The London School of Economics and Political Science

Serving Peace and Democracy?

The Rationales and Impact of Post-conflict Self-determination

Referendums in Eritrea, East Timor, and South Sudan

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A thesis submitted to the Department of International Relations of the London School of Economics and Political Science for the degree of Doctor of Philosophy, London, September 2020

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Abstract

Self-determination referendums have been used to resolve protracted self-determination conflicts. The existing peacebuilding literature on post-conflict self-determination referendums is limited and divided between those who are concerned about the negative impact of their zero-sum nature and those who argue that they contribute to peace under certain conditions. To resolve this debate, the thesis conducts a structured, focused comparison of three post-conflict self-determination referendums held with their respective central governments' consent: Eritrea, East Timor, and South Sudan. Relying on approximately 70 elite interviews, it examines (1) rationales behind the decision to hold referendums; (2) the referendums' impact on resolving the original self-determination conflicts; and (3) their impact on post-conflict peacebuilding inside the newly independent states.

Findings for each question are as follows. First, once self-determination was agreed upon, pro-independence movements strongly demanded a referendum as they reflected upon their historical experiences and were worried that their representatives might be bribed or threatened in an indirect vote. Second, the referendums have helped resolve the original conflicts decisively by showing the wish of the population quantitatively. But they do not seem to have a specific effect on the long-term relationship between the newly independent state and the continuing state. Third, there is no evidence to suggest that the referendums helped accommodate tensions within the newly independent states, but they could help consolidate democracy if other conditions permit it to endure. However, the unity of the pro-independence movements shown during the referendums contributed to excessive optimism among the international actors. The international actors wrongly assumed that this unity would continue after independence, that this unity meant democratization would not be difficult, and that this unity indicated that no tensions existed within the pro-

independence movements. Overall, self-determination referendums have value in settling the original conflicts, but their positive effect on peacebuilding inside newly independent states is limited and could be outweighed by the accompanied excessive optimism by the international actors.

Acknowledgement

First and foremost, I would like to thank Mark Hoffman for his invaluable supervision. His guidance made it possible for me to transform my research interest on self-determination and referendums to a defendable doctoral thesis. Without him, there is no way that I could have developed this research project. It was a privilege to pursue a doctoral degree under his supervision.

I would also like to express my gratitude to faculty members at the Department of International Relations. Tarak Barkawi, my advisor, was always supportive and available for consultation throughout my difficult journey to the doctoral degree. Without Mark and Tarak, I do not think I would have been able to complete my doctoral study here. John Sidel always warmly welcomed me at his office during my Master's and PhD studies at the London School of Economics. It was a pleasure to work with Chris Hughes when I served as a Graduate Teaching Assistant to teach "Concepts of International Society." Karen Smith kindly provided constructive feedback to my doctoral thesis. In addition, I would like to thank Spyros Economides, Jennifer Jackson-Preece, Mathias Koenig-Archibugi, Tomila Lankina, George Lawson, Katharine Millar, Iver Neumann, and Peter Trubowitz for their engagement and support.

I was fortunate to have many inspiring colleagues during my PhD study. I cannot name everyone, but thank you to David Brenner, David Han, Aaron McKeil, Gustav Meibauer, Adrian Rogstad, Alireza Shams Lahijani, Emma Saint, and Rachel Zhao. I would also like to thank participants at the IR504 workshop, with my particular thanks going to Sidharth Kaushal and Luca Tardelli for their great feedback when I presented manuscripts there. I am also grateful to Gabrielle To, Romy Mokogwu, and Sarah Hélias for their great care.

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List of Abbreviations

CNRT	National Council of Timorese Resistance
CPA	Comprehensive Peace Agreement
DoP	Declaration of Principles
DUP	Democratic Unionist Party
ELF	Eritrean Liberation Front
EPLF	Eritrean People's Liberation Front
F-FDTL	FALINTIL-FDTL
GoNU	Government of National Unity
GoSS	Government of Southern Sudan
ICG	International Crisis Group
ICMI	Indonesian Association of Muslim Intellectuals
IGADD	Intergovernmental Authority on Drought and Development
INTERFET	International Force for East Timor
JIU	Joint/Integration Units
MPR	People's Consultative Assembly
NCP	National Congress Party
NDA	National Democratic Alliance
NIP	National Islamic Front
OAU	Organization of African Unity
PFDJ	People's Front for Democracy and Justice
PRSG	Personal Representative of the Secretary-General
RENETIL	National Resistance of East Timorese Students
SPLA	Sudan People's Liberation Army
SPLM	Sudan People's Liberation Movement

SRSG	Special Representative of the Secretary-General
SSDF	South Sudan Defence Force
TPLF	Tigray People's Liberation Front
UDT	Timorese Democratic Union
UNAMET	United Nations Mission in East Timor
UNMIS	United Nations Mission in Sudan
UNMISS	United Nations Mission in South Sudan
UNOVER	United Nations Observer Mission to Verify the Referendum in Eritrea
UNTAET	United Nations Transitional Administration in East Timor

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Chapter 1

Introduction

Self-determination conflicts tend to be long-lasting and are considered to be among the most difficult to resolve (Walter 2009; Toft 2003). Various types of territorial self-governance, most notably regional autonomy, have been put forward as a solution (Wolff 2009; Caspersen 2017, chap. 1). However, in the context of violent self-determination conflicts, autonomy short of an option of independence is often not satisfactory to rebels. This is not only because rebels perceive, rightly or wrongly, that they should have the right to self-determination, but also because they do not believe that the government's commitment to an autonomous arrangement is credible (Fearon 2004). As a result, in some of the most internecine self-determination conflicts, peace agreements incorporate provisions endorsing a self-determination referendum, usually to be held after a transition period. Cases include Eritrea, East Timor, South Sudan, French New Caledonia, Bougainville, and Northern Ireland.

Within the peacebuilding literature, the utility and risks that accompany post-conflict autonomy, post-conflict elections, and post-conflict power-sharing arrangements have been extensively debated (Paris 2004; Jarstad and Sisk 2008; Paris and Sisk 2009b; Höglund, Jarstad, and Kovacs 2009; Cederman et al. 2015). In contrast, works on post-conflict referendums[1] are burgeoning but still limited. Among these limited works, some are affirmative about the role of referendums to promote peace (Qvortrup 2014b; Collin 2015), while others are more skeptical, worried that referendums divide a population due to their zero-sum nature (Lee and Mac Ginty 2012; Reilly 2003).

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[1] Both referendums and referenda are accepted as plural forms, but the thesis consistently uses the former except for a direct quote (Qvortrup 2014a, 2).

Within the existing literature, no analysis has been focused on self-determination referendums used in peace processes. The literature often conflates different kinds of referendums in their analysis, for example, on constitutions, peace agreements, or self-determination. For example, Qvortrup analyzes post-conflict self-determination referendums together with self-determination referendums where violent conflicts were absent (Qvortrup 2014b, chap. 3). Collin examines only referendums held as part of peace processes, but referendum cases include those on peace plans, peace negotiations, or even border disputes (Collin 2016). Similarly, Lee and Mac Ginty's study examines five cases of post-conflict referendums whose characteristics are different from each other (Lee and Mac Ginty 2012). Others are focused on cases not directly related to self-determination. For instance, Amaral's work (2018) compares referendums on a peace agreement in Northern Ireland (1998) and Cyprus (2004). Loizides conducts a comparison of the 1992 referendum held during the negotiation phase in South Africa and the 2004 referendum in Cyprus held after the negotiation was concluded (Loizides 2014). Another study compares post-conflict referendums in Northern Ireland (1998) and Iraq (2005) (McEvoy 2018).

This is not to say that examining various referendums together is unhelpful, but self-determination referendums in post-conflict settings should be analyzed in their own light for two reasons. First, unlike peace agreements or constitutions, once independence is affirmed, it is impractical to change arrangements and reunite with the continuing state again. In that sense, the stakes are very high in self-determination referendums. Second, self-determination referendums, if independence is chosen, might have an impact on not only the original self-determination conflicts but also peacebuilding inside the newly independent states. So far, there has been no analysis as to what impact these self-determination referendums have had over peacebuilding inside new states such as East Timor or South Sudan. For these reasons, this thesis is

focused upon post-conflict self-determination referendums, namely referendums on the future of the territory, conducted after long and deadly conflicts with the consent of the central governments concerned.

In the literature, there are significant reservations with respect to referendums on territorial issues including self-determination. Reilly (2003, 179) argues that self-determination referendums exacerbate the zero-sum nature of referendums because of "the highly charged nature of plebiscites on territorial disputes or self-determination." Collin (2020) finds referendums on territorial issues not only incite violence but also potentially fail to occur even after an agreement to hold one. Mac Ginty (2003, 3) observes, "the utility of referendums becomes infinitely more complex in situations of ethnonational conflict, particularly if deployed in relation to territorial or sovereignty issues." Worse, these referendums might be detrimental to the prospect of democracy. According to Reilly (2003, 179), "such one-off plebiscites [like the one in East Timor in 1999] can serve to short circuit any nascent routines of political dialogue that may be emerging, and funnel all issues down into a single for or against choice. Such an exercise represents not the triumph of democracy but, more often, the rejection of politics as a means for reconciling divergent views."

Despite all these arguments, however, policy-makers have continued to resort to post-conflict self-determination referendums to settle disputes. This is despite the fact that there is an alternative to democratically ascertain the wish of the population, namely, electing a legislature which would then decide on the question of self-determination (an indirect vote).

Indeed, in stark contrast to the academic literature worried about the zero-sum nature of referendums, policy-makers seem to think that post-conflict self-determination referendums contribute to the prospect of peace and democracy in war-torn societies. For example, then Secretary-General of the United Nations, Boutros

Boutros-Ghali claimed that the referendum in Eritrea would be "an important step towards the establishment of democracy," "an integral part of the consolidation of peace," and contribution "to the stability of the region" (UN Secretary-General 1992, 3, para. 7). In East Timor, the United Nations, Portugal, and Australia all favored the holding of a referendum rather than an indirect vote. Among others, Alexander Downer, then foreign minister of Australia, argues that, compared to a referendum, holding an indirect vote would "raise questions about how legitimately the people were elected to that position, had the TNI [the Indonesian military] interfered with the election, and had the election rigged in one way or another. You would have ended up with a huge debate about all of those issues."[2] Furthermore, the referendum was seen as enhancing the prospect of democracy in East Timor by two key UN officials instrumental in the conflict resolution of East Timor.[3] In South Sudan, international actors supported the clause on the self-determination referendum during the peace negotiation process and then the holding of the referendum because they were seen as essential to resolve the self-determination conflict and bring peace (H. F. Johnson 2011, 2016). Similar to the other two cases, international actors believed that the referendum would promote democratization in independent South Sudan. For example, a former UN senior official who was long involved in the conflict resolution process there recalls that it was hoped that the preparation, the conduct, and the outcome of the referendum would help South Sudan transform to a democratic society.[4] Overall, international actors have expected that post-conflict self-determination referendums would contribute to bringing peace and democracy in war-torn societies.

The pessimistic views of researchers worried about the zero-sum nature of post-

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[2] Interview with Alexander Downer, London, February 2020.
[3] Interview with Francesc Vendrell, London, June 2019; Interview with Tamrat Samuel, New York, May 2019.
[4] Interview with a former senior UN official, March 2019.

conflict self-determination referendums widely diverge from the more hopeful views of international actors that referendums would strengthen the prospect of peace and democracy. Is it the case that despite the expectation of international actors, referendums are in fact harmful for conflict resolution and peacebuilding? Or is it the case that researchers are simply wrong and referendums indeed contribute to peace and democracy? Or is it the case that the impact of these referendums on peace and democracy is mixed?: they contribute to peace and democracy in one way but are detrimental to peace and democracy in another way.

These questions point to the need to carefully and empirically analyze the rationale and impact of post-conflict self-determination referendums on peace and democracy. Why do policy-makers choose to hold a referendum (a direct vote) rather than an indirect vote despite the concern about its zero-sum nature? What makes these policy-makers think that these referendums are useful for conflict resolution and peacebuilding? Then, considering the two opposite understandings of referendums' expected impact on peace and democracy in war-torn societies, what is the actual impact of post-conflict self-determination referendums on various aspects of peacebuilding?

The thesis employs comparative case studies to approach these research questions. With only four post-conflict self-determination referendums held so far, with one too recently held to gauge its effect (Bougainville in November 2019; also see case selection below), it is impossible to conduct a quantitative study. Thus, this thesis conducts a structured focused comparison of three cases: Eritrea, East Timor, and South Sudan. In all three cases, the population overwhelmingly chose independence. The thesis asks:

1. What are the rationales behind the holding of referendums as the method of

self-determination?

2. What kind of impact do post-conflict self-determination referendums have on resolving the original self-determination conflicts?

3. What kind of impact, if any, do post-conflict self-determination referendums have on peacebuilding within the newly independent states?

The approach was inspired by Roland Paris' seminal work on post-conflict elections, analyzing not only their rationales but also their intentional and unintentional impact (Paris 1999, 2004). Paris examined rationales behind the international peacebuilding policies in the 1990s—most notably the holding of elections—and these policies' empirical effect on the prospect of peace, including amelioration and exacerbation of tensions within the society. Similar to the holding of elections, the holding of referendums has become a conventional wisdom when self-determination is considered to be necessary to settle internecine and deadly self-determination conflicts once and for all. These post-conflict self-determination referendums have become the main pillar to resolve these violent conflicts. Indeed, as the thesis has noted above, international actors believe that these referendums enhance the prospect of peace and democracy. But do they really play the role envisaged by those proponents of referendums? Worse, is it the case that referendums negatively affect the prospect of peace and democracy in war-torn societies as those worried about the zero-sum nature of referendums claim? Following Paris, this thesis aims at understanding both the rationales behind and impact of post-conflict self-determination referendums. It will identity the often unstated rationales behind the holding of a referendum instead of an indirect vote. Moreover, it will empirically assess whether these predicted impacts, together with other impacts of these referendums envisaged in the existing limited literature on referendums, operate in empirical cases as a matter of fact.

More specifically, with respect to the second question, the thesis explores two specific sets of concerns: (i) warring parties' attitudes to the referendum process and its aftermath, including any spoiler activities and acceptance/rejection of the referendum process and its results, and (ii) the long-term relationship between the newly independent state and the continuing state.

In relation to the third question, the thesis examines three sub-themes: (i) the impact of the referendum on the amelioration of tensions between (ethnic/tribal/political) groups within the newly independent state, (ii) the referendum's impact on democratization and democracy within the newly independent state, and (iii) its impact on the attitudes and policies of international actors toward the newly independent state.

This thesis is the first systematic comparison of post-conflict self-determination referendums. Theoretically, the thesis aims at contributing to the literature on conflict resolution and peacebuilding even though it has also relied on and offers insights to the referendum literature in comparative politics.

It fills the gap in the literature in various ways. Through answering the first question posed in this thesis, this study offers the first empirical investigation into the rationales of self-determination referendums as part of peace agreements. The rationales for unilateral self-determination referendums have been examined by a small number of studies so far (O'Driscoll and Baser 2019; Scheindlin 2012; Qvortrup 2014b), but it is expected that referendums based on peace agreements occur in different dynamics. The second question of this thesis systematically interrogates how the referendum process affected the parties' behaviors through detailed case studies. While there have been theoretical discussions on the usefulness of using referendums to settle self-determination conflicts, empirical analysis has been scarce.[5] Answering

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[5] Collin (2016) seems to be the only exception, but her approach, analyzing benefits and risks of

the second question will help settle the debate about whether referendums are useful for resolving self-determination conflicts. Regarding the third question, this thesis is the first study to empirically analyze the effect of post-conflict self-determination referendums on the newly independent states.

In order to address these questions, the author conducted approximately 70 elite interviews, mainly with UN officials, diplomats, politicians, and area study researchers, many of whom played direct and key roles in the peace processes, as well as examining other primary and secondary sources. Many findings in empirical chapters have been based on these interviews and other primary sources which have not received attention in the literature so far.

1.1. Arguments in Brief

The thesis' main findings are as follows. On the first question, pro-independence movements are the primary drivers of the demand that self-determination take the form of a direct vote, with international actors playing a supportive role. The rationales behind this demand by pro-independence movements vary, but we see two logics across the three cases. First, they believed that the question of self-determination should not be delegated to elites because they might be bribed or threatened. An indirect vote might not reflect the wish of the population. Second, arrangements made by elites had failed in the past, and it was considered to be necessary to involve ordinary citizens to conclusively settle the conflict.

On the second question, there was a potential or manifest spoiler in each case. The activities of these spoilers were contained—largely either because domestic actors committed to referendums had military power on the ground sufficient to manage these

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peacemaking referendums and trying to offer a typology of referendums, is different from my approach, investigating this question through the spoiler concept.

spoilers (in Eritrea and South Sudan) or because international actors committed to referendums fully and duly pressurized them to accept the result (in East Timor and South Sudan). Neither the zero-sum nature of referendums nor their legitimacy affected the attitudes of warring parties; however, the referendum process was useful in securing significant international involvement and commitment to the process in the cases discussed. Moreover, without referendums, central governments would have difficulty managing the anger among potential and manifest spoilers. The thesis did not find any specific effects the referendums had on the long-term relationship between the newly independent state and the continuing state.

On the third question, the referendums did not have a specific effect on the amelioration of tensions in each case. The temporary coalition among the pro-independence groups was nothing but a "rally 'round the flag effect," disappearing once their mutual aim of independence was achieved. The referendums' effect on democratization was ambiguous. In East Timor, the voting experience in the referendum on the crucial matter of self-determination is seen to be a contributing factor in the successful democratization in East Timor. However, in the other two cases where there was a transition period before the referendum, international actors were focused on referendums to the detriment of democratization processes within the region concerned. As a result, the former liberation movements of the Eritrean People's Liberation Front (EPLF) and the Sudan People's Liberation Movement (SPLM) had consolidated their authoritarian power in Eritrea and Southern Sudan respectively during the transition period. After independence, there was no chance for other political parties to meaningfully participate in politics in Eritrea and South Sudan before President Afwerki established a brutal dictatorship in 2001 and the SPLM's internal tension flared up in a full-scale civil war in 2013.

Worse, the referendum experience fostered optimism about (and/or a decline of

engagement with) the newly independent states among international actors in two ways. First, because of the unity of the local people and the leadership during the referendum process, it was assumed that the unity would continue after independence, and sufficient attention was not paid to the internal tensions among the pro-independence movement. Second, this unity leading up to the referendum made some of the international actors overly optimistic about the prospect of democratization in the newly independent state. In Eritrea, the international optimism gradually declined but still continued until the repression in September 2001. In East Timor, the prevailing optimism led to an early departure of the United Nations from the area, making it impossible to contain the 2006 crisis. In South Sudan, international actors were not well placed to prevent the 2013 civil war because their engagement with South Sudan declined since 2011.

Overall, the thesis finds convincing rationales behind the use of referendums to settle the matter of self-determination. In this sense, referendums have value in clearly ascertaining the wish of the population. Also, parties to the conflict accepted the referendum result, which contributed to the successful settlement of the self-determination conflict. This was largely because domestic and international actors committed to the referendum process were militarily capable of deterring or sidelining potential or manifest spoilers. Still, it is difficult to deny that the referendum was the least controversial method for self-determination: potential or manifest spoilers would have found further sources of discontent if self-determination had been achieved in any other ways. The long-term relationship between the newly independent state and the continuing state does not seem to have been affected by the fact that there was a referendum, beyond its utility as the least controversial method to conclusively resolve the original self-determination conflict. Finally, referendums' positive effect on peacebuilding inside newly independent states was only evident in the case of East

Timor where it seems to have contributed to the promotion of democratization. In all the three cases, any positive impact of referendums on the newly independent state was outweighed by the negative consequences of excessive optimism by the international actors.

1.2. Methodology

1.2.1. Research Questions and Structured, Focused Comparison

Following Roland Paris (1999, 2004), this thesis organizes its case studies based on the method of structured, focused comparison (George 1979; George and Bennett 2005, Chapter 3). According to this method (George and Bennett 2005, 67), researchers ask the same questions in each case study in order to compare them systematically (hence the case studies are "structured"), while examination of these cases is limited to the extent necessary to answer these standardized questions (hence the case studies are "focused" rather than trying to capture every aspect of the case). As noted above, each case study explores three questions:

1. What were the rationales behind the holding of referendums as the method of self-determination?
2. What kind of impact did post-conflict self-determination referendums have on resolving the original self-determination conflicts?
3. What kind of impact, if any, did post-conflict self-determination referendums have on peacebuilding within the newly independent states?

The first question is based on the understanding that self-determination can be exercised in multiple ways, most notably through a direct vote in a referendum and

through an indirect vote by elected representatives.[6] When warring parties agree with self-determination, who demands a referendum and why? What motivates other actors to accept their demand? Motivations behind the demand of holding a referendum could differ from one actor to another, and it is possible that each actor had more than one reason to argue for a direct vote.

The second and third questions examine the specific effects post-conflict self-determination referendums have on peace and democracy in war-torn societies. Because the three referendums the thesis examines led to the break-up of the states, the second question asks about the referendums' impact on conflict resolution between the newly independent and continuing states, and the third question is focused on their impact inside the newly independent states. Each question is divided into distinct sub-questions.

In the second question, I will explore how a referendum affects the resolution of the original self-determination conflict between the central government (the continuing state) and the region where the conflict occurred (the newly independent state). In order to answer this question, I examine two factors: (i) warring parties' attitudes to the referendum process and its aftermath, including any spoiler activities and acceptance/rejection of the referendum process and result, and (ii) the long-term relationship between the newly independent state and continuing state. They are, of course, related to each other. For example, if there is an influential party which continuously rejects the result of the referendum, it will negatively affect the long-term relationship between the two states.

The first sub-question of the second question analyzes the implementation phase of the peace agreement (Walter 2002), particularly clauses related to the holding of a referendum and the implementation of its outcome. The analysis is centered on

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[6] For more, see Chapter 2.

whether there were any potential or manifest spoilers trying to disrupt the holding of the referendum and/or the implementation of its outcome (Stedman 1997; Nilsson and Söderberg Kovacs 2011). For the purpose of this thesis, spoilers are defined as actors that "actively seek to hinder, delay, or undermine conflict settlement through a variety of means and for a variety of motives" (Newman and Richmond 2006, 102). When spoilers resorted to violence related to the referendum process (as in the case of East Timor), the thesis examines whether it was the zero-sum nature of the referendum which caused the violence, as those against referendums argue (Reilly 2003; Lee and Mac Ginty 2012). When spoilers did not resort to violence, the thesis explores the reasons behind their attitudes. Possible explanations include the ideologies of the parties (Stedman 1997), the military power of international or other domestic actors (Greenhill and Major 2006; Zahar 2010), or the high legitimacy attributed to the referendum (Collin 2015, 118–19).

The second sub-question tries to answer how the holding of the referendum affected the long-term relationship between the newly independent state and the continuing state beyond the immediate implementation of the peace agreement and the referendum result. If the two states have cultivated a good relationship (as in the case of East Timor), the thesis is interested in the explanatory factors behind it, and further whether the holding of a referendum contributed to it. If the relationship between the two states has been acrimonious (as in the case of Eritrea and South Sudan), the thesis examines whether the referendums at least initially contributed to peace between the two states.

The third question tries to ascertain how post-conflict self-determination referendums affect peace and democracy within the newly independent states. This question is divided into three sub-questions, which I will examine in turn: (i) the amelioration of tensions between (ethnic/tribal/political) groups within the newly

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independent states, (ii) the processes and outcomes of democratization and democracy within the newly independent states, and (iii) the attitudes and policies of international actors toward the newly independent states. Reasons for examining these three factors are as follows. First, the foremost aim of peacebuilding is to prevent the resumption of warfare. For that purpose, it is necessary that different groups accept other groups as legitimate and are willing to coexist. This could be achieved either through reconciliation among different groups, or through groups' getting used to settling differences by peaceful means (i.e., democracy). While the domestic impact of referendums is examined through these two factors, the third sub-question will help us understand the impact of referendums on the international arena. This is imperative because newly independent states emerging out of long and devastating wars usually require some kind of international assistance to become viable states. Again, the three factors are related to each other. Most notably, once peace is lost, any nascent democracy is also likely to be lost (Diamond 2006, 96).

In order to fully capture the effect of the referendum on Eritrea, East Timor, and South Sudan (see the next section on the definition of "referendum"), the chapters on Eritrea and South Sudan examine both the transition period before the referendum (1991–1993 in Eritrea and 2005–2011 in South Sudan) and the period after the referendum (1993–2001 in Eritrea and 2011–2013 in South Sudan). In contrast, there was no transition period in East Timor, and hence the chapter on East Timor only analyzes the referendum's effect on East Timor after the referendum was held.[7]

Paralleling Paris (1999, 2004), the first sub-question of the third question asks

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[7] The referendum's impact is in principle examined up to a turning point of each newly independent state after the original self-determination conflict was settled: the brutal suppression of dissent and the introduction of total dictatorship in September 2001 in Eritrea, the 2006 crisis in April–May 2006 in East Timor, and the 2013 civil war starting in December 2013 in South Sudan. After these events, new political dynamics emerged, and hence it is assumed that the referendum's impact was less relevant. Exceptionally, the thesis examines the effect of the referendum on democracy in East Timor until now.

whether and how the referendum weakened or exacerbated tensions between different ethnic, tribal, or political groups within the newly independent state. On the one hand, according to Collin (2015, 118), a referendum would unite rival groups to win the vote in the referendum. She suggests that this unity would improve the prospects of cooperation upon independence, but her works (2015, 2016) do not substantiate this claim since she does not examine the period beyond referendums. In fact, it is equally plausible that the rivalry would reemerge once their common enemy (i.e., the former central government) is gone. The thesis will examine whether any unity present in the period before the referendum carried over into the post-referendum era. On the other hand, Paris' (1999, 2004) argument—that elections divide the former warring parties—should more forcefully apply to referendums because of their inevitable zero-sum nature. One might expect that the division between the pro-independence and pro-autonomy groups widened in East Timor after the violent referendum in 1999, but again, this needs to be substantiated. Among the three cases this thesis examines, this potential division is only relevant in the case of East Timor since more than 98% of the population voted for independence in the other two cases.

The second sub-question of the third question analyzes whether and how the holding of a referendum affected the democratization process and the quality of democracy in the newly independent state. [8] It has been discussed within the Comparative Politics literature whether the use of referendums strengthens or weakens democracy (see Chapter 2). It is possible that the holding of a referendum to settle the future status of the territory affects the prospect of democratization or democracy in the newly independent state. If the newly independent state has succeeded in

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[8]   In this thesis, democracy is understood according to Robert A. Dahl's conceptualization, in which "all, or at any rate most, adult permanent residents" have opportunities for "effective participation," "equality in voting," "gaining enlightened understanding," and "exercising final control over the agenda" (Dahl 1998, 38).

democratization, the thesis examines what explains it and whether the holding of a referendum has contributed to it. If the newly independent state failed to democratize, the thesis analyzes whether there was at least an expectation that a referendum would enhance the prospect of democratization, why democratization did not occur, and whether the holding of a referendum was in any way relevant to the democratization failure.

The third sub-question will probe any impact post-conflict self-determination referendums have on the policies of international actors. International actors are simply defined as any non-domestic actors, but the focus will be on the United Nations and main donor states, which are usually Western states, considering the resources and leverage they have over newly independent states. More specifically, while the United Nations was involved in all three cases, its involvement was much more significant in East Timor and South Sudan than in Eritrea, where the United Nations merely participated in monitoring the referendum. Regarding Eritrea, the role of the United States was important in mediation. Norway had been engaged in aid activities in the vicinity of Eritrea, and as such it was also important in the case of Eritrea. In East Timor, Australia, as a neighboring country, and Portugal, as East Timor's colonial power, played important roles in conflict resolution and thereafter. In South Sudan, the Troika countries—the United States, the United Kingdom, and Norway—were hugely important in bringing about the 2005 Comprehensive Peace Agreement and the subsequent referendum and independence.

In sum, the second and third questions analyze the impact of referendums on five factors: (i) warring parties' attitudes, (ii) long-term relationship between the newly independent state and the continuing state, (iii) amelioration of tensions within the newly independent state, (iv) democratization and democracy within the newly independent state, and (v) attitudes and policies of international actors toward the

newly independent state.

1.2.2. Defining a Referendum and Understanding its Impact on Peace and Democracy

The thesis defines a referendum as "a direct vote by the electorate of a country to advise or decide on a specific issue, in contrast to votes for individual candidates to national or local elections" (Beigbeder 2011, para. A.1). Yet, when this thesis discusses the impact of referendums, a referendum is understood in a broad sense as a process, not confined to the actual voting. This is in line with the literature on post-conflict elections. The literature on post-conflict elections examines the actual voting in elections and its results, the campaign period leading to elections, or even the expectation of elections in the future. For example, when it is argued that holding multiparty elections repeatedly would improve their quality over time, the "elections" concerned refer to the holding of elections even if their quality is ascertained through examining both the pre- and post-election period (Lindberg 2004). When researchers discuss which electoral system would best support the process of conflict resolution, the focus is on the mechanism of elections (Reilly 2005, 2008, 2017; Sisk 2009). When Paris analyzes how elections in Cambodia (in 1993 and 1998) or Angola (in 1992) were marred by violence, he examines both the period leading to and the period after the elections (Paris 2004). Sometimes, violence is attributed to the forthcoming elections a year or more away. For example, Paris claims that Rwanda's genocide in April 1994 was partially the result of the democratization plan including parliamentary elections expected in 1995 (Paris 2004). Another study finds that one cause behind the 2013 crisis in South Sudan was the intensifying competition within the SPLM ahead of the elections scheduled in 2015 (Brosché and Höglund 2016). Similar to the literature on post-conflict elections, the thesis employs the term "referendums" to refer

to their various aspects including the actual voting in referendums, the campaign period leading to referendums, or the expectation of referendums in the future.

In this context, I would like to clarify that the thesis distinguishes the effect of partition from the effect of self-determination referendums. There have been analyses as to the usefulness of partition for peace in the context of self-determination wars (Kaufmann 1996; Sambanis 2000; Chapman and Roeder 2007; Sambanis and Schulhofer-Wohl 2009). Partition and referendums are related, but their effect on peacebuilding should be treated separately for two reasons. First, partition can occur with or without a referendum. For example, Kosovo's independence in 2008 was not accompanied by a new referendum. Second, the population might not choose independence in a referendum. Thus, the thesis is interested in the effect the referendum process and its actual voting had on peace and democracy in the region, separate from the effect partition has on them. However, interviewees often did not distinguish between the referendum and the partition when asked about the effect the referendum has on peace and democracy in the war-torn society. The author sorted this out through carefully examining their remarks.

This thesis does not try to claim that a self-determination referendum was the *only* potential cause for the five factors it will examine. Rather, it is interested in whether and how referendums positively or negatively affected these five factors. In other words, the thesis' main interest lies with specifying the ways the referendums potentially affect these five factors. With only three cases available so far, there are obvious limitations to the claims that can be made based on the thesis findings. Considering that the existing literature does not shed significant light on referendums' impact on the five factors this thesis explores, the aim is to identify in what specific ways referendums affected these factors through heuristic case studies and to offer

plausibility probes through three cases rather than fully-fledged theory testing.[9] For

the same reason, the thesis does not start with a rigorous hypothesis to be tested. While

the research questions and the existing literature guided me to contemplate potential

explanations and construct questions to pose to interviewees in the initial stages of this

research, findings based on the primary and secondary sources were more important

in identifying specific ways referendums affected the five factors.

　　Conducting case studies suits the aims of this thesis because "case studies

remain much stronger at assessing *whether* and *how* a variable matter to the outcome

than at assessing *how much* it mattered" (George and Bennett 2005, 35). All the same,

the second and third research questions posed in this thesis are concerned with the

"effects-of-causes"—where researchers are interested in what kind of effects specific

causes have on a certain outcome (Goertz and Mahoney 2012). This approach is

methodologically more aligned with quantitative research (Goertz and Mahoney 2012,

chap. 3), while qualitative research is typically interested in the "causes-of-effects"

questions asking what are the causes of a specific outcome. To address these problems,

when conducting interviews, I asked both "causes-of-effects" and "effects-of-cases"

questions. For example, on the referendum's impact on democracy in East Timor, I

asked what factors interviewees considered as the reasons behind the seemingly

successful democracy in East Timor (a "causes-of-effects" question). When they

mentioned the effect of the referendum, I asked them to elaborate further. When they

did not mention the effect of the referendum, I often sequentially asked whether or not

they thought the referendum experience affected democracy (an "effects-of-causes"

question). Of course, one needs to be careful about misleading interviewees.

Depending on the way questions are asked, interviewees might try to satisfy

researchers by answering what they believe the interviewer wants to hear even if this

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[9] For a relevant methodological discussion, see Paris (1999, 14–20).

danger is comparatively small in elite interviews compared to other types of interviews. In this specific case, for example, even though I do not commit in advance to the view that referendums strengthen democracy, it is possible that an interviewee feels that the researcher is interested in knowing how the referendum has strengthened democracy in East Timor and thus might answer affirmatively. If an interviewee initially did not mention the referendum experience in the "causes-of-effects" question and then referred to the positive effect of the referendum on democracy in the subsequent "effects-of-causes" question, I should weigh these answers carefully, bearing in mind the possibility that they provided the answer that they did in order to please the interviewer.[10]

Another difficulty of establishing the link between the referendum and the five factors in the second and third questions is that factors such as the long-term relationship between the two states or the impact on democratization processes are macro-level phenomena rather than being traceable to the micro level. Macro-level phenomena are not readily observable.[11] However, one can still try to observe the link between the referendum and macro-level phenomena through analyzing the observable micro-level phenomena linking the two (George and Bennett 2005, 141–43). After all, "if all individuals behave the same in the same social structure, then the interesting causal and explanatory action is at the level of the social structure, even if it must operate through the perceptions and calculations of individuals" (George and Bennett 2005, 141–42). Thus, the thesis tries to go down to the level of individuals if necessary to trace the potential mechanisms connecting the referendum with the five factors. For example, it does so through finding a specific mechanism connecting the referendum

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[10] In contrast, if they answer that the referendum affected the quality of democracy in response to the first question, it is likely that they believe this to be the case.
[11] This is in contrast to the first question, whose answers are at least theoretically obtainable through interviewing those involved in policy-making around deciding to hold a referendum and through examining official documents, newsletters, or memoirs.

experience and each individual voter's perception and attitude on democracy, or through investigating individual international actors' attitudes to understand the referendum's impact on collective international attitudes toward the newly independent state.

1.3. Case Selection

As the number of self-determination referendums is limited, comparative case studies rather than any kind of quantitative analysis suit this project. I have chosen three cases—the post-conflict self-determination referendums in Eritrea (1993), East Timor (1999), and South Sudan (2011)—based on the following criteria:

1. Self-determination was accepted by the central government, typically in a peace agreement.

2. The self-determination referendum was agreed upon after a violent protracted conflict.

3. The agreement between the central government and a pro-independence movement was reached after the end of the Cold War.

4. The conflict was located in a developing country.

5. The referendum has already taken place, and a substantial period of time has passed to make it possible to gauge the impact of the referendum on peacebuilding.

First, I have excluded unilateral referendums. These are most commonly held as pro-independence movements consider it strategically useful to demonstrate the will of the people in order to strengthen their case for self-determination (see for example, Qvortrup 2014). There is wide agreement in the literature that a unilateral referendum

is not useful for conflict resolution (Qvortrup 2014b; Collin 2015; Lee and Mac Ginty 2012; Reilly 2003), and I have no reason to argue otherwise. As a result, I have focused on referendums based on the mutual consent of the central government and the main pro-independence movement. This criterion excludes various referendums in the post-Yugoslavia and post-Soviet Union states as well as unilateral referendums in Crimea (2014), Catalonia (2017), and the Kurdistan Region of Iraq (2017).

Second, I have also excluded cases where self-determination conflicts did not entail large-scale of violence over a protracted period of time. This criterion excludes non-violent self-determination cases such as Scotland and Montenegro, even though some of the policy implications of this thesis might well be useful for these cases. French New Caledonia, which experienced a smaller scale of violence, is also not analyzed as one of the cases.

Third, I have focused on post-Cold War cases because the nature of peacebuilding operations has become very different since 1989. This criterion excludes various decolonization cases typically occurring in the 1950s or the 1960s such as the self-determination referendum in Algeria (1962).

Fourth, I have focused on cases in developing countries. This is because peacebuilding in developed countries is very different from peacebuilding in developing countries (Paris 1999, 19–20). This case selection excludes the case of Northern Ireland.

Fifth, only cases where the referendum process was completed, and where substantial time has passed since its completion, have been included. This is because two of the research questions in this thesis ask about the impact referendums have on peacebuilding. Without some lapse of time, it is difficult to see what kind of impact the referendums had on peacebuilding. The cases of Northern Ireland and French New Caledonia are excluded on this basis as well. The case of Bougainville, where the

referendum was held in November 2019, is also not examined in this study because the negotiations between the central government and Bougainville in light of this referendum result have not finished yet.

Based on these five criteria, the study focuses on three post-conflict self-determination referendums in Eritrea (1993), East Timor (1999), and South Sudan (2011). Yet this does not mean that other cases are irrelevant. Other cases of self-determination, most notably the case of Bougainville, are referred to and discussed in the concluding chapter to understand the general implications of the thesis' findings. Also, it is expected that the findings of this study are potentially useful in one way or another in cases such as French New Caledonia or Northern Ireland in addition to future peace agreements incorporating self-determination referendums, possibly in Western Sahara, Palestine, Somaliland, or West Papua. Table 1 summarizes the information about the three referendums.

Table 1: Referendum Information in the Three Cases

Case	Eritrea	East Timor	South Sudan
Referendum Year	1993	1999	2011
Referendum Voting Rate	98.2%	98.6%	97.6%
Vote for Independence	99.8%	78.5%	98.8%
Independence	1993	2002	2011
Referendum Process marred by violence	No	Yes	No
Transition Period before the Referendum	2 years (1991–1993)	None	6 years (2005–2011)

Some might ask why this thesis includes cases of both decolonization and post-decolonization. First, when it comes to peacebuilding, there does not seem to be a good rationale to distinguish between these cases. For example, Paris (2004) analyzes both decolonization and post-decolonization cases. After all, the difficulty of peacebuilding

missions remains the same for both decolonization and post-decolonization cases.

Second, it is important to acknowledge that independence movements in Asia and Africa typically claim that their case is decolonization even when most of the legal scholars and UN member states do not recognize as such. Many of them base their arguments for the right of self-determination on the lack of consultation at the time of decolonization. Examples include the Moros in the Philippines, the Acehnese in Indonesia, and the Southern Cameroons in Cameroon. Indeed, pro-independence movements not only in Western Sahara and East Timor but also in Eritrea, Bougainville, and South Sudan insisted their case was decolonization. In this sense, the distinction between decolonization and post-decolonization is blurred. Of course, this distinction must matter when the international community and mediators consider whether self-determination should be accepted in specific cases. However, as this thesis is interested in the situations after the exercise of self-determination is agreed upon, there is little reason to distinguish cases based on this distinction.

Third, nevertheless, one might consider that decolonization through explicit ascertainment of the wishes of the peoples concerned would legally require a referendum. It is true that some legal scholars argue a referendum is required when peoples are given a choice other than independence in the context of decolonization (Cassese 1995, 331; Sureda 1973, Chapter IV; Şen 2015, 85; Summers 2007, 43). Pro-independence movements sometimes argue similarly (e.g., Eritrea and Bougainville). However, as Chapter 2 discusses, there are reasons to believe this argument does not hold. In other words, the wish of the peoples could be ascertained through either a direct or an indirect vote during the decolonization processes. Likewise, one might believe post-decolonization secession (such as in Kosovo) requires a direct method of self-determination rather than an indirect vote. However, state practice does not support this argument. A referendum was not organized in two post-decolonization

cases: Bangladesh in 1971 and Kosovo in 2008. State practice suggests that there is no rule requiring a referendum in post-decolonization cases, even though referendums seem to be the "prevailing wisdom" now. In sum, in both decolonization and post-decolonization cases, elections and referendums were accepted as methods of self-determination from the standpoint of international law.

In light of the three research questions, the case selection has two weaknesses. First, there is no variation in the method of self-determination this thesis examines. Referendums were held in all the three cases, and the thesis does not examine the case where there was an indirect vote in settling self-determination conflict. One such potential case is Kosovo. Kosovo unilaterally declared independence in 2008 *without* a referendum but with the support of key Western governments. This is the only post-Cold War case in which an entity received state recognition from the majority of UN member states after an extensively violent conflict without a referendum. While Kosovo's case is an interesting anomaly and is briefly discussed in the concluding chapter, it is not included in the case studies because (1) Kosovo's independence was unilaterally declared without the consent of Serbia, (2) Kosovo's case should be situated as one of the special cases of self-determination (*sui generis*) in the context of the ex-Yugoslavia state dissolution process, and (3) the involvement by the European Union was very significant compared to other cases. In sum, Kosovo does not serve as a control case in this thesis, as the situation surrounding it is significantly different from Eritrea, East Timor, and South Sudan. It would have been ideal for the sake of comparison if there had been a comparable case without a referendum, but without such a case, I do not believe it is useful to analyze a very different case in order to have variation in the method of self-determination. In this context, it is worth pointing out that Paris' work does not include cases where there was no political and economic liberalization, even though it would have been possible to include Eritrea's

peacebuilding as a case with no liberalization (Paris 2004).

The other weakness is related to the fifth criterion of the case selection. This criterion excludes cases where the referendum process is bogged down, most notably the case of Western Sahara.[12] While this criterion is justifiable because of the third question this thesis poses, it makes it impossible to analyze cases where spoilers successfully prevent peace agreements from being implemented. This potentially biases the findings related to the first sub-question of the second question (warring parties' attitudes). Yet the question of why a referendum was held in one conflict but not in another is a distinctly different question from those posed in this thesis and would require analysis in a separate study. Those cases where a referendum process has become bogged down, such as Western Sahara and Abeyi, will be discussed in the concluding chapter.

1.4. Terminology

A brief discussion of the terminology this thesis employs is necessary. Terms such as "separatism" and "secession" are known to have a negative connotation because of the general opposition of the international community to secession, violence associated with secession, or its association with the wreckage of unity and order (Pavković and Radan 2007, 7; Heraclides 1991, 1). As a result, those trying to gain independence avoid the term "secession" (Pavković and Radan 2007, 7). This is in contrast to decolonization, which has positive associations as a normative category (Jackson 1993). This normative value extends to national liberation movements trying to achieve decolonization, which are potentially endowed with rights and duties in international law (Shaw 1983). Indeed, it is not uncommon to find pro-independence movements claiming that their case is one of decolonization. In order to apply a more

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[12] On Western Sahara, see Zunes and Mundy (2010).

neutral term, this thesis uses the terms "self-determination conflict" and "pro-independence movement/group" whenever possible. Yet this should not be interpreted as denying that some of the pro-independence movements have more legitimacy than others because of their history of failed decolonization, for example in Western Sahara and East Timor.

The term "civil wars" is often considered to be synonymous with intrastate wars. Yet this view suggests, at least implicitly, that we reject the cause of pro-independence movements, which often consider that they are (at least potentially) a sovereign entity invaded, occupied, or colonized by the central government. For example, East Timorese people considered the annexation by Indonesia an invasion, and this view was also shared internationally. From these standpoints, the conflict in East Timor was not an intrastate war. The same problem applies to other conflicts such as in Palestine (Licklider 1993, 9). At the same time, for analytical purposes, it makes sense not to differentiate the conflicts in East Timor, Western Sahara, or Palestine from other intrastate wars. To deal with these problems, the thesis defines civil wars as "large-scale violence among geographically contiguous people concerned about possibly having to live with one another in the same political unit after the conflict" (Licklider 1993, 9). In this way, civil wars are not limited to intrastate wars.[13]

The term "referendum" has already been defined. The paper does not distinguish between a referendum and a plebiscite (Beigbeder 2011, para. A. 1; Qvortrup 2014a, 14n3) and treats them as synonymous. It consistently uses the term "referendum" except for a direct quote.

Finally, in the three cases, there was a lapse of time between the time the referendum was agreed upon and the time the referendum was held (1991–1993 in Eritrea, May to August 1999 in East Timor, and 2005–2011 in South Sudan) and

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[13] I would like to thank Estanislau da Silva for raising this point.

between the time the referendum was held and the time independence was declared (almost immediately in Eritrea, September 1999 to May 2002 in East Timor, and January and July 2011 in South Sudan). For the sake of convenience and consistency, the thesis uses the term "transition period" for the former period in Eritrea (1991–1993) and South Sudan (2005–2011), namely the period between the time the referendum was agreed upon and the time the referendum was held. In the case of South Sudan, this period between 2005 and 2011 is formally called the "Interim Period," but this thesis uses "transition period" except for in a direct quote. East Timor's short period before the referendum is usually not called a transition period, and the thesis does not call this period a transition period either. In the concluding chapter, when discussing whether it would have been better if a referendum had been postponed for a few years or longer, I use the term "transition period" to describe this hypothetical period. For the period after the referendum but before independence in East Timor, the term "UN transition period" is used.

1.5. Data

The empirical chapters largely rely on approximately 70 elite interviews. I carried out fieldwork in Indonesia, East Timor, Ethiopia, the United States, and Norway. Some of the interviews were also held in person in the United Kingdom and Japan. Other interviews were conducted by phone or by VoIP (Voice over Internet Protocol) such as Skype. Unfortunately, I could not undertake fieldwork in Eritrea, Sudan, or South Sudan because of the dictatorial regime, disorder as a result of the recent regime change, and insecurity, respectively. This limited the number of interviews I could conduct with Eritrean, Sudanese, and South Sudanese people. In particular, it is regrettable that I could not interview even a single Sudanese person for this research. I tried my best to fill this gap through carefully examining other primary and secondary

sources and interviewing those familiar with the view of elites from these three countries and/or close to these elites.

I have used both primary and secondary sources to analyze the cases. Primary sources other than original interviews include newspaper articles, existing interviews, newsletters and publications by pro-independence groups and their key members, UN documents, and memoirs by those involved in the conflict resolution processes. Some of these materials were collected at the Library of Congress in Washington, DC, the National Diet Library in Tokyo, the British Library, SOAS Library, and LSE Library in London. Secondary sources include the area studies literature and case studies of these conflicts in the conflict and peace studies literature.

1.6. Outline of Chapters

This thesis consists of ten chapters. The second chapter engages with the International Law and Comparative Politics literatures. It first introduces three methods of self-determination which have been used since the decolonization period. It then analyzes the advantages and disadvantages of holding a referendum. The third section of this chapter offers a literature review on the reasons to hold referendums, followed by a discussion about potential rationales behind post-conflict self-determination referendums more specifically in light of this literature review.

The third chapter is the core theory chapter in this thesis, drawing on the literature on conflict resolution and peacebuilding. The chapter starts with a discussion of the difficulty of supporting both peace and democracy in the post-conflict environment. It then reviews the more specific literature on spoilers, post-conflict elections and post-conflict referendums respectively. Based on the literature review, the fifth section of Chapter 3 examines the potential impacts post-conflict self-determination referendums might have on peace and democracy in war-torn societies.

The next six chapters are dedicated to the empirical study of post-conflict self-determination referendums. Each case study is divided into two chapters: one offers background information and the other analyzes each case based on structured, focused comparison. The empirical chapters are followed by a concluding chapter that summarizes the findings of the thesis, discusses implications for the existing literature, offers policy implications, and considers further avenues for research.

Chapter 2

Methods of Self-determination and Rationales behind Referendums

Chapter 2 deals with the first question of this thesis:

> 1. What are the rationales behind the holding of referendums as the method of self-determination?

This question is essentially interested in why policy-makers choose to conduct direct votes to ascertain the wishes of the people.

The first section examines three methods of self-determination—commissions of inquiry, elections, and referendums—largely relying on the International Law literature and primary sources, namely UN documents. The second and third sections together offer a literature review concerning rationales for referendums largely relying on the Comparative Politics literature. More specifically, the second section investigates the advantages and disadvantages of referendums as a policy tool. The third section first reviews the existing literature regarding the reasons behind the decision to hold referendums; it then seeks to understand this literature's implications for the first question of the thesis, examining which of these reasonings might be applicable in cases of post-conflict self-determination referendums.

2.1. Methods of Self-determination

Based on self-determination practices since the end of WWII, this section will identify three methods of self-determination which have been used to ascertain the wish of a population. The thesis specifically examines the period after WWII for two reasons. First, this was the period when it became increasingly necessary to democratically

ascertain the wish of a population in order to settle issues of sovereignty. Second, the three empirical case studies explored in this thesis all have aspects of (failed) decolonization, and hence these three methods are directly relevant.

Importantly, when self-determination results in independence of the self-determination unit concerned, formally ascertaining the wish of the population was unnecessary (Cassese 1995, 73). According to UN General Assembly Resolution 1541 (XV), a non-self-governing territory can either gain independence, choose free association, or join another state (UN General Assembly 1960, Annex, Principle VI). This Resolution then stipulates, "Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes" (UN General Assembly 1960, Annex, Principle VII). Integration requires more stringent measures, as the Resolution stipulates, "the integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage" (UN General Assembly 1960, Annex, Principle IX (b)). Free association refers to an arrangement such as the one the Cook Island has with New Zealand, and it is not discussed here (Igarashi 2002). Instead, the thesis focuses on cases where integration was at least an option in self-determination—which was a possibility in the three cases this thesis examines.

For integration, broadly speaking, we can identify three methods to ascertain the wish of the population during the decolonization period: commissions of inquiry, elections, and referendums (Sureda 1973, chap. IV). The following section turns to each option and explains how it has been used in practice. Examples are drawn from cases where integration with another state was at least an option. More specifically, the thesis refers to instances which are specifically relevant to the three cases of this

thesis (such as Eritrea, Sabah and Sarawak, and West Papua), as well as Trust Territory cases, which were under the strict control of the General Assembly (such as British Togoland, French Togoland, and the British Cameroons). Studying the latter cases is useful because the method of self-determination was often explicitly discussed and decided upon at the General Assembly and hence well documented. As a result, Trust Territory cases elucidate various rationales behind a specific method of self-determination put forward by states; states might have even reached a consensus on the circumstances in which a specific method of self-determination should be used and why.

2.1.1. Commissions of Inquiry

The first option, commissions of inquiry, refers to dispatching commissions of inquiry to the area concerned; the commission's members would then determine the wish of the population through communication with the locals. This method means that there would be no formal consultation through ballots cast by the local population. This method was most notably used in the case of Eritrea.

In 1949, General Assembly Resolution 289 (IV) recommended the establishment of a commission made of five states which would "ascertain more fully the wishes and the best means of promoting the welfare of the inhabitants of Eritrea, to examine the question of the disposal of Eritrea and to prepare a report for the General Assembly, together with such proposal or proposals as it may deem appropriate for the solution of the problem of Eritrea" (UN General Assembly 1949, para. C.1). Reflecting the era when the norm of self-determination was not fully established, the UN Commission for Eritrea was tasked with considering not only the wish of Eritreans but also "the capacity of the people for self-government," "the interests of peace and security in East Africa", and "the rights and claims of Ethiopia"

(UN General Assembly 1949, para. C.2). The Commission conducted visits and hearings in Eritrea between late February and early April 1950 (United Nations Commission for Eritrea 1950, Annex 17). However, the five members of the Commission could not come to an agreement regarding the wish of the population or the appropriate solution. A majority of the Commission (Burma, Norway, and the Union of South Africa) argued that "it is not unlikely that an over-all majority of the total Eritrean Population favour reunion with Ethiopia" (United Nations Commission for Eritrea 1950, 24, para. 157). The delegations of Burma and the Union of South Africa suggested a federation of Eritrea and Ethiopia while the delegation of Norway suggested integration with Ethiopia (United Nations Commission for Eritrea 1950, 24–28). In contrast, the delegations of Guatemala and Pakistan disagreed, believing that the majority preferred independence (United Nations Commission for Eritrea 1950, 31, paras. 203–204). Their suggestion was independence of Eritrea after a ten-year trusteeship under the UN (United Nations Commission for Eritrea 1950, 35–36). Based on the report, the General Assembly chose to federate Eritrea with Ethiopia (UN General Assembly 1950).

In 1963, another Commission of Inquiry was sent to Sabah and Sarawak, the northwestern part of Borneo. Together with the Federation of Malaya and Singapore, this region was going to form Malaysia, but Indonesia and the Philippines, neighboring states, demanded that the wish of the population be ascertained. The Manila Accord, reached between the Philippines, Indonesia, and the Federation of Malaya on July 31, 1963, stipulated,

> The Ministers reaffirmed their countries' adherence to the principle of self-determination for the peoples of non-self-governing territories. In this context, Indonesia and the Philippines stated that they would welcome the formation of

Malaysia provided the support of the people of the Borneo territories is ascertained by an independent and impartial authority, the Secretary-General of the United Nations or his representative. ("Manila Accord. Philippines, Federation of Malaysia, and Indonesia, July 31, 1963" 1963, Article 10)

The three states' joint statement further stated that

the United Nations Secretary-General or his representative should ascertain … the wishes of the people of Sabah (North Borneo) and Sarawak within the context of General Assembly Resolution 1541 (XV), Principle 9 of the Annex, by a fresh approach … taking into consideration (i) the recent elections in Sabah (North Borneo) and Sarawak … [and] (ii) the wishes of those who, being qualified to vote, would have exercised their right of self-determination in the recent elections had it not been for their detention for political activities, imprisonment for political offences or absence from Sabah (North Borneo) or Sarawak. ("Joint Statement, Philippines, Federation of Malaya, and Indonesia, 5 August 1963" 1963, Article 4)

Yet the Federation of Malaya had already committed to the independence of Malaysia on August 31 in the London Agreement signed between the UK and those forming Malaysia (the Federation of Malaya, Singapore, Sabah and Sarawak). Apparently UN Secretary-General U Thant initially suggested a referendum, but as the Federation of Malaya resisted, the United Nations decided to opt for a more limited assessment of the wish of the people (Mackie 1974, 161–62). As the result was expected in mid-September, at the end of August, Malaya postponed the formation of Malaysia until September 16 (Mackie 1974, 171, 174).

The United Nations published its Mission Report on September 14, 1963. While it was critical of the decision to form Malaysia before their report was available, it found that the majority in Sabah and Sarawak preferred integration to Malaysia. According to the Report, the United Nations was not asked to organize a direct vote, and it consulted the people "through the elected representatives of the people, leaders of political parties and other groups and organizations, and with all persons who were willing to express their views, and every effort was made to ascertain the wishes of the special groups (political detainees and absentees)" (UN Secretary-General 1963, para. 4). It also found that self-determination was "a major issue in the recent elections in the two territories," which were conducted freely (UN Secretary-General 1963, para. 10). It concluded that "there is no doubt about the wishes of a sizeable majority of the peoples of these territories to join in the Federation of Malaysia" (UN Secretary-General 1963, para. 11). However, this report was not accepted by either Indonesia or the Philippines, and the former resorted to an undeclared war against Malaysia, which only came to an end in 1966 after the Indonesian regime was changed (Wey 2018).

It is noteworthy that there was one fundamental difference between the case of Eritrea and the case of Sabah and Sarawak: the latter had elected representatives while the former did not. Sureda speculates that the Commission of Inquiry was used in the two cases because each entailed a territorial dispute, which required "the quieter means of a commission of inquiry" (Sureda 1973, 302). However, it is clear that the ascertainment of the wish of the population without a direct or an indirect vote was no longer acceptable by 1960.[14] In Sabah and Sarawak, there was an indirect vote prior to the visit of the Mission. The role of the Mission was to certify the voting process

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[14] As early as 1952, General Assembly Resolution 637 (VII) A recommended that "the wishes of the people [be] ascertained through plebiscites or other recognized democratic means." (UN General Assembly 1952b). This specific recommendation was originally phrased by India (UN General Assembly 1952a, 12-13). The delegation of India claimed that "'Recognized' democratic means must [] have a more or less electoral character and must have generally demonstrated their validity." (UN General Assembly 1952c, 235, para. 74)

and the relevance of its outcome with respect to the question of self-determination. It seems the case of Eritrea was the only case where the Commission of Inquiry was used alone without any kinds of voting.

2.1.2. Elections

The second option, elections, has also been used to ascertain the wish of the population. Cases include Alaska, Hawaii, and Greenland. Among others, the case of French Togoland (1957–1958) is worth discussing at some length since the General Assembly explicitly discussed the method of self-determination in the case of French Togoland, which was one of the Trust Territories.

France, its colonial power, held a self-determination referendum in French Togoland by universal adult suffrage in October 1956, according to which more than 70% of the voters affirmed the Statute of Togoland defining the relationship between French Togoland and France (essentially, an autonomy arrangement within France) and the termination of the trusteeship system. In contrast, only around 5% of the voters preferred the continuance of the trusteeship system, with the voter turnout being around 77% (United Nations Commission on Togoland under French Administration 1957, 25–26). However, the United Nations was not involved in the referendum, and the General Assembly did not readily accept the result. Instead, the General Assembly chose to dispatch a Commission to French Togoland (UN General Assembly 1957i). In turn, this Commission found in their report in August 1957 that "at an appropriate time the people of the Territory would need to be consulted by appropriate means concerning their desires for the future status of the Territory. This consultation should, however, be undertaken in full agreement with the United Nations as one of the two parties to the Trusteeship Agreement" (United Nations Commission on Togoland under French Administration 1957, 162–63).

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In November 1957, the President of the Legislative Assembly of French Togoland, appearing at the Fourth Committee of the General Assembly, announced they were willing to hold elections based on universal adult suffrage if the trusteeship were terminated automatically after the elections (UN General Assembly 1957a, 232, para. 29). The termination of the trusteeship would mean that the United Nations would no longer have any roles in French Togoland. After some debate, the General Assembly agreed that the Legislative Assembly would be allowed to request the termination of the Trusteeship Agreement if it wished after the elections (UN General Assembly 1957j).[15] As long as there was a possibility that the Legislative Assembly would ask for the termination of the Agreement, it was necessary to examine what the appropriate rules/procedures were to ascertain the wish of the people, which the Fourth Committee did.

The pro-independence petitioners from French Togoland argued that a referendum should be held to settle the issue of the future status of the territory (UN General Assembly 1957b, 245–46, paras. 11-18, 248, paras. 46–49). The representative of Ghana agreed with their view. He believed that the termination of the Trusteeship Agreement should not be contested in the election. He affirmed that it would be better if a referendum were held separately in order to ascertain the wish of the population regarding the future status of the territory (UN General Assembly 1957d, 271, para. 15). In this way,

> it would be possible for the people to get a clearer idea of the issues at stake, for in the midst of the political tension that had prevailed for so long in Togoland there had been some confusion in the minds of some leaders and their followers. It was important to help them to acquire a clear understanding of the

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[15] For the debate, see in particular UN General Assembly (1957d, 1957e, 1957f, 1957g).

difference between the attributes of sovereignty and the various forms of colonial status. The policy of the Administering Authority had always been opposed to independence for Togoland, and it was important that the people of the Territory should be well informed so that any choice they made regarding their future could be arrived at after careful consideration of the facts. (UN General Assembly 1957d, 271, para. 16)

However, Ghana was the only country in the Fourth Committee that robustly defended the petitioner's demand for a referendum, even though there were three states (Greece, Pakistan, and Chile) which could be considered as preferring a referendum, albeit somewhat irresolutely (UN General Assembly 1957g, 291, para. 2, 1957h, 303, para. 19, 1957c, 264, para. 30).

In contrast, most other states considered that the wish of the people could be ascertained by an indirect vote. The representative of the United Kingdom strongly rebutted the Ghanaian representative's argument that a plebiscite was necessary. He insisted,

With regard to the means [to consult the people of the Territory concerning their desires for the future status of the Territory], he considered that the French Government and the Togoland Government were right in preferring to hold a general election rather than a plebiscite. In Togoland under British administration a plebiscite had been used [note: see below], but the circumstances had been different, inasmuch as there had been no Legislative Council for that Trust Territory as such, because it had been administered as an integral part of the Gold Coast. In the present case, the general election would be fought on the issue of the termination of trusteeship, coupled with the extent

of the powers to be exercised by the Togoland Government in the future. In connexion with the extent of powers in particular, a formal expression of views by a Legislative Assembly elected by universal franchise would perhaps be a more appropriate means of consultation than a plebiscite. The great advantage of that procedure would be that it would allow for an expression of views by the general public by means of the election, followed by a formal expression of views by the representative body so elected. (UN General Assembly 1957g, 295, para. 39)

The view that the wish of the population regarding their future status would be ascertained by elections was shared widely among both Administering and non-Administering Powers. Canada welcomed the proposal by France and the Togoland government, maintaining that "the great merit of the proposed course of action was that it would subject the proposed status of Togoland to the test of self-determination through free democratic elections" (UN General Assembly 1957g, 294, para. 21). The representative of New Zealand "had no doubt that the attitude which the majority in any new Legislative Assembly might take with regard to the future of the Territory would reflect the point of view of the electorate" (UN General Assembly 1957g, 292, para. 9). Tunisia assumed that a popular consultation would take the form of elections (UN General Assembly 1957f, 288, para. 31).

The representative of Ecuador went some length to offer his view on this issue. He observed that the population was divided over the future status of the Territory, as one faction wanted to be united with France under the Statute while the other wanted total independence (UN General Assembly 1957e, 278–79, para. 12). Noting it should be decided by the people, he argued that "the only means of ascertaining the true wishes of the population was by holding free elections" (UN General Assembly 1957e,

279, para. 13). Rejecting the Togoland government's demand that the trusteeship be terminated automatically after the election, the representative of Ecuador considered that the new Legislative Assembly would have "full powers to determine the Territory's future status, decide on the acceptance, modification or rejection of the Statute, and thus—among other questions—on the desirability of terminating the Trusteeship Agreement" (UN General Assembly 1957e, 279, para. 14). The Legislative Assembly can consider any alternatives to determine its future status including modification of the Statute, deferral of stating the wish regarding their future or an option to hold a fresh plebiscite (UN General Assembly 1957e, 279, para. 17, 280, para. 21). The view that elections could be the method of self-determination prevailed to the extent that the necessity of a plebiscite was not even discussed once states started to discuss draft resolutions.

The elections in French Togoland took place on April 27, 1958. The pro-independence party won with 29 seats out of 46, while pro-integration ruling parties obtained thirteen seats and independent candidates won four (United Nations Commissioner for the Supervision of the Elections in Togoland under French Administration 1958, 65, para. 541). Based on this resounding victory for the pro-independence party, France informed the General Assembly that French Togoland would obtain independence in April 1960 (Representative of France on the Trusteeship Council 1959).

In contrast to the free and fair elections in French Togoland, a vote by representatives effectively became a means to circumvent the wish of the population in the Act of Free Choice in West Papua in 1969. During the decolonization process of Indonesia, the Netherlands insisted West Papua should not gain independence as part of Indonesia because of its ethnic difference even though West Papua was administered as a part of the Dutch East Indies. After independence, Indonesia continued to claim

West Papua, which remained a Dutch colony. In 1962, Indonesia and the Netherlands reached the New York Agreement, according to which there would be "the act of self-determination" by 1969 ("Agreement Concerning West New Guinea, Indonesia and Netherlands, 15 August 1962" 1962, Article XX). The agreement also stipulated "the eligibility of all adults, male and female, not foreign nationals to participate in the act of self-determination to be carried out in accordance with international practice, who are resident at the time of the signing of the present Agreement and at the time of the act of self-determination" ("Agreement Concerning West New Guinea, Indonesia and Netherlands, 15 August 1962" 1962, Article XVIII (d)).

