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The Contemporary Relevance of István Bibó's Theoretical Framework for Analyzing and Settling Territorial and State-Formation Conflicts

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Abstract¹

International policy makers, even those with a genuine resolve for peacemaking, often shy away from getting involved with political conflicts where the principle of self-determination clashes with that of the territorial integrity of a state, or devise ad hoc plans that lack the potential to become a lasting solution. In the Cold War context of the 1970s social scientist István Bibó observed and explained this phenomenon and suggested a mechanism to correct it. His idea was to set up a special international court for impartial political arbitration and to solve “territorial and state-formation conflicts” by the principle of national self-determination. He proposed to recognize the global territorial status quo as the “constitution of international relations” but to “amend it” by fostering ethnic-linguistic separation in the special case of irreconcilable conflicts. Viewed from today Bibó’s case studies of the Arab-Israeli conflict and the Cyprus question have shown remarkable foresight and several of his specific suggestions have become core elements in road maps for solving them. Additionally, in contemporary political and scientific discourses on other ethnic-territorial conflicts, opinions seem to shift in line with his views as experiences of the last decades seem to corroborate the validity of his analytical framework and general policy recommendations.

Keywords: István Bibó, ethnic conflicts, international relations, nationalism, self-determination

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International territorial conflicts fueled by ethnic-nationalism have been widespread phenomena for a long time. Their number has been growing at a slow and steady rate since massive decolonization began after 1945, with a marked upsurge immediately after the end of the Cold War (Sadowski, 1998). The questions of why these kinds of conflicts arise and how they could be settled peacefully are favorite topics of popular, elite, and scholarly discourses.

Should the secession of Crimea be viewed as morally different from that of Kosovo? Was the (incomplete) ethnic partition the right solution to grant peace in Bosnia and Kosovo? Should it be applied to find a compromise for the Cyprus dilemma? Should Cataluña be allowed to hold a referendum on independence as Scotland was?

In the 1970s political thinker István Bibó offered a *longue durée* historical framework to explain “territorial and state-formation conflicts” and suggested a set of principles upon which internationally recognized and durable peace arrangements can be based². As I will argue in the following, his study is worth revisiting in the light of contemporary theoretical discourses especially because his case studies have shown remarkable foresight and several of his specific suggestions have since become core elements in road maps for solving the conflicts he analyzed.

Bibó is a well-known author in Hungary, but this particular essay of his is less so. Nevertheless, it has been the focus of a couple of papers in Hungarian. A detailed and critical revision of the historical and political descriptions in the case studies (pointing to alleged inaccuracies) was written by Mihály Dobrovits in 2002 (Dobrovits, 2002). The case studies were briefly discussed by Gábor Kardos two years later in a Hungarian history magazine (Kardos, 2004), while his essay was introduced and compared to different interpretations of nation, nationalism, and self-determination in Gábor Kovács's Bibó monograph (Kovács, 2004).

In a journal article in 2009, I called attention to the contemporary applicability of Bibó's suggested scheme and the validity of his observations regarding the Arab-Israeli and the Cyprus conflicts, arguing that “the medicine he prescribed” for these conflicts “still has not expired” (Schweitzer, 2009). Two years later Gusztáv Molnár also emphasized the relevance of Bibó's peace scheme to the Israeli-Palestinian conflict in a brief foreword to the publication of a shortened version of Bibó's essay (Molnár, 2011).

Several presentations dealt with Bibó's conflict resolution methodology at the “Bibó 100” centenary conference at the Hungarian Academy of Sciences in 2011, which were then published the following year as essays in a comprehensive book on contemporary reception of Bibó's works (Dénes, 2012). Stefano Bottoni referred to the work from the point of view of 20th century East-Central European ethnic conflicts; Gusztáv Molnár discussed it as containing the essential starting points for a future Israeli-Palestinian peace agreement; Gábor Kardos in the context of contemporary legal interpretations and applications of the principle of self-

² This is an unusual stance in clear contradiction for example with one of the conclusions of Stefan Wolff, who in a comparative study found that “it is not possible to determine a single unique and optimal model for the solution of ethno-territorial cross-border conflicts” (Wolff, 2003: 244.)

determination and of political arbitration³; and myself focusing on international political developments in the Middle East and East-Central Europe that had corroborated the applicability of his overall framework to solve ethnic-territorial conflicts.

The present paper is the result of my ongoing research of the subject, and is an enhanced version of a draft that was presented at the Eniugh Fourth European Congress on World and Global History, held at the École normale supérieure, Paris, 4-7th September, 2014. It is an attempt to introduce Bibó and his essay on "territorial and state-formation conflicts" to a wider audience, and to discuss its contemporary scholarly and political relevance. Besides, it also aims to relate some of his concepts on ethnic conflicts and peacemaking to a selected number of present-day foreign policy problems discussed by international legal and political thinkers. Following this interdisciplinary approach I wish to help a future groundwork of connecting Bibó's respective ideas to international scientific and foreign policy debates, from where, I believe, they are unduly and regrettably missing.

István Bibó: the scholar and the democrat

István Bibó was a Hungarian political thinker addressing problems related to social sciences, legal philosophy, international law and history; he was also one of the few Hungarian intellectuals who managed to ever remain a humanist and liberal democrat despite the most unfavorable circumstances of 20th century Hungarian politics. He resisted different intellectual and political temptations of national-conservative authoritarianism, fascism and communism, and upheld his tolerant, benign yet firmly principled ways through failed revolutions and oppressing regimes of all colors.

Bibó was born in Budapest in 1911, attended the Piarist Grammar School, and studied law in universities in Szeged, Vienna and Geneva in the 1930s. He then worked as a trainee in the Royal Court of Appeals and then the Royal Court of Justice, and from 1938 at the Ministry of Justice. He took part in wording anti-fascist manifestos and political programs. Following the German occupation of March 19th, 1944, Bibó used his ministry post to save several people with Jewish origin from deportation (Dénes, 2013). He was arrested and held captive for a few days by the Arrow-Cross fascist authorities in October 1944, then went into hiding.

