tremendous international pressure forced the Habyarimana government and the RPF to the negotiating table in Arusha. For more, see Gérard Prunier, *The Rwanda Crisis: History of a Genocide 1959–1994* (London: Hurst and Company, 1997).

honored and the infamous genocide of 1994 occurred.[173] The genocide ended with the RPF taking control of Kigali and ousting the Hutu-led government in July 1994.[174]

2. Post-Genocide Challenges.

The Government of National Unity listed its priorities as: restoring peace and security; organizing the administration; consolidating national unity; improving the well-being of the population; resuming the economy; consolidating democracy by combating a culture of impunity; guaranteeing freedom of expression and respect for fundamental human rights; and promoting political and social pluralism.[175] The new Government, led by the RPF, made its intentions clear: restoring security was at the top of the list and any democratic transition would be attempted only after achieving an environment conducive to reform. Other challenges included:

- The problem of reintegrating a large returnee refugee population, while simultaneously delivering justice to the victims of the genocide through a non-violent process of reconciliation.[176]
- Overcoming a legacy in which one ethnic group dominated the other.[177] As a consequence of the genocide and politization of ethnicity that preceded it, the idea of democracy and "majority rule" was extremely troubling to many

[173] The reasons why the Arusha Accords failed were: imbalance in the military agreements, the intransigence of the Hutu radicals, and the increasing polarization of the country. For more, see Gérard Prunier, *The Rwanda Crisis: History of a Genocide 1959–1994* (London: Hurst and Company, 1997).

[174] The Rwandan military and Hutu militia systematically massacred Tutsis and moderate Hutu opposition members. In the first 10 weeks of the Rwandan genocide, an estimated 800,000 people, mostly Tutsis, were slaughtered by government forces and the Interhamwe militia. Millions of Hutu refugees fled to neighboring DRC—then Zaire—after RPF troops took control in Kigali and ousted the Hutu government in July 1994.

[175] Rachel Hayman, *The Complexity of Aid: Government Strategies, Donor Agendas and the Coordination of Development Assistance in Rwanda 1994–2004* (PhD diss., School of Social and Political Studies, University of Edinburgh, 2006), 127–130.

[176] Hayman, *The Complexity of Aid.*

[177] Prior to independence Rwanda was under Tutsi rule.

Rwandans.[178] Choosing a suitable governance framework and establishing democratic institutions were, therefore, considerable challenges given the country's political history.

3. Governance Framework (1994 Onwards)

Driven by the need to establish peace and security prior to a democratic transition, Rwanda established a "consensual dictatorship" in 1994 and since then has gradually moved towards a "nominal democracy."[179] Today, Rwanda could be considered a hybrid regime, which combines authoritarian and democratic elements.

The RPF set up a Transitional Government of National Unity in July 1994, sharing power with other parties under the formula agreed to at Arusha in 1993. This arrangement, together with a seventy-member multi-party Transitional National Assembly, lasted until 2003. During this time government programs concentrated on economic reconstruction, justice and community reconciliation, and de-ethnicization.[180]

Democracy was introduced with the adoption of a new constitution agreed to by public referendum in May 2003. The country adopted a governance framework with the following features:

- Executive. Chief of state is the President who is elected by popular vote for a seven-year term (eligible for a second term). The Prime Minister is the head of the government and oversees a council of ministers in the cabinet.

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178 The independence struggle in the early 1960s was highly ethnicized with the Hutu majority gaining control over the Tutsi minority. Therefore, in Rwanda democracy became synonymous with domination by the ethnic majority over the minority. Another aspect in the political history of Rwanda is that multi party democracy is associated with genocide. Between 1963 and 1990, Rwanda was ruled by authoritarian regimes. In 1975, all political parties were abolished creating a totalitarian state with extensive control over the population. Relenting to international pressure and the growing pressure from RPF led resistance, the Government agreed to open the way for multiparty politics in 1990 and a number of new parties were formed. Unfortunately most of these parties were regionally and ethnically aligned rather than displaying any distinct ideological agenda. This reflected the deep ethnic cleavages among Rwanda's elite that were being percolated down to the population for gaining political mileage. The political tussle transformed into a civil war as extremist factions emerged within several of these political parties that played key roles in destroying the peace process and unleashing the genocide. As a consequence, for most Rwandans, democracy is associated with ethnic-based violence. For more, see Rachel Hayman, "Going in the "Right" Direction?" *Taiwan Journal of Democracy* 5, no.1(July 2009): 51–75, 52.

179 Jennie E. Burnet, "Rwanda," *Countries at the Crossroads*, Freedom House 2007, accessed on 26 Sep 2012, http://www.freedomhouse.orgtemplate.cfm?page=140&edition=8&ccrpage=37&ccrcountry=167.

180 "Country Profile: Rwanda," *Foreign and Commonwealth Office: Govt of UK*, accessed on 27 Sep 2012, http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/sub-saharan-africa/rwanda/?profile=politics.

- Legislature. The parliament is bicameral and consists of a Senate (twenty-six seats; twelve members elected by local councils, eight appointed by the president, four appointed by the Political Organizations Forum, two represent institutions of higher learning; and all members serve eight-year terms) and the Chamber of Deputies (eighty seats; fifty-three members elected by popular vote, twenty-four women elected by local bodies, three selected by youth and disability organizations, all of whom serve five-year terms).
- Judiciary. The Judiciary is independent and consists of a Supreme Court, High Courts of the Republic, provincial courts, district courts, and mediation committees.
- Political parties. A multiparty system was reintroduced in 2003. The RPF continues to dominate the political space and most of the other parties are weak. [181]

4. Stabilizing Features of Rwanda's Governance Framework

Reflecting Rwanda's previous unsuccessful flirtation with democracy, central features of its post-2003 governance framework focus on national unity, the rule of law, inclusiveness, and consensus-building, all of which aim to dissipate ethnic tensions and provide security for the country and people.[182] These central themes are reflected in how democratization is proceeding now that the 2003 Constitution and power-sharing mechanisms have been put into place.

5. Process of Democratization

Driven by the overarching requirement to establish security first and informed by well-grounded skepticism about liberal democracy, democratization in Rwanda has been incremental and iterative. Starting with a period referred to as "democratic consolidation," Rwanda has moved towards a "nominal democracy."[183] During the period of democratic consolidation, the transitional government engaged in a process of social engineering which consisted of:

- Switching from ethnicity-based identity to a national Rwandan identity.
- Spatial reconfiguration of villages to eradicate ethnic divisions.

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[181] "Rwanda," *The World Fact Book*, accessed on 27 Sep 2012, https://www.cia.gov/library/publications/the-world-factbook/geos/rw.html.

[182] Hayman, "Going in the 'Right' Direction?" 54.

[183] Hayman, "Going in the 'Right' Direction?" 53.

- Shifting from a subsistence-based farming economy to an agribusiness model in an effort to redistribute resources.
- Configuration of political groupings on the basis of distinctive ideologies rather than ethnicity.[184]

Human rights activists and political scientists have been critical of this kind of social engineering,[185] but in our view these actions were necessary for embedding democratic values in a society with a bitter conflict-ridden past. The consolidation efforts made by Rwanda's leaders (led by the RPF) appear to have been consciously done to fit a unique form of democracy to the peculiar conditions prevalent in Rwanda.

6. Constitution, Consociationalism, and Power-Sharing

The 2003 Constitution was the result of debates and discussions between various parties and ratification via public referendum. It introduced partisan and non-partisan pluralism, and codified a consociational model of democracy and power-sharing.[186] The Constitution is oriented toward equitable power-sharing among the major political parties that were signatories to the Arusha Accords and towards establishing a pluralistic democratic regime.[187] Among other features, it promotes guaranteed representation from all spheres of life, elite cooperation, and proportional representation of all political parties.

All registered political parties are required to join the "Forum of Political Parties," where parties meet to discuss government policies and promote consensus. Parties are prohibited by law from organizing on an ethnic, regional or religious basis.[188] Rwanda follows an electoral system that involves proportional distribution of 53 deputy seats among closed lists in one national constituency. Individual independent candidates are also allowed to

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184 Straus and Waldorf, *Remaking Rwanda*, 10.

185 Straus and Waldorf, *Remaking Rwanda*, 10.

186 "Political Pluralism and Power Sharing in Rwanda," *Center for Conflict Management of the National University of Rwanda* (2010), 127, accessed on 20 Sep 2012, http://www.undp.org.rw/political-power-sharing-in-rwanda.pdf.

187 "Political Pluralism and Power Sharing in Rwanda," *Center for Conflict Management*, 127.

188 "Rwanda," *Foreign and Commonwealth Office.*

stand for election.[189] The Constitution also provides that the President of the Republic and the Speaker of the Chamber of Deputies shall belong to different political organizations. Members of the Cabinet are selected from political parties on the basis of their seats in the Chamber of Deputies and a political organization holding the majority of seats in the Chamber of Deputies is not allowed to exceed 50% of all members of the Cabinet. The Senate similarly reflects of political pluralism and power-sharing. By composition, members of the Senate are elected by local councils with at least thirty percent to be women and representatives from all geographical regions, entities, and historically marginalized communities. The aim is to ensure consociational power-sharing in both the legislature and the executive, while clearly staying away from ethnic identities.[190] Although most political parties remain weak and lack capacity, the process of decentralization already underway is likely to provide sufficient political capital for them to be able to grow and strengthen democracy in the process.

Since 2000, Rwanda has clearly embarked on a top-driven process of political and fiscal decentralization in an effort to promote inclusivity and accountability.[191] Yet, the politically plural and representative nature of the constitution has had its impacts at the grassroots level as well.

7. Decentralization

Recognizing the importance of connecting democratic governance to citizens at the lowest level, Rwanda's leaders began decentralizing in 2000. People are expected to

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[189] Some scholars have argued that the National List PR electoral system does not support democratic representation and in fact, is seen as a tool to engineer electoral results that strengthen a constitutional autocracy that is dominated by one single party (the RPF). Most other parties lack capacity and choose to align with the RPF for political survival. For more, see Alexander Stroh, "The Effects of Electoral Institutions in Rwanda: Why Proportional Representation Supports the Authoritarian Regime," in *GIGA Working Papers* 105, July 2009, accessed on 28 Sep 2012, http://repec.giga-hamburg.de/pdf/giga_09_wp105_stroh.pdf.

