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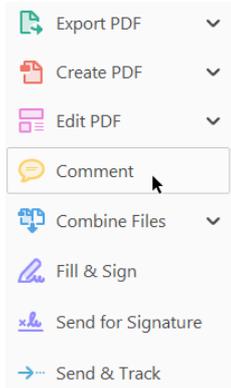
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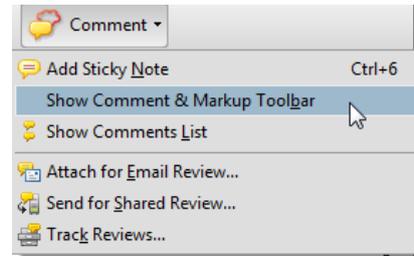
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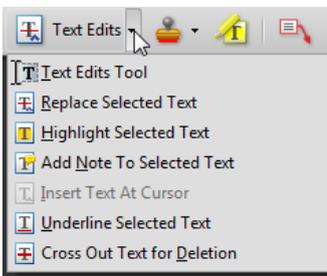


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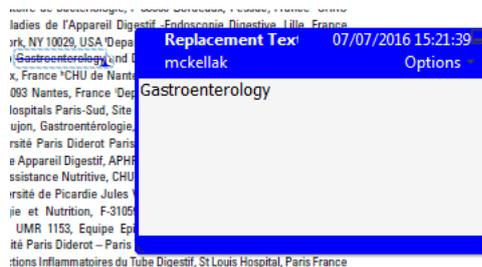
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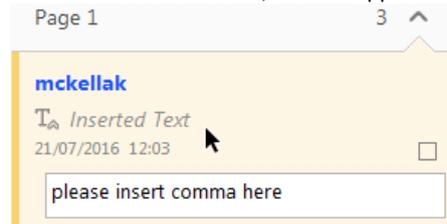


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Dividing the Spoils: The Impact of Power Sharing on Possibilities for Socioeconomic Transformation in Postconflict States

Padraig **McAuliffe** 

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ABSTRACT

Transitional justice (TJ) is increasingly concerned with transforming unjust economic structures through realizing socioeconomic rights. In postconflict states, the prospects for progressively realizing these rights are conditioned by ‘ordinary’ post-peace politics inasmuch as they are obstructive, permissive or actively constructive of pro-poor policies and redistribution, or receptive to civil society pressure from below. While these domestic politics in turn are conditioned to a significant extent by how political and economic opportunity is shared in power sharing agreements, the impact of power sharing on possibilities for socioeconomic rights realization has attracted little attention in the TJ literature. This is regrettable as economic power sharing tends to monopolize the resources needed for redistributive or welfarist policies that would underpin a ‘respect, protect, fulfil’ framework of state obligations to reduce vulnerabilities associated with conflict-related poverty, violence and displacement. Furthermore, political power sharing often consolidates a political culture characterized by sclerotic policy formulation and ineffective governance, promotes unresponsive and exclusionary rule and further embeds or modifies preexisting patterns of patrimonial rule.

KEYWORDS: power sharing, postconflict, socioeconomic rights, peace agreements, economic justice

INTRODUCTION

In the last decade or so, transitional justice (TJ) scholars have urged a reconceptualization of the field as conventionally understood. They increasingly call for the systematic protection and promotion of socioeconomic rights within the framework of TJ practice as a core element of its agenda, rather than as a peripheral source of background information for it. In the case of postconflict states specifically, there are three main reasons for this reorientation. First, is a strong sense that the socioeconomic root causes of civil war can explode once more like ‘powder kegs’ if structural inequalities or direct violations of economic and social rights go unaddressed.¹

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1 Ismael Muvingi, ‘Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies,’ *International Journal of Transitional Justice* 3(2) (2009): 163–182.

Second, polls of survivor populations consistently make apparent the reality that socioeconomic concerns take priority over punishment, historical accounting or reconciliation in transitions. Third is a strong belief in the indivisibility of human rights, accompanied by a rejection of inherited biases relating to hierarchies between different types of human rights and an insistence that violations of economic and social rights can be identified and adjudicated through judicial or quasi-judicial action.² It is argued that socioeconomic rights can articulate binding legal obligations using the 'respect, protect, fulfil' framework of state obligations to reduce vulnerabilities associated with conflict-related poverty, violence and displacement. Where a conflict arose from a previous failure by the state to fulfil socioeconomic obligations or where the course of warfare resulted in deliberate deprivation of social minima, these rights provide a language to support victims, who can frame their demands for development as social justice. They generate guidance for policy makers in relation to standards established through international consensus and articulated by human rights bodies and experts. It is argued that formally establishing that state actions or omissions have led to human rights violations can lend 'persuasive compulsion' to rights-based claims, make redress or reform politically imperative in social contractarian terms, and show the public that demands for socioeconomic justice are legitimate, humane and go beyond expedient political ideology.³ For some, the redress of socioeconomic rights violations is primarily a structural endeavour addressing historically constructed inequalities, while others argue that direct harms and deprivations of subsistence needs are most amenable to TJ mechanisms.⁴ The foregrounding of socioeconomic rights is generally outlined in terms of the traditional mechanisms of truth commissions, judicial processes and reparations. Truth commissions, in particular, are deemed well placed to investigate harms on a systematic basis, to characterize marginalization as violations of socioeconomic rights and to recommend comprehensive remedies. Judicial enforcement of socioeconomic rights claims through criminal proceedings and domestic/supranational human rights litigation is commonly proposed as a means of securing transformative TJ. Collective and individual reparations for failures to respect or protect socioeconomic rights are an obvious source of redress because they transfer resources and services to victims through compensation, restitution of land, scholarships or improved access to welfare.

Scholars assume an inherent relationship between exposure of discriminatory practices and tackling economic root causes of conflict. However, this literature is unclear about how to describe the ways and means in which integrating socioeconomic rights can be translated into practice or policy.⁵ Realizing socioeconomic

2 Louise Arbour, 'Economic and Social Justice for Societies in Transition,' *NYU Journal of International Law & Politics* 40(1) (2007): 1–27.

3 Lisa Laplante, 'Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework,' *International Journal of Transitional Justice* 2(3) (2008): 341.

4 Diana Sankey, 'Towards Recognition of Subsistence Harms: Reassessing Approaches to Socioeconomic Forms of Violence in Transitional Justice,' *International Journal of Transitional Justice* 8(1) (2013): 121–140.

5 Frank Haldeman and Rachel Kouassi, 'Transitional Justice without Economic, Social and Cultural Rights?' in *Economic, Social and Cultural Rights in International Law: Contemporary Issues and Challenges*, ed. Eibe Riedel, Gilles Giacca and Christophe Golay (Oxford: Oxford University Press, 2014).



rights requires increased funding and sustained policy implementation in areas like infrastructure, health, education and welfare. This raises questions around progressive realization subject to the state's invariably scarce available resources and the obvious interests of some social actors in retaining the economic status quo given that they benefit from it. Even if the normative emphasis of TJ changes to embrace socio-economic rights, therefore, a successful relationship between this revised normative orientation and actual results on the ground is one that scholars acknowledge is dependent to a significant degree on political will to fund and implement recommendations for reform.⁶

There is a shared optimism that transitions may amount to transformative constitutional moments where the distribution of poverty and wealth, land reform and economic inequality are publicly addressed.⁷ Constitutionalization is seen as the most effective way of incorporating socioeconomic rights into the legal and institutional framework of the postconflict state. Likewise, explicit guarantees within peace agreements for economic, social and cultural rights 'facilitates their being taken into account during policy and planning post-conflict and may minimise the likelihood of their being relegated to a subsequent phase of development.'⁸ However, the political will to orient the institutions of state towards progressive realization of these rights cannot be assumed. Nor can a commitment to orient TJ mechanisms to these ends. Economic root-cause approaches premised on vindicating socioeconomic rights are far less common in peace agreements than measures to reassure security concerns or to distribute political power. Contrary to the assumption in the western scholarly mindset that peace agreements are propitious junctures to address socioeconomic concerns, the parties themselves tend to leave issues as divisive as divisions of wealth or welfare expenditure unresolved or unspecified to secure the agreement expeditiously.⁹ While peace agreements increasingly contain commitments to ratify human rights conventions and to fight discrimination and inequality, few make these commitments an integral element of the implementation, monitoring or evaluation of the agreement.¹⁰ Institutions established to deal with civil and political or socioeconomic human rights

can end up almost hastily tacked on to an agreement without the institutional detail which would make them effective . . . This can produce institutions with

