The “Uncle Tom” Dilemma: Minorities in Power-Sharing Arrangements

Abstract

Mandatory power-sharing laws aim to balance power between groups in contexts where majoritarian democracy might disadvantage minorities. Yet, unless veto arrangements are in place, cabinet-level decision-making usually continues to operate under majority rule. Minority parties participating in such power-sharing executives may lose support in their own communities owing to a failure to deliver substantial reforms or to advance minority objectives and become seen as ‘Uncle Tom’ type figures who no longer represent their own community. Indeed, integrationist reforms in consociational contexts may encourage just such outcomes, particularly where minority politicians are selected by ethnicity rather than as a result of political support. This article explores examples of these dilemmas facing power-sharing cabinets in Zimbabwe, South Africa, Bosnia-Herzegovina, Fiji, and the French Pacific territory of New Caledonia.

Key words
Power-sharing, Bosnia-Herzegovina, Zimbabwe, South Africa, Fiji, New Caledonia.

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Introduction

The defeat of Morgan Tsvangirai’s Movement for Democratic Change (MDC) in Zimbabwe after its South African-brokered 2008 deal with Robert Mugabe’s ZANU-PF offers a cautionary tale about the potential dangers of participating in power-sharing arrangements. In 2008, the opposition MDC was robbed of a victory in the first round of a presidential election, but eventually pressed by South African international mediators to enter a power-sharing deal with ZANU-PF. Mugabe retained the presidency. Tsvangirai became Prime Minister. A 31-member Council of Ministers was divided 16/15 between the MDC and ZANU-PF.
Subsequently, the MDC proved unable to control or reshape state policy and its reform agenda was effectively blocked. As Cheeseman and Tendi write, ‘power-sharing is a generous title for a process which has condemned opposition parties to accept inferior positions within the government, despite their success at the ballot box’ (Cheeseman and Tendi, 2010: 225). At the subsequent 2013 elections, Tsvangirai’s MDC was routed. Mugabe gained 61% of the presidential vote while Tsvangirai slumped to 35%. ZANU-PF acquired over 70% of seats in the House of Assembly (Raftopolous, 2013)

The Zimbabwe 2008-13 story highlights a familiar difficulty for junior partners or newcomers in all coalition governments, whether forged through mandatory power-sharing or not. In legally obligatory power sharing cabinets, the risk of tokenistic inclusion is particularly acute because the dominant party does not usually depend on the minority party in the legislature, thus depriving the latter of leverage. Zimbabwe is not – or is no longer – a setting where the main political cleavage is ethnic, though it is a country where ‘sell out’ rhetoric has considerable resonance. More typically in ethnic power-sharing arrangements, minority representatives join cabinets that are otherwise configured to sustain majority ethnic dominance. Political leaders belonging to the majority group prefer the legitimacy such inclusive arrangements offer, but may be reluctant to relinquish powerful portfolios or make major policy concessions. Participation in cabinet exposes minority or junior parties to being discredited by association with a larger or better-established incumbent. Leaders of the minority group may be tempted by access to powerful portfolios, but such Faustian bargains risk threatening party links with their political bases, and/or prompting allegations of betrayal. Unless the new party can press through its agenda, or acquire powerful ministerial portfolios, the ultimate result may be electoral annihilation. In recognition of this risk, minority parties engaged in coalition governments or governments of national unity regularly depart mid-term in order to cultivate a distinctive political appeal ahead of the next election.

This article focusses on power-sharing experiments where a proportional distribution of cabinet portfolios is mandated by law, not all those where coalition governments are construed as ‘inclusive’ because they include ministers from the various different ethnic groups. It looks at four political settlements in which minorities have struggled to acquire political influence despite inclusion in mandatory inter-ethnic power-sharing arrangements: South Africa, Bosnia-Herzegovina, Fiji and New Caledonia. We find considerable variation shaped particularly by (i) whether power-sharing is — or is perceived as — a transitional or permanent arrangement, (ii) whether or not powerful sub-state levels of government exist and (iii) whether arrangements depended on an external enforcer. Effective rules almost invariably
need adjustment or fine-tuning, implying that ‘mandatory’ power-sharing is seldom a once-and-for-all framework around which actors conduct their deliberations. What matters most is the character of the underlying settlement, and the contextual incentives to stick by compromises reached, rather than the precise details of the legal architecture.

South Africa’s Temporary Compromise

South Africa’s first post-apartheid constitution of December 1993 (coming into effect as of 27th April 1994) included a mandatory power-sharing provision. The President, serving as head of government as well as head of state, was to be selected by the 400-member National Assembly and was required to forge a maximum 27-minister power-sharing cabinet: all parties with more than five percent of seats (20) were entitled to participate proportionally and all parties with 20 percent or more of seats (80) could choose a Deputy President (Republic of South Africa, 1993: S. 84, S. 88). After the 1994 election, this was sufficient to guarantee inclusion in cabinet of FW de Klerk’s National Party and Zulu leader Mangosuthu Buthelezi’s Inkatha Freedom Party (IFP) and de Klerk became one of two Deputy Presidents.