[190] Political Pluralism and Power Sharing in Rwanda," *Center for Conflict Management*, 128.

[191] Hayman, "Going in the "Right" Direction?" 54.

elect their leaders at the cell, sector, and district levels,[192] and when leaders fail to live up to the electorate's expectations, they should be removed.[193] The populace is supposed to be closely involved in designing tailor-made development plans that then get amalgamated into the district development plans, and women, youth, and people with disabilities have guaranteed representation in local government structures.[194] Although decentralization, in and of itself, has yet to make a major impact on development, it has nonetheless achieved the primary goal of any democratic framework: that of connecting the people with the government.

8. Summary of Findings

Recovering from the effects of genocide, Rwanda adopted a unique system of democratic governance in a phased manner that was both incremental and iterative. This approach has ensured stability and economic development while subsuming ethnicity to nationalism. Given ongoing efforts to support decentralization, national elections, land reform, and reform of the media, Rwanda is certainly poised to evolve, perhaps dramatically, in the coming years. The following are key features of Rwanda's governance framework.

- The process of reconstruction was led by visionary and resolute leaders of the RPF, most notably President Paul Kagame.[195]
- Stability was the RPF's first priority, to be followed by an incremental and iterative process of democratization. As stabilization was underway, Rwandan society was subjected to a process of social engineering so as to replace ethnic with national identity. This was followed by introducing a form of democratization that was contextualized to achieve social fit.

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[192] Districts, sectors and cells are the territorial entities that play administrative roles in Rwanda. Districts have primarily coordinating and financial functions; sectors coordinate, manage, and execute development and service delivery; and cells mobilize and sensitize the local population. A unique feature of pre-1994 Rwanda is the absence of the concept of villages. Citing reasons of security and ease of provisioning of development, Rwanda has embarked on a process of "villagization" using the "Imidugudu Policy." For more, see Catharine Newbury, "High Modernism at the Ground Level: The Imidugudu Policy in Rwanda," in *Remaking Rwanda*, ed. Scott Straus and Lars Waldorf (Madison, Wisconsin: The University of Wisconsin Press, 2011), 3.

[193] Political Pluralism and Power Sharing in Rwanda," *Center for Conflict Management,* 145.

[194] Political Pluralism and Power Sharing in Rwanda," *Center for Conflict Management,* 125.

[195] Paul Kagame was mostly educated in Africa, but he did attend the Command and General Staff College (CGSC) in USA.

- The democratic power-sharing model that Kagame (and his regime) chose makes use of consociational principles (e.g., guaranteed representation and proportional representation).[196]
- Political decentralization was undertaken to connect the population to the government. This process, while still nascent, is expected to be followed by limited fiscal decentralization.

D. KENYA

During the 59 days following its 2007 general elections, Kenya experienced the worst political crisis since it received independence in 1963. Violence left 1,500 dead, 3,000 innocent women raped, and 300,000 people internally displaced.[197] Consequently, it is not surprising that Kenya's overall stability has not recovered, but has instead decreased from 2006[198] to 2011.[199] Indeed, conflict assessment scores for ethnic indicators, vengeance seeking grievances, criminalization or de-legitimization of the state, and the rise of factionalized elites all show substantial increases. Of the twelve conflict assessment indicators (cited p. 8), only two—demographic pressures and human flight or brain drain—have seen a modest improvement between 2006 and 2011.[200] In terms of ethnic and cultural fractionalization, Kenya ranks eleventh and fifteenth respectively in the world.[201]

All these statistics point to an extremely volatile situation which requires a more nuanced understanding of the historic development of Kenya's system of governance. However, we ask just how legitimate it was prior to the general election crisis. Also important are the constitutional actions that have been implemented since the crisis to

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[196] External attention has mostly focused on President Kagame's authoritarian tendencies, and some observers are wary that Rwanda will not fully democratize.

[197] Herve Maupeu, "Revisiting Post-Election Violence," in *The General Elections in Kenya, 2007*, ed. Jerome Lafargue (Dar es Salaam: Mkuki na Nyota Publishers, Ltd., 2008), 194.

[198] "The Failed States Index 2006," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi-grid2006.

[199] "The Failed States Index 2011," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi2011.

[200] "Conflict Assessment Indicators," *The Fund for Peace Country Analysis Indicators and Their Measures*, 2011, accessed October 21, 2012, http://www.fundforpeace.org/global/library/cr-10–97-ca-conflictassessmentindicators-1105c.pdf.

[201] James D. Fearon, "Ethnic and Cultural Diversity by Country," *Journal of Economic Growth* 8 (2003): 6–20.

attempt to regain stability. Although some claim that the violence surprised both Kenya and the international community because of the country's democratic successes after the 2002 election,[202] other analyses indicate that the violence was not only predictable but that it could have been prevented.[203] We will attempt to address this discrepancy by determining whether the violence was an aberration or consistent with the mounting discontent of various factions within Kenya's ethnically diverse population. We will then review the consociational trends in Kenya before and after the post-election violence, and conclude by specifying some of the conditions under which decentralization might be undertaken to produce greater long-term stability.

1. Kenya's Ethnic Diversity

According to Kenya's most recent census, there are three large ethnic communities: the Kamba, Kikuyu, and Luo. There are many ethnic minorities and, given political developments since independence, it is also important to take into account the Luhya and Kalenjin[204] tribes as well. Political parties have typically aligned along tribal lines, with ethnicity valued over political ideology or policy.[205]

Another important way in which Kenya's ethnic groups segment is into three main ethno-linguistic groups: Bantu, Cushitic, and Nilotic.[206] Different languages not only underscore some of the ethnic differences, but they also coincide with where different groups live and how they gain their livelihoods. People's allegiances also depend on whether they live on the plains, highlands, river, near Lake Victoria, or in coastal areas.[207]

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202 Maupeu, "Revisiting Post-Election Violence," 194.

203 Mara J. Roberts, "Conflict Analysis of the 2007 Post-election Violence in Kenya," September 2009, accessed October 21, 2012, http://www.ndpmetrics.com/papers/Kenya_Conflict_2007.pdf, 2.

204 The Kalenjin people are technically a collection of smaller tribes that are united by a common language.

205 Roberts, "Conflict Analysis of the 2007 Post-election Violence in Kenya," 6.

206 The Kenyan Constitution only recognizes two languages: English and Kiswahili. The other languages carry a minority status.

207 Makoloo, *Minorities, Indigenous Peoples, and Ethnic Diversity*, 10–11.

Although Kenya has been classified as a country with no fewer than 42 tribes, the government has discontinued providing an ethnic breakdown of its population after the population and housing census of 1999 due to a misuse of the data.[208] Nevertheless, it seems likely that any system of governance that fails to adequately address Kenya's ethnic diversity would be riven by with perpetual instability, and a central government would be unlikely to successfully adjudicate the different groups' grievances and interests from Nairobi.

2. Social Exclusion and Ethnic Conflicts

In order to determine the degree of social fit between Kenya's system of governance and the population at the time of the 2007 general election, it is necessary to first review perceptions about the government's legitimacy. Again, perhaps the post-election violence was the result of long-time social exclusion and ethnic conflict, or perhaps it represents an aberration.

The fact that Kenya has escaped descending into full-blown civil war, never experienced a successful coup d'etat, and has no history of ethnic cleansing helps explain why it has generally been regarded as a relatively stable country and has attracted better investments than comparable countries in the region. Kenya is home to the headquarters of major international agencies, to include UN Africa, UNEP, and UN-Habitat. Additionally, its government has been a key player in peace negotiations and conferences held to address conflict in Sudan and Somalia, while assisting hundreds of thousands of refugees from both countries.[209]

As of 2006, these positive signs suggested a country whose governance structure seemed able to manage its ethnic fractionalization as well or better than others over the same period of time.[210] Therefore, in spite of its history of corruption, human rights abuses, and substantial poverty (of more than half of its citizens), if one simply assessed

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[208] Makoloo, *Minorities, Indigenous Peoples, and Ethnic Diversity*, 11.

[209] Andria Kenney, "Multi-Ethnicity and Democracy in Kenya: Ethnicity as a Foundation for Democratic Institutionalization," (adaptation of master's thesis dissertation, Aalborg University, 2006), 5.

[210] In the 2006 Conflict Assessment Index, of the 43 ethnically fractionalized African countries, less than a third of the countries have achieved a significantly greater level of stability than Kenya, and several of the more stable countries had previously experienced civil wars.

Kenya on the basis of its relative stability, one would probably overlook the ways in which the government had cultivated social exclusion and ethnic divisions leading to the 2007 post-election violence.

As Maurice Makoloo suggests, the "non-fulfillment of basic human needs—needs of autonomy, group (ethnic) identity, participation, recognition, security, and, of course, poverty" have been building over time.[211] For instance, discrimination and ethnic animosity were apparent in the first ten years of Kenya's independence, vividly seen in the sharp contrast between number and quality of schools and education facilities, health services, modern roads, piped water and delivery of electricity to be found in Kikuyu versus Luo areas.[212] Despite attempts by Oginga Odinga, a prominent Luo politician, to gain greater representation for his people by forming the Kenya Peoples Union (KPU) party to challenge the ruling Kenya African National Union (KANU) party, his mysterious death and the ensuing "Kisumu Massacre"[213] resulted in the banning of the KPU and the return of Kenya to a single party state.[214] Although Jomo Kenyatta is credited with holding Kenya together and avoiding civil war and total chaos, he was also largely responsible for implanting ethnicity "as the dominant basis for political mobility."[215]

Following the peaceful transition from Kenyatta to his Vice President, Daniel arap Moi, a member of the Kalenjin tribe, inequalities in funding, distribution of land, infrastructure, and other resources continued, with elites from the Kalenjin tribes now receiving the favors. An attempted coup d'etat was crushed by Moi loyalists in 1982, leading to Moi's entrenchment and continued use of tribal politics throughout the 1980s,

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[211] Makoloo, *Minorities, Indigenous Peoples, and Ethnic Diversity*, 24–25.

[212] Arthur Hazlewood, *The Economy of Kenya: The Kenyatta Era* (Oxford, UK: Oxford University Press, 1979), 46.

[213] Forty-three Luo were killed in a crowd that reportedly threatened the security of the KANU leader, Kenyatta, during his visit to Kisumu (political headquarters of the Luo).

