

## Consociational Theory, Northern Ireland's Conflict, and its Agreement. Part 1: What Consociationalists Can Learn from Northern Ireland

I did not draw my principles from my prejudices, but from the nature of things.<sup>2</sup>

'What a wonderful place the world would be', cry the devotees of each way of life, 'if only everyone were like us'. We can now see the fallacy in this frequently expressed lament: it is only the presence in the world of people who are different from them that enables adherents of each way of life to be the way they are.<sup>3</sup>

CONSOCIATIONAL THEORY, DEVELOPED BY AREND LIJPHART AND other scholars, is one of the most influential theories in comparative political science. Its key contention is that divided territories, be they regions or states, with historically antagonistic ethnically, religiously or linguistically divided peoples, are effectively, prudently, and sometimes optimally, governed according to consociational principles. Consociations can be both democratic and authoritarian,<sup>4</sup> but

<sup>1</sup> The authors thank the editors of *Government and Opposition*, and its two anonymous referees, for their very helpful suggestions. McGarry thanks the Carnegie Corporation of New York for funding his research, O'Leary thanks the Lauder endowment, and both authors thank the United States Institute of Peace.

<sup>2</sup> Charles de Secondat, Baron de Montesquieu, 'Preface', in Anne M. Cohler, Basia C. Miller and Harold S. Stone (eds), *The Spirit of the Laws*, Cambridge, Cambridge University Press, 1989 (first publication, 1748), p. xliii.

<sup>3</sup> Michael Thompson, Richard Ellis, Aaron Wildavsky, *Cultural Theory*, Boulder, CO, Westview Press, 1990, p. 96.

<sup>4</sup> See Brendan O'Leary, 'Consociation: Refining the Theory and a Defence', *International Journal of Diversity in Organisations, Communities and Nations*, 3 (2003), pp. 693–755, and 'Debating Consociation: Normative and Explanatory Arguments', in Sid Noel (ed.), *From Power-Sharing to Democracy: Post-Conflict Institutions in Ethnically Divided Societies*, Toronto, McGill-Queens University Press, 2005, pp. 3–43.

complete consociational democracies respect four organizational principles.<sup>5</sup>

- (1) *Executive power-sharing (EPS)*. Each of the main communities share in executive power, in an executive chosen in accordance with the principles of representative government.
- (2) *Autonomy or self-government*. Each enjoys some distinct measure of autonomy, particularly self-government in matters of cultural concern.
- (3) *Proportionality*. Each is represented proportionally in key public institutions and is a proportional beneficiary of public resources and expenditures.
- (4) *Veto-rights*. Each is able to prevent changes that adversely affect their vital interests.

Consociational theory has been a central part of Northern Ireland's 'meta-conflict', i.e. the intellectual conflict about the nature of the conflict and the appropriate prescriptions to tackle it.<sup>6</sup> It was first applied to Northern Ireland by Lijphart in the *British Journal of Political Science*.<sup>7</sup> But, as he has often observed, practice does not require theory. Consociational principles had already been evident in the ill-fated Sunningdale Agreement of 1973–74, widely known locally and accurately as a power-sharing experiment. Lijphart argued that consociational democracy was the most appropriate form of government for the region, but was then pessimistic about its prospects.

Consociational theory has also helped craft our joint and individual writings.<sup>8</sup> We have consistently shared Lijphart's normative

<sup>5</sup> Refinements in the definitional and normative accounts of consociation are argued in O'Leary, 'Consociation: Refining the Theory and a Defence', 'Debating Consociation: Normative and Explanatory Arguments', and 'Foreword: The Realism of Power-Sharing', in Michael Kerr, *Imposing Power-Sharing: Conflict and Coexistence in Northern Ireland and Lebanon*, Dublin, Irish Academic Press, 2005.

<sup>6</sup> John McGarry and Brendan O'Leary, *Explaining Northern Ireland: Broken Images*, Oxford, Basil Blackwell, 1995, pp. 320–6, 338–44.

<sup>7</sup> Arend Lijphart, 'Review Article: The Northern Ireland Problem; Cases, Theories, and Solutions', *British Journal of Political Science*, 5 (1975), pp. 83–106.

<sup>8</sup> See our writings on Irish politics, particularly Brendan O'Leary, 'The Anglo-Irish Agreement: Statecraft or Folly?', *West European Politics*, 10: 1 (1987), pp. 11–12, 28–9; John McGarry, 'The Anglo-Irish Agreement and Power-Sharing in Northern Ireland', *Political Quarterly*, 59: 2 (1988), pp. 236–50; John McGarry and Brendan O'Leary, *Explaining Northern Ireland*, pp. 311–53 and Brendan O'Leary and John McGarry,

endorsements of consociation, and often his pessimism about its prospects in the region where we grew up. We admire his works, and the man, not least because of his grace under fire from friends and foes, but regard ourselves as critical supporters rather than slavish disciples. Lijphart makes no important distinction between polities that are linguistically, ethno-nationally or religiously divided, whereas we have argued that Northern Ireland has primarily experienced a self-determination dispute spanning two states, and that this diagnosis is crucial, both for accurate explanation and compelling prescription, consociational or not.<sup>9</sup> We have disagreed with Lijphart especially about the obstacles to a durable political settlement in Northern Ireland, and have insisted that such a settlement requires more than just consociational institutions. Minimally, these would include all-island and all-Ireland cross-border institutions, and institutions linking the two sovereign governments of the United Kingdom and Ireland. We have also differed from Lijphart over conceptual and explanatory matters in general consociational theory – partly because of our engagements with Northern Ireland. But we are obviously revisionist consociationalists, not anti-consociationalists. We have no desire to bury Lijphart's theses and contributions, even though there has been (and will be) consociational theory generated independently of his publications. Lastly, we have been robust, some would say controversial, consociationalists. We believe it is vital to champion consociation normatively, but to do so carefully, respecting the canons and protocols of scrupulous political science. That is because we think it is premature, indeed false, to claim that consociational theory is a 'degenerating research programme', as our friend Ian Lustick has maintained.<sup>10</sup> To the contrary, consociational theory is a 'progressive research programme', one that certainly requires revision, extension and refinement, and which must remain amenable to empirical falsification. Being political scientists does not, however, require us to have no politics, or to be unduly polite

*The Politics of Antagonism: Understanding Northern Ireland*, London, Athlone, 1993, pp. 220–326. A complete list of these writings can be found at the end of John McGarry and Brendan O'Leary, *The Northern Ireland Conflict: Consociational Arrangements*, Oxford, Oxford University Press, 2004.

