BUILDING INCLUSIVE STATES

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1. Functioning states are necessary conditions of inclusion; and the major causes of exclusion.

States matter more than societies in building inclusion. That is because they define societies, and their possibilities[1]. Impersonalized institutions that have some degree of centralized and procedurally governed political decision-making characterize functioning states. They have coercive capacities: they can regulate all instruments of potential public violence, and prevent or inhibit their own agents from being predators. They express authentic legal sovereignty over persons, property, and their movements, and are recognized as such entities by their citizens, civil society organizations, and by other states. Through self-help or alliances they can defend themselves against other states. Lastly, functioning states are defined by their recognized sovereignty over territory, and its accompanying prerogatives: control over entry and exit of persons and entities. If

states lack these capabilities they cannot protect elementary human rights, promote human development, or be inclusive in any meaningful sense.

Conversely, failing and failed states are personalized: dominated by rulers – a family, clan or clique - who do not distinguish public and private realms. They become 'kleptocracies', governments of thieves, before or during their collapse. They lack coherent, institutionalized, rule-governed patterns of centralized decision-making that inhibit predation. They are predators. They lose their monopoly on the regulation of coercion, and are challenged by guerillas, paramilitaries, terrorists, Mafiosi; they may be invaded, looted, and occupied by other states. They neither make nor enforce law. Those over whom they have failed to rule despise them as much as they fear them. Functioning states pay lip-service to failing states, avoiding their 'officials' if they can, invading 'their' lands if they deem it necessary.

These properties of failed states should remind us that 'inclusion' is only possible within well-ordered states. 'Inclusivity' and human development require more than the diffusion of the right values; they need the soil of functioning states because they are unlikely to grow in 'anarchia'. Order, to put it bluntly, is a necessary condition of inclusivity. Without it we have Thomas Hobbes' condition of 'Warre': 'the time men live without a common Power to keep them all in awe…in which every man is Enemy to every man; …wherein men live without

other security, than what their own strength, and their own invention shall furnish them…In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no culture of the Earth, no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worse of all, continuall feare, and danger of violent death; and the life of man, solitary, poore, nasty, brutish and short'[2]. Hobbes was right to emphasize the necessity of order, but wrong to mandate an authoritarian solution. But we may still draw a lesson from his arguments: without a well-ordered state there cannot be democracy, functioning markets, human development or inclusivity.

Unlike Hobbes, we know that states may be lethal, more lethal than the 'war of all against all'. States are the most powerful agencies of exclusion, governments the major killers in human history. Many state-builders and nation-builders have been, respectively, people-killers and nation-killers. In the twentieth century Rudolf Rummel has calculated that governments killed nearly 170 million people within their borders, a figure that exceeds those killed in wars between states[3]. Genocide, killing people because of their presumed ascriptive characteristics, has been more common than most countries' official histories acknowledge, and governments have been the major perpetrators - and the list is not confined to

Ottoman Turkey, Nazi Germany, and Interahamwe Rwanda. Politicide, killing those deemed political opponents of regimes,   has been equally recurrent in modernity. The Soviet Union, especially under Stalin, was the major killer regime of the last century: nearly 62 million are estimated to have perished at its hands; Maoist China was often as brutal, killing over 35 million people. Democide, the killing of peoples, is the ultimate form of exclusion, and governments its major perpetrators. Governments have also organized, encouraged, or not stopped, the expulsion of whole categories of persons from their land borders or their shores – people whom they have helped to define   as undesirable, non-indigenous, non-national, or disloyal. The twentieth century can be described as the century of expulsion, of the 'cleansing' of populations, as much as one of genocide. Governments have also been the prime architects of policies of discriminatory control: organizing dominant national, ethnic, religious or communal groups, disorganizing and subordinating other national, ethnic, religious or cultural groups through policies of systematic discrimination, or exclusion.

These should be commonplace thoughts. Regrettably, they are not sufficiently appreciated. States define people's life-chances, both   individually and collectively. And it is to their practices that we must look when considering how greater inclusion, as defined in this report by Amartya Sen,   may best be facilitated. Exclusion, in the regulation   of national, ethnic and religious

differences, is the product of coercive homogenization and of differential treatment, privileging communities: counting some categories of persons and communities 'in', as members, and others 'out'. Genocide, expulsion and the imposed partition of territories are modes of homogenizing peoples that are now internationally outlawed, even if the relevant laws are frequently not enforced. If and when international norms against genocide and expulsion are rigorously enforced, through interventions ranging from diplomatic sanctions, economic sanctions, military embargos (or lifting of embargos), military occupations, and international criminalization of genocidal officials, then the worst forms of exclusion may be halted or inhibited. Success in this endeavor requires both moral universalism – genocide and expulsion need to be treated as criminally wrong everywhere – and a re-orientation of the foreign policies of the great powers, so that both their policy-makers and domestic constituencies see the prevention and punishment of genocide and expulsion as in their interests[4].

The record of recent history is mixed: it need not occasion despair. Sanctions against exclusionary practices – against discriminatory racist, religiously intolerant and xenophobic regimes – had major successes in the twentieth century. The undermining of apartheid in South Africa had both international and domestic sources, both moral and political causes. Decolonization, de-segregation and civil rights movements are very important elements in the affirmative and inclusionary history of the twentieth century. Inclusion, by

implication, encompasses sets of policies, institutions and practices that both do not coercively homogenize peoples, that do not entrench unjustified differential treatments of peoples, and that are embedded in the practices of well-ordered states. Elaborating this understanding is the purpose of this paper.

2. Assimilation.

The political and cultural homogenization of people is the underling goal of many states that promote assimilation. Historically it has been an important policy of inclusion in two model and hegemonic states, the USA and France[5], both of which have influenced the political development of many member-states of the UN. We may be tempted to define assimilation by dictionary entries in English and French. The *Oxford English Dictionary*   tells us that to assimilate means to

> 1. Absorb and digest (food etc.) into the body,   absorb (information etc.) into the mind, absorb (people) into a larger group.
>
> 2. Make like; cause to resemble.
>
> 3. Make a (sound) more like another in the same or next word.
>
> 4. Be absorbed into the body, mind, or a larger group *(Concise Oxford English Dictionary 1990) .*

The first, second and last of these meanings point towards the term's political connotations, and highlight the experiential fears attached to 'absorption' and 'digestion', as well as the more neutral implications of 'becoming alike', or

'coming to resemble'. The *Concise Oxford French Dictionary* tells us that when translating French into English that *assimiler* may mean

1. To assimilate; to liken, to equate;

2. To digest;

3. To integrate; s'~ qch. To be assimilated; to be integrated; *s'~* qch., to adopt, to incorporate (sth. foreign).

This suggests, among other things, that in French the notions of 'assimilation' and 'integration' are fused, which may be an outcome of French political practices and beliefs. The same dictionary, in guiding us in translation from English into French, counsels us that 'to assimilate' should be translated by *assimiler*; but that 'to integrate' should be translated as *compléter* (when it means 'to complete'), as *unifier* (when it means 'to form into a whole'); and as *intégrer* (when it means 'to assimilate') (*Concise Oxford French Dictionary*, 2nd ed. 1980). These inspections suggest the need to move beyond ordinary usages in both languages to achieve clarity.

Assimilation, as a strategy of national and ethnic conflict regulation, may be defined as (the voluntary or coercive) erosion of politically and privately salient cultural differences between groups, with the intent of achieving national or ethnic homogenization. It achieves inclusion through making common citizens in public and private domains who are not culturally differentiated for political purposes. *Acculturation* involves assimilation by culturally weaker groups,

where, for example the members of group B absorb group A's culture: $A + B = A$. *Fusion*, by contrast, involves assimilation through a full-scale merger that produces a novel entity, e.g. three groups A, B and C fuse to form a novel group, D: $A + B + C = D$. What differentiates assimilation as a public policy from both integration and multi-culturalism, it may be suggested, in accordance with much recent social science literature, is that assimilation eliminates public and private differences between people's cultures, whereas integration eliminates public differences between people's cultures but not necessarily their private cultural differences; multiculturalism, by contrast, maintains (some) public <u>and</u> private differences between people's cultures.

Coercive assimilation excludes certain identities by compulsion. It is experienced by its victims as "linguicide", "ethnocide" or "theocide", referring to the destruction of languages, hereditary communities of descent, and religious institutions and practices respectively. Linguistic standardization is a common feature of a coercively assimilationist state. One langauge, one grammar, and *in extremis* one correct intonation is mandated by the public authorities. One language has a monopoly of the public domain; other languages (stigmatized as dialects or patois) may be illegalized in private – as General Franco of Spain illegalized Euskedi in the Basque country, and as General Attaturk illegalized Kurdish in Turkey. Schools, universities, armies, parliaments, assemblies and councils, bureaucracies and legal institutions are used to socialize all the targets

of the policy in the mandated language. Assimilation of this kind may extend to '*namification*': standardizing and regulating 'private' naming, limiting the stock and extension of legitimate surnames and first names of persons, and of public signage, street-names and toponyms. Saddam Hussein's Arabization of Kurds and Turkomen included Arabic namification. Assimilation may also involve *historical standardization*: the reconstruction of a common past based more on amnesia than a representative sample of historical testimonies. It usually involves the illegalization and repression of nationalist, ethnic and communal parties and discourses that are opposed to the dominant nation's assimilationist program. In this manner Turkish governments have outlawed both overtly Kurdish and Islamist parties and declared Kurds to be 'mountain Turks'[6]. Coercive assimilation may involve deliberate residential and employment policies to disperse immigrants and indigenous minorities, weakening their capacities for biological and cultural reproduction to encourage both acculturation and fusion. Within formal democracies it will invariably involve territorial governance and systems of decentralization designed to prevent national, ethnic, religious and cultural minorities from having the possibility of forming local political majorities.

Voluntary assimilation, by contrast, works though both market and public policy incentives. Citizens and immigrants may converge on learning languages that are useful for communication, their education and the development of their

wider human capital. This fact accounts for the success of distinct *lingua franca* around the world, including languages like Swahili and former colonial languages, such as English, Spanish, French, Portuguese and Russian. Citizens and immigrants may change their religious identities or beliefs in the interests of status enhancement. They may acculturate to political practices and mores when they are welcomed when they do so. Shared citizenship and common public deliberation may lead to a shared identity and the loss of historic cultural ties. Persons may inter-marry across traditional endogamous barriers between races, ethnic communities and religions. Voluntary assimilation may be praised as it has been in immigrant states, such as the USA,[7] Canada[8], Australia[9] and Argentina.

The declared goals and the motives of state officials who have encouraged assimilation - or promoted it through coercion - have often been inclusionary and developmental in the broad senses of these terms. They have portrayed assimilation as "nation-building", promoting equality among citizens, and fraternity (not in an exclusively male sense, but as 'solidarity'). Through a common individualism a common, deliberate and energised nation may develop[10]. In 1789 in emancipating the Jews it was said before the French National Assembly that,   <<Aux Juifs comme nation nous ne donnons rien; aux Juifs comme individous nous donnons tout>> - 'For the Jews as a nation we grant them nothing; for the Jews as individuals we grant them everything'[11].

Assimilationists have also promoted nation-building to achieve state consolidation and military security,[12] but usually they have argued that assimilation promotes civilizational uplift; as John Stuart Mill famously (or infamously) suggested of "peripheral" Europeans: "Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilized and cultivated people — to be a member of the French nationality, admitted on equal terms to all the privileges of French citizenship, sharing the advantages of French protection, and the dignity and prestige of French power — than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation or interest in the general movement of the world. The same remark applies to the Welshman or the Scottish Highlander as members of the British nation"[13]. The defence of assimilation as broadening one's developmental horizons has gone beyond the claim that it is better not to sit on rocks. Assimilationists argue that their policies 'de-parochialize' people; they encourage cosmopolitanism; they help break the suffocating loyalties of tribes, clans, of kin, of what Ernest Gellner called the "tyranny of cousins"[14]; and, not least, they claim that assimilation (into a high modern culture) frees children and women from the stifling chains of patriarchy.

Coercive assimilation, on most criteria, is, however, directly contrary to one of the international bills of rights. Article 27 of the International Covenant on Civil

and Political Rights declares that "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such persons shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language". This clause does not directly protect *national* minorities, as opposed to the specified minorities. By their actions coercive assimilationists usually provoke national, ethnic and cultural revivalist movements, and, in their immediate wake, secessionist movements – experiences which have occurred recently in Pakistan, Iraq and Turkey.

That said, voluntary assimilation, as a model of inclusion, might work in certain conditions. Evidence of success of voluntary assimilation is found in states where there is large-scale inter-marriage - or child-bearing - across historical national, ethnic and religious boundaries; in the existence of hybrids, fusions, mulattoes, mestizos, and creoles; in the free development of political parties and party platforms and electoral competition over non-national, non-ethnic and non-religious issues; and in the consensual shunning of policies, programs and institutions that might politically highlight salient cleavages between the descendants of historic communities. Believing that is (or should be) its past the French state often declared that Article 27 of the International Covenant is not applicable in France, because France has no minorities, and to confess the existence of minorities is to admit discrimination[15].

Mutually agreed assimilation projects by definition have excellent prospects of success – though that is not to say that they are irreversible. There are, however, severe constraints on voluntary assimilationist projects. One blockage may lie within strata of the *Staatsvolk*, the dominant people. Either its elites or its less advantaged may resist assimilation if they see it as entailing undesirable cultural transformations or losses of economic or other advantages. They may set limits to the scale and pace of immigration for these reasons[16]. They may refuse to fuse or share space with national minorities who share historic residency in their territory. Another source of blockage may lie within the weaker communities, the presumed beneficiaries of acculturation or fusion. They may wish to retain – and develop - their cultures for *both* defensive and developmental reasons. Where the status of the homeland people is contested thoroughgoing voluntary assimilation is not known in modern times[17]. Acculturation, especially, appears to involve a collective surrender of group identity, ethnicity, language and religiosity. This complaint, well-grounded, is that of the proclaimed indigenous peoples of the world and their empathizers. Lastly, there is some evidence to suggest that at least two contemporary planet-wide "mega-trends" inhibit the prospects of extensive voluntary assimilation. One is the fact of large-scale migration and refugee movements which inhibit the "purification" of nation-states within the better-off and more well-ordered states; and the second is the greater ease with which migrant communities today may retain the culture,

especially the language and religion, of their homelands through easy access to mass and customized media in print and electronic formats.

Voluntary assimilation works best through indirect incentives, and works most effectively upon voluntary immigrants willing to trade their culture in return for citizenship. It does not work so easily with forced immigrants (slaves and their descendants) or with homeland and indigenous peoples. Voluntary assimilation has many benefits in expanding the repertoire of human capacities for choice and development but it is not without psychic costs for those who acculturate or fuse[18]. But, very often assimilationists are exclusionists, policy-makers and people who wish to imprint their cultures on others – albeit for their mutual benefit. Such assimilationists are prime source of collective antagonisms. "Nationalizing states"[19] in both post-colonial and post-communist settings have reaped what they have sown, i.e. protests, riots, armed secessionism, and external interventions. "Sinhala only" policies in Sri Lanka, "Hindustani" policies in India, "protecting Serbia" in the former Yugoslavia, "Arabization" in Iraq and Islamization in the Sudan register similar stories and counter-stories. Coercive homogenization generates a predictable backlash among those with the capacities to lash back. It is of interest that anti-assimilationist and anti-globalization discourses draw from the same repertoire of arguments.

3. Integration and Multiculturalism

The language and practices of "integrationists" are, at first glance, much more generously inclusionary than those of assimilationists. Integration here is defined as a strategy that seeks to eliminate national, ethno-national, and cultural differences from having salience in the public domain. The object is to create a common unifying citizenship or civic national identity. In the English language it is rendered under formulae that have the same substantive meanings: "liberal patriotism", "civic nationalism", "constitutional patriotism", "republicanism", "unionism", "privatization of culture"[20], "difference-blind liberalism", "individualism". Under these banners citizens are to be treated as equals, regardless of their national, ethnic or cultural characteristics or origins. Integration fosters the removal of ethnic identities from the political arena. It attempts to remove barriers to access and mobility that might otherwise be imposed on minority communities and identities. Integration does not, as a matter of policy, seek the destruction, eradication, or erosion of these identities; they are simply to be "privatized" and tolerated. Integration has as its nominal focal concern the human individual. It promotes the primacy of the individual over that of the group, freedom from group control, or, as it is often put, "freedom from", period. Integration rejects unreasonable, i.e. non-merit-based, discrimination in political representation, the legal system, education and employment. "Equal citizenship" is its motto.

Integration eliminates the relevance of difference in culture (of origin) among citizens while managing cultural differences through their privatization. Each may have their own religion provided it is not brought into the legislature or imposed on others; each may have their own language at home – or in private schools, as long as no attempt is made to disrupt national unity through bi- or multi-lingualism. Integration is said to be the ideal for liberal democracies: creating a common public culture, but leaving to citizens to choose their communities of belonging in private domains, enabling them to maintain their cultures without being constrained by them. Integration promotes one public identity for citizens but allows them as many private identities as are compatible with the liberties of others.

Public officials, aware that assimilation may provoke negative reactions and hostility, may pursue integration. So may new governing elites sincerely intent on overturning a genocidal and coercively homogenizing past. It may be sought by those who have been excluded or treated as second class citizens, e.g. African Americans, where the African denotes community of origin, or by those who are recent arrivals (e.g. migrants, guest-workers, *metics* or permanent residents who wish to become citizens). Where integration is sought both from above and below its inclusionary character is indisputable.

In constitutional norms, laws and public policies integrationists may appear to

differ little from voluntary assimilationists. They want no publicly institutionalized recognition of national, ethnic, linguistic and religious differences; they promote territorial governance structures that avoid the ethnicization of units; they affirm the merits of political parties and electoral systems that encourage parties to compete on principled programs – or indeed socio-economic and class differences – rather than on cleavages based on nationality, language or theology; they desire voters to "pool" their votes across historic communities of origin; they argue for a common public education system and a common curriculum at all levels of development – the school and the university will overcome the parochial and discriminatory impulses of the family, the clan, the tribe, the church, synagogue, temple and mosque; they promote public and private sector housing policies that "mix" people and avoid the creation of ghettoes; they encourage an ethic of citizenship, insisting citizenship rights should not be given to immigrants before at least partial mastery of their new public culture is evident.

But, integrationists maintain, there is a major difference between themselves and assimilationists. They are liberals. They are neither coercive homogenizers, nor homogenizers (except in one domain), and so they see themselves as more inclusionary. Critics argue that integration is, however, not as neutral as its exponents pretend. Its inclusions have price-tags. The integrationist state has a face; the state broadcasts; the state dresses; the state has styles; the state defines

what is public and what is private. The state just cannot be as difference-blind patriotic, constitutionally neutral and civic as some advocate, or pretend. Its business is conducted in a language, the language of the *Staatsvolk*. Its neutrality will benefit one community's religion: after all, what holidays (holy-days) are public, and why? Its dominant community will have its culture fully expressed in both the public and private domains; others will not be so fortunate. That which is "civic" inevitably has cultural and ethnic content, even if civic membership is in principle open to all-comers[21]. Integration, may be a fair contract for voluntary migrants willing to pay the price of learning a new public culture, but for others it may be a provocative imposition: a partisan desire to disorganize historic nationalities or indigenous peoples on their homelands[22]. Lastly, critics of integration deny that it can lead to a permanent or stable settlement. They maintain that integration is an unstable equilibrium, either a waiting room for assimilation, or for multi-culturalism. If cultures are not sustained by governmental resources they may wither in the private domain, an argument that seems especially true of languages – but less so of religions[23]. If integrationists cannot ban the intrusion of arguments, interest-groups and parties that promote agendas different from that of the approved public culture then democratic practices will inevitably take on a more multicultural character.

