Successful Examples of Minority Governance
– The Cases of the Åland Islands and South Tyrol

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Preface

Maria Ackrén has in the present report compared the autonomous arrangements in the Åland Islands and in South Tyrol. While this has been done previously, Ackrén choses to make her comparison within the theoretical framework of three theoretical directions namely partition, institutional design and consociationalism. In her thinking Ackrén places her work in a new strand of writing which emphasises not simply the preconditions for achieving some sort of short term peaceful resolution in territorial disputes with an ethnic touch. The effort is rather to explain the longevity and strength of arrangements that have lasted for several decades, or even, as in the case of Åland, closer to a century. The work of Ackrén contributes thereby in current research and theory concerning minority governance, self-government as well as consociationalism.

As pointed out by the author, while the differences are many, the similarities are striking. The combination of national and international entrenchment; Autonomy acts that have a strong legislative position in domestic legal hierarchies and in terms of enhanced requirements for amendments; and, finally, constructive and careful attitudes of the neighbour countries that can be regarded as kin states, i.e. Austria and even more so Sweden. Ackrén puts in fact the question of whether the solutions proposed for South Tyrol took into account the Ålandic precedence, a question which remains to be studied in future works. The work of Maria Ackrén fits well in the long experience of the Åland Islands Peace Institute in matters of comparative autonomy studies and conflict resolution. We are grateful to Maria for sharing her interests and insights with us.

Sia Spiliopoulou Åkermark
Associate professor
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Förord

I denna rapport jämför Maria Ackrén självstyrelserna på Åland och i Sydtyrolen. Liknande jämförelser har gjorts tidigare, men Ackrén väljer en ny teoretisk ram genom att granska lösningarna utifrån aspekter om delning, institutionell struktur och om konsociala komponenter. Ackrén placerar på detta sätt sin forskning inom en ny inriktning i självstyrelseforskning, en inriktning som inte begränsar sig enbart till förutsättningarna för att uppnå någon form av fredlig lösning av territoriella och etniska konflikter, utan betonar lika mycket styrkan och långvarigheten i dessa arrangemang. Det är det som gör Ålandslösningen, med sina 90 år, och Sydtyrolen med närmare 65 år, är intressanta och viktiga som forskningsobjekt. Ackréns rapport bidrar genom sin rapport till forskning och teoretisk utveckling om minoritetsskydd, självstyrelser och konsociala arrangemang.

De två lösningarna, Åland och Sydtyrolen, visar flera skillnader men också slående likheter. De kombinerar säkring av systemen genom nationella och internationella garantier. Självstyrelselagstiftningarna har en stark ställning i den rättsliga ordningen i respektive land och sist, men inte minst, har de direkt berörda grannländerna, Österrike och Sverige, hållit en försiktig och återhållsam attityd. Frågan ställs i rapporten huruvida Ålandslösningen fungerade som inspiration för upplägget i Sydtyrolen. Maria Ackréns arbete passar väl in i Ålands fredsinstituts komparativa forskningsinriktningar om självstyrelser och konfliktlösning. Vi är glada och tacksamma att Maria har velat dela sina intressen och insikter med oss.

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Abstract

The study undertakes two examples of successful conflict resolutions within their respective states. The cases of the Åland Islands and South Tyrol share a lot of similarities but also some differences between each other. There are evidences of institutional design. The structure of governance is divided into a legislative and administrative branch. The case of South Tyrol is though more complex in nature due to the three language groups existing in the area. All languages (Italian, German and Ladin) are based on equality, which means that there exist different school systems in the region and quota systems in the regional parliament. This can be seen as the consociational feature of institutional design.

The mechanisms used in the conflict resolution are somewhat different from each other. Both regions share a level of international involvement, since the Åland case was solved in the League of Nations in 1921 and the South Tyrolese case was brought up to the United Nations in 1960. The total resolution for South Tyrol came in place as late as 1992, when Austria and Italy finally agreed upon the De Gasperi-Gruber Agreement already established in 1946. The most evident conflict solving mechanisms used in the resolution of South Tyrol is a combination of partition, institutional design and consociationalism, while the Åland Islands only can be referred to institutional design.

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1. Introduction

International crisis is not a new phenomenon in the world. As long as there have been/are wars and conflicts going on we experience different kinds of crises. Minority situations are often associated with ethnic conflicts. Minorities are seen as a possible danger by undermining the state sovereignty, claiming rights which could limit the central government and above all, representing a threat to the territorial integrity of the state. This is especially true if minorities live in a compact community or have a neighboring kin-state.[1] States often accept to give some territories special rights in order to reduce the conflicts and stabilize the situation, so that no further conflicts would arise. Autonomy is often seen as a mode to resolve ethnic conflicts. Autonomy is though a disputed recipe for solving a conflict. Some states might see territorial autonomy as the cradle for future secession and as a result they refuse to grant autonomy rights to minorities. Other states might accept the minorities and grant them a special status based on consensus between the minority and majority in a specific area. Autonomy is best defined as the provision of all necessary means (legal, political, institutional, economic and cultural) for the preservation and development of minority identity with respect to the territorial integrity of the state in which the minority lives. The existing examples of territorial autonomy have usually been the result of long negotiations and are often enforced by international agreements.[2]

Large datasets have been outlined throug different international projects concerning minorities and conflicts. The Minorities at Risk (MAR) project characterizes worldwide ethno-political actors of several types involved in various conflicts, and the International Crisis Behavior (ICB) project analyzes international conflicts and crises across the world. Some statistics from these datasets indicate that during the time period of 1918-2002 we have experienced 133 ethnic-related international crises in which 67 ethno-political actors were involved. This reveals the dimension of how ethnicity affects international conflicts.[3]

Today, few violent conflicts are between multiple states, rather they occur within states due to tensions between state majorities, minority groups and peoples demanding respect for their fundamental individual and collective rights. Such tensions are caused by a numerous of factors. These include territorial changes, burdens from colonial pasts, authoritarian regimes and last but not least, the bias of unitary states to subordinate democratic participation to the consolidation of the central power.[4] Within the Uppsala Conflict Data Program (UCDP) the trend is quite obvious by looking at the situation from 1946-2005 by which the increase in internal conflicts outnumber the internationalized and intrastate conflicts.[5] The most common solution in intrastate conflicts over territorial matters is to grant a disputed region local governance or autonomy.[6]

1   Balázs Vizi (2002). 'Minority Groups and Autonomy from an International Political Perspective' in Kinga Gál (ed.): Minority Governance in Europe. Budapest: LGI Books, p. 42.

2   Balázs Vizi (2002), op.cit., p. 49; Gyula Csurgari (2002). 'Geopolitical Aspects of the Minority Question in Central and South Eastern Europe' in Kinga Gál (ed.), op.cit., p. 66.

3   Meirav Mishali-Ram (2006). 'Ethnic Diversity, Issues, and International Crisis Dynamics, 1918-2002', Journal of Peace Research, Vol. 43, No. 5, p. 583.

4   Thomas Benedikter (2009). The World's Modern Autonomy Systems. Concepts and Experiences of Regional Territorial Autonomy. Bolzano/Bozen: EURAC Research, p. 9.

5   Lotta Harbom, Stina Högblad & Peter Wallensteen (2006). 'Armed Conflicts and Peace Agreements', Journal of Peace Research, Vol. 43, No. 5, p. 619 Figure 1.

6   Lotta Harbom et al (2006), op.cit., p. 624.

Ethnic conflicts encompass the clash of identities between different types of political actors who compete over tangible and intangible resources. Tangible issues relate to territorial border disputes, struggles over the control of national governments, and economical resources. Intangible issues involve clashes of ideas expressed by ethnic, religious, and ideological communities.[7]

In this investigation I will study two historical examples of territorial autonomy seen through a conflict solving mechanism perspective. The examples of the Åland Islands in Finland and South Tyrol in Italy can be seen as two successful stories of constitutional engineering. The case of the Åland Islands represents one of the oldest functional territorial autonomy of today with almost 90 years of history. The other example of South Tyrol has been experiencing a similar development as the Åland case after it received its autonomy after the Second World War in 1946. These examples can be viewed as compromises, where different state actors have been involved to settle minority disputes for various interests. The entities seem to be very similar at first glance, but how is it in practice. What are the differences and similarities between the cases?

The cases have been dealt with in several studies previously[8], however, in this study the main focus will be to shed a light on what kind of conflict solving mechanism that have been most fruitful concerning the cases. The three perspectives of partition, institutional design and consociationalism will function as the main pillars addressing the similarities and differences between the Åland Islands and South Tyrol respectively.

The structure of the investigation departs from the notion of two matched pairs. Matched pairs can also be called most similar systems design[9]. The logic is to choose cases that are as similar as possible in order to elucidate the dissimilarities between the cases. One difference, that can be outlined directly, is the fact that the case of the Åland Islands has emerged in a more homogenous environment than the case of South Tyrol. There are two autonomy models available: one which have occurred in a homogenous environment and one which have occurred in a more heterogeneous environment. Has this had any effect on how the conflict solving mechanisms have been implemented?

