



Transitional Security Arrangements

A Comparative Perspective

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Abstract

What can Cyprus learn from comparable cases? How have other settlements addressed security challenges, including the need for external guarantees and protection of human security? This paper draws on a range of settlements, but pays particular attention to other conflicts that include a de facto state or have been characterised by significant kin-state/patron-state involvement. Like the Cyprus conflict, these are at the extreme end of the spectrum of territorial solutions, which calls for creative solutions that fudge the issue of sovereignty. The paper finds a lack of examples of robust security guarantees being provided by a patron state, but there are examples of softer guarantees. The paper also considers other forms of guarantees that can supplement, or in some cases replace, external security guarantees. This includes the use of phases, built-in targets and conditions. The paper concludes by considering security within the state's constituent units, in particular protections for local minorities.

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1 Introduction

Security is, in most peace settlements, reduced to an issue of avoiding a resumption of the armed conflict; to deter one side from cheating and returning to violence. Measures to avoid this outcome, and ensure the effective disarmament, demobilisation or withdrawal of troops, often include some form of international security guarantee. In fact, it is frequently argued that a negotiated settlement will only succeed if external actors provide a ‘robust’ guarantee against potential aggression (see e.g. Walter 2002).

While such security provisions are clearly important to the survival of a settlement, they also present significant problems. In particular, who should provide this guarantee? Who can be trusted to act in case of a threat, yet not use this position for ulterior purposes? How can such a guarantee be reconciled with the sovereignty and territorial integrity of the state – especially if provided by a kin-state – and for how long should it be maintained? Such discussions are vital in the Cyprus peace talks and they have constituted significant obstacles in other conflicts as well. Different peace agreements have found different ways of addressing these problems, and this has in some cases involved creative ways of fudging sovereignty.

The issue of security guarantees may be the most significant obstacle to a Cyprus peace agreement, but we should not ignore other threats to the long-term sustainability of the settlement and to individual security. The risk of violence does not simply come from ‘the other side’; intra-communal violence by extremist groups could also undermine a settlement. Moreover, the resumption of violence is not the only security risk: the smaller community will frequently be as concerned about being ‘cheated’ when it comes to the political side of the agreement: will the promised rights and protections actually be implemented? Finally, not only the security of communities but also of individuals matters, and human security will not necessarily be protected by measures designed to address more conventional security concerns.

This paper examines how peace agreements signed in comparable cases have addressed these broader security issues. What has worked and what has proved problematic, or in some cases disastrous? Are there examples of creative solutions that make it easier to reach a compromise and which will also prove lasting? The paper draws on a broad analysis of peace agreements signed in separatist conflicts, but I will draw most heavily on cases that, like Cyprus, have seen significant involvement of a patron/kin-state or include a de facto state, i.e. a territory that had achieved de facto independence but failed to gain widespread international recognition (Caspersen 2012). These two conditions affect both the demands made by the conflict parties and the nature of the security challenges and therefore significantly impact on the solutions that are available. Four cases are therefore particularly instructive. The case of Bosnia meets both of the criteria; the conflicts in Sudan (South Sudan) and Papua New Guinea (Bougainville) involved territories that could be described as de facto states; while the conflict in Northern Ireland, and its settlement, has been heavily influenced by the existence of a kin-state.

Conflicts involving de facto states can be viewed as the extreme end of the spectrum of separatist conflicts (Caspersen 2012), and there are only a few cases of negotiated settlements – and two of these included the promise of an independence referendum for the contested territory (South Sudan and Bougainville). This speaks to the need for creative solutions if the state is to be maintained, but it also suggests the need to draw from a wider universe of cases. I will therefore also examine the following conflicts where settlements have been proposed but not accepted: Georgia (Abkhazia and South Ossetia), Azerbaijan (Nagorno Karabakh), and Ukraine (Crimea and Donbas). All of these conflicts are characterised by high levels of patron state involvement and the three first conflicts involve

consolidated de facto states. I will moreover draw lessons from settlements reached in conflicts where the contested territory fell short of de facto statehood but was nevertheless characterised by significant rebel control, such as Israel-Palestine, Indonesia (Aceh), Philippines (Mindanao), and Niger.¹

2 Security Arrangements in Context

Transitional security arrangements have traditionally been focused on avoiding a resumption of the armed conflict. Walter (2002) finds that nearly half (43%) of peace agreements signed between 1940 and 1992 were never implemented, and she argues that many of these failed due to the lack of credible guarantees; “groups frequently choose the safer, more certain option of [returning to] war” (ibid., 6). Licklider (1995) similarly found that 50% of negotiated settlements signed in civil wars between 1945 and 1993 broke down into renewed war. Such security challenges are certainly pertinent in the Cyprus case, where the risk of military violation of constituent boundaries has been highlighted, as has the risk of new secessionist attempts (SeeD 2016). A further complication in the Cyprus case is the involvement of guarantor states and the fear that they could take advantage of local tensions to legitimise a military intervention (ibid.). This mirrors concerns in the post-Soviet space where Russia in a number of cases has acted as a patron to separatist movements and in 2014 annexed Crimea, citing the need to protect Russian compatriots across the Ukrainian border (Grigas 2016).

These security challenges have received most attention in the Cyprus case and they are clearly significant obstacles to the signing of a peace settlement and to its ratification. But other security challenges can also threaten the peace, and these are not necessarily addressed by more traditional security measures.