In early 1945, after the end of the Nazi occupation of Budapest he was invited to work at the Interior Ministry of the provisional government, and from July 1946 was a professor at Szeged University. He published some of his major political works during this time. However, in 1950, he was removed from all his positions and went to work at the University Library in Budapest. On October 31st, 1956, Bibó took part in reviving the National Peasant Party, as a nominee of which he joined Imre Nagy's coalition government on November 3rd, as minister of state.

³ His paper has also been published in 2011 as a post-script to Bibó's essay in the 6th of the 12 volume series of Bibó's oeuvre edited by Iván Zoltán Dénes.

A day later, at a historic moment that perhaps best summarizes his life, he was the only person in the Parliament building surrounded by Soviet tanks as he was drafting a proclamation to Hungarians and to the wider world. As the sole legitimate representative of the Imre Nagy government he declared that Hungary does not want to pursue anti-Soviet policies and that there is no justification whatsoever for the presence of foreign forces. He called on the Hungarian people to show civil resistance and not to accept any future puppet government. He also asked for the wise and brave decision of the great powers and the United Nations Organization. After producing some further manifestos and political drafts he was arrested in May 1957 and was sentenced to life imprisonment by the Supreme Court on August 2nd, 1958. He was freed in the 1963 amnesty, and from then on until his retirement, he worked at the library of the Central Statistical Office and was denied the right to publish. He died in Budapest on May 10th, 1979. His funeral became the first event where various dissident groups made a joint appearance.

One of his major studies, *The Paralysis of International Institutions and the Remedies: a Study of Self-determination, Concord among the Major Powers, and Political Arbitration* (Bibó, 1976) upon which this paper is based, was written while in retirement, and was partially published in London. It is a study without footnotes, partly due to Bibó's typical essay-like style, partly due to the fact that he worked at home and had no access to the (mostly 'western') literature that had influenced him. Nevertheless, in the foreword of his study he included a list of the authors whose works had a major (at times adverse) impulse on his thoughts. Among them are Guglielmo Ferrero on the legitimacy principle; Bertrand Russell, Raymond Aron and Robert M. MacIver on the prospect of 'humanizing' power; Johan Huizinga on the distinction between patriotism and nationalism; Arnold Toynbee on the struggle for a global state; Hans Kelsen and Alfred Verdross on the state of the international community; Leland Goodrich and Edward Hambro on the charter of the United Nations; Sarah Wambaugh on referendums; Rolin Farouharson on the theory of voting; Robert Stephens on the Cyprus question; Fred J. Khouri, Maxime Rodinson and Jean Pierre Alem on the Arab-Israeli conflict. However, his train of thought on territorial and ethnic conflicts is based mostly on his own original ideas and several decades of contemplation.

Bibó's theory on settling ethnic-territorial conflicts

The starting point of Bibó's essay is the confusion of the international community as to how to handle the growing number of ethnic-territorial conflicts. "The number of unresolved situations, which languish in a more or less static condition, has increased alarmingly. Cease-fire lines and truce demarcation lines take the place of final national boundaries; states are arbitrarily and illogically brought into being as temporary solutions to particular and pressing problems; and repeated armed clashes between nations and nationalities, with all the inevitable repercussions, seem a permanent part of the contemporary world scene" (Bibó, 1976: 1).

Bibó mentions several reasons, which led to the 'paralysis' of international institutions. The political reality of the time – the bipolarity of the international order – was one reason. Another is that superpowers turned negotiations (at the UN and elsewhere) into public relations shows. As he saw it the rationale behind conducting open negotiations was, in part, a serious mis-perception of what had gone wrong in the international arena during the first half of the 20th century: secret diplomacy was viewed as a democratic deficit and was identified with imperialist ambitions. For Bibó there was nothing wrong with secret negotiations, on the contrary, he viewed them as absolutely vital in order to reach compromise agreement. He asserted that it is the compromise itself that ought to be transparent and not the process of give and take that led to it.

But the principal problem that Bibó found to effectively hinder efforts for peacemaking was the lack of a clear legal base to start from.

To all appearances, the international community does possess some generally accepted and much-respected principles. For instance, it is widely held that the sovereignty, territorial integrity, and independence of states must be acknowledged in the interest of peace and stability. Also, that the people's right to self-determination must prevail to ensure the correct demarcation of states and to limit abuses of power. These and similar principles are often tied into a nice bouquet and offered like a patent medicine as a cure for the world's ills. However, when it comes to applying these principles to a practical situation, it seems that they are relevant to everything except the specific problem under review. Unfortunately the principles cited are either pure generalities, or are too easily played off one against the other (Bibó, 1976: 2-3).⁴

He believed that the paralysis could be cured by the application of a clear methodology, a general political action to tackle stubborn, acute conflicts. This model was at one point summarized by him to be based on a Principle, a Power, and a Procedure (Bibó, 1990b: 688)⁵.

The *Procedure* was suggested by Bibó to be impartial political arbitration by judges – respected scholars of international affairs – of an international body to be established, which would make an advisory or binding resolution on problems of territorial conflicts, outlining the basic framework of a future peace treaty. The nature of the decision is neither fully legal nor fully political, therefore the judges should be neither “jurists specialized in strictly codified international law” nor “active politicians deeply involved in international or domestic power politics”, but instead “international officials with experience in mediation and conciliation, scholars of law or politics, political essayists or journalists, national and international politicians not in the focus

⁴ Whenever possible I will use the English edition of his essay (Bibó, 1976) as reference. However, that edition (which, for political reasons, preceded the Hungarian publication by 14 years) is just a part of his whole draft. Where his original reasoning is missing from the English edition, I will quote the Hungarian text in my own translation, except for the Cyprus case study, which was published recently in English (Bibó, 2013).

⁵ Coincidentally, the three words show alliteration in Hungarian too (elv, erő, eljárás).

of power politics and known to be conciliatory in their attitudes, especially politicians of traditional neutral countries, etc., or the kind of people who have had experience as United Nations mediators appointed by the Secretary General" (Bibó, 1976: 136)⁶.

Power could come from the joint action of great powers, which are capable to use coercion to impose a peace treaty and if needed also to give security guarantees to it. Bibó, though a democrat by conviction, accepted in principle both the European Concert of the 19th century (also known as the Vienna system of international relations or the Congress System after the Congress of Vienna 1814-1815, in which European monarchs decided on political arrangements) and the United Nations created after World War Two (with a special role given to the five permanent members of the Security Council) as legitimate institutions to have the final say in questions of international political status.