Multi-culturalism is one of the most contested and discussed terms of our times in both political philosophy and comparative politics[24]. It has been used to

describe the demography of states, philosophical relativism, the beliefs of literature and anthropology professors, fashions, architectures and cuisines. Here I define it to describe official state constitutions, legal norms and public policies that institutionalize more than one culture (be it national, ethnic, linguistic, religious) in the public domain, as well as permitting more than one culture to flourish in the private domain. Self-styled multi-culturalists generally portray themselves as more pluralist, authentically choice-enhancing, and more politically inclusionary than integrationists or assimilationists. Sometimes this is true; sometimes it is not. For example, Switzerland, for many the model of a successful multi-cultural democracy – an argument with much merit, historically excluded women from the comprehensive adult suffrage for longer than all of its European neighbors, and presently excludes one fifth of its residents, guest-workers, from having full citizenship rights.

We may differentiate multi-cultural states in four ways that sometimes overlap. One, by the nature of the cultures that are politically included in the multi-cultural pact. Are they national, ethnic, linguistic, religious, or some permutation thereof? Is the state bi- or multi-national, bi- or multi-ethnic, bi- or multi-lingual, bi- or multi-religious? And, are some (homeland and immigrant) cultures not included fully in the public domain while others are? Two, by the categories of culture included. This review cannot consider all the identities and cultures covered under some discussions of multi-culturalism, such as gendered

and sexual orientations, or class and caste divisions; here the focus is on encompassing cultures, sometimes called "societal cultures", that could in principle be deployed for nation-building. Three, by their degree of institutionalization. Are the relevant cultures merely symbolically recognized on an equal footing? Are they present in the executive, the legislature, the legal system, the security forces, public bureaucracies, educational institutions, and personal law? And four, by their territorial organization: Are the relevant cultures granted their own territorial domains in which their members have self-government? Are cultural rights distributed equally or asymmetrically across the state? Rather than explore these four variations in depth, for simplicity's sake it is easier to distinguish two dominant forms of political multi-culturalism within states[25] which organize with respect to encompassing cultures, are intended to be inclusive, and have distinct styles of institutionalization and territorialization, i.e. arrangements inspired by consociational and federalist thinking respectively. These are considered in order.

4. Consociational arrangements

Consociation, from "*con*, with", and "*societas*, community", is a multi-society political system with both inclusionary shared rule and autonomous self-rule. *Shared rule* is expressed through:

(a) *cross-community executive power-sharing*, and through the application of

(b) *proportionality* rules of *representation* and *distribution of benefits* to

communities in political institutions and the public sector.

Self-rule is expressed through

> (c) allowing the communities to govern themselves at least with respect to key components of their culture – e.g. linguistic, religious or educational *autonomy*.

Consociations may have a fourth trait connected to both shared and self-rule:

> (d) they may empower community leaders with veto rights over constitutional or key policy changes.

Consociations may be found in sovereign states, in regions of states; and elements of consociational arrangements are identical to those that characterize many confederations of meber-states.

Consociational thinking has a long pedigree. In the western world its lineages may be traced to the sixteenth century Protestant philosopher Johannes Althusius (1557-1638), the early twentieth century Austro-Marxists, Karl Renner and Otto Bauer, and, more recently, the Nobel Laureate, Sir Arthur Lewis. It is associated in our times with Arend Lijphart, a distinguished past president of the American Political Science Association, [26] who has generated a large research program on the subject. Consociational thinking is not restricted to the academy. Politicians have refined, innovated and reinvented consociational institutions and practices in Belgium, Canada, the Netherlands, Switzerland, Northern Ireland, the Lebanon, and Macedonia. On occasions, in the guise of "power-

sharing"[27], consociation is the prescribed method of conflict regulation of the international community. This has been evident in the internationally supported, implemented, and maintained power-sharing agreements in Afghanistan, Macedonia, Bosnia-Hercegovina, and Northern Ireland, as well as in prospective power-sharing agreements in Cyprus and Sri Lanka. It may become evident in post-occupation Iraq. There is, however, no consensus over consociational theory. Two axes of disagreement are prominent: consociationalists and their critics differ over the normative merits of consociation; and over how consociations are established, maintained, or breakdown. Here we focus on the first axis of disagreement.

A. *Arguments Made Against Consociation*. Conservatives, liberals, socialists and feminists attack consociational prescription and explanation. Conservatives detect a hint of utopianism, and are right to detect "rationalism", the belief that it is sometimes possible to engage our reason in benign political engineering. Conservatives tend to condemn consociational ideas as futile: they say such ideas will have no (or no long-run) impact on deeply-rooted, zero-sum identity based conflicts. This is the archetypal conservative riposte; consociations make no difference; or, they don't work, *ergo* they are not a remedy. A more sophisticated variation of this thesis is that consociations are only likely to work well where they are not needed, or are redundant (i.e. in moderately rather than deeply divided societies). Donald Horowitz maintains that consociations "are more

likely the product of resolved struggles or of relatively moderate cleavages", and that they are "inapt to mitigate conflict in severely divided societies."[28]

Critics of consociational ideas are especially prominent among liberals, socialists and feminists who pride themselves on their universalism, developmentalism, and democratic dispositions. They often argue that consociations are *perverse*, achieving the opposite of their ostensible purposes. Consociation, such critics reason, reinforces the presumed sources of conflict; it reinforces divisive traditions; it freezes and privileges (undesirable) collective identities at the expense of emancipated or more "progressive" identities; it does not resolve conflict. At best, it organizes and regulates a stalemate around the relevant collective identities; it encourages a politics of immobilism and gridlock. Paul Brass is typical when he argues that the elites whose prudence is hailed by consociationalists are the very ones with vested interests in maintaining collective antagonisms. Consociation, he claims, reinforces their respective dominance within their own communities. Consociation's proponents are said to operate with the "mistaken assumption that cultural differences among ethnic groups are "objective" factors", and to exaggerate the problems associated with strong collective identities, and to assume that "ethnic divisions are more inflammatory than other types."[29] Liberal, socialist and feminist critics suggest consociation is informed by primordial pessimism. They see consociationalists as conservatives, who take people as they are (or have been made to be) and not

as they might be (or long to be). Political integration, the creation of a common citizenship and public sphere, and the non-recognition of cultural differences in the public domain, from this perspective, is much preferred. As Brass puts it, it is best to "keep some possibility for change, internal division [of communities], and secularization open, for the sake of the ultimate integration of the people in a common political order and to preserve individual rights and the future prospects of individual autonomy"[30].

Another standard objection to consociation is that it *jeopardizes* important values, principles and institutions on the altar of reinforced national, ethnic, linguistic and religious identities. Encouraging proportional representation, it is said, will lead to the likely irreversible formation of ethnic, communal or sectarian parties, thereby breaking with the possibilities afforded by a politics of programs and interests, as opposed to a more intractable politics based on identities. Quotas or preferential policies will lead to the weakening of the merit principle – thereby creating new injustices as well as inefficiencies in resource allocation[31]. Recognition of difference in the public domain will progressively lead to respect for (unjustified) inequalities, the unequal treatment of similarly situated individuals and groups. Brass speaks for these critics when he asserts that "Consociational democracy *inevitably* violates the rights of some groups and the rights of some individuals"[32]. Brass also claims consociational politics is undemocratic; it excludes opposition; it is a loser-takes-all system; "a fully-

developed consociational system is inherently undemocratic"; it is elitist and postpones rather than facilitates the "democratization of multi-ethnic societies". Courtney Jung and Ian Shapiro concur: consociation permits "the same combinations of elites to entrench themselves at the peaks of spoils and patronage hierarchies more or less continuously"; it emphasizes "participation and representation to the virtual exclusion of opposition"; the "democratic benefits that can accrue from "tossing the rascals out" are unavailable"; consociational systems "do not give powerful parliamentary players incentives to keep government honest by shining light in dark corners". "Mutual vetoes can be expected to lead to mutual logrolling, rather than to political confrontations among elites, and to promote insider clubism". The price of consociation it seems is "abandoning a viable opposition politics"[33]. The same authors suggest that consociational systems – as with negotiated agreements or "transplacements" – do not meet Samuel Huntington's definitional test of a democracy, two peaceful turnovers of power following elections[34]. The charge that consociation is undemocratic is perhaps the strongest normative objection that is raised[35]. Arguments in this vein celebrate the merits of oppositional politics. Consociation's opposition to adversarial democratic politics is just wrong-headed maintains Brass. Adversarial politics, he insists, "have in fact worked to an extent in non-homogeneous societies such as Great Britain … and in the US"[36]. Adversarial politics in Canada, India and Sri Lanka, he maintains, are no worse than the allegedly consociational experiences of Malaysia, Lebanon, and Cyprus.

A last argument sometimes deployed against consociations is the outright denial of their existence. Sometimes this argument rests on the alleged incoherence of consociational ideas[37]. A Marxist variation on the illusory quality of consociation suggests it is a mirage with consequences: it divides and disorganizes the working class around false identities[38].

This summation of anti-consociational arguments is not a caricature, and not based on selecting the worst rhetorical excesses[39]. While one must concede that critics of consociation have pointed to difficulties in Lijphart's formulations and expositions (to which he has made measured and reasoned responses), plainly it cannot be true that consociation is simultaneously perverse, i.e. reinforces and re-entrenches ethnic antagonisms, *and* at the same time jeopardizes all key liberal, democratic and international values, *and*, all the while is futile, i.e. makes no difference. The futility thesis is evidently the weakest of the criticisms of consociation, and it is fair to say that the weight of the critics' case rest on perversity and jeopardy arguments.

B. *Political Arguments For Consociation.* Consociationalists understand themselves as realists, counselors of necessary triage, and as inclusive democrats. They are just as concerned about justice and freedom as their critics. They submit that consociational settlements are "naturally" recurrent phenomena --- generated

through negotiations by politicians after the failure of homogenizing or exclusionary politics. They argue that certain collective identities, especially those based on nationality, ethnicity, language and religion, are generally fairly durable once formed, especially when they have been politicized. To say they are durable, or are likely to be durable, is *not* to say that they are either primordial or immutable, or necessarily throat-cutting. But durable identities, as opposed to shallow and malleable interests and identities, can be, and often are mobilized in a politics of antagonism, perhaps especially during the democratization of political systems. Politicians, parties, and communities themselves interpret their histories and futures through powerful narratives, myths and symbols as well as through realistic rather than merely prejudiced appraisals of past group antagonisms. These narratives, myths and symbols may have significant resonance and truth-content – without these traits politicians, *ceteris paribus*, might be less successful in their manipulative endeavors. Consociationalists demur at the suggestion that they are utopian: it is integrationists who are too facile about the capacities of political regimes to dissolve, transform or transcend inherited collective identities. Consociationalists operate with a hermeneutics of suspicion. They question the cosmopolitan or emancipatory protestations of many anti-consociationalists. These protestations, they think, too often cloak a partisan endorsement of one community's identity and interests (into which others are to be "encouraged" to integrate or assimilate).

Consociationalists argue from a standpoint of moral and political necessity: they do not embrace pluralism for its own sake, or because they want a romantic Herderian celebration of a thousand different flowers (or weeds). They maintain that a hard-confrontation with reality in certain conjunctures forces certain options on decision-makers in (potentially) deeply divided territories; and in some tough cases, their claim is that the effective choice is between consociational arrangements and worse alternatives: sustained armed conflict, genocide, ethnic expulsion, imposed partition, or imposed control. Their view is that it is best not to have to build democracy after filling graveyards. Negotiated consociation is better than winner-takes-all, especially where taking all implies defining the state, and killing, expelling or assimilating the losers.

Consociationalists maintain that democratic versions of socialism and liberalism may sometime be feasible only within consociational buildings (either as temporary constructions or as more durable dwellings). They invoke necessity and realism to challenge the confidence of liberals in majoritarian and adversarial democracy. J.S. Mill famously warned of the dangers of a tyranny of the majority, but in his most illustrious texts he failed to emphasize that a national, or ethnic exclusionary tyranny was feasible within democratic institutions[40]. Consociationalists are mostly liberals, but they are cautiously skeptical about the current celebration of civil society as *the* or even *a* vehicle of

transformation, peace-making, peace-building, and inclusion. In divided territories, they observe, there is more than one society and their relations may be far from civil. A well ordered system of governance is necessary to enable effective civil societies to flourish. Those who embrace a politics of deliberative democracy as the prescription for conflict-resolution need reminding that deliberation takes place in languages, dialects, accents and ethnically toned voices, and that it is not often possible to create "ideal speech situations". Consociationalists respond to socialists in two ways: one, by showing that consociational ideas have been present in the best of the socialist tradition[41]; and two, by observing just how regularly and pervasively working class and popular unity has historically been rendered hopeless by national, ethnic, religious and communal divisions that might have been amenable to consociational treatment. Within consociational arrangements trust may develop that may enable wider working class or popular unity behind the welfare state or other forms of progressive distributive politics.

Consociationalists are friends of democracy as well as critics of its palpably inappropriate versions. Consociationalists want majorities rather than *the* majority, or *the* plurality, to control or influence government. Lijphart modestly credits the contemporary invention (though not the naming) of consociational democracy to Sir Arthur Lewis, the Nobel-prize winning economist, who argued in his *Politics of West Africa* (1965) that the post-colonial multi-ethnic states of

West Africa suffered from the inheritance of British and French majoritarian or winner-takes-all democratic systems. He reasoned that what they required were wide and inclusive coalition governments, PR electoral systems, and federations that would give ethnic communities territorial autonomy. Lewis's argument was made by deduction: he did not draw on an extensive empirical comparative politics of democratic types. But his arguments withstand empirical evaluation. Majoritarian democracy, especially based on a single-party government rooted in one community, is, consociationalists say, very likely to provoke serious communal conflict in territories with two or more significantly sized communities with durable identities differentiated by nationality, ethnicity, language and religion. Political bargaining and adjustment among leaders should be designed to achieve widespread consensus – to prevent the possibility that democracy will degenerate into a war of communities. Realists should therefore, in their view, endorse a politics of accommodation, of leaving each group to their own affairs where that is possible and widely sought – "good fences make good neighbors". Consociation should be designed to protect basic natural rights, of individuals and communities, the most important right being the right to exist: the international law of Grotius applied within states.

Consociationalists argue positively, not just by pointing to the horrors of the alternatives. Consociation provides autonomy, and enables sensible shared inter-community co-operation, toleration and co-existence. Consociationalists claim

they have a better and more inclusive model of democracy for certain pluralist states. Much more of the people than a plurality or a majority may influence or control the executive. Much more than a majority gets effective "voice". Consociation does not eliminate democratic opposition within communities, but enables such divisions and oppositions as exist to flourish in conditions of security. Nothing precludes intra-bloc democratic competition, and turnover of political elites, and shifts of support between parties; and in a liberal consociation nothing necessarily blocks the dissolution of historic identities if that is what voters want. Consociationalists do not say that achieving accountability over political leaders and parties is not a problem. They merely claim that there is no insuperable problem within consociational arrangements. Indeed it is a fallacy to suppose that consociation mandates that all governments be wholly encompassing grand coalitions. Since this fallacy is so widespread it needs to be carefully rebutted.

C. *Consociation, Democratic Inclusion and Opposition*. There is variety within consociations, both in their degree of inclusiveness and of democracy. We may distinguish between complete, concurrent and weak democratic consociational executives.

A democratic consociational executive is complete when the political leaders of all significant communities of an ethnically differentiated territory are included.

Imagine there are two ethnic groups, N_A and N_B, and that all their voters split their votes between two political parties respectively, giving rise to a four party political system, A_1, A_2, supported by community N_A, and B_1, B_2, supported by community N_B. In a complete consociation these four parties will all be represented in the executive. This hypothetical scenario corresponds to the idea of "grand coalition". But not all consociational executives need be "grand", implying "total" and "all-encompassing". What matters is meaningful, cross-community, joint decision-making within the executive. There may be cases where political parties choose to exclude their leaders from office by refusing to sit in a coalition government – and insist on being in opposition by choice. Imagine that parties A_2 and B2 in the above example decide to exclude themselves. In this case each community has representation in the executive, from parties A_1 and B_1, but not all of each communities' leaders are present. Likewise, a cross-community coalition may exclude some hard-line ethnic parties from the executive. This need not be either anti-consociational or anti-democratic. We may say that a democratic consociational executive is <u>concurrent</u> when each significant ethnic community has representation in the executive and that executive has at least majority support from each such significant community. To clarify these distinctions consider the Nagel spectrum[42] that ranges from rule by one (dictatorship), to rule by all (unanimity or perfect consensus), i.e. from $1/N$ to N, where N is the number of voters (See Figure 1.1). In a homogeneous society points on this spectrum between dictatorship and

unanimity can be described on the basis of how many (actual or potential) voters influence (or control) the government. Where democracy masks rule by a small number who control the agenda and have their preferences translated into public policy against the preferences of the overwhelming majority then this is elite rule. Where a faction of a party controls a cabinet which in turn controls a legislative party which can determine law and public policy against the preferences of a significant majority of voters then this is factional rule. Where a plurality of voters, under "winner takes all" electoral systems, elects a government that carries out their wishes, we have what Nagel deems "pluralitarian" democracy. Where over a majority ($N/2 + 1$) of voters influence governmental policy then we have majoritarian democracy; where over two thirds of voters support government policy we have "supermajoritarian" democracy; and, lastly, where nearly all voters support government policy we have consensus democracy.

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

Figure 1.1. The Nagel Spectrum: The Scope of Popular Support for an Executive

We may now describe both complete and concurrent democratic consociational executives, and two further categories of weak and authoritarian consociational executives. In an executive that is complete each community of voters, N_A and N_B, and so on, has all its parties in the executive, leading to consensus across all peoples in the consociation (here there is for the time being no formal prospect of organized opposition). In the example we have used above the executive would comprise parties $A_1A_2B_1B_2$. By contrast, a concurrent consociational executive is

one in which each significant community, N_A and N_B, and so on, has over half of its voters supporting parties in the government and acting on their behalf, but less than the level of representation that would exist with consensus support in each community. In the example we have been using the executive would comprise A_1B_1, and each party would have majority support within their respective communities, NA and N_B. A democratic executive may be described as weakly consociational when each significant community, N_A and N_B, and so on, has competitively elected political leaders in the executive, but only to the extent that in at least one community the relevant leadership has just plurality support among the relevant voters. An executive remains weakly consociational, by this typification, if one or more community merely gives its plurality assent while other communities give majority or higher levels of support to the government. An illustration of a weakly consociational executive from our stylized example would be a government comprised of leaders of parties $A_1$and B_1, each of which is the largest (but not majority party) in its community, and each of which is opposed by a range of smaller parties within each community, e.g. A2 $A_3...$ A_n, and B_2, B_3, ... B_{an}. The Nagel spectrum can lastly be employed to describe <u>non-democratic</u> consociations: where unrepresentative factions or elites (authoritarians) from each community share executive power with one another, but are not effectively democratically accountable to (their own or any) ethnic communities. Post-Tito and pre-disintegration Yugoslavia may reasonably be considered a factional-elite consociation, as may Czechoslovakia under

communist rule. Where executives have democratic support within one community but co-opt an unrepresentative faction or elite from another community we do not have an authentic democratic consociational system, because the "joint-ness" across communities is fraudulent: we have a system of control, albeit with a pseudo-consociational veneer.

