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Deconstructing the Conditions that Enabled South Africa's Transition to Power-Sharing

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EXECUTIVE SUMMARY

Almost universally held up as an example of a successful transition and an embodiment of the merits of applying power-sharing methodologies, the peculiarities of the South African context and condition bespeak the fragility that inherently frames the negotiating discourse associated with any efforts to resolve intractable conflict within states and among divided societies.

For the purposes of this brief, the timeline of South Africa's transition from a globally vilified apartheid state to a democratic role model will include the following periods: power-sharing metamorphosed from informal and voluntary cooperation from 1991 to 1993; the more formalised pragmatic and distinctly preparatory Transitional Executive Council (TEC) for a few months from 1993 up to 1994 elections; the climactic coalition Government of National Unity (GNU) in April 1994, and, its mutation into a fully-fledged democratic state with the National Party's 1996 move from cabinet to the opposition benches. These periods reveal variable levels of power-sharing and the imperatives of a range of conditions, from leadership to common destiny and nationalism, to both incentivise and support a peaceful transition.

In this way the South African example demonstrates the need to blend the variations of power-sharing arrangements in their broader definition as "multiple vehicles that create broad-based governing coalitions of a society's significant groups in a political system that provides influence to legitimate representatives of minority groups" (CAI, 1). It extends beyond the well-articulated analyses of a range of commentators on the variable value of forms of consociational¹ and integrative² power-sharing models and repeatedly bespeaks the need for a range of conditions and dispositions – in terms of both broader realities and individual and collective leadership – that are essential if any form of power-sharing is to achieve even notional permanence.

In essence, the South African experience entailed elements of various approaches to power-sharing and reveals a range of activities and prerequisites for its successful practise. In so doing it confirmed at each stage that **on its own**, the "clever design of power-sharing institutions, no matter how careful, cannot resolve some of the inherent problems that lead to discord and the inability to reach consensus in today's deeply divided societies." (Sisk, 2003)

¹ A consociational state is one with major internal divisions along ethnic, religious, or linguistic lines, none of which are large enough to form a majority group, yet which nonetheless manages to remain stable due to consultation among the elites of its major social groups. Such states are often contrasted with those with majoritarian electoral systems.

² Pursuing an integrative form of power-sharing attempts to intentionally integrate society along the lines of divisions and seeks to build multi-ethnic political coalitions to create incentives for political leaders to be moderate on divisive ethnic themes and enhance minority influence in majority decision making.

ABOUT THE AUTHORS

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Critical success factors in the transfigurations of power

Phase 1 – leadership: imprinting positive dispute resolution patterns

A few months after the leader of the then ruling National Party (NP) President FW De Klerk announced the unbanning of the African National Congress (ANC) and other liberation movements, and the release from prison of Nelson Mandela in February 1990, the ANC and the NP met openly on 2 May 1990 at Groote Schuur in Cape Town. Talks lasted three days and both sides showed themselves committed to overcoming tensions and finding common ground. These early indications of the state's institutional ability to mitigate conflict were to flourish and prove essential to the evolution of power-sharing. The commitment to a trajectory that would move the country beyond conflict and towards the yet to be articulated vision of a common destiny is inextricably linked to the very nature of the talks and the approach taken by the leadership on all sides.

The talks were the beginning of a pattern of intra-group dispute resolution based “on bargaining and reciprocity” that Sisk (1996: 4) describes as vital to the successful regulation of conflict. It was, however, some time before the pattern become repetitive and regenerative. Certainly in this initial phase (and into the second phase immediately preceding elections), negotiations were interrupted by recurrent spoiling behaviours from parties on all sides, individuals and broader society. What enabled the management of these behaviours was in no small part the strong, moderate and motivated leadership provided by major role-players. Throughout talks, from the Convention for a Democratic South Africa (CODESA)³ I and II to the Multi-Party Negotiating Forum (MPNF) of 1993 that most immediately preceded the 1994 elections, there were repeated threats to withdraw from negotiations or ‘spoil’ them in various ways, including through violence. This made an inclusive coalition vital. The timing and the context were nonetheless conducive and the main parties were driven by an overriding consensus to pursue coalition. This implicit success factor, combined with the predominance of strong leadership, was critical in the South African example as the success or failure of power-sharing arrangements is highly dependent on the “existence of specific conditions, that is, the balance of power between the warring groups and the resources available to them” (Miti et al, 2013:4). The confluence of leadership and external pressures (or realities) in the South African space was sufficient to persuade political opponents to join forces and demonstrate the collective solidarity required to negotiate what was a very fraught path to power-sharing.

