Small States
Conflict Resolution (CR)

Liechtenstein

Wilfried Marxer

Small States & Conflict Resolution – Historical Background

- Historical Background of major conflicts of Liechtenstein - External: Sovereignty and other challenges

- Sovereignty
  - 1806-1813 Rhine Confederation
  - 1815-1866 German Confederation
  - 1914-1918 World War I (not involved, neutral, though doubted by the allies because of strong ties to Austria)
  - 1930s/1940s National Socialism (border to Austria as part of national-socialist Germany/Third Reich, after 1938)
  - 1939-1945 Word War II (neutral, not involved)

  - 1920: League of Nations – Liechtenstein's application rejected!
  - 1978: Member of the Council of Europe
  - 1990: Member of the United Nations
  - 1995: European Economic Area AND customs' union with Switzerland (since 1923)

Small States & Conflict Resolution – Historical Background

- Historical Background of major conflicts of Liechtenstein - External: Sovereignty and other challenges
- Other challenges
  - 1918, 1945ff: Confiscation of property of Liechtenstein citizens (mainly members of the Princely family) by Czech/CSSR authorities (including the temporary opposition to the EU eastern enlargement which took place in 2004)
  - 1955: "Nottebohm" ruling of the International Court of Justice regarding Liechtenstein citizenship for payment (court action starting 1951)
  - 1970s: Plans for a nuclear power plant and an oil distillation plant in neighboring Switzerland – start of the Liechtenstein association for the protection of the environment
  - 1985: Forest fire caused by Swiss military
  - 2000: Black list of FATF (OECD) regarding money laundering and tax evasion
  - –> 2009: "white-money-strategy" of Liechtenstein ("Liechtenstein declaration")
  - Today: Traffic problems, public transport, construction of roads etc. in Liechtenstein and the region
  - Today: Withholding tax of commuters from Switzerland – Not accepted by Switzerland (however 4% withholding tax for commuters from Austria)

Small States & Conflict Resolution – Historical Background

- Historical Background of major conflicts of Liechtenstein - Internal: Division of Power and other internal conflicts
    - 19th Century: Prince as main stakeholder
    - 1918-1921: Negotiations about a new constitution
    - 1921: Dualistic constitution with divided sovereignty – Prince and people
    - 1926-28: Political scandal about almost bankruptcy of public bank
    - 1927: Catastrophe of Rhine flooding
    - 1930s: National socialist movement and conflict between political parties, new election law (proportional instead of majoritarian law)
    - 1968-1984: Women's suffrage – introduced in 1984 after negative ballots in 1971 and 1973, - involvement of the Council of Europe
    - 1992: Crisis about timing of popular vote about accession to the European Economic Area (EEA) between government/parliament and the Prince
    - 1993: Dismissal of the head of government and new elections
    - 2003: Conflict about proposal of the Prince to amend the constitution, popular vote supports of the princely initiative – involvement of the Venice commission of the Council of Europe

Small States & Conflict Resolution – Historical Background

- Have issues relating to scale, limited resources, vulnerability and dependence on larger/allies/ 'kin' states featured in the conflicts and their resolution/management/transformation?
  - Dependence on goodwill of neighboring states and international organizations
  - Limited resources
  - Limited bargaining power

Small States & Conflict Resolution – Historical Background

- Does your country claim expertise, traditions or role in conflict resolution within or outside its' territory or contributing to peace-making and peace-keeping?
  - Rather passive and reacting
  - International solidarity concerning migration and refugees
  - 1970s: Participation in Conference on Security and Co-operation in Europe (CSCE)
  - 2016: UN resolution on the collection of evidence in Syria for future criminal trials, launched by Liechtenstein (Syria mechanism)

Small States & Conflict Resolution: Major current conflict & issues

- Main <u>current</u> issues of conflict in Liechtenstein
  - International, bilateral and regional (with neighbors)
    - >50% commuters to Liechtenstein (traffic, taxes)
    - Railway through Liechtenstein by Austrian Federal Railways (expansion, costs, international accessibility and connection to Liechtenstein)
    - Casino boom in Liechtenstein in last few years (low taxes in Liechtenstein, regional competition)
    - Level playing field for companies in the region (unbureaucratic access)
  - Internal conflicts and threats
    - Gender: women in parliament (2013: 20% -> 2017: 12%) and other bodies
    - Power of the Prince: popular vote on amendment of constitution in 2003 and on veto right in 2012
    - Catholic Church and State: Establishment of Archdiocese of Vaduz in 1997
    - Health Services: costs and fees, construction of a new hospital (ballot in November 2019)
    - Many others….