- 6 Sam Szoke-Burke, 'Not Only "Context": Why Transitional Justice Programs Can No Longer Ignore Violations of Economic and Social Rights,' *Texas International Law Journal* 50(3) (2015): 465–494; Laplante, *supra* n 3.
- 7 Morten Bergsmo, César Rodríguez-Garavito, Pablo Kalmanovitz and Maria Paula Saffon, 'Introduction,' in *Distributive Justice in Transitions*, ed. Morten Bergsmo, César Rodríguez-Garavito, Pablo Kalmanovitz and Maria Paula Saffon (Oslo: Torkel Opsahl, 2010).
- 8 Christine Chinkin, 'The Protection of Economic, Social and Cultural rights in Post-Conflict,' paper series commissioned by the Office of the High Commissioner for Human Rights (2009), http://www2.ohchr.org/english/issues/women/docs/Paper_Protection_ESCR.pdf (accessed 23 January 2017), 5.
- 9 John Darby and Roger Mac Ginty, 'Conclusion: Peace Processes, Present, and Future,' in *Contemporary Peacemaking: Conflict, Peace Processes and Post-War Reconstruction*, ed. John Darby and Roger Mac Ginty (London: Palgrave Macmillan, 2008).
- 10 Sahla Aroussi and Stef Vandeginste, 'When Interests Meet Norms: The Relevance of Human Rights for Peace and Power-Sharing,' *International Journal of Human Rights* 17(2) (2013): 183–203.

serious gaps which leave them largely rhetorical and symbolic, rather than capable of effecting real change.¹¹

A survey conducted for the World Bank and the UN Development Programme of the frequency of provisions in peace agreements demonstrates that issues like security reform, civilian oversight and disarmament, demobilization and reintegration (DDR) are present more than twice as often as issues like women's rights, minority rights, social welfare and land reform.¹² Constitution making processes undertaken simultaneously with peace are characterized more by hard bargaining between former antagonists than by mutually agreed policies to safeguard the collective public good.¹³

Because neither peace agreements nor the rights contained within them tend much towards radical social transformation in the relatively short span of a transition from war to postconflict, it is clear that the prospects for socioeconomically oriented TJ will be conditioned by 'ordinary' post-peace politics and the incentives created therein. These politics may be obstructive, permissive or actively constructive of pro-poor policies and redistribution, or receptive to grassroots or civil society demands for socioeconomic justice from below. Domestic politics in turn will be conditioned by how political and economic power is shared, given that the exclusion of ethnic, religious and linguistic groups from representation and influence in the state is a root cause of conflict that belligerents can generally be expected to agree on. In this article, power sharing institutions are defined as per Caroline Hartzell and Matthew Hoddie's widely employed characterization of them as 'rules that, in addition to defining how decisions will be made by groups within the polity, allocate decision-making rights, including access to state resources, among collectivities competing for power.'¹⁴ This definition includes informal arrangements and practices as well as more elaborate formal institutions and policies, highlighting that power sharing is neither a homogeneous nor a consistent phenomenon, either in terms of structure or of impact on the sustainability of peace. In one count, since 1945 about 97 percent of negotiated settlements at the end of civil wars have involved the promise, if not always the implemented reality, of at least one element of power sharing, be it political, economic, military or territorial.¹⁵ It is clear, therefore, that power sharing in this transitional period and long after will exercise a predominant influence on the prospects for a more just society. Power sharing institutions

- 11 Christine Bell, *Peace Agreements and Human Rights* (New York: Oxford University Press, 2003), 231.
- 12 Astri Suhrike, Torunn Wimpelmann and Marcia Dawes, 'Peace Processes and Statebuilding: Economic and Institutional Provisions of Peace Agreements,' Report in External Series, Chr. Michelsen Institute, Bergen, Norway (2007).
- 13 Nehal Bhuta, 'New Modes and Orders: The Difficulties of a "Jus Post Bellum" of Constitutional Transformation,' *University of Toronto Law Journal* 60(3) (2010): 799–854.
- 14 Caroline Hartzell and Matthew Hoddie, 'The Art of the Possible: Power Sharing and Post—Civil War Democracy,' *World Politics* 67(1) (2015): 40.
- 15 Matthew Hoddie and Caroline Hartzell, 'Power Sharing in Peace Settlements: Initiating the Transition from Civil War,' in *Sustainable Peace: Power and Democracy after Civil Wars*, ed. Philip Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005).

constrain subsequent political processes by empowering some political actors rather than others, creating incentives to press some demands rather than others, and making it less costly to press these demands in some ways rather than others.¹⁶

Indeed, Paige Arthur presents political power sharing and federalism (a form of territorial power sharing) as the two major options for a constitutional framework for postconflict states.¹⁷ In short, power sharing exercises a decisive influence over the potential for socioeconomic rights to be mainstreamed within public policy. On the one hand, systematized political inclusion may grant marginalized groups platforms for challenging socioeconomic disadvantage that they otherwise would not have the demographic weight to access. On the other hand, the need for big-tent inclusiveness where no one collectivity can decide important matters without the consent of the other(s) may prevent the type of forceful government needed to make these challenges successful.

Given the significance of power sharing to domestic politics of welfarist and redistributive rights approaches, it is surprising that consideration of this essential background condition has received little dedicated attention within the TJ literature. There have been some thematic studies on the impact of power sharing on issues like the rights of women and minorities¹⁸ and accountability for abuses committed in the past;¹⁹ analyses of power sharing as a general subject by scholars who have elsewhere written on TJ;²⁰ and detailed studies on the impact of power sharing on TJ in individual states like Kenya²¹ or the Democratic Republic of the Congo (DRC).²² No specific studies have been written on the potential impact of power sharing on the governmental incentives to vindicate socioeconomic rights-based claims. This is despite the fact that it must surely rank among the most obvious facilitators or obstacles to such claims inasmuch as political power sharing defines the parameters of economic decision-making and economic power sharing specifically redistributes

16 Donald Rothchild and Philip Roeder, 'Power Sharing as an Impediment to Peace and Democracy,' in *Sustainable Peace: Power and Democracy after Civil Wars*, ed. Philip Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005), 29.

17 Paige Arthur, 'Identities in Transition: Developing Better Transitional Justice Initiatives in Divided Societies,' International Center for Transitional Justice (2009), <https://www.ictj.org/sites/default/files/ICTJ-Global-Divided-Societies-2009-English.pdf> (accessed 23 January 2017), 20.

18 Kris Brown and Fionnuala Ní Aoláin, 'Through the Looking Glass: Transitional Justice Futures through the Lens of Nationalism, Feminism and Transformative Change,' *International Journal of Transitional Justice* 9(1) (2014): 127–149; Chandra Lekha Sriram, 'Making Rights Real? Minority and Gender Provisions and Power-Sharing Arrangements,' *International Journal of Human Rights* 17(2) (2013): 275–288.

19 Stef Vandeginste and Chandra Lekha Sriram, 'Power Sharing and Transitional Justice: A Clash of Paradigms?' *Global Governance: A Review of Multilateralism and International Organizations* 17(4) (2011): 489–505.

