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Balkans: Promotion of Power-Sharing by Outsiders

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Abstract

Power-Sharing has been a central feature of the post-conflict peace agreements and other externally imposed state reforms in former Yugoslavia. Despite pre-existing traditions, Power-Sharing has been imposed by third parties rather than having emerged as a domestic institutional solution to interethnic tension. As this paper will argue the external imposition in a number of cases has been insufficient to create sufficient momentum to consensus-building to render the system operational without continued external intervention. Furthermore, the degree to which groups hold control over alternative power-structures is essential in understanding the success or failure of Power-Sharing. In examining the record of varying forms of Power-Sharing in Bosnia and Herzegovina, Kosovo, Macedonia and Serbia and Montenegro, this paper will suggest that Power-Sharing generally lacks a feasible alternative of interethnic accommodation, but in its trajectory needs to develop a centripetal dynamic to persist.

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1. Introduction

Former Yugoslavia has been a fertile ground for experimentation with Power-Sharing since the mid-1990s. Proposals for varying forms of Power-Sharing have been made by international actors in numerous peace-plans and by domestic actors for nearly every country or region which emerged from Yugoslavia. The Power-Sharing arrangements which emerged in former Yugoslavia were established to accommodate competing self-determination claims and/or to provide non-dominant groups better and guaranteed access to governance. As such, these arrangements were all tools of conflict management, even if not all of them came about as a consequence of violent conflict. Today, Bosnia and Herzegovina (BiH), Kosovo and Macedonia are governed by varying forms of Power-Sharing. In addition, Serbia and Montenegro (SCG) briefly experimented with aspects of Power-Sharing before disintegrating in 2006 following Montenegro's referendum on independence. All experiments with Power-Sharing owe their origins to foreign imposition and have been relying on continued third party intervention for their survival. The Power-Sharing arrangements vary greatly in terms of the degree to which they provide for the inclusion of different ethnic groups to parliament and government and the measure of de-centralization. It would thus be misleading to characterize Power-Sharing in former Yugoslavia as uniformly following a single template. As I have argued elsewhere, the systems apply different forms of inclusion and cooperation.¹ This variation is a function of a) the nature of the conflict; b) the group power and demands

¹ Florian Bieber, "Power sharing after Yugoslavia. Functionality and Dysfunctionality of Power Sharing Institutions Post-war Bosnia, Macedonia and Kosovo," Sid Noel (ed.), *From Power Sharing to Democracy: Post-conflict Institutions in Ethnically Divided Societies* (Montreal and Kingston: McGill-Queens University Press, 2005), pp. 87-88.

at the point of the conclusion of the Power-Sharing arrangement and c) the proposals and approaches of international actors.

This paper will argue that Power-Sharing lacks viable and legitimate alternatives in most cases. As such, it will reject the arguments of some recent literature which have dismissed Power-Sharing outright.² Nevertheless, the performance of Power-Sharing systems in former Yugoslavia has been modest: Power-Sharing mostly continues to rely on strong external intervention and the political systems and countries remain profoundly contested. Some of the blame needs to be placed on badly designed systems, but not all the problems of post-conflict stability derive from Power-Sharing alone.

This paper will first discuss four core aspects which are often identified with the failure (or at least lack of success) of Power-Sharing regimes in former Yugoslavia:

The role of international actors in the establishment and implementation of the different Power-Sharing arrangements, the veto rights and decision-making mechanisms, and finally the forms of territorial autonomy and the thickness of the state. In conclusion, the paper will explore the underlying problem of a number of the Power-Sharing arrangement, namely the lack of consensus among the political elites from the different communities over the state and the institutional set-up. The discussion will thus seek to identify the difficulties which the countries of former Yugoslavia are still confronted with today and to what degree the experience with Power-Sharing has a broader significance for our understanding of accommodating diversity in post-conflict societies.

² Donald Rothchild and Philip G. Roeder, "Dilemmas of State-Building in Divided Societies," in Philip G. Roeder and Donald Rothchild (eds), *Sustainable Peace. Power and Democracy after Civil Wars* (Ithaca and London: Cornell University Press, 2005), 1-25.