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7   Meirav Mishali-Ram (2006), op.cit., pp. 584-586.

8   See e.g. Hurst Hannum (1996). Autonomy, Sovereignty, and Self-Determination. Revised Edition. Philadephia: University of Pennsylvania Press; E.J. Vieytez and M. Kallonen (2004). 'Territorial Autonomy and European National Minorities: South Tyrol, the Basque Country and the Åland Islands' in European Yearbook of Minority Issues, Vol. 2, 2002/3. Leiden: Martinus Nijhoff Publishers, pp. 247-281; Maria Ackrén (2009). Conditions for Different Autonomy Regimes in the World – A Fuzzy-Set Application. Åbo: Åbo Akademi University Press; Thomas Benedikter (2009), op.cit.; Julia Lindholm (2010). Åland och Sydtyrolen. En

komparativ studie av autonomiarrangemang och minoritetsskydd. C-uppsats i statsvetenskap vid Örebro universitet, Sverige.

9   See e.g. Adam Przeworski & Henry Teune (1970). The Logic of Comparative Social Inquiry. New York: Wiley-Interscience; Giovanni Sartori (1994). 'Compare Why and How. Comparing, Miscomparing and the Comparative Method', pp. 14-34 in Mattei Dogan & Ali Kazancigil (eds.): Comparing Nations. Concepts, Strategies, Substance. Oxford: Blackwell Publishers; Guy B. Peters (1998). Comparative Politics: Theory and Methods. London: Macmillan Press Ltd.; and Theodore W. Meckstroth (1975). '"Most Different Systems" and "Most Similar Systems". A Study in the Logic of Comparative Inquiry', Comparative Political Studies, Volume 8, No. 2, July 1975, pp. 132-157 for a more detailed discussion about the method.

2. Conflict Solving Mechanisms

The conflict solving mechanisms are numerous within the study of conflict resolution. Some examples are related to issues concerning partition of territory, institutional design in form of power-sharing instruments and various forms of autonomy. The outcome in this context has been as earlier noted two forms of territorial autonomy and the interest then becomes to search for commonalities and differences regarding the mechanisms, which have given rise to territorial autonomy in the first place. This means that autonomy as a conflict solving mechanism will not be used. I will concentrate and delimit the study to take the three perspectives of partition, institutional design and consociationalism into account.

The three mechanisms are not totally excluded from each other, since elements of partition and institutional design might be interlinked. Another aspect is that consociationalism might be seen as a form of institutional design, but I will explain how I use these concepts in this particular context.

2.1 Partition

Partition is employed in order to create separate entities where each of the disputing parties could fulfill its primordial agenda in form of religious, ethnic, language or other lines. Institutional design, on the other hand, is an attempt to find a common framework of shared sovereignty without exclusive control over the territory.[10]

In the past, partition has been a tool of empires, dividing territories between themselves or devolving authority, granting independence to nations. In the present, partition has been used as a 'last resort' in meeting the needs for self-determination and territorial expression. One side of the coin is that territorial division may be an efficient and equitable means of resolving disputes between competing groups. Borders that everyone agrees upon give good neighbors. On the other side lies the danger in deepening the conflict, if the parties do not find they will achieve the legitimacy and control over their own border.[11] Partition can be seen as a more temporary solution where the boundaries remain disputed, causing material and emotional damage to the already uprooted population.

Partition can be seen as an option available to deal with ethnic conflict when groups seek to secede or make irredentist claims on territory in which their kin reside. Examples include the partition of Palestine that created Israel in 1948 and the establishment of a Kurdish safe haven in northern Iraq in the 1990s.[12] Other examples from the late 1990s are the divisions between Yugoslavia and Croatia (1995) and Yugoslavia and Bosnia (1995) and one of the newest example we find in Indonesia with the division between Indonesia and East Timor (2002).[13]

The mechanism of partition has a mixed record of success throughout history. There are several critics against this method. Some authors remark that partition could lead to an escalation of the conflict, particularly if civil institutions are weak and ethnic minorities are disenfranchised. Partition could lead to additional self-determination and independence movements as groups

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10   Eiki Berg and Guy Ben-Porat (2008). 'Introduction: Partition vs. power-sharing?', Nations and Nationalism, Vol. 14 (1) 2008, p. 29.

11   Eiki Berg and Guy Ben-Porat (2008), op.cit., p. 32.

12   Neal G. Jesse and Kristen P. Williams (2011). Ethnic Conflict: A Systematic Approach to Cases of Conflict. Washington, D.C.: CQ Press, p. 72.

13   Thomas Chapman and Philip G. Roeder (2007). 'Partition as a Solution to Wars of Nationalism: The Importance of Institutions', American Political Science Review, Vol. 101, No. 4, Table 1, p. 678.

in the new state seek to form their own state. Partition might weaken the possibility of democracy as new ethnic majorities discriminate against the minorities now residing in the new state.[14]

There are, however, also records of positive effects regarding partition. Arguments in favor of partition include ending the issues that contributed to conflict between groups, as groups become separated. Partition might also reduce, if not prevent, bloodsheds. At the same time, studies on partition find that states resulting from successful partition are more likely to move towards democracy.[15] Another result of partition is, of course, that a limited number of decisions must be made jointly, since the two states will function separately from each other. All decisions regarding allocation of taxation, authority, balancing of seats in the national cabinet, or appointment powers in the bureaucracy are after a partition in no need of joint decisions anymore.[16]

The question in this study is if we can see any evidences of partition in the cases of the Åland Islands and South Tyrol throughout history or if this element is lacking from the cases in point.

2.2 Institutional design

In contrast to partitions, institutional design is based on a political restructuring of existing entities and an attempt to change the zero-sum nature of the conflict. Institutional design is employed to balance the principles of democracy with the need for conflict management in ethnically divided societies.[17] In the literature about

institutional design the concept of consociationalism is often used to describe the elements of a power-sharing executive, proportional representation, veto rights, segmented autonomy, and arbitration.[18] First, I will outline the general features about institutional design and then I will describe how I use this concept in this particular context. Consociationalism will further be analyzed in a section of its own.

Institutional design cannot be totally excluded from partition, but the two concepts can be analytically distinct and involve different logics. Sometimes institutional design is referred to as constitutional engineering. Constitutional design suggests starting from a blank sheet of paper, usually following major regime change.[19] Constitutional engineering has been the heart of settlements as diverse as the Bosnian Dayton Accords of 1995, the ending of apartheid in South Africa in 1994, Fiji's power-sharing arrangement of 1997, Northern Ireland's 1998 Good Friday Agreement, Kenya's post-2007 election pact, and Sudan's confederal arrangement between North and South signed in 2005.[20] In a divided society there are two crucial elements to build stability. First, each significant group must feel included and acknowledged in the running of the state. Second, the weaker groups and individuals (majority or minority) must be protec-

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14   Neal G. Jesse and Kristen P. Williams (2011), op.cit., p. 73; see also Thomas Chapman and Philip G. Roeder (2007), op.cit., p. 677.
15   Neal G. Jesse and Kristen P. Williams (2011), op.cit., pp. 72-73.
16   Thomas Chapman and Philip G. Roeder (2007), op.cit., p. 681.
17   Eiki Berg and Guy Ben-Porat (2008),

op.cit., p. 33.
18   Jan Mansvelt Beck (2008). 'The Basque power-sharing experience: from a destructive to a constructive conflict?', Nations and Nationalism, Vol. 14(1) 2008, p. 66. The term consociationalism in this context was first coined by Lijphart in 1969.
19   Richard Simeon (2009). 'Constitutional Design and Change in Federal Systems: Issues and Questions', Publius, Vol. 39, No. 2, p. 241.
20   Andrew Reynolds (2011). Designing Democracy in a Dangerous World. Oxford: Oxford University Press, p. 8.

ted.[21] Other ingredients are a fully functioning judiciary, a progressive education system, high level of employment, economic development, and internal security as foundations for a stable polity.[22] In divided societies federalism is usually used to improve the ability to manage and accommodate difference, but also other forms such as decentralization, devolution, and autonomy are commonly used as institutional mechanisms.[23]

Successful accommodation of minorities involves maybe not the total elimination of all conflict but rather the elimination of violent conflict and the diminishing of conditions that might spark violence in the future.[24]

The political elite, the leaders, of a country might face several obstacles in order to solve territorially based cleavages. Besides the two extremes of doing nothing or allowing peaceful separation, alternatives such as assimilation, subsidization, party-based incorporation, and coercion might be examples of overcoming some of the obstacles. Assimilation might be too time-consuming as an alternative, since it takes a long time before all groups feel part of a new order in a society.[25] Karl Deutsch estimates that it takes between 300 and 700 years for ethnic groups to accept and be accepted by the majority.[26] Subsidization is another policy that the central government might use to mitigate conflicts, but it is very problematic to win over certain groups just with money transfers. It might be a

temporary solution for poorer regions, but it will probably not solve the real issues underlying the conflicts.[27]

The mechanism to incorporate minorities into national politics has proven successful for long periods of time in a broad range of countries. Examples of this can be seen in the United Kingdom with Scotland, in India where the heterogeneous Congress Party has been a stable anchor in politics and in Malaysia where the divisions between Chinese and Malays incorporated as the Alliance Party helped guarantee decades of ethnic peace.[28] Incorporation through political parties is though both risky and difficult, but coercion might be even worse. Coercion has not proven to be successful at all. Examples of coercion can be seen in Sri Lanka where the Tamils have been excluded in lot of areas, in Turkey the Kurdish movement has occurred as a result of the Turkish neglecting policy towards the Kurd population, and in Mexico the Chiapas laid the foundation for an armed revolutionary movement in the 1990s after harsh repressions.[29]

In this study institutional design will describe the relationship between the centre and the periphery. It will outline how the state has organized itself and which kind of government that has been established in the autonomous regions of Åland and South Tyrol respectively.