Yet majority rule had always been the ANC’s core objective in negotiations with de Klerk’s government (see Mandela, 1989). Both ‘entrenchment of compulsory power sharing’ and of a ‘minority veto’ were seen as unacceptable compromises because ‘they would permanently block a future advance to non-racial democratic rule’ whereas what was deemed acceptable was ‘a "sunset" clause in the new constitution which would provide for compulsory power-sharing [entailing ‘proportional representation in the executive’] for a fixed number of years in the period immediately following the adoption of the constitution’ (Slovo, 1992). A temporary government of national unity was the price paid for National Party agreement that an elected body draw up the permanent constitution (Klug, 2010: 27-28).

Frictions after the 1994 election centred on cabinet appointments and official representation abroad, but also de Klerk’s secret granting of indemnities from prosecution to three security ministers and 3,500 police officers on the eve of the 1994 election (Washington Post 15th January 1995; Houston, 2014: 200-201; Sampson, 1999: 499, 503; de Klerk, 1998: 342-365). As de Klerk later wrote, ‘we were increasingly confronted with majority government positions with which we disagreed and with which we did not want to be associated’ (de Klerk, 1998: 347). After struggling to obtain influence over the drawing up of the permanent constitutional arrangements, and in protest against the intended absence of enduring power-sharing provisions, de Klerk’s National Party withdrew from cabinet in May 1996 (Guelke,
1999: 20, 182-3; Klug, 2010: 20). The rift was not particularly rancorous. Despite objections, the National Party still voted in favour of the permanent constitution but preferred to cultivate a distinctive electoral appeal ahead of the second post-apartheid polls. The permanent constitution of 1996, ratified in December, dropped the power-sharing rules. From the second post-apartheid election in 1999 onwards, the President was free to choose the composition of cabinet without constraint.

The 1994 arrangements were therefore crucially transitional: the goals were to reassure an economically powerful white minority that they could continue to prosper under African majority rule, and to avoid conflict in the KwaZulu Natal townships from destabilizing the new government. Relatively prosperous sections of the white minority had little interest in sustaining communal representation in cabinet, and every interest in a smooth transition to protect their wealth and commercial interests. The constitutional bargain entailed a tacit trade off of political integration in return for economic accommodation of prevailing business interests, even if there was no explicit deal to this effect (Guelke, 1999: 172). It was the enduring socio-economic power of the white ruling class, not a framework of constitutional safeguards that would sustain that bargain during the transitional years.

Power-sharing arrangements raise very different types of issue when these entail foundational bargains for a new state or quasi-state, as in Bosnia-Herzegovina.

**Bosnia-Herzegovina by International Design**

In November 1995, an accord signed at the Dayton Air Force base in Ohio ended three years of war that had resulted in around 100,000 fatalities and 2.2 million displaced. The General Framework Agreement for Peace in Bosnia-Herzegovina (otherwise known as the Dayton Peace Agreement - henceforth, DPA) acknowledged two self-governing and autonomous 'entities': an overwhelmingly Serbian Republika Srpska and a Bosniak-Croat Federation divided mostly along the battle lines bequeathed by the civil war. Bringing together the two entities, relatively weak federal structures were put in place: a two-chamber Bosnia-Herzegovina parliament, a Council of Ministers and a three-member revolving presidency alternating Bosniak, Croat and Serb office-holders on eight-month stints (US Department of State, 1995: Annex IV, Art IV). Proportional representation, presidential power-sharing, asymmetrical federalism, ethnic quotas and the right for each entity to veto decisions led to the DPA being described as a ‘classic example of a consociational settlement’ (Bose, 2002: 216).
The DPA provides that there should be a ‘Council of Ministers’, who assume office upon approval by the House of Representatives, with a chair (effectively Prime Minister) appointed by the Presidency (US Department of State, 1995: Annex 4, Art. 5. S.9). The Council initially included a Foreign Minister, Minister of Foreign Trade and a Minister of Civil Affairs and Communications. Numbers of ministers changed from three to six in 2000 and from six to nine in 2002 (Bieber, 2006: 52). No more than two-thirds of ministers may be from the Federation. A 1997 law required parity of representation between Bosniaks, Serbs and Croats, and decisions by consensus. Deputy Ministers were to be from different ‘constituent peoples’ to their ministers and had to agree on decisions or else these would have to be decided jointly by the Council (Bieber, 2006: 52). The Council of Ministers had to be presided over by two co-chairs and a Vice-Chair, rotating every eight months, though this provision was ruled unconstitutional by the Constitutional Court in 1999. A new 2002 law established a single chair: a de facto Prime Minister.