This clarification, distinguishing complete, concurrent, weak and authoritarian consociational executives, is operational. Table 1.1. illustrates classifications on the basis of our stylized example[43]. This excursus should resolve the recurrent and widespread misperception that a democratic consociation requires a complete, total or all-encompassing grand coalition in the executive (or in other institutions), and thereby precludes opposition, dissent and other features of a well-ordered democracy. What a democratic consociation must have is meaningful cross-community executive power-sharing in which each significant community is represented in the government with at least plurality levels of support within its community[44]. This clarification refutes the insistence that all consociational practices are inherently undemocratic because they preclude opposition.

This distinction between complete, concurrent, and weak consociational executives need not be applied just to executives. It is equally fruitful to apply these distinctions to legislative procedures, and especially constitutional

amendment procedures – not least because these will normally have a bearing

upon the capacities of executives.

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

Figure 1.2. Nagel spectra applied to two ethnic communities, with each spectrum describing

support for the executive within each community.

Community A	Community B	Type of consociation
Unanimous	Unanimous	Complete
Supermajoritarian	Supermajoritarian	Concurrent
Supermajoritarian	Majoritarian	Concurrent
Supermajoritarian	Pluralitarian	Weak
Majoritarian	Majoritarian	Concurrent
Majoritarian	Pluralitarian	Weak
Majoritarian	Factional	Co-option verging on control
Pluralitarian	Pluralitarian	Pluralitarian
Pluralitarian	Factional	Co-option verging on control

Factional	Factional	Factional Authoritarian
Factional	Elite	Factional authoritarian and control
Elite	Elite	Oligarchic
Dictatorship	-	-

Table 1.1. Variations in Public Support Within Two Communities for Power-Sharing Executives

Having established that consociational executives need not be all-inclusive grand coalitions we may turn more briefly to other controversies in considering the democratic character of consociational executives. Consociations may exist which do not include all communities in government. This situation arises trivially in any large and complex state or region in which there are numerous small ethnic minorities and categories of persons (especially as a result of recent immigration) that are not sufficiently demographically, electorally or politically significant to be organized into any consociational settlement. Thus the non-representation of Polish immigrants to the Lebanon in its political arrangements, or of Indian immigrants in Northern Ireland's arrangements, does not disprove the existence of a consociation.

But consociational practices may prevail without the participation of one or more demographically, electorally and politically significant ethnic community. For example, a dominant coalition may practice consociation among the partners but deliberately exclude another community, i.e. consociation for the dominant and control over the dominated. One extension of Lijphart's discussions is to treat Israel when governed under Labour (predominantly supported by Ashkenazi

Jews) and Likud (predominantly supported by Mizrahi Jews) coalitions as an illustration of this scenario: consociation among ethnically differentiated Jews, but joint control by Israeli Jews over Palestinians in Israel (and in the Palestinian Authority). It is also possible that a whole community, or a significant majority of a community, may refuse to participate in consociational arrangements, even though offered places. This is voluntary self-exclusion. Another way in which a community, or a party from a community, may be excluded from representation in an executive is through threshold effects that do not cast any immediate doubts on the democratic rules of the game or on the motivations of the constitutional designers. Any electoral system to choose a congress, assembly or parliament, automatically has some logical or formal threshold that candidates or parties have to achieve before winning representation[45]. Likewise consociational executives may have formal rules that produce thresholds of electoral support and legislative representation that parties must achieve before winning control over executive portfolios. In South Africa's transitional consociational arrangements agreed in negotiations between the National Party and the African National Congress in 1992-3 political parties had to obtain 5 % of the vote before they could be guaranteed places in the cabinet, and 20 % of the vote, if they wanted to be guaranteed one of the two executive vice-presidential posts. In Northern Ireland, after its 1998 settlement, ten cabinet positions were available to political parties in proportion to their voting shares. Allocation took place according to a specific algorithm, the d'Hondt formula, which effectively

excludes parties that fail to achieve significant levels of electoral and legislative support. Four parties, with 22, 21, 20 and 18 per cent of the first preference vote respectively, took all of the ten cabinet positions, leaving a fifth of the electorate without a cabinet member representing their first-preference vote[46]. South African and Northern Irish illustrate how proportional allocation rules and threshold effects may lead to the democratic exclusion of smaller communities or the parties of smaller communities from access to the executive[47].

It is very rare, even in an extremely ethnically, religiously or culturally divided territory, for nearly all voters to vote cleanly for ethnic parties or candidates representing "their" communities. Some members of some minorities may vote for ethnic parties or candidates of other communities as proof of their integrationist or assimilationist intent. Where a political system deliberately obliges voters to vote only within their own community for their own ethnic parties, then, and to that degree, the system should be called <u>corporately</u> consociational. Separate electoral rolls for each ethnic community with a requirement that everyone register on one and only one roll illustrates this phenomenon. The British Raj"s organization of separate electoral rolls before independence is a well-known example of such a device. To obtain access to the community councils of independent Cyprus citizens had to opt to be on Greek Cypriot or Greek Turkish rolls. By contrast, in a <u>liberal</u> consociation all voters are on a common electoral register, and though they may vote for their own ethnic

parties, they are not required to do so. The distinction between corporate and liberal consociational practice corresponds to Lijphart's distinction between "pre-determined" and "self-determined" group identity. Plainly the former arrangement is rightly criticized from the perspective of human development and liberal individualism.

In competitive democracies there will, of course, be voters who vote for non-ethnic, inter-ethnic and cross-ethnic parties. Where they are a minority in each significant community, and a minority overall, they may oppose but not successfully challenge a consociational regime. In some cases, such voters create a new community, a community of "others" who reject the available ethnic and party identifications, and they may either oppose consociational arrangements in defense of a new, transcendent, hybrid or non-ethnic identity, or, alternatively, they may start to bargain for a proportionate stake in the system. In other cases, voters who back non-ethnic, inter-ethnic and cross-ethnic parties are signaling integrationist or assimilationist dispositions. If such voters become majorities in each community then it is very likely that consociational arrangements will voluntarily dissolve.

"Descriptive" representation of communities within otherwise formally non-ethnic parties may lead to the creation of weakly consociational executives, i.e. situations in which a large catch-all governing party may enjoy plurality support

from each descriptively represented community. Large catchall, (or ideological or even confessional) parties that deliberately ensure that they have proportional quotas of candidates for parliamentary or ministerial office from all significant ethnic identities have clear intentions. They are trying both to appeal to voters as ethnic voters, by using consociational devices within their own organizations (e.g. proportionality and power-sharing), and to insure the party against possible withdrawals of support on ethnic criteria. Where such parties are successful and go on to form single party governments they are very unlikely to resemble complete or concurrent consociational executives, but they may well enjoy plurality support within each significant community. The federal Canadian Liberal party has been seen as a weak or descriptively consociational governing party because it usually alternates its party leadership between French and English speakers, and allots informal quotas of cabinet seats to Anglophones and Francophones, and because it sometimes enjoys plurality support among both Anglophones and Francophones[48]. Similar interpretations were advanced about the Indian National Congress party in its heyday, and are beginning to be suggested about the African National Congress in South Africa[49]. Such governing parties may be classified as consociational by four criteria:

(i) the extent to which they draw support from each major community of voters at plurality levels or above;

(ii) the extent to which they are descriptively representative in the legislature and the cabinet of the state or region that they govern;

(iii) their internal party organizational characteristics (i.e. the extent to which their internal governance follows consociational traits of executive power-sharing, autonomy, proportionality and veto rights), and

(iv) the extent to which they follow consociational practices to manage crises that have national, ethnic, linguistic or religious roots[50].

A last word on the democratic caliber of consociational executives. Contrary to what some suggest, presidencies, including collective presidencies, have ranked at least as prominently as variants of parliamentary premier-cabinet executives in "actual functioning consociational systems". Consider e.g. Switzerland's seven-person presidency (see Table 1.2). The snapshot evidence from table 1.2. suggests an interesting riposte to critics of consociation. Separation of power systems create formal mechanisms for accountability, and checks and balances, of a different nature to those in parliamentary systems, and the critics (and proponents of consociation) have an overly strong and unexamined bias in favor of parliamentary systems. There is no reason why separation of powers systems with collective presidencies need preclude either opposition or accountability. What matters from the perspective of consociation is not whether a democratic regime is parliamentary or presidential, but whether it has cross-community power-sharing over executive functions and legislative agenda-setting (and to what degree: complete, concurrent or weak).

Presidential Executives	Parliamentary Executives
1. Directly elected president appoints persons from other communities to other key cabinet posts, and must appoint a consociational cabinet (Lebanon).	7. Strong premier appoints virtually representative cabinet (Canada)
2. Directly elected collective executive presidency (Bosnia and Herzegovina).	8. Constrained premier co-exists with other party elites in a bi-communally representative coalition government (Belgium).
3. Indirectly dual presidency elected on a joint platform (Federation of Bosnia and Herzegovina).	9. Dual premiership elected by a concurrent majority of the Assembly works with a cabinet allocated by the d'Hondt rule (Northern Ireland).
4. Indirectly elected rotating single person presidency (segmental majority + informal concurrent consent) and two vice presidents, with a representative. cabinet (Region of Trentino-Alto Adige, Province of Bolzano).	
5. Indirectly elected collective presidency (Switzerland).	
6. Indirectly appointed dual collective executive (European Union's Council of Ministers and European Commission).	

Table 1.2. Empirical variations in executive designs compatible with consociational principles.

The foregoing discussion has qualified Lijphart's views and that of his critics.

Rather than requiring a grand coalition government, a democratic consociation

necessarily has an executive in which there is significant cross-community

representation and support, though the forms of representation may range from

complete, through concurrent, to weak and virtual modes of support across the

included communities. Consociations vary:

i.   in the extent to which communities are included and

ii.   in the degree of opposition to the governing coalition in the executive;

iii.   in the degree to which they are liberal or corporate in their popular

        and assembly voting systems should distinguish democratic

        consociations.

Consociational arrangements may co-exist with non-ethnic and inter-ethnic parties. Lastly, consociational executives are as likely to be presidential as parliamentary – and consociational advocates need have no necessary bias against collective as opposed to single-person presidencies.

D. *The Scale and Scope of Consociation*. Consociational arrangements need not be comprehensive. They may be confined to distinct constitutional and policy sectors (in the domain of the politics of identity, recognition and constitutional change); they may be applied piecemeal where they are deemed necessary; they may apply to regions rather than entire states. They need not be mechanically applied. Nor are consociationalists peddlers of a panacea: the practices they commend are not everywhere likely to be either feasible or desirable.

What of political systems that are partly consociational? At various junctures Lijphart has distinguished between semi-, quasi- and fully consociational arrangements, notably in his 1985 review of constitutional reform proposals in South Africa. The categories of semi- and quasi- as I read Lijphart appear to mean as follows: semi-consociations have autonomy and proportionality provisions, but lack executive power-sharing and veto-rights[51]; while quasi-consociations, by contrast, combine elements of consociation (such as segmental participation, autonomy, and proportionality) but are weakened by dominant elements of control (ethnic monopolization of executive power, outright

exclusion of a segment or some segments from participation and autonomy, let alone proportionality, and *de facto* and *de jure* possession of veto-rights by a dominant minority)[52]. Even if the latter systems are claimed to be consociational they are not, and they are not democratic in elementary senses so the "quasi" label is unhelpful[53]. What Lijphart is pointing to here may better be captured by Donald Rothchild's notion of "hegemonial exchange" – systems which combine elements of consociational and control methods[54].   More terminological exactitude is possible.   Political systems are <u>semi-consociational</u> if they lack weak, concurrent or complete executive power-sharing, but distinctly have the other three traits (autonomy, proportionality and veto-rights). On this categorization descriptive consociational representation in the executive is semi-consociational. Let us call political systems <u>extensively</u> consociational if they have executive power sharing, proportionality and autonomy, but lack full panoply of legal group veto rights.

Consociation, its advocates declare, facilitates justice, both procedural and social. Groups govern themselves in agreed domains. Distributions that follow proportional allocations may be and may be seen as fair: to each according to their numbers. In a democratizing world that has an underlying moral appeal. There is also a correlation between numbers and potential power that makes such a mode of justice likely to be stable and legitimate. Consociationalists need not endorse the Hobbesian view that justice is each according to their threat-

advantage, but one of their tacit arguments is that in some cases proportional allocations of public posts and resources will be regarded as fair distributions, and be more robust as a result.

E. *Rules of* (i) *Proportionality ,* (ii) *Autonomy and* (iii) *Veto Rights For Inclusion*

E. (i) The feasibility of the idea of proportionality is not at issue in disputes over consociation, unlike the idea of grand coalitions, or as we shall see, the idea of non-territorial autonomy. In fully-fledged consociations the idea is that each significantly sized community expects to be represented in political bodies in at least rough accordance with its demographic, or electoral share of the citizenry or population. The representation may be either descriptive, mirroring appropriately shares of groups, or substantive, with persons expected to act for the interests of their groups. There may, of course, be differences between the demographic and electoral shares of segments, and this may be a source of political controversy and fear. Proportionality can be partially applied, just to formal political institutions, or it can be applied to all common institutions in a state and indeed within civil society (excluding those in which each community has legitimate autonomy)[55].

Proportionality in political institutions may be achieved by electoral systems that operate with particular formulae. Whole families of such systems ensure that

legislative bodies are composed so that parties are represented in proportion to their vote-shares[56]. The most commonly used are closed and open party list systems, and hybrid or mixed systems (which generally combine winner-take-all systems at the district level with compensatory proportional allocations of top-up seats for parties). Table 1.3. lists some of the commonly used variants of electoral formulae. The list is confined to those formulae that may be deployed with party list and preferential systems of voting. All achieve proportionality[57].

There cannot be any uncontroversial notion of proportionality, given that human beings do not come in fractions, that voters are very unlikely to divide their votes in neat easily convertible shares, and that each method for achieving proportionality "minimizes disproportionality according to the way it defines disproportionality"[58]. All proportionality systems necessarily require mathematical rules to deal with the necessary "rounding off" or "sequencing" of votes into seats. Each rule will have an explicit or tacit notion of what minimizing disproportionality involves. These rules or formulae, however, may be rank-ordered   as to whether, when bias is inevitable, they favor larger parties over smaller ones. From the most favorable for largest parties to the least favored the rank order is: d'Hondt > STV (Droop) > LR-Droop > modified Sainte-Laguë > LR-Hare/Sainte-Laguë> equal proportions > Danish > Adams[59]. It is no surprise that d'Hondt or STV (Droop) are the commonly used formulae since larger parties are likely to be the key co-architects of electoral institutions,

including within consociations. Table 1.4. illustrates the use of Largest Remainders-Hare, Table 1.5. the use of d'Hondt, and Table 1.6. the use of the Droop quota. In each case it is assumed that there are 500 voters with 5 seats to be awarded. The examples show that when different formulae are applied to the same vote distribution that d'Hondt will benefit the largest party, whereas in this example under both Hare and Droop the third party gains a seat.

Largest Remainders Method	Variants on Formulae		Quota	Consociational cases
Award a seat to each party for every quota in its total of votes; to fill any unfilled seats reward the largest remainders	LR-Hare LR-Droop		V/s v/(s+1)	Belgian lower chamber
Highest Averages Method	Variants on Formulae	Nth divisor	Sequence (first five divisors)	Consociational cases
Award seats sequentially to parties according to the remaining 'average' each presents for the next seat to be awarded. Each party's vote share is divided by the nth divisor from a prescribed sequence where n-1 is the number of seats it has already won	D'Hondt Modified Sainte-Laguë Sainte-Laguë Equal proportions Danish Adams	N (10n-5)7 2n-1 √n (n-1) 3n-2 n-1	1,2,3,4,5 1, 2.14, 3.57, 5, 6.43 1,3,5,7,9 0,1.41,2.45,3.46,4.47 1,4,7,10,13 0,1,2,3,4	Netherlands & Switzerland
Single Transferable Vote Method			Quota	
Candidates with Droop quota of votes are elected. Unfilled seats filled by transferring			V/(s+1)	Northern Ireland

surplus votes from elected candidates and eliminated candidates.				

Table 1.3. Various methods for proportionally allocating seats from votes.

Source: adapted from Gallagher (1992: 470). [60]
Notes: (i) v = votes; s = seats.
 (ii) The equal proportions and the Adams methods can be used to determine the number of representatives for each district on the basis of population shares, but not to award seats to parties (since the initial divisor of 0 would give a seat to every party with 1 vote).

The merits of using proportional representation systems to achieve proportional outcomes are obvious. Provided district magnitudes are not too small, and provided that there has not been significant gerrymandering of electoral districts[61], then PR methods will produce outcomes that are usually seen as technically fair and consistent, even though each may each have distinct quirks of their own [62]. Using such systems on a common roll also has the merit of enabling voters to decide whether they want to be represented by ethnic, trans-ethnic or non-ethnic parties, i.e. voters enjoy self-determination.

Table 1.4. Allocation of seats by Hare Largest remainders. V = 500, Seats = 5.

	Party A	Party B	Party C
Quota = 100	300	140	60
Quotas	3 (3)	1.4 (1)	.6
Largest remainders	0	.4	.6 [1]
Total	3	1	1

Notes. The numbers in round brackets are seats awarded because of full quotas (v/s, = 100). The numbers in square brackets are seats awarded because of largest remainders.

Table 1.5. Allocation of seats by d'Hondt. V = 500, Seats = 5.

	Party A	Party B	Party C
Divisor			

1	300 (1)	140 (3)	60
2	150 (2)	70	
3	100 (4)		
4	75 (5)		
Total	4	1	0

Notes: The numbers in round brackets are seats awarded in sequential order of party presenting the highest (remaining) average.

Table 1.6. Allocation of seats by Droop quota. V = 500, Seats = 5.

	Party A	Party B	Party C
Quota = 83.3	300	140	60
Quotas	3.6 (3)	1.68 (1)	.72
Largest remainders	.6	.68	.72 [1]
Total	3	1	1

Notes: The numbers in round brackets are seats awarded because of full quotas (v/s+1) = 83.3). The numbers in square brackets are seats awarded because of largest remainders.

In countries that use non-proportional electoral systems, such as winner-takes-all in single member districts, it may be possible to achieve proportional representation of communities, although it is more problematic to engineer[63]. Reserved seats may be kept for certain groups, e.g. the Maoris of New Zealand were reserved seats when New Zealand used plurality rule, at least initially broadly in line with their share of the citizenry, though it started to veer towards significant under-representation. The territorial concentration of communities may also facilitate proportional representation of legislators by ethnic, racial, religious or linguistic origin, though such results cannot be guaranteed. Thus the Canadian Liberal party runs Anglophone and Francophone candidates in appropriate ridings to try to ensure it will be internally representative in the Ottawa House of Commons. After 1943 seats in the Lebanese chamber of deputies were divided in the ratio of six Christians to five Muslims, or 54.5: 46.5,

which supposedly reflected the shares of the two communities in the 1932 census. Constituencies, of differing magnitude, were mandated to produce specific numbers of Christian and Muslim deputies to achieve this effect. In fact, the census of 1932 suggested a Christian: Muslim ratio of residents of 50: 49, and of 52: 47 among registered citizens. So the fixed ratio of 6: 5 was not very proportionate. Parity, or a ratio of 9:8, would have been more just. The ratio of 6: 5 was also, by definition, inflexible – unless, of course, it could be agreed to vary the ratio in accordance with changing census returns. But in Lebanese politics it gradually became impossible to hold a fresh census. When Muslims, presumed to be expanding demographically[64], demanded a fresh census, Christians demanded that the Lebanese diaspora, presumed disproportionately Christian, be included in any count. This led to a stalemate and was one of the grievances that provoked the outbreak of the Lebanese civil war.

