Autonomy, Self-governance and Conflict Resolution

Innovative approaches to institutional design in divided societies

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1 Self-determination and autonomy

A conceptual introduction

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Introduction

Autonomy is neither a new phenomenon, nor has it been understudied. However, up to the period of time when the post-Cold War transitions in Central, Eastern and South Eastern Europe were beginning, it appeared to be at best a highly unusual tool of state construction, or at worst a highly dangerous one. It was seen to be unusual, inasmuch as autonomy generally seemed to be attached to fairly obscure, historical examples, born out of very distinctive historical settings. Often autonomy regimes operated in remote or otherwise geographically unique locations, such as islands (for example, the Åland autonomy) or enclaves (for example, Klaipeda). These types of cases, it was widely believed, could not offer a great deal by way of guidance in less unique circumstances. Even the few new autonomies that were established after World War II, such as South Tyrol, were until recently taken to be too dependent on the special local conditions to be of wider interest. Similarly, the Soviet and other socialist autonomies were taken to be too deeply rooted in ideology, rather than genuine practice, to be of wider applicability.

Autonomy was also not given a great deal of consideration because the concept was, rightly or wrongly, associated with self-determination struggles. Outside of the colonial context, any self-determination discourse was viewed with great suspicion by governments, seeing it as a first step onto that slippery slope that inevitably leads towards irredentist or secessionist claims. Thus, autonomy was widely regarded as a somewhat dangerous concept that a state would only employ at its own peril.

Since the end of the Cold War, this climate has changed somewhat. In the transitional states of Central and Eastern Europe, the almost simultaneous breakdown of mechanisms of external (through the Warsaw Pact Organisation) and internal control (through dictatorial forms of government) led to the re-emergence of the so-called national minority question. In Georgia, Moldova, the new Russian Federation, and in relations between Armenia and Azerbaijan, the doctrine of territorial integrity was undermined by intense armed conflict. These conflicts, framed in the

rhetoric of self-determination, and the prospect (and subsequently the reality) of the dissolution of Yugoslavia added to the perceived threat to the principle of territorial integrity.

In response, autonomy was re-discovered as a potential remedy to self-determination claims. It was now no longer seen as the secessionists' stepping stone towards independence, but instead, in a 180-degree reversal of the previous position, autonomy was now considered as a possible tool in accommodating separatist movements without endangering the continued territorial integrity of an existing state. In 1990, the member states of the Conference on Security and Cooperation in Europe (CSCE), as it then was, were still cautious when noting

> the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.
> (Article 35 (2), 1990 Copenhagen Document of the Conference on the Human Dimension of the CSCE)

But by 1991, the governments of the member states of the European Community (EC) went further in endorsing autonomy as a means of addressing minority issues and ethnic conflict when establishing conditions for recognition of the new states of Central and Eastern Europe emerging from the dissolution of the Soviet Union, the separation of Czechoslovakia and the disintegration of Yugoslavia. In two declarations on European Political Cooperation, one addressing all of Central and Eastern Europe, the other pertaining to Yugoslavia, minority rights and, to a certain extent, autonomy for national minority groups was prescribed as part of the price that the states of that region might have to pay for diplomatic relations with the member states and institutions of the EC. This demand built upon the work of the EC Peace Conference on Yugoslavia. Through that conference, the EC member states attempted to achieve an agreed dissolution of the Socialist Federal Republic of Yugoslavia. Serbia was the only republic vigorously opposed to this approach. In an effort to address Serb concerns, two successive peace plans provided by Lord Carrington, the Chair of the Conference, offered autonomy arrangements for Serb communities living outside the boundaries of the Serbian Republic within the crumbling Socialist Federal Republic of Yugoslavia.

In the meantime, autonomy as a tool of state construction was of course being applied, discussed and analysed outside the context of the former Yugoslavia as well. Some states in Western Europe have embraced autonomy (or devolution) as a means of maintaining their territorial integrity.

In addition to the more established case of Belgium, Spain and the United Kingdom have also made startling progress in this direction. Even centralist France has attempted to move towards autonomy as a means of addressing the Corsica conflict. A number of innovative settlements have been adopted in relation to other areas of conflict or ethnic tension, some of which are principally autonomy-based, such as Gagauzia in the Republic of Moldova or Crimea in Ukraine. Autonomy structures also play a part in several new models of more complex forms of power-sharing that can be found in Northern Ireland, and further afield, in the framework agreement for Sudan and in Bougainville and Mindanao.

More widespread implementation of autonomy regimes as mechanisms to address self-determination conflicts have been complemented by an increased scholarly interest and output in this respect, with several significant scholarly works on autonomy published over the past decade.[1] In terms of standard-setting, the Organisation on Security and Cooperation in Europe (OSCE, the successor organisation of the CSCE) has also maintained an interest in the issue. Its *Lund Recommendations* provide perhaps the most comprehensive reference to autonomy as a means of good governance and state construction in an authoritative international document thus far. Moreover, the United Nations General Assembly has addressed itself to this – previously altogether too delicate – topic in the shape of the *Liechtenstein Initiative on Self-determination through Self-administration*, which seeks to offer autonomy as an alternative to secessionist self-determination claims. The United Nations Working Group on Minorities has also been cautiously addressing the issue of autonomy.

Thus, developments over the past decade and a half seem to indicate that there is renewed interest among scholars and practitioners to engage with the thorny issue of autonomy alongside an apparently increasing willingness among major actors in the international community to recommend, and where necessary impose, autonomy regimes on states that might otherwise collapse under the pressure of self-determination conflicts. Increasingly, autonomy is also made available in situations where a self-determination conflict has not yet fully developed. While self-determination conflicts are characterised by a claim to a unilateral change in status, in other instances, ethnic groups may merely be seeking a greater expression of their identity within the state. This can take the form of a claim to enhanced regional or local self-governance.

Taken together, these two trends make it now possible to consider autonomy as a means of state construction that does not always, and of necessity, have to raise the spectre of self-determination struggles and ultimate secession. Instead, autonomy is just seen as one element of state construction addressing the needs of diverse communities.

Accordingly, this book attempts to test the proposition that autonomy, including territorial autonomy, can substitute for self-determination discourse within states. Of course, we do not proceed from the simple

assumption that autonomy in itself will be a simple substitute for seces-
sionist tendencies. Instead, autonomy needs to be an element of well-
balanced constitutional design that matches the sense of regional
self-administration and identity with the strengthening of an interest
within the autonomous entity in the success of the overall state.