Although initially envisaged as a ‘government’, the Council of Ministers acquired restricted authority in the early post-Dayton years. The major Serb and Croat parties preferred to concentrate power at the entity or canton-level. A decade later, the council was frequently unable to take action because of disagreement among its ‘ministers’, boycotts resulting in inquorate meetings or absence of consensus leading to decisions being taken instead via the tripartite presidency (Hays & Crosby, 2006: 2). Effective power resides in the legislature, not in the Council of Ministers. In both the 42-member House of Representatives and the 15-member House of the Peoples, decisions need the support of at least one-third of the delegates from the Republika Srpska and from the Bosniak-Croat Federation (so-called ‘entity voting’). Bills that pass through both houses may nevertheless be declared destructive of ‘vital national interests’, but (after efforts at arbitration) this requires reference to the constitutional court for review. Of the nine judges on that court, three are selected by the President of the European Court of Human Rights (US Department of State, 1995: Annex IV, Art VI). As Birgit Bahtić-Kunrath shows, parties wanting to veto bills prefer the path of ‘entity voting’ to use of the ‘Vital National Interests’ provision because they can thereby evade jurisdiction by nominees of the European Court. Indeed, the Council of Ministers — although itself a grand coalition of communally-based parties — frequently finds its legislative agenda kyboshed by entity vetoes in either the House of Representatives or, less frequently, the House of the Peoples, mostly by the Serbian Alliance of Independent Social Democrats (Bahtić-Kunrath, 2011: 913).

The dilemmas of minority participation in power-sharing accords are acutely posed in Bosnia-Herzegovina, particularly where integrative arrangements are supplemented. The Croat
and Bosniak members of the tripartite presidency are elected at large within the Bosniak-Croat federation whereas the Serb representative is elected separately by the Republika Srpska electorate. Since Bosniaks easily outnumber Croats in the federation they are able to tactically vote for a Croat candidate, with the result that the Croat President has been frequently elected mostly on Bosniak votes. A similar issue arises with the House of the Peoples (Kasapovic, 2016; Bieber, 2006: 48-52). Effectively, Serb delegates have a veto, but Bosniaks can outvote Croats at both state and entity-level. This has fuelled Croat demands for a separate entity of their own (Zdeb, 2016).

In the early years, responsibility for the implementation of the DPA (and the guardianship of the integrity of the state) fell largely to the Office of the High Representative (OHR), backed — from 1997 — by the Bonn powers which were used by the OHR to bar candidates, remove elected officials, and censor the media (including bans on 'hate speech') and to favour those who declared a commitment to multi-ethnic politics (Manning, 2006: 725, 731; Knaus & Martin, 2003: 64). The longer-run sustainability of a consociational protectorate depended on the proximity of the European Union, which assumed the central external responsibility a decade after Dayton. With the departure of High Representative Paddy Ashdown in 2006, the OHR adopted a less interventionist stance, encouraged in this by the negative verdict of the 2005 Venice Commission (Venice Commission, 2005). The prospects of accession to the European Union were used to exert pressure to strengthen the central Bosnia-Herzegovina state and to modify parts of the Dayton architecture, but with very limited success. Political leaders in the Republika Srpska mostly preferred independence, and Croats campaigned for a third entity to take the place of the Bosniak-Croat federation. Initially, only the ongoing international presence, propping up the Bosniak preference for retention of the Dayton boundaries, served to hold the state together. As Sumantra Bose put it, Bosnia became 'a state of international design that exists by international design’ (Bose, 2005: 322).

In tripolar settings, minorities may be particularly vulnerable to political exclusion, but this can also arise in bi-communal settings — as in the Fiji case, where the two largest communities were close to parity after independence in 1970.

**Fiji: An Internal External Enforcer**

In Fiji, post-independence cabinets were all ethnic Fijian-dominated until 1987, but some offered tokenistic representation to Fiji Indians. This was the case with Ratu Mara’s post-independence Alliance Party governments, which at most elections in the 1970s and 1980s
obtained close to 50 percent of the national vote. In theory, Fiji’s Alliance Party — modelled on the Malaysian 1950s and 1960s Alliance — had Fijian, Indian and General voter associations. From independence in 1970 until the 1987 coup, the 52-member parliament was composed of 27 communal representatives (selected by each of the three groups) and 25 ‘national’ or ‘cross-voting’ constituencies where members had to be ‘Fijian’, ‘Indian’ or ‘General voter’. As with the Lebanese arrangements, the ethnicity of the candidates was specified, but the electorate was multi-ethnic. This meant that majority Fijian constituencies had to elect ‘Indian’ candidates and majority Indian constituencies had to elect ‘Fijian’ representatives. Parties, including Ratu Mara’s Alliance, therefore became adept at finding representatives from the other group. In an effort to broaden legitimacy and increase Alliance support in the Indian community, Indian representatives selected from majority indigenous constituencies were sometimes appointed to hold ministerial portfolios. Invariably, they struggled to gain support from Fiji Indian voters.

Ratu Mara’s governments were not constrained by mandatory power-sharing provisions, but such laws were later adopted in Fiji. After the 1987 coup, which removed Fiji’s first mainly Indian-backed government, coup leader turned Prime Minister Sitiveni Rabuka brokered a new 1997 constitution with the leaders of the Fiji Indian parties. As well as featuring a preferential electoral law (the alternative vote), the new constitution required that all parties with over 10 percent of seats be proportionally represented in cabinet. For electoral purposes, ballot papers were designed to permit ticket voting: voters could choose to simply tick in favour of a party and in so doing delegate choices about 2nd, 3rd and lower preferences to that party.