Firstly, the risk of violence does not only come from the ‘other side’. In fact, post-settlement violence is more likely to come from groups not included in the peace process (Nilsson 2008). For example, the 1996 peace agreement for Mindanao in the Philippines failed once the anti-agreement Moro Islamic Liberation Front (MILF) returned to war, even though the agreement’s signatory, the Moro National Liberation Front (MNLF), remained supportive. Such ‘spoiler violence’ will often be intra-communal; directed at leaders seen as too moderate and therefore not truly representative of the community (Stedman 1997). In the Cyprus case, there are particular concerns about far-right extremism (SeeD 2016). This risk of spoiler violence needs to be addressed.

Secondly, the weaker side in a conflict will often be as concerned about non-implementation of key provisions as they are about the stronger side returning to violence. This could lead to a situation of tit-for-tat with neither side implementing their side of the bargain and could result in a dangerous deadlock. Even if the settlement is implemented, there is a risk that the rights of the smaller community and guarantees are gradually undermined. Such non-implementation, or the perception thereof, could empower spoilers and threaten the sustainability of the peace agreement as a whole. In the case of Mindanao, the decision of a large number of rebels to oppose the agreement appears to have been caused in large parts by dissatisfaction with its very ambiguous, and largely unimplemented, autonomy provisions (International Crisis Group 2013). Another example is the case of Crimea where the gradual undermining of the region’s autonomy provided a breeding ground for resentment. This was cleverly manipulated by Russia in 2014. Such security threats are again central in the case of Cyprus,

¹ See the Annex for an overview of transitional security arrangements in comparable cases.

where the Turkish Cypriot community fears a gradual dilution of bizonality and bicommunality, and more generally being outnumbered and outvoted in the federal institutions (SeeD 2016).

Thirdly, security provisions that address the risk of renewed conflict and the need for protections for the weaker community, do not necessarily result in greater security for all individuals. This is particularly the case when it comes to minorities within constituent units and women. Insufficient protections could threaten the agreement as a whole. In India's Bodoland, the rights of non-Bodo communities has proved explosive. These communities feel underrepresented (Institute of Peace and Conflict Studies 2012) and tensions turned to extreme violence in 2012 when 42 people were killed and 150,000 displaced. In Cyprus there are particular concerns about the rights of Greek Cypriots relocating to the Turkish Cypriot constituent state (SeeD 2016).

These broader security threats will not necessarily block the signing of a peace agreement, but they could make it more difficult to ensure popular support for the settlement and pose a particular challenge to its long-term sustainability. The implementation of a peace agreement will never be smooth sailing, problems will be encountered, but transitional security arrangements can be designed in a way that not only reduces the risk of a return to violent conflict but also promotes human security and ensures a broadly supported process. This should be the measure of success.

2.1 Lessons from Comparable Cases

Signing a peace agreement requires both sides to take a leap into the relative unknown. They will typically have to demobilise at least part of their armed forces and hand over or destroy weapons, or withdraw from the contested territories. This leaves them vulnerable; how can they be sure that the other side will honour its commitment and not just wait for a more opportune moment to relaunch a new military offensive? The 'rebel side' will be particularly vulnerable to such cheating; they are typically the weaker side and once they disarm, they lose their key bargaining power. The recognised government can more easily rearm (Regan 2002), and is anyway rarely required to disarm completely. These commitment problems have to be addressed, for a settlement to be possible in the first place and for it to be sustainable.

Most of the academic debate on transitional security arrangements has focused on the need for external guarantees (Walter 2002; Doyle and Sambanis 2000). But other strategies are available. In addition to external guarantees, the following sub-sections consider the use of phases and conditions, reforms of the central security forces, and the possibility of letting each community be responsible for its own security. These measures affect not only the level of trust between the two sides, they also impact on security within each community and other forms of human security.

2.1.1 External Guarantor

The issue of external guarantee has proven to be one of the main stumbling blocks in the Cyprus peace talks. The Turkish Cypriot side has for long argued that Turkey needs to act as a caretaker, but recent developments in Turkey appear to have led to greater scepticism regarding such a guarantee. The Greek Cypriot side rejects such a guarantee by the kin-state, arguing that a Turkish military presence would present a security threat (SeeD 2016).

Such issues are fairly common in peace processes. The involvement of external actors in intra-state conflicts is widespread and peace processes are frequently internationalised. Walter (2002) argues that security guarantees in intra-state wars cannot be provided by the parties themselves; they have to be backed by an external power willing to use force, if necessary. A third-party guarantee allows both sides

to reduce, and eventually demobilise, their military capabilities without fear of being ‘cheated’. But such external guarantees can take different forms: it can be ‘robust’ or unarmed; and it can be provided by an impartial peacekeeping force, or by an external actor with a vested interest in the conflict, such as a patron or kin-state.

Peacekeeping Force

The academic literature has primarily focused on security guarantees provided by international peacekeeping forces. And if we look at peace agreements signed in territorial conflicts since the end of the cold war, then we do find a number of examples of this. However, very few of these missions could be said to provide a ‘robust’ security guarantee, i.e. few had the mandate and capacity to enforce the terms of the settlement. Out of twenty agreements, only five include armed peacekeeping missions. This was the case in Bosnia, Croatia, East Timor, Macedonia and Sudan. And only in the case of Bosnia did this force undoubtedly represent a credible threat of ‘harm’ (Toft 2010) if either of the conflict parties reneged on their promises (Caspersen 2017). In other cases, we find unarmed international monitors. For example, in the case of Bougainville (Papua New Guinea), the main international presence was the unarmed Australian-led Peace Monitoring Group (Reddy 2008). Similarly, in the case of Aceh (Indonesia), 222 unarmed observers from the EU and ASEAN oversaw the implementation of the agreement, including the process of disarmament and demobilisation (Merikallio & Ruokanen 2015). This suggests that there are alternatives; that peace agreements can survive without robust military guarantees even after years of violent conflict. Lack of implementation of political provisions is, as noted above, often considered as much of a threat as the resumption of violence (Caspersen 2017) and even unarmed observers can help provide some guarantees against this; for example if they have to certify the completion of different stages of the peace process or if they have the final word in case of dispute resolution, or simply through ‘naming and shaming’ in case of non-compliance (Fortna 2008).

