WHAT EXPLAINS VARIATION IN MINORITY EMPOWERMENT? POWER-SHARING AND AUTONOMY RIGHTS IN POST-COMMUNIST COUNTRIES

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Abstract
While the conditions under which states introduce power-sharing and autonomy rights for minorities are well researched, the reasons why they do so to varying degrees are less known. This article introduces the argument that the level of certainty about a country's future democratic development explains variation in the extent of minority rights across states. Ethnic groups assess the chance for successful democratic transition and, if they are optimistic about the prospects, they are satisfied with limited minority governing rights. In contrast, groups that are uncertain about their future position in power relations and that fear an autocratic backlash, request extensive power-sharing and autonomy rights. Democratic prospects and the extend of minority governing rights are, thus, negatively correlated. This theoretical proposition finds support in the analysis of seven former Yugoslav countries, which shows that states with more pessimistic democratic prospects at independence, introduced more extensive minority governing rights afterwards. This innovative argument contributes to the literature focusing on the preferences of a country's elites by highlighting the role of citizens' interests.

Key words: democratisation, power-sharing rights, autonomy rights, post-Yugoslav states, post-communist states.

Introduction

Scholarly work provides solid explanations for the spread of minority rights in countries worldwide. Requirements of regional and international players such as the European Union (Bieber, 2011, 2013; Kelley, 2004; Ram, 2003; Schimmelfennig and Sedelmeier, 2005; Vermeersch, 2003) and the United Nations (Simonsen 2016), a history of (ethnic) civil war (Apostolov, 2001; Wolff, 2009) and democratisation (Gurr, 2002) drive the introduction of power-sharing and autonomy rights. The nature and extent of the political rights granted to ethnic minorities by law vary considerably by country and even for groups within countries. For instance, in Slovenia, only the autochthonous minorities, Italians and Hungarians, enjoy power-sharing and autonomy rights, while the Roma, in addition to Croats, Bosniaks, and many other groups, are mostly excluded from the political sphere (Petricusic, 2004). In contrast, Bosnia and Herzegovina introduced one of the most extensive sets of legislation protecting minority rights in the world. It guarantees the participation of the country's three major ethnic groups, but also all other ethnic minorities living within its boundaries. So far, the literature engaging with ethnic minorities falls short of any explanations for these differences This article aims to answer the question as to what explains variation in minority empowerment.

The present article introduces the argument that the level of certainty or uncertainty about a country's future democratic development influences the design of power-sharing and autonomy rights. After the breakdown of an autocratic regime, citizens, ethnic groups, and elites form expectations about the likelihood of successful democratic transition. If all actors are confident that the transition to democracy will succeed, minority ethnic group leaders feel little need to request clearly regulated power relations. If, however, stagnation or setbacks on the path to democracy are likely to occur, they may demand more extensive power-sharing and autonomy rights to ensure their participation in future policy making. In consequence, higher levels of uncertainty about democratic development should lead to more extensive minority governing rights. Democratization hence increases the likelihood for the introduction of minority rights; the extent of these rights is, however, driven by the chances of democratization to succeed, with negative democratic prospects leading to stronger power-sharing and autonomy rights.

This argument is put under empirical scrutiny through an analysis of minority governing rights in the seven Post-Yugoslav countries. The case selection is based on a most similar system design: All countries under study are European Union members or aspire membership, they recently experienced an interethnic war and democratization. Despite these similarities in the most important factors explaining the introduction of minority rights, considerable variation of power-sharing and autonomy rights between the countries remains and requires explanation. To compare the very diverse minority governing

rights across these countries, the authors develop two indices that measure the extent of power-sharing and autonomy rights. The evidence indicates that countries like Slovenia and Serbia, which experienced democratic progress after the breakdown of Yugoslavia, introduced only limited power-sharing and autonomy rights later on. By contrast, those countries for which autocratic backlashes were foreseeable or likely at the time of their independence, such as Kosovo or Bosnia and Herzegovina, granted extensive rights to minorities and other ethnic groups in their new constitution. These findings corroborate our argument that, in a context in which a country's successful democratic transition is likely, fewer power-sharing and autonomy rights tend to be implemented. This study thus paves the way to a new line of research, aiming to explain variation in the extent of minority empowerment rather than the mere introduction of such regulations.

Explaining the introduction of minority governing rights around the world

The purpose of power-sharing and autonomy rights is to moderate and appease conflict between ethnic groups. Power-sharing institutions ensure the participation of all groups during policy-making and guarantee inclusion. Autonomy rights, in turn, offer opportunities for ethnic groups' self-government by transferring political power to regional or group-specific agencies (Renner, 1918; Vorrath *et al.*, 2007). Both, power-sharing and autonomy rights represent a special type of minority right focused on granting minority groups access to the policy-making and implementation process. In the remainder of this article, these rights are referred to as governing rights for minorities.

Two strands of literature explain the introduction of governing rights for minorities. The first set of scholarly work focuses on external factors and highlights in particular the membership requirements of regional and international players such as the European Union and the United Nations. Scholars of Europeanisation investigate the impact of European Union conditionality and socialisation mechanisms on human rights in general and on minority rights in particular. While several authors find a positive effect of EU conditionality (Kelley, 2004; Ram, 2003; Schimmelfennig and Sedelmeier, 2005; Smith, 2003), Vermeersch (2003) and Bieber (2011) challenge the existence of such a link. These ambiguous findings might follow from the conditioning impact of country-specific factors on external variables (Csergo, 2007). In a similar manner, the international community might exert pressure on new democracies, in particular after the outbreak of interethnic conflict, to guarantee the inclusion of ethnic groups (Ghai, 2000; Simonsen, 2016).

Moreover, international norms may motivate countries to introduce minority governing rights (Kymlicka, 2007).