2. The Role of International Actors

Despite relying on foreign imposition, Power-Sharing and interethnic accommodation have a domestic tradition in former Yugoslavia. Yugoslavia at large has experimented with a decentralized Federal system, albeit under an authoritarian framework. Furthermore, ethnic representation—known as the ethnic key—and group rights have been prominent in the Yugoslav system until its dissolution in 1991. This legacy has been both a source of accommodation and instability. In particular, territorial decentralization is often rejected by majorities as the dissolution of Yugoslavia appears to suggest the latent secessionist threat deriving from any form of territorial autonomy. The Power-Sharing arrangements established in BiH, Kosovo, Macedonia and SCG have all been the result of different forms of international intervention. The pattern of intervention has been varying.³ In the case of Kosovo, the first moderate Power-Sharing formula was established in 2001 by the Constitutional Framework imposed by the Special Representative of the UN Secretary General (SRSG) Hans Haekkerup. While some consultation with political actors in Kosovo took place, the institutions contained in the Constitutional Framework can be considered an outright imposition. The Dayton Peace Agreement (DPA) for BiH was also based on extensive external, in particular US, pressure. Consequently, the constitution contained in the DPA was written in English largely by US State Department lawyers. Still, the parties negotiating the peace settlement in Dayton, Ohio were part of the process and more profoundly involved than in just a consultative role. In fact the weak central institutions and extensive group

³ See my discussion on this matter in Florian Bieber, "Institutionalizing Ethnicity in former Yugoslavia: Domestic vs. Internationally Driven Processes of Institutional (Re-)Design," *Global Review of Ethnopolitics*, Vol. 2, No. 2 (2003), 3-16.

protection mechanisms reflect the involvement of the war-time parties. The Power-Sharing arrangement in SCG and Macedonia saw a considerably less forceful role of international actors. In Macedonia, the Ohrid Agreement was mediated by the EU and NATO in 2001 and a number of core principles of the Power-Sharing system were proposed by external actors. Nevertheless, the third party role was diminished by a) the pre-existing elements of Power-Sharing in the system of government, such as the grand coalition of Macedonian and Albanian parties (since 1991) and b) the fact that the Ohrid Agreement only outlined the principles for Power-Sharing whereas the details and legally binding provisions were passed by the Macedonian parliament subsequently.⁴ The State Union of Serbia and Montenegro was similarly established through the EU-mediated Belgrade Agreement in 2002, which set out the basic principles for the establishment of the new state. The details were subsequently negotiated by the two member states over a one year period, resulting in the formal establishment of SCG in 2003. Finally, the new constitution of Kosovo, replacing the 2001 Power-Sharing arrangement, was formally passed by the Kosovo parliament in April 2008. Although formally adopted by domestic institutions, international actors were heavily involved in the drafting of the document. Unlike all other Power-Sharing systems, the inclusion of the Serb community in the Kosovo institution was not negotiated with the community itself. The degree of imposition or mediation of international actors is important in assessing the legitimacy of the agreement to political elites and citizens. Imposed arrangements are more easily dismissed by parties and often do not reflect a commitment to either the system itself or the state at large that they govern.

⁴ In fact, the legal status of the Ohrid Framework Agreement remains controversial in Macedonia. Some actors, in particular from the majority, argue that it has no domestic legal standing and all its significance derives from the legal implementation in domestic law, whereas mostly Albanian parties argue for granting the agreement a legal binding status.

Of equally great significance for the functioning of the Power-Sharing system is the role of international actors *after* the establishment of the system itself. In both Kosovo and in BiH international actors are formally and informally deeply embedded in the Power-Sharing system. The Office of the High Representative (OHR) in BiH and the SRSG in Kosovo (and since 2008 the International Civilian Representative, ICR) have formal powers to impose and annul the decisions of local institutions. The problems arising from international officials overriding democratically elected institutions have been extensively discussed in particular for the case of BiH in terms of undermining democracy,⁵ democratization⁶ and undermining Power-Sharing.⁷ The patterns in which the power of imposition have been used vary greatly between BiH and Kosovo. In BiH most external intervention took place in the shape of OHR impositions, which were made to break a deadlock between the different communities, whereas in Kosovo, the SRSG frequently had to annul decisions, as the large Albanian majority in parliament took decisions beyond their mandate or in disregard of the Serb or other minority communities. In both cases, the external imposition has undermined the compromise-seeking processes of local actors and created incentives for confrontational political posturing as imposition could break deadlock. In addition to the formal powers, the international actors in the two countries have been informal arbiters and mediators—depending on the circumstances—between the different communities. In addition, BiH and to a lesser degree Kosovo, international actors have been integrated into domestic