West Papua was handed to Indonesia in 1963 after a brief UN administration period. When "the Act of Free Choice" took place in 1969 with the UN representative on the ground, it was nothing but a sham exercise. Despite protests by Papuans, 1022 West Papuan "representatives" handpicked by the Indonesian authority unanimously agreed to remain as part of Indonesia under threats and bribery by Indonesia. The United Nations was complicit in this exercise (Saltford 2000). The report by the representative of the Secretary-General concluded, "an act of free choice has taken place in West Irian in accordance with *Indonesian* practice, in which the representatives of the population have expressed their wish to remain with Indonesia" (italics added) (UN General Assembly 1969, Annex 1, p. 70, para. 253). While some African states were not convinced, most states accepted this result (Saltford 2000, 89–90; Pomerance 1982, 33). This case is considered to be "a most revealing deviation from the 'one man, one vote' rule" (Pomerance 1982, 32).

Outside the decolonization context, there are cases where the declaration of independence by elected representatives was accepted by the majority of the UN member states without a direct vote on the question. Cases include Bangladesh's unilateral secession from Pakistan (1971–1972), the "Velvet Divorce" of

Czechoslovakia (1992), and Kosovo's unilateral secession from Serbia (2008). The dissolution of Czechoslovakia is noteworthy in that the wish of the majority in Czechoslovakia seemed to favor the continuation of Czechoslovakia. Yet in this case, the Czech and Slovak political leaders agreed with dissolution, and citizens accepted it as a *fait accompli*.[16]

2.1.3. Referendums

Referendums have been used historically to settle the matter of sovereignty, but their use has become predominant since the 1970s. This has prompted some legal scholars to claim that a direct vote is necessary if the (likely) outcome is other than independence. According to Cassese (1995, 331), "strictly speaking, the wishes of the populations concerned must only be ascertained by means of a plebiscite or referendum when the population seems inclined to opt for association or integration with another state." Others concur (Sureda 1973, 202–3; Summers 2007, 43; Şen 2015, 85).

However, state practice does not support these scholars' claim as I have shown above through the discussion of the case of French Togoland. In fact, other researchers do not agree with the view that a referendum was necessary even if the (likely) outcome was other than independence. For example, Johnson reports that there was no United Nations consensus that the wish of peoples needed to be ascertained through plebiscites (H. S. Johnson 1967, 64–66). More recently, referring to cases such as Greenland and the Dutch Antilles/Surinam, Rytter argues, "the decisive factor is that the process must be genuinely democratic. Thus, the right of self-determination may be exercised not only through a plebiscite, but also through elected representatives of the people" (Rytter 2008, 385). The holding of a referendum was not the only

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[16] See, for example, Stein (1997).

legitimate method of self-determination during the decolonization period.[17]

Under what circumstances and with what rationale was a referendum held in order to ascertain the wish of the population? The French Togoland case seems to imply that a referendum is unnecessary if there is a representative institution already available in the territory. This section examines the cases of British Togoland and British Cameroons, both of which were Trust Territories.[18] In these cases, the General Assembly decided on the necessity of holding a referendum.

British Togoland was the first case for the United Nations to ascertain the wishes of the people for the purpose of ending the trusteeship system. The United Kingdom had administered this territory as an integral part of the Gold Coast, but the latter was about to gain independence in 1954. As a result, the United Kingdom suggested the termination of the trusteeship agreement and the ascertainment of the wish of the population about the future status of British Togoland (Permanent Representative of the United Kingdom of Great Britain and Northern Ireland 1954). In this case, a direct vote was used to ascertain the wish of the population in 1956, but this entity did not have its own legislature covering the whole area. There was a debate about whether there should be a legislature before self-determination even if self-determination would take the form of a direct vote, but the view prevailed that a direct vote without establishing a legislature was sufficient (United Nations Visiting Mission to the Trust Territories of Togoland under British Administration and Togoland under French Administration 1955; UN General Assembly 1955a, 1955b, 1955c, 1955d).

Similar to British Togoland, the British Cameroons were administered as part of Nigeria by the United Kingdom. When the latter gained independence, the question

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[17] The authors arguing that holding a referendum is necessary when self-determination results in integration tend to base their claim on General Assembly Resolution 1541 (XV) (cited above). However, there is nothing in the text of the resolution or the meeting records suggesting that a referendum was necessary.

[18] In both of these cases, the population was asked to choose to integrate into another entity rather than gain independence.

about the future status of the British Cameroons had to be addressed. A visiting mission dispatched by the Trusteeship Council visited the area in October and November 1958. The visiting mission suggested that the northern and southern parts of the British Cameroons should be treated separately. They further argued that a formal consultation would be unnecessary in the North because of the unanimous support for integration to Nigeria. In the South, it found that political parties had different preferences on the future status of the territory: integration to Nigeria or the French Cameroons.

Regarding the South, the visiting mission stated that "In these circumstances the mission felt that it would have been difficult for it, without knowledge of the results of the general elections [scheduled in January 1959], to make precise recommendations as to the method of consulting the people of the Southern Cameroons concerning their future" (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 87, para. 193). The mission offered two reasons. First, it cited the views of the main parties in the Southern Cameroons that the coming elections could be enough to ascertain the wish of the people (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 87, para. 193), even though it seems it was the visiting mission itself which guided them to such a view (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 83–84, paras. 183–185). Second, it emphasized the existence of political institutions in the Southern Cameroons. According to the visiting mission,

> In the only other case in which a Trust Territory, administered as part of an adjoining colony, determined its future by means of a plebiscite - namely Togoland under British administration - this factor did not exist; that Territory had no such means of electing a legislature and forming a Government with power to negotiate at least in some measure its future arrangements, and with

the facility to make concessions to the points of view of its minority parties. (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 87, para. 194)

The visiting mission clearly believed that it would be preferable for elected representatives to settle the issues of statehood rather than a plebiscite. Still, "in the light of the conditions suggested by the two parties under which they would accept the election results as deciding the future of the Territory, the mission considered that the most probable consequence which might follow from the elections on January 24 was a further consultation of the people through a plebiscite on their future" (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 88, para. 196). Yet, because the result of these elections was not available at this point, the mission wanted to wait until after the elections to make its recommendations about whether further consultation of the population was necessary, and if so, how to do it (United Nations Visiting Mission to Trust Territories in West Africa 1959b, 87, para. 193).

After the general elections in the Southern Cameroons in January 1959, the visiting mission produced an addendum to its earlier report (United Nations Visiting Mission to Trust Territories in West Africa 1959a). It stated that,

the Mission has come to the conclusion that the results of the elections cannot be regarded as decisive as far as the future of the Southern Cameroons is concerned. If general agreement should develop in the newly-elected House of Assembly concerning the future of the Southern Cameroons a formal popular consultation may prove to be unnecessary; but if no such agreement emerges, it may only be through a consultation at some appropriate future date, probably a plebiscite, that it will be possible to resolve the basic issues. (United Nations Visiting Mission

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to Trust Territories in West Africa 1959a, 9–10, para. 218)

As a result, the mission essentially was of the view that a referendum would be necessary in the South.

In the fourth committee of the General Assembly, while the necessity of holding a referendum in the South was largely endorsed by member states, the Visiting Mission's suggestion that no consultation would be necessary in the North was heavily criticized. A number of reasons were put forward, but the most common argument was that the area lacked a representative body. The representative of Ceylon argued that "inasmuch as there was no elected body in the area at the present time it would be desirable to hold a plebiscite under United Nations supervision" (UN General Assembly 1959d, 679, para. 17). Likewise, the representative of the United Arab Republic stated that "since the Northern Cameroons did not possess any representative bodies of its own, the normal and logical course seemed to be to follow the same procedure with respect to that area as had been followed in Togoland under British administration" (UN General Assembly 1959c, 657, para. 15). Similar views were also expressed by other states such as India (UN General Assembly 1959a, 644, para. 37), Guatemala (UN General Assembly 1959d, 683, para. 47), Iran (UN General Assembly 1959e, 692, para. 49), the Soviet Union (UN General Assembly 1959b, 647, para. 16), and Greece (UN General Assembly 1959e, 690, para. 28). Evidently, if holding a referendum had been the only legitimate method for self-determination, whether the representative body existed in a territory or not would have been irrelevant. These states referred to the lack of the representative institutions precisely because the wish of the people expressed through them could be regarded as a valid method of self-determination.

General Assembly Resolution 1350 (XIII) recommended that two referendums

be held separately in the Northern and Southern British Cameroons. Regarding the North, it recommended the referendum be held in mid-November 1959 to ask the population to choose between integration to Nigeria and deferral of choosing their future with the existing electoral register, namely without the women's right to vote. It also recommended a referendum in the South sometime between December 1959 and April 1960.

Overall, these two cases show that the referendum was used during the decolonization period either because there was no legislature representing the local population or because the population was divided over the future status of the territory.

2.2. Referendums: The Best Method for Self-determination?

The above discussion has shown that self-determination does not always need to be realized through referendums. This raises a question about whether it is better to hold referendums than to resort to other methods in order to ascertain the wish of the population. The literature has been divided over the use of referendums to resolve the matter of self-determination. While the next chapter will discuss post-conflict referendums in the conflict resolution/peacebuilding literature, this section examines the advantages and disadvantages of a direct vote vis-à-vis an indirect vote to settle self-determination disputes; it relies on wider literature, including Comparative Politics and International Law, even though there is some inevitable overlap with the conflict resolution/peacebuilding literature examined in Chapter 3.[19]

2.2.1. Advantages of (Self-determination) Referendums

A direct vote has more legitimacy than an indirect vote in the eyes of the citizens.

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[19] For an overview, see Butler and Ranney (1994), Lee and Mac Ginty (2012, 45–48), and Şen (2015, 32–38).

Summarizing the findings of previous research on American citizens, Butler and Ranney (1994, 15) argue, "the strongest single argument for referendums as a supplement to representative institutions is the fact that most people regard them as the most authoritative, because the least mediated, of all expressions of the popular will." Furthermore, given that territorial issues are so irreversible and fundamental, they "go beyond the mandate that legislators are given at a general election" (Bogdanor 1994, 90).

Moreover, one cannot ignore the possibility that the preference of citizens on a certain policy deviates from the preference of legislators (Bowler and Donovan 2000, 653). It happens most typically when the policy issue is not salient in election campaigns. For example, questions such as abortion and nuclear power are often not the central focus of elections (Bogdanor 1994, 90), so leaving these policy issues entirely in the hands of legislators might not help realize the will of the people. At first glance, this point is less relevant to self-determination as it is usually a salient matter in elections. Nevertheless, occasionally, representatives elected in an election where territorial issues were not at stake abruptly reach a decision on statehood. Czechoslovakia's Velvet Dissolution is a case in point.

According to these arguments, a direct vote would confer legitimacy on the outcome, settling the matter once and for all.[20] As a result, a direct vote would "play[] an important role in internal political cohesion" (Kersting 2014, 193). Once the result comes in, even citizens opposed to the outcome would accept it because that is the will of the people. If this proposition is correct, we would see that the results of free and fair referendums will not be contested at a later point. Citizens and politics will go along with this new reality.

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[20] However, the once-in-a-generation referendum in Scotland did not resolve the question of self-determination. Also, multiple holdings of a referendum are envisaged in Northern Ireland and French New Caledonia as part of the peace agreements.

The high legitimacy possessed by referendums means that referendums usefully complement representative democracy. Proponents believe that the occasional recourse to the referendum device would enhance the legitimacy of democracy, particularly in the contemporary era where citizens are often questioning decisions made by elites (Butler and Ranney 1994, 13–14). In particular, when there is discontent on the lack of control over policy-makers, referendums are a useful way to rectify the "democratic deficit" and secure accountability (Topaloff 2018, 130). It is also possible to argue that the holding of a referendum makes citizens more engaged with politics and policies, thus contributing to participatory democracy (Butler and Ranney 1994, 15–17).

2.2.2. Disadvantages of (Self-determination) Referendums

There are, however, reasons to be skeptical about the idea of (self-determination) referendums as well. First, the biggest flaw in self-determination referendums is its zero-sum nature. In a parliamentary democracy, there is room for negotiation, compromise, and power-sharing, at least theoretically. However, referendums force people to choose one option over the others, mostly confronting them with a binary choice. As Lee and Mac Ginty (2012, 47) observe, "a referendum has the potential for grossly oversimplifying a complex problem into an either/or binary."

Second, self-determination referendums are usually a once-in-a-lifetime event. Losers will not have another chance to win at a later date. This leaves two problems. On one hand, losers would not have the opportunity to put their voice into the outcome, as the outcome has already been determined by the referendum. Losers in the referendum would be "losers forever" (Reilly 2008, 237). Winners, under the name of "the will of the people" tend not to feel the need to accommodate the minority, considering that the issue has been resolved decisively. In other words, it is difficult to

search for a more centrist option even after a divided referendum (Lee and Mac Ginty 2012, 47). As Topaloff (2018, 135) argues, "[referendums] irreversibly alter the status quo, not necessarily for the best."

Third, there is the issue of voter incompetence and voter manipulation. It is often argued that ordinary citizens do not have enough capability, information, and time to weigh the pros and cons for a certain policy in a referendum (Butler and Ranney 1994,18–19). This might seem to be less relevant for self-determination as it is a matter of their intuitive identity; in that sense it is similar to moral issues. However, regarding decolonization, "in most of the consultations the U.N.'s teams of observers found that it was difficult to convey to the populations the significance of the consultation and the meaning of the questions posed" (Sureda 1973, 319). Relatedly, referendum results, like elections, might be swayed by coincidental factors such as weather, terrorist attacks, or economic shock. Citizens might also later complain that they did not receive enough information about the consequences of their choice, as is exemplified by the Brexit referendum in 2016.[21] Likewise, in the referendums of Scotland (2014) and Catalonia (2017), the pro-independence movements claimed that they were going to (re)join the European Union easily while the British and Spanish governments rejected this as a possibility. Furthermore, in unilateral self-determination referendums, the question posed on the ballot paper is often left deliberately ambiguous so that citizens might not be aware of what they are voting for.

Fourth, the legitimacy a referendum would confer might be called into question when one option is chosen over the other by a narrow margin. After all, one might argue that an outcome supported by both the ruling and opposition parties in parliament after intensive negotiation and compromise is more democratic and legitimate than an

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[21] Of course, this point might also be applicable when self-determination is realized through an indirect vote.

outcome supported by 51% of citizens. This legitimacy problem cannot be simply solved by requiring a qualified majority. Montenegro's secession referendum in 2006 is a case in point. The European Union demanded a threshold of 55% for independence to win, but it was unclear what would happen if the pro-independence side had won a percentage of votes between 50% to 55%, particularly because the State Union between Serbia and Montenegro had already been dysfunctional at that point (Friis 2007, 83–85). In general, especially when a self-determination conflict had been volatile and violent, winning more than 50% of the votes but not being allowed to gain independence lacks legitimacy in the eyes of the pro-independence citizens.

Finally, it has been argued that referendums are damaging to democracy. The biggest concern is that this mechanism "introduce[s] a competing source of legitimacy in tension with the basic constitutional principles of representative democratic systems" (Topaloff 2018, 137). This might weaken the legitimacy of elected representatives in the eyes of citizens (Butler and Ranney 1994, 20). In Africa, presidents have resorted to a controlled referendum to enhance their executive power, strengthen their legitimacy, or weaken opposition parties (Kersting 2014).

Overall, researchers are divided over the desirability of the use of referendums, and even those who endorse referendums believe that referendums work only under certain conditions. For example, Qvortrup (2014, 158–159) writes that violence could be avoided if the use of referendums is agreed upon by parties involved and if the international community is involved. [22] Likewise, Bogdanor (1981, 143–144) cautiously argues that "the referendum can indeed be of value in resolving territorial disputes in certain clearly circumscribed situations, but it cannot provide the will to agreement where none exists."

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[22] For a similar view, see Collin (2015, 126).

2.3. Rationales behind the Use of Referendums

The first two sections in this chapter suggest that we should not automatically assume that referendums are always the most appropriate method for self-determination. Empirically speaking, self-determination is not always accompanied by a direct vote either. This section explores the question of what motivates policy-makers to hold referendums.

It should be emphasized that this thesis does *not* aim to claim that one particular explanation is the singular reason behind the usage of referendums. There can be a number of reasons to hold a referendum, and various actors might support the same referendum for different reasons. The aim in this section is to elucidate the possible reasons behind the adoption of (self-determination) referendums, relying on the existing literature. The empirical chapters might reveal that one of these reasons is oft-cited, or that holding a referendum has been a consistent demand by one of the actors, but this should be studied through specific cases rather than abstract theories. The concluding chapter will reflect upon the findings through reference to the empirical chapters and in light of this section.

The existing literature on the rationales for using referendums largely focuses on cases within Europe, particularly referendums on EU integration. While various rationales have been discussed, they have been divided into two types. For example, Closa (2007) distinguishes between "agent-driven explanations" and "structure-driven explanations." The former is a rationalist account according to which politicians resort to a referendum in order to strengthen their negotiating positions, gain electoral advantage, or minimize their electoral loss. In contrast, the latter is a neo-institutionalist account according to which politicians hold a referendum because of the institutional environment they face including norms and precedents. Similarly, Morel (2007) distinguishes between rationales based on a logic of consequentiality

and a logic of appropriateness. Precedents and norms are important in the latter. Following this typology, the thesis first discusses instrumental rationales, according to which "actors use referendums strategically to achieve political advantage or policy objectives" (Bicquelet and Addison 2018, 3). The second subsection goes on to explore non-instrumental rationales such as norms, precedents, and legal obligations.

2.3.1. Instrumental Rationale

Since referendums are not always utilized even when a significant policy change is involved, scholars have pointed out that it is necessary to understand when referendums are held and why. Some scholars emphasize the normative elements behind the decision to hold referendums (see below). According to these researchers, direct confirmation of the citizens' wish is considered to be necessary for significant policy changes, but these normative arguments tend to expect that referendums are held whenever the stakes are high, whether it is about the sovereignty status of the territory or the delegation of sovereignty to the European Union. Yet the reality is contrary to this expectation. As we have seen, there are cases where self-determination was achieved without a referendum, including in Bangladesh (1972), the dissolution of Czechoslovakia (1992), and Kosovo (2008). Similarly, the EU Constitutional Treaty and the subsequent Treaty of Lisbon were not always ratified through a referendum in each country. In order to understand why some states hold referendums and others do not, it is imperative to take domestic politics into consideration (Prosser 2016). Indeed, one study finds that members from the same political parties support or oppose a referendum of a similar nature to strategically advance party interests (Bicquelet and Addison 2018). It has been argued that the demand to hold referendums on the EU Constitution Treaty was particularly strong among opposition parties (Closa 2007, 1320). Relatedly, political outsiders and populist parties typically claim that policies

should be based on the wish of the people rather than being determined by corrupt elites (Topaloff 2018, 133–34). As a result, many researchers have argued that politicians strategically choose to hold a referendum for various reasons, largely relying on cases within Europe.

One rationale is to understand the holding of referendums as "bargaining chips" (Topaloff 2018, 133) or "a tactical tool for negotiations" (Closa 2007, 1317). This use of referendums to ratify EU treaties is not common (Oppermann 2013; Closa 2007, 1317–18), but it has been used in other contexts. The use of a referendum by the Greek government in 2015 during the negotiations with the European Union about bailout is a case in point (Topaloff 2018, 133–34). By showing that the demand by the European Union was not acceptable to Greek citizens, the government tried, unsuccessfully, to gain leverage in the negotiation processes. Similarly, the unilateral Kurdish referendum in 2019 was also partially motivated by the desire to further their negotiation positions vis-à-vis Baghdad (again, in vain) (O'Driscoll and Baser 2019).

A referendum has often been used in the past when political parties or party coalitions were split over important issues. To prevent the parties or coalitions from breaking up, they decide to leave the decision to the public instead (Bjørklund 1982, 248). For example, the referendums in the United Kingdom on EU membership (1975) and on devolution in Scotland and Wales (1979) were held largely because the Labour Party, then the ruling party, was divided over each issue (Bogdanor 1994, 38–43). Likewise, the split within the Conservative Party was arguably one reason behind the Brexit referendum in 2016.

Referendums are also held when the executive tries to overcome veto players opposed to a specific outcome. For example, the ruling party in the parliamentary system might not have the (special) majority in parliament or in one of the two assemblies in a bicameral legislature. The executive president might also face a similar

situation (Closa 2007, 1319–20; Prosser 2016; Morel 2007, 1048–49). Likewise, when their policy is contentious, politicians might want to hold a referendum to legitimize their policies (Morel 2007, 1049).

Whether to hold a referendum also depends on how popular a specific policy that the ruling party is trying to promote is, whether it is the independence of a nation or further EU integration. If the policy is unpopular among citizens, politicians in democratic countries might prefer to decouple the policy from electoral politics. In other words, by holding a separate referendum on the issue at stake, it is hoped that the issue would cease to be a main agenda item in elections. One study finds that referendums are more likely to be held on European integration if elections are close in time and voters are not supportive of it (Prosser 2016). This decoupling might also occur if politicians try to attract voters who are uncertain about their major policies. For example, regional parties advocating for independence might make a pledge that they would hold a referendum on it, trying to garner voters who are uncertain about the idea of independence (Morel 2007, 1047).

Yet referendums are also held when the policy is popular among citizens. In these circumstances, politicians expect that holding a referendum on a popular policy would boost their legitimacy and support among citizens (Oppermann 2013). The Kurdish referendum in 2017 was held not because it was a ripe moment to hold a referendum to further negotiation with Baghdad but rather because the regional government of the Kurdistan Region of Iraq was desperate to regain popularity among its citizens (O'Driscoll and Baser 2019).

While the discussion on the use of referendums has largely taken place within Europe, Matt Qvortrup's ambitious study is exceptional in focusing on ethnic and national issues widely encompassing referendums on independence, annexation, autonomy, borders, power-sharing agreements/peace agreements, and the European

Union (Qvortrup 2014b). Widely known as a specialist on referendums, Qvortrup aims to conduct a systematic study in the subfield of referendums dominated by empirical examples without theories (Qvortrup 2014b, 3–4). Offering the "Competition Proximity Model" to explain the use of referendums, he argues that "if an actor is facing considerable competition," and "if the actor's preferred policy is a popular one" among voters, an actor would be more likely to resort to a referendum than otherwise because doing so "is likely to give the initiator a boost and strengthen his or her legitimacy" (Qvortrup 2014b, 6).[23] While competition is ill defined, it seems this term refers to either domestic electoral threat by opposition parties or external, military threat (Qvortrup 2014b, 58).

2.3.2. Non-instrumental Rationale

Others emphasize non-instrumental rationale behind the decision to hold referendums.

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[23] According to Qvortrup, this argument takes the form of a formal model as follows:

$$P_{ref} = \sum_{i=1}^{n} \frac{c}{(I_m - P_i)^2}$$

P_{ref} refers to the probably of referendums that "an actor, i, will submit a national or ethnic issue to a referendum" (Qvortrup 2014b, 6). C refers to the competition this actor faces, and I_m and P_i respectively denote the preference of the median voter and the preference of the actor on a policy issue concerned.

　　Unfortunately, this formal model raises more questions than answers. For example, the role of "n" is not clear. Arguably, there must be more than one actor, but if the value of C is always positive (this must be the case as probability P_{ref} needs to take a value between zero and one), this model suggests that adding more and more actors will increase the probability of referendums. However, reasons for this are not articulated, and it is not clear how one can ensure that the probability of holding a referendum will remain less than one.

　　He offers a number of statistical analyses to buttress his arguments, but his analyses similarly lead to various questions. They tend to have too few control variables without robustness tests. In general, he offers little explanation as to how the statistical tests are conducted. For example, it is not entirely clear how his key variables such as competition and the distance between the preference of the actors and the preference of the median voter are operationalized. One book review implicitly criticizes the statistical analyses by mentioning "a few heroic leaps along the way in order to operationalize and measure the concepts" (Whiting 2017, 431). Likewise, the universe of cases is mostly unclear, and when they seem to be shown, the number of cases is different from the N in the statistical analyses (Qvortrup 2014b, chaps. 3, 4). For example, in Chapter 4, the number of right-sizing referendums in Table 10 (p. 84–85) is 56, while the N in the statistical analysis is 58 (Qvortrup 2014b, 86–90). Moreover, in that statistical analysis, Qvortrup conducts logistic regression analyses, but it seems there is no variation in the dependent variable in the dataset because only cases where there was a referendum (i.e., the dependent variable) seem to be included in the dataset.

Although Qvortrup's model is based on instrumental logic to explain the use of referendums, he nevertheless notes that "it has become almost a universal norm that secessions and partitions require ratifications by the people in referendums" (Qvortrup 2014b, 156). Indeed, it is striking that his analyses of the cases of French New Caledonia and South Sudan are not based on his theory which relies on instrumental logic (Qvortrup 2014b, 37, 50). Similarly, according to one study on referendums in Europe, referendums are increasingly held because of the pressure from the public to hold one either because of "the existence of *precedents*" or because of "a political and cultural *norm* according to which on a certain issue the people should be consulted" (Morel 2007, 1057; italics in the original).

However, one needs to ask what substantiates these normative requirements. A simple argument that concepts such as popular sovereignty would necessitate referendums is not sufficient to explain the use of referendums, particularly considering that referendums are not always used to ascertain the wish of the population (Lenowitz 2015).

For instance, one can argue that referendums are held because of their high legitimacy for citizens. As we have seen, citizens believe referendums have more legitimacy than the decisions made in the representative political institutions (Butler and Ranney 1994, 14–15). Morel (2007, 1049) also refers to the legitimation function referendums can serve "by virtue of [a policy] being approved by the people." Legitimation through referendums makes it easier for the (probable) minority to accept a policy even if it is contentious (Morel 2007, 1049–50).

Another argument for a referendum is that through participating in decision-making on a specific issue, citizens would learn about its importance and relevance, strengthening the bond between citizens and the issue. For example, one justification for EU referendums is that this would provide an opportunity for citizens to study and

discuss EU issues, hopefully leading to more awareness on the European Union and a higher commitment on it (Closa 2007, 1323–24).

Lenowitz puts forward a different argument through his analysis of the rationales behind referendums held to ratify constitutions: elites, even if chosen by the population, might make an arrangement which serves their own interests but which is detrimental to the interests of the population. A constitutional referendum is a safeguard to prevent this (Lenowitz 2015).

The use of referendums has also been justified through precedents, imitation, and analogies. As Morel (2007) suggests, once a referendum has been held over a specific issue, it serves as a precedent in similar situations. For example, when the Scots were consulted via a referendum on the question of autonomy in 1979, it was difficult to legitimize the independence of Scotland, a more extreme option, without another referendum.[24] Imitations or analogies from other comparable cases are also used as justification to hold a referendum. Referendums held on EU issues in other countries have served as one rationale behind the proposals or decisions for holding a referendum on the same or similar issues (Closa 2007, 1325–26). Relatedly, proponents of referendums on the EU Constitution claimed that a referendum would be necessary based on the analogy of constitutional ratification referendums (Closa 2007, 1321). Hence, it is possible that actors feel a referendum should be held because a referendum was used in other similar, important cases to ascertain the wish of the people.

Referendums might also be the result of administrative concerns: a referendum

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[24] Interestingly, it seems to be less convincing to argue that a referendum is unnecessary just because previous sovereignty arrangements were made without a referendum. At the time of the dissolution of Czechoslovakia, Czech Prime Minister Vaclav Klaus justified his rejection of a referendum to ascertain the wish of the population regarding the dissolution, pointing out that previous important decisions such as the establishment of the Republic in 1918 were not legitimized through a referendum (*Narodna Obroda* 1992, 11). However, many in Czechoslovakia continued to regard the dissolution of the state without a referendum as illegitimate (Stein 1997, 248).

is easier to organize than an indirect vote. In this sense, a referendum is akin to a proportional representation (PR) voting system with a nationwide single district. In particular, if there is no legislative institution in the entity concerned, it would make sense to hold a referendum rather than creating a new legislative institution from scratch with new electoral laws. Indeed, as we have seen in the case of British Togoland and the Northern British Cameroons, referendums were used when there was no political institution in the territory concerned during the decolonization period. Likewise, even if there is a political institution in the territory, they might be just an instrument of the central government with the local representatives hand-picked by the government. If there is any doubt that the existing political institution has legitimacy in the eyes of local citizens, it might be better to hold a referendum rather than holding fresh, free, and fair elections based on the existing, flawed electoral law.

There could be legal reasons to hold referendums as well. Holding a referendum might be required in domestic law. In Canada, the Clarity Act (2000) seems to leave no room for an indirect vote to ascertain the wish of the people concerning their sovereignty status. Likewise, in France, the Constitution of the Fifth Republic required the consent of the people when the territory's sovereignty status changes (Article 53). Even though it is not immediately clear whether it always needs to take the form of a referendum, in practice, referendums have been held to ascertain the wish of the people (Şen 2015, 148–61). Relatedly, actors might believe a referendum is required in international law. For example, rebels in Bougainville demanded a referendum because they believed that General Assembly resolution 1541 (XV) would require it for decolonization (International Work Group for Indigenous Affairs 1992, 357).

2.3.3. Rationales behind the use of Post-conflict Self-determination Referendums: Potential Explanations

There has been a very limited number of analyses on why referendums are held in the context of self-determination. One study examines a unilateral self-determination referendum in Iraqi Kurdistan in 2017. It finds that the referendum was aimed at bolstering support for the ruling elites during a political crisis within Iraqi Kurdistan (O'Driscoll and Baser 2019). Another study analyzes unilateral self-determination referendums held by entities which *de facto* control their territory but are not widely recognized as a state, such as Somaliland or Abkhazia (Scheindlin 2012). The analysis does not distinguish between the intentions of policy-makers to hold a referendum and the (perhaps unintentional) impact of it. According to this study, the options available in referendums signal their political goals, whether it is independence or reunification with another state. Policy-makers might also resort to a self-determination referendum to bolster their claim for self-determination. As a democratic tool, the holding of a referendum might also be intended to indicate democratization of the entity concerned, both externally and internally. In addition, Qvortrup's study (2014), discussed above, is useful to explain the use of unilateral referendums, but its utility in explaining the use of referendums based on peace agreements is unclear, as he implicitly admits. In sum, this limited literature has shed some light on unilateral self-determination referendums but not on referendums based on peace agreements.

The recourse to a referendum as a result of peace agreements is likely to arise out of different dynamics and rationales from unilateral referendums. Relying on the wider literature on referendums in Comparative Politics as has been reviewed in the subsections above, this subsection tries to explore the existing literature's implications on the rationale(s) of self-determination referendums agreed upon between warring parties.

The theory that referendums are used as a bargaining chip would potentially apply to pro-autonomy parties. If they want to extract concessions from the central

government on the autonomy arrangement, they might argue for a referendum believing that the government would have to offer an attractive autonomy arrangement so that voters would choose it over independence.

Splits over the desired future status of the territory concerned might also explain the use of referendums. Caspersen (2019b) finds that communities divided over the desire for independence are willing to accept a transition period before self-determination based on the cases of French New Caledonia, Bougainville, Montenegro, and South Sudan. It is also plausible to argue that this division within each community explains why these cases adopted the holding of a referendum as the method of self-determination. Similarly, if there is an influential minority within the community seeking self-determination whose wish for self-determination is radically different from others, a referendum might be used to settle the matter in order to silence their claim.

In contrast, the use of referendums in order to decouple the issue from elections or to boost its legitimacy seems to be less relevant to self-determination referendums based on peace agreements. This kind of referendum use is most helpful when one can choose the timing of a referendum and is in a position to promptly organize a referendum. These conditions are not met when the holding of a referendum needs to be agreed upon between parties concerned. For the same reason, Qvortrup's model does not seem to fit these cases either (see above).

Moving to non-instrumental rationales, actors might pursue a direct vote in order to attach a high degree of legitimacy to the referendum outcome so that they can sideline potential or manifest spoilers who dispute the result (Collin 2015, 118–19). Equally plausible is the argument that pro-independence movements prefer to hold a referendum so that voters are more strongly attached to the newly independent state. It is also possible that parties in the conflict and/or the international community are

worried that representatives might express wishes contrary to the views of ordinary citizens as was arguably the case in West Papua in 1969.

Precedents, imitation, or analogies might also serve as a reason to hold a post-conflict self-determination referendum. For example, Eritrea's referendum was a precedent for the referendum in South Sudan (Thomas 2009, 12). As was shown above, administrative and legal reasons have in the past affected the decisions to hold referendums, and it is possible that these reasons are also behind the use of post-conflict self-determination referendums.

2.4. Concluding Remarks

Drawing on the International Law and Comparative Politics literature, this chapter first elucidated the three methods of self-determination: commissions of inquiry, elections, and referendums. It then reviewed the referendum literature, introducing the debate about the advantages and disadvantages of holding referendums. Based on the referendum literature, the third section explored rationales of referendums. In light of these preceding sections, the fourth section examined the rationales likely to underpin the holding of post-conflict self-determination referendums.

If policy-makers choose to hold a referendum for instrumental reasons, it is expected to serve their interests but not necessarily peace and democracy in war-torn societies, even though it may be the case that referendums contribute to peace and democracy in unintended ways. In contrast, if the rationale behind a referendum is, say, related to its high legitimacy, one might expect that a referendum would contribute to peaceful conflict resolution. Focused on the second and third questions of this thesis— i.e., the impact of post-conflict self-determination referendums—Chapter 3 examines what kind of impact we can expect from these referendums.

The case study chapters will reveal various rationales behind referendums.

Encompassing the three cases, it was the pro-independence movements that strongly demanded a referendum while international actors were largely supportive of this demand. In contrast, the Indonesian government and the Sudanese government preferred to conduct an indirect vote in East Timor and South Sudan respectively.

The pro-independence movements in Eritrea, East Timor, and South Sudan rationalized their demand for a referendum in various ways. The rationales are largely non-instrumental. Among others, the most important argument for a referendum, articulated clearly by the East Timorese but shared by Eritreans and probably by the South Sudanese, was that elites might betray citizens, and their votes might not reflect the true wish of the population. This point accords with Lenowitz (2015). Next, precedents were relevant but not necessarily in a way envisioned in the current literature. The predominant logic was not that the pro-independence movements would like to hold a referendum because it had been held in the past or in other cases. Rather, for the pro-independence movements, the failure of conflict resolution or settling the matter of self-determination in the past or in other cases was attributed to the non-use of a referendum or the lack of direct citizen involvement. This made them insist that a referendum would be necessary to conclusively resolve their self-determination conflict. For example, West Papua's 1969 "Act of Free Choice" was an important precedent in this sense, and the South Sudanese demanded a referendum because, in their view, previous arrangements including the 1972 Addis Ababa agreement failed since citizens were not directly involved.

Chapter 3
Post-Conflict Self-determination Referendums:
Serving Peace and Democracy?

Chapter 3 is focused on the second and third questions of this thesis:

2. What kind of impact do post-conflict self-determination referendums have on resolving the original self-determination conflicts?

3. What kind of impact, if any, do post-conflict self-determination referendums have on peacebuilding within the newly independent states?

While Chapter 2 explored possible rationales behind post-conflict self-determination referendums, which could be to do with their expected impact, Chapter 3 will try to fully delineate the expected impact of these referendums. It does so by first reviewing the existing conflict resolution and peacebuilding literature and then constructing opposing theories about the referendums' impact on peace and democracy.

The first section covers the general debate on the relationship between peace and democracy in peacebuilding processes. The second, third, and fourth sections more specifically focus on spoilers, elections, and referendums in peace processes, respectively. The fifth section, which shows the necessity of conducting detailed case studies to answer the questions of this thesis, elucidates the implications of the existing literature for post-conflict self-determination referendums and analyzes what kind of answers to the second and third questions of this thesis are expected.

3.1. Peace and Democracy: Complementary or Contradictory?

When the Cold War ended, there was the perception that humanity had finally reached

the "end of history" through the wide acceptance of Western electoral democracy as the singular legitimate form of governance (Fukuyama 1989). Moreover, it seemed that this view was buttressed by "science" as IR scholars and political scientists claimed to find that democratic states do not fight against each other internationally and that democratic states are less likely to see violence domestically (Paris 2004, 40–46; Doyle 1986; Russet and Oneal 2001; Rummel 1995). The United Nations and other international organizations promoted the holding of elections in the post-conflict context, believing that democracy would foster peace (Paris 2004, chap. 1).

However, others cast doubts on these policies. Studies found that democratization was associated with wars or ethnic cleansing (Mansfield and Snyder 1995; Mann 2005; Hegre et al. 2001), but the most direct criticism of democratization as part of the peace process came from Roland Paris' seminal works (Paris 1999, 2004). He argued that predominant policies in the 1990s to hold early elections as a crucial part of peacebuilding did not contribute to peace. Instead, these policies were potentially hindering peace by furthering social division among citizens (Paris 2004). Elections might polarize citizens as they are often hijacked by ethnic entrepreneurs and by "bad civil society" promoting extremism and intolerance. Moreover, elected representatives might try to undermine democratic rules and regulations supposedly constraining their power. All of these problems associated with democratization are compounded in post-conflict societies because they are emerging out of violent and severe social conflicts; because these societies are usually equipped with neither customs of peacefully resolving conflicts nor any cross-cutting divisions within a society which would help overcome community differences; and because they lack effective political institutions mediating democratic processes (Paris 2004, chap. 9).

In order to deal with these problems, Paris recommended the "Institutionalization Before Liberalization" strategy. Paris did not reject the goal of

democracy. He cautioned, however, that the predominant practice in the 1990s to hold early elections in the post-conflict context was not the best means to achieve that end. Relying on the classical liberal thinkers who emphasized not only liberalism but also the importance of functioning state institutions (Paris 2004, chap. 2), Paris argued the problem with post-conflict body politic is that they lacked the latter. Thus, establishing a judicial institution, a neutral and functioning police force, and the regulation of hate speech should be prioritized before holding elections. Economic reforms should not be hastened. Elections should be delayed until moderate parties and liberal civil society emerge and gain strength. When the peacebuilding finally reaches the stage of holding an election, electoral systems should be designed in a way that promotes moderate parties (e.g., a system where candidates need to receive a certain amount of votes from each ethnic community or subnational region) (Paris 2004, chap. 10).

Since then, researchers have examined how to transform a war-torn society into a viable democratic and peaceful society (Jarstad and Sisk 2008; Paris and Sisk 2009b; Newman, Paris, and Richmond 2009; Diamond 2006). According to Jarstad, "the central issue is not choosing between peace and democracy, but rather what steps toward peace *and* democracy should be taken, and how are they best timed, sequenced, and combined?" (Jarstad 2008, 35). However, solving this issue is never easy. The liberal peacebuilding thesis suggests that peace and democracy are mutually reinforcing, but the relationship between the two is much more complex, as Paris (2004) demonstrated. Democratic elections inherently have the characteristics of competition. Even though former warring parties are supposed to compete peacefully instead of through warfare, the conflictual elements remain as they seek to win a limited number of seats. This nature of elections is "potentially contradictory" to "conciliation-oriented peacebuilding" (Sisk 2009, 199).[25] As Paris (2004) suggested,

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[25] See also Paris (2004, 156–159).

to hold democratic elections within the confines of democracy and rule of law requires a substantial period of time to build institutions. However, this requirement in turn brings about the problems associated with delaying national elections. Legitimacy in the eyes of the local citizens is essential for successful peacebuilding, and it is difficult to deny that elections are the standard way for governments to acquire legitimacy (Reilly 2003; Jarstad 2008, 25; Sisk 2009, 198). Besides, the question of who runs an interim administration is not easy to solve if the period of such an administration will be long. During an interim period, one cannot avoid the dilemma where "a nondemocratic (often in many respects quasicolonial) power is asked to establish a democratic form of government" (Diamond 2006, 98).

However, these works have been criticized by critical peace researchers. In contrast to the problem-solving approach of the works cited above, the critical peace researchers "attempt to go beyond the limits of analysis established by hegemonic orthodoxies" (Pugh 2013, 11). They argue against the predominant (neo)liberalist peacebuilding approach—an approach of imposing a standardized set of institutions based on the assumption that "if only war-torn societies had been blessed with democracy, good governance, civil society, open markets and human rights, in short more like western states, then conflict would have been less likely" (Pugh 2013, 17). Instead, they have advocated peacebuilding approaches incorporating the traditional, indigenous, and local approaches for peacebuilding and focusing on the needs rather than rights of the local population. In other words, they prefer bottom-up approaches rather than the top-down standardized approaches imposed by the international community while recognizing the dangers of idealizing indigenous peace-making processes (Mac Ginty 2008; Mac Ginty and Richmond 2013; Richmond 2009). Their views have started to affect statebuilding practice with more and more international organizations emphasizing the "local," partially reflecting the failure of standardized

liberal peacebuilding approaches (Mac Ginty and Richmond 2013). However, critical peace researchers argue that this only pays lip service to the "local" with support going in practice to local actors who adopt the liberal peacebuilding approach. Local voices offering an alternative to the liberal peacebuilding approach are often excluded (Vogel 2016). As a response to the criticism by critical peace researchers, mainstream scholars have argued that these critical peace and conflict studies works are either too unspecific in their recommendations or in fact are seeking an alternative within the liberal peacebuilding approach (Paris 2010). Responding to this criticism, Richmond and Mac Ginty insist that their works have outlined specific ideas and they offer an alternative to peacebuilding based on liberalism (Richmond and Mac Ginty 2015).

While critical peace and conflict studies have offered important insights to post-conflict peacebuilding, the top-down imposition and dictation of peacebuilding by international actors seem to be less relevant in the three cases this thesis examines. This is because elites in newly independent states, through a surge of nationalism, tend to strongly reject international interference into domestic politics. This was most notably the case in Eritrea, but the South Sudanese elites, proud of their newly gained independence, also refused to accept various suggestions by international actors (see case study chapters). On the surface, East Timor is different in that it experienced a UN transition period. The transitional governance of UNTAET has been validly criticized for the hubris of the international actors and the failure to sufficiently engage with local actors (Chopra 2002; Richmond and Franks 2008). Nevertheless, the fact remains that it was Fretilin, a local actor, that maneuvered the political process and imposed a semi-presidential system against the backdrop of which the 2006 crisis occurred. While one can argue that Fretilin's maneuver was possible because UNTAET failed to understand the local contexts where they were operating (Richmond and Franks 2008; Ingram 2012), it was local actors who should be blamed for the 2006

crisis (for more, see case study chapters).[26]

In addition to these general debates about the complementary and contradictory nature of peace and democracy, scholars have more specifically debated whether self-determination, secession, and partition enhance the prospect of peace and democracy—an issue highly related to the cases this thesis interrogates.

One strand of the literature claims that resolving self-determination conflicts through the creation of new states enhances the prospect of peace and/or democracy. This is not to say that peace is guaranteed after partition, but partition is more likely to bring peace compared to other possible solutions (Kaufmann 1996, 150; Chapman and Roeder 2007). As Kaufmann claims, "separation is the worst solution, except for all the others" (Kaufmann 1996, 170).

Regarding original self-determination conflicts, some might fear that previous intrastate, self-determination conflicts would just continue as interstate war even if self-determination results in independence. Yet proponents of self-determination argue that interstate war is less likely because of the territorial integrity norm and norm against invasion (Lind 1994, 91).

Chapman and Roeder elaborate further and argue that *de jure* partition through the creation of new states increases the prospect of peace and democracy compared to *de facto* partition, autonomy arrangement, or unitarism (Chapman and Roeder 2007). This is because the problem of identity incompatibility will be reduced under *de jure* partition, the institutional arrangements are easier under *de jure* partition, and escalation of (now inter-state) conflicts is more difficult and victory is less likely under *de jure* partition.

Proponents also argue that self-determination will enhance representation and

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[26] Moreover, similar to Eritreans and the South Sudanese people, by the year 2000, the East Timorese also preferred to end the rule by UNTAET earlier rather than later, even if one initial reason was their frustration over UNTAET's lack of consultation with the East Timorese people.

participation among citizens, leading to a higher prospect of democratization. Unlike multi-ethnic states, citizens' participation in politics and their representatives are no longer hindered by those they are not affiliated with (Philpott 1995, 360). It is even said that nationalism "is a necessary, though not sufficient, condition for democracy in most places today" (Lind 1994, 94). After all, democracy requires not only a set of rules of the game but also a specific community whose members agree with abiding these rules. This community, in turn, is formed out of nationalism (Nodia 1994). Finally, a more nuanced account would posit participation and representation in politics are not meaningful when people vote along ethnic lines and the representatives of the minority are permanently excluded from the government. In these circumstances, "secession/partition of the two communities, where that option is available, is the best outcome overall" (Moore, 2001, 17).

The other strand of the literature, however, is far more pessimistic about the prospect of peace and/or democracy when self-determination conflicts end with self-determination and independence of the entity concerned. Sambanis' quantitative analysis does not find that partition's effect on the likelihood of war recurrence is significant (Sambanis 2000). As a matter of fact, sovereign states often interfere with each other's affairs, and the creation of new states might even mean that both sides can procure arms more easily and effectively (Sambanis and Schulhofer-Wohl 2009, 99-100; Horowitz 2003, 10).

Moreover, while proponents of partition assume homogeneity and common national identity within newly established states, Sambanis points out that newly established states tend not to be "ethnically pure" (Sambanis 2000, 441). Also, new identities, ethnic or otherwise, could emerge in newly independent states, leading to new conflicts within the newly independent states (Sambanis and Schulhofer-Wohl 2009, 100–101).

Even if newly independent states are more homogenous, it would mean that there are less cross-cutting cleavages, leading to less pluralism and the weaker prospect of democracy (Etzioni 1993). In fact, local leaders espousing self-determination might not be democrats but autocrats (Etzioni 1993). Relatedly, those demanding self-determination might not be sincerely pursuing the cause of self-government or autonomy but are merely trying to defend their economic interests (Kemp 2005). The burgeoning literature on rebel governance seems to be relevant here (Lyons 2016; Curtis and Sindre 2019). This literature has shown that former rebels often have difficulty in transforming their military organization into a political party committed to democracy. For example, examining rebel victory cases in Ethiopia, Rwanda, and Uganda, Lyons identifies four mechanisms by which rebel victory leads to an authoritarian regime (Lyons 2016). First, rebels winning the war tend to have disciplined and hierarchical structures with the leadership willing to use violence to suppress challengers. Second, they tend to have governance experience in the liberated areas during war. Yet governance during war would prioritize fighting its enemies, and as a result, rebels would see civilians as their auxiliary forces rather than as a body they are accountable to. According to Lyons, these two features of the party during the war would carry on after rebel victory. Third, rebel victory means that these rebels carry more legitimacy than a negotiated settlement would attach to them. Fourth, victorious rebels do not need to introduce power sharing. Instead, they would focus on consolidating their exclusive power over the territory.

Moreover, often claiming to be the sole representative during their struggle, former pro-independence movements tend to continue this narrative after coming to power, conflating their party with the state and delegitimizing other parties (Söderberg Kovacs 2008, 146–47). Even when rebels formally fight to achieve an inclusive, pluralist democracy, the official ideology is not always shared by all the leaders. As a

result, it is possible that hardliners with military powers are not espousing the official ideology, and once in power, that they govern in a way that betrays their cause (Burihabwa and Curtis 2019). The rebel governance literature suggests that self-determination and independence might secure peace but not democracy. The findings by Lyons (2016) are particularly relevant in the cases the thesis has examined. On the surface, it might seem that the cases Lyons studies and the three cases of this thesis are significantly different. Lyons analyzes cases of rebel victory, while this thesis has explored cases where independence was achieved through negotiation. Yet achieving independence through negotiation is akin to winning a war. Unlike rebels fighting a war to capture the central government, peace negotiations are not a compromise for pro-independence movements. This is because their aim is to force the central government, which is usually much stronger, to accept self-determination through negotiation. Hence, first, pro-independence movements which succeed in securing the exercise of self-determination are expected to have benefitted from disciplined and coherent leadership. Second and similarly, they would likely have rebel governance experience. Third, since achieving independence through negotiation was their solemn aim, pro-independence movements would gain high legitimacy among the population when independence is realized. Fourth, even if self-determination and conflict resolution are achieved through negotiation, pro-independence movements are not expected to share their power in the territory with the former central government.

Overall, the literature suggests both the complementary and contradictory nature of the relationship between peace and democracy. While both are essential for a lasting resolution of civil wars, "pursuit of democracy can undermine efforts to secure peace, and efforts to secure peace can undermine the meaning and quality of democracy" (Sisk 2008, 239). The next three sections will explore three more specific areas of research with respect to the dilemma of peace and democracy in war-torn societies.

Each section covers the issues related to spoilers, elections, and referendums, respectively. The implications of the literature on post-conflict self-determination referendums will be analyzed in the fifth section.

3.2. Peacebuilding and Spoilers

Transiting from war to peace and democracy is often obstructed by spoilers. The concept of "spoilers" was first proposed by Stephen Stedman, who cautioned that not all warring parties adhere to peace agreements in good faith and argued that they might instead act to spoil peace agreements. While spoilers have been defined in various ways (Nilsson and Söderberg Kovacs 2011),[27] this thesis adopts a broader definition of spoilers as groups "that actively seek to hinder, delay or undermine conflict settlement through a variety of means and for a variety of motives" (Newman and Richmond 2006, 102). Various actors including former rebels (Stedman 1997), governments (Conversi 2006), diaspora groups or multinational corporations (Newman and Richmond 2006), and pro-government militias (Steinert, Steinert, and Carey 2019) are identified as potential spoilers.

Researchers have studied what kind of actors are likely to become spoilers and how the international community should deal with them to build peace. Stedman's (1997) first study of spoilers offered a typology of spoilers based on their aims and commitment to these aims, and Stedman argued that strategies to deal with them differ depending on the type of spoilers. Limited spoilers whose aims are limited and reasonable are able to commit to peace processes if international actors induce them to do so through satisfying their demands. Greedy spoilers who increase or decrease their aims based on cost-benefit calculations should be dealt with by socializing these

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[27] For example, there is a debate about whether the term "spoilers" should be limited to those resorting to violence, whether actors other than former warring parties can be considered to be spoilers, and whether the concept can be used before peace agreements are formally signed.

actors into norms set by international actors about what is or is not acceptable, even though coercion might be also necessary to drive up the cost of continuing the warfare. Total spoilers are those whose worldview is zero-sum and are fully committed to achieving absolute power. Since they are impossible to satisfy, the international community should either leave them behind by continuing to pursue the peace processes to weaken their legitimacy, or resort to force or at least militarily support other parties committed to peace to weaken their power.

Others, however, have criticized Stedman's emphasis on the type of agents and instead emphasized structural factors behind agents' spoiling activities (Nilsson and Söderberg Kovacs 2011, 615–17). Greenhill and Major offer "a capabilities-based model" contending that "regardless of type, every real or potential spoiler will be as greedy as he thinks he can afford to be" (Greenhill and Major 2006, 37). According to their model, warring parties would be likely to become spoilers if they face oppositions with weak powers and if the international custodians of peace lack the political will or capability to deter or punish them. Hence, the international community needs to be committed to peace processes with sufficient power and resources to pressure, induce, or co-opt parties to the conflict. Zahar similarly argues that whether a warring party becomes a spoiler or not depends on their finances, such as the existence of a war economy or support from foreign patrons, and the hurdles associated with spoiling activities. Zahar argues that it is effective for peacebuilding if the international community contains the war economy, breaks the warring parties' ties to foreign patrons, delivers strong forces to deter the warring parties, incentivizes the parties to increase their will to peace and encourages them to build trust with each other (Zahar 2010). Overall, spoilers might hinder peace processes, but there are ways for international actors to deal with them.

3.3. Peacebuilding and Elections

There is now wide agreement among scholars that merely holding a free and fair election is not sufficient for the success of peacebuilding (Paris 2004; Paris and Sisk 2009a; Sisk 2009; Diamond 2006). To enhance the prospect for peace, institutions, in particular those aiming to establish security, need to be built before holding elections (Paris 2004; Sisk 2009, 220; Newman 2009, 30–31; Wolff 2010, 129–30). Caplan notes, "increasingly, the tendency is to view elections as just one element of a broader transitional strategy rather than as the focal point of a transition" (Caplan 2012, 11).

While Paris demonstrated the pitfalls of post-conflict elections, others have asked under what conditions they contribute to nascent peace. For instance, through the concept of "demilitarization of politics," Lyons explores how war termination and democratization would reinforce each other in the post-conflict environment. He argues that in order to overcome the legacy of fear emanating from the previous war experience, it is important to demilitarize politics by building effective interim institutions based on collaboration among local parties, promoting demobilization and disarmament, transforming former warring parties to political parties, building capable and impartial electoral commission, and promoting a strong civil society (Lyons 2002).

Höglund, Jarstad, and Kovacs argue that whether elections in conflict-ridden societies exacerbate violence depends on actors, institutions, and what is at stake in the elections. Concerning post-conflict elections, actors in the elections tend to include former warring parties, which might resume warfare when facing the prospect of losing power after elections. Also, their participation in the peacebuilding process does not preclude their recourse to violence to suppress others. Hence, demobilization and disarmament are key to avoiding these scenarios. Equally, institutions such as electoral systems, electoral commissions, monitoring, security forces, and the judiciary system are relevant in forming former warring parties' approach to elections. The stakes in the

post-conflict elections are generally high because losing parties not only face political marginalization but also potentially repression by winning parties, even though this might be mitigated through power-sharing pacts or constitutional guarantees of certain arrangements (Höglund, Jarstad, and Kovacs 2009).

More recently, quantitative research has enhanced our understanding of the impact of post-conflict elections. One quantitative study confirms that early elections would increase the risk of civil war recurrence, but it also finds that this effect can be mitigated by favorable conditions such as UN intervention, demobilization, and power sharing (Brancati and Snyder 2013). Another study has shown that elections would not be dangerous if accommodation provisions such as transitional power sharing, granting amnesty, and the release of prisoners are implemented prior to elections (Joshi, Melander, and Quinn 2017). Likewise, post-conflict elections would be much less dangerous if electoral reforms were promised and implemented (Keels 2018).

There have been more specific debates on whether power-sharing pacts really enhance the prospect of peace and democracy (Wolff 2010; Reilly 2005; Roeder and Rothchild 2005; Curtis 2013), whether national or local elections should be held first (Reilly 2008; Diamond 2006; Sisk 2008), and which electoral systems would best serve peace and democracy (Reilly 2008; Sisk 2009). On power sharing, it has been argued that power-sharing mechanisms have both advantages and disadvantages for peace and democracy in post-conflict societies (Reilly 2008, 2017; Sisk 2009). On the one hand, warring parties are not willing to lay their weapons down unless they are assured they will certainly retain some power during the transitional process. The opportunity of contesting seats in elections is not enough as they might perform poorly (Walter 2002). Moreover, power-sharing pacts would make a tyranny of the majority more difficult. This is important in an ethnically divided society where ethnic minorities have no chance of winning the elections (Wolff 2010, 134). Inclusive

executives are useful for this kind of society to sustain and consolidate democracy as this system lets every major community have a say over the decision-making (Reilly 2005).

However, in the long run, power-sharing arrangements might lack efficiency as there are too many veto players to make flexible decisions (Roeder and Rothchild 2005). Moreover, if each ethnic group is separately asked to elect their own ethnic representatives, these representatives do not have an incentive to become moderate vis-à-vis other ethnic groups. This is exemplified by the case of post-conflict Bosnia and Herzegovina (Paris 2004, 191–94). And—as seen in Burundi—a power-sharing arrangement does not necessarily bring inclusive and liberal governance (Curtis 2013). Finally, even short-term power sharing would inevitably affect the institutional design in the long run (Roeder and Rothchild 2005, 13–15). As a result, researchers are largely divided into those who reject power sharing, those preferring power sharing only during the transition period, and those envisaging the potential usefulness of more permanent power sharing institutions (Wolff 2010, 131–36).

Another debate is on the sequence of local (subnational) and national elections: holding a local election first, holding a national election first, or holding the two elections simultaneously. The demise of Yugoslavia led some to believe that national elections should be held first to prevent a centrifugal force by local parties with local agendas (Linz and Stepan 1996). However, this view is not necessarily shared by those working on post-conflict elections. In light of the consensus that national elections should not be held too early, holding a local election would help, to a certain extent, bridge the gap between the necessity of securing legitimacy in the eyes of citizens and the necessity of building institutions first. In addition, a local election will be a vehicle for both citizens and politicians to get used to electoral politics. While some recommend this bottom-up approach (Reilly 2002, 122, 2008, 170–71; Diamond 2006,

108–9),[28] it is worth taking seriously Sisk's injunction that there is no "one-size-fits-all" solution in the sequence of subnational and national elections (Sisk 2008, 251–52).

Relatedly, there is considerable debate over the electoral systems most suitable for post-conflict societies. The discussion centers on the issue of a proportional representation (PR) system, particularly a closed-list one; such a system has been favored by peacebuilders. As Reilly argues, "the simplest form of proportional representation – party-list PR – appears to have become the de facto norm of UN-administered elections" (Reilly 2008, 173). Likewise, Sisk notes, "there is a 'default preference' by policymakers for closed-list PR as an electoral system choice in postwar environments" (Sisk 2009, 221).

Similar to power-sharing arrangements, PR systems have been favored as they are supposed to produce an inclusive parliament by making it possible for even a small minority community to send their representatives to a parliament (Reilly 2017, 20–21; Sisk 2009, 220–21). In addition, there is also an administrative reason behind the use of PR systems. Large-district PR systems are easier to operate as they do not require demarcation of electoral districts, and voter registration is simpler (Reilly 2008, 173).

However, PR systems have their own weaknesses. Accountability is weak as each representative is not geographically connected to their own constituents. While a PR system with a nationwide single district may be easier from an administrative standpoint, there is a danger that party fragmentation will occur, because a small number of votes suffices to win a seat (Reilly 2017, 21). For example, in Iraq, the 2005 elections took place based on a PR system despite recommendation by experts, resulting in ethnic polarization and marginalization of small groups (Reilly 2008, 174).

Indeed, one study argues that states adopting PR systems based on peace agreements have largely secured peace but not necessarily democracy (Bogaards 2013).

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[28] More recently, Reilly (2017, 20) recommends simultaneous elections.

Furthermore, among ethnically divided states with established democracy, inclusive executives often come to power through plurality elections rather than PR systems. Hence, PR systems might not be a necessary condition for power sharing. In fact, depending on the demographics of the population, plurality elections might well be useful for minority representation (Reilly 2005). Sisk argues closed-list PR might be useful for a first post-conflict election but not for long-term democratization (Sisk 2009, 220–21). As a result, mixed systems using both PR and single-member districts are viewed as a better solution, though their track record is far from perfect (Reilly 2017, 21).

3.4. Peacebuilding and Referendums

Recently, there is a burgeoning literature on referendums used in the context of conflict resolution and peacebuilding. Initial works are largely critical of these referendums, particularly for the purposes of settling the matter of self-determination. Reilly has been one of the researchers who started the discussion of the use of self-determination referendums, albeit briefly in a wider context of post-conflict democratization. Referring to a number of cases, but mainly East Timor, he criticized the use of self-determination referendums, insisting on "the danger of using 'all-or-nothing' mechanisms" for conflict resolution (Reilly 2003, 179). Similarly, Mac Ginty is critical of referendums used to settle territorial issues in ethnonational conflicts, contending, "quite simply, a single referendum cannot determine the will of the people if there is not one people. The principal problem with referendums in situations of profound ethnonational conflict is that they are zero sum, creating winners and losers. Simple majoritarian devices do little to help manage the complexity of conflict" (Mac Ginty 2003, 3).

Lee and Mac Ginty discuss post-conflict referendums more generally, including

referendums on self-determination, constitution, and peace agreements (Lee and Mac Ginty 2012). Focusing on five post-conflict referendums but mainly the referendum experience in Guatemala in 1999 held on one component of the peace agreement,[29] they argue referendums alone are not enough to reconcile the divided ethnic groups. This is because referendum practice tends to suffer from the lack of consultation with stakeholders, failure and unwillingness on the part of the government to explain the issues at stake in the referendum, and the fear and mistrust on the part of the citizens toward the government. These authors insist, "unless deployed amid favorable prevailing conditions, referendums can do more harm than good" (Lee and Mac Ginty 2012, 44).

Others, however, believe that referendums can contribute to peace, exploring under what conditions referendums would increase or decrease the prospect of peacebuilding. Amaral examines how the negotiation processes of peace agreements would affect referendum outcomes through comparative case studies of the successful referendum on the Good Friday Agreement in Northern Ireland (1998) and the failed referendum on the Annan Plan in Cyprus (2004). She finds that an inclusive negotiation process with less secrecy and more participation from civil society would lead to more public information (and hence less voter manipulation), wider political support, and a stronger "yes" campaign. In contrast, an exclusive negotiation process means potential spoilers are left outside the process, giving them an opportunity and an incentive to hinder the peace process through campaigning against the agreement (Amaral 2018).

Loizides compares the Cyprus referendum (2004) and the pre-agreement referendum in South Africa (1992), where the latter endorsed the ongoing peace

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[29] The other four referendums are referendums in Cameroon (1972 on state structure), Cyprus (2004 on the peace agreement), Iraq (2005 on Constitution), and Rwanda (2003 on Constitution).

process between the white-minority government and the African National Congress. He finds that the latter type of "mandate referendum" is less risky than post-agreement referendums and also useful to sideline spoilers if they are successful (Loizides 2014). He also cautions against simultaneous but separate referendums in two constituencies, as in Northern and Southern Cyprus, since each side would try to emphasize their gain, which in turn can negatively affect the other constituent's attitude to the peace process.

McEvoy's (2018) comparative case studies of post-conflict constitutional referendums focus on the 1998 referendum in Northern Ireland and the 2005 referendum in Iraq. Interested in cases where there are multiple distinct peoples, she finds that a simple majoritarian rule is only appropriate for cases where there was a wide endorsement for an arrangement across these peoples.

Another debate on the timing of referendums has evolved, weighing the benefits of transition periods before referendums are held. Despite his criticism of post-conflict referendums, Reilly hails the examples of French New Caledonia and Bougainville with long transition periods as model cases where delayed self-determination referendums have allowed for the diffusion of tensions (Reilly 2003, 181–82, 2008, 169–70). In contrast, and drawing on the case of Northern Ireland, Mac Ginty argues the future referendum clause is "an open wound" in an otherwise "largely consociational agreement" (Mac Ginty 2003, 17). According to him, the referendum clause has made full cooperation difficult between the parties which prefer different outcomes in the referendum (Mac Ginty 2003). In addition, Collin, in her case studies of French New Caledonia and Bougainville, reports that polarization of citizens has continued to exist even after a long-term interim period (Collin 2018).

The most comprehensive comparison of post-conflict referendums thus far is found in the works of Collin (Collin 2015, 2016, 2020). She offers a typology of what she calls peacemaking referendums based on a two-by-two matrix. According to her

most recent typology,[30] the four types are created based on

1. Whether citizens are asked to endorse the decisions made by elites (i.e., the vote   is about a peace process or a peace agreement) or to settle a matter which elites cannot decide themselves (i.e., self-determination and territorial questions).

2. Whether the referendum is initiated by the government or out of negotiations.[31]

This results in four types of referendums: process-initiating referendum, agreement-ratification referendum, agreement-concluding referendum, and process-substitution referendum.

She contends that different risks are associated with each type of the referendum (Collin 2020). First, a "process-initiating referendum" (a referendum initiated by the government asking about a peace process/agreement) is useful to marginalize spoilers and legitimize the peace process/agreement concerned, but there is a danger of a blocked vote, which would stall the process altogether.

Second, an "agreement-ratification referendum" (a referendum arising out of the negotiation process asking about a peace process/agreement) has a similar benefit in marginalizing spoilers and legitimizing the peace process/agreement, but it is susceptible to voter manipulation, and there is a risk of the rejection of the peace

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[30] Her three works offer a similar but slightly different typology.

[31] These criteria are not always very clear-cut in practice, and her works show that despite the similarity of the typologies, some of the referendums are categorized differently within them (Collin 2015, 2016, 2020). On the first criterion, Cyprus' 2004 referendum was categorized as concerning the question on territory in Collin (2016), while the same referendum is categorized as concerning the question on peace agreements in Collin (2020). On the second criterion, Collin (2020, 722) concedes that "cases in which governments have pushed for referendums outside of negotiations do not take place completely outside of negotiated settlements." It seems that ultimately the question is to what extent the government is eager to hold a referendum, but this implies that the nature of the second criterion is far from being binary or clear-cut.

process/agreement.