A second set of contributions studies the impact of internal factors on the introduction of minority rights. Democratization seems to be a major driver for minority protection (in particular in context of a history of ethnic civil wars), even though the direction of the relationship has been questioned. Gurr (2002) argues that democratisation leads to reduced discrimination against minority ethnic groups in multicultural countries due to the institutional and cultural features of democracies. He assumes that democratisation improves the capacity of minority groups to articulate their demands for participation and representation through institutionalized channels. Furthermore, these demands are likely to be acknowledged by the new democratic elites, since they value and promote equal representation. Gellman (2017) argues that democratization positively impacts the introduction of minority rights because ethnic minorities instrumentalize a states' history of violence to create a feeling of shame in the majority population during the process of democratization and force them to priorities their cultural agenda such as the right to mother tongue education.

This argument is opposed by those who claim that democratisation leads to interethnic violence and the repression of ethnic minorities (Pfaff-Czarnecka, 2005; Suberu, 1996). Through the emergence of ethnically exclusive parties that discriminate against other groups , ethnic divides might deepen (Bunce, 2005; Horowitz, 1985; Lynch and Anderson, 2013), so that the introduction of minority rights becomes less likely. Furthermore, dominant majorities may be tempted to use the tools provided by democratic procedures to enforce their privileges, as the cases of "ethnic democracies" suggests (Haklai, 2013). Evidence for the evaluation of these two arguments on empirical grounds is thus far inconclusive; democratisation can, but does not necessarily, lead to the accommodation of minority claims (Bertrand and Haklai, 2013)

Two explanations as to why the introduction of democratic institutions allows for greater accommodation of ethnic groups in some instances but not in others persist. Firstly, state institutions and institutional legacies constitute important intervening variables. Democratisation might have a negative impact on the introduction of minority rights if discriminating institutions are inherited from the pre-democratic period. In these cases, democratic structures help dominant majorities to reinforce rather than to offset their power (Haklai, 2013). However, even if formal ownership of the state is renegotiated during democratic transition, the lasting presence of weak state institutions is problematic. A multi-ethnic, newly democratic state needs strong institutions to contain cycles of ethnic violence triggered by ethnic parties seeking higher vote shares (Lynch and Anderson, 2013). Secondly, the type of elites gaining the upper hand in the transition process, as well as their preferences, may be a decisive factor in the introduction of minority rights. Elites who seek to

consolidate their power during regime change might appeal to ethnic identities to mobilise support. This can lead to voting behaviour along ethnic lines in the short term and to minority repression and conflict in the long term (Snyder, 2000). According to Laliberté (2013), a compromise made by the elites that is firmly consolidated prior to democratisation is one way to avoid this scenario. Peterson (2006) argues that elites may also perceive interethnic collaboration to be more beneficial than conflict.

While this literature provides valuable insights into the general trends, revealing triggers for minority protection, it fails to explain variation in the extent of minority rights, because it understands them as a binary concept that is either present or absent. What remains unclear is why some countries introduce more extensive minority rights than others. The subsequent section clarifies under which conditions, firstly, strong claims for minority inclusion emerge and cannot be settled with symbolic measures and, secondly, are likely to succeed.

Explaining the extent of minority governing rights through prospects of democratisation

The concept of democratic transition first appeared in the context of studies investigating democratisation processes in Latin America and southern Europe. It is based on the idea that different phases can be distinguished within a single democratisation process. "Democratic transition" refers to the very first phase of democratisation, which includes the initial change from an authoritarian to a democratic structure (Merkel, 2009, 66). By contrast, democratic consolidation describes the process of securing the democratic consent in the long term and persistently preventing authoritarian regression (Schedler, 1998, 91).

We argue that the prospects for democratic transition affect the quality of power-sharing and autonomy rights. If minorities can be relatively certain that their country will change from an authoritarian to a democratic form of government, they have little reason to push for strong special governing rights. In turn, minorities in ethnically divided societies, who fear permanent exclusion due to autocratic backlash, are likely to demand extensive rights.

Minorities generally have a better standing in democratic rather than autocratic regimes and should support democratisation, except in instances where autocratic systems are dominated by a minority group, such as in South Africa (1948-1994) or Syria (1966-2011). The breakdown of an autocratic government opens a window of opportunity for change in political institutions (Gazibo, 2005). In such a situation, citizens and reform-minded political elites express their dissatisfaction with the old regime and exert pressure for

institutional change (Norris, 2011, 539). Ethnic groups are likely to demand democratic institutions, as they enhance the inclusion of all societal groups into deliberative processes and maximise the likelihood that the decision-making process takes all groups (including their own) in a fair manner. Even though small minorities have a hard time developing voting power in majority systems, their situation would still improve compared to the autocratic system as their voices can be heard and they have the option to compete with other parties for political support (Mansbridge, 1999, 629). Overall, optimistic prospects of democratisation reduce the fear of ethnic groups to be permanently excluded from policy-making. Under such conditions, the importance of minority governing rights for ethnic minorities decreases.

Minorities will assess the existence of democratic and nationalist movements as signals for the likelihood of democratic transition (Pate, 2010). Bunce argues that in post-communist states large mass protests for regime change, which take place before the first free elections, increase the chances for successful democratisation. Mass protests by civil actors provide information about the interests of large segments of society. If a significant portion of the population demands democratisation, the chances that the first free elections will actually take place and that opposition movements succeed are high (Bunce, 2003). Once free elections are held, the clear-cut electoral success of opposition movements indicates the future success of democratisation to members of minority ethnic groups. In contrast, the existence of nationalist movements before the breakdown of the autocratic regime sends the opposite signals. They symbolise the solidification of minority and majority cleavages and threaten minorities' participation in policy-making.

Following this rationale, ethnic groups should feel optimistic about their participation in deliberative processes under two conditions: if they perceive the majority of citizens to be supporters of democratic transition and if they experience a successful changeover of the political elite. Even if an ethnic group does not come to participate in government after the first democratic elections, when the conditions above are met, they can be optimistic about future participation in government and do not have to fear permanent exclusion. Under these conditions, even though nationalist movements may emerge during or after the democratisation process, the mobilising force of ethnic cleavages remains weak (Reynal-Querol, 2002).

