

A stylized sun graphic on the left side of the slide. It features a solid yellow circle at the bottom left, with several yellow curved lines of varying lengths radiating from it towards the top left. The background is split into an orange upper-left section and a white lower-right section by a curved line.

Bosnien und Herzegowina: Ethnonationalismus und Bürgerschaft

Joseph Marko

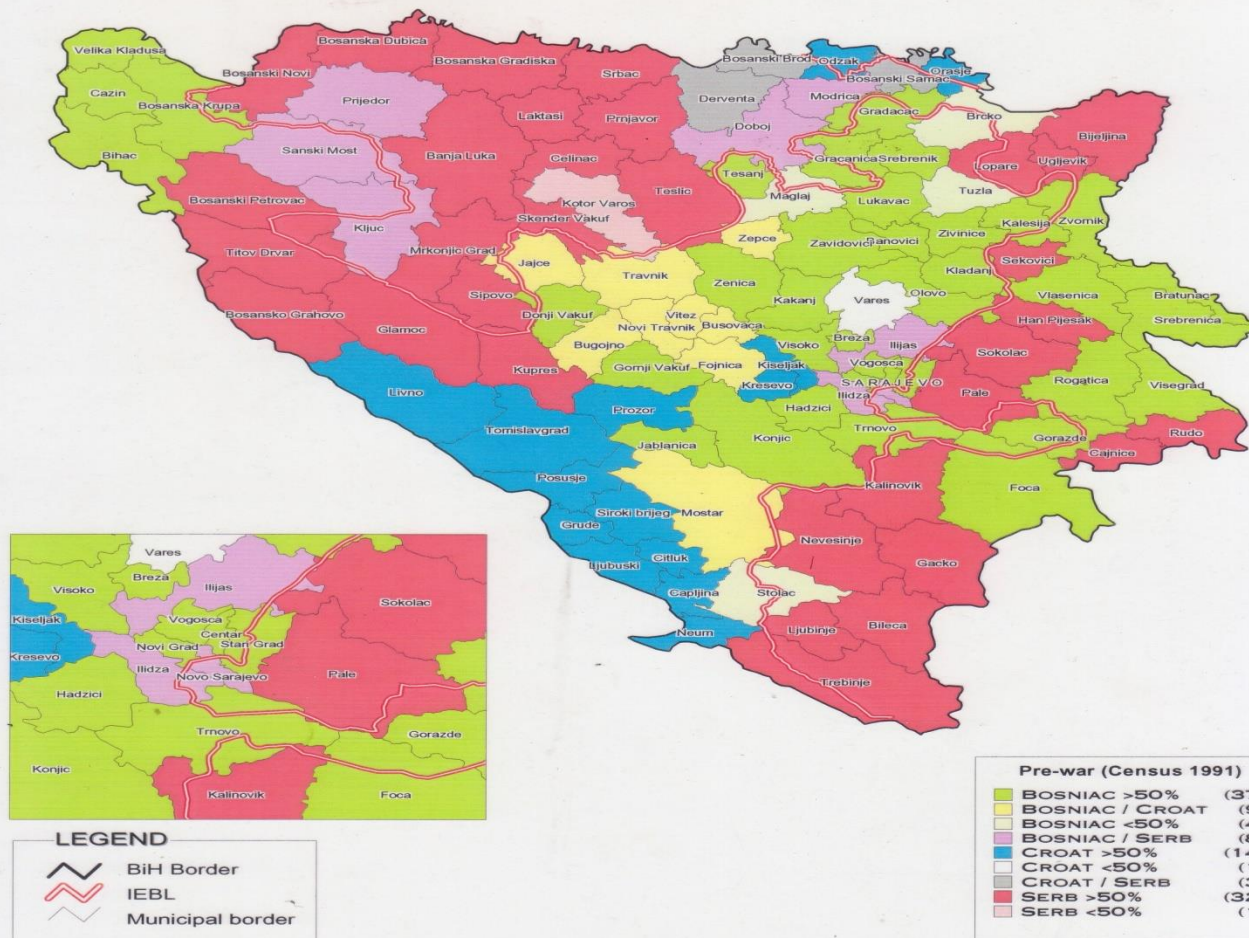
Loccum, 10.5.2022

Yugoslav Successor States



ETHNIC MAJORITY: Census 1991

Date: 01.04.2000
Workspace: Ethnic_Majority_1991.WOR



The boundaries displayed on this map do not imply official recognition by the United Nations