20 Christine Bell, 'Power-Sharing and Human Rights Law,' *International Journal of Human Rights* 17(2) (2013): 204–237; Chandra Lekha Sriram, *Peace as Governance: Power-Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave Macmillan, 2008).

21 Thomas Obel Hansen, 'Kenya's Power-Sharing Arrangement and Its Implications for Transitional Justice,' *International Journal of Human Rights* 17(2) (2013): 307–327.

22 Laura Davis, 'Power Shared and Justice Shelved: The Democratic Republic of Congo,' *International Journal of Human Rights* 17(2) (2013): 289–306.

resources. Furthermore, both territorial and military power sharing have significant resource and distributive implications. One explanation for this is the noted rarity with which the research focus of TJ is situated in a peacebuilding context, though one can also point to the tendency of the field to concentrate more on establishing the need for transformation than on the domestic barriers to achieving it.²³ Above all, there is no dedicated study of economic power sharing in or after peace agreements in the TJ literature.²⁴ However, this might also reflect the paucity of the overall peacebuilding literature on the topic, which instead concentrates primarily on formal arrangements that define the political order.²⁵

The rest of this article examines the limitations imposed by power sharing on the prospects for TJ to address or ameliorate poverty, inequality and other structural causes of conflict through rights-based approaches. I begin by briefly outlining some of the key principles of power sharing. I then examine the conclusions drawn in the sparse TJ literature on power sharing with reference to broader debates on power sharing in the peacebuilding, democratization and conflict management literatures. It should be noted that I focus on economic and political power sharing as they have a much bigger impact on national structures of poverty and inequality than military and territorial power sharing. I then explore the marginal place of socioeconomic rights in immediate economic power sharing, arguing that narrow, exclusionary and elite-driven resource sharing between conflict protagonists (via direct benefits or political control) takes precedence over widely dispersed investment in public goods. This flows from the emphasis on economic security over redistribution, the phenomenon of surreptitious or informal economic power sharing that goes undocumented and the need to reward supporters with opportunities and resources to secure the agreement against greed-driven spoiling. Thereafter, I look longer term at the impact of a political power sharing culture on progressive, welfarist or redistributive politics. I argue that it entrenches sclerotic policy formulation and ineffective governance, promotes unresponsive and exclusionary rule and further embeds or modifies pre-existing patterns of patrimonial rule. In short, power sharing does not satisfactorily address the needs of TJ in most postconflict situations.

PRINCIPLES OF POWER SHARING

There is general consensus in the peacebuilding literature that power sharing provisions in peace agreements enhance the prospects for achieving postconflict peace in the short term. The durability of these elite pacts is a key determinant of the long-term sustainability of these provisions. Explanations for this tendency range from the largely negative mitigation of the greatest fears of the antagonists to a more positive

23 Padraig McAuliffe, *Transformative Transitional Justice and the Malleability of Post-Conflict States* (London: Edward Elgar, 2017).

24 Though there are three valuable paragraphs by Vandeginste and Sriram, *supra* n 19, of the clash of paradigms between power sharing and transitional accountability in peace agreements noting its relatively rare inclusion.

25 Some definitions of power sharing exclude the concept of economic power sharing entirely, emphasizing only territorial, military and political power sharing. See, Anna Jarstad and Desirée Nilsson, 'From Words to Deeds: The Implementation of Power-Sharing Pacts in Peace Accords,' *Conflict Management and Peace Science* 25(3) (2008): 206–223.

sense that power sharing can socialize disputants into compromise and moderation. The latter may satisfy at least some prewar desires via the opportunities generated by more inclusive governance structures. It is a truism that power sharing in essence represents a concession by the more powerful actor to a less powerful one (albeit one that it cannot militarily defeat at all or at acceptable cost) to gain the latter's assent to a peace agreement.²⁶ Power sharing attempts to address three security concerns that arise for the weaker party in peace settlements: that the other side gains control of the state's coercive apparatus, that it dominates the allocation of political influence or that it gains economic predominance.²⁷ Settlement usually implies that the weaker party will disarm (the existence of two armies is incompatible with the notion of peace), making them vulnerable given the (re)centralization of power and the means of violence in the hands of the state at the war's end. Armed groups will simply refuse to lay down their weapons if any settlement risks consolidating the power of the other groups or the incumbent government, as such consolidation would allow the latter to renege on the terms of any negotiated settlement. They, therefore, seek degrees of political, economic, military or territorial power that either reduce the danger of one side renegeing or provide them with some security in the event that this occurs. Though much peacebuilding literature and policy documents at headquarters level argue in favour of democratic elections, the chance to compete in the ballot alone is insufficient to attract rebels to implement a peace agreement. In deeply divided societies, weaker parties are conscious of the risk that election winners can overrule them, break commitments agreed to in the peace agreement or even punish them for past actions. Furthermore, in divided societies, democracy tends to reproduce the ethnic, religious or linguistic affiliations under which the war was fought. It is for this reason that pure political competition without firm pre-election accommodation measures becomes a grossly destabilizing all-or-nothing contest.²⁸

Power sharing, therefore, provides a security guarantee, an assurance to weaker parties that their interests will not be overridden automatically or ignored. It also provides stronger parties with some reassurance that rebels will not be tempted to return to war. A diffusion of power channels conflict into institutions of governance, manages competition and reduces the zero-sum character of that competition. The rationale is that if all disputants are coopted into the prevailing political, economic and military systems, they are more likely to trust them and develop an interest in their stability and effectiveness.²⁹ In the longer term it is hoped that power sharing leads to joint decision making, greater trust and the gradual inclusion of

26 Donald Rothchild, 'Reassuring Weaker Parties after Civil Wars: The Benefits and Costs of Executive Power-Sharing Systems in Africa,' *Ethnopolitics* 4(3) (2005): 247–267.

27 Caroline Hartzell, 'Explaining the Stability of Negotiated Settlements to Intrastate Wars,' *Journal of Conflict Resolution* 43(1) (1999): 3–22.

28 Madhav Joshi, Erik Melander and Jason Michael Quinn, 'Sequencing the Peace: How the Order of Peace Agreement Implementation Can Reduce the Destabilizing Effects of Post-Accord Elections,' *Journal of Conflict Resolution* 59(1) (2015): 1–25.

29 Melani Cammett and Edmund Malesky, 'Power Sharing in Postconflict Societies: Implications for Peace and Governance,' *Journal of Conflict Resolution* 56(6) (2012): 982–1016.

nonsignatories into the political process.³⁰ The most enduring forms of power sharing encourage rebels to pursue goals within the political system instead of rebelling against it.

Power sharing is, therefore, better understood as a form of conflict management, not conflict resolution. Though it is not a panacea for all postconflict ills of divided societies, there is general agreement that it provides a structured context within which they may be confronted. It mitigates commitment problems in contexts of extreme mistrust and vulnerability by serving as a costly signal by those collectivities that enter into it that they will respect the rights of others and renounce the possibility of securing their goals through extralegal or violent means. Designers of power sharing attempt to balance the need to credibly reassure minorities that the state cannot unduly encroach on agreed postconflict prerogatives with the need to ensure this leverage is not so great that these minorities can use it to secure ever more powers.³¹ The mutual vulnerability that comes with increasing power parity makes disputants more willing to implement commitments and to accept a degree of self-restraint provided that parity can be maintained.³² While most studies of power sharing conclude that it is effective at reducing the risks of return to conflict,³³ there is some dispute as to which of political, military, economic and territorial power sharing are most effective, and in which combinations. Hartzell and Hoddie's 'the more, the better' theory hypothesises that the more dimensions that are included, the greater the likelihood that peace endures as every successive layer further institutionalizes the settlement. Sharing power along political, military, territorial and economic lines provides parties with more influence than one dimension alone. It ensures that even where one dimension is not fully implemented, vulnerable groups still have the wherewithal to protect themselves.³⁴ Most negotiated settlements contain at least two forms of macro-level power sharing (territorial, political, economic, military), while less than a third contain only one mechanism.³⁵

If observers of power sharing are confident of what works, they are also cognisant of its shortcomings. The first, and most obvious, is that inasmuch as it includes only factions with the capacity to undermine the peace if omitted from the arrangements, it rewards violence and hence makes the continued use of violence as a political tool more likely.³⁶ Those who favour more integrationist approaches argue that it entrenches ethnic, religious or linguistic cleavages, depressing incentives for elites to

30 Katia Papagianni, 'Political Transitions after Peace Agreements: The Importance of Consultative and Inclusive Political Processes,' *Journal of Intervention and Statebuilding* 3(1) (2009): 47–63.