The scarcity of well-armed enforcement missions also points to a lack of international commitment to such missions. In most intra-state conflicts, it is simply not possible to get states without a strategic interest to risk the lives of their soldiers or even foot the bill for such a mission (Toft 2010). Moreover, central governments may not accept such forces. In the case of Aceh, the Free Aceh Movement (GAM) had demanded 2000 armed observers, but the international mediators made it clear that the Indonesian government would not countenance this (Merikallio & Ruokanen 2015, 305). Similarly, the Bangladeshi government refused the rebel demand for UN peacekeepers in the Chittagong Hill Tracts, and there was no external push for such a deployment (Fortna 2008).

Demands for peacekeepers usually come from the weaker side (Fortna 2008), but separatist forces in a stronger position, especially those who have achieved de facto independence, do not necessarily view peacekeepers as a sufficient security guarantee. The Sudanese Peoples’ Liberation Movement/Army (SPLM/A) rejected a UN security guarantee and instead insisted on maintaining a separate army for southern Sudan, which they described as “the only fundamental guarantor” (Young 2013). A number of failures in the 1990s demonstrate that the ability and willingness of peacekeepers to fight is by no means assured (Fortna 2008). UN peacekeepers did for example not intervene in 1995 when the Croatian army launched a military offensive against Serb-held territories, in clear violation of the ceasefire agreement. Citing this and other examples, the leaders of Nagorno Karabakh (Azerbaijan) express their doubts about the willingness of peacekeepers to use force, and therefore reject withdrawing forces from the districts surrounding the entity even if an international peacekeeping force were to be deployed.² Instead they insist that their own forces provide such a guarantee, which

² Author’s interviews in Nagorno Karabakh, October-November 2008.

effectively means that their patron state Armenia acts as a guarantor, given its considerable (if unacknowledged) military involvement in the entity.

Most separatist movements, and in particular the ones who prove sustainable, receive support from abroad: from patron states, from diaspora populations and, in some cases, from networks of organised crime (Caspersen 2012; Checkel 2013). For example, Russia provides vital support to separatist forces in Georgia (Abkhazia and South Ossetia), Moldova (Transnistria) and Ukraine. Such transnational dimensions have to be addressed as part of the peace process and a security guarantee by a neighbouring patron or kin-state would solve the problems of limited international commitment. However, due to norms of territorial integrity, such involvement has often been covert. This makes it problematic for the patron state to be directly involved in transitional security arrangements and it would in most cases be vehemently rejected by the parent state.

Patron or Kin-State Guarantee

Neighbouring states with a vested interest in the conflict may be willing to provide a robust security guarantee that could help address the fears of the smaller community. Separatist leaders will generally welcome such an offer and may indeed demand it.

Varying degrees of kin-state guarantees have been proposed as part of solutions to the Nagorno Karabakh conflict. However, Azerbaijan is strongly opposed to any future role for Armenia on its territory, and resolutely rejected proposals made in the late 1990s for a “dual federation”, which would have linked the disputed entity to both its de jure parent state, Azerbaijan, and its kin-state Armenia (Roeder 2009). An even more robust security guarantee was apparently proposed during the 2001 Key West talks. This would have given Armenia the right to intervene militarily to defend the entity (Socor 2001). However, reports of possible compromises resulted in strong domestic criticism in Azerbaijan, and no agreement resulted (Huseynov 2010; Ziyadov 2010). Patron state guarantees have also been an obstacle in the Abkhaz conflict (Georgia). The 2001 proposal ‘Basic Distribution of Competencies between Tbilisi and Sukhumi’ was intended as a broad framework agreement, but it did not address the issue of international security guarantees. The Georgian government refused the Abkhaz demand for a Russian guarantee and Dieter Boden, the UN envoy, consequently decided to leave this issue for later talks. The absence of guarantees appears to be one of the reasons for the refusal of the Abkhaz leadership to even receive the document (Francis 2011).

This case also illustrates why parent states tend to be adamantly opposed to such an arrangement: they fear the motives of the patron state. Russian peacekeepers had already been deployed in Abkhazia, as well as in Georgia’s other breakaway republic, South Ossetia, as part of ceasefire agreements signed in 1994 and 1992. The majority populations in Abkhazia and South Ossetia are not ethnically Russian, but Russia increasingly claimed them as their compatriots (Grigas 2016), and Georgia’s ill-advised military offensive against South Ossetia was used as pretext to send additional troops to the two regions, recognise their independence, and increase the Russian presence (Cornell & Starr 2009). At least in the case of South Ossetia we can now speak of a de facto annexation (Saul 2015). Such fears of ulterior motives behind a security guarantee are likely to be particularly acute in case of a significant power disparity – in size and military capacity – between the parent state and the patron state. This very much applies to the Cyprus case as well.