Systems of reserved seats, or systems that rely on informal norms, we may conclude, are less likely to achieve proportionality smoothly than proportional electoral formulae. They may also involve pre-empting people's identities and preferences, or adopting corporate (pre-determined) rather than liberal (self-determined) principles of representation. Fixed quotas create obvious difficulties, as in the case of the Lebanon. That said, much the least controversial quota allocation is to give a community a guaranteed share of positions in the executive or legislature that is broadly proportional to its demographic or electoral weight.

By contrast, the over-representation of significant minorities automatically creates serious tensions, especially if the over-represented minority already has other protections or has historically been privileged[65]. In one famous example the Cypriot constitution of 1960 guaranteed 30 per cent of the seats in the Cypriot parliament, and 3 of the 10 seats in the Council of Ministers to Turkish Cypriots[66], even though they comprised less than 20 per cent of the population. The following provision of the constitution regarding the executive of the Federation of Bosnia Herzegovina currently gives rise to predictable objections from the local majority of Bosniacs: "Section IV. B. Article 5: No fewer than one-third of Ministerial positions shall be occupied by Croats".

Parity of representation among demographic unequals creates predictable objections among majority communities who, correctly, argue that proportionality is a different principle from parity. The new Belgian constitution requires that the Belgian federal cabinet be comprised of equal numbers of Flemish and French speakers, even though Flemish speakers are a clear demographic and electoral majority. The recent Northern Ireland executive (1999-2002) had equal numbers of unionist and nationalist ministers, but this was a result of parties agreeing that there should be ten ministries and the subsequent result of the application of the d'Hondt formula. With the same number of ministries and a different distribution of seats won among parties there would have been no guarantee of parity of representation.

Lijphart has described both the over-representation of minorities and parity of representation of unequals, as "extensions of the proportionality rule"[67], even though he also regards them as methods of "disproportional representation". This is unfortunate linguistic acrobatics, but it is plain that his intentions have been to counsel against over-representation of minorities. Disproportional representation may be conceived of as a method of minority protection, and may be demanded by minorities on various grounds, but such representation is legitimately criticized as departing from the norm of proportionality (to each according to their numbers) and therefore from consociational logic. The conjunction of over-representation or parity among unequals with minority veto rights (see below) creates obvious protests from majorities. Majorities may well accept veto rights on matters or national, ethnic, cultural or religious significance for minorities, but they do not appreciate why they additionally have to endure under-representation or parity when they comprise the largest community.

The idea of proportionality also serves as a standard for the disbursement of public funds by a regional or sovereign consociation. Indeed departures from proportionality may occasion dissatisfaction, unless one community is demonstrably poorer than another. The Constitution of Cyprus of 1960 guaranteed funding for the Turkish communal chamber at ¼1/4 of the sums to be provided for the Greek communal chamber, even though Turkish Cypriots

comprised less than 1/5 of the population. Proportional allocation of public expenditure is relatively easy to achieve technically among groups that are sharply differentiated and relatively equal in endowments, though the politics of such allocation cannot be presumed to be unproblematic.

Lastly, in consociations proportionality is used as a standard for the allocation of positions throughout the state or region, especially in its public (and sometimes in its private) sector. In 1958 in the Lebanon President Chehab proclaimed the introduction of the principle of strict parity between Christian and Muslim appointees to the civil service. This calmed communal relations though tensions remained because of Maronite "preserves"[68] in the security sector; later, when Muslims were convinced of their increased numbers and educationally uplifted they started to demand the end of the quota and the proportionality principle. Examples of the use of proportionality rules or quotas to allocate administrative and judicial positions abound in the literature of national and ethnic conflict regulation: Northern Ireland, Canada, and Belgium are all regions or countries with rigorous fair employment laws, including the use of affirmative action, and in some cases quotas, to achieve proportionality in public life. The literature on affirmative action and preferential policies is now vast – so large that it is separately addressed in a different paper in this symposium.

E. (ii). Consociations share political power on matters agreed to be of common i.e. cross-community concern. They do so in executives and legislatures, and, in principle, may do so in judiciaries. In independent sovereign consociations key policies and positions in security institutions (the armed forces, intelligence organizations, and central policing services) and in economic institutions (such as central banks) are, however, very likely integrated[69]. Equally though, successful consociations are systems of self-rule which delegate decision-making or grant autonomy (self-government) to communities on matters that are deemed appropriate. Tacitly, consociations work with their own distinct principle of "subsidiarity", making it inappropriate to seek autonomy over what are matters of common concern, and equally inappropriate to try to make a matter of common concern what has been decreed to be within a community's autonomous rights. The core idea of autonomy from the perspective of minorities is "rule by the minority over itself in the area of the minority's exclusive concern"[70]. But the idea applies to all communities, including majorities that have autonomy. The idea of autonomy is easy to state in principle but its institutional and regulatory manifestations are complex and varied[71].

Autonomy is not the same as independence or sovereignty, and exists within constitutionalized (or statutory or normative) arrangements that regulate the level of discretion enjoyed by the authorities with autonomy. A standard contrast in types of autonomy differentiates territorial and non-territorial forms.

Territorial autonomy arrangements can be organized in federations (state- or system-wide forms of territorial government), federacies (particular federalized arrangements between at least one governmental unit and the central government) and devolved governmental systems (within unitary states where the central government reserves full legal sovereignty). These are discussed at greater length below but Table 1.7. suggests examples of how territorial autonomy and consociational arrangements may be combined. The columns organize political systems by the nature of their executives, legislatures and constitutional amendment procedures, the rows organize systems by the nature of their forms of territorial autonomy.

	Complete consociations	Concurrent consociations	Weak/descriptive consociations	Non-consociations
Unitary	Cyprus (1960-3)	Estonia(1918-40) Lebanon (1943-75)	Belgium (before federation) Netherlands (1917-67) Lebanon (1989-)	Sweden France Denmark Iceland
Devolutionary			Northern Ireland (1974)	Great Britain Spain Italy
Federacies		Northern Ireland (1998-)	South Tyrol	Puerto Rico
Federations	Switzerland	Belgium Federation of Bosnia and Herzegovina (1994-)	India (intermittent) Canada South Africa (1996-)	Australia USA Germany
'Federations' that are *de facto* and mostly *de jure* confederal	Bosnia and Herzegovina (1995-)	European Union (1991-)		

Table 1.7: Possible combinations of territorial autonomy and consociational (executive and legislative) arrangements at the centre.

A federation can be completely or concurrently consociational when all the significant communities enjoy territorial autonomy and a (proportionate or equal) share in the running of the federal government, and when the boundaries of concentrated communities correspond with the territorial units of self-government in the federation, and when the federation at the centre reflects the other consociational organizational principles of executive power-sharing, proportional representation of all segments. A federacy is consociational when the relevant region has constitutionally entrenched territorial autonomy and is internally organized along consociational lines. A consociational devolutionary regime is one in which territorial autonomy is enjoyed by one or more distinct regions at the revisable discretion of the central government, but the regional governance is internally organized along consociational lines. A confederation is consociational when its confederal institutions have either complete or concurrent executives that represent the member-states, and when the institutions additionally reflect proportionality and mutual veto practices[72].

"Non-territorial" autonomy seems puzzling. Must not all powers or rights be exercised within a territory? Perhaps the "personality" or the "group" principle are better descriptions, notions sometimes subsumed under the notion of functional autonomy. Whatever they are called, these "non-territorial" forms of

autonomy are distinctly consociational (because territorial autonomy is often found in non-consociational systems).

Under group autonomy members of communities may exercise the relevant rights wherever they reside or work in a state or region – irrespective of the specific territory within which they live or work. So, for example, they may publicly profess their religious beliefs and hold religious meetings in public no matter where they live. Under personal autonomy each person may opt to be recognized or to receive services in accordance with their group membership. So, for example, a person living in Brussels, Belgium, may opt to receive information about public services in either French or Flemish[73]. A modern example of autonomy is the provision of separate broadcasting networks for different linguistic users throughout the entirety of a state, especially if each network is run by its own community's political institutions or civil society. Striking examples of corporate legal autonomy are the separate civil law and personal status arrangements of the ethno-religious communities of the Lebanon. India's separate personal laws for its Muslim and Christian minorities are the world's most significant examples of corporate legal autonomy. Less surprising to the integrationist eye, but no less consociational, are the fully funded and separate educational systems of the Netherlands, Belgium and Northern Ireland.

The 1960 constitution of Cyprus contained very extensive provisions for both legal and administrative pluralism (see Insert below) that illustrate autonomy in a strongly consociational regime. It created Greek and Turkish chambers with extensive powers of self-government over religious, cultural and educational laws and policies. Reading Articles 86, 87 and 2 may create the impression that these provisions were utterly corporate in nature, albeit dually corporate, and strongly patriarchal (in that identity of origin was presumed to follow from the father). They were, however, tempered by some liberal provisions elsewhere in the constitution. Citizens were free to de-register and join other communities. The minor religious communities, the Armenians, Maronites and Latins, were guaranteed the continued enjoyment of the liberties and status they had under British rule. Members of these groups, as individuals, were guaranteed human rights and fundamental freedoms comparable to those set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms, and both as individuals and as groups, they enjoyed constitutional protection against discrimination. The constitution enabled the Armenians, the Maronites and the Latins, as groups, to choose to belong to either the Greek-Cypriot or the Turkish-

Insert 1. Community Autonomy in the Constitution of Cyprus (1960)[74].

Article 86. The Greek and the Turkish Communities respectively shall elect from amongst their own members a Communal Chamber which shall have the competence expressly reserved for it under the provisions of this Constitution. Article 87. 1. The Communal Chambers shall, in relation to their respective Community, have competence to exercise within the limits of this Constitution and subject to paragraph 3 of this Article, legislative power solely with regard to the following matters:-
(a) all religious matters; (b) all educational, cultural and teaching matters; (c) personal status; (d) the composition and instances of courts dealing with civil disputes relating to personal status and to religious matters; (e) in matters where the interests and institutions are of purely communal nature such as charitable and sporting foundations, bodies and associations created for the purpose of promoting the well-being of their respective Community; (f) imposition of personal taxes and fees on members of their respective Community in order to provide for their respective needs and for the needs of bodies and institutions under their control as in Article 88 provided; (g) in matters where subsidiary

legislation in the form of regulations or bye-laws within the framework of the laws relating to municipalities will be necessary to enable a Communal Chamber to promote the aims pursued by municipalities composed solely of members of its respective Community; (h) in matters relating to the exercise of the authority of control of producers' and consumers' co-operatives and credit establishments and of supervision in their functions of municipalities consisting solely of their respective Community, vested in them by this Constitution:

Provided that-

(i) any communal law, regulation, bye-law or decision made or taken by a Communal Chamber under this sub-paragraph (h) shall directly or indirectly be contrary to or inconsistent with any by which producers' and consumers' co-operatives and credit establishments are governed or to which the municipalities subject,

(ii) nothing in paragraph (i) of this proviso contained shall be construed as enabling the House of Representatives to legislate on any matter relating to the exercise of the authority vested in Communal Chamber under this sub-paragraph (h):

(i) in such other matters as are expressly provided by this Constitution.

2. Nothing in sub-paragraph (f) of paragraph 1 of this Article contained shall be construed as in any way curtailing the power of the House of Representatives to impose, in accordance with the provisions of this Constitution, any personal taxes.

3. Any law or decision of a Communal Chamber made or taken in exercise of the power vested in it under paragraph 1 of this Article shall not in any way contain anything contrary to the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or which is against the fundamental rights and liberties guaranteed by this Constitution to any person.

Article 2

For the purposes of this Constitution:

(1) the Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are members of the Greek-Orthodox Church;

(2) the Turkish Community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems;

(3) citizens of the Republic who do not come within the provisions of paragraph (1) or (2) of this Article shall, within three months of the date of the coming into operation of this Constitution, opt to belong to either the Greek or the Turkish Community as individuals, but, if they belong to a religious group, shall so opt as a religious group and upon such option they shall be deemed to be members of such Community:

Provided that any citizen of the Republic who belongs to such a religious group may choose not to abide by the option of such group and by a written and signed declaration submitted within one month of the date of such option to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers opt to belong to the Community other than that to which such group shall be deemed to belong:

Provided further that if an option of such religious group is not accepted on the ground that its members are below the requisite number any member of such group may within one month of the date of the refusal of acceptance of such option opt in the aforesaid manner as an individual to which Community he would like to belong.

For the purposes of this paragraph a " religious group " means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic;

(4) a person who becomes a citizen of the Republic at any time after three months of the date of the coming into operation of this Constitution shall exercise the option provided in paragraph (3) of this Article within three months of the date of his so becoming a citizen;

(5) a Greek or a Turkish citizen of the Republic who comes within the provisions of paragraph (1) or (2) of this Article may cease to belong to the Community of which he is a member and belong to the other Community upon -

(a) a written and signed declaration by such citizen to the effect that he desires such change, submitted to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers;

(b) the approval of the Communal Chamber of such other Community;

(6) any individual or any religious group deemed to belong to either the Greek or the Turkish Community under the provisions of paragraph (3) of this Article may cease to belong to such Community and be deemed to belong to the other Community upon -

(a) a written and signed declaration by such individual or religious group to the effect that such change is desired, submitted to the appropriate officer of the Republic and to the Presidents of the Greek and the Turkish Communal Chambers;

(b) the approval of the Communal Chamber of such other Community;

(7) (a) a married woman shall belong to the Community to which her husband belongs. (b) a male or female child under the age of twenty-one who is not married shall belong to the Community to which his or her father belongs, or, if the father is unknown and he or she has not been adopted, to the Community to which his or her mother belongs.

Cypriot community. In the event of option, the members of the group enjoyed the same benefits as the other members of the relevant community. Any religious group that opted as a group to belong to one of the two communities had the right under the constitution to be represented in the communal chamber of the community for which it opted. Any religious group, in common with other bodies, had the right of recourse as a group to the supreme constitutional court. Last, the constitution provided for members of the smaller religious groups to enjoy no less extensive rights in respect of religious matters than they enjoyed in law before, and matters of personal status remained under their jurisdiction.

These provisions of the Cypriot constitution demonstrate the feasibility of the personal or corporate principles of autonomy. Principles like these, of course, are not without their difficulties. While ethnic, religious and linguistic associational life is unproblematic, modern states cannot dispense with common territorial jurisdiction, either within a state, or within a region. In some matters – the usual examples given are criminal or business law – a single code of behaviour and a single regime of sanctions will usually be sought and rational in at least some domains of public and private life, if only to avoid perverse incentives to manipulate identities. The idea of people changing their ethnic, religious or linguistic identity just to avoid criminal sanctions is not appealing. Meaningful personal or corporate autonomy has one legal consequence. It will necessarily generate a complex jurisprudence in which courts and other authorities will have

to regulate potentially conflicting territorial, corporate and personal principles. This, of course, returns us to the domain of many of the normative arguments about consociation, but what matters here is to establish the coherence and feasibility of the idea of non-territorial autonomy, i.e. distinctively consociational autonomy. Distinctively consociational autonomy provides an administratively cogent way to provide autonomy to territorially dispersed communities and to different communities that are extensively geographically mixed, as has been demonstrated at various junctures in the histories of Belgium, Cyprus and Lebanon[75].

E. (iii). The last element in Lijphart's definition of consociational institutional traits, mutual community veto rights, is partly implied by the existence of the other three. To the extent that there is cross-community executive power-sharing each segment has at least weak and perhaps vigorous protection against majoritarian executive discretion and legislative agenda-setting. To the extent that there is consociational autonomy, territorial or corporate or personal, then minorities who benefit from such autonomy can stop other minorities or majorities from exercising executive or legislative dominance over them within the relevant functions and spaces. Autonomy or delegation, to be meaningful, entails veto-capacities for the autonomous or delegated authorities. Lastly, to the extent that there is proportional representation of segments throughout the state

then the capacity of each group to block dominance by the others is enhanced –
though not guaranteed.

Nevertheless formal mutual veto rights may be sought and institutionalized to
ensure the guaranteed mutual protection of minorities and majorities. This is a
very strong form of political inclusion. Formal mutual veto rights may exist
within the constitution. Within the executive collective presidents or dual
premiers may share agenda-setting and agenda-blocking powers, and vice-
presidents may be granted veto-rights (Bosnia, Northern Ireland, Cyprus).
Within the legislature the consent of all the affected segments may be required
before constitutional change can take place – as in the treaty of Westphalia's
provisions for co-existence among Christians. This can take the form of requiring
unanimity within the legislature, a concurrent majority within the legislature, a
weighted or super-majority that ensures concurrent or weak cross-segmental
support, as in the "cross-community consent provisions" of the 1998 agreement
in Northern Ireland. Similar restrictions to standard majority rule in the
legislature may apply to ordinary legislation if minorities have the right to
petition that such matters be deemed of national, ethnic or communal
significance. Within the judicial arrangements of a state or region courts may be
charged with protecting group autonomy in bills of rights and charters that
effectively place constitutional constraints on majorities that are equivalent to
entrenched veto rights; ombudsmen may be given similar quasi-judicial roles.

Veto-rights create obvious difficulties for standard majoritarian democratic theory. Minority "tyrannies" may block change; deadlock, immobilism, or policy stagnation can flow from the deployment of vetoes by all groups; and minorities that over-use their veto rights may de-stabilize a consociational settlement[76]. That said, these difficulties should not be exaggerated. In consociational systems formal veto rights tend to apply in the domains of the politics of identity: in ethnic, religious or national domains, and not in every policy sector. In effect, in these domains groups have parity of power, rather than proportional power. They are likely to be attached to those provisions that make the state and the constitution multi-national, multi-ethnic, multi-lingual, multi-territorial, or multi-religious.

Lijphart argues that mutual vetoes may be formal or informal[77]. If they are formal they are found within constitutions and institutional rules. Though Lijphart is right to point to informal elements in the political cultures of several countries that are akin to mutual veto rights language should not be stretched. Without overt, measurable constitutional impact such elements should not be counted as veto rights. A political system with cross-community executive power-sharing, autonomy for the segments, and proportionality rules is consociational, and no doubt will be buttressed by conventions that take these practices into account. Veto-rights which have legal parity of power for the

segments in certain domains should be regarded as elements of more rigid consociations, and they should be rights as such: i.e. legally enforceable[78].

This extended commentary on the elements of consociation may now be summarized. It is important to distinguish democratic from authoritarian, and liberal (self-determined) from corporate (pre-determined) consociations. The latter are plainly much more compatible with liberal human developmentalism. In democratic consociations there must be executives, which enjoy cross-community support: either from all significant communities in the electorate (complete), majorities within each included segment (concurrent), or from a plurality of included significant segments (weak or descriptive consociation). There must be recognizable forms of autonomy in cultural domains: in educational, linguistic, religious and sometimes personal law and policy-making. Autonomy may be territorial, corporate or personal. It is distinctively consociational when it is corporate or personal. There must be systematic use of proportionality formulae in executives, legislatures, and public appointments. These three traits (cross-community support for the executive power-holders, autonomy and proportionality) are necessary features of a fully-fledged consociation. They may entail, but do not mandate a fourth. In more rigid consociations there will be parity or veto rights. These are most likely to be found in constitutional provisions.
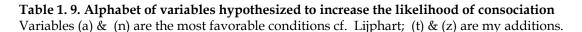
F. *The Naturalness of Consociations and Explaining Them*. Consociationalists observe that consociations occur without their urgings. They think of them as "natural" and creative political responses to a politics of antagonism, as the outcomes of negotiated deals. Politicians, Lijphart has observed, invented consociational rules and institutions in the Netherlands in 1917, in Lebanon in 1943, in Malaysia in 1958, and British politicians did so for Northern Ireland in 1972. We can add that they were re-invented by American diplomats to end the war in Bosnia Herzegovina at Dayton in 1995; by Lebanese and Northern Irish politicians with external prompting in 1989 and 1998 respectively; and by EU diplomats in promoting the Ohrid agreement between Macedonian Slavs and Macedonian Albanians. The UN and the EU between them recently sought to mediate a consociational and confederal settlement in Cyprus, albeit one so heavily weighted toward the concerns of Turkish Cypriots (and Turkey) that they lost the possibility of support among a majority of Greek Cypriots. And it is not just politicians who re-invent consociational ideas. Jurists, constitutional designers and political theorists constantly do so. As do so-called ordinary people. Jurists in the Holy Roman Empire proposed consociational ideas; and consociational propositions were freshly minted by the Austro-Marxists, especially by Karl Renner. Within academic political theory, without a full appreciation of the history of their ideas, many contemporary multi-culturalists advance consociational agendas: inclusivity (cross-community power-sharing); quotas

(proportionality), and group rights (autonomy) are often advanced in packages to remedy the participatory defects in some contemporary democracies[79].