31 Philip Roeder, 'Power Dividing as an Alternative to Ethnic Power Sharing,' in *Sustainable Peace: Power and Democracy after Civil Wars*, ed. Philip Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005).

32 Dorina Bekoe, 'Mutual Vulnerability and the Implementation of Peace Agreements: Examples from Mozambique, Angola, and Liberia,' *International Journal of Peace Studies* 10(2) (2005): 43–68.

33 For a summary of the key works, see, Helga Malmin Binningsbø, 'Power Sharing, Peace and Democracy: Any Obvious Relationships?' *International Area Studies Review* 16(1) (2013): 89–112.

34 Caroline Hartzell and Matthew Hoddie, *Crafting Peace: Power-Sharing Institutions and the Negotiated Settlement of Civil Wars* (University Park, PA: Pennsylvania State University Press, 2007).

35 Cammett and Malesky, *supra* n 29.

36 Andreas Mehler, 'Peace and Power Sharing in Africa: A Not So Obvious Relationship,' *African Affairs* 108(432) (2009): 453–473.

moderate and cooperate on issues that cut across former conflict lines and frustrating the potential to diminish those distinctions in society.³⁷ Power sharing is not self-reinforcing and sometimes breaks down. Breakdown may occur because power sharing does not allow for implementation of the peace, cannot respond to pressing public needs, cannot mediate the tensions power sharing imports into governance or because the resources needed to sustain the coalition run out. Sometimes key institutions designed to give effect to power sharing are not created or are dysfunctional, as with Sudan's petroleum and DDR commissions.³⁸ Power sharing often leads to a 'cold peace' where the parties cease to employ violence but neglect to engage in serious reconciliation.

POWER SHARING AS UNDERSTOOD IN TJ

As noted, some studies have touched on power sharing's impact on TJ within peace agreements. One notable limitation of the prevailing literature, however, is the narrow temporal scope of the studies. These surveys focus exclusively on the question of whether TJ is provided for in the transitional moment when the peace accord is finalized, when of course the opportunities for economic power to be divided continue in the ordinary politics of the polity in question. If anything, the fact that genuinely redistributive or developmental economic power sharing in peace agreements is rare (see further) means that these ordinary, posttransitional politics become even more imperative to comprehend. The TJ literature presents power sharing as a discrete event, but power does not remain fixed as of that point – contests and collaboration over how to use that power will continue long after formal agreements are concluded. Studies of power sharing and TJ in peace agreements concentrate on the damaging exclusionism fostered by power sharing in the present. However, power sharing impacts on the prospects for redressing direct economic violence or progressively realizing socioeconomic rights far beyond the time it is agreed. It is an ongoing, evolving process in which the groups included and relative shares of power change, not a static encounter between opponents. A literature that restricts analysis of power sharing to the immediate demands of specific protagonists at the time a peace agreement is concluded may not be able to adequately capture how institutionalized power sharing incentivizes or disincentivizes all future options for wider justice within this evolving process.

Treatments of the socioeconomic limitations and potential of power sharing are further constrained by presenting power sharing as a product of liberal peacebuilding. For example, Chandra Lekha Sriram describes power sharing as integral to the liberal peacebuilding consensus that the ideal outcome of peace is a liberal, capitalist state,³⁹ an attribution reiterated by Kris Brown and Fionnuala Ní Aoláin.⁴⁰ As such, the critique of power sharing within the TJ literature falls within a broader critique of the field's liberalism, and in particular its emphasis on legal-institutional reform in place of transformation at the socioeconomic level. The resulting analysis of the

37 Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley, CA: University of California Press, 1985).

38 Sriram, *supra* n 20.

39 *Ibid.*

40 Brown and Ní Aoláin, *supra* n 18.

phenomenon, therefore, occurs essentially on the terms of western European models of consociationalism. Arend Lijphart's⁴¹ consociational conception of power sharing from European democracies not formally in conflict is the primary frame of reference or analogue for postconflict power sharing in works by Arthur,⁴² Brown and Ní Aoláin,⁴³ Christine Bell⁴⁴ and Stef Vandeginste and Sriram.⁴⁵ The liberal peacebuilding frame and the analogy with consociationalism are useful in describing why international mediators see power sharing as a viable means by which to promote democracy and civil rights. They also lead to compelling critiques of power sharing's relation to social justice. Sriram and Bell are correct in viewing power sharing as a form of constitutionalization of self-interest over the greater good.⁴⁶ So too are Brown and Ní Aoláin in noting that former antagonists may use power sharing to divide spoils and split the polity in ways that maintain their advantages relative to their own communities.⁴⁷ However, while the liberal lens explains why international actors promote such a familiar but limiting view of transition in mediating peace negotiations, it does not explain why and how domestic actors embrace power sharing with such alacrity. It cannot, therefore, account for the impact power sharing has beyond the transitional moment.⁴⁸ As Ian Spears notes, 'political elites may find arguments in favor of power-sharing normatively attractive, but their primary concern ultimately remains with strategies that best meet their interests and security needs.'⁴⁹

The presumed causal relationship in the TJ literature where peacebuilders impose power sharing on reluctant local politics may in fact be reversed – peacebuilders embrace power sharing because it is popularly accepted as a socially legitimate means of resolving intractable conflicts. Far from being introduced at the insistence of external interveners, factions within the sites of intervention adopt power sharing for two primary reasons: acceptance by domestic antagonists that at the end of noninternational armed conflicts no alternative set of rules can reliably generate the reassurances demanded by groups in polarized societies to initiate the transition; and because it represents the continuance of long established, purposive, informal means of managing diversity. In many areas of the world, both strong authoritarianism and adversarial majoritarian democracy run contrary to political traditions of cooption of rivals or arriving at consensus. In areas of limited statehood with little or no coercive ability to rebuff rebel attacks, potential belligerents are brought within inclusive political arrangements as a matter of course in preference to exclusion and costly repression as

41 Arend Lijphart, 'Definitions, Evidence, and Policy: A Response to Matthijs Bogaards' Critique,' *Journal of Theoretical Politics* 12(4) (2000): 425–431.

42 Arthur, *supra* n 17.

43 Brown and Ní Aoláin, *supra* n 18, note a distinction between power sharing and consociational arrangements, but with an analysis of the dark sides of power sharing drawing strongly on the consociational literature.

44 Bell, *supra* n 20.

45 Vandeginste and Sriram, *supra* n 19.

46 Christine Bell, 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non-Field",' *International Journal of Transitional Justice* 3(1) (2009): 5–27; Sriram, *supra* n 18.

47 Brown and Ní Aoláin, *supra* n 18.

48 On this, see, Andreas Mehler, 'Adapted Instead of Imported: Peacebuilding by Power-Sharing,' in *Peacebuilding in Crisis: Rethinking Paradigms and Practices of Transnational Cooperation*, ed. Tobias Debiel, Thomas Held and Ulrich Schneckener (Abingdon: Routledge, 2016).