Even without such power disparity, the parent state may reject any settlement that is seen to raise questions about its territorial integrity. A security guarantee, especially by a neighbouring state may be seen to undermine the effective sovereignty of the state, and as a step towards dissolution. The support for separatist movements, unless purely of a diplomatic character, is generally seen as a violation of the norms of territorial integrity, and actual military intervention is viewed as an aggression. The

Azerbaijani government insists that the Armenian government is an occupying force³, and the Georgian government similarly refers to Abkhazia and South Ossetia as occupied territories.⁴ It will therefore be difficult to accept a security guarantee that would legitimise – even if post facto – such involvement. Moreover, since this involvement is usually covert, it is difficult for kin-states to insist on, or even offer, such a security guarantee. An additional complicating factor is the possible reluctance of the de facto state to accept such a guarantee; just like the parent state, they may fear the intentions and possible interference of the patron. For example, Abkhazia’s dependence on Russia has led to tensions within the entity (Fuller 2013).

Finally, there is the potential problem of multiple guarantees and unclear hierarchies if both peacekeepers and kin-states are meant to guarantee and oversee the peace. This is not necessarily insurmountable but the precise arrangements and mandates would have to be clearly set out in the settlement.

Given these complications and likely resistance, it is perhaps not surprising that examples of robust security guarantees by kin-states are exceedingly rare. In fact, they seem to be limited to the stationing of Russia’s peacekeepers in the Georgian breakaway republics mentioned above, and this was formally a guarantee by an impartial peacekeeping force, monitored by the OSCE (in South Ossetia) and the UN (in Abkhazia).

However, other types of involvement are more frequent and some of these have security implications, even if they fall short of an actual security guarantee. Third parties who have acted as mediators often also sign a peace agreement. In fact, Bell (2008) finds that over half of peace agreements include such third party signatories, although this also includes international and regional organisations, and even international NGOs. Third party signatories can help “insert some of the advantages of treaty status to agreements” (ibid., 178). It also suggests that these third parties will remain involved in the peace process, but it is unclear what responsibility follows; even if signed as a ‘guarantor’ the signing state does not provide a substantive guarantee (ibid., 176-7). However, such a signature may be more significant if the state in question is a kin-state. Serbia and Croatia did not provide a security guarantee for the Serb and Croat community in Bosnia, even though they were signatories to the Dayton Peace Agreement. Such a guarantee was instead provided by the robust NATO peacekeeping force which had a mandate to enforce the peace. However, both federal units were allowed to establish “special parallel relationships” with neighbouring states (Annex 4, art. III, 2). Combined with the extensive powers enjoyed by the two entities, including separate armies, the sovereignty of the Bosnian state could therefore be said to be fudged. The Good Friday Agreement for Northern Ireland also contains a strong trans-national dimension. The agreement itself is a treaty between the UK and the Republic of Ireland, which provides some guarantee against the British government reneging on its side of the bargain. The agreement also sets up a North-South Ministerial Council, a British-Irish Council and a British-Irish Intergovernmental Conference. Specifically on security, the British government commits itself to consult regularly with the Irish government on progress and on the response to any continuing paramilitary activity (Security, art. 3). Police reform and the review of criminal justice were also to be discussed with the Irish government (Policing and Justice, art. 6).

Although security guarantees by kin-states are rare, it is worth remembering that it is usually necessary to fudge sovereignty in order to get a settlement in conflicts involving de facto states (Caspersen 2017). Moreover, these patron states or kin-states are in most cases already involved: they have helped finance institution-building in the entity, provided links to the outside world, and have in many cases provided a security guarantee. If a degree of de facto independence continues in the post-

³ President of Azerbaijan, Karabakh. en.president.az/azerbaijan/karabakh.

⁴ Georgian Government, Occupied Territories of Georgia. gov.ge/index.php?lang_id=ENG&sec_id=220.

settlement period, for example in the form of extensive autonomy, it will be difficult to completely untangle the territory from its external patron; at least in the short-term. But given that such guarantees will be controversial, and frequently an anathema to the parent state and its inhabitants, it is worth considering if the guarantee could be made conditional and/or temporary, or if there are other ways of providing guarantees.

2.1.2 Use of Phasing, Built-in Targets and Conditions

If external guarantees are unavailable, insufficient or impossible to agree on, a number of peace settlements build in phases and conditions. This way each side is given some reassurance that the agreement will be honoured, or the possibility to backtrack if it is not. Walter (2002) argues that built-in targets cannot help overcome the commitment problem, since cheating would still be possible. Yet in a number of cases it does seem to have enabled a settlement in the absence of an external guarantee, or has made the presence of an unarmed or lightly armed peacekeeping mission more effective.⁵ Importantly, this phasing of disarmament, demobilization and reintegration (DDR) has been explicitly linked to political provisions in the settlement. For example, the Bougainville negotiating team insisted on linking weapons disposal to progress in the implementation of the political agreement (Smith 2002). Weapons disposal was consequently a precondition for the holding of both elections and the independence referendum, and the process of disposal was itself staged with each stage conditional on progress in the passing of the promised constitutional amendments (art. 6-8). This was overseen by the unarmed peacekeepers who verified the process and kept one of the keys to the double-lock securing the weapons that had been handed over. A phased approach was also found in the case of Niger where the 1995 settlement linked disarmament to progress in the implementation of territorial autonomy; development programmes; the creation of special, integrated, military units; and the reintegration of former combatants (art. 13). In the case of Sudan, there was an armed peacekeeping mission but its mandate was limited. This was made up for by building in targets and conditions for the redeployment of the armed forces on both sides. The redeployment was to take place in stages, thereby making it easier to reverse if the other side did not reciprocate, and full redeployment from the still-disputed border areas was conditional on the creation of joint army units (Ch. 6 and Annex 1, part II).