2.3 Consociationalism

Consociationalism can be seen as one form of institutional design. Consociational democracy means that a country or region is governed by elites to overcome a fragmented political culture where the elites turn the situation into a more stable democracy. In order to become successful the elites must have the ability to accommodate

21   Andrew Reynolds (2011), op.cit., p. 11.
22   Andrew Reynolds (2011), op.cit., p. 31.
23   Richard Simeon (2009), op.cit., p. 244.
24   Nancy Bermeo (2002). 'The Import of Institutions', Journal of Democracy, Vol. 13, No. 2, p. 99.
25   Nancy Bermeo (2002), op.cit., p. 103.
26   Cited in Nancy Bermeo (2002), op.cit., p. 103; See also Zachary Elkins and John Sides (2007). 'Can Institutions Build Unity in Multiethnic States', American Political Science Review, Vol. 101, No. 4, p. 699.

27   Ibid.
28   Nancy Bermeo (2002), op.cit., pp. 103-104.
29   Nancy Bermeo (2002), op.cit., p. 104.

the diverse interests and demands from the sub-cultures.[30]

A consociational democracy is characterized by "1) grand coalition governments that include representatives of all major linguistic and religious groups, 2) cultural autonomy for these groups, 3) proportionality in political representation and civil appointments, and 4) a minority veto with regard to vital minority rights and autonomy".[31] Examples of consociational societies are Belgium, the Netherlands, Austria and Switzerland.[32] Another example with consociational features is Northern Ireland. The 1998 Good Friday Agreement gives the rules for how the government in Northern Ireland is structured. The Assembly contains much of the same consociational devices as the 1973 power-sharing Assembly, plus the new mechanism of parallel consent. The new 108-member Assembly uses Single Transferable Vote (STV) to elect its members by combining districts into multi-member districts so the proportional representation is possible.[33]

Grand coalition governments can take different forms, but the most modal form is where a cabinet includes coalitions of ethnic, linguistic, or religious parties on a more or less equal basis. Cultural autonomy can be employed as federal arrangements in which state and linguistic boundaries largely coincide, the form where the right of religious or linguistic minorities establish and administrate their own autonomous education, fully supported by public funds, and separate laws or regulations regarding issues like marriage, divorce, custody and adoption of children and inheritance. Proportionality is often used as an electoral formula in power sharing democracies to avoid majority tyranny. The minority veto is often understood as a tool for minorities to protect their own interests while blocking any proposals to eliminate or reduce their autonomy.[34]

Consociationalism is not without its problems. Some critics argue that consociationalism gives power to ethnic (or ethnocentric) elites who have an interest in maintaining division instead of crossing ethnic lines.[35] Furthermore, consociationalism does not take international mediation into account. It only considers the internal relationships between the parties in a country.

In this context I will use consociationalism as the mechanism employed within the autonomous regions in question. This means how the institutional structure is set-up internally in the region. Consociationalism is often used to describe state structures, but in this case my interpretation of consociationalism is related to the sub-regions' internal relationship.

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30   Arend Lijphart (2008). Thinking About Democracy. Power sharing and majority rule in theory and practice. Oxon/New York: Routledge, p. 31-32.
31   Arend Lijphart (2008). Thinking About Democracy, op.cit., p. 42.
32   Andrew Reynolds (2011), op.cit., p. 19.
33   Neil G. Jesse and Kristen P. Williams (2011), op.cit., p. 114.
34   Arend Lijphart (2008). Thinking About Democracy, op.cit., pp. 45-49.
35   Eiki Berg and Guy Ben-Porat (2008), op.cit., p. 33.

3. The Åland Islands

The Åland Islands will first be seen through a historical light in order to elucidate the conflict resolving mechanism(s) used in the past. Thereafter I will look at the current model of autonomy.

3.1 Historical Background

As is known from history, the Åland Islands have always been inhabited by a majority of a Swedish population. As early as 1362, the Åland Islands took part in electing the Swedish king and were regarded as a part of the Swedish kingdom.[36] In 1714 the Åland Islands were conquered by Peter the Great of Russia, whose armies then had occupied Finland as well. While the islands were given back to Sweden by the Treaty of Nystad in 1721, they were henceforth an international problem.[37] In 1742 the islands again were occupied by the Russians, but were given back to Sweden by the Treaty of Åbo in 1743. In 1759 Russia and Sweden concluded a convention calling for joint action in preserving freedom of commerce and neutrality in the Baltic. In 1808 the Russians attacked the islands, but were driven off. The islands were thereafter united by a Royal Decree of July 8, 1808, with the county of Uppland on the Swedish mainland. Sweden had special instructions not to give up the islands, but the Russians insisted on the islands.[38] The islands were then conquered by Russia and incorporated with Finland, into the Russian empire by the Treaty of Fredrikshamn on September 12, 1809.[39]

At the peace negotiations following the Crimean War, Sweden proposed: "(1) that the Åland Islands should be restored to Sweden; or (2) that they be made a free state under English, French, or Swedish-Norwegian protection; and (3) that they be demilitarized".[40] The result of these negotiations was, however, that the islands were left in Russian possession by the Paris Peace Convention of March 30, 1856, with the declaration that the islands would be demilitarized.[41]

The year 1905 can be seen as very significant. The union between Sweden and Norway was dissolved and the Anglo-French guarantee of 1855 was terminated, making Sweden more dependent on the Baltic. At the same time the Russian fleet was defeated by the Japanese, thus turning Russian eyes anew to the security in the Baltic, especially with the growing German fleet as a menacing factor.[42]

Reminders were sent to Russia about the Åland Islands demilitarized status as of 1856, since Russian troops were sent to the islands in 1906. In 1907 a secret convention was signed in St. Petersburg between Russia and Germany guaranteeing the status quo in the Baltic. The Swedish Government demanded an international agreement to preserve the 1856 convention and as a consequence a declaration was signed by Russia, Germany, Denmark and Sweden on

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36 The Åland Islands were already a part of Sweden from 1157. See James Barros (1968). The Aland Islands Question: Its Settlement by the League of Nations. New Haven and London: Yale University Press.

37 Norman J. Padelford and K. Gösta A. Andersson (1939). 'The Aaland Islands Question', The American Journal of International Law, Vol. 33, No. 3 (Jul., 1939), p. 466.

38 Ibid. See also James Barros (1968), op.cit., pp. 1-3.

39 Philip Marshall Brown (1921). 'The Aaland Islands Question', The American Journal of International Law, Vol. 15, No. 2 (Apr., 1921), p. 268.

40 Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 467.

41 Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 467 and Philip Marshall Brown (1921), op.cit., p. 268.

42 Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 468.