[214] Barasa Kundu Nyukuri, *The Impact of Past and Potential Ethnic Conflicts on Kenyan's Stability and Development* (Nairobi, Kenya: University of Nairobi, 1997), 10.

[215] Githu Muigai, "Jomo Kenyatta and the Rise of the Ethno-nationalist State in Kenya," in *Ethnicity and Democracy in Africa*, eds. Bruce Berman, Dickson Eyoh, and Will Kymlicka (Oxford, UK: James Currey, 2004), 215.

to include the detention and exile of prominent leaders from the previous regime.[216] It was only in the wake of substantial pressure by foreign trading partners and donor agencies that Moi allowed the Constitution to be amended in 1991, leading to the re-emergence of political parties.

However, multiple parties were engineered to favor Moi, who also incited ethnic tensions to justify eliminating opposition groups wherever they gained strength. Despite losing credibility after his riot police shot and killed protesters on July 7, 1990, Moi again unleashed violence in 1991 resulting in nearly 2,000 killed and tens of thousands displaced in the western part of Kenya. By inciting violence and using the aforementioned tactics, Moi was able to attain re-election by a slim margin in the 1997 elections, and was finally constitutionally prohibited from running only in 2002.[217]

As the 2002 elections approached, the government has "completely eliminated ethnicity from the legislature, aggregated statistics instead on the basis of gender and age, and occasionally based on province or rural versus urban."[218] The general election in 2002 signified a changing of the guard that many thought would finally bring a "system of governance that would have accountability through shared power."[219] A new alliance of political parties formed which accounted for all of the major Kenyan tribes. This National Rainbow Coalition (NARC) soundly defeated the Kenya African National Union (KANU), which had been Kenya's ruling party since independence.

Mwai Kibaki, formerly vice president under Moi, won the presidential election by forging a memorandum of understanding (MOU) between the tribal factions within NARC to alter the constitution within 100 days, limit the power of the executive, and reverse years of oppression, corruption, and hurtful economic and social policies.[220] Although Kibaki did introduce measures to liberalize the media, implemented primary education and street-child rehabilitation programs, and installed an anti-corruption

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[216] E. S. Atieno Odhiambo, "Hegemonic Enterprises and the Instrumentalities of Survival: Ethnicity and Democracy in Kenya," in *Ethnicity and Democracy in Africa*, eds. Bruce Berman, Dickson Eyoh, and Will Kymlicka (Oxford, UK: James Currey, 2004).

[217] Kenney, "Multi-Ethnicity and Democracy in Kenya," 40.

[218] Kenney, "Multi-Ethnicity and Democracy in Kenya," 44.

[219] Roberts, "Conflict Analysis of the 2007 Post-election Violence in Kenya," 3.

[220] Kenney, "Multi-Ethnicity and Democracy in Kenya," 41.

commission,[221] trust in him eroded as the MOU's promises related to government positions for key partners went unfulfilled.[222] As a result, in November 2005, Kibaki's proposed constitution was rejected, and it would be another five years before a new one would be proposed.

Despite the opportunity granted him to restructure Kenya's system of governance with more decentralized power-sharing, once elected Kibaki attempted to organize elite power-sharing only within the executive branch. This undermined his government's legitimacy. Consequently, Kibaki's main challenger in the 2007 elections, Raila Odinga and the Orange Democratic Movement (ODM), promised to return to a federal system (*majimbo*[223]). They rejected Kibaki's centrally controlled devolution of authorities.[224] Thus, although the violence that resulted after the rigged 2007 elections has been tied both to unemployed youth who had been barred from protesting the election results and unresolved land disputes between Kalenjins and their Kikuyu neighbors,[225] the violence has also been emblematic of a popular desire to minimize ethnic favoritism by returning a certain degree of power-sharing from the executive to a more local level.

3. Consociationalism and Devolution of Governance in Kenya

Although Kenya was classified as a "special and somewhat limited version" of a consociational democracy, even before the introduction of a multi-party system in 1992, [226] its governance is better described as a "hegemonic exchange" rather than a power-sharing institution.[227] In theory, while the central government and its cabinet consist of a grand coalition of representatives from the various ethnic groups, and representation

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221 Kenney, "Multi-Ethnicity and Democracy in Kenya," 41.

222 Roberts, "Conflict Analysis of the 2007 Post-election Violence in Kenya," 3.

223 *Majimbo* in Swahili has been used to refer to federalism with regions or districts, and also to tribalism.

224 Kenney, "Multi-Ethnicity and Democracy in Kenya," 43.

225 Roberts, "Conflict Analysis of the 2007 Post-election Violence in Kenya," 14.

226 Dirk Berg-Schlosser, "Elements of Consociational Democracy in Kenya," *European Journal of Political Research* 13 (1985): 107.

227 Donald Rothschild and Michael Foley, "African States and the Politics of Inclusive Coalitions," in *The Precarious Balance: State and Society in Africa*, eds. Donald Rothschild and Naomi Chazan (Boulder, CO: Westview Press, 1988).

extends to the district level, segmental autonomy is absent. Proportional representation has been achieved through "plurality elections in single-member districts that follow settlement patterns of the geographically concentrated ethnic groups."[228] Additionally, allocation of finances and public sector jobs roughly follow the proportionality of the elected representatives, but there is no formal mutual veto. Therefore, while ethnic and other traditional social factors seem to affect the apportionment of administrative boundaries, the central government and its executive have been entrusted to maintain a legitimate balance of power between the major ethnic tribes vying for representation.

Although this system of proportional representation emphasizes elites as the segments responsible for representing the interests of their constituents, the link between key ethnic leaders as cabinet members and their ethnic groups has been dubious at best.[229] In reality, even after the introduction of a multi-party system, "the presence of intra-party competition at the local level contribute[d] little to ethnic proportionality in parliament, and even less to ethnic balance in the cabinet."[230] Despite an attempt by leaders to create the perception of proportional representation, the unbalanced authorities in the executive branch and the glaring absence of segmental autonomy have inevitably enabled corruption by individuals in the central government and favoritism towards some ethnicities and tribes over others.

Although Kibaki pledged to devolve powers downward and dilute the powers of the presidency, he rejected a March 2004 draft of the constitution that proposed "dividing the nation into regions, districts, divisions and locations, with (directly/indirectly) elected governments at each level" as well as "defining the President as the head of the state and the Prime Minister as the head of the government."[231] According to a 2005 Minority Rights Groups International (MGRI) report, for instance, nine districts received 44% of the nation's total funds for development, while the remaining fifty districts shared the

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[228] Bogaards, "Power-sharing Parties," 14.

[229] Berg-Schlosser, "Elements of Consociational Democracy in Kenya," 100.

[230] Bogaards, "Power-sharing Parties," 15.

[231] Balakrishna Menon, James Mutero, and Simon Macharia, "Decentralization and Local Governments in Kenya," December 2008, accessed October 21, 2012, http://aysps.gsu.edu/isp/files/ispwp0832.pdf, 10.

other 56%.[232] Such differences in resource allocation exacerbated ethno-regional inequalities and have caused Kenya to be listed as one of the ten most unequal countries in the world, and among the top five in Africa.[233] In the wake of the 2007 political crisis, the extent of ethnic divisions and the need for constitutional reform became even more apparent.

In the aftermath of the post-election violence and with the assistance of UN Secretary General Kofi Annan, both the opposition party (ODM) and Kibaki's Party of National Union (PNU) signed the Kenya National Accord and Reconciliation Act of 2008. Acknowledging the erosion of public trust and confidence, the agreement signaled an attempt to resolve the situation by creating trust among the elites first, followed by the citizens, and in particular between the warring communities—the Kikuyu and the Kalenjin.[234] However, the two parties were unable to agree on some of the protocols surrounding the proposed structural changes to the executive which was to be comprised of an executive President and Vice President, an executive Prime Minister and two deputies, and a Cabinet appointed from elected members of the Parliament.[235] As a result, the diminution of both presidential and central government powers, and provisions for a substantive devolved government, were not approved until a 2010 referendum on the constitution.

The August 27, 2010 Constitution grants Parliament up to five years to enact general legislation and create institutional structures necessary for implementing the constitution in its entirety. Kenya's Parliament has already enacted legislation dealing with the devolution of governance that is aimed to achieve the following objectives (outlined in Article 174 of the constitution):

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[232] MGRI, Minority Rights Group International Report (2005), April 13, 2005, accessed October 21, 2012, http://www.minorityrights.org/1050/reports/kenya-minorities-indigenous-peoples-and-ethnic-diversity.html.

[233] Society for International Development, "Pulling Apart: Facts and Figures on Inequality in Kenya," 2004, accessed October 21, 2012, http://www.sidint.net/docs/pullingapart-mini.pdf.

[234] Documents produced under the Kenya National Dialogue and Reconciliation Conference can be found at http://www.dialoguekenya.org/.

[235] Karuti Kanyinga, "Hobbling along to Payoffs: The Kenya Grand Coalition Government," April 2009, accessed October 21, 2012, http://www.american.edu/sis/africacouncil/upload/Paper-2a-Kenya-coalition_govt-Kanyinga-draft.pdf, 8.

- Promoting democratic and accountable exercise of power;
- Fostering national unity amidst diversity;
- Enabling self-governance of the people towards their interrogation of the State;
- Recognizing the right of communities to self-management and development;
- Protecting and promoting the rights and interests of minorities and marginalized groups;
- Promoting socio-economic development;
- Ensuring equitable sharing of national and local resources;
- Rationalizing further decentralization of State organs; and
- Enhancing checks and balances.[236]

Beyond these stated objectives, the 2010 Constitution attempts to redress failures associated with Kenya's previous experiences with local government by establishing 47 county governments with clearly defined structures, mandates, and rights granting people greater control over how they and their resources are governed.[237] In addition to functions previously delivered by local authorities, the county governments now manage local health services and agricultural extension and livestock services, while the national government still retains authorities for primary and secondary education.[238] While a lack of some devolved authorities and functions may appear to de-legitimize local government, an iterative process of devolution may yet provide greater long-term legitimacy and stability by ensuring that lower levels of governance have the resources and capabilities to effectively manage particular functions as they are assigned. Ultimately, however, the constitutional changes must also coincide with increased public participation in local decision-making; constituents need to understand the importance of their role in micro-level issues of governance.