This introductory chapter outlines our core assumptions about the
nature and determinants of self-determination conflicts and campaigns
for enhanced self-governance. These are then linked to the different
models of state designs that are principally built around autonomy solu-
tions. The introduction first examines ethnicity and territory – two of the
key determinants of many self-determination conflicts or campaigns for
enhanced self-governance. While we are aware that not all such conflicts
are per se ethnic in their nature, most of them are, in one way or another,
conflicts between communities that distinguish themselves from one
another by 'ethnic' criteria, such as language, religion, culture, etc. Self-
determination conflicts and campaigns for enhanced self-governance will,
by definition, appear to focus on a struggle for control over territory. In
the more extreme manifestations, these can take the form of secessionist
and irredentist conflicts; they can also manifest themselves as, or be com-
bined with, a struggle for territorial control and/or 'ethnic purity',
leading to policies of ethnic cleansing. Thus, tensions or conflicts, and
their potential solutions covered in this volume, are characterised by the
politicisation of ethnicity and territory.

Ethnicity

An ethnic group is 'a type of cultural collectivity, one that emphasises the
role of myths of descent and historical memories, and that is recognised
by one or more cultural differences like religion, customs, language, or
institutions' (Smith 1991: 20). As a self-defined community, ethnic groups
are distinguishable by a collective name, a myth of common ancestry,
shared historical memories, one or more differentiating elements of
common culture, the association with a specific homeland, and a sense of
solidarity for significant sectors of the population (Smith 1991: 21).

Key to understanding the political implications of ethnic identity and
of the formation of conflict groups based on ethnicity is the link between
the tangible and intangible aspects of ethnic identity. Connor (1994: 104)
has noted that tangible characteristics are only important inasmuch as
they 'contribute to this notion or sense of a group's self-identity and
uniqueness'. In turn, then, a threat to, or opportunity for, these tangibles,
real or perceived, is considered as a threat to, or opportunity for, self-
identity and uniqueness. Confronting this threat or taking this opportun-
ity leads to ethnicity being politicised, that is, to the ethnic group
becoming a political actor by virtue of its shared ethnic identity. As such,
ethnic identity 'can be located on a spectrum between primordial historic

continuities and instrumental opportunistic adaptations' (Esman 1994: 15). However, it would be simplistic to regard ethnic groups per se as collectivities seeking to use their distinctiveness to enhance their status. Where an ethnic group is in a non-dominant position, such a desire primarily results from state pressure to assimilate an ethnic group, exploit its non-dominant role or perpetuate a status quo that is advantageous to a favoured group.

Viewed against this background, ethnic minorities make demands that reflect both the historic continuities and perceived contemporary opportunities (or necessities) (see Table 1.1). These claims are generally related to one or more of four closely intertwined areas (nature of the ethnic claim) – self-determination; linguistic, religious, and cultural rights; access to resources/equality of opportunity, and/or material and political aid in support of these other three claims. Ethnic minorities make these claims vis-à-vis their host-state or their host-nation, and/or, where applicable, their kin-state or kin-nation (addressee of the ethnic claim). In the absence of a kin-state willing or able to support an external minority, kin-groups in countries other than the kin-state or other external actors (international organisations, individual states) may be sought out and lobbied to assume this patron role.

Territory

Europe has one of the longest traditions of state-building and with it of the institutionalised definition of state territories. For states, territory possesses certain values in and of itself. These include natural resources, such as water, iron, coal, oil, or gas, they extend to the goods and services

Table 1.1 The nature and addressees of ethnic claims[2]

Nature of the ethnic claim	*Addressee of the ethnic claim*
Self-determination Internal External	*Host-state* Russians in Crimea Republicans and nationalists in Northern Ireland
Linguistic, religious, and/or cultural rights	*Host-state/Host-nation* Indigenous peoples in Latin America
Access to resources/equality of opportunity	*Host-state/Host-nation* Ethnic minorities in China
Material and/or political aid/support	*Kin-state* Serbs in Croatia and Bosnia *Kin-nation/other kin-group* Albanians in Macedonia *International actors* Kosovo Albanians

produced by the population living in this territory and the tax revenue generated from them, and they can comprise military or strategic advantages in terms of natural boundaries, access to the open sea, and control over transport routes and waterways. Even where there is no tangible value to be extracted from a given territory, most governments will nevertheless feel a historic duty to ensure the continued territorial integrity of the state they represent.[3]

Ethnic groups, too, may be connected to territory in intangible ways. Their territorial appurtenance may be a constitutive element of their identity. Territory is then conceptualised more appropriately as 'place', bearing significance in relation to the group's history, collective memories, and 'character'. The deep emotional attachment to territory that ethnic groups can develop and maintain can lead to intense conflict. Nevertheless, for ethnic groups, too, territory is, or can become, a valuable commodity as it provides resources and a potential power base in their bid to change an unacceptable status quo. In the case of minorities with a kin-state, a relationship is also established between host-state and kin-state, which shapes, and is in turn shaped by, the relationship each of the states has with the minority. In many cases, this state-state relationship is not so much one determined by the concepts of 'ethnicity' and 'nation', but rather one that is founded on the notion of 'territory', precisely because of the value territory has for states.

Disputed territories are, thus, a phenomenon of inter-state relations as well as of inter-ethnic relations, and similarly to ethnic claims, it is possible to distinguish between the nature and the level of the territorial claim (see Table 1.2).

Table 1.2 The nature and level of territorial claims

Nature of the territorial claim	Level of the territorial claim
Irredentist/secessionist	*Kin-state vs. host-state and minority vs. host-state* Northern Ireland pre-1998
Irredentist/non-secessionist/ autonomist	*Kin-state vs. host-state and minority vs. host-state* Germanic-speaking Alsatians in France, 1919–1939
Non-irredentist/secessionist	*Minority vs. host-state* Albanians in Kosovo
Non-irredentist/non-secessionist/ autonomist	*Minority vs. host-state* Germans in South Tyrol

Conflict and patronage: the role of state actors

In their attempts to preserve, express, and develop their distinct identities, ethnic groups may at times be mobilised in ways that make them perceive threats and opportunities and then devise their responses to them in a particular way. The more deeply felt these perceptions are, the more they will be linked to the very survival of the group and the more intense will be the conflict that they can potentially generate. This links the issue of ethnicity to the notion of political power. The political implication of this connection between ethnicity and power is that any ethnic group that is conscious of its uniqueness, and wishes to preserve it, is involved in a struggle for political power – either retaining the measure of political power it possesses or striving to acquire the amount of power that it deems necessary to preserve its identity as a distinct ethnic group, that is, to defeat the threats and seize the opportunities it faces. This desire to gain political power for an ethnic group is expressed in the concept of (ethno)nationalism; according to Smith (1991: 20) 'an ideological movement aiming to attain or maintain autonomy, unity and identity for a social group which is deemed to constitute a nation'.