Third, an "agreement-concluding referendum" (a referendum arising out of the negotiation process asking about territorial questions) is beneficial in resolving territorial questions but risks electoral violence and a blocked vote because of its zero-sum nature, as is exemplified by the case of Abyei's stalled referendum process. Falling into this category are the 2011 referendum in South Sudan, the 2019 referendum in Bougainville, the 2018 French New Caledonia referendum, and an aborted referendum in Western Sahara.

Finally, a "process-substitution referendum" (a referendum initiated by the government asking about territorial questions) has a similar benefit to an agreement-concluding referendum but risks electoral violence, as is exemplified by the case of East Timor. In addition to the 1999 referendum in East Timor, Eritrea's 1993 referendum is included in this type.

Elsewhere, Collin argues that consensus among key stakeholders would lead to the success of peacemaking referendums (Collin 2015, 126). According to her, there are three advantages of peacemaking referendums. First, a coalition of those favoring a specific outcome would emerge across cleavages and former rivals. Second, international actors are actively involved in referendum processes, guaranteeing that the result is honored and implemented. Third, the referendum, through delivering a clear result and settling the debate conclusively, delegitimizes spoilers not happy with the outcome (Collin 2015, 118–19).

Finally, Qvortrup's study on self-determination referendums offers a quantitative study examining the relationship between the holding of the referendum and war. His data consist of both violent and peaceful "secession attempts," and he examines whether the holding of a referendum was followed by war. He argues that holding a referendum, particularly after negotiations, would reduce the probability of

war (Qvortrup 2014b, chap. 3).[32] Based on his analysis and his knowledge of cases, Qvortrup contends "there are two factors involved in nonviolent referendums: (1) the international community guarantees proper conduct of the referendum and recognizes the result and (2) the referendum is the result of a negotiation between both sides" (Qvortrup 2014b, 158).

3.5. Do Post-conflict Self-determination Referendums Contribute to Peace and Democracy?

As the above literature review indicates, there is a very limited literature examining referendums used in peace processes. The literature does not shed sufficient light on the questions this thesis poses for three reasons. First, most of these works do not distinguish between self-determination referendums and referendums held on peace agreements. Even though addressing post-conflict/peacemaking referendums in general is useful for these authors' purposes, it is important to acknowledge that self-determination referendums have their own characteristics different from referendums on peace agreements. The stakes are much higher in the former compared to the latter case, and there is usually no way to change the outcome once the vote takes place, unlike peace agreements which can be renegotiated if necessary. As a result, it is imperative to examine self-determination referendums as a separate sub-category of post-conflict referendums.

Second, the literature examines slightly different effects referendums have over peacebuilding efforts: the lack of violence during and immediately after the referendum process (Reilly 2003), the lack of war (Qvortrup 2014b), amelioration of

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[32] The same criticisms of his statistical analysis made in the previous chapter, such as the small number of control variables and the lack of robustness check, applies to this analysis. Among others, the level of democracy and the previous experience of wars are not included as control variables. An interaction term between negotiation and referendums—which should be necessary to gauge the effect of the referendum after negotiations—is not included either.

tensions between the former warring parties (Lee and Mac Ginty 2012; Mac Ginty 2003), or the facilitation of peace processes (Loizides 2014). Importantly, none of the literature has examined the potential effects a referendum has over democracy or democratization, which has been discussed in the wider referendum literature (see Chapter 2). Considering that peace and democracy are often intertwined in peacebuilding processes, it is imperative to analyze whether referendums helped build democracy or not. Moreover, partially because most of the analyses are focused on referendums not related to self-determination and independence, no analysis has been provided so far on how referendums affect peacebuilding within the newly independent state.

Third, these studies have rarely addressed the cases this thesis examines. Most of them are focused on referendums on continuing peace negotiations such as in South Africa in 1992 or on peace agreements such as in Northern Ireland in 1998 and Cyprus in 2004. Eritrea's referendum has not been studied at all. While Collin's thesis (2016) examines the cases of East Timor and South Sudan, she does not empirically analyze the effect of the referendum on the newly independent state in these cases.

In addition to the lack of literature on post-conflict self-determination referendums, there are divergent understandings of the utility of post-conflict self-determination referendums, as discussed in the introductory chapter of this thesis. Researchers typically argue that these referendums are dangerous because of their zero-sum nature. But international actors believe in the utility of these referendums to bring peace and democracy in war-torn societies. They believe that referendums are more likely to accurately reflect the wish of the population, leading to decisive conflict resolution, than indirect votes. They also hold the view that these referendums enhance the prospect of democratization after independence.

These different understandings coexist because one can construct different

theories about the impact of post-conflict self-determination referendums. Drawing on the existing theoretical literature, it is possible to arrive at a completely different account of the likely impact of these referendums, as provided below. It is only through the analysis of empirical cases that we can discern the actual impact of the referendums.

3.5.1. Impact on the Resolution of Original Self-determination Conflicts

The second question of this thesis asks what kind of effects referendums have on the resolution of the original self-determination conflicts, particularly on warring parties' attitudes to the referendum process and on the long-term relationship between the continuing state and the newly independent state. In referendums, (likely) winners should be happy to go through the referendum process and accept the result. Hence, it is more important to analyze how losers are likely to behave. We can construct different theories about the effects of referendums on the attitudes of losers, which in turn are predicted to induce different impacts on the long-term relationship between the continuing state and the newly independent state.

If one emphasizes the zero-sum nature of referendums, referendums lead to high mobilization and extreme rhetoric, which only strengthen the emotional attachment to the territory of the losing side. This implies that referendum processes would not only lead to violence by those desperate to win but also make it psychologically impossible for losers to accept the results.

As discussed in Chapter 2, referendums force people to choose one option over the others—and usually over only one other option. This zero-sum nature is antithetical to the current policy recommendations of devising the electoral system so that a diversity of voices can be heard and moderate parties are rewarded (Horowitz 2000, Paris 2004, Reilly 2017). As Lee and Mac Ginty (2012, 47) observe, "a referendum has the potential for grossly oversimplifying a complex problem into an either/or

binary."

The zero-sum nature of referendums is further enhanced for self-determination referendums for two reasons. First, not only is the decision irreversible, but the stakes are high. Şen (2015, 36) notes, "the difficulty with secession referendums by a simple majority is that it forces a minority of people (which may be as high as 49%) to change their political affiliation, their citizenship and the area of jurisdiction of their government." While referendums in general are seen to have this irreversible effect, there is some variation in the degree of irreversibility. For example, if national leaders lose a referendum on peace processes, they can minimize the damage to peace processes by stepping down (Loizides 2014, 241). Nor did the rejection of the peace agreement in Colombia's referendum in 2016 end the peace process (Collin 2020, 727). In contrast, the outcome of a self-determination referendum, particularly if it resulted in independence, is virtually irreversible. Once independent, it is very difficult for the newly independent state to rejoin the continuing state.

Second, in self-determination referendums, citizens often know which way they want to vote. Thus, campaigners need to mobilize as many people as possible among those on their side without taking into account those on the other side. Because those on the other side would not vote for them anyway, the campaigners have no reason to take a moderate position. Rather, in order to mobilize more supporters, campaigners need to emphasize how important the referendum is, what kind of bright future their choice would bring about, and how the consequence would be fatal if they fail to win. However, these arguments may only serve to increase tensions and possibly even incite violence between the two sides. The violence during the Catalan referendum in 2017 confirms that even a developed democratic country is not immune to these dynamics. Of course, the same tension and violence might also result from an indirect vote (Horowitz, 2000, chap. 7). Yet, unlike an indirect vote, there is neither a way to devise

the system to contain hardline voices nor a possibility that a compromise will be discussed in the legislature after the vote. Reilly observes that "many referendums have the effect of heightening tensions, forcing both voters and politicians to adopt fixed positions and pushing rhetoric towards extreme positions" (Reilly 2003, 179). The tension and extreme positions are likely to endure even after the referendum, which suggests that the resolve of losers against the outcome might only strengthen during and after the referendum. Overall, self-determination referendums—whose nature is binary, whose stakes are the future sovereign status of the territory, and whose result is usually irreversible—can easily lead to high mobilization, violence, and the stronger emotional attachment to the territory concerned. These psychological considerations make it difficult for losers to accept the results. In turn, in the long-term, this rejection of the referendum result can haunt the relationship between the two independent states.

In significant contrast, however, it is also possible to theorize that referendums make it more likely for the losing side to accept the result than an indirect vote. This is because referendums have high legitimacy, as we saw in Chapter 2. This makes even those opposed to the outcome respect the wish of the majority. Moreover, the referendum result is more likely to accurately reflect the wish of the population than an indirect vote. If the question of self-determination is settled via an indirect vote, complaints that the outcome was rigged or not reliable are more likely. For example, concerning East Timor, Alexander Downer recalls that holding an indirect vote would "raise questions about how legitimately the people were elected to that position, had the TNI [the Indonesian military] interfered with the election, and had the election rigged in one way or another. You would have ended up with a huge debate about all of those issues."[33] Similarly, with regard to South Sudan, a former senior UN official

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[33] Interview with Alexander Downer, London, February 2020.

argues that a referendum is a method that is quantifiable and unambiguous, and thus it would be difficult for anyone to dispute the results.[34] If the result of an indirect vote was perceived to be inaccurate, the losing side has difficulty accepting it. In contrast, a well-organized referendum diminishes the likelihood that the losing side will contest the result. Montenegro's referendum in 2006 is a case in point. The anti-independence political parties, even though they filed complaints and were unwilling to accept their defeat, did not actively obstruct the procedure for independence any further (Friies 2007, 86). In fact, even if spoilers do not accept the outcome of the vote, they are sidelined because other actors accept the legitimacy of the vote and consider the attitudes of spoilers as illegitimate (Collin 2015). According to this argument, after the referendum, the long-term relationship between the two states is expected to improve since the referendum resolves the question of self-determination once and for all.

The third possibility is simply that referendums would not have either impact. On the one hand, the zero-sum nature of referendums is not as worrisome as those opposed to them claim. On the other hand, the high legitimacy of referendums does not convince the losing side, either. From this perspective, spoilers are managed as the current spoiler literature predicts: it is the sheer military, political, or economic power that deters potential spoilers. Of course, even when one adopts this view, it is possible to argue that referendum processes could help manage spoilers. Referendums are accompanied by significant international participation and involvement (Collin 2015, 118). The international community, as a custodian of the peace process, can monitor the activities of spoilers and could intervene if necessary to make sure that the vote is held and the outcome is honored. These might be crucial in managing spoilers (Greenhill and Major 2006; Zahar 2010). This view predicts that referendums have no impact on the long-term relationship.

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[34] Interview with a former senior UN official, March 2019.

3.5.2. Impact on Newly Independent States

The third question of the structured, focused comparison will ask whether and how referendums affected newly created independent states. If the impact of post-conflict self-determination referendums on original self-determination conflicts largely depends on how they influence the attitudes of the losing side, their impact on newly independent states hinges on whether they have any impact on the winning side, namely those supporting independence in the cases this thesis investigates.

One argument is that the unity and common identity among the population of the newly independent state is strengthened through the referendum process. According to Collin, parties preferring a specific outcome would form a coalition to effectively campaign for the outcome as is exemplified in East Timor and South Sudan (Collin 2015, 118). These coalitions "improve the context of … working within new state structures the referendums bring about" (Collin 2015, 118). The enhanced unity among political elites and the local population would then mean that the tensions within the new state will be ameliorated.

Furthermore, this enhanced unity also suggests that democratization will be easier. According to the literature optimistic about the prospect of democratization after partition, representation and participation are expected to be most effective for a nation-state (Lind 1994; Philpott 1995; Moore 2001). The newly independent states emerging out of self-determination referendums will be united behind the cause of nationalism, meaning that successful democratization is more likely.

The coalition of the pro-independence groups is not the only reason for the stronger identification with the new state. The implication of the zero-sum nature of referendums is that the national identity might be strengthened as a result, but this is accompanied by the increased intolerance against the residual minority in the newly

established states not identifying with this state. Thus, the corollary of this strengthened national identity might be that the residual minority is more likely to be repressed, persecuted, or expelled. This has been one of the fears among those against self-determination (Horowitz 2003, 53–55). This point is in line with the finding of Lee and Mac Ginty, namely, that the five cases of post-conflict referendums they examined "tended to reinforce rather than reduce exclusion" (Lee and Mac Ginty 2012, 58–59).

In contrast, referendums might not have any lasting impact on the unity and identity of citizens in the newly established states. This is not to say that citizens do not support the cause of independence, but it suggests any internal divisions could be simply masked by a referendum. As Caspersen observes with regard to unilateral self-determination referendums, through asserting popular legitimacy through referendums, "the leaders strive to present a united front and hope to avoid the airing of internal divisions" (Caspersen 2011, 342). It is entirely plausible to argue that post-conflict self-determination referendums are no exception to this point: referendums might present the people as united, but there is no guarantee that internal divisions do not exist.

Indeed, it is important to note that newly independent states are not necessarily ethnically homogenous (Sambanis 2000, 441; Horowitz 2003). In fact, all three of the newly independent states examined in this thesis are multi-ethnic states. *Even when* citizens almost homogenously support independence, which suggests that citizens consider themselves to belong to the same nation, this does not mean there would be no internal strife. After all, ethnic groups often fight each other even if they consider themselves to belong to the same nation. If there is no lasting impact on identities, referendums would not have any impact on amelioration of tensions.

The same point suggests that the unity during the referendum does not indicate

democratization would be easier, either. Instead, considering all of these entities were governed by former rebels, the rebel governance literature's largely pessimistic view about the prospect of democratization suggests that democratization after self-determination is far from certain (Lyons 2016).

Finally, whether referendums have impact on the unity and common identity among citizens of the newly independent states or not, the literature on post-conflict elections suggests that referendums might have impact on democratization. On the one hand, referendums might have negative impacts on the prospect of democratization. Eager to secure the outcome they prefer in referendums, pro-independence groups might constrain competing and diverse views on the future of the territory. Prior to the referendum, "homogeneity contained in the nationalist discourse" might be prioritized over "competition and pluralism entailed by democracy" (Caspersen 2011, 348). It is even possible that this undemocratic mentality, strengthened during the referendum process, would continue to affect the war-torn society after independence.

This attitude, moreover, might not be scrutinized by the international community. The peacebuilding literature has criticized the international community for rushing to hold early free and fair elections. These elections are set as the goal of the peacebuilding mission even when conditions for democracy are not yet formed (Reilly 2003, 177; Caplan 2012, 11; Jarstad 2008, 25; Paris 2004). When the peace deal includes a self-determination referendum, however, the referendum can become the predominant goal of peacebuilding efforts. With the emphasis on the referendum as the goal, other important aims of post-conflict statebuilding—such as institution building, rule of law, and even elections—receive much less attention than they deserve. In the 1990s, holding a free and fair election was regarded as the indication of the success of the peacebuilding effort, most notably exemplified in Cambodia. Likewise, in the eyes of the international community, holding a free and fair

referendum might indicate the success of peacebuilding while marginalizing other important failures of peacebuilding missions. For example, the elections in Southern Sudan (2010) prior to a referendum did not meet the standards of "free and fair" democratic criteria. There was no election in Eritrea prior to its independence. Nevertheless, the lack of democratization was not significantly criticized by the international community and did not prevent these entities from achieving independence after a free and fair referendum (de Vries and Schomerus 2017).

Relatedly, in the contemporary era, being "democratic" is an important criterion when an entity tries to join international society (Caspersen 2008, 122–23; Gardner 2008, 532–33). However, even if the entity is not democratic, holding a "democratic" free and fair referendum gives the impression to the world that an emerging state is democratic. However, just holding free and fair referendums does not indicate that the newly independent state is democratic.

A contrasting argument is that, irrespective of the referendum's impact on the unity and identity of the winning side, post-conflict self-determination referendums, as an occasion for citizens to vote on the most fundamental question of statehood, enhance the prospect of democratization. Under the supervision of the United Nations, it is often the first time citizens cast their vote in a democratic atmosphere. Democratization is not an easy process for any entity, let alone for conflict-ravaged societies. For a consolidation of democracy, it is necessary that democracy becomes "the only game in town" (Linz and Stepan 1996). For that, citizens and politicians need to get used to democratic procedure. One study finds that even if a country starts with flawed elections, the quality of elections tends to get better as more and more elections are held (Lindberg 2004). Likewise, researchers specializing in post-conflict elections often argue that local elections should be held first. It is true that this recommendation is given partially in order to solve the dilemma of the danger of early national elections

and the necessity of creating a legitimate body based on the principle of democracy. But an additional reason is that citizens, local politicians, and political parties would gain some experience in democratic procedures (Diamond 2006, 108; Reilly 2002, 122).

Referendums can be another opportunity for citizens and politicians to get used to democracy. Through voting where each vote counts equally toward the result, people will not only gain one more experience of democracy but will also feel they have participated in a meaningful democratic process. Politicians would also learn that it is ultimately citizens who matter in democracy. Regarding the referendum in Montenegro, Friis observes, "by supporting the [referendum] process from beginning to end, while remaining neutral to the political result [of the referendum], the international community allowed local politicians to take responsibility and ownership. *Only that way can new democratic institutions take hold*" (2007, 87; italics added). In fact, as the case studies reveal, across all three cases international actors hoped that the referendum would strengthen the prospect of democratization in the newly established states.

Overall, there are two sets of opposite accounts with regard to the impact of post-conflict self-determination referendums on the newly independent states. First, referendums might:

(1) strengthen unity and common identity on the winning side, leading to less internal division, higher prospect of democratization but possibly intolerance towards minorities, or

(2) not have any lasting impact on unity and common identity on the winning side.

Second, referendums might:

(3) positively contribute to democratization through the experience of casting a

ballot among citizens, or

(4) weaken the prospect of democratization because of the excessive focus on the referendum.

3.6. Concluding Remarks

This chapter has offered a review of the relevant literature in conflict/peacebuilding studies in order to approach the research questions posed in the thesis. The first section provided a discussion of the compatibility of peace and democracy in the post-conflict society. The following three sections examined the literature on spoilers, elections, and referendums in peace processes, respectively. These sections showed that while we can gain some insight into potential answers to the research questions this thesis poses, none of the existing studies has directly addressed these questions, and the empirical studies on the three cases are scarce. In light of the divisions between researchers worried about the zero-sum nature of the referendums and international actors preferring referendums as the method of self-determination, the fifth section delineated different theories about the expected impact of post-conflict self-determination referendums on the resolution of original self-determination conflicts and newly independent states.

The case study chapters will find various impacts of the post-conflict self-determination referendums on peace and democracy in war-torn societies. Table 2 summarizes the outcome of the five factors in each case.

Table 2: The Five Factors in the Three Cases

Case	Eritrea	East Timor	South Sudan
Spoilers	1. Ordinary Ethiopian Citizens (potential spoiler)	1. Opposition Parties in Indonesia (potential spoiler) 2. The Indonesian Military (manifest spoiler) 3. The Pro-Autonomy East Timorese Militia (manifest spoiler)	1. The Sudanese Government (potential spoiler)
Long-term Relationship	War (1998-2000)	Good	Border Disputes (2012)
Ameliorations of tensions	No	No	No
Democratization	Failure (dictatorship)	Success	Failure (civil war)
International Attitudes after the Referendum	Optimism	Optimism/ Decline in Engagement	Cautious Optimism/ Decline in Engagement

With respect to the impact of the referendums on the resolution of the original self-determination conflicts, the case studies indicate that the referendum process did not have a significant impact on the losing side. While the psychological claim based on the zero-sum nature was not substantiated, the losing side did not willingly accept the result either. Instead, the attitudes of spoilers on the losing side were largely determined by the structural conditions surrounding warring parties. As the spoiler literature suggests, potential or manifest spoilers were deterred or sidelined because international or other domestic actors committed to the referendum process possessed sufficient military capability and political will to conduct the referendum and implement its result. In South Sudan, for example, the SPLA's military power, together with the resolve of the international community to deliver the referendum, led

Sudanese president Bashir, a potential spoiler, to endorse the referendum.

The natural extension of this finding was that the long-term relationship between the newly independent state and the continuing state did not seem to be much affected by the holding of a referendum. It seems that simply holding a referendum and settling the matter democratically does not automatically yield a good relationship between the two states.

Concerning the impact of post-conflict self-determination referendums on the newly independent states, the thesis finds that the referendums did not enhance the unity among leaders and citizens of the newly independent states. The unity presented during the referendum process did not endure after the new state gained independence.

Instead, two links between referendums and democratization identified in the thesis based on the post-conflict election literature were observed. In East Timor, the referendum seems to have contributed to the prospect of democratization and its sustenance by making citizens aware of the importance of voting. In contrast, in Eritrea and South Sudan, international actors focused on the referendum during the transition period, and democratization in these two entities was sacrificed as a result with the EPLF and the SPLM consolidating their power on the ground during the transition period. The failure of democratization in these two cases can be traced back to this period.

Finally, the referendums had unintentional impact on international attitudes toward the newly independent states. The unity among the pro-independence groups in advance of the referendum and the overwhelming vote for independence gave the wrong impression to international actors. They incorrectly believed that the local actors were also united for matters other than gaining independence and that this unity would continue. They underestimated the level of tension within the newly independent state because of this mistaken belief in unity. For the same reason,

international actors also assumed that the unity meant that democratization would not be difficult. As a result, international actors became overly optimistic about the future of the newly independent states and were not well placed to prevent dictatorship in Eritrea, the 2006 crisis in East Timor, and the 2013 civil war in South Sudan. Overall, international actors wrongly assumed that the referendum's result suggested that leaders and citizens were united even though the reality was that they were not.

The next six chapters are dedicated to the three cases of this thesis. Each case study is composed of two chapters, with one chapter providing background information and the other chapter analyzing the rationales of the referendums and their impacts on peace and democracy.

Chapter 4

Referendum in Eritrea (1993):

From Self-determination Conflict to Dictatorship

The referendum in 1993 in Eritrea has not been extensively studied in the peacebuilding literature. For example, Paris' otherwise comprehensive case studies of liberal peacebuilding approach do not include the case of Eritrea (Paris 1999, 2004). Paris seems to have excluded Eritrea as there were no major international peacebuilding operations, the focus of his research (Paris 2004, 60). Caspersen does not include the case of Eritrea as there was no formal written peace agreement, which was the focus of her research (Caspersen 2017, 192n5). Finally, Collin, whose research examines thirteen referendums, excludes the case of Eritrea because the referendum was not intended to advance peace and it was unilateral in her view (Collin 2016, 16).[35] However, even though it is true that Eritreans liberated the region prior to a referendum, the referendum was not unilateral as it was endorsed by both the Ethiopian government and the United Nations.

When the referendum in Eritrea is referred to briefly, it is regarded as a successful case (Qvortrup 2014b, 3). On the surface, this characterization makes sense. Unlike the case of East Timor, there was no significant violence, and the referendum, monitored by the United Nations, was widely recognized as free and fair. It clearly ended the decades-long civil war in Eritrea. This chapter offers the background information on how the conflict came about, how it was resolved, and what kind of polity Eritrea became after gaining independence.

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[35] In her more recent work, she includes the case of Eritrea as one of the 31 peacemaking referendums (Collin 2020).

4.1. Decolonization of Eritrea

Eritrea, colonized by Italy, was placed under British military occupation when the Allied forces expelled Italy from Eritrea in 1941. After World War II, the Four Powers (Britain, the United States, France, and the Soviet Union) could not agree on the future of Eritrea, and the issue was eventually referred to the United Nations General Assembly. The General Assembly Resolution 289(IV) recommended that a commission made of representatives from five states be established to propose a solution to the Eritrean problem. For this, the Commission was tasked to consider not only the wishes of the inhabitants but also "peace and security in East Africa" and "the rights and claims of Ethiopia" including its "legitimate need for adequate access to the sea" (UN General Assembly 1949, C.2.).

Meanwhile, Eritreans had been divided between those who preferred independence and those who preferred union with Ethiopia (Iyob 1995, 65–73). The Commission visited the territory between February and April 1950 amid violence, but it failed to reach consensus as to the proposals for Eritrea's future. The majority of the commission, namely, Burma, Norway, and the Union of South Africa, submitted a memorandum supporting close association with Ethiopia, believing that independent Eritrea would not be economically viable (United Nations Commission for Eritrea 1950, 16, paras. 99–100), and writing that "it is not unlikely that a majority of the Eritreans favour political association with Ethiopia" (United Nations Commission for Eritrea 1950, 21, para. 132). More specifically, Burma and South Africa favored a federation of Eritrea and Ethiopia while Norway preferred complete integration (United Nations Commission for Eritrea 1950, 24–28). In contrast, Guatemala and Pakistan proposed independence for Eritrea considering that such an entity would be both economically viable and in line with the wish of the majority of its inhabitants (United Nations Commission for Eritrea 1950, 29–36). There was no direct or indirect

vote on the matter of self-determination. In the end, General Assembly Resolution 390(V) recommended that "Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown" (UN General Assembly 1950, A. A. 1). The resolution also recommended an appointment of a United Nations Commissioner who would "prepare a draft of the Eritrean Constitution," and "advise and assist the Eritrean Assembly in its consideration of the Constitution" (UN General Assembly 1950, A. A. 12). The federation between Eritrea and Ethiopia was inaugurated in 1952 after the Eritrean Constitution and the Federal Act came into effect.

It is important to acknowledge that the case of Eritrea took place before the right of self-determination had become fully established in international law. Unlike in later cases where the wishes of the peoples were regarded as paramount in deciding the future status of a territory, other factors such as peace and security in the region and Ethiopia's rights and claims were taken into account. This could be a reason why the United Nations did not consult Eritreans on the future status of the territory through ballots (Sureda 1973, 301). Likewise, it is possible to argue that "in 1950 this solution was not in any way truly illegal given the context of that time" (Fenet 1988, 36).

4.2. The Continuous Civil War: From the 1960s to the 1980s

The federal system and Eritrea's autonomy were gradually curtailed over the next ten years. The curtailment started immediately in 1952, and even pro-union members including Chief Executive Tedla Bairu started to protest against the erosion of autonomy. However, these voices were silenced by Ethiopia's intimidation, threats, arrests, and bribery with Bairu's resignation coming in 1955 (Haile 1988, 27; Iyob 1995, 89–90). Between 1958 and 1959, Eritrea's flag, seal, and arms were replaced by Ethiopian ones, and the name "Eritrean Government" was changed to "Eritrean Administration" (Iyob 1995, 89–90; Haile 1988, 28). Eritreans petitioned the United

Nations for intervention, but the international community did not respond (Iyob 1995, 90–91; Haile 1988, 27). In 1962, the Eritrean Assembly was finally forced to formally dissolve the federal system altogether, and thus the annexation of the territory by Ethiopia was complete.

To counter these moves by Addis Ababa, the Eritrean Liberation Movement (ELM) was organized in 1958. The movement tried to overcome the discord between Muslims and Christians within Eritrea by relying on secular nationalism, aiming at independence through a *coup d'état*. However, a competing and more militant movement, the Eritrean Liberation Front (ELF), soon emerged in 1960. In contrast to the ELM, the ELF, essentially a Muslim organization, tried to liberate Eritrea through armed struggle. The ELM belatedly tried to start an armed struggle, but this move was stopped by the ELF. By 1965, the ELF had acquired the status of the main opposition organization, replacing the ELM (Weldemichael 2013, 58–61; Iyob 1995, chap. 6).

The ELF, however, suffered from factionalism, discrimination against Christians, and lack of discipline. Dissatisfied with the ELF, splinter groups were formed, merging with each other in 1973 and eventually acquiring the name of the Eritrean People's Liberation Front (EPLF) in 1977. This group was led by Ramadan Mohamed Nur and Issaias Afwerki. The group faced liquidation attempts by the ELF but survived, eventually ousting the ELF from Eritrea in 1980 (Iyob 1995, chap. 7; Weldemichael 2013, 136–44).

The EPLF was a centralized organization intolerant of criticism. In the 1970s, the EPLF leadership faced two challenges from what it regarded as the leftist and the rightist. The EPLF leadership quelled both challenges through coercive measures including executions (Iyob 1995, 116–17; Bereketeab 2007, 406–7; Weldemichael 2013, 141–42). There are other rumors that Afwerki killed other leading figures of the EPLF to strengthen his power or silence criticism (Selassie 2011, 64–66). Deviation

or dissention from the leadership was simply not allowed within the EPLF (Bereketeab 2007, 407; Weldemichael 2013, 142).

Eritreans consistently demanded a self-determination referendum throughout their struggle for independence. For example, the ELF's appeal to the General Assembly in 1971 criticized General Assembly Resolution 390(V) for "decid[ing] the fate of a people without prior consultation with their wishes through the mechanism of an organized plebescite [sic]" (Eritrean Liberation Front (People's Liberation Forces) 1971, 31). They demanded that the World Organization[36] "kindly look into the case with promptness as a safeguard to human rights emphasized in its resolution by sending a Commission of Inquiry to Eritrea and allowing the Eritreans at least a referendum, in conformity with the context of its resolutions and the commissioner's statements included in his Final Report" (Eritrean Liberation Front (People's Liberation Forces) 1971, 89). The EPLF elaborated Eritreans' demand in 1980 in their referendum proposal. The EPLF argued that holding a referendum following a ceasefire would be "the shortest, best and most reliable road to the peaceful political resolution of the Eritrean question." It suggested that there should be three options in the referendum: full independence, federal association and regional autonomy (*Referendum '93 : The Eritrean People Determine Their Destiny : Report of the Referendum Commissioner of Eritrea.* 1993, 123–24).[37]

Meanwhile, the imperial regime of Ethiopia collapsed in 1974, replaced by a military junta called the Dergue led by Mengistu Haile Mariam. Yet, soon after its establishment, the war against Eritrea was resumed (Iyob 1995, 118–19). Moreover, the new regime, as repressive as Haile Selassie's, saw insurgencies across Ethiopia

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[36] This presumably refers to the UN General Assembly.

[37] The three options corresponded to the EPLF's preference, the 1952 arrangement by the United Nations, and the Soviet Union's proposal to adopt regional autonomy in Ethiopia based on the idea of nationalities practiced in the Soviet Union. Interview with Estifanos Afeworki, Tokyo, December 2019.

proper, such as those led by the Ethiopian People's Revolutionary Party (EPRP), the Tigray People's Liberation Front (TPLF), and the Oromo Liberation Front (OLF). Yet the Dergue regime benefitted from armaments and training from the Soviet Union and Cuba (Weldemichael 2013, 161). During the war, a severe famine struck in Tigray and Eritrea between 1983 and 1985.

The EPLF actively cooperated with the rebels in Ethiopia, knowing Eritrea's self-determination was only likely once the Ethiopian regime was replaced by another one supporting Eritrea's right to self-determination (Weldemichael 2013, 220–29). The TPLF concurred with the EPLF's argument that Eritrea is a case of decolonization and thus supported their claim to self-determination. However, the TPLF's view on self-determination was more radical than that. It believed that each nationality within Ethiopia should have the right to self-determination, a belief later enshrined in the Ethiopian constitution. This was not acceptable to the EPLF, which was not willing to grant the right to self-determination to ethnic groups in Eritrea (Plaut 2016, 18–19). As a result, the relationship between the TPLF and the EPLF was not always cordial (Weldemichael 2013, 226–28). The relationship was at its worst in June 1985 when the EPLF shut down the supply lines of the TPLF, aggravating one of the worst famines in the Tigray region (Plaut 2016, 21). Eventually, coordination was restored, not because of the reconciliation between the two sides but out of military necessity. As one senior TPLF official put it to Martin Plaut, the alliance was "a tactical relationship, not a strategic relationship" (Plaut 2016, 21–22). In other words, while they had a common enemy, "The EPLF needed the TPLF and vice versa, notwithstanding their ideological and political differences, which had estranged their relationship" (Weldemichael 2013, 228).

4.3. The End of the Self-determination Conflict and the 1993 Referendum

Ethiopian rebels eventually gathered in 1989 under the coalition of the Ethiopian People's Revolutionary Democratic Front (EPRDF), which recognized the right of Eritreans to self-determination (Iyob 1995, 134; Weldemichael 2013, 227–28). In contrast, the Dergue failed to contain or defeat the rebels; instead, its control over the territory was lost gradually in the late 1980s, partially because the Soviet Union, under Mikhail Gorbachev, started to lose interest in keeping ties with corrupt "socialist" regimes (Iyob 1995, 131, 133; Weldemichael 2013, 254–57). The EPLF scored an important victory in Afabet in 1988, after which the international community started to listen to the voices of Eritreans (Selassie 1997, 118). The United States also began to get involved even though its initial main concerns were the wider issues of the American-Soviet relationship, Ethiopian Jews, and starvation in Ethiopia (Cohen 2000, 17–19). Jimmy Carter started his mediation efforts concerning both Eritrea and Ethiopia proper in 1989 without much progress (Cohen 2000, 25–27). Meanwhile, the EPLF took the important port of Massawa in February 1990. The United States, facing a potential liberation of Eritrea by the EPLF, internally started to consider changing its long-held position of supporting the territorial integrity of Ethiopia (Cohen 2000, 29). The London conference for mediation was scheduled in May 1991, but the Dergue regime collapsed as Mengistu fled the capital on May 21, facing mounting military offensive and pressure by the rebels. The United States, which was going to host the conference, was worried about potential chaos in Addis Ababa. US Assistant Secretary Herman J. Cohen, the chair of the London conference, encouraged the TPLF, seen as a disciplined force, to enter the capital (Paquin 2010, 138; Cohen 2000, 49). This angered the remaining cadre among the Dergue regime whose Prime Minister had come to London for this conference (Paquin 2010, 138–39; Cohen 2000, 50).

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Nevertheless, the EPLF and the EPRDF entered Asmara and Addis Ababa on May 24 and 27, respectively (Weldemichael 2013, 266–67).

The EPLF leader, Isaias Afwerki, while declining to join the transitional government in Addis Ababa, was willing to delay the referendum for up to two years, not only in order to prepare independence for Eritrea but also to allow Ethiopians some time to stabilize their new regime (Perlez 1991a). The new Ethiopian government, which fought the war together with the EPLF, also endorsed an independence referendum, even though there was strong sentiment among Ethiopians, particularly among Amhara people, against the idea of separation. The Eritrean question was addressed at the Addis Ababa Conference in July 1991, which discussed the future political system of Ethiopia and established the transitional government. Attended by most of the opposition parties and also by Afwerki as an observer, the conference approved of the holding of a self-determination referendum in Eritrea with a couple of abstention votes (Selassie 2011, 37).

However, the support for Eritrea's referendum did not widen immediately at the international level. As early as July 1991, Isais Afwerki sent a letter to the Secretary General of the UN asking for the UN's involvement in the referendum process. Then Secretary-General Javier Perez de Cuellar replied in September, stating Ethiopia's agreement would be necessary (United Nations 1996, 19). The transitional government of Ethiopia confirmed its consent in December 1991 in a letter addressed to the Secretary-General. In this letter, the Ethiopian government communicated its belief that "the United Nations should play an active role in verifying that the referendum is, indeed, free and fair" (Chairman of the Third Committee 1992, Annex II). Even after this letter, the Organization of African Unity (OAU) and African states were hesitant as the invitation for the UN's involvement technically came from Eritrea and not Ethiopia (United Nations 1996, 21). Yet once the new Secretary-General, Boutros

Boutros-Ghali, received an invitation from Eritrea's Referendum Commissioner in May 1992, he decided to go ahead. According to him, "Taking into account this invitation, as well as the earlier endorsement of a United Nations role by the Transitional Government of Ethiopia and the historical involvement of the General Assembly with the political evolution of Eritrea, it was my view at this point that the Assembly might wish to authorize the involvement of the United Nations in the referendum" (United Nations 1996, 21).

In his report to the General Assembly in October 1992, Boutros-Ghali recommended the establishment of a United Nations Observer Mission to Verify the Referendum in Eritrea (UNOVER). UNOVER was established pursuant to General Assembly Resolution 47/114 in order to verify the impartiality, fairness, properness, and related freedom concerning the referendum (UN Secretary-General 1992; UN General Assembly 1992).

It seems that Ethiopians initially hoped there was a slim possibility that they could win over Eritreans (Perlez 1991b; *The Independent* 1991). Yet by the time of the referendum in April 1993, it was a foregone conclusion that Eritreans would overwhelmingly choose independence. The referendum, observed by the United Nations and declared to be free and fair, resulted in 99.8% of the votes for independence. After the referendum, the Special Representative of the Secretary-General announced that UNOVER's evaluation was that "on the whole, the referendum process in Eritrea can be considered to have been free and fair at every stage, and that it has been conducted to my satisfaction" (United Nations 1996, 213). The mission was considered to be "very successful" (United Nations Observer Mission to Verify the Refrendum in Eritrea 1993, 17, para. 82). Securing state recognition from key states including the United States and Ethiopia, Eritreans declared independence on May 24, 1993 with Afwerki as president, two years after the EPLF entered its

capital, Asmara.

4.4. Democratization Failure in Eritrea

The EPLF ruled out early elections, preferring to focus on social and economic development instead, with the national elections expected after the constitution was ratified. The plan was to make a constitution first; formation of political parties and preparation for elections would follow two years after its ratification.[38] Initially it seemed that the state was moving slowly but gradually toward eventual democracy. The EPLF transformed itself to a new organization, the People's Front for Democracy and Justice (PFDJ). The constitution was drafted and ready by 1997 with wide participation from citizens, and the regional elections took place in 1997. As a result, at the time of independence and as late as 1997, many regarded this transitional approach—prioritizing economic and social development and rejecting a rapid democratization—as genuine commitment to eventual democratization by Isaias Afwerki. After all, this approach was perhaps "pragmatic" for a war-torn entity having existed without democracy for decades, and Iyob expressed "a cautious optimism" about the future of Eritrea in 1997 (Iyob 1997). Likewise, Bereket Habte Selassie insisted in 1997, "building a democratic system and ensuring the rule of law is not a task that can be fulfilled overnight," further stating, "I am confident that the country will not be deflected from this path of democratic constitutional development" (Selassie 1997, 136).

However, in addition to the refusal to accept the ELF as an organization, there were other worrying signs in the early 1990s: former female fighters were simply asked to go back home; leaders of troops who demanded payment in May 1993 were arrested and imprisoned; demonstrations by disabled war veterans were quashed in

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[38] Interview with Haile Menkerios, Addis Ababa, November 2019.

1994.[39]

This parallel process reflected the two different views of Eritrea's future within the EPLF. On the one hand, there were those within the EPLF preferring an eventual open society and multi-party democracy. These figures were later marginalized, repressed, and then either exiled or imprisoned. On the other hand, Isais Afwerki and his associates preferred "guided democracy," where people were only supposed to participate in politics nominally.[40] Eritrea was "a contradictory reality" in the 1990s (Connell 2003, 3). Moderate leaders within the EPLF knew Afwerki's Maoist tendency and his undemocratic attitudes but hoped the rule of law and the Constitution would constrain his power.[41]

As the Ethiopia-Eritrea war started in 1998, the national elections were postponed, and they have yet to taken place. The war started as a border dispute but lasted for two years intermittently despite intensive international efforts for mediation. The death toll from this war is estimated to be between 70,000 and 100,000 (Jacquin-Berdal 2005, ix).

The war was a turning point for Eritrea. As the war ended, Afwerki faced mounting criticism about his governance of Eritrea. In September 2000, the National Assembly, composed of the PFDJ central committee members and representatives elected by regional assemblies and from among diasporas (Tronvoll 1998, 461n1), demanded national elections be held by December 2001 (Plaut 2016, 122; Connell 2005, 180). In October 2000, a letter to Afwerki criticizing his ruling style and asking for change was published by thirteen prominent Eritreans (the G-13 Letter), who largely resided abroad. Within Eritrea, another open letter was published by fifteen senior Eritrean officials (the G-15 Letter), which accused Afwerki of his "illegal and

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[39] Interview with Martin Plaut, London, October 2019. See also Plaut (2016, chap. 6).
[40] Interview with Dan Connell, VoIP, September 2019.
[41] Interview with Dan Connell, VoIP, September 2019.

unconstitutional manner" (Connell 2005, 183).[42] However, rather than listening to these voices, the government started a crackdown in September 2001, arresting eleven out of these fifteen senior officials (Bereketeab 2007). [43] Hundreds of people considered to be critical of the regime were arrested, continuing to be imprisoned without even sham trials (Connell 2005; Tronvoll and Mekonnen 2014). Private media outlets were also shut down. Eritrea is now considered to be one of the worst dictatorship regimes in the world, even comparable to North Korea (Tronvoll and Mekonnen 2014). Dan Connell, who has followed the issues in Eritrea for decades, summarizes the situation leading to the 2001 crackdown as follows:

> Throughout the 1990s, the country followed two paths at once – one toward shared participation in the very definition of the New Eritrea, as well as in its reconstruction, development and rule; the other toward increasingly centralized executive power that stripped the rest of the population of any *agency* in the process – providing them tangible material benefits but as objects, not subjects, of their collective destiny. Renewed war [against Ethiopia] brought these contradictions to a head – and decisively resolved them in favor of the latter path. (Connell 2005, 8)

Eritrea has continued to go down this latter path since September 2001.[44]

4.5. Conclusion

Eritreans fought a long war against the strong regional power of Ethiopia. They finally

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[42] The letter is replicated in Connell (2005, 165–198).
[43] Three of the signatories were outside the country at the time of the arrest and thus escaped arrest. One withdrew the signature (Connell 2011, 413).
[44] From the Eritrean governmental standpoint, the democratization process has temporarily been on hold because their survival as a state has been prioritized as a result of the war against Ethiopia. Interview with Estifanos Afeworki, Tokyo, December 2019.

beat the regime in 1991 with Ethiopian forces sympathetic to their cause. The 1993 referendum, monitored by the United Nations, was peaceful and showed an overwhelming support for independence. Initially, it seemed that Eritreans were peacefully and slowly moving to a multi-party democracy. However, the 1998 Ethiopia-Eritrea war had a huge negative impact on Eritrea. After the war, responding to criticisms of his ruling style, Afwerki established dictatorship in September 2001. How should we understand these developments? At least, did the referendum contribute to peace between Eritrea and Ethiopia initially? Regarding its effect on the newly independent state, is it the case that the holding of a referendum had no effect on peacebuilding in Eritrea? Or despite its positive impact, could Eritrea not escape from failed democratization because of other reasons? Or, in fact, did the referendum have unintended negative consequences for the new state? The next chapter will try to answer these questions through structured, focused comparison.

Chapter 5
Referendum in Eritrea (1993):
Structured, Focused Comparison

Building on the previous chapter, which offers background information on the case of Eritrea, this chapter conducts structured, focused comparison, exploring the three questions in the thesis. The following three sections will address each of the questions in turn: rationales behind the referendum, the impact of the referendum on resolving the original self-determination conflict, and the impact of the referendum on peacebuilding within the newly independent state.

The first section engages with the first research question in the structured, focused comparison: rationales behind the use of the referendum. Since the literature on Eritrea largely focuses on the bloody civil war, no study has examined why self-determination took the form of a direct vote instead of an indirect vote, which is considered to be a minor issue compared to the civil war and its conflict resolution process. I have relied on my interviews with those who were involved in or familiar with the referendum demand as well as existing interviews and accounts by those directly involved in the pro-independence movements of Eritrea. The section is divided into two. The first section analyzes the EPLF's demand for a referendum while the second section investigates the attitudes of the international community, particularly the United States, on Eritrea, whose endorsement of the referendum was crucial in realizing the self-determination referendum in Eritrea.

The second section investigates the second research question of the thesis: the impact of the referendum on resolving the original self-determination conflict. In the first subsection, it shows that the commitment to the referendum by the Eritrean and Ethiopian governments, which had established their control over the territory, meant

that no manifest spoiler was able to disrupt the referendum process. While many Ethiopian people were not happy with the referendum, they had no power to influence the outcome. The second subsection examines the effect of the referendum on the long-term relationship between Eritrea and Ethiopia.

The third section tries to answer the final research question of the thesis: the impact of the referendum on peace and democracy within the newly independent state. The first subsection examines the transition period leading up to the referendum (1991–1993), gauging how the upcoming referendum affected the amelioration of tensions, democratization in Eritrea, and international attitudes to it. It is followed by a discussion on the period after the referendum (1993–2001) in the second subsection, analyzing the referendum's impact on the three factors after independence.

5.1. Rationales behind the Referendum

5.1.1. The EPLF

Eritreans consistently demanded self-determination, and more specifically, a referendum. The most important rationale for the EPLF to demand and conduct this referendum seems to have been related to state recognition and international law. Existing interviews with Isais Afwerki reveal this. In 1989, Afwerki insisted that Eritreans' right to self-determination "[was] the central issue, the raison d'etre [sic] of the struggle." He continued,

> [A] referendum is a democratic mechanism that guarantees the exercise of this right. It is not, in this sense, a new formula devised by the EPLF. It has universal application on a world scale as a means of asserting the wishes of nations, peoples and fundamental individual right. (*Adulis* 1989)

In line with this argument, Afwerki clarified further in 1990 when an interviewer asked, "Since it is manifested in their long struggle that the Eritrean people want freedom, why is it necessary to hold a referendum?" He replied,

> It is a legal issue. Since we live in this world, we should have an existence based on international law, rights, duties, and obligations. To affirm these rights, it is necessary to hold a referendum. This is not only an issue for the EPLF—it is, above all, an issue of concern to the Eritrean people. (*Voice of the Broad Masses of Eritrea* 1990)

It is quite clear from these remarks that Afwerki insisted on a referendum as he believed it was a necessary step to realize the right of self-determination in international law.[45]

In addition, there was an expectation that if Eritrea carried out this legal procedure, the international community would be engaged in Eritrea. As Dan Connell puts it, "I think that [the referendum] was insurance to get international recognition and involvement to guarantee that their sovereignty would not be infringed once they

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[45] This view that a direct vote would be necessary for self-determination might have been influenced by Bereket Habte Selassie, an Eritrean legal scholar who served as the EPLF representative to the United Nations, who writes,

> the mechanisms by which such rights [of self-determination] are determined is also today subject to general agreement, and is an important feature of contemporary international law. By whatever name it is known–referendum, plebiscite, etc.–such a mechanism necessarily involved the direct participation of any dependent people in determining their political future, under the auspices of an impartial body, normally the United Nations and/or a regional organization. Any departure from such procedure would be unacceptable today as an infringement of an established, fundamental principle of law. (Selassie 1989, 73)

Here it is clear that Bereket Habte Selassie believed that a referendum was a necessary procedure for self-determination in international law. While a direct vote is not always necessary for decolonization even for integration as I have shown in Chapter 2, this understanding by Bereket Habte Selassie might have been relevant for Afwerki's claim that a direct vote would be necessary.

had it."[46] Similarly, Martin Plaut points out the worry of Eritreans about future re-annexation by Ethiopia: Eritreans "wanted an uncontestable referendum which could be used in perpetuality as a vindication of their demand for independence."[47] Hence, Eritreans tried to attach as much legitimacy as possible by involving the United Nations, the OAU, and other bodies.[48] In other words, it was a legal process necessary not for Eritreans but for the rest of the world. In this way, Eritreans would be able to prevent Ethiopia from coming back one day and claiming the territory again.[49]

Yet why did their right to self-determination need to be realized through a referendum rather than through an elected legislature? Perhaps the clearest answer is that an indirect vote was simply not an option. After all, the EPLF had no plan to hold an early election, believing social and economic development should come first. Eritrea would have been put in legal limbo for a long time if they had chosen to opt for self-determination through an indirect vote, which would take place only after ratification of the constitution.[50] Moreover, a decision by a parliament could occur under duress; a referendum offers a more definitive result.[51] After all, Eritreans fought the war themselves, not through their representatives.[52] In addition, among the pro-democracy group within the EPLF, "there was a sense that a referendum would anchor independence in the population, and not just in the liberation army. That was important: to give ownership of the result to the entire population."[53]

Eritrea's history was also important as a rationale behind the holding of a referendum. For example, Tekie Fessehatzion, an Eritrean academic, writes,

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[46] Interview with Dan Connell, VoIP, September 2019.
[47] Interview with Martin Plaut, London, October 2019.
[48] Interview with Martin Plaut, London, October 2019.
[49] Interview with Haile Menkerios, Addis Ababa, November 2019.
[50] Interview with Haile Menkerios, Addis Ababa, November 2019.
[51] Interview with Haile Menkerios, Addis Ababa, November 2019.
[52] Interview with Haile Menkerios, Addis Ababa, November 2019.
[53] Interview with Dan Connell, VoIP, September 2019.

On the surface, putting the question of independence to a national referendum after a total and overwhelming military victory in which all of Eritrea was liberated seemed illogical. Yet for students of the Eritrean question, placing the vote to a national referendum was not an inconsistent epilogue to the total victory the armed struggle had achieved…. It was simply going back to the original Woldeab/Ibrahim request [54] that the Eritrean issue be settled democratically in a manner consistent with international law. (Fessehatzion 1996, 171)

Similarly, asked about the necessity of a referendum, Estifanos Afeworki, a former Central Committee member of the EPLF, pointed to the history of Eritrea. The 1952 arrangement was made by external powers based on their strategic interests, and Eritreans had never been consulted. Such a solution was not sustainable as was evidenced in the self-determination conflict. Instead, "if the intention is to bring peace and stability in the region, the voice of the people and the leadership of the people are very important." [55] More generally, Eritreans wanted to express their will for independence and to negate the 1952 decision, which was not based on all Eritreans' views.[56]

5.1.2. International Attitudes

The United Nations, the OAU, or Western states were never enthusiastic about the referendum. In the Cairo Declaration in 1964, the OAU declared its clear support for territorial integrity and the existing borders (Organization of African Unity 1964).

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[54] In 1941, a small group of anti-colonial Eritrean figures including Woldeab Woldemariam and Ibrahim Sultan demanded respect of human rights from the newly established British Military Administration (Fessehatzion 1996, 167–168).
[55] Interview with Estifanos Afeworki, Tokyo, December 2019.
[56] Interview with Ruth Iyob, St. Louis, May 2019.

Neither Ethiopia's external image as the champion of anti-colonialism nor the fact that the headquarters of the OAU was located in Addis Ababa helped Eritreans, either. Ethiopia successfully characterized the pro-independence movement of Eritrea as an Arab movement, and African states, worried about balkanization of the continent, did not support the Eritreans (Iyob 1995).

The position of the United States was also clear. At the time of 1962, it had a military base in Asmara and had no interest in protesting against the unilateral incorporation of Eritrea into Ethiopia, an important ally for the United States at that time (Paquin 2010, 131–32). Even after the imperial regime collapsed in 1974, the United States supported the principle of territorial integrity over Eritrea's demand for self-determination. Herman J. Cohen writes, "Although we sympathized with Eritrea's historical grievances, we were keen supporters of the cardinal principle of the Organization of African Unity – that colonial boundaries inherited by African states should be left intact to preclude demands for hundreds of ethnically based ministates" (Cohen 2000, 22).[57] This policy only started to change after the EPLF took the port of Massawa in February 1990 and the US government concluded that the Dergue regime was going to collapse. In view of possible liberation of Eritrea by the EPLF, the United States changed its policy so that it would leave some room to recognize Eritrea as a state (Cohen 2000, 29). The US government also got directly involved in the mediation process, taking over the role of Jimmy Carter. The United States further conducted a juridical review, which envisaged the pre-1962 arrangements without an option of secession, even though Cohen's scenario was a peace agreement where a self-determination referendum would be deferred for several years (Cohen 2000, 38–41). At the London conference after the Dergue regime collapsed in May 1991, the United States announced its support for a referendum in Eritrea with an option of

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[57] See also Paquin (2010, 132–133).

independence. The only condition for the exercise of the right to self-determination was to have a transition period.[58] The initiative for this decision came from Cohen himself rather than reflecting a consensus within the US government. Secretary Baker was worried about the implications of this decision for the ongoing conflicts in Yugoslavia, and Cohen had to answer a phone call from the Secretary to justify his decision (Paquin 2010, 141–43; Cohen 2000, 54–55). In this sense, "U.S. involvement in the resolution of the Eritrean secessionist conflict and in the partition of Ethiopia were initiated by one man, Assistant Secretary Herman J. Cohen" (Paquin 2010, 143).

According to Cohen himself, there were two factors behind his decision to agree to self-determination. First, "unlike most of the other African colonial countries, the people there did not have a chance to decide what they wanted to do, and they deserved that."[59] They were never consulted before.[60] One more important factor was the human rights violations by the Ethiopian government.[61] It is important to note, however, that these two factors were constants throughout the liberation warfare (Paquin 2010, 139–40). In that sense, it is clear that the EPLF's having liberated the whole area of Eritrea, with an even stronger army than the TPLF, was significantly relevant in this decision making.[62] Cohen also talked with the TPLF before agreeing on a referendum in Eritrea.[63]

Since one of the reasons for Cohen's support for a self-determination process in Eritrea was that the wish of the Eritrean people was never ascertained,[64] it was not only natural but also necessary that there would be a mechanism to consult the population this time. However, there was no discussion about whether the wish of the

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[58] Interview with Herman J. Cohen, Washington, DC, May 2019.
[59] Interview with Herman J. Cohen, Washington, DC, May 2019.
[60] See also Paquin (2010, 139).
[61] Interview with Herman J. Cohen, Washington, DC, May 2019.
[62] See also Paquin (2010, 140–141).
[63] Interview with Herman J. Cohen, Washington, DC, May 2019. See also Cohen (2000, 50-51).
[64] Interview with Herman J. Cohen, Washington, DC, May 2019. See also Cohen (2000, 54).

population would be ascertained through a direct or an indirect vote.[65] The EPLF's demand for a referendum was met without any explicit discussions about the method of self-determination.

Furthermore, the Secretary-General of the UN, Boutros Boutros-Ghali noted that this referendum would be "an important step towards the establishment of democracy," "an integral part of the consolidation of peace," and contribution "to the stability of the region" (UN Secretary-General 1992, 3, para. 7). This view coincides with that of Herman J. Cohen, who "believed it would contribute to stability, and to peace, and hopefully democratization."[66] A couple of other interviewees similarly agreed that the referendum was seen as a first step to or contributing to democracy.[67]

Overall, it was Eritreans, not the international community or the Ethiopian government, who insisted upon a referendum. This referendum was required in order to internationalize the conflict resolution process and to legitimize Eritrea's independence so that its independence would never be questioned again. There are a couple of rationales which resonate with the insights provided in Chapter 2. The lack of representative institutions has been cited as one reason behind the decision to hold a referendum. Together with the view of possible duress, referendums can be seen as the method for self-determination when there had been no democratic institutions or processes. Also, the view put forward by Dan Connell that it was expected that the referendum would anchor independence in Eritreans reverberates with the argument that a referendum is held to strengthen the bond between citizens and the policy issue at stake, which is independence of Eritrea in this case.

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[65] Interview with Herman J. Cohen, Washington, DC, May 2019.
[66] Interview with Herman J. Cohen, Washington, DC, May 2019.
[67] Interview with an NGO worker, Norway, October 2019. Interview with an Eritrean International Official, 2019.

5.2. Impact of the Referendum on Resolving the Original Self-determination Conflict

5.2.1. The Attitudes of Warring Parties

The referendum in 1993 was peaceful and neither its process nor its outcome was contested by influential actors. The referendum was peaceful for two reasons. First, even though the referendum was a zero-sum game only offering two options, either integration or independence, almost the whole population was in favor of Eritrea's independence. Second, the Eritrean and Ethiopian governments had already established their complete and effective control over the territory.

There were certainly some people in Eritrea who did not vote or who boycotted the referendum, including some affiliated with the ELF, Jehovah's Witnesses, and a small number of people who were not certain about totally severing their ties with Ethiopia.[68] Some of the ELF figures did not cast a vote because they believed that the referendum was being used to legitimize the EPLF rule as the sole power even though many of the ELF leaders did vote for independence, thinking that this was their national duty.[69] Jehovah's Witnesses who refused to participate in the voting process for religious reasons "were persecuted, arrested, and stripped of their citizenship" (Tronvoll and Mekonnen 2014, 59).

In addition, armed electoral police were placed close to the polling stations in the Afar region where there was some skepticism about the EPLF. This was contrary to the regulation which was largely followed elsewhere (Tronvoll 1994; Tronvoll and Mekonnen 2014, 59–60). More generally there was fear among the public that their

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[68] Interview with Dan Connell, VoIP, September 2019.
[69] Interview with Dan Connell, VoIP, September 2019; Interview with Mohamed Kheir Omer, VoIP, October 2019.

vote would not be secret and they might be punished if they did not vote the way the government expected.[70] This fear led to an almost unanimous vote for independence.

A more serious potential spoiler was the Ethiopian citizens who were against the referendum. There was a strong sentiment against Eritrea's secession among the Ethiopian public, particularly among the Amhara people (Plaut 2016, 26). Yet the Ethiopian government suppressed voices of dissent against the referendum process. In January 1993, coinciding with the visit of Secretary General Ghali's visit to the region, students held protests against the referendum at the University of Addis Ababa. The protest clashed with security and the university was shut down for three months (*Reuters News* 1993a). In spring 1993, the authority dismissed 42 lecturers at the Addis Ababa university, most of them being the Amhara people (Dowden 1993). They were against the referendum in Eritrea, arguing that all Ethiopians should be allowed to vote in such an exercise.[71]

In addition, there were a few other sources of grievances among Ethiopians about the 1993 referendum. For one, pro-unity Eritreans and Ethiopians were not allowed to campaign against independence.[72] There should have been more options in the referendum, and more time before the referendum, with Eritrea remaining as a self-government under Ethiopia until then.[73] Others believed that Ethiopia should have at least kept the port of Assab lest Ethiopia be landlocked.[74]

These various arguments against the 1993 referendum were essentially excuses, and these Ethiopians were fundamentally against the idea of Eritrea's independence.[75]

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[70] Interview with Dan Connell, VoIP, September 2019.
[71] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[72] Interview with Kassahun Berhanu, Addis Ababa, November 2019.
[73] Interview with Kassahun Berhanu, Addis Ababa, November 2019.
[74] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[75] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.

Some Ethiopians, particularly among the Amhara people, still consider Eritrea as "a part of lost motherland." [76] However, ordinary Ethiopians disgruntled with the referendum process had no political or military power to disrupt the process.

Aided by the suppression of dissent, the referendum marked the end of the civil war. Terrence Lyons observes, "As the war ended in the victory of the EPLF and the acceptance of that victory from the Ethiopian side, the referendum was a useful way to codify that."[77] Similarly, Dan Connell argues, "it was a big step in consolidating the peace between the newly independent Eritrea and Ethiopia despite some real objections from the Ethiopian side among people who were opposed Eritrea separating."[78] Even though peace had already been secured once the EPLF and the TPLF entered Asmara and Addis Ababa respectively, the referendum had a symbolic meaning to formalize the foregone conclusion that Eritrea would gain independence.[79] The referendum "closed all the political pretexts that were used to wage a war in Eritrea" and "contributed to peace and stability of that region."[80]

More specifically, while Eritrea needed the referendum to be recognized as a state by the international community, the TPLF needed it to justify the self-determination of Eritrea.[81] As we have seen above, many in Ethiopia disagreed with the independence of Eritrea. If there had been no vote at all, it would have been more difficult for the Ethiopian government to resist the opposition to Eritrean independence.[82] By involving the United Nations and the OAU, the TPLF was able to claim that self-determination was also supported by the international community, thus

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[76] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[77] Interview with Terrence Lyons, VoIP, September 2019.
[78] Interview with Dan Connell, VoIP, September 2019.
[79] Interview with Kjetil Tronvoll, Oslo, October 2019.
[80] Interview with Estifanos Afeworki, Tokyo, December 2019.
[81] Interview with Kjetil Tronvoll, Oslo, October 2019; Interview with Terrence Lyons, VoIP, September 2019.
[82] Interview with Terrence Lyons, VoIP, September 2019.

legitimizing its decision.[83] In other words, it was useful to "pacify some of the internal criticism in Ethiopia at that time against the TPLF's decision to let Eritrea go."[84] Overall, it was better to hold the referendum to assuage the anger of those oriented against the independence of Eritrea even if it did not mean that they would happily accept the referendum result.

5.2.2. Long-term Relationship

As we have seen above, at the time of independence, the relationship between Eritrea and Ethiopia was cordial. Yet, even as early as 1993, Ethiopia's leader Meles Zenawi "call[ed] for both sides not to 'scratch the wounds' of the past" (Plaut 2016, 22). In hindsight, Zenawi was clearly referring to the past troubles between the TPLF and the EPLF, and he encouraged both sides to forget the past.[85]

In the 1990s, the relationship between the two countries was handled rather informally instead of through established bureaucracy or other formal procedures or agreements. As Plaut writes, "if President Isaias had a serious issue that he wished to raise concerning Ethiopia he simply contacted Prime Minister Meles Zenawi, and vice versa" (Plaut 2016, 27). Thus, the relationship between Eritrea and Ethiopia ultimately hinged upon the communication between the leaders from each country (Plaut 2016, 27–28; Iyob 2000, 664–65, 676).[86] Once the good relationship between the two leaders collapsed, there were no other effective channels between the two states.

Unfortunately, the good relationship between the two parties (and their leaders) did not last long. On the one hand, President Afwerki and the EPLF believed that it was the EPLF that was crucial for the liberation of both Eritrea and Ethiopia

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[83] Interview with Kjetil Tronvoll, Oslo, October 2019.
[84] Interview with Kjetil Tronvoll, Oslo, October 2019.
[85] Interview with Martin Plaut, London, October 2019.
[86] The same point was raised in Anonymous Interview [1], 2019.

(Woldemariam 2015, 180). President Afwerki, thinking Eritrea was a major power defeating an Ethiopia backed by the Soviet Union, considered himself to be senior to Meles Zenawi.[87] The TPLF was a "younger brother" of the EPLF (Plaut 2016, 31). On the other hand, the TPLF considered that they, too, were an important actor for the liberation of both Eritrea and Ethiopia. They believed that the TPLF enabled Eritrea's independence (Woldemariam 2015, 184–85). It might well be the case that Tigrayans started to consider Eritreans to be arrogant now that they were ruling the hegemonic state of Ethiopia (Iyob 2000, 677).

Against this backdrop, the war between Eritrea and Ethiopia started as a border dispute. By 1998, tensions had already mounted between Eritrea and Ethiopia over issues including not only borders but also the introduction of new currency on the part of Eritrea (Plaut 2016, 28–31).[88]

The view of Eritreans that Eritrea was superior to Ethiopia continued during the war. In fact, Eritreans even thought that the war would not last long, believing that a long war would make Ethiopia fall apart (Woldemariam 2015, 181).[89] These beliefs led to the view that Eritreans could win another war against Ethiopians (Woldemariam 2015). In contrast, the TPLF correctly understood that they had more latent military capacity than Eritrea, a tiny country not comparable to Ethiopia (Woldemariam 2015, 183–86). Eritreans, relying on their historical self-image as a stronger party in the war, miscalculated the outcome of the warfare (Woldemariam 2015).

This is not the place to fully discuss the causes and conditions leading to the Ethiopia-Eritrea war,[90] but it is difficult to claim that the referendum had anything to

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[87] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019. For a relevant discussion, see Plaut (2016, 31–32).
[88] The tensions between the two countries were already known before the outbreak of the war. Interview with Martin Plaut, London, October 2019.
[89] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[90] On this war, see e.g., Iyob (2000) and Jacquin-Berdal and Plaut (2005).

do with the 1998 war. It is best to explain the conflict through a normal inter-state war perspective, albeit perhaps in the context of partition (Woldemariam 2015). One can equally argue that the referendum sustained peace between Eritrea and Ethiopia for five years and that the referendum alone did not have the power to consolidate the good relationship between the two states. In sum, on the one hand, the referendum helped put a conclusive end to the long liberation war. On the other hand, the referendum does not seem to have had any positive or negative long-term effect on the relationship between the continuing state and the newly independent state.

