

## Note

### Consociationalism: A Constitutional Solution for Ethnic Tension and Violence in South Sudan

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#### I. INTRODUCTION

Consociationalism, a theory based around power-sharing mechanisms for different ethnic groups, is a key component of many modern solutions to ethnic-based conflict. Consociationalism is a theory aimed to reorient Western policy away from its preference for majoritarian solutions to end ethnic conflicts.<sup>1</sup> Instead, Arend Lijphart, the promulgator of consociationalist theory, urged policy makers to recognize the value of ethnic identities. Lijphart asserted that a recognition of the complexities of ethnic tensions would allow policy makers to create governments that could alleviate, if not eliminate, ethnic tensions by creating ethnic-based governments.<sup>2</sup> Consociationalism provides a path for countries suffering from ethnic conflict, like South Sudan, to return to political stability.

Consociationalist ideas were in effect before the promulgation of the theory, and countries such as Lebanon<sup>3</sup> and

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1. *See generally* DEMOCRACY AND INSTITUTIONS: THE LIFE WORK OF AREND LIJPHART (Markus M. L. Crepaz et al. eds., 2000) (asserting that Arend Lijphart's consociationalist theory caused a sea change in academia and policy marking a decline in the stature of majoritarian policies).

2. AREND LIJPHART, THINKING ABOUT DEMOCRACY: POWER SHARING AND MAJORITY RULE IN THEORY AND PRACTICE 30–31 (2008) [hereinafter LIJPHART, THINKING ABOUT DEMOCRACY].

3. ABBAS ASSI, DEMOCRACY IN LEBANON: POLITICAL PARTIES AND THE STRUGGLE FOR POWER SINCE SYRIAN WITHDRAWAL 52–53 (2016) (explaining the consociationalist confessional system created in Lebanon by the unwritten

Belgium<sup>4</sup> utilized consociationalist governments prior to Lijphart's seminal work. Following Lijphart's work, consociationalism was instrumental in developing the Taif Agreement that contributed to the end of the Lebanese Civil War,<sup>5</sup> the Bosnia-Herzegovina constitution,<sup>6</sup> and the proposed Cypriot peace deal.<sup>7</sup>

Despite its influence, consociationalism has not been without its critics.<sup>8</sup> Critics have attacked the elements and assumptions of consociationalism as neither sufficiently defined nor realistic.<sup>9</sup> They have additionally attacked the results of consociationalism, arguing that it entrenches ethnic tensions and identities,<sup>10</sup> and marginalizes third-way politics.<sup>11</sup> While these critiques have validity, consociationalism continues to shape policy considerations. Because of the strengths of its theoretical proponents, and its wide acceptance by policy crafters, consociationalism provides a strong option for peace in countries experiencing ethnic conflict, such as South Sudan. However, its adoption will necessarily rely on its acceptance by the South Sudanese government and people, and endorsement by international powers.<sup>12</sup> Without these groups supporting consociationalism, its theoretical strength will not suffice to justify its implementation in South Sudan.<sup>13</sup> However, these

National Pact of 1943).

4. LIJPHART, THINKING ABOUT DEMOCRACY, *supra* note 2, at 28–29.

5. See ASSI, *supra* note 3, at 55–58; *Lebanon Profile- Timeline*, BBC NEWS (Dec. 6, 2017), <http://www.bbc.com/news/world-africa-14019202>.

6. See USTAV [CONSTITUTION] 1995 (rev. 2009) arts. III–VIII, *translated in* Bosnia and Herzegovina's Constitution of 1995 with Amendments through 2009, CONSTITUTE PROJECT, [https://www.constituteproject.org/constitution/Bosnia\\_Herzegovina\\_2009.pdf?lang=en](https://www.constituteproject.org/constitution/Bosnia_Herzegovina_2009.pdf?lang=en) (last visited Mar. 7, 2019) (applying consociationalist power-sharing ideas throughout the governing elements).

7. See *generally* Comprehensive Settlement of the Cyprus Problem, Cyprus-N.Cyprus, Mar. 31, 2004 (detailing the platforms and elements of the proposed Cypriot-N. Cyprus peace deal).

8. See *generally* ASSI, *supra* note 3, at 21–49 (identifying numerous critiques of consociationalism).

9. *Id.* at 22.

10. See *generally* George Tsebelis, *Elite Interaction and Constitution Building in Consociational Democracies*, 2 J. THEORETICAL POL. 5, 5–29 (1990) (introducing the idea of elite-initiated conflict).

11. Andrew Reynolds, *Majoritarian or Power-Sharing Government, in* DEMOCRACY AND INSTITUTIONS: THE LIFE WORK OF AREND LIJPHART, *supra* note 1, at 155, 165.

12. Ulrich Schneckener, *Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation*, 39 J. PEACE RES. 203, 216–17 (2002).

13. See *id.*

critiques strongly indicate that a consociationalist system for South Sudan may be at best a temporary solution to the country's ethnic issues.

At the time of this writing, South Sudan is the world's youngest country, having gained its independence from Sudan in 2011 following decades of military conflict.<sup>14</sup> South Sudan is an exceptionally diverse country with over twenty ethnic groups<sup>15</sup> and three main religious groups.<sup>16</sup> It currently has a quasi-majoritarian system: the President and National Legislative Assembly (lower legislative chamber) are directly elected by the populace,<sup>17</sup> while the Council of States (upper chamber), is elected through State Assemblies.<sup>18</sup>

Despite its youth, South Sudan already has a tragic history. Civil war erupted between President Salva Kiir, of the ethnic Dinka tribe, and his Vice President, Riek Machar, of the ethnic Nuer tribe, in December of 2013.<sup>19</sup> Numerous ceasefires have fallen apart<sup>20</sup> and the UN has accused the South Sudanese government of engaging in ethnic cleansing.<sup>21</sup> To compound the suffering, the civil war has led to famine and massive internal displacement.<sup>22</sup> Presently, there appears to be no permanent ceasefire in sight.

Consociationalism, despite its flaws, is capable of addressing South Sudan's ethnic tensions. This Note examines the theory of consociationalism in the context of South Sudan's

14. See generally Rita Kiki Edozie, *Sudan's Identity Wars and Democratic Route to Peace*, in PERSPECTIVES ON CONTEMPORARY ETHNIC CONFLICT: PRIMAL VIOLENCE OR THE POLITICS OF CONVICTION? 225, 225–249 (Santosh C. Saha ed., 2006) (describing the course of the Sudan Civil War that led to the birth of South Sudan).

15. CIA, *Africa: South Sudan*, WORLD FACTBOOK (Jan. 29, 2019), <https://www.cia.gov/library/publications/the-world-factbook/geos/od.html> (based on 2011 numbers).

16. See *South Sudan: Religious Demography: Affiliation (2010)*, PEW-TEMPLETON GLOBAL RELIGIOUS FUTURES PROJECT, [http://www.globalreligiousfutures.org/countries/south-sudan#/?affiliations\\_religion\\_id=0&affiliations\\_year=2010&region\\_name=All%20Countries&restrictions\\_year=2015](http://www.globalreligiousfutures.org/countries/south-sudan#/?affiliations_religion_id=0&affiliations_year=2010&region_name=All%20Countries&restrictions_year=2015) (last visited Feb. 15, 2019) (detailing the religious breakdown as 60.5% Christian, 32.9% "Folk Religion", 6.2% Islam, <1% other).

17. TRANSITIONAL CONSTITUTION OF THE REPUBLIC OF SOUTH SUDAN July 9, 2011, arts. 56, 97 [hereinafter SOUTH SUDAN CONSTITUTION].

18. *Id.* art. 58.

19. *South Sudan Profile—Timeline*, BBC NEWS (Aug. 6, 2018), <http://www.bbc.com/news/world-africa-14019202>.

20. *Id.*

21. *Id.*

22. *Id.*

unique conditions, and proposes a way forward for South Sudan post-conflict.

In order to fully explore consociationalism's strengths as a theory, Section II provides background on consociationalism, including a detailed look at its elements, the necessary factors for it to be successful, and the critiques of the theory. Additionally, it will explore South Sudan's path to independence, its current government and country profile, and the path of the civil war. Finally, it will compare three countries where consociationalism has been adopted: Lebanon, Cyprus, and Bosnia-Herzegovina.

Section III will analyze whether and why South Sudan is a ripe candidate for consociationalism, what the eventual consociationalist deal should look like, and what lessons can be learned from other consociationalist countries.

This Note seeks to lay out a framework for a post-conflict South Sudanese state. It analyzes the theory of consociationalism, its origins, components, and factors to provide a framework against which South Sudan's civil war can be analyzed. To complement this, South Sudan's brief history is explored, with a focus on the civil war that has torn the adolescent country apart. This will be done to show the source, durability, and possible solutions to the various factors that contribute to, or detract from, the successful implementation of consociationalism. Finally, using existing consociationalist countries as a framework, and addressing the various critiques, this Note proposes a transitory consociationalist constitution for South Sudan that would eventually be replaced by an ethnically-blind constitution.

## II. BACKGROUND

### A. THE THEORY OF CONSOCIATIONALISM

First proposed in 1969, consociationalism means "government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy[:]"<sup>23</sup> i.e., a government whereby elites within each ethnic group control the levers of power.<sup>24</sup> Consociationalism is one of five forms of

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23. Arend Lijphart, *Consociational Democracy*, 21 *WORLD POL.* 207, 216 (1969).

24. Reynolds, *supra* note 11, at 160.

democratic government, each of which is better understood when considered with its counterparts as detailed by Andrew Reynolds in *Democracy and Institutions: The Life Work of Arend Lijphart*. These other four forms, in order of increasing ethnic representation, are unadulterated majoritarian, qualified majoritarian, integrative majoritarian, and consensual.<sup>25</sup>

Unadulterated majoritarian is a “[c]lassic winner-take-all” system, usually containing two broad political parties which alternate between controlling government and being in the opposition.<sup>26</sup> There is often a single party (or person) executive, unicameralism, and a flexible constitution.<sup>27</sup> Departing colonial powers frequently imposed this form of government on post-colonial states, resulting in destabilization of their nascent democracies.<sup>28</sup> Similar to unadulterated, qualified majoritarian is a winner-take-all democracy moderated by federalism and proportional representation, the latter which leads to a greater likelihood of coalition government.<sup>29</sup> As a result, minority inclusion is moderately more likely than in unadulterated majoritarian, allowing for ideological cleavages beyond ethnic allegiances.<sup>30</sup> Moving closer to consociationalism, integrative majoritarianism is a majoritarian democracy with built-in incentives for ethnic-based parties to work together, so that elites are encouraged to move towards multi-ethnic solutions.<sup>31</sup> This type of government takes the form of multi-ethnic federalism and a presidential system with a supermajority criterion.<sup>32</sup> However, these systems differ from consociationalist systems for several reasons, most notably the majoritarian framework.

On the opposite end of the spectrum from unadulterated majoritarian, consensual/integrative democracy has inclusive power-sharing between the major political forces, but lacks minority vetoes or segmental autonomy.<sup>33</sup> These systems are usually parliamentary, founded on grand coalitions based on proportional representation, but do not favor decentralized

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25. *Id.* at 156

26. *Id.*

27. *Id.*

28. *Id.* at 158.

29. *Id.* at 156.

30. *Id.* at 156, 158.

31. *Id.*

32. *Id.* at 156.

33. *Id.* at 156, 170.

power.<sup>34</sup>

These four democratic systems range from a complete ignorance of ethnic identities, to a recognition and even embrace of ethnic parties and issues. Between integrative and consensual lies consociationalism, which recognizes ethnic parties and identities but seeks to move the country towards an eventual non-ethnic political system. Understanding these systems is necessary to comprehend South Sudan's current government and how consociationalism would represent a substantial departure for the country.

#### B. THE NECESSARY ELEMENTS AND FACTORS FOR SUCCESSFUL CONSOCIATIONALISM

Consociationalism attempts to take the best aspects of a majoritarian system and blend them with ethnic inclusion and viable politics. Consociationalist governments require several key elements and factors to be viable. Consociationalist governments must include representatives from all major ethnic groups, with a focus on interethnic cooperation to create stable political systems.<sup>35</sup> According to Lijphart, consociationalism has four essential elements: a grand coalition, a high degree of autonomy for each ethnic group to run its own affairs, proportionality as a principle standard of political representation, and mutual veto by ethnic communities.<sup>36</sup> While each of the four elements have attracted their own intense critics, consociationalism has been critiqued on a broader scale due to its propensity to increase ethnic tensions<sup>37</sup> and its inability to distinguish between different tensions and their effects on the political system.<sup>38</sup>

The first component of consociationalism is a grand coalition, i.e., executive power-sharing among the representatives of all significant groups.<sup>39</sup> A grand coalition is

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34. *Id.*

35. *Id.* at 156, 160.