When incompatible ethno-nationalist doctrines are at the centre of the relationship between minority and host-state, opportunity and threat acquire various, yet concretely identifiable, meanings, being either positively or negatively related to the preservation, expression, and development of a group's ethnic identity and to the ability of the host-state to preserve the integrity of the territorial or civic nation. For a minority, opportunities will manifest themselves, for example, in rights of self-administration or self-government, and they can be realised in local, regional, or federal frameworks within the host-state; alternatively, opportunities may also arise in the separation from the host-state, leading either to independent statehood or, where applicable, to unification with the kin-state. Threats generally occur when state institutions deny an ethnic group access to the resources that are essential for the preservation, expression, and development of a group's identity – access to linguistic, educational, or religious facilities as well as to positions of power in the institutions of the state. Threats can also become manifest in policies of unwanted assimilation, in discrimination, and in deprivation. At their most extreme, they take the form of ethnic cleansing and genocide.

It is in these most extreme cases that the relationship between minority and host-*state* coincides with that between minority and host-*nation*, that is, the titular or dominant ethnic group has monopolised all institutions of the state. Although recent European history has provided a number of examples of this kind, this is, nevertheless, not the rule. Yet, even in its less extreme forms, the relationship between minority and host-nation is often characterised by inter-ethnic tension, resulting from the politicisation and radicalisation of different ethnic identities and claims for the

establishment of conditions conducive to their preservation, expression, and development. Responses to such claims made by the respectively other ethnic group are then perceived as threats (which often, but not exclusively, result from resource competition) and/or opportunities (which often, but not exclusively, result from policies of accommodation).

Thus, ethnopolitical conflicts are best described as a form of conflict in which at least one of the parties involved interprets the conflict, its causes, and potential settlements along an existing or perceived discriminating ethnic divide and pursues policies related to one or more of the ethnic and territorial claims outlined above (either seeking to counter or to realise such claims). Such conflicts can thus either occur as group-state conflict, i.e., conflict between an ethnic group and the institutions of its host-state, or as inter-ethnic conflict, i.e., between different ethnic communities within the same state, e.g., between an ethnic minority and the titular nation of its host-state (or parts thereof). The two may, but need not, occur simultaneously or coincide. In addition, as ethnic conflicts are rooted in the perception of threats and the policies formulated to counter them, ethnic conflicts may also give rise to other forms of conflict within a country, for example, between host-nation and host-state – as a result of an actual or perceived 'over-accommodation' of the interests of an ethnic minority, which (sections of) the host-nation may regard as being detrimental to their own interests. This is very often, but not necessarily, the case where accommodation of minority interests is pursued territorially, yet the territory contains a significant portion of members of the host-nation as well.

The simultaneous occurrence of inter-ethnic and group-state conflict is another potential reason for conflict between host-state and host-nation. As inter-ethnic conflict threatens the social integrity of the host-state, actions of the host-nation may be perceived as one source of this threat and be countered accordingly by the host-state. This, in turn, can be perceived by the host-nation, or at least by some sections within it, as denying an opportunity to defend, or establish, conditions conducive to the preservation, expression, and development of its own ethnic identity.[4] Table 1.3 gives an overview of the different types of threat (perceptions) that can become sources of ethnically based self-determination conflicts.

A somewhat different pattern of relationships emerges in cases where a minority has a kin-state. Here, the relationship between the two is based on common ethnicity and a territorially divided ethnic nation, and is, therefore, normally not one of ethnic conflict, but rather one of patronage. Patronage results from one of two aspects, and often from a combination of both – national sentiment and national interest. Popular sentiment concerning the fate of members of the nation living in another state and the desire to unite the national territory and bring together in it all the members of the ethnic nation finds its expression in irredentist or pan-nationalism (Smith 1991: 83). Yet, as national sentiment is not always

Table 1.3 Perceived threats as sources of ethnopolitical conflicts in the host-state

Threats allegedly originating from	*Threats perceived by*		
	Minority	*Host-state*	*Host-nation*
Minority	–	Territorial integrity Societal integrity	Competition for resources deemed essential for the preservation, expression, and development of ethnic identity[5]
Host-state	Unwanted assimilation Discrimination Deprivation	–	'Over-accommodation' of minority interests
Host-nation	Competition for resources deemed essential for the preservation, expression, and development of ethnic identity[5]	Societal integrity	–

expressed in irredentist nationalism, so is the relationship between minority and kin-state not always about the secession of the territory inhabited by the kin-group and its subsequent unification with the kin-state. Informed by domestic and foreign national interests, territorial unification may not be considered desirable for either kin-state or minority, or it may not be possible given geo-political or regional interest and opportunity structures.[6] Alternatively then, the relationship between minority and kin-state can be one of 'repatriation', as with the Federal Republic of Germany and German minorities in Central and Eastern Europe in the post-1950, and especially the post-1989, period, or it can be one of facilitating the establishment of conditions in the host-state conducive to the preservation, expression, and development of the ethnic identity of the kin-groups in this state. With varying degrees of success, the numerous bilateral treaties concluded between the states of Central and Eastern Europe after 1989 testify to this.