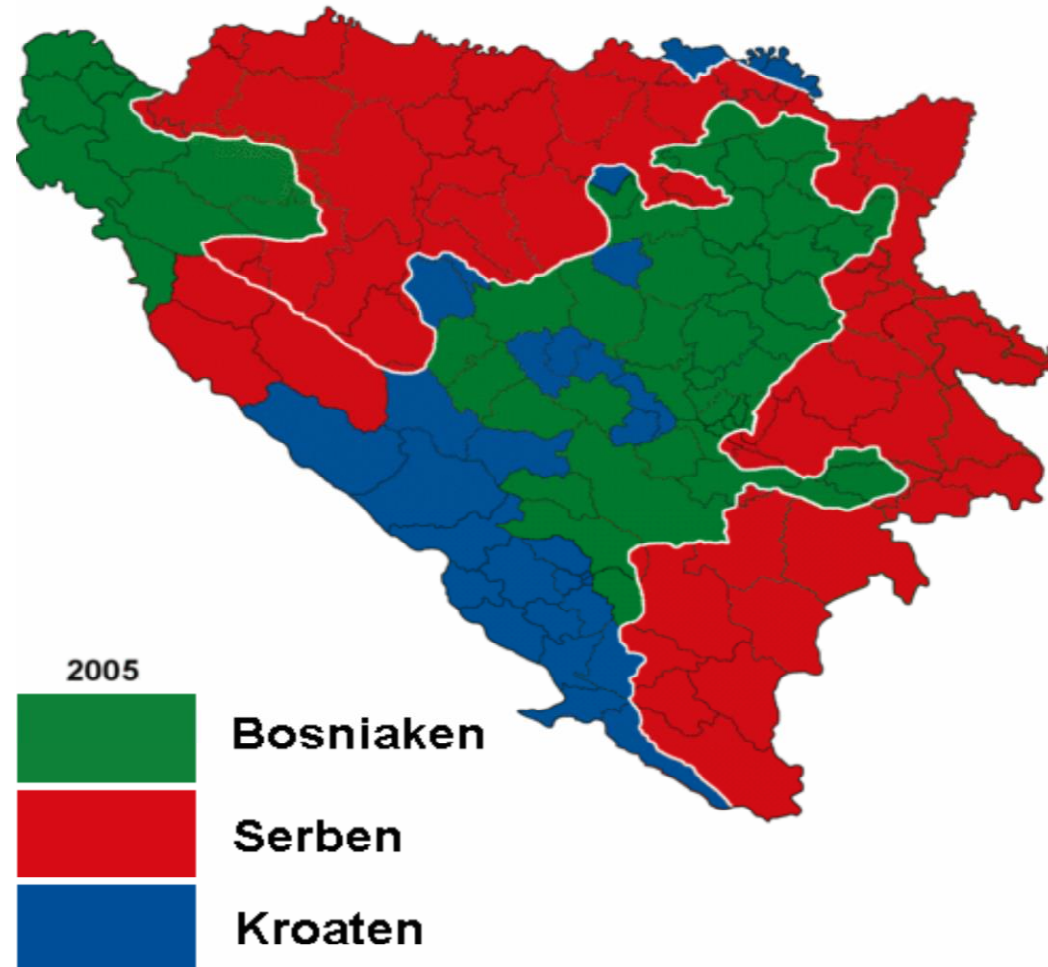
UNHCR GIS Unit
OCM BiH



Geographic data produced by SFOR
Data on towns and villages from GISdata.