The *Principle*, upon which, according to Bibó, arbitration should be based and the great powers should act to enforce is self-determination, understood to be the principle of democracy per se in international relations. It stood in opposition to the concept of the monarchic-feudal principle, which was what granted legitimacy to questions of sovereignty and of territorial allocation of states during the 17th and 18th centuries. After the Napoleonic wars the monarchic-feudalistic principle was again applied by the Congress of Vienna and it had not fully ceased to be a standard of international relations until after the First World War. In contrast, the European peace system at Versailles was based on the principle of self-determination – albeit only partially and imperfectly⁷.

According to Bibó the selective application of the principle of self-determination – a mistake that had been done in Versailles and all too many times since then – seriously delegitimizes peace arrangements and plants the seeds of future conflicts. If the principle had been fully applied the Versailles treaties could have granted undisturbed international relations for many decades. Contemporary peace arrangements could also last for the foreseeable future⁸, if based on the above criteria.

⁶ In the English publication, which was meant to influence officials of the United Nations, more emphasis is put on that organization. The Hungarian version on the other hand contains even specific examples for what kind of people Bibó had in mind for the function: Bertrand Russell, Salvador de Madariaga, and Walter Lippmann. (Bibó, 1990a: 512)

⁷ According to Bibó, besides several boundary arrangements by which significant populations of one nation were attached to states of another against their will, one of the most significant manifestations of the deficiency that delegitimized the Versailles system and served as a factor for the rise of Nazism was the prohibition of Austrian-German unification (Anschluss). He had frequently warned about other, less serious compromises on the principle of self-determination in the name of geographic, economic, strategic or other rationales. As he wrote just after the Second World War about possible territorial arrangements in East-Central Europe: "What military significance can it have (...) to change for strategic reasons a piece of the border between two small East-European states from Small Hill to Big Mountain? The probability that this change will ever have a military significance is, say, 10 per cent; that this significance will be beneficial to mankind is at most 5 per cent. On the other hand, the likelihood that the grievances of the population carved out by the new strategic border will serve as kindling for future war is 100 per cent. The aim to avoid the dependence of one or the other state on timber or oil import is hardly worth rendering it unable to make peace with its neighbor." (Bibó, 1986: 246)

⁸ "It would be a tragic misconception to leave matters unresolved or badly resolved due to the conflicts of power blocks, which last ten, twenty or, at most, thirty years, while these matters left seething can be a threat for as long as a century, and while a lasting and legitimacy-inspiring arrangement could bring peace

Bibó knew of course that the application of self-determination is far from being unambiguous, and that international law does not give a clue to easily reconcile it with territorial stability. Nevertheless he believed that these are not opposing concepts. According to him “self-determination is the ultimate governing principle, whereas territorial stability is not so much a principle as the institutional reality of international law” (Bibó, 1976: 75). He tried to further clarify the way he understood the relation between these two legal notions by comparing the ensemble of states and their territorial status to the role of a constitution. With this he meant to point out that territorial changes should be exceptional events. “The constitution is, generally speaking, not meant to be changed”, but it is necessary to change it “whenever there is a danger that a stipulation or institution of the constitution may become false or ineffectual, with risk of shaking the whole edifice” (Bibó, 1976: 76). Similarly “the fact that it is desirable for there to be changes in compliance with self-determination does not mean that the peoples should constantly re-determine their future”, self-determination is rather a governing principle to be applied in settling disputes (Bibó, 1976: 76-77).

Bibó's interpretation, including his innovative constitution analogy may be unique, but it is not in contradiction with mainstream contemporary legal understanding of self-determination.

There is a wide array of opinions on the legal status of the principle of self-determination. At the one extreme are those who submit that the right to self-determination constitutes *jus cogens*, a peremptory norm of international law (Ian Brownlie, Hector Gros Espiell), at the other extreme there are those, who think that self-determination is “unworthy of the appellation of a rule of law” (J.H.W. Verzijl) (Hannum, 1996: 44-45)⁹.

International legal scholars are usually in agreement that in general territorial sovereignty of states is a more powerful right than national self-determination. As a leading Italian jurist observed in a landmark publication on the matter more than two decades after Bibó's essay: “the dogma of State sovereignty has constituted a powerful bulwark against the full acceptance of the principle into the body of international legal rules” (Cassese, 1995: 317) and as a result “self-determination appears firmly entrenched in the corpus of international general rules in only three areas: as an anti-colonialist standard, as a ban on foreign military occupation and as a standard requiring that racial groups be given full access to government” (Cassese, 1995: 319).

Nevertheless self-determination can have a meaning for a minority without the right to form their own state. “It is a false option to state that the right of self-determination exists either as a right of secession or does not exist at all. On the contrary, we have to try to keep in force as much of the contents of the right of self-determination as can possibly be kept in force without coming into conflict with the principle of territorial integrity” (Tomuschat, 1993 : 38).

once and for all or, put more humbly, within humanly reasonable time.” (Bibó, 2013: 578). The implicit prognosis written some time before 1974, that the cold war (the “conflicts of power blocks”) would last no longer than 30 more years, is in itself exceptional foresight.

⁹ The author presenting the array of opinions himself thinks that the status of self-determination as a “right” in international law is questioned only with difficulty.

There are certain authors who see secession as legitimate in specified cases. The so-called Just Cause theorists for example advocate it if a minority suffered (and would continue to suffer) grave injustices being subject of a given state. Contrary to them Bibó did not claim that self-determination prescribes a legally binding line of political action against state sovereignty in any case. He did not advocate its acceptance or application as legal imperative prescribing secession but as theoretical basis for an exceptional political decision and action, i.e., as a principle which alone makes it possible to construct legitimate (therefore permanent) political solutions to otherwise irreconcilable contemporary ethnic-territorial conflicts.

The case studies of Bibó

The text that was smuggled out to the west and published in 1976 was not appreciated as much as Bibó hoped it would. A capsule review by Foreign Affairs for example read as follows:

A provocative essay by a Hungarian intellectual, Minister of State during the 1956 Revolution, which convincingly analyzes the need for international institutional mechanisms to provide a just world order based on democratic principles. His conclusions - that new approaches to great-power understandings and impartial international arbitration are urgently required - raise more questions than they answer.¹⁰

Part of the reason for the mixed reaction was the quality of the translation, which lost some of the clarity and elegance of the original version. But a bigger deficiency was that the essay came to be published without the case studies which could perhaps have answered many of the questions that the historical-theoretical part raised for ordinary readers and for the reviewer at Foreign Affairs.