If successful democratisation is unlikely or uncertain, ethnic groups worry about their prospects of political influence and voice requests for extensive power-sharing and autonomy rights. Under such circumstances, minorities are less certain that other actors will support the new democratic institutions in the long run, leading to concerns about autocratic relapse and exclusion. Furthermore, ethnic groups doubt that governing parties withdraw from office if they lose elections and fear permanent exclusion. This

strengthens ethnic cleavages, since ethnic identities become more salient in times of insecurity (Taylor, 1993). Citizens' interests are thus shaped by their group identity, but they cannot be certain that their group's interests will be represented in the future. For this reason, they use the window of opportunity during the breakdown of the autocratic government to request greater power-sharing and autonomy rights. As shown by literature on group mobilisation, collective fears of autocratic backlashes only drive policy outputs if they are translated into specific political interests by group leaders and political entrepreneurs (Gurr, 1993, 167).[1]

At the same time, majority actors face incentives to meet requests for minority governing rights, regardless of the country's democratic prospects. A regime transition represents a time of great insecurity for all political actors, including those in power. In such times, the primary preoccupation of ruling elites is to secure the survival of the political system in which they exercise power (Burton *et al.*, 1992). In established non-democratic regimes, ruling elites may force dissident social groups (including minority groups) to co-opt and disregard the legitimacy of the system (Gerschewski, 2013). In new regimes, to the contrary, ruling elites are unaware of future power constellations and have no incentive to weaken their power base by displeasing other ethnic groups right from the start. Rather, ruling elites will attempt to secure the legitimacy of the system and their political hegemony by making concessions to minority groups (Zuber, 2011). Demands by minorities for inclusive institutions are hence likely to translate into actual policy decisions during regime change.

As a result, the prospects for successful democratisation constitute a key variable in explaining why states introduce governing rights for minorities. Countries with hopeful democratic prospects should be less likely to introduce more extensive power-sharing and autonomy rights than countries whose citizens fear autocratic backlashes. The remainder of this article explores this theoretical expectation empirically.

Research design

A qualitative analysis of the seven post-Yugoslav countries after secession, drawing on the method of "concomitant variation" developed by Mill (1904, 470) allows testing the empirical implications of this argument.[2]

[1]Brown (1996) already argued that socio-psychological factors such as perceived exclusion and discrimination might lead to the outbreak of interethnic conflict.

[2]Croatia, North Macedonia, Slovenia (all proclaimed independence in 1991), Bosnia and Herzegovina (1992), Montenegro (2006), Kosovo (2008), and Serbia (remained as an official successor state of Yugoslavia, listed as an independent

Studying a small number of cases ensures that important contextual factors remain constant. As the observed countries seceded from the same predecessor country, they are the most similar in terms of historical context, political culture, and previous political institutions. Firstly, all countries are familiar with power-sharing and autonomy arrangements from communist Yugoslavia (Shoup, 1963). This provides elites and citizens with basic knowledge about the design and functioning of such institutions. Second, all societies experienced interethnic conflict during the breakdown of Yugoslavia, either directly in their territory or indirectly through the participation of ethnic groups in conflicts in neighbouring countries (Bideleux and Jeffries, 1998). Despite these important similarities, the seven countries opted for very different governing rights for minorities after achieving independence from Yugoslavia.[3] This case selection allows exploring explanations for variation in minority governing rights, while keeping many confounding factors constant.

Extensive information on the data set, operationalization, coding, and aggregation rules are available in an online appendix. The subsequent section presents only the most important aspects of case selection, measurement and method.

Measuring power-sharing and autonomy rights

The biggest challenge for this empirical analysis is how to operationalise power-sharing and autonomy rights in a manner comparable across countries. Existing research offers several methods to measure these rights (Hartzell and Hoddie, 2003; Wimmer *et al.*, 2009), but neither of them captures the complexity of the actual institutions, given that every law is unique (Salat et al., 2014). The existing measurements fail to appropriately identify variation in post-Yugoslav countries, where governing rights for minorities are granted in various policy fields, branches, and levels of government, and with a varying degree of power transfer in each case.

Our operationalization of minority governing rights builds on the work of Renner (1918). He distinguishes between two crucially different types of group rights, which vary according to the division of power between state and communities: self-determination and co-determination. Self-determination describes the ability of a community to make its own policies and covers all

state since 2006) are included in this study. For reasons of simplicity, we use the term 'North Macedonia'" for the Former Yugoslav Republic of Macedonia before the country changed its name as well.

[3]With the term "minorities", we refer to the groups that are numerically inferior in the new nation states after the secession from Yugoslavia (Jackson-Preece, 1998, 19).

types of *autonomy rights*. Co-determination describes the ability of a community to influence policy-making at the state level in cooperation with other communities, which covers all *power-sharing rights* (Renner, 1918, 68). The "scope" and "leverage" of these rights further distinguish different types of power-sharing and autonomy rights.

The *scope* of rights refers to the competences attributed to the autonomous institutions or power-sharing bodies. In the case of autonomy rights, the competences translate into five different policy fields in which ethnic groups can make autonomous decisions (military, jurisdiction, representation, culture, and economy/social affairs) (Renner, 1918, 137–41). For power-sharing rights, the scope is determined by the powers ethnic groups enjoy within the three state authorities (executive, legislative, and judicative (Renner, 1918, 239) on three different policy-making levels (local, national and, in federal countries, regional (Renner, 1918, 163, 248).

The *leverage* of ethnic groups to influence policy decisions in these domains of competences also varies. In the context of autonomy rights, ethnic groups who have low leverage are only allowed to make decisions for people residing within a specific territory ("territorial rights"). Those who can make decisions for all group members residing in the country ("personal rights") have medium leverage. And, finally, those who enjoy a mixture of territorial and personal rights have high leverage. In the case of power-sharing rights, ethnic groups who have low leverage are equipped with advisory rights (in decision-making bodies). Those who have medium leverage have presence rights (in the administration, police, or military) or voting rights, while those with a high leverage may have veto rights in decision-making bodies.

