# Report

# Tackling the Power-Sharing Dilemma?

The Role of Mediation

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# Executive Summary

This report presents the findings of a research project on power-sharing and mediation conducted by swisspeace with the support of the United States Institute of Peace (USIP). The project aims to understand how mediation affects the long-term performance of power-sharing settlements. The research investigated this question focusing on six case studies: Burundi (2000), Nepal (2006), Northern Ireland (1998), Bosnia (1995), Lebanon (1989) and Rwanda (1993). The case studies draw on 20 expert interviews as well as desk research.

The impetus for the project is the so-called 'power-sharing dilemma' through which power-sharing generally helps to make peace in the short term, while complicating peacebuilding and reconciliation in the long term. While literature identifies this dilemma, it offers little insight on how it can be remedied. A better understanding of factors that mitigate the power-sharing dilemma and enhance the long-term performance of power-sharing carries important implications for both peace research and practice. Mediation is one such factor, but it has not received sufficient attention in literature. This report focuses on this particular niche.

The report finds that specific features of the mediation process create conditions that are more or less favorable to addressing problems that arise during the implementation of power-sharing agreements. These features include the leverage brought to bear on the parties, the modalities of inclusion of conflict actors in the process, the focus of the mediator on building trust or solving problems, the availability of multiple mediation tracks, and the content of the agreement. Also critical is whether channels exist for the parties to continue negotiations and address reemerging problems subsequent to the adoption of an agreement. The following findings have emerged from the cases studies:

Balance of power problems often emerge during the implementation stage as more powerful actors seek to defect from an agreement they deem unfavorable. The use of leverage to achieve a power-sharing agreement can exacerbate this problem, as it makes agreement implementation dependent on the continuation of external pressures. Conversely, when the overlapping interests of the parties, rather than external pressure, are the main incentive for sharing power, balance of power problems are less likely to emerge post-agreement.

Outside spoilers are actors who were not parties to a peace agreement and seek to destabilize it from the outside. Power-sharing agreements adopted by a minimal coalition of moderate leaders are vulnerable to external spoilers whereas those adopted by a wide coalition of actors, including potential spoilers, tend to be more resilient. In the post-agreement phase, the continuation of mediation can support a broadening of the power-sharing coalition thereby mitigating against potential problems associated with external spoilers.

Inside spoilers are parties who adopt an agreement without genuine commitment to peace and seek to destabilize it from the inside. When mediators focus on reaching an agreement without investing in building trust between the parties, the agreement tends to be more vulnerable to inside spoilers. After the agreement is signed, the continuation of mediated negotiations can serve to reinforce the commitment of the parties to the agreement and solidify their relationship.

Polarized populations tend to support hardliners in post-conflict elections, which can destabilize power-sharing agreements. This problem can be mitigated by peace talks that provide sufficient time for the parties to prepare, consult, and inform their constituencies about the negotiations and the resulting agreement. In the post-agreement phase, the continuation of mediation can help resolve conflicts at the local level and foster reconciliation between citizens.

Power-sharing agreements often leave unresolved issues or ambiguities, which results in sequencing conflicts and blockages during implementation. This is compounded by mistrust between the parties, as they doubt each other's credible commitment to the peace process. The continuation of negotiation platforms and mediation support enhances the ability of the parties to negotiate solutions to unresolved issues. Conversely, if authority for implementation is delegated to external actors, or renegotiation structures are lacking, unresolved issues are likely to exacerbate credible commitment problems.

# Imprint

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# List of Abbreviations

| | |
|---|---|
| BBTG | Broad-Based Transition Government |
| CA | Constituent Assembly |
| CNDD-FDD | Conseil national pour la défense de la démocratie-Forces de défense de la démocratie |
| CPA | Comprehensive Peace Agreement |
| CPN-M | Communist Party of Nepal-Maoists |
| CPN-UML | Communist Party of Nepal-Unified Marxist-Leninist |
| DUP | Democratic Unionist Party |
| FDFA | Swiss Federal Department of Foreign Affairs |
| FPTP | First-Past-the-Post |
| FRODEBU | Front pour la démocratie du Burundi |
| IFOR | Implementation Force |
| IICD | Independent International Commission on Decommissioning |
| MRND | National Republican Movement for Democracy and Development |
| NATO | North Atlantic Treaty Organization |
| NTTP | Nepal Transition to Peace |
| OAU | Organization of African Unity |
| OHCHR | Office of the UN High Commissioner for Human Rights in Nepal |
| OHR | Office of the High Representation |
| PALIPEHUTU-FNL | Parti pour la libération du peuple hutu-Forces nationales de libération |
| PIC | Peace Implementation Committee |
| PIRA | Provisional Irish Republican Army |
| PLA | People's Liberation Army |
| PR | Proportional representation |
| RI | Republic of Ireland |
| RPF | Rwanda Patriotic Front |
| RUC | Royal Ulster Constabulary |
| SDLP | Social Democratic and Labour Party |
| SF | Sinn Féin |
| SPA | Seven Party Alliance |
| SSR | Security Sector Reform |
| TNA | Transitional National Assembly |
| UDA | Ulster Defense Association |
| UK | United Kingdom |
| UN | United Nations |
| UNAMIR | United Nations Assistance Mission for Rwanda |
| UNMIN | United Nation Mission in Nepal |
| UPRONA | Union pour le Progrès National |
| USA | United States of America |
| UUP | Ulster Unionist Party |
| UVF | Ulster Volunteer Force |
| YML | Young Maoist League |

# 1 Introduction

Since the 1990s, almost all negotiated settlements have included power-sharing dispositions (Jarstad, 2009). Yet, many scholars have pointed to a 'dilemma of power-sharing.' Whilst the promise of power-sharing might be necessary in the short run to secure the adherence of the conflict parties to a peace agreement, power-sharing tends to create problems that thwart peace-building and reconciliation in the long run (Roeder and Rothchild, 2005).

Important variations in the performance of power-sharing can be observed empirically. In South Africa (1998), power-sharing was key to ensuring a smooth transition to peace and democracy (1998). In Bosnia (1995) and in Lebanon (1989), however, it led to inefficient political systems characterized by recurrent political deadlocks. Whereas in Rwanda (1993) and South Sudan (2015), conflict relapsed after the collapse of power-sharing agreements.

Understanding the factors that influence the variations in the performance of power-sharing is critical to mitigating the power-sharing dilemma and achieving effective peace processes. While existing literature stresses the influence of third parties in the processes of adoption and implementation of power-sharing agreements, it has not sufficiently explored the role of mediation – 'a mode of negotiation in which a third party helps the parties find a solution that they cannot find by themselves' (Touval and Zartman, 2007: 438).

This research project, conducted by swisspeace with support from the United States Institute of Peace (USIP) aims to fill this gap. By focusing on mediation, it sheds light on additional mechanisms through which third parties can affect the performance of power-sharing. The leading research question is the following: How does mediation affect the long-term performance of power-sharing settlements?

The report investigates this question across three in-depth case studies – Burundi (2000), Nepal (2006) and Northern Ireland (1998) – and three shorter case studies – Bosnia (1995), Lebanon (1989), and Rwanda (1993). The in-depth case studies build on a review of the literature and 20 semi-structured interviews with peace process practitioners, political actors and academic experts conducted between May and August 2018 (see annex I). The short case studies are based on desk research only.

All cases have been selected for having used power-sharing as a key conflict management tool for at least ten years, enabling a long term analysis of the trajectory of power-sharing. Moreover, they represent 'typical cases' where both mediation and elite cooperation are present. This case selection method is recommended for research concerned with exploring the relationship between two variables (Beach and Pedersen, 2016). Finally, the cases present broad variations in terms of institutional design.

The report proceeds as follows. The first section builds an analytical framework based on power-sharing and peace mediation literature. The second section presents the six case studies. The third section discusses the findings.

# 2  Analytical Framework

This section reviews the literature on the power-sharing dilemma and on the variations in performance of power-sharing. It argues that the mediation literature is useful to identify unexplored ways in which third parties can influence the performance of power-sharing.

## 2.1  Unpacking the Power-sharing Dilemma

The term power-sharing has come to encompass a broad range of arrangements that differ across different dimensions. These include the type of power shared between competing elites (political, territorial, economic or military) (Hartzell and Hoddie, 2003), the level of government at which power-sharing is established (national or subnational level), the environment in which power-sharing is implemented (consolidated democracy or post-conflict settings), and the time horizon of the power-sharing agreement (transitional or permanent) (Bell, 2018). This report focuses on political power-sharing – understood as 'mechanisms for joint involvement of key protagonists of conflict in political institutions' (Bell, 2018: 9) – in post-conflict settings.

Despite variations in institutional design, the commonality of all political power-sharing systems is that they base decision-making on the principle of consensus rather than majority. By definition, the performance of power-sharing institutions depends on the existence of cooperation across conflict lines at the elite level.[1] As the performance of power-sharing agreements depends on elite cooperation, joint decision-making can serve as an indicator of the performance of power-sharing (McEvoy, 2015: 25). The paradox of power-sharing in transitions from war to peace is that elite cooperation between former enemies is necessary for power-sharing to perform well, but is at the same time extremely difficult to achieve due to the recent history of violence (Jarstad, 2008).

Bargaining literature has identified four main barriers to elite cooperation in war-to-peace transitions. First, balance of power problems can result from the asymmetry of preferences between unequal parties whereas the dominant party might favor a military victory to a negotiated settlement (Zartman and Rubin, 2002). Second, spoiler problems result from the presence of 'leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it' (Stedman, 1997: 5). Third, identity & political accountability problems result from the high emotional salience of identity issues, which makes conflict around these issues particularly difficult to resolve. Identity conflict is often exacerbated by electoral politics as hardliners instrumentalize identity to mobilize voters and marginalize moderates (Horowitz, 1985). Fourth, credible commitment problems result from mistrust between parties, who tend to be reluctant to sign peace agreements because of the risks of defection of their enemy in the implementation phase (Walter, 2002).

The power-sharing dilemma can be conceptualized as a time inconsistency[2] and a bargaining problem between conflict parties. In the short run, power-sharing provides a solution to the above-mentioned war-to-peace transition problems making the adoption of a peace agreement possible. However, in the long-run, these problems reemerge and hinder elite cooperation. The power-sharing literature has described this dynamic for each of the four war-to-peace transition problems:

*Balance of Power.* By leveling the balance of power within political institutions, power-sharing reassures weaker parties against permanent exclusion from power, which facilitates the adoption of peace agreements (Jarstad, 2001; Rothchild, 2005).[3] In the long-run, however, balance of power problems tend to re-emerge due to changes in power equilibrium resulting from changes in the demographic, military, or economic structure of the country. Shifts in the balance of power create incentives for powerful parties to challenge an agreement that does not reflect the share of power they think they deserve (Roeder and Rothchild, 2005; Spears, 2000, 2002).

*Inside and Outside Spoilers.* Power-sharing helps accommodate potential spoilers to the peace agreement by providing them with a share of power (Pospieszna and Schneider, 2013). In the long run, however, there are three limitations of power-sharing as a spoiler management strategy. First, power-sharing agreements are not always fully inclusive.[4] Less than fully inclusive agreements are vulnerable to the threat of 'outside' spoilers, who might attempt to destabilize an agreement they are not part of (Mehler, 2009; Sriram and Zahar, 2009). Second, by attributing shares of power to conflict parties, power-sharing agreements can be perceived as rewarding insurgent violence. This can incentivize the splintering of rebel groups, potentially creating new outside spoilers (Plank, 2017; Tull and Mehler, 2005). Third, parties sometimes sign peace agreements without genuine commitment to peace, as a result of tactical calculations or due to external pressure. These actors – referred to as 'inside spoilers' – can later attempt to derail the peace process from the inside (Zahar, 2008).

*Identity and Political Accountability.* Power-sharing allows political leaders to adopt a peace agreement by providing them with guarantees against the political exclusion of their community in the post-war period (Gurr, 2002; Lijphart, 1977; McGarry and O'Leary, 2006). In the long term, however, power-sharing tends to entrench wartime cleavages and hinder reconciliation between former enemies. Indeed, a polarized citizenry tends to vote for hardliners that they see as better defenders of their communities. Post-conflict elections therefore tend to place intransigent leaders in power and create incentives against elite cooperation – a phenomenon referred to as 'ethnic outbidding' (Horowitz, 1985). Power-sharing institutions also provide 'institutional weapons' (such as veto rights) that can be used by hardliners to block elite cooperation in political institutions (Roeder and Rothchild, 2005).

*Credible commitment.* Power-sharing agreements have been presented as a solution to credible commitment problems because they provide conflict parties with guarantees against exclusion from political power in the post-war

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1  For Lijphart, the main characteristic of consociational systems is 'overarching cooperation at the elite level with the deliberate aim of counteracting disintegrative tendencies in the system' (1968: 21). For McGarry and O'Leary, 'what makes consociations feasible and work is joint consent across the significant communities – with the emphasis on "joint-ness"' (McGarry and O'Leary, 2006: 62-63).

2  Time inconsistency problems result from the discrepancy between the short and long-term desirability of the agreement, 'arrangements that are mutually preferable in the present cannot be sustained because of the changing desirability of peace over time' (Beardsley, 2011: 28).

3  It should be noted that power-sharing does not fully resolve the problem of asymmetry of preferences between unequal parties, as dominant or majoritarian actors tend to prefer a majoritarian to a power-sharing system. Power-sharing therefore tends to be adopted in situations of relative equilibrium of power (Horowitz, 2014).