<sup>9</sup> McGarry and O'Leary, *Explaining Northern Ireland*.

<sup>10</sup> Ian Lustick, 'Lijphart, Lakatos and Consociationalism', *World Politics*, 50: 1 (1997), pp. 88–117.

about bad arguments. Consociationalists can and must engage in adversarial debate – if only to rebut our critics. What unites the consociational breed is scepticism about the universal merits of adversarial majoritarian and integrationist institutions.

Anti-consociationalism, implicit or overt, has formed a staple political diet for many in Northern Ireland, a diet we believe to be as bad for local public health as the ‘Ulster fry’. Consociation has been condemned, sometimes in the most vehement terms, by Irish republicans, by unionists, and by the political parties that represent what they insist is the ‘middle ground’ between the two ethno-national blocs, e.g. members of the Alliance, Democratic Left, and the Women’s Coalition. It has been opposed by a significant number of academics, as well as by ‘think tanks’. Critics accuse consociationalists of an ‘uncritical acceptance of the primacy and permanency of ethnicity’<sup>11</sup> and of conveying a ‘rather bleak view of humanity’.<sup>12</sup> They maintain that consociation, far from resolving conflict, ‘institutionalizes’ divisions, casting them in ‘marble’.<sup>13</sup> Consociation is said to be incompatible with democratic stability: a consociational democracy is, apparently, ‘impermanent’, ‘dysfunctional’, ‘unworkable’; it is declared a ‘macabre’ parody of ‘real democracy’ by a man who some think excels in parody.<sup>14</sup> One critic has even suggested that consociationalists are ‘segregationists’, whose message could be seen as ‘condoning . . . “ethnic cleansing”’.<sup>15</sup>

But despite local past and present hostility towards consociational principles, the fact is that since 10 April 1998, a very Good Friday, Northern Ireland has had an agreement based on consociational architecture, one that still remains the most likely institutional

<sup>11</sup> Rupert Taylor, ‘A Consociational Path to Peace in Northern Ireland and South Africa?’, in Adrian Guelke (ed.), *New Perspectives on the Northern Ireland Conflict*, Avebury, Aldershot, 1994, p. 163.

<sup>12</sup> Rick Wilford, ‘Inverting Consociationalism? Policy, Pluralism, and the Post-Modern’, in Brigid Hadfield (ed.), *Northern Ireland: Politics and the Constitution*, Buckingham, Open University Press, 1992, pp. 29–46.

<sup>13</sup> Kevin Rooney, ‘Institutionalising Division’, *Fortnight*, (June 1998), pp. 21; Wilford, ‘Inverting Consociationalism?’, p. 31.

<sup>14</sup> Robert McCartney, ‘Devolution is a Sham’, *Observer*, 20 February 2000; Robert McCartney, *Reflections on Liberty, Democracy and the Union*, Bethesda, MD, Academia Press, 2001.

<sup>15</sup> Paul Dixon, ‘The Politics of Antagonism: Explaining McGarry and O’Leary’, *Irish Political Studies*, 11 (1996), pp. 130–41. Our reply is in the same journal.

equilibrium.<sup>16</sup> We shall refer to this agreement as the Agreement. In this double article, we use the background to the Agreement, its details, and its aftermath, to reflect on the utility of consociational theory. While the focus is on Northern Ireland, our analysis has direct relevance for divided territories elsewhere, and particularly those that are nationally divided. The article is separated along a simple axis: In part 1, we show what consociationalists can learn from Northern Ireland. In part 2, we show what critics of consociational theory can learn from Northern Ireland. Our view is that a revised consociational theory provides the most sensible basis for understanding and prescribing for Northern Ireland and similar conflict zones.

### LESSONS FOR CONSOCIATIONALISTS

Consociationalists may feel at least partially vindicated by the fact that eight Northern Irish political parties were able, largely voluntarily, to agree on a settlement with important consociational components, and to win endorsement for that agreement in simultaneous referendums in both parts of Ireland. The simple achievement of the Agreement confronts one important criticism of consociationalism: that it is unachievable in deeply divided societies, and has relevance only for societies with moderate divisions.<sup>17</sup> But the Northern Irish experience also highlights six important weaknesses in traditional consociational theory.

<sup>16</sup> For a detailed description of this consociational architecture see Brendan O'Leary, 'The Nature of the Agreement', *Fordham Journal of International Law*, 22: 4 (1999), pp. 1626–67. The Agreement has all four of consociation's organizational principles. Community autonomy is least strongly represented in the text, but tacitly evident in the maintenance of separate but proportionally funded primary and secondary education.

<sup>17</sup> Donald Horowitz suggests that 'European conflicts are less ascriptive in character, less severe in intensity, less exclusive in their command of the loyalty of participants, and less pre-emptive of other forms of conflict' by comparison with African and Asian conflicts. See his *Ethnic Groups in Conflict*, Berkeley, University of California Press, 1985, p. 572. He must *either* regard Northern Ireland as typical of moderately divided European societies to save his hypothesis that consociation is unattainable in deeply divided societies, *or* accept that his thesis is refuted.