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[236] Othieno Nyanjom, *Devolution in Kenya's New Constitution* (Nairobi, Kenya: The Regal Press Kenya Ltd., 2011), 10.

[237] Institute of Economic Affairs, *A Guide for Understanding Decentralization in Kenya* (Nairobi, Kenya: Pann Printers Ltd., 2011), 10–12.

[238] Jamie Boex and Roy Kelly, "Fiscal Decentralization in Kenya: A Small Step or Giant Leap?" *IDG Policy Brief*, May 2011, accessed October 21, 2012, http://www.urban.org/publications/412332.html, 2–3.

4. Summary of Findings

Kenya is trending toward instability if one compares the Conflict Indices between 2006 and 2011. This is a direct reflection of the political violence following the 2007 general election. Overall our analysis reveals that the following characteristics have resulted in greater instability since Kenya's independence:

- Unbalanced power, lack of accountability, and lack of transparency of the executive branch.
- Election fraud and lack of legitimacy even with a pluralist presidential election.
- Absent or poorly constructed segmental autonomy of local and regional governments.
- The grand coalition in central government did not fairly represent all local ethnicities or tribes.
- Unequal distribution of economic development, job creation, and land apportionment by the central government.

Although the legitimacy and stability of Kenya's system of governance has suffered setbacks as a result of the post-election crisis and the externally-driven peace and constitutional reform process, the ongoing implementation of the 2010 Constitution signals that Kenya is on the right track toward a legitimate government and more stabilized society. The following propositions either reflect provisions in the 2010 Constitution or thematic reforms that would further stabilize the Kenyan government in the years to come:

- The electoral framework should reflect proportional representation and minimize the power of an executive that does not represent the majority of the population. The Judiciary branch should be empowered to arbitrate and certify election processes and results.
- The balance of power must shift from the executive to include the legislative and judicial branches.
- Each coalition party must represent a minimum number of different ethnicities and it must exist for a minimum period of time before promoting candidates.
- Ethnicity and group identity concerns should be gradually delegated by the central government to local authorities.

- An iterative process of devolving power to local governments and their constituents as they become capable of handling the functions should be implemented.
- Civil society and economic stakeholders must be involved in the negotiations about institutional reforms and economic policy, land acquisition, and job-creating programs.
- The central bank should be more independent of the executive branch to reduce the influence of electoral politics on macro-economic decisions.
- All Kenyans should have access to census data, as well as to how funds are allocated and services distributed down to the smallest level.

E. LEBANON

Since its independence in 1943, Lebanon has frequently been subjected to the tensions emanating from multiple regional fault lines that include Sunni/Shi'a, Arab/Iranian, Arab/Israel, Christian/Muslim, and Western/Islamic differences.[239] Given deep underlying fissures in Lebanese society, Lebanon adopted the consociational model of democracy and has retained it to the present day. However, Lebanon's consociationalism was not able to prevent the 15-year-long civil war (1975–1990), or domestic political instability and continued external interference in domestic politics.[240] The country has undergone consistent deterioration according to the stability ranking in the Failed State Index since 2006.[241] Lebanon is, therefore, a deviant case for the success of consociational democracy in deeply divided societies. After a brief analysis, of Lebanon's diversity and its political history since independence, we will examine the reasons for the failure of its consociational framework.

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[239] William Harris, "Republic of Lebanon," *The Government and Politics of the Middle East and North Africa, Sixth Edition*, ed., David E. Long, Bernard Reich, and Mark Gasiorowski (Boulder, CO: Westview Press, 2011), 263.

[240] Samir Makdisi, Fadia Kiwan and Marcus Marktanner, "Lebanon: The Constrained Democracy and Its National Impact," *Democracy in the Arab World: Explaining the Deficit*, ed., Ibrahim Elbadawi and Samir Makdisi (New York, NY: Routledge, 2011), 115.

[241] Refer to 'Case Selection Criteria' in Chapter 1.

1. Cultural and Ethnic Diversity in Lebanon

In the tumultuous history of the Middle East, Lebanon represents a unique coalescence of Muslim and Christian communities and of Western and Islamic influences. Presently, most Lebanese are Arab, with nearly 60% Muslim (55% Shi'a and 45% Sunni), almost 39% Christian (Maronites), and a sprinkling of Druze (who are mostly Muslim).[242] These three principal religious communities can be further broken down into 18 recognized religious sub-sects. The proportions among these groups and sects, and the associated political influence that they have sought to exert, have been constantly changing due to varying social conditions among them over time. Lebanon's demography has also been affected by a large influx of Palestinian refugees since 1948. These refugees are mostly Sunni Muslims (Sunnis account for nearly 90% of the 350,000 Palestinians in Lebanon). Despite opposition from resident Maronites and Lebanese Muslims, a large number of these Palestinians were granted citizenship in 1992 under Syrian pressure.[243] This further exacerbated the already unstable divisions in society. In Lebanon, religion is more than a belief system; it is a major determinant of individual and family identity, with people only remotely connected to an overarching national identity.[244]

2. Evolution of the Governance Framework

One might say that sectarian divisions made consociational democracy a logical if not the only choice for Lebanon.[245] The consociational model was first embodied in the 1926 Constitution when Lebanon was still a French colony. Key features of this Constitution included ensuring freedom for all religious communities and proportional representation to ensure power-sharing among them, albeit in a provisional manner.[246]

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[242] Harris, "Republic of Lebanon," 239.

[243] Harris, "Republic of Lebanon," 240.

[244] Harris, "Republic of Lebanon," 239.

[245] Samir Makdisi and Marcus Marktanner, "Trapped by Consociationalism: The Case of Lebanon," Paper presented in American University of Beirut, 2009, 2, accessed on 23 Sep 2012, http://www.luc.edu/orgs/meea/volume11/PDFS/Paper-by-Makdisi&Marktanner.pdf.

[246] Makdisi, Kiwan and Marktanner, "Lebanon," 130.

On gaining independence in 1943, a National Pact was signed by Christian Maronite and Muslim leaders. This pact was honored until 1975. The following key features reflect the consociational nature of Lebanese power-sharing at the time:

- There exists an oral agreement about the distribution of top posts, wherein the president was to be a Maronite, chosen by parliamentary vote for a single six-year term. In a non-binding consultation with the parliamentary deputies, the President would nominate a Sunni Muslim as prime minister. The prime minister was to form a cabinet with a proportional representation of Christians and Muslims (50% Christians and 50% Muslims/Druze). The speakership of the Chamber of Deputies went to a Shi'a and his deputy was to be an orthodox Christian. The same principle of proportional representation applied to Ministerial portfolios, and all major appointments in the executive, legislature, and judicial branches. In the armed forces, the army commander was to be a Maronite with the other service chiefs to come from other religions.[247]
- Parliamentary seats in the legislature (Chamber of Deputies) were distributed in the ratio of six to five favoring the Christian majority. Deputies came from geographical districts and each district had a specified number of seats allocated on the basis of religion.[248]
- Veto power existed for all communities due to the requirement that there be a two-thirds majority vote on issues related to power-sharing and changes to the governance structure.[249]

This power-sharing formula endured until 1975. The framework broke down under sectarian pressure resulting from demographic shifts, with the growth in the Muslim population, among the Shi'a in particular, combined with the intrusion of broader Middle Eastern politics.[250]

The civil war ended with the Taif Accords of 1989, provisions of which were formally incorporated into the constitution in 1990. Changes included a readjustment of the power-sharing formula among the two main religious groups from a six to five ratio to equal parliamentary representation; fundamental issues that required a two thirds majority vote were elaborately specified; the powers of the president were curtailed, while those of the prime minister, the council of ministers, and the speaker of the house

[247] Harris, "Republic of Lebanon," 246.

[248] Harris, "Republic of Lebanon," 246.

[249] Makdisi, Kiwan and Marktanner, "Lebanon," 131.

[250] Makdisi, Kiwan and Marktanner, "Lebanon," 131.

were strengthened; and religious quotas for administrative appointments were abolished except for some senior positions. While most of the provisions introduced by the Taif Accords have been implemented, many important ones still have not received sufficient attention. These include steps to eliminate confessionalism (distributing political and institutional power proportionally among religious communities) and the introduction of administrative decentralization.[251] Although Lebanon continues to have consociational democracy, the country has remained politically fragile, under constant tension from sectarian agendas and external influences.

3. Reasons for Instability

While acknowledging the fact that, in theory, consociationalism may have been a suitable model for a country like Lebanon, many studies have found fault with how it has been applied. Consequently, instability is said to exist for the following reasons:

a. Rigidity of the Confessional Power-Sharing Arrangement

The rigid confessional power-sharing arrangement that was adopted has not been able to accommodate changes in the broader environment.[252] In 1943, a slight advantage was given to the Christian groups, in particular the Maronites, over the Muslim components of the Lebanese society, based on the fact that a population census conducted in 1932 recorded a slight majority of Christians. However, Christians have had a low birthrate and higher emigration than Shi'a Muslims, resulting in a radical shift in the demographic balance over the decades. This demographic reality did not correspond with a suitable change in the power-sharing formula which has assumed a fixed ratio of Muslims to Christians since 1943. Consequently, Christians continued to enjoy disproportionately greater power in comparison to the Muslim majority, a fact that has repeatedly destabilized the nation. The Taif Accords altered the power-sharing

[251] Makdisi, Kiwan and Marktanner, "Lebanon," 135.

[252] Imad Salamey, "Failing Consociationalism in Lebanon and Integrative Options," *International Journal of Peace Studies* 14, no.2 (Autumn/Winter 2009):99, accessed on 23 Sep 2012, http://www.gmu.edu/programs/icar/ijps/vol14_2/SALAMEY%20-%2014n2%20IJPS.pdf.

arrangements to meet post-conflict needs in 1989, but the government's confessional nature has remained the same.

b. Confessionalism and External Interventions

Elite power-sharing based on confessionalism (also called corporate consociationalism) has led to sectarian-based power-sharing arrangements that are not only hard to adapt to a rapidly changing national environment, but inhibit formation of a national identity.[253] Sectarian elites are constantly subject to regional interventionism born of broader regional conflicts and enmities. The influx of Palestinian refugees and Syrian hegemonic interference for nearly 30 years has further exacerbated this situation. Unfortunately, one of the unimplemented provisions of the Taif Accords is the establishment of institutional structures to eliminate confessionalism.

c. Over-Centralization of Power

Prior to the Taif Accords, the President was bestowed with overwhelming powers that included the ability to dissolve the cabinet. This was rectified to a large extent by shifting power away from the president to a cabinet equally divided between Christians and Muslims. However, the accords failed to deal effectively with the rigidity of proportionality within the system, particularly as the Christians have sought to hold onto power, and the Muslims have sought to gain more power.[254]

d. Lack of Administrative Decentralization

Lebanon is highly centralized administratively, which permits the sectarian political elite at the center to dole our preferential treatment to individual communities. Identifying this as a factor that prevented the formation of cross-cutting cleavages, the Taif Accords called for administrative decentralization. Unfortunately, this remains unimplemented to date.