Much comparative political science has been devoted to explaining the genesis of consociation, though no consensus on the matter exists. Table 1.8. identifies a n alphabet of 26 factors proposed by multiple scholars as independent variables that might explain the development of consociational systems (some of which are mutually incompatible). They may be ordered by (a) the *number* and the *divisions* between groups (the demography and historical sociology of group relations); (b) the *domestic political regime* (and the relations of its elites and citizens); and (c) *the external relations of the state* (or region).

This is not the place to review all these possible explanatory variables, or their respective salience.   But three comments on international elements in the explanations of consociations are necessary. First, consociational arrangements are less likely to be found among great military powers, because they are reluctant to embrace consensual   decision-making and favor energetic discretionary executive power[80]. Such is now the argument of those who want to create a vigorous apparatus for the foreign and security policy-making of the European Union. Second, great powers are willing to impose on small powers

	Factors	Independent Variables
The Divisions	1. Numbers	**a**. No dominant community b. A dual balance of power c. Multiple and equally sized communities

	2. History	d. Not too many communities
		e. Demographic equilibrium
		f. Elite traditions of accommodation
		g. Past violence and its costs promotes accommodative politics
		h. Non-colonial relationships among communities
		i. Absence of special homeland claims
		j. Over-arching unifying identities, shared rather than rival nationalisms
	3. Sociology	k. Internal cohesion among communities
		l. Cross-cutting cleavages that weaken central axis of antagonism
		m. Geographically heterogeneous groups
		n. Distinct lines of cleavage (that increase community security) including geographical isolation
		o. Approximate socio-economic equality of the communities
The Political Regime	4. Political culture	p. Publics disposed toward accommodation and power-sharing
		q. Elites that know one another (size – see below under v) and negotiate without too much constituency pressure
		r. Adequate articulation of community interests
		s. Secure and autonomous elites - popular legitimacy of the governing elites
	5.Political institutions	t. Institutions facilitate complete, concurrent, weak or descriptively consociational executives
		u. Systems of electoral and party law that create elite predominance or secure and accountable elites
The external environment	6. External position of the state or regime	v. Small size – Elites that know one another
		w Small size – Easier governance
		x. Shared external threats
		y. Relatively low foreign policy load
		z. External pressure and international norms

Table 1. 9. Alphabet of variables hypothesized to increase the likelihood of consociation
Variables (a) & (n) are the most favorable conditions cf. Lijphart; (t) & (z) are my additions.

consociational arrangements e.g. the USA and European powers used vigorous

coercion and inducements to promote consociational settlements in Bosnia

Herzegovina and Macedonia, and in the last century the European powers

intervened to create autonomy and rights packages for Christian minorities

within many of the provinces of the Ottoman empire – ones that they did not

always apply to their own religious minorities. Similarly, the centers of sovereign

unitary states may be willing to induce local elites to agree consociational

autonomy settlements in small regions without re-engineering their core states, e.g. Great Britain and Northern Ireland, and Italy and South Tyrol. Third, the direct and indirect effects of international norms matter in the genesis of consociations. The received understanding of the Westphalian system is that sovereign states were to leave one another alone in their domestic cultural zones. Their sovereignty gave them the right coercively to assimilate or integrate minorities within their borders (on some interpretations sovereignty even included the right to commit domestic genocide).

This standard reading of the Westphalian system has never been without challengers. The historic treaty protected some religious power-sharing. In the 1920s (after the collapse of the Habsburg, Ottoman and Czarist empires) new European states recognized at Versailles signed minority rights treaties that in principle could be regulated by the League of Nations. The treaties bound them not to abuse their minorities and in some cases required them to develop semi-consociational practices (notably in religious, educational and linguistic autonomy). The story was hardly a success, and the United Nations was partly constructed in San Francisco in a deliberate rejection of these experiments. But the post de-colonization international law of self-determination, and the politics of recognition of the post-communist successor states, have seen a revival of efforts to lock new states into systems of minority protection. In turn this has

provided some external shield for minorities that advance consociational demands.

Other indirect effects of international norms and interventions are also evident on consociational prospects. International proscriptions exist against genocide and expulsion. Norms of some significance reward states that are democratic – and make discriminatory regimes potential pariahs (though these now often parade themselves as allies in the global war on terror). There are also proscriptions against coercive assimilation. There are strong dispositions in the international system against secession and hostile to partitions. The conjunction of all these norms leave international organizations and great powers when they intervene in national, ethnic, and communal conflicts confined to promoting one of three repertoires of conflict regulation:

(i)   territorial autonomy and/or federacies and federations;

(ii)   (ii) integration; and

(iii)   (iii) consociation.

In some scenarios to prescribe integration --- Bosnia Herzegovina, Macedonia, Northern Ireland, Cyprus, Iraq --- is to prescribe the partisan victory of one community over another. In short, the normative prohibition, if not factual exclusion, of certain options sometimes create leverage in favor of consociational arrangements, perhaps especially in small political systems or weakened states.

Emergent Cases. There are at least three current experiments in "complex consociations", Northern Ireland, Bosnia Herzegovina, and Macedonia, that illustrate these tentative suggestions. (Cyprus might have been another had Turkey not over-negotiated and had the United Nations and the European Union managed the local politics with greater perspicacity). All three involve executive power-sharing, proportionality, autonomy and veto-rights; but they also involve international efforts to resolve national self-determination disputes, mediation, negotiation, arbitration and implementation of peace settlements, and cross-border or confederal relationships (and sometimes institutions) for national minorities with their kin in other states. They are somewhat less frequent than the international promotion of standard territorial autonomy settlements but their presence in our times is suggestive. They specifically attempt to address national self-determination disputes between communities, i.e. where there is an opposition between at least some secessionists and some unionists (or federalists). The settlements institutionally recognize more than one people, nation or society, and attempt to provide constitutional architecture within which they can co-exist. They may involve defining the state as multi-national, recognizing national minorities as well as majorities, referendums to ratify such settlements in more than one jurisdiction, or mechanisms to trigger referendums. They involve peace processes – mechanisms, confidence-building measures and institutional and policy transformations to halt conflict and future violent recurrences. They involve both the reform and the restructuring of security

systems, and measures intended to end secessionist (and anti-secessionist) paramilitarism, as well as new human rights protections. These involve at least one other conflict-regulating strategy or principle in their design. These three consociations are combined with territorial autonomy. In Northern Ireland the region has autonomy from Westminster. The Federation of Bosnia Herzegovina has internal territorial autonomy for Bosniacs and Croats. Macedonia will have de facto territorial autonomy for Macedonian Albanians. These consociations have arbitration mechanisms for resolving disputes --- impartial courts, commissions, international judges, international commissions, intergovernmental conferences. They may have elements of integration --- citizenship equality provisions --- and, they may have mechanisms that enable the secession of the relevant unit of consociational governance, or, alternatively, a procedure for enabling the central state to "down-size". Northern Ireland illustrates the point; by contrast, there is no such provision in the Dayton or Ohrid Agreements. A last element of complexity is international involvement in the making, ratification and maintenance of the relevant consociational or autonomy settlements. This may involve neighboring states, regional powers, great powers, regional organizations (e.g. the OSCE or the EU), or international organizations (e.g. the UN), in organizing and monitoring cease-fires, in providing good offices for the making of settlements, in designing implementation arrangements, and providing default mechanisms to arbitrate disputes. Levels of international institutionalization may vary. Domestic

incorporation of international human and minority rights standards does not necessarily challenge the sovereignty of the state. Institutionalized cross-border co-operation and the formation of bodies with executive powers in more than one formally sovereign jurisdiction, by contrast, entail at least a pooling if not necessarily a diminution of sovereignty. High commissioners appointed by great powers may be indistinguishable from the prefects of protectorates (or those of colonial overlords).

Summary. The rival moral and political evaluations of consociation are unlikely to be immediately resolved; and are not amenable to decisive confirmation or falsification by empirical evidence. They reflect different philosophies and factual appraisals. Anti-consociationalists fear that consociation will bring back racism, fundamentalism and patriarchy, whereas consociationalists fear that integrationists will provoke avoidable wars and are biased towards the interests, identities and ideas of dominant communities. The intensity of this debate attests to the influence of consociational thought. The test of concepts, taxonomies and theories in the social and legal sciences is twofold: i.e. whether they serve worthwhile explanatory or normative purposes. The claim here is that exponents of consociation, when their case is put carefully, can rebut the wilder charges made against their moral and political positions. Consociations, simple or complex, are certainly difficult to love and celebrate – even if their makers often fully merit intellectual, moral and political admiration. They are,

after all, usually cold bargains, even if they may be tempered by political imagination. Ardent secessionists and uncompromising unionists should be counseled that their efforts may land them with these systems if they fail to win on the battlefield. In explaining consociations significant preliminary work has been done, but a comprehensive comparative historical analysis of consociational settlements and their outcomes remains to be completed.

5. Federal Arrangements

Federal principles of inclusion, like those of consociation, combine both shared rule and self-rule[81]. Federal political systems encompass a range of possible political organizations that reflect this philosophy: including confederations, federations, certain kinds of unions, federacies, associated states, leagues and cross-border functional authorities. Federations are a very specific federal political system, arguably first unambiguously invented in 1787 in the city of Philadelphia[82]. And, like consociations federations can be built around the idea of including multiple peoples, creating a multi-society political system[83], though it is vitally important to distinguish such multi-society or multi-national or pluri-national federations from national or integrationist federations. The arguments below distinguish national from multi-national federations, and evaluate their merits for achieving inclusion. Lastly they elaborate briefly on the less well-known notion of "federacy" as opposed to wholesale federal arrangements –

drawing upon my own thoughts[84], and some unpublished work by David Rezvani[85].

In a genuine federation at least two governmental units, the federal and the regional, enjoy constitutionally separate competencies – although they may have concurrent or shared powers. Both the federal and regional governmental units are empowered directly to deal with their citizens – which differentiates most confederations from federations – and in a democratic federation citizens directly elect at least some components of both the federal and regional governments. Federations are "covenantal", the authority of each government is derived from the constitution, and not from another government[86]. In authentic federations the federal government cannot unilaterally alter the horizontal division of powers: constitutional change affecting the division of competencies requires consent from both tiers of government. Therefore federations automatically require a written, codified constitution, and normally require a federal supreme court, charged with upholding the constitution and umpiring differences between the governmental tiers. They also usually involve a bicameral legislature – a chamber of the citizens as a whole, and a second chamber that represents the regions.

Federations vary extensively; first, in the extent to which they are "majoritarian". All federations place some constraints on the powers of federation-wide majorities, but do so to different degrees[87]. The USA, Australia and Brazil for

example, allow equal representation to each of their regions in the Senate, generating massive over-representation for small units such as Rhode Island or Tasmania. A majoritarian federation concentrates political power at the federal level, and facilitates executive and legislative dominance either by a popularly endorsed executive president, or by a single-party prime minister and cabinet. A federation is not majoritarian to the extent that it has inclusive executive power-sharing arrangements in the federal tier of government; institutionalizes proportional principles of representation and allocation of public posts and resources; and has mechanisms, such as the separation of powers, bills of rights, monetary institutions and courts, that are insulated from the immediate power of a federal governing majority. On this design choice, Arabs and Kurds in contemporary Iraq would be well-advised to avoid a strongly majoritarian federation. Kurds have been an enduring minority in Iraq and, judging by the historical record, would be long-run losers from the creation of a strongly majoritarian federation – in which either an Arab or a Shi`a majority might threaten their national, linguistic and cultural identities, as well as their regional and economic interests. Sunni Iraqis too have an interest in constraining the power of a potential federal majority that might be inimical to their religious and other interests. Shi'a may be the most tempted by a majoritarian political system, but they may be less homogeneous than some of them hope and others fear – given differences among them in religiosity, and dispositions towards Iran and other neighboring states[88]. The more homogeneously Shi`a mobilize and act then

the greater the likelihood that they will generate a coalition of minorities against them.

Federations, secondly, vary significantly in the distribution of powers within the federal government. Some create very powerful second chambers. The US Senate is arguably more powerful than the House of Representatives because of its special powers over nominations to public office, and over treaty-making. Other second chambers, such as those in Canada, India and Belgium, are very weak[89]. Some have separately elected executives; some have executives chosen by the federal first chamber; and there are both single person and collective executives. Thirdly, federations differ in the distribution of competencies between the federal and regional governments. In some federations the powers of the federal government are constitutionally circumscribed and delimited; in others the regional governments have their capacities specified and delimited. In the German model the federal government makes broad policy and law while administration and implementation are in the hands of *Länder* governments, empowering both tiers with distinct enabling and blocking powers (the European Union appears to be federalizing along German lines). In all federations the constitutional division of competencies (even as interpreted by the courts) may not be an accurate guide to the policy-making autonomy and discretion held by the separate tiers. The superior financial and political resources of one tier (usually the federal) may allow it to weaken the other tier's

capacities – as in the USA where the federal government's pre-eminence is now established[90].

But whatever the distribution of competencies between federal government and and its regions, the critical choice on political inclusion is whether the federation is to be mono-national (or integrationist) or multi-national. *Mono-national or national federations* aspire to national homogeneity: to eliminate internal national - and perhaps also, ethnic - differences from lasting political salience. The goal of national federations is nation-building. The USA is the paradigmatic example of a national federation. The Latin American federations of Mexico, Argentina, Brazil and Venezuela, at various junctures in their history have adopted this US model. Germany, Austria, Australia, Malaysia and the United Arab Emirates are also national federations. National federalists think one nation and one federation can be combined successfully. The earliest-federalists in what became the Netherlands, the German-speaking Swiss lands, the USA and the Second German Reich were stepping-stone nationalists: the prime function of federation was "to unite people living in different political units, who nevertheless shared a common language and culture"[91]. They maintained federation was necessary to provide a united defense and external relations – tasks that confederations and leagues were less well-equipped to perform[92].

American and American-educated intellectuals, political scientists and constitutional lawyers, often propose national federations to manage heterogeneous post-colonial and post-communist societies. Indeed, they have a distinct animus against multi-national federations, which they regard as divisive and likely to collapse through secession. As the USA expanded southwestwards from its original largely homogenous citizenry of the 13 founding colonies – a citizenry which, of course, excluded African slaves and native Americans – no new territory received statehood unless minorities were outnumbered by White Anglo-Saxon Protestants[93]. Sometimes the technique deployed was to gerrymander state boundaries to ensure that Hispanic or Indians were outnumbered, as in Florida. At other times statehood was delayed until the region's long-standing residents could be swamped. America's nation-builders were even cautious about immigrant groups concentrating too much in given territorial locales, lest this give rise to ethnically based demands for self-government. Grants of public land were denied to ethnic groups *per se* to promote their dispersal: William Penn dissuaded Welsh immigrants from setting up their own self-governing barony in Pennsylvania[94]. This is why the US federation, in the words of one of its most distinguished analysts, shows "little coincidence between ethnic groups and state boundaries."[95] It would be more precise to say that the sole coincidence is between white majorities and state boundaries, and that that is no coincidence. National federation, as a strategy of growth and incorporation, aided the homogenization and assimilation of whites,

the famous melting pot of what Milton Gordon described as "Anglo conformity"[96]. Celebration of the homogeneity of the founding people of the federation was evident in the now sacramental *The Federalist Papers*. In the words of John Jay: "Providence has been pleased to give this one connected country to one united people – a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and their customs, and who, by their joint counsels, arms and efforts, fighting side by side throughout a long and bloody war, have nobly established liberty and independence"[97].

This quick assessment of the "historical starting point" and development of the USA suggests the inappropriateness of American national federation as a model for many multi-national, multi-religious and multi-lingual territories, where there is no sufficiently homogeneous founding people, blessed by Providence or not. In such cases to create regions in which one culture or one people is pre-eminent, the historical practice of the USA, is a recipe for conflict, especially in a non-immigrant state. We may take contemporary Iraq as an example for analysis. It takes little historical knowledge to argue that no one could plausibly advance John Jay's arguments during the making of Iraq's new constitution. Iraq may be contiguously connected on maps, but it has not had a united people, i.e. a people who think of themselves as descended from the same ancestors, who speak the same language, or who profess the same religion –

Islam has, after all, divided them as much as it has united them. They neither flow from a common stock, nor are they united by a common immigrant or assimilationist experience. They have not "by their joint counsels, arms and efforts" just fought a combined war of national liberation. To the contrary: only the Kurds fought with the Allies; the Shi`a were reluctant to rise given their previous abandonment by the 1991 coalition to Saddam Hussein's mercies; and some Sunni Ba'athists to this day are fighting the Allied occupation. It is true that many Iraqi Arabs, be they Sunni or Shi'ite, fought side by side in Saddam Hussein's long and bloody war with Iran, and that that war proved that for most of them ethnicity trumped religiosity, but some Shi`a did enroll with Iran, and most were at the front through conscription rather than by choice. Notoriously during that war Saddam organized genocidal massacres of Kurds, who were not in any sense "his own people"[98]; just as he would later engage in repressive massacres of largely Shi'ite Marsh Arabs.

It is, of course, feasible to have many regions in Ireaq in which Shi`a would be the local majority. Indeed it is probably not feasible to design contiguous regional boundaries that would not make the Shi`a dominant in many of them. But, it would be extraordinarily difficult, and divisive to devise regional boundaries to prevent Kurdish or Sunni communities from becoming regional majorities anywhere in Iraq. In the case of the Kurds such a strategy would require the partition of the existing regional government's *de facto* jurisdiction *and*

the addition of significant non-Kurdish population and territories into each new unit. Such design principles would return the Kurds to armed conflict with the rest of Iraq. No nationally mobilized people in recent history has peacefully acquiesced in the partition of its homeland. As for Sunni Arabs, one reason why the Ba'athists remain partly embedded among them is the widespread fear among them that Shi`a will create a majoritarian democracy that they will see as a dictatorship. In short, no better plan for provocative conflict could be devised than designing the territorial boundaries of the new Iraqi federation to prevent either Kurds or Sunnis from having regions in which they are the demographically and electorally dominant group. Regrettably, these elementary considerations are overlooked by those who argue that a new Iraqi federation should be built around the eighteen provinces of Ba'athist Iraq[99]. One American political scientist has argued that the regional boundaries should be drawn to prevent any of the three major communities, Kurds, Sunni Arabs or Shi'ite Arabs from having local majority control[100]. There is nothing wrong in principle with advocating this design, but it has no prospect of success in Iraq. To design or re-draw regional borders along these lines would require the services of the armed forces of the Allied occupiers or future UN forces. It is also difficult to see how this thinking could even be regarded as feasible before a reliable new census; and if it were known that the census would inform the drawing of such new borders that in turn might create perverse incentives to expel exposed minorities.