⁵ See Venice Commission (European Commission for Democracy through Law), "Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative," CDL-AD (2005) 004, 11.3.2005. Available at: <http://venice.coe.int>

⁶ Gerhard Knaus, Felix Martin, *Travails of the European Raj*, Journal of Democracy - Volume 14, Number 3, July 2003, pp. 60-74

⁷ Florian Bieber, "After Dayton, Dayton? The Evolution of an Unpopular Peace," *Ethnopolitics*, Vol. 5, No. 1 (March 2006), pp. 15-31.

institutions. Of particular significance has been the often decisive vote of the three international members of the Constitutional Court (in addition to 2 Bosniak, 2 Croat and 2 Serb members) in BiH.

International actors have held a more subdued function in Macedonia. Whereas the military aspects of the peace agreement were monitored by NATO, the Ohrid Agreement established no comparable civilian authority. The roles of the OSCE and the EU Special Representative (EUSR) have been limited in the post-conflict period. The EUSR and key embassies have only informally been key mediators in conflicts over the implementation of the Ohrid Agreement. The lowest degree of external intervention took place in SCG. The implementation of the State Union was entirely left to the parties and external mediation occurred only occasionally and on an ad hoc basis. Tellingly, no EUSR for the State Union was appointed and the EU as the key mediator lacked a clear engagement with the parties. As the disintegration of SCG was a clear and legitimate (after 3 years) outcome, the efforts to render the joint state functional were considerably more restrained than in BiH and elsewhere. In fact the EU only re-engaged as a mediator to negotiate the terms of the state dissolution.

The strong role of international actors in BiH and Kosovo is a reflection of the provisional nature of the institutional arrangements in both countries. In Kosovo, the 2001 Constitutional Framework and the 2008 Constitution are clearly interim arrangements, both in terms of the sovereignty of Kosovo and the interethnic bargain or rather lack thereof between Kosovo Albanians and Serbs. Formally, the Dayton constitution appears to be a permanent settlement, but the strong nature of the international actors, in particular since the OHR's powers were enhanced at the Peace Implementation Council meeting in Bonn 1997, suggests a temporary nature to the current settlement. In fact,

the Dayton framework has changed significantly de-facto and de-jure as a result of a series of international interventions which have strengthened the state institutions to the detriment of the entities and which have also resulted in the establishment/broadening of Power-Sharing in the entities themselves. Since 2006 efforts to enshrine and broaden these changes in the institutional structure failed after a constitutional reform package was narrowly defeated in parliament and subsequent crisis in the Power-Sharing arrangement resulted in delays to the planned closure of the OHR.⁸

The core problem of international intervention in the Power-Sharing structure in BiH and to a lesser degree in Kosovo has been the ability of international actors to suspend the consensus-based principles of the institutional arrangement. Frequently, the intervention has been characterized not by mediation or arbitration, but by imposition against the will of at least one party. As a result, political elites of varying communities have argued that the community rights are not adequately protected by the institutional framework as international intervention and Power-Sharing system become conflated.⁹ The practice of consensus building and trust in the system to protect group interests has thus been frequently undermined.

3. Decision-Making and Power-Sharing

⁸ Sofia Sebastian, "Leaving Dayton Behind: Constitutional Reform in Bosnia and Herzegovina," FRIDE Working Paper, No. 46, November 2007.

⁹ See for example Letter of Republika Srpska prime minister, Milorad Dodik, to the European Parliament, 20 November 2007, in "Inside the Bosnian Crisis," *Journal of Intervention and State-Building*, Special Supplement, vol. 1, November 2007, pp. 68-70.

The formal institutions of Power-Sharing in BiH, Kosovo, Macedonia and SCG share varying degrees of consociationalism. As noted earlier and discussed below, the technicalities of the Power-Sharing systems of course vary significantly. Nevertheless, the systems can be all characterized as consociational arrangements rather than other forms of Power-Sharing (i.e. centripetal Power-Sharing). With different mechanisms in place, all four cases have and had the inclusion of all key groups in government guaranteed, provide for tools to prevent outvoting by the majority, establish forms of proportionality in the public administration and provide for some degree of autonomy. It is in the latter that one can identify the greatest degree of difference across the cases and will be discussed in the subsequent section, after having examined the other most contentious aspect of Power-Sharing, namely the decision-making mechanisms which prevent minority exclusion.