49 Ian Spears, 'Africa: The Limits of Power-Sharing,' *Journal of Democracy* 13(3) (2002): 127.

political tactics. Governance in these states often involves bargaining and concessions between states with limited capacity to effectively enforce policy and other actors who can exert otherwise absent hierarchical control or facilitate nonhierarchical forms of social coordination.⁵⁰ These actors will often of necessity be the leaders of ethnic, religious or linguistic groups. In Africa, 'the political incorporation of all major social interests' is the primary 'rule of the game.'⁵¹ Denis Tull and Andreas Mehler describe an almost perpetual ritual of 'elite recycling' in Africa's post-1990 democratization period where former members of the political establishment fight not to redress social grievances, but to instead reinsert themselves into a governing system from which they have been excluded.⁵² Governments of national unity or national conferences where the major contending ethnic, linguistic and religious political forces meet to appoint interim governments in times of transition are characteristic of African politics since the independence era.⁵³

This reality complicates the use of Lijphart's consociational conception of power sharing as the starting point for analyzing power sharing in TJ. Consociational models attempt to mitigate major internal divisions along ethnic, religious or linguistic lines by safeguarding the balance among these groups through elite cooperation and consensus via grand coalitions, mutual vetoes, proportional representation based on population and segmental autonomy through federalism or other constitutional provisions. However, while Lijphart drew on some developing world states as exemplars of successful power sharing, the theory draws mostly on the experiences of a few western European countries of questionable comparability to deeply divided African, Middle-Eastern and Asian states with far more diffuse and intense hostilities.⁵⁴ State-level political cultures of strong institutions, economic growth and democratic accommodation that underpin western consociational models like Switzerland, India and Belgium are seldom present in postconflict states. Many of the conditions that historically underpin European power sharing deals, like comprehensive political participation, relative equilibrium regarding group size, lack of significant socioeconomic differences, overarching loyalty to the broader state (or institutions or values) and pluralist representation of ethnicities by more than one ethnic party, may not exist elsewhere.⁵⁵ Power sharing will obviously have different modalities in states that cannot regulate or penetrate their societies to those where the state can. In particular,

50 Thomas Risse, 'Governance in Areas of Limited Statehood: Introduction and Overview,' in *Governance without a State? Policies and Politics in Areas of Limited Statehood*, ed. Thomas Risse (New York: Columbia University Press, 2013).

51 Donald Rothchild and Michael Foley, 'African States and the Politics of Inclusive Coalitions,' in *The Precarious Balance: State and Society in Africa*, ed. Donald Rothchild and Naomi Chazan (Boulder, CO: Westview Press, 1988), 233.

52 Denis Tull and Andreas Mehler, 'The Hidden Costs of Power-Sharing: Reproducing Insurgent Violence in Africa,' *African Affairs* 104(416) (2005): 375–398.

53 Katia Papagianni, 'Participation and State Legitimation,' in *Building States to Build Peace*, ed. Charles Call and Vanessa Wyeth (Boulder, CO: Lynne Rienner, 2008).

54 Horowitz, *supra* n 37.

55 Ulrich Schneekener, 'Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation,' *Journal of Peace Research* 39(2) (2002): 203–228.

African forms of inclusion differ from Western conceptions of power-sharing, such as consociationalism, insofar as it can never be comprehensive (that is, include everybody) or static (that is, involve permanent participation of the same groups or individuals) . . . it is the threat and practice of exclusion that maintains regime coherence.⁵⁶

5

Most postconflict power sharing dispensations are more haphazard than the traditional consociational model. For example, René Lemarchand argues that power sharing in DRC was significantly different to the Lijphart standard, and was instead better understood as ‘a more or less improvised form of co-optation’ that omitted some key political actors that consociational theory would deem essential.⁵⁷ Power sharing research is generally divided into two strands – a ‘democracy theory’ strand focusing on how it can achieve stable democracy, and a ‘conflict management approach’ that concentrates on the more difficult role of achieving postconflict peace.⁵⁸ The former, Lijphartian approach assesses how power sharing can foster moderation and improve the quality of a preexisting democracy before and after elections, while conflict management approaches see it as a mechanism to manage the uncertainties of a peace process, possibly even as a replacement for elections.⁵⁹ Contemporary studies of postwar power sharing also depart from the Lijphart paradigm as a frame for understanding power sharing on the basis that it is primarily concerned with the distribution of political power and cannot account as comprehensively for the other potentially more important postconflict dimensions of power, like military, territorial and economic, that may also be shared.⁶⁰

Though Sriram, for example, acknowledges that the dilemmas faced in postconflict power sharing are different to those in nonconflicted democratic societies,⁶¹ so too are the expectations, institutional possibilities and obstacles to change, which the TJ literature has yet to take account of. Presentations of power sharing that start from the position that it is a fundamentally external imposition or that its inability to alter structural patterns of inequality stems from the same problems of liberal stasis that blight familiar models of consociationalism cannot adequately capture the dilemmas and opportunities power sharing presents for realizing socioeconomic rights for the whole population. Power sharing is better understood as a more institutionalized way to reestablish old modes of managing social equilibrium in underdeveloped but highly diverse states. Though power sharing might be explicitly linked to democratic processes and representation by external peacebuilders who promote it, these are not the reasons it is embraced by those who adopt it, and democratic institutionalism does not provide the model for how it is exercised. Power sharing as a solution

56 Ian Spears, ‘Africa’s Informal Power-Sharing and the Prospects for Peace,’ *Civil Wars* 15(1) (2013): 44.

57 René Lemarchand, ‘Consociationalism and Power Sharing in Africa: Rwanda, Burundi, and the Democratic Republic of the Congo,’ *African Affairs* 106(422) (2007): 12.

58 Anna Jarstad, ‘Power Sharing: Former Enemies in Joint Government,’ in *From War to Democracy: Dilemmas of Peacebuilding*, ed. Timothy Sisk and Anna Jarstad (Cambridge: Cambridge University Press, 2008).

59 Ibid.

60 Hartzell and Hoddie, *supra* n 14.

61 Sriram, *supra* n 18.

to conflict long predates the post–Cold War mainstreaming of liberal peacebuilding intervention.⁶² Much power sharing in fact rewards spoilers who refuse to comply with the determinations by international peacebuilding bodies of electoral outcomes in which they were defeated.⁶³ Indeed, it is the absence of liberal-democratic power dividing institutions like checks and balances, human rights institutions and tamed executives in these states that makes power sharing indispensable for weaker parties. Closer attention to the political economy of these states in the remainder of this article highlights that the means by which shared political authority makes itself felt in these societies accords far more with wartime accumulation patterns and traditional patterns of inclusion/exclusion, patrimonial rule and clientelism than with anything resembling even a grossly compromised, extraneously imposed liberal-democratic model. These phenomena will mediate the path between identifying socioeconomic rights deprivation and formulating/implementing policy to redress it.

ECONOMIC POWER SHARING AND SOCIOECONOMIC JUSTICE

Of all the critiques of power sharing, the most damning is its sheer instrumentalism – the reduction of peace to ‘a narrowly defined notion of politics and alliances’ implicitly precludes a search for a more ideal peace with justice.⁶⁴ This is most apparent in what Vandeginste and Sriram identify as the ‘clash of paradigms’ between power sharing and TJ, most notably in the areas of criminal justice and truth. As they argue, the rise of power sharing as a policy option for mediators and peacemakers has coincided with the emergence of norms clarifying the state’s duty to investigate, prosecute, punish and provide reparations to victims. In practice, this leads to a clash between norms of anti-community and the self-interests of the parties to the conflict to avoid accounting for human rights violations they or their peace partners may have committed. To the extent that power sharing ensures that antagonists control military forces, the government or a territory in whole or in part, they consequently enjoy the wherewithal to resist accountability measures through de jure or, most commonly, de facto amnesty.⁶⁵ While there is the possibility that strong power sharing parties may engage in one-sided prosecutions against weaker opponents to sideline them politically, the more common risk is that of a ‘coalition of oblivion’ where accountability, reparation and truth telling are jettisoned in the interests of facilitating the process of reallocating authority between conflict elites.⁶⁶

However, power sharing also impacts on the prospects for TJ to serve as a vehicle for revealing exclusions and discriminations or promoting socioeconomic rights by virtue of a similar politics of oblivion that benefits conflict elites. The scope of economic power sharing runs a spectrum from the most desultory consultations between government and former rebels in relation to macroeconomic

62 Hoddie and Hartzell, supra n 15.

63 Timothy Sisk, ‘Power-Sharing in Civil War: Puzzles of Peacemaking and Peacebuilding,’ *Civil Wars* 15(1) (2013): 7–20.