For the process towards power-sharing to start and sustain momentum, the legitimate participatory political leadership and commitment, that Lijphart (1977) cites as the most crucial element in a consociational democracy, was crucial in South Africa. The leadership imperative applied on a range of levels and required the ability to cooperate in the face of

³ CODESA I began on 20 December 1991 at the World Trade Centre in Kempton Park. Nineteen groups were represented at CODESA, including: South African government; National Party; African National Congress; Inkatha Freedom Party (IFP leader Mangosuthu Buthelezi did not personally participate, as his demands for additional delegations of the KwaZulu Bantustan and the Zulu king Goodwill Zwelithini were declined. The IFP was, therefore, represented by Frank Mdlalose); Democratic Party; South African Communist Party; South African Indian Congress; Coloured Labour Party; Indian National People's Party; Solidarity Party; Leaders of the 'independent' Bantustans of Transkei, Ciskei, Bophuthatswana and Venda. The right-wing white Conservative Party and the left-wing Pan Africanist Congress boycotted CODESA. Available at www.docstoc.com/docs/27928284/Convention-for-a-Democratic-South-Africa

cleavages; negotiate in the spirit of compromise; and preserve the support and loyalty of constituents and carry them along. This was especially important to stave off the ravages of various spoilers as evidenced in the disruption of CODESA I, first by the May 1992 failure of the ANC and the NP to agree on the weighted majority that would be required in an elected constituent assembly to ratify a new constitution, and by the subsequent collapse of talks after the Boipatong Massacre in June 1992. Here, cooperation amid cleavages showed its true transformative force as the NP and the ANC established a bilateral channel of communication between their respective chief negotiators Cyril Ramaphosa, Secretary General of the ANC, and Roelf Meyer, Minister for Constitutional Affairs in the NP government. While much has been made of their personal rapport, it is the outcomes of this rapport that facilitated the path to power-sharing as the two were able to negotiate in a spirit of compromise and bring the rest of their respective groups with them.

It helped that the context was right and that both Nelson Mandela and FW De Klerk knew that the country was at a critical juncture. The spoilers, in essence, were starting to erode the benefits and it was necessary for sufficient consensus and compromise to prevail if the state was to be salvaged. To this end, Ramaphosa and Meyer were able to lead their principals to sign a Record of Understanding in September 1992, more talks on the details, and the resumption of negotiations in CODESA II. At the same time, De Klerk demonstrated the importance of taking his constituents with him in the 1992 referendum that asked the white electorate if it supported continuing the reform process aimed at a new constitution through negotiations. It was an effective way to weaken detractors and encourage non-negotiating parties such as the Conservative Party (CP) to the table while ameliorating the persistent threat from right-wing groups. It also made it clear that there was no other real choice.⁴

Hence, while both elites presented true leadership qualities, there were many flaws and persistent mistrust meant that negotiations retained the potential for paralysis that was in no small part offset by external factors including the stagnation and decline of the South African economy; increased pressure from the international community to reform; and the revolts and military conflicts with border countries that had cost too much money and white life and evidenced shifting regional and global realities. Both parties were aware of the need for sufficient compromise if either were to survive in the future. The NP knew that to keep any influence, it would need to be of the power-sharing type and, while the ANC was not overly excited about power-sharing, it knew it stood at an economic management deficit and that cooperation could result in international aid, which was vital due to the parallel decline in Cold War aid. The power-sharing idea originated because both the NP and ANC had a common destiny and shared the realisation that consensus-based rule was needed to get the country through the prevailing volatility and uncertainty. So while many in the NP and the ANC may have clung to their most heartfelt visions of sharing as little power as possible, leadership (not always at the helm and frequently relying heavily on the optimisation of intangibles such as personal rapport and behind the scenes interlocutors) and common destiny prevailed and moderate elements within the two parties formed the

⁴ That the ANC had allowed the referendum to take place without correcting this assumptive guarantee may have encouraged De Klerk's conviction that the ANC would not insist on simple majority rule, or that he could cobble together an anti-ANC coalition in a power-sharing government. At the same time, his global profile had catapulted due to his perceived compromises in unbanning parties and releasing prisoners. His emerging image as a pioneer of change may have engendered a sense of invulnerability and a belief that he could nudge the ANC into substantial compromises on basic constitutional issues.

core of the negotiating body.