BiH has been struggling since the Dayton constitution with an extensive and destructive veto mechanism. Bosnian parliamentary procedure recognizes two forms of veto rights, the entity veto and the veto by constituent people. All laws thus require the support of at least one third of the MPs from each entity in both chambers of parliament (House of People and House of Representatives) and the support of a majority of all three constituent people in the upper chamber. This vital interest which can be invoked is not defined in the constitution, but if a majority of another delegation challenges the invocation of the vital interest clause, an ad hoc commission is formed and if it fails to resolve the matter, the Constitutional Court is responsible for deciding on the matter.¹⁰ As a result, the Constitutional Court has been developing jurisprudence on what constitutes a vital interest and has taken a restrictive line. In the Velimir Jukić case, the

¹⁰ Art. IV, Constitution of BiH

court found the law on establishing a public broadcasting system not to be destructive of the vital interests of the Croat community.¹¹ In BiH, it has often been the threat of the veto and its option, rather than its usage which has brought decision-making to a stand still.

Serbia and Montenegro had voting mechanisms similar to the entity veto in Bosnia and Herzegovina. Here, all decisions required majority support from both republics in addition to the overall majority.¹² As the Constitutional Charter requires majority support from all 126 deputies (91 from Serbia and 35 Montenegro), parliamentary sessions were often repeatedly cancelled as many MPs from Montenegro did not attend sessions. This blockage was not a direct veto to the decisions, mostly the ratification of international treaties, but a tool to render the already weak institutions even less effective.

In Macedonia, on the other hand, veto rights moderated by the introduction of the so-called 'double-majority', according to which parliamentary decisions in fields of particular relevance to the Albanian and other communities and in areas which are of broad significance (parts of the constitution, law on municipalities) require the consent of an overall majority of MPs and a majority among the MPs who are elected from minority communities.¹³ The voting principle, widely known as the Badinter majority, named after the French constitutional lawyers responsible for the proposed mechanisms in 2001, has been effective in securing Albanian and other minority consent to key legislation. The elections of 2006 and subsequent government formation highlight that this voting system also has had an impact on the work of government.

¹¹ Constitutional Court, U-10/05, 22.7.2005.

¹² Art. 23, Constitutional Charter of Serbia and Montenegro.

¹³ The parliamentary rules of procedure considers laws in the following fields to require a double majority "culture, use of language, education, personal documents and use of symbols." Art. 164, Rule of Procedure, Parliament of Macedonia.

The conservative VMRO-DPMNE (Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity) won the 2006 elections with a coalition of smaller parties (including parties representing Roma, Turks, Vlachs and Bosniaks) and decided to form the governing coalition with the second largest Albanian Party, the Democratic Party of Albanians (DPA), rather than the Democratic Union for Integration (DUI) which had received more votes in the elections. This triggered a parliamentary boycott by DUI which argued that it had the right as strongest Albanian party to join government.¹⁴ Including Albanian parties has been a practice, not a legal requirement in Macedonia and neither Macedonian experience nor elsewhere could the inclusion of the largest minority party been seen as a requirement for Power-Sharing more broadly. The impact of the decision, however, was that the government lacked a clear majority in parliament for decisions to be voted by double majority. Of the 36 (of 120) seats in parliament held by minority community representative, the DUI controlled 17. Laws and other decisions to be voted by double majority did thus not only require consent of the Albanian community for the DPA, but also from smaller communities.¹⁵ In addition to enhancing the power of smaller communities and having rendered governing more difficult, this constellation also sheds light on the tension in Macedonia between the bi-national structure of most interethnic tensions and the inclusion of further communities in the structure.

¹⁴ Natasha Gaber-Damjanovska, Aneta Jovevska, "Current Events and Political Parties, Development in the Republic of Macedonia," Institute for Sociological, Political and Juridical Research, Skopje, No. 16, June 2007.

¹⁵ In a controversial move, one MPs from the VMRO-DPMNE changed the declaration of her community belonging from Macedonian to Vlach after the first declaration in an effort to reduce the advantage of DUI. Izveštaj 2006, Sobranie RM, p. 22.

The constitution of Kosovo, passed in April 2008, draws heavily of the arrangements in Macedonia. Not only does it not foresee any meaningful territorial autonomy besides enhanced municipal powers, it also establishes similar voting mechanisms as in Macedonia. Thus laws effecting minority communities require majority consent from communities which hold reserved seats.¹⁶ Unlike in Macedonia, this provision is unlikely to be of much effect in Kosovo, as a transitional clause in the constitution sets forth that the relevant laws can 'initially' be adopted by a simple majority.¹⁷ This provision of course severely undermines the possibility of minorities to intervene in the establishment of the legal framework.