64 Alejandro Bendaña, ‘Conflict Resolution: Empowerment and Disempowerment,’ *Peace & Change* 21(1) (1996): 76.

65 Vandeginste and Sriram, supra n 19.

66 Ibid., 499.

or development policies to defined shares of the most lucrative natural resources, though an emergent (and telling) definition is ‘the announced inclusion of rebel representatives in state-owned companies and in commissions regulating certain natural resources or sectors of the country’s economy.’⁶⁷ Pertinent examples include the 2005 Helsinki Memorandum of Understanding between Indonesia and the Free Aceh Movement (where the government and Movement agreed on a number of economic opportunities for Aceh, most notably a guarantee that the province was to keep 70 percent of its oil and gas revenues and a special autonomy fund for 20 years dating from the start of the peace agreement)⁶⁸ or the 1996 Philippines Peace Agreement (which created a Special Zone of Peace and Development in the south which called for improved services in deprived areas, socialized housing, livelihood assistance and credit facilities, resulting in a sixfold increase in social development spending).⁶⁹ Conflict root causes like inequitable land allocation or improper use of natural resources can be specifically targeted in peace agreements through distribution of the resources in question or ringfencing their income on a group basis. Wealth sharing often accompanies the increased autonomy that comes with territorial power sharing, potentially reducing structural disparities. In theory, therefore, economic power sharing could provide the route through which horizontal inequalities that map the wartime division could be addressed by (admittedly competitive) negotiating increased social investment by the state, land and tax reform and/or decentralization. However, while economic power sharing is often understood by outside observers as ‘aspiring to correct injustices present prior to or evolving during conflict,’ this teleology cannot be assumed to be foremost in the minds of those negotiating peace, who tend to agree that economic provisions are primarily for the more limited purpose of addressing combatants’ security concerns.⁷⁰ Resource sharing provisions between conflict protagonists (via direct benefits or political control) that ‘reek . . . of rewards for crime coupled with pork-barrel politics’⁷¹ take precedence over resource redistribution towards public goods for two main reasons.

The first reason can be described as surreptitious economic power sharing. Studies show political power sharing to be around three times as common as economic power sharing.⁷² The most common explanation is that former combatants

67 Martin Ottmann and Johannes Vüllers, ‘The Power-Sharing Event Dataset (PSED): A New Dataset on the Promises and Practices of Power-Sharing in Post-Conflict Countries,’ *Conflict Management and Peace Science* 32(3) (2015): 338.

68 Felix Haaß and Martin Ottmann, ‘Buying Peace? The Political Economy of Power-Sharing,’ German Institute of Global and Area Studies, Focus No. 9/2015, https://www.giga-hamburg.de/en/system/files/publications/gf_international_1509.pdf (accessed 23 January 2017).

69 Hoddie and Hartzell, *supra* n 15.

70 Binningsbø, *supra* n 33 at 97.

71 Gérard Prunier, *From Genocide to Continental War: The ‘Congolese’ Conflict and the Crisis of Contemporary Africa* (London: Hurst Publishers, 2009), 277.

72 Anna Jarstad and Ralph Sundberg, ‘Peace by Pact: Data on the Implementation of Peace Agreements,’ in *Globalization and Challenges to Building Peace*, ed. Ashok Swain, Ramses Amer and Joakim Öjendal (London: Anthem Press, 2007).

tend to view economic concerns as secondary in importance to establishing institutions and policies that they perceive to have a more immediate impact on providing for the security of the group.⁷³

An alternative explanation for this, however, is the common tendency for economic interests to be traded off against the original political goals of antagonists.⁷⁴ Sometimes this trade-off is explicit, such as the settlements in El Salvador and South Africa which safeguarded the economic interests and property of privileged interest groups to make redistribution impossible,⁷⁵ but more often regressive economic power sharing is implicit. As Jago Salmon and Catherine Anderson note, 'elite bargains struck in the public gaze are only part of the story' – most peace settlements are supplemented by common understandings among the most powerful elements of society that their interests are best served by a particular way of organizing economic power.⁷⁶ This understanding is often implicit, surreptitiously negotiated or simply the undocumented way of doing things. Informal rules emerge to govern transition, not only to divide decision making on certain issues but also to exclude certain issues from government jurisdiction.⁷⁷ In political settlements on government expenditure,

redistributions to the not-so-poor would be difficult if not impossible to justify in terms of general public principles of welfare. Informal arrangements are therefore used to enable powerful groups to have continued access to incomes through 'political' accumulation.⁷⁸

For example, in the DRC's Global and All-Inclusive Peace Accord, 'the real economic issues were kept off the agenda of the peace process' so that the Congolese and their outside backers could continue their illegal but profitable economic activities.⁷⁹ State and resource capture by particular interests and coalitions, predatory and otherwise, obviously reduces the ability of postconflict governments and other actors to meet legal obligations to respect, protect and fulfil economic, social and cultural rights.

Those elements of power sharing that are explicitly included are often dictated more by the need of leaders in peace negotiations to guarantee the support of their own constituents than to placate their already somewhat willing antagonists. Leaders

73 Hoddie and Hartzell, supra n 15 at 103.

74 Roy Licklider, 'Obstacles to Peace Settlements,' in *Managing Global Chaos: Sources of and Responses to International Conflict*, ed. Chester A. Crocker, Fen Osler Hampson and Pamela Aall (Washington, DC: US Institute of Peace, 1996).

75 Papagianni, supra n 53.

76 Jago Salmon and Catherine Anderson, 'Elites and Statebuilding,' in *The Routledge Handbook of International Statebuilding*, ed. David Chandler and Timothy Sisk (New York: Routledge, 2013), 48.

77 Donald Rothchild, 'Settlement Terms and Postagreement Stability,' in *Ending Civil Wars: The Implementation of Peace Agreements*, ed. Stephen John Stedman, Donald Rothchild and Elizabeth M. Cousens (Boulder, CO: Lynne Rienner, 2002).

78 Mushtaq Khan, 'Political Settlements and the Governance of Growth-Enhancing Institutions,' unpublished monograph, School of Oriental and African Studies (2010), <http://core.ac.uk/download/files/103/2792198.pdf> (accessed 23 January 2017), 26.

79 Davis, supra n 22 at 292.

enter negotiations because they recognize the need for peace before their followers do. Satisfying these supporters, therefore, takes precedence not only over assisting opponents,⁸⁰ but also over the general good as leaders and factions scramble to replace or compensate for lost sources of income from the war economy. This leads to the second major problem of power sharing, that of 'jobs for the boys.' To avoid creating powerful losers, as many rebels as possible must be brought into the fold. As Pierre Atlas and Roy Licklider note,

one of the keys is to distribute resources (both physical and psychic) in order to satisfy the major demands of the individuals and groups who can undermine the settlement. In practice this often means responding to elites and ignoring the demands of the masses based on the pragmatic calculation that elites are cheaper and masses by themselves are unlikely to overthrow the system.⁸¹

Examples of this are legion. After Cambodia's power sharing agreement, supporters of the factions were given jobs in the administration more on the basis of loyalty than competence, while positions could also be sold for values that depended on their potential for extracting bribes.⁸² After Macedonia's Ohrid Agreement, the ruling parties

functioned as corrupt coalitions, dividing the turf within and between ministries . . . politicians cynically presented themselves as defenders of the national interest while in fact conspiring with the other side for personal or party enrichment.⁸³

The economic and territorial power sharing provisions enjoyed by the Free Aceh Movement similarly allowed them to build patronage networks for jobs, civil war compensation and government contracts.⁸⁴ Economic power sharing of mineral wealth manifests the same tendencies, most notoriously in the Lomé Peace Agreement's appointment of Foday Sankoh as chair of Sierra Leone's Commission for the Management of Strategic Resources. In straitened postconflict circumstances, such awards greatly diminish the fiscal space to reallocate public money to those who most need it. For example, though inequitable land policy was widely identified as a key catalyst for rebellion in the Nicaraguan civil war, land reform stipulated in the Esquipulas II peace accords 'practically ignored' demands from noncombatant landless peasants while generating significant rewards for conflict principals.⁸⁵

80 Darby and Mac Ginty, *supra* n 9.

81 Pierre Atlas and Roy Licklider, 'Conflict among Former Allies after Civil War Settlement: Sudan, Zimbabwe, Chad, and Lebanon,' *Journal of Peace Research* 36(1) (1999): 50.