A conflictual relationship between minority and kin-state is then likely to develop when their respective political agendas are mutually incompatible. This can be the case if the irredentist nationalism of the kin-state is not reciprocated by the minority, or by sections within it. Conflict is also possible between the minority and its kin-nation, for example in cases where certain interest groups or political parties pursue an agenda that threatens the status and security of the minority in the host-state.[7] Vice

versa, a conflictual relationship develops if the 'secessionism' of the kin-group is not welcomed by the kin-state, or when some of its manifestations are perceived as a threat to the kin-state's security and relationship with the host-state. Here the classic examples are the cases of South Tyrol, whose secessionism throughout most of the inter-war period was 'inconvenient' for both Austria and Nazi Germany, and of Northern Ireland, where, despite a formal constitutional commitment to 'irredentism' that existed in the form of Articles 2 and 3 of the Irish Constitution before 1998, violent Republicanism has always been perceived as a threat to the Republic of Ireland. Yet these two cases also show that, given a responsive host-state, a non-irredentist kin-state can have a significant effect of moderation on the policies pursued by its ethnic kin-group abroad (cf. Wolff 2002).

In the absence of kin-states or in cases where they are unwilling or unable to support a self-determination movement among a kin-group abroad, minority communities have increasingly taken recourse to appealing to other actors in the international arena, including states and coalitions of states, international governmental and non-governmental organisations and ethnically akin diaspora groups in third countries. Enabled by powerful transnational networks, media interest and coverage, as well as by an increasingly global and globalised discourse on human and minority rights, self-determination movements among disadvantaged and suppressed minority groups have often, but by no means always, managed to attract international attention and support. While states will generally join together in opposing secession anywhere, humanitarian suffering and regional instability that has resulted from secessionist conflicts have generated international involvement and pressure for a settlement, although generally within previously existing state boundaries. Exceptions are cases where secession had occurred and could no longer be reversed, as happened when the Socialist Federal Republic of Yugoslavia imploded. At times, external actors have chosen to involve themselves in particular self-determination conflicts due to their own geostrategic considerations. Hence, while vigorously opposing Chechnya's secession, Russia has at the same time offered support to separatist campaigns in South Ossetia and Abkhazia and in Transdnistria. While international responses have been varied, international involvement in such conflicts certainly introduces an additional layer of complexity. International actors' interests, combined with the resources and skills they have at their disposal, can easily overwhelm the more immediate parties to any self-determination conflict. Temporarily suspending their full ability to act through strategic and tactical incentives and pressures can produce settlements, but if these are unable to command significant support among local elites and their constituencies, they can only be sustained through long-term international involvement (such as currently in the Balkans and Afghanistan) or will sooner or later face collapse (such as in Cyprus in the 1960s). This, too, is

an important lesson to be borne in mind when discussing the viability of autonomy regimes for the settlement of self-determination conflicts.

In summary, then, through the multiple connections between territory and ethnicity, ethnic and territorial claims are often closely linked. Moreover, through the various ethnic and territorial claims, minority/self-determination movements, kin-state/nation (where they exist), host-state, and host-nation are likewise connected. As the character and intensity of these claims change over time, so does the relationship between all of these potential conflict parties. In the current international environment they are also more likely than not to find themselves acting within a context in which third-party external actors become involved in their particular self-determination conflict, bringing with them an additional and very specific agenda of their own and often fundamentally altering the opportunity structures for the more immediate conflict parties.

Defining autonomy

In a recent book on conflict in the Caucasus, Tim Potier (2001: 54) has noted that

> international lawyers have failed to come to any agreement on a 'stable' workable definition for autonomy . . . it escapes definition because it is impossible to concretise its scope. It is a loose and disparate concept that contains many threads, but no single strand.

In political science, too, the difficulty to pin down and conceptualise autonomy has been recognised: two of the most eminent scholars in the field, Brendan O'Leary and John McGarry, observed in 1993:

> Overlapping cantonisation and federalisation there exists a grey area of territorial management of ethnic differences which is often found in conjunction with external arbitration. International agreements between states can entrench the territorial autonomy of certain ethnic communities, even though the 'host state' does not generally organise itself along either cantonist or federalist principles.
>
> (McGarry and O'Leary 1993: 32)

Despite this appreciation of the difficulty to define clearly what autonomy is, political scientists and international lawyers have not hesitated to propose a variety of definitions. Michael Hechter (2000: 114) describes 'political autonomy' as 'a state of affairs falling short of sovereignty'. In Ted Robert Gurr's (1993: 292) understanding 'autonomy means that a minority has a collective power base, usually a regional one, in a plural society'. Hurst Hannum and Richard Lillich (1980: 859) state in their influential essay on 'The Concept of Autonomy in International Law' that

autonomy is understood to refer to independence of action on the
internal or domestic level, as foreign affairs and defence normally are
in the hands of the central or national government, but occasionally
power to conclude international agreements concerning cultural or
economic matters also may reside with the autonomous entity.

In similar terms, Tim Potier (2001: 54) makes the point that autonomy

should be understood as the means whereby an authority, subject to
another superior authority, has the opportunity to determine, sepa-
rately from that authority, specific functions entrusted upon it, by that
authority, for the general welfare of those to whom it is responsible.

In her extensive study on autonomy, Ruth Lapidoth draws a clear distinc-
tion between 'territorial political autonomy' and 'personal autonomy'.[8] To
her,

[t]erritorial autonomy is an arrangement aimed at granting a certain
degree of self-identification to a group that differs from the majority
of the population in the state, and yet constitutes the majority in a
specific region. Autonomy involves a division of powers between the
central authorities and the autonomous entity.

(Lapidoth 1997: 174–175)

In contrast to this territorial conception,

[p]ersonal autonomy applies to all members of a certain group within
the state, irrespective of their place of residence. It is the right to pre-
serve and promote the religious, linguistic, and cultural character of
the group through institutions established by itself.

(Lapidoth 1997: 175)

Regardless of the scope and detail of the above definitions, the one
feature they all share, directly or indirectly, is the transfer of certain
powers from a central government to that of the (thereby created)
autonomous entity. In practice, autonomy arrangements incorporate
executive, legislative, and judicial powers to varying degrees. In cases
where it is used as an instrument for ethnic conflict prevention and settle-
ment, autonomy ideally includes such a mix of the three that enables the
ethnic group in question to regulate independently the affairs central to
the concerns of its members, which are normally easily identifiable as they
manifest themselves in concrete claims. However, as autonomy falls short
of full sovereignty, this normally happens within the broader constitu-
tional and legislative framework of the minority's host country and under
the supervision of a central government or similar agencies ensuring the

compliance of all actions of the autonomous institutions with the regulations set up for the execution of the autonomy. However, as Daftary (2000: 5) rightly asserts, autonomy means that

> powers are not merely delegated but transferred; they may thus not be revoked without consulting with the autonomous entity . . . the central government may only interfere with the acts of the autonomous entity in extreme cases (for example when national security is threatened or its powers have been exceeded).