Two measures allow to systematically compare the general design possibilities for power-sharing and autonomy rights: the power-sharing rights index and the autonomy rights index. These indicators attribute one point for every element pertaining to the scope of rights that a country grants to minorities and then weight these points respectively by one (low leverage), two (medium leverage), or three points (high leverage) for the set of rights with the highest leverage for every category within the 'scope' dimension. For instance, if a state grants advisory and voting power-sharing rights in the national government, the measure takes only the voting rights in to account, as they have greater leverage than advisory rights. Following this innovative strategy, the authors constructed two multiplicative indices, one for autonomy rights and one for power-sharing rights.

Even though different ethnic groups – large or very small, historically settled or new migrants – received different rights in every country, the purpose for the sake of this articles is measuring power-sharing and autonomy rights at state level. For this reason, various types of groups are measured separately. The data thus reveals both, inter- as well as intra-state variation, in the

dependent variable. While this study does not intend to explain intra-state differences, including nuanced information for each country shows a realistic picture of the extent of governing rights for minorities. To identify the relevant groups, the authors proceeded inductively, assessing how the countries themselves define the groups entitled to minority governing rights. Countries that excluded one or more groups from power-sharing and autonomy arrangements entirely received the lowest score of "0" on both indices.[4]

Measuring prospects of democratic transition

The key explanatory variable of this article is citizens' assessment of the democratic transition. Micro-level data on this variable is not available due to a lack of survey data for many post-Yugoslav countries in the 1990s. For this reason, the analysis relies on macro-level data about the level and progress of democracy as a proxy variable.

Of the many established datasets on democratisation and democracy (e.g. Vanhanen's Index of Democracy, 2000; Gasiorowski's Political Regime Database, 2007; Polity IV data set, 2010), only the Freedom House Index (FHI) provides time series data for all post-Yugoslav countries. It considers the average value of civil liberties and political rights based on 25 indicators for "the real-world rights and freedoms enjoyed by individuals, rather than governments or governments performance per se" (Freedom House, 2015). Accordingly, the measurement draws by definition on individuals' experiences with democracy, which makes the FHI particularly suitable for the purpose of the present analysis.

A categorical variable measure both the level of democracy at the time of independence and the change in the level of democracy compared to communist Yugoslavia.[5] To that end, the categories summarize the FHI score of each country in its first year of independence: democratic (FHI of 2.5 or lower: Slovenia and Serbia), neutral (FHI between 3 and 4: Croatia, North Macedonia, and Montenegro), and non-democratic (FHI of 4.5 and higher: Kosovo and Bosnia Herzegovina). These cut-off points create equally sized groups. As Yugoslavia had an FHI of 4.5 in 1990, the countries categorized as non-democratic are also the ones that experienced autocratic backlashes after the breakdown of Yugoslavia. In contrast, the countries coded as neutral

[4]We identify excluded groups as ethnic groups that are listed in the World Directory of Minorities and Indigenous People as disadvantaged minorities but who are not considered in the national legislation Minority Rights Group International (2013).

[5]Since Serbia never declared independence, the FHI refers to the year the country was first declared the official successor of Yugoslavia (2006).

experienced only slight improvement in the level of democracy after the breakdown of Yugoslavia, while those listed as democratic experienced a strong process of democratisation. This combination of actually experienced recent changes and the extend of democratic rights appears to be a good measure for citizens' democratic prospects.

Measuring the strength of civil war, international interventions, the involvement of the European Union, and economic state capacity

To check the robustness of the effect of the explanatory variable, the analysis takes a broad set of variables into account which might render the link between democratisation and governing rights for minorities spurious. The authors focus on third variables that may influence both the dependent and independent variables in the same direction and, thereby, make it appear as if there is a relationship between them.

It is a common assumption that minority governing rights are introduced to mitigate civil wars. Even though it is safe to say that all cases under investigation in this analysis experienced some type of violent conflict during the dissolution of Yugoslavia, the analysis considers the level of violence during each civil war. The conflicts following the breakdown of Yugoslavia were often complex, involved various conflict state and non-state actors and different forms of violence. For the purpose of this paper it was nonetheless essential to grasp the level of violence in a single indicator**.** This article, therefore, follows a new conceptualisation by Štiks and Tiks (2015), who differentiate between "rather limited", "medium", and "extensive" violence for the post-Yugoslav countries.

Multidimensional international interventions in the region as identified by Fortna (2004, 270) constitute another control variable. These interventions, conducted by the NATO, the United Nations and the European Union, are international peacekeeping missions which − compared to traditional peacekeeping and peace-enforcement missions − include strong civilian-oriented components, such as the monitoring of elections and human rights or police training (Fortna, 2004). Our proposition is that this type of foreign involvement is most likely to have an impact on national policymaking processes, as it allows for the transfer of norms, including democratic and minority inclusion norms (Finnemore and Sikkink, 1998). Additionally, the international community may be involved more or less intensively in peace-treaty negotiations, the signing of which marks the end of a certain conflict. Often these treaties pave the way for the post-war reconstruction process and represent an opportunity for the international community to shape national policy outputs. Therefore, the involvement of the international community in the peace-treaty negotiations constitutes another control variable.