The different mechanisms to prevent majority outvoting and the other aspects of Power-Sharing impact the performance of the system in terms of the ability to compromise and effectively govern the country in question. I would argue, however, that the problems of veto mechanisms do not stand at the root of blocked and ineffective governance.

4. Autonomy and Power-Sharing

Power-Sharing per definition needs to work in tandem with other forms of interethnic accommodation. In particular autonomy, which is understood to form an integral part of Power-Sharing, can take many different forms: from cultural and non-territorial autonomy to a federal or confederal arrangement. The performance of Power-Sharing thus a large degree rests on the interrelationship with autonomy. The record of former Yugoslavia suggests that we need to examine the interaction with two aspects of

¹⁶ Art. 81, Constitution of Macedonia. The laws covered by the provision are those on municipalities, communities, the use of language, local elections, cultural heritage, religious freedom, education, and symbols.

¹⁷ Art.149, Constitution of Kosovo.

autonomy: a) the degree of territorial decentralization and b) the thickness of state institutions governed by Power-Sharing.

In terms of territorial decentralization, we can identify two regional patterns: BiH and SCG are/were both states with a great degree of territorial decentralization. The entities or member states have clearly defined borders, broad competences, powers to legislate and levy taxes, to determine their economic policy and governed by their own constitution. While in BiH the entities do not enjoy the right to self-determination, in the SCG the constitutional framework and both members states acknowledged the right of the constituent units to secede within three years of the country's formation. The other model of sub-state units is the considerably lower degree of decentralization employed in Macedonia and Kosovo. Both do not have an intermediate level of government between the central state and municipalities. This has meant that the state remains the sole and unchallenged (at least de jure) legislator. On the other hand it has also resulted in a greater empowerment of municipalities. In fact, debates and controversies in Kosovo and Macedonia over decentralization have been highly contentious and in Macedonia even resulted in a 2004 (failed) referendum initiated by nationalist Macedonian groups against the decentralization plans.

The municipal decentralization has been meaningful development in the evolution of Power-Sharing systems. Following on a regional pattern of centralization, this form of autonomy contains three core aspects: a) the effective decentralization of competences and financial resources to municipalities; b) the redrawing of municipal boundaries to create municipalities which accommodate to the needs of minority communities and c) establishing mechanism for minority inclusion at the municipal level. The advantage of municipal decentralization has been two-fold. First, it can alleviate majority fears of

secession and 'federalisation' of the country, which autonomy otherwise often evokes. Second, it can more effectively follow the population distribution than larger territorial autonomies can. Municipal decentralization is not without its problems, however. Lacking the power to legislate and being inherently less powerful than regional autonomies, they clearly remain subordinated to the central state. Some protection is secured in both Macedonia and Kosovo by preventing changes to the borders, competences, and funding of municipalities without consent of the minority community. As they not effectively allow for aggregation of minority interests, but rather fragment the political representation of the minority community into multiple constituencies, it is doubtful whether municipal decentralization can be considered a fully fledged form of autonomy. While alleviating fear of the majority from secession, it might also increase conflict and contestation at the centre, as groups do not necessarily enjoy autonomous areas of decision-making. In Macedonia, this has been indeed the case, as all key laws and decisions remain with the central state institutions. The high degree of de-facto partition of Kosovo and territorial fragmentation has meant that since 2001 and especially in 2008, the constitutional set up and reality have drifted apart.

The second aspect under discussion here is the *thickness of the state* or other levels of governance subject to a Power-Sharing arrangement. This is crucial for two reasons. If the scope and the strength of the state are limited, the blockages in the Power-Sharing system, such as vetoes and other means of delaying decisions, will have a lesser impact on *overall structure* of governance, as lower levels of government can continue functioning undisturbed. On the other hand, if the state has broad decision-making competences, Power-Sharing mechanisms can paralyse much of the political system. Thus in Macedonia and Kosovo, where below the state-level government only

municipalities exist, veto mechanisms are restricted to particular areas of decision-making. The problem of 'thin states' or states I call 'minimalist' are confronted with is that because of their limited scope, groups fail to invest in them and might be more likely to further undermine these.