Thus, for the purpose of this volume, we define autonomy as the legally entrenched power of ethnic or territorial communities to exercise public policy functions (legislative, executive and adjudicative) independently of other sources of authority in the state, but subject to the overall legal order of the state. Autonomy as a strategy of preventing and settling ethnic conflict, thus, is based on the recognition of group-specific concerns[9] alongside and on par with concerns of individuals (independent of their ethnic identity) and the state. It is equally based on accepting that, for whatever reasons, to endow an ethnic group with legislative, executive, and judicial powers to address these concerns effectively will contribute to individual, group, and state security, and thus to preventing the disruption of the territorial and/or social integrity of a given country.

Depending on settlement patterns of ethnic groups, it is necessary to clarify what the territorial dimensions of the autonomy regulations are in the framework of which these group-specific concerns are to be addressed. The more compact the ethnic group and the more 'its' territory is exclusively populated by its members, the less problematic is a territorial administration of autonomy. On the other hand, an ethnic group which lives dispersed across the territory of its host-state and which does not have a particular area of settlement (in a historical and/or contemporary sense) represents an ideal case for a non-territorial autonomy arrangement. Although these ideal types are only rarely to be found, we use them initially to explore the concepts of territorial and non-territorial autonomy.

Territorial autonomy

The basic idea underlying this particular concept of autonomy is that the autonomous entity is defined in territorial terms. Thus, a population living in a certain territory is granted an autonomous status regardless of whether the individuals living on this territory belong to one or another ethnic group.

Territorial autonomy can be implemented to various degrees, from so-called administrative autonomy to full self-government. Administrative autonomy most commonly describes an arrangement of executive

independence within the framework of central legislation, thus, the
autonomous territory does not have its own legislature or judicial system.
Full self-government, on the other hand, incorporates the right for the
population of the designated autonomous territory to elect its own legis-
lature, it endows them with the authority to take charge of all executive
and administrative functions usually provided by central state institutions
except in the areas of foreign and defence policy and in relation to the
broad framework of economic and monetary policy, and also grants
significant judicial powers to the autonomous entity. While various forms
of administrative territorial autonomy can be found in connection with
decentralised (or regionalised) forms of the institutional organisation of a
state along the principle of subsidiarity, such as, for example, in Italy, full
self-government resembles more closely federal arrangements, such as in
Germany. Regardless of the degree of autonomy granted to the specific
territory, the country's overall constitutional framework will be preserved,
and the autonomous territory will remain an integral part of that country.

However, this continued integration cannot be assured through legis-
lative measures alone. The population of the autonomous territory and
their representatives must be incentivised to want to remain part of the
larger polity. This can be assured, for example, by adequate representa-
tion of the autonomous entity at the central level, constitutionally guaran-
teed procedures for the resolution of disputes between autonomous entity
and central government, and mechanisms that ensure the protection of
the human rights of all residents in the autonomous territory, regardless
of their ethnic identity, including a right to appeal to judicial institutions
at the central level.

Likewise, access to education, particularly specialised and higher educa-
tion, should be guaranteed for residents of the autonomous area in other
parts of the country and abroad. Especially if the autonomous territory is
relatively small, without its own colleges or universities, the provision of
education in other parts of the country can play a vital role in fostering a
sense of social integrity of the country as a whole despite the autonomous
status of a particular part of its territory.

Equally important in this context is the nature and intensity of eco-
nomic and financial ties between autonomous territory and other parts of
the whole country. This includes a proper structure of the autonomous
area's public finances, consisting of central government grants for the
provision of all services in relation to devolved powers and independent
sources of revenue. In addition, the autonomous territory should receive a
fair share of central government investment in public services and infra-
structure. Through a combination of political, social, and economic ties,
relationships can be solidified between the autonomous area and the rest
of the country which are mutually beneficial and the preservation of
which is therefore desirable from the perspective of all entities involved.

As a specific arrangement for clearly demarcated parts of a state's terri-

tory, territorial autonomy need not affect the general institutional organisation of a state. Depending on the respective state's ethnic composition, special autonomy status can, for example, be granted to one or more areas within a framework of regionalisation in an otherwise unitary state, such as in South Tyrol (Italy) or Corsica (France).

Non-territorial autonomy

Non-territorial autonomy means that the autonomous entity is defined in 'personal' terms, that is, a particular (ethnic) group is granted autonomy rights and all its members can enjoy these rights, regardless of where they live on the territory of their host-state.

Early implementations of non-territorial autonomy related primarily to cultural and/or religious affairs of distinct groups. In the Middle Ages and in early modern times, Jews were granted, by some European rulers, the right to administer their community affairs according to their own laws and traditions. Similarly, the Ottoman Empire adopted the so-called millet system, according to which non-Muslim communities enjoyed some degree of religious and cultural autonomy. In this century, the Baltic states of Latvia, Lithuania, and Estonia ensured a certain degree of cultural, and in particular educational, autonomy for national minorities in their post-1919 constitutions. After the collapse of the eastern bloc, some of these provisions were re-enacted, and Hungary's legal framework provides for a far-reaching protection of ethnic minorities on the basis of non-territorial autonomy regulations. A very complex consociational arrangement including a form of cultural non-territorial autonomy has been in place in South Tyrol since 1972.

The concept of non-territorial autonomy itself has been developed systematically in political theory since the mid-nineteenth century, especially in Austria.[10] Later on, in the early twentieth century, it was taken up again by the Austro-Marxists Karl Renner (1902 and 1918) and Otto Bauer (1923 and 1924). After World War II, it has played a significant role in consociational theory, which is primarily associated with the work of Arend Lijphart (especially 1968 and 1977). Throughout the post-Cold War period, too, constitutional theorists (Lijphart 1995) and practitioners[11] have seen non-territorial autonomy as an instrument to deal with the cultural dimension of ethnic conflict, that is with matters of education, language, and religion.

Despite this narrowing down of the concept of non-territorial autonomy, there is no need to conceive of it as being in principle confined to cultural and educational matters only. Especially in mixed areas with high levels of inter-ethnic tension, the transfer to the ethnic groups of powers outside these two areas can facilitate the easing of tensions because groups can administer their affairs more independently of one another and power differentials, real or perceived, will have a lesser impact.