5.3. Impact of the Referendum on Peacebuilding within the Newly Independent State

5.3.1. Before the Referendum

Amelioration of tensions and democratization

Between 1991 and 1993, the EPLF and its leader Afwerki continuously made a verbal commitment to democracy and promised to hold an election after the referendum, but they ruled out an early election. Just a day before the referendum, Afwerki, while showing his commitment to democracy again, declined to set a timetable for national elections. Insisting Eritrea "[would] not accept any conditions … [sic] as far as democracy is concerned in this country," Afwerki argued that even five years from then might not suffice for the transition period (Chazan 1993).

However, the EPLF had no intention to share power with other parties. The EPLF insisted that political organizations, mainly remnants of the former ELF, were not allowed to return as organizations even though their members could be welcomed back as individuals (Weldemichael 2013). Worse, the EPLF was "a tightly run, hierarchical organization controlled by a narrow clique" despite its appearance as "a nationalist movement representing all of the country's peoples" (Plaut 2016, 116). Of

course, the EPLF's exclusionary attitudes dated back to the liberation era, and its structure was not democratic. There was some expectation that since every Eritrean fought for independence, the EPLF would open the political arena to other pro-independence groups, but this did not happen.[91] Afwerki believed that, since the EPLF would represent the whole population, there was no necessity to allow other organizations to operate (Ammar 1992, 115). Hence, there was no need to invite other organizations to form part of the provisional government (Ammar 1992, 116). This essentially meant that the EPLF consolidated its power as the sole authority to govern the territory during the period leading up to the referendum. Concerned about this development, Human Rights Watch reported,

> The EPLF did not hold a political conference or invite the other Eritrean fronts to participate in a transitional government, with the result that there is opposition to the new government in some parts of Eritrea. The EPLF has promised a referendum on independence in two years, followed by a multiparty democracy, but has not made concessions to political opponents in the meantime. (Human Rights Watch 1992)

The EPLF, while rhetorically committing to eventual democratization, excluded other parties from joining their provisional central government of Eritrea. Before the referendum, there was a verbal promise for democratization, but the EPLF was essentially consolidating its absolute power on the territory.

International attitudes

The international community did not put any real pressure on the EPLF to democratize

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[91] Interview with Mohamed Kheir Omer, VoIP, October 2019.

the country before the referendum or encourage them to share their power with other Eritrean groups. Herman J. Cohen recalls there was no international pressure to hold elections and build democratic institutions in Eritrea during this period.[92] Discussion as to what would happen after the referendum did not take place during this period either.[93] The US attitudes during this period were based on a "wait and see" approach on the future of Eritrea beyond independence, focusing on peaceful transition for the moment.[94] I was able to find only one source mentioning international pressure for democratization in any way during this transition period. According to the *Christian Science Monitor* in May 1992, "UN officials [were] urging Eritrea's leaders to hold elections this year [in 1992] as the sign of democracy needed to lure private investors and the World Bank," but it was refused by Eritreans (Finley 1992). Likewise, there is no evidence to suggest that international actors tried to persuade the EPLF to let other organizations return. Overall, accepting the EPLF's argument that Eritrea needed to move slowly to democracy and being impressed by their attitudes of self-reliance and their economic and social projects, the international community did not put much pressure on Eritrea to swiftly democratize their country.[95]

5.3.2. After the Referendum

Amelioration of tensions and democratization

There was some hope among some quarters of the ELF that the EPLF would become more inclusive and open to other organizations once there was a referendum. Afwerki certainly claimed that the EPLF would be disbanded after the referendum.[96] However, it is argued that the political situation worsened after the referendum. The Eritrean

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[92] Interview with Herman J. Cohen, Washington, DC, May 2019.
[93] Interview with Herman J. Cohen, Washington, DC, May 2019.
[94] This point is based on my clarification during an interview with Herman J. Cohen, Washington, DC, May 2019.
[95] Interview with Dan Connell, VoIP, September 2019.
[96] Interview with Mohamed Kheir Omer, VoIP, October 2019.

government started to arrest Muslim school teachers and ELF leaders returning to Eritrea. [97] The Regional Centre for Human Rights and Development, the first independent NGO registered at the Department of the Interior, was soon forced to close down in 1993 (Connell 1997, 152; Tronvoll and Mekonnen 2014, 60; Plaut 2016, 117–18). Other initiatives to establish NGOs also failed since the government ordered their closure once they started to attract foreign funding (Connell 1997, 152–53). According to Connell, in 1997, "Though the country's leaders express support for independent organizing… there has been little evidence of growth in this area apart from the former EPLF mass organizations" (Connell 1997, 152). Similarly, Martin Plaut writes, "it soon became clear that he [President Isaias Afwerki] was unwilling to tolerate the establishment of any organisation that was in any way independent of the EPLF. Every group had to be dependent on the party and finally on the president and those he gathered around himself" (Plaut 2016, 121). Haile Menkerios was of the view that former fronts such as the ELF should be welcomed back to form a new political party and to join the process of democratization, considering every front contributed to independence. But this view was not shared by the government.[98]

For some, the holding of the referendum was separate from the democratization processes in Eritrea. For example, Haile Menkerios argues that "the referendum did not have much to do with democracy."[99] Likewise, Mohamed Kheir Omer recalls that the referendum was for "international consumption."[100] However, for others within the moderate faction aiming at pluralism and Western democracy, the referendum seems to be considered to be an important step to democracy in Eritrea. According to Dan Connell, the referendum served as a training exercise in democracy for the

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[97] Interview with Mohamed Kheir Omer, VoIP, October 2019; Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[98] Interview with Haile Menkerios, Addis Ababa, November 2019.
[99] Interview with Haile Menkerios, Addis Ababa, November 2019.
[100] Interview with Mohamed Kheir Omer, VoIP, October 2019.

population who had not had a chance to vote for decades. Unlike in the 1950s where elections were held without universal suffrage,[101] efforts were made to include every adult for the referendum vote. It was a "breakthrough in a way."[102] Similarly, Bereket Habte Selassie writes that the referendum with its wide participation of citizens "enhanced the role of the public in determining its fate" (Selassie 1997, 132). For those factions within the EPLF envisaging eventual political democracy, both the referendum and the constitution-making process with wide public consultation were steps toward democracy.[103] Both the referendum and the participatory process of Constitution-making were intended to "engage people in state-building at the grassroots level" (Connell 1997, 140).

Yet, for Afwerki and his faction, participation in the referendum (and the constitution-making) was merely part of "guided democracy."[104] Once the constitution was ratified, the regime was not willing to implement it since implementation would constrain its power. Even though the Ethiopia-Eritrea war was the turning point where the power balance shifted against the pro-democracy group,[105] it is important to note that the Constitution remained unimplemented for a year before the war broke out (Connell 2003, 3).

As we have seen, after the Ethiopia-Eritrea war, the National Assembly demanded that elections be held. In October 2000, the G-13 Letter encouraged president Afwerki to promote national reconciliation. It stated, "wisdom and statesmanship required a call for reconciliation extended to all Eritreans irrespective of belief or political affiliation to join hands in rebuilding a shattered society and economy. It is an opportunity that was lost but that can still be reclaimed."[106] The G-

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[101] See, for example, Iyob (1995, 139).
[102] Interview with Dan Connell, VoIP, September 2019.
[103] Interview with Dan Connell, VoIP, September 2019.
[104] The author checked this interpretation with Dan Connell, who affirmed it.
[105] Interview with Dan Connell, VoIP, September 2019.
[106] The G-13 Letter is replicated in Selassie (2011, 289–196). For this quote, see p. 292.

15 Letter similarly demanded accountability, rule of law, open discussion, and democratization. However, rather than promoting reconciliation or democratization, Afwerki decided in September 2001 to imprison all those critical about him, thus closing any possibility for reconciliation inside Eritrea.

In hindsight, scholars have traced the cause of the failed democratization processes not only to the personality of Isaias Afwerki (Plaut 2016, chap. 6) but also to the political culture of the EPLF, an organization that was disciplined but intolerant to any criticism (Connell 2011; Bereketeab 2007; Tesfagiorgis 2015). Their idea of "democracy" did not coincide with the Western notion (Tronvoll and Mekonnen 2014). Indeed, even concerning the regional election in 1997, while technically it was not necessarily flawed, "the purpose of the elections was a sham" (Tronvoll and Mekonnen 2014, 68) since the elected regional assemblies had no say over political issues, and the elections were not even accompanied by any meaningful political debates (Tronvoll and Mekonnen 2014). This political culture, which was never erased after independence, came to the fore openly after the devastating Eritrea-Ethiopia war (Bereketeab 2007; Connell 2005).

It is clear that the referendum did not lead to the amelioration of tensions among different pro-independence movements. Democratization, which initially seemed to be on a right track, was not successful either. Indeed, intolerance toward other political groups or those critical about the government merely continued or even got worse after the referendum, eventually culminating in the establishment of the dictatorial regime.

International attitudes

Despite these developments, optimism regarding the democratic future of Eritrea continued to prevail internationally after the referendum. The international community swiftly recognized Eritrea as a sovereign state, welcoming its independence after a free

and fair referendum in April 1993.[107] The international community generally lacked a precise understanding of Afwerki.[108] With the attitude of giving a chance to this new country, "they were seeing what they wanted to see" in Eritrea. [109] After the referendum, Eritrea was peaceful and people looked happy. It seemed that the country was moving ahead in the right direction. At a time when there was a genocide in Rwanda and South Africa was abolishing apartheid, there was no longer much international focus on Eritrea.[110] There was a sense that when it comes to Eritrea, "yeah we parked it. That's fine. It's getting on by itself."[111] As a result, despite some worrying signs already present in Eritrea, optimism toward the democratic future of Eritrea prevailed after the referendum.

Yet, in hindsight, it is clear the international community was overly optimistic about the democratic prospects for Eritrea, which would become one of the worst dictatorship in the world (Tronvoll and Mekonnen 2014). Certainly, there were some who were worried about the lip service Isais Afwerki was paying to democracy. In the *Christian Science Monitor*, Leah Leatherbee and Dale Bricker, from the Fund for Peace and Freedom House respectively, jointly cautioned the international community against optimism as early as May 1993. They argued,

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[107] Indeed, when one compares the case of Eritrea with cases among the newly-emerging states of ex-Yugoslavia republics, which took place around the same time, the contrast is very clear. While the latter had to follow the EC guidelines including human rights and minority rights provisions (Rich 1993), Eritrea was recognized as a state even without a constitution and an elected legislature.
[108] Whether Afwerki ever committed to democracy is beyond the scope of this thesis. However, views vary as to Afwerki's view on democracy. One view was that he initially only understood democracy as a theoretical concept, but when he found out that democracy means people could oppose his views, it was not acceptable to him. Interview with Martin Plaut, London, October 2019. According to a similar view, Afwerki understood democracy as centralized and guided democracy, never committing to a Western type of democracy. Interview with Stein Villumstad, Oslo, October 2019. A more favorable view posits that Afwerki listened more to hardliners within the government since the Ethiopia-Eritrea war when the survival of Eritrea as a state was at stake. Interview with an NGO worker, Norway, October 2019.
[109] Interview with Dan Connell, VoIP, September 2019.
[110] Interview with Martin Plaut, London, October 2019.
[111] Interview with Martin Plaut, London, October 2019.

> While some analysts have declared that the referendum's successful completion ushers in a new era of popular sovereignty and stability in Eritrea, that conclusion is premature… it is not certain that future elections will be free and fair, or that Eritreans outside the EPLF leadership will have a role in determining the nation's future political direction. (Leatherbee and Bricker 1993)

They insisted that there was already cause for concern, stating that "[EPLF's] platform guarantees freedom of the press, speech, association, and peaceful assembly, yet several serious deviations from these commitments have already occurred" (Leatherbee and Bricker 1993). Likewise, Reuters News reported, "doubts remain over the EPLF's commitment to tolerate opposition. Suspicions linger it has not fully shed the Marxist trappings of its early years" (*Reuters News* 1993b). However, according to Tronvoll, "The negative things which started to happen in 1992, it was consciously overlooked or neglected because we did not want to believe it."[112]

What were the reasons behind this optimism toward Eritrea? First and foremost, Isaias Afwerki, together with figures such as Meles Zenawi in Ethiopia, Paul Kagame in Rwanda, and Yoweri Museveni in Uganda, were considered to be part of the new generation of African leaders. They fought against and defeated horrible, murderous regimes in their respective countries, and there was a view that now that these regimes were gone, things would be better.[113] Second, optimism was partially sustained due to international sympathy toward Eritreans, and their long-term grievances and struggles.[114] Third, those visiting the liberated areas were largely impressed by the

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[112] Interview with Kjetil Tronvoll, Oslo, October 2019.
[113] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[114] Interview with Kjetil Tronvoll, Oslo, October 2019.

EPLF's professionalism.[115] Moreover, in these areas, the local population was largely supportive of the EPLF and willing to participate in the governance system, showing Eritreans' political cohesion.[116] Ordinary citizens were seen to be committed to and engaged with the state of Eritrea.[117] Fourth, the modest and friendly character of Eritreans, together with a cultural resonance due to Eritreans' Christianity and the existence of charismatic leaders, further contributed to optimism among Europeans.[118] Fifth, their initiatives and policies on development and institution building were seen as sound and promising.[119]

However, this optimism was also partly buttressed by the success of the referendum. Even though reports questioning the EPLF's commitment to democracy existed, "by and large, the general feeling was that the EPLF was a good organization and pretty democratic. It had an excellent referendum. It was clear it did not try to cheat too much in that, so there were expectations."[120] This optimism continued as the constitution-making process went on.[121]

More specifically, there was a view, at least within the United States, that an effective regime backed by the vast majority of the population in the independence referendum must be democratic.[122] In other words, "there was a kind of a conflation of… 'they are popular, therefore they are democratic.'"[123] To put it differently, "It was naïve, but the referendum, the vast turnout and the well-managed process, I think, suggested to people that the regime was popular" and hence likely to adopt policies

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[115] Interview with Kjetil Tronvoll, Oslo, October 2019.
[116] Interview with Stein Villumstad, Oslo, October 2019.
[117] Interview with Ruth Iyob, St. Louis, May 2019.
[118] Interview with Kjetil Tronvoll, Oslo, October 2019.
[119] Interview with Stein Villumstad, Oslo, October 2019.
[120] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[121] Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.
[122] Interview with Terrence Lyons, VoIP, September 2019.
[123] Interview with Terrence Lyons, VoIP, September 2019.

favored by Western states.[124] There is one episode illustrating such a conflation: J. Brian Atwood, then-Administrator of USAID, mistakenly believed that there were elections in Eritrea.[125] After the referendum, Richard Boucher, the spokesman of the US Department of State, issued a statement recognizing Eritrea as a state. This stated, "the UN referendum observer mission issued a statement that the referendum was free and fair. We welcome Eritrea into the family of nations and look forward to its *continued* progress in developing a democratic form of government" (Boucher 1993; italics added).[126]

Such a conflation can also be seen in the writings of Boutros Boutros-Ghali, then the Secretary-General of the United Nations. In his work showing the UN's contribution to democracy, he lists the UN's assistance to Eritrea together with the UN's assistance to elections in Cambodia, Namibia, Nicaragua, and El Salvador as cases where the United Nations helped promote democracy (Boutros-Ghali 1995, 5). Elsewhere, he hailed the impact of the referendum in Eritrea, claiming:

> the war finally came to an end, with Eritreans exercising their right to self-determination in a free and fair referendum on the issue for which they had long campaigned and fought: independence. In so doing, the Eritrean people advanced the cause of democracy, and contributed greatly to the post-conflict consolidation of peace in the Horn of Africa during a volatile period in the region's history. The successful referendum in Eritrea offered yet another illustration of the links between democratization, development and peace. (United Nations 1996, 3)

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[124] Interview with Terrence Lyons, VoIP, September 2019.
[125] Interview with Terrence Lyons, VoIP, September 2019.
[126] In contrast, the referendum was seen as an end to the conflict rather than as a necessary step to democracy among actors in the United Kingdom and Europe. Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.

It sounds as if democratization had been achieved even without any national elections in Eritrea. The referendum led to optimism as to the democratic prospects of the country. Overall, the successful referendum whereby the option of independence was supported by the vast majority of the population, together with other factors such as the view that African leaders of this new generation were pragmatic, effective, and uncorrupted, contributed to the idea that the regime was moving in the right direction which vaguely included democracy.[127]

Optimism among international actors began to diminish in the late 1990s even before the Ethiopia-Eritrea war started. The ratified constitution was not implemented, and the government tightened its grip on civil society during this period. [128] International actors had been disappointed by the developments in Eritrea but at the same time still hoped that there would eventually be democratization.[129] It was even speculated that the war provided an opportunity for diversion from the internal tensions. [130] After the war, international actors held more divergent views on the prospect of Eritrea's democratization.[131] The crackdown in September 2001 was not unanticipated, but its scale was shocking to them.[132]

It has been widely believed that there was not much international actors could have done to affect the course of history in Eritrea.[133] Still, Mohamed Kheir Omer, while largely sharing the view that EPLF's attitudes of self-reliance meant that the EPLF would not accept international advice, argues that other Eritrean organizations

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[127] Interview with Terrence Lyons, VoIP, September 2019.
[128] Interview with Stein Villumstad, Oslo, October 2019.
[129] Interview with a Western aid worker, January 2020.
[130] Interview with Stein Villumstad, Oslo, October 2019.
[131] Interview with a Western aid worker, January 2020.
[132] Interview with a Western aid worker, January 2020.
[133] Interview with Stein Villumstad, Oslo, October 2019; Interview with a Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019; Interview with an Eritrean International Official, 2019.

could have been invited to the London Conference in May 1993.[134] Furthermore, Kjetil Tronvoll argues that concerted and intensive international pressure in the early 1990s, however unlikely it was, would have made difference.[135]

5.4. Conclusion

The referendum in Eritrea was certainly "successful" not only because it was conducted peacefully but also because it was widely considered to be free and fair. It decisively settled the decades-long devasting conflict and promoted peace between Eritrea and Ethiopia, albeit only for several years before a new border war—as devastating as the previous war—broke out. In that sense, it was a successful story.

However, when we turn our attention to the referendum's effects on peacebuilding in Eritrea, we see a very different picture. First, the holding of the referendum did not make the central government ameliorate its hardline positions vis-à-vis other organizations. This is indeed surprising, considering that these organizations also fought for independence and many of them cast their vote for independence in the referendum. The governmental policy to exclude other groups from the political arena continued after the referendum.

Second, the transition period before the referendum was used by the EPLF to consolidate its exclusive power on the ground. This negatively affected the prospect of democracy in Eritrea. On the other hand, it seems that some in the pro-democracy group within the EPLF believed that the holding of the referendum would enhance the likelihood of democracy in Eritrea. As we will see in the case of East Timor, it is possible that *if democratization had been successful*, Eritreans would have looked back and thought that the referendum represented a cornerstone of their democracy. Yet,

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[134] Interview with Mohamed Kheir Omer, VoIP, October 2019.
[135] Interview with Kjetil Tronvoll, Oslo, October 2019.

referendums *per se* are not mechanisms securing accountability or rule of law, unlike other institution building processes. A referendum might be able to help consolidate democracy, but it does not have the power to make democratization take place. A referendum alone is obviously not enough to make a regime democratic. In hindsight, it is clear Isaias Afwerki was willing to hold a referendum as part of "guided democracy" where the participation of the people in the referendum process was part of their show. As the will of the population was quite clear, there was no need for Afwerki to appear "undemocratic" and rig the referendum. When Afwerki resorted to authoritarian methods to contain opposition voices, any legacies the referendum had for the prospect of democracy were quickly erased.

Third, the international community failed to put pressure on Eritrea to democratize both before the referendum and after the referendum. During the transitional period leading to the referendum, the international community took a "wait and see" approach. To a certain extent, it is understandable, since any pressure on Eritrea alone to democratize would be based on an assumption that Eritrea would choose independence. This could have been easily regarded as prejudging the outcome. Yet, as a matter of fact, the EPLF was consolidating its power over the territory during this time. After the referendum, international optimism as to Eritrea's democratic future was strengthened due to the success of the referendum. As a result, international pressure was not exerted on Eritrea either before the referendum or after. Similarly, prevailing optimism meant that there was no international pressure to open the country to other political organizations either before or after the referendum.

Overall, while the referendum helped resolve the original warfare between Eritrea and Ethiopia, it does not seem to have had any effects on the long-term relationship between them. Nor did the referendum seem to have had any positive impact on peacebuilding in Eritrea. Moreover, the "wait and see" approach before the

referendum and prevailing optimism after the referendum meant that there was no international effort to put pressure on Eritrea to democratize or to soften its approach vis-à-vis other organizations and groups.

Chapter 6

Referendum in East Timor (1999):

From Self-determination Conflict to the 2006 Crisis

The referendum in East Timor[136] is an interesting post-conflict self-determination referendum for two reasons. First, it is the only case among the three where there were explicit and substantial discussions on the method of self-determination among those involved in the conflict resolution process. The discussion spanned between 1985 and 1999, but the extensive discussions in February and March 1999 reveal how policy-makers considered both the advantages and disadvantages of holding a referendum. This case is most useful for us to understand the rationale behind referendums as the method of self-determination.

Second, among those skeptical about the use of the referendum as a mechanism for conflict resolution, East Timor has been cited as an exemplary case where the referendum led to violence (Reilly 2003, 179–82; Lee and Mac Ginty 2012, 48). It is true that violence was seen both during and after the referendum. However, was it because of the zero-sum nature of the referendum? Also, what kind of impact did this referendum have on peacebuilding in East Timor after it was liberated from Indonesia?

6.1. Aborted Decolonization in East Timor

East Timor, the eastern part of a tiny island called Timor, was a Portuguese colony surrounded by the Dutch East Indies, which later became Indonesia. The East Timorese and the West Timorese, who would be Indonesians, were not dissimilar ethnically and culturally. The decolonization process in East Timor only started after the Carnation

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[136] After independence, the territory is formally called Timor-Leste, but the thesis uses the English term "East Timor" when referring to this entity both before and after independence.

Revolution in Portugal in April 1974. Political parties were formed in East Timor, among which the Timorese Social Democratic Association (ASDT), the Timorese Democratic Union (UDT), and the Timorese Popular Democratic Association (Apodeti) are worth mentioning. The ASDT, which would soon be renamed as Fretilin, demanded immediate independence and was generally more left-oriented than the other two parties. Its founders include Mari Alkatiri, José Ramos-Horta, and Nicolau Lobato. In May 1975, Xanana Gusmão joined Fretilin (Gusmão 2000, xii). The UDT was more conservative, preferring to have a transition period under Portugal before gaining independence. The party's leaders include Mário and João Carrascalão and Francisco Lopes da Cruz. The UDT was anti-communist and supported by the church. In contrast to the two parties whose goal was the independence of East Timor, Apodeti's goal was integration to Indonesia. This party was supported financially by Indonesia, and those associated with Apodeti received military training from the Indonesian military (CAVR 2006, chap. 3, pp. 25–26; Robinson 2010, 32). Based on the results of regional elections held under Portugal's auspices in 1975, it is estimated that Fretilin had the largest support from the East Timorese people, followed by the UDT, with Apodeti securing merely a fraction of votes (Matsuno 2002, 79; Robinson 2010, 33).

A newly appointed Portuguese governor Colonel Lemos Pires, while not receiving clear instruction from Lisbon, tried to embark on the decolonization process once he arrived in Dili in November 1974. His suggestion of a coalition of main political parties led to the formation of a coalition between Fretilin and the UDT. Apodeti declined to join Pires' effort and was also rejected as a partner by Fretilin and the UDT. The coalition, however, fell apart in May 1975. By then, competition between Fretilin and the UDT had hardened as local elections began and some in the

UDT were increasingly concerned about radical elements in Fretilin. [137] The Indonesian military was actively engaged in its propaganda efforts to break up the coalition (CAVR 2006, chap. 3, pp. 31–32; Taylor 1991, 38–46; Matsuno 2002, 67–76). On August 11, the UDT staged a coup to expel the radical, communist elements of Fretilin. While the extent of the Indonesian involvement in this coup is unclear, two UDT leaders visited Jakarta in early August and were told that Fretilin was planning a coup on August 15. The UDT acted in order to preempt this coup (CAVR 2006, chap. 3, pp. 40–41). Robinson argues, "it is clear that war [in August 1975] was fueled as much by the actions of outside parties, especially Indonesia, as by any lack of political maturity on the part of Timorese" (Robinson 2010, 34). Fretilin reacted militarily, leading to a brief civil war. The Portuguese authority evacuated from Dili to Ataúro Island, off the coast of Dili, in late August. Fretilin emerged victorious from this war in early September with the UDT and Apodeti fleeing to West Timor (CAVR 2006, chap. 3, pp. 41–44).

The Indonesian government at that time, which was the anti-communist authoritarian regime of Suharto, was interested in incorporating East Timor into Indonesia. In the aftermath of the Carnation Revolution, the thinking of the Indonesian government on East Timor evolved as there was growing concern at the prospect of a communist country on their doorstep (CAVR 2006, chap.3, pp. 20–22). By mid-1974, the Indonesian military already had a plan to annex East Timor. Initially, it sought integration without evident military operations but with an emphasis on propaganda and lobbying (CAVR 2006, chap. 3, p. 33; Taylor 1991, 31). However, as the decolonization process proceeded in early 1975, the operations became more militarized, eventually leading to a full-scale invasion of East Timor. Indonesia also actively engaged in diplomatic efforts to secure understanding from key countries such

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[137] On the competition, see also CAVR (chap. 3, p. 29).

as the United States, Portugal, and Australia (CAVR 2006, chap. 3, pp. 35–39). Australia and the United States were willing to acquiesce in Indonesia's taking over East Timor (Robinson 2010, 37–38, 58–65).

Amid growing cross-border operations by the Indonesian military and facing the prospect of full-scale invasion, Fretilin declared independence on November 28, 1975. The next day, the Balibo declaration was issued by the East Timorese leaders who had fled to West Timor. It demanded integration into Indonesia, though two of the signatories later claimed that they signed the declaration under duress by Indonesia (Matsuno 2002, 99–101).[138] Indonesia launched a full-scale invasion on December 7. Just before the invasion, high-ranking figures including Ramos-Horta and Alkatiri were dispatched abroad to promote state recognition (Weldemichael 2013, 195). They were unable to return to East Timor until after the referendum process. The UN General Assembly and the Security Council respectively adopted resolutions deploring the invasion, but this had no meaningful consequences on the ground in East Timor (UN General Assembly 1975; UN Security Council 1975).

Indonesia soon started to formalize its control on the ground. A provisional government mainly composed of the UDT and Apodeti members was inaugurated as early as December 17, 1975. An Act of Integration took place in May 1976 where around 30 "representatives" handpicked by the Indonesian authority petitioned for integration to Indonesia. Building on this petition, the Indonesian government passed a law incorporating East Timor into Indonesia in July 1976, concluding the domestic legal process for integration (CAVR 2006, chap. 3, pp. 68, 72–73).

It took until 1979 for Indonesia to pacify the whole region of East Timor. The death toll from the counterinsurgency operation during this period was massive. It is estimated that 100,000 East Timorese people were killed out of the population of

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[138] See also CAVR (2006, Chapter 3, pp. 56–57).

650,000 (Robinson 2010, 40). This was partially a result of the forced displacement of around 300,000 East Timorese people, who were confined to camps under horrendous conditions and faced famines (Robinson 2010, 50–53).

6.2. Developments in the 1980s, the 1990s, and the Fall of Suharto

After Fretilin decisively lost against the Indonesian military by 1979, it adopted a new approach in 1981 focusing on establishing a broader coalition among the East Timorese people and promoting negotiations through official and unofficial diplomatic channels. While armed resistance continued, the main purpose of the armed resistance was to show to the world that the East Timor problem still existed. To promote national unity, Fretilin established the Revolutionary Council of National Resistance (CRRN) so that others not affiliated with Fretilin could join the pro-independence movement. The change of approach led to the first peace negotiations between Fretilin and the Indonesian military, albeit at the local level.[139]

Continuing the national unity approach, Gusmão decided to detach Falintil, Fretilin's military wing, from Fretilin in 1987, making it non-partisan. One year later, Gusmão replaced the CRRN with the National Council of Maubere Resistance (CNRM). The UDT did not join the CRRN or the CNRM, but the UDT and Fretilin collaborated in their international diplomatic campaign under the leadership of José Ramos-Horta, who left Fretilin in 1989 and acted as the CNRM special representative abroad.[140]

From the invasion in 1975, the General Assembly annually adopted a resolution reaffirming East Timor's right to self-determination (UN General Assembly 1976,

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[139] According to Weldemichael (2013, 176), the negotiation was also motivated to boost its international diplomatic efforts once again when the General Assembly resolution on East Timor barely passed in 1982 (see below).
[140] On the period of the 1980s, see Babo Soares (2000, 55–57), CAVR (chaps. 5, 7), Weldemichael (2013, chaps. 4–5), and Robinson (2010, 77–80).

1977, 1978, 1979, 1980, 1981). However, the margin of the votes between those for and against the resolution narrowed down gradually. Against this backdrop, the resolution in 1982 "request[ed] the Secretary-General to initiate consultations with all parties directly concerned, with a view to exploring avenues for achieving a comprehensive settlement of the problem" without explicitly referring to the right to self-determination of the East Timorese (UN General Assembly 1982).[141] Based on this resolution, tripartite negotiations between Portugal and Indonesia under the auspices of the Secretary General began, but no agreement was reached until 1999 (see Chapter 7).

The Santa Cruz massacre in November 1991 became a turning point for world public opinion. The brutal shootings and killings of the young East Timorese people who were demonstrating peacefully were filmed and broadcast all over the world. After the Santa Cruz massacre, public opinion in Australia and Portugal hardened significantly.[142] From this point on, the issue of East Timor became truly international.[143] East Timorese students studying in Indonesia also advocated their cause for self-determination domestically and internationally under the organization RENETIL, the National Resistance of East Timorese Students (Woldemariam 2015, chap. 6).

Meanwhile, Francesc Vendrell, Director of the Asia Pacific Division of the UN Department of Political Affairs, and Tamrat Samuel, a Political Officer there, were the two key UN officials dealing with the East Timor issue in the 1990s. They believed that there should be no flawed self-determination of the East Timorese.[144] Until 1997, they focused their energies on promoting confidence-building measures including

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[141] See also Matsuno (2002, 129–131).
[142] Interview with Francesc Vendrell, London, June 2019; Interview with Ana Gomes, the United Kingdom, September 2019.
[143] Interview with Hasan Wirajuda, Jakarta, July 2019.
[144] Interview with Francesc Vendrell, London, June 2019.

arranging the Intra-East Timorese dialogue.[145] Fifteen people from inside Indonesia and another fifteen from outside Indonesia, chosen by the UN Secretary General, participated in the dialogue. At the insistence of the Indonesian government, discussions on the status of the territory were not allowed.[146]

In 1996, the Nobel Peace Prize was awarded to José Ramos-Horta and Carlos Felipe Ximenes Belo, the latter recipient being an East Timorese Bishop and a vocal critic of Indonesia's repression. This further heightened world attention on East Timor. In April 1998, the CNRM transformed itself to the National Council of Timorese Resistance (CNRT), which was finally joined by the UDT.

A further boost came when Kofi Annan became the Secretary-General of the United Nations in 1997. Kofi Annan was personally committed to resolving the question of East Timor. He appointed Jamsheed Marker, a veteran Pakistani diplomat, as Personal Representative of the Secretary General (Marker 2003, 10). Marker argues, "Kofi Annan's role in the East Timor negotiations was absolutely crucial, and its importance cannot be emphasized enough" (Marker 2003, 11). Marker worked with Francesc Vendrell and Tamrat Samuel (Marker 2003, 13) and continued to serve as PRSG until the referendum took place.

Despite the international pressure, Suharto rejected his Foreign Minister Ali Alatas' suggestion in 1994 to grant special autonomy to East Timor (Alatas 2006, chap. 7). There was no way that Suharto would accept self-determination of the East Timorese. As a result, no substantive progress was made in the tripartite negotiations until Suharto left office. This finally happened in 1998 when Suharto resigned amid the 1997 Asian financial crisis and subsequent chaos in Indonesia.

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[145] Interview with Francesc Vendrell, London, June 2019. The dialogue was not productive and did not lead to confidence building. Interview with a former member of the CNRT, Dili, June 2019.
[146] Interview with Francesc Vendrell, London, June 2019.

6.3. Habibie's New Approach and Australia's Policy Change

Vice President Bacharuddin Jusuf Habibie succeeded Suharto in May 1998, and he started a bold new approach: not only domestically by starting the democratization process but also concerning the issue of East Timor. In June, Habibie announced that he was willing to offer special autonomy to East Timor as a conclusive solution, incorporating Ali Alatas' suggestion (Alatas 2006, 133–36; Greenlees and Garran 2002, 25–27). Portugal, while welcoming this policy shift, insisted that autonomy would be acceptable only as an interim arrangement. Facing this deadlock, in August, Kofi Annan suggested that the tripartite negotiations would focus on the content of the autonomy arrangement first, setting aside whether it would constitute an interim or final status. This was accepted by the two states, and they started to discuss the substantive details of the autonomy arrangement (Alatas 2006, 141–42).[147]

In the aftermath of the fall of Suharto's regime in May 1998, the Australian government started to review its policy on East Timor. Australia had been "the first and only major power to accept Indonesia's disputed claim over East Timor" (Robinson 2010, 63). However, Australian public opinion, both on the left and right, was critical of the governmental policy on East Timor (Greenlees and Garran 2002, 81; Department of Foreign Affairs and Trade 2001, 29–30). Moreover, the East Timor issue was affecting the relationship between Indonesia and Australia, and Australia was motivated to find a solution together with Indonesia.[148] In the summer of 1998, with the consent of Indonesia, Australia consulted with leading East Timorese figures with various political views living in East Timor, Indonesia, and beyond. This showed overwhelming willingness among the East Timorese people to accept an autonomy

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[147] According to Ana Gomes, the Portuguese government came up with this proposal, but asked the United Nations to present it as their own proposal. Interview with Ana Gomes, the United Kingdom, September 2019.
[148] Interview with Alexander Downer, London, February 2020.

package as an interim solution, but it needed to be subject to review by the East Timorese at some point in the future, with the time frame ranging from three to twenty years (Department of Foreign Affairs and Trade 2001, 26–27, 30). This consultation made clear to the Australian government that Indonesia's current policy would not be viable as a solution (Department of Foreign Affairs and Trade 2001, 29–30). Together with the view that the UN's tripartite negotiations were deadlocked, the Australian government decided to change its policy on East Timor (Department of Foreign Affairs and Trade 2001, 31–32; Greenlees and Garran 2002, 78–87).

This policy change was conveyed to President Habibie by a letter signed by Prime Minister John Howard on December 19, 1998. The "Howard letter" praised Habibie's efforts on East Timor but politely encouraged Habibie to consider an option of deferred self-determination. Explicitly referring to the Matignon Accords in French New Caledonia, Howard suggested that an autonomy arrangement with a future review mechanism would be one way to avoid immediate self-determination. The letter also made clear that the Australian government still believed that East Timor's integration to Indonesia would be best for the interests of Australia, Indonesia, and East Timor.[149] While Australia's policy change was "a 30 degree change" rather than "a 180 degree change" (Greenlees and Garran 2002, 86), this letter most likely affected Habibie's thinking on East Timor (see below in this section).

Receiving the letter in late December, Habibie flatly rejected the idea of deferred self-determination. He believed that deferred self-determination would become a time bomb for his successors. He was also worried that the East Timorese would choose independence after the transitional autonomy. In a meeting with Australia's Ambassador John McCarthy on December 22, Habibie claimed that he would rather grant independence to East Timor immediately than seek deferred self-determination

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[149] The letter is replicated in Department of Foreign Affairs and Trade (2001, 181–182).

(Alatas 2006, 149–50; Department of Foreign Affairs and Trade 2001, 32).

The Howard letter seems to have acted as a catalyst, encouraging Habibie to have second thoughts on his policies on East Timor. On January 21, he circulated a scribbled note written at the margins of the letter. The note reads:

> If the question of East Timor becomes a burden to the struggle and image of the Indonesian people and if, after 22 years, the East Timorese people cannot feel united with the Indonesian people who proclaimed their independence 53 years ago and have a 400-year history, including 350 years under Dutch colonisation, it would be reasonable and wise if, by a decision of the People's Consultative Assembly, the 27th province of East Timor can be honourably separated from the unitary nation of the Republic of Indonesia which, in fact, had the good intention to accept them in the struggle to achieve a civil society in the coming millennium.[150]

Habibie essentially suggested immediate self-determination of the East Timorese people (Greenlees and Garran 2002, 92–93; Alatas 2006, 150–51; Sim 1999). Alatas, who learned about this memo only on January 25, was stunned and went to Habibie's office to convince him that offering self-determination was "premature and unwarranted for Indonesia… at that point of the negotiations" (Alatas 2006, 152–53). The East Timor issue was discussed in the limited Cabinet session on January 25 and then in the full Cabinet session on January 27. To Alatas' surprise, this policy as the whole was only opposed by himself, despite the presence of Cabinet ministers who had a military background. The Cabinet endorsed this new policy and publicly

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[150] The original memo was written in Indonesian. This translation is based on Sim (1999). Alatas's translation, which conveys the same meaning, is available in Alatas (2006, 151).

announced it on the same day (Alatas 2006, 152–55; Greenlees and Garran 2002, 95–98).

What was behind Habibie's sudden decision to grant an option of independence to East Timor? Habibie, first chairman of the Indonesian Association of Muslim Intellectuals (ICMI) since its establishment in 1990, had been surrounded by figures affiliated with the ICMI and its think tank CIDES (Center for Information and Development Studies), many of whom were skeptical about the idea of keeping East Timor as part of Indonesia. Among them, there was a sentiment that East Timor was not worth keeping, not only because of the international cost but also because of economic cost and the burden of developing and subsidizing the area with no strong industry. For others, the human rights situation in East Timor was a concern.[151] Some had even publicly supported self-determination of the East Timorese people during the Suharto era (Crouch 2000, 153–54; Mizuno 2003, 56–59; Greenlees and Garran 2002, 90–91). Among this circle, there was a sense that Indonesia's policy toward the East Timor problem was not sustainable, even though how to resolve it was not discussed.[152] As Habibie took over the presidency, ICMI figures such as Adi Sasono (Cooperatives Minister) and Dewi Fortuna Anwar (Habibie's foreign policy advisor) came into the government. They were clearly influential in forming Habibie's policy on East Timor (Mizuno 2003, 95–101; Greenlees and Garran 2002, 89–91).

If the input by the ICMI figures became the source of information for Habibie,[153] his thinking must have been accelerated further in late December by the Howard letter and Bishop Belo's rejection of a meeting with Habibie. While the extent of the impact of the Howard letter on the change in Habibie's position was controversial (Greenlees

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[151] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.
[152] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.
[153] Some believe that Habibie was not familiar with the East Timor issue before becoming president (Greenlees and Garran 2002, 26). However, Dewi Fortuna Anwar insists that Habibie had been familiar with the East Timor issue and concerned about it already when he was serving under President Suharto. Interview with Dewi Fortuna Anwar, Jakarta, July 2019.

and Garran 2002, 93–94), the fact that Habibie's memo was written on the Howard letter suggests that the letter was important. It made clear that even Australia, which had hitherto offered the strongest support to Indonesia on the East Timor issue among Western states, would not be satisfied with the solution without self-determination (Greenlees and Garran 2002, 94). As Mizuno writes, "according to ministers and Habibie's advisors, it was not so much the content of the Australian proposal as the fact that it came from Australia that mattered" (Mizuno 2003, 85). Also, in late December, Bishop Belo rejected Habibie's offer to meet him, citing the lack of improvement in the situation in East Timor since their cordial meeting back in June (*Jakarta Post* 1998). Habibie was upset by this rejection, and this also served as a trigger for Habibie's policy shift (Mizuno 2003, 88–91). These factors meant that Habibie realized that the offer of autonomy alone would be acceptable neither to the East Timorese (represented by Bishop Belo) nor to the international community (represented by the policy shift of Australia).

However, deferred self-determination would not be acceptable for Habibie, either. For him, "the Indonesian people, whose standard of living was deplorable, could not be allowed to be burdened any further by the cost of preparing for the secession of East Timor" (Habibie 2006, 237). Interestingly, it was also worried that allowing a transition period with special autonomy in East Timor would be seen as a precedent for Aceh and Papua and would make Acehnese people and Papuans think that special autonomy arrangements for them would be a step to self-determination.[154] In addition, Habibie worried that both the pro-independence and pro-autonomy groups would continue to be mobilized during the transition period, and there was no guarantee that the referendum even after the transition period would be peaceful: in fact, it could be even bloodier than immediate self-determination since both sides would have time to

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[154] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.

arm.[155] As a result, for Habibie, "the best way was to let the East Timorese make their choice now" (Alatas 2006, 152).[156]

6.4. Further Tripartite Negotiations and the 5 May Agreements

The announcement came as Portugal and Indonesia were prepared to open their Interests Sections in Jakarta and Lisbon, respectively. This had already been agreed upon in August 1998, and Ana Gomes would be posted to Portugal's Interest Section in Jakarta while Rezlan Ishar Jenie would be posted to Indonesia's in Lisbon (Alatas 2006, 156).[157] In fact, both Indonesia and Portugal were considering a more flexible approach to the East Timor issue at this point. On the one hand, Portugal was willing to agree with maximum transitional autonomy for fifteen or twenty years.[158] They were willing to "agree to disagree on the question of self-determination," postponing the discussion concerning how to ascertain the wish of the people for fifteen years.[159] On the other hand, even Alatas signaled that Indonesia's position—the proposed autonomy should be a final solution—could be negotiable (Department of Foreign Affairs and Trade 2001, 33). According to Mizuno, another Indonesian diplomat also admitted that a "review" after the transition period was conceivable at that point (Mizuno 2003, 109).[160] However, Habibie's announcement changed everything.

This sudden announcement produced varied reactions. In the United Nations, Marker states it took him by "complete surprise" (Marker 2003, 122). Vendrell also

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[155] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.
[156] Also, Habibie saw this offer of self-determination "more in line with the spirit of reform in which respect for human rights and democracy were highly upheld" (Habibie 2006, 244). On the other hand, it is also argued that Indonesians, particularly the military, would not agree with a transition period precisely because they thought at that time that the East Timorese people would vote for autonomy. Interview with Douglas Kammen, Singapore, June 2019; Interview with Sidney Jones, Jakarta, July 2019. For more on the Indonesian military's attitude on the referendum, see Chapter 7.
[157] Interview with Ana Gomes, the United Kingdom, September 2019.
[158] Interview with Ana Gomes, the United Kingdom, September 2019.
[159] Interview with Ana Gomes, the United Kingdom, September 2019.
[160] Rezlan Ishar Jenie was of a similar view. Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

recalls it "took everyone by surprise."[161] Similarly, both Portuguese and Indonesian diplomats were surprised and stunned.[162] Rezlan Ishar Jenie recalls it was a shock more than a surprise.[163] Yet Tamrat Samuel remembers it as not a total surprise, as Indonesia's position was developing since Suharto's fall and Habibie was a more democracy-minded and reform-oriented figure.[164] Interestingly, Alexander Downer recalls that he was excited to see that Australia's policy change affected Indonesian government policy in a way that would help solve the East Timor issue.[165]

From February 1999, the tripartite negotiations were focused upon three issues: the method of self-determination, the content of the special autonomy arrangements, and security arrangements. This background chapter discusses the latter two since the method of self-determination will be the focus of the first section in the next chapter.

The autonomy proposal, whose content had been assiduously negotiated between Portugal and Indonesia between August 1998 and early 1999, was almost ready by February, awaiting each government's approval (Martin 2001, 26). The nature of the autonomy proposal had changed by then. The autonomy offer would now be one of the two options offered in the consultation process rather than a scheme which would be implemented either as an interim or permanent solution (Marker 2003, 134).

However, when Alatas brought this autonomy proposal back to Jakarta, it was not acceptable to Habibie, who claimed that "[it] went much too far, would amount to 'suicide' and lead to the 'balkanization' of Indonesia, as it would surely encourage other provinces like Aceh and Irian Jaya to separate from the Unitary Republic of Indonesia" (Alatas 2006, 161). Habibie had to think about the East Timor issue from

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[161] Interview with Francesc Vendrell, London, June 2019.
[162] Interview with Ana Gomes, the United Kingdom, September 2019; Interview with Hasan Wirajuda, Jakarta, July 2019.
[163] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.
[164] Interview with Tamrat Samuel, New York, May 2019.
[165] Interview with Alexander Downer, London, February 2020.

the standpoint of "holding the country together."[166] The cabinet decided to delegate the task of revising the autonomy proposal to a team led by Feisal Tanjung, the Coordinating Minister for Political and Security Affairs, who had a military background (Alatas 2006, 162–63).[167] A watered-down version of the autonomy proposal was presented at the tripartite meeting in April. Portugal was willing to accept this autonomy offer as an option in the popular consultation as long as this was considered to be a proposal by Indonesia, not a joint proposal by Indonesia and Portugal.[168] After Habibie's announcement, the content concerning autonomy was not the central issue for Portugal anymore.[169]

The security arrangement leading up to the referendum was another sticking point. The Indonesian military had already organized more militias even before Habibie's sudden announcement in late January. This was in response to more intensive activities by the pro-independence groups, both civil and military, in East Timor as a result of Habibie's state-wide liberalization efforts and his offer of autonomy to East Timor (Greenlees and Garran 2002, 129–30; Moore 2001, 30–31). Once Habibie agreed to self-determination, the militia became a tool for the military to intimidate the population. Violence by the militia escalated further, culminating in the massacre in Liquisa on April 6 and rampage and killings in Dili on April 17. In Liquisa, the militia attacked those sheltered in the church, killing a few dozen of them. The Indonesian military had its district headquarters nearby, but did not intervene. It is even said that its soldiers participated in the attack wearing civilian clothes (KPP HAM 2006, 42–44; Greenlees and Garran 2002, 122–29). In Dili on April 17, the militia had a gathering in front of the office of the governor. The governor and senior

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[166] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.
[167] On this cabinet meeting, see also Greenlees and Garran (2002, 111–112).
[168] Interview with Tamrat Samuel, New York, May 2019. See also Martin (2001, 26), Marker (2003, 138), and Alatas (2006, 171).
[169] Interview with Ana Gomes, the United Kingdom, September 2019.

officers from the Indonesian military in the region were also present. After an inflammatory speech made by the militia leader Joao Tavares, the militia rampaged Dili, killing refugees who were staying at the house of Manuel Carrascalão, a high-ranking pro-independence figure, and destroying the office of *Suara Timor Timur*, a newspaper company owned by Salvador Ximenes Soares, a pro-autonomy figure, who had been critical about violence (KPP HAM 2006, 45–46; Greenlees and Garran 2002, 133–34; Department of Foreign Affairs and Trade 2001, 67–68).

Against this backdrop, the security situation was worrying for the United Nations. However, Indonesia was adamant that it would not permit a foreign peacekeeping force on its soil before the referendum. Alatas and Habibie believed that conceding this point would not be tenable domestically (Alatas 2006, 173). Still, Australian Prime Minister Howard pushed hard on this matter, managing to persuade Habibie to accept an increase of unarmed UN civilian police (Alatas 2006, 173; Greenlees and Garran 2002, 145–46; Department of Foreign Affairs and Trade 2001, 78–81).[170] Ian Martin recalls that "no one was happy with the security aspects of the 5 May Agreements" (Martin 2001, 32), but believes that it would have been difficult to persuade Jakarta.[171] Australia and the United States were worried that pushing the security issue too much would jeopardize the whole agreement (Marker 2003, 153–54). In addition, since the Indonesians had already conceded to the international community the method of self-determination (see the discussion in the next chapter), it was difficult for Portugal's government to push too much on security.[172] It was also hoped that a UN presence in East Timor would help mitigate the level of violence (Department of Foreign Affairs and Trade 2001, 81). According to Ana Gomes, "it was

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[170] After the 5 May Agreements were signed, Habibie also agreed with the deployment of unarmed military liaison officers after urgings by Marker (Marker 2003, 162–163; Alatas 2006, 186–187).
[171] By early April, the United Nations had sensed that the Indonesian military was not committed to the referendum process. Interview with Francesc Vendrell, London, June 2019.
[172] Interview with Tamrat Samuel, New York, May 2019.

a calculated risk."[173]

By the beginning of May, the tripartite negotiations reached an agreement. The "5 May Agreements" (UN Secretary-General 1999e) stipulated that the referendum would be held on August 8, 1999, with the questions, "Do you accept the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?" or "Do you reject the proposed special autonomy for East Timor, leading to East Timor's separation from Indonesia?"[174] Reflecting the concern over security, it was stipulated that the Secretary-General would need to confirm that the security situation was conducive for the consultation before the start of the registration period. It was also agreed that "the police will be solely responsible for the maintenance of law and order" (UN Secretary-General 1999e, Annex III, para. 4). Following the agreement, the United Nations Mission in East Timor (UNAMET) was established, headed by Ian Martin who was appointed Special Representative of the Secretary-General (SRSG) for the East Timor Popular Consultation (UN Secretary-General 1999f).

Formally, this referendum was called "the popular consultation." For the Indonesian government, the referendum was consultative, and its decision still needed to be endorsed by the People's Consultative Assembly (MPR), which was scheduled to meet in September after the national elections expected in June (Alatas 2006, 154; Habibie 2006, 235; Martin 2001, 28). Still, the Indonesian government was committed to delivering the result of this consultation in the 5 May Agreements (UN Secretary-General 1999e, Annex I, Article 6). In the June national elections, the Indonesian Democratic Party of Struggle—led by Megawati Sukarnoputri, a nationalist opposed to East Timor's referendum—won the highest number of votes (around 34%) followed by Habibie's Golkar (around 22%).

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[173] Interview with Ana Gomes, the United Kingdom, September 2019.
[174] For each question, the words of "accept" and "reject" were underlined.

6.5. UNAMET and the Conduct of the Referendum

Once UNAMET started to establish its presence in East Timor, violence and intimidation by the militia subsided initially (Robinson 2010, 116–17). The situation in Dili seemed to have calmed down (Martin 2001, 45). However, there were as many as 40,000 internally displaced persons in East Timor in June (Martin 2001, 45). The Report of the Secretary-General dated June 22, 1999, pointed out that the security situation in East Timor was not improved enough to justify the start of the registration period. It argued, "in many areas, pro-integration militias, believed by many observers to be operating with the acquiescence of elements of the army, [carried] out acts of violence against the population and [exercised] an intimidating influence over it" (UN Secretary-General 1999g, 4, para. 14). The report, citing both the security situation and the logistical problems of UNAMET, postponed the beginning of the registration until July 13 (UN Secretary-General 1999g, 5–6, paras. 18–20).[175]

Late June and early July saw three serious incidents targeting a UNAMET office and personnel in Maliana on June 29, Viqueque on June 30, and Liquica on July 4.[176] UNAMET recommended further postponement of the registration until the security situation improved. However, the Core Group of states (the United States, the United Kingdom, Australia, New Zealand, and Japan), the Permanent Members of the Security Council, and Marker preferred to begin registration to prevent the delay of the referendum. It was feared that further delay would mean that the vote would not take place by the end of August. The CNRT also concurred with this view, worried that the window of opportunity would be lost (Robinson 2010, 126–29; Martin 2001, 48–

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[175] On this, also see Martin (2001, 45–47).
[176] See, for example, Greenless and Garran (202, 172–173). Alatas refers to both the account from the Indonesian side and the UNAMET account on these cases (Alatas 2006, 190–193).

50; Marker 2003, 176–77).[177] Meanwhile, facing mounting international pressure, Habibie dispatched Cabinet Ministers including Feisal Tanjung, Alatas, and Wiranto to Dili on July 12, which led to the decline of violence (Martin 2001, 48–49; Alatas 2006, 193; Robinson 2010, 129–30). To gauge the effect of this visit, the Secretary General initially postponed the registration until July 16, and then deciding to go ahead while stating that the security situation was still not adequate (UN Secretary-General 1999a, 1999b).

As the registration began, the security conditions in East Timor improved even though they "still remain[ed] inadequate" (UN Secretary-General 1999c). The Political Affair Office within UNAMET interpreted this as "a water faucet that could be turned on and off at will": violence is totally under the control of the military, and hence the fundamental condition of insecurity had not changed (Robinson 2010, 131). The voting date was fixed as August 30, and the registration period ended in early August with more than 450,000 people registered (UN Secretary-General 1999d; Martin 2001, 60). The United Nations had been worried that the popular consultation might not reflect the wish of the population due to the security situation in East Timor, but the success of registration was the first indication that the popular consultation would indeed reveal the wish of the population.[178]

The Code of Conduct for the campaign period was prepared by UNAMET and signed by both the pro-autonomy and pro-independence camps on August 9. It stipulated the avoidance of violence and inflammatory rhetoric (Martin 2001, 62). In order to avert tensions, each side would campaign on alternate days even though the launch of the campaign was done jointly based on a suggestion by Gusmão (Department of Foreign Affairs and Trade 2001, 113; Martin 2001, 63). However, as

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[177] Interview with Tamrat Samuel, New York, May 2019.
[178] Interview with Tamrat Samuel, New York, May 2019. See also Martin (2003, 149).

the campaign period started, the violence by the pro-autonomy militia surged again, leading to the attack and destruction of CNRT offices in various places (Martin 2001, 75; Department of Foreign Affairs and Trade 2001, 113). The violence culminated in Dili on August 26, the final date of campaigning allocated to the pro-autonomy camp. The pro-autonomy camp, joined by the militia, rampaged Dili. Several died as a result, including two pro-autonomy militia members, as there was also a confrontation between the two camps.[179] There was suspicion that the level of violence was carefully controlled by the Indonesian authorities (Department of Foreign Affairs and Trade 2001, 115). The Electoral Commission, which would certify the result, was very concerned—to the extent that their letter to Ian Martin on August 20 indicated that because of the Indonesian government's failure to adhere to the 5 May Agreements, they "may be obliged to conclude that such failure resulted in a perversion of the poll in favor of the pro-autonomy camp" (Martin 2001, 83; Alatas 2006, 203).[180] Yet the CNRT was still of the view that people would vote for independence, and it preferred to go ahead as scheduled.[181] In addition, the United Nations had the precedent of Western Sahara where the referendum process had become bogged down, and it believed that this was a closing window of opportunity.[182] As a result, the voting process went ahead.

From late 1998, efforts at reconciliation between the pro-independence and pro-autonomy camps were being facilitated by various actors. The Dare II Meeting in Jakarta took place in late June 1999 with another meeting happening there in August (for more, see Chapter 7). None of them really helped calm down the security situation on the ground, but as a last desperate measure, UNAMET coordinated a meeting

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[179] See, for example, KPP HAM (2006, 46), Greenlees and Garran (2002, 186–187), and Department of Foreign Affairs and Trade (2001, 114–115).
[180] Francesc Vendrell confirmed this. Interview with Francesc Vendrell, London, June 2019.
[181] Martin recalls, "at all stages when the UN moved forward [to the vote], it did so after consulting him [Gusmão]" (Martin 2003, 149).
[182] Interview with Francesc Vendrell, London, June 2019.

between Falintil leaders and the leaders of the pro-autonomy militia, leading to an agreement of cantonment of their members (Martin 2001, 77–78; Department of Foreign Affairs and Trade 2001, 117–18).

The voting on August 30 was largely peaceful. However, violence by the pro-autonomy militia erupted again after the ballot day. Martin observes, "it was evident that the pro-autonomy side had begun to understand from the overwhelming turnout that intimidation had failed, and their anger began to make itself felt even while the result was still awaited" (Martin 2001, 92). For the Australian government, "the contrast between the calm of ballot day and the violence that followed confirmed the view of many that this failure was not one of capacity to deal with the situation but of willingness to do so" (Department of Foreign Affairs and Trade 2001, 124).

Amid concerns over security, UNAMET decided to publish the result once they finished the counting; they announced the result on the morning of September 4, 1999, in Dili (a simultaneous announcement was made in New York) (Martin 2001, 93–94). Of all voters, 78.5% voted for independence with a turnout of 98.6%. The Electoral Commission stated that "the popular consultation provide[d] an accurate reflection of the will of the people of East Timor" (Martin 2001, 157).

6.6. Violence after the Referendum and International Intervention

Once the ballot result was announced, violence and chaos emerged throughout East Timor. While the militia rampaged, the military and police largely stood aside or even actively participated in violence. It is argued that compared to the period before the referendum when violence was largely attributed to the pro-autonomy militia, the military and police played a direct role in the violence after September 4 (van Klinken, Bourchier, and Kammen 2006, 71; Martin 2001, 96; Security Council Mission to Jakarta and Dili 1999, Annex, para. 9). Notable attacks include the massacre at a

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church in Suai and the attack on Bishop Belo's residence and the office of International Committee of the Red Cross next door in Dili on September 6. In both incidents, these places had sheltered a large number of refugees. All the UNAMET officials were forced to evacuate to its compound in Dili by the end of September 7 and were effectively under siege there (Robinson 2010, 171). A scorched-earth campaign of burning buildings and looting properties was also carried out across East Timor. Moreover, a forced displacement of the population to West Timor was systematically carried out by the military and police as well. As many as 250,000 people were displaced in West Timor, including those who made the move voluntarily as they were worried about their safety.

While Indonesian officials portrayed this situation as a series of spontaneous actions by the pro-autonomy militias motivated by their anger (Crouch 2000, 168; Security Council Mission to Jakarta and Dili 1999, para. 15), the situation in East Timor was not one of anarchy. Instead, the violence was still controlled, even though who controlled it was now less clear. According to the report of the Australian Consulate in Dili on September 6, "Indonesian Government officials and security forces [were] still moving freely about the town and display little anxiety. The signs are not those of general anarchy (although we believe some small scale looting might be taking place), rather what appears to be a deliberate and selective lapse of law enforcement" (Department of Foreign Affairs and Trade 2001, 128). Indeed, the forced relocation of the East Timorese on this massive scale "required too much logistical support and preparation to be a spontaneous event" (Greenlees and Garran 2002, 203). Geoffrey Robinson points out that no international member of the UN was killed, suspecting that this was not merely due to a luck. Rather, it was part of the deliberate strategy to minimize international condemnation (Robinson 2010, 160).[183]

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[183] See also Martin (2003, 150).

On September 7, based on Wiranto's suggestion, Habibie introduced martial law in East Timor. However, this did not curb the violence. As the Indonesian government failed to manage violence in East Timor, international pressure to invite international force to deal with the violence soon mounted. On September 5, the UN Security Council decided to dispatch a mission to Jakarta. Kofi Annan was personally involved to the extent that he was essentially "the desk officer for East Timor" during this period (Robinson 2010, 192). The United States initially hesitated to put pressure on Indonesia to accept an international force, worried about its relationship with Indonesia. Yet as Australia and Portugal, more important allies for the United States, strengthened their pressure on the United States to support and participate in an international force, the Clinton administration decided to publicly demand that Indonesia accept an international force with the threat of economic sanctions (Greenlees and Garran 2002, 240–48). Even the International Monetary Fund and the World Bank linked their financial assistance with East Timor. The summit of Asia-Pacific Economic Cooperation (APEC) in Auckland on September 11 and 12 and the Security Council meeting in New York on September 11 further showed strong international support for international intervention with the consent of Indonesia.[184]

It seems that Habibie and Alatas considered it inevitable that Indonesia would need to accept an international force to stabilize the situation when martial law proved to be ineffective, but they needed backing from Wiranto and the military. Wiranto finally agreed with international intervention when he came back to Jakarta after visiting Dili with the Security Council mission. It is said that he was apparently shocked to see the level of destruction in Dili, which changed his mind.[185] Once Wiranto acceded, Habibie announced his willingness to accept an international force

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[184] On the international response to the situation in East Timor during this period, see Greenlees and Garran (2002, chap. 12), Martin (2001, chap. 8), and Robinson (2010, chap. 9).
[185] See also Security Council Mission to Jakarta and Dili (1999).

to East Timor on September 12 (Alatas 2006, 218–19; Greenlees and Garran 2002, 258–61; Martin 2003, 152–58). UN Security Council Resolution 1264 authorized the establishment of the International Force for East Timor (INTERFET) (UN Security Council 1999). Led by Australia, its first forces arrived in Dili on September 20.

The same resolution envisaged that INTERFET would be replaced by a UN peacekeeping operation and a UN transitional administration, and it asked the Secretary General to recommend the former and plan and prepare the latter.

6.7. The UN Transition Period under UNTAET

The 5 May Agreements did envisage what would happen after the referendum. It set out a Phase II and Phase III for the implementation of the referendum result. However, the Indonesian government was not willing to enter into discussion on the implementation of an outcome in which independence was chosen,[186] so there were no preparations for independence let alone preparation within the United Nations for a "worst-case" scenario in which violence erupted after the referendum (Conflict Security & Development Group, King's College 2003, paras. 12–13). As a result, when a worst-case scenario occurred, not only was the phased approach in the 5 May Agreements irrelevant, but the urgent planning for and establishment of a UN transitional administration suffered from the time constraints. According to the KCL report, "one consequence of the time constraint was that planning for East Timor focused on structures and excluded consideration of the transitional process to independence" (Conflict Security & Development Group, King's College 2003, para. 18). The planning for the structure of the transitional administration was done within two months (Conflict Security & Development Group, King's College 2003, para. 28).

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[186] Interview with Francesc Vendrell, London, June 2019; Ana Gomes confirmed that there was no discussion on this during the referendum period because the focus was on the referendum. Interview with Ana Gomes, the United Kingdom, September 2019.

At this point, "it [was] envisaged that the process [of the transition to independence] will take two to three years" (UN Secretary-General 1999h, 6, para. 27). The exact reason behind this calculation is not mentioned, but the KCL report points out,

> in the absence of a clear road map defining the path to independence this timescale could be seen as having been as much driven by what the UN Secretariat judged major country contributors' budgets and the Security Council's limited patience with nation-building would bear as by the practicalities of implementing the transitional administration's mandate. (Conflict Security & Development Group, King's College 2003, para. 30)

Bruce Jones, who was involved in planning the UN transitional administration at the UN's Department of Peacekeeping Operations (DPKO), recalls that, even though the timeline was determined by the Security Council, the DPKO also recommended this period of time based on arrangements in other cases with the eventual mandate renewal in mind.[187]

The view of the CNRT about the optimal length of the transitional period is unclear, but it has been argued that the CNRT leaders envisaged a five-year transitional period even though this might not have been a unanimous position within the leadership (Goldstone 2004, 87–88; Kammen 2019b, 16–17). Yet whatever the CNRT leadership hoped, the timetable seems to have been largely determined by the UN (Goldstone 2004, 87).[188]

Soon after the United Nations Transitional Administration in East Timor (UNTAET) was established, dissatisfaction emerged among the East Timorese people,

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[187] Interview with Bruce Jones, Phone, February 2020.
[188] Interview with Edward Rees, VoIP, November 2019.

who felt that they were not represented in the governance of the territory. The lack of Timorization was partially a result of the DPKO's ambivalence toward the CNRT— the view that treating the CNRT as a counterpart would be tantamount to favoritism to the CNRT even though it enjoyed *de facto* legitimacy on the ground (Conflict Security & Development Group, King's College 2003, paras. 25–27, 293–294)—and partially a result of the assumption among UN officials that East Timor was politically a *terra nullius* (Chopra 2002, 981). The CNRT created the Transitional Council to serve as a parallel structure to the UNTAET, but this was ignored by the United Nations (Gorjão 2002, 318). Instead, the United Nations created the National Consultative Council composed of fifteen non-elected East Timorese people and internationals. This Council functioned merely as an advisory body without legislative powers, which were instead held by the Transitional Administrator of East Timor, Sergio Vieira de Mello, who was also SRSG (Chopra 2002, 991; Gorjão 2002, 317–18). Timorese dissatisfaction over the lack of participation prompted Ramos-Horta to demand in May 2000 that the United Nations should fix the date for their exit from East Timor (Chopra 2000, 33). Facing pressure from the East Timorese, UNTAET transformed the National Consultative Council into the National Council in July 2000, whose 33 members were exclusively drawn from East Timor. Yet the members continued to be non-elected, and the nature of the Council as an advisory body did not change (Bowles and Chopra 2008, 279; UN Secretary-General 2000, para. 2). Also in the same month, UNTAET created an eight-member cabinet so that UNTAET would "resemble more closely the future government and to increase the direct participation of the Timorese, who thus assume a greater share of the political responsibility" (UN Secretary-General 2000, para. 3). In the cabinet, four members were East Timorese. However, the East Timorese people still considered this move as a "token gesture" and decided to push for the quick departure of UNTAET (Conflict Security & Development Group, King's College 2003,

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para. 299). By January 2001, the East Timorese people were largely unanimous in aiming for independence by the end of 2001 (UN Secretary-General 2001, para. 2). This timetable coincided with the initial timeline of the UN—two to three years of transition—and the expectation from the UN member states to end the costly operation sooner rather than later (Bowles and Chopra 2008, 279; Gorjão 2002, 321). The Constituent Assembly election took place on August 30 with a voting rate of 91.3%, and it gave Fretilin the majority. A new cabinet was appointed by de Mello in September, composed solely of twenty East Timorese people. Contrary to the wishes of Gusmão and de Mello, the cabinet was dominated by Fretilin rather than taking the form of a national unity government (Bowles and Chopra 2008, 280–81; Gorjão 2002, 322). The Constitution was subsequently signed in March 2002. One month later, the presidential election was held, and Gusmão won with more than 80% of the vote. East Timor's independence was declared in May 2002 with Mari Alkatiri as Prime Minister.