April 23, 1908, in which the signatories agreed to maintain the status quo in the Baltic.[43]

At the outbreak of the World War I no Russian troops were on the islands, but the German fleet attacked the islands on August 21, 1915 and found several Russian batteries and a strong garrison there. Sweden protested to Russia that the presence of these guns constituted a violation of the Treaty of 1856, but Russia answered that these fortifications only were of temporary nature. Several permanent military works were erected and the islands even served as a base for an English submarine fleet in the Baltic.[44] After the Russian armies began to lose their foothold in Poland in 1916, Russia intensified the fortification of the Åland Islands. This caused a great alarm in Sweden and only a renewal of the guarantees given by England and France prevented Sweden from going to war with Russia.[45]

The development towards territorial autonomy in the Åland Islands has been a step-wise affair. Until 1917 the Åland Islands were an administrative part of the Finnish autonomous Grand Duchy within the Russian empire and became a county within Finland in 1918.[46] During the time of Finnish independence, ideas about reuniting the Åland Islands with Sweden came up on the agenda. These efforts were leading to two petitions directed to the Swedish King.[47]

When the civil strife broke out in Russia in 1917 a new turn took its place in the conflict. Finland declared its independence on December 6, 1917 and was formally recognized by Russia on December 31, 1917. Sweden, France and Germany recognized the new state on January 4, 1918.[48] During this time as early as August 20, 1917, representatives from the communes of Åland assembled at Finström and decided to bring to the notice of the Swedish Government and Parliament that the population of the islands was keenly interested to be reunited with the Kingdom of Sweden. A referendum was held on the Åland Islands on December 31, 1917, and an overwhelmingly 95 per cent of the population declared a favor for reunion with Sweden.[49] The result was communicated to the Swedish Government and the King of Sweden expressed the hope that the independence of Finland would help settle the Åland Islands question. Sweden had sent notes to Germany, Austria and Turkey asking them to consider the Åland Islands question at the peace negotiations with the Soviet Republics at Brest-Litovsk, but no changes were made.[50]

On January 27, 1918 a Red Rebellion broke out in Finland during the course of which the inhabitants of the islands suffered maltreatment. A petition signed by 98 per cent of the eligible voters of the Åland Islands was presented for the King of Sweden on February 2, who again expressed the hope that the Åland Islands question would be solved soon. While Sweden was more interested in other matters, it was decided, with the consent of the British, French and German Governments, to send Swedish troop vessels to the islands for the protection of the inhabitants of the islands.[51] To prevent bloodshed on the islands, it was agreed that Finnish and Russian troops should be evacuated from the islands and the Swedish troops left to maintain order. The

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43   Ibid.

44   Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 469.

45   Ibid.

46   Markku Suksi (2005). Ålands konstitution. Åbo: Åbo Akademis förlag, p. 4.

47   Ibid.

48   Philip Marshall Brown (1921), op.cit., p. 268. See also Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 469.

49   Philip Marshall Brown (1921), op.cit., pp. 268-269.

50   Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 470.

51   Ibid.

Swedish troops withdrew likewise afterwards.[52]

On March 3, 1918, Germany and Russia signed the Treaty of Brest-Litovsk. According to the Article 6, Russia agreed to withdraw all troops and naval forces from the Åland Islands, and to remove all fortresses. No mention was made of who was to be regarded as the rightful sovereign of the islands. On March 7, Germany and Finland signed a treaty of peace in Berlin. Article 30 of this treaty carried out almost the same wording as Article 6 of the Treaty of Brest-Livotsk concerning the Åland Islands.[53] It did not indicate who was to be the sovereign over the islands.

The negotiations between Germany, Finland and Sweden proceeded slowly during the summer and fall of 1918. The situation in the end of 1918 can be summarized as following: "Russia had not formally relinquished all right and title to the Åland Islands; Finland claimed to have sovereignty over the islands; Sweden claimed no title for herself, but favored an international settlement of the question; Germany had occupied the islands and concluded treaties with Finland, Russia and Sweden, all of which provided for the demilitarization of the islands but none of which indicated the locus of sovereignty".[54] The German treaties of peace with Finland and Russia were annulled by the Treaty of Versailles later on.

The population of the Åland Islands continued its fight for association with Sweden. With regard to the peace negotiations taking place in Paris 1918-19, the population of Åland demanded a reunification with Sweden and also appealed to the national self-determination coined by President Wilson in his message of January 8, 1918. The Swedish Government proposed to the Government of Finland that a referendum should be held on the islands, with proper guarantees, which should settle the conflict. Finland refused. In 1919 the islanders sent a petition to the Peace Conference in Paris asking for a plebiscite, and at the same time stated the islands' historic, economic and racial ties with Sweden. Sweden expressed support for the solution, but the Finnish representatives opposed. The Finnish view was that the islands continuously belonged to Finland and was therefore seen as a part of the integral territory. The Peace Conference did not take any actions regarding the Åland issue and the question was to be submitted with the British initiative to the League of Nations.[55]

The League appointed two commissions to examine the Åland Islands question. The first decided that the matter was one of international concern and therefore within the League's competence, since Finland had not acquired sovereignty over Åland during the period when the Russian empire was disintegrating and prior to the Ålanders' expressed wishes to be reunited with Sweden. The second commission rejected Åland claims to self-determination and proposed the solution eventually adopted by the Council of the League of Nations in 1921, that of according to the Islands autonomy under Finnish sovereignty.[56]

52   Philip Marshall Brown (1921), op.cit., p. 269.

53   Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 471. See also James Barros (1968), op.cit., pp. 69-75 for a more detailed analysis regarding the discussions between the parties.

54   Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 471.

55   Tore Modeen (1973). De folkrättsliga garantierna för bevarandet av Ålandsöarnas nationella karaktär. Mariehamn: Skrifter utgivna av Ålands kulturstiftelse VII, p. 20; Göran von Bonsdorff (1950). Självstyrelsetanken i finlandssvensk politik åren 1917-1923. Bidrag till kännedom af Finlands natur och folk. Utgifna af Finska Vetenskaps-Societeten, H. 94, No. 1. Helsingfors: Centraltryckeriet, pp. 126-131; Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 472.

56   Hurst Hannum (1996), op.cit., p. 371;

3.2 The Åland Islands Question in the League of Nations

The League of Nations had decided on December 15, 1920 that all Baltic States (included Finland) would become members of the organization. There were some restrictions made for the other countries regarding the minority issues, but this did not concern Finland. Finland was accepted as a member on December 16, 1920.[57]

The Finnish government granted in February 1920 a measure of autonomy for the Åland Islands. In writing this legislation the Finns had consulted the constitutions of the Channel Islands and the Isle of Man. This form of autonomy was rejected by the Ålanders.[58]

The situation became very tense between the Islands and the Finnish government. A delegation was sent to Sweden from Åland to appeal for help in the question and the Finnish government decided to send three of its members to Åland to discuss the matter under military escort to confront the leaders of the Ålanders. The Ålanders refused to discuss about the application of the new self-government law and thereafter the Finnish authorities arrested the separatist leaders Julius Sundblom and Carl Björkman on the ground on high treason. The arrest also concerned Johannes Eriksson, who at that time was in Sweden.[59]

After an exchange of notes between the interested parties, the British government, acting under Article 11 of the Covenant of the League of Nations, drew the attention of the League Council to take up the Åland case.[60]

The Council met in a special session at London, July 9-12, 1920, proceeding under the Articles 12, 15, and 17 in view of the fact that Finland was not at that time member of the League. Sweden demanded a plebiscite, the result of which would be binding to both Sweden and Finland. Sweden also guaranteed that if the Islands were to become under Swedish jurisdiction Sweden was prepared to fulfill the 1856 Convention and assure the islands an even greater measure of neutralization. Two delegates from the Åland Islands were on the same side. Finland refused this proposition claiming that the question was of domestic nature and that the League was not competent to deal with it. The Council decided to appoint a Commission of Jurists to determinate whether the question was an international or a domestic issue, and whether the Convention of 1856 was still binding.[61]

The Commission of reporters gave its report on April 16, 1921. The report declared that Finland had sovereignty over the Åland Islands with some restrictions. Finland should give Åland some guarantees for the preservation of the national character of the Åland Islands. The guarantees should thereby be internationally observed. Already, earlier had Finland given Åland a self-government act on May 6, 1920. In the resolution of 24 June 1921 the Council declared that the new guarantees should be included in the Finnish self-government act. The new guarantees aimed at preserving the Swedish language in the schools, to maintain the landed property in the hands of the Ålanders, to determine fair boundaries for immigrants' right to vote and to ensure the nomination of the governor. The governor would, of course, need to enjoy public confidence.[62]

At the Council meeting on 27 June 1921 an agreement was struck between the parties. It was guaranteed that the population in the Åland Is-

Markku Suksi (2005). Ålands konstitution. Åbo: Åbo Akademis förlag, p. 6.