At the first election under the new arrangements in May 1999, the largely Fiji Indian backed Fiji Labour Party (FLP) obtained 37 of the 71 seats, despite receiving only 1.9% of the indigenous vote. Under most electoral systems, such an outcome would have been impossible. Indigenous Fijians accounted for at least 52 percent of the population, as compared to 44 percent Fiji Indians, but the new preferential voting system gave the FLP 14 of its seats (i.e., these were won through ballot transfers from the indigenous Fijian parties). In those critical marginal 14 constituencies, outcomes were decided by ticket voting. Opposition parties strategized to defeat Rabuka’s Soqosoqo ni Vakavulewa ni Taukei (SVT) government by ranking it in last place effectively handing victory to any other party ranked in penultimate position or higher. The FLP only passed the absolute majority threshold owing to ballot transfers of this type.
After the 1999 election, FLP leader Mahendra Chaudhry became Fiji’s first ever Prime Minister of Indian descent. Following the 10 percent rule, the coalesced Fijian Association Party (FAP) was given portfolios in cabinet, and party leader Adi Kuini Speed became Deputy Prime Minister. The ousted governing party, the largely indigenous backed SVT, was offered ministerial portfolios, but put up conditions on participation, which Chaudhry refused. With an eye to the security risks, another two of the smaller coalesced Fijian parties, the Party of National Unity and the Veitokani ni Lewenivanua ni Vakarisito (VLV), also joined the cabinet, although this was not required by law. These Fijian parties that entered cabinet subsequently struggled to acquire influence. As indigenous disquiet about Chaudhry’s government mounted over late 1999 and early 2000, all three of the allied Fijian parties with ministers in cabinet split. Many of those MPs who were not in cabinet joined the opposition, though their leaders clung on to their ministerial portfolios. Exactly a year after the 1999 election, on 19 May 2000, the Chaudhry government was overthrown by a so-called ‘civilian coup’ orchestrated by businessman George Speight with support from a rebel group that included parliamentarians from the FAP and the VLV, as well as the major opposition party, the SVT.

The 2000 coup ultimately failed, and fresh elections were called in 2001, at which those Fijian parties which had joined the 1999-2000 cabinet were annihilated. The resulting indigenous-led government – which had a solitary token Indian minister (George Shui Raj, a businessman from Rakiraki) – refused to implement the power-sharing law. For Prime Minister Laisenia Qarase, obeying the multi-party cabinet law would have entailed inviting his arch-rival Chaudhry’s Fiji Labour Party into cabinet. The courts repeatedly found Qarase in breach of the law for excluding the Labour Party, but in a final 2004 judgment watered down the power-sharing requirement by giving the Prime Minister the right to appoint independents and non-aligned senators into cabinet outside the power-sharing rule (for further details, see Fraenkel 2017). Chaudhry preferred to take his party into opposition.

A third election under the new arrangements in 2006 presented the same legal dilemmas as in 2001, but with the constraints now eased on the Prime Minister. This time, Qarase’s party had a majority in parliament, and thus greater flexibility as regards its coalition arrangements. In accordance with the constitution, a power-sharing cabinet was formed that included nine ministers from the Fiji Labour Party holding portfolios such as education, agriculture and labour. Party leader, Mahendra Chaudhry opposed participation and chose to remain on the opposition benches. His rivals, including Krishna Datt and Poseci Bune, entered cabinet. Over its eight months in existence, Fiji’s multi-party cabinet took steps to resolve ethnically sensitive
political issues, such as land leasing, by delegating these to multi-ethnic cabinet sub-committees (Green, 2009).

Military commander Frank Bainimarama initially pledged loyalty to the new power-sharing cabinet, but by mid-2006 he renewed his longstanding threat to remove the government. In the last days before the December military takeover, the cabinet split over the 2007 budget, and its proposed increase in value-added tax. On the opposition benches, Chaudhry insisted that his party’s ministers toe the party line and vote down the budget. Prime Minister Qarase initially insisted that they obey ‘collective responsibility’ and back the budget (though at the last moment he relented and allowed abstentions). On the day of the vote, five FLP ministers voted against the budget, while four — including Datt and Bune — absented themselves. Datt and Bune were consequently expelled from the Fiji Labour Party just three days before Bainimarama’s December 5th 2006 coup.

In the few short months of Fiji’s May-December 2006 power-sharing experiment, those Fiji Indian politicians who joined cabinet struggled to demonstrate major influence over government and to show their largely Fiji Indian constituents that power-sharing offered a better approach than the politics of confrontation. In the run up to the coup, Krishna Datt, Minister for Labour and Employment and a critic of Chaudhry’s leadership, had his effigy burnt by FLP supporters in peri-urban Nasinu, close to Fiji’s capital, Suva (Fraenkel, 2009: 169). When coup leader Bainimarama eventually went to the polls, in 2014 eight years after the coup, his party obtained 59% of the nationwide vote, including at least 80 percent of the Fiji Indian vote and around half of the indigenous vote (Fraenkel, 2015). In the subsequent election, held in November 2018, Bainimarama’s FijiFirst Party scraped home with 50.02% of the overall vote, and its indigenous support clearly declining.