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[253] Imad Salamey, "Failing Consociationalism in Lebanon and Integrative Options," 99.

[254] Salomé Marjanne Teuteberg, "The Endurance of Lebanese Consociational Democracy," (Master's Thesis, University of Stellenbosch, 2011), 95, accessed on 23 Sep 2012, http://scholar.sun.ac.za/handle/10019.1/6577.

Salamey, in his prescriptive analysis of Lebanese consociationalism, suggests that the way to evolve integrative consociationalism is to introduce bicameralism, a suitable electoral system to encourage formation of secular parties, and administrative decentralization. He argues that these reforms can preserve sectarian communal interests while, at the same time, accommodating permanently changing communities and respecting individual citizenship. The integrative consociational option is likely to moderate the appeal of sectarianism in favor of cross-cutting cleavages resulting in national cohesion and political integration.[255] Development and economic upliftment driven by decentralized administrative institutions are also likely to encourage formation of multi-religious groups at the grassroots level. This would further reduce the tensions arising out of sectarian power-sharing and reduce incentives for the elite to be influenced by external powers.[256]

4. Conclusion

Lebanon presently faces the fundamental challenge of strengthening domestic political stability and promoting equitable socio-economic growth while shielding itself from destabilizing external influences.[257] Political stability is likely to be achieved by eliminating confessionalism in a systematic manner and promoting decentralized governance that would ultimately lead to the formation of cross-cutting non-sectarian cleavages.

F. BOSNIA AND HERZEGOVINA

Following the Socialist Federal Republic of Yugoslavia's disintegration, the ensuing civil war in Bosnia-Herzegovina from 1992 to 1995 marked another chapter in a long history of ethnic conflict in the Balkan region. Not dissimilar from conflicts in the other five semiautonomous republics of the former Yugoslavia, the atrocities and instability in Bosnia resulted from the heterogeneous nature of a society that includes

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[255] Imad Salamey, "Failing Consociationalism in Lebanon and Integrative Options," 99.

[256] Makdisi, Kiwan and Marktanner, "Lebanon," 135.

[257] Makdisi, Kiwan and Marktanner, "Lebanon," 137.

three distinct ethnicities and their corresponding religions: Muslim Bosniacs, Roman Catholic Croats, and Orthodox Christian Serbs.[258] In November 1995, after persistent international pressure, the warring groups met in Dayton, Ohio to initiate a peace settlement brokered by the United States, Germany, France, Britain, and Russia.

In some ways, the weight of diplomatic pressure that molded the outcome of the General Framework Agreement for Peace in Bosnia-Herzegovina (GFAP), otherwise known as the Dayton Accords, set a precedent for the role diplomatic pressure would play in the 2001 Bonn Conference on Afghanistan's future. Although the two conferences ended with drastically different governance structures, in both instances the interests of the international community at-large outweighed the value of achieving consensus and social fit consistent with local history and culture. For instance, rather than emerging from the Dayton agreement with an acceptable plan for a legitimate post-conflict government to move towards long-term future stability, the Serbs, Croats, and Bosniacs all either denied that they had signed the agreement or claimed that they had been coerced into signing it without agreeing to its provisions.[259] Although the Dayton Peace Accords, along with the presence of United Nations peacekeeping troops, effectively ended the violence between the parties, the complexity and ambiguity of the agreement has resulted in a system of democratic governance featuring political stalemate and institutionalized ethnic tensions.

1. Stability after the Dayton Accords

Given the fact that Bosnia is the third most ethnically fractionalized country in Eastern Europe and among the most fractionalized in the world (outside of Africa),[260] and considering the nature of the civil war that preceded the Dayton Accords, Bosnia's

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[258] Andre Gerolymatos, *The Balkan Wars: Conquest, Revolution, and Retribution from the Ottoman Era to the Twentieth Century and Beyond* (New York, NY: Basic Books, 2003), 4.

[259] Ambassador James F. Dobbins et al., *America's Role in Nation-Building: From Germany to Iraq* (Santa Monica, CA: RAND Corporation, 2005), 91.

[260] James D. Fearon, "Ethnic and Cultural Diversity by Country," *Journal of Economic Growth* 8 (2003): 216.

improved stability between 2006[261] and 2011[262] is a remarkable success. However, while two of the stability indices associated with ethnic fractionalization have decreased (signaling an increase in stability), the index associated with a "rise of factionalized elites" has increased sharply (signaling a decrease in stability). This mixed message is, in part, a consequence of the role external actors played in managing the post-conflict power-sharing agreement. Instead of brokering an agreement that would facilitate cross-cutting ties between ethnicities, "the EU (through its various representatives) directly deconstructed the institutions of the state it aimed to develop" by "supporting the method of political decision-making in which the leading party officials, as *ethnic leaders* and not as heads of institutions, played the major role."[263] The European Commission itself reports that ethnicity is one of the main forces behind obstructing access to social protection, health care, and schooling, regardless of citizens' ethnic, religious, or racial background.[264] Thus, while group grievances may not reflect previous levels of ethnic tension, the potential for conflict persists due to political frictions among factionalized elites. The resulting inefficiency affects the provision of basic services to the population.

Although the obstacles to effective economic development and provision of social services can affect various groups' perceptions of equality and, ultimately, of a government's legitimacy, most of the concerns have to do with the intricate and complicated set of constitutional arrangements that encourage greater divisions in society. Since the proportional elections held for the lower (people's) house in 1996, leaders have resorted to mobilizing support by emphasizing "radical sectarian appeals"

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261 "The Failed States Index 2006," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi-grid2006.

262 "The Failed States Index 2011," *The Fund for Peace*, accessed October 21, 2012, http://www.fundforpeace.org/global/?q=fsi2011.

263 Eldar Sarajlic, "The Convenient Consociation: Bosnia and Herzegovina, Ethnopolitics and the EU," 2010, accessed October 21, 2012, http://www.law.ed.ac.uk/file_download/publications/0_1643_theconvenientconsociationbosniaandherzeg.pdf, 71.

264 European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, *Social Protection and Social Inclusion in Bosnia and Herzegovina*, July 2008, accessed October 21, 2012, http://www.feantsa.org/files/press_and_communication/bosnia_herzegovina_en.pdf.

and "electors [have] cast ballots strictly along ethnic lines."[265] Additionally, studies have indicated that, despite the successful return of "as many as one million refugees and displaced persons" to their prewar homes, even with 390,000 returning to places controlled by an ethnic group other than their own,[266] population shifts after the Dayton Accords led to fewer multiethnic communities.[267] Consequently, some believe the EU prefers a social and political arrangement that creates strong ethno-political leaders "capable of delivering a political outcome conducive to wider principles of regional (or even continental) stability" rather than "bringing the country closer to final integration."[268]

While a short-term focus on establishing a consensus between ethno-political elites may have been a necessary first step for the peace building process in the immediate aftermath of civil war, the accentuation of societal divisions via a fixed constitutional arrangement could well jeopardize more long-term and integrative stability.

2. Consociationalism and Power-Sharing in Bosnia's Constitution

The 1995 Dayton Peace Accords established Bosnia and Herzegovina as a "special-type consociational state" or an "asymmetrical confederation" composed of two entities: the unitary Republika Srpska (The Republic of Srpska or RS) and the multiethnic Federation of Bosnia and Herzegovina (FBiH).[269] Each possesses all of the typical functions of a complex state: "territory, population, citizenship, constitution, parliament, government, judiciary, administrative system, military, police, official

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265 Pippa Norris, *Stable Democracy and Good Governance in Divided Societies: Do Power-sharing Institutions Work?* January 18, 2005, accessed October 21, 2012, http://www.hks.harvard.edu/fs/pnorris/Acrobat.Powersharing%20solutions.pdf, 9.

266 U.S. Committee for Refugees and Immigrants, "World Refugee Survey 2003 - Bosnia and Herzegovina," June 1, 2003, accessed October 21, 2012, http://www.unhcr.org/refworld/country,,USCRI,,BIH,,3eddc4962,0.html.

267 Ben Reilly and Andrew Reynolds, *Electoral Systems and Conflict in Divided Societies* (Washington, DC: National Academy Press, 1998), 30; Susan L. Woodward, "Bosnia and Herzegovina," in *Civil Wars, Insecurity and Intervention*, eds. Barbara F. Walter and Jack Snyder (New York, NY: Columbia University Press, 1999), 96.

268 Sarajlic, "The Convenient Consociation," 72.

269 Mirjana Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" *Political Institutions and Political Processes* XLII, no. 5 (2005), 3–4.

languages, flag, coat of arms, anthem, and so on." Meanwhile, the central state institutions are limited to controlling "foreign policy and trade, customs, monetary and migration policies, air-traffic control, the implementation of international obligations and regulations, [and] the regulation of transport between the entities."[270]

At the state level, the Parliamentary Assembly is composed of two chambers: the House of Representatives with membership reflecting entity proportionality and the House of Peoples following the principle of entity and ethnic parity. Meanwhile, the national government, called the Council of Ministers, has a membership based on entity proportionality with the Chair appointed by the three-member State Presidency. Thus, a grand coalition government is formed, "consisting of the parties of all three national segments."[271] In addition to proportional representation in the executive and legislative branches, even the Human Rights Court and each federal court must have an equal number of judges representing each ethnicity according to parity.[272] In other words, proportionality and parity are used to meet the proportional representation principle both between entities and across ethnicities.