4  McGarry and O'Leary differentiate between '"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)' (2006: 63).

5 A third, inconclusive, stream of the literature has focused on macro-structural factors, which can form 'favorable conditions' for power-sharing (see Bogaards, 1998).

era (Hartzell and Hoddie, 2003; Mattes and Savun, 2009; Mukherjee, 2006). The implementation of power-sharing agreements also sends costly signals of commitment to the peace process (Jarstad and Nilsson, 2008; Ottmann and Vüllers, 2014). However, credible commitment problems are likely to re-emerge after the adoption of the agreement, which hinders elite cooperation. After a civil war, institutions are weak and untested, and often not sufficient to instill confidence amongst the conflict parties (Rothchild, 2005; Spears, 2013; Walter, 2002). Power-sharing agreements also often contain ambiguities or unresolved issues, which can create new credible commitment problems, particularly if they relate to existential issues such as the security sector and the electoral system (Sriram and Zahar, 2009; Wantchekon, 2000).

## 2.2 Explanations of the Variations in the Performance of Power-sharing

Important variations in the performance of power-sharing suggest that the intensity of the power-sharing dilemma is not constant across cases. The literature focuses on two main factors to explain these variations: institutional design and third parties.[5]

A first stream of the literature focuses on the design of power-sharing institutions. It is marked by an (inconclusive) debate between two models of power-sharing: consociationalism and centripetalism. In consociational systems, institutions provide the conflict parties with guarantees against exclusion from political power and protections of their fundamental interests. Scholars put forward two types of institutional prescriptions. 'Corporate' consociationalism recommends the use of ethnic quotas, reserved seats, veto rights, and cultural autonomies (Lijphart, 1977). 'Liberal' consociationalism favors more flexible mechanisms, such as 'pure' proportional representation (PR) electoral systems or 'sequential and proportional allocation rules' for ministry portfolios (McGarry and O'Leary, 2016). In centripetal systems, institutions provide incentives for elite cooperation. The institutional prescriptions are 'vote pooling' or 'preferential' electoral systems that incentivize the formation of pre-electoral coalitions across conflict lines (Horowitz, 1991; Reilly, 2001).

While scholars concur that institutional design matters, some have noted that it cannot fully explain variations in the performance of power sharing. Indeed, the design of power-sharing institutions does not result from a process of 'institutional engineering' but from bargaining between actors with divergent preferences. The process of adoption of power-sharing agreements, in which external actors are often involved, therefore affects the coherence of the agreements and their ability to address conflict (Horowitz, 2002a, 2008). Moreover, after the signature of a peace agreement, institutions are typically weak, incomplete, unimplemented and untested, which make them insufficient to provide reassurance to mistrustful parties (Sriram and Zahar, 2009). In these contexts, third parties often step in to fill the gap by providing external guarantees to the parties (Walter, 2002).

A second stream of the literature has therefore focused on the role of third parties in the process of sharing power. In this literature, it has been observed that external actors often play a key role in applying coercive measures (such as economic sanctions) or creating incentives (such as development aid packages) to persuade parties to adopt and implement power-sharing agreements (Clancy, 2010; Kerr, 2006; McCulloch and McEvoy, 2018; McEvoy, 2014, 2015; McGarry and O'Leary, 2006; O'Leary, 1989; O'Leary, 2005, 2013). Third parties also play an important role in addressing credible commitment problems by providing guarantees for the implementation of peace agreements (such as implementation monitoring or peacekeeping missions) (Lake and Rothchild, 1996; Walter, 2002). A more critical stream of the third-party literature has shown that external pressures, incentives and guarantees create problems in terms of the legitimacy of the agreement, the commitment of the parties to sharing power, or the dependence of the agreement on international supervision (Bell and Pospisil, 2017; Bieber, 2013; Jarstad, 2008; Sisk, 1996; Zahar, 2005b).

## 2.3 Mediation and the Performance of Power-Sharing

This report aims to enrich third party literature by shedding light on the role of peace mediation in the process of sharing power. While third party literature has placed most of its emphasis on external pressures, incentives, and guarantees,[6] mediation literature suggests additional ways in which third parties can support conflict resolution (Duursma, 2014). Amongst others, mediators establish channels of communication between the belligerents, who would otherwise not be able to negotiate a settlement. Activities to establish contact between the parties in conflict can range from backchannels, shuttle diplomacy, proximity talks, face-to-face meetings, to setting up institutionalized dialogue forums (Zartman and Touval, 1985). Mediators also build relationships between the conflicting parties. By acting as a 'repository of trust' between the parties, organizing track-2 workshops, and promoting interpersonal dialogue, mediators can help the parties progress from enmity and mistrust to a minimal level of trust necessary to make peace (Kelman, 2005). Finally, mediators help the parties identify mutually acceptable agreements by reframing the conflict, helping the parties clarify positions, interests, and needs, or formulating agreement proposals presented to the parties as working drafts (Fisher and Ury, 1981).

How does mediation affect the long-term performance of power-sharing agreements? If the ability of elites to cooperate in the post-agreement era is limited by the re-emergence of war-to-peace transition problems, then the long-term performance of power-sharing depends on political leaders' ability to successfully negotiate solutions to the problems that emerge in the post-agreement phase. Conversely, political deadlocks or the collapse of the agreement result from the failure of elites to renegotiate solutions to these problems.[7]

6 Noticeable exceptions include Papagianni (2008); Sisk (1996); Walsh (2017).
7 This conceptualization was inspired by Beardsley (2011: 30) and Werner (1999).

Mediation literature suggests that the design of the mediation process and the persistence of the mediation effort affects the chances of success of inter-elite negotiations in the post-agreement phase.

First, existing research suggests that the design of the mediation process (see Lanz and Siegfried, 2012) 2012) has an impact on post-agreement elite negotiations. Five features of the mediation process are particularly relevant for the purpose of this report:

(1)   *Use of leverage*: Research suggests that peace agreements adopted as a result of important external pressures tend to be less sustainable as they are 'not viable in the absence of constant third party influence' (Beardsley, 2008: 723; Werner and Yuen, 2005). This dimension is relevant to understanding problems relating to balance of power.

(2)   *Horizontal Inclusivity*: Research suggests that agreements resulting from negotiations that do not include representatives of all main parties in conflict might create incentives for actors that are not included to derail the process (Sriram and Zahar, 2009). This dimension is relevant to understanding problems emanating from outside spoilers.

(3)   *Relationship-building:* Research suggests that agreements adopted too hastily or with too little ownership from the parties undermine the commitment of the parties in the implementation phase (Bell and Pospisil, 2017; Nathan, 2006; Sisk, 1996). Conversely, peace negotiations that improve the relationship between the parties might facilitate implementation (Kelman, 2005). This dimension is relevant to understanding inside spoiler problems.

(4)   *Vertical Inclusivity*: Research suggests that top-down, elite-focused and secretive peace talks tend to fail to address the security concerns of the population and secure its support for the agreement (Kaldor, 2016; Mehler, 2009). Conversely, multi-track mediation helps address conflict at different levels (Diamond and McDonald, 1996; Lederach, 1997; Odendaal, 2013). This dimension is relevant to understanding problems of identity and political accountability.

(5)   *Content of the agreement*: Research suggests that the risk of conflict relapse is affected by whether mediators focus on addressing the root causes of conflict, or on providing a rapid end to violence (Piombo, 2010). In other words, the content of the agreement itself, and in particular the existence of unresolved issues, affects the performance of power-sharing (Sriram and Zahar, 2009). This dimension is relevant to understanding credible commitment problems.

Second, the literature suggest that the continuation or discontinuation of mediation in the post-agreement phase has an impact on post-agreement dynamics between the parties (McEvoy, 2015). In particular, mediation can help address unresolved issues and include actors who were not parties to the peace process (Papagianni, 2008; Walsh, 2017). Therefore, the persistence of the mediation effort is a relevant factor in addressing the power-sharing dilemma.

The next section investigates how the design and the persistence of the mediation process have affected the ability of elites to address balance of power, inside and outside spoilers, identity & political accountability, and credible commitment problems in six cases.

# 3 Case Studies

This section assesses the influence of mediation in the long-term performance of power-sharing in three in-depth case studies – Burundi (2000), Nepal (2006), and Northern Ireland (1998) – and three short case studies – Bosnia (1995), Lebanon (1989), and Rwanda (1993). The case studies each start with a brief overview of the conflict and the power-sharing agreement in question. The second sub-section discusses how the design of the mediation process in the adoption phase has created conditions that were more or less favorable to further negotiations. The third sub-section discusses the persistence of mediation in the implementation phase. The final sub-section provides a short assessment and outlines how the peace process developed in the long term.

## 3.1  Burundi

### Context

The post-independence history of Burundi was marked by ethnic domination by the Tutsi minority over the Hutu majority and recurring eruptions of ethnic violence. A phase of political opening led to the first democratic elections of the country in 1993. The election was won by the Hutu-dominated party FRODEBU. Only three months later, an attempted coup by Tutsi hardliners plunged the country into civil war. The conflict was structured across ethnic lines. Tutsi-dominated actors included the former single party, UPRONA (Union pour le Progrès National) and the Burundian Army. Hutu-dominated parties included a non-armed political party, the FRODEBU (Front pour la démocratie du Burundi), and two politico-military groups, the CNDD-FDD (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie) and the PALIPEHUTU-FNL (Parti pour la libération du peuple hutu-Forces nationales de libération) (Lemarchand, 1996).

The Arusha Peace and Reconciliation Agreement was adopted in Tanzania on August 28, 2000. The agreement provided for power-sharing between Hutus and Tutsis, as well as between political parties in the executive branch, legislature and army. The executive branch is headed by a president and two vice-presidents belonging to two different ethnic categories and political parties (which de facto guaranteed the position of first vice-president to UPRONA). Ministerial portfolios are distributed to ethnic categories according to quotas of 40% Tutsi and 60% Hutu (and 30% women), and to political parties proportional to their seats in parliament. Similarly, the agreement provided composition rules for the bicameral legislature: 40-60% Tutsi-Hutu in the National Assembly and ethnic parity in the Senate. The electoral system is proportional representation (PR), with ethnic distribution requirement on closed party lists.[8] Finally, the agreement provided for ethnic parity across all security forces (Vandeginste, 2015)

### Negotiations of the Arusha Agreement

There were various attempts to bring about a negotiated settlement to the Burundian civil war. These included the UN-brokered Convention de Gouvernement (1994), as well as inconclusive peace talks held by the Community of Sant'Egidio between September 1996 and May 1997 (Wolpe, 2011). In 1995, the Great Lakes Regional Initiative for Peace[9] in Burundi brought together heads of state of countries in the Great Lakes region to initiate and monitor the Arusha peace process. It appointed Julius Nyerere as facilitator. Following 'talks about talks', known as Mwanza I and II (1996), negotiations started in earnest on June 21st 1998. After Nyerere's sudden death in 1999, he was replaced by Nelson Mandela. The Regional Initiative provided constant support to the process, holding 11 summits between 1996 and 2000 (Sculier, 2008). The impact of the design of the mediation process on the post-agreement negotiations can be analyzed along the lines of the four war-to-peace transition problems identified above.

First, leverage was used to address asymmetries of preferences. President Pierre Buyoya, who had returned to power in a coup in 1996, was reluctant to participate in peace talks. To bring the government to the negotiation table, the Regional Initiative imposed an economic blockade on Burundi. The sanctions were 'conditioned upon the restoration of the national assembly, the unbanning of political parties and immediate and unconditional negotiations with all political parties and armed factions' (Weissman, 1998: 18). The blockade was gradually lifted as the talks progressed. Leverage was also used to revive the process when negotiations reached a standstill in March 2000. [10] The mediator imposed a deadline for the end of the talks. Mandela used both his charisma and political stature to ensure it would be respected. He also invited international officials (including US President Bill Clinton) to the signature ceremony to put additional symbolic pressure on the parties (Francis and Tieku, 2011: 26). Finally, the mediation team drafted proposals on unresolved issues. This draft, presented to the parties shortly before the deadline, could only be modified by consensus.[11] Hence, the agreement was signed as a result of heavy external pressure and remained contested by a number of Tutsi parties who expressed 'formal reservations' to important provisions (Bentley and Southall, 2005: 78).

Second, the mediation team attempted to mitigate risks of spoilers by inviting all political parties and political-military groups to Arusha.[12] This strategy exacerbated intra-party feuds and incentivized splintering and the proliferation of small parties.[13] 'From four main parties in 1996 no fewer than 17 had come into being in 2000 [...]. Most of these newcomers had no constituencies to speak of beyond a handful of relatives and friends, their main concern being to position themselves for government jobs (Lemarchand, 2006: 7). Faced with different leaders claiming to represent the same groups, Nyerere decided to maintain the original delegates at the negotiation table. As a result, some of the most powerful factions of the CNDD-FDD and the Palipehutu-FNL were not present at the negotiation table (Bentley and Southall, 2005: 64).[14] Further attempts to reintegrate rebel groups proved unsuccessful. The mediation team therefore adopted an incremental strategy. It aimed to first reach an

15  Interview with a Member of the mediation team in the Arusha process, Bern, 31 May 2018. CNDD-FDD leaders were often present in Arusha, although not participating in the negotiations (Catherine Mabobori, Brussels, 9 July 2018; Filip Reyntjens, Antwerp, 6 July 2018). Quiet contact with the FNL was also maintained by external actors (Jackson, 2006).