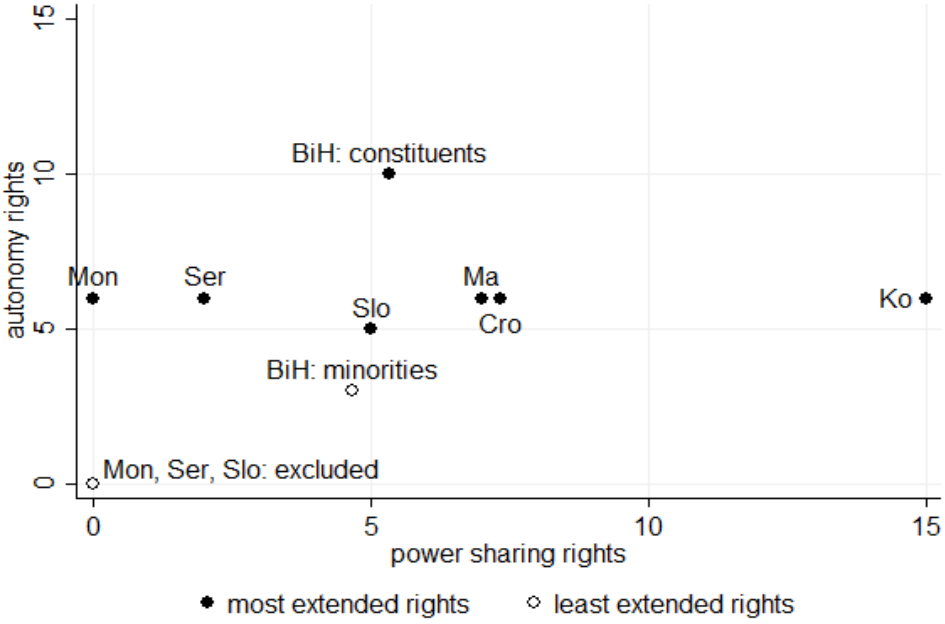
Moreover, the analysis considers the relevance of the European Union and its conditionality policy, since it should transfer similar democratic norms. The analysis disentangles whether, firstly, a country applied for membership and, secondly, it received official candidate status before 2014, a status which enhances the likelihood of democratic norms transfer (European Commission, 2014). Lastly, since a higher level of economic development may increase a state's capacity to realise governing rights for minorities (even though the literature does not advance such an argument), the economic state capacity is taken into consideration by discussing the state's GDP per capita at the year of independence (World Bank, 2015).

Based on this data, the subsequent analysis studies the co-variation between the ordinal measure of the level of democracy and each country's score on the power-sharing and autonomy rights index. In this manner, the empirics reveal a clear link between the level of power-sharing and autonomy rights index scores and the prospects of democratisation. Afterwards, the article discusses the role of the control variables in detail.

Democratic prospects and governing rights for minorities in the post-Yugoslav countries

Figure 1 shows the minority governing rights in the Yugoslav successor states. If the minority governing rights granted by a state vary between different groups on its territory, the figure displays values for the group with the most extensive rights ("most extended rights") and the group with the least extensive rights ("least extended rights"). All states tend to grant the most extensive rights to large or autochthonous minorities (i.e. the constituent groups in Bosnia and Herzegovina, Serbs in Kosovo or Hungarians and Italians in Slovenia are privileged over other minority groups). Nevertheless, considerable variation between the countries exists.

***Figure 1**: Scores of post-Yugoslav states on the power-sharing rights and autonomy rights index*

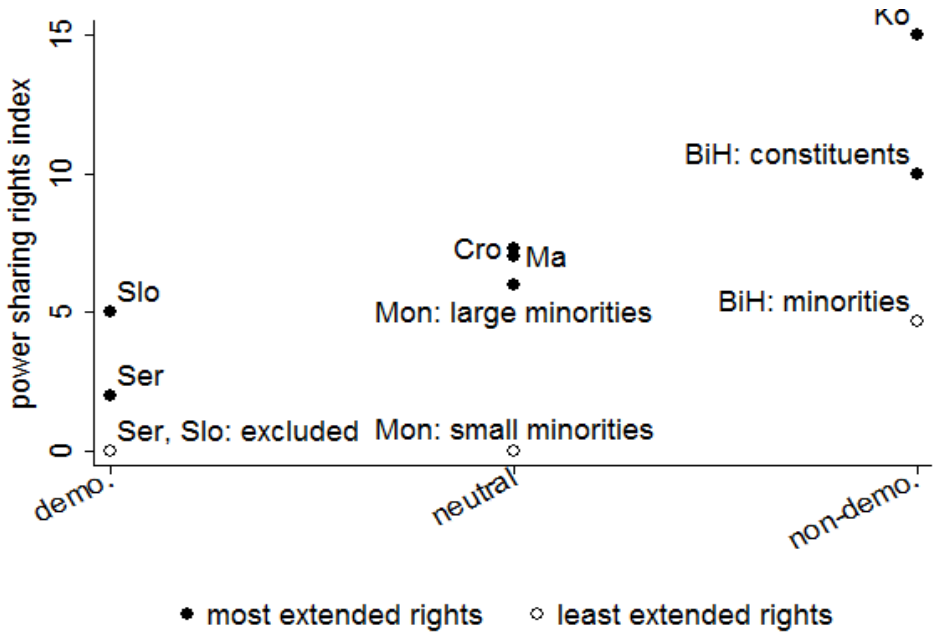


Notes: The scatter plots display the relative position of every state according to the extent of autonomy rights and power-sharing rights granted to ethnic groups. The abbreviations have the following meaning: BiH: Bosnia and Herzegovina; Cro: Croatia; Ko: Kosovo; Ma: North Macedonia; Mo: Montenegro; Ser: Serbia; Slo: Slovenia.

Figure 2 displays the relationship between the power-sharing rights index and the level of democratisation. When focusing solely on the groups with the most extensive rights, a strong correlation between a higher level of democratisation at independence and the introduction of weak power-sharing rights afterwards becomes visible. Slovenia and Serbia, which show a low power-sharing rights index, had the highest level of democratisation at the point of independence. In Slovenia, the democratic movement was already strong before the country's independence from Yugoslavia, pushing for the first democratic elections in 1990. In 1991, the opposition leader became president and a new constitution was introduced shortly afterwards. In the case of Serbia, the struggle for a democratic future took longer, as it began with the handing over of former president Milosevic to the international criminal court in 2002, when the country was still a part of Yugoslavia (together with Montenegro and

Kosovo).[6] While the predecessor state had spent six years attempting to introduce a new constitution, after Montenegro's secession in 2006, Serbia quickly moved towards democratisation. Clearly post-Yugoslavian countries that show strong democratic development tend to grant the fewest power-sharing rights to their ethnic minorities, even to the large and autochthonous groups.