Autonomy in combination with other tools of state construction

As was noted above, autonomy solutions to ethnopolitical tensions need to offer sufficient space to non-dominant groups to experience genuine self-governance, without jeopardising the integrity of the state. With respect to the diverse ethnic and territorial claims that occur in ethnic conflicts, this means that autonomy and self-governance regimes can only make a posit-ive contribution to peace and stability where alternatives to preserving the territorial integrity of a given state do not exist. In other words, there must not be an external territorial claim (e.g., by a neighbouring or kin-state) and host-state and minority (or minorities) must be able to compromise on their various ethnic and territorial claims in such a way that territorial autonomy and/or self-governance provide both the space for genuine self-governance and the framework within which the overall state's territorial integrity can be preserved.

These two purposes of autonomy regimes, then, need to be accommo-dated within the autonomy regulations from both an institutional and a procedural point of view. Autonomy regulations need to provide for social-structural conditions that ensure the necessary degree of political homogeneity – an institutional consensus about the political process in the autonomous area in which all ethnic groups living there have a stake – while at the same time affording each ethnic group enough independ-ence to address the specific concerns of its own members within an overall framework that includes mechanisms for dispute resolution in cases where accommodating one group's concerns has the potential to disadvantage unduly another group. Territorial autonomy regulations alone are very unlikely to achieve this. If the ethnic minority at the centre of the (potential or actual) conflict is in an absolute minority position, i.e., even in a minority within the autonomous area, it will see few if any of its concerns addressed by a devolution of powers to an entity which somehow just replicates its (numerically and otherwise) disadvantageous position. If this particular ethnic minority, however, is in the position of a local majority, territorial autonomy arrangements will inevitably raise fears among other ethnic groups in the autonomous territory about their future status. Hence, additional mechanisms, such as human rights provi-sions and local power-sharing tools, need to be employed in such circum-stances. Where such provisions are not sufficient, territorial autonomy may not be the solution of choice and instead other means of giving expression to the collective identity of the relevant group may need to be considered.

Before competences in specific policy areas can be devolved to non-territorial authorities with any chance of success, a more general frame-work of inter-ethnic relations needs to be established within which autonomy regulations can be negotiated and administered, and possible

disputes settled. Three essential pre-conditions for such a framework in which territorial and non-territorial autonomy institutions can co-exist are:

- The preparedness of all ethnic groups to grant the respective other(s) the same degree of non-territorial autonomy as they desire for themselves;
- The acceptance of such a framework as a mutually beneficial and conflict-preventing set-up;
- The willingness to make concessions and to settle for compromises in the process of negotiating and administering the institutional arrangement of autonomy. Since the setting of most ethnic conflicts is a minority-majority situation, this must include an acceptance that simple democratic procedures of majority decision-making will not be sufficient as safeguards to prevent (a renewed) escalation of the conflict.

In a case of the ethnic minority at the centre of the conflict constituting a local majority, a classical consociational arrangement based on the four principles developed by Lijphart (1977) – grand coalition, (cultural) segmental (or non-territorial) autonomy, proportionality, and minority veto – is feasible. An absolute minority, however, will hardly be satisfied with such an arrangement. Similarly unsatisfying in such cases will be integrative solutions, as suggested by Horowitz (1985), which rely on incentives for cooperation across ethnic cleavages, in particular through voting systems that encourage pre-election inter-ethnic coalitions. Potential areas of conflict would then become de-ethnicised prior to their handling by traditional democratic institutions. The implication of this, however, is that issues that cannot be de-ethnicised, and these are usually the crucial ones, would then be decided on a majority-minority basis, which is not desirable from the point of view of the minority ethnic group in any given case.

By maintaining the ethnic alignment of society and combining it with certain consociational techniques, the consociational model stands a better chance to address the issue of distributing political power between the ethnic groups in the autonomous area. However, the functioning of this model depends very much on the homogeneity of each ethnic group, its political discipline, the degree of control respective elites exercise over their groups, and the numerical balance between them. Ideally, ethnic groups would have to have a highly homogeneous interest structure, be politically disciplined, and of similar numerical strength (Lijphart 1977).

In less ideal cases, much depends on the extent of non-territorial political powers, that is, on the degree of group autonomy. Non-territorial competences, in practice as well as in consociational theory, usually encompass only cultural matters. Because the ethnic minority at the

centre of the conflict would exercise a greater degree of legislative political power on the basis of its numerical superiority at the territorial level of autonomy, cultural non-territorial autonomy is normally sufficient as an instrument to address the conflict at the level of non-territorial autonomy.

However, this is not the case in mixed areas which include an absolute minority. Here, non-territorial competences must extend to more political issues as well.[12] This would serve the following purposes: each ethnic group would achieve greater political control over its own fate; the limitation of traditional democratic principles owed to consociational techniques at the territorial level could be compensated at non-territorial level; the whole system would be less dependent on group homogeneity and discipline; elite dominance of their respective groups could be minimised; intra-ethnic elite competition could exist at non-territorial level and would not endanger the functioning of the consociational model at territorial level; the possible dominance of one ethnic group would have limited effects, and de-ethnicisation of critical issues would not be necessary.

Additional arrangements would have to be made in cases of kin-state involvement. Here, it might be useful to equip the minority group and/or the autonomous territory as a whole with a limited amount of 'foreign policy' powers in order to establish and maintain meaningful relationships with its kin-state and nation.[13] If, as presumed earlier, this happens on the pretext that territorial claims at the international level have been settled, i.e., withdrawn by the kin-state, there will be no danger of abusing such an arrangement in order to undermine the territorial and social integrity of the host-state.

However, there are two criticisms which can be levelled against such a model: first, that it would, even more than the traditional consociational concept with only cultural non-territorial autonomy, reinforce the ethnic divide between the groups, and, second, that it does not include a guarantee for inter-ethnic cooperation at territorial level, which would still remain an essential condition for the overall successful execution of the autonomy, and thus for the prevention or settlement of the ethnic conflict in question.

Our answer to the first criticism is that continued ethnic segmentation does not necessarily imply an increased likelihood of conflict. A clear (functional, as opposed to enforced physical) separation between groups that does not have any discriminating aspects to it might, in cases of deeply divided yet mixed areas, rather facilitate de-escalation and prevention and/or settlement of a conflict as it would decrease the number of potentially conflictual issues handled by both groups together.