The original manuscript did contain two long and detailed sections showing how Bibó's argument could be applied to two difficult concrete cases: Cyprus and the Arab-Israeli conflict. The specific nature of these have, however, dated them somewhat and they would have made this book a forbidding length, so as editor I have taken the responsibility of not publishing them, at least for the moment, but simply of putting copies in the Library of the Royal Institute of International Affairs, London, of the British Museum, the Library of Congress and the New York Public Library. They may be copied but not published. They were appendices to the general argument, which is all translated (Bibó, 1976: viii).

¹⁰ The author of the review was Edward L. Morse, then a senior research fellow at the Council on Foreign Relations, today a leading energy economist. (Morse, 1977).

Contrary to the assessment of the editor, Bernard Crick, I think the application of the theory on “two difficult concrete cases” is more revealing than the remaining – and arguably somewhat overwritten – historical-philosophical skeleton of the theory, which deals more with the changing sources of legitimacy in history and with vaguely answered organizational questions of the possible future political arbitration than with the suggested methods to solve conflicts. In fact Bibó not only demonstrated his methodological framework for conflict resolution in the case studies, but also outlined the answers to theoretical questions, which perhaps should have been more clearly dealt with in the first part of the text¹¹.

Also, as I will argue later, the case studies, which were written between 1965 and 1974, and have not been published in English until very recently¹², have not been “dated” at all. They are very relevant even after almost half a century – despite such radical changes in circumstances as the Turkish occupation of Cyprus, the end of the Cold War, the Israeli-Egyptian and the Israeli-Jordanian peace agreements, the establishment of a Palestinian Authority in Gaza and the West Bank, etc. Relevant not only in that the solutions offered in them are still basically valid, but also in that they provide answers to why later attempts at reaching a peace agreement have gone wrong.

Cyprus

Bibó viewed the Cyprus conflict as the last remaining process of the delineation of the Greek and Turkish nations. If the island hadn't been ruled by the British in the early 1920s its future would probably have been decided by the treaty of Lausanne in 1923 as was done in the case of other disputed regions of the East Mediterranean.

The crises of the Cypriot state and the causes of the political stalemate have several causes: external (demographic, strategic and international political factors), mental (like the burdens of the history of Greek-Turkish relations), legal (that there is no fundamental “legal fact” that could be used to serve as basis to determine legitimacy).

A substantial underlying fact of the conflict is that the population of Cyprus has never been bound by the common thought and feeling of being part of a Cypriot nation. In the course of history the political unity of Cyprus had always been created by outside forces.

The Cypriot nation has never existed in either the Wilsonian or the Leninian sense; Cypriot political unity was achieved by belonging to a broader state formation or foreign invasion. Shared historical fate never meant a shared historical experience, a shared state or national consciousness that could have

¹¹ One example of this is the question of why the involved parties and the great powers would trust an international jury to judge their political conflicts. This question is dealt with in the Cyprus case study. Bibó's answer is that a peace agreement based on the principled ruling of an impartial tribunal would be better for everyone affected than the ambiguous status quo, which threatens all of them with an unexpected change in circumstances and a unilateral fait accompli. (Bibó, 2013: 577-578) It is again electrifying, that these words were written just a little time before the Turkish invasion of Cyprus in 1974, which completely changed the rules of the game.

¹² The case study on Cyprus finally appeared two years ago (see: Bibó, 2013), and the whole essay with both case studies were (re-)translated recently and are ready for publication.

bound together Greeks and Turks, in the way history forged a single nation out of the Germans, Frenchmen, Italians, and Rhaeto-Romans of Switzerland or the Finns and Swedes of Finland. Quite to the contrary, the experience of these two peoples paralleled all-Greek and all-Turkish historical experience; put otherwise, whatever brought victory and liberation for one, meant subjugation or downgrading to the other (Bibó, 2013: 573).

Bibó suggested that the conflict should be solved by international political arbitration – a decision by impartial international legal experts. His view was that Cyprus does not constitute a necessarily indivisible political entity, and the self-determination of the two communities should be granted equally. One of the problems is the lack of clear ethnic boundaries. “Had there been such clear ethnic borders in Cyprus, the island would probably have been divided earlier, perhaps under British colonial rule, and the subsequent integration into appropriate nation states would also have been carried out without major difficulty” (Bibó, 2013: 580).

The international tribunal should first agree on the demarcation: to draw “perhaps very winding borders, so as to have the smallest possible pockets of minorities on the wrong side, or to have roughly equal numbers on either side, which means a mutual guarantee against the temptation of oppression on the one hand, and more advantageous conditions for relocation if relations become strained” (Bibó, 2013: 581). The next step is to hold plebiscites among the Greek and Turkish speakers separately, to decide if they want to live in a common federal state (to be applied only if both sides agree), and if not, whether they want to have a separate state or one that is attached to the kin state (Greece and Turkey).

Arab-Israeli conflict

The Arab-Israeli conflict, according to Bibó, is basically the conflict between two nations (Arab and Jewish), which have been formed under very different circumstances. That the conflict is politically unresolved is manifested first and foremost by the fact that the neighboring Arab states do not recognize the existence of Israel. A principal attribute of the conflict is that the Arab policies are based on historic grievances, and that the Israeli mindset is inclined to rely on force in solving all discords. A psychological burden is that Israelis suspect the threat of genocide in Arab boasting about destroying Israel as a state, and “pushing the Jews into the sea”.

And yet, as Bibó emphasizes, after all the wars that have been fought, neither side can expect to gain from further violence. An Arab aggression with the aim of liberating the occupied lands would be useless; it would turn global public opinion to Israel's side, granting it moral capital and support. Israel cannot improve its position by aggression either; it cannot hope to gain recognition and thus security even if it were to occupy Cairo, Damascus and Amman. Rather, such an expansion would lead to Arab terrorism and the unavoidable atrocities of Israeli occupation, which, in turn, would lead to the erosion of international moral support. And “sooner or later there would be no way other than withdrawal” which “would signal to the Arabs that the

much awaited turning point has come" and would bring with it on their part "the end of all readiness for compromise" (Bibó, 1990a: 635)¹³.