Although such an approach would provide much needed reassurances, it does present a risk of deadlock and the loss of momentum, which is often vital for the implementation of difficult compromises. The so-called Minsk II agreement for eastern Ukraine is for example full of such tripwires, but this seems to have contributed to the current deadlock, with both sides saying that they will not move until the other side meets its obligations (see e.g. Sasse 2016). To work effectively, the use of such phasing and built-in targets would seem to depend on clear targets, solid dispute resolution mechanisms (see below) and monitoring of compliance by an impartial and well-resourced third party.

Conditions and phasing could also be attached to external guarantees, as a way of reducing their potentially negative effects, or at least make them temporary. For example, an external security guarantee could exist only until the agreement has been implemented, and this has been verified by an impartial third party. In the case of Sudan, the UN mission was to be gradually phased out “with successful implementation of the time tables, increased confidence building and commitment of the parties towards the implementation of this agreement” (Annex 1, art. 15.1). This is fairly common for international missions. However such a time-limited guarantee could also contain the proviso that it would be reactivated in case key provisions are subsequently violated. Similarly, a settlement could include a security guarantee by a patron state, but specify that this guarantee would have to be activated

⁵ See (Fortna 2008) for the argument that a peacekeeping force need not be robust.

by an impartial third party. As with all such compromises this is not perfect. It would work best if patron state troops are not actually present on the territory – which would also allay parent state fears – but this does present the risk that it would take too long for the patron state to act (Walter 2002). There is also the risk of disagreement over when such a guarantee can be acted on. This again highlights the importance of clear criteria and effective international monitoring.

There are few examples of such conditions when it comes to security provisions, apart from the Annan Plan's stipulation that Greek and Turkish troops were to be withdrawn upon Turkey's accession to the EU (art. 8.1b), or the provision in the Erdut agreement for Eastern Slavonia (Croatia) that either side could request an extension of the international presence, but only for another year (art. 1). However, there is an example of the reintegration of a contested territory being conditional. According to the Law on the Special Legal Status of Moldova's Gagauzia region, Gagauzia gains the right to external self-determination if the status of Moldova were to change (art. 1.4). This was to address Gagauz fears in the early 1990s that Moldova might join neighbouring Romania. Such an exit option, triggered for example by the use of military force, could be a way of allaying fears.

2.1.3 Armed Forces: Reforms, Power-Sharing and Autonomy

Much academic literature points to the need for a strong central army, which can protect the peace agreement (Toft 2010). If effective, such a security guarantee will be much more sustainable, as it does not depend on the willingness of impartial troops to remain committed and is not as divisive as reliance on a patron state. Effective security forces could also address two other security challenges: the risk of spoiler violence and the need for law and order.

But central security forces are likely to lack the capacity and legitimacy to fulfil these vital functions. In the aftermath of a violent conflict, the state's coercive forces must typically be neutralised or balanced (Hartzell & Hoddie 2007). The central security forces will be associated with one ethnic group and may be held responsible for human rights violations. Smaller groups are likely to fear that even reformed security institutions could serve as an instrument of majority dominance and would not guarantee their security; and that they could be used to undermine the agreement. Comprehensive reforms – that have the buy-in of both communities – are therefore needed for central security forces to act effectively without creating further tensions.

In a few cases, the central security forces have been so discredited that the conflict parties agreed to disband them and create a new more representative army under a new leadership. Such provisions were for example included in Liberia's 2003 Accra Peace Agreement and the 1992 General Peace Agreement for Mozambique (see also McFate 2011). However, such wholesale reforms are rare in territorial conflicts, although there are examples of former rebel forces being incorporated into the armed forces. For example, the 1995 agreement for Niger provided for "demobilized elements" from the Organisation of the Armed Resistance (ORA) to be integrated into the army and police, and a general increase in recruitment from the conflict region (art. 17). The rebel forces were initially to serve in separate units of the army, but were subsequently to be fully integrated. This again highlights the potential use of temporary provisions. This process was not, however, problem-free. The special units were created, but the integration of rebel combatants took a long time, and several factions returned to violence in the meantime. Another problem was that the armed forces were otherwise left unreformed. Abuses of power continued and the army remains deeply mistrustful of the Tuareg people (Jellow 2013; Peace Accords Matrix). The 1996 agreement for Mindanao (Philippines) also provided for rebels from the Moro National Liberation Front (MNLF) to be integrated into the army and police. The MNLF expected that its former combatants would be integrated as a separate unit, controlled by the autonomous government. However, the central government and the army insisted that the former rebels were integrated as

individuals and could be deployed anywhere in the country (Martin 2011). The regional security force was never established (International Crisis Group 2013) and the army and the police continued to be accused of human rights violations in the region (see e.g. Amnesty International 1997).

Strengthening the armed forces and relying on them to ensure stability in the contested territory will in many conflicts not be a realistic option. The army will not be seen as legitimate, and any attempt to defeat spoilers in the region would risk provoking a backlash. The weaker conflict party will typically insist on maintaining some control over coercive forces: to provide a level of guarantee against being cheated and to protect their community against abuses. Many peace agreements therefore include a form of military power-sharing, and Hartzell and Hoddie (2007) find that these agreements actually have a greater chance of survival than agreements with more conventional security set-ups. Military power-sharing comes in one of two forms: either a joint command of the armed forces is created, with each side retaining a veto right, or security in the contested region is largely devolved to the autonomous authorities. The Dayton Agreement for Bosnia initially maintained separate armies, but a joint command was created in 2003 and the entity defence structures were dissolved (Bieber 2006). The Comprehensive Peace Agreement for Sudan similarly retained separate armies but also included the creation of joint forces and a joint command. However, these never became functional (Small Arms Survey 2008). Joint commands can be prone to deadlock which undermines the effectiveness of the joint forces. In those cases, the main responsibility for security falls on the local law enforcement bodies; in effect making it more similar to the second type of power-sharing: relying on separate communal security forces.