The Fiji case demonstrates the political risks associated with minority participation in power-sharing cabinets, but it also indicates that the alternative may be authoritarian control rather than majoritarian democracy. A more durable power-sharing experiment occurred in New Caledonia, Fiji’s close neighbour, but here, as in Bosnia, there was a tension between the central and sub-state tiers of government.

**New Caledonia’s Autonomy Deal**

The French Pacific territory of New Caledonia has a classic consociational settlement, though one mostly neglected in the international literature owing to its sub-national status. It has closed-list proportional representation, an exceptionally strong minority veto, mandatory
power-sharing and some autonomy for Kanaks in the north and on the outlying islands. Conflict in the 1980s pitted the largely pro-independence indigenous Kanak parties, organized in a Front de Liberation Nationals, Kanak et Socialist (FLNKS) against the governing anti-independence Rassemblement pour la Calédonie dans la République (RPCR) (Henningham, 1992). The initial peace deal, the 1988 Matignon-Oudinot accords, offered Kanaks some degree of self-government in the new Northern and Loyalty Islands provinces, provided a programme of ‘re-balancing’ designed to improve Kanak living standards and, critically, promised a referendum within a decade. When that deadline was reached, a new agreement was put in place, which included a power-sharing accord.

The 1998 Nouméa Accord pushed back the scheduled vote on independence for 15-20 years, established a program for a phased devolution of powers and a Senate for Kanak chiefs, as well as providing for a government ‘elected by the Congress on a proportional basis’ (for further details, see Maclellan, 1999: 245-52, Chappell, 1999). What Chappell calls New Caledonia’s ‘double federal arrangement’ not only gave New Caledonia autonomy from Paris, but also allowed the majority-Kanak northern and Loyalty Islands provinces greater autonomy (Chappell, 2010: 433). As regards the power-sharing cabinet, the Organic Law of 1999, and the 1999 Standing Orders (or ‘Interior Rules’) of the New Caledonia Congress put this provision into practice by specifying that all ‘elected groups’ with more than six seats in Congress would be entitled to positions in cabinet (Congrès de la Nouvelle-Calédonie, 1999a; 1999b). Under the new arrangements, Congress establishes the size of the executive, but is constrained to choose between five and 11 ministers. Qualifying groups with more than six seats, which may consist of combinations of allied parties, put up lists of candidates for inclusion in cabinet. Ministers are selected from these qualifying groups ‘by proportional representation following the rule of the highest average’. Only after the executive is formed do ministers elect a President and Vice-President. The executive is charged with conducting decision-making in a ‘collegial’ fashion (Government of France, 1998: S. 2.3), but — as in South Africa and Bosnia — there is no way of ensuring such cooperation. There is, however, an exceptionally strong minority veto: it takes only the resignation of a single minister to precipitate the fall of a government.

At the first post-Nouméa Accord elections in May 1999, the main settler-backed party, the RPCR, won 24 of the 54 congress seats, and secured a majority by allying itself with a breakaway Kanak group, the Fédération des Comités de Coordination des Indépendantistes (FCCI, which had four members). The FCCI had controversially called for a ‘mutation’ among New Caledonia’s political leaders and claimed that the mainstream Kanak coalition, the
FLNKS, had ‘fulfilled its historic mission’ (Radio Australia, 7 June 1999). The FCCI was hailed by Jacques Lafleur, RPCR leader, as a ‘party of peace’, but condemned by the larger Kanak-backed parties (Radio Australia, 11 May 1999). The RPCR’s Jean Lèques became President, while the FCCI’s Leopold Jorédie became Vice-President. Of the pro-independence parties, the FLNKS won 12 seats in Congress, while the Parti de Libération Kanak (Palika), standing separately, obtained a further six seats.

In accordance with the new multi-party cabinet rules, Congress decided on an 11-member executive. With 32 of the 54 seats in the territorial congress, the RPCR-FCCI obtained seven ministerial portfolios, while FLNKS-PALIKA obtained four positions in cabinet. The majority RPCR-FCCI coalition also took the major portfolios, such as economics, labour and education, with the FLNKS receiving health, culture, equipment, and youth and sports. FLNKS leader, Rock Wamytan, protested that the Government was ‘drifting away from the spirit and the letter of the Nouméa Accord’ (Chappell, 2000; PINA News Online, 1 October 1999). In its first year participating in cabinet, the FLNKS repeatedly took cases before the Administrative Tribunal complaining of a lack of ‘collegiality’ in the conduct of the executive (Chappell, 2000). The RPCR leaders insisted on ‘majority rule’ in executive decision-making, and retained control of all congressional commissions (Bastogi, 2003; 30-36).

