Nation-States and Diversity, Power-Sharing and Conflict, in the Age of Human Rights (HR)

Our focus: how to build democracy and human rights protection in deeply divided societies

➢ Rights sit with individuals

➢ Rights are violated because of group belonging

➢ Consequently: we have a structural problem: how to accommodate diversity

The challenge: to design political institutions that simultaneously

➢ provide a democratic balance between groups and protect individual rights

➢ address contentious issues

➢ contain efficient rules for running a country

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The citizenship approach (Butenschön), i.e., imagining the state-individual relation as a contract about the distribution of rights and obligations:

➢ Under what conditions are such relationships created?

➢ How are rights and obligations codified and perceived by the parties?

➢ What are the modalities for changing the terms?

➢ What are the instruments of retribution in case of conflict?

The purpose of power-sharing

➢ Improving democracy (strengthening the marginalised individual's capacity for political influence, e.g., quotas, representation)

➢ Protecting minority (group) rights (devolution of powers: federations, autonomy arrangements)

➢ Managing conflict (policies of inclusion, exclusion, divide and rule)

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Butenschön: Instruments of power-sharing

– Devolution of powers: Territorial (federalism) and non-territorial (consociational)

– Representation: qualities of the electoral system (PR, FPTP)

– Form of government and grand coalitions (parliamentary, presidential; majority v. consensual)

– Decision-making rules: absolute or qualified decisions, minority veto, permanent or temporary (sunset clauses)

Cf. Lijphardt's: principles of consociationalism

– Grand coalition government (joint elite consensus on common, top-level issues)

– Mutual or minority veto (when vital group interests are at stake)

– Proportionality is the basic standard for political representation, public appointments and allocation of funds

– Delegation of as much decision-making as possible to the segments (the subsidiarity principle)

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Constitutional principles

➤ Pluralism refers to a conception of the national community as composed of separate subgroups without preferences accorded to any of these. This conception form the normative core of systems of power-sharing. The role of the state is not to promote any specific communal identity, but to facilitate politics of compromise that give all groups a fair say. But how to ensure equality?

➤ Universalism refers to a normative presumption that group-specific identities are irrelevant when it comes to each individual's status and rights vis-à-vis the state. The political community (demos) is the universe in which everyone is equal.

➤ Singularism: the idea that the state community is constituted by a single and specific collective identity and that the state is the embodiment of that identity. This principle can be found as a basis for authority and political organisation.The question is to what extent this leads to discrimination.

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Binningsbø: Power-sharing, peace and democracy. Evaluating relations and possible causal links.

➢ Conceptualisations of power-sharing

  ➢ peace agreement v. democracy-building

  ➢ Sharing of what: Political power? Military power? Territorial power? Economic power?

➢ Domain: in all countries? In plural societies? In post-conflict societies?

  (Cf. Types of societies.)

➢ Possible causal links (correlations)

  ➢ Power-sharing 'causes' democracy

  ➢ Power-sharing 'causes' non-democracy

  ➢ Power-sharing 'causes' peace

  ➢ Power-sharing 'causes' conflict

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Binningsbø: Power-sharing, peace and democracy. Evaluating relations and possible causal links.

➢ Power-sharing leading to democracy: segment leaders will cooperate, masses will learn, encourages cooperation, fosters democratic attitude, ensures minority representation

➢ … to non-democracy: prevents a vibrant opposition, reduces alternation, sharpens divisions, brings instability

➢ Power-sharing leading to peace: strengthens peace particularly when extensively institutionalised, overcomes commitment problems and mitigates security concerns (positive feedback loops)

➢ … leading to conflict: ignores needs among ordinary citizens, solidifies divisions; stakeholders are enemies, not opponents

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Exercise:

A country X with a population of about 20 million has experienced an internal conflict between the major ethnic groups in the country. Representatives of these groups are now meeting in negotiations with the mandate of proposing general constitutional principles for power-sharing, including a system of representation.

The aim is to arrive at a future political system based on the following criteria:

- Respecting international democratic and human rights standards
- Giving the contending groups a fair say in the decision-making process
- Securing the best possible efficiency in the decision-making process

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Exercise (ctd)

- Four groups are represented in the negotiations, facilitated by a team of international mediators:

- (A) The majority, comprising 65 % of the population. (B) The largest minority, with 20 % of the population. (C) A smaller minority, with 10 %. (D) The smallest, an indigenous groups, with 5 % of the population.

- The conflict broke out when the minorities B, C and D revolted against the traditional domination by the majority A. The open conflict ended after international mediation. An interim constituent assembly was convened with the purpose of agreeing on a new constitution. The constitution will be presented for a referendum at a later stage.

- As a renowned international expert you have been commissioned by the Constituent assembly to give advice on some of the issues to be resolved in a power-sharing agreement.

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Exercise (ctd.) Questions:

➢ Which human rights standards and mechanisms are the most relevant to be applied in such cases of peace-building?

➢ Which constitutional and territorial principles would you propose so that the interest and rights of the contending groups and minorities will be protected in the post-conflict system?

➢ Which elements of institutional power-sharing would you propose in this case?

➢ Which challenges and dilemmas would you expect to encounter in the implementation of the proposed arrangements?

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Alternative exercise:

➤ Choose and describe a real case; a country ridden by internal conflicts between groups.