BiH and SCG are examples of minimalist states. Such minimalist states are defined by being limited both in scope and strength of state functions. According to Francis Fukuyama state *strength* refers to the ability of states to enforce their policies. Here both formal and informal constraints need to be considered. The *scope* of the state on the other hand describes the 'ambition' of the state in terms of the fields in which engages.¹⁸ Minimalist states thus firmly fall into the category of weak states both in terms of strength and scope. Unlike failed states, however, minimalist states hold minimal functions and do not have the constitutional ambition to exercise broader functions or possess greater enforcement mechanisms. The constitutional frameworks of BiH and SCG thus institutionalized the stateness problem which they faced in the light of challenges from secessionist units. As the existence of the state as such was challenged prior to the agreements, a key feature is not only the governance of the state (e.g. Power-Sharing), or the territorial organization (e.g. confederation or federation), but the scope and strength of the state.

In terms of the scope of the state, both BiH and SCG have held limited competences, generally limited to foreign policy and basic human rights policies. SCG has held more competences in the field of defense (at least prior to the creation of the BiH army and

¹⁸ Francis Fukuyama, "The Imperative of State-Building," *Journal of Democracy*, Vol. 15, No. 2 (2004), pp. 21-22.

ministry to defense in 2004), while BiH has been able to establish a single currency. Neither state has had a unified economic space.

In terms of the strength of the state, both have also been limited. The ability to enforce their competences has been severely constrained. With no own tax raising abilities (in case of BiH until the introduction of the VAT in 2006), limited security structures a clear dominance of the sub-state entities, and a judicial system which as weak recourse mechanisms to the non-enforcement of decisions, the central state institutions have been often unable to enforce decisions. Furthermore, central state institutions in both states had weak decision making capacity, as the sub-state units possess the ability to paralyze state-level decision making. The parliament of the state union, for example, met only irregularly and was very passive, passing only 20 acts during a two-year period (2003-2005).¹⁹

A third dimension which might be added to the features of minimalist states under consideration here is their contested nature. Consequently, they lacked symbolic cohesion and identification. The very fact that BiH has no lyrics to its national anthem, whereas during the short life of the state union, Montenegro and Serbia could not agree on a national anthem (a medley of the two states anthems was under discussion), is evidence of the weak commitment to the state.

Just as with Federal arrangements, minimalist states can be centrifugal or centripetal. SCG is an example of a centrifugal minimalist state, where the limited competences gave rise to a level of compliance with the state institutions decisions that was lower than formally foreseen. BiH in the first post-war years displayed similar features, where the

¹⁹ European Commission, "Staff Working Document. Report on the preparedness of Serbia and Montenegro to negotiate a Stabilisation and Association Agreement with the European Union," SEC (2005) 478 final, Brussels, 12.4.2005, p. 6.

institutional reality of the state was weaker than the formal constitutional shape of the state. Since the late 1990s, the dynamics of institutional development in BiH has become increasingly centripetal. It is important to note that this process, however, has been externally driven and the crisis in Bosnian state building project since the failure of the constitutional reform 2006 suggests that the centripetal process is not based on the nature of the institutional set-up, but rather the consequence of externally imposed state building.

Kosovo and Macedonia have functioned very differently. With no intermediate layers of governance, as discussed, the competences of the state are very significant. This does not mean, however, that this formal power of the state translates into reality. In Kosovo in particular, it might be argued, the formal strength and scope of the state remains profoundly out of touch with the reality of quasi inexistent state institutions in most Serb populated areas.

5. Conclusion: Consensus Democracy without Consensus

Power-Sharing in BiH, Kosovo and SCG has been a response to competing self-determination claims. The conflicts were not over dominance within the state, but whether the state should exist at all. In BiH, the Dayton Peace Accords secured a weak commitment of the Bosnian Serb and Croat elite to the joint state. In Kosovo, the Serb community only participated briefly in the Power-Sharing institutions and only when they did not challenge the Serbian sovereignty over Kosovo. SCG only came about after the EU exerted intense pressure on Montenegro not to hold a referendum on independence in 2002. This differs from Macedonia, where the Albanian National Liberation Movement

(NLA), after a short flirt demands for self-determination, struggled for greater rights of Albanians in Macedonia, rather seeking secession altogether. The weak or inexistent commitment in the other cases of one or several actors to the political unit governed by Power-Sharing has severely undermined the functioning of Power-Sharing.