16  Interview with Frederic Bamvuginyumvira, Antwerp, 6 July 2018; Interview with a Burundian Journalist. Also see Buyoya (2012).

17  Interview with a Burundian Journalist.

18  Interview with Catherine Mabobori, Brussels, 9 July 2018; interview with Gervais Rufyikiri, Geneva, 26 June 2018.

19  Interview with Stef Vandeginste, Skype, 27 June 2018.

20  Interview with a Member of the mediation team in the Arusha process, Bern, 31 May 2018

agreement in Arusha, and integrate rebel factions through subsequent negotiations. To prepare this reintegration, the different rebel factions were consulted during the talks through backchannels and their positions were channeled to the negotiation table.[15] At the time of its adoption, however, the Arusha agreement was rejected by important factions of the Hutu rebel groups. Consequently, it did not end the violence in Burundi and was vulnerable to the threat of external spoilers.

Notwithstanding the inclusivity problem, mediators invested in building trust between the UPRONA and the FRODEBU leadership. A first step in this process was the establishment of transitional power-sharing institutions, the 'Internal Partnership for Peace,' in 1998 (Reyntjens, 1999). Relations between the two parties improved progressively throughout the process as negotiators built interpersonal relationships and learned to understand each other's concerns.[16] Nyerere's attention to trust-building during the talks as well as various Track-1.5 workshops, study trips, and meetings with South African leaders contributed to the improvement of inter-party relationships (Hara, 1999: 153-7). The improved relationship between the FRODEBU and the UPRONA was key in the subsequent stages of the process. In the implementation phase, 'they refrained from taking positions likely to result in violent deadlock, and they used language that was conducive to keeping communication channels open (Reyntjens, 2006: 120). However, a consequence of the absence of key rebel leaders from the negotiation table was that they were not socialized in the same way.

Third, mediation played a role in building popular support for the agreement. While the Arusha process was mostly a negotiation between elites, popular concerns were channeled to the table through the lobbying of civil society 'observers' (Anderson, 2015: 57-75; Daley, 2007), as well as popular consultations led by civil society organizations and Mandela himself (Bentley and Southall, 2005: 149-157). Moreover, after the 1994 genocide in Rwanda, a plethora of local peacebuilding and reconciliation initiatives such as the 'peace radios' emerged in Burundi (Hara, 1999). These initiatives appear to have had a certain measure of success in advancing reconciliation and building moderation amongst the population (McClintock and Nahimana, 2008).[17] While the final agreement remained perceived as an elite deal (Curtis, 2007: 187), the population cautiously supported it, in part due to war fatigue.[18]

Fourth, major issues could not be resolved during the negotiations, including issues of leadership and composition of the transitional institutions, security sector reform, and the electoral system.[19] These unresolved issues created credible commitment problems that resulted in the lack of support of some Tutsi parties for the agreement. The mediation team was nonetheless cognizant that the Arusha agreement was a first, imperfect, step of a longer peace process.[20] Accordingly, the agreement laid out detailed dispositions for the continuation of mediation in the implementation phase. It called for the continuation of the role of the facilitators as 'moral guarantor, recourse authority, and conciliation agent' (Protocol V, art. 4) and for the region, guarantor of the agreement. The agreement provided for the establishment of an Implementation Monitoring Body (IMB) and a number of commissions and technical

committees who would provide arenas for further negotiations. The accord further provided a detailed roadmap for a 36-month transitional period in which a new Constitution would be negotiated and adopted. External credible commitment guarantees were also provided as the agreement called for the establishment of a peacekeeping force (see Curtis, 2007).

Implementation of the Arusha Agreement

The implementation of the Arusha agreement proved cumbersome and was characterized by recurrent blockages and delays due to the obstacles that remained after the adoption of the agreement (International Crisis Group, 2004). Continuous efforts by regional powers were essential to address these issues.

A first challenge was that there remained important asymmetries of preferences. While many Tutsi parties found the guarantees provided by the agreement too weak, some Hutu rebel movements rejected power-sharing. The CNDD-FDD was frustrated with ethnic quotas, which were seen 'as an overrepresentation of the ethnic minority at the expense of the majority ethnic group' (Rufyikiri, 2017: 231). Pressures by the Regional Initiative were instrumental in making the option of power-sharing – rather than the seizure of power by force – attractive to the CNDD-FDD. In particular, the regional countries created obstacles to CNDD-FDD's operations in the neighboring countries where it was based (Nindorera, 2012: 22).

A second issue was that spoilers on both sides of the conflict threatened to undermine the agreement. On the Hutu side, the rebel groups who were not signatories to the agreement attempted to improve their bargaining position by intensifying violence and playing for time (International Crisis Group, 2002: 16). A long series of mediated negotiations were necessary to reach ceasefire arrangements with the various rebel factions and secure their integration in the transitional institutions (Nindorera, 2012: 21).[21] These negotiations culminated in a Global Ceasefire Agreement on November 16, 2003[22], which modified the Arusha agreement and granted an important share of power in transitional institutions to Nkurunziza's CNDD-FDD. On the Tutsi side, the agreement was rejected by a number of small hardline Tutsi parties and certain members of the army.[23] Two unsuccessful coup attempts by officers threatened Buyoya's presidency in April and July 2001 (International Crisis Group, 2001a). Intra-party negotiations were critical to addressing this issue. Buyoya held numerous meetings with officers and soldiers to convince them that the integration of armed forces was the only viable alternative to a total disintegration of the country (Buyoya, 2012: 250-1). Finally, efforts were made to socialize political leaders to decrease the risks of inside spoilers. This included the Burundi Leadership Training Program which trained over 4000 leaders in Burundi (Wolpe and McDonald, 2006).

Finally, as noted above, the accord had left a series of crucial issues unresolved or ambiguous. Continuous mediation was important to support negotiations over these unresolved issues.

21  Talks were held in Libreville and Pretoria in 2001; Vaal Darn, Pretoria and Dar es Salam in 2002; Dar es Salam and in Sun City in 2003. They led to the signature of a first ceasefire agreement with minority factions of the CNDD-FDD and the FNL in September 2002, which failed to end violence. A Ceasefire Agreement between the Transitional Government of Burundi and Pierre Nkurunziza's CNDD-FDD was signed on 2 December 2002, but two additional protocols (Pretoria I and II) were necessary to allow its implementation (see International Crisis Group, 2002; Bentley and Southall, 2005: 94-95).

22  A long series of further talks was necessary to bring the Palipehutu-FNL in the institution in 2008.

23  Interview with a Burundian Journalist.

24  Interview with Catherine Mabobori, Brussels, 9 July 2018.

25  Interview with Stef Vandeginste, Skype, 27 June 2018; interview with Filip Reyntjens, Antwerp, 6 July 2018; interview with Frederic Bamvuginyumvira, Antwerp, 6 July 2018.

A first deadlock concerned the leadership of transitional institutions. This issue was resolved by a political agreement reached in Arusha on July 23, 2001 (International Crisis Group, 2001b), which stated that Pierre Buyoya would remain in power for the first half of the transition period and would be succeeded by FRODEBU's Domitien Ndayizeye for the second half. The close monitoring of the transition by the regional powers and the implicit understanding that a failure to step down would result in serious consequences were key in making this formula acceptable to the Hutu. Pressures from the regional powers were ultimately necessary for both Buyoya and Ndayizeye to step down at the end of their terms. This agreement allowed for the adoption of a transitional Constitution and the formation of the transitional government and national assembly in January 2002 (Reyntjens, 2003).

Further negotiations were also necessary to address unresolved issues surrounding security sector reform (SSR) and the integration of CNDD-FDD combatants in the Burundian army, such as quotas, ranks harmonization of military, and demobilization disarmament reintegration (DDR). These issues were addressed in the Pretoria Protocol on Political, Defense and Security Power-Sharing in Burundi (8 October 2003) and a Forces Technical Agreement (2 November 2003) signed by the Transitional Government and the CNDD-FDD. Further details were solved in subsequent negotiations held in the framework of the Implementation Monitoring Body and one of its sub-committees, the Joint Ceasefire Commission, as well as in bilateral negotiations between the CNDD-FDD and the Army (Jackson, 2006).

The constitution-building process also allowed renegotiating and specifying a number of issues that had not been addressed during the Arusha peace talks.[24] A key controversy surrounded the electoral system for post-conflict elections. Some Tutsi parties preferred a system that attributed seats on the basis of 'politico-ethnic' affiliations. On the other hand, many Hutu parties supported a system of multi-ethnic party lists. This issue was unblocked through negotiations in Pretoria, which led to the adoption of a power-sharing agreement in 2004. This agreement outlined the new Constitution for Burundi (Reyntjens, 2006: 119). However, the agreement was rejected by many Tutsi parties. Discreet mediation by the UN was necessary to secure their support for the draft that was adopted as a 'temporary' Constitution by the parliament in 2004. In 2005, 92% of the population adopted this Constitution in a referendum. In addition to completing the power-sharing agreement, the constitution-building process increased the inclusivity of the negotiations. Indeed, the CNDD-FDD fully participated in it, although its position toward power-sharing remained ambiguous.[25]

Assessment

In sum, the design of the mediation process that led to the Arusha agreement created mixed conditions for implementation. Adopted under heavy external pressure, lacking the commitment of some Tutsi parties, rejected by Hutu rebel groups, and leaving major issues unresolved, the Arusha agreement was seen as 'a non-accord' that would be difficult to implement (Reyntjens, 2001). On the other hand, the improved relationship between moderates of the

FRODEBU and the UPRONA, the popular support for peace, and the commitment of third parties to continue supporting the process were important factors to facilitate implementation. Further negotiations, in great part supported by mediators, allowed for the transcendence of these important difficulties in the implementation period. A certain level of elite cooperation was achieved between 2003 and 2010, as indicated by the passing of key legislation in the parliament, the adoption of the Constitution and the holding of elections in 2005.

The establishment of legitimate post-conflict authorities and institutions in 2005 however reduced the influence of international actors, as the newly elected government pushed for their withdrawal (Jackson, 2006). In 2005, the CNDD-FDD won a landslide victory, partly thanks to its image as 'outsider' who had not participated in Arusha negotiations, and its promises for change and good governance (Curtis, 2007). The CNDD-FDD's commitment to power-sharing was limited, given that it had rejected the Arusha agreement and was only brought into the process through external pressure later on. The decreasing influence of international actors caused a re-emergence of the balance of power problem and allowed the CNDD-FDD to act effectively as an inside spoiler.[26] Capitalizing on its electoral success (reinforced by the boycotts of the 2010 elections by the opposition parties), CNDD-FDD progressively rejected effective power-sharing with opposition parties, paving the way for democratic backsliding (Vandeginste, 2015).

## 3.2  Nepal

Context

The absolute monarchy and the caste-based hierarchy that characterized Nepal for centuries became increasingly contested from the 1990s onwards. In 1996, the United People's Front (later renamed the Communist Party of Nepal-Maoists, CPN-M) launched an armed insurrection in reaction to what it considered a lack of effective transformation of the Nepalese society. A civil war broke out, with three main conflict parties: the King (and the Royal Nepalese Army), the parliamentary parties, and the CPN-M (and its People's Liberation Army, PLA). In 2005, King Gyanendra effectively disbanded the parliament and restored absolute monarchy in a 'bloodless coup.' In reaction, the parliamentary parties united in a 'Seven Party Alliance' (SPA) and allied with the CPN-M, against the King, through a 12-Point Understanding (21 November 2005). Following this agreement, massive demonstrations forced the King to surrender and restore the parliament on 26 April 2006 (Upreti and Sapkota, 2017).

After the overthrow of the monarchy, negotiations between the SPA and the CPN-M led to the adoption of a series of peace agreements, most important of which was the Comprehensive Peace Agreement (21 November 2006).[27] These agreements provided a roadmap for a transition to peace and democracy. In exchange for withdrawal of the PLA and the dismantling of parallel state structures, the Maoists were offered integration in transitional

26  Interview with Gervais Rufyikiri, Geneva, 26 June 2018.

27  Other agreements included a Ceasefire code of conduct (25 May 2006), an 8-Point Understanding (16 June 2006), two identical letters to the UN to requesting the appointment of a UN mission (8 August 2006), the Baluwatar agreement (8 November 2006), and an Agreement on the Monitoring and Management of Arms and Armies (8 December 2006).

28  Interview with Günther Bächler, Bern, 12 June 2018.

29  Interview with Vidyadhar Mallik, Skype, 23 August 2018.

30  Laxman Prasad Aryal, Dr. Devendra Raj Pandey, Daman Nath Dhungana, Padma Ratna Tuladhar and Dr. Mathura Shrestha

31  Interview with Bishnu Sapkota, Skype, 11 May 2018; Interview with Günther Bächler, Bern, 12 June 2018; Interview with Markus Heiniger, Zürich, 21 June 2018.

32  Interview with Bishnu Sapkota, Skype, 11 May 2018.

33  Interview with Günther Bächler, Bern, 12 June 2018.

power-sharing institutions (von Einsiedel et al., 2012: 24-25). These institutions would supervise the adoption of an Interim Constitution, the creation of an Interim parliament and government, and the election of a Constituent Assembly.