In this situation, when one of the super-powers (USA) supported Israel and the other (the Soviet Union) the Arab states (mainly Syria), their agreement and collective action seemed vital to Bibó. Unlike in the Cyprus conflict this time partition was gaining legitimacy, and it was only the atmosphere of mistrust and fear that inhibited its acceptance.

Bibó suggested that the 1967 ceasefire line should serve as a demarcation (with minor changes, which would grant Israel access to the Old City). According to him the legitimacy of that temporary boundary is based upon several factors. First, the Arab-Jewish population exchange – which was "proportional, mutual, irreversible, although not at all voluntary or legitimate" – went on along this line. Second, this line has withstood the crisis of 1956 when Israel tried to modify it to its benefit. Third, after the war in 1967 and 1973 the main demand of the Arab states was the return to this provisional line (although its change had been their political aim beforehand. Fourth, the only – more or less – concrete resolution of the UN (Security Council resolution 242) also called for the return to this line as a precondition of peace¹⁴, and the great-powers are basically in accord in this principle.

As a first step in the peace process that Bibó recommended, the UN Security Council needs to make a binding resolution about a detailed peace plan, and then the great powers should pressure the parties to accept it. The execution of the peace plan should start with the partial evacuation by Israel of the occupied territories, then followed by the recognition of Israel by the Arab states, and finally the restoration of the ceasefire line as an international border. The procedure presupposed security guaranties by the great powers. (Bibó also raised the possibility of the formation of a new Palestinian Arab state on the occupied land, and that the refugees after 1967 should have the right to total repatriation and restitution, while the refugees of 1948-49 should be compensated for financial losses but would be allowed to live in Israel only in specifically justified cases (e.g., of family reunion) and in very limited numbers.

Some contemporary applications of the theory

Despite the decades that have passed since the writing of Bibó's essay, despite the profound transformation of the international order and the nature of the conflicts he analyzed, the solutions for the Cyprus and the Arab-Israeli conflicts presented above are basically relevant and gradually gaining ground. This is partly due to the fact that in these specific conflicts alternative peace proposals were tried and turned out to be unworkable – as in several cases Bibó clearly warned they would. In the meantime, especially with the collapse of the so-called Soviet bloc several ethnic-territorial

¹³ Arguably, this is exactly what happened when Hamas and Hezbollah declared victory and filled the power vacuum once Israel left Gaza and South-Lebanon respectively.

¹⁴ It should be noted that Israeli legal experts and politicians debate whether the demanded Israeli withdrawal "from territories occupied" in 1967 necessarily means withdrawal from all of the territories.

disputes turned into violent conflicts – which again showed the relevance of Bibó's framework to analyze and solve these kinds of conflicts.

Cyprus

Perhaps the most dramatic change in the Cyprus conflict happened just months after Bibó finished his essay. The attempted putsch by Greek-Cypriots demanding Enosis (unification with Greece) and the Turkish invasion of the island in the summer of 1974 resulted in a de facto ethnic partition. The situation – albeit peaceful now – still cannot be considered resolved, as the (Greek) Cypriot state does not have control over the Turkish occupied northern part of the island, which is governed by a self-declared separate state unrecognized by the international community.

After decades of mediation attempts, and several peace plans promoting different bi-national federal schemes, foreign policy experts have frequently raised the idea of de jure partition, which the international community, unlike Bibó, had ruled out¹⁵.

In the current situation Bibó would probably suggest the correction of the ceasefire line for the benefit of the Greeks Cypriots, who, in turn, should accept that the island, on which they form the majority, would be separated into two states if both parties affirm that in referendums¹⁶.

Arab-Israeli conflict

The Arab-Israeli conflict (now more appropriately called the Israel-Palestine conflict) has also profoundly transformed in the last three to four decades. Israel has made peace with Egypt and Jordan, and the so called Oslo peace process, even if widely considered to be a failure, created autonomous Palestinian areas and the Palestinian Authority. Meanwhile the conflict has transformed from being mainly a conflict between Israel and Arab states into being a conflict where Israel is more in confrontation with Palestinian movements and with Islamist forces¹⁷.

With this transformation it became even more apparent that Bibó was right when he said that Israel wouldn't be able to wish away the conflict by granting limited autonomy to the Arabs on the occupied lands, and that forceful security guarantees of the great powers would be needed to secure peace. It has also become a widespread assumption that mediation would not be enough for the parties to resolve their

¹⁵ I quote here only a few examples. "Going on past experience, the details of a formal separation are likely to prove easier to manage than working out the details of reunification" (Ker-Lindsay (September 3, 2007)). "For more than three decades now, efforts to resolve the territorial dispute in Cyprus between its Greek and Turkish residents have failed. Since reunification plans have been rejected, is it time to officially partition the island?" (Khan (November 18, 2010)). "Opponents of a negotiated settlement should, for once, speak honestly and tell people that partition would be preferable to an experimental, bi-zonal, bi-communal federation that could go wrong, instead of serving them with false hopes and big fantasies." (Cyprus Mail, 2014)

¹⁶ The assumption that change of the boundary to more reflect popular self-determination would be the Bibó's suggested solution today can be substantiated by his similar proposal in a territorial dispute of another island: the Northern Ireland conflict. That happened to be a third case study he wrote after finishing the Paralysis essay (Bibó, 1990b).

¹⁷ In an essay of mine I pointed out this trend (Schweitzer, 2005) which has continued ever since.

dispute. Instead, active involvement of great powers would be needed in outlining a detailed peace plan, in forcing the parties to accept and implement it, and in providing powerful security guarantees.

It is a futile and frivolous position – claimed by Israel and at times by representatives of certain great powers – that progress can only be achieved through direct negotiations between the parties without great power intervention. This phrase sounds as if it was meant to protect the interests of small countries from the aggressive interference of great powers, whereas it is indeed direct negotiation that contains the maximum amount of violence (the violence of the winner) after a war with such an outcome [in 1967], and it is the mediating intervention of the great powers that is able to hold back this violence (Bibó, 1990a: 655).