Territorial division 2005: „constituent peoples“

Bosnische Bevölkerung (2005)



The Effects of Ethnic Cleansing

1. Comparison of the Population Structure

	Republika Srpska		Federation of BiH	
	1991	1997	1991	1997
Bosniacs	28,77 %	2,19 %	52,09 %	72,61 %
Serbs	54,32	96,79	17,62	2,32
Croats	9,39	1,02	22,13	22,27
Other	7,53	0	8,16	2,38

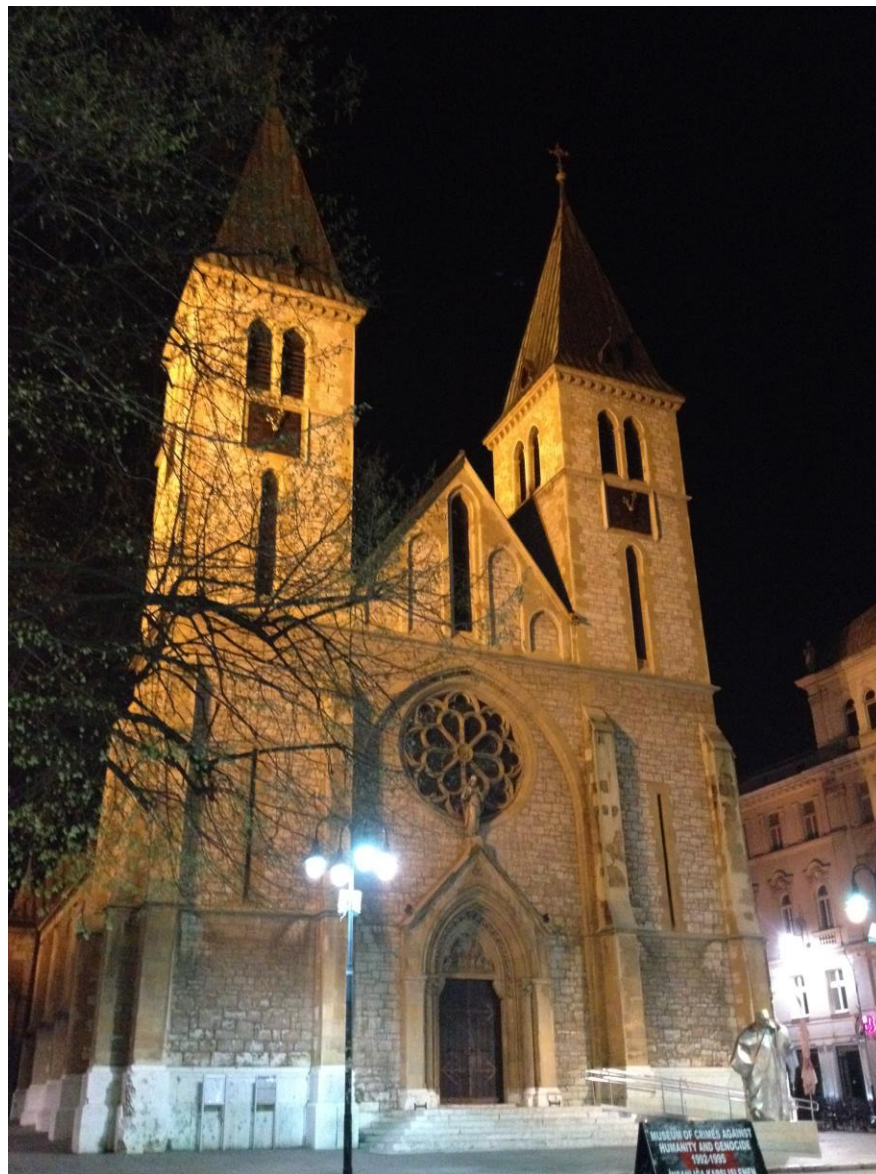
2. Ethnic origin of judges, public prosecutors and the police in the Republika Srpska

	Serbs	Bosniacs	Croats
Judges and Public Prosecutors	97,6 %	1,6 %	0,8 %
Police	93,7 %	5,3 %	1,0 %

3. Ethnic origin of judges, public prosecutors and the police in the Federation of BiH

	Bosniacs	Croats	Serbs	Other
Judges and Public Prosecutors	71,72 %	23,26 %	5,0 %	No figures
Police	68,81 %	29,89 %	1,22 %	0,08 %