## Negotiations of the 2006 CPA

The ouster of the King was followed by a period of intense diplomatic activity through backchannels and shuttle diplomacy by local and international facilitators, which led to formal peace talks between the new Nepalese Government and the Maoists.[28] The talks took place in a loose structure, where official negotiations organized by the Nepal government Peace Secretariat served mostly as a ceremonial venue for the signature of agreements. The bulk of the talks happened in a number of informal arenas where party cadres negotiated compromise proposals, which were subsequently transferred to top-party leadership for decision-making and formal adoption. These informal negotiation arenas included: direct meetings between party leaders in different venues, including the residence of Prime Minister G.P. Koirala; the NTTP, an informal and confidential space of dialogue for party cadres; and a series of workshops organized by international actors such as International IDEA or the Swiss Federal Department of Foreign Affairs (FDFA) in Nepal and abroad.[29] Five national observers[30] chosen amongst civil society leaders for their high moral standing mediated between the parties. Selected international experts also had an informal mediation mandate, served as go-betweens, and provided expertise on the peace process to the parties. These included Günther Bächler and Markus Heiniger, Special Envoys from the swiss FDFA; Ian Martin, head of the Office of the UN High Commissioner for Human Rights in Nepal (OHCHR) and the then head of the United Nation Mission in Nepal (UNMIN); and Hannes Siebert, a South African expert working with the NTTP.

First, in contrast to other cases in this study, third parties did not pressure the parties into sharing power. This reflected a reluctance from Nepalis and neighboring countries toward external involvement in Nepal. The impetus to share power came from the shared understanding that the inclusion of all parties in the decision-making bodies was necessary to ensure progress in the peace process and avoid a return of the King. That being said, adopting the agreement did not go without difficulties and mediation was key in overcoming obstacles toward an agreement. In particular, mediation became important to keep the peace process on track at key moments of crisis. The 'moral authority' of national observers served to convince parties to resume the talks when these had collapsed.[31] Mediation was also key to counter mistrust between the parties. As most of the negotiations took place in informal settings, with no written record of the commitments made by the parties, one of the roles of the observers was to serve as witnesses of engagements taken and make it harder for parties to retract from commitments.[32] Another mechanism to build trust was the signature of many successive agreements, containing redundancies, but which allowed the parties to restate their commitment to the process.[33]

34  Interview with Günther Bächler, Bern, 12 June 2018.

35  Interviews with Bishnu Sapkota, Skype, 11 May 2018.

36  Interview with Vidyadhar Mallik, Skype, 23 August 2018.

37  Interview with Bishnu Upreti, Skype, 18 May 2018.

Second, the negotiations included all the main political parties of the time. Mediation helped to build relationships between these parties who had not previously established communication channels. Facilitation by India and shuttle diplomacy by international facilitators made it gradually possible for the mainstream parties to engage in formal negotiations and then share power with the CPN-M, who had long been labeled a terrorist organization (Muni, 2012). Mediation also helped improve the relationship between the conflicting parties. First, it improved the relationship between Nepali Congress leader G.P. Koirala and Maoist leader Pushpa Kamal Prachanda. This relationship became the 'backbone of the peace process for many years.'[34] Second, the NTTP forum created a core group of party leaders who remained involved in the process for several years. The repeated interactions within the NTTP provided a 'qualitative difference' in the relationship between these individuals, who 'started to know each other, to respect each other, and then slowly to look at things from each other's angle.'[35] This constituency for peace played an important role, as it would continue to communicate when the relationship between top party leaders was interrupted, preventing a collapse of the peace process.[36]

Third, while the process was rooted in the 2006 People's Movement, and thus responded to popular aspirations for the transformation of Nepal, the talks were restricted to elites and decision-making power was concentrated in the hands of top party leaders (Whitfield, 2012: 170). Civil society was included through the five national observers, but had limited influence on the decisions taken.[37] As a result, the popular buy-in for the agreements was limited.

Fourth, the agreement left a number of crucial issues unresolved including the allocation of positions in the transitional power-sharing institutions, the SSR/DDR processes, and the legislation for the CA election (Chalmers, 2012). The 2006 agreements were not conceived as definitive solutions on the substance, but rather as setting up a framework in which further negotiations could be held (Miklian, 2009: 5). These unresolved issues became the source of credible commitment problems in the implementation phase. However, the negotiation framework created by the agreement proved crucial in the further steps of the peace process.

## Implementation of the 2006 CPA

The implementation of the 2006 CPA proved challenging. Difficulties in cooperation between the parties led to significant delays and uncertainties in the implementation of the agreement. While an Interim Constitution was adopted on January 15, 2007, it had to be revised in January 2008 after widespread contestation. Two months were necessary to form the interim parliament-legislature, which remained marked by recurrent deadlocks. The Constituent Assembly (CA) election, initially planned for June 2007, had to be postponed twice, first to November 2007, and then to April 2008. The 2008 CA proved unable to reach a consensus on a Constitution, and a second CA was elected in November 2013. It finished its work and adopted a new Constitution in September 2015, nearly ten years after the signature of the CPA and following an

38  Such as the 20-point agreement with a Janajati umbrella group (7 August 2007), the 22-point agreement with the Jantantrik Terai Mukti Morcha (30 August 2007) (United Nations, 2007c), or the 8-point agreement with some Madhesi groups (28 February 2008) (United Nations, 2008b).

39  Interview with Bishnu Upreti, Skype, 18 May 2018.

40  Interview with Nicole Töpperwien, Bern, 30 May 2018; Interview with Vidyadhar Mallik, Skype, 23 August 2018.

41  Interview with Vidyadhar Mallik, Skype, 23 August 2018.

earthquake that devastated Nepal in April 2015 (International IDEA, 2015). The three main obstacles to elite cooperation were spoiler problems, identity & political accountability problems, and credible commitment problems.

Although the talks had included all main political parties of the time, a number of ethnic communities took the opportunity of the transition to stake their claims to power. A variety of politico-armed splinter groups emerged, which claimed to represent the Madhesi, Janajatis, Tharu, Dalit, and Pahadi communities. Power-sharing seemed to reward violence. Consequently, protests, agitation, blockades, or uprisings became a common means for voicing group concerns (International Crisis Group, 2010). The security situation grew more complex as the transition moved forward. Ethnic contestations centered around three main issues: the lack of reference to federalism in the 2007 Interim Constitution, the electoral system for the CA election, and the delimitation of federal state boundaries in the new Constitution.

The issue of spoilers was managed through continuous negotiations with the newly emerging groups which allowed for a gradually broadening of the constituency for peace. The negotiations took four main forms. First, the government held bilateral talks and signed a series of bilateral agreements with different groups.[38] There were 'subtle forms of facilitation and backchannels held by journalists or other individuals' that facilitated these talks.[39] Between 2007 and 2012, the government signed altogether 43 agreements with different groups (International Crisis Group, 2016: 4). These agreements were criticized for being too numerous, at times contradictory, and rarely implemented, which eroded trust in the long run (Upreti and Sapkota, 2017). However, they also provided rapid response to agitation, eased the way of some groups into the mainstream and secured the participation of concerned groups in the CA election.[40] The government also made substantive concessions to ethnic minorities, including the revision of the Interim Constitution to include a commitment to transform Nepal into a federal state. Second, the flexibility of the informal negotiation arenas made it possible to integrate newly emerging groups quickly. For instance, the NTTP created thematic groups for Madhesi, indigenous communities, women, and youth, where their main concerns could be discussed.[41] Third, international facilitators and the UN conducted discreet mediation with the objective to have 'everyone on board' for the 2008 CA election (Heiniger, 2011: 54; Martin, 2012). Fourth, the adoption of an inclusive electoral system for the CA election allowed integrating all potential spoilers to negotiate in this body (International IDEA, 2015).

An additional problem was the continuous political and communal violence at the local level. Local violence represented a serious threat to the peace process in multiple instances (United Nations, 2007a, c). A particularly dangerous episode took place in the run up to the elections of April 2008 when seven unarmed Maoists cadres were killed in the Dang district threatening to call into question the participation of the CPN-M in the CA election (United Nations, 2008a). The 2008 CA election created further instability as the Maoists earned an unanticipated victory, complicating the formation of a new government. Different forms of local mediation were useful to prevent escalation of disputes at the local level (Dahal and Bhatta, 2008). For example, following

the Dang massacre, the rapid deployment of the national observers and the international facilitators prevented escalation and secured the participation of the CPN-M in the 2008 election (Heiniger, 2010: 52).

While the agreement provided a framework for the transition process, most of the substantial issues remained to be negotiated. Although the improved relationship between a number of mid-level politicians allowed the process to stay on track, progress was complicated and slowed down by credible commitment problems. In particular, continuing violence from the Young Maoist League (YML) became a source of renewed mistrust (United Nations, 2008b). The SPA questioned the motives of the CPN-M, fearing that its integration in the institutions would be used to work toward state capture (International Crisis Group, 2010: 41). A key contentious issue surrounded the sequencing of the implementation of the agreement. The SPA requested progress with demobilizing the Maoists before agreeing on power-sharing, while the CPN-M preferred to reach an agreement on power-sharing before demobilizing its armed forces.[42] This sequencing conflict delayed the formation of the interim parliament (United Nations, 2007b). Overall, the focus of top leaders on security questions delayed agreement-making on political issues and the adoption of a Constitution.[43]

Further negotiations between the SPA and the CPN-M were necessary to address these credible commitment problems. The mediation structure that led to the CPA was maintained after it was signed. It was composed of multiple negotiation formats, such as the NTTP, and different facilitators, including the national observers, the international facilitators, and the UN. While priority was given to direct negotiations, the role of mediators became important in moments of crises, when direct talks between the leaders were not possible.[44] The national and international facilitators as well as the UN held bilateral meetings and used their convening power to organize new meetings between top party leaders when relationships were particularly tensed. The constituency for peace built through the NTTP allowed for the continuation of the dialogue at the level of party cadres, when the talks between top leaders had collapsed.[45] The continuation of talks served to solve three problems: the composition of the transitional institutions, the reform of the security sector, and the electoral law for the CA election.

After the adoption of the Interim Constitution, two months of negotiations were necessary to unlock the issue of the distribution of assembly seats and ministerial positions between the parties. The final distribution allocated 83 seats to the CPN-M, 85 to the Communist Party of Nepal (Unified Marxist–Leninist, CPN-UML), and 85 to the Nepali Congress (Miklian, 2009). Other negotiations led to the adoption of a minimal common program for the interim parliament on April 1, 2007 (United Nations, 2007b).

Progress on security issues was facilitated by UNMIN's monitoring of the cantonment sites and weapon storage. UNMIN also chaired a Joint Monitoring Coordination Committee (JMCC), where most negotiations happened (Martin, 2012: 209-213). Discreet mediation by national observers and international facilitators supported progress in this process.[46] An agreement on

42  Interview with Günther Bächler, Bern, 12 June 2018; Interview with Nicole Töpperwien, Bern, 30 May 2018.

43  Interview with Nicole Töpperwien, Bern, 30 May 2018.

44  Interview with Markus Heiniger, Zürich, 21 June 2018; Interview with Bishnu Sapkota, Skype, 11 May 2018.

45  Interview with Bishnu Sapkota, Skype, 11 May 2018.

46  Interview with Markus Heiniger, Zürich, 21 June 2018.

the integration of PLA members in the security agencies was reached on 25 April 2008. An agreement regarding the release of combatants that had been disqualified for DDR process was reached on February 8, 2010. As UNMIN's mission ended on January 15, 2011, a Special Committee (SC) became responsible for monitoring of arms and cantonment sites. In 2012, this committee handed these responsibilities to the Government of Nepal, leading to the formal end of the process regarding security issues on April 12, 2013 (Nepal Institutite for Policy Studies, 2013).

Another contentious issue surrounded the electoral law for the CA election. The Interim Constitution had provided for a mixed electoral system with half of the seats attributed through First Past the Post (FPTP), and half through PR. However, in August 2007, the ethnic groups and the CPN-M requested the use of a full PR electoral system. The conflict escalated as the CPN-M left government in September 2007, leading to increased tensions and threatening the CA election. Negotiations between the parties – in which mediation from the UN, international facilitators and local observers was key – led to the adoption of a 23-point agreement in January 2008. The agreement amended the electoral system to increase the number of seats elected through PR, set a new deadline for the CA election, brought the CPN-M back in the power-sharing government, and set a timeline for the implementation of the process (Martin, 2012: 219-20).

### Assessment

Informal mediation played an important role in the process leading to the 2006 CPA. This process created mixed conditions for the implementation of the agreement. On the one hand, the commitment of the parties to the peace process was relatively high and little external leverage was used. Moreover, the talks included all political parties and the agreement set up a framework for the continuation of negotiations in the post-agreement phase. On the other hand, most of the substantial issues were not addressed by the agreement, which left it vulnerable to credible commitment problems.

The implementation and functioning of power-sharing after 2006 were complicated by the emergence of a great number of new groups who attempted to act as spoilers, the popular support for the Maoists and ethnic parties, and the persistence of unresolved issues. Although elite cooperation was slow and uneasy, elite negotiations succeeded in a great measure to resolve these problems by broadening the power-sharing coalition, addressing unresolved issues, and preventing the escalation of local conflicts. Elite cooperation is indicated by the adoption of an Interim Constitution, a number of further peace agreements between the SPA, the CPN-M and splinter groups, the holding of two CA elections, and the adoption of a new Constitution in 2015. The role of mediation decreased after 2006, and many of these achievements resulted from direct bilateral negotiations between the parties. However, mediation played a support role in facilitating some of these negotiations. In particular, mediation became important at key moments of crisis, when direct bilateral negotiations were not possible.