Devolving power over coercive forces to an autonomous region is a very common strategy in peace settlements, although the settlements differ significantly when it comes to the degree of control exercised (Caspersen 2017). In the case of Aceh (Indonesia), the 2005 Memorandum of Understanding stipulated that the Indonesian army would withdraw from the territory leaving only 'organic' (i.e. Acehnese) security and police forces. In other cases, the autonomous region controls its own police force, but no actual armed forces and the army may retain some presence.

Such solutions avoid the creation of cumbersome military power-sharing at the centre, and are arguably better able to address the fears and grievances of the weaker party. They can help reduce the commitment problem and the risk of a deliberate return to violence should therefore be reduced. However, such a solution focused solely on the contested territory, and not on wider reforms, is arguably best suited to conflicts confined to the periphery; otherwise, reforms at the centre – including the creation of a more representative army – are also needed. Even with such central reforms, the devolution of (internal) security to the autonomous region creates new security challenges.

2.2 Security Challenges Associated with Territorial Autonomy

Separate coercive forces reduce the vulnerability of the smaller community and would also address the reality of de facto independence. De facto states already have such forces and allowing them to remain responsible for the provision of security is therefore in many ways the easy solution: it avoids the emergence of a security vacuum, while new forces are created, and they would arguably be more effective in managing the threat of spoiler violence. New security challenges however result from such arrangements, and should be considered when designing security institutions for the bi-zonal federation proposed for Cyprus.

2.2.1 Capacity Problems

In order to provide local security, the autonomous coercive authorities need sufficient capacity. This is by no means guaranteed and autonomous regions with insufficient capacity have in a number of cases struggled with instability and violence. This is not only a threat to individual security but could threaten the agreement as a whole. For example, in the case of Mindanao in the Philippines, the autonomous government was “neither autonomous nor capable of governing” (Lara & Champain 2009). The authorities were unable therefore to ensure law and order, or the provisions of other public services. This undermined the legitimacy of the peace settlement (ibid.). Similarly, according to the Oslo Declaration for Israel-Palestine, the Palestinian Authority was responsible for security within the Palestinian-controlled territory. However it was unable to ensure internal order or control Hamas, and continued terrorist attacks eroded Israeli support for the agreement (Perlmutter 1995).

Such lack of capacity can have several sources. Former rebels will frequently be ill-prepared to govern. For example, the leader of the Moro National Liberation Front (MNLF), who came to govern autonomous Mindanao was described as “an incompetent administrator with exorbitant habits” (Tuminez 2007). This would be less of a problem in conflicts involving consolidated de facto states, such as the Turkish Republic of Northern Cyprus, with relatively well-developed institutions. A more relevant problem is lack of resources, originating in the peace agreement itself or in non-implementation of key provisions. For example, Mindanao was meant to have had powers over security forces as well as fiscal autonomy, but the implementation of this was blocked by the Philippine Congress (Lara & Champain 2009). This again speaks to the need for guarantees and for dispute resolution mechanisms. In the case of the Palestinian Authority a key problem was the lack of contiguous territory and the Israeli policy of closure (Newman 1995-6; Roy 2002). An additional complication in case of de facto states is their previous reliance on a patron state. Such external support may dry up once a settlement is signed. It is therefore imperative that enough resources for the constituent units are built into the settlement and that these terms are in fact implemented.

Finally, the severity of the security challenges faced by the autonomous authorities and their ability to manage them effectively also depend on the legitimacy of the agreement – does it enjoy broad popular backing – and of the authorities themselves. Yasser Arafat was for example not able to deliver Palestinian support for the Oslo Declaration and therefore remained significantly constrained by challenges from Hamas (Perlmutter 1995). This suggests the need for a broad process, rather than complete reliance on top-level talks (Caspersen 2017).

2.2.2 Protection of local minorities and individuals

Even if the autonomous regions have the capacity to provide effective law and order, the security they provide is not necessarily for everyone. Territorial autonomy, possibly in the form of a federation, is a relatively effective way to provide guarantees for the smaller community. But these rights may come at the expense of the rights of non-dominant groups within the contested territory or at the expense of individual rights. This is particularly problematic in cases where the contested territory is not homogeneous, if displaced people of a different ethnicity are meant to return, or if territorial adjustments will result in more heterogeneous units. The TRNC has, as other de facto states (Caspersen 2012), been argued to lack rights for minority groups (Constantinou 2008), which suggest a need for post-settlement reforms.

Proponents of territorial autonomy argue that it should be combined with local power-sharing in case of heterogeneous regions, in order to avoid abuse by the local majority community (Wolff 2011). There are some examples of this. The Dayton Agreement for Bosnia for example sets up a complex

system of multiple levels of power-sharing and this system was later extended to the Serb entity, Republika Srpska, which initially functioned as a majoritarian entity (Caspersen 2004). More limited protections are found in the Bodoland Accord which provides land and language rights for non-tribal communities, and the government can also appoint five (out of 40) members of the autonomous council from groups which “could not otherwise be represented” (art. 3.b).