36. Arend Lijphart, *Consociation and Federation: Conceptual and Empirical Links*, 12 CAN. J. POL. SCI. 499, 500 (1979).

37. Asli Bali & Hanna Lerner, *Constitutional Design Without Constitutional Moments: Lessons from Religiously Divided Societies*, 49 CORNELL INT'L L.J. 227, 249 ("On the other hand, attempts to craft a shared conception of the state in deeply-divided societies run the risk of entrenching or escalating existing conflicts in counter-productive ways.").

38. *Id.* at 239-41.

39. AREND LIJPHART, *DEMOCRACY IN PLURAL SOCIETIES: A COMPARATIVE*

supposed to ensure that ethnic groups are required to work together to achieve any major policy decisions, while ensuring that smaller ethnic groups have representation.<sup>40</sup> If an ethnic group can wield power unilaterally, it can use such power to oppress the other ethnic groups.<sup>41</sup> Alternatively, lack of access to political power can encourage the powerless ethnic group(s) to resort to ethnic violence.<sup>42</sup> Critics have argued that “significant” is not sufficiently defined, allowing for the subjugation of minority groups.<sup>43</sup> Additionally, critics have attacked the distribution of assets in an ethnically-based grand coalition system, arguing that it leads to elite-initiated conflict whereby ethnic politicians are motivated to provoke conflict along ethnic lines to bolster their own bargaining position against other groups.<sup>44</sup> Despite these critiques, Lijphart and other consociationalist theorists assert that a grand coalition is essential to the success of a consociationalist system because a grand coalition enables minority parties to participate in government, requiring and incentivizing them to moderate and compromise.<sup>45</sup>

Second, a high degree of autonomy for each ethnic group to run its own affairs is necessary.<sup>46</sup> This element is based around the concept that ethnic groups must become socialized into using the tools of government for basic services.<sup>47</sup> Additionally, this element assumes that cultural differences are so substantial that each ethnic group must be kept geographically or administratively separate to avoid conflict.<sup>48</sup> Critics latch on to this last point for their harshest critiques, arguing that ethnic identities are malleable, changeable across time and space, and therefore ethnic differences can be bridged.<sup>49</sup> While this critique

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EXPLORATION 25–36 (1977) [hereinafter LIJPHART, DEMOCRACY IN PLURAL SOCIETIES].

40. Reynolds, *supra* note 11, at 156, 162.

41. *Id.* at 161.

42. See generally P. Sahadevan, *Ethnic Conflict and Militarism in South Asia*, KROC INST. FOR INT’L PEACE STUD. (1999), Working Paper No. 16:OP.

43. ASSI, *supra* note 3, at 22.

44. See generally Tsebelis, *supra* note 10, at 5–29 (introducing the idea of elite-initiated conflict).

45. LIJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39, at 30–31; Reynolds, *supra* note 11, at 158.

46. LIJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39, at 41.

47. ASSI, *supra* note 3, at 15, 17.

48. *Id.* at 17.

49. See generally Ian S. Lustick & Dan Miodownik, *The Institutionalization of Identity: Micro Adaption, Macro Effects, and Collective Consequences*, 37

might be valid, it is at best a change that occurs over a long period of time and therefore is less pertinent for the short term solution of consociationalism. Consociationalism is introduced to immediately reduce ethnic tensions, so the reality that ethnic identities change over time has little bearing on the immediate need to alleviate the ethnic tensions that have resulted in ethnic violence.<sup>50</sup>

The third criterion is that there must be “proportionality as the principle standard of political representation,” which often takes the form of ethnic federalism.<sup>51</sup> If any of the ethnic groups substantially outweigh the other in political power, the theory postulates that they will use that political power to dominate all levels of government.<sup>52</sup> Therefore, the ethnic groups must be represented proportionally to ensure that the mechanisms of government do not become tools of oppression or domination.<sup>53</sup> This element has attracted substantial criticism ranging from the viability of proportionality itself, to the effects of power-sharing on long-term peace. First, some critics have argued that power-sharing agreements between political elites are dependent on international commitments, otherwise they are inherently unstable, which makes them non-conducive to durable peace.<sup>54</sup> Given the examples of Lebanon, Cyprus, and Bosnia-Herzegovina, all of which have continued involvement from either regional or former colonial power, this critique has substantial validity.<sup>55</sup> However, it can be rebutted by the

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STUD. COMP. INT'L DEV. 24, 24–53 (2002) (arguing that ethnic identities break down and intersect through various mechanisms).

50. See generally Olakunle Michael Folami, *Ethnic Conflict and Its Manifestations in the Politics of Recognition in a Multi-Ethnic Niger Delta Region*, 3 COGENT SOC. SCI. (July 2017).

51. ASSI, *supra* note 3, at 16–17.

52. Reynolds, *supra* note 11, at 160, 162.

53. *Id.*

54. See generally Lustick & Miodownik, *supra* note 49, at 24–53 (arguing that ethnic identities break down and intersect through various mechanisms.)

55. Great Britain and the EU remain substantially involved in Cyprus; Syria, Iran, and Saudi Arabia retain substantial influence in Lebanon; NATO, the United Nations, and the EU exercise substantial oversight over Bosnia-Herzegovina. See generally Olga Demetriou, EU and the Cyprus Conflict (EU Border Conflict Series, Working Paper No. 5, 2004); Naser Al-Tamimi, *Saudi Policy in Lebanon: No Easy Option for Riyadh*, ITALIAN IST. FOR INT'L POL. STUD. (May 4, 2018), <https://www.ispionline.it/en/publicazione/saudi-policy-lebanon-no-easy-option-riyadh-20396> (last visited May 13, 2019); Jeffrey Feltman, *Hezbollah: Revolutionary Iran's Most Successful Export*, <https://www.brookings.edu/opinions/hezbollah-revolutionary-irans-most-successful-export/> (Jan. 17, 2019), (last visited May 13, 2019); Syria's Involvement in

recognition that many solutions to post-ethnic conflicts require some level of international commitments,<sup>56</sup> as ethnic tensions often occur in unstable countries that could not resolve their conflicts without the international community.<sup>57</sup> Furthermore, critics assert that power-sharing is viewed as a positive willingness of the elite to form proportional systems, but in reality, any electoral system is the result of disparate compromises.<sup>58</sup> Whether power-sharing is based on “positive willingness” or disparate compromise hardly matters, as either will lead to a workable, short-term solution. Other critics argue that proportional power-sharing is desirable only in the short term, proving unviable in the long-term for states detangling from civil wars.<sup>59</sup> This critique is grounded in the fact that ethnic electoral districts, dominated by a certain communal group, allow ethnic leaders to cement their ties and power with their ethnic followers.<sup>60</sup> However, this Note does not propose consociationalism as a viable long-term solution; rather, it is a strong proposal *because* of its ability to create short-term peace. Finally, critics worry that electoral systems, which require politicians to rely on votes only from their co-ethnics, will reward ethnic extremists who are unable to compromise or formulate

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Lebanon, GLOBALSECURITY.ORG (Mar. 26, 2013), <https://www.globalsecurity.org/military/world/syria/forrel-lebanon.htm> (last visited May 13, 2019).

56. Bosnia-Herzegovina provides a strong example; without the intervention of NATO and the United Nations the likelihood that the ethnic combatants would have reached an agreement is minimal. *Peace Support Operations in Bosnia and Herzegovina*, NATO (Apr. 26, 2019), [https://www.nato.int/cps/en/natohq/topics\\_52122.htm](https://www.nato.int/cps/en/natohq/topics_52122.htm) (last visited May 13, 2019); QUAKER COUNCIL FOR EUR. AFF., *THE EU’S INVOLVEMENT IN BOSNIA & HERZEGOVINA* (2004). *See also* Amb. Ivo H. Daalder, *Decision to Intervene: How the War in Bosnia Ended*, BROOKINGS (Dec. 1, 1998), <https://www.brookings.edu/articles/decision-to-intervene-how-the-war-in-bosnia-ended/> (last visited May 13, 2019).

57. *See generally* UPPSALA CONFLICT DATA PROGRAM, <https://ucdp.uu.se/> (last visited Mar. 16, 2019) (providing a database on battle deaths related to conflict and ethnic conflict).

58. *See generally* Rein Taagepera, *Designing Electoral Rules and Waiting for an Electoral System to Evolve*, in *THE ARCHITECTURE OF DEMOCRACY* 248–64 (Andrew Reynolds ed., 2002) (arguing that any electoral system is just a “patchwork of incongruous compromises”).

59. *See generally* Timothy Sisk, *Power Sharing After Civil Wars: Matching Problems to Solutions*, in *CONTEMPORARY PEACEMAKING: CONFLICT, VIOLENCE, AND PEACE PROCESS* 195–209 (John Darby & Roger Mac Ginty eds., 2008) (arguing that power sharing entrenches ethnic identities, reducing the likelihood that the groups can move beyond their pre-civil war tensions).

60. ASSI, *supra* note 3, at 31.

further power-sharing agreements.<sup>61</sup> In light of these critiques, this Note proposes a transitional constitution that would last ten years with the goal of entrenching democratic norms, raising a new generation of political leaders, and creating a South Sudanese identity. The goal is to instill a democratic tradition before ethnic extremism can turn the democratic institutions into a mechanism for ethnic oppression.

The final element of consociationalism is the mutual veto: each substantial ethnic group must have the ability to veto policies that they believe negatively affect their ethnic group.<sup>62</sup> A mutual veto is necessary to block policies that are damaging or overly favorable to specific ethnic groups.<sup>63</sup> Lijphart, and proponents of consociationalism generally, believed that the veto would be used sparingly, and that the veto's power comes more from its ability to be used, rather than its actual use.<sup>64</sup> Critics argue that this belief is naïve, because if ethnic conflict develops or persists, the mutual veto is likely to be used, and the likelihood increases in proportion to the severity of the conflict.<sup>65</sup> This point suffers from a natural fallacy: if ethnic violence is occurring at a high enough level to warrant political reprisals, the democratic system has already failed and the use of the mutual veto is immaterial. Additionally, critics worry that a mutual veto will lead to a minority tyranny,<sup>66</sup> although proponents rebut that no minority group will be able to dominate because each group has the veto.<sup>67</sup>

Beyond the four elements of consociationalism, theorists have developed nine additional factors that aid or inhibit the implementation of a successful consociationalist system. The first is that there should be no majority ethnic segment; if any ethnic group has over 50% nationwide support then it is more likely that majoritarianism will take hold.<sup>68</sup> The closer the ethnic segments are to equal size, the more likely negotiations among ethnic leaders will be successful.<sup>69</sup> If there are more than three to five significant ethnic groups, the legislature is more

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61. MILTON J. ESMAN, *ETHNIC POLITICS*, 258 (1994).

62. Reynolds, *supra* note 11, at 161–62.

63. LIJPHART, *DEMOCRACY IN PLURAL SOCIETIES*, *supra* note 39, at 36–37.

64. Reynolds, *supra* note 11, at 161–62.

65. ASSI, *supra* note 3, at 32.

66. LIJPHART, *DEMOCRACY IN PLURAL SOCIETIES*, *supra* note 39, at 37.

67. *Id.*

68. Reynolds, *supra* note 11, at 162–63.

69. *Id.*

likely to be gridlocked due to the difficulty in facilitating bilateral bargaining amongst elites.<sup>70</sup> Consociationalism is more likely to succeed in states where the population is small; the smaller the population, the easier to manage the distribution of resources.<sup>71</sup> If there is a well-developed sense of national loyalty, which can transcend societal divisions, the odds of successful consociationalism increases significantly.<sup>72</sup> This can be compounded by the existence of external threats, which unify a society around common nationalism.<sup>73</sup> Economic inequality, while not an insuperable barrier to consociationalism, complicates political power-sharing.<sup>74</sup> Federalism and decentralization would be facilitated if the ethnic groups are geographically concentrated into their own distinct areas.<sup>75</sup> Finally, long-settled traditions of accommodation, rooted in the cultures of the ethnic groups, increase the likelihood of successful consociationalism.<sup>76</sup> All of these factors contribute to consociationalism's success, but none are indispensable nor sufficient alone, and consociationalism can be achieved even with factors missing.<sup>77</sup> These factors will be analyzed against South Sudan's specific facts and developments to determine if South Sudan is a suitable candidate for consociationalism.