## 3.3  Northern Ireland

### Context

The conflict in Northern Ireland took shape after the partition of Ireland by the British government in 1921. The Protestant-unionist majority progressively established a system of exclusion of the Catholic-nationalist minority in Northern Ireland. In the 1960s and 70s, a Catholic protest movement opened a period of relatively low intensity, but long lasting violence. During the conflict, the two sides were internally divided into two major political parties and armed groups. On the unionist side were the Ulster Unionist Party (UUP), the more hardline (or 'loyalist') Democratic Unionist Party (DUP), as well as the Ulster Defense Association (UDA) and the Ulster Volunteer Force (UVF). On the nationalist side, were the Social Democratic and Labour Party (SDLP) and the more hardline 'republican' Sinn Féin (SF) along with the Provisional Irish Republican Army (PIRA). The UK and the Republic of Ireland (RI) also played major roles, including through the British army and Northern Ireland's police, the Royal Ulster Constabulary (RUC) (Mac Ginty et al., 2007).

Peace talks held in Stormont led to the signature of the 'Good Friday' or 'Belfast' Agreement on April 10, 1998. The agreement provided for devolution of power to a power-sharing Northern Ireland Assembly. It was structured around three strands. Strand One, focusing on the democratic institutions within Northern Ireland, provided for the establishment of a 108-member Northern Ireland Assembly and ministerial positions allocated using d'Hondt procedure, a system of proportional, sequential allocation of positions (McGarry & O'Leary, 2016). The agreement also provided for a Prime Minister and a Deputy Prime Minister, with co-decision making power and elected on a joint ticket. Strand Two and Three, focusing respectively on the North-South (NI-RI) and East-West (RI-UK) relationships, providing guarantees to both communities that ties with the UK and the RI would be preserved subsequent to the agreement (Wolff, 2003).

### Negotiations of the Good Friday Agreement

From the 1970s on, the British government made various vain attempts to broker a negotiated settlement to the conflict, including a power-sharing agreement, the Sunningdale agreement in 1974, and inconclusive peace talks held by the then UK Secretary of State for Northern Ireland, Peter Brooke, in 1991-2 (Guelke, 2003). These previous negotiations set up a framework that would serve as a basis for all future negotiations and placed power-sharing at the center of any potential agreements (Horowitz, 2002b). Peace talks began in June 1996 under the chairmanship of US Senator George Mitchell (Mitchell, 1999). The presence of a US mediator was an important reassurance the nationalists, who doubted the impartiality of the UK government, and served to level the imbalance of power between the UK and the RI (Guelke, 2009). Although the two governments, UK and the Republic of Ireland, were formally parties to the talks, their actions to solve conflict also included mediation.[47] Throughout the peace process, the two governments resorted to the following agreement-making pattern: they would negotiate a draft agreement between

48  Interview with Brendan McAllister, Belfast, 24 May 2018.

49  Interview with Jennifer Todd, Dublin, 25 May 2018.

50  These principles read as follow: 'We recommend that the parties to such negotiations affirm their total and absolute commitment: 1. To democratic and exclusively peaceful means of resolving political issues; 2. To the total disarmament of all paramilitary organisations; 3. To agree that such disarmament must be verifiable to the satisfaction of an independent commission; 4. To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations; 5. To agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and 6. To urge that punishment killings and beatings stop and to take effective steps to prevent such actions' (Mitchell, 1999, 35)

51  The parties represented included SDLP, Sinn Féin, UUP, DUP, UKUP, the Labour party, two non-sectarian parties: the Alliance party and the Northern Ireland Women Coalition, and two loyalist parties representing armed groups: PUP and UDP.

themselves, and then amend it through consultations to make it acceptable to all parties (Powell, 2008). Four dimensions of the negotiation process set up conditions for the implementation phase.

A first problem was asymmetry of preferences. Power-sharing had long been unacceptable to the unionist community, which preferred a majoritarian electoral system, and benefited from the support of the UK.[48] Things changed from the mid-1980s when the governments of the UK and the Republic of Ireland started working together toward a solution to the Northern Irish conflict. Such Anglo-Irish cooperation, demonstrated in the Anglo-Irish Agreement (1985) and the Downing Street Declaration (1993) was a source of considerable anxiety amongst the unionist community (Horowitz, 2002a: 206). The threat of greater Anglo-Irish cooperation was key in pressuring the unionist leaders to negotiate a power-sharing deal (Arthur, 1999: 478). However, talks progressed slowly. By the end of 1997, no agreement was in sight. Senator Mitchell and the two governments used different types of leverage to create momentum. They established a deadline for the end of talks. They provided drafts as a basis for inter-party negotiations (the 'Head of Agreement' paper in 1997; the 'Mitchell draft' in 1998) (Mitchell, 1999; Powell, 2008). They brought symbolic pressure to bear, including repeated phone calls from US President Bill Clinton (Clancy, 2010). They finally exercised reputational pressure, as none of the parties wanted to be held responsible for the collapse of negotiations.[49] This strategy propelled the talks forward, but it meant that after the signature of the agreement, the commitment of the parties remained dependent on external pressure.

Second, unlike previous peace talks that focused on the moderate middle, the 1996 talks attempted to address outside spoiler problems by including all parties. The inclusion of Sinn Féin in the peace talks was made possible by secret talks between the SDLP leader John Hume and Sinn Féin's Gerry Addams in 1994, which led to a PIRA ceasefire (Powell, 2008: 66-77). The beginning of peace talks was however delayed by a controversy over the sequencing of the negotiations and the decommissioning of PIRA weapons. An agreement to solve to this dilemma was achieved with support from the British government: the participants in the talks would be the elected members of a Forum and would have to engage themselves to respect six principles of democracy and non-violence formulated by George Mitchell.[50] At the same time, the PIRA would not have to disarm prior to the talks (Dixon, 2008: 254-7). The Forum elections took place in May 1996 with a low-threshold electoral system that brought all parties, including those representing loyalist armed groups, into the forum.[51] This modality of inclusion helped decrease spoiler problems by allowing broad but conditional inclusivity: it rewarded non-violent behavior and sanctioned violence. The inclusion of Sinn Féin in the talks was thus delayed until the PIRA had resumed its ceasefire (suspended in 1996). Loyalist parties affiliated to armed groups were also temporarily excluded in reaction to acts of violence (Mitchell, 1999).

Despite broad inclusivity, spoiler problems reappeared due to internal divisions within the unionist and nationalist blocks. On the unionist side, two important parties, the DUP and the UKUP, left the negotiation table in 1997

and rejected the agreement. The UUP was also internally divided between pro- and anti-agreement factions (Farrington, 2009). On the nationalist side, dissident armed groups emerged to oppose the agreement: the 'Continuity IRA', and the 'Real IRA' (Tonge, 2009). These spoilers would create major challenges for the post-agreement era. On the other hand, the parties that were part of the peace talks progressively built a minimal level of trust.[52] Track-two workshops with South African and Palestinian negotiators appear to have contributed to this outcome (Arthur, 1999).[53] This constituency, which included a number of leaders from the UUP, the SDLP and Sinn Féin, proved key in keeping the peace process on track.

Third, popular support for the agreement was built throughout the peace process in three main ways. First, elections were held at different moments during the peace talks, allowing to gauge the public opinion on the negotiations. While the 1996 Forum Election demonstrated persistent divisions amongst the population of Northern Ireland, it 'could be interpreted as a vote for a "peace strategy" being pursued by those parties and, in Sinn Féin case, as a vote of reinstatement of the ceasefire' (Dixon, 2008: 257). The good result of the UUP in the 1997 Westminster elections confirmed the support of the unionist electorate for peace talks and reinforced the hand of the UUP leader David Trimble against hardliners (Mitchell, 1999: 104). Second, constant consultations of party leaders with their constituencies prepared the population to accept the agreement, even if David Trimble was sometimes 'criticized for failing to prepare his party and supporters for the compromises necessary in any settlement' (Dixon, 2008: 264). Third, even if the formal talks were restricted to political parties, they were 'grounded' in a dialogue process at the local level, which allowed for the building relationships and reduction of tensions at a local level (Acheson and Milofsky, 2008; Byrne, 2001).[54] Civil society initiatives also channeled recommendations of the population into the official process, and supported the campaign for the 'yes' to the 1998 Referendum (Guelke, 2003: 71). Opinion surveys suggest that these initiatives have had a positive effect on popular moderation and support for the agreement (Horowitz, 2002b). The adoption of the agreement by 71.2% of the Northern Irish voters in the 1998 referendum confirmed popular support for the deal, and 'removed any potential claim of a mandate for violence.'[55]

Fourth, while power-sharing provided a solution to some of the key grievances relating to access to political power, the agreement left some of the most contentious issues unresolved, namely those surrounding security: the decommissioning of Provisional IRA weapons, the reform of the police, and the retreat of the British Army.[56] This would prove a major source of credible commitment problems in the post-agreement phase. To alleviate fears of the unionist community, the governments provided guarantees that they would remain involved to monitor the implementation of the deal. These guarantees included a letter by Tony Blair to David Trimble on the last day of the talks (Powell, 2008: 105). The agreement also included a mechanism of review of the agreement and established a series of independent commissions for the resolution of unaddressed issues (Walsh, 2017).

52  Interview with Stephen Barr, Stormont, 23 May 2018; Interview with Gerry Kelly, Belfast, 24 May 2018.

53  Interview with Brendan McAllister, Belfast, 24 May 2018.

54  Interview with Alex Attwood, Belfast, 24 May 2018; Interview with Brendan McAllister, Belfast, 24 May 2018.

55  Interview with Alex Attwood, Belfast, 24 May 2018.

56  Interview with John McGarry, Skype, 13 June 2018

57 Interview with John McGarry, Skype, 13 June 2018.

58 Interview with Alex Attwood, Belfast, 24 May 2018.

### Implementation of the Good Friday Agreement

The implementation of the Good Friday Agreement proved difficult. Although elections for the Assembly took place on June 25, 1998, no executive was formed for the next 18 months and power-sharing institutions subsequently proved unstable as they were temporarily interrupted ('suspended') four times between 2000 and 2007. Further additional cycles of negotiations as well as the adoption of a new agreement in St Andrew in 2006 became necessary to establish more stable and effective power-sharing institutions (Todd, 2016). Four main issues complicated implementation.

First, the 'creative ambiguity' and unresolved issues that had allowed for the signing of the agreement quickly became the source of major challenges facing implementation. Controversies surrounding the sequencing of power-sharing and decommissioning of PIRA weapons made all implementation progress arduous as each party tested the commitment of the other to the peace process (Todd, 2017). Talks regarding the sequencing of decommissioning and executive formation, mediated by the UK and Irish governments, went nearly uninterrupted between 1998 and 2006. In 1999, the two governments maintained continuous shuttle diplomacy, organized proximity talks, as well as a review of the agreement by Senator Mitchell. This review led to an unwritten 'Mitchell agreement' that allowed for the formation of the first executive and the restoration of devolution in Northern Ireland in December 1999. However, the lack of progress on decommissioning led to four suspensions of the Assembly. Each suspension required new negotiations to reestablish devolution. The continuation of talks allowed only limited and extremely slow progress, but prevented a collapse of the peace process. It also provided time for intra-party negotiations and gradual change of mind amongst the PIRA. In 2005, two events for which PIRA members were responsible – a bank robbery at the Northern Ireland Bank's headquarters and the murder of a young republican – caused a strong reaction from external actors and the Catholic population against PIRA violence. Total decommissioning became the only option available for PIRA to continue pursuing the political path. On September 26, 2005, the Independent International Commission on Decommissioning (IICD) confirmed that all PIRA weapons were removed from use (Powell, 2008).

The different commissions created by the Good Friday agreement also allowed progress on unresolved issues. The commissions served different roles. Some, such as the Parades Commission and the Independent Commission on Policing (ICP), formulated recommendations to resolve controversial issues.[57] Others, such as the Policing Board, provided arenas for negotiations over the implementation of reforms and built popular support for the new institutions.[58] Finally, some, such as IICD and the Independent Monitoring Commission (IMC), monitored the security situation and organized verification of agreement implementation by independent observers (Walsh, 2017).

A second problem was that, even if popular support for the agreement was strong during the referendum, it dropped quickly in reaction to the lack of progress and the uncertainty of the transition (Dixon, 2008). Rejection of the

agreement led to new episodes of violence at the local level, especially during parades. This was the source of an important crisis between the Orange Order and the residents of a Catholic neighborhood in Dumcree in summers 1998 and 1999 (Powell, 2009). Mediation played a role at the local level to manage community conflicts. During the Dumcree confrontation, shuttle diplomacy, followed by direct talks between the Orange order and the residents of Dumcree held in 1998, made it possible to quell tensions and limit the escalation of a crisis that effectively threatened the peace process (Powell, 2009: 120-137).[59] The progress on the unresolved issues and most specifically the decommissioning of the IRA also gradually allowed rebuilding popular support for the agreement (Todd 2017: 312).