However, local power-sharing is rarely included in peace settlements and if included the provisions tend to be too weak to significantly alter the functioning of the system (Caspersen 2017). This has in some cases caused problems and led to renewed tensions. For example the popular backlash against the Chittagong Hill Tracts (CHT) Peace Accord in Bangladesh was caused to a large degree by the discrimination against Bengalis that it was seen to institute in the autonomous region (see e.g. Zaman 2009). The agreement reserved seats for the non-tribal (i.e. Bengali) population but they were still under-represented and disputes with the tribal community have led to several cases of violence, “ranging from harassment to murder” (Mohsin 2003, 49; 72). The dilemma is that local power-sharing would also undercut the territorial autonomy and therefore the degree of protection afforded by the system. This is particularly controversial if the local minority group is a majority in the state as a whole, as it could raise fears of manipulation. While the Bengali settlers in Bangladesh’s CHT complain of their second-class status, the tribal community sees them as a major cause of their plight, and complain that their autonomy does not go far enough. The overrepresentation of the tribal community on the District Council has been weakened, and the acquisition of tribal land remains a problem (Mohsin 2003; Mikkelsen 2015; Amnesty International 2013).

There is a risk, therefore that such local power-sharing would encounter significant resistance and could even lead to violence, especially in the immediate post-settlement phase. **It may be more feasible to instead implement a system of robust human rights protections, focused not on communal rights but on individual rights. This is for example crucial if the coercive forces within the autonomous/federal units are to provide security for all inhabitants and not just their own community.** In the case of Aceh, the Members of the Aceh organic police force were required to receive special training with emphasis on respect for human rights (art. 4.12). It would also help if these forces were made more representative, even if this happens gradually.

2.3 If Things Go Wrong: Dispute Resolution

The above section has stressed the importance of effective dispute resolution mechanisms. These can help resolve disputes over non-implementation or disagreements over the interpretation of key provisions; avoid deadlock in power-sharing institutions; and possibly determine if an external guarantee can be activated.

Such institutions often include third parties, at least in the initial implementation period. These could be the mediators who helped negotiate the settlement, representatives of international organisations, or international experts. In some cases these third parties hold the deciding vote. For example, the Aceh Monitoring Mission (AMM) was mandated to resolve any disputes over implementation and Martti Ahtisaari, who had been the chief mediator, was authorised to issue binding decisions (art. 6.1.). He was reluctant, however, to use these powers (Merikallio & Ruokanen 2015), and the AMM was criticised for not doing enough when the Law on Governing Aceh significantly watered down the region’s autonomy (Schulze 2008). In other agreements, the international role in post-settlement dispute resolution is only set out in vague terms. For example, in the case of Mali’s 1992 National Pact, the Commission for Supervision and Implementation was to hold special sessions in the presence of and under the chairmanship of the mediator (art. 83). Dispute resolution could also rely on

pre-existing international bodies. For example, the Dayton Agreement gave the European Convention of Human Rights priority over domestic Bosnian law, and the European Court of Human Rights therefore fulfils an important role as arbiter when it comes to the rights and protections of Bosnian citizens.

International involvement may help avoid dangerous deadlocks, but the effectiveness of these mechanisms still relies on the willingness of the local actors to abide by them – since these bodies rarely have powers of enforcement. For example, the demarcation of South Sudan’s border was to be decided by a Boundaries Commission that included international experts. Its decision was “final and binding”, but the National Congress Party refused to accept its conclusion (Brosché 2008). International involvement cannot therefore replace the need for a broadly supported settlement and process.

3 Conclusion and Recommendations for Cyprus

Transitional security challenges are not limited to the risk of renewed outbreak of conflict, and security measures in a peace settlement should not only be designed to address this threat. Such measures could in fact create new security challenges. This paper has stressed the importance of intra-communal and individual security, and the threat posed by non-implementation and deadlocks. All of these security challenges could undermine the long-term legitimacy and sustainability of a settlement and could lead to renewed outbreak of violent conflict, possibly involving outside intervention. A more holistic approach to security is therefore needed. Other peace settlements have tried to address these challenges and both their successes and failures hold lessons for the Cyprus case. One thing that is clear from the above analysis is that there is no blueprint for transitional security arrangements; both the need for guarantees and for effective and legitimate security forces – in practice often a contradiction – have been addressed in a number of different ways, even in conflicts that are otherwise comparable.

Compared to some of the other conflicts examined in this paper, **the Cyprus conflicts calls for solutions at the more creative end of the spectrum. Conflicts involving de facto states are notoriously difficult to resolve and standard solutions will usually not suffice. It will be necessary to ‘fudge’ sovereignty and provide credible guarantees, but this can be done in ways that are more acceptable to the Greek Cypriot community and also reduce the risk of undue interference. Moreover, in order to promote co-existence and ensure rights for local minorities, reforms of the former de facto state are also necessary.**

More specific recommendations:

- 1. Despite the problematic history of ‘guarantor states’ in Cyprus and the reluctance to accept foreign diktats (Constantinou 2004), some form of external guarantee is hard to escape. Credible guarantees are needed to allay Turkish Cypriot fears of violence and gradual erosion of rights and protections. However, less conventional options should be explored.** This paper has outlined options that would not necessitate the presence of Turkish troops on the island, but would still provide guarantees for the Turkish Cypriot community and the possibility of links with the kin-state. These include a security guarantee that had to be activated by an impartial third party; international monitoring of implementation, possibly with built-in sanctions in case of non-compliance; kin-state involvement or consultation on broader security issues, such as police and judicial reforms.