Small States & Conflict Resolution: Major current conflict & issues

- Political, institutional, cultural aspects of <u>conflict and resolution</u> of these conflicts
  - Political culture traditionally dominated by consensus/concordance mechanisms
  - Direct democratic procedures lead to widely accepted final decisions in conflict situations (referendum, popular initiative)
  - NGOs, political parties, civil society as moderators and communicators in conflicts
  - Numerous veto players in the political system (parliament als legislator; Prince with his right to sanction new law; popular votes after referendum or popular initiatives by collecting signatures of citizens; constitutional court)
  - Independence and rulings of constitutional court accepted – courts include judges from Switzerland and Austria

Small States & CR: Defining the nature and resolution of conflict

- How are the conflicts defined and by whom?
  - Internal
    - Political parties, citizens, NGOs, chambers and associations, prince, government, parliament, municipalities, media etc.
  - Regional and bilateral
    - Interest groups, the government, the administration etc. of Liechtenstein (depending on the problem to be addressed and to be solved)
    - The same in the neighboring countries, states (cantons) or municipalities
  - International
    - International organizations with obligations deriving from the membership in the UN, the Council of Europe, the European Economic Area etc.
    - International treaties, ratification of conventions etc. and the obligation to fulfill the tasks and to be controlled by monitoring Liechtenstein (UN – human rights; ICERD; UN Int. Covenant on Civil and Political Rights and on Economic and Cultural Rights; GRECO of the Council of Europe; Women's Rights; Rights of the Children etc. etc.)

Small States & CR: Defining the nature and resolution of conflict

- Actors involved? Have they changed over time?

  - Increasing role of international organisations
  - Increasing role of "soft law" (gray and black lists etc.)

  - Increasing role of non-governmental organisations
    - Interest groups, chambers, associations, human rights organisations etc.
    - Initiation of processes, lobbying, public communication, popular initiatives

Small States & CR: Defining the nature and resolution of conflict

- Differing views about the <u>nature</u> of the conflict(s) and their <u>resolution</u>?
  - Plurality of opinions of different stakeholders regarding different issues (political parties, committees, chambers etc. etc.)
  - Examples:
    - 1921 constitution: conflict between monarchy (Prince) and democracy as well as between two leading parties
    - 1930s: conflict about proportional election law: conflict between two leading parties
    - 1993: Dismissal of head of government: conflict between parliament and prince
    - 2003: amendment to constitution by princely initiative: conflict between Pros and Cons, conflict between parties, in parties, in families and society
    - 2012: same with popular initiative to reduce veto power of the Prince

Small States & CR: Defining the nature and resolution of conflict

- Debates and lessons regarding the potential for conflict resolution/management/transformation from Liechtenstein?
  - Direct democratic procedures (popular votes by referendum or popular initiative) help to cease a conflict, since the result of ballots are widely accepted
  - Directives and pressure from outside lead to internal solutions if the necessity and legitimacy of an external partner is recognized (e.g. Switzerland as an important bilateral partner; EU as an economic partner through European Economic Area; Council of Europe and U.N. to guarantee national sovereignty)
    - C.f. taxation, social standards, market liberalization, human rights etc.

Small States & Conflict Resolution – institutional mechanisms within your country

- Main state institutions/actors within Liechtenstein dealing with the CR, any non-institutionalized actors in CR (e.g. NGOs, private bodies etc), and brief description
  - Constitutional Court – 5 judges (secondary employment, including foreigners)
  - Ombudsman offices and advisory centers – for children and young people; for persons with disabilities; for foreigners and integration; for administrative complaints; private advisory institutions for women, for men, and several others
  - People in a ballot (referendum, popular initiative) may take a final decision about an issue of conflict

Small States & Conflict Resolution – Institutions/Agencies

- International institutional and arbitration mechanisms used by Liechtenstein for CR, e.g. UN, EU mechanisms, Council of Europe, International Courts
  - Council of Europe
    - European Convention on Human Rights/European Court of Human Rights (Strasbourg)
  - EU/EFTA/EEA
    - EFTA Court/European Court of Justice (Luxembourg)
    - EFTA Surveillance Authority (ESA) (Brussels)
- Other external institutional mechanisms and actors involved e.g. friendly or traditional allies or neutral power
  - Swiss courts may be relevant when it comes to customs treaty matters
  - The Swiss Press Council also handles complaints from Liechtenstein and regarding Liechtenstein publications (newspapers etc.)