A third challenge was that anti-agreement forces on both sides obstructed the ability of the 'moderate middle' to cooperate. On the nationalist side, dissident republican groups attempted to derail the agreement using violence, such the 1998 Omagh car bomb, which killed 29 civilians (Jarman, 2004). Sinn Féin cited fear of defections from the PIRA to the splinter groups to justify moving slowly on decommissioning.[60] On the unionist side, the divisions within the UUP and the presence of the DUP weakened the position of David Trimble, who was almost constantly on the verge of resignation (Dixon, 2008). The problem grew progressively as post-conflict elections showed continuous increase in support for hardline parties (Elliott, 2009), effectively sanctioning the SDLP and the UUP for the compromises made in the peace agreement. [61]

Efforts to build effective power sharing from the center ended in 2003 when the DUP and SF became the largest parties in their respective communities. While officially rejecting the agreement, the DUP had de facto been included in the institutions. Indeed, the design of the agreement allowed them to run in the 1998 election and take their seats in the executive. However, they had adopted a 'half in, half out' position, 'refusing to attend executive meetings and voting against executive policy' (McEvoy, 2015: 3). From then on, attempts focused on bringing the DUP into the agreement. The governments of the Republic of Ireland and the UK provided communication channels between the DUP and Sinn Féin. Following two rounds of proximity talks, decisive negotiations, mediated by the two governments, took place in St-Andrew in October 2006. They led to the adoption of the St Andrew agreement (Powell, 2009; McEvoy, 2015: 87-97). The agreement made relatively minor modifications to the Good Friday Agreement. It allowed the DUP, which had harshly criticized the Good Friday Agreement, to contend that it had negotiated an improved version of the agreement.[62] The St Andrew agreement allowed for the restoration of devolution and the formation of an executive on 8 May 2007.

A fourth issue was the continuing asymmetry of preferences. The agreement had been accepted by the parties with different perspectives. For unionists, it was a final settlement; for nationalists, it was a step in a process toward a united Ireland (Guelke, 2003). Moreover, a certain reluctance to share power remained in a part of the unionist community. Progress toward the St Andrew agreement therefore depended on the continuation of external pressures by the UK and Irish government. The governments published various

59 Interview with Gerry Kelly, Belfast, 24 May 2018.

60 Although it was not always clear whether this was a real concern or a bargaining tactic (Clancy, 2010).

61 Interview with Stephen Barr, Stormont, 23 May 2018.

62 Interview with Stephen Barr, Stormont, 23 May 2018.

63  Interview with Alex Attwood, Belfast, 24 May 2018.

64  Interview with John McGarry, Skype, 13 June 2018.

documents to cement progress and put reputational pressure on the parties (The Way Forward' in 2000, the 'Joint Declaration' in 2003, or the Agreement Proposals of 2004). Most importantly, they used various threats to make alternatives to a negotiated settlement less attractive than restoration of power-sharing. These included the threats of greater Anglo-Irish cooperation on Northern Ireland, or of the imposition of liberal policies on conservative Northern Ireland should power-sharing not be reestablished (Todd 2017: 311; Powell: 2009: 279).

### Assessment

In sum, the negotiation process created mixed conditions for further negotiations. On the one hand, the agreement had genuine popular support, and the UK and Republic of Ireland government were committed to remaining engaged in the implementation phase. On the other hand, major parties rejected the agreement whilst important issues were left unresolved. At the time of its adoption, the Good Friday Agreement thus faced a number of obstacles that made power-sharing difficult.

The continuous engagement of the governments, using mediation at different moments, was an important factor to broaden the power-sharing coalition, address unresolved issues, and manage local disputes paving the way to the establishment of effective power-sharing in 2006. When devolution was restored in 2007, the Assembly and the Executive functioned with more stability. Elites proved able to cooperate for joint decision-making. Although disagreements emerged, in particular over cultural issues, such as the Irish language, they tended to be discussed behind closed doors. At the end of the Assembly's term in 2011, 'the executive was clearly fairly modest in its achievements', but 'was notable in achieving some measure of cooperation allowing for the maintenance of the power-sharing system' (McEvoy, 2015: 103).

The St Andrew Agreement did not, however, represent the end of the peace process due to at least two problems. First, there remained unresolved issues, mostly surrounding questions of identity and symbols, as well as the issue of the Bill of Rights for Northern Ireland.[63] Second, balance of power problems re-emerged. Pressures on the unionists decreased following changes in the governments of the UK and the Republic of Ireland and after the referendum on BREXIT, which resulted in diminished Anglo-Irish cooperation on Northern Ireland. The reliance of Theresa May's government on the DUP also created a new imbalance of power, and limited the ability of the British Government to present itself as a neutral broker.[64] The resulting lack of pressure limited incentives for unionists to compromise with the minority, creating new problems (Todd, 2017). The Assembly was renewed in 2011, but was shaken by a conflict over flags in 2012, and collapsed over a scandal surrounding a Renewable Heat Incentive in 2015. Negotiations to reestablish it are ongoing, but have since then been inconclusive.

## 3.4  Bosnia and Herzegovina

### Context

The General Framework Agreement for Peace in Bosnia-Herzegovina (Dayton Agreement) was signed on December 14, 1995. It put an end to three years of violent conflict surrounding the status of Bosnian Muslims, Serbs and Croats within an independent Bosnia after the breakup of Yugoslavia.

Annex IV of the Dayton Agreement included the Constitution of the future Bosnia and Herzegovina. It provided for a federal system with two entities corresponding to wartime territorial divisions: the Bosniak-Croat Federation and the Republika Srpska. Central institutions, the Parliamentary Assembly of Bosnia and Herzegovina, include a three-member presidency, a multi-ethnic Council of Ministers, and a bicameral legislature. Both the House of Representatives and the House of the People are composed of two-thirds of members from the Federation and one-third from the Republika Srpska. The Constitution also provides a community veto right on issues of 'vital national interest' and requires the support of at least one-third of the deputies of each entity for decisions to be adopted in parliament (McEvoy, 2015: 111-112).

### Negotiation of the Dayton Agreement

In 1995, the US appointed Richard Holbrooke to lead a new peace effort in Bosnia and Herzegovina. Following intense shuttle diplomacy, proximity talks were held on the Wright-Patterson Air Force Base in Dayton, Ohio, in November 1995 (Holbrooke, 1998). Four dimensions of these peace talks had an impact on the willingness and ability of elites to cooperate after the agreement was signed.

First, in the absence of a mutually hurting stalemate, Holbrooke used US and NATO leverage to even the balance of power between the parties. To do so, he took advantage of the creation of the Muslim-Croat Federation by the 1994 Washington Agreement, which created a united front against the Bosnian Serbs and Serbia. Serbs were further pressured by economic sanctions and NATO airstrikes. These pressures were paramount to bringing the parties to the table and decreasing the attractiveness of the alternatives to a negotiated settlement (Watkins, 2003). However, the agreement was widely perceived as externally imposed and failed to secure a strong commitment of the parties.

Second, the complexity of the situation led Holbrooke to search for a minimal rather than a broadly inclusive coalition. Out of the three main communities and parties to the conflict in Bosnia, only one was present in Dayton, the Bosnian Muslims represented by Alija Izetbegovic, the President of Bosnia. Bosnian Serbs were represented by Slobodan Miloševic, the President of the Republic of Serbia, and Bosnian Croats were represented by Franjo Tudman, the President of Croatia. This lack of inclusivity did not secure a strong commitment of the parties in conflict to the agreement. Moreover, the peace talks failed to improve the relationship between the parties (Zahar, 2005a).

Third, the negotiators were isolated in Dayton for the duration of the talks, with the objective to limit their ability to interact with the press. A consequence of this isolation was a focus on elites, and the lack of consultation and information of the population. As a result, the population, which had not been prepared to the concessions to be made as part of the peace negotiations, disapproved of key provisions of the agreement and supported hardline political parties who rejected power-sharing (Cox, 2003).

Fourth, the agreement provided guarantees for credible commitment by granting an important role to the international community in the implementation phase. The agreement provided mandates to supervise the implementation of the agreements to a NATO-led Implementation Force (IFOR) for military matters, and to several international agencies for civilian matters. An Office of the High Representation (OHR) was created to coordinate these different actors, which was itself headed by the Peace Implementation Committee (PIC) composed of 50 governments (Cousens, 2002).

Implementation of the Dayton Agreement

The design of the negotiation process resulted from the necessities imposed by the Bosnian conflict and the urgency of stopping violence. However, the use of strong external pressures, the lack of inclusivity and attention to relationship building, as well as the focus on elites did not create a conducive environment for elite cooperation. These problems would only grow bigger in the implementation phase, as space for mediation was limited.

Although the international community demonstrated its determination to use force to deter outside spoilers, the lack of elite commitment to the agreement meant that politicians displayed no willingness to establish functioning institutions at the federal level. They acted as de facto inside spoilers using veto rights and boycotting parliamentary sessions to delay decision-making on the implementation of the agreement. The problem of inside spoilers was only reinforced by post-conflict elections, which consistently reinforced hardline nationalist parties (Cousens, 2002).

In response to the lack of elite cooperation, the international community resorted to imposition rather than mediation or attempts to improve the inter-elite relationships. The executive powers of the OHR were reinforced by the PIC in a meeting in Bonn in December 1997. These 'Bonn powers' provided the OHR with the authority to impose decisions and remove officials from office. These powers were used extensively, and most of the decisions regarding agreement implementation were imposed by successive High Commissioners (McEvoy, 2015).

The fact that the agreement was comprehensive and that the Constitution was included as an annex of the agreement left little space for further negotiations in the implementation phase. Moreover, the fact that Bosnia was under a de facto trusteeship did little to incentivize elite cooperation. Rather, the international oversight of the agreement allowed elites to maintain intransigent political positions to secure the support of their electoral basis while

knowing that the hard decisions necessary to avoid a return to conflict would eventually be imposed by the international community (Zahar, 2005b).

Assessment

Power-sharing dispositions provided the necessary guarantees for the parties to accept the Dayton agreement. However, elite cooperation under Dayton proved elusive. The federal system did little to incentivize cooperation at the federal level. Rather, it provided hardliners with 'institutional weapons' to block decision-making. The mediation process that led to Dayton also explains the lack of elite cooperation. In the negotiation phase, the use of heavy external leverage, as well as the focus on a minimal coalition provided a post-agreement environment with very low elite willingness to cooperate. In the implementation phase, problems of uneven balance of power and credible commitment were addressed by strong external pressure. Rather than reinforcing the willingness and ability of elites to cooperate, heavy international oversight contributed to the further alienation of politicians. As a consequence, there has been little progress on the issues of reconciliation, democratic consolidation or socio-economic development in the country. Overall, this provided for a dysfunctional power-sharing system, whose stability owes more to third party enforcement than effective inter-elite cooperation.

## 3.5 Lebanon

Context

The 'Document of National Reconciliation' adopted in Taef, Saudi Arabia in September 1989, put an end to the 15-year Lebanese civil war, which centered on issues of distribution of power between Christian and Muslim communities.

The peace agreement revised and formalized the pre-war power-sharing formula. The traditional informal arrangement that attributed the positions of President to a Maronite Christian, Prime minister to a Sunni Muslim, and Speaker of the House to a Shi'ite Muslim was kept unchanged. However, Taef decreased the powers of the President and placed most executive power in the hands of a multi-confessional Council of Ministers, thereby empowering the Prime minister. Taef also provided for an equal share of seats between Muslims and Christians within the National Assembly, and increased the power of the House speaker. The agreement also provided (vague) dispositions for the disarmament of militias and their integration in the Internal Security forces (Zahar, 2002: 571-2).

Negotiations of the Taef Agreement

Following multiple unsuccessful attempts to bring about a negotiated settlement in Lebanon, the final peace talks took place in Taef in 1989. The talks

were initiated by the Arab League in reaction to the degradation of the situation in Lebanon, where two governments claimed legitimacy, threatening the total collapse of Lebanese state institutions (Hanf, 1993: 571). A tripartite committee, composed of the Kings of Saudi Arabia and Morocco as well as the president of Algeria, was attributed a mediation mandate to help the conflicting parties find a settlement. After intensive shuttle diplomacy, 23 days of peace talks in Taef led to the adoption of the peace agreement (Deeb and Deeb, 1991). Four factors set the stage for implementation of the agreement.

First, the mediators had little means of pressure, and the peace talks were highly dependent on Syria, which maintained tight control on the negotiations (Kerr, 2012). While the section of the agreement regarding constitutional reform was the fruit of inter-Lebanese negotiations, the section dealing with the contentious issue of the future role of Syrian troops in Lebanon had been negotiated by the tripartite committee with the Syrian government and was effectively imposed on the parties (Hanf, 1993: 581-9; Deeb and Deeb, 1991: 89). This controversial section de facto legalized Syrian presence in Lebanon and introduced a major imbalance of power in the agreement.

Second, the Taef negotiations were held between the remaining members of the parliament that had been elected in 1975. The parliament was the only legitimate institution remaining. It was formed of members of the pre-war elite, who were to a great degree used to negotiation and compromise, unlike new wartime leaders (Hanf, 1993: 583). This, however, excluded the parties that were responsible for violence. Accordingly, the talks could do little to socialize wartime elites that were not at the table. Moreover, 'the limited power base of the elected representatives allowed potential spoilers to cast doubt on their representativeness and challenge the outcome of negotiations' (Zahar, 2002: 571).

Third, the negotiations have been described as a 'conclave', where negotiators become isolated from their constituencies. 'Journalists, staff, and advisers were kept away from them; their only contact with the outside world was by telephone' (Hanf, 1993: 583). This disconnection facilitated the reaching of an agreement, but did not allow leaders to prepare their constituency for the compromises necessary for the settlement.

Fourth, the imbalance of power created by Syrian pressures meant that the agreement failed to provide sufficient guarantees for credible commitment to the parties. Some actors indeed perceived Syria as an existential threat to the Lebanese state. Furthermore, some key issues such as security sector reform remained ambiguous and a new electoral law had to be adopted (Zahar, 2002).