Figure 2: *Scatter plots of the power-sharing rights index and democratisation in post-Yugoslav states*



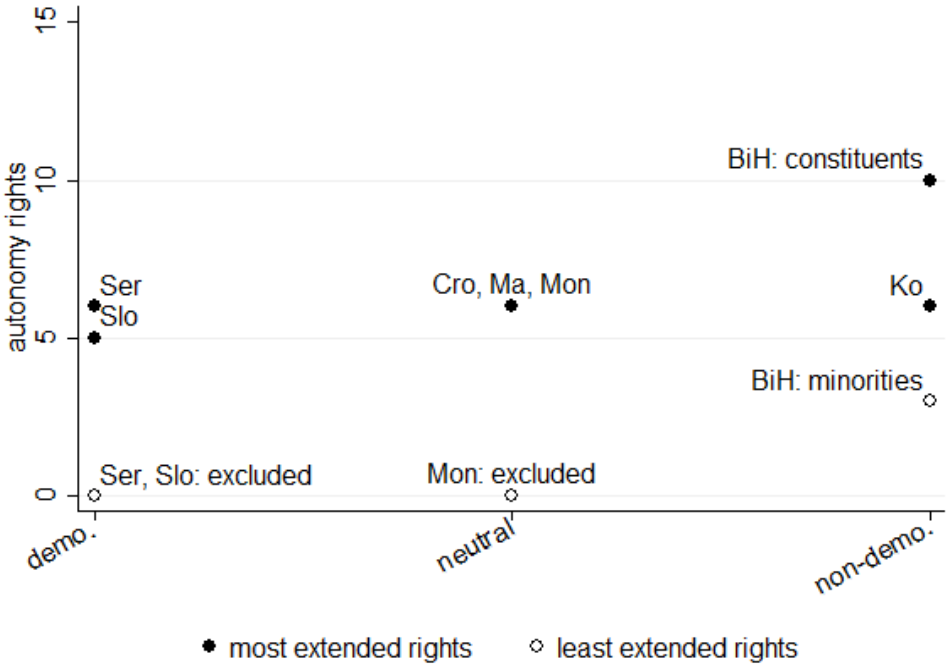
Notes: The scatter plots display the relative position of every state according to the extent of the power-sharing rights granted to ethnic groups and to the level of democratisation at independence (based on the Freedom House Index). The abbreviations have the following meaning: BiH: Bosnia and Herzegovina; Cro: Croatia; Ko: Kosovo; Ma: North Macedonia; Mo: Montenegro; Ser: Serbia; Slo: Slovenia.

The countries that are categorized as neutral in terms of the level of democracy at the point of independence and the change in the level of

[6] For more details on why Albanians are not listed as a minority group here, see case specific notes in the Appendix

democracy compared to communist Yugoslavia (North Macedonia, Croatia, and Montenegro) chose mostly medium-scale power-sharing arrangements. For instance, North Macedonia, which was long spared from ethnic violence and said to be an example for successful democratisation, introduced power-sharing elements to its majoritarian system after the outbreak of interethnic unrests in the early 2000s (Čekic, 2014, Maleska, 2005). In the light of some risk of democratic backlash, the states opted for some level of minority protection.

Figure 3: *Scatter plots of the autonomy rights index and democratisation in post-Yugoslav states*



Notes: The scatter plots display the relative position of every state according to the extent of the autonomy rights granted to ethnic groups and to the level of democratisation at independence (based on the Freedom House Index). The abbreviations have the following meaning: BiH: Bosnia and Herzegovina; Cro: Croatia; Ko: Kosovo; Ma: North Macedonia; Mo: Montenegro; Ser: Serbia; Slo: Slovenia.

Kosovo, and Bosnia and Herzegovina had the lowest Freedom House Index at the point of independence, and the process of democratisation was accompanied by autocratic backlash, which is closely related to the ethnic

conflicts that took place in those countries at the same time.[7] In this situation of uncertainty about future democratic developments, decision-makers designed strongly inclusive institutions with very high scores on the power-sharing rights index. Thus, a low level of democratisation was accompanied by strong power-sharing rights for ethnic groups, but this finding also suggests that the international interventions associated with interethnic conflict might be an important control variable.

Considering excluded and small minorities shows a more ambiguous relationship between democratisation and power-sharing rights. Minorities in Bosnia and Herzegovina have fewer rights than ethnic groups in Croatia and North Macedonia. However, none of the non-democratic countries dares to exclude a group from all types of power-sharing mechanisms. To summarise, there is a negative relationship between the level of democracy and power-sharing rights in a country. Democratic prospects seem to influence the regulation of power relations.

Even though the values of the autonomy rights index that hardly vary within the countries under study, Figure 3 shows that the level of democracy at the point of independence holds as an explanatory variable for the strength of autonomy rights in a country. Once again, none of the countries categorized as undemocratic dared to exclude a group from all types of self-governing rights. Slovenia, a country experiencing fast and successful democratic transition, introduced fewest autonomy rights, limited to particular groups, while the non-democratic Bosnia and Herzegovina has the most extensive self-determination rights (for its constituent people). Yet, all other countries grant the same amount of autonomy rights, despite varying levels of democratisation. Thus, a weak relationship between the extent of autonomy rights and the level of democracy persists.

Overall, power-sharing and autonomy rights vary according to the success of democratisation, as a higher level of democracy correlates with less extensive minority governing rights along both scales. Yet, the relationship seems to be stronger for power-sharing than autonomy rights. In particular, the middle category with a medium level of democracy shows rather ambiguous effects. The following section discusses potential sources of a spurious relationship, which might explain the common variance of the two variables. As outlined before, international intervention, the European Union as they might influence both, democratisation and power-sharing and autonomy rights.

[7]Bosnia Herzegovina declared independence during the conflict; in Kosovo, international forces were still present in the first year of independence (EULEX Mission). In contrast, in the other states, there was either no conflict or it took place after independence (in North Macedonia, ten years afterwards, in Croatia, one year afterwards).