*1. The Neglected Role of External Actors in the Promotion and Operation of Consociational Settlements*

Conventional consociational theory is overly 'endogenous' or 'internalist'; it has tended to treat states and regions as if they are sealed entities, relatively immune from exogenous forces. This has produced two related problems. First, there has been a tendency to downplay the importance of outside factors both when explaining how consociational settlements emerge, and when seeking to engineer their creation. Of the much-debated nine factors initially listed by Lijphart as conducive to a consociational settlement, eight are endogenous.<sup>18</sup> According to Lijphart, if a state's warring factions perceive a common threat from an external source, this will increase the prospects of internal solidarity, an overarching loyalty. The focus on this particular exogenous factor stemmed from Lijphart's examination of a number of small European democracies (Belgium, the Netherlands, Switzerland and Austria) all of which have been threatened by larger neighbours and have had at least partially consociational agreements during their recent histories. However, nowhere did he consider that outside forces can *facilitate* consociation by benign rather than malign intervention, e.g. by mediation, or by using pressures and incentives to induce or encourage warring or potentially warring parties to reach agreement. Such benign external interventions helped produce a settlement in Northern Ireland.

The impasse that existed there until 1998 partly resulted from internal intransigence on the part of both Irish republicans and unionists. Exogenous changes played an important, and constructive, role in ending this impasse.<sup>19</sup> The most important exogenous

<sup>18</sup> Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration*, New Haven, CT, Yale University Press, 1977, pp. 53–105. The formal headings of these eight factors on their first elaboration were: (1) no majority segment; (2) multiparty systems; (3) small population size; (4) appropriately structured cleavages; (5) overarching loyalties; (6) representative party systems; (7) geographical concentration of segments; and (8) traditions of elite accommodation.

<sup>19</sup> Endogenous factors were also important, particularly demographic change. The Protestant share of Northern Ireland's population is in decline, and sits currently around 55 per cent. There is a possibility, and an even stronger perception, that there will be a Catholic majority at some point in the foreseeable future, see, e.g. Brendan O'Leary, 'More Green, Fewer Orange', *Fortnight*, 281 and 282 (1990), pp. 12–15 and

influence, outside the region if not the state, was the UK government. After a brief fling with the idea of integrating Northern Ireland with Great Britain in the late 1970s, London moved away from this option, though not consistently.<sup>20</sup> Unionists had always considered direct rule – not radically different from their goal of an integrated United Kingdom – as preferable to the risks of a power-sharing settlement with nationalists. But in December 1985, the UK government abandoned unalloyed direct rule from Westminster. In the Anglo-Irish Agreement the Republic of Ireland was given a limited role in policy-making in Northern Ireland and comprehensive consultative rights, with the promise that the new inter-governmental conference would decline in salience if an agreement on a devolved government could be reached between nationalists and unionists.<sup>21</sup> The UK's default policy had now shifted towards London–Dublin cooperation in and over the region. Unionists feared this shift would be irreversible and deepened in the absence of agreement between Northern Irish parties. Margaret Thatcher had several reasons for signing the Anglo-Irish Agreement, but pressure from the United States was important. From the early 1980s, leading US politicians, prompted by the Irish government and Irish Americans, encouraged Great Britain to cooperate more closely with Ireland, and President Ronald Reagan, whom Thatcher respected, put his personal clout behind this message. So American pressure prepared the groundwork for 1998 even before President Clinton was elected in 1992. There was, of course, no immediate generation of consociation through the coercive inducements of the Anglo-Irish Agreement. At first, unionists thought they could destroy that agreement by protest, but it proved durable. They hoped it could be resisted or incrementally reversed while the Conservatives were in power in London, especially during the 1992–97 parliament when the Major government

16–17; Brendan O'Leary, 'Unionists Will Lose Electoral Dominance', *Irish Times*, 2 July 1997. This shift has undercut unionists' enthusiasm for majoritarian democracy and increased their strategic interest in power-sharing.

<sup>20</sup> Brendan O'Leary, 'The Conservative Stewardship of Northern Ireland 1979–97: Sound-Bottomed Contradictions or Slow Learning', *Political Studies*, 45: 4 (1997), pp. 663–76; Brendan O'Leary, 'The Labour Government and Northern Ireland 1974–9', in McGarry and O'Leary, *The Northern Ireland Conflict*, pp. 194–216.

<sup>21</sup> O'Leary, 'The Anglo-Irish Agreement: Statecraft or Folly?'

depended on unionist support in the House of Commons.<sup>22</sup> The Ulster Unionist Party (UUP) began to negotiate seriously with nationalists only after Labour's landslide victory in May 1997 and the new Prime Minister Tony Blair's signal that he was committed to achieving a settlement within his first year of office.<sup>23</sup>

The United States and Irish America played a constructive role in the promotion of the Anglo-Irish Agreement<sup>24</sup> and would play an even more significant role in the making of the 1998 Agreement. Influenced by significant Irish-American lobbies and by the end of the Cold War, which freed US presidents from traditional constraints about interfering in the UK's internal affairs, the USA gave unprecedented attention to Northern Ireland in the 1990s, especially when President Clinton took office in 1992.<sup>25</sup> He approved an indirect collective envoy, the 'Morrison delegation', which visited Ireland and met all parties during the early stages of the peace process. He put several of his senior advisers to work on the subject, including the national security adviser, Anthony Lake. Clinton ended up visiting the region three times in five years, the first US president to go there. Northern Ireland's political leaders had open access to the White House, and made frequent use of it. Clinton persuaded former Senate majority leader George Mitchell to chair first an economic initiative, then a crucial commission to arbitrate disputes between the UK and Irish governments over the decommissioning of paramilitary weapons and the timing of negotiations, and then to preside over the

<sup>22</sup> Indeed, the option of integration, which had been abandoned since 1979, was re-considered during the Major years. See O'Leary, 'The Conservative Stewardship of Northern Ireland 1979–97'.