### C. SOUTH SUDAN COUNTRY PROFILE

Given South Sudan's brief existence as a separate county, and its status as a post-colonial state, any exploration of South Sudan requires a detailing of its history. This history includes its time as a British colony and a region of the country of Sudan. Great Britain invaded the region of Sudan/South Sudan in the 1890s,<sup>78</sup> creating the Anglo-Egyptian Condominium whereby

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70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *See generally* Rudy B. Andeweg, *Consociational Democracy*, 3 ANN. REV. POL. SCI. 509–36 (2000) (arguing that economic differentiation leads to demands for retribution that challenges elite cooperation).

75. Reynolds, *supra* note 11, at 162–63.

76. *Id.*

77. *See generally id.*

78. Ariel Zirulnick, *South Sudan: A Timeline to Independence*, CHRISTIAN SCI. MONITOR (July 8, 2011), <https://www.csmonitor.com/World/Africa/2011/0708/South-Sudan-a-timeline-to-independence/British-colonization-of-Sudan-1890s-1953>.

Great Britain and Egypt were to co-rule the region.<sup>79</sup> In reality, Great Britain had full administrative control over Sudan/South Sudan.<sup>80</sup> Great Britain administratively divided the region into an “Arab” North (the modern day Sudan) and the “African” South (the modern day South Sudan).<sup>81</sup> Great Britain considered the “Arab” North more civilized, and as such actively curtailed investment in the “African” South to keep it economically dependent on Great Britain, as well as to facilitate the spread of Christianity.<sup>82</sup> The colonial power instituted the “Southern Policy,” whereby the government consciously built up self-contained tribal units that would be isolated from the North.<sup>83</sup> These policies resulted in a palpable split between the North and South that continued through to both Sudan’s independence from Great Britain, and South Sudan’s independence from Sudan.<sup>84</sup>

Sudan gained independence from Great Britain in 1968 and immediately began to force cultural integration in the South by implementing Sharia law and promoting Arabic culture.<sup>85</sup> Tensions erupted into violence that was only tempered by the 1973 Addis Ababa Agreement (“Agreement”), which gave regional autonomy and equal decision-making power in the army to the South.<sup>86</sup> The Agreement was unilaterally abrogated by the North in 1983 when the central government retook governing power from the South and declared Sharia law the law of the country.<sup>87</sup> These pressures were compounded by General Omar Hassan al-Bashir’s coup in 1989, which suspended a fledgling democratic transition by abolishing political parties and suspending the constitution, and declared all Northern soldiers who died fighting in the South to be Islamic martyrs.<sup>88</sup>

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79. Gabriel Warburg, *The Sudan, Egypt and Britain, 1899-1916*, 6 MIDDLE EASTERN STUD. 163, 163 (1970).

80. Savo Heleta, *Roots of Sudanese Conflict Are in the British Colonial Policies*, SUDAN TRIB. (Jan. 12, 2008), <http://www.sudantribune.com/Roots-of-Sudanese-conflict-are-in,25558>.

81. Rita Kiki Edozie, *Sudan’s Identity Wars and Democratic Route to Peace*, in PERSPECTIVES ON CONTEMPORARY ETHNIC CONFLICT: PRIMAL VIOLENCE OR THE POLITICS OF CONVICTION? 225, 234 (Santhosh C. Saha, ed., 2006).

82. *Id.*

83. Heleta, *supra* note 80.

84. *Id.*

85. Edozie, *supra* note 81, at 233–36.

86. *Id.* at 235.

87. *Id.*

88. *Id.* at 235–36.

These actions by the North spurred civil war and resistance movements in the South.<sup>89</sup> These resistance movements first emerged immediately after independence from Great Britain through a group called Anya Nya, which originally wanted complete secession from the North but settled for regional autonomy in the Agreement.<sup>90</sup> After the North reneged on the Agreement, Anya Nya II emerged, which again pushed for full Southern independence.<sup>91</sup> However, Anya Nya II was supplanted by the Sudanese People's Liberation Movement ("SPLM") led by John Garang.<sup>92</sup> SPLM originally pushed for a "New Sudan" which would respect all provinces equally, but this morphed into full independence by the signing of the Sudan Peace Agreement of 2005 ("2005 SPA").<sup>93</sup> The 2005 SPA allowed for the Southern regions of Sudan to vote on their future in Sudan; the 2011 referendum resulted in an 99% vote in favor of independence.<sup>94</sup>

South Sudan's constitution instituted a presidential majoritarian system whereby the president is directly elected by the populace to a five-year term.<sup>95</sup> The president is the head of state and the commander-in-chief of the army. The army is the Sudanese People's Liberation Army, which converted from the military arm of the SPLM to the armed forces of the South Sudanese state.<sup>96</sup> Salva Kiir Mayardit ("Salva Kiir"), a member of the Dinka ethnic group, is the first and current president of South Sudan. Elected in 2011, Salva Kiir led the SPLM after the death of its longtime leader John Garang in 2005, and was considered the natural choice for the country's first president.<sup>97</sup> The vice president is appointed by the president, subject to a two-thirds majority of all members of the National Legislature Assembly.<sup>98</sup> The first vice president was Riek Machar, a member of the Nuer ethnic group, who was subsequently replaced by

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89. *Id.* at 239–40.

90. *Id.* at 240.

91. *Id.*

92. *Id.* at 239–40.

93. *Id.*

94. Josh Kron & Jeffrey Gettleman, *South Sudanese Vote Overwhelmingly for Secession*, N.Y. TIMES (Jan. 21, 2011), <http://www.nytimes.com/2011/01/22/world/africa/22sudan.html>.

95. SOUTH SUDAN CONSTITUTION, *supra* note 17, art. 99–101.

96. *Id.*

97. *Salva Kiir: South Sudan's President in a Cowboy Hat*, BBC NEWS (June 21, 2018), <http://www.bbc.com/news/world-africa-12107760>.

98. SOUTH SUDAN CONSTITUTION, *supra* note 17, art. 105.

General Taban Deng following allegations by Salva Kiir that Machar was planning a coup to replace Kiir as president.<sup>99</sup> Following sporadic violence, Machar was again appointed vice president, before being subsequently replaced by General Deng a second time following allegations of further coup attempts.<sup>100</sup> The executive branch also has a Council of Ministers who help to implement legislation, formulate and implement government policies, and initiate and negotiate treaties.<sup>101</sup>

The South Sudanese legislature is bicameral, split between the upper chamber Council of States, and the lower chamber National Legislative Assembly.<sup>102</sup> The Council of States is elected from State Assemblies, and oversees national reconstruction and development, promotes peace, reconciliation, and communal harmony; approves changes in state names, capital towns, and boundaries; and monitors refugee and reconstruction issues.<sup>103</sup> There are ten states authorized in the Constitution, but President Salva Kiir recently expanded this to thirty-two; the constitutionality and effects of this decision on the Council of States is uncertain.<sup>104</sup> These states are organized roughly around ethnic groups' geographical areas.<sup>105</sup> The National Legislative Assembly is directly elected by the citizenry; it considers and passes constitutional amendments, allocates resources and revenues, approves war declarations, ratifies international treaties, approves appointments, and regulates the judiciary.<sup>106</sup> The judiciary is made up of the Supreme Court, Court of Appeals, High Courts, and County Courts.<sup>107</sup> The Supreme Court is appointed by the president and approved by a two-thirds majority of the National Legislative Assembly.<sup>108</sup>

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99. *South Sudan's Salva Kiir Replaces Riek Machar*, AL JAZEERA (July 26, 2016), <http://www.aljazeera.com/news/2016/07/south-sudan-salva-kiir-replaces-riek-machar-160725200925673.html>

100. *Id.*; BBC NEWS, *supra* note 19.

101. SOUTH SUDAN CONSTITUTION, *supra* note 17, art. 110–11.

102. *Id.* art. 54–55.

103. *Id.* art. 58–59.

104. *Id.* art. 161; *South Sudanese President Creates Four More States*, SUDAN TRIB., (Jan. 16, 2017), <http://www.sudantribune.com/spip.php?article 61403> (increasing the number of states to thirty-two).

105. *See generally* STIMSON CTR., BRIEFING NOTE: THE 28 STATES SYSTEM IN SOUTH SUDAN 1–8 (Aug. 9, 2017), [https://www.stimson.org/sites/default/files/file-attachments/Stimson\\_StatesBriefingNote\\_9Aug16.pdf](https://www.stimson.org/sites/default/files/file-attachments/Stimson_StatesBriefingNote_9Aug16.pdf).

106. SOUTH SUDAN CONSTITUTION, *supra* note 17, art. 54–55.

107. *Id.* art. 123–24.

108. *Id.* art. 134.

Due to South Sudan's dearth of investment and development under the rule of Great Britain and Sudan, South Sudan is an extremely poor and undeveloped country, with low life expectancy and high rates of disease.<sup>109</sup> South Sudan's economy is mostly oil and agricultural based; most of the population engages in "low productive, unpaid agriculture and pastoralist work."<sup>110</sup> GDP per capita as of 2014 was a mere \$1,111.<sup>111</sup> As stated in the introduction, there are three main religious groups (Christians – 60.5%, Folk Religion – 32.9%, Islam – 6.2%)<sup>112</sup> and twenty ethnic groups, with the Dinka (35.85%) and the Nuer (15.6%) being dominant.<sup>113</sup> South Sudan's wide range of ethnic groups and religions, when combined with extreme poverty, has left it ripe for ethnic conflict.

#### D. THE STATE OF THE CIVIL WAR IN SOUTH SUDAN

Despite high hopes among the populace for a conflict-free country, South Sudan did not have a peaceful beginning. Rising ethnic tensions between the Dinka and Nuer resulted in a civil war just two short years after the country's formation.<sup>114</sup> The civil war was precipitated in July 2013 when President Salva Kiir dismissed his entire cabinet and then Vice President Riek Machar as part of an internal power struggle within the SPLM.<sup>115</sup> Violence began in December 2013 when Salva Kiir accused Machar of attempting a coup; rebel Nuer troops who supported Machar seized several regional towns.<sup>116</sup> This resulted in thousands of deaths and substantial displacement until a Uganda-backed ceasefire was enacted in January

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109. See generally CESAR GUYELE ET AL., POVERTY ASSESSMENT SOUTHERN SUDAN 5–18 (2012), [http://ageconsearch.umn.edu/bitstream/253878/2/2\\_South\\_ern\\_Sudan.pdf](http://ageconsearch.umn.edu/bitstream/253878/2/2_South_ern_Sudan.pdf).

110. *South Sudan Economic Overview*, WORLD BANK, <http://www.worldbank.org/en/country/southsudan/overview> (last updated Oct. 12, 2018).

111. *Id.*

112. PEW-TEMPLETON GLOBAL RELIGIOUS FUTURES PROJECT, *supra* note 16.

113. CIA, *supra* note 15 (listing the twenty ethnic groups as the Dinka, Nuer, Shilluk, Azande, Bari, Kakwa, Murle, Mandari, Didinga, Ndogo, Bviri, Lndi, Anuak, Bongo, Lango, Dungotona, Acholi, Baka, Luo, and Fertit).

114. Jennifer Williams, *The Conflict in South Sudan, Explained*, VOX (Jan 9, 2017, 10:25 AM), <https://www.vox.com/world/2016/12/8/13817072/south-sudan-crisis-explained-ethnic-cleansing-genocide>.

115. BBC NEWS, *supra* note 19.

116. *Id.*

2014.<sup>117</sup> This ceasefire, the first of many, failed within weeks and over one million people were displaced by April 2014.<sup>118</sup> Peace talks began in Addis Ababa, which resulted in a new unity government with Machar returning as vice president.<sup>119</sup> The unity government collapsed in July when Machar was again removed from the vice presidency.<sup>120</sup> The fighting resumed, and has risen to the level where the UN has declared the government under Salva Kiir to be engaged in ethnic cleansing.<sup>121</sup> Despite a peace deal in August 2018, frustration is seen by all sides.<sup>122</sup> For example, Nuer rebels vow to resort to guerilla warfare in response to the government's inability to uphold ceasefires.<sup>123</sup> In August 2018, a power-sharing deal was agreed upon by Salva Kiir and Riek Machar to reinstate Machar as vice president.<sup>124</sup> However, the United Kingdom, United States, and Norway, the "troika" which helped bring independence to South Sudan in 2011, remain skeptical that this peace deal will work where the other peace deals have failed.<sup>125</sup>

The civil war has had a catastrophic effect on South Sudan's economy and peoples. GDP for the 2015-2016 year was reduced by 6.3%, largely a result of the substantial drop in oil exports.<sup>126</sup> The South Sudanese Pound ("SSP") has depreciated from 17SSP per dollar in late 2015 to 80SSP per dollar in September 2016.<sup>127</sup> Annual inflation spiked to 730% between 2015 and 2016, and poverty increased to 65.9% in 2015, from 44.7% in 2011.<sup>128</sup> These developments have exacerbated South Sudan's economic

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *S. Sudan Rebels Vow 'Guerilla War' if Peace Talks Fail*, CHRONICLE (Feb. 2, 2018), <https://www.chronicle.co.zw/s-sudan-rebels-vow-guerilla-war-if-peace-talks-fail>.