This core had the ability to withstand the pressures of “extremists that seek to mobilise on divisive themes for their own power-seeking aims” (Traniello, 2007: 33) and was vital to the continuation of negotiations, even as De Klerk slowed progress, violence continued to take its toll and Mandela indirectly blamed De Klerk for failing to stem the swelling loss of black lives in townships, declaring that “While the Government is talking about peace and negotiations, it continues to wage war against us”. Even here, however, the trust deficit reveals the underlying participatory model of negotiations that ensured that it prevailed. Lijphart (1977: 25) contends that this is the most crucial of all leadership aspects of any coalition of elites, as they must all negotiate in the interests of the state precisely **because** they recognise the dangers of non-cooperation, including civil war – dangers that hovered constantly on the fringes of SA negotiations: “The key to the grand coalition is not the particular institutional arrangement but that *the participation* of all the leaders takes place.”

O'Malley captures the enormity of the task achieved: *“From March to November 1993, in nine months (strange, is it not?), a negotiated Constitution for the Transition was “conceived” and “born”. In addition, 4 other Draft Bills providing for both Transition structures for the period of preparation for the elections (the Transitional Executive Council, the Independent Electoral Commission and the Independent Media Commission) and a permanent body to control broadcasting (the Independent Broadcasting Authority) were agreed upon. Also, a new Electoral Act to govern the elections for the Constitutional Assembly was agreed to. This is truly remarkable for a country which, 3 years earlier, had been on the brink of civil war and economic collapse.”*

Phase 2 – forging towards a common destiny

The sticking points and spoilers that marked the first phase were just as ubiquitous in the second. By now, however, all parties had seen that even repeated failures to reach agreement could be overcome and that sufficient consensus between the main players (the ANC and the NP) could frequently force agreement as smaller parties would be unable to veto the implicit collective majority. It was an ironic majoritarianism that fully pleased neither, but that suited the common objective of de-escalating conflict and advancing the common destiny of a unified democratic state that had by 1993 taken up permanence in both the negotiating and national psyche.

The idea that power-sharing was inevitable was not materially in dispute, but efforts to obstruct it continued to come from minority and special interests groups who, in the absence of a mutual veto right in talks tried to exercise a particularly divisive veto outside of negotiations. In the case of the Inkhata Freedom Party (IFP) this “veto” involved varying refusals to participate owing to a persistent deadlock over the power of regions versus central government. Here, the participatory leadership of the business community proved invaluable and the Consultative Business Movement (CBM) was instrumental in steering the process forward behind the scenes. It resolved the impasse by calling together local academics and foreign experts who compiled a report that decisively shaped the final constitutional agreement on this sensitive issue. Less than a month before the April 1994 elections, the IFP refused to participate and the CBM was asked to help arrange

international mediation. Dr Henry Kissinger and Lord Carrington were among the delegation that sought and failed to secure an agreement. Other, lower profile mediators launched some informal shuttle diplomacy with the CBM's support that precipitated an agreement that formed the basis for 1994 elections.

In the case of right-wing groups such as the Volksfront (People's Front) and the Afrikaner Weerstandsbeweging (AWB – Afrikaner Resistance Movement) their actions teetered towards civil war in the neighbouring apartheid derived 'homeland' state of Bophuthatswana. Again, this was in March just before elections when Volksfront leader Constant Viljoen led hundreds of Volksfront militia to protect Bantustan figurehead Lucan Mangope from a popular coup. Despite Viljoen's urging that they desist, AWB militants also advanced into Bophuthatswana, sparking the public killing of AWB members. Soon after this incident, Viljoen left the Volksfront and registered the Freedom Front as a political party to represent conservative Afrikaner interests. Some believe that this decision to finally take part in the 1994 elections prevented a violent uprising by Afrikaners.