Finally, a mutual veto power belongs to the President of each of the three predominant ethnic groups who may "declare a [legislative] decision to be destructive of a vital interest of the entity" which he or she represents. If such a claim is made, the Presidency Decision will not take effect if it is overruled by a two-thirds vote in the National Assembly of the Republika Srpska or in the federal House of the Peoples.[273] Due to the degree to which this consociational system effectively implements an ethnic democracy, laborious consensus-building often becomes a rudimentary part of legislation at all levels.

Due to its largely monoethnic composition, the RS's power is highly centralized. In contrast, the FBiH consists of ten cantons which "have their own constitutions, parliaments, governments, administration, courts, police forces, and so on."[274] Of the ten

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[270] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 4.

[271] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 4-5.

[272] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 5.

[273] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 6.

[274] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 4.

cantons, five have Bosniac majorities, three have Bosnian Croat majorities, and two (Central Bosnia and Herzegovina-Neretva) have demographically mixed populations. Consequently, with a requirement of support from at least one-third of each group to pass legislation through the House of Representatives, there have been plenty of obstacles to enacting laws at the canton level in the FBiH in contrast to the RS. As a result of this discrepancy, a 2002 Constitutional Court ruling "mandated the representation of the three groups at all levels of government" and facilitated greater representation of Serbs in the FBiH and Croats and Bosniacs in the RS.[275] What we find, then, is that the consociational principle of segmental autonomy has been constitutionalized at the state level in the form of the two entities and at the federal level in the form of the cantons, with an attempt also being made to artificially infuse proportional representation throughout both entities in order to essentially legitimize the rigid ethnic quotas that the constitution requires.

While the Bosnian constitution is consociational in nature, its institutionalized power-sharing arrangement adds debilitating complexity and rigid ethnic quotas that place it closer to an ethnic democracy than a consociational one. Essentially, post-Dayton Bosnia consists of "one state, two entities, three peoples, four million citizens, and five layers of governance led by 14 prime ministers and governments."[276]

In addition to having a state with the world's highest combined number of presidents, prime ministers, and Cabinet ministers, the central government is excessively decentralized, to the point where it initially consisted of only eight ministries and is still dependent on the two entities for budgetary transfers.[277] As if this complexity were not enough, achieving conformity across these multiple levels can be stifled by the internationally appointed Office of the High Representative (OHR) which is responsible for supervising implementation of the civilian aspects of the Dayton Peace Accords.

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[275] Allison McCulloch, "Seeking Stability amid Deep Division: Consociationalism and Centripetalism in Comparative Perspective" (PhD thesis, Queens University, 2009), 151.

[276] Robert Belloni and Shelly Deane, "From Belfast to Bosnia: Piecemeal Peacemaking and the Role of Institutional Learning," *Civil Wars* 7, no. 3 (Autumn 2005): 231.

[277] Belloni and Deane, "From Belfast to Bosnia," 231.

In 1997, not long after the accords were adopted, the OHR was granted the power to confirm or deny public appointments, impose legislation, and remove public officials considered obstructionists to progress.[278] Although the OHR, funded by a Peace Implementation Council (PIC) representing some fifty-five countries and international organizations,[279] might have initially been intended to serve as a referee for the laborious process of implementing Bosnia's complex constitution,[280] its powers have not subsided, and it has become a hindrance to Bosnia's continued progress. For example, stern "warnings" by the OHR about necessary constitutional changes have resulted in economic, social, and political consequences for Bosnia, particularly as a result of constitutional flaws revealed in the 2009 Sejdic-Finci case.[281] This is so despite rare overwhelming political consensus among Bosnian elites to join the EU.[282]

While it is clear that Bosnia seems to be "reaching the limits of its Dayton constitution," withdrawing Bosnia's nomination to the EU on account of constitutional flaws that require a substantial overhaul could "be the first in many steps backwards."[283] Accession into the EU may, in fact, present the ideal impetus to form multiethnic cross-cutting ties and achieve constitutional reforms that have been neglected in the seventeen years since the Dayton Accords.

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[278] Center for European Integrative Studies, "An Agenda for Bosnia and Herzegovina's Last High Representative," January 26, 2006, accessed October 21, 2012, http://www.ceis-eu.org/publications/policy_briefs/2006/doc/02_2006_ceis_policy_brief.pdf.

[279] Calculated from Office of the High Representative, "OHR Introduction," accessed October 21, 2012, http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38519; Office of the High Representative, "General Information," accessed October 21, 2012, http://www.ohr.int/ohr-info/gen-info.

[280] McCulloch, "Seeking Stability Amid Deep Division," 151.

[281] In the Case of Sejdic and Finci v. Bosnia and Herzegovina, the court held that the ineligibility of minorities—such as the plaintiffs, Dervo Sejdic, a Roma, and Jakob Finci, a Jew—to contest election to the presidency violated Article 1 of Protocol 12, and that their inability to contest election to the House of Peoples violated Article 14 of the European Court of Human Rights (ECHR) with respect to Article 3 of Protocol 1. See Edin Hodzic and Nenad Stojanovic, *New/Old Constitutional Engineering: Challenges and Implications of the European Court of Human Rights Decision in the Case of Sejdic and Finci v. BiH* (Sarajevo, 2011) and "Second Class Citizens: Discrimination against Roma, Jews, and other National Minorities in Bosnia and Herzegovina," Human Rights Watch, April 2012.

[282] International Crisis Group, "Bosnia's Gordian Knot: Constitutional Reform," July 12, 2012, accessed October 21, 2012, http://www.crisisgroup.org/en/publication-type/media-releases/2012/europe/bosnias-gordian-knot-constitutional-reform.aspx, 1.

[283] International Crisis Group, "Bosnia's Gordian Knot," 15.

3. A Consociational Democracy in Transition?

Although the Bosnian constitution under the Dayton Accords has effectively institutionalized peace at the expense of political and economic growth, there is reason to believe that constitutional reforms can be made to achieve the right social fit to ensure the long-term stability of such an ethnically divided society. In 2005, the international community (primarily the U.S.) initiated a debate about constitutional reforms and applied some political pressure on domestic political actors. As a result, they created three major ethnic parties (SDA, HDZ, and SDS) and four smaller parties (SDP, SNSD, HNZ, and PDP), and in March 2006 began a two-stage reform of the constitution, referred to as the "American plan."[284]

While maintaining characteristics of proportional representation and a mutual veto at the entity and canton levels, the reforms attempted to shift the balance of power towards the central government "by increasing the powers of the Parliamentary Assembly and the Council of Ministers, and to a certain extent by the changes in the manner of electing those bodies and the decision-making processes in them."[285] Although the ensuing "April Package"[286]attempted to replace the three-member presidency with a weak indirectly elected president while transferring most executive powers to a strong prime minister, abolishing the House of Peoples, and transferring its functions to the House of Representatives, the ambitious attempt fell short of passage by two votes at the last minute "due to opposition from the splinter Croatian Democratic Union 1990 (HDZ 1990) and Bosniac hardliners in the Party for Bosnia and Herzegovina (SBiH, *Stranka za Bosnu I Hercegovinu*)."[287]

As the near passage of the American plan demonstrated, no matter how noble it was in theory, those seeking to pass it failed to acknowledge the need to secure its

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[284] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 23.

[285] Kasapovic, "Bosnia and Herzegovina: Consociational or Liberal Democracy?" 25.

[286] The Venice Commission did much of the technical work, while U.S. diplomats carried the amendments through negotiations with Bosnian leaders. "Draft amendments to the Constitution of Bosnia and Herzegovina," March 24, 2006, is available at http://www.ustavnareforma.ba/en.

[287] International Crisis Group, *Ensuring Bosnia's Future: A New International Engagement Strategy*, February 15, 2007, accessed October 21, 2012, http://www.crisisgroup.org/~/media/Files/europe/180_ensuring_bosnias_future.

legitimacy through a more bottom-up process that would decentralize certain aspects of governance. Nevertheless, the attempt at constitutional reform through an iterative process appears to be the best method for transitioning the country away from rigid and inefficient ethnic democracy to a more viable consociational model in the long run.

In terms of economic development, Bosnia-Herzegovina's recovery from war has been aided by more post-conflict international assistance per capita than we see in any other case.[288] Yet, despite the surge of international capital and an overall positive macroeconomic picture, "pre-war levels of per capita output have not been achieved."[289] Whereas international efforts have sought to stimulate economic growth anchored in fiscal and price stability, this top-down (macroeconomic) approach has produced socially polarizing growth rather than laid the foundations for more equitable development that would benefit the population as a whole.[290] Rebuilding Bosnia's economy primarily through the central government and a large central bank, while consistent with overall international governance objectives, has failed to address repercussions at the local level.

In their case study, Zupcevic and Causevic acknowledge that the "economy is not immune to the post-conflict ethnic divisions" and conclude that the six primary barriers to improved national competitiveness and faster economic development remain "inefficient administration, political instability, corruption, government instability, tax burden, and organized crime and theft."[291] The barriers to economic development suggest that the solution should involve more rather than less local control. However, the ultimate problem remains the "public perception of inequality as resulting from the type of growth, which has primarily benefited the elites, has reinforced the sense of

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[288] Vesna Bojicic-Dzelilovic, "Peacebuilding in Bosnia-Herzegovina: Reflections on the Development-Democracy Link," in *New Perspectives on Liberal Peacebuilding*, eds. Edward Newman, Roland Paris, and Oliver P. Richmond (New York, NY: United Nations University, 2009), 201.

[289] Bojicic-Dzelilovic, "Peacebuilding in Bosnia-Herzegovina," 208.

[290] Bojicic-Dzelilovic, "Peacebuilding in Bosnia-Herzegovina," 202.

[291] Merima Zupcevic and Fikret Causevic, "Case Study: Bosnia and Herzegovina," September 2009, accessed October 21, 2012, http://siteresources.worldbank.org/INTCONFLICT/Resources/BosniaFinal.pdf, 51.

disillusionment and also disengagement with the political process, including reducing participation in elections."[292]

As an alternative to externally imposed and top-down governance reform, others advocate for microfinance as the means to build longer-term cross-cutting ties within society. In fact, some describe Bosnia-Herzegovina as a "best-case scenario for testing the impact of microfinance initiatives" due to its post-conflict situation that includes a highly educated work force, a lack of capital for business start-ups, and weak political and economic institutions.[293] They point to two local initiative projects (LIP I and II) that successfully "influenced the entrepreneurial poor, strengthened the micro-credit organizations' (MCO) capacity for providing high-quality credit services to their clients, and had helped 'create or sustain more than 200,000 jobs in nearly 100,000 micro-businesses'"[294] Although it is hard to assess whether the overall microfinance experience has achieved broader social goals, such as integration, reconciliation, and inclusion, it has been considered successful as a "building block toward rebuilding a small- and medium-scale financial system,"[295] particularly given the limited resources involved, and especially in contrast with the large-scale initiatives coming from the central government.