124. Sam Mednick, *South Sudan Government and Rebels Sign Another Peace Deal*, AP (Sept. 12, 2018), <https://www.apnews.com/303c50323ea8434bb4e273b9cb5a6f1a>.

125. *Id.*; see also David Manyang Mayar, *Top US Diplomat Takes 'Wait and See' Approach to South Sudan Peace Deal*, VOA (Sept. 14, 2018, 2:48 PM), <https://www.voanews.com/a/top-us-diplomat-takes-wait-and-see-approach-to-south-sudan-peace-deal/4572130.html>.

126. *South Sudan Economic Snapshot H2, 2017*, 3, KPMG INT'L (Dec. 2017), <https://home.kpmg/content/dam/kpmg/za/pdf/2017/12/South-Sudan-2017H2.pdf>.

127. *Id.*

128. *Id.* at 4.

inequality, reduced loyalty to the state, and have made international entities wary of investing in South Sudan.<sup>129</sup>

Consociationalism requires the government to have substantial international support. Salva Kiir's regime has squandered much of the goodwill garnered through the Sudanese peace process. The international community has been harshly critical of Salva Kiir's administration and handling of the civil war. The UN Commission on Human Rights has accused more than forty South Sudanese officials of crimes against humanity and has threatened prosecution.<sup>130</sup> Beyond the claims of ethnic genocide and war crimes, the UN declared South Sudan incapable of holding successful elections in 2018 due to the rate of violence.<sup>131</sup> This was contradicted by the United States, which called for new elections to be held immediately.<sup>132</sup> The United States was supportive of an independent South Sudan under then President Barack Obama,<sup>133</sup> and continues to support its independence under President Donald Trump.<sup>134</sup> However, the United States has declared that the South Sudanese government no longer enjoys its support as long as the civil war continues.<sup>135</sup> The United

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129. *See id.* at 1 (noting the threats and weakness posed to South Sudan as a result of its economic difficulties).

130. *South Sudan Officials May Be Guilty of War Crimes: UN Report*, AL JAZEERA (Feb. 23, 2018), <https://www.aljazeera.com/news/2018/02/south-sudan-officials-guilty-war-crimes-report-180223152525125.html>.

131. Emmanuel Igunza, *South Sudan Not Ready for 2018 Elections*, SAYS UN, BBC NEWS (Sept. 8, 2017, 6:36 PM), <https://www.bbc.com/news/live/world-africa-40829853>.

132. Nikki Haley, FACEBOOK (Oct. 29, 2017), <https://www.facebook.com/NikkiHaley/posts/10155090591273226> (“[South Sudan] is not a democracy unless the people’s voices are heard. We will not support, we will not condone, elections being put off any longer”) (internal quotation marks omitted).

133. *See U.S. Relations with South Sudan*, U.S. DEP’T ST.: BUREAU AFRICAN AFF. (Aug. 10, 2018), <https://www.state.gov/r/pa/ei/bgn/171718.htm> (noting that the U.S. recognized South Sudan’s independence in 2011 during President Obama’s term in office).

134. Nikki Haley, FACEBOOK (Sept. 26, 2017), <https://www.facebook.com/NikkiHaley/posts/10155012446643226> (“The people of South Sudan are suffering and the promise of their hard-fought independence is slipping away . . . . For the people of South Sudan, we look forward to delivering the message in person very soon that have not given up on them and have not forgotten them. The people of South Sudan have a friend and an advocate in the United States of America”) (internal quotation marks omitted).

135. *See* Nikki Haley, FACEBOOK (Sept. 26, 2017), <https://www.facebook.com/NikkiHaley/posts/10155087906733226> (“We have lost trust in the government of South Sudan. We now need to regain that trust, and the only way to regain that trust is through the actions of taking care of all of the people.”—Ambassador Haley on meeting with President Kiir”).

States declared a ban of arms sales to the country as a show of its displeasure with the Kiir administration's inability to stem the ethnic violence.<sup>136</sup> The UN eventually followed suit, imposing an arms embargo over the protests of regional leaders.<sup>137</sup> The Intergovernmental Authority on Development, a regional organization in Africa, imposed individual sanctions against several South Sudanese government officials.<sup>138</sup> In response to the diminishing support of the international community, the Kiir regime has attacked the principal powers involved in the peacemaking process as a "troika" that does not seek South Sudan's best interests.<sup>139</sup> Of even greater concern is the administration's warning that it will reject any peace deal that removes President Kiir from power.<sup>140</sup> With the support of the international community slipping, and the Kiir regime becoming an unwilling partner, it is uncertain what the future of South Sudan looks like.

### III. ANALYSIS

#### A. SOUTH SUDAN REQUIRES A CONSTITUTION THAT REDUCES ETHNIC TENSIONS

South Sudan's current constitution has proven incapable of preventing Dinka dominance or ethnic violence. A new constitution is needed that ensures equality amongst ethnic groups and prevents ethnic violence. The goal of any post-conflict constitution should be to create a politically-stable society that no longer has the triggers that caused the conflict in the first place. Arend Lijphart defined political stability as "a multidimensional concept, combining ideas that are frequently

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136. *South Sudan: US Bans Arms Sales and Urges Others to Follow*, BBC NEWS (Feb. 2, 2018), <http://www.bbc.com/news/world-africa-42923089> (noting that the move is largely symbolic as the U.S. did not sell arms to South Sudan prior to the ban on arm sales).

137. *UN Security Council Imposes Arms Embargo on South Sudan*, AL JAZEERA (July 13, 2018), <https://www.aljazeera.com/news/2018/07/security-council-imposes-arms-embargo-south-sudan-180713160138771.html>.

138. Joyce Bukuru, *Pressure Mounts on Abusers in South Sudan*, HUM. RTS. WATCH (Mar. 26, 2018, 5:16 PM), <https://www.hrw.org/news/2018/03/26/pressure-mounts-abusers-south-sudan>.

139. Dimo Silva Aurelio, *South Sudan Accuses 'Troika' of Controlling Peace Process*, VOA (Mar. 1, 2018), <https://www.voanews.com/a/south-sudan-peace-process-troika/4276121.html>.

140. *Id.*

encountered in the comparative politics literature: system maintenance, civil order, legitimacy, and effectiveness.”<sup>141</sup> A stable democratic regime has a “high probability of remaining democratic” and a “low level of actual and potential civil violence.”<sup>142</sup> Finally, the “degree of legitimacy” that the regime enjoys and its “decisional effectiveness” determine democratic stability.<sup>143</sup> South Sudan’s new constitution must create a system whereby political stability is ensured.

There is currently little political stability in South Sudan. Civil order has completely broken down as millions continue to be internally displaced,<sup>144</sup> the regime has lost international legitimacy,<sup>145</sup> and the government has proven ineffective in ending the civil war.<sup>146</sup> As the civil war began primarily due to ethnic tensions between the Dinka and Nuer,<sup>147</sup> any new government system must be primarily designed to counter ethnic tensions. When examining the political systems identified above, it becomes clear that any majoritarian system would be ill-fitting. Majoritarianism, whether unadulterated or moderated, has a propensity to exacerbate ethnic tensions,<sup>148</sup> and has already been attempted and failed in South Sudan.<sup>149</sup> Similarly, integrative democracy is undesirable because it still relies on majoritarian institutions. Consensual democracy, while heavily focused on reducing ethnic violence, lacks sectional autonomy,<sup>150</sup> which will be necessary to ensure that Dinka-Nuer violence does not resume. These ethnic groups would be unlikely to accept a peace deal that places local power in the hands of a

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141. LJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39, at 4.

142. *Id.*

143. *Id.*

144. *South Sudan*, INTERNAL DISPLACEMENT MONITORING CTR., <http://www.internal-displacement.org/countries/south-sudan> (last updated Dec. 31, 2017) (identifying the number of displaced persons at 1,899,000 as of Dec. 31, 2017).

145. See Haley, *supra* note 132; Igunza, *supra* note 131; U.S. DEP’T ST.: BUREAU AFRICAN AFF., *supra* note 133.

146. Lesley Wroughton, *Region Must Do More to Pressure South Sudan Leaders to End Conflict: U.S. Diplomat*, REUTERS, (Sept. 13, 2017, 5:34 PM), <https://www.reuters.com/article/us-usa-southsudan/region-must-do-more-to-pressure-south-sudan-leaders-to-end-conflict-u-s-diplomat-idUSKCN1B02VS> (noting that political leaders in South Sudan “seem incapable of resolving the country’s four-year civil war”).

147. Williams, *supra* note 114.

148. Reynolds, *supra* note 11, at 162-63.

149. See generally SOUTH SUDAN, *supra* note 17 (noting that the presidency and a house of the legislature is elected by majority vote).

150. Reynolds, *supra* note 11, at 158.

rival ethnic group. This leaves consociationalism as the most tenable post-conflict option for South Sudan.

B. CONSOCIATIONALISM PROVIDES A VIABLE OPTION FOR A  
POST-CONFLICT SOUTH SUDAN

1. South Sudan Sufficiently Meets the Factors for  
Consociationalism

Consociationalism might be the most viable of the democratic systems possible for South Sudan, but South Sudan must meet certain factors necessary for consociationalism's successful implementation. South Sudan's viability for consociationalism will be shown via analysis of the nine factors established in Section II.<sup>151</sup>

Lijphart did not believe it was necessary to meet a majority, or even any, of the factors for successful consociationalism.<sup>152</sup> However, this position seems to adopt, and this Note takes, the position that consociationalism is not viable unless at least four factors are met, because a complete failure to meet any of consociationalism's factors should indicate that the country is not a viable candidate. Alternatively, a country should not need to meet all factors of consociationalism to be able to adopt consociationalism. Therefore, a healthy middle ground of four or five out of the nine factors seems sufficient to credibly propose consociationalism. South Sudan meets at least four of the nine factors.

Turning to the first factor, South Sudan must not have any one majority ethnic segment. Otherwise, consociationalism will quickly give way to majoritarianism as the dominant ethnic group seizes the levers of power.<sup>153</sup> Furthermore, these ethnic groups should be equal in size and there should not be more than five discernable ethnic groups. The Dinka ethnic group is the

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151. Those factors are: no majority segment, close to equal ethnic segments, few ethnic segments with a preference for three to five, smaller population size, existence of external threats, overarching sense of national loyalty, some degree of socio-economic equality, geographic concentration of segments, and long-standing traditions of accommodation.

152. See generally LIJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39.

153. See CIA, *supra* note 15 (noting that a plurality of the South Sudan population belongs to the Dinka ethnic group).

largest at 35.8%, followed by the Nuer at 15.6%.<sup>154</sup> The remaining ethnic groups are each less than 6% of the population respectively.<sup>155</sup> While the size of the Dinka might contribute to some tensions, they do not, as the dominant ethnic group, make up the majority of the population.<sup>156</sup> Therefore, the non-majority factor is met.

The Dinka and Nuer substantially outnumber the other ethnic groups and the Dinka more than double the Nuer.<sup>157</sup> South Sudan therefore fails the second factor of equal ethnic segment populations. Furthermore, the existence of over twenty discernable ethnic groups<sup>158</sup> vastly exceeds the five-group maximum recommended by Lijphart.<sup>159</sup> Looking only at groups that have over 1% of the population, six distinct groups emerge: Dinka, Nuer, Azande, Bari, Shilluk, and Toposa.<sup>160</sup> Given that the Shilluk and Toposa together only make up 5% of the population,<sup>161</sup> the small number of ethnic segments factor is fulfilled when considering ethnic groups that would actually have a nominal role in government. The sheer scope of diversity within South Sudan hints at the difficulties of implementing a multi-ethnic government. By restricting the ethnic groups that can enter government to six, the majority of distinct Sudanese ethnic groups would be shut out of political power.<sup>162</sup> This might make a consociationalist constitution unpalatable to some of the citizens of South Sudan, but the six ethnic groups selected should be numerous enough to secure ratification of a constitution.