Bibó believed that the peace process, instead of letting the directly involved parties bargain about the essentials, should start with the elaboration of a detailed peace plan. Many analysts have come to the conclusion that one of the prime mistakes of the Oslo peace process (1993-2000) and also of negotiations based on the so called Road Map (2003-2008) was that the processes began without such a peace plan. Dealing with the final status questions was postponed time and again, and trust disappeared in the course of endless bargaining about successive steps.¹⁸

Another central assertion of Bibó's – besides the need for great power involvement and the need for a clearly stated final status result at the beginning of the peace process – was the continued legitimacy of the pre-1967 ceasefire line. Its legitimacy has been further strengthened in the last couple of decades. Israeli-PLO treaties of the 1990s referred to UN Security Council Resolution 242; Clinton's formula in 2000 and subsequent (albeit unofficial) Israeli-Palestinian peace treaties in 2002 and 2003 were based on it (Ayalon-Nusseibeh plan, Geneva Initiative); and in 2011 the American president declared its validity when talking about a possible future two-state solution: "We believe the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps, so that secure and recognized borders are established for both states" (Cohen, 2011).

Altogether, despite all the changes, after four decades Bibó would probably suggest essentially the same peace plan and the same procedure he proposed in his essay. Those politicians who believe in the possibility of an Israeli-Palestinian peace usually also rally around a similar scheme.

The dissolution of Yugoslavia and Czechoslovakia

Not only do conflicts that Bibó analyzed show the relevance of his theory, but so do a lot of those that appeared after his death. Bibó did not foresee the disintegration of Yugoslavia and Czechoslovakia (although he did emphasize the unnatural composition of the latter). Nevertheless, his theory on ethnic-territorial conflicts seems

¹⁸ Some examples for analysts who share this interpretation of the events with me – which clearly verifies the validity of Bibó's (alas, practically unknown) forewarning – include Gershon Baskin and Yossi Beilin. (See: Baskin, 2002 and Shavit, 2001)

to be a very useful approach in analyzing the disintegration of these two East-Central European states.

A central question of a comparison of the two cases is: why did Czechoslovakia fall apart peacefully whereas the collapse of Yugoslavia caused the bloodiest war in Europe since 1945. This question has been answered in many different ways. Cultural explanations point to the difference between the Kalashnikov-waving partisan heritage of South Slavs vis-à-vis the anti-militarist civil traditions of the spiritual descendants of Good Soldier Švejk. An economic explanation may claim that while Slovakia was not viewed as an important "asset" by comparatively rich and strong Czechs, Serbs, constituting the "core" nation of Yugoslavia, were naturally more alarmed by the possibility of dissociating from the wealthier part of the federation: Slovenia and Croatia.¹⁹

While these are certainly important factors, using Bibó's framework it comes out as a vital fact that in the case of Czechoslovakia the internal border coincided with the ethnic-linguistic separation line. This was markedly different in the case of Yugoslavia. And it was an observable fact that the degree of aggression correlated with the extent of this discrepancy. There were many more Serbs living in Croatia than in Slovenia – they formed a clear majority in a significant part of the country that could have been attached to Serbia – and Croatia became independent with much more violence. Bosnia was the most ethnically mixed of all the republics of the Yugoslav federation, with the largest relative Serbian population, and out of the three it was indeed the country where the war was raging for the longest period of time, causing the most casualties.

Bibó did not live long enough to see the collapse of Yugoslavia but following his way of thinking, using his case studies as models one could have tried to design a peaceful settlement for the conflicts of that former country. The key of course would have been self-determination – understood to also mean the right to self-determination for the Serbian areas in Bosnia and Croatia. The basis of this hypothetical peace plan would have been Serbian recognition of the independence of Croatia and Bosnia – in exchange for territorial compensation. The exact contours of the agreement, including the new borders, would have been determined by international arbitration: the political decision of an impartial international jury. (In the Bosnian case the resulting Serbian area – which could decide to be either independent or a part of Serbia – would probably have been smaller than it is today to better reflect the original ethnic composition of Bosnia.) Since partition along clear ethnic lines would not have been fully possible to achieve, if the security of the inhabitants on the "wrong sides" of the border had necessitated it, the peace arrangement could have involved voluntary or even obligatory population exchange.

Such an arrangement may sound problematical and difficult to implement (and maybe even inhumane, as for the possible need of a population transfer), but it would

¹⁹ The cultural factor is decisive in Misha Glenny's account of the violent collapse of Yugoslavia (Glenny, 1996). In Valerie Bunce's comparison of the dissolution of Czechoslovakia, of the Soviet Union and of Yugoslavia, the explanatory factors for the violent versus peaceful nature of the processes were found to be 1) the degree of decentralization of the federation, 2) the power of the largest nation versus its institutional endowments, and 3) the politicization of the military. (Bunce, 1999)

undoubtedly have been worth the price if we think of the hundreds of thousands who were killed, wounded, or fled in the course of the wars in Croatia and Bosnia. The same goes for Kosovo: self-determination (in this case probably ethnic separation) would have meant a Serbian recognition of independence in exchange for territorial compensation. This could probably have been a workable and generally acceptable formula.²⁰

Policy debates in scholarly and political circles related to the theory

Even if Bibó's basic work on international peacemaking in ethnic-territorial conflicts was (partially) translated into English in 1976, his theory has not entered mainstream international political discourse. His ideas are not referred to in contemporary scientific debates and his ideas did not influence policy efforts of international peacemaking (as he would have wanted).

Nevertheless, in the past decades discussions have intensified about the problem of how to solve ethnic and territorial conflicts. Ideas similar to his suggestions have started to gain ground both in scholarly and political circles. In the following I will examine Bibó's theory and arguments in light of contemporary foreign policy debates on some of the questions he focused on.

Swiss-type confederation as a suggested solution

Switzerland has served as an appealing model for democratic restructuring of multi-ethnic states for more than a century. Once the Habsburg empire had turned into a dualist monarchy with the compromise of 1867 (Ausgleich) there were constant talks of its further federalization – Habsburg Archduke Franz Ferdinand being one famous advocate. A United States of Europe was thought to be the cure for great power rivalry on the old continent by many already in the inter-war era. During World War Two scores of confederation plans were designed by officials at the American Department of State and at the British Foreign Office – there was talk of a Scandinavian confederation, an Arabic one, an East-Central European one, to mention but a few. In 1947, a federal bi-national state was the minority proposal of the United Nations Special Committee on Palestine. Up until today such a scheme has been the principal idea for solving the Cyprus question, a confederation of cantons was the envisaged solution of the Vance-Owen plan for Bosnia in the first months of the war, and a confederation was indeed established by the Dayton Peace Accord of 1995.