This hasty schedule posed various limits to the UN peacebuilding mission. Most notably, this made it impossible to hold another election to elect a new legislature after the Constitution was adopted (Goldstone 2004, 89). As a result, the Constituent Assembly was transformed into the Parliament. Of course, Fretilin was happy to support this, as it allowed the party to keep their majority in the new legislature. This entailed two problems for the quality of democracy in East Timor. First, under such circumstances, the majority in the Constituent Assembly had every reason to adopt a constitution serving their interest. This was particularly true in this case since there was no referendum for citizens to control its content (Lenowitz 2015). In East Timor, Fretilin adopted a semi-presidential system, anticipating their control of the legislature and Gusmão's control of the presidency. This became the background to the 2006 crisis. Second, in the eyes of the opposition parties, the central government emerging from

this procedure lacked legitimacy, again eventually culminating in the 2006 crisis.[189]

6.8. Independence, the 2006 Crisis, and its Aftermath

For the first four years after independence, the United Nations and the international community boasted of its success in East Timor. However, Fretilin's government was accused of their authoritarian manner of governing the country. For example, to consolidate their power, Fretilin members were overwhelmingly appointed to government positions (Simonsen 2006, 583; Hasegawa 2013, 86). Intolerant of criticism, Fretilin tried to introduce a defamation law to sue those critical of the regime (Strating 2015, 130; Hasegawa 2013, 90–91). Fretilin was also criticized for intimidation and manipulation during the 2005 village-level elections (Siapno 2006, 330).

The security sector, which was not fully institutionalized before independence (Bowles and Chopra 2008, 292–96), eventually became the immediate cause of the 2006 crisis.[190] In Battalion I of the newly established East Timor national army FALINTIL-FDTL (F-FDTL), there had been consistent allegations of discrimination against westerners dating back as early as 2003 (International Crisis Group 2006b, 6). It was a petition in January 2006 which triggered the crisis. Similar to previous petitions, petitioning soldiers complained about discrimination against westerners by easterners, who disproportionately occupied officer positions (International Crisis Group 2006b, 6; Scambary 2009, 273). Initially, "there was no reason to believe that this protest was significantly more important than earlier ones but it escalated rapidly

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[189] Interview with Douglas Kammen, Singapore, June 2019. See also Kammen (2019b, 19). However, one UN official recalls that this likely transformation was already known at the time of the Constituent Assembly election. After all, there was no plan to hold another election soon. Interview with Edward Rees, VoIP, November 2019. As early as January 2001, the Report of the Secretary General clearly stated that "it [was] expected that the Constituent Assembly [would] become the first legislature of the independent State" (UN Secretary-General, 2001, para. 3).
[190] On the security sector reform, see, for example, the Centre for International Governance Innovation (2009, 2010).

from complaints about discrimination to a demand that that [sic] Alkatiri step down" (International Crisis Group 2006b, 7). In February, petitioners chose to leave the barracks in protest. As they did not return, F-FDTL commander Taur Matan Ruak dismissed them on March 16 with the support of Alkatiri. Yet Gusmão did not endorse this approach, siding with petitioners in his televised address on March 23. This led to disturbances and fighting between easterners and westerners in Dili between March 25 and 31 (International Crisis Group 2006b, 7–8; "Report of the United Nations: Independent Special Commission of Inquiry for Timor-Leste" 2006, 21–22; Kammen 2011, 117).

After a lull until mid-April, the petitioners organized a demonstration in front of the Government Palace with police permission. The demonstration began on April 24, but as more and more non-petitioners joined it, the issue at stake for the demonstrators went beyond the issue of discrimination within F-FDTL: the demonstration was now about who should govern the country (International Crisis Group 2006b, 8–9; Kammen 2011, 118). The spokesman of one of the two key groups involved in the demonstration made a speech in which "he stated [] that violence would be used to secure a change of Government" ("Report of the United Nations: Independent Special Commission of Inquiry for Timor-Leste" 2006, 23).[191]

As more and more non-petitioners joined, violence erupted on the final day of the demonstration, April 28. Police forces fled, and the demonstrators entered and ransacked the government palace. Violence also erupted while the demonstrators retreated from the palace ("Report of the United Nations: Independent Special Commission of Inquiry for Timor-Leste" 2006, 24–27; International Crisis Group 2006b, 9). The F-FDTL was officially deployed to restore order in the evening ("Report of the United Nations: Independent Special Commission of Inquiry for

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[191] See also Scambary (2009, 273).

Timor-Leste" 2006, 27–28; International Crisis Group 2006b, 9), but this merely intensified the schism between easterners and westerners as the F-FDTL was considered to be sided with the former (International Crisis Group 2006b, 9).

After an isolated incident in early May, full-scale violence erupted between May 23–25. F-FDTL and police forces fought against each other with the latter often personally loyal to Rogerio Lobato, the controversial Minister of Internal Affairs, who had actively recruited westerners to his police force.[192] The fighting included a battle between F-FDTL and police at the latter's headquarter, an attack on the residence of F-FDTL commander Taur Matan Ruak, and the burning of the house of the relatives of Rogerio Lobato (International Crisis Group 2006b, 11–12; "Report of the United Nations: Independent Special Commission of Inquiry for Timor-Leste" 2006, 31–38). Security in Dili broke down. Alkatiri had to request international intervention to calm down the situation and was then forced to resign in late June as President Gusmão and Foreign Minister Ramos-Horta threatened to resign unless Alkatiri himself resigned (International Crisis Group 2006b, 12–17). A caretaker government headed by Ramos-Horta was sworn in until the 2007 elections.

The death toll from this crisis between April and May 2006 was relatively small. The UN investigation team found that up to 38 people were killed in April and May. In addition, it reported that as many as 150,000 people were displaced—an astonishing figure for the tiny country of East Timor ("Report of the United Nations: Independent Special Commission of Inquiry for Timor-Leste" 2006, 42). Residual violence, often with a different nature than the east-west division, continued until December 2007 (Scambary 2009).

In the 2007 elections, Fretilin won the highest number of votes and parliamentary seats but could not find a coalition partner to form the majority in the

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[192] See International Crisis Group (2006b, 5–6).

parliament. Instead, Gusmão and parties associated with him formed the government. Ramos-Horta was elected as president. Since the 2007 elections, the country was largely run by Xanana Gusmão, who was Prime Minister between 2007 and 2015. Gusmão's strategy was to "buy peace" rather than "build peace" (Kammen 2019a). Utilizing the oil revenue, Gusmão has delivered cash and contracts and purchased allegiance from potential spoilers and rivals, most notably Fretilin veterans (Kammen 2019a). After the 2012 elections where Gusmão's parties won again, this strategy was extended to Fretilin leaders, including even Alkatiri, who became the head of the Oecusse Special Administrative Region and Special Economic Zone with a lucrative budget (Kammen 2019b, 51). Still, the fact remains that East Timor is considered to be the most democratic country in Southeast Asia (Kammen 2019b, 56) and has been largely peaceful since the 2006 crisis, which is a significant achievement for a country emerging from conflicts and poverty.

6.9. Conclusion

After a long period of Indonesian rule, the East Timorese people seized the opportunity of a referendum offered by the Habibie administration. Unfortunately, the referendum process, both leading up to the referendum and in its aftermath, was marred by violence. Still, the prompt international pressure made it possible for the Indonesian government to accept INTERFET and the result of the referendum. After the UN transition period, the East Timorese people finally gained independence in 2002. While the 2006 crisis cast some doubts on the claim of successful peacebuilding, East Timor has managed to avoid a civil war and has recovered from this experience. Overall, it is difficult to deny the success story of democratic and peaceful East Timor.

The experience of East Timor raises a number of questions. Should we attribute the violence to the referendum's zero-sum nature, as those concerned about

referendums argue? Did it divide the pro-independence and pro-autonomy people? Regarding the "success" of peacebuilding, did the referendum contribute to it? But then, how should we understand the 2006 crisis? Did the referendum instead have a negative impact on East Timor, culminating in the 2006 crisis? The next chapter will address these questions through structured, focused comparison.

Chapter 7
Referendum in East Timor (1999):
Structured, Focused Comparison

This chapter, divided into three sections corresponding to the three questions posed in this thesis, analyzes the rationales behind the referendum and its impact on peace and democracy.

The first section examines the first question of this thesis, namely, the rationales for choosing a direct vote as the method of self-determination. This section is divided into three subsections. The first section examines the rationales presented by the pro-independence movements: most importantly, Fretilin and the CNRT. It examines this question through their peace proposals, existing interviews, and my interviews with those involved in the diplomatic efforts for independence. The second subsection analyzes the negotiations at the international level, namely the tripartite negotiations in the 1980s and the 1990s between Portugal and Indonesia until the fall of the Suharto regime. The third section explores the discussion on the method of self-determination at the final stages of the negotiation process leading to the 5 May Agreements. This section particularly focuses on the period between February and March 1999 where intensive negotiations were held on the method of self-determination. The latter two subsections are heavily reliant on my interviews, even though the third subsection has also benefitted from the UN documents and existing memoirs.

The second section first analyzes potential or manifest spoilers. Leaders from the opposition parties, the Indonesian military, and the pro-autonomy militia are discussed in this order. The first three subsections largely rely on existing memoirs and secondary sources, considering that violence during and after the referendum process has been amply studied. It further examines whether the zero-sum nature of the

referendum should be blamed for the violence during and after the referendum process. The final subsection of the second section offers the analysis of the long-term relationship between Indonesia and East Timor post-referendum. The final two subsections are largely based on my interviews.

The third section investigates the impact the 1999 referendum had on the amelioration of tensions between the pro-independence and pro-autonomy groups as well as within the pro-independence groups, democratization and democracy of East Timor, and the international attitudes toward post-referendum East Timor. While secondary sources are also used, this section has significantly benefitted from my interviews with those closely involved in peacebuilding in East Timor.

7.1. Rationales behind a Referendum

7.1.1. The Pro-independence Movement

Peace proposals by the pro-independence movement date back to the early 1980s.[193] In 1983, amid negotiations at the local level leading to a temporary ceasefire, Gusmão handed Fretilin's peace proposal to Indonesia's military commander in East Timor. In addition to demanding a UN peacekeeping operation in East Timor, the proposal demanded self-determination for the East Timorese people. The exact wording is unclear, but Taylor (Taylor 1991, 137) and Budiardjo and Liem (Budiardjo and Liem 1984, 72) respectively reported that the demand was "the holding of free consultations." Meanwhile, citing a Portuguese source, the CAVR report notes that the demand was more explicitly "a free and fair referendum"(CAVR 2006, chap. 3, p. 102). Even this was an important concession, because Fretilin previously argued that the East Timorese people had already chosen independence when Fretilin declared East Timor's independence in 1975 (CAVR 2006, chap. 5, p. 31). In 1989, Gusmão

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[193] For an overview, see Kammen (2012, 101–106).

proposed another peace plan. This peace plan envisaged a transitional administration by a Portuguese High Commissioner for up to five years, followed by a National Unity Government of the East Timorese people for between five to fifteen years, concluding with a self-determination referendum (CAVR 2006, chap. 5, pp. 39–40; Gusmão 2000, 139–41).

The most famous peace plan was a three-phased plan proposed in 1992 by Ramos-Horta and endorsed by Gusmão. The first phase, lasting one to two years, would deal with demilitarization and humanitarian operations. In the second phase, East Timor would have transitional autonomy under the sovereignty of Indonesia. This period could be extended for another five years if the East Timorese agreed with an extension through a referendum. A self-determination referendum would be held in the third phase (Baker 1992; Ramos-Horta 1996).[194]   It was the first plan by the pro-independence movement which envisaged transitional autonomy under Indonesia (Kammen 2012, 105).

Initially, it was not clear whether the third phase would absolutely require the holding of a referendum to ascertain the wish of the East Timorese people. One news source reported in May 1992 that the third phase would "lead to a referendum or elections for a constituent assembly" (*Reuters News* 1992). In a radio interview in July 1994, Ramos-Horta said, "we are seeking genuine self-determination through which the people of East Timor could decide through elections or a referendum what they want for the future for, as a final status of the territory" (*BBC Monitoring Service:*

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[194] Options which would be offered in a referendum were not clear throughout the 1990s. On one occasion, Ramos-Horta mentioned three options: integration into Indonesia, free association with Indonesia, and independence (*BBC Monitoring Service: Asia-Pacific* 1994a). Later, he aired the possibility of free association with Portugal when he was interviewed by Portuguese TV (*BBC Monitoring Service: Asia-Pacific* 1996). As late as June 1998, again in an interview with Portuguese TV, Ramos-Horta still argued that a referendum could have three options: integration into Indonesia, association with Portugal, and independence (*BBC Monitoring Service: Asia-Pacific* 1998). According to a former member of the CNRT, these occasionally different presentations of the peace plan were a strategic move to secure an audience. Interview with a former member of the CNRT, Dili, June 2019.

Asia-Pacific 1994b).

After 1994, it seems Ramos-Horta was no longer envisaging an option of electing representatives for self-determination.[195] Ramos-Horta does not seem to have explicitly explained why self-determination needed to take the form of a direct vote. Still, at one point, he did refer to the rationale of holding a referendum at the end of the second phase in case of its extension. Asked in an interview about what would happen if the second phase was successful, Ramos-Horta stated:

> There would be phase three. If phase two went well, if Indonesia honoured all its undertakings during phases one and two, then it is possible that the territorial parliament, the territorial assembly, might decide, after negotiations with Indonesia, to extend its own mandate for another five years. But this would require two-thirds of the vote.
>
> Moreover, should the assembly decide to extend the autonomy mandate for another five years, this decision must also be submitted to a popular referendum.
>
> And why would we want to do this? The assembly will be a small one, with some 50 to 70 delegates… I do not mean to question the integrity of its hypothetical members, but caution is the best policy. Indonesia has a lot of money, and within a five year period it could buy many people, and when it came to voting on whether or not to extend the autonomy mandate we might well get a unanimous vote for extension, not because that was the will of the people but because some understanding had been struck with Indonesia. So, as a precautionary measure, the territorial assembly's decision would have to be

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[195] As far as the author is aware, there are no public sources after 1994 in which Ramos-Horta referred to the possibility of self-determination through elections.

submitted to a referendum. (*BBC Monitoring Service: Asia-Pacific* 1996)

Essentially, Ramos-Horta argued that a referendum would be necessary even just to extend phase two because assembly members might not vote as the population wished. If such a precautionary measure would be necessary even just for an extension, surely holding a referendum would be necessary for the more crucial exercise of the right of self-determination.

Interestingly, Gusmão did explain why self-determination needed to take the form of a referendum in an interview with a Portuguese newspaper in July 1998, after the Suharto regime collapsed. Explicitly asked whether there were ways other than a referendum to ascertain the wish of the population, Gusmão answered,

> I do not think there are any other ways. East Timor could take part in the general elections and the number of abstentions would be an indication of opposition to integration in Indonesia. But that would require a lot of preparation. A referendum is easier for people to understand: the choice is clearer—it's either yes or no. The other way would be confusing, as only those in favour of integration in Indonesia would take part in the elections. I think that holding a referendum is a better way. (Gusmão 2000, 220)

In fact, even at the time of the referendum, Gusmão had to insist upon including the CNRT flag, because otherwise, the pro-independence citizens, many of whom were illiterate, would not recognize which option was the one for independence.[196]

Finally, it seems that West Papua's self-determination exercise in 1969 was a worrying precedent for the East Timorese. RENETIL's founder, Fernando de Araujo,

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[196] Interview with a former member of the CNRT, Dili, June 2019.

writes that while the East Timorese welcomed the announcement by the Habibie administration in January 1999, "there was serious concern and suspicion of potential manipulation because of what we had learned from the history and experience of the people of West Papua" (De Araújo 2003, 100).

7.1.2. International Level: Indonesia, Portugal, and the UN Tripartite Negotiations

The Position of Portugal and Indonesia

Before 1991, Portugal reluctantly accepted that the eventual integration of East Timor into Indonesia would be inevitable.[197] At that time, Portuguese public opinion was not concerned about the East Timor situation,[198] and Portugal had no diplomatic support from Europe or Latin America.[199]

For Indonesia, the East Timorese exercised their right of self-determination in 1976 when they decided to join Indonesia. Hence, East Timor's decolonization process ended in 1976. However, Indonesia still needed international recognition of it. Indonesia's Ministry of Foreign Affairs was aware that some kind of consultation with the East Timorese people could be considered in order to conclude the tripartite negotiation process. Still, holding a referendum was not the preferred option.[200] Indonesia was worried that a referendum would further divide the population, leading to another civil war akin to 1975.[201] Moreover, offering a referendum was not in line with Indonesia's argument that the majority of the East Timorese people indicated that they wanted to be integrated into Indonesia back in 1975.[202] Also, a referendum requires deciding who has the right to vote, which bogged down the referendum

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[197] Interview with Francesc Vendrell, London, June 2019.
[198] Interview with Ana Gomes, the United Kingdom, September 2019.
[199] Interview with Francesc Vendrell, London, June 2019.
[200] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.
[201] Interview with Rezlan Ishar Jenie, Jakarta, July 2019. See also Alatas (2006, 141).
[202] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

process in Western Sahara.[203] As a result, Indonesia had a long-standing policy of not agreeing to hold a referendum in East Timor even though it did not rule it out when it considered various possible options.[204] Hasan Wirajuda, who was involved in the East Timor issue throughout his diplomatic career and who later served as the Indonesian Foreign Minister between 2001 and 2009, points out that holding a referendum for decolonization was an exception rather than a rule.[205] He specifically refers to the case of Sabah and Sarawak where there was no referendum.[206]

In the 1990s under the Suharto regime, Ali Alatas formulated a policy paper discussing possible options for the East Timor issue. Included as options were the holding of a referendum, the offer of autonomy, a solution akin to Sabah and Sarawak, and keeping the status quo.[207] Ali Alatas preferred granting special autonomy to East Timor as a final solution, but Suharto rejected it claiming that it would not be acceptable to Portugal (Alatas 2006, 100–104).

The Tripartite Negotiations

In 1985, Portugal and Indonesia contemplated that regular Indonesian elections, due to take place in April 1987, would be used as means to ascertain the wish of the population in East Timor. [208] However, Bishop Belo communicated with the Portuguese government and told them that Fretilin had the support of the population. This information from Bishop Belo stunned the Portuguese government, which

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[203] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.
[204] Interview with Hasan Wirajuda, Jakarta, July 2019.
[205] Interview with Hasan Wirajuda, Jakarta, July 2019. This statement is true for those opting for independence. When the option is integration to another country, a referendum was often held. See Chapter 2.
[206] Interview with Hasan Wirajuda, Jakarta, July 2019.
[207] Interview with Hasan Wirajuda, Jakarta, July 2019. One more option was listed in Ali Alatas' memoir: "a return to the pattern of voting in the UN General Assembly" (Alatas 2006, 100). Hasan Wirajuda recalled in the interview that it was in 1996 but admitted that it might have been in 1994 in line with Alatas' memoir. Subsequent Email communication with Hasan Wirajuda, July 2019.
[208] Interview with Ana Gomes, the United Kingdom, September 2019. Also, see Alatas (2006, 35–36).

thought that the Bishop was pro-Indonesia.[209] As a result, newly elected Portuguese President Mário Soares, who had been involved in this interaction, demanded that there had to be a separate vote about integration.[210] This was not acceptable for Indonesia.[211]

Then, another idea was contemplated. It was suggested mainly by Indonesia that one ambassador selected by Portugal, another selected by Indonesia, and a third one selected by these two ambassadors would together canvass the opinions of the East Timorese people about self-determination. Yet this idea was not implemented either.[212]

In 1990 and 1991, a visit of five Portuguese parliamentarians to East Timor was planned. Again, they were going to assess the opinions of the East Timorese people.[213] This plan was halted when the Indonesian government rejected the visa for one of the journalists accompanying them. However, the real reason for the cancellation might have been elsewhere. The Portuguese government expected that the mission would find that the East Timorese people were satisfied with integration, leading to the approval of integration without a vote. Yet two Portuguese diplomats dispatched to East Timor prior to the mission visit found that the East Timorese people were planning a big pro-independence demonstration, which would make this scenario impossible.[214]

Soon after, the Santa Cruz massacre occurred. In its aftermath, the Portuguese public paid a lot more attention to East Timor, and there was no longer a way for the Portuguese government to deviate from the principle of self-determination.[215] After the massacre, Portugal was more active diplomatically in pursuing conflict resolution

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[209] Bishop Belo was newly appointed after his predecessor, Monsignor Martinho da Costa Lopes, was forced to resign in 1983 because of his criticism of Indonesia. On this, see Robinson (2010, 87) and Matsuno (2002, 133–136).
[210] Interview with Ana Gomes, the United Kingdom, September 2019. According to another account, Portugal's accession to what was then the European Economic Community was important in explaining the policy shift (Weldemichael 2013, 208).
[211] Interview with Ana Gomes, the United Kingdom, September 2019.
[212] Interview with Francesc Vendrell, London, June 2019.
[213] Interview with Francesc Vendrell, London, June 2019; Interview with Ana Gomes, the United Kingdom, September 2019.
[214] Interview with Ana Gomes, the United Kingdom, September 2019.
[215] Interview with Ana Gomes, the United Kingdom, September 2019.

in East Timor compared to their previously passive engagement. [216] Specific discussions on the method of self-determination were not resumed at the tripartite negotiations until after President Habibie's sudden announcement in January 1999.

7.1.3. Holding a Direct or Indirect Vote? The Final Phase of the Tripartite Negotiations in 1999

When the Indonesian government announced its willingness to let go of East Timor if autonomy was not acceptable to the East Timorese, they did not specify how the East Timorese people would be consulted. Since the Indonesian government initially rejected the holding of a referendum, it was even speculated that "Indonesia [was] now prepared to let go of East Timor if current talks with Portugal at the United Nations on its special autonomy proposal [broke] down" (*Jakarta Post* 1999a). As a consequence, the method of self-determination became an important agenda item in the UN tripartite negotiations.

Asked to develop options for the method of self-determination (Marker 2003, 124), the United Nations identified three possibilities: a direct vote through a referendum; an indirect vote through electing a representative body of around 35 people, which would then decide on the matter of self-determination; and consultation through a sampling of opinions by the UN (Martin 2001, 27–28; Marker 2003, 134; Alatas 2006, 165–66).[217] The third option was soon dismissed, and the focus was whether the wish of the population would be ascertained through a direct or indirect vote (Marker 2003, 134; Alatas 2006, 166).

For the United Nations, holding a direct vote was preferred as the most democratic way, compared to an indirect vote which would elect the legislature

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[216] Interview with Ana Gomes, the United Kingdom, September 2019.
[217] These three options seemingly correspond to the three methods of self-determination identified in Chapter 2.

mandated to decide on self-determination.[218] The experience of West Papua's 1969 Act of Free Choice weighed on UN thinking.[219] In this case, the United Nations was involved in a flawed self-determination process by representatives who were bribed or threatened to vote for integration with Indonesia (Saltford 2000; see Chapter 2). It was worried that an indirect vote might not reflect the wish of the population.[220] It is possible that elected representatives might not vote in the way voters intended them to vote, either due to bribery or duress.[221] In fact, the United Nations referred to two options other than a direct vote, not as real alternatives but in order to show that they did not work as an alternative.[222] Marker also recalls, without elaboration, that he "had considerable reservations [with the second option], and pressed for a direct ballot" (Marker 2003, 134). Portugal also focused on delivering a referendum "because it was the way to solve it [the East Timor issue] in a clear way."[223] Australia also put pressure on Indonesia to accept a direct vote.[224] As Alexander Downer recalls, holding an indirect vote would "raise questions about how legitimately the people were elected to that position, had the TNI [the Indonesian military] interfered with the election, and had the election rigged in one way or another. You would have ended up with a huge debate about all of those issues."[225]

These considerations, however, did not mean that an indirect vote was never acceptable for the United Nations or Portugal under any conditions. While stating that the option of an indirect vote had not been fully discussed, Tamrat Samuel believed that under a hypothetical and unlikely indirect vote scenario, the United Nations would

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218 Interview with Tamrat Samuel, New York, May 2019.
219 Interview with Tamrat Samuel, New York, May 2019.
220 Interview with Tamrat Samuel, New York, May 2019.
221 Interview with Tamrat Samuel, New York, May 2019.
222 Interview with Tamrat Samuel, New York, May 2019.
223 Interview with Ana Gomes, the United Kingdom, September 2019.
224 Interview with Alexander Downer, London, February 2020.
225 Interview with Alexander Downer, London, February 2020.

have insisted on having total control of the ballot process, including security.[226] Under such a scenario, it had to be made clear to the East Timorese people that what was at stake was different from the previous once-in-five-years elections under the Suharto regime.[227] In fact, at one point, Francesc Vendrell, who previously worked at the UN Department of Political Affairs for Decolonization, suggested to Indonesia that self-determination would be exercised through an election of representatives with the election supervised by the United Nations.[228] In this way, pro-autonomy figures would also be among the representatives, and it would help "to establish a dialogue between the two sides."[229]

As noted earlier, the idea of holding a referendum had never been acceptable to the Indonesian government. This was still the case for two reasons. First, Alatas somehow assumed that all the East Timorese people, including those in the diaspora, needed to be back in East Timor for a referendum. As a result, Alatas feared that a referendum would lead to tension in East Timor. Second, it was believed that a referendum would take more time to organize. Alatas assumed at this stage that, for a referendum to take place, the Indonesian forces would have to be replaced by UN peacekeeping forces, and that would take time. Moreover, holding a referendum would require deciding who was eligible to vote. Indonesia was worried that the process would get bogged down like the experience in Western Sahara (Alatas 2006, 164–65). Relatedly, as far as Dewi Fortna Anwar still remembered, the Indonesian government was initially worried that it would not be able to hold a referendum in East Timor because of the logistics involved. It was thought that organizing a direct vote would take more time than organizing an indirect vote. However, since the government was

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[226] Interview with Tamrat Samuel, New York, May 2019.
[227] Interview with Tamrat Samuel, New York, May 2019.
[228] Interview with Francesc Vendrell, London, June 2019.
[229] Interview with Francesc Vendrell, London, June 2019.

able to hold nationwide elections in a six-month period, it considered that it would be logistically possible to hold a referendum by August 1999.[230] At the beginning, there was also a worry that a direct vote would require more polling stations, which could be targeted by those trying to undermine the vote.[231]

Worried that the Indonesian government would be adamantly against a direct vote, the CNRT and Gusmão were willing to consider an indirect vote. They believed that as long as the voting process was fair, both a direct vote and an indirect vote would bring about an overwhelming support for independence.[232] As early as February 8, 1999, Alkatiri mentioned an option of an indirect vote conducted through electing representatives (*BBC Monitoring Service: Asia-Pacific* 1999). Similarly, Gusmão had "proposed an election in East Timor separate from June 7th general elections in Indonesia" believing that the pro-independence camp would win in an indirect vote (*Irish Times* 1999). Portugal was also willing to agree with an indirect vote as long as Gusmão and the United Nations agreed with it (Mizuno 2003, 114).

However, the Indonesian government suddenly changed its policy again, and endorsed a direct vote. Alatas recalls that "even if both sides could agree on the composition of the 35 representatives, there would still be many people on both sides who would question the criteria and method of electing them" (Alatas 2006, 166). In the end, Habibie and Alatas decided that "it would be better for the consultation process to reach and involve the people at the grass-roots or village level than to rely solely on the often unstable views of small elites on both sides" (Alatas 2006, 166). With an indirect vote, there would be questions concerning how many people would become representatives and how they would be chosen.[233]

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[230] Interview with Dewi Fortuna Anwar, Jakarta, July 2019.
[231] Interview with Dewi Fortuna Anwar, Jakarta, July 2019. Note that an indirect vote in this context might have referred to various mechanisms of ascertaining the wish of the people other than a referendum.
[232] Interview with Tamrat Samuel, New York, May 2019.
[233] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

There were three more concerns with a hypothetical indirect vote. First, it would have been much more difficult to hold a free and fair indirect vote than a direct vote. The Indonesian military would have interfered anyways, but it would have been much easier to threaten the limited number of representatives than the general population. [234] Among the East Timorese people, there was a real fear that the Indonesian government would manipulate the vote as they did in West Papua (De Araújo 2003, 100). A rigged outcome would have been more likely in an indirect vote than in a direct vote in the case of East Timor, considering the history in West Papua and the attitude of Indonesia in 1999. Such a rigged outcome would not have solved the problem in East Timor.[235]

Second, in this specific case, the pro-independence group was not able to campaign extensively because of the intimidation and threats by the Indonesian authorities and the pro-autonomy militias. While the United Nations nevertheless decided to hold the referendum, it would have been more difficult to justify the holding of an election of representatives without a level playing field for the two sides.[236] Here again, the simple nature of a referendum had its merit.

Third, if self-determination was realized through an indirect vote, it would have required a new legislature to be convened and then decide on the matter of self-determination after the elections. According to one interviewee, "'an indirect vote,' even if the United Nations and the CNRT were going to accept it, would not only be a two-step solution, but would also take considerable time. This means that East Timor would be exposed to violence from the Indonesian military for longer, and hence it would not be a good plan unless there was an effective measure to control the security

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[234] This interpretation was confirmed in an interview with Alexander Downer, London, February 2020.
[235] Interview with Ian Martin, London, April 2019.
[236] Interview with Francesc Vendrell, London, June 2019.

situation there."[237] If there had been an election and elected representatives could not be convened, the process would have stalled.

Finally, among international actors, there was hope that the referendum would contribute to democratization.[238] The referendum, together with the reconciliation efforts that UNAMET was promoting (see below), was conducted based on a hope that these efforts would create a "democratic beginning for [East] Timor."[239]

7.2. Impact of the Referendum on Resolving the Original Self-determination Conflict

7.2.1. The Attitudes of Warring Parties

Opposition Parties as Potential Spoilers

Habibie's willingness to let East Timor go had been susceptible to criticism from the beginning. Most notable was Megawati, the leader of the opposition party which would win the national elections in June 1999. For Megawati, the transitional government of Habibie did not have the mandate to adopt a radical policy of potentially separating East Timor from Indonesia (*Kompas* 1999; Marker 2003, 134). Nevertheless, the referendum result was accepted not only by Habibie and his administration but also by Megawati and Abdurrahman Wahid, the leader of another opposition party, who would become president of Indonesia in October 1999 with Megawati as vice president.

Jamsheed Marker had established contacts with both Megawati and Wahid starting in 1997 (Marker 2003, 35). Wahid had been largely supportive of the government's policy to hold a referendum from the beginning; in fact, he was not against the idea of East Timor's independence as early as December 1998 even before the government's policy change (*Kompas* 1999; Marker 2003, 113, 171–72). In

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[237] Email communication with Akihisa Matsuno, April 2019.
[238] Interview with Francesc Vendrell, London, June 2019.
[239] Interview with Tamrat Samuel, New York, May 2019.

contrast, Megawati was consistently opposed to Habibie's new policy on East Timor, and she told Marker during his visit to Jakarta in June 1999 that she would like to "revisit the entire issue" once in power. However, Marker managed to persuade her into agreeing to accept the outcome of the referendum by arguing that the agreement was an international obligation and that, if she revisited it, she might be forced to revisit other international agreements such as with the World Bank and the International Monetary Fund (Marker 2003, 170–71). When the outcome was announced, both Megawati and Wahid were disgruntled, but they nevertheless accepted it. As the *Jakarta Post* reported, "while most national figures said they would respect the results of the ballot, there was an air of despondency in their comments as they lamented what looks now to be the inevitable separation of Indonesia's 27th province" (*Jakarta Post* 1999b).

Even then, however, the People's Consultative Assembly (MPR), whose approval of the release of East Timor would be necessary from the domestic legal standpoint, asked Ali Alatas in October about possible consequences in case the MPR rejected the result of the referendum. Alatas insisted that it "would have far-reaching consequences, ranging from condemnation by the Security Council to the application of economic and/or political and military sanctions by the international community" (Alatas 2006, 230). In the end, all the factions including the military in the MPR chose to accept the referendum result, and the MPR endorsed the result by acclamation (*Associated Press* 1999; *Agence France-Presse* 1999).

The Indonesian Military as a Manifest Spoiler

From the beginning, the Indonesian military acted as a manifest spoiler. The Indonesian military had no intention of supporting a free and fair referendum. Wiranto and other generals did not veto Habibie's decision to hold a referendum because they

thought they could win it. According to Mizuno, who conducted an interview with Wiranto, he only agreed with Habibie's initiative reluctantly but meanwhile conducted a survey which showed strong support for the pro-autonomy side (Mizuno 2003, 94–95). Moreover, already in the 1990s, the Indonesian military believed its own myth that the population in East Timor on the whole did not espouse a pro-independence sentiment. Like other Indonesians, the local population was seen as a "floating mass" who was essentially not political and could be manipulated easily (Moore 2001, 11). When the East Timorese people demonstrated against the occupation or the local recruits to the military deserted to the pro-independence movement, the Indonesian military rationalized these incidents by believing that the pro-independence movement had a strong power to manipulate the population (Moore 2001, 12–17). This myth continued to exist in 1999, and the military simply believed that carrots and sticks would be sufficient to win the referendum (Moore 2001, 34–35). After all, the regime had been successful in using carrots and sticks in the "Act of Free Choice" in West Papua in 1969 and elections during the Suharto era (van Klinken, Bourchier, and Kammen 2006, 72).[240] Crouch observes, "in retrospect, it seems that they [the military leadership] did indeed accept the referendum but saw it as an opportunity to settle the East Timor issue once and for all by making sure that the vote would be in favour of continued integration with Indonesia" (Crouch 2000, 160).

It is widely believed that the military's plan to win the referendum was led by Wiranto and Feisal Tanjung (Greenlees and Garran 2002, 137). The strategy to win the population, however, largely relied more on sticks than carrots. As sticks, it created and relied on the pro-autonomy militia. It is worth noting that auxiliary forces legitimately existed within the Indonesian military's structure both inside and outside East Timor. For example, the WANRA (perlawanan rakyat) groups constituted a part

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[240] See also Robinson (2010, 96–97).

of the military structure, armed by the military and working as its auxiliary forces (Department of Foreign Affairs and Trade 2001, 57–58).[241] These auxiliary forces continued to exist up to the referendum period.

The Indonesian government and military claimed that the militia intimidating and threatening the ordinary East Timorese people were distinct from these auxiliary forces. They asserted that the militia rampaging Dili and beyond were formed spontaneously by the pro-autonomy group. This argument was put forward to claim that the Indonesian military was neutral in a conflict between pro-independence and pro-autonomy East Timorese people (Department of Foreign Affairs and Trade 2001, 59; Robinson 2010, 93).

This, however, was far from the truth. The fact was that the members of the WANRA were often members of the militia. As a result, when the Indonesian military distributed its arms to the WANRA, the militia would also use the same arms (Crouch 2000, 162–63; Greenlees and Garran 2002, 132). There is a plenty of evidence to substantiate that the military was distributing arms to the militia and controlling their access to arms (Robinson 2010, 104–6). Indeed, Indonesian military soldiers were known to disguise themselves and participate in the militia's activities (Greenlees and Garran 2002, 135; Robinson 2010, 103). Funding from both the central and local government was used for the militia (Greenlees and Garran 2002, 135–36; van Klinken, Bourchier, and Kammen 2006, 73–74; Robinson 2010, 111–12).[242] Moreover, Aitarak, a notorious militia group led by Eurico Guterres, became a part of these auxiliary forces in May 1999 (Moore 2001, 32; Matsuno 2002, 223; Greenlees and Garran 2002, 135). Overall, "the reality was that the militia were established with the support and encouragement of TNI, with the clear objective of undermining the independence

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[241] For a more detailed analysis, see Robinson (2010, 54–58, 73–77).
[242] The funding was also used to advertise the option of autonomy (Greenlees and Garran 2002, 178–181).

cause" (Department of Foreign Affairs and Trade 2001, 59).[243]

Even as late as July 1999, the military believed that the East Timorese people were easily manipulated. A leaked famous letter called the "Garnadi document" is a case in point. This letter, dated on July 3, 1999, was ostensibly written by Assistant Coordinating Minister Major General H.G. Garnadi to Coordinating Minister for Politics and Security, General Feisal Tanjung, Garnadi's superior.[244] While it indicated that the initial optimism that the pro-autonomy side would win had subsided, it still opined that the attitudes of the East Timorese people would simply be swayed by material incentives such as food and medicine. The trouble for the military was that they had a competitor, namely local and international NGOs distributing food and other aid.[245] It seems the military intended to change its strategy and to offer more carrots from July on even though this was largely not implemented (Moore 2001, 39–40).

It seems to be the case that some within the military started to doubt their victory in July and August while others continued to believe they could win the vote. In August, Ian Martin had a sense that some of the Indonesian officials did not believe the victory of the pro-autonomy side to be credible (Martin 2001, 84).[246] However, when Agus Tarmizi, an Indonesian diplomat who served as the East Timor task force chair, conveyed his view in August that their side was unlikely to win, Feisal Tanjung did

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[243] Indeed, this strategy was not necessarily supported by moderate pro-autonomy figures. The newspaper *Suara Timor Timur* owned by Salvador Ximenes Soares was critical about this violence. As a result, it was targeted by the militia and its office was burned down (KPP HAM 2006, 45). Tomás Gonçalves from Apodeti fled to Macao (Robinson 2010, 102). Some of the pro-autonomy East Timorese leaders even came to talk with UN officials, saying that they were torn between their conscience about East Timor and manipulation by the military. Interview with Tamrat Samuel, New York, May 2019. Alatas was also critical about the intimidation strategies, but his concerns were not seriously addressed in the Cabinet (Alatas 2006, 193).

[244] This document is called the Garnadi document. Its photocopies and an English translation are available at ETAN (2013). For a relevant discussion, see Crouch (2000, 164–165), and Moore (2001, 38–39).

[245] See also Moore (2001, 39–40).

[246] For a similar view, see Department of Foreign Affairs and Trade (2001, 110).

not believe it (Greenlees and Garran 2002, 181–82). For Feisal Tanjung, initial optimism buttressed by the strong turnout of the East Timorese people in the June elections faded away as UNAMET came in. Yet he still believed in the likelihood of a narrow victory of the pro-autonomy side (Hisyam 1999, 738–39). These accounts coincide with Alatas' recollection that the Cabinet and the Indonesian military continued to receive optimistic predictions that the pro-autonomy side would win. Even just before the vote, it was expected that 55% of the East Timorese people would choose autonomy (Alatas 2006, 211).[247] Similarly, Lopez da Cruz, one of the most important leaders of the pro-autonomy group, told Marker the day before voting day that they believed that more than 60% of the votes would be for autonomy (Marker 2003, 187–88).[248]

It seems that the ballot day did not see violence partially because of this optimism that the pro-autonomy side would still win (Robinson 2010, 155). The goal of the military was not to stop the referendum process *per se* but to conduct it in a way so as to secure its victory. This also explains the controlled level of violence leading up to the referendum. As Crouch observes, "despite their [the military's] endorsement of intimidatory tactics, they did not want the violence to rise to a point where the referendum would lose all international credibility" (Crouch 2000, 166). The military was far from sincerely committed to a free and fair referendum.

In contrast to the violence before the referendum, it is widely believed that Wiranto was probably not behind the violence after the referendum (Greenlees and Garran 2002, 205; Mizuno 2003, 192–93, 197–200).[249] While the Indonesian military in Jakarta had a plan to evacuate pro-integration citizens, it is not clear whether they

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[247] Alatas himself, however, did not share this view (Alatas 2006, 211-212). See also Greenlees and Garran (2002, 190).
[248] A similar recollection was provided by Tamrat Samuel. Interview with Tamrat Samuel, New York, May 2019.
[249] For a careful analysis, see Robinson (2002).

intended to forcibly relocate the pro-independence East Timorese people (Greenlees and Garran 2002, 207–9; Mizuno 2003, 251; Crouch 2000, 169–73). Crouch argues, "the available evidence is not sufficient to provide convincing support for the view that the destruction that followed the referendum was part of a long prepared military plan" (Crouch 2000, 173). Yet while the Indonesian military in Jakarta predicted chaos after the referendum and hence planned evacuation of pro-integration citizens, it did not prepare to contain the chaos itself (Greenlees and Garran 2002, 209–10; Mizuno 2003, 250). As a researcher who accessed secret documents of the Indonesian military and police notes, "the military's explicit expectation… was that the pro-integration East Timorese would run amok if the vote went against them, and the implicit assumption was that the military would not stop them" (Moore 2001, 42).

There are reasons to believe that the Indonesian military in Jakarta was not controlling the situation on the ground fully. Both Habibie and Wiranto maintained that it was difficult for the Indonesian military to rein in militias they had supported for two decades (Crouch 2000, 173–74). The commanders even claimed that there was a mutiny in East Timor (Martin 2001, 96; Greenlees and Garran 2002, 229). When martial law was declared, Kostrad troops, considered to be loyal to Jakarta, replaced some of the Indonesian forces in East Timor, which suggests that Jakarta did not have enough control over the latter (Greenlees and Garran 2002, 228–29). Kammen concurs: after the referendum, it is entirely plausible that Wiranto was not able to fully control lower-level commands in East Timor.[250]

Even if it was not directly instigated by the leaders in Jakarta, it is obvious that the scorched-earth campaign was essentially "raw vengeance, aimed at 'teaching the East Timorese a lesson' and increasing their hardship" (Department of Foreign Affairs

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[250] Interview with Douglas Kammen, Singapore, June 2019.

and Trade 2001, 129),[251] but there might have been other reasons behind this violence as well. It is often speculated that the violence was motivated to warn other separatists within Indonesia, such as Aceh and Papua, about what would happen if they dared to follow the path of the East Timorese.[252] Greenlees and Garran argue that the scorched-earth campaign was part of the long-standing doctrine of the Indonesian military when retreating from territories. According to this doctrine, when troops retreat, it is better to burn down and destroy the infrastructure and to evacuate civilians with them so that their enemy would not be able to use these resources to their benefit. The destruction of East Timor was an extension of this doctrine, perhaps aggravated by the feeling of revenge and the belief that independent East Timor should not benefit from the infrastructure Indonesia had built over its occupation period (Greenlees and Garran 2002, 201–2, 213–14).

Another possibility is that the scorched earth campaign was aimed at halting the entire process of transitioning to independence. It is argued that the violence was motivated to "rid East Timor as quickly as possible of any foreign presence" (Department of Foreign Affairs and Trade 2001, 129). Once foreigners were gone, it would be difficult to implement the referendum result. According to this calculation, it was not expected that international forces would come to intervene, at least not quickly (Robinson 2010, 173; Greenlees and Garran 2002, 213).

The military's motivation behind the displacement of the East Timorese people was also related to the referendum. On the one hand, it is important to note that the substantial segment of the East Timorese population who moved to West Timor did so voluntarily. Around 95,000 people voted for autonomy. Even if some voted for

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[251] For a similar view, see the report of UNAMET on September 11, annexed to Security Council Mission to Jakarta and Dili (1999, para. 8).

[252] Department of Foreign Affairs and Trade (2001, 129); Security Council Mission to Jakarta and Dili (1999 Annex para. 8); Interview with Ana Gomes, the United Kingdom, September 2019. However, Crouch is skeptical of this argument, believing "the impact on other provinces was probably no more than a secondary consideration" (Crouch 2000, 175).

autonomy reluctantly because of the intimidation and threats by the Indonesian military and the pro-integration militias, others such as government employees voted for autonomy genuinely. After the ballot, they evacuated with their family members. Some who voted for independence also voluntarily left for West Timor, worried about the security situation in East Timor.

On the other hand, even then, a significant portion of the 250,000 people who moved to East Timor were forcibly displaced by the military and police (Greenlees and Garran 2002, 207; Mizuno 2003, 251–52). It is believed that this forced displacement was partially intended to show to the world that the number of the East Timorese people supporting autonomy was much higher than the ballot result suggested (Robinson 2010; Mizuno 2003). For example, Geoffrey Robinson observes, "Indonesian officials appear to have believed that they could create a situation on the ground that would lend credence to their claim that a substantial percentage of East Timorese feared independence and preferred to remain with Indonesia" (Robinson 2010, 173). Kammen concurs that this displacement was motivated by the desire to demonstrate that the East Timorese people were dissatisfied with the referendum outcome. Indeed, it is even possible that the total number of displaced people, estimated to be 250,000, was calculated so that the Indonesian military could claim that around half of the voters fled to West Timor.[253] The Defense Minister of Indonesia later stated that this number indicates that the UN cheated in the referendum process (Mizuno 2003, 252n30). Ian Martin writes,

in the context of only a narrow defeat, the removal of a large proportion of the

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[253] Interview with Douglas Kammen, Singapore, June 2019. This number 250,000 also coincided with the military's estimation of the number of people who would flee East Timor after the vote (Greenlees and Garran 2002, 207). It is possible that the military simply adhered to this initial estimation. See also van Klinken and Bourchier (2006, 111) and Mizuno (2003, 249).

population to West Timor, coupled with loud accusations of UNAMET bias, might have been part of a serious strategy to frustrate the outcome, perhaps through its rejection by the People's Consultative Assembly. (Martin 2003, 150)

Relatedly, it is speculated that the forced displacement was also motivated by the desire to strengthen their case for partition (Robinson 2010, 173; Moore 2001, 43). However, the prompt and heavy international pressure on Jakarta and the swift international intervention after Jakarta consented to an international force in East Timor made sure that the vote result was honored.

Pro-autonomy Militias as Manifest Spoiler

Even after Indonesia formally accepted the result of the referendum in East Timor in October 1999, the pro-autonomy militias who fled to West Timor did not accept it. The sense that the United Nations "cheated" at the referendum was strong among Indonesians and pro-autonomy militias. They cited four reasons behind their claims of "cheating" by UNAMET. First, the pro-autonomy camp accused UNAMET of being biased against the pro-autonomy camp. From the UN's arrival, there was suspicion among the pro-autonomy camp that the United Nations came to East Timor to deliver independence.[254] According to this argument, UNAMET favored pro-independence supporters for local recruitment, and its international officials were sympathetic to the cause of the pro-independence camp (Crouch 2000, 168–69; Greenlees and Garran 2002, 192).[255] It was alleged that UNAMET staff pressed the East Timorese to vote

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[254] Interview with Salvador Ximenes Soares, Dili, June 2019.

[255] See the Garnadi document. See also Alatas (2006, 195--96). In fact, it is probably true that UNAMET officials were more sympathetic to the pro-independence camp due to the violence committed by the pro-autonomy camp. For example, see Greenlees and Garran (2002, 187, 197). See also Robinson (2010, 156).

for independence on voting day (Martin 2001, 91). While it was probably the case that locally recruited staff members were largely pro-independence, this was almost inevitable, given that most of the population was pro-independence but also because the pro-autonomy educated East Timorese people tended to have been already hired by the government and were also not willing to serve UNAMET, which they did not like in the first place (Martin 2001, 41; Marker 2003, 165). Second, since the votes were not counted on the spot in front of those affiliated with the pro-autonomy camp, the pro-autonomy camp questioned the result of the ballot.[256] Third and relatedly, when ballot boxes were moved from polling stations to Dili (where the vote count was carried out) by helicopter, figures from either side were not on board to accompany these boxes.[257] Fourth, it has been claimed that the pro-autonomy witnesses were rejected by the United Nations.[258] These factors strengthened the suspicion among the pro-autonomy camp that UNAMET rigged the referendum results, even though there was no substantial evidence to support it.

The militias demanded that 21% of the territories in East Timor should be partitioned corresponding to the vote ratio for autonomy or even hoped that East Timor would be integrated into Indonesia again (Mizuno 2003, 254). In the next few years after the referendum, militias in West Timor often crossed borders and infiltrated East Timor, sometimes leading to an attack on UN staff members and peacekeeping forces—most notable were the deaths of three foreign UN aid workers in Atambua in

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[256] Interview with Rezlan Ishar Jenie, Jakarta, July 2019; Interview with Hasan Wirajuda, Jakarta, July 2019. The pro-autonomy camp had demanded that vote counting be done in each area. However, UNAMET believed that counting all the votes in Dili would be "important reassurance to communities that might fear reprisals" (Martin 2001, 88). It was also worried that the district-level result would be used by those demanding partition. Interview with Douglas Kammen, Singapore, June 2019. This policy was supported by the Indonesian government (Alatas 2006, 204–205). Relatedly, Rezlan Ishar Jenie recalls that the government did not prefer partition of East Timor, which was not stipulated in the 5 May Agreements. Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

[257] Interview with Salvador Ximenes Soares, Dili, June 2019.

[258] Interview with Salvador Ximenes Soares, Dili, June 2019. However, see also Martin (2001, 88–89).

September 2000. Even though the threat level was never high with the estimated maximum number of militias ranging up to 150, the United Nations and international actors took the infiltration seriously (UN Secretary-General 2001, para. 10).[259]

Even though cross-border activities were partially motivated by economic gains through smuggling, they were also part of "psychological warfare operations," which "were intended to, and had the effect of, ensuring that many people in the East Timor border region felt quite insecure" (Kingsbury 2003, 282).[260] To what extent the military supported these militias is difficult to assess, but some elements in the Indonesian military seem to have continuously cooperated with these militias (Mizuno 2003, 259; Kingsbury 2003). But by 2006, it seems this relationship was over. The International Crisis Group (ICG) reported at that time that militias "[were] certainly not receiving logistical aid [from the Indonesian military and police]" (International Crisis Group 2006a, 3).

As it became clearer that the reality of East Timor's independence would not be changed, militias started to consider options other than the partition of East Timor. Some started to lobby for an area for former pro-autonomy East Timorese people to settle inside Indonesia while others accepted East Timor's independence and returned to East Timor (Mizuno 2003, 257, 283–84). Border incidents continued to occur, but they gradually changed its nature. They were no longer seen as part of the efforts to regain the lands in East Timor but instead were related to more local activities such as smuggling or land disputes (International Crisis Group 2006a, 10). Overall, even though the pro-autonomy militia did not accept the referendum result, they were deterred by the international peacekeeping force and not able to influence the course

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[259] After the Atambua killings, the international community pressed Indonesia hard to deal with the situation, linking it with international economic assistance to Indonesia. See Mizuno (2003, 267–69).

[260] Militias also probably tried to gather information and gauge the activities of UN peacekeeping forces (Department of Foreign Affairs and Trade 2001, 168; Kingsbury 2003, 283).

of events leading to the independence of East Timor.

The Zero-sum Nature of the Referendum, the Military and the Pro-autonomy Militias

It has been suggested that the Indonesian military and the militia acted as spoilers because the zero-sum nature of the referendum had "the effect of heightening tensions, forcing both voters and politicians to adopt fixed positions and pushing rhetoric towards extreme positions" (Reilly 2003, 179). This implies that the pro-autonomy minority had no choice but to desperately resort to violence because of their worry about their own security. According to this psychological argument, they were "a fissionable, angry and insecure minority" after the vote who naturally resorted to violence (Reilly 2003, 180). Indonesian diplomats certainly believe that this was exactly what happened in East Timor. According to this view, for the pro-autonomy camp, losing the vote meant that their long fight, investment, and future as part of Indonesia became meaningless.[261]

There are four reasons to doubt the claim that the zero-sum nature of the referendum should be blamed for violence. First, as has amply been shown above, the pro-autonomy militia was largely a creation by the Indonesian military. In turn, the Indonesian military, from the beginning, adopted the strategy of using the militia to intimidate the population and win the vote. This cold calculation is clearly different from the type of picture put forward by those concerned about the zero-sum nature of the referendums, according to which the pro-autonomy groups became psychologically committed to winning the vote and as a result resorted to violence.

Second, the CNRT, and Gusmão in particular, tried very hard not to provoke the pro-autonomy side. Gusmão told student activists that grandiose campaigns were

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[261] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

unnecessary since the East Timorese people already knew which way to vote. He emphasized that young activists campaigning in East Timor should "behave with discipline and civility in order to help the process of 'reconciliation'" (De Araújo 2003, 102). At one point in early April 1999, amid escalating violence in East Timor, Gusmão authorized mobilization of Falintil and insurrection of the general population, but he soon retracted his message and went back to his reconciliatory attitudes toward the pro-autonomy camp.[262] His directive in July 1999 for the campaign continued to emphasize non-violence and non-provocation (Robinson 2010, 141). As the referendum approached, Gusmão decided on the unilateral cantonment of Falintil forces, which was complete by August 12 (Martin 2001, 72–73; Marker 2003, 186). It was often claimed in interviews that Gusmão was the crucial figure in promoting reconciliation between the two camps after independence.[263]

This is not to say that there was no violence against pro-autonomy figures by the pro-independence camp. However, offering an overall assessment, Ian Martin recalls,

> The Indonesians consistently presented the militia and their actions as a response to threatened or actual pro-independence violence and criticized UN statements for not being even-handed when they described the militia as overwhelmingly the main perpetrators of violence during the UNAMET presence. Yet this was the reality. Whatever may have preceded its arrival, UNAMET observed that Falintil exercised great discipline in the face of militia violence. UNAMET sought to investigate alleged Falintil abuses but they were only occasionally substantiated. (Martin 2001, 72)

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[262] For the text of the statement, see Department of Foreign Affairs and Trade (2001, 66), Martin (2001, 30) and Robinson (2010, 273n47).
[263] See below.

Overall, the pro-independence camp did their best not to provoke the pro-autonomy camp.

Third, reconciliation efforts had been undertaken prior to the referendum in order to mitigate the zero-sum nature of the referendum. The Dare II Meeting was held in late June in Jakarta, organized by the two bishops from East Timor. The meeting aimed at reconciliation between the pro-independence and pro-autonomy groups. While the meeting took place with a cordial atmosphere, it did not yield substantial results. The United Nations organized two further meetings between the two groups in August. In these meetings, it was agreed that there should be no winners or losers in the referendum, and that the East Timorese Consultative Commission would be established after the referendum to promote reconciliation and stability. The latter would be formed of ten representatives from each group and five nominated by the UN Secretary-General (Martin 2001, 67–70; Marker 2003, 173–75). While the Consultative Commission did not operate as intended amid the violence after the vote, it was planned in order to mitigate the zero-sum nature of the referendum.[264]

Fourth, and relatedly, while it is true that the referendum had only two options, these were presented as non-extreme options. On the one hand, granting special autonomy rather than mere integration was a concession from Indonesia. On the other hand, even independence was supposed to bring about cooperation between the pro-independence and pro-autonomy groups and it was expected that Indonesia would play a role during East Timor's transition to independence. These two options occupied the middle ground, and there was no third option between them.[265]

Therefore, it is difficult to substantiate the claim that the referendum's zero-sum

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[264] Interview with Ian Martin, London, April 2019.
[265] Interview with Tamrat Samuel, New York, May 2019.

nature led to the almost unilateral violence by the pro-autonomy militia during and after the referendum. Indeed, there is wide agreement that an indirect vote under that circumstance would not have avoided violence.[266] Ian Martin recalls, "I do not see that some form of indirect consultation would have been less likely to lead to violence."[267] Another long-time observer of East Timor similarly argues that "regardless of whether it was decided through a direct or indirect vote, the Indonesian military and militia would have resorted to a scorched-earth campaign if it resulted in the victory of the pro-independence group."[268]

In fact, despite the violence, key players believe that the referendum process was done as well as it could have been. Ana Gomes recalls, "it was calculated risk, by us and by the East Timorese, and it was successful."[269] Similarly, Ian Martin writes,

> Once Habibie had offered that choice, the UN and the key countries following the negotiations were well aware of the risk. But neither they nor the East Timorese could have countenanced the opposite risk, of failing to grasp an opportunity which had been closed for twenty-four years. (Martin 2003, 147)

There was not much UNAMET could have done differently.[270] In conclusion, the zero-sum nature of the referendum should not be blamed for violence during and after the referendum process.

7.2.2. Long-term Relationship

There is a wide consensus that the relationship between East Timor and Indonesia has

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[266] Interview with Rezlan Ishar Jenie, Jakarta, July 2019; Interview with Francesc Vendrell, London, June 2019.
[267] Interview with Ian Martin, London, April 2019.
[268] Email communication with Akihisa Matsuno, April 2019.
[269] Interview with Ana Gomes, the United Kingdom, September 2019.
[270] Interview with Ian Martin, London, April 2019.

been remarkably good and cordial since the former was separated from Indonesia. This achievement is striking considering that the post-conflict relationship between the newly independent state and the continuing state has been disastrous in the other two cases analyzed in the thesis. What are the reasons behind this?

From the East Timorese standpoint, the current democratic government of Indonesia is considered to be different from the past military regime.[271] The East Timorese people fought against the Indonesian military and their regime rather than Indonesian people in general.[272] Former RENETIL members recall that ordinary Indonesian people often helped their activities during the occupation period.[273] Indeed, RENETIL aimed at both internationalization and Indonesianization of the conflict. Indonesian and East Timorese people were considered to be brothers fighting against the common enemy of the Suharto regime but with different goals: democracy for Indonesia and liberation for East Timor.[274] There was an expectation that a democratic Indonesia would accept the self-determination of the East Timorese.[275]

Additionally, the East Timorese leaders did not pursue punitive justice such as the arrest of the top Indonesian officials suspected of being involved in violence.[276] As early as March 1999, Gusmão was oriented against a South African style transitional justice mechanism, believing it would be too divisive (*Irish Times* 1999). Indeed, the relationship between the leadership of the two countries was amicable to the extent that Ramos-Horta proposed that the name for a truth commission established in 2005 should be "Commission of Truth and Friendship" rather than "Commission of Truth

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[271] Interview with Nugroho Katjasungkana, Dili, June 2019.
[272] Interview with Antero Benedito da Silva, Dili, June 2019; Interview with Mariano Ferreira, Dili, June 2019; Interview with Edward Rees, VoIP, November 2019; Interview with Ana Gomes, the United Kingdom, September 2019.
[273] Interview with Mariano Ferreira, Dili, June 2019.
[274] Interview with Carlos da Silva Lopes, Dili, June 2019.
[275] Interview with Carlos da Silva Lopes, Dili, June 2019.
[276] Interview with Antero Benedito da Silva, Dili, June 2019; Interview with a former member of the CNRT, Dili, June 2019.

and Reconciliation" since reconciliation had already been achieved.[277]

The Indonesian government also signaled their good will vis-à-vis the newly independent state. Since the referendum, the Indonesian government had signaled that they were willing to accept the result of the referendum through the MPR's decision and then-President Megawati's attendance at the independence ceremony of East Timor in 2002.[278] Leaders from both sides were visionary and looked to the future.[279] President Wahid of Indonesia was willing to promote reconciliation as well.[280] From the Indonesian side, the growing awareness that Indonesia was formed out of the colony of the Dutch East Indies made it easier for them to let go of the former Portuguese colony of East Timor.[281] The good relationship was perhaps helped by the fact that East Timor's main foe after independence has not been Indonesia but Australia, which has an interest in the oil in the Timor Sea.[282]

Also, there is realism from both sides that they are geographically neighbors, so it is better to be friends rather than foes.[283] There was an economic necessity for East Timor to be in a good relationship with Indonesia.[284] East Timor is dependent on Indonesia for basic commodities.[285] Both sides want to forget about the past and look toward the future.[286] After all, they share a similar culture including food, music, and

[277] Interview with Hasan Wirajuda, Jakarta, July 2019. A former member of the CNRT explains that if Indonesian generals should be held accountable, it would beg the question of why states such as the United States and Australia, which supplied arms to the Indonesian military, should not be held accountable. Interview with a former member of the CNRT, Dili, June 2019.
[278] Interview with Rezlan Ishar Jenie, Jakarta, July 2019; Interview with Hasan Wirajuda, Jakarta, July 2019.
[279] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.
[280] Interview with Sidney Jones, Jakarta, July 2019.
[281] Interview with Hasan Wirajuda, Jakarta, July 2019; Interview with Rizal Sukma, London, April 2019. See also Habibie (2006, 223–229).
[282] Interview with Nugroho Katjasungkana, Dili, June 2019; Interview with Douglas Kammen, Singapore, June 2019.
[283] Interview with Carlos da Silva Lopes, Dili, June 2019; Interview with a former member of the CNRT, Dili, June 2019; Interview with Hasan Wirajuda, Jakarta, July 2019.
[284] Interview with Sidney Jones, Jakarta, July 2019.
[285] Interview with Douglas Kammen, Singapore, June 2019. In addition, as part of Gusmão's strategy to award veterans, they received contracts, but they needed Indonesian companies to fulfill the contract. Kammen (2019b, 45); Interview with Douglas Kammen, Singapore, June 2019.
[286] Interview with Carlos da Silva Lopes, Dili, June 2019; Interview with Rizal Sukma, London,

language.[287]

Did the holding of this referendum contribute to the good relationship between the two countries? One can certainly argue that the referendum was important in that the wish of ordinary East Timorese people to gain independence was made clear to Indonesians. Since the matter was settled via a vote and not through military measures, it was a "dignified loss" for Indonesia.[288] A good relationship would have been difficult to imagine without a referendum. In this sense, settling the conflict democratically was the basis of the good relationship between the two countries.[289] But even if it explains the lack of a negative relationship between these two countries, this alone does not explain why they currently enjoy a *good* relationship.[290] Indeed, throughout the interviews the author conducted, the holding of the referendum was not mentioned when interviewees were asked what explains the good relationship between Indonesia and East Timor. Holding the referendum does not seem to have had a specific impact on the long-term *good* relationship between East Timor and Indonesia beyond its utility as the least controversial method to get rid of the question of self-determination. In sum, the referendum helped the two countries to avoid being in a bad relationship with each other, but the referendum does not have an explanatory power regarding the good relationship between the two countries beyond that.

7.3. Impact of the Referendum on Peacebuilding within the Newly Independent State

7.3.1. Amelioration of Tensions

April 2019.

[287] Interview with Carlos da Silva Lopes, Dili, June 2019; Interview with Edward Rees, VoIP, November 2019.

[288] Interview with Virgilio Guterres, Dili, June 2019.

[289] Interview with Ana Gomes, the United Kingdom, September 2019; Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

[290] Interview with Edward Rees, VoIP, November 2019.