<sup>23</sup> Brendan O'Leary, 'The Belfast Agreement and the Labour Government: How to Handle and Mishandle History's Hand', in Anthony Seldon (ed.), *The Blair Effect: The Blair Government 1997–2001*, London, Little, Brown & Company, 2001, pp. 448–88.

<sup>24</sup> Paul Arthur, 'Diasporan Intervention in International Affairs: Irish America as a Case Study', *Diaspora*, 1: 2 (1991), pp. 143–61; Paul Arthur, *Special Relationships: Britain, Ireland and the Northern Ireland Problem*, Belfast, Blackstaff Press, 2000; Michael Cox, 'Bringing in the "International": The IRA Ceasefire and the End of the Cold War', *International Affairs*, 73: 4 (1997), pp. 671–93; Adrian Guelke, 'The United States, Irish Americans and the Northern Ireland Peace Process', *International Affairs*, 72: 3 (1996), pp. 521–36.

<sup>25</sup> Conor O'Clery, *The Greening of the White House: The Inside Story of How America Tried to Bring Peace to Ireland*, Dublin, Gill & Macmillan, 1997 (1996).



final negotiations that led to the Agreement.<sup>26</sup> The president is known to have intervened personally and productively in the political negotiations on several occasions.<sup>27</sup>

An important consequence of American diplomatic involvement was an increase in the confidence of Irish republicans about the merits of negotiations. A 1994 document on the peace strategy, TUAS,<sup>28</sup> was explicit about the importance of the American role, noting that 'there is potentially a very powerful Irish-American lobby not in hock to any particular party in Britain or Ireland' and that 'Clinton is perhaps the first US President in decades to be influenced by such a lobby'.<sup>29</sup> Washington also shored up the position of the Irish government in its negotiations with Great Britain, and of constitutional nationalists led by John Hume of the SDLP. Clinton's decision in early 1994 to issue a visa to Sinn Féin leader Gerry Adams is credited with carrying hard-line Irish republicans behind his peace strategy.<sup>30</sup> Adams himself claimed that it brought forward by one year

<sup>26</sup> George C. Mitchell, *Making Peace*, Berkeley, University of California Press, 2000; George C. Mitchell, John de Chastelain and Harri Holkeri, *Report of the International Body on Arms Decommissioning (The Mitchell Report)*, Dublin and London, 1996.

<sup>27</sup> Roger MacGinty, 'Bill Clinton and the Northern Ireland Peace Process', *Aussenpolitik*, 48: 3 (1997), pp. 237–44; Michael Cox, 'The War that Came in from the Cold', *World Policy Journal*, 16: 1 (1999), pp. 59–67.

<sup>28</sup> TUAS was reputedly an acronym for either Totally Unarmed Strategy or Tactical Use of Armed Struggle, but its exact meaning was never spelled out. One journalist, who believes in the Machiavellian qualities of the Sinn Féin leadership, argues that it told the SDLP and the Irish government that it meant the former, and republican activists that it meant the latter. See Ed Moloney, *A Secret History of the IRA*, London, Penguin, 2002, p. 423. Loyalists and unionists, and those who believed that republicans could spell, thought it meant the latter, particularly after the IRA broke its ceasefire in 1996. American supporters of Sinn Féin thought it meant the former. One website we came across lists it as neither: apparently the true meaning was 'tactical use of absolute stupidity'.

<sup>29</sup> Roger MacGinty, 'American Influence on the Northern Ireland Peace Process', *Journal of Conflict Studies*, (Fall 1997), p. 34.

<sup>30</sup> The complaints of the State Department were spearheaded by the US ambassador to the UK, Raymond Seitz, who complained bitterly at the overturning of his counsel at the time, and in his memoirs. See Raymond Seitz, *Over Here*, London, Trafalgar Square, 1998. More extensive analyses of the exogenous factors that led to the Good Friday Agreement are available. See, e.g. John McGarry, 'Globalization, European Integration and the Northern Ireland Conflict', in Michael Keating and John McGarry (eds), *Minority Nationalism and the Changing International Order*, Oxford,

the IRA ceasefire, which occurred in August 1994. The ceasefire was a prerequisite for the possibility of comprehensive and inclusive negotiations. While the Clinton administration's role in coaxing republicans into negotiating has been acknowledged, it is less often noted that it managed this task without alienating unionists. Like constitutional nationalists, unionists were given unprecedented access to the White House and the administration was careful to appear impartial throughout. One of us personally witnessed a loyalist paramilitary leader convicted of murders and Irish republicans convicted of bombing offences happily enjoying the White House's environs in May 1995 and March 1998. The UUP leader David Trimble acknowledged that reassurances from Clinton helped convince him to sign the Agreement.<sup>31</sup>

Benign, or eventually benign, exogenous action has facilitated power-sharing settlements elsewhere, not just in Northern Ireland. The United States, the United Nations, NATO and the European Union, using their good offices, sanctions, incentives and military powers, have played pivotal roles in promoting (or establishing) power-sharing institutions in Bosnia-Herzegovina, Macedonia, Iraq and Afghanistan. Indeed, it is difficult to imagine such settlements in any of these countries without outside intervention. Traditional consociational theory neglected a benign or at least activist role for outsiders in the promotion of power-sharing, perhaps because it was

Oxford University Press, 2001, pp. 295–324; Adrian Guelke, 'International Dimensions of the Belfast Agreement', in Rick Wilford (ed.), *Aspects of the Belfast Agreement*, Oxford, Oxford University Press, 2001, pp. 245–63; McGarry and O'Leary, *Explaining Northern Ireland*, ch. 10; Brendan O'Leary, 'The Belfast Agreement and the British–Irish Agreement: Consociation, Confederal Institutions, a Federacy, and a Peace Process', in Andrew Reynolds (ed.), *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy*, Oxford, Oxford University Press, pp. 293–356.