4. Summary of Findings

The trend in Bosnia and Herzegovina toward increased overall stability and relative improvement of its economic position[296] seems to reveal a country that has successfully moved beyond its violent civil war and the tenuous post-conflict conditions settled by the Dayton Accords. However, it is unclear whether the existing governance framework, with such active international involvement, has established the conditions for long-term stability or has only achieved an internationally imposed and artificially

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[292] Bojicic-Dzelilovic, "Peacebuilding in Bosnia-Herzegovina," 211.

[293] Anne Welle-Strand, Kristian Kjollesdal, and Nick Sitter, "Assessing Microfinance: The Bosnia and Herzegovina Case," *Managing Global Transitions* 8, no. 2 (2010): 151.

[294] Welle-Strand, Kjollesdal, and Sitter, "Assessing Microfinance," 155.

[295] Welle-Strand, Kjollesdal, and Sitter, "Assessing Microfinance," 163.

[296] F. Causevic's calculations based on the World Bank Data shows a 76% increase in Bosnia's relative economic position from 2000 to 2007 in comparison to a 57% decrease from 1990 to 2000.

contrived armistice between the ethnic factions. The rigid institutionalization of an ethnic democracy, while adhering to consociational *principles*, has restricted the development of cross-cutting ties that ultimately produce the type of long-term stability that is optimal for a country's growth and well-being. While this strict formulation based on ethnic quotas may have been the only acceptable solution to end the conflict, Bosnia has made few alterations to its constitution in the seventeen years since signing the Dayton Accords. Despite a large-scale investment by the international community in Bosnia's economic development, the country's ability to be self-sufficient is questionable, and its accession into the European Union, a step that is desired by all parties, depends on significant constitutional reforms that are far from being realized. From the perspective of how to best move forward, Bosnia faces the same three potential options that it did at the time of the Dayton Accords:

- Division into three separate homogenous national states—the Bosniac, the Croatian, and the Serbian—with the Croatian and Serbian states immediately joining Croatia and Serbia.
- Amalgamation of the divided society into an undivided one through the assimilation of one or several segments.
- Acceptance of the divided society and establishment of a consociational democracy.[297]

Due to frustration with the implementation of the third option and the inability to conceive of the second option, some may believe that social fit necessitates adopting the first option.[298] While this may have the greatest likelihood of success, and so it should not be casually dismissed, there are indications that Bosnia *could* achieve social fit by pursuing a less stringent version of consociational democracy that allows the devolution of some powers that are currently retained at the central government or entity level to the canton or municipal level. With this in mind, we believe adopting the following measures would lead to a greater likelihood of enhanced legitimacy and long-term stability for Bosnia:

- To move beyond the rigid constitutionalization of ethnicity, the Bosniac, Croatian, and Serbian elites must negotiate an iterative approach towards de-

[297] Arend Lijphart, *Demokracija u pluralnim drustvima*, Skolska knjiga, Zagreb: Globus, 1992.

[298] Bishop and George, "Governing in Post-Conflict Society: Social Fit," 53.

ethnicizing the central government by decentralizing divisive aspects of decision-making over time.

- International oversight must be gradually withdrawn from Bosnia in order to allow political leaders to achieve legitimate governance solutions for the people.
- Constitutional reforms must be promoted with greater transparency; the aim should be to reduce complexity; and people must be able to directly elect their representatives rather indirectly elect representatives or select representatives from a particular ethnicity only.
- Territorial federalism, that does not depend on ethnic quotas or require artificial construction of mixed ethnicity in neighborhoods, needs to be strengthened for the sake of parity and proportionality.
- The central government's authority over the entities or states needs to be reduced even while the center retains a leader capable of a strong foreign policy and effective control over the military.
- Croats must be offered the means to influence state policy akin to that of Bosniacs and Serbs.
- A settlement needs to be negotiated that will allow Bosnia to enter the EU conditioned upon it taking certain steps toward constitutional reform.

V. CONCLUSION

What does establishing democracy mean? Although an international consensus in favor of democratic (as opposed to authoritarian) governments has existed since the Cold War, the United States and the international community at-large have maintained a spotty track record when it comes to actually establishing functioning and stable democratic institutions. While some of the failures can be attributed to a lack of adequate resources or insufficient time invested in implementation, the recent case of Afghanistan highlights the poignant reality that context matters.

Beyond the dilemma posed by Afghanistan, we have ventured to discover the necessary conditions under which governance in post-conflict ethnically divided countries can bring about stability. Although a number of factors have been attributed to a country's conflict (instability) index score,[299] our research has attempted to validate the tenets of consociational democracy and the notion that decentralization of governance is imperative in countries that are plagued by debilitating ethnic fractionalization. Specifically, we have proposed the following for such countries:

- When structures of governance account for existing ethnic diversity through autonomy, proportional representation, and a suitable coalition, stability is more likely since it will be bolstered via a balanced power-sharing agreement amongst the various stakeholders.

- By the same token, a centralized approach to the governance construct is likely to be less successful than a decentralized, "bottom-up" approach in ensuring enduring stability.

After reviewing six countries and how their governments have addressed inherent ethnic fractionalization, we can distinguish among them on the basis of: how cross-cutting ties were formed between the various divergent groups during the reconciliation process; the relative rigidity or flexibility of the constitutions towards institutionalizing ethnicity; the degree of proportional representation (PR) achieved; the extent of

[299] The Fund for Peace, "Conflict Assessment Indicators," 3.

segmental autonomy involved in their power-sharing arrangements; and according to the degree and nature of decentralization that occurred.

In the immediate aftermath of conflict and, in some cases, throughout a country's history, the reconciliation of inter-group grievances must be addressed. The duration and extent of the reconciliation process varies greatly from one country to another and depends not only on the degree of ethnic fractionalization, but the disparity between the competing ideas of the groups involved. In our analysis, we have found that some of the mechanisms which emphasized elite cooperation to secure cessation of the conflict succeeded in achieving short-term stability. However, long-term stability ultimately requires that cross-cutting cleavages in society be fostered by development of political parties or other groups that span sectarian divisions.

In Lebanon, for instance, elite power-sharing based on confessionalism has led to sectarian-based arrangements that have been unable to adapt to a rapidly changing national environment and have continuously inhibited the formation of a national identity. In the wake of its civil war, Bosnia employed a similar system with elite representatives of three ethnicities involved in the power-sharing arrangement to diffuse authorities and tensions. Although Bosnia's stability improved during the same period when Lebanon's declined, Bosnia's stability has also come at the cost of stifling movement towards a national identity. This situation can be described as one in which "purported solutions to ethnic conflict that take pre-democratic identities as fixed, such as partition, ethno-federalism, ethnic power-sharing, and the granting of group rights, may needlessly lock in mutually exclusive, inimical national identities."[300]

At the other end of the consociational spectrum—in Rwanda—the RPF engineered elite cooperation by nominating a Hutu President in the initial years following the conflict. This was consciously done as part of the process of reconciliation and as a first step towards stabilization. In India, elite cooperation was facilitated by the nationalist spirit that emerged from the independence movement. However, long-term stability in both cases relied on deliberate constitutional design which ensured the

[300] Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict (*New York, NY: W.W. Norton, 2000), 36.

formation of cross-cutting cleavages. What both cases suggest is the importance of avoiding institutionalizing a system of ethnic or ethno-religious quotas that only enhance societal divisions and inhibit economic development and necessary legislation. Instead, it makes sense to adopt a power-sharing agreement that ensures power alternates between groups (to avoid an entrenched status quo), or ensures groups evolve that do not have strict ethnic or religious identity. Both methods foster opportunities to form cross-cutting ties and thereby secure stability.

In addition to addressing group grievances and protecting groups from one another so as to prevent future conflict, the right constitutional design can play a pivotal role in accommodating diversity. While the constitution will directly impact power-sharing arrangements following conflict, it cannot become too tied to the divisive identities that it hopes to subsume over time. Although it is important to recognize that diversity is a foundational premise of consociational democracy, no constitution should aim to institutionalize diversity in a way that impedes consensus-building.

In India and Rwanda, constitution framers overcame the problem of diversity by including elements of subjectivity and abstention to deal with deep divisions in society. In India, this has left the lower levels of governance to deal with a multi-dimensional system of values and principles corresponding to the manifold needs of a diverse society. Debates related to ethnicity, culture, language, and caste were effectively thrust into the political arena, leading to politics of accommodation. Consequently, the legitimacy of political institutions, at every level, has been secured by electoral victory rather than through rigid ethnicity-driven appointments.

In Rwanda, the constitution is based on equitable power-sharing and governance by a pluralist democratic regime. All registered political parties are prohibited by law from organizing on an ethnic, regional, or religious basis. The constitution provides for legislative elections based on proportional representation, and it also ensures that the President of the Republic and the Speaker of the Chamber of Deputies shall belong to different political organizations (and not ethnic groups). We see a similar attempt to construct political parties that cut across ethnic or tribal affiliations in Kenya. However, in the case of Kenya, strong executive powers and a strong central government have

enabled elected figures to divorce themselves from the parties that nominated them, or divide the spoils with other elites within the central government.

At the more problematic end of the spectrum, Lebanon and Bosnia have constitutions committed to rigid power-sharing quotas between ethno-religious (Lebanon) or ethnic (Bosnia) groups, and the Human Rights Court has even gone so far as to regionalize diversity in otherwise homogenous areas (e.g. Bosnia's RS) to legitimize its contrived power-sharing arrangement. While such an artificial constitutional construct might appease groups in the short-term, it is ill-equipped to handle a dynamically changing population (which is Lebanon's challenge with confessionalism) or to further a transition beyond ethnicity (which remains a problem for Bosnia).