57   Tore Modeen (1973), op.cit., p. 18.

58   James Barros (1968), op.cit., p. 216.

59   Göran von Bonsdorff (1950), op.cit., pp. 229-231.

60   Norman J. Padelford and K. Gösta A. Andersson (1939), op.cit., p. 473.

61   Ibid, pp. 473-474.

62   Tore Modeen (1973), op.cit., pp. 30-34.

lands would secure their Swedish language, their culture and local customs. The so called "Law of Guarantee" was passed by the Finnish parliament on August 11, 1922.[63]

In October 1921 a convention regarding the demilitarization and neutralization concerning the Åland Islands was signed by Britain, Italy, Latvia, Poland, France, Sweden, Germany, Finland, Denmark and Estonia. The 1856 years' Convention was kept in required parts.[64]

The fact that the League Council solved the Åland question was made possible by a unique combination of factors. For the Swedish delegation at Geneva in 1921 the alternatives were the choice between the desirable and the possible. The desirable was Swedish acquisition of Åland, but this was not possible following the Commission of Inquiry's report. The League Council and especially Britain and France were willing to support this report. Neutralization of the Islands and extensive guarantees to the Ålanders was accepted by Sweden.[65]

During the Second World War Finland fortified the Islands to defend Åland's neutrality. The installations were never used and Åland's demilitarized status was confirmed in the 1946 Paris Peace Treaty.[66] In 28 December 1951 the second Finnish Autonomy Act was signed and could only be amended with the mutual consent of the Åland parliament and the Finnish government.[67]

In the Autonomy Act of 1951 the provisions of the "Guarantee Law" were implemented. The Act of 1920 had become out of date after World War II. The education language in the schools was to be Swedish. Property or facility, which had been assigned a person outside the Islands, could be bought by the county, a municipality or by a person residing in the Islands. An immigrated Finnish citizen could achieve voting rights in municipal elections and elections to the county assembly (landsting), if the person had been living in the Islands for a period of five years. The County Governor was to be appointed by the President of the Republic of Finland after negotiations with the chair of the assembly. The county had the right to use a certain amount of the taxation incomes for own purposes.[68] In 1991 a new Act was adopted and entered into force in 1993. The name of the county assembly was changed to legislative assembly (lagting). The legislative authority is exercised by the Åland Parliament.[69]

All conventions related to Åland's military status are still considered to be in force today. Åland consists of two international dimensions: on the one hand the autonomy and on the other hand the demilitarization and neutralization of the Islands.[70] These dimensions should, of course, be kept separate. In this study the dimension of autonomy will be further elaborated on.

63   Ibid, p. 35, 39.
64   Ibid, pp. 38-39.
65   James Barros (1968), op.cit., p. 338.
66   Susanne Eriksson (2006). 'Åland – a Demilitarised and Neutralised Territory' in Susanne Eriksson, Lars Ingmar Johansson and Barbro Sundback (eds.): Islands of Peace – Åland's autonomy, demilitarization and neutralization. Mariehamn: The Åland Islands Peace Institute, p. 15.
67   Hurst Hannum (1996), op.cit., p. 371 and Markku Suksi (2005), op.cit., p. 6-7.

68   Markku Suksi (2005), op.cit., p.8-9.
69   Lars Ingmar Johansson (2006). 'Åland's Autonomy – Its Background and Current Status' in S. Eriksson et. al. (eds.), op.cit., p. 52.
70   Sia Spiliopoulou-Åkermark (2009). 'L'exemple des Îles Åland ou les vicissitudes d'un concept flux' in Matthieu Chillaud (ed.): Les Îles Åland en mer Baltique. Héritage et actualité d'un régime original. Paris: L'Harmattan, p. 230.

3.3 The Åland Case contrasted towards Partition, Institutional Design and Consociationalism

The Åland Islands do not fit into the ideal worlds of consociationalism or partition. Constitutionalism was never a matter for the Åland Islands, since the elite constituted the majority at the same time. There was no matter of dividing the population at different ethnical lines. From a historical point partition could at some point be highlighted, especially during the discussions to which country the Åland Islands truly belonged to in the 1918-1920s, but otherwise it does not have any influence as a conflict solving mechanism as such. Finland had never the intention to dissolve its territory and therefore Åland was never a case of real partition. The Åland question became a matter of international concern and was finally resolved in the League of Nations. The conflict resolution lies on institutional design, where the Åland Islands received and lastly accepted a separate form of government. The self-government which followed the resolution gave the Åland Islands premises to develop into a territorial autonomy with own legislative and administrative rights. Åland is the only Finnish region with autonomous status.

3.4 The Structure and Function of the Autonomy in Åland

The Åland Parliament is the legislative authority with 30 members elected by secret ballots for a term of four years under a system of proportional representation. Those who have reached universal suffrage (18 years of age) and have the right of domicile are eligible to vote and run for candidacy.[71] The political parties are independent from their national counterparts, but share the same basic ideological principles as parties of the same political color in other parts of the world. The current parties are: the Liberal Party, the Centre Party, the Independent Group, the Social Democrats, the Conservative Moderates and Åland's Future. Åland's Future is an independence party and is quite a new arrival on the political scene.[72]

The president of Finland may veto provincial laws, but only if, after having heard the opinion of the Finnish Supreme Court. This is only possible if the President has the opinion that the provincial law concerns matters within the legislative competence of the central government or concerns its internal or external security.[73]

The Åland Government functions as the executive branch. The Åland Parliament has a strong influence on the formation of the Åland Government. The Parliament appoints a candidate for chairman on the proposal of the Speaker, who then initiates negotiations on the composition of the government and its agenda. [74] The administration of most central government laws and regulations are delegated to the Åland Government. The Government is assisted by a 200-member body. The main administrative organization comprises six departments: the chancellery department (a form of Department of Interior), the finance department, the department for social issues and environment (including health care), the department of education and culture, the department of trade and industry (including agriculture, forestry and fishing), and the department of transport. The Law Drafting Committee and the Bureau of Statistics and Research Åland (ÅSUB) are two other administrative bodies which perform the role as advisory boards to the Åland Government.[75]

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71 Lars Ingmar Johansson (2006), op.cit., p. 52.

72 Available on: http://www.lagtinget.aland.fi/text.con?iPage=49&m=77

73 Hurst Hannum (1996), op.cit., p. 372.

74 Lars Ingmar Johansson (2006), op.cit., pp. 61-62.

75 Lars Ingmar Johansson (2006), op.cit., p. 62.

The Finnish central government is represented in the Åland Islands by a Governor appointed by the President of Finland, either with the agreement of the chairman of the Åland Parliament or, if there is no agreement, from among a list of five persons nominated by the Åland Parliament. The Åland Delegation, which is headed by the Governor, has primarily fiscal responsibilities or functions as a judge if there are disputes between the Åland Parliament and the Finnish central authorities. An administrative court considers appeals against local administrative decisions.[76] The Åland Islands is also represented by one member in the Finnish Parliament. In the elections Åland forms its own constituency and the elections are according to the majority principle. The individual elected represents Åland in all Finnish affairs and not exclusively Ålandic matters, since these are dealt with in the Åland Parliament.[77]

Financially, Åland is dependent on Finland. The State is collecting taxes according to the same principles as in the rest of the country. Åland receives a lump sum every year to cover the self-government expenditures, which is a settlement of 0.45 per cent of the state budget excluding new loans of the state.[78] The regional and national government authorities can agree to increase or decrease the 0.45 per cent ratio in the event of a significant shift, e.g. in respect of the division of authority between Finland and Åland or the cost of self-government.[79]

The chapter on economy in the Autonomy Act also includes a provision on tax refunds. If, in any given year, the amount of income and wealth tax collected in Åland exceeds 0.5 per cent of the government's total receipts, the excess amount of it is returned to Åland. In other words, if Åland outperform Finland as a whole, its population is entitled to enjoy the fruits of their work.[80] On the local level the Åland Parliament has law-making powers in the area of municipal taxation, that is, local government tax. In addition, some of the taxation powers of the Åland Parliament have never been used.[81]

The right of domicile can be seen as a regional citizenship. In order to acquire real estate, practice certain trades, or vote in regional parliament elections, a person must have acquired the right of domicile. Those not born in the Åland Islands must have resided in Åland for a continuous period of five years prior to acquire this citizenship, and the right of domicile may be lost if a person has permanently resided outside the Islands for five years. A company or other business entity is considered to have the right of domicile if two-thirds of its board of directors has received this citizenship. An Åland regional citizen is exempt from military service. Even adequate knowledge of Swedish is added to the right of domicile. The acquisition of this regional citizenship is connected to Finnish citizenship.[82]

76   Hurst Hannum (1996), op.cit., p. 372.
77   Markku Suksi (2005), op.cit., p. 98 and Sia Spiliopoulou Åkermark (2009). 'L'exemple des Îles Åland ou les vicissitudes d'un concept flux' in Matthieu Chillaud (ed.): Les Îles Åland en mer Baltique. Héritage et actualité d'un régime original. Paris: L'Harmattan, p. 231.
78   Maria Ackrén (2005). Territoriella autonomier i världen – En empirisk studie av de självstyrda autonomierna i världen. Mariehamn: Ålands fredsinstitut, p. 52; Bertil Roslin (2006). Europeiskt självstyre i omvandling. Helsingfors: Statsrådets kanslis publikationsserie. Nr. 11/2006, p. 16.