However, political conflicts stemming from unresolved questions of territorial status cannot be solved by forcing the parties to live together. This is something which

²⁰ Kosovo and Crimea are similar in many respects – both had an ethnic composition different from that of the state to which they had belonged – yet people in the West tend to judge the two secessions differently. From the point of view of the self-determination principle the fundamental difference is that in the latter case secession was initiated by an outside power (Russia), and self-determination of the local population was used only as a pretext for a land-grab. In contrast, the calls for the independence of Kosovo initially came from Kosovars and were fueled by oppression by the Serbian state.

seems to be verified by all of the above mentioned examples. And this had been emphasized 40 years ago by Bibó, who compared federation to marriage (neither being a panacea for peaceful coexistence) in the following way:

Neither wipes out problems, but brings up many new, therefore one should not enter into it halfheartedly or with unresolved problems, nor clinging to it at all costs, for its own sake. It is not certain that the road leading from big to bigger is easier than from the small; there are indications that nations first have to be formed clearly in order to unify in a viable supranational integration; and to be able to be formed they often have to break or reject old or new dysfunctional federations that cannot offer them the dual prospect of nation formation and social development (Bibó, 1990a: 386).

Bibó would surely not rule out granting legality to the complete de facto separation of Bosnia or Cyprus along ethnic lines, if that was in harmony with the expressed self-determination of the peoples living there. Several analysts indicate that the formation of confederations does not seem to offer a viable long-term solution in these cases²¹. Unlike most of them, Bibó also knew why. His theory is based on the thesis that the best political solution for territorial conflicts (if the status quo cannot be maintained peacefully) is the one which is legitimate, i.e., the one which is based on national self-determination. Therefore the question in the cases of Bosnia and Cyprus is in essence similar to what was asked during the referendum in Scotland: where does the loyalty of its people go to, which is the “nation” the majority feels it belongs to.

The perceived danger of endless fragmentation

Bibó suggested that existing federations should be left to fall apart if the constituting nations so wish. He also advised unitary states to let minorities have the right for territorial autonomy or even complete secession. He assumed this to be beneficial to both sides, counter-intuitively also to the dominant nation, which can thus avoid a separatist movement growing violent.

A state will gain a minority's loyalty according to its courage to grant minority rights or territorial autonomy, and it must be aware that such an attitude may be rewarded as much by stabilization and a strengthening of the minority's civil loyalty as by increased separatism. The state must also be aware that the more these rights are denied the stronger the possibility that a minority movement will become a separatist one. In other words the cause of a separatist movement

²¹ For example: “Bosnia seems no closer politically to being a viable country now than it was fifteen years ago when the U.S.-brokered (and largely U.S.-imposed) Dayton accords ended the civil war that had cost more than 100,000 lives. Extinguishing that bloody conflict was no minor achievement, but it did not alter the reality that Bosnia and Herzegovina remained an unstable political amalgam of three mutually hostile ethnic groups.” (Carpenter, 2011) or “Cyprus is a small place - far too small to be divided. But as recent discussions over Kosovo have shown, while it is certainly preferable to have different groups living side-by-side within single states, there are cases where bringing them together is seemingly impossible. In these cases, is it not better to let them go their own separate ways in a manner that is most likely to allow for cordial relations to develop in the future?” (Ker-Lindsay, 2007)

is never in the granting of minority status or territorial self-government, but in the dynamism of nation-formation which is only fomented by oppression. It may happen that a state of balance will not be achieved, either because of the authority's suspicion and lack of generosity, or because of the separatist minority's lack of even limited civil loyalty (Bibó, 1976: 98).

The example of Czechoslovakia shows that, even if the majority nation cannot hold a confederation together, by allowing gradual secession it can avoid the process becoming violent. The fact that Belgium is still one state despite the several-decade-long process of internal demarcation and decentralization suggests that leniency indeed has the potential to prevent secession. As the late president Václav Havel and ordinary Czechs remark, today the two nations have better relation than ever.

A recent comparative study on the matter also concludes that granting autonomy may not help keeping a state together but taking it away seems to be the wrong step. Ethnic groups with autonomy (because of the lack of motivation) and ethnic groups that never had autonomy (because of the lack of capacity) are much less likely to secede than those groups that lost their autonomy (Siroky-Cuffe, 2015).

Nevertheless, granting every national community the right to form their own state sounds for many as opening up the gates for endless fragmentation ("Balkanization") on a global scale. "A husband and wife may be divorced and go out of the presence and beyond the reach of each other, but the different parts of our country can not do this. They can not but remain face to face, and intercourse, either amicable or hostile, must continue between them" – goes the argument of Abraham Lincoln who utilizes the marriage metaphor, like Bibó, but with the aim to draw the "frightening vision of a world of a thousand squabbling nations divorced from one another politically but still cohabiting territorially" (Doyle, 2010: 11). With a somewhat similar approach, in 1998 a top article of Foreign Policy magazine titled "Ethnic conflict" showed a map of Africa divided by an uncountable number of separating lines into tiny bits inhabited by the different ethnic groups (Sadowski, 1998: 15). The map was meant to show the immense difficulty of redrawing borders to avoid civil wars like the ones that raged in Somalia and Ethiopia.

Bibó however did not suggest that the political atlas of the world should be rearranged to correspond to the global ethnic map. On the contrary, as mentioned before, he thought that the partition of states should be an extraordinary event in history, which should be prescribed by an impartial jury only in the case of otherwise unsolvable ethnic-territorial conflicts, where there is a demand for autonomy or secession on the part of a significant number of people forming the clear majority in a significant contiguous territory. Bibó understood the global territorial status of the existing countries as being the quasi constitution of the international community. While it was meant to stay forever, it might nevertheless need to be altered – very rarely, and only in order to more adhere to the basic defining principles, and ultimately for the benefit of all parties concerned.