Starting with the extent of the violence during the civil war as a potential explanation for the level of minority governing rights, the evidence shows no clear link between the extent of violence and power-sharing or autonomy rights. Slovenia experienced barely any violence in contrast to Serbia, which endured a high level of conflict. However, both countries introduced similarly limited minority governing rights. Even though the violence in Bosnia and Herzegovina was just as extensive as in Croatia and Montenegro, only Bosnia and Herzegovina chose to introduce extremely strong power-sharing and autonomy rights.

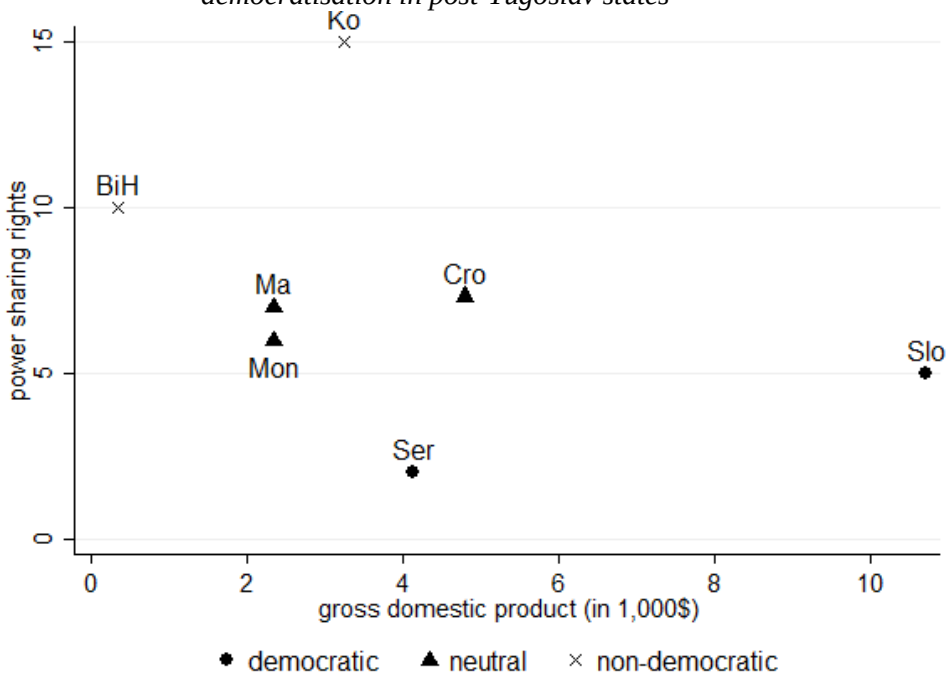
Looking at the effect of international interventions, the countries experiencing multidimensional peace-keeping missions or the international mediation of a peace treaty are as likely to have minority governing rights as those developing without international interference. Multidimensional peace-keeping missions occurred in Bosnia and Herzegovina, and Croatia, which are both countries with moderate minority governing rights. A peace treaty resolving interethnic conflict was negotiated in Bosnia and Herzegovina, North Macedonia, and Slovenia, and some of these documents included regulations for power-sharing and autonomy rights. However, these guarantees for minority inclusion are not more extensive than in other countries and also allow for the exclusion of many non-autochthonous minorities in the case of Slovenia.

An exception to this pattern is Kosovo, which was subject to a large international intervention led by the NATO, the UN as well as the European Union and displays extensive levels of power-sharing rights for minorities. In the case of Kosovo, extensive power-sharing rights can indeed be understood as an outcome of the international negotiations regarding its independence as the promise of international recognition of its independence was conditioned upon the introduction of extensive power-sharing rights for the Serbian minority in Kosovo. As only one case shows the expected pattern, we still find that international interventions and power-sharing and autonomy rights do not correlate overall correlate.

Second, countries aiming to join the biggest regional player, the European Union, may make considerable democratic progress and, at the same time, introduce power-sharing and autonomy rights due to pressure from the European Union. Yet, the only countries that did not yet apply for European Union membership are Kosovo and Bosnia Herzegovina, which are also those countries with the most extensive minority rights. In contrast, Slovenia managed to become the first post-Yugoslav country to join the European Union, even though it only grants minor power-sharing and autonomy rights to particular groups. Thus, it is certainly not the pressure from the European Union that drove the design of those rights. In contrast, the successful prospect of democratic transition might drive both the likelihood of that country joining the European Union and the level of minority governing rights.

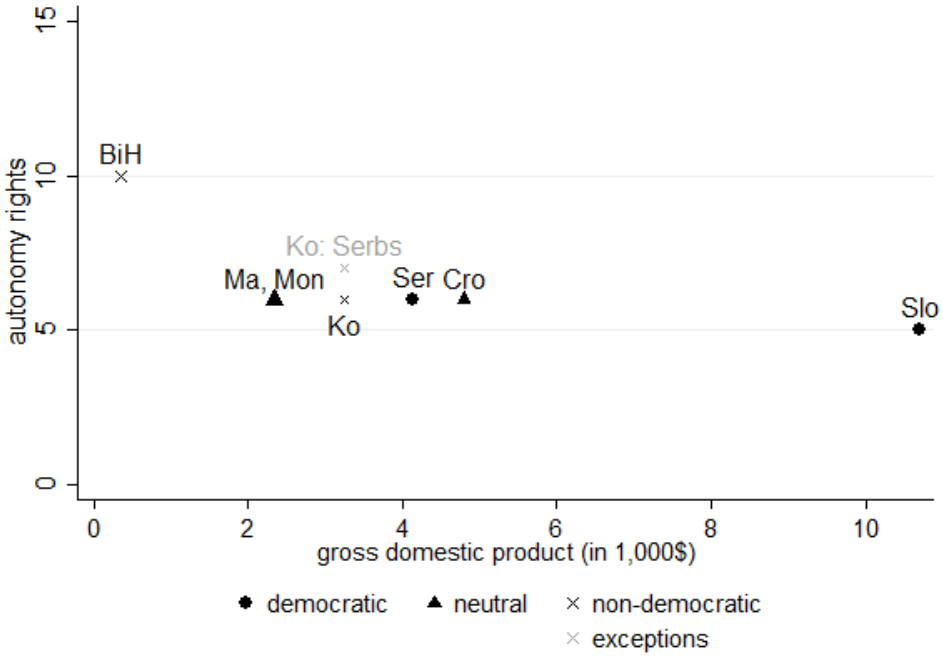
Lastly, positive economic development might lead to democratisation, as well as determining state capacity for power-sharing and autonomy rights. For this reason, Figure 4 and 5 show the impact of gross domestic product (GDP) on minority governing rights. Both figures reveal a negative relationship between economic status and the strength of power-sharing rights, but a positive one between the GDP and the level of democratisation.