79   Lars Ingmar Johansson (2006), op.cit., p. 58.
80   Bertil Roslin (2006), op.cit., p. 16; Lars Ingmar Johansson (2006), op.cit., pp. 58-59.
81   Agneta Karlsson (2007). 'Om den åländska ekonomin – dess utmaningar och det ekonomisk-politiska handlingsutrymmet' in Harry Jansson (ed.): Vitbok för utveckling av Ålands självbestämmanderätt. Mariehamn: Ålands Framtid r.f., p. 146.
82   Sia Spiliopoulou Åkermark (2007). 'Hembygdsrättens framväxt från Ålandsöverens-

There is also a conflict solving mechanism between the central/state and Åland governments, called the Åland Delegation. The Åland Delegation is a body of legal and economic experts comprised of two members appointed by the Finnish government, two members appointed by the Åland Parliament, and a chairman appointed by the President of Finland (often the Governor), with the agreement of the Speaker of the Åland Parliament.[83] The Åland Delegation merely supervises that the Åland Parliament is not overriding its competences. The Åland Delegation has been in place since the first Autonomy Act in 1920, but its function has been changed over time. Originally its main role was to calculate the sum of money transfers between the State and Åland, but nowadays its role is to examine the constitutionality and legality (including EU-legislation) of draft acts of Åland. The Åland Delegation gives its opinion to the Supreme Court which in its turn sends its view to the President of Finland.[84]

In international relations the Åland Islands are part of Finland and Finland has the ultimate sovereignty over matters related to defense and security. There are, however, some regulations related to international agreements where Åland has a say. According to the Autonomy Act Åland needs to be heard if an international agreement should enter into force in the Islands. The Åland Islands have the right to participate at preparations of the Finnish Government's statements regarding secondary laws, such as, EU regulations.[85]

4. South Tyrol

South Tyrol will also be seen through the historical light and then be contrasted towards the theoretical framework. The end sections will deal with matters of today's situation.

4.1 Historical Background

The case of South Tyrol has taken a more long and winding road towards its status as a territorial autonomy. From 1363 until the end of the First World War, the whole area of South Tyrol was part of the Austro-Hungarian Empire. This period was interrupted only once, in the early nineteenth century (1805-13), when Tyrol was incorporated into Bavaria, an ally of Napoleon.[86] When the First World War broke out, Italy initially remained neutral. In 1915, the Allied powers succeeded in convincing Italy to enter the war on their side. As a gift Italy was promised to, amongst other territories, the area of Trentino and South Tyrol.[87]

The South Tyrolese question arose in 1919 following the annexation of South Tyrol by Italy. Throughout the nineteenth century, Italian irredentists sought the area in order to gain the strategic Brenner Pass. At that time the overwhelming majority of the inhabitants were Ger-

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kommelsen till 1951 års självstyrelselag – och idag?' in Sia Spiliopoulou Åkermark (ed.): Den åländska hembygdsrätten. Mariehamn: Ålands lagting & Ålands fredsinstitut, pp. 21-22; Hurst Hannum (1996), op.cit., p. 373; Lars Ingmar Johansson (2006), op.cit., p. 64.

83   Hurst Hannum (1996), op.cit., p. 373.
84   Sia Spiliopoulou Åkermark (2009), op.cit., p. 232.
85   Maria Ackrén (2008). 'Åland och EU', Finsk

Tidskrift, häfte 5/2008, p. 239; Sören Silverström (2008). 'The Competence of Autonomous Entities in the International Arena – With Special Reference to the Åland Islands in the European Union', International Journal on Minority and Group Rights, Vol. 15, No. 2-3, p. 267.
86   Emma Lantschner (2008). 'History of the South Tyrol Conflict and its Settlement' in Jens Woelk, Francesco Palermo and Joseph Marko (eds.): Tolerance through Law. Self Governance and Group Rights in South Tyrol. Leiden and Boston: Martinus Nijhoff Publishers, p. 4.
87   Emma Lantschner (2008), op.cit., p. 5.

man speaking. In 1910, Italian-speakers constituted less than five per cent of the population.[88] Any promise by the Italian Government to respect the rights of the German-speakers became worthless when Mussolini came into power in 1922. Throughout the time-war period, a program of denationalization was enacted in order to make Italy's state border constitute a linguistic border. In addition to the suppression of the German and Ladin languages and cultures, massive immigrations of Italians were enforced.[89] These various attempts marked different phases between 1922 and 1943. Even the name "South Tyrol" and any reference that included the word "Tyrol" was forbidden. Also given names and family names were Italianized. German names were removed from the graveyards and were replaced by Italian names or a translation. Italian was introduced as the only official language.[90] This can be compared to the Åland Islands, where Swedish became the only official language (and still is), while Finnish was not supported by the autonomous institutions.

The tragedy was worsened by the co-operation between Fascism and Nazism, which culminated in an agreement between Hitler and Mussolini and gave South Tyroleans the option to vote either for the German Reich, thereby leaving their homeland, or to remain in Italy without minority rights.[91] The outbreak of the Second World War stopped the complete implementation of the option.[92] Although initiatives by the population pressed for a return of South Tyrol to Austria following the Second World War (according to the principle of self-determination), the Peace Treaty of 1946 confirmed the 1919 Italian border.[93]

The Allied forces supported international protection for South Tyrol and in 1946 the Paris Agreement was signed between the Italian and Austrian representatives: De Gasperi and Gruber. This guaranteed the main cultural and linguistic rights as well as the territorial autonomy. The agreement recognizes Austria as a protector towards the German-speaking minority in South Tyrol.[94] As late as 1992 this agreement was officially acknowledged by the Austrian Parliament and it can only be changed by the approval of all interested parties: the Italian Republic, the Austrian Republic and the minorities themselves.[95] This agreement constitutes the international basis for the South Tyrolean autonomy. Following this agreement, Italy adopted the first Autonomy Statute for the Region of Trentino-Alto Adige in 1948, unifying the provinces of Bolzano-South Tyrol and Trento, so as to create a substantial Italian majority of nearly two-thirds in the resulting autonomous region.[96] The provinces received legislative competences only in the field of culture, administrative autonomy and became separate electoral districts. German and Italian received equal status in relation to public administration.[97]

The South Tyrolean People's Party (Südtiroler Volkspartei, SVP) founded on 8 May 1945 had initially a goal to assert claims to self-determination and to find a solution to the question of how to deal with those who had opted to emigrate to the German Reich, but after the war had

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88   Karl Rainer (2002). 'The Autonomous Province of Bozen/Bolzano-South Tyrol' in Kinga Gál (ed.): Minority Governance in Europe, op.cit., p. 92.
89   Ibid.
90   Emma Lantschner (2008), op.cit., pp. 6-7.
91   Karl Rainer (2002), op.cit., p. 92; Emma Lantschner (2008), op.cit., p. 9.
92   Emma Lantschner (2008), op.cit., p. 9.

93   Karl Rainer (2002), op.cit., pp. 92-93.
94   Anthony Alcock (2001). "The South Tyrol Autonomy. A Short Introduction". Available on: http://www.provinz.bz.it/lpa/themen/publikationen.asp?redas=yes&somepub_page=2. Visited 7 May 2009.
95   Karl Rainer (2002), op.cit., pp. 92-93; Emma Lantschner (2008), op.cit., p. 10.
96   Karl Rainer (2002), op.cit., pp. 92-93.
97   Emma Lantschner (2008), op.cit., p. 11.

decided to return to South Tyrol. Over the course of the 1950s, the calls for provincial autonomy became stronger and stronger within SVP.[98] The outbreak of protests and rallies were on the agenda, and in 1960, Austria's Minister of Foreign Affairs, Bruno Kreisky brought the South Tyrol question for the first time on to the agenda of the UN General Assembly. In two resolutions, the General Assembly urged the parties to settle the conflict relating to the implementation of the Paris (De Gasperi-Gruber) Agreement. In this way, the conflict was brought back from the international to the bilateral level (between Austria and Italy).[99]

The conflict started to escalate and during the mid-1950s and continuing until the end of the 1960s, bomb attacks were directed against symbols of Italian state authority. By comparison, no such violent actions took place in the Åland Islands. The so-called "Commission of Nineteen", established in 1961 on the initiative of the Italian Minister of Interior, Scelba, was given a mandate to investigate the South Tyrol question and make proposals to the Italian Government as to its solution. The Commission consisted of twelve Italian, six German and one Ladin representatives. The Commission delivered a final report in 1964, which served as the basis for the so-called "Package". The Package is a catalogue of 137 measures, the majority of which aimed at a reform of the First Autonomy Statute. The core of the changes was that the regional autonomy should be substituted by an extensive autonomy for the two provinces. Under the Constitutional Law no.1 of 10 November 1971, the Second Autonomy Statute was adopted and entered into force on 20 January 1972.[100]

The most important amendment contained in the Second Autonomy Statute was the fact that the majority of the competences were no long-

er given to the region, but to the two provinces, which both separately received autonomous status. The provinces of Bolzano and Trento are therefore the only two provinces in the Italian constitutional system with autonomous legislative and administrative rights.[101] As late as in June 1992, the ambassadors of Austria and Italy handed over to the UN Secretary General the documents officially closing the conflict that had been open between the states since the adoption of the two General Assembly resolutions back in the early 1960s.[102]

As mentioned above, the Paris (De Gasperi-Gruber) Agreement represented a compromise among the parties involved: Italy sacrificed full sovereignty over a section of its territory; Austria sacrificed the re-annexation of the province; while the German-speaking South Tyrolese sacrificed de facto the right to external self-determination (or independence).[103] This can be compared to the situation of the Åland Islands as well. The solution between Finland, Sweden and the Åland Islands was also a compromise. Finland sacrificed full authority control over the Islands; Sweden sacrificed re-annexation of the territory; and the Åland Islands sacrificed full sovereignty or re-annexation to Sweden.