82 David Roberts, 'Hybrid Politics and Post-Conflict Policy,' in *The Routledge Handbook of International Statebuilding*, ed. David Chandler and Timothy Sisk (New York: Routledge, 2013).

83 International Crisis Group, 'Macedonia's Public Secret: How Corruption Drags the Country Down,' Balkans Report No. 133 (2002), <https://www.crisisgroup.org/europe-central-asia/balkans/macedonia/macedonias-public-secret-how-corruption-drags-country-down> (accessed 23 January 2017), 3.

84 Haaß and Ottmann, *supra* n 68.

85 Deena Abu-Lughod, 'Failed Buyout: Land Rights for Contra Veterans in Postwar Nicaragua,' *Latin American Perspectives* 27(3) (2000): 33.

Likewise, the cooption of Afghan warlords after the Bonn agreement resulted in forms of autonomy that permitted the warlords to monopolize many of the rent-seeking opportunities within the Afghani state, such as customs posts, that funded their fiefdoms at the expense of any imagined Afghan community.⁸⁶ One of the sad ironies of power sharing is that it usually demands increased spending at the time when it is least feasible. Indeed, power sharing can consume much of the sparse resources available for rights-driven development and welfare. Furthermore, this political economy of state-managed rents generates its own powerful incentives for self-perpetuation, a matter examined in greater detail below.

COALITIONS OF THE UNWILLING: POLITICAL CULTURE AFTER POWER SHARING

Beyond economic power sharing and the transitional moment in which it is agreed, power sharing will more often than not institutionalize a political culture un conducive to taking steps to achieve progressively, to the maximum of the state's available resources, the full realization of economic and social rights. Other realities of post-conflict societies which fall outside the scope of this article, like inherited debt, bureaucratic weakness and externally imposed structural adjustment processes, also serve as barriers to transformative justice, but there are specific factors of political culture that power sharing influences strongly. Power sharing usually allows settlements to be finalized without any agreement on how to address the structural causes of conflict, but these causes will have to be addressed within this political culture, characterized by sluggish policy formation and weak capacity for effective governance, unresponsive and exclusionary democracy and enduring patrimonial economics. This is because power sharing is ultimately about creating a political coalition concerned more with reassurance (that rebels will not pick up their weapons, that governments will not target their erstwhile antagonists) than with linear, instrumental goal orientation. It aims for conflict management, not transformation. Parties abide by power sharing rules out of self-interest and to avoid the costs of anti-system action, and not necessarily to constructively reconcile contending normative visions about what the state should and should not do. None of this is to argue that representative democracy is a panacea for the structural ills of society, nor that democratic governance is automatically correlated with governance quality. However, despite the legal obligation to respect, protect and fulfil economic, social and cultural rights, some degree of governmental responsiveness to elections and social movements and some degree of administrative competence to respond effectively are nevertheless necessary if the government is to take progressive action towards their fulfilment. It is regrettable, therefore, that power sharing tends to disincentivize responsiveness and administrative competence.

Power sharing has an inevitable tendency to foster sclerotic policy formulation and ineffective governance. In essence, all power sharing is an agreement on processes for discussing stability rather than accords on specific results to be achieved. It is more defensive than constructive, guaranteeing ethnic, religious, regional or linguistic balance, but not necessarily cooperation between the collectivities.

86 Rothchild and Roeder, *supra* n 16 at 332–333.

In particular, the mutual veto (where decisions are adopted only with the widest consent possible or almost complete consensus) often leads to ‘political blackmail’ and ‘political immobilism.’⁸⁷ Deadlock, inefficient government and inferior public goods provision are the near-inevitable consequences.⁸⁸ Even where mutual hostage taking and political blackmail can be avoided, government focuses more on prolonged relationship management through rigid organization frameworks than on systematically formulating and implementing policy goals. Particularly in African power sharing pacts, elite protagonists have strong incentives to frame what might reasonably appear to be nonethnic socioeconomic rights issues (welfare, health, environment) in ethnic terms ‘in order to obtain concessions, leading to mutual escalation of demands.’⁸⁹ Because of their size, unwieldiness and lack of provision for their own alteration, power sharing coalitions tend to be inflexible and incapable of responding to dynamic alterations in social conditions that follow peace. A grand executive coalition ‘virtually assures limited compromises, but not decisive moves to solve common problems’ with which TJ’s socioeconomic rights agenda is concerned.⁹⁰

The problem of ineffective governance is exacerbated by a tendency towards unresponsive and exclusionary rule. Power sharing as a policy preference of peacebuilders is premised on the notion that it can reconcile the principles of conflict management with those of democracy. A key determinant of the long-term prospects for the emergence of a government more responsive to rights-based campaigning, to say nothing of one committed to welfare or redistribution, is the emergence of organized, reformist parties or bottom-up civil society with cross-cutting interests to either influence or constitute the government. However, in most instances of power sharing, nonsignatories are excluded from the executive or given disproportionately small shares of power, and, even where given coordinating roles like prime minister or president, are denied the means to pursue independent policies.⁹¹ Political groupings that emerge from power sharing are based on identity-defined interests rather than on universal, cross-cutting ideologies like human rights, and reflect the military balance at negotiations as opposed to potential electoral or grassroots social support. Class-based parties that employ rights-based language and legal standards to aggregate the interests of lower and middle classes to avoid domination by wealthy elites or put pressure on incumbents to respond to public pressure struggle to emerge, let alone prevail, in systems dominated by ethnic/religious/linguistic-based parties that contest subsequent elections.⁹² As Marina Ottaway argues, a functional, responsive

87 Christopher Stefes and Timothy Sisk, ‘Power Sharing as an Interim Step in Peace Building: Lessons from South Africa,’ in *Sustainable Peace: Power and Democracy after Civil Wars*, ed. Philip Roeder and Donald Rothchild (Ithaca, NY: Cornell University Press, 2005), 297.

88 Anna Jarstad, ‘The Prevalence of Power-Sharing: Exploring the Patterns of Post-Election Peace,’ *Africa Spectrum* 44(3) (2009): 41–62.

89 Andreas Mehler, ‘Not Always in the People’s Interest: Power-Sharing Arrangements in African Peace Agreements,’ German Institute of Global and Area Studies Working Paper No. 83 (2008), <http://www.econstor.eu/bitstream/10419/47779/1/608728098.pdf> (accessed 23 January 2017), 37.