<sup>31</sup> Personal communication from Professor Andrew Wilson, who interviewed Trimble on this matter. See Andrew Wilson, 'From Beltway to Belfast: The Clinton Administration, Sinn Féin, and the Northern Ireland Peace Process', *New Hibernia Review*, 1: 3 (1997), pp. 23–39; Andrew Wilson, 'The Billy Boys meet Slick Willy: The Ulster Unionist Party and the American Dimension of the Northern Ireland Peace Process, 1993–1998', *Policy Studies Journal*, 11 (2000), pp. 121–36. One of us attended two St Patrick's Day celebrations held at the White House (in 1994 and 1998) and the White House May 1995 Investment for Peace conference, and can testify to the care taken to ensure balanced invitations of unionists, nationalists, republicans, loyalists and others.

initially developed during the Cold War when such interventions were rare.<sup>32</sup> However, we now live in an era where interventions, orchestrated especially by the USA or the EU, are more prevalent, and there is a need to think more about the effectiveness of such efforts on the viability of consociational arrangements.<sup>33</sup>

While outsiders can play positive roles, and tip the balance in favour of negotiated or induced agreements, settlements reached primarily under exogenous pressure may have shallow endogenous foundations. This political fact is a very serious danger with the externally imposed Dayton Accords in Bosnia-Herzegovina; it demonstrably undermined the recent 'Annan Plan' for Cyprus, and before that, the Cyprus power-sharing settlement of 1960–63. One difficulty with the Agreement is that it is not clear that it would have been signed, at least in its extant form, particularly by unionists, without outside pressures. A large number of unionists, led by the Democratic Unionist Party (DUP), rejected the Agreement, as did significant numbers of unionist voters, and this fact remains its chief political weakness.

A related lacuna in traditional consociational theory is that it neglected the possibilities of positive roles for outsiders both in the *implementation* and in the active *operation* of power-sharing settlements. The Agreement has numerous outsiders significantly at the heart of its implementation. An international commission, headed by the Canadian general John de Chastelain, has overseen the decommissioning of paramilitary weapons and disarmament. Witnesses to IRA acts of decommissioning have included the former Finnish president Marti Ahtisaari and Cyril Ramaphosa of the African National Congress. Proposing the details of police reform was handed to an independent commission, with representation from the United States

<sup>32</sup> The exceptions to this rule were analyses of the Lebanon – the arrangements for which were known to be crucially affected by regional politics. The destabilization of Lebanon's consociation in the 1970s powerfully shows the possible impact of malign external interventions. See Theodor Hanf, *Coexistence in Wartime Lebanon: Decline of a State and Rise of a Nation*, London, I.B. Tauris, 1993.

<sup>33</sup> We do not think that exogenous forces can promote stable consociational settlements when endogenous forces are strongly unfavourable, but we do not subscribe to the view that outsiders can make no appreciable difference. Michael's Kerr's PhD, now published as *Imposing Power-Sharing: Conflict and Coexistence in Northern Ireland and Lebanon*, Dublin, Irish Academic Press, 2005, maintains outside intervention has been decisive in the two cases he explores in depth.

and Canada, as well as Great Britain and Ireland. Overseeing the implementation of policing reforms has been the responsibility of an American, Tom Constantine, and then a Canadian, Al Hutchinson. Amidst continuing difficulties in achieving full implementation of the Agreement, a 'Joint Declaration', released on 1 May 2003, the same two governments proposed international representation on an 'Independent Monitoring Body'. It has been tasked with putting paramilitary activity under surveillance, and formulating sanctions against political parties associated with offending organizations. The four-person body is comprised of two members nominated by the UK government (one from Northern Ireland); a member nominated by the Irish government; and a fourth nominated by the American administration. The European Court of Human Rights performs a role in the protection of human rights in Northern Ireland. The office of the OSCE's high commissioner on national minorities has advised on deliberations over the design of a local bill of rights.

This extensive external involvement, which could be further elaborated, mirrors developments in power-sharing agreements elsewhere. There is external representation in several of the institutions established in Bosnia-Herzegovina and Kosovo, including Bosnia's Supreme Court and Central Bank; both arrangements are presided over by external high representatives, and have included external agents in providing security. The recent UN plan for Cyprus envisaged a central tie-breaking role for outsiders in that island's supreme court. These developments suggest that the implementation and the operation of consociational settlements should no longer be considered the internal preserve of sovereign independent states. One can see a repertoire of international interventionist techniques and norms emerging of which Northern Ireland is perhaps the key exemplar.

## *2. Consociationalism and Trans-State Self-Determination Disputes*

Traditional consociational theory developed from a concern with religious and class divisions in a number of European countries – the Netherlands, Belgium, Austria and Switzerland.<sup>34</sup> It neglected the

<sup>34</sup> Lijphart, *Democracy in Plural Societies*.

particularity of self-determination disputes, i.e. those that involve ethno-national communities focused on contested homelands. One consequence is that the emphasis in traditional consociational theory is on *who* should exercise power at the level of the central government. But self-determination disputes are often about *how much* power should be exercised by the central government, and about whether there should be one or more central governments. Although autonomy is an important value in consociational arrangements, the emphasis is often on non-territorial – or corporate – autonomy, rather than the territorial autonomy insisted on as a minimum desideratum by most self-determination movements. Given their 'internalist' focus, addressed above, consociationalists have been historically ill-equipped to address self-determination disputes that affect more than one state.