Figure 4: *Scatter plots of the power-sharing rights, GDP and democratisation in post-Yugoslav states*



Note: The scatter plots display the relative position of every state according to the extent of power-sharing rights granted to ethnic groups (most extensive rights only) and to the level of GDP per capita (in 1000 current US $) at independence (based on World Bank Indicators). Different markers indicate the level of democratisation at independence (based on the Freedom House Index). The abbreviations have the following meaning: BiH: Bosnia and Herzegovina; Cro: Croatia; Ko: Kosovo; Ma: North Macedonia; Mo: Montenegro; Ser: Serbia; Slo: Slovenia.

Figure 5: *Scatter plots of the autonomy rights, GDP and democratisation in post-Yugoslav states*



Note: The scatter plots display the relative position of every state according to the extent of autonomy rights granted to ethnic groups (based on the PSAR Index, most extensive rights only) and to the level of GDP per capita (in 1000 current US $) at independence (based on World Bank Indicators). Different markers indicate the level of democratisation at independence (based on the Freedom House Index). The abbreviations have the following meaning: BiH: Bosnia and Herzegovina; Cro: Croatia; Ko: Kosovo; Ma: North Macedonia; Mo: Montenegro; Ser: Serbia; Slo: Slovenia.

A higher GDP is associated with lower power-sharing rights scores. Countries with a relatively high GDP, like Serbia (ca 4,000 USD per capita) or Slovenia (ca 10,000 USD per capita) have relatively low scores on the power-sharing rights index. The four countries with the lowest GDP per capita (Bosnia and Herzegovina, North Macedonia, Montenegro, and Kosovo) introduced fewer power-sharing rights. The relationship between economic status and the extent of autonomy rights in the post-Yugoslavian countries is weaker, but the findings correspond with the relationship described above. Bosnia and Herzegovina, which has the lowest GDP, receives the highest scores on the autonomy rights index, while Slovenia, the economically most developed country, grants only very few autonomy rights to its minorities. However, all

other countries have an equal amount of autonomy rights and a similar GDP per capita.

This strongly contradicts the original expectation to find more extensive minority governing rights in countries that are economically better prepared to realise these rights. On the contrary, increased economic development goes hand in hand with fewer rights. Since, to the authors best knowledge, there is no established explanation as to how economic development might harm power-sharing and autonomy rights, this variable does not constitute a source of spuriousness for the observed relationship between power-sharing rights and a successful process of democratisation. More likely, economic well-being is another factor explained by the level of democratisation. Positive democratic prospects improve foreign investment (Jakobsen and Soysa, 2006), and lead to growth and a higher GDP (Persson and Tabellini, 2006).

Overall, we found that the factor of democratisation provides a strong explanation for variation in power-sharing and autonomy rights. Certainly, the impact of international intervention, the European Union as regional player and economic well-being relate to the level of democratisation. International intervention in particular might influence minority governing rights to some degree. However, neither of these factors compensates for the strong relationship between the level of democracy and power-sharing and autonomy rights.

Conclusion

This article sought to reveal the effect of democratic prospects on the design of power-sharing and autonomy rights in post-communist countries. Building on the literature that explains the introduction of minority governing rights, the authors developed an innovative argument enhancing the understanding of variation in the strength of such rights. Ethnic groups assess the chance for successful democratic transition and, if they are optimistic about the prospects, they request only limited minority governing rights. In contrast, groups that are uncertain about their future position in power relations and fear an autocratic backlash request extensive power-sharing and autonomy rights. These insights have important implications for the study of minority governing rights. The expectation emerging from the literature on the introduction of such rights presumes a positive relationship between democratisation and affirmative action (see e.g. Fink-Hafner and Fink-Hafner, 2009). However, when it comes to explaining the strength of such institutions, the direction of the relationship is upside-down: Those states with the strongest democratic

prospects are least likely to introduce extensive power-sharing and autonomy rights.

This theoretical proposition found support in the analysis of seven former Yugoslav countries. Despite the presence of country-specific factors inducing variation in the degree of minority protection, this study was able to uncover a consistent negative correlation between democratization on minority governing rights. Countries that experienced a high level of democratisation at the point of independence did not to introduce strong rights afterwards. By contrast, if a country faced an autocratic backlash, strongly regulated power relations occurred. No other established explanation for minority governing rights and democratization, such as a country's GDP, the European Union as a regional player, and international intervention, compensates for the explanatory power of democratic prospects.

While the main purpose of this article was to highlight the variation of existing power-sharing and autonomy rights and to start understanding these differences, future research might want to extend this field of research. Process tracing would allow to investigate this novel argument in-depth and could clarify important questions regarding motivations and actions of relevant actors, i.e. minority members, minority and majority parties and governments. Interesting questions include: When did minority groups first mobilise? When did they form political parties? When and how did minorities (effectively) mobilise against governments? Furthermore, an expansion of the number of observations in order to increase the robustness of our findings would be beneficial. A comparison of post-Yugoslav countries with countries confronted with similar challenges, such as those in the Great-Lake region, which includes Burundi, the Democratic Republic of Congo, Kenya, Rwanda, Tanzania, and Uganda, would allow testing the generalisability of our findings. This could also shed light on whether similar mechanisms apply in countries that did not experience a post-communist democratic transition.

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