90 Rothchild, *supra* n 26 at 252.

91 Mehler, *supra* n 36.

92 Mimmi Söderberg Kovacs, ‘When Rebels Change Their Stripes: Armed Insurgents in Post-War Politics,’ in *From War to Democracy: Dilemmas of Peacebuilding*, ed. Timothy Sisk and Anna Jarstad (Cambridge: Cambridge University Press, 2008).

political system necessitates a radical shift in the nature of political power, which is unlikely where wartime identities retain paramount salience. As in weak states, elections without such a shift are more likely to culminate in the sedimentation of existing power divisions via ‘premature closure’ of the transitional process by formalizing institutions and procedures before a genuine change in the nature of power has taken place.⁹³ Systematically incorporating as many conflict factions as necessary within decision making prevents vibrant opposition, renders access to power almost unattainable for other groups and makes it unlikely that the populace can change government through electing an alternative coalition. This is clearly the case with the most marginal groups like women and minorities,⁹⁴ but also the general populace given their lack of political effectiveness in an environment where spoiling capacity defines the allocation of power. As Nehal Bhuta notes, in postconflict states political order is most likely to stabilize where arrangements for governance are advantageous enough to those ‘politically effective’ elements of society to incentivize them to coordinate their interests towards these ends. If such coordination occurs successfully, then those ‘politically ineffective’ parts of the population tend to be ignored.⁹⁵

The inclusion of moderate, minority, progressive and other grassroots voices that typically embrace the language of socioeconomic rights is also predicated on something approaching a state where popular views inform the make-up of government. Particularly in cases where external peacebuilders are involved, this may be facilitated by the so-called ‘sunset clauses’ where the hard guarantees of power sharing are limited to a period of months or years before giving way to the softer guarantees of elections and human rights. While these elections are designed to give influence to actors initially excluded from policy formulation by power sharing, power sharing more often than not endures after elections to choose a new government as incumbents manipulate the process or resort to violence when exit from power looks possible to restore the prior equilibrium.⁹⁶ There is something of a consensus in the literature that power sharing does not conduce to democracy or its deepening, or does so only when the obstacles to it are atypically low.⁹⁷ In those relatively rare instances where power sharing gives way to genuinely competitive elections, the unbounded uncertainty of elections ‘creates incentives to extract resources without constraint’ in the period leading up to them.⁹⁸

Tony Addison convincingly argues that one of the main barriers to socioeconomically progressive TJ is those behaviours that persist after authoritarian rule, like unproductive expenditures and undisciplined rent seeking where the state neglects to ensure that the economic rents generated by its controls are oriented towards

93 Marina Ottaway, ‘From Political Opening to Democratisation?’ in *Democracy in Africa: The Hard Road Ahead*, ed. Marina Ottaway (Boulder, CO: Lynne Rienner, 1997).

94 Sriram, *supra* n 18.

95 Bhuta, *supra* n 13 at 841.

96 Rowland Cole, ‘Power-Sharing, Post-Electoral Contestations and the Dismemberment of the Right to Democracy in Africa,’ *International Journal of Human Rights* 17(2) (2013): 256–274.

97 Julia Strasheim and Hanne Fjelde, ‘Pre-Designing Democracy: Institutional Design of Interim Governments and Democratization in 15 Post-Conflict Societies,’ *Democratization* 21(2) (2014): 335–358.

98 Philip Martin, ‘Coming Together: Power-Sharing and the Durability of Negotiated Peace Settlements,’ *Civil Wars* 15(3) (2013): 347.

national development or fulfilling human rights obligations.⁹⁹ Power sharing is a primary means by which these pathologies are (re)institutionalized. Critics of power sharing argue that its institutions effectively create ‘cartels’ among the elites of the collectivities they coagulate, structuring relations between these leaders and nonelites in a manner in which the former are predominant and their demands are consistently fulfilled.¹⁰⁰ Economic power sharing guarantees control of state resources to individuals who can create order and opportunities by limiting access to resources within the collectivities they represent, while the lack of cross-cutting parties or effective administration means that the primary means of exercising influence are patron–client networks, corruption and clientelism. Indeed, some argue that the success of power sharing in securing peace can be attributed to a significant extent to the way ‘such arrangements institutionalize rebels’ and government officials’ access to state resources and how they create a political economy of patronage and corruption.¹⁰¹ Power sharing governments are reluctant to permit the sort of meaningful bottom-up justice or government at local level that could address at least some of the structures of economic injustice because this would involve diluting their control of conflict.¹⁰² Political stability depends less on progressively realizing socioeconomic rights than on a series of practices that fundamentally undermine this, most notably the award by public officials of personal favours like public sector jobs, licences, contracts and projects the common good is dependent on.¹⁰³

CONCLUSION

While advocates of foregrounding socioeconomic rights within TJ processes make a compelling case for broadening the field’s perspective, it will often take place in situations where power sharing operates to entrench inequalities in the loci of effective political and economic power. Postconflict politics of security, accumulation and even greed will mediate the relationship between revealing structural or direct economic abuses and realizing a ‘respect, protect and fulfil agenda’ to redress them. It is, however, important to avoid the trap of determinism by leaving space for creativity within these limitations and acknowledging the distinct likelihood that power sharing stasis gives way to change over time. If power sharing does succeed in sustainably stabilizing the state, it is more than possible that attention will turn to those intractable issues that were not addressed in the period of gross postconflict insecurity. The implementation and consolidation of peace agreements persistently gives rise to opportunities and dilemmas that could not have been anticipated at the negotiation table. Power sharing parties might learn to adjust power and representation flexibly in response to changes in society, particularly if international actors and domestic civil society enjoy creative, sustained engagement with each other and the government.

99 Tony Addison, ‘The Political Economy of the Transition from Authoritarianism,’ in *Transitional Justice and Development: Making Connections*, ed. Pablo de Greiff and Roger Duthie (New York: Social Science Research Council, 2009).

100 Rothchild and Roeder, supra n 16.

101 Haaf and Ottmann, supra n 68 at 3.

102 Timothy Sisk, *Statebuilding: Consolidating Peace after Civil War* (Cambridge: Polity Press, 2013).

103 Michael Bratton and Nicholas van de Walle, ‘Neopatrimonial Regimes and Political Transitions in Africa,’ *World Politics* 46(4) (1994): 453–489.

It may allow time for confidence building and effective institutions of governance to emerge that mitigate the perceived need for elites to subordinate longer-term agendas for the common good to security. Power sharing may be renegotiated in a way that ensures language, ethnicity, region or religion no longer define representation or public service delivery, or might ultimately ensure that internationally established standards for socioeconomic rights become the lines politics is contested under.¹⁰⁴ 5
It is at this later point that a degree of plasticity in terms of political culture and the economy may become apparent that is commensurate with the optimism that has historically animated TJ – that is, that the fabric of a society previously subject to conservative stasis has become contestable in an open-ended way with no options foreclosed. The best prospects for justice may lie far beyond essentially adversarial power sharing in what Pierre du Toit labels ‘post-settlement settlements,’ where parties mandated to pursue reconciliation and cooperation, not hegemonic control, come to power, but it is impossible to predict when these occur, or even to generalize about how they might emerge.¹⁰⁵ It is just as likely, however, that the elites who benefit from power sharing use it as a means to ‘solidify’ power bases and install institutions that promote their selfish interests.¹⁰⁶ If it does, explicit or implicit economic power sharing may permit the divisions of resources and opportunities between postconflict oligopolies, while political power sharing calcifies a domestic political culture that is patrimonialist, cannot govern effectively and is nonresponsive to the voices of the most marginalized. These have been the patterns of economic and political life in power sharing states like Sierra Leone, Colombia, Philippines, Chad, Lebanon and Zimbabwe that TJ discourse has thus far failed to adequately take cognizance of. With greater awareness of the restrictions imposed by economic and political power sharing, more context- and time-specific TJ processes that foreground socioeconomic justice may become possible, even if it means tempering the prevailing optimism about the malleability of unjust social structures in times of ostensibly dramatic postconflict change. 25

104 Sisk, *supra* n 63.

105 Pierre du Toit, ‘Why Post-Settlement Settlements?’ *Journal of Democracy* 14(3) (2003): 104–118.

106 Strasheim and Fjelde, *supra* n 97.