The anti-partition argument

There is a third line of reasoning detectable in the international discourses on ethnic-territorial conflicts, which is related to Bibó's theory. It goes around the question

whether partition has the potential at all to solve ethnic conflicts, or on the contrary, that it even intensifies conflicts.

Existing research seems to be inconclusive. One quantitative analysis on a significant database seems to refute Bibó's claims. Its author, Nicholas Sambanis, concludes that "partition does not significantly prevent war recurrence" and "separating ethnic groups does not resolve the problem of violent ethnic antagonism" (Sambanis, 2000: 479) even if "in the most extreme cases" partition may be "necessary, indeed inevitable" (Sambanis, 2000: 482). And yet, this research does not contradict Bibó's theory. This becomes clear if one examines the specific examples on which Sambanis measured the effectiveness of partition. Most of them are not the kind of partition Bibó was suggesting: Cyprus in 1963, Yugoslavia-Croatia in 1991, Russia-Chechnya in 1994-1996, etc. In some cases the partitioned units were forced by an external or internal power to co-exist, and in most cases the geographical separation was not done along ethnic lines and did not fully address the question of self-determination for the involved national groups. Therefore the fact that they did not terminate aggression even corroborates Bibó's reasoning.

Other authors do find a series of conflicts where partition indeed re-established security.

There have been no wars among Bulgaria, Greece, and Turkey since their population exchanges of the 1920s. Ethnic violence on Cyprus, which reached crisis on several occasions between 1960 and 1974, has been zero since the partition and population exchange which followed Turkish invasion. The Armenian-Azeri ethnic conflict, sparked by independence demands of the mostly Armenian Nagorno-Karabakh Autonomous Oblast, escalated to full-scale war by 1992. Armenian conquest of all of Karabakh together with the land which formerly separated it from Armenia proper, along with displacement of nearly all members of each group from enemy-controlled territories, created a defensible separation with no minorities to fight over, leading to a cease-fire in April 1994 (Kaufmann, 1996: 150-151).

One of the most overt promoters of solving ethnic civil wars through partition, David Kaufmann, suggests that separation prevents violence because once the ethnic groups have retreated into defensible, mostly homogeneous regions their security can be guaranteed without the need for pre-emptive ethnic cleansing. Ethnic separation changes the conflict from "mutual pre-emptive ethnic cleansing to something approaching conventional interstate war in which normal deterrence dynamics apply", so even if it "does not guarantee peace, but it allows it" (Kaufmann, 1996: 150).

Kaufmann's line of theoretical reasoning is seriously challenged in a paper based on case studies of Bosnia and Kosovo (Jenne, 2009). The author, Erin K. Jenne, not only questions that partition helps reduce violence but claims the contrary. One of the arguments of her thesis is that if Kaufmann was right then "violent conflict should occur primarily in ethnically-mixed rather than partitioned areas" (Jenne, 2009: 276), whereas, according to empirical evidence, in Kosovo the opposite is true. She assumes that in the two post-Yugoslav cases partition led to "institutional empowerment of ethnic extremists".

De facto partition has ensured the electoral success of nationalist parties and policies; impeded property restitution and refugee return; permitted rent-seeking and corruption by nationalist elites; and segregated security and police forces along ethnic lines – creating a climate of extreme insecurity for ethnic minorities residing in the ‘wrong’ territory (Jenne, 2009: 285).

This argument however, while it seems forceful against Kaufmann’s reasoning, could not be used against Bibó’s line. The fact for example that Kosovar Albanian militants “have perpetrated nearly all the post-war harassment and violence against small pockets of ethnic Serbs, who hardly pose a threat to the Albanian majority” (Jenne, 2009: 284) is an argument against the logic of the deterrence theory, but it is completely in line with Bibó’s claim that the central aim of partition should be the creation of separation that can be legitimized by national self-determination. The de facto partitions of Bosnia and Kosovo do not reflect this principle, because in both cases Serbs – forming the majority of significant areas adjacent to their mother country – are forced to live in a state where they don’t feel they belong. Bibó’s argument is in line with both Kaufmann’s central claim and Jenne’s findings, while it contradicts their respective reasoning. According to Bibó, in the cases of Bosnia and Kosovo it is not the logic of mutual insecurity but the remaining ambiguous status and the lack of legitimacy that hamper inter-ethnic harmony and empower ethnic extremists.

Conclusion

Leading foreign policy makers, even with a genuine resolve for impartial arbitration, have for decades shown confusion and devised ad hoc plans when dealing with political conflicts where the principle of self-determination clashed with that of the territorial integrity of a state. In the 1970s political thinker István Bibó suggested a mechanism to settle “territorial and state-formation conflicts” combining recognition of the global territorial status quo as the “constitution of international relations” with fostering ethnic-linguistic separation in the special case of irreconcilable national conflicts.

Using examples of ethnic conflicts I have argued that the theoretical framework of István Bibó is very relevant in analyzing today’s conflicts. The further an applied method of international peacemaking was from what he suggested, the more stubborn the conflict remained. Contemporary analysts have tended to arrive at a similar conclusion to what István Bibó emphasized almost half a century ago: that in most cases of violent conflicts the best solution to secure a long-term peace is to open up the possibility of voluntary secession or partition along ethnic lines. The biggest difference between Bibó and these contemporary scholars is that to Bibó this procedure was not (only) a question of function (i.e., to best ensure peaceful co-existence) but a moral conviction based on the political view that in international relations self-determination corresponds to the principle of democracy. Ethnic partition is not a merit in itself, nor is it always the necessary solution. Nevertheless it usually helps solve ethnic conflicts because of the very fact that it establishes borders

that have the potential to be accepted as legitimate or "just" by the populations concerned.

Nowadays, leading diplomats of the great powers are reluctant to decide matters that they should – drawing a clear separation line between warring ethnic groups – and quick to come up with solutions on matters that they should not: deciding the future political-legal status of territories (often by forcing ethnic groups to coexist in some form of federal state of cantons). This is all the more strange as ethnic-national conflicts have been handled in many Western countries – peacefully and democratically – along the very lines that Bibó suggested (e.g.: the gradual territorial separation of the communities in Belgium, political-territorial status decided by referendums in Quebec, Scotland, and elsewhere). These principles and practices could and should also be applied in other parts of the world.

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