In order to address Greek Cypriot fears of Turkey's intervention – through Turkish Cypriot representatives – in the functionality of the federal institutions, it would also seem advisable to include institutional reforms in the Turkish Cypriot constituent unit. These could help remove any vestiges of Turkey's direct involvement.

- 2. One way to reduce the risk of non-implementation is to build in targets and conditions; not simply linked to the process of disarmament and demobilisation – which is fairly common in peace settlements – but also to political provisions, such as the creation of power-sharing institutions and the supply of resources to constituent states.** The success of such measures will however rely on effective dispute resolution mechanisms, most likely with third party involvement.⁶ Depending on the level of mistrust – and the time it takes to set up effective joint institutions – such external appeal mechanisms may have to be maintained for an extended period.

The agreement as a whole could also be made conditional, and it could even provide an exit-option (a right to external self-determination) if core provisions are violated. Such a guarantee would however have to be very carefully worded and depend on international verification.

- 3. In the short term, it is likely necessary to give considerable powers to the constituent states, including control over coercive forces. This will address fears and mistrust and also make it more likely that the risk of spoiler violence is managed effectively. However, such autonomous powers do present a set of additional security challenges that could threaten the security of local minorities, and other individuals, and the sustainability of the agreement as a whole.**

In order to minimise these risks, it is important to ensure sufficient capacity in the constituent states and to implement local reforms. If local power-sharing is not possible to agree on, then there should at least be a focus on robust human rights protections and training. In addition, it would be advisable to make the local institutions as inclusive as possible – i.e. not defined in explicit ethnic terms, even if they function as such initially⁷ – and prioritise a process of reconciliation. In the short-term, an international presence may also be necessary to ensure the rights and protections of minorities already living in the constituent state, and of returning IDPs.

- 4. The severity of these security challenges depends on the legitimacy of the peace process, the local leaders, and the settlement. This speaks to the need for a broader peace process that incorporates a wide range of interests, grievances and perspectives.**

⁶ One model could be the use of a 'neutral' judge who holds the balance in the Supreme Court, as provided for in the Cyprus 1960 Constitution (Özersay 2004-5).

⁷ Examples of less-ethnically defined structures, based on the idea of so-called 'liberal consociationalism', are for example found in Northern Ireland's Belfast Agreement and Macedonia's Ohrid Agreement (see e.g. McGarry & O'Leary 2006).

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5 About this Publication

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Drawing upon examples from similar and/or applicable scenarios and lessons learned, and by developing an understanding of possible approaches to the respective issues in transitional Cyprus, this paper aims at supporting the project's goal.

The views expressed in this publication are those of the authors and do not necessarily reflect the views and opinions of the Berghof Foundation and SeeD or their project partners. For further information please contact the programme director Luxshi Vimalarajah, at l.vimalarajah@berghof-foundation.org.

More information:

SeeD, www.seedsofpeace.eu, Executive Report New Security Architecture

<http://www.seedsofpeace.eu/index.php/where-we-work/europe/cyprus/security-dialogue-project/executive-report-on-a-new-security-architecture-in-cyprus>

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<http://www.berghof-foundation.org/programmes/dialogue-mediation-peace-support-structures/peace-support/cyprussecurity-dialogue-project/>

Annex:

Transitional Security Arrangements in Comparable Cases

	Settlement analysed	External guarantees	Domestic security arrangements	Violent conflict resumed?
Bosnia	Dayton Peace Agreement (1995)	NATO forces; International administration; kin-states signatories to agreement (no formal guarantee)	Separate armies maintained. Joint command from 2003	No
Indonesia - Aceh	Memorandum of Understanding (2005)	Aceh Monitoring Mission (unarmed)	Indonesian army withdrawal from Aceh; 'organic' (i.e. Acehnese) security and police forces	No
Israel-Palestine	Declaration of Principles (1993)	None ⁸	Palestinian Authority responsible for internal security; Israeli Army for external security and for security of Israelis	Yes
Niger	Agreement Establishing Permanent Peace (1995)	Mediators (Algeria, Burkina Faso, France) part of Peace Commission ⁹	Demobilised rebels integrated into army – initially in separate units. Increased recruitment from conflict region	Yes ¹⁰
Papua New Guinea-Bougainville	Bougainville Peace Agreement (2001)	United Nations Observers Mission in Bougainville & Peace Monitoring Group (unarmed)	Withdrawal of Papua New Guinean army and mobile police units from Bougainville. Creation of (unarmed) autonomous Bougainville police force	No
Philippines-Mindanao	Peace Agreement (1995)	None ¹¹	Rebels integrated into the army and police. Special	Yes ¹²

⁸ The agreement mentions a 'temporary international or foreign presence' but this was never deployed.

⁹ The agreement also provided for the deployment of military observers, but this does not seem to have been implemented.

¹⁰ Agreement partly implemented. Renewed fighting in 2007.

¹¹ The settlement mentions possible monitoring by the Organization of Islamic Countries but this does not appear to have been implemented.

¹² But with spoiler group (MILF), not the rebel group that signed the agreement.

			Regional Security Force (unimplemented)	
Sudan - South Sudan	Comprehensive Peace Agreement (2005)	United Nations Mission in Sudan, and international presence in some bodies	Separate armies maintained. Joint forces under joint command to be created (to become new army if no-vote in independence referendum)	No ¹³
UK - Northern Ireland	Good Friday Agreement (1998)	Strong trans-border dimension (Strand 2 and 3). Independent International Commission on Decommissioning	Commissions on decommissioning, police reform and judicial review	No

¹³ War between the North and the South has not broken out again, but tensions remain and the newly independent South Sudan has experienced a bloody civil war.