## Implementation of the Taef Agreement

The implementation of the Taef agreement owed much to the role of Syria, which had intervened militarily in Lebanon in 1976 and remained in the country until 2005. After the adoption of the agreement, spoiler problems were addressed by military action. The agreement was constitutionalized by the

parliament in August 1990, a National Union government was formed in December 1990, and elections were organized in 1992 (Hanf, 1993: 598-636). Along with this, three problems hindered elite cooperation in the post-Taef era.

The first direct threat to the agreement was the presence of spoilers. Most importantly, General Michel Aoun – the Prime Minister in one of the competing governments – rejected the agreement because it legalized the Syrian presence in Lebanon. He attempted to prevent the implementation of the agreement by dissolving the parliament in November 1989, a move that was ignored by the parliamentarians (Hanf, 1993: 590). Aoun's spoiling capacity was increased by strong rejection of the agreement by an important share of the population in the territory under his control.

The spoiler issue was dealt with militarily. General Aoun was defeated by the Lebanese and Syrian army in October 1990 (Hanf, 1993: 611). The lack of popular buy-in for the agreement was dealt with by the adoption of an electoral law that privileged pro-Syrian candidates in 1992. Post-conflict elections were also marked by extensive gerrymandering. These methods entrenched resentment against the institutions. The 1992 elections were boycotted by Christian parties (Hanf, 1993: 625-634) and the power-sharing formula remains contentious two decades after the signature of the agreement (Hamdan, 2012). Over the next years, policy-making relied almost exclusively on the imposition of important decisions by Damascus.

Due to the imbalance of power it created, the agreement failed to address credible commitment problems. The problem was reinforced by the piecemeal implementation of the agreement in accordance with Syrian interests. In particular, the lack of disarmament of Hezbollah, which was granted the right to keep its weapons as part of the 'resistance' to Israel, became a source of considerable anxiety for Sunni and Christian communities. In reaction, the parties sought external support through their respective allies to stabilize the balance of power (Zahar, 2012). The stability of the country therefore relied more on an equilibrium of fear rather than on elite cooperation.

## Assessment

Elite cooperation within the institutions set up by Taef has proved minimal. The negotiations – held in absence of the main parties to the conflict, isolated from the population, and under heavy Syrian pressure – did not set up conditions favorable to elite cooperation in the implementation phase. Over the long run, the stability of the agreement is best explained by the presence of a Syrian enforcer. The heavy-handed and selective implementation of the agreement by Syria left little room for mediation. As most of the important post-war decisions were taken in Damascus, the ability of elites to cooperate did not increase in the process and Lebanese power-sharing remains marked by recurrent political deadlocks as well as the failures of the democratization and state-building processes (Zahar, 2002).

It is however noticeable that mediation played a more important stabilizing role in moments of crisis after Syrian withdrawal in 2005. From 2006 onwards, tensions grew surrounding Hezbollah's weapons. After Shi'a ministers left the cabinet, a National Dialogue Committee was established by the Speaker of Parliament, Nabih Berri. The sessions were held in the Parliament, chaired by Speaker Berri, and attended by the leaders of main political parties represented in Parliament. An armed confrontation was avoided and the ministers returned to the cabinet, but the controversy did not end there. In 2008, tensions reached their peak following the military takeover of Beirut by Hezbollah. A second National Dialogue Conference was convened in Doha, this time by Qatar, which played the role of mediator. The National Dialogue provided a solution to the 18-month political crisis in the form of the Doha Agreement. Further rounds were held in 2010, 2012 and 2014. In 2012, they produced the Baabda Declaration, which established the principle of dissociation of Lebanese politics from the Syrian conflict (Wählisch, 2017).

## 3.6  Rwanda

### Context

The Arusha Agreement was signed on August 3, 1993 by the Government of Rwanda – a loose coalition of the former dominant party National Republican Movement for Democracy and Development (MRND) and three opposition parties formed in March 1992 under pressure from external actors for democratization – and the Rwanda Patriotic Front (RPF). It attempted to put an end to the civil war that opposed the Hutu-dominated government of Rwanda to the Tutsi-dominated RPF.

The agreement provided for power-sharing between the political parties in the executive and the legislature. It limited the powers of the president to mostly ceremonial functions, and provided for the formation of a Broad-Based Transition Government (BBTG) holding executive powers. The accord divided the 21 ministerial portfolios between the MRND, the RPF and four other political parties. Legislative power lay with a Transitional National Assembly (TNA), where all political parties and the RPF were attributed seats. Finally, veto rights were provided as two-third majorities were necessary for decision-making in the BBTG and for some decisions in the TNA (Reyntjens, 1996). These provisions were never implemented as the agreement collapsed a few months after its adoption.

### Negotiations of the Arusha Agreement

The Arusha talks ran from July 1992 to August 1993. They were organized by the Government of Tanzania, who received its mandate form the OAU. The Tanzanian Ambassador to the OAU, Ami Mpungwe, served as facilitator, and regional and international observers attended the talks (Stettenheim, 2000: 229). Four dimensions of the talks set the stage for the implementation phase.

First, combined pressures of the US, France and regional powers were needed to bring the parties to the negotiation table and push for progress in the negotiations because the preferences of the parties were not aligned. As a representative of the Hutu majority, the government preferred majoritarian democracy over power-sharing. On the other hand, the RPF had the upper hand on the battlefield and thought a military victory might be possible (Stettenheim, 2002: 223). As a result, the commitment of the parties – and most crucially President Habyarimana – to the agreement was limited and relied in great part on external pressures (Prunier, 1995: 194).

Second, although all political parties were included in the negotiations, the structure of the government delegation did not allow for the securing of commitment from hardliners. The 'internal opposition' who formed the 'liberal wing' of the governmental coalition attempted to leverage the RPF insurgency to reinforce its position toward the MRND and exclude 'Hutu nationalists' from the negotiation process. As a result, hardliners denounced the delegation, rejected the talks and refused the agreement. While the agreement was formally signed by a grand coalition, it was effectively based on a coalition of the moderates and excluded the extremists. This caused a backlash from hardliners during the implementation phase (Clapham, 1998; Stedman, 1997).

Third, while the Arusha peace talks focused on elites, Hutu hardliners rapidly started to mobilize and organize Hutu peasant masses to undermine the talks. At the moment of the signature of the agreement, hardliners had built a popular base to support their rejection of the agreement (Prunier, 1995: 170).

Fourth, to address the problem of mutual mistrust between the parties, the agreement granted an important security role to the international community. A 'Neutral International Force' was tasked with the provision of security for the entire territory, as well as the monitoring and enforcement of the cessation of hostilities. Little attention was paid to the financial, technical and diplomatic constraints on the deployment of a UN mission. As a result, while agreement implementation depended on an international force, the calendar for its deployment was unrealistic and necessary resources were unavailable (Beardsley, 2011; Khadiagala, 2002).

### Implementation of the Arusha Agreement

Plagued by these difficult starting conditions – lack of commitment of signatories, presence of internal spoilers, popular support for extremists, and heavy reliance on third parties – and in absence of a framework for the continuation of negotiations, the Arusha Agreement quickly collapsed.

A first problem was the splintering of the 'internal opposition' parties. While the agreement provided for power-sharing along party lines, feuds arose between different factions claiming ownership of the same party. This served the interests of President Habyarimana and the MRND, who took advantage of these divisions to delay the implementation of the transitional institutions (Prunier, 1995: 197). While regional and international power attempted to

maintain diplomatic pressures on president Habyarimana, this was not sufficient for agreement implementation, because Habyarimana faced pressures from the extremist wing of his own party (Stettenheim, 2002: 233-4).

A second issue was that Hutu nationalist parties, with close ties to the MRND, rejected the agreement and undertook efforts to derail it. After the assassination of President Ndadaye in neighboring Burundi in October 1993 and the subsequent violence, they intensified their effort to mobilize Hutu masses – including through their infamous Radio Television Libre des Mille Collines (RTLMC) – and started training local militias (Clapham, 1998).

Finally, the deployment of the UN peacekeeping mission took six months, much longer than planned in the agreement. Once operational, the UNAMIR was missing the resources that would have been necessary to fulfill the role anticipated by the agreement. Moreover, its hands were tied by a limited mandate. The mission could neither provide security to the signatories of the agreement, nor deter outside spoilers. This exacerbated credible commitment problems and paved the way for the genocidal violence that ensued (Beardsley, 2011: 153-157; Khadiagala, 2002).

Assessment

In sum, the negotiations failed to create an opportune situation for the implementation of the agreement. Pushing through an agreement against the will of extremist factions created spoilers, who had a popular base, were well-organized, and ready to use violence. In the implementation phase, there were no attempts to address these problems through mediation. Rather, external attempts to push for agreement implementation proved inefficient, and the peacekeeping mission was too weak to deter spoilers.

Few agreements provide a clearer illustration of the risks associated with the collapse of a power-sharing agreement. The assassination of President Habyarimana on April 6, 1994 buried all hope of implementing the agreement. Immediately, massacres began throughout the country. The next day, Prime Minister Agathe Uwilingiyimana and ten Belgian peacekeepers were killed. In reaction, the UNAMIR mission was reduced to 270 troops. This was the collapse of a frail peace characterized by a failed power-sharing agreement, and the beginning of genocidal violence that would cost the life of more than 800'000 Tutsis. Violence ended after the military victory of the RPF in July 1994 (Prunier, 1995).

# 4  Discussion

This section summarizes and discusses the key findings of the case studies.

## 4.1  The Process of Sharing Power

The case studies examined how mediation affected the performance of power-sharing over time. The power-sharing dilemma posits that while power-sharing provides short-term solutions to balance of power, spoiler, identity & political accountability and credible commitment problems, it also incentivizes the re-emergence of these problems in the long-term. The long-term performance of power-sharing depends on the ability of elites to successfully negotiate solutions to the problems that emerge in the post-agreement phase. In this light, power-sharing can be conceived as a process of continuous inter-elite bargaining.

In many of the cases studies, achieving effective power-sharing required not one but a series of power-sharing agreements. However, these agreements were not equal in status and function. A distinction can be made between 'foundational' agreements, which set up the broad framework of the power-sharing system (e.g. the Arusha Agreement in Burundi, the 2006 CPA in Nepal, and the Good Friday Agreement in Northern Ireland) and 'additional' agreements, which amend, complete, specify, or broaden the foundational agreement without replacing its general framework (e.g. the Ceasefire agreements in Burundi; the 23-point Agreement in Nepal; or the St-Andrew Agreement in Northern Ireland). Moreover, power-sharing agreements are often entrenched in post-conflict Constitutions, which complete and give legal value to its provisions (e.g. the 2005 Constitution in Burundi or the 2015 Constitution in Nepal).

The analytical framework suggested that both the design of the mediation process and the persistence of the mediation effort in the post-agreement phase influence the performance of power-sharing. Findings related to each of these dimensions are discussed in the next subsections.

## 4.2  The Design of the Mediation Process

Analysis of the case studies suggests that specific features of the mediation process have long-term consequences on the performance of power-sharing because they set up conditions that will be more or less conductive to further elite cooperation. Five key features are discussed here.

Leverage

The case studies highlight that use of leverage in mediation processes has an impact on the likelihood of re-emergence of balance of power problems.

- *Peace processes are more vulnerable to balance of power problems if leverage is used to achieve a power-sharing agreement, because it makes agreement implementation dependent on the continuation of external pressures (see Beardsley, 2011).* Many cases exhibited this problem. In Bosnia & Herzegovina and Lebanon, both the adoption and the long-term stability of power-sharing agreements depended on heavy pressure from external parties, as local parties' commitment to sharing power remained limited. In Burundi and Northern Ireland, regional powers or the governments of the UK and the Republic of Ireland were pivotal to bringing the parties to the table and persuading them to share power. In both cases, the continuation of leverage in the implementation phase allowed for significant progress in implementation, but the weakening of external influence over time created renewed blockages in the power-sharing coalition.

- *When external leverage is not the driving force behind a power-sharing agreement, but rather the overlapping interests of the parties, balance of power problems are less likely to emerge.* Nepal is a case in point. The progress in the implementation of power-sharing moved forward largely without external pressures because the parties felt the need to cooperate to prevent the return of the monarchy and the relapse of conflict.

## Horizontal Inclusivity

The case studies suggest that the modalities of inclusion in the mediation process have an impact on the chances of re-emergence of outside spoiler problems.

- *Mediation can help decrease the risks of emergence of outside spoilers in the post-agreement phase by providing meaningful representation in the peace talks to all relevant actors, including potential spoilers.* In Burundi, Northern Ireland, and Nepal the initial peace negotiations sought to include all relevant parties. These cases also demonstrate the challenge of establishing broad inclusivity as some parties can leave the talks or new parties can emerge during the negotiations.

- *Mediation can increase the risks of emergence of outside spoilers in the post-agreement phase if potential spoilers are not (or feel insufficiently) represented in the peace talks.* This was the case in Rwanda, where rivalries amongst the governmental coalition led to a de facto exclusion of hardliners, who organized themselves to derail the peace process.

## Relationship-building

The case studies suggest that whether or not mediators focus on building trust between the parties during the process has an impact on the chances of re-emergence of inside spoiler problems.