These problems were clear in Lijphart's otherwise masterly dissection of the Northern Ireland conflict in 1975. He was pessimistic about the prospects for consociation – as were we.<sup>35</sup> However, we differed in our diagnoses. In his view, the key difficulty was the absence of support for power-sharing among Protestants because they were capable of exercising hegemonic power alone, and because they were disposed to Westminster majoritarian practices rather than continental power-sharing norms.<sup>36</sup> This analysis was accurate, but limited. It overlooked the fact that nationalists were also opposed to inter-nationalist power-sharing within the United Kingdom. Irish republicans wanted Irish national self-determination and a complete withdrawal of the British state from Ireland, whereas moderate nationalists wanted any consociation to be internationalized, i.e. to have a linkage to Ireland, and a role for the Irish government. This nationalist insistence on links with Ireland reinforced the resolve of many unionists to avoid power-sharing: as we have seen, they had no incentive to

<sup>35</sup> Lijphart, 'Review Article: The Northern Ireland Problem', p. 105; O'Leary, 'The Anglo-Irish Agreement: Statecraft or Folly?'; McGarry, 'The Anglo-Irish Agreement and Power-Sharing in Northern Ireland'; John McGarry, 'Northern Ireland and the Option of Consociationalism', *Plural Societies*, 20 (June 1990), pp. 1–20; John McGarry and Brendan O'Leary, 'Northern Ireland's Options: A Framework, Summary and Analysis', in John McGarry and Brendan O'Leary (eds), *The Future of Northern Ireland*, Oxford, Oxford University Press, 1990, pp. 268–303.

<sup>36</sup> Lijphart, 'Review Article: The Northern Ireland Problem', p. 100.

share power since the default option was direct rule from Great Britain, their preferred nation-state.

Any feasible agreement in Northern Ireland had to deal squarely with the disputes that had flowed from the inequitable legacies of the partition of Ireland in 1920 without any formal respect for Irish self-determination. At least three parts of the Agreement reached in 1998 are relevant here, and all depart from traditional consociational accords:

- (1) *The NSMC and the B-IGC.* Had the Agreement included only traditional consociational institutions, not even moderate nationalists would have signed it. The Social Democratic and Labour Party (the SDLP) signed only because the Agreement provided for a number of political institutions that joined both parts of Ireland, and maintained an oversight role for the Republic's government. The most important all-island institution is a North-South Ministerial Council (NSMC), a body nominated by the Irish Republic's government and the new Northern Ireland premiers. It was agreed that it should meet in plenary twice a year, and in smaller groups to discuss specific sectors (say, agriculture, or education) on a 'regular and frequent basis'. In addition, the Agreement provided for a number of cross-border or all-island 'implementation' bodies. There eventually turned out to be six in number, and they were given the task of cooperating over inland waterways, food safety, trade and business development, special EU programmes, the Irish language and Ulster Scots dialect, and aquaculture and marine matters. The Agreement committed both parts of Ireland to a further six functional areas of cooperation, including some aspects of transport, agriculture, education, health, the environment and tourism. It also established the British-Irish Inter-Governmental Conference (B-IGC), the successor to the inter-governmental conference established under the Anglo-Irish Agreement. This arrangement guarantees Ireland's government access to policy formulation on all matters not – or not yet – devolved to the Northern Ireland Assembly or the NSMC. In the event of the collapse of the Agreement, this institution will resume the all-encompassing role it had under the Anglo-Irish Agreement. It also promotes bilateral cooperation between the Irish and British governments on all matters of mutual interest within their respective jurisdictions.

- (2) *Recognition of Irish self-determination.* Republicans would not have approved the Agreement had the UK government not recognized, in a treaty, the right of the people of Ireland, meaning the whole island, to exercise their right to self-determination, albeit conjointly and severally as 'North' and 'South' to bring about a united Ireland if that was their wish.<sup>37</sup> The referendums and the British–Irish Agreement (the treaty incorporating the Agreement) in effect made the partition of Ireland – and its continuation – and the Agreement and its institutions dependent upon the expressed will of the people of Ireland.
- (3) *Recognition of the principle of consent and the BIC.* Unionists, who were ambivalent about the Agreement, were persuaded to ratify it because it entrenched the principle of consent. That is, Northern Ireland cannot become part of Ireland unless a majority in Northern Ireland agree. Ireland's constitution was changed, after a referendum in both jurisdictions, to reflect this principle. Unionists also secured new east–west institutions to reflect their link with Great Britain. The British–Irish Council (BIC) comprises the two governments of the UK and Ireland, along with all the devolved governments of the UK and its neighbouring insular dependent territories (Scotland, Wales, the Isle of Man, Jersey and Guernsey).

Key provisions in the Agreement mark it out as a settlement between national communities rather than ethnic or religious communities. Ministers take a 'Pledge of Office', not an 'Oath of Allegiance'.<sup>38</sup> This cements the bi-nationalism at the heart of the Agreement: nationalist ministers do not have to swear an Oath of Allegiance to the Crown or the Union. The Patten Report on policing, mandated by the Agreement, recommended that the name of

<sup>37</sup> Unionist defenders and republican critics of the Agreement correctly point out that this recognition of the right to self-determination is qualified, i.e. it is at odds with the traditional republican view that the right be exercised within a single all-Ireland unit on a majoritarian basis. Nevertheless the recognition of Ireland's self-determination in this qualified manner represented a major concession by the UK government. It is the basis for the argument that the Agreement's institutions rest on a joint Irish act of self-determination rather than the revisable will of the Westminster parliament, and the basis on which nationalists reject the legality of the UK's post-Agreement unilateral statutory enactment and use of suspension powers.

<sup>38</sup> O'Leary, 'The Nature of the Agreement'.

the police be nationally impartial, and that the display of the Union flag and the portrait of the queen in police stations should go. Policing symbols were to be 'free from association with the British or Irish states'.<sup>39</sup> Mutual recognition of national claims lay at the core of the Agreement. Ireland has recognized the British political identity of unionists. The UK recognized Irish northern nationalists as a national minority, not simply as a cultural or religious minority, and as part of a possible future Irish national majority. Unionists who made the Agreement recognized nationalists as nationalists, not simply as Catholics. Nationalists recognized unionists as unionists, and not just as Protestants.