Besides the leadership-driven damage control that enabled the common destiny to (in the main) prevail over minority fears, it is highly likely that power-sharing was also a consistently positive alternative in the populist perspective of the possibility of renewed violent conflict. Here again the pre-1994 reality conforms highly to Sisk's definition of the required conditions for power-sharing in terms of both the core of moderates from both the elite and broader society that facilitated on-going momentum and their acknowledgment of the need for incentives to encourage all parties to accept co-existence.

In formalising these incentives and buttressing the last part of the transition to power-sharing, the formation of the Transitional Executive Council (TEC) in December 1993 was vital and played a distinct role in mitigating and managing conflict. Farhana (2008) correctly notes that one of the most critical moments in any transition often coincides with the transfer of the executive power of the old regime to a new government in waiting and a surge in instability and conflict. While SA indeed experienced a surge, there is little doubt that this would have been far worse without the formation of the TEC to graduate this transition. Although it existed only until April 1994, it played a significant role in South Africa's democratic transition by helping to level the political playing field and create a climate favourable for free and fair elections. Forming a significant bridging mechanism, its seven sub-councils eased the creation of the Government of National Unity (GNU) with its main brief being to act as a sort of 'alternative cabinet' in the five months between the official end of the Multi-Party Negotiating Forum (MPNF) and April elections. Amid multiple obstacles it was tasked to confront official government action that favoured one party over others, or which effectively curtailed electoral activity – it was a formal incentive to pursue power-sharing that relied heavily on leadership and common destiny strengths already established. It shared these tasks with the Independent Electoral Commission (IEC) and the Independent Media Commission (IMC), and the combination of their various mandates was a vigorous attempt to balance power and size interests in the interests of both liberty and equality during the election campaign.

The TEC was a critical juncture in terms of power-sharing in that it was the first formally manifest give-and-take *en route* to the post-elections power-sharing arrangement. It gave

the extra-parliamentary liberation movements of South Africa their first actual pieces of power in terms of the functions of state and parliament. Government was obliged, for the first time, to abdicate some of its authority. The motivation for its formation was that the NP-dominated government could not be both referee and player in the elections and it was a broad-based representative grouping of one member of each of the remaining negotiating parties — 19 of the original 26 negotiating partners. Its sub-councils' powers lay in the following areas: law and order, stability and security, defence, intelligence, foreign affairs, status of women, finance, and regional and local government and traditional authorities. The TEC Act prescribed that the TEC had to be informed of any proposed legislation in the country and that if it or one of its sub-councils believed such legislation could undermine the attainment of democratic elections, it could halt that legislation. It made power-sharing realisable and instilled faith and trust in the emergent leadership and common destiny. It also, again, entrenched the notion that power-sharing was the only and inevitable route to de-escalate and mitigate conflict on a broader societal level.

The TEC was a critical success factor in the South African example as it helped to counter a typical shortcoming in divided societies, where ancient loyalties are usually strong and nationalism usually weak. The counterpoint to this is that where there is an elite strata within each elite (in South Africa this strata was embedded in the very negotiating elite that propelled power-sharing) and some feeling of nationalism among them, it increases the chances of consociationalism, especially where it is combined with a balance of power, size and economic equality (or in the South African case the objective thereof). In seeking to engender the perception that equity was, at the very least, being pursued in the common interest, the TEC supported all these factors and was an embodiment of what a new nationalism might look like. Underpinning the chances of its success was the fact that, combined with the inspirational values by then associated with the zen-like leadership face of Mandela and De Klerk, these high-level embodiments of nationalism had spread, via talks and attendant media focus, to virtually all strata of society. This led to a concomitant reflection of leadership commitment in the broader domestic reality that helped the country overcome the spoiling factors of violence and obstructionism while growing the burgeoning new nationalism necessary to create a transient illusion of possible equality.

Phase 3 – the spoils: sharing the “prize” of the state

With all parties advancing on power-sharing as a necessary transition, bolstered by leadership and the recognition of the need to attain the common destiny of a unified state, the ultimate prize remained the state, which would now have to be shared out by institutions engineered to give effect to power-sharing across a previously highly divided society. Traniello (2007: 40) points out the dangers very simply when she poses the inevitable question that can derail power-sharing efforts: “Why would a group wish to accommodate an enemy when they could have it all?” It was, in the South African case, precisely the recognition among the two primary contenders that the state itself would be devalued and the prize highly delimited if either party were to refuse to accommodate the other. The waves of violence that continued to resonate ahead of the elections period reinforced the risks and the recognition that power-sharing alone had any chance of achieving a long-term de-escalation in conflict.