This section investigates whether and how the referendum affected the amelioration or exacerbation of tensions inside East Timor. It specifically analyzes two kinds of tensions: tension between the pro-independence camp and the pro-autonomy camp, and tension within the pro-independence camp. Regarding the former, if one emphasizes the zero-sum nature of referendums, one would expect exacerbated divisions between the pro-independence camp and the pro-autonomy camp as a result of the 1999 referendum. Regarding the tensions within the pro-independence camp, one needs to examine whether the unity among members of the pro-independence camp shown until the referendum (Collin 2015, 118) continued after the referendum.

Amelioration of tensions between the pro-independence camp and the pro-autonomy camp

As has been shown above, the referendum process envisaged that the pro-independence and pro-autonomy camps would cooperate once the referendum result was known. There is a view that but for the violence during and after the referendum process, it would have been possible that the pro-independence camp (which had more legitimacy) and the pro-autonomy camp (which was more familiar with governance) would have inevitably worked together to complement each other.[291] Yet even the pro-autonomy people not involved in violence lost legitimacy because of the violence carried out by the Indonesian military and pro-autonomy militias, and as a result, many of them simply chose not to stay in East Timor.[292] Salvador Ximenes Soares, an East Timorese pro-autonomy Golkar parliamentarian at the time of the referendum, recalls that pro-autonomy figures were treated after the referendum as traitors and responsible for violence and human rights violation, and he reports that he had to be escorted by

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[291] Anonymous Interview [1], Dili, June 2019.
[292] Anonymous Interview [1], Dili, June 2019. See also Mizuno (2003, 257–258).

Australian peacekeeping force when he came back to East Timor in December 1999.[293] The situation has improved since then, largely through Gusmão's reconciliatory efforts, but many former pro-autonomy people have still not returned to East Timor.[294]

Nevertheless, many of the former pro-autonomy figures and their family members have returned to East Timor and have occupied important positions including within politics. Both ruling and opposition parties have accepted former pro-autonomy figures, and some of them have served as their leaders.[295] There is a view among former pro-independence elites that the former pro-autonomy individuals are also part of the community. According to this view, whichever way they voted in the referendum, they participated in the vote which determined the fate of the country.[296] After all, democracy allows citizens to vote in the way they prefer, as long as they do not commit violence.[297] Another interviewee concurs that every Timorese person—including those who were previously associated with Indonesia—should be allowed to participate in the present and future of East Timor as long as they are committed to the state of East Timor now.[298] After all, they are contributing to peace, democracy, and economic development in East Timor.[299]

Outside the elites, however, many pro-independence individuals, who lost their families and relatives during the occupation period, have difficulty in accepting those who were formerly pro-autonomy since these people brought in the Indonesian military from 1975 on.[300] This is still a divisive factor in East Timor.[301] This sentiment

[293] Interview with Salvador Ximenes Soares, Dili, June 2019.
[294] Interview with Salvador Ximenes Soares, Dili, June 2019. Still, some of the pro-autonomy political leaders living in Indonesia come to visit East Timor. Interview with Salvador Ximenes Soares, Dili, June 2019.
[295] Interview with Nugroho Katjasungkana, Dili, June 2019.
[296] Interview with Virgilio Guterres, Dili, June 2019.
[297] Interview with Virgilio Guterres, Dili, June 2019.
[298] Interview with José Teixeira, Dili, June 2019.
[299] Interview with a former member of the CNRT, Dili, June 2019.
[300] Interview with Virgilio Guterres, Dili, June 2019.
[301] Interview with José Teixeira, Dili, June 2019.

is aggravated by the lack of justice against perpetrators. Some former pro-autonomy individuals who were not part of the militias still stay in West Timor and do not want to return to East Timor because they think they would be held responsible for crimes the pro-autonomy militias committed if they were to return before the perpetrators do.[302]

One further problem is that those from the pro-autonomy side tend to receive better incomes and jobs due to their education during the occupation period than former guerrilla fighters.[303] One can see in newspapers and on social media that children from pro-autonomy families get high-ranking jobs in East Timor.[304] In contrast, pro-independence people were discriminated against and excluded throughout the 1980s and the 1990s, being depicted as GPK (Gerakan Pengacau Keamanan; Security Disrupters' Movement).[305] There is a feeling that this economic gap is unfair even though the discontent does not take the form of physical violence. Here, what is crucial is not whether someone voted for independence (as you can never know how they voted), but rather with which side someone was affiliated and the level of affiliation.[306]

The usage of the term "pro-autonomy" by the general population reflects this discontent. They use this term to label politicians they dislike. If you do not like a specific politician or a political group, you could label the politician or their political party as being pro-autonomy or being supported by pro-autonomy individuals to show your discontent.[307] Even Gusmão's party can be described as pro-autonomy in this way. On social media, people still verbally insult those who were not committed to the

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[302] Interview with Nugroho Katjasungkana, Dili, June 2019.
[303] Anonymous Interview [2], Dili, June 2019; Interview with Antero Benedito da Silva, Dili, June 2019.
[304] Interview with José Teixeira, Dili, June 2019.
[305] Interview with José Teixeira, Dili, June 2019.
[306] Interview with Antero Benedito da Silva, Dili, June 2019.
[307] Interview with Nugroho Katjasungkana, Dili, June 2019.

past independence struggle as traitors.[308] In this sense, being formerly "pro-autonomy" still carries bad connotations.

Still, Gusmão's reconciliation vision and efforts have been praised widely.[309] Gusmão wisely dealt with grievances from former soldiers and addressed their jealousy toward richer former pro-autonomy people through offering projects and subsidies to former soldiers.[310] Also, it is important to note that being pro-autonomy or pro-independence did not coincide with social divisions in East Timor; clans and kinship are important there, but one could find both pro-autonomy and pro-independence people within a single clan.[311] At a village level, former pro-autonomy people and former pro-independence people coexist.[312]

Overall, there is a division between those who struggled for independence and those who were formerly pro-autonomy. Yet this is not the result of the zero-sum nature of the referendum. The cause of the division is largely traced back to two factors. The first factor is the violence perpetrated by the Indonesian military and pro-autonomy militias, not because of the psychological dilemma of the zero-sum nature of the referendum but in order to intimidate and threaten the population. Moreover, the violence at issue in this context is not limited to the 1999 referendum process, but instead it spanned the period between 1975 and 1999. The second factor is the structural problem that former pro-autonomy individuals tend to be more educated and wealthier.

Amelioration of Tensions within the Pro-independence Camp

[308] Interview with Salvador Ximenes Soares, Dili, June 2019.
[309] Anonymous Interview [2], Dili, June 2019.
[310] Anonymous Interview [2], Dili, June 2019.
[311] Interview with Nugroho Katjasungkana, Dili, June 2019. As mentioned, the political division coincides with the economic division, but this was largely the result of the Indonesian government's policies during the occupation period to reward pro-autonomy people and punish pro-independence people.
[312] Interview with Nugroho Katjasungkana, Dili, June 2019.

Before the referendum, pro-independence groups were united under the umbrella organization of the CNRT. But this unity did not continue after the referendum. The division and rivalry between Gusmão and Alkatiri came to the surface as the date for independence approached: "Rifts between [Gusmão] and the Fretilin leadership were papered over in the interests of national unity, but after Alkatiri and many others returned to Timor in 1999, they gradually came out into the open" (International Crisis Group 2006b, 4). Their differences date back to the 1980s or perhaps even to 1975. These differences were not merely ideological,[313] but they also had accumulated historically, most notably through Gusmão's decision to leave Fretilin and make Falintil independent from Fretilin. In his address to announce this decision in 1987, Gusmão was highly critical of Fretilin's radicalism. Moreover, Fretilin leaders—exiled in Angola or Mozambique— had a very different experience from Gusmão and those loyal to him who remained in East Timor (International Crisis Group 2006b, 2–4; Shoesmith 2003, 235–41).

Fretilin left the CNRT coalition in August 2000 and comfortably won 55 seats out of 88 in the Constituent Assembly elections in August 2001. As we have seen, the Constitution adopted a semi-presidential system. This reflected Fretilin's calculations that it was likely that Gusmão would become president (Shoesmith 2003, 244; Gorjão 2002, 322; Kammen 2019b, 19). In the presidential election in April 2002, Gusmão, despite Fretilin's wish that he run without being affiliated to any party, decided to be nominated by nine smaller parties. Fretilin did not officially support Gusmão in the election, and Alkatiri claimed that he would cast a blank vote (Shoesmith 2003, 243; UN Secretary-General 2002, 2, para. 7).

When East Timor gained independence, both leaders held important political

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[313] It is said that as early as in 1975, Alkatiri espoused Marxism while Gusmão was ideologically more moderate (Shoesmith, 2003). It is, however, perhaps misleading to simply position Alkatiri as an authoritarian and Gusmão as a democrat. See 7.3.2.

positions: Gusmão as President and Alkatiri as Prime Minister. As Gusmão continued to be critical of the Fretilin government, a loose coalition between Gusmão and the opposition parties emerged by the time of the 2006 crisis. The opposition parties, pitted against Fretilin, had a supporting base in the western part of the country, while Fretilin had broad support in the east of the country (Kammen 2019b, 34–35, 2019a, 126–27).

This east-west division among political elites coincided with and exacerbated the existing tensions between easterners and westerners in the security sector. As we have seen in Chapter 6, the petitioners' demonstration in late April was joined by non-petitioners, transforming the issue of discrimination into an anti-government campaign.

It is not clear to what extent the crisis was a deliberate continuation of politics by other means, at least for the top leaders. According to the ICG, "President Gusmao and Jose Ramos Horta were locked in mortal political combat with Alkatiri, and at some stage [in April], Gusmao's supporters, if not Gusmao himself, appear to have decided to use the petitioners in that struggle" (International Crisis Group 2006b, 8). With similar carefulness, a USAID report reads, "it may also be the case that opposition groups encouraged violence specifically to destabilize and discredit the current government" (Brady and Timberman 2006, 12).

Others seem to be more convinced that opposition groups were actively involved in the crisis. It has been pointed out that one of the two groups central to the demonstrations in late April 2006 was led by those who developed a strong link to the opposition parties (Scambary 2009, 273). Others point out that this was the period when the oil revenue became available for national budgets.[314] At that time, it was expected that those who would control oil revenues were going to govern the country for a long time.[315] From this standpoint, the crisis was "a security crisis which was

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[314] See Kammen (2019a, 127). Interview with Edward Rees, VoIP, November 2019.
[315] Interview with Edward Rees, VoIP, November 2019.

created for a political purpose" in order to oust the Fretilin government.[316] Douglas Kammen concurs that "the course of events and outcome is perhaps better understood as a disguised coup" (Kammen 2019a, 128).

It is probably impossible to establish whether the violence was instigated for political gain or whether it occurred as tensions spiraled out of control. Yet, whatever the motivation behind the violence was, it is obvious that the political division within the leadership significantly exacerbated the situation. As the USAID report states, "Elite political divisions and rivalries are at the heart of the current crisis [in 2006]; without this factor the other simmering tensions may have remained dormant, at least for a time" (Brady and Timberman 2006, 8).

The crisis was ultimately contained and managed. Gusmão's strategy to buy peace appears to have worked since then (Kammen 2019a) and was even extended to Alkatiri. Political leaders learned from the 2006 crisis. They have refrained from politicizing the security sector and have settled political differences based on the rule of law.[317] They have also learned from the 2006 crisis that their political differences should not spread to the military sphere.[318] Still, whether democracy and rule of law have been established or not is another question. Gusmão has been able to manage politics in East Timor well, not only because of his charismatic leadership but also because of substantial oil revenues and his skill to deliver these revenues to other political elites.[319] If either oil revenue or Gusmão is gone, democracy in East Timor may not survive.[320] Overall, however, the fact remains that political differences among the East Timorese leaders did not lead to a breakdown of the country (unlike South Sudan as will be discussed in Chapters 8 and 9).

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[316] Interview with Edward Rees, VoIP, November 2019.
[317] Interview with Edward Rees, VoIP, November 2019.
[318] Interview with Sukehiro Hasegawa, VoIP, July 2020.
[319] Interview with Edward Rees, VoIP, November 2019.
[320] Interview with Edward Rees, VoIP, November 2019.

In sum, it is clear from the above that unity that was present up to the referendum was soon lost after the East Timorese elites secured independence. In that sense, the referendum only provided a temporary alliance, and hence it did not positively contribute to the amelioration of tensions within the pro-independence camp.

7.3.2. Democratization

Despite the 2006 crisis, one can persuasively argue that East Timor's democracy has been largely successful. Peaceful elections are regularly held, and serious human rights violations are largely absent.[321] In a book critically examining politics in East Timor, Kammen admits that "it is the most democratic country in Southeast Asia in both the Economist Intelligence Unit and Freedom House rankings" (Kammen 2019b, 56).

This is not to say, of course, that there is no criticism about the quality of democracy in East Timor. For example, there has been an accusation that political leaders, particularly Gusmão, are not willing to share information they have with other elites, let alone with ordinary people.[322] Similarly, there is a view that these charismatic leaders who have been in power for a long time do not listen to criticism.[323] Political leaders are also criticized for not thinking with a long-term perspective.[324] For some, Gusmão is considered to be a nationalist first and foremost rather than a democrat.[325]

Various reasons have been put forward to explain the success of democracy in East Timor. Among others, the quality of pro-independence leaders and their commitment to democracy are considered to be important.[326] As early as 1983,

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[321] Interview with Edward Rees, VoIP, November 2019.
[322] Interview with Nugroho Katjasungkana, Dili, June 2019.
[323] Interview with Virgilio Guterres, Dili, June 2019.
[324] Interview with Salvador Ximenes Soares, Dili, June 2019.
[325] Interview with Douglas Kammen, Singapore, June 2019. Interview with Diana Baker, VoIP, January 2020.
[326] Anonymous Interview [1], Dili, June 2019.

Gusmão's peace plan envisaged democracy after liberation.[327] Gusmão and other leaders were committed to democracy.[328] These leaders know many people suffered and died during their hard 24-year struggle hoping East Timor would be a free and democratic country. As a former member of the CNRT puts it, "Xanana would do everything to uphold the values of the people who died for this country."[329] Moreover, many exiled Fretilin cadres lived in places such as Mozambique and Angola. They had experienced a non-democratic regime's failure: Estanislau da Silva, a key member of Fretilin, who briefly served as interim Prime Minister in 2007, argues, "I myself would not accept such a thing [as a one-party state]. [This] country belongs to everyone, and freedom is most important."[330] Relatedly, it has been pointed out that because of the lack of military power, the pro-independence movement had to rely on the support of local citizens, which made it conscious of human rights and the necessity of respecting citizens.[331] Furthermore, during the resistance, it was civilians who commanded the military, and hence, the military has not interfered in politics and has followed the rule of law in East Timor.[332]

In addition, despite criticisms of UNTAET, the UN transition period was important in shaping democracy in East Timor, including its constitution.[333] East Timor's good democratic start owed a lot to the United Nations and the international community which "placed higher standards on what sort of democracy we should be

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[327] Interview with Estanislau da Silva, Dili, June 2019.
[328] Interview with Estanislau da Silva, Dili, June 2019.
[329] Interview with a former member of the CNRT, Dili, June 2019.
[330] Interview with Estanislau da Silva, Dili, June 2019. However, some of the literature interprets what they saw as an authoritarian tendency during the Fretilin government between 2002 and 2006 as originating from their experiences in Mozambique (Strating 2015, 130). Similarly, one interviewee argues that some of the former diaspora political elites who lived in Angola and Mozambique exhibited authoritarian tendencies. Anonymous Interview [3], 2019.
[331] Interview with Edith Bowles, VoIP, September 2019.
[332] Interview with José Luis Guterres, Dili, June 2019. Ironically, this was ideologically made possible by Marxism originally (Kammen 2011, 109).
[333] Anonymous Interview [1], Dili, June 2019; Interview with José Teixeira, Dili, June 2019.

delivering."[334] For Estanislau da Silva, the UN's transitional administration helped consolidate democracy in East Timor, to which its leaders were already committed.[335]

Another international influence was the trend of democratization globally and in Southeast Asia in particular. José Luís Guterres argues that the international trend of democracy after the end of the Cold War and East Timor's constitution adopted as a result based on the ideas of multiple-party democracy were also important to explain the quality of democracy in East Timor.[336] Edith Bowles states that regional democratization helped the prospect of democracy in East Timor.[337]

There was also an expectation among the public that the country would become peaceful and democratic. After suffering for a long time, the East Timorese people wanted to promote democracy and peace so that another conflict would not happen again.[338] Moreover, unlike in the 1970s, East Timor had intellectuals in the 2000s who had been exposed to democracy through living in the Western world.[339]

For some, the referendum experience was not a contributing factor to the success of democracy in East Timor.[340] This view is particularly strong among those whose liberation efforts were based outside Indonesia. For them, the commitment by the pro-independence movement to democracy, their civilian control over the military, and

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[334] Interview with José Teixeira, Dili, June 2019.
[335] Interview with Estanislau da Silva, Dili, June 2019.
[336] Interview with José Luis Guterres, Dili, June 2019.
[337] Interview with Edith Bowles, VoIP, September 2019.
[338] Interview with Mariano Ferreira, Dili, June 2019.
[339] Anonymous Interview [1], Dili, June 2019.
[340] For example, Salvador Ximenes Soares is critical about the current quality of democracy, stating that leaders were focused on short-term goals, and he says this explains the quality of democracy in East Timor. Interview with Salvador Ximenes Soares, Dili, June 2019. Another interviewee not committed to the independence struggle commented that the referendum itself does not explain the quality of democracy in East Timor. Anonymous Interview [2], Dili, June 2019. For this interviewee, "the referendum was a mechanism to solve a long-standing conflict and give space for a new era for a post-conflict country with more democracy, more justice, and more prosperity," but it was not the referendum experience which explains democracy in East Timor. Anonymous Interview [2], Dili, June 2019. A similar view was expressed by Sidney Jones. Interview with Sidney Jones, Jakarta, July 2019. Another interviewee concurs. Interview with Edith Bowles, VoIP, September 2019.

their long struggles were more crucial.[341]

However, others contend that the referendum process has positively affected the sustenance and quality of democracy in East Timor.[342] In the referendum, people were asked to settle the national question through ballots rather than violence. Even the aim of militias was to get people to vote, albeit in a way they preferred. Starting with this experience, people still "see the value of the process of a vote."[343] They know they can change their lives through ballots, and this has led to high voter turnout during elections.[344] Similarly, Kiyoko Furusawa hypothesizes that "the experience of casting a vote, despite its risk to one's life, has led to a high voter turnout for both East Timorese men and women in the subsequent Constituent Assembly election, presidential elections, and parliamentary elections."[345] For example, the voter turnout has respectively been around 80%, 75%, 77%, and 81% in the 2007, 2012, 2017, and 2018 parliamentary elections (United Nations Development Programme 2018). Starting with the referendum, a political culture of sorting issues through the ballot has also been nurtured, which has been reinforced through multiple election experiences where political parties respected the results.[346]

Moreover, the referendum contributed to an open society and participatory democracy since "[the referendum] laid foundation in the people's mind and history that bigger issues must listen to people."[347] If the war had been won through military methods, things could have been different, but since liberation was achieved through casting a vote in the referendum, "people claim their own space" in politics.[348] The

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[341] Interview with José Luis Guterres, Dili, June 2019; Interview with a former member of the CNRT, Dili, June 2019.
[342] Anonymous Interview [1], Dili, June 2019.
[343] Interview with José Teixeira, Dili, June 2019.
[344] Interview with José Teixeira, Dili, June 2019.
[345] Email communication with Kiyoko Furusawa, February 2019.
[346] Interview with José Teixeira, Dili, June 2019.
[347] Interview with Antero Benedito da Silva, Dili, June 2019.
[348] Interview with Antero Benedito da Silva, Dili, June 2019.

referendum has become a reference point for democracy as the governance by the people in East Timor: "the fate and destiny of this country was determined not by one person but by all the people. This has become a reference for us to pose and press any politician that rules this country not to forget that you are there because of the people."[349]

Overall, the referendum experience seems to have positively affected the quality of democracy in East Timor in two related ways. First, the high voting rate in the elections has partially been attributed to the referendum experience. Second, the referendum experience has developed the culture of participatory democracy where the role of each citizens is emphasized and honored.

7.3.3. International Attitudes

From the referendum up to the 2006 crisis, there was widespread international optimism regarding the future of East Timor.[350] The country was considered to be "politically mature," [351] and figures such as Gusmão and Ramos-Horta were considered to be capable and legitimate leaders.[352] After all, Ramos-Horta was a Nobel Laureate, and Gusmão was a figure who was comparable to Nelson Mandela. Moreover, Fretilin largely refrained from killing civilians during their long struggle against Indonesia.[353] Bowles and Chopra summarize this atmosphere up to the 2006 crisis well. According to them,

The international community had often presented East Timor as a successful

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[349] Interview with Virgilio Guterres, Dili, June 2019.
[350] The exact time when this optimism emerged is unclear. Some recall that optimism came when East Timor was gaining independence. Interview with Sidney Jones, Jakarta, July 2019. Others argue that optimism already existed toward the end of 1999. Interview with Diana Baker, VoIP, January 2020.
[351] Interview with Diana Baker, VoIP, January 2020.
[352] Interview with Bruce Jones, Phone, February 2020.
[353] Interview with Bruce Jones, Phone, February 2020.

story. Several factors seemed to make East Timor a promising example of statebuilding success: unity in overcoming occupation against enormous odds, a charismatic first president, a technocratically skilled first prime minister, a government committed to prudent use of oil revenues, generous international support, and reasonable levels of success in some areas of service delivery. The existence of a unifying common identity, based on a relatively unified struggle for independence, appeared to be a foregone conclusion. East Timor achieved obvious benchmarks—especially those set by the international community— such as the drafting of a constitution, elections, demobilization of former guerrillas, and formal creation of institutions. In particular, the creation of very sound petroleum revenue management arrangements inspired confidence in the international community. (Bowles and Chopra 2008, 271)

The unity and the discipline the East Timorese people showed up to the referendum seem to have contributed to the optimism in two separate ways. First, the unity and the high support for independence led to optimism about the democratic future of East Timor. The referendum result was interpreted as indicating the overwhelming support of the East Timorese people for the CNRT. As a result, even though it was not expected that East Timor would become a democracy overnight, there was an expectation that a legitimate, representative government would emerge relatively early on.[354] Douglas Kammen recalls that international actors at that time held two assumptions. One assumption was related to the unity of the East Timorese people. Because of the overwhelming vote for independence, external actors assumed that the East Timorese people were united, even though voting for independence did not necessarily mean that the people were united. Based on this assumption of unity, it was further assumed

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[354] Interview with Bruce Jones, Phone, February 2020.

that democracy would be adopted.[355]

Second, the assumption that the East Timorese people were united also led to the underestimation of divisions within East Timor. As we have seen in the above quote of Bowles and Chopra (2008, 271), the existence of a common identity was simply assumed because of their "relatively unified struggle for independence." Furthermore, during their struggle for independence, the East Timorese people were often depicted as angels who had been persecuted, and their divisions were not acknowledged.[356] As a result, "we just did not spend much time trying to understand the fact that there was negativity within the society as well as positivity."[357] The apparent success hid problems East Timor faced including the fact that "an independent East Timor did not emerge out of a collective vision of the state or a coherent national identity" (Bowles and Chopra 2008, 272). UNTAET misunderstood that the mutual aim of independence among the East Timorese people "signif[ied] a broader consensus about the institutional design of the new state," failing to grasp the political consequences of their institution building including the making of the constitution (Ingram 2012, 6).

This is not to say that the international community was not aware of the challenges. The whole infrastructure was destroyed by the violence in September 1999, and the border areas still saw pro-autonomy militia infiltration, particularly during the UNTAET period.[358] East Timor, with no institutions left, also had to choose their political, security, and civil service institutions from various models.[359] The United Nations was also aware of the divisions among the leadership and between the F-FDTL and police, reporting these regularly.[360] The fault line within the leadership was also reported in the academic literature (Shoesmith 2003; Gorjão 2002, 326; Rees 2004).

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[355] Interview with Douglas Kammen, Singapore, June 2019.
[356] Interview with Edward Rees, VoIP, November 2019.
[357] Interview with Edward Rees, VoIP, November 2019.
[358] Anonymous Interview, VoIP, March 2020.
[359] Interview with Diana Baker, VoIP, January 2020.
[360] Anonymous Interview, VoIP, March 2020; Interview with Diana Baker, VoIP, January 2020.

Still, optimism regarding East Timor continued after independence.[361] East Timor's case had been advertised as a success story by the United Nations.[362] This was "a real echo chamber of international self-congratulation."[363] This optimism was "misplaced" in the sense that it was not "founded upon any evidence[s]."[364] Similarly, Chopra, perhaps the figure most critical about UNTAET, writes as early as 2002 that "politically-driven and blunt declarations of 'success' was readily made, regardless of the actual — often dismal — results" (Chopra 2002, 990). There was a pressure from both the Security Council and the East Timorese leaders to shrink the UN operation as well.[365]

If there were any concerns regarding East Timor, these were about capacity building and about the potential disruption by Indonesia or former pro-autonomy militias. In contrast, there was not much concern regarding political divisions within East Timor.[366] After the crisis occurred, Kofi Annan admitted that the United Nations had to shrink its operations sooner than they had wished because of the pressure from member states to do so (UN Secretary-General 2006).[367] Even though the Secretary General suggested a 144-person back-up security support team in his report in February 2005, this suggestion was not incorporated when the United Nations Office in Timor-Leste was newly formed in April 2005 (UN Secretary-General 2005; UN Security Council 2005b; Goldstone 2012, 187). The view of the United States and Australia has prevailed that the peacekeeping phase should now end with more focus on development (Hasegawa 2013, 211–14, 219). It seems that these states did not take into account the possibility of internal rupture. In February 2005, the United States

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[361] Interview with Edward Rees, VoIP, November 2019.
[362] Interview with Edith Bowles, VoIP, September 2019.
[363] Interview with Edith Bowles, VoIP, September 2019.
[364] Interview with Edward Rees, VoIP, November 2019.
[365] Interview with Diana Baker, VoIP, January 2020.
[366] Interview with Diana Baker, VoIP, January 2020.
[367] See also Goldstone (2012, 187).

demanded the end of the peacekeeping mission because, in their view, "there is no longer a threat to international peace and security requiring a peacekeeping mission, and the relations between Timor-Leste and Indonesia are improving" (UN Security Council 2005a, 20). In the same meeting, Australia also opined that military presence was no longer necessary, stating "the current external security environment in Timor-Leste does not warrant a continuation of peacekeepers on the border" without mentioning any internal security environment (UN Security Council 2005a, 24).

As a result, after April 2005, there was no UN security force in place. This was so despite the fact that "as late as 2005, the Timorese government and most of the population did not want the peacekeepers to depart, feeling that even a small troop presence provided a stabilizing influence" (Bowles and Chopra 2008, 276).[368] Asked generally about the reasons Australia was supportive of shrinking the UN operations up to 2006, Alexander Downer admits that the Australian government did not anticipate that the East Timorese people would fight against each other.[369] It was considered not to be rational for the East Timorese people to fight against each other once they achieved their aim of independence.[370] Overall, there was "the widely held assumption that 'spoilers' were external to the process and that there was a consensus among insiders on the premises of state-building" (Goldstone 2012, 188). Bowles and Chopra concur, "international attention tended to focus on potential conflict with Indonesia and its proxies, without recognizing the very significant fault lines within Timorese society" (Bowles and Chopra 2008, 272).

The 2006 crisis occurred in this context, when the United Nations was shrinking its operation. There are two versions of the UN's response to the 2006 crisis. One version emphasizes the ineffectiveness of the UN's handling of the crisis up to May

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[368] Also see remarks by Ramos-Horta in UN Security Council (2005a, 5–6).
[369] Interview with Alexander Downer, London, February 2020.
[370] Interview with Alexander Downer, London, February 2020.

2006. According to one interviewee, when the crisis started in January 2006, the majority of the UN personnel in Dili could not understand what was going on since they assumed that the East Timorese people were united.[371] As a result, correct information about the nature of the crisis, which unfolded quickly, was not well communicated to New York.[372] In particular, then-SRSG Sukehiro Hasegawa was criticized for his lack of leadership.[373] Similarly, Ana Gomes argues in her report about the 2006 crisis,

> the shortcomings of the East Timorese leadership should have been expected and compensated for in contingency planning for the country. The way in which the UN, and the EU, and Portugal in particular, took for granted the positive way in which the East Timorese «success story» was developing, ended up being naively optimistic and led to premature disengagement and loss of focus. (Gomes 2006, 4–5)

According to another account, however, the United Nations on the ground was fully aware of the developing situation, reporting it to New York regularly.[374] The United Nations already expected in March 2006 that the crisis would escalate into violence.[375] Yet, once violence erupted, it simply did not have forces on the ground to handle the situation.[376] This version tallies with SRSG Hasegawa's account. Explicitly referring to the 2006 ICG report, SRSG Hasegawa himself insists that "the lack of international

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[371] Interview with Edward Rees, VoIP, November 2019.
[372] Interview with Edward Rees, VoIP, November 2019.
[373] He has been depicted as someone lacking charisma, "am uncomprehending bystander," or even "hopeless." Interview with Ana Gomes, the United Kingdom, September 2019; Interview with Edith Bowles, VoIP, September 2019; Interview with Alexander Downer, London, February 2020; International Crisis Group (2006b, 18).
[374] Anonymous Interview, VoIP, March 2020.
[375] Anonymous Interview, VoIP, March 2020.
[376] Anonymous Interview, VoIP, March 2020.

armed troops and police did not allow me to exercise the necessary authority in dealing with my Timorese colleagues" (Hasegawa 2013, 159). If backup forces had been available, for example, he could have deployed them on April 28 to prevent violence as demonstrators left central Dili.[377] Unfortunately, the peacekeeping forces were withdrawn earlier because of the optimism described above.[378] In this sense, for both versions of the UN response, it is clear that optimism partially derived from the referendum experience hampered its response, even if it is the East Timorese leaders who are to be blamed for the 2006 crisis, and not international actors.

7.4. Conclusion

This chapter has shown the various rationales and impacts of the post-conflict referendum in East Timor. Of the three cases examined in this thesis, the case of East Timor is the only case where relevant parties had explicit and lengthy discussions about how the wish of the population should be ascertained. As such, this case sheds considerable light on the rationales behind choosing to hold a referendum as the method of self-determination. On the one hand, the pro-independence camp largely preferred a referendum even though Ramos-Horta occasionally mentioned electing representatives in the early 1990s. It seems there were two reasons behind the demand for a referendum. First, elected representatives might not vote as the voters thought they would. Second, a referendum was the simplest way to gauge the wish of the population. On the other hand, the Indonesian government abhorred a referendum. For them, not only would it be against their narrative of how Indonesia incorporated East Timor after the East Timorese people petitioned for it, but they also genuinely worried

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[377] Interview with Sukehiro Hasegawa, VoIP, July 2020.
[378] Yet one interviewee is of the view that this was true only in hindsight since the political division was considered to be manageable, even though this interviewee does think that the crisis could have been stopped with peacekeeping forces. Anonymous Interview, VoIP, March 2020.

that a referendum would be divisive and lead to a civil war in East Timor. In contrast, other international actors such as the United Nations, Australia, and Portugal clearly favored a referendum by 1999. Similar to Ramos-Horta, their main concerns were the possibility that the legislature might not act as the population desired and that the legitimacy of an indirect vote can be questioned. In the end, the Indonesian government agreed with a referendum precisely because of the same concern: that an indirect vote might not conclusively resolve the East Timor question.

What kind of impacts did the referendum have on resolving the conflict between East Timor and Indonesia? It is true that the referendum process was marred by violence with the Indonesian military and the pro-autonomy militia acting as manifest spoilers. Nevertheless, the East Timorese people courageously appeared at voting stations on August 30, 1999, and voted overwhelmingly for independence. The determination of the international actors to uphold the result of the referendum made the Habibie administration agree with an international force. Indonesian opposition figures, particularly Megawati, also had to accept the referendum result in light of the potential international implications of rejecting the referendum result. While international pressure played a crucial role in managing these manifest and potential spoilers, it is also true that the referendum was the least controversial method for self-determination. Even though the pro-autonomy militia did not accept the result of the referendum, it is difficult to believe that they would have accepted East Timor's independence achieved in any other ways. It is probable that their grievances would have been even greater if self-determination had been realized in any way other than a referendum. In this sense, the holding of a referendum did help resolve the original self-determination conflict between East Timor and Indonesia. On the other hand, while Indonesia and East Timor have developed a good relationship since the latter's independence, the referendum itself does not seem to have contributed to it in a

specific way beyond its function as the least controversial method to resolve the matter of self-determination, the root cause of the original conflict.

The impact of the referendum on peacebuilding inside East Timor has been less favorable. While the referendum seems to have contributed to East Timor's democracy, it is clear that the unity present up to the referendum disintegrated after the referendum. More importantly, the success of the referendum resulted in the international community having an overly optimistic view about East Timor's future, leading to an early departure of the United Nations. The unity the East Timorese people showed before the referendum was interpreted as evidence of relatively easy democratization and fueled an overestimation of the unity of the leadership. When the 2006 crisis emerged, the international community learned that their assumptions had been wrong.

Chapter 8

Referendum in South Sudan (2011):
From Self-determination Conflict to Civil War

Like in Eritrea, the 2011 referendum in South Sudan[379] seems to have been successful on the surface. Lee and Mac Ginty argue that "It can be termed a 'velvet divorce referendum' in that it legitimated a relatively peaceful national split and allowed a significant number of people to achieve a long-held identity ambition" (Lee and Mac Ginty 2012, 44). However, fragile peace in South Sudan was soon lost as a new civil war began in December 2013. One interviewee argues that we should not blame the referendum for the events which later unfolded in South Sudan.[380] Yet it is fair to say that the referendum "has not resolved the tensions between the NCP in Khartoum and the SPLA/M [sic] in Juba. The jury is still out on the consequences of this referendum" (Qvortrup 2014b, 66). Moreover, area study researchers have insisted that the focus on the referendum during the transition period negatively affected the democratization process in South Sudan during that period (Aalen 2013; de Vries and Schomerus 2017). Chapter 9 addresses the effects the referendum had on peace and democracy in Sudan/South Sudan, employing structured, focused comparison. This chapter offers background information on the South Sudan case.

8.1. Southern Sudan: The First Self-determination War and the Addis Ababa Agreement

Sudan had been administered by the United Kingdom on behalf of Egypt according to the 1899 Anglo-Egyptian Treaty. Yet Egypt's stronger insistence post-WWII of its

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[379] The entity was known as Southern Sudan until independence. The thesis uses "Southern Sudan" for the period before its independence and "South Sudan" after its independence.
[380] Interview with Laila Lokosang, VoIP, December 2019.

sovereignty over Sudan prompted Britain to accelerate the preparation for independence of Sudan (D. H. Johnson 2016, 21–22). Even though Britain did not exclude the possibility that Southern Sudan would gain independence as part of other East African colonies of Britain rather than together with Northern Sudan until 1946 or 1947, Britain decided to accept the position of the Northern Sudanese people that Southern Sudan should become part of independent Sudan. The British feared that the Northern Sudanese people would otherwise partner up with Egypt (D. H. Johnson 2016, 25; Alier 1990, 19). This rivalry between the United Kingdom and Egypt also meant that the Northern Sudanese people had enough leverage against them without developing cooperation with the Southern Sudanese (D. H. Johnson 2016, 22). Against this backdrop, the Juba Conference convened by the British Civil Secretary took place in 1947. Even though Southern delegates attended this conference together with Northerners, this conference was "not to ask Southerners to determine their future, but rather to inform them of the decision the government had already taken" (Alier 1990, 21). Yet the conference provided some semblance of Southerners' acceptance of joining with the North in a single independent Sudan (Schomerus and de Vries 2019, 426).

In 1952, the Sudanese Legislative Assembly, including representatives from the South, adopted a self-government statute which gave some safeguards to the South. Yet the safeguards were repudiated in the agreement between Egypt and the Northern Sudanese leaders in 1953 without consultation with the Southerners. Furthermore, a Sudanization of the civil service almost totally led to appointments of the Northerners to the new positions (D. H. Johnson 2016, 26–27; Alier 1990, 22–23). Still, leaders from the South decided in October 1954 that they would agree with independence if independent Sudan would become a federation (D. H. Johnson 2016, 27). In Parliament in December 1955, representatives from the South voted for independence

after being assured by the North that a federation would be considered seriously (D. H. Johnson 2016, 29; Alier 1990, 23). Upon independence in January 1956, however, Northern politicians rejected a federal system, and any debates on this matter were ended when the military regime took over the government in 1958 (D. H. Johnson 2016, 30; Alier 1990, 24).

The first rebellion in the South occurred in 1955 even before independence, but a more substantial rebellion was waged in the 1960s by the Anyanya guerillas aiming at self-determination of the South as the military regime dominated by the Northerners promoted Arabization and Islamization there. However, Anyanya was a loose organization whose factions also fought against each other (D. H. Johnson 2016, 30–33).

After the military regime was ousted through a popular uprising in 1964, a Round Table Conference was held in March 1965. Attended by the Northern and Southern representatives, it failed to reach a settlement on the South. Even though the discussion continued at the Twelve Man Committee until June 1966, the new Sudanese government resumed a war in the South in June 1965. In December 1968, finding no compromise positions on Islamization by the Northern representatives, the Southern representatives led by Abel Alier walked out in protest from the Constituent Assembly (D. H. Johnson 2016, 33–34; Alier 1990, chap. 2).

However, another coup in 1969 paved the way for autonomy in the South. Encouraged by the newly appointed minister Abel Alier, the regime led by Gaafar Nimeiry issued the June Declaration showing their willingness to accommodate the South (Alier 1990, chap. 3). While the fighting continued initially, the Addis Ababa agreement endorsing the regional autonomy of Southern Sudan was reached in 1972. By then, Anyanya had achieved unity under Joseph Lagu while Nimeiry saw a potential ally in the Southerners after surviving a coup attempt in 1971 by his former

Communist allies (D. H. Johnson 2016, 36–37).

The Addis Ababa agreement created Regional Self-Government in Southern Sudan encompassing three regions there with overarching legislative and executive bodies. The Anyanya forces would be integrated into the Sudanese army with a provision stating that the army in the South would be composed of an equal number of the Southerners and those from outside the South for five years ("Addis Ababa Agreement on the Problem of South Sudan" 1972, Protocols on Interim Arrangements; chap. 2, Article 1 and 2). Yet the exact expectation about security provisions differed between the South and the national army (D. H. Johnson 2016, 40–41). Not all the Anyanya forces were integrated, and those dissatisfied with the agreement chose to exile themselves (D. H. Johnson 2016, 40–41). The agreement stipulated stringent measures for revision, requiring a three-quarters majority in the regional legislature approved by a two-thirds majority in a referendum ("Addis Ababa Agreement on the Problem of South Sudan" 1972, Article 1).

Despite the agreement, Nimeiry's intervention and the rivalry between the Southern leaders hampered autonomy and development in the South (D. H. Johnson 2016, 42–55). In the end, the autonomous arrangement was unilaterally rescinded by Nimeiry in 1983. By then, Nimeiry had made a new ally with Islamists, secured weapons from the US, and wanted to benefit more, at the expense of the South, from the oil discovered in the South during the autonomy period (Alier 1990, 235–37; D. H. Johnson 2016, 55–58). After the abrogation, *Shari'a* was introduced in Sudan in September 1983.

8.2. The New Civil War, the SPLM's New Sudan, and the 1994 Declaration of Principles

The remnants of the Anyanya forces who exiled themselves in Ethiopia had formed

guerrilla groups collectively called Anyanya-2, but their presence was marginal in the South during the autonomy period (D. H. Johnson 2016, 59–60). In 1983, together with deserted and rebelling forces from the army in the South, they formed the Sudan People's Liberation Movement/Army (SPLM/A) under the leadership of John Garang (D. H. Johnson 2016, 61–62). Unlike the pro-independence Anyanya, SPLM/A aimed at a "New Sudan," a secular country based on equality, justice, and decentralization while rejecting racism and Islamism (D. H. Johnson 2016, 64–65; Alier 1990, 250–51). This position was partly taken to please their sponsor, Ethiopia, which was fighting a self-determination war in Eritrea. It was also intended to make it easier to ally with the Northern opposition groups. Furthermore, there was the realization that the South would not be able to defend itself against the North, with whom they had no geographically distinct border to protect themselves (D. H. Johnson 2016, 62–63). Yet some of the former veterans from Anyanya continued to prefer independence and accepted neither John Garang as a leader nor the idea of "a new Sudan" as a goal. The differences led to a fighting among the South Sudanese people with these veterans forming a new Anyanya-2 and receiving supplies from Khartoum (D. H. Johnson 2016, 65–69).

Another popular uprising ousted Nimeiry in 1985, who was replaced by the Transitional Military Council, which started a democratization process. In March 1986, the SPLM and political parties in Sudan except for the Democratic Unionist Party (DUP) and the National Islamic Front (NIF) agreed with the necessity of "a New Sudan" without injustice and discrimination (the Koka Dam Declaration) (Wöndu and Lesch 2000, 8–9). After the elections in 1986, the Umma Party and the DUP formed a coalition government, later joined by the NIF, which secured the third greatest number of seats in the parliament. The Umma Party did not honor their commitment in the Koka Dam Declaration that the *Shari'a* law would be repealed (Wöndu and Lesch

2000, 9–10; D. H. Johnson 2016, 72). Yet in 1988, the DUP and the SPLM reached an agreement (the Sudanese Peace Initiative) calling for a National Constitutional Conference while suspending some of the clauses in the 1983 *Shari'a* law. Alarmed by the prospect of concession to the detriment of an Islamic state idea, military officers and the NIF committed a *coup d'état* in 1989 (Wöndu and Lesch 2000, 10–12; D. H. Johnson 2016, 84–85).

The new military junta led by Omar Hassan Ahmad al-Bashir had no intention of repealing *Shari'a*. The negotiations between the government and the SPLM between 1989 and 1990 did not bear fruit (Wöndu and Lesch 2000, 12–18). A huge blow to the SPLM came when the Ethiopian government, which had so far supported the SPLM, collapsed in May 1991 (D. H. Johnson 2016, 88). Furthermore, in August 1991, the SPLM was split into the mainstream faction and the Nasir faction. The latter, led by Riek Machar, Lam Akol, and Gordon Kong Cuol, criticized John Garang for the lack of democracy within the movement and also aimed at independence of the South rather than a "New Sudan." The Nasir faction received financial and military support from the government (D. H. Johnson 2016, 96, 99). The fighting between the two factions erupted, resulting in the Bor massacre, a massacre of Dinka civilians in Bor by Nuer forces from the Nasir faction.

Mediation attempts by Nigeria in 1992 and 1993 foundered because of Khartoum's insistence on an Islamic state and their rejection of self-determination in the South. Yet during this talk, the mainstream SPLM changed their position on self-determination, now arguing for self-determination as a way out in case Khartoum continued to reject the notion of a secular New Sudan (Wöndu and Lesch 2000, chap. 5; Schomerus and de Vries 2019, 432–33). While their position was still different from that of the Nasir faction, which simply wanted independence of the South, both factions agreed to "jointly champion the right of the people of the Southern Sudan to

self-determination."[381]

After this failed mediation process, the Intergovernmental Authority on Drought and Development (IGADD), a regional body in the Horn of Africa formed by Djibouti, Eritrea (after its independence), Ethiopia, Kenya, Somalia, Sudan, and Uganda, began its mediation efforts in 1994. Despite Sudan's expectation that Eritrea and Ethiopia would support the position of Khartoum, IGADD's Declaration of Principles (DoP), drafted by Ethiopia and Eritrea (D. H. Johnson 2016, xii),[382] essentially endorsed the position of the mainstream SPLM. In addition to their general support for self-determination (see Chapter 4), the historical exclusion of the South Sudanese people from the Sudanese government was an important factor behind this proposal.[383] Moreover, Ethiopia and Eritrea were antagonized by Khartoum's Islamization effort inside Eritrea and Ethiopia (D. H. Johnson 2016, 102).

The DoP stipulated, "The rights of self-determination of the people of South Sudan to determine their future status through a referendum must be affirmed" ("The IGAD Declaration of Principles" 1994, Article 2). Yet at the same time, it stated that "maintaining unity of the Sudan must be given priority" on the condition that Sudan transformed into a state based on equality of the population, decentralization, secularity, democracy, fair wealth-sharing, and an independent judiciary ("The IGAD Declaration of Principles" 1994, Article 3). If this was not achieved, "the respective people [would] have the option to determine their future including independence, through a referendum" ("The IGAD Declaration of Principles" 1994, Article 4). While both factions of the SPLM welcomed this DoP, Sudan's government rejected it, making the IGADD mediation process dormant over the next few years (Wöndu and Lesch

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[381] "Joint Declaration of Common Position on Self-determination" in Wöndu and Lesch (2000, 57).
[382] Interview with an anonymous Ethiopian [2], Addis Ababa, November 2019.
[383] Interview with an anonymous Ethiopian [2], Addis Ababa, November 2019.

2000, 154–58).

Separately, the Sudanese government and the Nasir faction reached various agreements such as the Frankfurt Agreement in 1992, a Peace Charter in 1996, and the Khartoum peace agreement in 1997, which stipulated a self-determination referendum in four years (D. H. Johnson 2016, 122–23). Yet collaboration with the government— and the Nasir faction's own authoritarianism and human rights violations—led to the disillusionment and defection of their troops (D. H. Johnson 2016, 118–19). As the Nasir faction lost momentum, it increasingly became a Nuer movement (D. H. Johnson 2016, 114). Furthermore, the Sudanese government fostered rivalry among the leaders of the Nasir faction, fighting among the Nuer forces within the Nasir faction, and the fragmentation of these forces to various smaller groups (D. H. Johnson 2016, 118, 121–26; Lesch 2001, 18–19).

Meanwhile, the SPLM and the Sudanese opposition parties, under the umbrella organization of the National Democratic Alliance (NDA), gradually forged an alliance to confront the NIF regime. This culminated in the NDA's Asmara Declaration in 1995, which endorsed the DoP and agreed with self-determination in the South and "non-use of religion in politics" (Lesch 2001, 21; D. H. Johnson 2016, 104; Wöndu and Lesch 2000, 231–41). The NDA and the SPLA also conducted joint military operations, but the political and military alliance was hampered by distrust. Worse, Eritrean and Ethiopian support was lost once the border war between Eritrea and Ethiopia started in 1998 (Lesch 2001, 21–24).

The Sudanese government accepted the DoP and came back to the IGAD-sponsored[384] negotiation process in 1997, against the backdrop of mounting support for the Sudanese opposition parties from neighboring states and also international pressure in the wake of an assassination attempt on Egyptian president Hosni Mubarak

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[384] IGADD was renamed as Intergovernmental Authority on Development (IGAD) in 1996.

in 1995 in which Sudan was suspected to be involved (Wöndu and Lesch 2000, 164–66). Yet the Ethiopia-Eritrea war which erupted in 1998 hampered the negotiation process. As late as spring 2001, Lesch observed that "the impasse between the government and the SPLM is unlikely to end in the near future" (Lesch 2001, 24). However, a breakthrough came one year later.

8.3. The Machakos Negotiations and the 2005 Comprehensive Peace Agreement

In the 1990s, the IGADD peace processes were supported by Western governments, which formed the Friends of IGADD. During the peace negotiations leading to the 2005 Comprehensive Peace Agreement (CPA), the "Troika" (referring to Norway, the United Kingdom, and the United States) played a crucial role in mediation. Among others, it was their support for the self-determination of the South which propelled the negotiation.

In April 2002, the Troika, represented by Walter Kansteiner, Clare Short, and Hilde F. Johnson, met in New York and decided to support the right of self-determination for the South Sudanese (H. F. Johnson 2011, 42, 50). Troika states approached the issue of self-determination differently but reached the same conclusion that a clause on a referendum would be necessary.

As for the United States, their effort to solve the Southern Sudan conflict predates the 9/11 terrorist attack. The new president, George W. Bush, was considered to be a hardliner, and it was believed that this image could be utilized in the negotiations.[385] The policy of the United States was to support a unified Sudan with autonomy in Southern Sudan but also at the same time to support the right of Southern Sudanese people to hold an independence referendum if the arrangement did not work

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[385] Interview with Former Senior State Department Official [1], Washington, DC, May 2019.

out.[386] There were several factors behind the American endorsement of a self-determination referendum. First, Southern Sudan was administered separately before decolonization. Here, a precedent was seen in Eritrea. As one former US senior State Department official put it, "we did the same thing in Eritrea."[387] Second, the war had been going on for decades.[388] Third, American officials emphasized the cultural differences between Muslims and Christians.[389] Fourth, in light of the failure of the Addis Ababa agreement, it was conceived that Southerners should be allowed self-determination this time.[390] Finally, massive human rights violations were also relevant, particularly for President Bush and among his supporters.[391]

In contrast, it seems the United Kingdom approached the issue of self-determination pragmatically. Clare Short states,

My interest was in ending the fighting so that the people could get some improvement in their lives. My enthusiasm was that a commitment to a referendum where Garang would support maintaining the unity of Sudan might just draw everyone in.[392]

Somewhat differently but still pragmatically, a former UK senior diplomat was of the

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[386] Interview with Former Senior State Department Official [2], Phone, May 2019. Andrew Natsios is of the view that the White House leaned toward independence while the State Department was more supportive of unity and worried that the Southern Sudan case would set a precedent. Interview with Andrew Natsios, Phone, May 2019. See also H. F. Johnson (2011, 50).
[387] Interview with Former Senior State Department Official [1], Washington, DC, May 2019.
[388] Interview with Former Senior State Department Official [2], Phone, May 2019. Interview with Andrew Natsios, Phone, May 2019.
[389] Interview with Andrew Natsios, Phone, May 2019. Interview with Former Senior State Department Official [2], Phone, May 2019.
[390] Interview with Former Senior State Department Official [1], Washington, DC, May 2019. Another senior US diplomat emphasized South Sudan's unique history including the failure of the Addis Ababa agreement and the previous negotiations under IGAD. Interview with a Former Senior State Department Official [2], Phone, May 2019.
[391] Interview with Former Senior State Department Official [1], Washington, DC, May 2019. Interview with Andrew Natsios, Phone, May 2019.
[392] Email communication with Clare Short.

view that John Garang would never sign an agreement without an escape clause of the referendum, considering "such a history of Khartoum making promises [to Southerners] and then breaking them."[393] He was sympathetic to the rebels' argument that they could not sign an agreement without such a clause.[394]

Norway's approach was similar to the UK's but with an emphasis on Khartoum's previous agreement to self-determination. According to Hilde F. Johnson, the basis for the negotiations was the Declaration of Principles, agreed by the parties in 1997, and where Khartoum accepted the principle of self-determination. This was important for all international stakeholders supporting the talks, including Norway. This was the motivation behind Norway's support for self-determination for the South. It was, also, in their view, "the only way to get peace."[395] In her book, she recalls, "Because of the South's experience of broken agreements, I knew that the SPLM/A would never give up that right [to self-determination] and the explicit option of independence" (H. F. Johnson 2011, 46). There was widespread support for self-determination among all concerned stakeholders in Norway including some NGOs, civil society groups, think tanks and academic circles.[396] Endre Stiansen similarly argues, "if [self-determination] was not an option, you would have no peace in Sudan."[397] According to Endre Stiansen as well, Khartoum's previous acceptance of the arrangement in the Declaration of Principles in 1994 also helped this decision.[398]

The negotiations in Machakos began on June 17, 2002, but reaching an

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[393] Interview with a former senior UK diplomat, the United Kingdom, August 2019.
[394] Interview with a former senior UK diplomat, the United Kingdom, August 2019. However, when asked about pressure on the warring parties from international actors to reach the Machakos Protocol, Alan Goulty, the UK Special Representative for Sudan at that time, argued, "I don't think it is correct to say pressure, if you mean demands accompanied by threats of one kind or another. What really happened was a continuous, collective encouragement of the Sudanese parties with the objective of assisting them to reach an agreement" (*BBC Monitoring Middle East* 2002).
[395] Interview with Hilde F. Johnson, Oslo, October 2019.
[396] Interview with Hilde F. Johnson, Oslo, October 2019; Interview with Endre Stiansen, VoIP, November 2019.
[397] Interview with Endre Stiansen, VoIP, November 2019.
[398] Interview with Endre Stiansen, VoIP, November 2019.

agreement was far from a foregone conclusion (International Crisis Group 2002b, 2). The contentious discussion on self-determination was initially postponed, but because of the insistence of the SPLM, the agenda on self-determination was also put on the table (H. F. Johnson 2011, 45–49). The Troika, including the American members, intensified their pressure (H. F. Johnson 2011, 50). Fink Haysom also told the Sudanese government that they had agreed with self-determination in the past (H. F. Johnson 2011, 48). Concerning the number of years before the referendum would take place, the SPLM insisted on two years while the government preferred ten years. General Sumbeiywo did some simple math for compromise and argued for a six-year transitional period before the vote (Waihenya 2006, 87). A draft protocol containing the provision of no *Shari'a* in the South and an independence referendum in the South after a six-year transitional period was presented to the two parties. Two representatives from each side were locked in the room and asked to decide whether this was acceptable to them or not (H. F. Johnson 2011, 50–51; Waihenya 2006, 87–88). Both sides ultimately agreed to the protocol, even though they had to consult with their leaders: John Garang and Salva Kiir for the SPLM and Bashir and Vice President Ali Osman Taha for the government (H. F. Johnson 2011, 51–52). For the government, agreeing to a self-determination referendum was "a very last resort" but not "a red line" (H. F. Johnson 2011, 52). Hilde F. Johnson summarizes the agreement as follows:

> The government had acquiesced in self-determination, including the option of secession, in order to preserve the religious foundation of Sudan. The SPLM/A had given up a secular, confederate state, an essential part of the "New Sudan" agenda, in order to get a referendum on unity or secession for the South. (H. F. Johnson 2011, 54)

The Machakos Protocol was essentially a compromise between the two parties (Stiansen 2006).

The Machakos Protocol stipulates that "the people of South Sudan have the right to self-determination, inter alia, through a referendum to determine their future status" ("Comprehensive Peace Agreement between the Government of Sudan and the SPLM/SPLA" 2005, chap. I, Article 1.3.). In the referendum, the South Sudanese would choose between "the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement" or "secession" ("Comprehensive Peace Agreement between the Government of Sudan and the SPLM/SPLA" 2005, chaps. 1, Article 2.5.).[399]

It is, however, important to note that some of those involved in the peace process did not necessarily hope that the referendum would actually take place. Between the two tracks envisaged in the CPA, making unity attractive was prioritized explicitly ("Comprehensive Peace Agreement between the Government of Sudan and the SPLM/SPLA" 2005, chap. I, Article 2.4.2.). It was hoped that by making unity attractive, Southerners might choose not to resort to a referendum.[400] In fact, the hesitation to go ahead with the referendum continued during the transition period. Hilde F. Johnson recalls that "while all relevant international bodies had signed the CPA as witnesses, or supported it through resolutions or statements, there was continuing strong resistance to the referendum and possible secession" (H. F. Johnson 2016, 14). Even at a time when the referendum approached, diplomats from various nations often voiced concerns about going ahead with the referendum.[401]

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[399] The term was changed from "independence" to "secession" at the insistence of Khartoum according to Endre Stiansen, who was then a Norwegian observer attending the peace talks at that time. Interview with Endre Stiansen, VoIP, November 2019.
[400] Interview with a former senior UN official, March 2019. A US senior official admitted this was one of the possibilities. Interview with Former Senior State Department Official [1], Washington, DC, May 2019. Others concur. Interview with a former senior UK diplomat, the United Kingdom, August 2019; Interview with Hilde F. Johnson, Oslo, October 2019.
[401] Interview with David Gressly, VoIP, May 2019; Interview with Stein Erik Horjen, Oslo,

After the Machakos negotiations, even though the warring parties agreed with cessation of hostilities, the negotiations on the peace agreement stalled for one year (H. F. Johnson 2011, chap. 3). The negotiation process started to move only after John Garang and Vice President Ali Osman Taha were personally and significantly involved in the peace negotiations from mid-2003 on (H. F. Johnson 2011, chap. 4). While this negotiation phase forged trust between Garang and Taha, critics argue that the exclusive nature of the negotiation solely between the NCP and the SPLM was partly responsible for the failure to democratize Sudan based on the CPA (Young 2012; Aalen 2013). Others defend it, arguing that a more inclusive process would not necessarily mean a better peace agreement but would more likely yield a resumption of war (Rolandsen 2011).

As peace negotiations proceeded, the South Sudanese people, who had a history of fighting bitterly among themselves, promoted reconciliation among themselves. In January 2002, John Garang and Riek Machar signed an agreement so that the latter could return to the SPLM (International Crisis Group 2002a, 2–4). Lam Akol also returned to the SPLM in October 2003 (H. F. Johnson 2011, 168). In late 2004, however, Garang faced a political crisis inside the SPLM, confronted by Salva Kiir, who questioned his authoritarian tendencies and the lack of consultation. Still, the differences were sorted out in the SPLM leadership meeting at the end of November 2004 (H. F. Johnson 2011, 163–65; International Crisis Group 2005, 15).

The CPA was signed only in January 2005, based on which the Government of National Unity (GoNU) and the Government of Southern Sudan (GoSS) was formed. There were several reasons why the Sudan government signed the CPA. It was hoped that the National Congress Party (NCP), the ruling party founded in 1998 based on the NIF, could form an electoral alliance with the more popular SPLM, making it possible

October 2019; Horjen (2016, 130–131).

to win the elections together (International Crisis Group 2006c, 18; H. F. Johnson 2011). The NCP's fear about the United States was another reason.[402] After the September 11 attacks, Sudan, seen as supporting terrorism, had every reason to worry about its relationship with the United States (International Crisis Group 2002c, 7; Horjen 2016, 133–34). Furthermore, by 2005, the Sudanese government was facing massive international pressure over the issue of Darfur, and it needed deflection (International Crisis Group 2005). It was hoped that the peace agreement would end international isolation (International Crisis Group 2002c, 7; Horjen 2016, 134). Some of the Islamists within the NCP viewed the South as not essential for Sudan.[403] The NCP also believed that the deal would potentially collapse during the transition period.[404]

8.4. The Transition Period (2005–2011)

The CPA's implementation was marred by various breaches and delays. A huge blow to the CPA happened soon after the implementation period began: Garang died in July 2005 as a result of a helicopter crash. As we have seen, the CPA was largely an outcome of negotiations between Garang and Taha, to the extent that difficult issues were left to the presidency so that they could together deal with these issues later on (International Crisis Group 2008, 7). Garang's death killed plans envisaged by some to democratize Sudan through Garang's victory in the presidential elections (Young 2012, 143; D. H. Johnson 2016, 168–69). His death meant that the implementation could no longer benefit from the strongest bonds between the two powerful individuals who would drive the CPA implementation. As one Chatham House report notes, "in the end, the CPA relied heavily on one personality: Garang. His death set unexpected

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[402] Interview with Gunnar M. Sørbø, Bergen, October 2019.
[403] Interview with Gunnar M. Sørbø, Bergen, October 2019.
[404] Interview with Gunnar M. Sørbø, Bergen, October 2019.

limits on the implementation of the agreement" (Thomas 2009, 16).

Garang's death changed the strategies of both the SPLM and the NCP concerning the CPA implementation. On the one hand, Salva Kiir, Garang's successor in the SPLM, was pro-independence, unlike Garang who was committed to the idea of "New Sudan." While the SPLM continued to be internally divided between those advocating for secession and those close to Garang who still preferred a "New Sudan," it is difficult to deny that the SPLM focused more and more on Juba compared to on Khartoum (International Crisis Group 2008, 4–5). On the other hand, after Garang's death, Khartoum abandoned its advocacy of the principle of "making unity attractive." Bashir was convinced by hardliners that any efforts to make unity attractive would be fruitless because Southerners would choose separation regardless.[405] As the Sudanese government believed that the South would choose independence whatever Khartoum would do, "the strategy of the NCP appear[ed] to have shifted following Garang's death, and now seem[ed] more intent on delaying or undermining implementation than proceeding in good faith" (International Crisis Group 2006c, 3). Those critical of the CPA were promoted instead of those who were key members in the Naivasha negotiations (International Crisis Group 2006c, 18–19). Vice President Taha's position was also weakened (Rolandsen 2011, 560). The Darfur conflict and Bashir's eventual indictment by the International Criminal Court only made things more complicated.[406] The loss of international engagement with the CPA after it was signed was a further blow to its implementation (this point will be discussed in the next chapter). An ICG report in 2007 summarizes the situation in the first half of the transition period well: "the NCP has the capacity but not the political will to implement the agreement; the SPLM has the political will but not the capacity; and the international community

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[405]   Anonymous Interview, New York, May 2019.
[406]   Interview with Gunnar M. Sørbø, Bergen, October 2019.

remains largely disengaged" (International Crisis Group 2007, 2).

Frustrated with the NCP's delaying tactics, the SPLM announced their suspension of participation in the Government of National Unity in October 2007, only resuming its participation in December after intensive negotiations with the NCP. The SPLM listed five problems as the most serious. First, the problems associated with Abyei continued to be unresolved. The parties initially agreed that the report by the Abyei Boundaries Commission would be binding, but once the report was presented in July 2005, the NCP did not endorse it. The deadlock was not resolved before the SPLM rejoined the Government of National Unity, or indeed before the referendum (D. H. Johnson 2016, 171–73; International Crisis Group 2008, 9–11). Second, the SPLM claimed that redeployment of the Sudan Armed Forces (SAF) from the South did not meet the deadline of July 2007 (International Crisis Group 2007, 5, 2008, 11). Third, the census necessary for national elections had been delayed (International Crisis Group 2008, 11–13). Fourth, the demarcation of the border between the North and the South was also delayed (International Crisis Group 2008, 13). This issue was not resolved before the 2011 referendum (D. H. Johnson 2016, op. 170). Fifth, the SPLM distrusted the NCP's account of revenue and wealth-sharing regarding the oil production, suspecting that the South received less than it was entitled to under the CPA (International Crisis Group 2006c, 8, 2008, 13).

The CPA's lack of implementation led the South to focus on two guarantees to protect themselves: the holding of a referendum as an escape clause and the military capability to deter the North (Thomas 2009, 21–22). On the latter point, during the CPA negotiations, Garang strongly demanded that the SPLA and the SAF would not be unified during the transition period and that the SPLA would be the armed force of the South while the SAF would withdraw from the South (de Waal 2017, 184–85).[407]

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[407] Also see Young (2012, 117).

Both sides distrusted each other and invested in strengthening their own forces (on the SPLA, see the next chapter) (D. H. Johnson 2016, 174).

In this context, it is worth mentioning that the Joint/Integration Units (JIU) stipulated in the Security Arrangements in the CPA did not work as envisaged in the agreement, either. The JIU, made up equally from the SAF and the SPLA, would be deployed in Southern Sudan, Nuba Mountains, Southern Blue Nile, and Khartoum, serving as "a symbol of national unity" and as "a symbol of sovereignty" during the transition period, "constitut[ing] a nucleus of a post referendum army of Sudan, should the result of the referendum confirm unity" ("Comprehensive Peace Agreement between the Government of Sudan and the SPLM/SPLA" 2005, chap. VI, Article 4., 4.1.b., 4.1.c.). Yet as it turned out, they were "neither joint or integrated" (Verjee 2011, 4; D. H. Johnson 2016, 173–74). Indeed, many SAF contributions for the JIU were the former Southern militias associated with the SAF (Verjee 2011, 7; D. H. Johnson 2016, 174). This caused serious problems to the extent that "the three most serious breaches of the CPA's permanent ceasefire resulted directly from the actions of JIU battalions and brigades" (Verjee 2011, 4). These were the fightings among the JIU forces in Malakal in November 2006 and February 2009, and the confrontation in Abyei in May 2008 in which the JIU forces disintegrated (Verjee 2011, 8–9).