In 2001, the government was reconfigured with the RPCR’s Pierre Frogier taking over as President, but now PALIKA’s Déwé Gorodé, a Kanak activist and writer, was appointed as Vice-President, thus meeting one of the major FLNKS objections to the Lèques Government. Although controversies over the implementation of the Nouméa Accord and ‘collegiality’ in cabinet continued, frictions within the FLNKS between the older pro-independence party Union Calédonienne (UC) and Palika became more pronounced. Schisms also appeared on the anti-independence side at the 2004 election, which saw the FCCI annihilated (though it retained one seat in the Loyalty Islands). On the loyalist side, the newly formed Avenir Ensemble and the Rassemblement–UMP (the renamed RPCR) were tied on 16 seats each, and, on the pro-independence side, the FLNKS and UC counted together also had 16 seats. The major settler-backed political parties eventually agreed on Avenir Ensemble’s Marie-Noëlle Thémereau as President, but the deal that gave PALIKA’s Gorodé the Vice Presidency persisted.

Despite the disincentive of a 5 percent threshold, splintering continued on the loyalist side at the elections of 2009 and 2014, with Avenir Ensemble splitting and a new breakaway parties – including Calédonie Ensemble led by Philippe Gomès – emerging. Schisms have centred on whether to embrace two distinct flags – the French tricolour and the Kanak flag (which features red, blue and green stripes, a yellow sun and a black totem) – or whether to
devise a single New Caledonian flag acceptable to both communities. Cleavages around that issue brought together UC and Rassemblement in favour of flying the two flags, while the other major pro-independence party Palika allied with the loyalist Calédonie Ensemble in opposition and criticized the UC’s alliance with its one time loyalist arch-rival as ‘against nature’ (Chapell, 2012). Although still joined in the FLNKS, UC and Palika sat separately in the congress, and more radical splinter groups – including the union-backed Parti Travailliste – emerged on the pro-independence side (Maclellan, 2017). While frictions on the loyalist side have led to repeated collapses of attempted government coalitions, rivalry between UC-FLNKS and Palika has prevented unanimity behind a candidate for the Vice President’s position.

The New Caledonia case offers a much-neglected example of a full-blown consociational arrangement that at least temporarily halted a period of severe conflict, although against the backdrop of a delayed decision on the core constitutional issue. Schisms on both pro- and anti-independence sides have permitted emergence of novel coalitions and enabled both sides to explore alternative strategies for cohabitation. The FCCI may have initially lost credibility through sharing power with the RPCR, but the two mainstream pro-independence parties still hold majority Kanak-backing despite sharing power with the loyalist parties for close to two decades. In the run up to the 2018 referendum on the agreed question ‘Do you want New Caledonia to accede to full sovereignty and become independent?’, it was the loyalist parties who pressed for inclusion of the either/or word ‘independence’ whereas the largely Kanak-backed parties preferred the vaguer term ‘sovereignty’ and made clear that they were against a clean break with France (some preferring a ‘free association’ model). Despite only those resident in New Caledonia since 1994 having the right to vote, the result in the November 4th 2018 referendum was a 56.4% ‘no’ vote with 43.6% in favour of independence. With two further potential votes in 2020 and 2022, New Caledonia will witness continuing uncertainty about its position in the French Republic over the years ahead.

Conclusion

The risk of tokenistic inclusion under ‘unity’ governments is particularly widely canvassed in the African literature on power-sharing, helping to explain why that continent has often been viewed as a ‘graveyard of consociational experiments’ (Lemarchand, 2007: 2; Spears, 2002; Cheeseman, 2011; Mehler, 2009; Kuperman, 2015). Many of the African agreements were hastily cobbled together in the wake of civil warfare or democratic impasses (so-called ‘fire engine diplomacy’), rather than following from domestically-orchestrated political settlements.
Some have been imposed or primarily instigated by outside mediators (Mehler, 2013). Yet tokenistic power-sharing, and connected to this the potential outflanking of collaborating ‘Uncle Tom’ parties, was a risk in most of the cases examined in this article. Just as Zimbabwe’s opposition paid a heavy price for joining a ZANU-PF government in 2008, so too New Caledonia’s FCCI did not survive the 2004 elections, Indigenous Fijian parties that collaborated in Chaudhry’s 1999-2000 cabinet were annihilated in 2001. By contrast in South Africa, the widely expected 1990s outflanking of de Klerk’s National Party by Afrikaner extremists never occurred, and the National Party anyway abandoned its cabinet place only two years after the inception of its power-sharing deal with Mandela’s ANC.