To achieve sufficient proportional representation, representatives in a bicameral parliamentary system should be chosen based on a suitable electoral system. Bicameral representation enables group representation in the upper house and geographic representation in the lower house. The parliamentary system (as opposed to the presidential system) is apt to "increase the degree of freedom that facilitates the momentous tasks of economic and social restructuring facing new democracies as they simultaneously attempt to consolidate their democratic institutions."[301]

We attribute the failure of the Lebanese consociational model to its plurality list-based system that encourages confessional elites to trade power with other elites across sectarian lines without soliciting votes from their respective social groups, thus discouraging cross-cutting cleavages. A similar occurrence can be seen in Afghanistan and Kenya where tribal leaders can make conciliatory pacts to achieve plurality outcomes that leave a majority of the population in heterogeneous districts (or regions) excluded from a legitimate PR outcome. Although the electoral systems in Afghanistan and Kenya both provide some form of geography-based PR in their legislatures, their strong presidential systems dictate the *de facto* political representation of the constituencies.

[301] Alfred Stepan and Cindy Skach, "Presidentialism and Parliamentarism in Comparative Perspective," in *The Failure of Presidential Democracy*, eds. Juan J. Linz and Arturo Valenzuela (Baltimore, MD: Johns Hopkins University Press, 1994): 120.

In contrast, India, Rwanda, and Bosnia all have different versions of a bicameral parliamentary system and use a combination of the PR and pluralist electoral systems. In India, which is a pure parliamentary system, the lower house is elected by a pluralist method using the SNTV, while the upper house is elected using the PR system. Rwanda adopted a combination of the presidential and parliamentary systems in which the members of the Chamber of Deputies and Senate are elected or appointed using the PR system. Meanwhile, members of Rwanda's Cabinet are selected based on PR according to political affiliations, with the number of Cabinet positions held by any one political organization to not exceed fifty percent. The President of the Republic, however, is elected by a pluralist vote.

In Bosnia, a rigid quota system of entity and ethnicity proportionality consumes the two houses of the parliament (legislative branch), the Council of Ministers (national government), and the Human Rights and Federal Courts (judicial branch). The influence of the three national segments even extends to the three-member State Presidency. While a pluralist system has been incorporated to some degree in all three countries for simplicity and ease of understanding among the electorate, the PR system in each country ensures the necessary representativeness.

Although India, Rwanda, and Bosnia have all attempted to move beyond PR based on ethnicity, India and Rwanda have achieved greater political unity across the different ethnicities than has Bosnia due to the differences in their constitutions. While Rwanda and Bosnia have instituted a mixed parliamentary and presidential system, India has instituted a purely parliamentary system. However, in contrast to Lebanon, Kenya, and Afghanistan, the aforementioned countries have achieved considerably more PR through a weakened executive branch that allows a greater degree of consensus-building.

Another constitutional feature which distinguishes the countries' governance structures is their accommodation of segmental autonomy while maintaining a national identity. India has adopted a flexible federal design that has been able to effectively accommodate its different region's aspirations. In order to facilitate peoples' desire for more homogeneity at the local level, India's Constitution allows people to revise segmental boundaries and add autonomous states with the approval of the central

government. India also empowers local governance and ensures inclusivity of all groups at lower levels within the states. This approach to segmental autonomy has consequently kept secessionist and separatist movements at the regional level, without affecting the national fabric.

India also provides a model for accommodating differences that are not regionally aligned and where territorial autonomy is not feasible. Respect for linguistic, cultural, and religious autonomy has been facilitated through a constitutional design that mandates personal and family laws (as determined by the religion, caste, etc.) be codified by an act of the parliament. India's many communally-specific and family laws, however, are superseded by a uniform civil code that is prescribed by the Constitution.

Like India, Bosnia has decentralized numerous governmental functions that are often reserved for national governments. It has thereby allowed ethnic and religious groups at both the entity and canton levels to determine laws consistent with their groups' values. However, Bosnia has done so, in many cases, at the expense of maintaining a strong national identity.

Rwanda's approach is quite different from both of these. Rather than constructing segmental autonomy according to ethnic or some other group identity, the Rwandan Constitution has resorted to de-ethnicizing society. No communal identities are politically recognized. Instead, members of society are able to achieve representation through close interactions with empowered leaders at the cell, sector, and district levels.

The system for accommodating segmental autonomy in India offers a sharp contrast to the weak or absent segmental autonomy in Afghanistan, Kenya, and Lebanon. Despite facing cultural fragmentation comparable to India's, Afghanistan's highly centralized system of governance maintains significant authority over the provinces and districts. Although jurisprudence was effectively decentralized by previous Afghan regimes to achieve a social fit, there has been little consideration of what such an alternative judicial system could achieve today, and so government continues to be deemed illegitimate by many Afghans of different ethnicities.

While Kenya has attempted to de-ethnicize governance, in ways similar to Rwanda, it is only since the 2010 constitutional referendum that it has achieved significant segmental autonomy through substantial devolution of authorities to the 47 county governments. In Lebanon, meanwhile, segmental autonomy is largely restricted by rigid adherence to confessionalism, even at the district level. This yields a power-sharing construct that offers little cross-cutting mobility.

We also see distinctions among our six countries when we compare their efforts to devolve authorities to local levels of government. In order for local levels of government to have the autonomy to make decisions that reflect the values and interests of the people it represents, the central government must divest authorities to the lowest possible level so as to achieve the optimal social fit and prevent discrimination in favor of one group to the detriment of another.

Typically this works if the process is incremental or iterative in nature. In India, the formation of states and empowerment of local governance bodies (through the panchayat raj system) occurred incrementally while allowing for different states to develop at their own pace across the country. While many of India's governmental functions have been decentralized, the center does retain considerable fiscal authority. This enables it to sublimate disruptive regionalism and to enforce politics of consensus.

In Rwanda, democratic governance was similarly introduced in stages after a period of social engineering designed to de-ethnicize society. The decentralization of various government functions has also increased trust in the national government, thereby enhancing its legitimacy. In both India and Rwanda, the process of democratic decentralization has helped stabilize the political environment, while involvement by local levels of governance in economic development has encouraged the formation of cross-cutting ties at the grassroots level.

Unfortunately, although Bosnia's governance is significantly decentralized, the Dayton Accords instantly led to segregation as a means to mitigate strong ethnic tensions. The country and international community have since been involved in a slow process of

trying to shift Bosnia from a highly decentralized and bureaucratically inefficient state of governance to a more efficient system that entails greater amalgamation among ethnic groups.

In contrast to the three countries with increasing stability, Lebanon, Kenya, and Afghanistan have all resisted democratic decentralization for various reasons. As a result of highly centralized authority in Lebanon, the sectarian political elite retain excessive power which they use to dole out preferential treatment to individual communities, largely preventing the formation of cross-cutting ties. Although the Taif Accords called for administrative decentralization, their implementation has been ineffective to date due to the acute resistance by the political elite.

Kenya's strong central government, while considered one of the most corrupt in the world, had managed to successfully avoid significant ethnic conflict for more than four decades until the 2007 political crisis. However, it appears that Kibaki's efforts to retain a strong executive and central government are now in decline due to significant efforts to devolve the central government's authorities and capabilities to the county governments which have been strengthened in accordance with the 2010 constitutional referendum. The upcoming general election in December 2012 will ideally reveal that the trend of democratic decentralization is continuing as the candidates appeal to voters who want a more representative government.

Since the overthrow of the Taliban in 2001, efforts to create a highly centralized government in Afghanistan have mostly resulted from inattentive methods of the international community at-large that overlook Afghanistan's governance during periods of relative stability. Although informal efforts to decentralize and contextualize governance (e.g., via the VSO program) have achieved some success and increased the Government of the Islamic Republic of Afghanistan's (GIRoA) legitimacy at the village level, the resources invested in VSO pale in comparison to those that continue to be spent to support the Karzai-led central government.

More than ten years after establishing a foundation for governance built on democratic principles, progress towards stability in Afghanistan is inconsistent at best

and, at worst, is hopelessly elusive to many who have been bitterly frustrated by what some experts claim is an imposition of an unwanted democratic system.[302] While the fast-approaching artificial deadline for troop withdrawal in 2014 has heightened the pressure to provide a more feasible near-term governance solution, necessity can sometimes be the mother of invention. It would certainly be problematic to propose an alternative form of governance that splits the country into regions if that alternative were to result in a chaotic and untenable situation for GIRoA. Also, if one assumes that the "empowerment of what we have started calling 'local (or regional) power brokers' and what was known as 'warlords,'" during the period between 1992 and 1996, inevitably leads to the rise of potentially hostile groups, such as the Taliban,[303] it would be blasphemy to even think of advocating decentralization or power-sharing between the central and lower levels of government. However, the idea of divesting some of the central government's authorities to sub-national entities to diffuse tensions between rival groups (such as in the realm of jurisprudence), while retaining sufficient military and diplomatic strength at the center to perform what many Afghans regard as the legitimate functions of the central government, may present a stronger *social fit* than other proposals to date.

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In the process of analyzing the governance frameworks of six ethnically divided countries that have experienced conflict, we have been able to validate our two starting propositions to varying degrees. While each country has attempted to achieve stability through a variety of constitutional features and methods of governance, some characteristics of governance have been more successful than others in helping to achieve lasting stability versus recurring instability. Although all of the countries we examined acknowledge the importance of achieving some degree of legitimacy as perceived by their diverse constituencies, they differ in how they use governance to achieve legitimacy.

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[302] Brian Brady and Jonathan Owen, "Controversial Plan to Split-up Afghanistan," *The Independent*, September 9, 2012, accessed October 24, 2012, http://www.independent.co.uk/news/world/asia/controversial-plan-to-split-up-afghanistan-8120167.html.

[303] Brady and Owen, "Controversial Plan to Split-up Afghanistan."

What we have learned is that the prescription of democratic governance, in and of itself, is insufficient for making a government legitimate in the eyes of those who belong to deeply divided societies where no inherent appetite for national unity exists. However, some countries where stability is increasing have proven able to contextualize governance in a way that achieves a social fit with their populations' distinct identities. Others have not been able to do so.

Our findings suggest that steadfast adherence to consociational democracy tenets and tailored decentralization of governance functions are key to achieving social fit in highly divisive countries, such as the post-conflict ethnically divided countries we have studied. Although the involvement of external actors, economic factors, and other geopolitical considerations can delay stability or serve as a catalyst for instability, if governance is designed to take social fit into account, it is far likelier that the system of governance will endure. People will only benefit as a result.

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