By 2009, it was clear that the Southerners would choose separation, and "the referendum, intended by the CPA's international sponsors as a last-resort guarantee, [had] become the non-negotiable centrepiece of the whole peace process, overshadowing the elections that were supposed to seal the agreement with a popular mandate" (Thomas 2009, 10). The SPLM merely viewed elections as a prerequisite to the referendum, not as essential for their own sake (International Crisis Group 2009, 7; Young 2012, 141; Thomas 2009, 27). However, the NCP needed national elections in order to legitimize its regime and its president, who had been indicted by the

International Criminal Court (International Crisis Group 2009, 6; Young 2012, 141).[408] It was imperative for Bashir to hold national elections before the referendum in order to make sure every Northern party in the parliament would be responsible for the separation.[409] The pressure from the international community to hold elections was also important in Bashir's decision to agree with elections.[410]

National elections took place in April 2010. Even though they were largely peaceful, the elections were marred by flaws and intimidations, essentially serving to consolidate the power of the NCP in the North and the SPLM in the South (Young 2012; Aalen 2013). The registration processes were full of irregularities such as lack of information, under-aged registration, harassment of observers, and the permission for the security sector personnel to register at their place of work rather than at their residence, which potentially made multiple voting possible (Young 2012, 144–46; International Crisis Group 2009, 4–5). The National Electoral Commission (NEC) did not properly notify civil society and political parties of the registration information, but pro-NCP households received this information through local governments (International Crisis Group 2009, 4–5). Moreover, campaign expenditures were not limited, strict regulations on campaigning activities were allegedly applied inconsistently, and the media access was disproportionate, which all benefited the NCP (Hakes and Elson 2010, 10–13).[411]

Seeing no level playing field, most of the Northern opposition parties boycotted the elections (Young 2012, 157–59). Meanwhile, the SPLM's 2008 national convention announced that Kiir was going to run for the presidential election, but this decision angered the NCP (Young 2012, 143–44). Instead, the SPLM's Political

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[408] Interview with Gunnar M. Sørbø, Bergen, October 2019.
[409] Anonymous Interview, New York, May 2019.
[410] Interview with Gunnar M. Sørbø, Bergen, October 2019.
[411] The situation surrounding elections in the South is discussed in the third section of Chapter 9.

Bureau[412] decided in December 2009 that it would be Yasir Arman, a northern long-term SPLM member, who would run for the presidential election (Young 2012, 150–51). However, his candidacy was ultimately withdrawn as the SPLM boycotted the elections in the North overall (Young 2012, 154–55). Young speculates that this decision was made in order not to upset the NCP and to achieve the independence of the South, arguing that "it was precisely at that point that New Sudan was sacrificed for the achievement of southern separation" (Young 2012, 157).

Meanwhile, the Southern Sudan Referendum Act was adopted by the National Assembly in December 2009. The date for the referendum was set to be January 9 ("Southern Sudan Referendum Act" 2009, Article 5), and voters would choose between "secession" and "confirmation of the unity of the Sudan by sustaining the form of government established by the Comprehensive Peace Agreement and the Constitution" ("Southern Sudan Referendum Act" 2009, Article 6). There were three types of eligible voters:

> one, those born to at least one parent from a southern indigenous community who resided in the south before 1 January 1956; two, those whose ancestry could be traced to one of the ethnic communities of the south, but without at least one parent residing in southern Sudan on or before 1 January 1956; and three, permanent residents who (or whose parents or grandparents) had resided in southern Sudan since 1 January 1956. (Young 2012, 179)[413]

However, the latter two types of voters were not allowed to vote outside the South to

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412 Top leaders of the SPLM formed a political bureau responsible for the day-to-day activities of the SPLM (Rolandsen 2015, 169).
413 See also "Southern Sudan Referendum Act" (2009, Article 25).

exclude those who do not have strong ties with the South (Young 2012, 180).[414] Importantly, 60% of the registered voters needed to participate in the referendum with a simple majority required for the outcome to become legal ("Southern Sudan Referendum Act" 2009, Article 41).

The SPLM formally never abandoned the idea of New Sudan, but it was clear by 2010 that this idea was dead (D. H. Johnson 2016, 176). Salva Kiir himself claimed on October 1, 2010, that he would vote for separation in the coming referendum (*Sudan Tribune* 2010). As a result, while the SPLM had no official position on the referendum vote, it campaigned for separation in effect (Young 2012, 192–93). In fact, when one SPLM cadre remarked that he was a unionist in August 2010, he was criticized by the Southerners as a traitor (Young 2012, 217–18).

In contrast, the NCP "had almost certainly not anticipated that the peace process would reach this stage" (Young 2012, 186). It was feared that the NCP would obstruct the vote, reject the outcome of the referendum, or even start a war with the SPLM. The SPLM themselves threatened a war if the referendum were not delivered as scheduled.[415] However, in the end, Bashir chose to honor the referendum process (for an analysis, see the next chapter). Visiting Juba on January 4, 2011, Bashir made it clear that he would respect the outcome of the referendum (Rice 2011). The NCP did not conduct a substantial campaign for unity (Young 2012, 193).

The voting itself was peaceful and showed the clear wish of the Southern Sudanese people for independence. With a turnout of around 97.5 percent, almost 99 percent of the votes chose independence (UN Secretary-General 2011b, 2, para. 4). Immediately after the voting, the Carter Center praised the referendum, stating that

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[414] See also "Southern Sudan Referendum Act" (2009. Article 27).
[415] James Morgan, South Sudanese ambassador to Ethiopia, argues that the SPLM/A would not have resorted to a war even if the referendum had been delayed, but that they were worried that delaying the referendum would make it impossible to hold it altogether as the precedent of Western Sahara shows. Interview with James Morgan, Addis Ababa, November 2019.

"the referendum process to date [was] broadly consistent with international standards for democratic elections and represents the genuine expression of the will of the electorate" (The Carter Center 2011).

8.5. Independence and the 2013 Civil War within South Sudan

Upon independence, it was clear that South Sudan would face a number of serious problems. Belloni cites four thorny problems between the North and the South: Abyei, Oil and Wealth Sharing, The North-South Border, and the Citizenship Question (Belloni 2011). In addition, he refers to "an enormous internal challenge for South Sudan" including weak capacity for governance, severe underdevelopment, and political divisions (Belloni 2011, 424–25).

Tension with Sudan erupted in Abyei even before independence was formally achieved. After independence, negotiations over the payment for the use of the oil pipeline collapsed, leading the South Sudanese government to shut down oil production. Border disputes also emerged in 2012. These problems were settled only in September 2012 (for more see the next chapter).

However, as the relationship between Sudan and South Sudan improved, the tension within the SPLM was brought to the surface (H. F. Johnson 2016, 85). At this point, there were three main factions within the SPLM. The first faction consisted of those close to late John Garang—often termed as the "Garang Boys"—most notably Pagan Amum. This faction did not have strong military power, but it included many important figures in the SPLM. The second faction, led by Riek Machar, was predominantly Nuer with the main support area being Greater Upper Nile. The third faction, led by Salva Kiir, had a base in Dinka of Bahr el-Ghazal (Rolandsen 2015, 167–68; H. F. Johnson 2016, 152–54; Vertin 2019, 110–11).

In March 2013, Salva Kiir made it clear at a Political Bureau meeting of the

SPLM that he would run for another presidential election expected to occur in 2015. Riek Machar, Pagan Amum, and Rebecca Nyandeng (widow of John Garang) each announced that they would also like to run for the presidency (H. F. Johnson 2016, 163; de Waal 2014, 365). After this meeting, both the political bureau meetings and the meetings of the National Liberation Council of the SPLM were postponed continuously, partially due to Kiir's fear that he might not command the majority there anymore (International Crisis Group 2014, 4; H. F. Johnson 2016, 163).

It seems Kiir decided to manage this problem through his executive power (de Waal 2014, 365). In July 2013, Kiir dismissed Vice President Riek Machar and other cabinet ministers while suspending SPLM Secretary General Pagan Amum due to corruption. The new cabinet was formed with two characteristics: exclusion of the other two factions and appointments of those considered to be close to Khartoum (H. F. Johnson 2016, 168–69; D. H. Johnson 2014, 304; Rolandsen 2015, 170).

On December 6, 2013, those sidelined by Kiir hit back at a press conference at the SPLM headquarters. Riek Machar, Pagan Amum, and Rebecca Nyandeng (among others) criticized the Kiir leadership even though they stopped short of demanding his resignation. They insisted that Kiir took a top-down approach rather than a bottom-up approach to run the SPLM. According to their press statement, "the Government drives the SPLM rather than the other way round." They claimed that Kiir is surrounded by "opportunists and foreign agents" rather than the SPLM cadres. As a result, Kiir "[had] completely immobilized the party, abandoned collective leadership and jettisoned all democratic pretensions to decision making." They concluded, "The deep-seated divisions within the SPLM leadership, exacerbated by dictatorial tendencies of the SPLM Chairman, and the dysfunctional SPLM structures from national to local levels [were] likely to create instability in the party and in the country," demanding that Kiir convene the Political Bureau of the SPLM (*Sudan Tribune* 2013a). There was no

precedent for this kind of public criticism by SPLM senior figures (H. F. Johnson 2016, 174).

On December 14, Salva Kiir finally convened a two-day meeting of the National Liberation Council. On the first day, he criticized challengers, explicitly referring to the events in 1991 including the massacre of the Dinka in Bor (H. F. Johnson 2016, 177). He also formally dismissed Pagan Amum and changed the voting procedure from secret votes to a show of hands, allegedly "through intimidation and other undemocratic methods" (International Crisis Group 2014, 5, 5n26). The opposition figures boycotted the second day (International Crisis Group 2014, 5).

It was in this context that the fighting broke out on the evening of December 15. Exactly what happened is not clear, but as the political fighting entered into a military sphere, it soon took on ethnic overtones. The government argued that there was an attempted coup by Riek Machar and those around him on that night. It quickly arrested the senior SPLM figures who attended the press conference on December 6 even though Riek Machar himself managed to escape (H. F. Johnson 2016, 185; *Sudan Tribune* 2013b).[416] In Juba, Nuer men were deliberately and indiscriminately targeted and massacred by the government forces mainly constituted by Dinka (H. F. Johnson 2016, 189–91, 195–96). For Riek Machar and those close to him, there was no coup plan, and the government's action was an elaborate and deliberate attempt to suppress them and the Nuer people (H. F. Johnson 2016, 185–86; International Crisis Group 2014, 1). Outside Juba, fighting erupted in Unity, Jonglei, and Upper Nile states, and there was concern that the anti-government forces would move to attack Juba (H. F. Johnson 2016, 199–206). This was prevented only because Ugandan forces came to rescue the government (International Crisis Group 2014, 22–23). However, the civil

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[416] Seven of them were later released and participated in the peace negotiation in Addis Ababa as the "SPLM 7," independent from both Kiir and Machar (International Crisis Group 2014, 13).

war continued, and within less than half a year, more than ten thousand people were killed and more than one million were displaced (International Crisis Group 2014, i).

Those directly involved in the process argue that the rapidly unfolding new war within South Sudan was not predictable. Hilde F. Johnson insists that nobody had predicted this civil war prior to the crisis. Tensions and violence yes, possibly, but not outright war. At that time, it was not expected that the SPLA as an army would split in two, along ethnic lines. This was what escalated the crisis, resulting in civil war.[417] Endre Stiansen recalls that they were fully aware of the increasing tensions within the leadership and the likelihood of eventual violence. Hence, the violence itself was not surprising but the level of violence and its quick spread were shocking.[418] Yet others were critical of what they saw as excessive optimism on the part of the international community. For example, according to the International Crisis Group,

> As recently as November 2013, the mission [United Nations Mission in South Sudan (UNMISS)] was "cautiously optimistic" in the face of a growing number of warning signs that the country was increasingly unstable. UNMISS has struggled to engage proactively in political crises and to maintain the impartiality required to protect civilians under threat. (International Crisis Group 2014, 28)

The ICG also accuses UNMISS of "consistently present[ing] South Sudan as a post-conflict, developing country rather than a politically fragile, highly conflict-prone polity, despite the several thousand South Sudanese killed in violent conflict in three out of its ten states in that period [between independence and December 2013]"

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[417] Interview with Hilde F. Johnson, Oslo, October 2019.
[418] Interview with Endre Stiansen, VoIP, November 2019. Another interviewee offers a similar recollection. Interview with Stein Villumstad, Oslo, October 2019.

(International Crisis Group 2014, 28n179). Gunner Sørbø concurs that, after July 2013, it was not surprising that the tension would flare up in a war.[419]

A number of analyses have examined the causes of this new civil war. For the immediate cause of the conflict, "who started the shooting and with what purpose is less relevant than the fact that each had prepared for this eventuality" (de Waal 2014, 366). Hilde F. Johnson elaborates this point. Without mediators and without mechanisms within the SPLM or a political culture in South Sudan to peacefully resolve differences, actors chose confrontation over compromise, including preventive action. As a result, "what originally could be characterized as a political crisis very quickly became a security crisis" (Johnson 2016, 254).

On the other hand, the causes of this war at a deeper, structural level should not be ignored. For Rolandsen, "Underlying factors such as civil war legacies, neo-patrimonialism, and a weak state made a new civil war in South Sudan possible, if not unavoidable" (Rolandsen 2015, 171). Alex de Waal emphasizes neo-patrimonialism, claiming that Kiir was no longer able to continue purchasing loyalty from relevant actors by the time of the outbreak of the civil war because the cost of loyalty was soaring when his monetary base was diminishing as the result of the shutting down of oil production (de Waal 2014, 349, 365). Hilde F. Johnson disputes such political marketplace-arguments, focusing on financial reasons for the crisis. She insists that there were deep divisions within the SPLM-leadership that were behind the events leading to the December 2013 crisis, divisions that surfaced and paralyzed the leadership in the absence of Sudan as a common enemy; "the SPLM leadership appeared 'united in war – divided in peace'" (H. F. Johnson 2016, 93). The eruption of civil war, however, was in her view a result of security incidents that escalated out

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[419] Interview with Gunnar M. Sørbø, Bergen, October 2019.

of control leading to a split down the middle of the SPLA.[420] Finally, Brosché and Höglund argue that the prospect of the 2015 presidential election heightened the rivalry among top cadres within the SPLM, precipitating the crisis (Brosché and Höglund 2016). Since December 2013, South Sudan has been oscillating between warfare and temporary peace.

8.6. Conclusion

The South Sudanese people, continuously excluded from the sphere of authority in Sudan dominated by the Northerners, finally gained independence in 2011. For an entity engulfed by not only a war vis-à-vis Khartoum but also violence between the South Sudanese people themselves for decades, the Comprehensive Peace Agreement was a huge achievement made possible by the charismatic leadership of John Garang and the international pressure on Khartoum. However, the principle of making unity attractive failed during the transition period, as its architect died soon after the peace agreement was signed. The idea of "New Sudan" was abandoned, and the South Sudanese people focused on securing their escape from the North in the form of a referendum. Despite the real fear of violence and the resumption of war, the referendum was successfully held in January 2011. However, the newly independent state failed to enjoy peace let alone democracy. The border dispute with the Sudanese government occurred in 2012, and more crucially, a devastating civil war within South Sudan started in December 2013. How should we understand these events? Should the referendum be blamed for what happened after? Or despite the positive impact of the referendum, was South Sudan destined to follow this path? The next chapter will conduct structured, focused comparison to answer these questions.

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[420] Interview with Hilde F. Johnson, Oslo, October 2019.

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Chapter 9

Referendum in South Sudan (2011):

Structured, Focused Comparison

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This chapter examines the thesis' three questions in turn with respect to the case of South Sudan. The first section, examining the rationales behind the holding of a referendum, is divided into an analysis of the SPLM's rationale behind their demand for self-determination and a brief discussion about the surrounding international attitudes.

The second section is also divided into two subsections. The first subsection examines the attitudes of the Sudanese government as a potential spoiler and asks why it did not become a manifest spoiler. The second section investigates how the referendum affected (or did not affect) the relationship between Sudan and South Sudan after the referendum.

The third section again consists of two subsections: the transition period before the referendum and the period after the referendum. It is interested in understanding how the referendum affected peace and democracy inside South Sudan. Each subsection is further divided into three parts examining the effect of the referendum on the amelioration of tensions within the South Sudanese, the democratization of South(ern) Sudan, and the attitudes and policies of the international community.

9.1. Rationales behind the Holding of a Referendum

9.1.1. The SPLM/A

The SPLM has consistently demanded a referendum specifically as the method of self-determination. Two articles published by the SPLM members in the early 1990s explain the rationales behind their demand for a referendum. First, in an article in

NewSudan[421] published in March 1994, SPLM/SPLA Secretariat to the Second Abuja Conference explains the SPLM's position on how the conflict should be resolved (SPLM/SPLA Secretariat to the second Abuja Conference 1994, 20–23). While defending Garang's idea of a "New Sudan", it argues that it should be the people themselves who decide whether they prefer independence or the interim arrangement. It explains the rationale behind holding a referendum as follows:

> The people's will cannot be denied. It must prevail. In the past, the destiny of the country had been decided by small groups purporting to represent their respective constituencies. The Mahdists and Unionists agreed with the British and Egyptian colonialists in 1953 on the independence of the Sudan. There was no vote. In 1947, a group of Southern chiefs and clerks "agreed" (questionable) on the unity of the North with the South. There was no vote. In 1972, the Anya-Nya leaders agreed with the Khartoum regime on local autonomy for the South. There was no vote.
>
> All these arrangements failed to lay down a foundation of unity and justice and the country has bled profusely because of those presumptuous and high-handed approaches to the management of the affairs of the State. This time round, that perilous path cannot be followed again. It must be avoided. The people must decide their own destiny themselves. (SPLM/SPLA Secretariat to the second Abuja Conference 1994, 20)

A few months later, Steve Wondu wrote a commentary in SPLM/SPLA Update entitled "The Rationale of a Referendum." He offers a similar argument. Referring to peace after the Addis Ababa agreement, he insisted:

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[421] *NewSudan* was a magazine published by the SPLM (H. F. Johnson 2016, 201).

That 'peace' lasted only ten years. Today, we have another military junta in Khartoum and another rebel movement. Neither was elected. It can be argued that neither the Khartoum junta nor the SPLM have the popular mandate to institute a constitutional arrangement for the aggrieved people of the New Sudan. That mandate remains with the people themselves. It is therefore a matter of discipline and respect for our people that we let them decide for themselves how they wish to be governed. (Wondu 1994, 2)

It is worth noting that elections were not envisaged during the interim period, as Wöndu writes that "there is no point in calling for an election unless the parties agree to abide by its results" (Wondu 1994, 2).[422] Of course, if elections take place based on the framework of the interim arrangement, the legitimacy of representatives based on such elections could be still questioned by those who do not agree with the interim arrangement in the first place. There is a clear view that it must be citizens, not elites, who would decide on the matter of self-determination in light of the previous failure to settle the issue.

To a certain extent, this point tallies with the rationale behind the requirement of a referendum in order to revise the 1972 Addis Ababa agreement. Abel Alier, one of the architects of this agreement, argues that the final say over the revision was reserved for the Southern people in light of two considerations. First was the history of various promises and agreements being dishonored in the South. Second was the experience of Eritrea as part of Ethiopia. Abel Alier saw that autonomy in Eritrea was abolished

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[422] The Declaration of Principles in 1994 did not include a clause stipulating the holding of elections during the transition period. Even during the CPA negotiations, both the NCP and the SPLM were reluctant to accept elections during the transition period worried about their electoral prospects (Young 2012, 136–137).

with the active cooperation of Eritrean opposition groups (Alier 1990, 232–33). The second logic seems to indicate that the views of elites might be against the wishes or the interests of the state's citizens, which is in line with Lenowitz's discussion of constitutional referendums (Lenowitz 2015). As long as there is an opportunity for self-determination, there was no way for the South Sudanese people to later complain about the decision.[423]

It is also possible that John Garang's vision of "New Sudan" affected the choice of the method of self-determination. The idea of New Sudan was mainly supported at the leadership level, most notably by Garang himself. The idea was "an elite thing," as David Gressly puts it.[424] In contrast, sentiment for independence was strong among the grassroots. This might have affected the attitudes of the two factions within the SPLM in different ways. On one hand, it was the Nasir faction of the SPLM which first articulated the Southerners' demand for self-determination. They knew that John Garang was a unionist and also that the sentiment for independence was fairly strong among grassroots actors. Thus, it was natural for them to prefer that citizens themselves decide upon the future of the territory. On the other hand, for Garang and the Torit faction of the SPLM, it is possible that precisely because the SPLM leadership was a unionist, they needed unambiguous support from citizens that it was they, and not only elites, who preferred a united Sudan.

9.1.2. Negotiations (2002–2005) and International Attitudes

There is no evidence to suggest that international actors explicitly discussed the method of self-determination. However, after the Machakos negotiation was concluded, Khartoum tried to modify the agreement in various ways, one of which was

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[423] Interview with James Morgan, Addis Ababa, November 2019.
[424] Interview with David Gressly, VoIP, May 2019.

to change the voting procedure from a direct to an indirect vote. But this was not accepted by the SPLM/A.[425]

In general, the international community was supportive of holding a direct vote instead of an indirect vote. As a former senior UN official recalls, a referendum is a method that is quantifiable and unambiguous, and thus it would be difficult for anyone to dispute the results.[426] A referendum with international presence was necessary so that "there will be no argument later from anybody side that it was not an exercise of self-determination, that it was imposed, that it was twisted, that the results were not reliable and so on and so forth."[427]

Moreover, there was some expectation that the referendum would enhance the prospect of democracy in South Sudan even if it was not expected that South Sudan would become democratic overnight. For one UN senior official, the peaceful referendum fully meeting the international standards was "the best gift that the international community could give to South Sudan about what we expected it to become later."[428] For another former UN senior official, the referendum was the first occasion for many Southerners to express their wish freely. By democratically, legally, and peacefully entering the family of states, South Sudan was "encouraged to sustain the cause of democratization, and was supported by the international community in that sense."[429] It was hoped that the preparation, the conduct, and the outcome of the referendum would help South Sudan transform to a democratic society.[430] It was also expected that, even though there was an awareness to its limitation, the practice

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[425] Interview with Hilde F. Johnson, Oslo, October 2019. Khartoum also tried to include Northern Sudanese voters in the referendum and to defer the referendum for six more years and "after sufficient developments had been achieved in South Sudan." All of these were rejected by the SPLM/A. Interview with Hilde F. Johnson, Oslo, October 2019.
[426] Interview with a former senior UN official, March 2019.
[427] Interview with a former senior UN official, March 2019.
[428] Interview with a Senior UN Peacekeeping Official, New York, May 2019.
[429] Interview with a former senior UN official, March 2019.
[430] Interview with a former senior UN official, March 2019.

established through the well-conducted referendum "would enable more popular participation in democratic processes in the future."[431]

9.2. Impact of the Referendum on Resolving the Original Self-determination Conflict

9.2.1. The Attitudes of Warring Parties

The potential spoiler in the referendum process was first and foremost the Sudanese government in Khartoum. It was feared that the Sudanese government would block the referendum, delay the referendum, disrupt the referendum, or reject the referendum outcome.[432]

To deter the North, Kiir invested a significant amount of money in military expenditures, which amounted to around 30–40% of the South's GDP each year. This had the added advantage of also purchasing the loyalty of private soldiers in Southern Sudan by incorporating them into Southern Sudan's neo-patrimonial structure (de Waal 2014, 355–58). The SPLA enhanced its military strength so that it could force the Sudanese government to agree with the holding of a referendum.[433] It was also prepared to fight a new war if the referendum did not take place on time.[434] Moreover, South Sudanese people were also unified for independence.[435] Even though often manipulated by Khartoum and pitted against one another, it was unlikely, this time alone, that Southerners would start fighting against each other.

There was also international pressure on Sudan.[436] For example, post-

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[431] Anonymous Interview [2], 2019.
[432] Interview with a UN official, VoIP, September 2019; Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[433] Interview with Stein Erik Horjen, Oslo, October 2019.
[434] Interview with Hilde F. Johnson, Oslo, October 2019.
[435] Interview with David Gressly, VoIP, May 2019.
[436] Interview with a UN official, VoIP, September 2019.

referendum international assistance to Sudan was conditional on the cooperation of the Sudanese government in the referendum process.[437]

Furthermore, the international community invested significantly in the referendum in order to make sure that no actors would have an excuse to reject the referendum outcome. For that purpose, it was imperative that the referendum process was clearly free and fair. It had to be perfectly conducted to prevent a scenario in which the referendum process was questioned and not accepted by either the North or the South.[438] There was a worry that the war would break out again without the success of the referendum.[439] The level of support provided by the United Nations was significantly different from in the 2010 elections; for example, observers were sent at the county level during the referendum in comparison to the state level during the 2010 elections. Importantly, the United Nations Secretary-General's Panel, separate from the United Nations Mission in Sudan (UNMIS), was organized to monitor the referendum.[440] With the significant international investments on the referendum process, it was very difficult for Bashir to ignore the referendum process and resort to force.[441]

In sum, Khartoum faced not only accumulating military power in the South but also international pressure. Khartoum did not have a lot of options since the SPLM/A was controlling the whole territory in the South and any disruption of the referendum would be criticized by the international community.[442] Moreover, there was also still a view that the South's secession would put an end to the threat (New Sudan) to the Islamist state the NCP aspired to (Young 2012, 195–96). In the end, President Bashir publicly committed to the referendum. As a result, the 2011 referendum was

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[437] Interview with a UN official, VoIP, September 2019.
[438] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[439] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[440] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[441] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[442] Interview with David Gressly, VoIP, May 2019.

remarkably peaceful in comparison to East Timor. The zero-sum nature of the referendum was not relevant here since most of the South Sudanese people clearly favored independence, having no desire to retain ties with Khartoum.

9.2.2. Long-term Relationship

However, the successful holding of the referendum did not guarantee that the post-referendum relationship between Sudan and South Sudan would become cordial. On the contrary, even though the matter of self-determination for the South Sudanese people *itself* was conclusively resolved, a number of very difficult issues between the two countries had not been resolved yet, including Abyei, border demarcation, and oil sharing. This was inevitable, since international actors prioritized the referendum over these issues. It was considered practical not to deal with them before the referendum, since both sides were more worried about losing rather than failing to secure a clear victory on those issues.[443]

Tension with Sudan erupted even before formal independence was declared. In May 2011, the SAF occupied Abyei, and its administration was dissolved unilaterally. More than one hundred thousand people were estimated to be displaced as a result (UN Secretary-General 2011a). Furthermore, at the time of independence, there was no agreement concerning the amount of money South Sudan would pay to Sudan for their use of the oil pipeline. While negotiations on this payment were ongoing, South Sudanese industry continued to export its oil through this pipeline for free. In December 2011, Sudan unilaterally started to siphon off the oil from South Sudan as payment. This angered the South Sudanese leadership, who in turn resorted to the radical measure of shutting down oil production, causing devastating damage to both countries' economies (de Waal 2014, 362–65; H. F. Johnson 2016, 60–69).

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[443] Interview with David Gressly, VoIP, May 2019.

Starting with Abeyi, military confrontation between Sudan and South Sudan ensued. Raids and bombing by the SAF around the border area prompted South Sudan to occupy oil-rich Heglig/Panthou in April 2012. Heglig/Panthou is claimed by both countries but was under the control of Sudan at the time, and the SPLA believed that the SAF force operated from there (D. H. Johnson 2012, 561–62; H. F. Johnson 2016, 69–74). This action, however, was heavily criticized by the international community, and the SPLA had to withdraw (H. F. Johnson 2016, 75–77). However, the fighting in the border areas did not end, leading to Security Council Resolution 2046, which demanded the cessation of hostilities and resumption of negotiations with a threat of potential economic sanction in case the demands were not met (H. F. Johnson 2016, 77–79; UN Security Council 2012). The parties finally reached agreements concerning both security and oil in September 2012, with oil production resuming in March 2013 (H. F. Johnson 2016, 81–85). It is clear that holding the referendum did not have a significant impact on the acrimonious relationship between the two countries.

9.3. Impact of the Referendum on Peacebuilding within the Newly Independent State

9.3.1. Before the Referendum

Amelioration of Tensions

When the CPA was signed, the SPLA was not necessarily a dominant force in Southern Sudan, since the South Sudan Defence Force (SSDF), an umbrella organization of militias affiliated with Khartoum[444] which had comparative strength to the SPLA, was still operating there with other smaller militias (Young 2012, 14; de Waal 2017, 186). The CPA designated these forces as "Other Armed Groups," stipulating that there should be no force other than the SAF and the SPLA ("Comprehensive Peace

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[444] See Arnold (2007, 490–491).

Agreement between the Government of Sudan and the SPLM/SPLA" 2005, chap. VI, Article 7.a.). This essentially gave the SPLA (and the SAF in the North) a free hand to deal with these armed groups in the South (de Waal 2017, 180). Considering the relationship between Garang and the SSDF was hostile (International Crisis Group 2006c), it could have been the case that Garang would be willing to disarm them forcibly (de Waal 2017, 186; International Crisis Group 2014, 6n33). However, Garang's premature death affected both the SPLM's and the SSDF's attitudes. Garang's successor, Salva Kiir, was pro-independence and adopted a "big tent" policy to incorporate as many armed forces as possible within Southern Sudan. As Alex de Waal explains:

> Kiir was afraid not only that militia leaders could disrupt southern Sudan, but also that Khartoum's security paymasters would use cash to buy the support of discontented southern Sudanese provincial elites, who could make the referendum impossible or swing the results towards unity. (de Waal 2014, 355)

On the other hand, the SSDF, committed to self-determination and independence in the South, distrusted Garang partially because of his vision of "New Sudan." It was much easier for them to trust pro-independence Kiir (Arnold 2007, 495–97). The negotiations between Kiir and SSDF Chairman Paulino Matip led to the Juba Declaration in January 2006. As a result, the bulk of the SSDF, estimated to be up to 50,000 troops, was integrated into the SPLA (Rands 2010, 10; International Crisis Group 2007, 6)[445] and former cadres of the SSDF gained posts in GoSS (Arnold 2007, 496–97). Matip was appointed the Deputy Commander-in-Chief of the SPLA, a newly created position (H. F. Johnson 2016, 342n3). Through incorporating largely Nuer forces of the SSDF, the Juba Declaration also rectified the grievances among the Nuer

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[445] Some in the SSDF refused to join the SPLA (Arnold 2007).

that they were underrepresented in the GoSS and GoNU (International Crisis Group 2006c).

After the Juba Declaration, Kiir continued to incorporate armed groups in Southern Sudan through amnesty (International Crisis Group 2014, 6, 2011, 3). There was some worry within the SPLA that this would dilute the SPLA, but Kiir and Machar believed that it would be important to make sure that Khartoum had no militia to mobilize in the South (H. F. Johnson 2016, 228). The salary of soldiers was doubled after the Juba Declaration and increased again by almost 50% closer to the referendum in order to prevent defection (de Waal 2014, 355). By 2010, the SPLA numbered around 140,000 personnel (Rands 2010, 10), with 40% of the national budget going to the SPLA (H. F. Johnson 2016, 226).

Within the SPLM, after Kiir's appointment as the SPLM Chairman, his relationship with the "Garang Boys" was initially not cordial, but it improved once he appointed Pagan Amum, one of the senior figures of the "Garang Boys" faction, as the Secretary General of the SPLM, the number two position in the SPLM (International Crisis Group 2006c). The improved relationship between the two factions made it possible to dismiss more controversial members of the SPLM including Lam Akol in 2007 (H. F. Johnson 2016, 157). Yet at the 2008 SPLM national convention, Salva Kiir and his group tried to replace Pagan Amum with a Kiir loyalist as the Secretary General. Moreover, they also tried to reduce the number of deputy leaders from the South to one and appoint another Kiir loyalist to the post, thus stripping the role of Deputy Chairman from Riek Machar.[446] Meanwhile, Riek Machar and Nhial Deng tried to challenge Kiir for chairmanship. All of these attempts failed to materialize in the end, with Kiir remaining as Chairman without an election, Riek Machar serving as Deputy

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[446] According to Hilde F. Johnson, the Garang Boys were also involved in the latter plan (H. F. Johnson 2016, 156).

Chairman, and Pagan Amum as the Secretary General (Young 2012, 142; H. F. Johnson 2016, 155–56). According to Hilde F. Johnson, "[the elders] counselled against changes that could risk the unity of the South and jeopardize the referendum. This led to agreement not to vote on any of the proposals" (H. F. Johnson 2011, 156).

Toward the end of 2010, the SPLM also promoted reconciliation vis-à-vis other political parties. In the all-parties' conference in October 2010, the SPLM and the opposition parties agreed with the process to prepare the interim and then the permanent constitution (International Crisis Group 2011, 3–4). Young observes, "This was the high point of south–south reconciliation, and no doubt contributed to the peaceful conduct of the referendum, but after the referendum, when Salva no longer needed the opposition parties, the positive atmosphere rapidly deteriorated" (Young 2012, 211).

Overall, it is clear that the South Sudanese people promoted and maintained their unity in order to bring about the referendum. As Hilde F. Johnson argues, "Salva Kiir knew that unity of the Southerners was essential for the referendum to be achieved" (H. F. Johnson 2016, 146). Yet this apparent reconciliation was merely a semblance. Referring to various incorporations of militias since 2006, Hilde F. Johnson writes "these multiple reintegration processes depended on promotions in rank and economic incentives, nothing more. There was no reconciliation through dialogue, no settling of grievances" (H. F. Johnson 2016, 227).[447] Mamdani similarly criticizes the integration efforts, arguing, "the problem with this unprincipled 'reconciliation' was that it was driven by short-term considerations" (Mamdani 2014). It was "a form of settlement that was more coopting of adversaries than of reconciliation" (Horjen 2016, 138). The ICG report rightly states, "The de facto unanimity that carried Southerners through the

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[447] It is worth referring to the previous reconciliation efforts up to 2005 held through churches. Unfortunately, nothing comparable to these efforts took place after 2005. Interview with Gunnar M. Sørbø, Bergen, October 2019.

referendum was more a product of collective opposition to the National Congress Party (NCP), the long-time ruling party in Khartoum, and the shared objective of independence than of any inherent harmony among Southern communities or political factions" (International Crisis Group 2011, 4).

Democratization

During the transition period, the SPLM emerged as a dominant party in the South. Even though it is true that press freedom and religious freedom were better respected in the South than in the North (Freedom House 2011, 638), the SPLM/A consolidated its power in Southern Sudan during the transition period. The SPLM's domination of the GoSS meant the party benefited from the state's resources including its finances (Aalen 2013, 186; Rolandsen 2015, 169). The SPLM/A's rent seeking and wealth distribution through patronage networks originated from the warring period, but they continued during the transition period (de Waal 2014; Pinaud 2014). In particular, the abundant oil money flowing from Khartoum contributed to the huge scale of corruption among the SPLM/A cadres, who accumulated excessive wealth (H. F. Johnson 2016, chap. 2). Unfortunately, the army which received 40% of the national budget was "the most corrupt institution" among various institutions.[448] While the SPLM cadres enriched themselves, other political parties had no financial strength to challenge the SPLM (Rolandsen 2015, 169). As one close observer writes, " [the SPLM] observed little separation between party and state, spent government revenue as it liked, and muzzled dissenting voices" (Vertin 2019, 100). It is clear that the vast oil resources cursed Southern Sudan, hindering democratization and contributing to the dominance of the SPLM (Ross 2001).

    Against this backdrop, even though the elections were seen as a step to

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[448] Interview with Laila Lokosang, VoIP, December 2019.

democracy in Southern Sudan,[449] they only served the function of further legitimizing and consolidating the powers of the SPLM. As we have seen, the elections were supposed to provide a voice to the electorate who did not have a chance to participate in the CPA negotiations (Young 2012, 137). However, during national elections, the GoSS and the SPLA actively obstructed the campaigns of opposition parties (Hakes and Elson 2010, 11). For example, Lam Akol and the SPLM-DC founded by him faced tough measures, including the arrest of the party members, confiscation of its campaign material, and cancellation of meetings (Young 2012, 162). Security agents closed two radio stations in Juba briefly after they aired an interview with an independent candidate (Hakes and Elson 2010, 13; Freedom House 2011, 638). During the 2010 elections, political parties were supposed to receive funding from the state, but that came too little and too late to make the elections competitive in any way (Young 2012, 148). On the voting day, the SPLM or SPLA figures showed their presence in the polling stations while agents from other political parties were forced to keep out (Hakes and Elson 2010, 17–18). As the Carter Center summarizes,

> The elections in the South experienced a high incidence of intimidation and the threat or use of force. There were numerous instances of the Sudan People's Liberation Army (SPLA) intimidating voters and being stationed too close to polling stations. State interference in the campaigns of opposition candidates was widespread in the South. (Hakes and Elson 2010, 3)

The ICG report in April 2011 writes, "the SPLM has little respect for the opposition, whose parties are commonly derided as not serious, and their post-election complaints attributed only to their poor results" (International Crisis Group 2011, 16). The

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[449] Interview with James Morgan, Addis Ababa, November 2019.

SPLM's reconciliation effort toward other parties only emerged after the 2010 elections dominated by the SPLM, quickly fading away after the 2011 referendum (Young 2012, 211; International Crisis Group 2011, 9–12; Vertin 2019, 105).

Internal party democracy within the SPLM was also questionable. Many local decisions about candidates in the 2010 elections were overturned at the central level, causing as many as 357 SPLM figures to run as independent candidates (Young 2012, 148–49; D. H. Johnson 2016, 176; International Crisis Group 2011, 15). Only those SPLM members who were loyal to the SPLM leadership, in particular Salva Kiir, were able to run as an SPLM candidate.[450] The lack of intra-party democracy within the hegemonic party and the conduct of the 2010 elections raised fears that democracy in South(ern) Sudan was already in danger.[451]

In sum, democratization during the transition period failed in the South. Unfortunately, "the elections were therefore not contributing to the democratic transformation that the 2002 Machakos Protocol envisaged but were instead consolidating the incumbent positions" (Aalen 2013, 186). Contrary to the idea of "New Sudan," the lead-up to the referendum sacrificed the democratic process for citizens in Southern Sudan to jointly participate in and decide on the governance there (de Vries and Schomerus 2017). Alex de Waal summarized these points when he wrote, "For the SPLM leadership and its international backers, self-determination was more important than democracy. The national elections were downgraded to a box to tick on the path to the referendum" (de Waal 2014, 354). The reason the international community did not try hard to prevent this from occurring will be discussed in the next subsection.

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[450] Interview with Laila Lokosang, VoIP, December 2019.
[451] Interview with Laila Lokosang, VoIP, December 2019.

International Attitudes

Attitudes and policies of international actors in the first half of the transition period were characterized by the lack of engagement and coordination. This was partially because of the limited roles assigned to international actors to guarantee the implementation of the CPA (Thomas 2009, 21; International Crisis Group 2006c, 28). However, it was also obvious that the international focus moved on to Darfur once the CPA was signed. High-level engagement by the international community on the CPA implementation did not exist (H. F. Johnson 2016, 12–13, 2011, 214–15). Moreover, "many seem to have mistakenly assumed that the agreement, once signed, was self-implementing" (International Crisis Group 2006c, 27). One interviewee argues that there is a general problem that "a lot of political leaders [in the international community] think when the peace agreement has been signed, that is the end of the job rather than just being the end of the first part of the job."[452] There was also some confusion among international actors since it was becoming clearer that the South would opt for independence while the international actors were still supposedly committed to the principle of "making unity attractive."[453] In March 2008, the International Crisis Group reported, "the international guarantors and the UN remain[ed] dangerously disengaged on the CPA, due in part to preoccupation with

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[452] Interview with an anonymous official, November 2019.

[453] Interview with Gunnar M. Sørbø, Bergen, October 2019. Even though the CPA was often hailed as a useful document among those involved, it had one structural problem. It "lacked detailed provisions for the case in which Southern secession was to occur" (Wolff 2012). Essentially considered to be an escape clause by many, there was not sufficient discussion as to how to make South Sudan a viable, peaceful, and democratic state in case the principle of making unity attractive failed. Since the focus was on the first route of the CPA to make unity attractive, there was not much discussion during the CPA negotiations as to what would come after 2011 in case Southern Sudan gained independence. Interview with a Former Senior State Department Official [2], Phone, May 2019. Another interviewee recalls that there was some discussion at an early stage of the negotiation, but it did not go into the details. Interview with Former Senior State Department Official [1], Washington, DC, May 2019. However, Endre Stiansen does not share these views that there was not much discussion on it. Interview with Endre Stiansen, VoIP, November 2019.

Also, unlike the Bougainville peace agreement, for example, there was no clause conditioning the self-determination exercise: whatever happens during the transition period, a referendum was supposed to take place at the end of the transition period.

Darfur and in part to a lack of consensus on the way forward" (International Crisis Group 2008, 1). International actors were concerned that there would be repercussions on the Darfur peace process if they pushed the NCP too hard on the CPA (International Crisis Group 2008, 14).

These policies only changed in late 2009 when the referendum scheduled in January 2011 was in sight (H. F. Johnson 2011, 215, 2016, 13).[454] When the international attention was refocused on the CPA and Southern Sudan, the international community, particularly the Troika and the Security Council, focused on the right of self-determination through the CPA process while failing to pay attention to internal conflicts and the governance in Southern Sudan.[455]

The main fear at that time was that a new civil war between the North and the South would break out if the referendum had not taken place on time (H. F. Johnson 2016, 13–14).[456] Such a war could be even worse than previous wars between the North and the South now that the South was much better armed and had effective control over their territory.[457] Moreover, the CPA clearly stipulated that a referendum would take place at the end of the transition period, and neither the United Nations nor the international community had a right to delay the referendum.[458] There was no choice on the part of the international community to delay the referendum.[459]

Based on this assumption, the national elections in April 2010 were relegated to a mere step toward the more crucial referendum (de Waal 2014, 354). The United Nations knew by mid-2009 that there would not be decent elections in Sudan, but it went ahead regardless to support the preparations for and conduct of the elections since

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[454] Interview with Hilde F. Johnson, Oslo, October 2019.
[455] Anonymous Interview, New York, May 2019.
[456] Interview with a Western diplomat, Europe, 2019; Interview with Stein Erik Horjen, Oslo, October 2019.
[457] Interview with David Gressly, VoIP, May 2019.
[458] Anonymous Interview, New York, May 2019.
[459] Interview with Andrew Natsios, Phone, May 2019.

the CPA stipulated that elections needed to be held prior to the referendum.[460] The electoral observers also recognized that the elections were a stepping-stone to the referendum. According to Young, "the leaders of the observation missions had informally decided at the outset that the elections should not undermine the overall peace process and, in particular, the upcoming referendum and the march to South Sudan's independence" (Young 2012, 165). Scott Gration, the US Special Envoy for Sudan, was quite lenient on the problems surrounding elections, which was welcomed by the NCP (Young 2012, 167).

This led to a bizarre international response to the flawed national elections (Young 2012, 172). The preliminary report of Carter Center states:

> While it is too early to offer a final overall assessment, it is apparent that the elections will fall short of meeting international standards and Sudan's obligations for genuine elections in many respects. Nonetheless, the elections are important as a key benchmark in the Comprehensive Peace Agreement (CPA) and because of the increased political and civic participation that has occurred over the last several months. (Hakes and Elson 2010, 1)[461]

The report of the Secretary-General on the United Nations Mission in the Sudan is another case in point. It refers to various reports and claims of election flaws and violations in Southern Sudan not to mention in Sudan proper (UN Secretary-General 2010, 3, paras. 11, 17). However, rather than emphasizing these problems, it summarizes the findings of election observer groups as follows:

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[460] Interview with a UN official at the Department of Peace Operation, New York, May 2019.

[461] It is interesting to see, however, that nuance in the foreword in the final report was different. There, Dr. John B. Hardman, President and CEO of the Carter Center, wrote, "While the conduct of the elections was an important step in the implementation of the CPA, the electoral process did little to build a more democratic, inclusive Sudan" (The Carter Center, n.d., p. 1).

Various international and domestic observer groups have issued preliminary statements reporting that, while the process did not fully meet the international standards, the elections were a significant step towards a democratic process in the Sudan. (UN Secretary-General 2010, 4, para. 22)

Toward the last part of this report, it claims that "the relatively peaceful conduct of the elections was an important benchmark in the implementation of the Comprehensive Peace Agreement" (UN Secretary-General 2010, 6, para. 34). Overall, the reactions of the international community to these flawed elections were "mild."[462]

To be fair, international actors had reasons to be lenient toward the flawed national elections in the South. There were various reasons to expect that the 2010 elections in the South could not be perfect, including the low literacy rate, the lack of media access, the lack of democratic experience, the lack of a tradition of individualism, and logistical challenges.[463] David Gressly argues, "they were complex elections, and given the complexity, given the fact that people had not voted in decades, given the logistical difficulties there, it went reasonably well."[464] The elections were "good enough elections."[465] In fact, voters in the South had twelve ballots in the elections including ones for the president of Sudan, the president of South Sudan, their state governor, and women's list (Young 2012, 140). With more nuance, one interviewee recalls that "it was not a very good process, but the outcome was perceived to be good enough."[466] Hilde F. Johnson was "ambivalent" about the 2010 elections. This was because holding elections for the first time in decades was an impressive

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[462] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[463] Interview with a Western diplomat, Europe, 2019.
[464] Interview with David Gressly, VoIP, May 2019.
[465] Interview with David Gressly, VoIP, May 2019.
[466] Anonymous Interview [2], 2019.

achievement by itself, but they were marred by authoritarian tendencies not only in the North but also in the South.[467] However, Young criticizes these views, arguing that "the last accepted election in 1986 proceeded with far fewer problems and allegations of abuse than the election in 2010, even though it was the first genuine election in eighteen years and did not have the benefit of massive engagement by the international community" (Young 2012). As many have argued, the democratic process was sacrificed for the sake of the referendum (Young 2012; Aalen 2013; de Waal 2014; de Vries and Schomerus 2017). The 2010 national elections were "a message from the future about what can happen."[468]

Instead, it was the referendum that became the highlight of the CPA. According to one interviewee closely involved in the implementation period, "the strategic objective of the CPA was the peaceful implementation of the result of the referendum."[469] Even if 90% of the CPA was implemented, it would be a failure if the referendum result was not implemented since it would lead to another civil war.[470] This is not to say that actors were focused solely on the referendum when they encouraged the implementation of the CPA. Nevertheless, when President Obama insisted upon the full implementation of the CPA in September 2010, it was clear that his demand was that the referendum should take place peacefully as scheduled (The White House 2010). Small issues such as free and fair elections or Abyei should not stop the South-wide referendum (D. H. Johnson 2013, 152; de Vries and Schomerus 2017, 38). One interviewee close to the process remembers hearing Scott Gration say that they needed just a "D" (pass) for elections but needed an "A" for the referendum. [471] Indeed, when the South-wide referendum was successfully

[467] Interview with Hilde F. Johnson, Oslo, October 2019.
[468] Interview with Stein Erik Horjen, Oslo, October 2019.
[469] Anonymous Interview, New York, May 2019.
[470] Anonymous Interview, New York, May 2019.
[471] Anonymous Interview [2], 2019.

implemented, many involved in the process were happy to see that the CPA "came to a conclusive end and a column should be put here: Southern Sudan became independent, legally so on the basis of the CPA without violence."[472] At least one of the scenarios for the CPA was implemented.[473] In that sense, the referendum was a "graduation ceremony."[474]

9.3.2. After the Referendum

Amelioration of Tensions

The South Sudanese people, united up to the referendum, soon began to fight among each other. Even before December 2013, communal conflicts had erupted in various places in South Sudan, most notably in Jonglei. Similarly, the tension and competition among the SPLM leaders, particularly between Salva Kiir and Riek Machar, did not cease just because both were united for the cause of independence. The tensions surfaced again once the relationship between Sudan and South Sudan stabilized in 2012 (H. F. Johnson 2016, 85). The tension was also triggered as SPLM leaders started to focus on the national elections scheduled in 2015. Riek Machar, Pagan Amum, and Rebecca Nyandeng challenged Kiir for the SPLM candidacy for the presidential election in early 2013, which heightened internal conflict, ultimately leading to the new civil war (Brosché and Höglund 2016).

Likewise, the SPLA also failed to be united. Kiir's big tent policy, while useful in the short-term, relied on clientelism and patronage rather than true reconciliation. The SPLA was essentially "a coalition of ethnic militias, each loyal to its own set of militia leaders," and "'reconciliation' turned out to be a charade that masked the

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[472] Interview with a former senior UN official, March 2019.
[473] Interview with a former senior UN official, March 2019.
[474] As a general statement but obviously with the case of Southern Sudan also in mind, Alex de Waal writes, "Elections are the centerpiece of democratization, and voting in elections or referenda has become the 'graduation ceremony' for most internationally-sponsored peace processes." See de Waal (2013).

absence of a political reform strategy" (Mamdani 2014).

An important consequence of this policy was that Nuer constituted the majority in the SPLA (International Crisis Group 2014, 6; Mamdani 2014). In fact, even the majority of Presidential Guards were Nuer. As the tension inside the SPLM started to appear, Kiir reinforced his Presidential Guards through recruiting young Dinka mainly from Warrap, Kiir's home state, and Northern Bahr El Ghazal, whose state governor was Kiir's close ally (H. F. Johnson 2016, 240–43). According to ICG, "Kiir's expanded Presidential Guard reports directly to him, rather than the military high command, an arrangement widely viewed as a means of protecting himself with members of his own tribal section" (International Crisis Group 2014, 7). They would be actively involved in the fighting in Juba in December 2013 (H. F. Johnson 2016, 243–44).

Even before December 2013, it has been pointed out that reconciliation among the South Sudanese would be necessary for a long-lasting peace in this newly independent state. As early as October 2011, Jok Madut Jok was worried about the lack of national identity and national unity among the South Sudanese, emphasizing the importance of nation building (Jok 2011). Moreover, reconciliation efforts in the sense of transitional justice would have been a prerequisite in the newly independent state whose members had a history of fighting among themselves. Even before the new civil war began, the Sudd Institute, an independent research organization in Juba, referred to various conflicts within South Sudan over the past three decades, arguing that violence would not stop unless there was reconciliation (The Sudd Institute 2013). Similarly, the Accord, a civil society organization in South Africa, argued in November 2013,

One of the most daunting tasks for South Sudan is creating a 'nation' from the

mosaic of regional and ethnic groupings in the country; many believe that the implementation of a transitional justice process, such as reconciliation or national healing, is key to achieving this task. This undertaking is geared at forging a united nation and preventing and mitigating further conflicts. (Sansculotte-Greenidge, Taban, and Gogok 2013, 2)

However, during the period between July 2011 and December 2013, reconciliation efforts in the sense of transitional justice did not progress substantially. For example, the National Peace and Reconciliation Commission, which was part of the government, "[had] not demonstrated its role in reconciliation and its functions remain[ed] unclear" (The Sudd Institute 2013, 15).

This is not to say that there were no reconciliation efforts during this period. At local levels, there had been efforts to promote reconciliation concerning communal conflicts, most notably in Jonglei. At the national level, in August 2011, Machar publicly apologized for the "Bor massacre" where his forces massacred the Dinka in Bor, Garang's home region. Machar apologized at the house of Rebecca Nyandeng in front of a gathering of Dinka Bor's leaders and elders (*Sudan Tribune* 2011). Machar further started to prepare for national reconciliation in November 2012, which was formally approved (including budgets) by the Council of Ministers in January 2013. The process was going to start in April, but it was abruptly suspended by Kiir on April 15 when he also suspended other executive powers held by Machar (Sansculotte-Greenidge, Taban, and Gogok 2013, 2–3; UN Secretary-General 2013b, 2, para. 4, 2013a, 2 paras. 10-11).

It is important to note that these reconciliation efforts were closely knit to the political struggle. Machar's public apology on the Bor massacre was understood to be

at least partially politically motivated.[475] In fact, it paved the way for an alliance between the "Garang Boys" and Machar (Pendle 2014). Also, Machar's reconciliation process was going to start in Mayom, which was a stronghold of Paulino Matip, who died in 2012. Pendel argues that "with the death of Paulino Matip a new opportunity for a constructed Nuer political homogeneity emerged and the national reconciliation process was an instrument to achieve this" (Pendle 2014).[476] Similarly, referring to the suspension of Machar's reconciliation process by Kiir, Hilde F. Johnson writes, "there had been legitimate concerns in many quarters about the way he [Machar] had been leading that effort, and about the danger that the national reconciliation process itself was being politicized by the power struggle between the two leaders" (H. F. Johnson 2016, 164). One interviewee recalls, "we were very skeptical when Riek started to lead the national reconciliation process because we saw it as a challenge to Salva's authority."[477]

The lack of reconciliation had a devastating consequence. The new civil war's spread, brutality, and ethnic nature can only be understood in light of the history of past wars within South Sudan. As Jok Madut Jok argues, "a more meaningful peace deal [to settle the conflict since 2013] has to have a clear political and resource commitment to reconciliation" (Jok 2015, 15).

Overall, any unity the SPLM leadership and the SPLA presented up to the referendum was soon lost after independence was achieved. In fact, it is striking how the referendum did *not* alter the old tensions and acrimonies inside South Sudan. As a result, communities continued to fight against each other even before December 2013, the SPLA was divided, and the SPLM leaders resorted to force as they competed

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[475] Anonymous Interview [2], 2019.
[476] According to another source, the first conference would start in Juba on April 18, 2013 (Sansculotte-Greenidge, Taban, and Gogok 2013, 2–3).
[477] Anonymous Interview [2], 2019.

against each other in order to gain political power. As Mamdani writes, throughout its history, the SPLM resolved internal conflicts "through a cosmetic power-sharing strategy, a sharing of positions and resources, which turned out to be no more than an interlude between bloody bouts" (Mamdani 2014). This was unfortunately true both before and after the referendum.

Democratization

As we saw above, there was some expectation among international actors that the referendum would enhance the prospect of democratization in South Sudan. Also, the initial political situation was better than the period under the authoritarian regime of Khartoum, but the political situation worsened as the tension between Salva Kiir and Riek Machar mounted in 2013 (H. F. Johnson 2016, 95–96).

Moreover, the SPLM and its elites continued to govern in the same corrupt, nepotistic, and clientelist way as they did during the transition period, and in fact, during the war preceding the CPA (Pinaud 2014; de Waal 2014). SPLM elites continued to enrich themselves through corruption, and they distributed public service jobs to followers who were often unqualified for the jobs (Pinaud 2014, 207–9). In Juba, SPLM leaders owned extravagant cars and houses. Hilde F. Johnson contrasts poor airport facilities with "flashy cars [which were] lined up at the airport, row upon row, including Hummers and the like" (H. F. Johnson 2016, 40). Freedom House similarly pointed out that "corruption is endemic and a major source of public frustration. Government appointments are typically handed to SPLM loyalists or potential spoilers with little regard to merit, and corrupt officials take advantage of inadequate budget monitoring to divert public funds" (Freedom House 2013, 643). Worse, "the SPLM [was] intolerant of opposition" (Freedom House 2013, 643). As Brosché and Höglund observe, "institutional progress since independence has been

piecemeal, and the dysfunction of political institutions continues to be a fundamental problem" (Brosché and Höglund 2016, 83). Without effective institutions and the system of checks and balances, power struggles easily led actors to resort to what they were used to, namely the sheer power of force.[478]

Overall, it is clear that the referendum experience did not have any immediate positive impacts on democratization in South Sudan. Furthermore, any nascent democratization process in South Sudan became irrelevant when the new civil war broke out in December 2013. Since then, the focus has been on how to bring peace back in this newly independent country rather than pursuing democratization. Of course, it is possible that, similar to East Timor, citizens would have learned the importance of voting from their experience in the referendum. Yet since there have been no elections since South Sudan gained independence, it is impossible to assess the referendum's effect in this regard.

International Attitudes

Decline of International Interest in South Sudan

Unfortunately, after independence, the international focus on South Sudan declined. Even though those on the ground in South Sudan knew that its challenges would remain, there was a sense among the international community that they could move on to focus on other areas since the referendum had been held.[479] One former US senior official recalls that the United States and the international community in general should have done more to assist South Sudan: they "helped give the birth to South Sudan but then kind of walked away from it a bit."[480] In late 2013, there was no US envoy on

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[478] Interview with an anonymous Ethiopian [1], Addis Ababa, November 2019.
[479] Interview with Øystein Håkon Rolandsen, Oslo, October 2019.; Interview with an anonymous official, November 2019; Interview with Stein Erik Horjen, Oslo, October 2019. Even though international attention dropped, its decline was not as much as it had been after the CPA was signed, according to one close observer. Interview with an anonymous official, November 2019.
[480] Interview with a Former Senior State Department Official [2], Phone, May 2019.

Sudan for eight months. Instead, the US State Department largely focused on the Middle East, particularly Iran.[481] In contrast, Norway's commitment did not decline during this period.[482]

The little attention the international community had paid to South Sudan was largely focused on the relationship between the North and the South. Certainly, there were worrying issues not settled at the time of independence: Abyei, demarcation of the borderline, and sharing of the oil revenue to name a few. As a result, much less attention was paid to the internal differences within South Sudan.[483]

The lack of attention to internal differences was also attributable to the wrongful assumptions the international actors had after the referendum. According to David Gressly, "[the peaceful 2011 referendum] gave a false signal about the unity internally in the country. Because they were unified on that issue, it was overinterpreted that they were unified internally politically, which they were not."[484] For Gressly, "There was too much of a euphoria of the peaceful referendum."[485] This point was echoed by others. For another UN official, the United Nations underestimated the divisions within South Sudan, assuming that the unity presented during the referendum would continue. There were ethnic and political divisions within the SPLM, but sufficient attention was not paid to these since they were hidden by unified stance of the South Sudanese people during the referendum. When the civil war broke out in 2013, the divisions were brought to the fore.[486] Likewise, key states failed to sufficiently recognize potential ethnic and tribal problems there, which could be easily exploited

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481 Interview with Andrew Natsios, Phone, May 2019.
482 Interview with a Western diplomat, Europe, 2019.
483 Interview with Øystein Håkon Rolandsen, Oslo, October 2019.; Interview with Haile Menkerios, Addis Ababa, November 2019; Interview with an anonymous Ethiopian [1], Addis Ababa, November 2019.
484 Interview with David Gressly, VoIP, May 2019.
485 Interview with David Gressly, VoIP, May 2019.
486 Interview with a UN official at the Department of Peace Operation, New York, May 2019.

by political leaders.[487] According to one close observer, the level of euphoria was proportionate to the distance from Juba. Such a sentiment was strong in the capitals in each country compared to those working in South Sudan.[488] In sum, the unity for independence among the South Sudanese people masked the tensions and divisions within South Sudan.

This lack of attention to the internal differences within South Sudan seems to be more common within the United Nations than the Troika countries. This might be partially because of the lack of local knowledge on the part of the UN officials newly recruited for UNMISS. It has been pointed out that many UNMISS officials were not knowledgeable about South Sudan. Some had worked in UNMIS, but their knowledge on South Sudan was biased, tending to consider the Southern Sudanese people as neither trustworthy nor sophisticated compared to the Northern Sudanese people.[489]

In contrast, the Troika countries were aware of the tensions within the leadership, and they were not "duped by the referendum."[490] The internal tensions within South Sudan and their depth were a source of concern for them.[491] The Troika countries correctly (and tragically) assessed that the South Sudanese elites were united only for the aim of independence and that this unity might fall apart after the referendum.[492]

Regarding the prospect of democratization in South Sudan, international actors seemed to have divergent views. One interviewee recalls that international actors were quite optimistic about democracy.[493] Other international actors involved in the

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[487] Interview with a Senior UN Peacekeeping Official, New York, May 2019.
[488] Interview with Øystein Håkon Rolandsen, Oslo, October 2019.
[489] Interview with an anonymous official, November 2019. Hilde F. Johnson acknowledged that some UNMISS officials were not always sufficiently knowledgeable about South Sudan but disputed its significance in explaining any ineffectiveness of UNMISS. Interview with Hilde F. Johnson, Oslo, October 2019.
[490] Interview with Endre Stiansen, VoIP, November 2019.
[491] Interview with a Western diplomat, Europe, 2019.
[492] Interview with an anonymous official, November 2019.
[493] Anonymous Interview, New York, May 2019.

situation argue that they were cautiously optimistic about the prospect of democracy in South Sudan. It was not expected that South Sudan would become a democracy immediately, but there was a hope that it would move forward in that direction.[494] Another official recalls, "we were hopeful but realistic."[495] Hilde F. Johnson states that she was "realistic" even though convinced that it would become much better than the North.[496] Yet others argue that democracy was not the priority of South Sudan compared to development and stability.[497]

In fact, at the time of independence, there were reasons to be both cautious and optimistic about its democratization prospects. On the one hand, there were ample reasons to be cautious: underdevelopment, limitations of the availability of goods and service delivery by the government, and low literacy rate and education level.[498] Moreover, the SPLM lacked democratic tradition and it had a legacy as a liberation movement.[499] On the other hand, there were reasons to be optimistic. For example, the South Sudanese people formed the national unity government.[500] They were considered to be the allies of the West, and the United States thought they had a lot of leverage with the South Sudanese leadership.[501] Furthermore, at the time of independence, the newly independent state had some experience in a multi-party system with some smaller political parties operating outside the SPLM.[502]

In addition, some of the international actors seem to have interpreted the almost unanimous vote among the South Sudanese people for independence as a source of optimism regarding prospects for the democratization of South Sudan. According to

[494] Interview with a UN official, Addis Ababa, November 2019.
[495] Interview with an anonymous official, November 2019.
[496] Interview with Hilde F. Johnson, Oslo, October 2019.
[497] Interview with a UN official at the Department of Peace Operation, New York, May 2019.
[498] Interview with a UN official, Addis Ababa, November 2019.
[499] Interview with Hilde F. Johnson, Oslo, October 2019.
[500] Anonymous Interview, New York, May 2019.
[501] Anonymous Interview, New York, May 2019.
[502] Interview with a UN official, Addis Ababa, November 2019.

Haile Menkerios, "The understanding and the feeling were that, the people in South Sudan were united because all of the indications were there. They voted almost unanimously for independence; they fought all these years; they were under one organization, they elected that organization, and the head of that organization to be the president. Therefore, there was expectation that it was united for democracy and united for development."[503] He recalls that while it was not expected that South Sudan would become democratic overnight, it was hoped that the united SPLM would sort the internal differences out.[504] Another UN official cites two reasons for his cautious optimism related to the unity of the South Sudanese people. First, the referendum showed that the vast majority of the population supported independence. Second, smaller parties within South Sudan were also supportive of independence.[505]

The optimism,[506] to varying degrees, did not last for long. Problems emerged soon after independence. During the difficult negotiations over oil with the North, South Sudan resorted to the radical measure of shutting down the oil and acted aggressively in the border dispute with the North. As Endre Stiansen noted, "the honeymoon was very short."[507] According to another interviewee, the assumption of unity among the South Sudanese people started to be questioned among international actors by late 2012.[508]

Nevertheless, there was hesitation on the part of the international community to dictate what South Sudanese people should do once independence was achieved. It was believed that national leaders, not external actors, should be in charge.[509] Leaders

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[503] Interview with Haile Menkerios, Addis Ababa, November 2019.
[504] Interview with Haile Menkerios, Addis Ababa, November 2019.
[505] Interview with a UN official, Addis Ababa, November 2019.
[506] Hilde F. Johnson recalls that she was cautiously optimistic after the referendum while acknowledging difficulties the nation was likely to face. But for her, "it was an opportunity to try to correct a number of the mistakes they [South Sudanese leaders] had made during the interim period." Interview with Hilde F. Johnson, Oslo, October 2019.
[507] Interview with Endre Stiansen, VoIP, November 2019.
[508] Interview with a UN official, Addis Ababa, November 2019.
[509] Interview with Stein Villumstad, Oslo, October 2019.

in South Sudan were proud of their new independence, and there was a strong feeling among themselves that external actors should not decide what they should do.[510] Even the relationship between the South Sudan government and the United Nations, which helped the former's dream of independence, soon worsened (H. F. Johnson 2016, chap. 4). Indeed, some of the South Sudanese leaders even feared that the Troika countries were seeking a regime change even though this was never contemplated within the Troika.[511] It is easy to imagine that in such circumstances, it was difficult for outside actors to strongly make demands of the Southern Sudanese leaders. However, others have argued that the international community was not assertive enough vis-à-vis leaders in South Sudan over issues including corruption, lack of justice, and freedom of opinion.[512]

Assumed Unity and Its Consequences

The assumption that the South Sudanese people were united led to serious consequences.[513] Most notably, the international actors were focused on development-oriented statebuilding rather than on addressing internal political problems.