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154. CIA, *supra* note 15; Benjamin Elisha Sawe, *Ethnic Groups of South Sudan*, WORLD ATLAS, <https://www.worldatlas.com/articles/ethnic-groups-of-south-sudan.html> (last updated Apr. 17, 2017).

155. *Id.* (noting the remaining ethnic percentages as: 6% Azande; 4% Bari; 3% Shilluk; 2% Toposa; 2% Otuho; 1% Luo; 1% Moru; 1% Murle; and that 28% of the population consists of ethnic groups that each constitute less than 1% of the population).

156. *Id.* (noting that the Dinka ethnic group constitutes approximately 36% of the population).

157. *Id.* (noting that the Dinka ethnic group constitutes approximately 36% of the population while the Nuer ethnic group constitutes approximately 16% of the population).

158. *Id.* See text accompanying footnotes 155, 156, 157, *supra*.

159. Reynolds, *supra* note 11, at 162–63.

160. Sawe, *supra* note 154. See note 155, *supra*.

161. *Id.*

162. See *generally id.* (identifying the ethnic groups of South Sudan which shows that the vast majority would not be included in the power-sharing scheme).

The next factor contributing to a successful implementation of consociationalism is a small population size. South Sudan's population, as of 2018, numbered at 12,919,053, making it the 76th most populous country.<sup>163</sup> Compared to the other consociationalist countries mentioned in this note (Lebanon, with a population of 6,093,509 at the end of 2018;<sup>164</sup> Cyprus, with a 2018 population of 1,189,085;<sup>165</sup> and Bosnia-Herzegovina, with 3,503,554),<sup>166</sup> South Sudan has a massive population. Given the difficulties of consociationalism in Lebanon, Cyprus, and Bosnia-Herzegovina (explored below), South Sudan fails the small population size factor.

Arend Lijphart argued that external threats to the state would engender support for a consociationalist government,<sup>167</sup> although external threats would likely have that effect on any government. Additionally, Lijphart believed that a well-developed sense of national loyalty would bolster a consociationalist government,<sup>168</sup> although again this would likely be true for any government form. South Sudan, while no longer in a war for independence from Sudan, continues to have strained relationships with its former overlord. The biggest source of tension with Sudan is South Sudan's claims to the region of Abyei and the Heglig oilfield.<sup>169</sup> Beyond this, South Sudan is consumed by internal strife, and it has not had the time nor energy to cause external problems with other countries. The South Sudanese people were unified in their opposition to Sudanese rule (evidenced by the 98% vote for independence),

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163. *South Sudan Population*, WORLDOMETERS, <http://www.worldometers.info/world-population/south-sudan-population/> (last visited Jan. 21, 2018) (elaborating data provided by the U.N. Department of Economic and Social Affairs, Population Division).

164. *Lebanon Population*, WORLDOMETERS, <http://www.worldometers.info/world-population/lebanon-population/> (last visited Jan. 21, 2018) (elaborating data provided by the U.N. Department of Economic and Social Affairs, Population Division).

165. *Cyprus Population*, WORLDOMETERS, <http://www.worldometers.info/world-population/cyprus-population/> (last visited Jan. 21, 2018) (elaborating data provided by the U.N. Department of Economic and Social Affairs, Population Division).

166. *Bosnia & Herzegovina Population*, WORLDOMETERS, <http://www.worldometers.info/world-population/bosnia-and-herzegovina-population/> (last visited Jan. 21, 2018) (elaborating data provided by the U.N. Department of Economic and Social Affairs, Population Division).

167. Reynolds, *supra* note 11, at 162–63.

168. *Id.*

169. *South Sudan Refuses to Withdraw Troops from Oilfield*, BBC NEWS (Apr. 12, 2012) <http://www.bbc.com/news/world-africa-17691506>.

which has translated to a forced general loyalty for the South Sudanese state.<sup>170</sup> However, the mere existence of an ethnic-based civil war indicates that the South Sudanese people may not be as loyal to the state as they were united against Sudan. Ignoring the human rights concerns around a forced patriotism, the reality is that Sudan's mere existence facilitates loyalty towards the South Sudanese state.<sup>171</sup> Given Sudan's status as a rival, antagonistic neighbor, South Sudan meets the external threat factor. Additionally, while the civil war has undoubtedly shattered faith in the current government, it is likely the South Sudanese people still retain loyalty to the idea of South Sudan as a separate nation.<sup>172</sup> Therefore, South Sudan meets the national loyalty factor for successful consociationalism.

Lijphart postulated that high levels of economic inequality would limit consociationalism's viability as the ethnic elites attempted to use government power to economically provide for their co-ethnics.<sup>173</sup> As previously established, South Sudan is an abysmally impoverished country; an analysis of Renk County, the country's largest county, shows that 87% of urban and 73% of rural households fall below poverty lines.<sup>174</sup> Furthermore, the study found that while income inequality was higher in rural households versus urban, the richest 20% of the population consumed 33% of the total food output.<sup>175</sup> The socio-economic equality factor is difficult to examine because, while there is economic inequality, the inequality is differing levels of poverty. There is no "rich upper class" and "poor lower class," there is only the impoverished and the moderately less impoverished. Therefore, the economic inequality is not truly a wealth divide on the scale of Western democracies as envisioned by Lijphart. Despite this, South Sudan fails the socio-economic equality factor because the high levels of poverty will encourage ethnic

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170. Nicki Kindersley, *Traitors, Sellouts and Political Loyalty in the New State of South Sudan*, E-INT'L REL. (June 27, 2012), <http://www.e-ir.info/2012/06/27/traitors-sellouts-and-political-loyalty-in-the-new-state-of-south-sudan/> (exploring displays of South Sudanese patriotism revolving around idolization of Joseph Garang and opposition to Sudan).

171. *See generally id.*

172. *See generally id.*

173. *See generally* LIJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39, at 71–83 (identifying numerous social cleavages such as class, religion, and language, and then exploring how elites could abuse those cleavages).

174. Adam Ahmed, Somaia Roghim, Ali Saleh & Khalid Siddiq, *The Prevalence of Poverty and Inequality in South Sudan: The Case of Renk County*, (U. Khartoum Agric. Econ. Working Paper Series No. 1, 2013).

175. *Id.* at 1, 16.

elites to funnel what little money is available to their co-ethnics.

Consociationalism requires sectional autonomy to be viable,<sup>176</sup> and the ethnic groups must have defined, discernable areas of dominance that could form the basis for ethnic-based states. The Dinka and Nuer have several geographic areas of numerical superiority. The Dinka are generally concentrated in the center, west, and north of the country.<sup>177</sup> The Nuer are nominally concentrated in the east and north central areas of South Sudan.<sup>178</sup> Unfortunately, these areas of Dinka or Nuer dominance are intermixed or isolated from one another so that there is not a clear area of the country with which to create segmental autonomy.<sup>179</sup> The Azande are generally concentrated in the southwest,<sup>180</sup> while the Fertit are based in the northwest.<sup>181</sup> The Toposa are concentrated in the southeast with the Murle occupying regions close to them in the southeast as well.<sup>182</sup> Finally, the Shilluk have a distinct area of superiority in the northeast.<sup>183</sup> The geographic concentration of the smaller ethnic groups helps with the segmental autonomy factor, but given the size and importance of the Dinka and Nuer groups, it appears that South Sudan fails the segmental autonomy factor.

Finally, South Sudan clearly fails the “long-standing tradition of accommodation” factor; given its youth as a country, and its near-immediate plunge into civil war, South Sudan cannot be said to have any tradition of accommodation.

Lijphart stresses that consociationalism is not reliant on a majority, or even any, of the factors to be successful, only that meeting the factors helps contribute to successful consociationalism.<sup>184</sup> South Sudan appears to meet four out of the nine factors: no majority ethnic groups, relative equality between ethnic group size, existence of an external threat, and

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176. AREND LIJPHART, PATTERNS OF DEMOCRACY: GOVERNMENT FORMS AND PERFORMANCE IN THIRTY-SIX COUNTRIES 195 (1999).

177. *South Sudan: Country Profile*, 15, ACAPS (Aug. 2015), [https://reliefweb.int/sites/reliefweb.int/files/resources/s-c-acaps\\_country\\_profile\\_southsudan\\_august2015.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/s-c-acaps_country_profile_southsudan_august2015.pdf) (showing an ethnic distribution map of South Sudan).

178. *Id.*

179. *Id.*

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. See generally LIJPHART, DEMOCRACY IN PLURAL SOCIETIES, *supra* note 39 (explaining that consociationalism is viable regardless of the enumerated factors).

sense of national loyalty. Meeting four out of nine factors is sufficient to advocate for the implementation of consociationalism in South Sudan. However, declaring South Sudan to be a sufficient candidate for consociationalism is done with the understanding that the implementation would be better and more desirable if at least a majority of the factors were met.

## 2. Comparable Consociationalist Countries

The adoption of consociationalism in South Sudan and its potential success can be supplemented by an inquiry into consociationalist systems in other states. This section will only detail states that adopted consociationalist systems to combat ethnic violence: Cyprus, Lebanon, and Bosnia-Herzegovina. Cyprus is an example of how externally-imposed peace deals require the approval of the population to be viable, and how larger ethnic groups have little incentive to accept power restrictions. Lebanon displays a range of religious groups, a long-term implementation of consociationalist power structures, and the effects of external powers on consociationalist governments. Bosnia-Herzegovina provides an example of an internationally-constructed consociationalist constitution, imposed as a peace deal, and how a consociationalist government can result in peace, but be ineffective. This section will also analyze state-by-state battle deaths post-adoption of consociationalism using the Uppsala Conflict Data Program, which is an interactive data program that records every reported death, the victims, and the actors that caused the death.<sup>185</sup> The battle deaths are analyzed empirically to show the success of consociationalism in reducing ethnic tensions.

### *a. Cyprus*

Cyprus, formerly a British-controlled entity, is an ethnically-divided state that has failed to move beyond ethnic violence into a stable political entity. Cyprus's independence was recognized in 1960, removing Cyprus's status as a British entity and ensuring its independence from Greece and Turkey respectively.<sup>186</sup> At independence, Cyprus's population was made

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185. See generally UPPSALA CONFLICT DATA PROGRAM, *supra* note 57.

186. Treaty of Guarantee of Cyprus, Cyprus-Greece-Turk.-U.K., Aug. 16, 1960, No. 5475.

up mostly of “Greek” Cypriots and “Turkish” Cypriots, although the exact numbers are uncertain due to the highly politicized nature of these census results.<sup>187</sup> The only universally-accepted Cypriot census results come from the 1960 census, which determined that the population contained 447,901 Greek Cypriots (78.20%), 103,822 Turkish Cypriots (18.13%), and 20,984 “Others” (3.66%).<sup>188</sup> Much like South Sudan, Cyprus’s post-independence peace was short lived; Turkey invaded Cyprus in 1974<sup>189</sup> and established the Turkish Republic of Cyprus as a separate country in the northern regions of Cyprus.<sup>190</sup> As to date, Turkish Cyprus is recognized only by Turkey itself.<sup>191</sup> Furthermore, Turkey retains a military presence on the island,<sup>192</sup> countered by Greek Cypriot forces<sup>193</sup> and the UN Peacekeeping Force in Cyprus.<sup>194</sup> South Sudan is similar in that it hosted a UN Peacekeeping force in the country, although it is not occupied by a foreign nation.<sup>195</sup> Turkey’s continued military presence diminishes Cyprus’s viability as a comparable nation to South Sudan, because any consociationalist deal would necessarily require the tacit, if not explicit, endorsement of Turkey. Unlike South Sudan, the decision to accept a consociationalist government will not be solely in the hands of the Cypriot people.<sup>196</sup> Despite this difference, Cyprus is a case study in the failure to adopt a

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187. Hansjörg Brey & Günter Heinritz, *Ethnicity and Demographic Changes in Cyprus: In the “Statistical Fog”*, 24 GEOGRAPHICA SLOVENICA 201, 201–04 (1992).

188. *The World of Cyprus*, KYPROS, [http://kypros.org/Cyprus/cy\\_republic/demography.html](http://kypros.org/Cyprus/cy_republic/demography.html) (last visited Feb. 19, 2019).