Advocates of multi-*national federations* have a different conception of how to achieve inclusion. They eschew assimilation, and embrace deeper pluralist thought. Like consociationalists they seek "to unite people who seek the advantages of a common political unit, but differ markedly in descent, language and culture"[101]. They seek to recognize, express and institutionalize at least two national cultures, on a durable, and often on a permanent basis. Multi-national federations involve the maintenance of two or more nations. Their exponents believe it is possible for the citizens of such federations to have dual or multiple loyalties, e.g. a patriotic attachment to the federation and a nationalist attachment to their regional homeland (see Professor Stepan's contribution to this symposium). They believe it is wrong to assume *a priori* either that multi-national federations will lead to the abuse of the rights, interests and identities of regional minorities, or that they will necessarily make secessionists victorious. Multi-national federalism has long been advocated within both liberal and Marxist traditions, and has a significant following within the Anglophone academy[102], including both those who see federations as devices to hold peoples together as well as those who emphasize the merits of territorial autonomy for historic national minorities. Multi-national federations are workable. Switzerland and Canada are among the world's oldest states – they have lasted in recognizably similar forms since 1848 and 1867 respectively. But, while multi-national federations have their enthusiasts, no one can deny that in the twentieth century that they have had "a terrible track record"[103]. Multi-national and multi-

ethnic federations have broken down or have failed to remain democratic throughout the communist and post-communist world (Yugoslavia, Czechoslovakia and the USSR; and Ethiopia "lost" Eritrea); and they have also broken down in much of the postcolonial world, in sub-Saharan Africa, South Asia and the Caribbean[104]. In the Arabic world the United Arab Emirates is the sole surviving postcolonial federation – and it is a national federation, and hardly a model democracy.

The breakdowns of these federations do, however, have elements in common which the architects of the new Iraq would be well advised to bear in mind. John McGarry and I highlight five key elements that have facilitated the breakdown of multi-national federations[105]:

1. *Coercion*: They were usually forced together rather than being the outcome of voluntary agreements, e.g. the constituent republics of the Soviet Union.

2. *Authoritarianism*: They were not democratic for much of their histories, and when many such federations democratized that created the institutions and opportunities for secessions to occur, e.g. Bangladesh's secession from Pakistan; e.g. Slovenia and Croatia's secessions from Yugoslavia.

3. *Maltreatment of smaller nations*: They failed to resolve tensions between the largest or the historically dominant nation and smaller nations, e.g. between Malays and Chinese.

4. *Distributive conflicts*: They failed to develop or maintain economic distributive and redistributive formulae regarding economic policy, taxation, revenue-sharing, and public expenditures, that were widely regarded as fair, e.g. Czechoslovakia.

5. *Centralizing coups, putsches or maneuvers*: Breakdown was often preceded by authoritarian attempts to centralize the federations, e.g. the conduct of Serbian politicians in Yugoslavia.

The implications for Iraq (and other possible postcolonial and postconflict sites) of this rapid inspection of the failure of multi-national federations are straightforward. The conditions for a successful federation include the following. One: The federation must be a voluntary pact, and not regarded as an American or UN imposition. The federation must be ratified by its respective and prospective units –e.g Kurds must have a referendum in their own unit to endorse any freely negotiated constitution. A foundational act of co-operation is more likely to promote future traditions of accommodation. Two: the federation must be democratic, with the full repertoire of liberal democratic institutions, universal adult suffrage, competitive elections, freedom for political parties and interest groups to mobilize, a constitution with the rule of law, human rights

protections, and a free media. Three: constructive relations based on mutual recognition must be built between the three largest national and religious communities, Kurds, Sunni Arabs, Shi'ite Arabs, as well as the smaller minorities of Turkomen, Christians and others. Four: robust and adequate agreements have to be built over the sharing of Iraq's natural resources. Lastly, there must be significant constitutional checks – and preferably some international arbitration mechanisms – that would inhibit future efforts to centralize the federation, e.g. there needs to be significant default mechanisms to protect Kurds should a governing coalition in the rest of Iraq in the future try to undermine Kurdistan's newly won constitutional status.

Inspecting the failures of twentieth century multi-national federations is not, of course, the only way to think about these matters. The major surviving federal multi-national democracies, notably Belgium, Canada, India and Switzerland, have had histories, institutions and practices that may separately or jointly explain their relative robustness:

1. Multi-national federations may well benefit from having one large group, a Staatsvolk. All other things being equal a Staatsvolk can feel secure and live with what it will regard as the price of multi-national federation. It has both the practical power to resist secession, and the capacity to be generous to discourage secessionism.

2. Conversely, multi-national federations that lack a Staatsvolk, if they are to survive as democratic and durable entities, must have cross-community power-sharing practices in the federal government, i.e. consociational practices. These practices must minimally encompass the interests of all the national, ethnic and ethno-religious communities with the capacity to breakaway. Neither the presence of a Staatsvolk, condition one, nor cross-community power-sharing practices in the federal government, condition two, are sufficient to ensure the survival of a democratic multi-national federation but judging by the record of the twentieth century the presence of one of these conditions is a necessary condition of enduring federations[106].

3. Federations are more likely to be stabilized if they have non-interventionist neighbors who do not seek to play major roles in the lives of their cross-border co-ethnics or co-religionists.

4. An authentic multi-national federation will be democratic. Democratic arrangements allow the representatives of national, ethnic and ethno-religious communities to engage in dialogue and open bargaining, which facilitates the development of political co-operation. Liberal democratic arrangements that protect individual rights and collective organization in civil society serve to check systematic transgressions against such communities. Federations that protect collective identities help make the

respective communities feel secure – and in consequence may facilitate the emergence of inter-ethnic and inter-religious co-operation.

5. Prosperous and fair federations are more likely to endure than those that are not. One should not exaggerate the power of materialism in politics. It would be wrong, for example, to insist that prosperity is a necessary starting condition of the success of multi-national federation – Switzerland, Canada and India did not start rich, and India is far from being rich. But, federations that over time facilitate increasing per capita prosperity *ceteris paribus* have better prospects of success.

The application of these arguments to the future of Iraq may now be briefly sketched. First, Iraq has a potential Staatsvolk, Shi`a Arabs, who might be demographically reinforced by the return of deportees, exiles, and refugees. But, several factors tell against the materialization of this prospect. They have not been the historically dominant people in the state; and it is unlikely that they will be politically homogeneous – provided they get a fair stake in the new order. They have religious and secular cleavages among them; they have intra-religious cleavages; and they have class differences. Vigorous Shi`a majoritarianism would guarantee a prolonged Sunni Arab resistance that would not just be political. And Sunni Arabs, by virtue of their past dominance, have greater resources than their potential rivals. Second, if there is no compelling evidence that the Shi'a can comprise a Staatsvolk our argument suggests that power-sharing at the

centre as well as autonomy within the regions will be necessary to preserve the federation. Federalism, after all, involves both "shared rule" as well as "self-rule". The exclusion of national, ethnic or religious communities from representation and power at the center is a sure recipe for conflict and secessionism. Durably democratic multi-national federations, Canada, Switzerland, Belgium, have had consociational or power-sharing practices in their federal governments: cross-community executive power-sharing, proportional representation of groups throughout the state sector (including the military, police and judiciary) and formal or informal minority veto-rights. And, it has been argued that India has been at its most stable when its executive has been descriptively inclusive of that state's diverse religions and linguistic communities[107]. This evidence strongly suggests that Iraq needs an executive that is cross-community and cross-regional in character. The nine-member collective presidency of the Governing Council is a good portent of sensible future compromises on the construction of a future federal executive. A five-person collective presidency comprised of representatives from five regions – a Kurdistan region, a Sunni dominated region, Baghdad and two Shi`a dominated regions – would necessarily have a cross-regional and cross-community character – and would not require formal "set-asides", the bugbear of many western constitutionalists. Given many Iraqis' interest in avoiding too powerful a central government, a collective presidency commends itself as the best means to create widespread security. Measures to ensure that federal bureaucrats,

military, police and judges are representative of Iraq's diversity would cement the necessary political accommodation. Third, the external conditions for the success of federation in Iraq are not difficult to spell out: Turkey, Syria, Iran and Saudi Arabia will have to keep out of their neighbor's territory, and avoid sponsoring paramilitary organizations of any kind. The fourth and fifth conditions of long-run success in multi-national federations, democratization and economic prosperity cannot be assured in advance, but nothing in Iraq's cultures or communities' talents need necessarily prevent them.

This extended treatment of one possible example stresses the possibility of a democratic federation in Iraq, but if, and only if, that future Iraqi federation is *bi-national*, *multi-ethnic*, tolerantly *multi-religious*, and *multi-regional*. Bi-national, because there are two nationally mobilized and linguistically distinctive collective communities, Kurds and Arabs. Multi-ethnic, because there are a range of other ethnic communities, notably Turkomen, who will need to have institutional recognition and protections, both at the federal and regional levels. Multi-religious, both to manage the Shi`a and Sunni divide, their internal divisions, *and* the non-Muslim religions, as well as those who have no religion. This will require collective compromises on personal law, and a separation of the state from any distinctive religion, though it need not preclude the constitution from recognizing Islam as the major religion of the peoples of Iraq – a policy that would avoid establishing any clerisy. Regional and proportional

funding of education might also resolve many possible religious sources of conflict.

We may also treat the notion of 'federacy', also raised in Professor Stepan's contribution through the same example. Many Kurds have been programmatically committed, for a long time, to a confederal or federal Iraq. Kurds have a long tradition of seeking territorial autonomy and having autonomy arrangements, territorial or cultural, betrayed by governments in Baghdad (or London or in other capitals in the world). Kurds cannot, of course, impose a federation on their prospective negotiating partners. They can only negotiate with those willing to make a deal with them. Kurds, however, have three immediate political priorities:

> 1. To promote a bi-national, multi-ethnic, tolerantly multi-religious and multi-regional Iraqi federation with a significantly sized Kurdistan as one of its units, and within that unit they should deepen and extend their own evolving democratic institutions and, as they intend, provide cultural rights for Turkomen that Turks have not given to Kurds in Turkey. Kurds seek a whole Kurdistan as a region of an Iraqi federation, and power-sharing in the federal government, and full cultural rights for Kurds living outside Kurdistan.
>
> 2. To insist that any negotiated constitution be ratified by the people of Kurdistan, as well as the rest of Iraq.

3. To insist on default mechanisms that would protect Kurdistan in the event of breaches of any new Iraqi constitution.

But Kurds have to consider their options if the rest of Iraq chooses not to accept any mutually agreeable model of a bi-national, multi-regional federation. One option would be for Kurds to insist on a distinctive 'federacy' agreement. They can say that they will accept the rest of Iraq choosing to be unitary, or indeed choosing to be a centralized US-style national federation, provided that Kurds themselves have a 'federacy'. A federacy is a federal arrangement that is not a part of a system-wide federation; it creates a semi-sovereign territory different in its institutions and constitutional competencies from the rest of the state; it creates a division of powers between the federacy and the central government that is constitutionally entrenched, that cannot be unilaterally altered by either side, and which has established arbitration mechanisms, domestic or international, to deal with difficulties that might arise between the federacy and the central government. Federacy is autonomy that is not devolution; it is not a revocable gift from the central government; it is domestically constitutionally entrenched so that the federacy can veto any changes in its status or powers; and, ideally, its status and powers are internationally protected in a treaty. In short, while Kurds have no right to impose a federation on the rest of Iraq, they have every right to insist on federacy arrangements for Kurdistan as one means through which they can exercise national self-determination. In this scenario

they would probably seek looser power-sharing arrangements in the central government, especially in foreign relations, while seeking to protect the cultural and human rights of Kurds outside Kurdistan.

Summary. Multi-national federations, federacies and consociations, and permutations of all three systems, are ways of achieving inclusive but non-homogenizing political institutions capable of managing national, ethnic, linguistic and religious diversity. There are working examples of each. The model of the homogenizing nation-state not only need not be followed, it is often a recipe for protracted conflict. This is not to say that maintaining a state must be the *sine qua non* of political practice: sometimes national self-determination exercised through secession is the best remedy for historic ill-treatment and a fresh start. But unionists and federalists determined to maintain their states would be well advised to look at multi-national federations, federacies and consociations as feasible and principled alternatives to assimilationist or integrationist nation-states.

Appendix 1. Electoral Arrangements and Inclusion.

Electoral systems achieve greater inclusivity and assist human development more significantly the greater the ease with which voter-registration can be accomplished, the greater the transparency, uniformity and integrity of electoral administration and the counting process, the greater the personal security of voters, the greater the degree of impartial or judicial as opposed to party-political determination of district boundaries, the greater the degree of openness and competitiveness of media outlets, and the greater the transparency and equality of funding of parties and candidates. These propositions apply to all electoral arrangements.

The discussion above has identified four broad political strategies that encourage specific models of inclusion: assimilation, integration, consociation, and federalized models of territorial autonomy. The first two are attached to nation-state models of homogenization; the latter two attempt to build and expand dual identifications among the citizens of the relevant peoples. Permutations of these strategies are, of course, possible, but are not treated here. Each of the four strategies fits better with certain electoral designs – though this comment requires more extensive qualification that can be provided here.

Assimilationist and integrationist democrats prefer state-wide political parties, differentiated by programmatic, left-right divisions, or, relatedly, appeals based on divisible, tradable, and material interests. For these reasons they are disposed toward electoral systems that promote two-party or two bloc systems, and that are likely, in parliamentary systems to generate a single-party – or at least single bloc – government, facing a single-party (or at least single bloc) opposition. They believe the best systems generate pressures for parties to support median or moderate voters. They likewise favor the direct election of presidents. Assimilationists unambiguously support winner-take all electoral systems – in the form of plurality rule in single-member districts (the historic British and American norm) or double-ballot systems (the historic French norm). They may support preferential-majority systems in single-member districts (the alternative vote), that is used to elect the lower chamber of the Australian federal parliament. National federalists are generally integrationists with assimilationist ambitions, and for these reasons they too tend to favor majoritarian electoral systems. Multi-national federalists, by contrast, may favor majoritarian systems within regions – enabling each region to have self-government – but may prefer more proportional (in the house) or parity (in the senate) systems at the level of the federal legislature.

Winner-takes all and majoritarian systems have obvious drawbacks in deeply divided territories, or in territories where ascriptive identities are strongly held.

Such systems can reinforce existing divisions creating tyrannies of the majority (or of the plurality). Conflict in Sri Lanka stems from the 1950s where competition within the dominant Sinhala bloc encouraged linguistic (Sinhala-only) extremism, and where Tamil votes did not count in the way they might have (partly because plantation Tamils at that time were disenfranchised). In Northern Ireland between 1920 and 1972 the dominant Ulster Unionist Party was able to make all region-wide elections referendums on the national question, thereby unifying the unionist bloc against Irish nationalists. In the deep South of the USA, plurality rule, combined with franchise restrictions and gerrymandering, led to one-party governments dominated by southern whites for a century. In fairness, however, it has to be said that these are not necessary results of these electoral systems (and be it noted that changes of such electoral systems towards more proportional ones may not immediately improve inter-group relations). Throughout their democratic histories Canada and India, both multi-lingual federations, have had plurality rule in single-member districts for federal and regional elections, and have produced federation-wide political parties capable of appealing across ethnic and linguistic blocs and being broadly representative. But, their systems are vulnerable to take-over by plurality-supported hard-liners from the dominant Anglophone and Hindu communities respectively.

Certain integrationists commend the merits of two means of making the votes of ethnic, religious and linguistic minorities count. One recommends distributive requirements which require successful candidates for office – or parties - to achieve minimum levels of support across districts (or a proportion of districts) over an entire state or region. The logic is to ensure that candidates and parties have incentives to win broad-based support. The hope is that will ensure that successful candidates and parties have incentives to appeal to minority voters. Such systems, however, have certain drawbacks: they may not specify what happens if no parties or candidates achieve the requisite requirements (i.e. they fail guarantee clear outcomes); and a candidate might defeat another candidate even though the "winner" has a lower share of the overall vote. The second is to commend the alternative vote – preferential voting in single-member districts. The logic here is that if minorities are present in enough heterogeneous electoral districts then larger parties and their candidates will seek to win lower-order preferences from minority voters – and thereby moderate tendencies towards ethnic, religious or linguistic extremism. This is sometimes called "vote-pooling". This possible outcome, however, is heavily dependent upon the possibility of having enough such heterogeneous districts, and forgets that majorities within districts can be constructed by extremists as well as by moderates, especially when the former can represent the latter as betraying the relevant community. Moreover, the alternative vote, because it requires successful candidates to obtain 50 per cent of the vote, plus one (before or after lower-order preferences

have been counted), makes it very unlikely that small parties will fare well, and that means minority parties will be disproportionally under-represented. So, even if minorities may get to influence the behavior of the candidates of larger parties under the alternative vote, it may well be at the price of achieving the separate representation that they might win under proportional representation.

Consociational logic, and the management of multi-national or multi-ethnic federations at the center, point, by contrast, to inclusivity and proportional representation as the preferred goal and method of the electoral system. Other mechanisms can be used. Communal rolls have been used in consociational and semi-consociational systems, e.g. in pre-independence India and Burma, and independent Lebanon and Cyprus, but for reasons discussed in the text these are corporate and illiberal in nature. Reserved seats for minorities have been used to guarantee minority representation in parliaments in numerous polities, both consociational and non-consociational (e.g. in Croatia for Hungarians, Italians, Germans and others, and in Western Samoa, for non-indigenous minority peoples). Over-representation of regions in parliaments may achieve similar effects. So may 'affirmative gerrymandering' within winner-takes-all systems - where 'spiders', 'lollipops' and generally contorted districts are drawn to ensure e.g. African-American or Latino majority districts in the USA. Such systems may be useful, especially for groups that might otherwise fail to win any elected officials; but they may also be condemned as tokenistic 'set-asides'.

Liberal consociationalists, however, reject reserved seats (except for very small minorities); and they reject communal rolls of voters (though they object less to designated rolls of parliamentarians where the elected officials opt to be part of one community). For liberal consociationalists the effective choice is between list proportional representation systems (the formulae that can be used with such systems are cited in the main text) and the preferential voting system known as the single transferable vote. List proportional representation systems enable voters to cast one vote for a party that has presented and ranked-ordered its list of candidates. The number of candidates elected is determined by the party's share of the vote, the formula used (see above), and the district magnitude (the number of seats to be filled). These systems enable voters to choose that party with which they identify. They may pick a national, ethnic, religious or linguistic party, or not, the choice is theirs. Such systems normally enable party leaders to have control over the rank-order of candidates on the list (though open-list systems are also possible), and they are sometimes defended because they fortify the autonomy of political leaders willing to sustain a politics of cross-community accommodation. By contrast, preferential proportional representation enables voters to vote for either party or individual candidates, and to express preferences in numerical order across both parties and candidates. This system prevents voters from 'wasting' their votes - if they express first-preference support for a candidate or a party that is unpopular the may rest assured that

their lower-order preferences are likely to count in determining which candidates reach the quotas required for election to office. This system has the advantage of enabling voters to reward the moderate candidates or moderate parties from other communities by giving them lower-order transfers on their ballot-papers. It enables both 'proportionality' and 'vote-pooling'.

No political scientist would claim that electoral systems on their own can achieve successful "inclusion", especially of minorities, but all would insist that an inappropriate electoral system may well be deeply damaging for the prospects of assimilation, integration, national federation, multi-national federation or consociation.