One UN official recalls that, without such an assumption, the UNMISS's mandate could have reflected on the necessity of its potential role for political mediation rather than being focused on statebuilding.[514] The SRSG selection of Hilde F. Johnson, whose background was development, should be understood in this context.[515] Of course, the United Nations and the SRSG were also aware of internal

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[510] Interview with a Western diplomat, Europe, 2019; Interview with Endre Stiansen, VoIP, November 2019.
[511] Interview with Endre Stiansen, VoIP, November 2019.
[512] Interview with Pio Ding, Oslo, October 2019..
[513] One long-term observer recalls that the international community very naïvely blamed all the wrongs in Southern Sudan on Khartoum until independence, and it was too late for them to realize the problems within the South. Interview with Gunnar M. Sørbø, Bergen, October 2019.
[514] A follow-up Interview with a UN official at the Department of Peace Operation, VoIP, May 2020.
[515] A follow-up Interview with a UN official at the Department of Peace Operation, VoIP, May

frictions, but the prevailing view was that they would be manageable through capacity building and institution building.[516] According to Gressly, it was clear that the South, after achieving independence, would require not only development support but also political support and real hard talk from the international community to stabilize the new nation by resolving tribal tensions inside South Sudan. However, the international community overlooked this issue after independence due to the "false signal" of the referendum that the South Sudanese were united.[517]

Generally speaking, the international focus moved to development after South Sudan gained independence. Buttressed by this rationale, those involved in the political side of the international effort were replaced by those specialized in development. For example, Norway, which continued to seriously engage with South Sudan, consciously started to recruit people (from the Ministry of Foreign Affairs and from NORAD) with strong development backgrounds to have staff on the ground to meet the expected challenges.[518]

More specifically, one crucial result was that international efforts were not in full measure devoted to reconciliation and transitional justice at the national level, particularly between Dinka and Nuer. In hindsight, this was a grave mistake considering that ethnic differences were manipulated and ignited by the leaders in the 2013 crisis. Ethnic tensions between these groups had manifested in the past, most notably in 1991. Moreover, it was evident that there were divisions within Southern Sudan when there was an attempt to sideline Riek Machar in 2008. At that time, political pressure and the prospect of the referendum were enough to calm the situation down, but as Gressly notes, "what happened in 2013 was not dissimilar to what

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2020.
[516] A follow-up Interview with a UN official at the Department of Peace Operation, VoIP, May 2020.
[517] Interview with David Gressly, VoIP, May 2019.
[518] Interview with Endre Stiansen, VoIP, November 2019.

happened in 2008."[519] Likewise, another former senior UN official argues that he knew South Sudan would face significant problems by 2007. The SPLM was united when they had a common goal and enemy, but as their common objective came into view, they started to focus on their own differences. The events since 2013 and the events in 2007 and 2008 are directly connected.[520]

However, as mentioned above, the referendum hid internal differences within South Sudan which needed to be addressed upon independence, and as a result, the necessity of reconciliation was overlooked.[521] Haile Menkerios cites two reasons for the lack of reconciliation during this period. The first reason was the unity shown by the South Sudanese people during their struggle up to the referendum: "it was felt that the SPLM, which led that movement, was a movement that was united and that reflected the unified position for the people in South Sudan for continuing to develop into democracy and develop economy."[522] To put it differently, their unity during the struggle "gave the indication that it would be easy and that it would be a question of capacity (re)building rather than having to reconcile ethnic groups or factions within the SPLM."[523] Second, more attention was paid to normalizing the relationship between the North and the South rather than being spent on problems in South Sudan.[524]

The United Nations, the Troika countries, and NGOs such as Norwegian Church Aid promoted reconciliation efforts at local levels, most notably in Jonglei,[525] but reconciliation efforts toward the relationship between Dinka and Nuer were not carried out as much since there was no open conflict between the two during this time.[526]

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[519] Interview with David Gressly, VoIP, May 2019.
[520] Interview with a former senior UN official, March 2019.
[521] Interview with Lovise Aalen, Bergen, October 2019.
[522] Interview with Haile Menkerios, Addis Ababa, November 2019.
[523] Interview with Haile Menkerios, Addis Ababa, November 2019.
[524] Interview with Haile Menkerios, Addis Ababa, November 2019.
[525] Interview with an anonymous official, November 2019.
[526] Interview with an UN official, Addis Ababa, November 2019.

NGOs' local reconciliation efforts were not well connected to the reconciliation efforts at the national level, either. As a result, they were piecemeal rather than a complement to the national reconciliation efforts.[527] One interviewee recalls that international efforts at reconciliation existed at the national level as well, but they faced difficulties including the huge size of the territory and the lack of infrastructure.[528] The United Nations was not directly involved in the Machar's reconciliation initiatives since it believed that it was not fully backed by the central government and president Kiir.[529] The United Nations also viewed their primary task as one of peacekeeping and human rights, and not on reconciliation. The United Nations was worried that its reconciliation initiative would only make things more complicated unless the organization was sufficiently prepared for it.[530]

Hilde F. Johnson, who was aware of the previous tensions, argues that the scale of ethnic cleansing that occurred in 2013 would require armed forces to be mobilized along ethnic lines at the national level, which was not foreseen.[531] Still, in hindsight, one can make a good argument that the international community should have been more engaged in the reconciliation efforts within South Sudan. In particular, the United Nations or the African Union High-level Implementation Panel (AUHIP), as strong international institutions, could have perhaps done more work on reconciliation efforts.[532] While the Troika countries were engaged with reconciliation processes, it was not their primary task and "that was the core part the United Nations should have been doing."[533] Another interviewee similarly argues that the support and involvement of the international community in transitional justice and reconciliation were not

[527] Interview with Pio Ding, Oslo, October 2019.
[528] Interview with an anonymous official, November 2019.
[529] Interview with a UN official, Addis Ababa, November 2019.
[530] Interview with a UN official, Addis Ababa, November 2019.
[531] Interview with Hilde F. Johnson, Oslo, October 2019.
[532] Anonymous Interview [2], 2019.
[533] Interview with an anonymous official, November 2019.

sufficient, and the international community, particularly IGAD and the African Union, could have been more engaged to support a more neutral reconciliation effort.[534]

Belatedly, as the tensions within the leadership escalated in 2013, international actors including high-ranking officials were actively involved in the talks to deal with these tensions. Endre Stiansen had talks with the SPLM cadres to encourage them to deal with their differences internally and peacefully.[535] From July 2013, SRSG Hilde F. Johnson was actively engaged with political leaders to defuse tensions.[536] From the same period, Ethiopia's Foreign Minister Tedros Adhanom was also engaged in reconciliation efforts.[537] Unfortunately, these international efforts were not sufficient to prevent the 2013 civil war.

There is a diverging view concerning the extent to which the civil wars from December 2013 were preventable. One interviewee argues that there was not much the international community could have done to avoid the new civil war which was driven by internal actors.[538] According to Endre Stiansen, the war was not inevitable but broke on such a large scale as a result of wrong choices. However, considering the lack of trust between the South Sudanese leaders and the international community, and the lack of interest in reconciliation on the part of the former, the leverage the international community had was limited. Weak institutions, a culture of violence, distrust among the SPLM leadership, and the traumas associated with the long warfare made matters worse. Under these circumstances, convincing the South Sudanese people to work together would require someone who had a comparable military background to them and who could discuss political issues and the future of the country based on friendship with them.[539] This was the relationship that had existed between General Sumbeiywo

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534 Interview with Pio Ding, Oslo, October 2019.
535 Interview with Endre Stiansen, VoIP, November 2019.
536 Interview with a UN official, Addis Ababa, November 2019.
537 Interview with an anonymous Ethiopian [2], Addis Ababa, November 2019.
538 Interview with an anonymous Ethiopian [2], Addis Ababa, November 2019.
539 Interview with Endre Stiansen, VoIP, November 2019. Relatedly, personnel changes after

and Garang during the CPA negotiation period. Very few people were in a qualified position to do that in 2013. He recalls, "it is easy to say, and I accept, that we should have put this [type of dialogue] high on the agenda" but it is also imperative to understand "how difficult it was."[540]

Others also argue that the war would have been preventable. One recalls that with more deftness and wisdom on the part of Southern Sudanese leaders, the war could have been avoided. [541] Another insists that more commitment from the international community such as a threat of sanctions could have prevented it.[542] More specifically, a joint intervention by IGAD, the African Union, and the United Nations at the level of Chairpersons and the SRSG to persuade the political leaders to refrain from violence might have prevented the war if it had taken place in mid-November. By then the tension was quite obvious.[543]

9.4. Conclusion

As the analysis in this chapter makes clear, the driving force for the referendum was the SPLM. Underpinning this demand were various rationales. Among others, they reflected on the failure of previous arrangements reached among elites and argued that it would be essential that citizens be involved in the conflict resolution process. International actors were largely supportive of this demand. As they expected, the referendum settled the question of self-determination decisively, but the subsequent development has shown that the involvement of citizens in just one specific event, however important it is, does not guarantee that peace is forthcoming.

On the second question of this thesis, it is evident that the Sudanese government

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independence negatively affected the quality of dialogue between the South Sudanese leadership and international actors. Interview with Stein Erik Horjen, Oslo, October 2019.

[540] Interview with Endre Stiansen, VoIP, November 2019.
[541] Interview with a Western diplomat, Europe, 2019.
[542] Interview with Laila Lokosang, VoIP, December 2019.
[543] Interview with a UN official, Addis Ababa, November 2019.

was a potential spoiler in the referendum process. However, it was deterred by international pressure and the military power of the SPLA. While the referendum was held successfully, it had no positive impact on the relationship between Sudan and South Sudan after the latter's independence was achieved.

The referendum does not seem to have had positive effects on the newly independent state, either. It helped to promote temporary alliances between the South Sudanese during the transition period, but this was anything but true reconciliation. Once the South Sudanese people achieved their mutual aim of independence, their tactical coalition came to an end. The referendum experience alone was clearly not sufficient to promote reconciliation among the South Sudanese people. Worse, the focus on the referendum during the transition period essentially let the SPLM consolidate its authoritarian power inside Southern Sudan. This grip on power continued after independence. Meanwhile, opposition parties remained simply too weak to be a real alternative to the SPLM. Finally, international attention on Southern Sudan declined during the first half of the transition period. When they finally started to pay attention in late 2009, they had to focus on the referendum in order to avoid another war. After delivering a successful referendum, the international community again did not pay sufficient attention to the newly independent state. They mistakenly assumed that the unity of the South Sudanese people would continue, and they failed to correctly grasp the significance of internal tensions and the difficulty of democratization. As a result, international actors were not well placed to prevent the 2013 civil war.

Chapter 10

Conclusion

This thesis has offered the three detailed case studies to understand the rationales of post-conflict self-determination referendums and their impact on building peace and democracy in war-torn societies. Regarding each case, the thesis asked: (1) What are the rationales behind the holding of referendums as the method of self-determination? (2) What kind of impact do post-conflict self-determination referendums have on resolving the original self-determination conflicts? and (3) What kind of impact, if any, do post-conflict self-determination referendums have on peacebuilding within the newly independent states? More specifically, the second and third questions analyzed five different types of impact each referendum had: the attitudes of warring parties to the referendum process and its aftermath, the long-term relationship between the newly independent state and the continuing state, the amelioration of tensions within the newly independent state, democratization and democracy in the newly independent state, and international attitudes and policies toward the newly independent state.

Regarding the thesis' first question, the case studies revealed that the holding of a referendum was consistently demanded by pro-independence groups. They believed that the question of self-determination should not be delegated to representatives, partially because they were worried that an indirect vote would not correctly reflect the wish of the population, and partially because they attributed the failure of previous arrangements to the lack of direct involvement by ordinary citizens.

Regarding the second and third questions, the findings are mixed. Potential or manifest spoilers were managed in the three cases, but it was largely because of the existence of powerful international and domestic actors and their commitment to upholding the referendum process. While the thesis did not find that the zero-sum

nature of referendums affected the attitudes of losers, there was also no evidence to suggest that losers willingly accepted the result due to any inherent value or legitimacy of the referendum. Overall, the holding of a referendum itself did not have an influence on losers' attitude to independence. At the same time, the referendums were necessary for central governments to justify their territories' independence to spoilers and their publics more generally: without this least controversial method of self-determination, potential or manifest spoilers would have been even more angry about independence. Nevertheless, beyond this utility of referendums as the least controversial method, they did not seem to have specific longer-term effects on the relationships between the newly independent states and the continuing states.

Within the newly independent state, the coalition among the pro-independence parties was temporary, and tensions arose again after their common enemy disappeared after the referendum. The referendum did not enhance unity or common identity among local citizens. Also, the existence of referendums in the peace process had an ambiguous impact on the quality of democracy in the newly independent states. In Eritrea and South Sudan, the transition period leading up to the referendum was used by the dominant political groups to consolidate their exclusive power over the territory concerned. After the referendum, neither entity democratized, even though the failure of democracy was not directly caused by the referendum. In contrast, East Timor, which benefited from the UN transition period, has achieved the status of the most democratic country in Southeast Asia. It is recognized that the referendum has contributed to democracy in East Timor in two separate ways: high voter turnout at elections and voters' strong belief that politicians are there to represent their people. Finally, across all three case studies, the referendum experience has led to excessive optimism among international actors, who mistakenly assumed that the unity within the pro-independence group prior to the referendum would last beyond the referendum.

Moreover, and relatedly, they believed that this unity meant that democratization would not be difficult.

The concluding chapter is divided into five sections. The first section offers a more detailed recapitulation of the findings from the case studies. The second section examines how the findings speak to the existing literature. The third section discusses the policy implications of this thesis. This is followed by the fourth section, which indicates future avenues of research: the fifth section offers concluding remarks.

10.1. Findings from Case Studies

10.1.1. Rationales behind the Holding of Referendums as the Method of Self-determination

In all the three cases, it was pro-independence movements that strongly demanded the holding of a referendum as the method of self-determination. The EPLF and the SPLM were consistent in their demand for a referendum. In comparison, pro-independence East Timorese people showed more flexibility; Ramos-Horta occasionally mentioned an indirect vote as the method of self-determination in the early 1990s. Gusmão and others were also willing to consider an indirect vote in February and March 1999 when it seemed that the Indonesian government was adamantly against the idea of a direct vote. Still, the pro-independence East Timorese also clearly preferred a direct vote over an indirect vote. In all the three cases, the international community was largely supportive of a direct vote even though their commitment to it was less clear compared to the pro-independence movements.

While individuals espoused various rationales behind their demand for a direct vote, three arguments underpinned the cases. First, there was a fear that elected representatives might betray voters because of bribery, duress, or other reasons. This was most clearly articulated in the case of East Timor. In addition to Ramos-Horta,

who insisted on a referendum even just to extend the second phase of the transition period, the United Nations and Australia believed that a direct vote would be less likely to be manipulated by the Indonesian military than an indirect vote. Second, the pro-independence movements typically reflected upon their experiences and believed that the lack of citizen involvement through a direct vote was the reason behind the failure of the previous arrangements. In Eritrea, it was recalled that the 1952 decision was made without ascertaining the wish of the population, and this needed to be rectified. In the case of East Timor, the integration was achieved in 1976 based on the petition of "representatives" handpicked by the Indonesian authority. This integration itself was clearly in breach of the idea of self-determination and was not referenced among those demanding a referendum. Instead, the history of the Act of Free Choice in 1969, a flawed self-determination exercise by representatives of West Papuans handpicked by Indonesia, loomed large since this act was accepted by the international community despite its obvious flaws. In South Sudan, the SPLM attributed the previous failure of various arrangements to the lack of involvement of the general population. Third, the simplicity of a referendum is worth noting. In territories ravaged by warfare, citizens may not be familiar with democratic practice. Under these circumstances, referendums offering only two options are the safest way to correctly ascertain the wish of the population. The quantifiable and simple nature of the referendum makes it more difficult for anyone to claim later that the result did not reflect the wish of the population in contrast to the outcome of an indirect vote, which would be open to challenge and dispute.

10.1.2. Settlement of the Original Self-determination Conflicts

In each case, there was no evidence to suggest that the zero-sum nature of referendums affected the referendum process and the attitudes of spoilers. The referendum result

was accepted by the central government which fought against the pro-independence movement. The result was implemented, and the long and deadly conflict was finally solved. However, this was not primarily because losers accepted the high legitimacy of a direct vote. Rather, it was because domestic and international actors committed to the referendum process exerted sufficient political, economic, and military pressure to manage potential or manifest spoilers and made them accept the referendum. Still, the holding of a referendum is the least controversial method and better than other methods of self-determination at defusing grievances among potential or manifest spoilers who were adamantly opposed to independence.

For Eritreans, involving international actors was a way to guarantee that the referendum result would be final and not contested or overturned later. Many ordinary Ethiopians considered the referendum as illegitimate, but they had no political or military power to halt the process. That being said, it would have been even more difficult for Ethiopians to accept Eritrea's independence without a referendum. In this sense, the Ethiopian government also needed a referendum to manage the anger among ordinary Ethiopians. In East Timor, the Indonesian military and the pro-autonomy militia resorted to violence to secure an outcome they preferred with no international military force on the ground. Nevertheless, the resolve of the international community to deliver the referendum and to implement the outcome secured a referendum which accurately reflected the wish of the population. Their resolve also prompted international intervention after the referendum when violence erupted in East Timor. Indonesian leaders from both the Habibie administration and the opposition parties—however unhappy they were—accepted the referendum result. The international opprobrium that would follow from rejecting the outcome was clearly behind this decision-making. In contrast, some elements of the Indonesian military and the pro-autonomy militias continued to oppose the independence of East Timor even though

they were too marginal to affect the subsequent process toward independence. Still, they would have had even more reason to reject the outcome of self-determination if the popular consultation had taken the form of an indirect vote. To put it differently, without a referendum, it would have been more difficult for the Indonesian government to counter the voice of those against the independence of East Timor and accept the result of self-determination. In the case of South Sudan, President Bashir had no other option but to accept the referendum because of the military strength of the SPLA and significant international involvement and investment in the referendum process. Since Sudan's government was under the strict control of President Bashir and almost every South Sudanese person was determined to gain independence, there was no way for any other potential spoilers to find agency to obstruct the subsequent process.

The referendums do not seem to have significant impacts on the long-term relationship between the newly independent state and the continuing state. I was not able to identify any specific positive or negative effects of the referendums through interviews or secondary sources. As noted above, the referendums helped end the conflicts successfully, and hence they removed one potential rift between the two countries. It is likely that the absence of a referendum would have affected the relationship between the two countries negatively. Yet beyond this, it seems there is no reason to believe that holding a referendum affects the long-term relationship positively. In Eritrea and South Sudan, the border issue, separate from self-determination, continued to exist after the referendum, and this led to armed conflict between Eritrea and Ethiopia and to serious border skirmishes between South Sudan and Sudan. Most of the interviewees did not mention the referendum experience when they explained the good relationship between East Timor and Indonesia.

10.1.3. Effects of Referendums on the Newly Independent States

All the evidence suggests that the referendums did not have an effect on ameliorating the differences or promoting cohesion among the pro-independence groups and citizens. It is true that in the cases of East Timor and South Sudan, a coalition of the pro-independence groups emerged in the run-up to the referendum, but such a coalition was temporary and broke up after their mutual enemy was defeated. In Eritrea, the EPLF never approached other political groups, most notably the ELF, either in order to strengthen the coalition of the pro-independence groups before the referendum, or in order to reward them for affirming independence after the referendum. The zero-sum nature of referendums did not have an impact on the newly independent state either. In East Timor, former pro-independence and former pro-autonomy individuals continue to co-exist.

Referendums' impact on democratization in the three cases is mixed. On one hand, in both Eritrea and South Sudan, democratization was not prioritized during the transition period *before the referendum*. The transition period was used by the EPLF and the SPLM to consolidate their power in each territory while excluding other political groups from power. *After the referendum*, both countries failed to democratize. On the other hand, the East Timorese people, who continue to enjoy democratic politics, often recall the referendum as contributing to their democracy in two ways. First, the referendum has made people aware of the importance of voting, which has led to high voting rates in elections. Second, the referendum experience strengthened the view within the people that politicians exercise delegated authority and decision-making powers based on the people's votes. From the case of East Timor, it seems that the referendum positively contributes to the sustenance of democracy if democracy manages to survive. However, it is obvious that the referendum experience *alone* is not sufficient to sustain democracy.

In all three cases, excessive optimism within the international community

prevailed after the referendum. One can argue that it is partially because of the effect of partition and independence—there were often high hopes, not only because new leaders emerged but also because these areas were now free from external oppressors—but the referendum experience specifically affected this optimism in two ways. First, the referendum process masked the tensions between rivals within the pro-independence group. Wrongly assuming that these former rivals would continue to be united, international actors became overly optimistic about post-referendum politics. Second, the support for independence among the population led the international community to assume that the new country would become a democracy eventually. This optimism led to the lack of attention to the political tensions in the newly independent states. To a certain extent, international optimism is understandable in Eritrea and East Timor, for both had charismatic leaders and disciplined armed forces, which were praised internationally. Yet it is striking that optimism emerged even in the case of South Sudan, whose leaders were known to be corrupt and whose armed forces not only fought against each other but also had committed significant human rights violations in the past. Regardless, in hindsight, optimism was excessive in all three cases. More specifically, international optimism led to the early departure of the United Nations from East Timor leading up to the 2006 crisis, while the opportunity for reconciliation among various groups within South Sudan, most notably between the Dinka and the Nuer, was not pursued before the outbreak of the 2013 conflict in South Sudan. It is less clear what international actors could have done in Eritrea even if international actors were not optimistic, but they were clearly not well placed to deal with Eritrea when it was increasingly becoming authoritarian in the late 1990s.

10.2. Implications for the Existing Literature

How do these findings speak to the existing literature of Comparative Politics and

Conflict/Peacebuilding? Four key themes emerge: non-instrumental rationales for referendums, the non-divisive nature of referendums, referendums' usefulness for conflict resolution, and the impact of referendums on newly independent states.

First, actors in the three cases chose a referendum as the method of self-determination for non-instrumental reasons rather than instrumental reasons. A referendum was proposed to involve the whole population so that the past failures of their own or similar cases would not be repeated. For example, primary and secondary sources rationalizing the holding of a referendum referred to past experiences such as the 1952 integration to Ethiopia (Eritrea), the Act of Free Choice in West Papua (East Timor), or the various previous arrangements in Southern Sudan (South Sudan). In addition, there was a worry that representatives might not vote in the way wished by voters who elected them. Here, it is worth pointing out that the three referendums took place in a non-democratic context. As one senior UN official aptly put it, there was "no or five-minutes of democracy" in the three cases prior to the referendum.[544] In an established democracy, it is not as likely that a significant number of parliamentarians are secretly threatened to vote in one way having been committed to another publicly. Similarly, it would not be as likely for elected representatives in an established democracy to be bribed and betray the population on such a fundamental issue as self-determination. If they dare to do so, they will have no further chance to get reelected. For example, it is very difficult to imagine that a Conservative member in the Scottish Parliament would vote for Scotland's independence or that a member in the same parliament from the Scottish National Party would vote against it. However, in cases where democracy is not a norm, we should be cautious about treating the views of representatives as the wish of the general population. A third non-instrumental reason to favor a referendum is that it is simple and not confusing for the population. This

[544] Interview with a Senior UN Peacekeeping Official, New York, May 2019.

does not always mean its citizens are not politically mature. After all, as the case of East Timor exemplified, they are not a "floating mass" easily manipulated by immediate carrots and sticks. Yet it is also necessary to recognize that voters often had no experience in voting at all or had only participated in pseudo-elections before. In these circumstances, the simple voting choice that a referendum offers is useful to make sure that the result reflects the wish of the population. Overall, there are specific reasons to prefer a referendum as the method of self-determination in the context of the three cases. The findings resonate with Lenowitz's (2015) discussion about the rationale behind constitutional referendums. Referendums are a useful way to protect citizens against corrupt elites in the context of each case considered in this thesis.

Second, the argument that referendums are zero-sum and divisive is misleading, at least in the context of post-conflict self-determination referendums. In two of the cases—and one can now add the referendum in Bougainville in November 2019—the referendum was very peaceful. Researchers seem to have relied too much on the example of East Timor in their emphasis on the zero-sum nature of referendums. Indeed, even in the case of East Timor, it was not the zero-sum nature of the referendum *per se* which caused the violence. Instead, elements within the military strategically fostered and committed acts of violence. They did so prior to the referendum in order to threaten the population and win the vote, and after the referendum this was to discredit the referendum result and exact revenge on the population who dared to choose independence. In contrast, the pro-independence movement refrained from violence throughout the period in the run-up to the referendum. Similarly, even though there was a real fear of violence in the case of South Sudan, this was not because of the division among the South Sudanese about the future of the territory. The fear was that the Sudanese government would disrupt the referendum process to prevent Southern Sudan from seceding.

Of course, one can still argue that referendums have zero-sum effects under certain conditions. For example, in places like Northern Ireland, Scotland, or Catalonia, where people have multiple identities such as subnational, national, and supranational ones, a self-determination referendum will likely divide the population (Mac Ginty 2003). However, in all the cases this thesis examined, the population was repressed by the central government for a long time, and most of them had no other desire than to leave the control of the government. This situation is completely different from cases such as Northern Ireland.

Third, the argument put forward by Collin (2015) and Qvortrup (2014) that referendums help bring about a settlement of self-determination conflicts under certain conditions is true to a certain extent. As Collin argues, international actors who were committed to the self-determination referendum made sure that the referendum was delivered and its result implemented. Without international actors' significant pressure on the Indonesian and Sudanese governments, the referendums would not have materialized in East Timor and South Sudan. Eritreans were similarly eager to involve international actors for their self-determination exercise so that their independence would be guaranteed internationally. Indeed, the finding that the referendum is useful for conflict resolution resonates with the finding offered by Wambaugh in her classic work on post-WWI referendums. She observes:

That the plebiscite has proved itself a useful tool for securing a stable settlement becomes increasingly clear. The past twelve years have shown that all but one of the frontiers fixed by vote have escaped any widespread criticism or suspicion, while almost every one of those determined by linguistic or other criteria have been unconvincing. (Wambaugh 1933, 485)

However, it is also important to acknowledge that potential or manifest spoilers in each case accepted the referendum process and its outcome not because of the high legitimacy accrued by the referendum itself but because of the military, political, and economic pressure from domestic and/or international actors. In this sense, the three cases have confirmed the argument that structural factors such as the military power balance are key to explaining why some warring parties spoil peace agreements (Greenhill and Major 2006; Zahar 2010). Without these pressures, the referendum process has become bogged down in cases such as Abeyi or Western Sahara (Collin 2016, 2020). In other words, the decision to hold a referendum neither automatically brings about sufficient international pressure nor leads to the stage at which a referendum is actually held. Nevertheless, if a referendum is held with the commitment of domestic or international actors to the referendum process and its outcomes, the same commitment ensures that the referendum result is delivered, contributing to the resolution of the conflict.

Still, the central government in each case would have difficulty in legitimizing their decision to accept the loss of the territory without a referendum. Potential and manifest spoilers often claimed that they did not accept the referendum result because they believed that the whole population should have been consulted (ordinary Ethiopians) or the referendum was rigged (pro-autonomy militias in East Timor). Given these claims, their anger would have been stronger if independence had been agreed even without a referendum. The decision of the central government to let the territory go would have been simply untenable without a referendum. This was most clearly exemplified in the case of Eritrea, where one reason to hold a referendum after the self-determination war was effectively over was the need for the Ethiopian government to justify the reality of Eritrea's independence.[545]

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[545] Interview with Kjetil Tronvoll, Oslo, October 2019; Interview with Terrence Lyons, VoIP,

A potential caveat in this context is that things would be more complicated under different circumstances. For example, one can imagine a situation where there is a nationwide referendum in which all the citizens in the state, including those not residing in the entity concerned, have the right to vote. This was demanded by Ethiopians who were disgruntled about the referendum in Eritrea. While a standard practice is to limit the right to vote to those affiliated with the entity concerned, a possibility of a nationwide referendum has been raised in the literature (Goodhart 1981). Even under these circumstances, it is still plausible to argue that sufficient pressure from domestic and international actors committed to the referendum would be key to delivering the referendum and implementing its result. In addition, likely relevant is Loizides' finding from the Cyprus referendum indicating that simultaneous referendums would weaken the voice and position of moderates (Loizides 2014), resonating with the literature concerned with the zero-sum nature of referendums (Reilly 2003; Lee and Mac Ginty 2012).

Another different circumstance arises if there is a substantial minority who has a different preference as to the status of the territory concerned (e.g., Northern Ireland). In a divided society, voting rules need to be carefully designed so that main groups find them acceptable and support the referendum process (McEvoy 2018). As has been suggested in the post-conflict election literature (Walter 2002; Wolff 2009), power-sharing arrangements agreed upon prior to a referendum would also be useful.

Finally, the existing literature has not empirically examined the effects the referendums have had on peacebuilding within the newly independent states. As seen in the three case studies, the unity of the pro-independence groups leading up to the referendum was temporary. In this sense, Collin's argument that referendums help unite rivals (Collin 2015, 118) is misleading. The effects of referendums on

September 2019.

democratization are mixed. Area study researchers have previously suggested that the democratization of Southern Sudan was sacrificed for the sake of delivering the referendum and secession (de Vries and Schomerus 2017). This thesis confirms this negative impact of referendums in the cases of Eritrea and South Sudan, both of which had a transition period. This finding echoes the experience of peacebuilding in the 1990s where the holding of elections was seen as the crucial and most important step for building peace (Paris 2004; Caplan 2012; Durch 2012). In contrast, the referendum experience has been considered to be a contributory factor to successful democracy in East Timor. In this specific case, as proponents of referendums argue, the referendum has led to high voting rates in subsequent elections as well as participatory democracy (Butler and Ranney 1994, 15–16). Yet this effect seems to be the only positive effect the referendum had on peace and democracy within the newly independent state. Regarding the impact of referendums on the attitudes and policies of international actors, international attention was soon lost after the referendum result was delivered. Worse, the referendums contributed to excessive optimism on the part of the international actors, who thought that peacebuilding would not be as difficult as it actually was. In sum, the referendum's positive impact on the newly independent state is limited, and it is perhaps outweighed by the negative impacts.

Overall, through careful and detailed case studies, this thesis has offered a more nuanced understanding of how post-conflict self-determination referendums affect conflict resolution and peacebuilding in war-torn societies.

10.3. Implications for Policies

What kind of policy implications can we draw from the findings of this research? Three points are addressed in turn: the advantages and disadvantages of a direct and an indirect vote; the utility of a transition period; and the role of international actors.

10.3.1. A Direct Vote vs. an Indirect Vote

Since referendums have mixed effects, is it better to have second thoughts about the conventional wisdom that we settle the issue of self-determination through a referendum? The only alternative available to democratically ascertain the wish of the population is to hold elections so that representatives can discuss various options of self-determination on behalf of the population. On the surface, there are two advantages in an indirect vote. First, unlike a referendum where people are forced to choose one option out of two or at most a few options, representatives can discuss and compare various arrangements more flexibly. If the main fear of referendums is their zero-sum nature, it is hoped that this method would promote compromise between representatives. Second, a new country can start with elected, legitimate representatives, who can potentially serve as members of either a constituent assembly or an interim legislative body before fresh national elections are held based on a new constitution.

However, the first advantage is unlikely to be relevant in the referendums this thesis has examined. After all, as this thesis has disclosed, the zero-sum nature of referendums is much less relevant for self-determination referendums that take place after deadly conflicts. East Timor is an exception rather than a rule here, and as the thesis has shown, it was not the zero-sum nature of the referendum *per se* which caused the violence even in the case of East Timor. Moreover, those oriented against a referendum might believe that there will be a middle ground between two options provided in a referendum. Yet in a post-conflict self-determination referendum, it is expected that the central government has already tried its best to offer an alternative option such as broad autonomy. At the point of the referendum, there will be no middle ground between broad autonomy and independence. The government is prepared to let

the territory go if the latter needs more autonomy than the option offered on the ballot paper. Finally, in all of the three cases—and more recently Bougainville—it is clear that the percentage of the population who preferred a middle ground was very small. Most members of the population, which suffered a long civil war and human rights violations, simply wanted to gain independence. Even maximum autonomy is not acceptable for people who are certain that the central government is not committed to such autonomy and that the government will negate any such arrangement in the future (Fearon 2004). This situation is in stark contrast to Northern Ireland, where the conflict level was minor compared to the cases this thesis examined, and where the population has divergent views on the future of the territory (Mac Ginty 2003).

The second advantage of an indirect vote—legitimate representatives—could be an advantage if we can assume that these representatives are elected in free and fair elections. Even in free and fair elections, however, in elections where self-determination is still not settled, it is likely that citizens simply elect politicians affiliated with their pro-independence movement without regard to their policies or personalities. After independence, this might pave a way for a dominant-party system or an authoritarian regime in the newly independent state, as the recent rebel governance literature suggests (see below) (Lyons 2016; Muriaas, Rakner, and Skage 2016).

Moreover, an indirect vote has two distinct disadvantages compared to a direct vote. First, if representatives are also sharply divided between pro-independence and pro-autonomy groups, which is most likely the case in volatile post-conflict situations including East Timor, it is possible that the discussion within the elected legislature might be stalled. For example, what should be done if the minority, knowing that their preference will not materialize, decided to walk away from the legislature or consultative assembly? Second, as has been discussed, these three cases took place in

situations where there was "no or five-minutes of democracy."[546] There are various ways to elect representatives, and the composition of representatives changes depending on the electoral system. In a democratic country where using a specific electoral system has become part of the custom, the legitimacy of the legislature is not questioned even if another electoral system would likely bring different representatives to the legislature. Yet when there is no such custom, the losing side will question the legitimacy of the representatives even in a free and fair election, blaming the electoral system itself for their weak result. Additionally, briberies and threats are much easier to carry out vis-à-vis a limited number of representatives than vis-à-vis the whole population. Indeed, one rationale behind the demand of a referendum on the part of the pro-independence movements was that representatives might be bribed. Thus, compared to referendums, elections have difficulty in legitimately settling the self-determination issue once and for all in a non-democratic country.

As a qualification, the final point about the usefulness of a referendum in a non-democratic context suggests that policy implications could be different in a country which has developed a culture of democratic processes. Kosovo, which had functioning democracy at the time of independence, did not hold a new referendum before declaring independence unilaterally in 2008. In the case of Kosovo, in addition to the lack of laws regulating referendums, a new referendum was considered to be unnecessary since the wish of the population for separation was very clear, and since Kosovo already had an elected body.[547] The case of Bougainville in Papua New Guinea is also worth mentioning. Papua New Guinea, whose Polity scores have been either +4 or +5 over the past 20 years according to the Polity5 Dataset, is an anocracy (Polity score -5 to +5) (Center for Systemic Peace 2020). In this case, however, the

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[546] Interview with a Senior UN Peacekeeping Official, New York, May 2019.
[547] Interview with Leon Malazogu, Tokyo, December 2019.

peace agreement stipulated that the Bougainville legislature would not be solely composed of elected representatives. The agreement's article 28 states,

> The Bougainville Constitution will provide that the institutions of the autonomous Bougainville Government will include a legislature which shall be a mainly elected body, but may also include members appointed or elected to represent special interests, such as women, youth, churches. ("Bougainville Peace Agreement" 2001, Article 28)

Considering that not all the members are elected, it is understandable that self-determination took the form of a referendum.[548]

Overall, there are reasons to still prefer a direct vote over an indirect vote to decisively settle the question of self-determination, at least in non-democratic countries. If self-determination does not take the form of a direct vote in non-democratic countries, the result would be contested by those whose preference did not materialize, and the question of self-determination will continue to remain on the agenda.[549] Even when the referendum has a zero-sum effect, what is important is to mitigate the effect of the inevitable zero-sum nature of the referendum while preserving the usefulness of the referendum in conflict resolution.[550]

10.3.2. Advantages and Disadvantages of a Transition Period

Is a transition period before a referendum useful?[551] It seems that there are three advantages for transitional autonomy, but each has not been fully underpinned by

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[548] There was no specific negotiation on the method of self-determination in the case of Bougainville. Interview with Alexander Downer, London, February 2020.
[549] At the same time, even with a referendum, various reasons might be put forward to demand self-determination again if an entity fails to gain independence, as we see in Scotland.
[550] Interview with Tamrat Samuel, New York, May 2019.
[551] For cases where a transition period was utilized, see Weller (2009, 142–148).

practice. First, it is expected that tensions would calm down during the transition period. Referring to the case of French New Caledonia, whose peace agreement in 1988 stipulated a 10-year transition period, Reilly claims,

> the agreements [in French New Caledonia] provided the space for new political alliances to be forged, and for disputants to move away from fixed and artificial non-negotiable positions towards a more fluid and nuanced view of their conflict. (Reilly 2003, 182)

Elsewhere, Reilly hails the Bougainville peace agreement in 2001, stating that it has been successful because they employed a long time frame for peacemaking (Reilly 2008, 169–70). However, even in these two cases, divisions and polarization still remained despite the long transition period (Collin 2018).

The second advantage for a transition period is that the transition period can be used to build institutions. However, it is noteworthy that Southern Sudan—and one could include Bougainville as well—was still widely considered to be ill equipped for independence even after a substantial transition period. Third, the transition period would buy time for the central government to sell the autonomous arrangement to the population.[552] Yet this did not work in Southern Sudan or Bougainville. The referendums in these cases merely showed overwhelming support for independence.

Even in the case of East Timor, there is no consensus on whether a (hypothetical) transition period would have been a better alternative, at least in hindsight. Some believe that a transition period could have been a better solution.[553] However, others

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[552] The Howard letter explicitly states that a transition period "would allow time to convince the East Timorese of the benefits of autonomy within the Indonesian Republic" (Department of Foreign Affairs and Trade 2001, 182). The same logic applied to Bougainville. Interview with Alexander Downer, London, February 2020.

[553] Interview with Rezlan Ishar Jenie, Jakarta, July 2019.

are much more skeptical. According to Tamrat Samuel, for this kind of transition autonomy to succeed, it would have required not only complete withdrawal of the Indonesian military but also autonomy without Indonesia's interference but with international support. As he puts it, "it would have been wishful thinking to think that somehow transition autonomy would have taken off and functioned properly" without these conditions.[554]

Francesc Vendrell offers two reasons the transition period might not have worked. First, Megawati, a nationalist and a hardliner, would be President of Indonesia during the transition period and the referendum process, and she was against the self-determination of East Timor.[555] Second, it may be difficult to sustain the attention and support of the international community over a long transition period. Even if the referendum itself would be held at the end of the transition period, the consultation process could be less rigorous than what happened in 1999. In this context, he cites how Eritrea, federated with Ethiopia in 1952 by the United Nations, was unilaterally integrated to Ethiopia ten years later without criticism from the international community. Vendrell states, "In retrospect, I am glad that Indonesia did not accept the formula [of broad autonomy followed by a referendum]."[556]

Furthermore, if the situation in East Timor had not been resolved in 1999, it could have had an impact on Indonesia's domestic politics including the civil-military relationship. Indonesia, as we see it now, has succeeded in transforming itself into democracy. One can speculate, however, that if the East Timor issue had remained contentious, it would have been possible for the military to continue to operate as a key player in Indonesian domestic politics. After all, even after democratization, when

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[554] Interview with Tamrat Samuel, New York, May 2019.
[555] She served as Vice President between 1999 and 2001 and then became President after Wahid was ousted because of the financial scandal.
[556] Interview with Francesc Vendrell, London, June 2019.

the Indonesian government had a weak base, the military acted as a veto player concerning the governmental policies on pro-independence regions of Aceh and Papua (Fujikawa 2017). The transition period in East Timor could have had repercussions for Indonesia's own domestic politics. Habibie's claim that Indonesia could not afford to accept a transition period is worth noting in this context. Arguing that Indonesia needed to focus on reform and development over the next several years, he stated,

> If the East Timor problem were to be dealt with accordance with the proposals made by many East Timor figures and Australian PM John Howard, the uncertainty would persist for too long and make the path to reform [within Indonesia] even more difficult. (Habibie 2006, 238)

This, in turn, might have put autonomy in East Timor and eventual self-determination in danger.

From these standpoints, the transition period can potentially lead to the closure of the window of opportunity for self-determination. Indeed, despite the level of violence prior to the referendum, the CNRT wanted to continue the referendum process believing that it was their only window of opportunity, one which would likely close once Megawati was sworn in.[557] This finding accords with the arguments in the conflict resolution literature cautioning against incremental approaches that start with confidence building measures because "time is not necessarily on the side of peace" (Bose 2007, 302).

Moreover, the cases of Eritrea and South Sudan have further shown another pitfall of a transition period. During the transition period, democratization in these regions did not occur. Instead, it was used by the pro-independence movements to

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[557] Interview with Tamrat Samuel, New York, May 2019.

consolidate their power without competition or power-sharing with other parties. In the case of Eritrea, international actors took a "wait and see" approach until the referendum. Their logic that international actors cannot pressurize an entity which might or might not become independent to democratize is understandable. However, the fact remained that the EPLF had a *de facto* governance system on the ground and used the time to consolidate its power. In South Sudan, the transition period led to a loss of attention from the international actors. When they started to engage again in late 2009, the focus was on the referendum, and democratization was simply not a priority during the transition period (de Vries and Schomerus 2017).

In light of these findings, one cannot make a blanket case that a transition period would always help peacebuilding. While one should not dismiss the three advantages of transition periods—calming down the situation on the ground, building institutions, and buying time for the central government—simply because they have not materialized in actual cases thus far, there are other concerns about transition periods. Notably, the window of opportunity for self-determination might be closed during the transition period because of the domestic development within the state concerned or because of the loss of attention from the international community. Moreover, the transition period might become an opportunity for an authoritarian pro-independence movement to consolidate their power on the ground with little pressure or oversight from the international community.

Of course, it is important to note that the length of the transition period is an important component of peace agreements, and it is unlikely that mediators or the international community can impose a specific time frame on warring parties. The government might have incentives to prefer a long transition period, not only to buy time to sell autonomous arrangements to the local population but also because they hope that the implementation of the peace agreement would not reach the referendum

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stage due to their sabotage, divide-and-rule strategy in the local community concerned, declining international attention, or the resumption of the war, to name a few possibilities. On the other hand, if local leaders are themselves divided over the desirable future status of the territory, they might prefer a transition period (Caspersen 2019b). Moreover, the length of the transition period may be the result of *ad hoc* decision making rather than being underpinned by clear rationales. In South Sudan, the Sudanese government demanded that the transition period should be ten years while the SPLM was only willing to wait for two years. Facing this deadlock, Sumbeiywo, as a mediator, averaged the two figures and suggested a six-year transition period. Both sides initially rejected but ultimately accepted this arrangement (Waihenya 2006, 87–88). In this case, the length of the transition period might well have been different if warring parties had had different durations in mind as a transition period. Still, policy makers should be aware of both the advantages and disadvantages of a short compared to a long transition period.

10.3.3. The Role of International Actors

Support for the Referendum Process

It is evident from the case studies that the role of international actors is crucial to successfully holding the referendum and conclusively resolving the decades-long self-determination conflict. International actors should play two key roles in the referendum process. First, they should exhibit sufficient military, political, or economic pressure to deter potential or manifest spoilers from obstructing the holding of the referendum or the implementation of its outcome. Second, the involvement of international actors in the referendum process as organizers, monitors, or observers is essential. Their certification that the referendum accurately reflected the wish of the population helps maximize the legitimacy of the referendum and makes sure that the

referendum result is not questioned then or later. These roles of international actors are equally important in non-violent self-determination disputes, as was exemplified in the case of Montenegro (Friis 2007).

In the three cases, a strong commitment to the referendum process by international actors, aided by the minimally controversial nature of the referendum, helped successfully resolve the question of self-determination. In contrast, in Western Sahara and Abeyi, where the referendum process was bogged down, the conflict has lingered on. As the CNRT leaders rightly understood during the referendum process in East Timor, the window of opportunity to deliver a referendum might be short. International actors should not fail to grasp a possibly once-in-a-generation opportunity to resolve self-determination conflicts.

In addition, when there is a transition period before the referendum, international actors should not diminish their engagement with the war-torn society. Peace agreements are generally not easy to implement (Walter 2002). But a central government which grudgingly agreed with a peace agreement incorporating a provision of a future self-determination referendum has reasons to disrupt or obstruct the implementation of the peace agreement. They would do so, hoping that the agreement would be scrapped by the time of the referendum initially promised. The international community needs to sustain their pressure on warring parties not only during the negotiation phase but also during the implementation phase until the referendum is successfully delivered.

Excessive Optimism among International Actors after the Referendum

Regarding the period after the referendum, the thesis has shown that excessive optimism emerged in each case. On one hand, it is part of a wider phenomenon: international actors often have high hopes when a new country gains independence

(partition) and/or when new leaders come to power (regime change). In each case, there is a view that now that those who were repressed had moved out of the shadow of repressive regimes, things should go well. Yet in addition to these beliefs which resulted from independence and partition, holding a referendum also contributed to international optimism in two specific ways. First, it was mistakenly assumed that pro-independence groups, which were united in the run-up to the referendum, would continue to be united after the referendum. Second, there was an assumption that when people are united for independence, their government will at least be legitimate and popular and will likely foster democratic political processes and institutions in the long run. Despite (and probably in part because of) this optimism, unfortunately, each case experienced troubles after independence, albeit on different scales.

These assumptions did not necessarily reflect the real situations on the ground. Pro-independence groups might be united against their strong enemy until their mutual goal of independence is realized. Yet this should be seen as a temporary "rally 'round the flag effect," and it does not guarantee at all that there would be no tensions among them after independence. The thesis has shown that in none of the cases did the prior unity of the pro-independence groups endure beyond the referendum. Similarly, the overwhelming vote for independence should not be construed as the vote for the main pro-independence group.

In fact, there are reasons to be alert rather than optimistic about the democratic future of a newly independent state emerging from a long and devastating war. As discussed in Chapter 3, the rebel governance literature suggests that former rebels often fail to live up to their justifications for rebellion, being affected by war legacies (Lyons 2016; Burihabwa and Curtis 2019). Among others, Lyons links victories in war with and authoritarian regimes, arguing that disciplined and hierarchical structures of former rebel organizations, previous governance experience prioritizing fighting, high

legitimacy, and the absence of necessity for power sharing together make it likely that rebel governance takes the form of authoritarianism (Lyons 2016). The literature is relevant in the three cases because all the newly independent states were governed by former rebels.

It is striking that all three cases this thesis has studied suffered from the legacy of their past. The causal mechanisms provided by Lyons explain Eritrea's failure in democratization (Lyons 2013, 2016). Also, the EPLF's experience seems to mirror what happened in the CNDD-FDD in Burundi (Burihabwa and Curtis 2019). The EPLF, which espoused an inclusive multi-party democracy, was in fact composed of one faction genuinely motivated to realize a multi-party democracy in Eritrea and another faction which had a kind of "guided democracy" in mind. The latter, associated with President Isais Afwerki, abandoned their commitment to a multi-party democracy decisively when they repressed and imprisoned those associated with the former faction in September 2001. The former faction, without possessing any military power, had no option but to succumb when the latter faction decided to act militarily.

Similarly, the SPLM successfully consolidated its power in Southern Sudan during the transition period. From independence until December 2013, it governed with high legitimacy and without any need to consider power sharing with other parties. As a result, the SPLM elites continued to (ab)use their power in the same way they had during the war: namely, based on corruption, nepotism, and clientelism (Pinaud 2014). The tragedy of South Sudan was that the two factions within the SPLM distrusted each other, and both had the material resources and willingness to fight, unlike the progressive elements within the EPLF. As a result, when the tension reached its peak, it led to an intense civil war rather than a dictatorship.

Even in East Timor's successful peacebuilding, the relevance of the rebel governance literature should not be ignored. Fretilin, which was formally committed

to democracy, was not enthusiastic about pluralism considering it was the leading party during the struggle (Ingram 2018). As such, Fretilin's government until 2006 showed majoritarian and even authoritarian tendencies (Söderberg Kovacs 2008, 146–47). Another relevant war legacy in East Timor is related to war veterans. It is true that the East Timorese pursued liberation largely through peaceful means and that Falintil was there mainly as the symbol of the resistance. Yet war veterans did not simply become invisible or depoliticized once the war was over. Some were incorporated into the new army, but others became a destabilizing force leading up to the 2006 crisis. Their grievances were eventually met by Gusmão's generous pension scheme (Sindre 2016).

In light of the rebel governance literature, we should be cautious rather than optimistic when an entity is led to independence by armed pro-independence movements. This holds even if there is a referendum for which both elites and citizens are united. Also, one should not assume that, even if the pro-independence movements verbally commit to democracy, they will deliver on their promise once independence is achieved. The way former rebels govern does not always reflect their previous ideological commitment for various reasons (Curtis and Sindre 2019). We need to be prepared for dark days even after a joyful moment provided by the success of a referendum.[558]

Despite the cautionary notes from the rebel governance literature, international actors seemingly assumed a more optimistic scenario offered by those promoting self-determination and the creation of new states: people sharing common identity are less likely to be internally divided and more likely to succeed in democratization. In turn, their view that those in the newly independent states were united and share common identity was buttressed by the referendum. However, in the three cases, it is evident

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[558] Interview with David Gressly, VoIP, May 2019.

that this literature's optimistic prediction was wrong and that the more pessimistic prediction of the literature on rebel governance and the literature cautioning against the creation of new states was close to the truth. The international actors constructed their policies based on wrong assumptions.

Significantly, international optimism after post-conflict self-determination referendums is a matter of perception and hence not inevitable. The findings of this thesis and the rebel governance literature suggest we should not let our guard down after entities achieve independence. It is imperative that international actors, together with domestic actors, do not become overly optimistic about newly independent states just because independence was backed by the overwhelming majority of the population. Similarly, as in the focus on elections in post-conflict peacebuilding efforts in the 1990s (Durch 2012, 90–91), international actors might also be tempted to see the holding of referendums as a marker for successful peacemaking and wish to draw down their operations soon after. Instead, they should continue to engage with the newly independent states and invest in conflict prevention. Extended engagement is one key to success in conflict prevention (Babbitt 2012, 377, 385). The local population, finally liberated from repressive regimes, does not deserve to experience further agony.

10.4. Implications for Future Research

What are the avenues for research in light of the findings in the thesis? Six areas are worth highlighting.

First, the case of Bougainville, which has been referred to a number of times in this chapter, should be closely examined. The post-conflict self-determination referendum took place in Bougainville in November 2019. At the time of writing, it is too early to analyze the impact of the referendum there on the resolution of the self-

determination conflict or peacebuilding inside Bougainville. As a result, this case was not included in the thesis. However, the case of Bougainville is interesting for two reasons. First, the referendum was not binding according to the peace agreement. While this made it easier for the warring parties to reach an agreement (Regan 2010, 89–90), this has left a lot of uncertainty about Bougainville's future status, even after the massive support for independence in the referendum. The case will provide insight into how the non-binding nature of the referendum affects the dynamics of peacebuilding. The second reason is that the peace agreement stipulated a very long transition period, and the referendum took place eighteen years after the agreement was reached. Considering this case will further reveal both the strength and weakness of a long transition period.

Second, the case of South Sudan, as well as to a certain extent the case of Eritrea, exhibits an anomaly in the attitudes of international actors in that they were willing to endorse a possibility of independence as part of the peace agreements. This seems to be contrary to the positions international actors normally take when they approach self-determination conflicts. As Caspersen observes,

> the International Community has generally promoted solutions that maintain the existing state, and although there have been some movements towards negotiated secessions in particularly protracted conflicts, the preferred option remains for self-determination to be realized through various forms of autonomy arrangements. (Caspersen 2017, 16)

Considering that the normal response from the international community is to demand pro-independence movements abandon their goal of independence, what explains exceptions such as South Sudan where mediators pressed for self-determination? We

should further investigate the rationales behind different attitudes from the international community toward self-determination in specific self-determination conflicts. The interviews I conducted about the cases of Eritrea and South Sudan in the thesis seem to offer a few hypotheses to explore further through comparative case studies: for example, failed decolonization and the necessity to reach an agreement.

Third, what explains the starkly different long-term relationship between the newly independent state and the continuing state in the three cases? The relationship between Eritrea and Ethiopia and between Sudan and South Sudan had been antagonistic while Indonesia and East Timor have forged a very cordial relationship. The thesis has found that the referendum experience does not seem to have a meaningful impact on it. The case of Indonesia and East Timor points to the importance of regime change on the part of the continuing state. This argument seems to explain the acrimonious relationship between Sudan and South Sudan, where the former did not see a regime change. But regime change does not explain the case of Eritrea and Ethiopia, even though one can argue that the regime change explains the good relationship between Eritrea and Ethiopia over the first five years after the former's independence. It is possible that not only regime change but also the longer history matters in each case. East Timor was a Portuguese colony which was only incorporated to Indonesia, a state of the former Dutch East Indies, in 1976. This meant not only that it was easier for Indonesians to accept the independence of East Timor but also that it was only the specific regime of Suharto which repressed the East Timorese people. In contrast, the successive Ethiopian and Sudanese governments have historically repressed and marginalized Eritreans and the South Sudanese over decades. It is plausible to argue that the question of Eritrea and South Sudan was more deep-seated for Ethiopians and the Sudanese. Still, since the referendum does not seem to have had a specific effect on the long-term relationship, it is best to compare these three cases

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with other partition cases in order to examine why the long-term relationship after partition differs from one case to another. While the discussion above elucidates a couple of possible explanations, it is most likely that there are multiple reasons behind different long-term relationship between a newly independent state and a continuing state.

Fourth, what explains the difference between the successful peacebuilding in East Timor and (in stark contrast) its failure in Eritrea and South Sudan? In particular, the difference between East Timor and South Sudan is striking, considering significant international involvement in both cases, albeit somewhat weakened after the referendum because of the excessive optimism among international actors. Among others, two differences between East Timor and South Sudan can be identified. First, whatever divisions Alkatiri and Gusmão had over ideology or politics, they had no previous record of actual fighting, unlike Salva Kiir and Riek Machar in the SPLM. Second, even though the difference between Alkatiri and Gusmão corresponded to the east-west division during the 2006 crisis, this division itself was not historical, unlike the ethnic division between Dinka and Nuer. Still, it is worth examining further what explains these different outcomes. Again, it might be useful to approach this question through the partition literature and also through examining more cases of partition. The rebel governance literature might be also relevant.

Fifth, the thesis finds that the referendums did not ameliorate the tensions within the pro-independence groups. There are interesting parallels here with the impact of peace agreements on transitional justice. It has been argued that peace agreements of territorial conflicts tend not to have strong human rights provisions (Caspersen 2017, chap. 4, 2019a). The three cases are not an exception to this trend. In these three cases, the problem has been further complicated because the entities which sought self-determination achieved independence. This means that transitional justice would have

a dual nature of addressing the issues of justice not only concerning past human rights violations committed by citizens of the newly independent state but also concerning those committed by citizens of the continuing state. The latter would be an issue between the two sovereign states. Moreover and relatedly, transitional justice might need to address two related but separate wars: the self-determination war fought between the central government (of the continuing state) and the pro-independence camp and the fight within the pro-independence camp. For example, in Eritrea, the war was fought not only between Addis Ababa and the EPLF but also between the EPLF and the ELF. It is imperative to consider in which sequences these different issues of transitional justice should be tackled.

Sixth, the positive effect of the referendum on democratization in East Timor identified in this thesis should be explored further. On the face of it, there is a good case that the referendum has contributed to democratization in East Timor, as was evident in the elite interviews. However, a small number of elite interviews cannot conclusively demonstrate this effect. It would be worthwhile to conduct focus group interviews and/or surveys with a wider number of ordinary citizens in East Timor. This might confirm the thesis' findings about the referendum's contribution to the high voting rate and open society but may also find other mechanisms by which the referendum affected the quality of democracy in East Timor. It is equally worth examining how other types of post-conflict referendums affect democratization in war-torn societies.

10.5. Concluding Remarks

Overall, through detailed comparative case studies of three post-conflict self-determination referendums, the thesis has highlighted the differential impact of referendums on various aspects of the peacebuilding processes. The thesis concludes

that there may be a good reason to hold a self-determination referendum in order to settle long-lasting and deadly self-determination conflicts, but also that caution is appropriate as simply holding a referendum is not sufficient to build peace in a newly independent state.

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List of Interviewees

List of Identified Interviewees

*the list is in principle chronological order. However, interviews whose location is not identified is listed in the alphabetical order at the beginning of the list in each month/year.

**Please note that some of the identified interviewees also appear in the list of anonymous interviewees when they prefer to remain anonymous on certain issues.

Ian Martin, Special Representative of the UN Secretary-General for the East Timor Popular Consultation and head of UNAMET, London, April 2019.

Rizal Sukma, Indonesian Ambassador to the United Kingdom, London, April 2019.

David Gressly, Regional Coordinator in UNMIS, VoIP, May 2019.

Ruth Iyob, Professor of Political Science, University of Missouri–St Louis, St. Louis, May 2019.

Herman J. Cohen, former US Assistant Secretary of State for Africa, Washington DC, May 2019.

Tamrat Samuel, former head of the Jakarta office of UNAMET, New York, May 2019.

Andrew Natsios, former US Special Envoy to Sudan, Phone, May 2019.

Francesc Vendrell, former director of the Asia and Pacific Division at the UN Department of Political Affairs, London, June 2019.

Douglas Kammen, Associate Professor at the National University of Singapore, Singapore, June 2019.

José Teixeira, former Minister for Natural Resources, Minerals and Energy Policy, Dili, June 2019.

Antero Benedito da Silva, Professor at National University of Timor-Leste, Dili, June 2019.

Mariano Ferreira, NGO worker at La'o Hamutuk, Dili, June 2019

Nugroho Katjasungkana, Indonesian human rights activist, Dili, June 2019

Carlos da Silva Lopes, founder of RENETIL, Dili, June 2019.

Salvador Ximense Soares, former member of Indonesia's national parliament and owner of *Suara Timor Timur* (newspaper), Dili, June 2019.

Estanislau da Silva, former interim Prime Minister of East Timor, Dili, June 2019.

Virgilio Guterres, president of the Timor-Leste Press Council, Dili, June 2019.

José Luis Guterres, former Deputy Prime Minister of East Timor, Dili, June 2019.

Sidney Jones, Director of Institute for Policy Analysis of Conflict, Jakarta, July 2019.

Dewi Fortuna Anwar, Research professor at the Center for Political Studies, Indonesian Institute of Sciences (P2P-LIPI) and former foreign policy advisor to President Habibie, Jakarta, July 2019.

Rezlan Ishar Jenie, fomer Indonesian Ambassador for United Nations, Jakarta, July 2019.

Hasan Wirajuda, former Indonesian Foreign Minister, Jakarta, July 2019.

Terrence Lyons, Associate Professor of Conflict Resolution at George Mason University, VoIP, September 2019.

Dan Connell, Visiting Scholar at Boston University's African Studies Center, VoIP, September 2019.

Ana Gomes, former Portuguese Ambassador to Indonesia, the United Kingdom, September 2019

Edith Bowles, former World Bank and USAID official in East Timor, VoIP, September 2019.

Stein Erik Horjen, Senior Advisor at Norad, Oslo, October 2019.

Kjetil Tronvoll, Professor and Research Director of Peace and Conflict studies at Bjorknes Univesity College, Oslo, October 2019.

Hilde F. Johnson, Special Representative of the UN Secretary-General and head of UNMISS, Oslo, October 2019.

Øystein Håkon Rolandsen, Senior Researcher at Peace Research Institute Oslo, Oslo, October 2019.

Gunnar M. Sørbø, Former director of the Chr. Michelsen Institute, Bergen, October 2019.

Lovise Aalen, Research Director of the Chr. Michelsen Institute, Bergen, October 2019.

Mohamed Kheir Omer, signatory to the G-13 Letter, VoIP, October 2019.

Stein Villumstad, former Regional Representative for Eastern Africa at Norwegian Church Aid, Oslo, October 2019.

Pio Ding, Head of Division for Eastern Africa at Norwegian Church Aid, Oslo, October 2019.

Martin Plaut, Journalist, London, October 2019.

Endre Stiansen, Norway's Special Envoy to the Sudan and South Sudan, VoIP, November 2019.

Edward Rees, UN official, VoIP, November 2019.

John Stapleton, Former medical NGO worker, the United Kingdom, November 2019.

Kassahun Berhanu, Professor of Political Science at Addis Ababa University, Addis Ababa, November 2019.

Haile Menkerios, former Eritrean ambassador to the United Nations and former Special Envoy of the UN Secretary-General for Sudan and South Sudan, Addis Ababa, November 2019.

James Morgan, South Sudan's Ambassador to Ethiopia, Addis Ababa, November 2019.

Laila Lokosang, South Sudanese AU official, VoIP, December 2019.

Estifanos Afeworki, Eritrea's Ambassador to Japan, Tokyo, December 2019.

Leon Malazogu, Kosovo's Ambassador to Japan, Tokyo, December 2019.

Diana Baker, former UN official, VoIP, January 2020.

Bruce Jones, Director and a senior fellow in the Project on International Order and Strategy of the Foreign Policy program at the Brookings Institution, Phone, February 2020.

Alexander Downer, Former Australian Foreign Minister, London, February 2020.

Sukehiro Hasegawa, SRSG for East Timor and Head of the United Nations Mission of Support in East Timor (UNMISET), the United Nations Office in Timor-Leste (UNOTIL), and the United Nations Mission in Timor-Leste (UNMIT), VoIP, July 2020.

List of Email Communications

Kiyoko Furusawa, Professor at Tokyo Woman's Christian University, February 2019.

Akihisa Matsuno, Professor at Osaka University, April 2019.

Hasan Wirajuda, July 2019. (after a personal interview)

Clare Short, former Secretary of State for International Development, August 2019.

List of Anonymous Interviewees

Anonymous [1], 2019.

Anonymous [2], 2019.

Anonymous [3], 2019.

Anonymous Western diplomat, Europe, 2019.

Eritrean International Official, 2019.

Former senior UN official, March 2019.

UN official at the Department of Peace Operation, New York, May 2019.

Former senior State Department official [1], Washington, DC, May 2019.

Former senior State Department official [2], Phone, May 2019.

Senior UN Peacekeeping official, New York, May 2019.

Anonymous Interview, New York, May 2019.

Anonymous Interview [1], Dili, June 2019.

Anonymous Interview [2], Dili, June 2019.

Former member of the CNRT, Dili, June 2019.

Former senior UK diplomat, the United Kingdom, August 2019.

UN official, VoIP, September 2019.

NGO worker, Norway, October 2019.

Anonymous official, November 2019.

Western Advisor to the Ministry of Foreign Affairs of Ethiopia, Addis Ababa, November 2019.

Anonymous Ethiopian [1], Addis Ababa, November 2019.

UN official, Addis Ababa, November 2019.

Anonymous Ethiopian [2], Addis Ababa, November 2019.

Western aid worker, January 2020.

Anonymous Interview, VoIP, March 2020.

A follow-up interview with a UN official at the Department of Peace Operation, VoIP, May 2020. (the same person interviewed in May 2019)