189. David Wippman, *International Law, Ethnic Conflict, and the Example of Cyprus*, 22 CORNELL L.F. 9, 10 (1995).

190. David Wippman, *International Law and Ethnic Conflict on Cyprus*, 31 TEX. INT’L L.J. 141, 145 (1996).

191. ERSUN N. KURTULUS, STATE SOVEREIGNTY: CONCEPT, PHENOMENON AND RAMIFICATIONS 136 (2005) (noting that Pakistan briefly recognized the Turkish Republic of Cyprus before withdrawing the recognition).

192. See U.N. Peacekeeping Force in Cyprus, About the Buffer Zone, <https://unfcyp.unmissions.org/about-buffer-zone> (last visited Mar. 16, 2019).

193. *Id.*

194. U.N. Peacekeeping Force in Cyprus, About, <https://unfcyp.unmissions.org/about> (last visited Mar. 16, 2019).

195. U.N. News, Isaac Billy, South Sudan: Deployment of UN-Mandated Regional Protection Force Begins (Aug. 8, 2017), <https://news.un.org/en/story/2017/08/562962-south-sudan-deployment-un-mandated-regional-protection-force-begins>.

196. Nicola Solomonides, *One State or Two? The Search for a Solution to the Cyprus Problem*, 4 INT’L PUB. POL’Y REV. 61 (2008).

consociationalist peace deal, which makes it viable for comparison to South Sudan.

Similar to South Sudan, numerous peace deals have been proposed to reunite Cyprus and the Turkish Republic of Cyprus.<sup>197</sup> These peace deals have all been rejected.<sup>198</sup> In large part, this rejection stems from Turkey's expulsion of vast numbers of Greek Cypriots, which resulted in the two regions on the island being ethnically split amongst Greek and Turkish Cypriots.<sup>199</sup> Cyprus is not without blame however, as the Turkish minority has suffered years of discrimination at the hands of the Greek majority.<sup>200</sup> The peace deal that came closest to reunifying the country relied heavily on a consociationalist power-sharing method.<sup>201</sup> The UN Comprehensive Settlement Plan of the Cyprus Question opens with a declaration affirming the distinct ethnic identity of Greek and Turkish Cypriots, with an emphasis on political equality.<sup>202</sup> The deal created a "United Cyprus Republic," with Cyprus and Turkish Cyprus remaining equal, constituent states.<sup>203</sup> Furthermore, Greek and Turkish Cypriots would elect an equal number of senators separately to the federal level.<sup>204</sup> The Presidential Council would hold the executive power, with seats proportioned based on ethnic makeup of the country.<sup>205</sup> Finally, the Council of Ministers would be split between three Greek Cypriots and three Turkish Cypriots.<sup>206</sup>

Despite the proposed deal's heavy focus on consociationalism, in 2004 Greek Cypriots overwhelmingly

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197. See Robbie Gramer, *Is There Still Hope for a Cyprus Reunification Deal?*, FOREIGN POL'Y (Nov. 22, 2016) <https://foreignpolicy.com/2016/11/22/is-there-still-hope-for-a-cyprus-reunification-deal/>.

198. *Id.*

199. *Human Rights: Turkey's Violations of Human Rights in Cyprus: Findings of the European Commission Of Human Rights And Continuing Violations By Turkey*, at 11, Cyprus Bar Ass'n (1986) (estimating that 140,000–200,000 Greek Cypriots were removed from Northern Cyprus immediately or right after the occupation started, among whom thousands were wounded and many were missing).

200. *Greek Cypriots Sacking Turkish Cypriot Workers Says Ozgurgun*, LGC NEWS (Dec. 22, 2012), <https://www.lgcnews.com/greek-cypriots-sacking-turkish-cypriot-workers-says-ozgurgun/>.

201. See generally Comprehensive Settlement Plan of the Cyprus Problem, *supra* note 7.

202. *Id.* art. III.

203. *Id.* art. I.

204. *Id.* art. III.

205. *Id.* art. V.

206. *Id.* art. VII.

rejected the reunification peace deal.<sup>207</sup> At the time of this writing, the island of Cyprus remains divided, and no peace deal has been accepted. Despite the lack of a peacekeeping deal, from 1989 to the time of this writing, there have been only four battle deaths in Cyprus, all caused by state action between the government of Cyprus and the government of Turkey.<sup>208</sup> As there has been no peace deal, this decrease in violence can be only attributed to the demilitarized zone that stretches across the island, along with the heavily militarized presence elsewhere on the island.<sup>209</sup> Without a successful peace deal, it is impossible to know whether consociationalism would have been successful in reducing ethnic tensions.

The failed Cypriot peace deal provides a potential framework for a consociationalist peace deal for South Sudan. Furthermore, it illustrates the point that any peace deal would have to be accepted by a vote of the South Sudanese people. The Dinka, much like the Greek Cypriots, have little reason to accept a peace deal that substantially limits their power when they already control most of their country. Similarly, the Nuer might be willing to accept peace deals that are nominally fair between the groups, as the Turkish Cypriots were willing to do, but this does not guarantee the Dinka, or any other minority groups, would do so. Like South Sudan, Cyprus is a country without a long-standing tradition of ethnic accommodation.<sup>210</sup> The failure to accept a peace deal could reflect that discriminatory beliefs amongst the ethnic groups is a more determinative factor in consociationalism's implementation than Lijphart thought. For South Sudan, this could mean that any consociationalist peace deal might be rejected due to discriminatory beliefs between the Dinka and the Nuer.

*b. Lebanon*

Lebanon provides a useful comparison to South Sudan due to its long-standing consociationalist model, its variety of

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207. Susan Sachs, *Greek Cypriots Reject a U.N. Peace Plan*, N. Y. TIMES, (Apr. 25, 2004), <http://www.nytimes.com/2004/04/25/world/greek-cypriots-reject-a-un-peace-plan.html> (confirming the final Greek Cypriot vote to be 75% against, with the Turkish Cypriot vote being 65% for).

208. *Cyprus*, UPPSALA CONFLICT DATA PROGRAM, [ucdp.uu.se/#country/352](http://ucdp.uu.se/#country/352) (last visited Mar 17, 2019).

209. See, e.g., S.C. Res. 1847 (Dec. 12, 2008).

210. See generally Brey & Heinritz, *supra* note 187, at 201–03.

religious groups, and the presence of external influences. Before analyzing Lebanon's consociationalist path, it is important to establish that Lebanon adopted a subset of consociationalism known as confessionalism, whereby the political power is distributed among different religious groups rather than ethnic groups.<sup>211</sup> Lebanon was created as a French Mandate in 1920 out of the ashes of the former Ottoman Empire. In its time as a French Mandate the majority Maronite Christians were given priority over all other groups.<sup>212</sup> Prior to independence, the major religious groups entered into the Unwritten National Covenant of 1943, which determined how power would be shared.<sup>213</sup> The deal established that there must be a six to five ratio in favor of Christians for Parliament, a Maronite Christian President, a Sunni Prime Minister, and a Shia Speaker of Chamber of Deputies.<sup>214</sup>

This power-sharing system was sufficient for a time, but eventually led to civil war in 1975, despite substantial economic growth and financial stability. The civil war was in part due to unanswered demands by Muslim citizens for more power, which the Maronites repeatedly denied.<sup>215</sup> External factors, such as increasing Palestinian and Israeli tensions, the emergence of Hezbollah, NATO-Soviet tensions, and rising Sunni extremism, all found grounds for proxy fights in Lebanon through the civil war.<sup>216</sup> As is the hope with South Sudan, the civil war was nominally brought to a close with the Taif Agreement, a new power-sharing agreement which changed the distribution of power but also allowed for the occupation of Lebanon by Syrian forces.<sup>217</sup> Substantially, the Taif Agreement diminished the power of the Presidency, which would remain Maronite, and increased the power of the Council of Ministers.<sup>218</sup> The council would be chaired by the Prime Minister, still a Sunni, and the

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211. Imad Harb, *Lebanon's Confessionalism: Problems and Prospects*, U.S. INST. PEACE (Mar. 30, 2006), <https://www.usip.org/publications/2006/03/lebanon-confessionalism-problems-and-prospects>.

212. BBC NEWS, *supra* note 5.

213. ASSI, *supra* note 3, at 32.

214. BBC NEWS, *supra* note 5.

215. Samir Makdisi & Youssef El Khalil, *Lebanon: Sectarian Consociationalism and the Transition to a Fully Fledged Democracy*, in DEMOCRATIC TRANSITIONS IN THE ARAB WORLD 240, 242 (Ibrahim Elbadawi & Samir Makdisi eds., 2017).

216. *Id.* at 242–43, 254–56.

217. *Id.* at 243, 257.

218. *Id.* at 243.

council must reach decisions by consensus, with majority vote allowed only if a consensus is not reached.<sup>219</sup> The Taif Agreement was meant to engender political stability between the three groups, but instead led to political jockeying among the President, Prime Minister, and Speaker of Chamber of Deputies.<sup>220</sup> This result will need to be avoided with any potential consociationalist deal for South Sudan, as it would do little to help South Sudan if ethnic tension was simply redirected between different branches of government.

While the second confessionalism agreement helped end the civil war, it has not led to political stability nor a post-confessionalism government. The Taif Agreement has yet to be fully implemented, as the government has repeatedly claimed that the conditions for implementation have not been met.<sup>221</sup> Furthermore, while battle deaths have occurred since the Taif Agreement, the vast majority of those have been due to the Hezbollah-Israel conflict and the Syrian civil war; it is hard to determine how much of the violence is due to sectarian strife within the country.<sup>222</sup> Of greater concern is the series of political assassinations beginning with then Prime Minister Hariri in 2005, and continuing until 2008, which led to repeatedly unstable governments until February 2014.<sup>223</sup> Furthermore, Lebanon remains a proxy for different Middle East power groups.<sup>224</sup> While Syria was forced to withdraw in 2005,<sup>225</sup> Saudi Arabia and Iran have used Lebanon as the most recent battleground for their Sunni-Shia conflict.<sup>226</sup> Saudi Arabia forced Prime Minister Hariri (son of the assassinated Prime Minister Hariri) to resign, although this resignation was rescinded as soon as Hariri was able to return to Lebanon.<sup>227</sup> Conversely, Iran has been funneling money and supplies to

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219. *Id.*

220. *Id.* at 242.

221. BBC NEWS, *supra* note 5.

222. *Lebanon*, UPPSALA CONFLICT DATA PROGRAM, [ucdp.uu.se/#country/660](http://ucdp.uu.se/#country/660) (last visited Mar. 17, 2019).

223. Makdisi & Khalil, *supra* note 215, at 258.

224. Robert Malley, *The Middle East is Nearing an Explosion*, ATLANTIC (Nov. 8, 2017), <https://www.theatlantic.com/international/archive/2017/11/lebanon-saudi-iran-hezbollah/545306/>.

225. Makdisi & Khalil, *supra* note 215, at 258.

226. *See generally* Malley, *supra* note 224.

227. Anne Barnard, *It's Official: Lebanese Prime Minister Not Resigning After All*, N.Y. TIMES (Dec. 5, 2017), <https://www.nytimes.com/2017/12/05/world/middleeast/lebanon-hariri-saudi.html>.

Hezbollah, which is a major political power in Lebanon.<sup>228</sup>

These developments in Lebanon point to a particular concern for South Sudan: even if a consociationalist deal is able to reduce ethnic tensions in South Sudan, there is no guarantee that it will result in peaceful politics. South Sudan does not currently serve as a proxy for feuding regional powers,<sup>229</sup> and is unlikely to be the site of substantial Chinese-U.S. tensions, at least on the scale seen between Iran and Saudi Arabia in Lebanon.<sup>230</sup> However, there is nothing stopping South Sudan from falling victim to the wave of assassinations that Lebanon has suffered; President Kiir has already claimed there have been assassination attempts against him,<sup>231</sup> and the Nuer armed groups have threatened guerilla warfare if a future peace deal is not to their liking.<sup>232</sup> Furthermore, there is no guarantee that a consociationalist deal would even be acceptable to the South Sudanese government. The Maronite community in Lebanon accepted a diminished presidential office,<sup>233</sup> but President Kiir has made it clear he would not accept such arrangement, even though it would be necessary for successful consociationalism.<sup>234</sup> Confessionalism in Lebanon has been successful in reducing most ethnic violence, but it has proven incapable of creating a stable government, or ending religious-based politics.<sup>235</sup> The concern is that South Sudan will follow the same path under a consociationalist deal, potentially ending the current civil war but replacing it with a different, unstable government.

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228. Ahmad Majidiyar, *Iran Steps up Efforts to Expand Its Influence in Lebanon*, MIDDLE EAST INST. (Jan. 9, 2017), <http://www.mei.edu/content/article/io/iran-steps-efforts-expand-its-influence-lebanon>.