Endnotes

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[1] This assertion takes issue with the emphasis on 'social capital', inspired recently by Robert D. Putnam's *Making Democracy Work*, 1993 – and see his "Tuning in, Tuning Out: The Strange Disappearance of Social Capital in America." *PS: Political Science and Politics* xxviii, no. 4 (1995): 664-83. The 'social capital' school focuses on societies' capacities to explain developmental differences between regions and states, including in political participation, citizens' conceptions of their efficacy and democratic development. The notion of 'social capital' has merits – and difficulties - but it is states that determine the trajectories of their societies, including their levels of social capital, for good or ill.

[2] Hobbes, Thomas. *Leviathan (or the Matter, Forme & Power of a Common-Wealth Ecclesiastical and Civill)*, edited by Richard Tuck, *Cambridge Texts in the History of Political Thought*. Cambridge: Cambridge University Press, 1991 (1651), pp. 88-9.

[3] Rummel, Rudolph J. *Death by Government, with a Foreword by Irving Louis Horowitz*. London and New York: Transaction Publishers, 1997.

[4] Power, Samantha. *A Problem from Hell: America and the Age of Genocide*. New York: Basic Books, 2002.

[5] See inter alia Horowitz, Donald L, and Gérard Noiriel, eds. *Immigrants in Two Democracies: French and American Experiences*. New York: New York University Press, 1992, and Noiriel, Gérard. *Le Creuset Française*. Paris: Sueil, 1988.

[6] 'The consistent policy of the state of Turkey from its inception has been the destruction of Kurdish culture and the forced assimilation of Kurds into a purely Turkish society', Hannum, Hurst. *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press, 1990, p 188. See also US Helsinki Watch Committee. "*Destroying Ethnic Identity, The Kurds of Turkey*." New York and Washington D.C., 1988.

[7] For contrasting perspectives on some of the US literature see Alba, Richard. "Immigration and the American Realities of Assimilation and Multiculturalism." *Sociological Forum* 14, no. 1 (1999): 3-25; Brubaker, Rogers. "The Return of Assimilation? Changing Perspectives on Immigration and Its Sequels in France, Germany, and the United States." *Ethnic and Racial Studies* 24, no. 4 (July) (2001): 531-48; Foner, Nancy, Rubén G Rumbaut, and Steven J Gold, eds. *Immigration Research for a New Century*. New York: Sage, 2003; Gans, Herbert J. "Toward a Reconciliation of "Assimilation" and "Pluralism": The Interplay of Acculturation and Ethnic Retention." *International Migration*

Review 31, no. 4 (1997): 875-92; Glazer, Nathan. "Is Assimilation Dead?" *Annals of the American Academy of Political and Social Science* 530 (1993): 122-36, and *We Are All Multiculturalists Now*. Cambridge, Mass: Harvard University Press, 1997; Gordon, Milton M. *Assimilation in American Life: The Role of Race, Religion and National Origins*. New York: Oxford University Press, 1964; Horowitz, Donald L, and Gérard Noiriel, eds. *Immigrants in Two Democracies: French and American Experiences*. New York: New York University Press, 1992; Kazal, Russell A. "Revisiting Assimilation: The Rise, Fall and Reappraisal of a Concept in American Ethnic History." *The American Historical Review* 100, no. 2 (1995); Portes, Alejandro, and Rubén G Rumbaut. *Immigrant America: A Portrait*. Berkeley: University of California Press, 1990; Rumbaut, Rubén G. "Assimilation and Its Discontents: Between Rhetoric and Reality." *International Migration Review* 31, no. 4 (1997): 923-60; Sowell, Thomas. *Ethnic America: A History*. New York: Basic Books, 1981; Waters, Mary C. *Black Identities: West Indian Immigrant Dreams and American Realities*. Cambridge, Mass: Harvard University Press, 2001.

[8] For some largely comparative reflections on Canadian assimilationist policies towards the 'first nations' see, inter *alia*, Armitage, Andrew. *Comparing the Policy of Aboriginal Assimilation: Australia, Canada and New Zealand*. Vancouver: University of British Columbia Press, 1995; Cairns, Alan C. "Dream Versus Reality in "Our" Constitutional Future: How Many Communities." In *Reconfigurations: Canadian Citizenship and Constitutional Change: Selected Essays by Alan Cairns*, edited by D. Williams, 315-47. Toronto: McClelland and Stewart, 1995; Noel, Sid J.R. "Canadian Responses to Ethnic Conflict: Consociationalism, Federalism and Control." In *The Politics of Ethnic Conflict-Regulation: Case Studies of Protracted Ethnic Conflicts*, edited by John McGarry and Brendan O'Leary, 41-61. London: Routledge, 1993; Werther, Guntram F.A., ed. *Self-Determination in Western Democracies: Aboriginal Politics in a Comparative Perspective*. Westport: Greenwood Press, 1992.

[9] For some discussions of historic coercive assimilationist policies towards Australasian aboriginals see *inter alia* Armitage, Andrew. *Comparing the Policy of Aboriginal Assimilation: Australia, Canada and New Zealand*. Vancouver: University of British Columbia Press, 1995; Birch, Anthony. *Nationalism and National Integration*. London: Unwin Hyman, 1989; Brett, Judith. "Every Morning as the Sun Came Up: The Enduring Pain of the "Stolen Generation"." In *Times Literary Supplement*, 4-5. London, 1997; Human Rights and Equal Opportunity Commission. "Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families." 689. Sydney NSW Australia, 1997; Hutchinson, John. "Re-Interpreting Cultural Nationalism." *Australian Journal of Politics and History* 45, no. 3 (1999): 393-407; Reynolds, Henry. *Aboriginal Sovereignty: Reflections on Race, State, and Nation*. St. Leonards,

NSW: Allen & Unwin, 1996.

[10] For an interesting comparison of 'nations' to 'batteries' see Canovan, Margaret. *Nationhood and Political Theory*. Cheltenham: Edward Elgar, 1996.

[11] Cited in Tessler, Mark. *A History of the Israeli-Palestinian Conflict*. Bloomington: Indiana University Press, 1994, p. 25.

[12] See *inter alia* Finer, Samuel E. "State and Nation Building in Europe: The Role of the Military." In *The Formation of National States in Western Europe*, edited by Charles Tilly. Princeton: Princeton University Press, 1975; Tilly, Charles, ed. *The Formation of National States in Western Europe*. Princeton, NJ: Princeton University Press, 1975, *passim*; Mann, Michael. "The Emergence of Modern European Nationalism." In *Transition to Modernity: Essays on Power, Wealth and Belief*, edited by John A. Hall and Ian C. Harvie, 137-63. Cambridge: Cambridge University Press, 1992; and Anthony W. Marx [fill in reference]

[13] Mill, John Stuart. "Considerations on Representative Government." In *Utilitarianism, on Liberty and Considerations on Representative Government*, edited by H.B. Acton. London: Dent, 1988, ch. 16.

[14] Gellner, Ernest. *Conditions of Liberty: Civil Society and Its Rivals*. London: Hamish Hamilton, 1994.

[15] Thornberry, Patrick. "The UN Declaration on the Rights of Persons Belonging to National, or Ethnic, Religious and Linguistic Minorities: Background, Analysis, Observations, and an Update." In *Universal Minority Rights*, edited by Alan Phillips and Allan Rosas, 13-76. Abo and London: Institute of Human Rights Abo Akademi University and Minority Rights Group International, 1995, p. 21.

[16] Rowthorn, Bob. "Migration Limits." *Prospect* 2003, 24-31.

[17] For some discussions of homeland psychology see *inter alia* Connor, Walker. "The Impact of Homelands Upon Diasporas." In *Modern Diasporas in International Politics*, edited by Gabriel Sheffer, pp. 16-46. London: Croom Helm, 1985; Esman, Milton. "Two Dimensions of Ethnic Politics: Defence of Homelands, Immigrant Rights." *Ethnic and Racial Studies* 8, no. July (1985); and Yiftachel, Oren. "The Homeland and Nationalism." In *Encyclopaedia of Nationalism*, edited by Alexander Motyl, pp. 359-83. New York: Academic Press, 2001.

[18] For a celebration of cosmopolitanism that tacitly rests on the merits of assimilation see Waldron, Jeremy. "Minority Cultures and the Cosmopolitan Alternative." In *The Rights of Minority Cultures*, edited by Will Kymlicka, 93-122. Oxford: Oxford University Press, 1995.

[19] Brubaker, Rogers. "National Minorities, Nationalizing States, and External National Homelands in the New Europe." In *Nationalism Reframed: Nationhood and the National Question in the New Europe*, 55-76. Cambridge: Cambridge University Press, 1996.

[20] For a consistent polemic on behalf of integration and against multiculturalism see Barry, Brian. *Culture & Equality: An Egalitarian Critique of Multiculturalism*. Oxford: Polity, 2001.

[21] See Smith, Rogers M. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven: Yale University Press, 1997, and *Stories of Peoplehood: The Politics and Morals of Political Membership*. Cambridge: Cambridge University Press, 2003.

[22] See the chapter by Kymlicka in this collection.

[23] In the case of the USA contrast the fears of Schlesinger, A.M. *The Disuniting of America: Reflections on a Multicultural Society*. New York: W.W.Norton, 1992 with the careful empirical arguments of Hall, John A, and Charles Lindholm. *Is America Breaking Apart?* Princeton, NJ: Princeton University Press, 1999.

[24] For a mere sample of the huge, cacophonous albeit Anglophone literature see *inter alia* Alba, Richard. "Immigration and the American Realities of Assimilation and Multiculturalism." *Sociological Forum* 14, no. 1 (1999): 3-25; Appiah, K. Anthony. "Culture, Subculture, Multiculturalism: Educational Options." In *Public Education in a Multicultural Society: Policy, Theory, and Critique*, edited by Robert K. Fullinwider: Cambridge University Press, 1996; Barber, Benjamin R. "Multiculturalism between Individuality and Community: Chasm or Bridge?" In *Liberal Modernism and Democratic Individuality; George Kateb and the Practices of Politics*, edited by Austin Sarat and Dana R. Villa. Princeton: Princeton University Press, 1996; Barry, Brian. *Culture & Equality: An Egalitarian Critique of Multiculturalism*. Oxford: Polity, 2001; Baubock, Rainer. "Liberal Justifications for Ethnic Group Rights." In *Multicultural Questions*, edited by Christian Joppke and Steven Lukes. Oxford: Oxford University Press, 1999; Bennett, Fred. "The Face of the State." *Political Studies* xlvii, no. 4 (1999): 677-90; Birnbaum, Pierre. "From Multiculturalism to Nationalism." *Political Theory* 24, no. 1 (Feb. '96) (1996): 33-45; Eide, A. "A Review and Analysis of Constructive Approaches to Group Accommodation and Minority Protection in Divided or Multicultural Societies." Dublin: Forum for Peace and Reconciliation, 1996; Fish, Stanley, *The Trouble with Principle*. Cambridge. Mass: Harvard University Press, 1999; Glazer, N. "Multiculturalism and Public Policy." In *Values and Public Polciy*, edited by Henry J. Aaron, Thomas E. Mann and Timothy Taylor, 113-45. Washington, D.C.: Brookings Institute, 1993; Glazer, Nathan. *We Are All Multiculturalists Now*. Cambridge, Mass: Harvard University Press, 1997; Guibernau, Montserrat, and John Rex, eds. *The Ethnicity Reader: Nationalism, Multiculturalism and Migration*. Oxford: Polity Press, 1997; Habermas, Jurgen. "Struggles for Recognition in Constitutional States." *European Journal of Philosophy* 1, no. 2 (1993): 128-55; Harles, John. "Integration before Assimilation: Immigration, Multiculturalism and the Canadian Polity." *Canadian Journal of Political Science* XXX, no. 4 (1997): 711-36; Hell, Judit, and Ferenc L Lendvai.

"Multiculturalism and Constitutional Patriotism in Eastern Europe." In *Beyond Nationalism. Soverignty and Citizenship*, edited by Fred Dallmayr and Jose Rosales. Lanham, Maryland: Lexington Books, 2001; Hughes, Robert. *The Culture of Complaint: The Fraying of America*. Oxford: Oxford University Press, 1993; Joppke, Christian, and Steven Lukes, eds. *Multicultural Questions*. Oxford: Oxford University Press, 2000; Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press, 1995; Kymlicka, Will, and Wayne Norman, eds. *Citizenship in Diverse Societies*. Oxford: Oxford University Press, 2000; Lehning, Percy. "Towards a Multicultural Civil Society: Social Capital and Democratic Citizenship." *Government and Opposition* (1998); Linder, Wolf. *Swiss Democracy: Possible Solutions to Conflict in Multicultural Societies*. New York: St. Martin's Press, 1994; Lukes, Steven. *Liberals and Cannibals: The Implications of Diversity*. London: Verso, 2003; Modood, Tariq. "Multiculturalism, Secularism and the State." *Critical Review of International Social & Political Philosophy* 1, no. 3 (1998): 79-97; Okin, Susan Moller. "Feminism and Multiculturalism; Some Tensions." *Ethics* 108, no. July (-1998): 661-84; Parekh, Bhikhu. "Dilemmas of a Multicultural Theory of Citizenship." *Constellations* 4, no. 1 (1997): 54-62; Raz, Joseph. "Multiculturalism." *Dissent*, no. Winter (1994): 67-79; Shapiro, Ian, Will Kymlicka, *Ethnicity and Group Rights Edited by Ian Shapiro and Will Kymlicka, Nomos ; 39.* New York: New York University Press, 1997; Shweder, Richard A, Martha Minow, and Hazel Rose Markus, eds. *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies*. New York: Russell Sage Foundation, 200#; Takaki, Ronald. *A Different Mirror: A History of Multicultural America*. Boston: Little Brown, 1993; Taylor, C. "The Politics of Recognition." In *Multiculturalism and 'the Politics of Recognition'*, edited by C. Taylor and A. Gutman. Princeton: Princeton University Press, 1992; Taylor, Charles. *Multiculturalism and the Politics of Recognition*. Princeton NJ: Princeton University Press, 1992; Tempelman, Sasja. "Constructions of Cultural Identity: Multiculturalism and Exclusion." *Political Studies* XLVII (1999): 17-31; van den Berghe, Pierre. 2001; Waldron, Jeremy. "Multiculturalism and Melange." In *Public Education in a Multicultural Society: Policy, Theory and Critique*, edited by Robert K. Fullinwider, 90-118: Cambridge Univeristy Press, 1996; Ward, Cynthia. "The Limits of "Liberal Republicanism": Why Group-Based Remedies and Republican Citizenship Don't Mix." *Columbia Law Review* 91, no. 3 (1991): 581-607; Young, Iris Marion. "A Multicultural Continuum: A Critique of Will Kymlicka's Ethnic-Nation Dichotomy." *Constellations* 4, no. 1 (1997).

[25] Inter-state modes of multi-culturalism, confederations, such as the European Union cannot be considered here, though the discussion of federal and consociational principles is in many respects equally pertinent at the inter-state level within alliances, leagues and confederations.

[26] See inter alia Lijphart, Arend, ed. *Conflict and Coexistence in Belgium: The Dynamics of a Culturally*

Divided Society, *Research Series, No 46*. Berkeley: Institute of International Studies University Of California, 1981; "Consociation and Federation: Conceptual and Empirical Links." *Canadian Journal of Political Science* xii, no. 3 (1979): 495-515; "Consociational Democracy." *World Politics* 21, no. 2 (1969): 207-25; *Democracy in Plural Societies: A Comparative Exploration*. New Haven, London: Yale University Press, 1977; *The Politics of Accommodation: Pluralism and Democracy in the Netherlands*. Berkeley: University of California Press, 1968; *Power-Sharing in South Africa*. Berkeley: University of California Press, 1985; "Self-Determination Versus Pre-Determination of Ethnic Minorities in Power-Sharing Systems." In *The Rights of Minority Cultures*, edited by Will Kymlicka. Oxford: Oxford University Press, 1995; and "Typologies of Democratic Systems." *Comparative Political Studies* 1, no. 1 (1968): 3-44.

[27] 'Power-sharing' is not a synonym for consociation because there are other than consociational ways to share power: e.g. through federation, intermittent and temporary coalitions, alternating governments, the separation of powers, and through generally 'collegial' institutions, cf. Collins, Randall. "Democratization from the Outside In: A Geopolitical Theory of Collegial Power." In *Macro History: Essays in Sociology of the Long Run*, 110-51. Stanford, CA: Stanford University Press, 1999. Each of the types of power-sharing just listed can be deployed in consociational formats. What makes consociational power-sharing distinctive is that it mandates power-sharing across communities through formulae of proportionality and autonomy.

[28] Horowitz, Donald L. *Ethnic Groups in Conflict*. Berkeley: University of California Press, 1985, p. 256.

[29] Brass, Paul R. "Ethnic Conflict in Multiethnic Societies: The Consociational Solution and Its Critics." In *Ethnicity and Nationalism: Theory and Comparison*, 333-48. New Delhi: Sage, 1991, pp. 333, 338.

[30] Brass, op. cit., p. 346, n.11.

[31] For a typical libertarian objection to affirmative action see Sowell, Thomas. *Preferential Policies: An International Perspective*. New York: Quill, 1990.

[32] Brass, p. 334, my emphasis.

[33] Jung, Courtney, and Ian Shapiro. "South Africa's Negotiated Transition: Democracy, Opposition, and the New Constitutional Order." *Politics & Society* 23, no. 3 (1995): 269-308, cf. 274, 275.

[34] Ibid. , p. 293.

[35] Originally posed by Brian Barry the claim is now endlessly recycled, Barry, Brian. "The Consociational Model and Its Dangers." *European Journal of Political Research* 3 (1975): 393-413, "Review Article: Political Accommodation and Consociational Democracy." *British Journal of*

Political Science 5 (1975): 477-505. Observing that Lijphart accepts Robert Dahl's definition of polyarchy, one critic maintains that Dahl's emphasis on competitive politics implies that consociational democracy is a contradiction in terms, Van Schendelen, M.P.C.M. "The Views of Arend Lijphart and Collected Criticism." *Acta Politica* 1 (1984): 19-55, p. 32.

[36] Brass, op. cit., p. 340. Since he uses Great Britain for his argument rather than the United Kingdom one must assume that his exclusion of Northern Ireland from his endorsement of its adversarial politics is deliberate (or else he fallaciously equates Great Britain with the United Kingdom). If Northern Ireland is considered part of the United Kingdom political system, which it has been, the merits of adversarial politics are much less obvious. As for the USA the claims for the integrative effects of adversarial politics with respect to native Americans and the descendants of slaves have been unconvincing to successive cohorts of foreign observers of the USA from Tocqueville to Myrdal. Their stories are an integral part of the critical histories of American political development.

[37] Halpern, Sue. "The Disorderly Universe of Consociational Democracy." *West European Politics* 9, no. 2 (1986): 181-97.

[38] Kieve, Ronald. "Pillars of Sand: A Marxist Critique of Consociational Democracy in the Netherlands." *Comparative Politics* 13, no. April (1981).

[39] These objections to consociation are common to distinguished liberal political philosophers like Brian Barry and Ian Shapiro and distinguished liberal political scientists such as Ian S Lustick and Paul Brass, as well as more conservative distinguished political scientists. It is of interest that one can classify three of these standard political and ethical arguments against consociation according to the tropes of Albert Hirschman's *The Rhetoric of Reaction: Perversity, Futility, Jeopardy.*

[40] In *On Liberty* and *Considerations on Representative Government* Mill, like Tocqueville, was much more concerned about the tyranny of the ignorant, the conformist, the puritanical, and the unlettered masses. In *Considerations*, however, he did decree the unlikelihood of multi-national or bi-national states, but largely because he seemed to consider one nationality and one language necessary for one public opinion.