Verfassungsreformansätze 2000 - 2022

- 2002: Reform der Entitätsverfassungen
("imposed" durch HR W. Petritsch)
- 2006: April package (US-led)
- 2006/7: Verfassungsreformverhandlungen (HR Chr. Schwarz-Schilling) oder Polizeireform(EU Institutionen)? SAA unterzeichnet;
- 2009: Butmir negotiations; EGMR, Sejdić and Finci v. BiH;
bis 2021, weitere sechs Fälle (insbesondere 2014: Zorić; 2016: Pilav);
- seit 2011: M. Dodik kündigt dauernd Referendum über Sezession der RS an;
- seit 2016: Forderung nach Reform des Wahlgesetzes durch kroat. HDZ;
- 2020: Mostar Vereinbarung
- 2022: (dir.dem.) Bürgerversammlung: 22 Vorschläge

The Dayton Peace Agreement

- The Dayton-Paris General Framework Agreement for Peace in Bosnia and Herzegovina 1995:

International Treaty as ***Constitutional system***:

- Annex 3: Elections ([OSCE](#))
- Annex 4: Constitution, and Annexes ([CoE](#); Constitutional Court)
- Annex 6: Human Rights ([CoE](#); Human Rights Chamber)
- Annex 7: Refugees and Displaced Persons (Real Property Claims Commission)
- Annex 10: Civilian Implementation: OHR + „Bonn Powers“ ([UN](#), [EU](#))
- Annex 11: IPTF ([UN](#))

Legal- institutional Structures of Peace Treaties

- The Dayton „Constitution“ (Annex 4):
 - **Powersharing/dividing ?**
 - territorial separation into Entities on the basis of ethnic cleansing;
 - de jure and de facto equal representation of „constituent peoples“ in the collective Presidency, House of Peoples; and Constitutional Court;
 - Mutual veto powers: „VNI“-veto, Entity veto;
 - no legal institutionalisation of „constituent peoples“: representation through political parties ?
 - **Coordination/Integration:**
 - Transfer of legislative competences to „state“-level
 - Establishment of BiH public corporations (Annex 9)
 - OHR (Annex 10): „Bonn Powers“ 1997

Dayton – Status quo

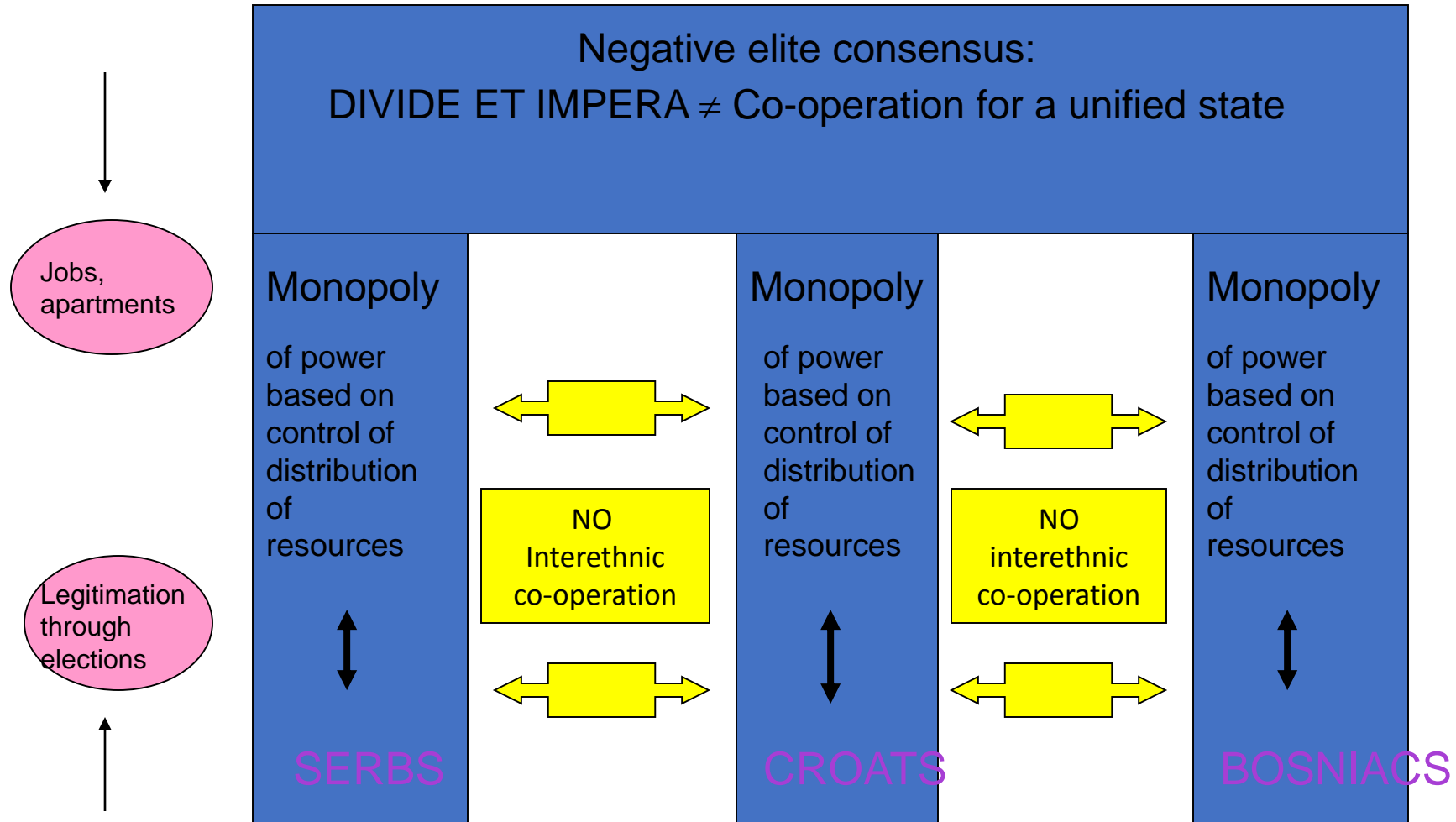
The **presumptions** of A. Lijphart's model of „**consociational democracy**“:

- Power sharing instead of majority rule will trigger **elite co-operation**
- This will counter-act desintegrative forces and **stabilise** the **political system**
- This will allow for
 - a) **functioning state** (legislative, executive, judiciary)
 - b) **sustainable** economic **development**
 - b) peaceful **co-existence** of groups

Early Implementation

- The immediate consequences of the war: Ethnic cleansing and ethnic homogenisation of institutions of the Entities;
- Instead of return of refugees and IDPs, ongoing ethnic cleansing;
- No lustration;
- Early parliamentary elections legitimize war-faring political parties; repeated elections: permanent election campaigns based on ethnic mobilisation;

Bosnia and Herzegovina: *STATUS QUO*



Dayton – Status quo

Against Lijphart's presumptions:

Ethno-territorial delimitation, institutional ethnic key and HR intervention lead to

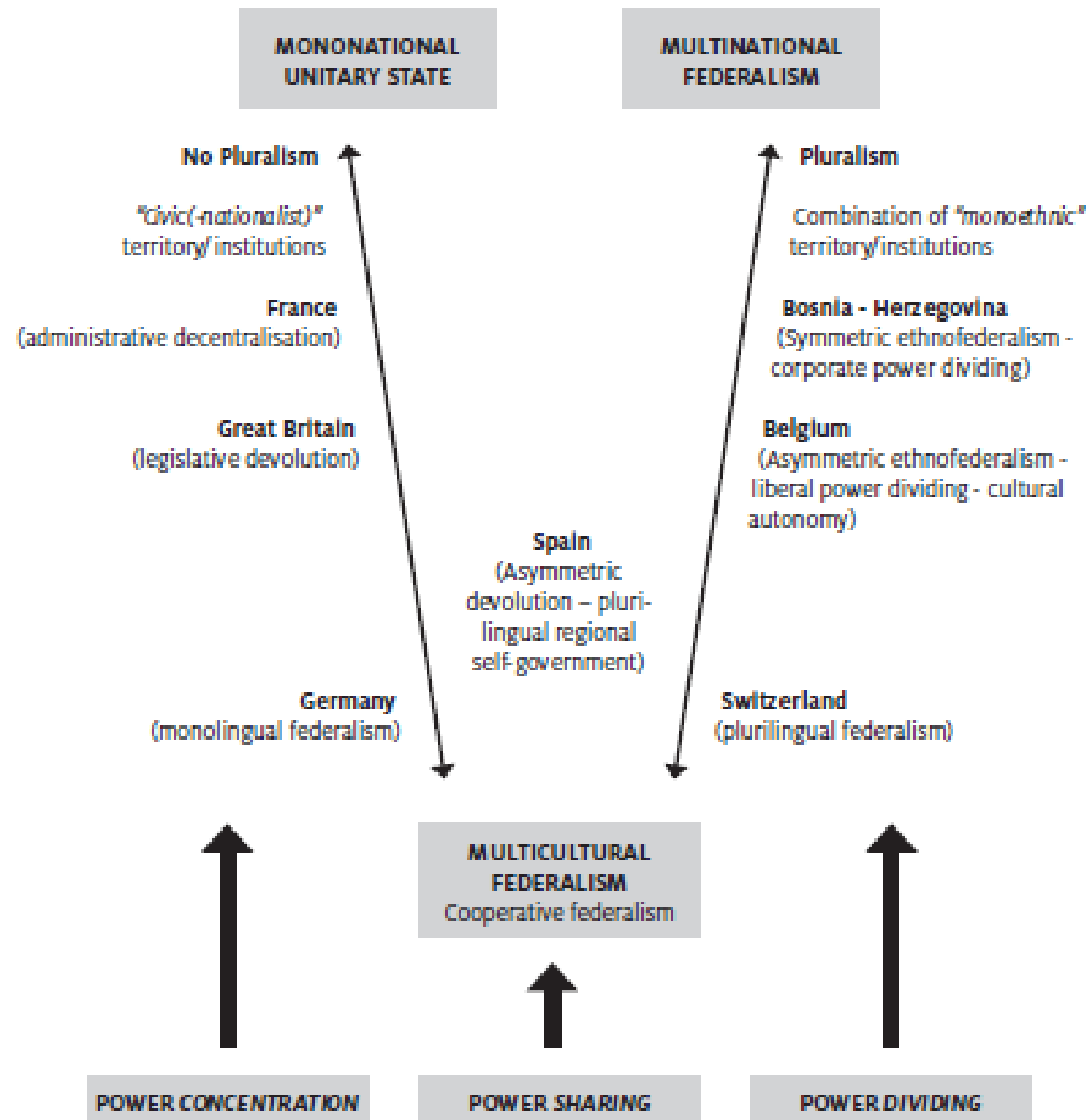
a *negative elite consensus* to *divide and rule*:

- No incentives for **inter-ethnic competition**, let alone **co-operation**
- No incentive for **compromise**: Institutional mechanisms reward maximalist claims and logic of Either - or
- **HR intervention** allows ethno-nationalist parties to present themselves as staunch defenders of national interests against „foreign imposition“ of „foreign solutions“

Constitutional Reform 2006 - 2022

Is there an *alternative* to Dayton/corporate powersharing ?

- The „*civic*“ state without ethnic keys:
 - „neutral“ state institutions?
 - majority rule?
 - individual human rights only?
- A „*strong, federal state*“ with „important“ legislative competences at State level, but alleviated by *regionalisation/federalisation* and local self-government to satisfy ethnic communities demands, but without corporative powersharing mechanisms;
- A *multi-national confederation* based on the alleged „sovereignty of constituent peoples“, ethnically homogenous territories *and a right to secession*



Constitutional Choices

From multi-national via pluri-ethnic
to multicultural political systems ?

Instead of *territorial separation* and *institutional segregation* along ethnic lines:

- **De-coupling** of **territory** and cultural **identity**: from multi-national federalism to *multicultural regionalism* and *transfrontier cooperation*;
- interethnic co-operation in the representative system through **representation** and **participation** without absolute veto-power, but effective participation for national minorities;
- supporting the establishment of *cross-cutting intermediary interest organisations* (trade unions; employers' organisations; teachers' unions; bar associations);
- **desegregation** of public and private **media** and the public **educational system**;
- **transitional justice** and **reconciliation**

Herzlichen Dank für Ihre Aufmerksamkeit!

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