229. Karen Allen, *Why Does South Sudan Matter So Much to the US?*, BBC NEWS (Aug. 31, 2015), <http://www.bbc.com/news/world-africa-34083964> (noting the regional powers have been implicated in the civil war, but that the U.S. and China are the main players).

230. *Id.* (noting the competing interests of China and the U.S. for South Sudan's oil resources).

231. Abdur Rahman Alfa Shaban, *Machar Flees South Sudan After Botched Assassination Attempt*, AFRICA NEWS (Aug. 18, 2016), <http://www.africanews.com/2016/08/18/machar-flees-south-sudan-because-of-botched-assassination-attempt> (reporting the assassination attempt as fact instead of an alleged attempt).

232. ABC NEWS, *supra* note 123.

233. Mordechai Nisan, *Of Wars and Woes: A Chronicle of Lebanese Violence*, 1 LEVANTINE REV. 32, 40 (2012).

234. Aurelio, *supra* note 139.

235. See generally Makdisi & Khalil, *supra* note 215, at 243–58.

*c. Bosnia-Herzegovina*

Bosnia-Herzegovina emerged as an independent country following the collapse of Yugoslavia, with full recognition being granted by the United States on April 7, 1992.<sup>236</sup> At the time of independence, Bosnia-Herzegovina had three substantial ethnic groups: Bosniaks (43%), Serbs (31%), and Croats (17%).<sup>237</sup> Similar to South Sudan, post-independence peace was short-lived as the country quickly delved into a civil war consisting of four major parties: the Serbian Republic of Bosnia-Herzegovina, the Croatian Republic of Bosnia-Herzegovina, the Autonomous Province of Western Bosnia, and the Bosnia-Herzegovina Central Government.<sup>238</sup> The conflict ended the 1995 Dayton Peace Agreement, which created Bosnia-Herzegovina as one country, and designated Serbian-dominated Republika Srpska as an autonomous region inside Bosnia-Herzegovina, separate from the Croat/Bosniaks portion (“the Federation”).<sup>239</sup>

Bosnia-Herzegovina’s constitution is a perfect example of consociationalism, albeit implemented through a peace deal. The constitution explicitly recognizes the country’s three dominant ethnic groups in its preamble,<sup>240</sup> establishes power-sharing in the constitution, and gives each ethnic group the mutual veto.<sup>241</sup> The legislature is bicameral, with a House of Peoples and a House of Representatives. The House of Peoples has fifteen delegates, two-thirds (including five Croats and five Bosniaks) of which must be from the Federation, and one-third from Republika Srpska (five Serbs).<sup>242</sup> Furthermore, delegates must be selected from their own ethnic regions,<sup>243</sup> and a quorum requires three members from each ethnic group at a

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236. *A Guide to United States’ History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: Bosnia and Herzegovina*, DEP’T ST.: OFF. HISTORIAN (2017), <https://history.state.gov/countries/bosnia-herzegovina>.

237. *Bosnia-Herzegovina*, UPPSALA CONFLICT DATA PROGRAM, [ucdp.uu.se/#country/346](https://ucdp.uu.se/#country/346) (last visited Mar. 17, 2019).

238. *Id.*

239. Madeleine K. Albright (Permanent Rep.), Letter Dated Nov. 29, 1995 from the Permanent Rep. of the U.S. to the U.N. Addressed to the Secretary-General, U.N. Doc. A/50/79C, S/1995/999 (Nov. 30, 1995) (containing the full contents of the Dayton Peace Agreement).

240. USTAV [CONSTITUTION] 1995 (rev. 2009) (Bosn. & Herz.).

241. *Id.* art. IV, cl. 3.

242. *Id.* art. IV, cl. 1.

243. *Id.* art. IV, cl. 1(a).

minimum.<sup>244</sup> The House of Representatives contains forty-two members, two-thirds from the Federation, and one-third from the Republika Srpska; there is no specific ethnic quota but in effect this creates an ethnic quota.<sup>245</sup> A proposed decision by the Parliamentary Assembly can be declared “destructive of a vital interest” of any of the ethnic groups. This declaration then requires the proposal to be approved by a majority of each ethnic groups’ delegates present and voting.<sup>246</sup> This in effect places the mutual veto into the constitution.

The Presidency of Bosnia-Herzegovina is tripartite: one Bosniak and one Croat each directly elected from the Federation, and one Serb directly elected from the Republika Srpska make up the Presidency.<sup>247</sup> Any dissenting Member of the Presidency may declare a Presidency decision “destructive of a vital interest of the Entity from the territory from which he was elected[.]” If a Presidential destructive decision is declared, then the ethnic group’s parliamentary delegates that the Presidential member represents must approve the Presidential decision by a two-thirds vote within ten days.<sup>248</sup> This ensures that none of the ethnic groups can combine against the third ethnic group. Furthermore, the Council of Ministers, who helps administer the executive branch, must be composed of two-thirds Federation members and one-third Republika Srpska members.<sup>249</sup> Finally, the Constitutional Court must have four members from the Federation, two members from the Republika Srpska, and three picked by the President of the European Court of Human Rights.<sup>250</sup> This provision ensures that each ethnic group has representation in the judiciary.<sup>251</sup>

Any consociationalist system enacted in South Sudan will necessarily have to consider ethnic proportions and federalist states like those seen in Bosnia-Herzegovina. South Sudan’s two main ethnic groups are more geographically intermixed than Bosnia-Herzegovina’s three ethnic groups.<sup>252</sup> This will make implementing federalism more difficult in South Sudan than in

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244. *Id.* art. IV, cl. 1(b).

245. *Id.* art. IV, cl. 2.

246. *Id.* art. IV, cl. 3(e).

247. *Id.* art. V.

248. *Id.* art. V, cl. 2.

249. *Id.* art. V, cl. 4.

250. *Id.* art. VI, cl. 1.

251. *Id.*

252. STIMSON CTR., *supra* note 105.

Bosnia-Herzegovina because there are not clear geographical lines that can form the boundaries of ethnically-based states.<sup>253</sup> Additionally, South Sudan will have more ethnic groups participating in government than Bosnia-Herzegovina.<sup>254</sup> This does not make Bosnia-Herzegovina a poor comparison, it simply requires a change in the proportions of the constitution for South Sudan as compared to Bosnia-Herzegovina. Beyond those differences, Bosnia-Herzegovina's detailed constitution provides a template for consociationalist constitutions that was heavily relied upon to form the South Sudanese constitution proposed in this Note.

Bosnia-Herzegovina's constitution was adopted in 1997 and appears to have been successful in eliminating ethnic violence, as there appears to be no combat deaths associated with ethnic tensions after 1997.<sup>255</sup> Despite this, ethnic tensions have not noticeably decreased for the Serbs in the Republika Srpska. On November 15, 2015, the Republika Srpska held a plebiscite asking its citizens if they supported "the unconstitutional and unauthorized imposition of laws by the High Representative of the International Community in Bosnia and Herzegovina . . . and the implementation of their decision on the territory of Republika Srpska?"<sup>256</sup> This was widely seen as being a biased poll meant to stoke independence sentiments and elevate ethnic tensions.<sup>257</sup> Following the biased plebiscite, the Republika Srpska held a referendum over whether to maintain a "national" holiday after being barred by the Constitutional Court.<sup>258</sup> Even more concerning, the Republika Srpska failed to celebrate independence day, with celebrations only being observed in the Federation.<sup>259</sup> Finally, the government is notorious for being

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253. *Id.*, THE STATESMAN'S YEARBOOK, 2017: THE POLITICS, CULTURES AND ECONOMIES OF THE WORLD 223–26 (153d ed. 2016) (detailing the ethnic breakdown of Bosnia-Herzegovina).

254. This Note is proposing six ethnic groups have participation in government, while Bosnia-Herzegovina has three ethnic groups participating.

255. *Bosnia-Herzegovina*, UPPSALA CONFLICT DATA PROGRAM, *supra* note 237.

256. James Lyon, *Is War About to Break Out in the Balkans?*, FOREIGN POLY (Oct. 26, 2015), <http://foreignpolicy.com/2015/10/26/war-break-out-balkans-bosnia-republika-srpska-dayton/>.

257. *Id.*

258. Stefan Bos, *Bosnia's Serb Republic Holds Controversial Referendum*, VATICAN RADIO (Sept. 24, 2016, 9:30 AM), [http://www.archivioradiovaticana.va/storico/2016/09/24/bosnias\\_serb\\_republic\\_holds\\_controversial\\_referendum/en-1260489](http://www.archivioradiovaticana.va/storico/2016/09/24/bosnias_serb_republic_holds_controversial_referendum/en-1260489).

259. Danijel Kovacevic, *Independence Day Events Expose Bosnia's Deep*

ineffective, with the mutual vetoes being used frequently such that meaningful policy is nearly impossible to pass.<sup>260</sup> Considering this, when implementing consociationalism in South Sudan, the mutual veto must be structured in such a way as to ensure that it will not destabilize government. Overall, while consociationalism has been effective in removing ethnic violence, it has not contributed to a stable, post-ethnic state.

Cyprus, Lebanon, and Bosnia-Herzegovina provide invaluable case studies in consociationalism. With their examples in mind, this Note proposes a new, consociationalist constitution for South Sudan that considers the limitations of a presidential system, the failures of the mutual veto, and the intractability of ethnic politics.

### 3. South Sudan's New Consociationalist Constitution

Consociationalism has four elements that must be included to be viable: grand coalition, high degree of autonomy for each ethnic group to run its own affairs, proportionality as the principle standard of political representation, and the mutual veto.<sup>261</sup> However, it is not sufficient to simply state that South Sudan's constitution should contain those provisions; it must also include the specific form that these provisions will take as well as the general form that the government should take.

For a grand coalition to be instituted, South Sudan should abandon its presidential system to adopt a parliamentary system and should implement proportional, rather than plurality, elections.<sup>262</sup> If the presidential system is maintained, then a grand coalition would naturally be tempered by presidential will. However, presidentialism, beyond its own failure in South Sudan, has substantial critiques that makes it unviable for South Sudan. First, presidential systems have, or should have, fixed terms, which make the government rigid and incapable of responding to societal demands.<sup>263</sup> Furthermore,

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*Divide*, BALKANINSIGHT: BALKAN TRANSITIONAL JUST. (Mar. 1, 2017), <http://www.balkaninsight.com/en/article/state-holiday-celebration-exposes-bosnia-s-deep-divide-02-28-2017>.

260. See generally Franco Galdini & Quartz, *The Country with Three Presidents, 13 Prime Ministers, and No Decent Government*, ATLANTIC (Nov. 7, 2015), <https://www.theatlantic.com/international/archive/2015/11/bosnia-and-herzegovina-government/414771/>.

261. ASSI, *supra* note 3, at 15–16.

262. LIJPHART, THINKING ABOUT DEMOCRACY, *supra* note 2, at 161.

263. *Id.* at 157.

presidentialism tends toward executive-legislative deadlock because both branches can claim democratic legitimacy;<sup>264</sup> given the fragile nature of South Sudan's polity, gridlock should be avoided as much as possible. Presidentialism encourages the politics of personality instead of the politics of ideas.<sup>265</sup> Finally, presidentialism usually entails a winner-take-all rule<sup>266</sup> which, given the numerical superiority of the Dinka, could result in a permanent Dinka presidency. All of this contributes to serious obstacles for minority representation, which makes presidentialism unsuitable for a post-conflict South Sudan. Parliamentary systems have several empirical strengths that make it a better candidate than presidentialism for a post-conflict South Sudan. Parliamentary systems have greater minority representation, both in gender and ethnic groups.<sup>267</sup> Furthermore, minority interests are better protected,<sup>268</sup> and voter turnout and participation in democratic institutions are increased.<sup>269</sup> While parliamentary systems have been attacked for being more unstable than presidential systems,<sup>270</sup> the abject instability of South Sudan's current presidential government renders this critique mostly moot. Considering all these factors, a parliamentary system is the best system for South Sudan to limit ethnic tension and instill democratic norms.

Pluralist systems typically utilize single-member districts,<sup>271</sup> often resulting in two-party systems,<sup>272</sup> one-party governments,<sup>273</sup> and dominant executives.<sup>274</sup> Conversely, proportional representation tends to result in multiparty systems,<sup>275</sup> coalition governments,<sup>276</sup> and more balanced executive-legislative power structures.<sup>277</sup> Similar to the concerns

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264. *Id.*

265. *Id.*

266. *Id.*

267. *Id.* at 173.