Small States & CR – Bilateral & multilateral relations

- How do bilateral and multilateral relations affect the CR in Liechtenstein (e.g. relations with neighbouring countries or friendly foreign parties or others)?
  - Long tradition of reception and adaptation of laws from Austria (19th century) and Switzerland (20th century)
  - Partly dynamic adoption of EU law due to EEA Agreement, and incorporation into national law as the case may be
  - Partly automatic applicability or mandatory incorporation of Swiss law into national law due to customs treaty with Switzerland

  -> Discharge of the domestic political debate on controversial issues

Small States & CR – Bilateral & multilateral relations

- How does participation or relations or neutrality vis-à-vis multilateral and transnational organizations affect conflict resolution, management or transformation of conflict?
  - International pressure, obligations from international treaties or from bilateral agreements minimize internal political debates on laws and actions that have to be implemented due to such obligations or overwhelming pressure from outside
  - On the other hand, pressure from outside may be interpreted by populists as interference in internal affairs – but this is more done in letters to the editor in Liechtenstein newspapers than expressed by political parties

Small States & CR – Bilateral & multilateral relations

- Example
  - Liechtenstein as a centre of finance, banks, trustees, family foundations:
    - Increasing pressure on offshore centers after global economic crisis 2008
    - Liechtenstein criticized by OECD/FATF, Germany (whistleblower, bank and trustees data theft, scandals, imprisonment)
    - 2009: "white money" strategy of Liechtenstein announced ("Liechtenstein declaration")
    - Automatic information exchange, tax agreements etc. with numerous states
    - Financial market surveillance authority in Liechtenstein established
    - -> New strategy without relevant opposition after decades of banking secrecy and assistance to tax evasion etc.
  - Similar development after recommendations in monitoring reports (e.g. GRECO regarding transparency and corruption)

Small States & CR-
Societal beliefs & public opinion

- Public opinion in Liechtenstein about the conflicts and their resolution (success; orientations)
  - High acceptance of bilateral and international co-operation of Liechtenstein
  - High acceptance of consequences from international co-operation
  - Internal issues in parliament and in public communication controversial, independent from international background
- Influence of public opinion on understanding of the conflicts and the direction of their resolution
  - Public opinion generally of high relevance in a political system with strong direct democratic rights (referendum, popular initiative)
- How do issues relating to scale, limited resources, dependence on larger/ other 'keen' state and ownership/control of media outlets affect the CR in your country?
  - Two daily newspapers as leading media; minor role of radio and private TV station
  - Newspapers with strong relation to each of the two leading parties (both center oriented, conservative parties)
  - Bilateral and international co-operation not in question – customs treaty with Switzerland and membership in the European Economic Area strongly supported

Small States & CR: Challenges & Learning

- Main challenges for Liechtenstein in conflict resolution?
  - Aggressive political campaigns can divide society
  - Social cohesion can be jeopardized
- What is there to learn for CR for other contexts from Liechtenstein's role, knowhow and experience?
  - Direct democratic procedures are helpful in Liechtenstein to end ongoing debates on controversial issues and to create binding decisions which are broadly accepted
  - It is helpful for a small society to delegate decisions to international organizations or other states (e.g. Switzerland, EU/EEA) and to expose oneself to international treaties and its obligations in order to reduce internal dividing debates
  - It is helpful for a small society to strengthen nationally and internationally the rule of law.
    - Internally, far-reaching competences of the constitutional court and a combination of domestic and foreign judges increases the efficacy of rule of law
    - Externally, competences of international courts such as the European Court of Human Rights also raises the efficacy of the principle of rule of law

Small States & Conflict Resolution – Useful Links

- Liechtenstein Institute : research, comments, publications on Liechtenstein history, international relations, economics and law

- Historical encyclopedia : Online encyclopedia on Liechtenstein's history

- Office for Foreign Affairs : Priorities, Foreign Relations, Representations, Publications etc.

- Constitution : Online Commentary on Liechtenstein's constitution (ed.: Liechtenstein Institute)

- Law in force in Liechtenstein: National law and international treaties

- Popular votes: Direct democratic decisions in Liechtenstein since 2002

- Courts: Courts in Liechtenstein with link to court decisions

- EFTA and EEA : Information on EFTA, EFTA Court, free trade agreements and the EEA etc.

- EFTA-Studies: Information and debate on the EFTA countries incl. EEA, Brexit etc. (ed.: Liechtenstein Institute)

- Venice Commission of the Council of Europe – For democracy through law