Kosovo has not seen any agreement between Serbia and Kosovo Albanians or between Kosovo and the Kosovo Serbs. All peace plans have been rejected by one side. As a result, all institutions and Power-Sharing arrangements have been direct imposition rather than imposed compromises or settlements. The first institutions of Power-Sharing were set up in the constitutional framework for Kosovo, which was imposed in 2001 by the UN SRSG Hans Haekkerup. Kosovo Serbs bought into the new institutions en masse in 2001 when the Serb coalition "Return" (Povratnik) gained a surprising 11.34% of the vote and the coalition secured 22 seats in parliament (12 gained through PR and 10 as additional reserved seats). As the institutions moved towards consolidating Kosovo statehood and as Serbia's stance on Kosovo hardened, Serb participation in the institution dwindled. The disengagement of Kosovo Serbs from the institution was partially caused by the lack of protection from being outvoted, despite some weak veto mechanisms, but more importantly due to the lack consensus between Albanians and Serbs in Kosovo over the status of Kosovo. Institutions of consensus building thus broke down in the absence of a minimal agreement on the larger status of the polity.

BiH could rest a somewhat stronger degree of commitment by the three communities as the Dayton Peace Accord was signed by all parties (even if not by Bosnian Serbs and Croats, but rather by their handlers in Croatia and Serbia) and committed the parties to a joint state. This commitment has been, however, limited and all communities perceive a degree of injustice in the post-conflict development of the state: Croats feel

disadvantaged for being a minority at the state and entity level; Bosniaks consider the recognition of the Republika Srpska as an entity of BiH unjust as it was created through ethnic cleansing and many Bosnian Serbs feel that the steady erosion of their entity has been not part of the originally agreed principle and letter of the DPA. The structure of post-war BiH has thus been a ceasefire, but not a compromise concluded at free will between the communities of BiH.

None of the Power-Sharing arrangements and the political units have been legitimized either by referendum. However, the legitimacy of the mediators and the confirmation of the agreement through election has helped in some cases, such as Macedonia, while it has undermined the agreement in BiH where nearly constantly one of the dominant parties has explicitly or implicitly rejected the agreement.

Consensus politics in a political system which lacks a basic consensus has brought about a number of challenges to Power-Sharing, which have effectively undermined the ability of the system to function autonomously.

First, 'spoilers' are encouraged as they can challenge incumbents for excessively buying into the system. Compromising with other communities can be interpreted not only as a giving up on the substance of the matter, but on supporting the respective political system. In BiH, there has been a constant outbidding within each community as the dominant party is pressured by international actors to compromise with other communities whereas the challenger can accuse the party to jeopardize the community by empowering the state or the other's entity. In Kosovo, when the moderate Serb List for Kosovo in 2004 decided to participate in elections, the more nationalist Serb parties boycotted the elections, and as turnout among Serbs was limited to a few thousand, the

moderate group did not take up its seats in the Kosovo parliament for the fear of being termed traitors.

Second, even if spoilers are co-opted or if no out-bidding takes place, decision-making is generally perceived not on the basis of the particular issue, but on whether or how it legitimizes the contested political unit. In 2007, for example, Bosniak ministers have repeatedly boycotted government sessions to prevent a decision which would allow the sale of a refinery in the RS. The resulting dead-lock in the institution was not based on vital interests, but because the sale and its (potential) commercial success would help legitimize the RS.

Third, the existence of a reserve power-base through a high degree of territorial autonomy allows parties to disengage from Power-Sharing institutions. The autonomy of the entities in BiH and the states in SCG meant that the deadlock and stalled decision-making does not necessarily hurt the parties in question, but might in fact be the purpose of blocking decisions.

In conclusion, the acceptance of the political settlement and the mechanism through which the settlement has been legitimized are crucial for its success. If the cost of disengaging from Power-Sharing institutions is low due to alternative power-basis and international intervention, and the joint institutional project lacks legitimacy, the risk of Power-Sharing is very high. Although all four Power-Sharing systems discussed here retain the problems, Macedonia has been the most successful in building a legitimate institutional arrangement which has avoided break down or the opting out by an entire community. In BiH and Kosovo the Power-Sharing arrangements are largely viewed as an interim solution, which will yield to some more permanent settlement. The visions of

this post Power-Sharing system among the parties are diametrically opposed and often reduce the incentives to render the existing institutional set-up effective.