Parties that enter power-sharing collaborations may nevertheless orient primarily to consolidate their ethno-nationalist base or play both fiddles simultaneously. In Bosnia, seemingly ‘moderate’ Serb and Bosniak parties who were initially favoured by the international authorities and the office of the High Representative in Bosnia (in an effort to inflict defeat on the wartime nationalist parties) later adjusted to strengthen their ethnic appeal (Hulsey, 2010: 1132-1152). Mahendra Chaudhry gamed the Fiji power-sharing rules over 2002-4 so as to de-legitimize the Qarase government and strengthen his Labour Party’s appeal. When the court eventually offered a legal route out of the impasse, Chaudhry preferred instead to become Leader of the Opposition. After 20 years of mandatory power-sharing, New Caledonia’s two largest predominantly Kanak-backed parties softened their stance, but if either were to renounce the call for independence this would likely split the FLNKS.

Even if both the legislature and cabinet are legally constituted proportionally, executive decision-making may still be via majority rule, whether or not portfolios are distributed according to some fixed formula (as canvassed in O’Leary et al, 2004). In South Africa, de Klerk’s preference for a one-third minority veto over cabinet decisions was rejected in favour of a loose injunction for the President to follow a ‘consensus-seeking spirit’ (Republic of South Africa, 1993: S./9; Sparks, 1995: 195). In Bosnia, majority rule was avoided by veto rules that transferred effective authority to the entity or canton-level. Nevertheless, Croats found themselves disadvantaged both by the Dayton setup itself and by various reforms pressed by the OHR, international advisors and the EU designed to promote integration. In New Caledonia too, the loyalist parties predominated in a proportionally configured cabinet, allowing the largely Kanak backed parties only the less powerful portfolios. As in South Africa, the New Caledonia arrangements were in theory transitional, but in the former the duration of the transition was much shorter than for the latter: the 1998 Nouméa Accord scheduled the vote on independence a full 15-20 years later.
Minority parties in mandatory power sharing executives face particular difficulties. In voluntary parliamentary coalitions, minority parties entering cabinet are often able to use an explicit or implicit threat of withdrawal of confidence to shape the policy agenda. In law-enforced coalitions, junior parties usually have no such powers at their disposal. Institutional rules greatly shape the consequences. In New Caledonia, any party resigning can collapse the entire executive, which must then be re-formed in accordance with the power sharing rule. In Bosnia-Herzegovina, the legislature dominates a relatively toothless executive, and the entities exert veto powers. In Fiji and South Africa, minority parties in cabinet had no veto powers. Resignation (or the decline of an invitation) simply ended the arrangement, for South Africa permanently since power sharing had sunset clauses. In Fiji, the key legal cases after the 2001 election were in a context of only two qualifying parties. If one resigned, the other ruled alone until the next election. Nevertheless, the Fiji Supreme Court did rule in 2003 that ‘the obligation to establish a multi-party cabinet carried with it an obligation to maintain a multi-party cabinet. This latter obligation may arise in connection with ministerial resignations, by-elections or changes in the size of cabinet’ (Supreme Court 2003: S.117).

Two further influences critically shaped the prospects for collaboration in cabinet under power-sharing rules: whether there was an external enforcer and whether there was a sub-state or federal level where autonomous government could be achieved or strengthened.

In Bosnia, the external enforcers were both international authorities (OHR, the Peace Implementation Council, OSCE etc.), and the courts (which were in any case partly internationalized). To a lesser extent in New Caledonia, arrangements depended on outside influences (if French authorities are deemed ‘external’). South Africa’s 1996 permanent constitution institutionalized a powerful constitutional court, empowered to itself pass judgment on provisions within the constitution and require various amendments, but that court was not instrumental in sustaining the political bargain that underpinned the end of apartheid. In Fiji, the courts were not formally internationalized, but foreign judges sat on both the Court of Appeal and the Supreme Court and made critical decisions in 2001, 2002 and 2004 regarding the fate of the 1997 constitution and its power-sharing arrangements. Both the Fiji and South Africa political settlements were predominantly home-grown (even if there was much international advice), but in Fiji after the polarizing coup of May 2000 there was little political will to broker either institutional or informal compromises. When efforts were briefly made to achieve configure a power-sharing government in May-December 2006, they were cut short by a military coup.
In both New Caledonia and Bosnia, the sub-state local-level institutions were more important for the participating minority parties than power-sharing in cabinet or central state ministerial portfolios. In Fiji, there was no sub-national level of multi-ethnic government, except for the municipal councils. Rural self-government has always been mono-ethnic in Fiji, helping to explain why outside the towns Fiji Indian politics has centred on the sugar cane farmers’ unions. The indigenous community achieved some degree of self-government through the provincial councils, and the Great Council of Chiefs, but the latter was abolished by Bainimarama in 2012. In ‘quasi-federal’ South Africa, provincial councils grew in power after 1996 but it was not the option of retreating into a local power enclave that shaped national-level politics in the 1990s or 2000s (Simeon & Murray, 2004: 277-300).