A possible solution for the second criticism – missing guarantees for inter-ethnic cooperation at territorial level – may be found in the adoption of specific parliamentary election (various types of proportional or preferential election systems) and voting (qualified majority voting and/or parallel consent mechanisms) procedures.

Institutional designs for the settlement of self-determination conflicts: theory and practice

The contributions in this volume seek to identify innovative and complex autonomy designs, reflecting the increased interest in autonomy as a possible solution to ethnopolitical conflict.

'Self-Governance plus Regional Integration: A Possible Solution to Self-determination Claims' is the title of Wolfgang Danspeckgruber's chapter, in which he argues that in order to surmount the insistence, on the part of a community seeking self-determination, on full sovereignty and independence (with its negative consequences for conflict development and settlement), the community and its leadership should be offered maximum autonomy and the largest possible freedom to participate in the global marketplace. In practice, this would encompass independence in all internal matters, encompassing religious, cultural, educational, even fiscal, local security, and judicial autonomy. Parallel to this extensive self-governance, an incentive for trans-border inter-regional cooperation and integration should be launched. Over time such integration on a regional as well as international scale, and among self-governing communities in sovereign entities with their traditional boundaries intact, would most certainly enhance local, cross-border cooperation and eventually erode the hardness of the separating international boundaries – both in practice and in perception.

Marc Weller considers recent constitutional settlements in the former Yugoslavia and assesses the relative role assigned to autonomy in them. He establishes an analytical framework to classify different approaches to territorially based self-government and concludes that autonomy elements are less pronounced in the more advanced settlements that followed the Dayton Accords. Weller also emphasises that a far more subtle approach to autonomy is adopted in the more recent settlements and identifies the ways in which autonomy arrangements are balanced by other elements of state construction. In this way, he makes an attempt at resolving the purported tension between autonomy-based and consociational solutions and instead proposes an integrated approach which also covers human and minority rights and elements of international involvement in self-determination settlements.

Using the conceptual framework developed by the editors in Chapter 1, Bill Bowring explores the many legal and political problems which beset the Autonomous Republic of Crimea. As he points out, apart from the constitutional anomaly of being an autonomous area located within a unitary state, it also contains a double, or even triple, minority problem of textbook complexity: the majority population of the peninsula are ethnic Russians, who are a minority in Ukraine; the Ukrainian titular nation are a small, almost invisible minority in the Crimea; and the Crimean Tatars, who claim Crimea as their homeland, are, although highly visible and

asserting their status as indigenous people, a minority in the Crimea as well. Despite the need to resolve these problems, which were at times exacerbated by Russian irredentism, no realistic or lasting solutions have been put in place. Employing legal concepts such as the right of peoples to self-determination, minority and language rights regimes as proposed by the Council of Europe and the OSCE, and the rights of indigenous peoples, and drawing on the theory of nationalism, Bowring offers a thorough and compelling examination of the merits of proposals for multicultural citizenship, as well as non-territorial autonomy for Crimea.

Elisabeth Nauclér then explores the experiences of the three Nordic autonomous territories (Åland, Greenland and the Faroe Islands) in two areas of international cooperation, Nordic and continental European. The Nordic Council and Nordic Council of Ministers are forerunners in international cooperation regarding the representation of autonomous territories, while the European Union shows no signs of preparedness for accepting members that are not sovereign states. All three territories have the same representation in the framework of Nordic cooperation, but have experienced very different treatments in the European Union. This raises important issues on a conceptual and practical level for the design and operation of autonomy regimes within and beyond the European context, in particular with regard to new challenges and opportunities for autonomy to live up to its promise to resolve ethnopolitical conflicts or tensions.

One distinctive feature of many recent applications of autonomy regimes to resolve complex self-determination conflicts has been their combination with various other forms of conflict management. In Western Europe, the predominant trend in this context has been the creation of power-sharing institutions within a territorially autonomous region to ensure that devolved powers are not abused by local majorities to the detriment of local minorities, thus providing a double mechanism of conflict resolution and minority protection. Examining the cases of Brussels, Northern Ireland and South Tyrol, Stefan Wolff in his chapter focuses on the factors that make such an approach viable and assesses which conditions need to be in place to ensure the long-term stability of such arrangements.

While a major humanitarian crisis evolved in the western Sudanese region of Darfur in the summer of 2004, the government in Khartoum and a southern-based rebel group concluded a two-year negotiation process that began with the signing of the Machakos Protocol on 20 July 2002 and provisionally ended with the agreement on the Naivasha Protocols on 27 May 2004. Hailed as a major breakthrough in a civil war that had been ongoing since the late 1950s, the conflict parties had negotiated a comprehensive, albeit in many parts still vague, framework for an interim settlement. As Marc Weller points out in his analysis, this framework is the best opportunity to date to allow the conflict parties to test

whether autonomy is a viable institutional modus vivendi in which they can settle their differences by political and peaceful means. Weller draws particular attention to the fact that, rather than being arrangements for a mere transitional period on the way towards independent statehood for the South, the settlement commits both parties to use their best efforts to make the agreement work and autonomy an attractive and long-term option to the people in the South on which they will be able to decide in a referendum at the end of the interim period.

The case of Sudan indicates that autonomy arrangements are not the exclusive provenance on European conflict settlements. Beyond Europe, they also extend into other parts of the world, as the remaining chapters on Latin America, Indonesia, and China of our volume show. In his comparative analysis of autonomy regimes in Latin America, Willem Assies examines how, and with what consequences, indigenous peoples' movements have become important social and political actors in a significant number of Latin American countries over the past decades. The dialectics between the identity politics practiced by the movements and the politics of recognition that have been adopted by the states have contributed to the dynamism of what has been called the 'ethnic emergence'. The subsequent recognition of indigenous peoples' rights has prompted a number of states to acknowledge collective rights and implement autonomy regimes that combine territoriality with proper forms of self-governance. The success of indigenous peoples' movements has also prompted them to go beyond their initial demands for compensation for historical grievances to forge new alliances and to articulate new visions of the state and the nation. In this way indigenous peoples' demands and responses to these demands have become important elements in the ongoing processes of transformation of the Latin American states that got under way in the context of the democratisation processes and the processes of structural adjustment and adaptation to, or insertion into, the globalised world. These processes have opened up new opportunities and posed new threats. Democratisation and adjustment often go together with decentralisation policies that open up or broaden sub-national political arenas, which offer new opportunities for political participation. At the same time, the insertion into the globalised economy often involves the intensification of national and transnational economic activity in hitherto 'marginal' regions, where indigenous peoples until now found refuge. As the implementation of autonomy does not imply separatism or isolationism but is conceived as a basic condition for participating in the wider polity, the emergence of autonomy regimes has consequently involved a strengthening of subnational processes as well as of supranational integration. The emergence of so-called 'network states' thus has profound implications for the current model of the 'nation-state' and the concepts of self-determination, citizenship, democracy, human rights and development predicated upon it.