It took almost two years for Italy to approve the Autonomy Statute for South Tyrol. The German-speaking minority saw the 1948 Autonomy Statute as inadequate and insufficient in regard to content and the ultimate objective of self-determination. The Second Autonomy Statute of 1972 is seen as more improved and it has given South Tyrol a greater autonomy.[104] The

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98   Ibid.
99   Emma Lantschner (2008), op.cit., pp. 11-12.
100 Emma Lantschner (2008), op.cit., p. 12.

101 Emma Lantschner (2008), op.cit, p. 13.
102 Emma Lantschner (2008), op.cit, p. 14.
103 Roberta Medda-Windischer (2008). 'Protection of Minorities under International Law and the case of South Tyrol' in Jens Woelk et.al. (eds.): Tolerance through Law, op.cit., p. 18.
104 Roberta Medda-Windischer (2008), op.cit., pp. 18-19.

protection of the linguistic minorities was seen as a national interest and therefore all language groups received equality. Furthermore, the name South Tyrol became official again and the competences regarding all most important economic and social factors were transferred to the provinces. The provinces also acquired secondary legislative powers in regard to teaching in primary and secondary schools (already in 1948), trade, commerce, apprenticeships, promotion of industrial production, hygiene and healthcare, and sport and leisure.[105]

Even after the adoption of the 1972 Autonomy Statute, Austria has continued to advocate for its role as guarantor for South Tyrol, in order to ensure that the autonomy status does not change in the future. This perspective was to be adopted on 21 September 2006 to include in the Preamble of the future new Austrian Constitution, as a reference to the role of Austria as protecting power for South Tyrol, but it was never adopted.[106]

In South Tyrol, there are at present eight distinct types of legislative powers: exclusive state powers, concurrent legislative powers, exclusive regional legislation, exclusive provincial legislation, concurrent regional legislation, concurrent provincial legislation, provincial laws enacting national provisions, and regional or provincial delegated legislation. Such a confusing situation will last until a new special autonomy statute is adopted or, at least the current one is substantially amended.[107] The background for this confusing situation is found in the amendments made in the Italian Constitution of 2001. In 2001, the Italian Parliament approved wide-ranging re-

form of the 1948 Constitution, amending the articles 114-133, which refer to regional and local governments.[108] Prior to these amendments, the regions were authorized to approve laws only on topics enumerated in the Constitution and only within limitations prescribed by the State. Nowadays, the regions have legislative powers over all subjects except for the principles that are still questions of state law.[109] The regions and the autonomous provinces of Trento and Bolzano take part in preparatory decision-making process of EU legislative acts in the areas that fall within their responsibilities.[110]

4.2 The South Tyrolese Case contrasted towards Partition, Institutional Design and Consociationalism

South Tyrol fits better into the theoretical framework. Consociationalism could be seen as a solution for the regional level in South Tyrol. The three different language groups are equally accepted within the regional framework of the region. In the beginning the struggle for the German population with support from Austria paid off in the end. De Gasperi-Gruber Agreement already stated that the region should be divided according to Italian and German lines and a

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105   Anthony Alcock (2001), op.cit.

106   Roberta Medda-Windischer (2008), op.cit, pp. 27-28.

107   Francesco Palermo (2008). 'South Tyrol's Special Status within the Italian Constitution' in Jens Woelk et.al. (eds.): Tolerance through Law, op.cit., p. 39.

108   Tania Groppi and Nicoletta Scattone (2006). 'Italy: The Subsidiarity Principle'. International Journal of Constitutional Law, Vol. 4, No. 1, p. 131.

109   These include foreign policy, immigration, defense, currency regulations, competition rules, public order and security, citizenship, jurisdiction and legal procedures, civil and penal law, the general provisions regarding education, the minimum requirements of civil and social rights, provisions on local government, and protection of environment. Tania Groppi and Nicoletta Scattone (2006), op.cit, p. 133.

110   Constitution of the Italian Republic, Article 117.

parallel system was set up by the two provinces of Bolzano/Bozen and Trento. After the First World War a partition took place, while Italy was promised the area of Trento and South Tyrol. The South Tyrolese case as the Åland example is very much built on institutional design. The institutional design for South Tyrol is, however, more complex in nature. The roof of the regional level is almost functioning as a façade outwards, while it is the provincial level that acts as the major power.

4.3 The Structure and Function of the Autonomy in South Tyrol

The organs that are named in the Autonomy Statute for the region and the province are the parliament, the government and the president. The parliament is the legislative assembly, the government the administrative or the executive organ and the president functions as the organ of representation and political address.[111] The election of the South Tyrol parliament is an integral part of the election of the parliament of the Region Trentino-South Tyrol. For the election of the regional parliament the region is divided into the two provincial constituencies of Trento and South Tyrol, and the candidates elected in each province automatically become members of the regional parliament. The number of members in the regional parliament is 70, composed, since 1983, of 35 each from Trento and South Tyrol (Bolzano/Bozen).[112] The activity of the regional parliament shall be carried out in two sessions of equal duration, each one held (alternatively) in the cities of Trento and Bolzano.[113]

The members are elected by proportional representation through secret ballot. In order to

enjoy their active and passive voting rights voters must be 18 years of age, and have been resident in the Region for an unbroken period of four years (one year is enough in the province of Trento). The period for the legislature is five years and there are four standing Legislative Committees, Committees of Enquiry and any special parliamentary committee. These committees must be composed in such a way as to reflect the ethnic composition of the parliament and, where possible, parliamentary parties.[114]

The government enacts provincial legislation, oversees the administration in those areas of provincial competence, administers the province's patrimony, and supervises the administration of the 116 provincial municipalities as well as other bodies and organizations. The government also makes proposals regarding the budget.[115] The government should also reflect the ethnic composition of the province. The provincial government is composed of the president of the province and several ministers, and is responsible for the 41 divisions in which the provincial administration is structured.[116]

The president of the region represents the region, presides over the regional government and is elected by the regional council within its members by secret ballot and by absolute majority. The president is responsible for recording laws and promulgating provincial decrees. He or she chooses the ministers in charge of various departments.[117]

The central state can challenge a provincial (or regional) law on the grounds only after promulgation and has to do so before the Constitu-

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111 Giuseppe Avolio (2008). 'Institutions of Self-Government' in Jens Woelk et. al. (eds.), op.cit., p. 54.
112 Anthony Alcock (2001), op.cit.
113 Giuseppe Avolio (2008), op.cit., p. 56.

114 Anthony Alcock (2001), op.cit.; see also Giuseppe Avolio (2008), op.cit., pp. 55-58.
115 Anthony Alcock (2001), op.cit.; Giuseppe Avolio (2008), op.cit., pp. 67-70.
116 Sara Parolari and Leonhard Voltmer (2008). 'Legislative and Administrative Autonomy' in Jens Woelk et.al.,op.cit., p. 84.
117 Giuseppe Avolio (2008), op.cit., pp. 65-66; Anthony Alcock (2001), op.cit.

tional Court.[118] The grounds for that are if the Italian Government deems that the provincial/regional law exceeds the competences of the region.[119] There is a Regional Administrative Court which includes a separate section for the South Tyrol, whose members is appointed by the Bolzano/Bozen provincial council and must be drawn equally from the different ethnic groups and drawn from members not designed by the provincial parliament. The Regional Administrative Court handles issues concerning the violation of the principle of equality among citizens belonging to different language groups.[120]

South Tyrol's special Autonomy Statute does not encompass the field of taxation[121], except some few cases provided for in which the region can exercise limited tax sovereignty. The province of Bolzano/Bozen is entitled to receive nearly all the tax revenue collected by the central state within the provincial territory, as well as the tax revenue collected outside, insofar as the income or expenditure involved relates to activities connected somewhere within the territory of the province. On average, the province's participation share determined by law is 9/10. In case of VAT it is 7/10, as 2/10 is reserved for the Autonomous Region of Trentino-South Tyrol. The Autonomous Region Trentino-South Tyrol and the Autonomous Province of Bolzano/Bozen have the power to approve their own taxes and tariffs according to the notion that any tax should be in harmony with the state's taxation system.[122]

The autonomy of the whole South Tyrol region is very comprehensive, but there are still some areas which are regulated by the state. These include matters such as taxation, the police, security, defense, and subsidies for industry and agriculture.[123] The model of autonomy in South Tyrol is very complex and there seem to be a parallel system for each Autonomous Province that constitutes the whole Autonomous Region as such. In simplistic terms, there is one Autonomous Region and two Autonomous Provinces and within each Autonomous Province the set-up of parliament, government and president are available and together they constitute the parliament, government and president on the regional level at the same time.[124]

The political parties in South Tyrol are a mixture of national and regional parties. The largest and most influential party is the Südtiroler Volkspartei (SVP). Die Freiheitlichen (F) and Il Popolo della Libertà (PDL) are the following after SVP in the ranking according to the results of the latest elections in 2008.[125] There is also a small Ladin party called the Ladins, but it has no representation on the regional level.[126]

The education system in the region established by the 1946 Paris Agreement is a special system for the region of South Tyrol. The provinces have legislative control over kindergartens, school construction, professional and vocational training. Elementary and secondary education is provided by the mother tongue of the child.