The consistent danger of the outcome being a zero-sum game in the event that an imbalance of power led actors either to believe that they could dominate, or fear that their opponents would, was, in the South African case, overcome by the prevalent recognition of interdependence that had been with negotiations from the beginning. Both sides needed the other in order to preserve the spoils attendant on the state and its resources so that both parties could both retain and gain old and new benefits. It was enhanced by the range of efforts to ensure a balance of power en route to elections and facilitated a positive sum game.

An additional inducement in the South African scenario was the almost glaring spotlight of the international community, aptly demonstrated by its legitimization of the power-sharing leadership duo of De Klerk and Mandela in the award of the Nobel Peace Prize in 1993. It was a tangible affirmation of the emergent nationalism and provided an additional motivation for power-sharing in economic terms at a time when the assistance and support of the global community would become critical. Spears (2002) explains the dual incentive, noting that while power-sharing is attractive as a logical approach to conflict management in terms of political and economic power, it is especially attractive to the international community, who see it as a way to “reduce the need for their commitment in the settlements”. He adds a significant rider that may seem at odds with the idealistic version of the South African success story, but that warrants extreme consideration as a success factor, when he says “power-sharing cannot be about coalitions between friends, but rather must be about reconciliation between enemies.” It was this very emphasis on reconciliation, driven from the top by the new South African President (Mandela) and played out in the emotional Truth and Reconciliation (TRC) process that followed the installation of the GNU that reiterated this necessary undercurrent that was assimilated in the new nationalism that fuelled the transition.

From the April 1994 elections to the required approval of a permanent constitution by 9 May 1996, South Africa was governed by an interim constitution under the 1993 Interim Constitution Pact, which was carefully designed to ease fears and insecurities on all sides to the fullest extent possible. The GNU included all major parties in a national and regional proportional representation (PR) system that greatly enhanced the legitimacy of the elections and, therefore, of their outcome. This simple PR system gave incentives to spoilers such as the IFP to jump onto the ballot at the last moment and ensure some form of representation. With a more majoritarian electoral structure the IFP may have felt its votes were ‘wasted’ and have boycotted or violently opposed elections, undermining the entire outcome in the process. So, while numerically the NP and minority parties such as the IFP were vastly outclassed, they participated because the power-sharing structures and institutions were designed to concede their insecurities. The quelling of anxieties about majority rule, property rights, provincial constitutions, civil service jobs, pensions and so on were strong factors in inducing participation.

Supporting the integrity of power-sharing, the former liberation forces’ security wings were incorporated into the existing national structures – increasing the cross-sectoral reach (and therefore likely success) of power-sharing. After quantitatively testing the effects of power-sharing provisions in civil war settlements on the endurance of peace, Hartzell and Hoddie (2005) found that the more dimensions of power-sharing (political, territorial, military and

economic) adopted among former combatants, the higher the likelihood of peace enduring. The confluence of old and new was symbolically captured in a national anthem that drew from both sides, emphasising interdependence, balance of power, reconciliation, a common destiny and the new nationalism that became something of a global trend as the “rainbow nation” came to epitomise the possibility of peace to conflicted societies globally.

It is known that the interim government and the 1993 Interim Constitution Pact were indeed constructed on consociational elements. In September 1990, as talks started, the United States Information Agency sponsored a debate on appropriate institutional structures for post-apartheid South Africa. The featured scholars were Lijphart, Horowitz and top South African constitutional thinkers. Other constitutional experts were sharply critical at the time and condemned the interim constitution as non-democratic and the institutions as leaving no room for opposition. They advocated instead the very majoritarian democracy that may well, in the South African case anyway, have prevented a stable transition.