Self-determination disputes are central to a range of conflicts including those in Bosnia-Herzegovina, Kosovo, the Basque country, Sri Lanka, Cyprus, Kashmir, Kurdistan, Transdniestria and Nagorno-Karabakh. In these cases, the issues at stake are not simply about sharing power, or even primarily about sharing power. Questions of autonomy, sovereignty, irredentism, symbols, explicit recognition as national communities and institutional links across state frontiers are also crucial. To increase their relevance in a range of conflict zones, consociational theory and practice have to address these aspects of self-determination disputes.

### *3. The Complexity of Internal Consociational Settlements*

The first and second omissions in consociational theory arguably stem from the same cause: a now outdated tendency to treat the state as a sovereign, independent and insulated entity. The third is different. Even within the internal state-centric approach favoured in traditional consociational accounts, there has been an overly narrow focus on the design of, and need for agreement on, political (legislative and executive) institutions. But the achievement of enduring settlements normally requires agreement on (sometimes numerous) issues that go beyond such institutions, such as the design of the police, demilitarization, the return of exiles to their homes, the management of prisoners, education reform, economic policy and the promotion of language and other group rights.

<sup>39</sup> McGarry and O'Leary, *The Northern Ireland Conflict: Consociational Engagements*, ch. 13.



Failure to establish agreement on any such issue can prevent, destabilize or undermine entire settlements, even if there is broad consensus on political (executive and legislative) institutions. Thus, in Northern Ireland, an agreement required a number of issues to be addressed beyond the narrow question of executive and legislature design. One such issue was police reform. While the parties failed to reach consensus on this in the Good Friday negotiations, they agreed to mandate an independent commission, and on its terms of reference. Subsequently the failure to manage police reform satisfactorily helped to destabilize the political institutions, as it helped to delay substantive decommissioning by the IRA, which in turn made it difficult for unionists to participate in the executive. Another aspect of internal complexity is on the design of a bill of rights, including the questions of whether such bills should be limited to conventional liberal (individual) rights or should also entrench group rights, including the political rights included in the Agreement.<sup>40</sup> Other power-sharing agreements, whether in Bosnia-Herzegovina, Kosovo, Macedonia or Afghanistan, are also more internally complex than is normally discussed in consociational accounts. Any theory that seeks to explain the likelihood or durability of consociational settlements, or that seeks to facilitate them, needs to confront this complexity.

#### *4. The Merits of PR-STV versus PR-Party List Electoral Systems*

Elections to the new 108-member Northern Ireland Assembly (first elected in 1998) are conducted under a proportional representation (PR) system, the single transferable vote (STV), in six member constituencies. This system is not what Lijphart recommends for consociational agreements. He is an advocate of party-list PR systems; principally because they are said to help make party leaders more powerful within their parties and better able to sustain inter-ethnic consociational deals. Those who would have liked to see David Trimble in better control of the UUP might have hankered after Lijphart's preferred form of PR. The evidence from pre- and

<sup>40</sup> Brendan O'Leary, 'The Protection of Human Rights under the Belfast Agreement', *Political Quarterly*, 72: 3 (2001), pp. 353–65.

post-Agreement Northern Ireland suggests, however, that a modification of the consociational prescriptive canon is in order.

Had a region-wide list system been in operation for the elections to the Northern Ireland Assembly in June 1998, the UUP would have ended up with fewer seats, and with fewer seats than the SDLP.<sup>41</sup> In consequence, the implementation of the Agreement would have been even more problematic than it has been. There is a less contingent argument against party-list systems in consociations, especially important where the relevant ethnic communities are internally democratic rather than sociologically and politically monolithic. A region-wide party-list electoral system gives incentives for the formation of a wide variety of micro-parties, and it would have fragmented and shredded the votes of the major parties that made the Agreement. Hardliners under party-list systems have every reason to form fresh parties, knowing that their disloyalty will penalize more moderate parties without necessarily reducing the total vote and seat share of the relevant ethno-national bloc. This objection to Lijphart's favoured prescription is not merely speculative. The 1996 elections to the Northern Ireland Peace Forum used a mixture of a party-list system and 'reserved seats'. Party proliferation and the erosion of the UUP first-preference vote were among the more obvious consequences.<sup>42</sup> STV, of course, does not guarantee party discipline, as multiple candidates for the same party in a given constituency may present, tacitly or otherwise, slightly different emphases on party commitments, as indeed happened in Northern Ireland in 1998. However, STV, with higher effective thresholds than exist under most forms of party-list PR, makes it more likely that parties will remain formally unified and therefore able to make and maintain consociational deals. At the very least, the prescriptive superiority of the

<sup>41</sup> Paul Mitchell, 'The Party-System and Party Competition', in Paul Mitchell and Rick Wilford (eds), *Politics in Northern Ireland*, Boulder, CO, Westview Press, 1999, pp. 91–116.

<sup>42</sup> Brendan O'Leary and Geoff Evans, 'Northern Ireland: La Fin de Siècle, the Twilight of the Second Protestant Ascendancy and Sinn Féin's Second Coming', *Parliamentary Affairs*, 50: 4 (1997), pp. 672–80. The nature of executive formation in the Agreement should act as one possible check on the possibilities of fragmentation under party-list PR, because only large parties are likely to win ministries under the d'Hondt allocation process, but that is true of any electoral system combined with this executive.

party-list system for these purposes is unproven, and Lijphart's consistent counsel in this respect should be modified.