[41] Bauer, Otto. *The Question of Nationalities and Social Democracy,* Edited by Ephraim Nimni, Trans. Joseph O'Donnell. Minneapolis: University of Minnesota Press, 2000.

[42] Nagel, Jack H. "Expanding the Spectrum of *Democracies:* Reflections on Proportional Representation in New Zealand." In *Democracy and Institutions: The Life Work of Arend Lijphart*, edited by Markus M.L. Crepaz, Thomas A Koelbe and David Wilsford, 113-27. Ann Arbor: The

University of Michigan Press, 2000. This spectrum was introduced in a criticism of some of Lijphart's formulations, and originates in the work of Buchanan and Tullock.

[43] This idea had its origins in thinking about how to classify cross-community levels of supports for elements of the unfolding peace process in Northern Ireland.

[44] Lijphart recognizes this by describing joint decision making as the key characteristic of power-sharing. Our analysis suggests some objections to Lijphart's classifications may be dismissed, e.g. Horowitz, op. cit., p. 575, complains none of the four developing countries identified by Lijphart as having followed consociational practices, viz. Lebanon, Malaysia, Surinam and the Netherlands Antilles, had grand coalitions because each group was represented by more than one set of leaders.

[45] See Taagepera, Rein, and Matthew Soberg Shugart. *Seats and Votes: The Effects and Determinants of Electoral Systems*. New Haven and London: Yale University Press, 1989, pp. 273-5, and Lijphart, Arend, ed. *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies*, *Comparative European Politics*. Oxford: Oxford University Press, 1994., pp. 25-30.

[46] See O'Leary, Brendan. "The Nature of the Agreement." *Fordham Journal of International Law* 22, no. 4 (1999): 1628-67.

[47] Another issue here is the question of exclusion and inclusion of communities over time. If a pivotal or dominant party alternates in its choice of community parties (as occurred in the Netherlands before the 1970s) in sharing executive power how may such a case be classified? One simple answer is that the executive is consociational as regards the included communities (and variable in degree: i.e. the executive may enjoy complete, concurrent or weak support from within the included communities). But, it is not consociational as regards the excluded. Where one community stays constantly in the executive, and alternates its partners from other communities it may seem plausible to label this phenomenon a 'diachronic grand coalition', but this looks too much like conceptual stretching. My thanks to Matthijs Bogaards for obliging me to address this matter (personal communication).

[48] S.J.R. Noel cites historian Frank Underhill as saying that the great Canadian invention of the nineteenth century was the 'composite bi-racial, bi-cultural party, uniting both French and English voters', "Canadian Responses to Ethnic Conflict: Consociationalism, Federalism and Control." In *The Politics of Ethnic Conflict-Regulation: Case Studies of Protracted Ethnic Conflicts*, edited by John McGarry and Brendan O'Leary, 41-61. London: Routledge, 1993, p. 49.

[49] This discussion has benefited from discussions with Dr. Matthijs Bogaards of the University of Southampton.

[50] The second and third criteria are Bogaards's; the first and last suggestions are mine.

[51] See Lijphart's comments on the Study Project on Christianity in Apartheid Society, *Power-Sharing in South Africa* p. 48-51.

[52] See Lijphart's commentary on South Africa's 1993 Constitution, *Power-Sharing in South Africa,* pp. 52-64, especially p. 61.

[53] Lijphart meant to use quasi to describe 'having some resemblance, but false' (personal communication).

[54] Donald Rothchild, 'Hegemonial Exchange: An Alternative Model for Managing Conflict in Middle Africa.' In *Ethnicity, Politics and Development* (eds.) Dennis L Thompson and Dov Ronen (Boulder, Co: Lynne Rienner, 1986); *Managing Ethnic Conflict in Africa* (Washington, D.C.: Brookings Institution Press, 1997); and 'Middle Africa: Hegemonial Exchange and Resource Allocation, ' in *Comparative Resource Allocation*, in (eds.) Alexander Groth and Larry Wade (New York: Sage Publications, 1984).

[55] For example, the appointment of Protestants to Catholic school boards would be against the spirit of consociational accommodation if education is supposed is a domain of community autonomy.

[56] The literature on electoral systems and their consequences is huge. For useful samples see Barry Ames, 'Electoral Strategy under Open-List Proportional Representation.' *American Journal of Political Science* 39, no. 2 (1995): 406-34; Andre Blais, 'The Classification of Electoral Systems.' *European Journal of Political Research* 16 (1988): 99-110, Vernon Bogdanor and David Butler (eds.) *Democracy and Elections: Electoral Systems and Their Political Consequences* (Cambridge: Cambridge University Press, 1983), Andrew M. Carstairs, *A Short History of Electoral Systems in Western Europe* (London: Allen and Unwin, 1980), Gary Cox, *Making Votes Count: Strategic Coordination in the World's Electoral Systems* (Cambridge: Cambridge University Press, 1997), K.R. de Silva, 'Electoral Systems for Multi-Ethnic Societies.' (Geneva: UNRISD, 1995), David M. Farrell, *Comparing Electoral Systems* (Hemel Hempstead: Prentice-Hall, 1997), Bernard Grofman and Arend Lijphart (eds.) *Electoral Laws and Their Political Consequences* (New York: Agathon Press, 1986), Bernard Grofman and Andrew Reynolds, 'Electoral Systems and the Art of Constitutional Engineering: An Inventory of the Main Findings', in *Rules and Reason: Perspectives on Constitutional Political Economy* (eds.) R. Mudambi, P. Navarra and G. Sobbrio (Cambridge: Cambridge University Press, 2000), Jennifer Hart, *Proportional Representation. Critics of the British Electoral System 1820-1945* (Oxford and New York: Oxford University Press, 1992), Jean A Laponce, 'The Protection of Minorities by the Electoral System.' *Western Political Quarterly* X (1957): 318-39, Arend Lijphart (ed.) *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies*, *Comparative European Politics* (Oxford: Oxford University Press, 1994), A. Lijphart

and B. Grofman (eds.) *Choosing an Electoral System: Issues and Alternatives* (New York: Praeger, 1984), Dieter Nohlen, *Elections and Electoral Systems* (New Delhi: Macmillan, 1996), Benjamin Reilly and Andrew Reynolds, *Electoral Systems and Conflict in Divided Societies*, *Papers on International Conflict 2* (Washington DC: National Academy Press, 1999), and *The International Idea Handbook of Electoral Design* (Stockholm: International Institute for Democracy and Electoral Assistance, 1997), W. Rule and JF Zimmerman (eds.) *Electoral Systems in Comparative Perspective: Their Impact on Women and Minorities* (Westport, CT: Greenwood Press, 1994), Giovanni Sartori, 'The Influence of Electoral Systems: Faulty Laws or Faulty Methods?', in *Electoral Laws and Their Political Consequences*, (ed.) B. Grofman and A. Lijphart (New York: Agathon Press, 1986), pp. 43-68, Rein Taagepera and Matthew Soberg Shugart, *Seats and Votes: The Effects and Determinants of Electoral Systems* (New Haven and London: Yale University Press, 1989).

[57] The list includes formulae that have not yet been used in functioning consociational systems.

[58] Michael Gallagher, 'Proportionality, Disproportionality and Electoral Systems.' *Electoral Studies* 10, no. 1 (1991), p. 49.

[59] I follow Michael Gallagher, 'Comparing Proportional Representation Electoral Systems: Quotas, Thresholds, Paradoxes and Majorities', *British Journal of Political Science* 22 (1992): 469-96, and exclude imperiali quotas or divisors because they are not generally proportional as Gallagher has demonstrated.

[60] Gallagher, 'Comparing Proportional Representation Electoral Systems'.

[61] Judges or independent commissions working to establish criteria are incomparably than politicians in ensuring that electoral gerrymandering is minimized. Indeed, to achieve the equality of voters, a key measure of inclusiveness, this is perhaps the simplest lesson of democratic design.

[62] Gallagher, 'Comparing Proportional Representation Electoral Systems', pp. 491-2, has demonstrated that 'highest averages' methods are free from the paradoxes that can arise with 'largest remainders' methods (where parties growing relative to other parties might lose a seat, or an expansion in the number of seats in a parliament may lead to a region having its representation reduced even though its population remains the same).

[63] For an extended discussion see Arend Lijphart, 'Proportionality by Non-PR Methods: Ethnic Representation in Belgium, Cyprus, Lebanon, New Zealand, West Germany and Zimbabwe.' In *Choosing an Electoral System: Issues and Alternatives*, (eds.) A. Lijphart and B. Grofman (New York: Praeger, 1984), pp. 111-23.

[64] The presumed Muslim demographic expansion had two causes: a higher birth-rate, and Muslim over-representation among the Palestinian refugee population - from the 1948 war

accompanying the formation of Israel, and from the 'Black September' massacre in Jordan in 1970.

[65] This situation should be distinguished from one in which positive preferential or affirmative action is required to rectify historical imbalances (that is usually the result of historic discrimination). Positive preferential or affirmative action policies may well temporarily over-represent the under-represented in new cohorts of appointees. But these policies are intended to achieve overall proportionality not to deliver net over-representation.

[66] Constitution of Cyprus 1960, Article 46 [accessed on October 21 2002]. http://www.pio.gov.cy/cygov/constitution/appendix_d_part3.htm

[67] For example see Arend Lijphart, 'Multiethnic Democracy', in *The Encyclopaedia of Democracy* (ed.) Seymour Martin Lipset, (London: Routledge, 1995: 857).

[68] Hanf, 'Coexistence in Prewar Lebanon', p. 95.

[69] One source of tension in the Lebanon before its civil war began in 1975 was that Maronites regarded certain key offices as their 'preserves': 'the command of the army, the directorates of military intelligence and state security, the governorship of the Central Bank and the chairmanship of the Conséil d'État', Hanf, *Coexistence in Wartime Lebanon*, p. 95.

[70] Lijphart, *Democracy in Plural Societies*, p. 41.

[71] See *inter alia* Hurst Hannum, *Autonomy, Sovereignty, and Self-determination: The Accommodation of Conflicting Rights*. rev. ed (Philadelphia: University of Pennsylvania Press, 1996) and Ruth E. Lapidoth, *Autonomy: Flexible solutions to ethnic conflicts* (Washington, DC: United States Institute of Peace Press, 1997). See the discussion of territorial autonomy below, and the paper by Professor Stepan in this symposium.

[72] A confederation in which the member-states did not have complete or concurrent representation in the executive would no longer be a confederation: it would be well on the way to being a federation (cf. the discussions over the new constitution of the European Union).

[73] Kenneth D. McRae, 'The Principle of Territoriality and the Principle of Personality in Multilingual States.' *International Journal of the Sociology of Language* 4 (1975): 33-54.

[74] Available at http://www.pio.gov.cy/cygov/constitution/appendix_d_part5.htm and http://www.pio.gov.cy/cygov/constitution/appendix_d_part1.htm [Accessed October 21 2002]).

[75] Oren Yiftachel, ''Right-Sizing' or 'Right-Shaping?' Politics, Ethnicity and Territory in Plural States', in *Right-Sizing the State: The Politics of Moving Borders*, (eds.) B. O'Leary, I. S. Lustick and T. Callaghy, (Oxford, Oxford University Press**:** 358-87).

[76] John C. Calhoun's defense of the concurrent majority principle is cited by Lijphart, *Democracy in Plural Societies*, p. 37, drawing on G. Kateb, 'The Majority Principle: Calhoun and His Antecedents', *Political Science Quarterly,* 84, 4: 583-605. Calhoun argued that the threats of blockages would promote consensual and mutual policy-changes. That he used his arguments in defense of a commitment to slaveholding institutions explains why his formal arguments are not often recalled.

[77] Lijphart, *Democracy in Plural Societies*, p. 38

[78] Section IV. B. Article 6 (1) and (2) of the constitution of the Federation of Bosnia Herzegovina provides an example of a strong veto-right within the cabinet: '(1) Decisions of the Cabinet that concern the vital interest of any of the constituent peoples shall require consensus. This provision may be invoked by one-third of the Ministers, excluding the Prime Minister and Deputy Prime Minister, unless otherwise determined by the Constitutional Court….(2) when the Prime Minister concludes that the Government cannot reach consensus described in paragraph (1), he shall refer the pending matter to the President or Vice-President, whoever is not from the same constituent people as is the Prime Minister, for a decision without delay'.

[79] See Professor Kymlicka's contribution to this symposium.

[80] Max Weber went further suggesting that the Machtstaat cannot realize democracy, cf. Weber, Max. "Between Two Laws." In *Political Writings*, edited by Peter Lassman and Ronald Speirs, 75-80. Cambridge: Cambridge University Press, 1994.

[81] See *inter alia* Daniel Elazar, *Exploring Federalism* (Tuscaloosa: University of Alabama, 1987), Preston King, *Federalism and Federation* (London: Croom Helm, 1982), Preston King, *Federalism and Federation*, 2nd ed. (London: Frank Cass, 2001).

[82] For elaborations on these distinctions see Ronald A Watts, "Federalism, Federal Political Systems, and Federations," *Annual Review of Political Science* 1 (1998).

[83] On the importance of peoplehood see Rogers M Smith, *Stories of Peoplehood: The Politics and Morals of Political Membership* (Cambridge: Cambridge University Press, 2003).

[84] Brendan O'Leary, "The Kurds Must Not Be Betrayed Again," *Financial Times*, March 24th 2003.

[85] David R Rezvani, *Federacy: The Dynamics of Semi-Sovereign Territories (Unpublished Manuscript)* (2003).

[86] The expression is Elazar's, op. cit.

[87] Alfred Stepan, "Federalism and Democracy: Beyond the U.S. Model," *Journal of Democracy* 10, no. 4 (1999).

[88] For recent discussions of Shi'ite politics in Iraq see *inter alia* David Gardner, "Time of the Shia," *Financial Times*, August 30/31 2003, Faleh A Jabar, *The Shi'ite Movement in Iraq* (2003). The

perspectives of Muhammed Baqir al-Sadr's, executed by Saddam Hussein in 1980, are widespread among Shi`a, and diverge from the political Islam of Khomeini and his successors. Historically communism was strong among the Shi`a of Iraq, but whether the Iraqi Communist Party will experience a significant revival in the 2000s remains to be seen.. What is plain is that there are significant numbers of secular Shi`a, and that significant numbers of religious Shi`a do not agree with political leadership being monopolized by clerics. Two authorities remark on a 'dangerous tendency in the West to equate secular with Sunni and Islamist with Shi'ite', Fuller and Francke, op. cit., p. 108.

[89] Ronald L Watts, "Federalism, Federal Political Systems, and Federations," *Annual Review of Political Science* 1 (1998), Ronald L Watts, "Models of Federal Power-Sharing," *International Social Science Journal*, no. March (2001).

[90] The proportion of public expenditure allocated by regions as opposed to federal governments may well be a better guide to their autonomy and power than the text of the constitution --- for discussions of such measurements see Watts, op. cit. 2001, p. 29, and Arend Lijphart, "Consociation and Federation: Conceptual and Empirical Links," *Canadian Journal of Political Science* xii, no. 3 (1979)., p. 505.

[91] See Murray Forsyth, ed., *Federalism and Nationalism* (Leicester: Leicester University Press, 1989)., p. 4.

[92] See William H. Riker, *Federalism: Origin, Operation, Significance* (Boston: 1964).

[93] See Nathan Glazer, "Federalism and Ethnicity: The American Solution," in *Ethnic Dilemmas, 1964-82*, ed. N. Glazer (Cambridge, Mass: Harvard University Press, 1983).

[94] Milton Gordon, *Assimilation in American Life: The Role of Race, Religion and National Origins* (New York: Oxford University Press, 1964)., p. 133.

[95] Glazer, op. cit., p. 276.

[96] Gordon, op. cit., *passim*.

[97] Publius [John Jay], in James Madison, Alexander Hamilton, and John Jay, *The Federalist Papers, Edited and with an Introduction by Isaac Kramnick*, *Penguin Classics* (Harmondsworth: Penguin, 1987 (1788))., Paper II, p. 91

[98] David McDowall, *A Modern History of the Kurds*, 2nd and revised ed. (London: I.B. Tauris, 2000)., pp. 343-67. It was a standard trope in the English language media that favored intervention in Iraq that Saddam Hussein had 'gassed his own people'. That he gassed people is not in question. That he shared a common peoplehood with his victims most certainly is.

[99] The US's most influential foreign policy journal published a scenario for re-building Iraq in the summer of 2003, Adeed Dawisha and Karen Dawisha, "How to Build a Democratic Iraq," *Foreign*

Affairs 82, no. 3 (2003). The Dawishas advocate maintaining 'Iraq's present administrative structure, under which the country is divided into 18 units', p. 39, while on the same page insist that the Kurds should have their own territorial 'unit in the federal structure'. This is contradictory, and whatever it means, the argument is outmoded by the *de facto* boundaries of Iraqi Kurdistan, which cut across prior provincial jurisdictions. For similar advocacy of the eighteen provinces see Rachel Bronson, et. al., *Guiding Principles for U.S. Post-conflict Policy in Iraq*, New York: Council on Foreign Relations, 2003.

[100] Brancati D. 2004 in press. Is Federalism a Panacea for Post-Saddam Iraq? *The Washington Quarterly* 27. Brancati's case is based on her doctoral research on parties, decentralization and ethnic conflict – much of which I agree with. It is the erroneous objection of blueprint thinking to Iraq to which I object.

[101] Forsyth, op. cit., p. 4.

[102] See *inter alia* Michael Hechter, *Containing Nationalism* (Oxford: Oxford University Press, 2000), Michael Keating, "Managing the Multinational State: Constitutional Settlement in the United Kingdom," ed. Trevor Salmon and Michael Keating (2001), Juan Linz, "Democracy, Multinationalism and Federalism" (paper presented at the Juan March Institute, 1997), Margaret Moore, *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001), Stepan, "Federalism and Democracy: Beyond the U.S. Model.", Alfred Stepan, "Modern Multinational Democracies: Transcending a Gellnerian Oxymoron," in *The State of the Nation : Ernest Gellner and the Theory of Nationalism*, ed. John A. Hall (New York: Cambridge University Press, 1998).

[103] Jack Snyder, *From Voting to Violence: Democratization and Nationalist Conflict* (New York: W.W. Norton, 2000)., p. 327.

[104] Brendan O'Leary, "An Iron Law of Federations? A (Neo-Diceyian) Theory of the Necessity of a Federal Staatsvolk, and of Consociational Rescue. The 5th Ernest Gellner Memorial Lecture," *Nations and Nationalism* 7, no. 3 (2001).. For other discussions see Thomas M Franck, *Why Federations Fail: An Inquiry into the Requisites for Successful Federation* (New York: New York University Press, 1968), Ursula K Hicks, *Federalism, Failure and Success: A Comparative Study* (London: Macmillan, 1978), Ronald L Watts, *Comparing Federal Systems in the 1990s* (Kingston, Ontario: Institute of Intergovernmental Relations/Queen's University, 1996), Ronald L Watts, "The Survival or Disintegration of Federations," in *Options for a New Canada*, ed. Ronald Watts and Douglas M Brown (Toronto: University of Toronto Press, 1971).

[105] John McGarry and Brendan O'Leary, "Federalism, Conflict-Regulation and National and Ethnic Power-Sharing" (paper presented at the Annual Meeting of the American Political Science Association, Philadelphia, August 28-31 2003 2003)., August 28-31..

[106] O'Leary, 2001, op.cit.

[107] Katharine Adeney, "Constitutional Centring: Nation Formation and Consociational Federalism in India and Pakistan," *Journal of Commonwealth & Comparative Politics* 40, no. 3 (2002).