The interim constitution had a limited life, as did the GNU. The Constitutional Assembly (CA - Parliament in another form) had to produce a final constitutional text by May 1996, with the legislature and executive to remain in office until the end of April 1999. But the CA remained directed by 34 Constitutional Principles and the authority of the Constitutional Court. This was a clear compromise between those who wanted the popularly elected CA to have full power speedily to draft a constitution and those that wanted a final constitution to come from by the MPNF. By allowing the MPNF to prescribe constitutional guarantees with which the final constitution had to comply, while acknowledging the right of the CA to draft it, the constitution sought to balance continuity and the potential for substantial change. As noted, various provisions affirmed this including the protection of pension rights and retirement age in the public service and the indemnification of perpetrators of certain criminal acts carried out for political purposes before a certain date. Further, international agreements remained in place as did the Supreme Court judiciary, while all the legal instruments that facilitated the transformative process were formally adopted by the former South African Parliament. In this way, while the electoral package and constitution was a radical socio-political change, there was no legal break. Thus the Constitution that governed the GNU was drafted with a view to accommodating or defusing a range of deep-seated and long-standing conflicts in a manner that enabled a smooth transition to a coalition government that mitigated substantial conflict.

The parties originally comprising the GNU – the ANC, the [http://en.wikipedia.org/wiki/National_Party_\(South_Africa\)](http://en.wikipedia.org/wiki/National_Party_(South_Africa)) NP, and the IFP – shared executive power. On 30 June 1996, however, the NP withdrew from the GNU to become part of the opposition.

Phase 4 – beyond inevitable deadlock: power-sharing as a transitional measure

After the 1994 elections, De Klerk was appointed the Second Vice President in President Mandela's cabinet. On 30 June 1996, De Klerk announced the NP's withdrawal from the GNU and he and other NP members withdrew from their cabinet posts to establish the NP as an effective opposition to the ANC.

This came after the ANC said it would not allow the coalition government agreement to be extended beyond 1999 with the NP averring that it was becoming increasingly clear that the ANC, and particularly President Mandela, had decided the time for majority rule had arrived. A specific example was the appointment of Trevor Manuel as Finance Minister on which De Klerk had reportedly not been consulted. The very departure from the GNU of the NP, however, signifies the essential success of power-sharing modalities as a transitional measure to obtain the consensus-based rule that was necessary to get the country through a period of intense volatility and uncertainty and beyond the divisions that threatened to destroy the very state at the heart of intractable conflict.

This is not to say that the power-sharing arrangements formalised in 1994 produced a perfect democratic order. They did not, and South Africa continues to confront a range of political and socio-economic challenges. They did, however, bring South Africa firmly back from the precipice of economic, social and humanitarian disaster, and enabled the evolution of a still growing political context that allows for the energetic pursuit of human rights, prosperity and dignity. The political maturity evidenced by the prevailing de facto power-sharing in the Western Cape government – where the Democratic Alliance (the main opposition on national level) rules in the majority – is an encouraging signifier and portends hope for conflicted states and divided societies globally.

Reflection

In 1995, the ANC's Kader Asmal noted that there cannot be any set formula for negotiations and that the techniques used must always *"relate to the context, the parties, the background and the availability of human resources; not to mention the particular chemistry of individuals and groups that defy reduction to a problem-solving formula. Each mode of negotiations had to be invented at each stage. This took time but towards the end had been pretty well developed. It was a case of learning on the job."* Herein he captures many of the success factors that came to define the power-sharing model that was constructed piece by piece by a range of role-players with seemingly inexhaustible determination. He also specifies the interventionist capacities of the leadership, specifically Mandela, and the international community as strong pressures, while adding the role of social pressure from a weary public as defining. In sum, he described the constitutional arrangement as one that gave the country the chance to *"cope in dignity, in relative well-being, and in hope. What more could we ask?"* It is perhaps this very ability to not ask **too** much that most empowered those steering the South African negotiation process to veer toward necessary compromise and consensus.

With leadership, motivation, and commitment vital to resolve inter-factional struggles, it is cynically true that power-sharing perhaps works best where it is least needed. Where these are present, however, and where the broader contextual factors are supportive, power-sharing can quell conflict and retrieve states from collapse. Nevertheless, it remains a risky business, especially when the state is seen as a prize to be won rather than shared. This is why the parallel commitment of the people of the state is vital to create the common

destiny that dictates that conflict be de-escalated and the state saved. This possibly allows the identification of the two most critical power-sharing imperatives or necessary conditions: strong, committed leadership at the negotiating table and in the community; and that the drive for a unified democratic state comes from the communities themselves as they build their own common destiny. Forcibly imposed power-sharing is simply far less likely to succeed.

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