Decentralisation, devolution and regional autonomy in Indonesia are the topic of Mark Turner's comparative analysis. Indonesia, the most populous Muslim state on earth, has engaged in what could be called the devolutionary form of decentralisation, but which is officially referred to in Indonesia as 'otonomi daerah' (regional autonomy). As a particular form of state construction based in the vertical layering of authority, it has no primary basis in ethnicity – the autonomous regions (districts and provinces) are simply those territorial divisions which already existed – and there have only been very few modifications since the autonomy laws were implemented, i.e., a large number of functions were devolved to the regions. However, there are two provinces for which special autonomy provisions are being applied – Aceh and West Papua. Focusing its analysis on these regions in particular, and comparing them with the rest of the country, this chapter examines the contribution that autonomy can make to the settlement of violent secessionist conflict while at the same time providing a broader view on the Indonesian experience with decentralisation, devolution and autonomy.

Mainly from a legal perspective, Eric Friberg assesses autonomy arrangements in China, considering the 2001 amendments to the 1984 Law on Regional Ethnic Autonomy and recent local institutional developments. He argues that the constitutionally protected, yet limited and ambiguous, powers granted under this law continue to be inadequately safeguarded in the current institutional landscape: weak legal language in the statutory texts, the lack of adequate dispute resolution mechanisms and the existence of multiple horizontal and vertical 'ladder of approval' procedures contribute to the limited differences in the degree of local self-governance enjoyed by autonomous and non-autonomous areas. Recent trends in local institutional developments in China, including increasing, yet limited, downwards accountability through the strengthening of local representative 'legislative' bodies, and experiments of multi-candidate elections at local levels, however, can encourage local agency to put real content in the existing autonomy provisions, particularly at the county level. In this context, the author stresses the necessity for institutional structures in order to achieve any effective autonomy arrangement in China and emphasises that with a central government that has begun to allow more divergence in local practices, this trend could, over time, demonstrate to the Chinese leadership that enhanced local self-government *promotes* rather than *challenges* national unity and could go some way to meeting the increasingly 'internal' self-determination demands in China.

Finally, Marc Weller and Stefan Wolff re-examine current theory and practice of the resolution of self-determination conflicts through autonomy and thereby offer a comprehensive assessment of the present and future of institutional design approaches to resolving self-determination conflicts. They summarise the findings on complex autonomy regimes

and their different components, such as international mediation and monitoring, cross-border institutions, supranational integration and power-sharing, as well as the way in which these are linked. Drawing on the volume's individual contributions, Weller and Wolff compare and evaluate the origins, morphology and prospects of stability of autonomy regimes for resolving self-determination conflicts.

Notes

1 This was led by the groundbreaking survey by Hannum (1990) and accompanying documents (1993).
2 Examples in this or any of the following tables are neither exhaustive, nor does the mentioning of a particular case in one category mean that it could not also be used as an example in another one.
3 In a recent article, Barbara Walter (2003) provided evidence that reputation building in the face of a potential multitude of territorial claims vis-à-vis a beleaguered central state may be a decisive factor determining a state's response to territorial demands by one group.
4 A good western European example for this is the marching season in Northern Ireland: Some of the most contentious parades have been banned or re-routed over the past several years to avoid violent clashes between the two communities; yet this often resulted in violent protests by Loyalists not only against the Nationalist/Republican community, but also against the British authorities.
5 Threats perceived by minorities comprise all of the features in both boxes. Depending on the specificity of the situation it is not always possible for the minority (or the outside observer) to determine the source of the threat with absolute accuracy. In particular, in situations where the host-nation has complete control over the institutions of the state and uses them against the minority, distinctions between host-state and host-nation are blurred, and to some extent even irrelevant.
6 On various occasions, Horowitz has emphasised the variety of factors that make successful, or even desirable, irredentas very unlikely. Cf. especially, Horowitz (1985: 229–288), and shorter, Horowitz (1991).
7 Political representatives of ethnic German expellees from Poland and Czechoslovakia have frequently demanded restitution of properties and the right to return to their former homelands. These demands have been rejected by the German minorities in the two countries (as well as the Polish, Czech and German governments) as counter-productive to reconciliation and the demands of the minorities for cultural and linguistic rights.
8 This distinction is made by a number of scholars, including Heintze (1997: 37–46), Hechter (2000: 72ff.) and Potier (2001: 55f. and 59f.)
9 Heintze (1997: 34) notes in this context (my translation): 'The legal subject of autonomy always has to be a group. The granting of autonomy thus requires both the recognition of the group as a minority or ethnic group and the acceptance of collective rights.'
10 To my knowledge, the first comprehensive analysis in this context is Frischhof (1869).
11 Estonia's and Hungary's constitutions and specific minority legislation provide good examples.
12 This should include tax raising and collecting powers for the autonomous institutions of each group from within its own community in order to secure a higher degree of financial independence as compared to a situation in which

central institutions at territorial or national level have exclusive tax authority and fund non-territorial autonomy bodies through fund allocation. The allocation of state grants would have to remain a source of income for both territorial and non-territorial autonomy institutions in the framework of decentralisation.

13 In recent years, developments within the European Union have led to regions being entitled to sign cross-border agreements with other regions in member-states of the European Union. Also, the 1993 constitution of Belgium has transferred significant foreign policy powers to the parliaments and governments of the country's three constituent national groups (Flemings, Walloons, and Germans). This indicates that there are ways in which autonomous entities can exercise a certain degree of foreign policy competence falling just short of a full confederal arrangement.

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