268. *Id.* (making this claim based on increased representation of women, higher voter turnout, and innovative family policy geared towards supporting minority cultures).

269. *Id.*

270. *Id.* at 164–65.

271. *Id.* at 161.

272. *Id.*

273. *Id.*

274. *Id.*

275. *Id.*

276. *Id.*

277. *Id.*

about presidentialism, instituting a pluralist system could result in permanent Dinka majorities, or at least a permanent dominance by Dinka and Nuer political groups.<sup>278</sup> Proportional representation, alternatively, provides access to the numerous minority ethnic groups of the country.<sup>279</sup> It is important to note however, that pluralist systems are considered to be more capable of governing, while proportional systems are considered to be more representative.<sup>280</sup> At this point, it is more important for South Sudan's ethnic groups to be represented in, and feel respected by, the government than it is for the government to govern effectively.<sup>281</sup> Therefore, proportional representation is the preferred electoral method for South Sudan.

Further, a 2% threshold to earning seats in Parliament would be ideal for South Sudan because this would allow the Azande, Bari, Shilluk, Toposa, and Otuho ethnic groups to be represented, along with the Dinka and Nuer.<sup>282</sup> This means that South Sudan should adopt a proportional parliamentary system that allows for representation of the above-named groups; a grand coalition will be necessary as neither the Dinka nor the Nuer will have a large enough bloc in the parliament to have full control. Finally, given the ineffectiveness of the Bosnia-Herzegovina presidents, and the instability surrounding the Lebanese presidency, removing the presidency from South Sudan ensures more stability for the country.

Next, South Sudan must ensure proportionality to the ethnic groups. This could be accomplished through a proportional parliamentary system for the legislature. However, power-sharing agreements are reliant on long-term international commitments. Given the large numbers of UN peacekeepers,<sup>283</sup> African Union troops,<sup>284</sup> and substantial United States and Chinese interest in the country,<sup>285</sup> it is

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278. *Id.* at 162.

279. *Id.* at 163.

280. *Id.* at 164.

281. *See id.* at 161–64.

282. *See id.*

283. Jason Patinkin, *U.N. Moves to Protect South Sudan Civilians After Years of Criticism*, REUTERS (Aug. 28, 2017, 2:27 AM), <https://www.reuters.com/article/us-southsudan-un/u-n-moves-to-protect-south-sudan-civilians-after-years-of-criticism-idUSKCN1B80KA>.

284. *South Sudan Conflict: African Union Approves Regional Force*, BBC NEWS (July 19, 2016), <http://www.bbc.com/news/world-africa-36833875>.

285. INT'L CRISIS GRP., CHINA'S FOREIGN POLICY EXPERIMENT IN SOUTH SUDAN (July 10, 2017), <https://www.crisisgroup.org/africa/horn-africa/south->

unlikely that South Sudan will lack for any measure of international commitments. Furthermore, the judiciary must have proportional representation as well. South Sudan should expand its judiciary to nine members: three Dinka, two Nuer, one Azande, one Bari, one Shilluk, one Toposa, and one Otuho. While this does not track with the exact ethnic breakdown of the country's ethnic groups, it allows for Dinkas to have the most representation, as befitting their ethnic propensity, while still allowing the other ethnic groups to be represented.<sup>286</sup> This is similar to Bosnia-Herzegovina, which divides its Constitutional Court between four Federation members and two Republika Srpska members (along with three members from the European Court of Human Rights).<sup>287</sup> The federal government's civil services and the army must have proportional ethnic makeup as well.<sup>288</sup> On a state level, the implementation of federalism should ensure that government officials and services are filled mostly with ethnic members. These proposals, taken together, should ensure that ethnic groups are proportionally represented across all facets of South Sudanese society.

Once it is guaranteed that a grand coalition, buttressed by proportional representation, is implemented in South Sudan, the question of whether to provide for a mutual veto becomes salient. Lijphart believes the mutual veto essential,<sup>289</sup> but Bosnia-Herzegovina calls into doubt the efficacy of the mutual veto.<sup>290</sup> The repeated inability of the Bosnian government to craft policy agreeable to all ethnic groups has stunted the country's growth.<sup>291</sup> Furthermore, any mutual veto begs the question of which ethnic groups deserve the veto. If the veto were given to groups such as the Toposa or Otuho, it would allow for the unacceptable situation where two 2% of the country could stop legislation approved by 51% of the country. However, without a mutual veto, the Dinka or Nuer could effectively overwhelm the smaller ethnic groups. With these concerns in mind, modifying the mutual veto is the best path: an ethnic veto shall occur when any three ethnic groups vote against a

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sudan/288-china-s-foreign-policy-experiment-south-sudan; U.S. DEP'T ST.: BUREAU AFRICAN AFF., *supra* note 133.

286. See CIA, *supra* note 15.

287. USTAV [CONSTITUTION] 1995 (rev. 2009), art. VI, § 1 (Bosn. & Herz.).

288. LIJPHART, THINKING ABOUT DEMOCRACY, *supra* note 2, at 84.

289. ASSI, *supra* note 3, at 15–18.

290. Galdini & Quartz, *supra* note 260.

291. *Id.*

measure, necessitating a supermajority vote by the legislature to be enacted into law. This would allow the smallest ethnic groups to band together to protect their interests, while also allowing the larger ethnic groups to build alliances. For example, if the Azande, Otuho, and Shilluk representatives were to vote against a proposal, the proposal could not pass without a 75% vote of all members of the legislature. This allows small ethnic groups to better prevent legislation that harms them, while not fully allowing minority ethnic groups to derail government. With a blanket veto power, the mutual veto would be too powerful, as indicated by the Toposa and Otuho example above. With less than a supermajority requirement, the mutual veto could have only nominal utility because it could be easily overridden by a 51% vote. Therefore, the supermajority mutual veto furthers the tendency of the ethnic elites to work together and reduces the likelihood of ethnic tension as the different ethnic groups build habits of relying on one another for policy achievements.

The final essential element of consociationalism is a high degree of autonomy for each ethnic group to run its own affairs. This can best be achieved with ethnic federalism whereby each ethnic group has their own administrative region within South Sudan. While the constitution currently allows for ten states,<sup>292</sup> President Kiir has expanded this to thirty-two states. A more appropriate number would be closer to twenty: one for each ethnic group that registers around 1% of the population,<sup>293</sup> along with two to three states for the Dinka and Nuer to reflect their geographic distribution. This will allow the ethnic groups to build their own governing systems separate from a national government that might not always align with their interests.

In conclusion, South Sudan's constitution must allow for a proportional parliamentary system, one which removes the presidency and creates a parliament based around ethnic parties. The vote necessary to enter Parliament should be 2%, with a built-in ethnic veto if three ethnic groups reject a proposition. Furthermore, South Sudan's administrative states should be formed around the ethnic groups in the country, as done in Bosnia-Herzegovina and the proposed Cypriot peace

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292. TRANSITIONAL CONSTITUTION OF THE REPUBLIC OF SOUTH SUDAN, 2011, pt. 11, ch. I, § 161.

293. CIA, *supra* note 15 (listing the twenty ethnic groups in 2011 as the Dinka, Nuer, Shilluk, Azande, Bari, Kakwa, Kuku, Murle, Mandari, Didinga, Ndogo, Bviri, Lndi, Anuak, Bongo, Lango, Dungotona, Acholi, Baka, Luo, and Fertit).

deal, with the number likely to be around twenty to twenty-five. These provisions will create a consociationalist system for South Sudan that will help reduce ethnic tensions and introduce democratic norms to the people of South Sudan.

C. A CONSOCIATIONALIST CONSTITUTION MUST EVENTUALLY  
GIVE WAY TO AN ETHNICALLY-BLIND CONSTITUTION

Consociationalism's main purpose is to reduce ethnic tensions and allow for stable government to take the place of civil war caused by cultural fragmentation.<sup>294</sup> The cases of Bosnia-Herzegovina and Lebanon show that consociationalism has been laudably successful in ending ethnic violence.<sup>295</sup> However, Lebanon and Bosnia-Herzegovina have proven the enduring appeal and power of ethnic politics,<sup>296</sup> and Bosnia-Herzegovina specifically has generally proven incapable of governing effectively.<sup>297</sup> These case studies should cause alarm for the future of South Sudan; if a consociationalist system is adopted, there is no guarantee that it will ever be removed. As useful as consociationalism would be in reducing the ethnic tensions in South Sudan and allowing for stability, the concern that it will simply entrench ethnic identities, as in Bosnia-Herzegovina, cannot be ignored. Therefore, it is necessary to put a quantitative limit on the new constitution. This Note proposes that the constitution be written to expire within ten years, at which point the people of South Sudan would vote for a new constitution that opens the door for pluralist, non-ethnic politics. This is done to specifically to avoid the Lebanese situation whereby ethnic politics have reduced ethnic violence but have become so entrenched that attempts to remove consociationalism have universally failed. This is desirable because otherwise ethnic elites will entrench themselves in power, and the fears that permanent ethnic identities will open the door to ethnic extremists are more likely to be realized. Only by deliberately setting an exit strategy for consociationalism will the South Sudanese people be assured of an opportunity to

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294. LIJPHART, *supra* note 2, at 28.

295. *Bosnia-Herzegovina*, UPPSALA CONFLICT DATA PROGRAM, *supra* note 237; *Lebanon*, UPPSALA CONFLICT DATA PROGRAM, *supra* note 222.

296. BBC NEWS, *supra* note 5 (remarking that the Taif Agreement that was supposed to transition the country away from consociationalist government has yet to have been implemented); Kovacevic, *supra* note 259.

297. Galdini & Quartz, *supra* note 260.

embrace third-way politics.

#### IV. CONCLUSION

South Sudan is the world's youngest country,<sup>298</sup> and has spent most of its young life embroiled in a civil war.<sup>299</sup> Having earned independence following a brutal war with Sudan,<sup>300</sup> ethnic tensions between the two largest ethnic groups, the Dinka and Nuer, erupted into a civil war that so far has been intractable.<sup>301</sup> Any attempt to end the violence must recognize and address the ethnic tensions within the country. The most viable system for reducing ethnic violence and producing stable government is consociationalism.<sup>302</sup> Consociationalism entails the elevation of ethnic elites to positions of power based around political parties specifically formed around ethnic lines.<sup>303</sup> While its ability to create long-term political stability is questionable,<sup>304</sup> it is undeniably effective at reducing ethnic violence.<sup>305</sup>

Consociationalism has been attempted or proposed in Bosnia-Herzegovina,<sup>306</sup> Cyprus,<sup>307</sup> and Lebanon.<sup>308</sup> The developments in these countries provide invaluable insight into mistakes that South Sudan can avoid, and successes for South Sudan to adopt. Furthermore, South Sudan fulfills several of the positive factors for successful consociationalism.<sup>309</sup>

To ensure a peaceful post-conflict South Sudan, a new constitution must be adopted along consociationalist grounds. South Sudan should adopt a proportional parliamentary

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298. Edozie, *supra* note 14, at 225–44 (detailing the course of the Sudan Civil War that birthed South Sudan).

299. BBC NEWS, *supra* note 19.

300. Edozie, *supra* note 14, at 239–40.

301. BBC NEWS, *supra* note 19.

302. Reynolds, *supra* note 11, at 161–69.

303. Lijphart, *Consociational Democracy*, *supra* note 23, at 211–17.

304. *See generally* ASSI, *supra* note 3, at 14–18 (laying out numerous critiques to consociationalism including its propensity to exacerbate political tensions in the long run).

305. LIJPHART, *THINKING ABOUT DEMOCRACY*, *supra* note 2, at 28.

306. Madeleine K. Albright (Permanent Rep.), *supra* note 239.

307. *See generally* Comprehensive Settlement Plan of the Cyprus Problem, *supra* note 7.

308. MAKDISI & KHALIL, *supra* note 215, at 243–257.

309. *See generally* text accompanying notes 126–148 (detailing each of the nine factors of consociationalism and analyzing which South Sudan meets or fails to meet).

system that ensures ethnic-based representation. To effectuate this, any political party receiving 2% of the vote shall be allowed to join the parliament, with an effective veto on any legislation that three ethnic parties vote against. have a veto so long as three ethnic parties vote against a piece of legislation. Finally, the administrative states of South Sudan should be organized based on ethnic groups, with the total number of states totaling between twenty to twenty-five.

South Sudan may have started its existence tragically, but it is not doomed for disintegration or endless war. Consociationalism provides a path out of the darkness of civil war and into a future where the South Sudanese people can stand freely among the people of the world.