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118 Sara Parolari and Leonhard Voltmer (2008), op.cit., p. 84.
119 Constitution of the Italian Republic, Article 127.
120 Hurst Hannum (1996), op.cit., p. 436.
121 This system is about to change. State Law no. 386 of 30 November 1989 has been replaced by a new provision, stipulated in December 2009 between the central government and the Autonomous Region, to be enacted in 2010. See Thomas Benedikter (2009), op.cit., p. 73.
122 Thomas Benedikter (2008). 'The Finan-

cial System of the Autonomous Province of Bolzano/Bozen' in Jens Woelk et.al. (eds.), op.cit., pp. 108-109, 113.
123 Bertil Roslin (2006), op.cit., p. 101.
124 See e.g. Alice Engl and Alexandra Tomaselli (2008). 'Appendix' in Jens Woelk et.al. (eds.)., op.cit., p. 409.
125 Parties and Elections in Europe: South Tyrol. http:www.parties-and-elections.de/styrol.html visited 23 June 2010.
126 Alice Engl and Alexandra Tomaselli (2008), op.cit., pp. 405-407.

Consequently, instruction in South Tyrol is given in separate German and Italian schools. Language instruction of the secondary language of the province is mandatory. All teachers must be native speakers of their teaching language. Ladin is taught in kindergartens and elementary schools, but German and Italian are mandatory to learn as well.[127] In 1997, the Free University of Bolzano was founded. It has departments for economics and management, education, computer science, design and art, and a bachelor program of science in logistics and production engineering. The University of Bolzano is co-financed by the province and the state.[128]

South Tyrol takes part in cross-border co-operation and was one of the founding members of Arge-Alp (Arbeitsgemeinschaft Alp), a body composed of cantons, provinces and regions in the alpine areas of Germany, Austria, Switzerland and Italy. This co-operation includes such matters as tourism, alpine agriculture and the environment. The representatives of the two provinces are active members of the European Union's Committee of the Regions.[129] According to the Italian Constitution of 2001 all regions are responsible for the implementation of international agreements and EU measures referring to the principle of subsidiarity within the Italian system.[130]

South Tyrol has a free press with four daily papers (two German and two Italian). German language programs are broadcasted on radio and television from the Italian state network in Bolzano/Bozen and there are also private radio and television stations in both German and Italian.

The ability to transmit German and Ladin (also by local radio and TV) language radio and television programs is realized by broadcasts from Germany, Austria and Switzerland.[131]

Since 1971, every ten years the inhabitants of South Tyrol have been required to add to the standard census data a declaration of which language group they are belonging to. Through this declaration, the size of the linguistic groups can be ascertained, and this in turn forms the legal foundation of the public life.[132] In South Tyrol, the German and Italian languages have equal standing in the Region's and Province's public spheres, and all regional and provincial laws are thus published in both Italian and German. In order to comply with the objective of a bilingual public administration, all public officials in the region must pass a compulsory language test to provide their knowledge of both Italian and German. In the Ladin areas, three official languages must be mastered.[133]

127 Hurst Hannum (1996), op.cit., p. 437; Sara Parolari and Leonhard Voltmer (2008), op.cit., p. 85.
128 Sara Parolari and Leonhard Voltmer (2008), op.cit., p. 86.
129 Anthony Alcock (2001), op.cit.
130 Constitution of the Italian Republic, Article 117.

131 Anthony Alcock (2001), op.cit.
132 Fransesco Palermo (2004). 'Asymmetric "Quasi-Federal" Regionalism and the Protection of Minorities: The Case of Italy in G. Alan Tarr, Robert F. Williams, and Josef Marko (eds.): Federalism, Subnational Constitutions and Minority Rights. Westport: Praeger Publishers, p. 116.
133 Thomas Benedikter (2009). op.cit., p. 72.

5. Summary and Conclusions

The two above mentioned examples show similarities as well as differences. The international involvement for the conflict resolution in both cases is evident. First, for the Åland Islands the conflict between Sweden and Finland was brought on to the agenda of the League of Nations in 1921 leading to territorial autonomy for the Åland Islands. Second, the South Tyrol question arose in 1919, but was resolved first after the Second World War, when the De Gasperi-Gruber Agreement was signed and confirmed in the Paris Peace Treaty of 1946. In 1960 Austria brought the South Tyrolese question up again on to the UN. It took until 1992 when the conflict was totally resolved between Austria and Italy. Now, most of the De Gasperi-Gruber Agreement is implemented and most of 137 measures from the so-called 'Package' have been enforced.

The reason behind the territorial autonomy for Åland might be seen in a historical light. The Finnish experience of being a Grand Duchy under the Russian empire in 1809-1917 might have been a cause why Finland was offering Åland autonomy in the first place. The actors in the South Tyrolese question might have been looking at the Åland case after World War II.

There is a clear division of powers in both cases of territorial autonomy. The distribution of powers is divided between legislative and administrative levels of government. In the Province of Bolzano/Bozen there is even a Regional Administrative Court taken care of issues related to the violation of equality between the language groups. Both the Åland Islands and South Tyrol have extensive legislative and administrative rights and have therefore decision rights in most matters concerning the regions in question. The region of South Tyrol is, though, divided into two Autonomous Provinces: Trento and Bolzano/Bozen with their own structures of governance.

South Tyrol has a more complex structure, since there are three language groups with equal rights within the territory (Italian, German and Ladin). All language groups are taken into account when civil service appointments and political representation are at stake. There are even different schools for each language group. Åland is a more homogenous territory with Swedish as the only official language, even though there is a five per cent minority of Finnish-speakers.

The Åland Islands and South Tyrol are both enshrined in their respective national constitution and have their own Autonomy Act/Statute regulating the territories. The amendment procedure is very complex in South Tyrol. The Autonomy Statute can only be amended by the Regional Council by a law approved twice by a majority of its members. The Central/State Government may challenge the constitutionality of the Regional Statute before the Constitutional Court. There are some time limits of how this procedure should take place. In Åland, the Autonomy Act can only be amended by joint decisions of the Parliament of Finland and the Åland Parliament according to the constitutional procedure.

The taxation of the autonomous regions is concentrated to the state level. The Åland Islands receive a lump sum of 0.45 per cent of the state budget excluding new loans from the state each year. South Tyrol receives a proportion of 9/10 back from the state to cover the self-government of the territory, but this situation is about to change. The budgets of the territorial autonomies are not marked and can be used freely by each regional assembly.

The models of minority governance have been successful solutions within their countries. Both the Åland Islands and South Tyrol can be seen as examples of peaceful conflict resolution mechanisms. Even though, South Tyrol has gone

through a more stumbling road towards its solution it has been done in a more or less peaceful way. No major conflicts have arisen and no blood-shed has been witnessed. The examples show how conflicts have been resolved with a third party involved. The usual situation is that minority conflicts are resolved by domestic political measures without external, international help. The cases of minority governance have also been prosperous during the development, since they both have survived during a long time. The Åland Islands have an 88-years history of autonomy, while South Tyrol has functioned over 60 years.

There are clear evidences of asymmetry both between the national and the regional levels of government, but also within the regional levels within the respective states. In the Åland Islands we see that this kind of asymmetry constitutes in the form of de jure arrangement, where the Is

lands are treated differently according to the rule of law. This system also applies to South Tyrol, but here we find even a kind of de facto asymmetry in the relation to the minority groups residing in the area and in the relation towards the other regions and provinces in Italy as such. South Tyrol can be described as a mixed model of territorial and non-territorial form of self-governance.

Furthermore, both cases illustrate examples of minorities lying near kin-states. The Åland Islands are lying geographically closer to Sweden than Finland, even though, this has not been a political issue for Sweden in any case. South Tyrol's location near Austria has been of more political importance.

Table: Similarities and Differences between Åland and South Tyrol

Region	The Åland Islands	South Tyrol
International Involvement	Yes	Yes
Development of Autonomy	Territorial Autonomy 1920/1922	Territorial Autonomy 1946
Distribution of Powers and Functions	Strong with enumerated powers	Strong: the region has residual powers, while the provinces have enumerated powers
Taxation	No own taxation on the regional level, but municipalities have own taxation rights	No own taxation on the regional level, but some limited tax ability is available (changes will be implemented in 2010)
Constitutional Basis	Yes	Yes
Official Language(s)	Swedish	Italian, German and Ladin

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