Where constitutional arrangements offered ethnic autonomy as well as executive power-sharing, two elements of the consociational apparatus potentially work at odds with each other. All such power-sharing arrangements are born in flux, with the various parties adjusting to their presence and as regards their relations with one another. Where federal arrangements prevail, the relative extent of central power also tends to remain unresolved and in tension, as in Bosnia, Iraq or Belgium. Minorities or regional parties may prefer to accentuate sub-state powers and to weaken state-level institutions rather than seeking greater authority in central state executives. Even additional devices, such as requiring that split cabinet decisions be resolved through parallel consent (as in Northern Ireland) may be turned into de facto veto powers permitting an accentuation of sub-state autonomy. Hence, instead of thinking of ‘consociational’ arrangements as necessarily delivered in a four-component package for the protection of minorities, scholars of divided societies might better differentiate those institutions that encourage sub-state autonomy from those that entail central state inter-ethnic combination.

References


There were several reasons for ZANU-PF’s 2013 triumph, including MDC schisms and shifts in the ruling party base.

Zimbabwe’s 1980s conflict between ZANU (PF) and ZAPU was between two organizations rooted respectively in the Shona and Ndebele communities, but this cleavage dissipated after the Unity Accord of 1988 (see McGregor, 2002: 27). On the earlier resonance of allegations of ‘betrayal’ in Zimbabwe’s independence movement, see Scarnecchia 2012.

For the purposes of analysis, ‘minorities’ may refer to representatives of a smaller group or a group traditionally with lesser political power.

Arend Lijphart implicitly recognizes this dilemma facing minority parties in power sharing governments when he counts among the ‘favourable factors’ for ‘consociational democracy’ as a) absence of a ‘solid majority’ and b) balanced competition between ‘segments of roughly equal size’ (Lijphart 1985: 119-123).

See the summary of Lijphart and Horowitz’s views about the merits of such arrangements in Bieber, 2006: 51.

‘General voters’ were those not classified as Indian or Fijian, ie mainly Europeans, part-Europeans and Chinese.

The 1990 constitution, which briefly institutionalized Fijian ‘paramountcy’ need not concern us in this paper.

The story is told in Fraenkel & Grofman 2006: 623-651.
The FAP obtained 2.1 percent and PANU received 2.9 percent of the nationwide indigenous vote with both obtaining zero seats, while the VLV disappeared. VLV party leader Poseci Bune joined the FLP and won a seat at the 2001 polls, but to do so he had to shift ahead from a constituency with mainly indigenous Fijian voters to one with mainly Fiji Indian voters.

Sub-national status did not prevent Lijphart from counting the Netherlands Antilles or Dutch Suriname among the ‘consociational’ democracies (Lijphart, 2013: 240).

The FCCI lost three of its four Congress seats at the next election in 2004, and some senior members were convicted on corruption charges.

Before the 2004 elections, the RPCR changed its name to Rassemblement–UMP, in line with new centre-right alliances in mainland France, which brought together the Rassemblement pour la République (RPR), Union pour la Démocratie Française (UDF) and Liberal Democrats, under the banner of the Union pour un Mouvement Populaire (UMP).

Whether or not those potential future referendums, to be held if backed by one third of members of the territorial congress, continue to use the 1994 cut-off date for the electoral rolls is a matter for negotiation between the parties concerned.

The term ‘Uncle Tom’ is borrowed from psychology, where it is used as an epithet of servility. It used here to characterize a risk facing all minority parties that engage in power sharing cabinets which they may or may not succumb to.

On radical white resistance, see Adrian Guelke's chapter 'The Passivity of the Extreme Right' (Guelke, 1999).

As Fowkes writes, ‘instead of being the centre of an ongoing mediation of transitional compromises on contentious issues from the early 1990s, much of the court’s diplomatic effort has been devoted to things whose constitutional inclusion was largely uncontroversial as between the negotiating parties: procedural fairness, the rule of law, the separation of powers. It has been an exercise in holding the ANC to its own commitments much more than to negotiated compromises…’ (Fowkes, 2016: 119-120).

The Nouméa Accord expressly rules out secession: ‘The result of this referendum will apply comprehensively to New Caledonia. No part of New Caledonia may alone obtain full sovereignty or retain different links with France on the grounds that its results from the referendum where different from those in the territory as a whole’ (Author’s translation of Government of France, 1998).

Fiji’s Provincial Councils are mono-ethnic, with Indian representation only occurring via ancillary ‘advisory councils’.

John Coakley recommends ‘detaching the notion of segmental autonomy from the definition of consociation’ because the latter refers to a ‘sharing of power’ while the former refers to a ‘division of power’ at different levels (Coakley, 2009: 123). In response, McGarry and O’Leary insist that ‘consociation, like federalism, combines self rule and shared rule, and has its conceptual and normative roots in this distinction and combination’, and they argue that pillarization is indispensable in any ‘complete’ consociation (McGarry & O’Leary, 2009: 350). In this article, I am less concerned with debates about what ‘consociations’ are or how they should be defined (important though those may be) than with identifying and exploring the ramifications of tensions that often arise in power-sharing democracies.

Thinking of the Belgian experience, where power has been steadily eroded at the federal centre, Caluwaerts, and Reuchamps say ‘this raises the question whether on the long run federalism undermines the problem-solving capacity of the other power-sharing mechanisms’ (2015: 282).