### *5. Allocating Ministerial Portfolios Through Sequential Proportionality Rules*

It is worth highlighting an institutional weakness of conventional consociational thinking. It was tacitly strongly committed to power-sharing as a by-product of inter-party negotiations over government formation. This, of course, presents a major problem of political will: such coalitions might be difficult to achieve, and even more difficult to sustain. It creates a key difficulty in 'incentives' in consociations; it appears to be premised upon overcoming trust and voluntary statesmanship.

Northern Ireland has not, of course, solved this key issue of political trust, but its new agreement has put it in a new light. Northern Ireland's Agreement, especially if it stabilizes, publicizes a technique that is not widely known, and that usefully resolves the disputes that may arise between polarized parties when they must share out ministerial portfolios, namely the 'd'Hondt portfolio allocation process'.<sup>43</sup> It is a technique for speeding government formation after elections, one that conforms to the proportionality principles of consociational thinking, facilitates power sharing, and meets many tests of fairness. The d'Hondt allocation process, using divisors of 1, 2, 3 . . . n, takes advantage of the fact that divisor rules for achieving fair proportions can also be used to determine the sequence in which parties should be entitled to nominate ministers. This system, and any system of achieving proportionality through divisors, has the decided advantage of halting protracted negotiations over ministerial portfolio allocations; it provides strong incentives for parties to stay within an executive even if they have disagreements – because if they don't stay, their entitlements will go to other parties,

<sup>43</sup> Elklit shows that the system has been in use in Danish local government for many decades, so Northern Ireland is only the pioneer in using this technique to achieve power-sharing among ethnationally opposed parties. For a technical analysis, see Brendan O'Leary, Bernard Grofman and Jorgen Elklit, 'Divisor Methods for Sequential Portfolio Allocation in Multi-Party Executive Bodies: Evidence from Northern Ireland and Denmark', *American Journal of Political Science*, 18: 1 (2005), pp. 198–21.

including parties from different national or ethnic blocs. We advocated such a system before the Agreement was made,<sup>44</sup> though we make no claims to being the authors of the technique,<sup>45</sup> which seems to have emerged out of inter-party bargaining, and we would have preferred to have had another allocation procedure adopted, namely the Sainte-Laguë method (which uses divisors of 1, 3, 5 . . . n, and helps smaller parties). Technically, the d'Hondt process has worked well in Northern Ireland, though, of course, it has had its critics amongst smaller parties, and amongst anti-consociationalists. We have recently argued that it should be used to resolve some of the difficulties attached to the election – and maintenance in office – of the two prime ministers in Northern Ireland, proposals that make even greater sense now that power-sharing will depend upon agreement between the DUP and Sinn Féin, parties that will find it difficult to accept one another's leaders.<sup>46</sup>

### 6. *Conceptual Refinements*

Lastly, it is obvious that consociational theory has been dogged by controversy over key terms among political scientists. Recent Northern Ireland practice helps refine some of these conceptual issues and resolve them.<sup>47</sup> Lijphart has traditionally defined a consociation as requiring a 'grand coalition', and many see that as consociation's key weakness (both because it is difficult to achieve such a coalition, and because it is said to preclude democratic opposition). The Northern Ireland case helps people realize that although grand coalitions are empirical possibilities, what makes consociations feasible and work is joint consent across the significant communities – with the

<sup>44</sup> McGarry and O'Leary, *Explaining Northern Ireland*, pp. 373–5.

<sup>45</sup> We did help in the dissemination of such ideas. See, e.g. John McGarry and Charles Graham, 'Co-determination', in McGarry and O'Leary (eds), *The Future of Northern Ireland*, pp. 168–9; Brendan O'Leary, 'Afterword: What is Framed in the Framework Documents?', *Ethnic and Racial Studies*, 18: 4 (1995), pp. 864–7; Brendan O'Leary, Tom Lyne, Jim Marshall, and Bob Rowthorn, *Northern Ireland: Sharing Authority*, London, Institute of Public Policy Research, 1993, pp. 139–44.

<sup>46</sup> John McGarry and Brendan O'Leary, 'Stabilising Northern Ireland's Agreement', *Political Quarterly*, 75: 3 (2004), pp. 213–25.

<sup>47</sup> O'Leary, 'Debating Consociation'.

emphasis on 'joint-ness'. In fact, we may usefully distinguish 'unanimous consociations' (grand coalitions), 'concurrent consociations' (in which the executive has majority support in each significant segment), and 'weak consociations' (where the executive may have only a plurality level of support among one or more segments). By contrast, consociations become undemocratic when elites govern with merely factional or less levels of support within and across their communities. Northern Ireland between 1998 and 2001 operated intermittently as a concurrent consociation, and sometimes looked like a weak consociation – because of a lack of majority support amongst unionists, though it had plurality support for much of the time. It remains to be seen if Northern Ireland can function successfully as a concurrent consociation now that the IRA has disarmed.<sup>48</sup> A range of other refinements to consociational concepts, inspired by the Northern Irish experience, may also be made, but we shall not elaborate these here.

## CONCLUSION

The making and partial implementation of Northern Ireland's Agreement indicates some limitations in classical consociational theory: which is too internalist, insufficiently attuned to the salience of national self-determination disputes, too focused on executive and legislative institutions, and overly prescriptively committed to party-list proportional representation. Theoretically, the 1998 Agreement demonstrates important differences between consociational executives built around grand coalitions or concurrent consent or weak (plurality) consent within the participating communities. Importantly, consociations do not as a matter of conceptual precision require grand coalitions. Practically, the Agreement has highlighted a mechanism, sequential portfolio allocation of executive posts using a proportionality divisor formula, that can be added to the consociational tool-box. In our second and concluding article we will show what anti-consociationalists can learn from the Agreement.

<sup>48</sup> For one analysis of the IRA's history and road to disarmament see Brendan O'Leary, 'Mission Accomplished? Looking back at the Ira', *Field Day Review*, 1 (2005), pp. 217–46.