- *Mediation that puts emphasis on improving the relationship between the conflict parties can reinforce their ability to cooperate in the post-agreement phase, potentially decreasing the risk of inside spoilers.* The formation of a broad constituency committed to peace is pivotal in strengthening the resilience of power sharing in the implementation phase, as 'moderate' leaders from all groups work together to push the process forward. Such constituencies for peace played an important role in the peace processes of Burundi (UPRONA and FRODEBU), Nepal (a core group of party cadres meeting regularly in the NTTP) and Northern Ireland (some leaders from the UUP, the SDLP and Sinn Féin).

- *Mediation that focuses on reaching an agreement without building trust is liable to increase the risk of negotiation failures within the power-sharing coalition in the post-agreement phase.* Elite cooperation in implementing power-sharing agreements proved extremely difficult in Lebanon where militia leaders where not part of the negotiations, or in Bosnia where two out of three parties did not directly participate in peace talks but were represented by the presidents of their kin-state.

## Vertical Inclusivity

The case studies suggest that the modalities of vertical inclusivity in a mediation process affect the chances of re-emergence of identity & political accountability problems.

- *Mediation can help foster popular buy-in by promoting consultations and information campaigns amongst the population.* This helps ensuring that the agreement responds to the concerns of the population, preparing the population to accept compromises, and building moderation at grassroots level. This can be done by using mechanisms of representative democracy during the peace talks (as in Northern Ireland), integrating civil society in the negotiations and setting up consultations with the population (as in Burundi), adopting a multi-track approach, and promoting dialogue mechanisms to manage conflicts at the local level (as in Nepal). Providing time for intra-party consultation and negotiation during ongoing peace talks is also key to preparing constituencies for compromise as shown by the Northern Ireland case study.

- *Mediation can increase the risks of emergence of identity and political accountability problems if it focuses exclusively on elites.* This was the case in Lebanon, Bosnia & Herzegovina and Rwanda where peace talks were held in isolation from the population, which subsequently rejected the agreement and gave their support to hardliners. In many cases, there was an assumption amongst external observers that post-conflict elections would reinforce the moderate middle, which proved wrong in these cases. In Burundi, the electoral success of CNDD-FDD put in power a party that had not negotiated the Arusha Agreement, which created problems in the long run. In Northern Ireland, elections

consistently reinforced hardliners who rejected the Good Friday Agreement, which complicated its implementation.

Content of the Agreement

The case studies suggest that peace agreements almost inevitably leave unresolved issues or ambiguities. Whether or not mediators prepare for the continuation of negotiations after the adoption of the agreement has a crucial impact on the ability of elites to negotiate solutions to these unresolved issues.

- *Mediators can help address unresolved issues by encouraging the inclusion of provisions that create a framework for the continuation of negotiations in the post-agreement phase.* Such dispositions can include mandates for continued external mediation (as in Burundi), mechanisms of dispute resolution, review of the agreement, and independent commissions (as in Northern Ireland), or provisions for the formation of a constituent assembly (as in Nepal).

- *Conversely, if post-agreement negotiations between elites are limited – because authority for implementation is delegated to external actors or because renegotiation structures are missing  – unresolved issues are likely to exacerbate credible commitment problems.* This was the case in Lebanon and Bosnia & Herzegovina, where implementation resulted more from imposition by external actors than negotiation between local actors, which led to sustained credible commitment problems and a low level of elite cooperation.

Overall, the case studies show that the margin of maneuver of mediators is generally limited while designing mediation processes. The use of leverage, the type of provisions for implementation, the modalities of inclusion, and the opportunity to consult and inform the population are highly dependent on the dynamics of the conflict, the preferences of the parties, and the cohesion of the international community. For example, while peace talks in Northern Ireland, Burundi and Nepal were initially designed to be broadly inclusive, the rejection of negotiations by certain actors or the splintering of armed groups led to less than fully inclusive agreements. This suggests that while peace negotiations do create conditions that are more or less favorable to the implementation of power-sharing agreements, they rarely (if ever) provide an ideal environment for implementation. For this reason, the continuation of negotiations after the adoption of power-sharing agreements is often necessary.

## 4.3   The Persistence of the Mediation Process

The second factor that has an impact on the long-term performance of power-sharing is the continuation of the mediation effort in the post-agreement phase.

In many case studies, negotiations continued following the adoption of the 'foundational' power-sharing agreements, and were an integral part of the implementation process. Power-sharing tended to perform better in the cases where negotiations continued after the adoption of the foundational agreement (Burundi, Nepal, Northern Ireland) than in cases where it did not (Bosnia and Herzegovina, Rwanda, Lebanon).

Mediation often played a role in post-agreement negotiations, although its importance varied across cases. Third party mediation was important in Burundi and Northern Ireland. In Nepal, however, bilateral negotiations were most important, and mediation became important at key moments of crisis to unblock deadlocks.

Moreover, the case studies suggest that third-party assistance during the implementation stage takes different forms than during the initial peace negotiations. While formal mediation may be less important, other forms of mediation – such as informal dialogue facilitation, advice to conflict parties, political support for negotiations, and provision of expertise – tend to become more central.

Overall, the case studies suggest that the continuation of assisted negotiations in the post-agreement phase served both to address problems that could not be solved during pre-agreement negotiations, and to address problems that emerged after the signature of the agreement. Post-agreement mediation can facilitate elite negotiations. By doing so, is has an impact on the long-term performance of power-sharing.

More specifically, the case studies suggest that the continuation of mediation can enhance the performance of power-sharing in the following ways:

- *In cases where leverage has been used to bring the parties into an agreement, third parties can prevent the re-emergence of balance of power problems by staying involved and maintaining pressure on the parties.* In Burundi, the involvement of the regional powers post-agreement was key to persuading the parties to implement the agreement, and the CNDD-FDD to join the peace process. In Northern Ireland, the continuation of coordinated pressures from the UK and Irish governments was necessary to keep the peace process on track. In Lebanon and Bosnia & Herzegovina, international enforcement action was key in implementing the peace agreements and maintaining relative stability. However, the legitimacy of international involvement tends to decrease over time, which can become a source of increased rejection by local actors.

- *Mediation in the implementation phase can facilitate negotiations to broaden the power-sharing coalition to parties that are outside of the 'foundational' agreement, thereby helping to address outside spoiler problems.* In Northern Ireland, continuous shuttle diplomacy as well as multiple rounds of proximity talks were necessary to reach the St-Andrew agreement, which brought the DUP in the agreement. In Burundi,

negotiations with different factions of the CNDD-FDD and the FNL were important in bringing these groups in the new institutions and preventing them from undermining the peace process. In Nepal, the informal platform of the NTTP and the inclusive nature of the Constituent Assembly made it possible to incrementally include splinter groups in the peace process.

- *Mediation in the implementation phase can help improve the relationship between the signatories to the agreement, thereby helping to address inside spoiler problems.* Track 1.5 programs aiming at improving the relationship between the parties played important socializing roles in Northern Ireland, Nepal and Burundi. Case studies suggest that while a sequenced integration of potential spoilers enables the broadening of a power-sharing coalition, it also risks creating inside spoilers. The newcomers, who did not participate in the peace talks and were not socialized in the same way as the other parties, might have difficulty making the compromises that are required by a power-sharing system. In Burundi, the CNDD-FDD was integrated in the institutions without participating in the Arusha process and without genuine commitment to sharing power.

- *Mediation in the implementation phase can help prevent the escalation of local disputes and build moderation amongst the population, thereby helping to address identity and political accountability problems.* In Burundi, local mediation and peace radio programs contributed to Hutu-Tutsi reconciliation. In Northern Ireland and Nepal, local mediation helped prevent the escalation of local disputes that could have undermined the peace process.

- *Mediation in the implementation phase can facilitate negotiations over unresolved issues, thereby helping the parties address credible commitment problems.* In Northern Ireland, the UK and the Republic of Ireland, Sen. George Mitchell supported progress on the implementation of the agreement by facilitating inter-party negotiations on unresolved issues. The independent commissions also facilitated the resolution of unresolved issues. In Burundi and South Africa, regional mediation helped address unresolved issues surrounding the leadership of the transitional period, the processes of SSR and the drafting of a Constitution. In Nepal, informal mediation by national observers facilitated progress on the issues of SSR, the choice of electoral system, and the constitution-building process.

# 5  Conclusion

This report has focused on how mediation affects the long-term performance of power-sharing agreements. It has analyzed case studies from Burundi (2000), Nepal (2006), Northern Ireland (1998), Bosnia (1995), Lebanon (1989), and Rwanda (1993).

In the reviewed cases, effective power-sharing resulted not from one, but from a series of agreements. Power-sharing can thus be conceived as process of continuous inter-elite bargaining. Mediation can enhance the ability of elites to successfully negotiate solutions to the problems that tend to emerge after the adoption of power-sharing agreements.

Two main conclusions can be drawn from the report.

First, specific features of the mediation process have an impact on the ability of elites to cooperate in the post-agreement phase. More specifically, the case studies suggested that elite cooperation is facilitated by mediation processes where:

- The impetus for sharing power is internal, rather than external;

- All relevant actors are included, rather than only moderates;

- Effort is extended towards building trust between the parties, rather than solely achieving an agreement;

- Citizens are informed and consulted;

- Provisions for the continuation of assisted negotiations in the implementation phase are included in the agreement.

Second, the report found that the continuation of mediation after the adoption of power-sharing agreements can enhance the ability of parties to successfully negotiate solutions to the problems that emerge in the post-agreement phase. In particular, the case studies suggested that:

- If external leverage was critical to achieving an agreement, third parties can prevent the re-emergence of balance of power problems by maintaining pressure on the parties;

- Post-agreement mediation can help address spoiler problems by facilitating negotiations to broaden the power-sharing coalition;

- Post-agreement mediation can help address inside spoiler problems by improving the relationships between the signatories and their commitment to peace;

- Post-agreement mediation can help address identity and political accountability problems by building popular support for the agreement;

- Post-agreement mediation can help address credible commitment problems by facilitating negotiations over unresolved issues.

This report is an initial exploration of the nexus between peace mediation and power-sharing. It suggests that more research is needed on the continuations of elite negotiations after the adoption of power-sharing agreements. It points to a number of areas for further research. First, an interesting area for further research is the impact of the modalities of inclusion in peace negotiations on the long-term ability of the parties to cooperate. Second, more research is needed on the role and design of implementation mechanisms such as review mechanisms, dispute resolution mechanisms, and international commissions in the process of implementation of power-sharing agreements. Finally, the report suggests that although most of the power-sharing literature has focused on elites, the ability of elites to cooperate depends in part on their constituencies. More research is therefore needed on the influence of citizens and post-conflict elections on the performance of power-sharing.

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# 7 List of Interviewees

### Burundi

1. Gervais Rufyikiri, Burundian politician (CNDD-FDD), Former President of Senate of Burundi (2005-2010) and second Vice-President of Burundi (2010-2015), Geneva, 26 June 2018.

2. Stef Vandeginste, Professor, University of Antwerp, Skype, 27 June 2018.

3. Filip Reyntjens, Emeritus Professor, University of Antwerp, Antwerp, 6 July 2018.

4. Frederic Bamvuginyumvira, Burundian politician (FRODEBU), Former first Vice-President (1998-2001), Antwerp, 6 July 2018.

5. Catherine Mabobori, Burundian Politician (UPRONA), member of the women's delegation in Arusha, member of Parliament (2001- 2010), senior advisor to the First Vice President of Burundi (2010-2014), Brussels, 9 July 2018.

6. Member of the mediation team in the Arusha process, Bern, 31 May 2018

7. Burundian Journalist.

### Nepal

8. Bishnu Sapkota, Founding Member of NTTP, Skype, 11 May 2018.

9. Bishnu Upreti, Research Director, Nepal Centre for Contemporary Research (NCCR), Skype, 18 May 2018.

10. Nicole Töpperwien, State Organization expert, Bern, 30 May 2018.

11. Günther Bächler, Ambassador, Former FDFA Peace Advisor in Nepal, Bern, 12 June 2018.

12. Markus Heiniger, Former FDFA Peace Advisor in Nepal, Zürich, 21 June 2018.

13. Vidyadhar Mallik, Former minister for federal affairs and local development (2013-2014) and peace secretary (2005-2006), Facilitator and Peace Advisor at NTTP-I, skype, 23 August 2018.

### Northern Ireland

14. Adrian Guelke, Emeritus Professor, Queen's University Belfast, Belfast, 23 May 2018.

15. Jennifer Todd, Professor, University College Dublin, Dublin, 25 May 2018.

16. Stephen Barr, Former Special Advisor to the UUP, Stormont, 23 May 2018.

17. Gerry Kelly, politician (Sinn Féin), negotiator in the peace talks, Member of the Northern Ireland Assembly since 1998, Junior Minister (2007-2011), Belfast, 24 May 2018.

18. Brendan McAllister, Senior Mediator, Former Director of Mediation Northern Ireland (1992-2008) Belfast, 24 May 2018.

19. Alex Attwood, politician (SDLP), Member of the policing board (2001-2007), Member of the Northern Ireland Assembly (1998-2017), Minister for social development (2010-2011), Minister for the Environment (2011-2013), Belfast, 24 May 2018.

20. John McGarry, Professor, Queen's University, Kingston, Skype, 13 June 2018.

# 8  About the Author and swisspeace

Alexandre Raffoul is Associate Researcher in swisspeace Mediation Program. His research focuses on power-sharing, ethnic conflict, peace mediation, and electoral processes. Alexandre previously worked at International IDEA. He holds an M.Sc. in International Studies from the University of Montreal, Canada, and a B.A. in Political Science from the University of Lausanne, Switzerland.

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