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## **Federalism in Eastern Europe during and after Communism**

James Hughes

Chapter 10

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One of the earliest political visionaries of federalism in Eastern Europe, interwar Polish leader Józef Piłsudski, famously remarked to former socialist comrades that “we both took a ride on the same red tram, but while I got off at the stop marked Polish independence, you wish to travel to the station Socialism.” (Macmillan, 2002: 208) Piłsudski’s modernising vision of an intermarum (międzymorze) federation of republics under Polish hegemony from the Baltic to the Black Sea, acting as a bulwark against Russia, failed to overcome the power of nationalist particularism (Snyder, 2003) Among the many paradoxes of communism in Eastern Europe is that many socialist and communist internationalists were transformed over time into nationalists. In certain countries with multinational societies, especially the Soviet Union, great efforts were made by the ruling communist parties to recognise the political importance of national and ethnic cleavages, in the process compromising the internationalist tenets of communist ideology and its paramount attention to class-based cleavages. Although many of the nine states that formerly made up communist Eastern Europe prior to 1991 were significantly multinational in character, six were unitary states and only three were federal. One of the six unitary states – the German Democratic Republic (GDR) – was absorbed by a mutually agreed treaty into a unified federal Germany in 1990 (though without the referendum required by the German Constitution of 1949). In countries such as the Soviet Union (USSR), Yugoslavia, and Czechoslovakia, communist parties engaged in sophisticated federal institutional engineering to recognise and embed certain national and ethnic cleavages in the organisation of state power. The three communist federal states have been generally discussed more within debates about the reasons for their systemic collapse rather than their stability over many decades, with communist federations being widely seen as being “façade” forms of federalism and otherwise unviable states because of their institutionalisation of nationalism and ethnicity. What, then, if any, is the relationship between ethnofederalism and the break-up of communist federations? The puzzle is what explains the resilience of communist federations over many decades, their breakdown in the late 1980s and early 1990s in three cases, the post-communist survival and durability of federalism in Russia, and the continuing attraction of the concept as a conflict management device in the wider region (for example, in Russia and Bosnia and Herzegovina).

### **Federalism under Communism**

Communist federations were constructed following the Russian model on the basis of a Stalinist paradox which attempted to reconcile Marxism and nationalism. Stalin had spoken in 1934 of a Marxist formula with regard to cultures: that they should be “socialist in content and national in form” with the ultimate aim of building a common culture and language, but the thinking applied equally to the notion of the state. In Stalin (1913), he proposed that there should be only a small number of multicultural “regional autonomies” for the most important “crystallised units” of the

Tsarist Empire. The Leninist 1918 Russian, and 1924 Soviet constitutions, organised the communist state on a more expansive territorialised national principle, with all sub-units having a “titular” nationality, and smaller ethnic groups often having autonomous areas. This system of “institutionalised multinationality” (Brubaker, 1996) provided a framework within which national identities, territories and borders were constructed, often ahistorically and artificially (most obviously in the Central Asian republics of the USSR). This invention of ethnicity was developed by policies to promote language and culture, and a careful crafting of historical mythologies, literary nationalism, folk traditions, ethnic symbols, and so on. Stalin was the main source for this communist policy in the 1920s and 1930s. One of the core policy elements of the “Stalin Revolution” was the institutional engineering of Soviet federalism in ways which promoted a multiplicity of territorialised national cultures and integrated national elites into the Soviet project. In the first instance, this usually involved terror, exterminating old elites and extending membership of the Communist Party of the Soviet Union and its associated privileges to new national and ethnic elites (Armstrong, 1982). The policies led Martin (2001) to characterise Stalin’s USSR as an “affirmative action Empire”. These policies were accompanied by a high degree of centralisation of state power through the communist party.

There were important differences of size, geostrategic position, ethnic homogeneity and variation, and temporal factors in the construction of communist federations. Soviet and Russian ethnofederalism was constructed in the 1920s, Yugoslavia’s under Tito in the 1940s and 1970s, Czechoslovakia’s in the aftermath of the Soviet-led invasion and failure of the “Prague Spring” of 1968. By the late 1970s the USSR had developed into the most complex of the ethnofederations with a constitutional patchwork of 15 Union Republics, 20 autonomous republics, eight autonomous *oblasti* (regions), 10 autonomous *okrugi* (areas) (sub-units that were mostly within the Russian Soviet Federative Socialist Republic [RSFSR]), and with around 130 recognised cultural linguistic groups. By the time of collapse in 1989-1991 the federations differed radically in their size and complexity measured by the extent to which they were nationally or ethnically heterogeneous or homogenous. The constituent parts of Czechoslovakia were highly homogenous (94% Czech including Moravians, and 86% Slovak respectively). In Yugoslavia only Slovenia and Kosovo (about 90% each) were significantly homogenous, and all other republics were an ethno-religious mosaic, and Bosnia and Herzegovina, in particular, was characterised by ethnic diversity. In the USSR there were few ethnically homogenous Union Republics (Armenia and Turkmenistan being the most homogenous). Many national sub-units in the USSR had significant Slav, mainly Russian, settler populations. Within the RSFSR three national sub-units had significant ethnic mixes (Tatarstan, Bashkortostan, and Dagestan) and only one of the nationally defined sub-units was significantly ethnically homogenous (Chechnya, about 75 per cent Chechen). In the USSR and Yugoslavia there was an ideologically impelled policy to create a new supra-national identity ‘Soviet’ and ‘Yugoslav’, whereas there was never a ‘Czechoslovakian’ identity, nor an attempt to create one.

Both Yugoslavia’s Constitution of 1974 and the USSR Constitution of 1977 claimed that the federations were “voluntary” unions (USSR, 1977; Yugoslavia, 1974). While the constitutions mentioned the ‘right of secession’, no clear mechanism was specified by which they could implement this right, and there was a broad requirement of mutual agreement for border revisions. The break between Tito and Stalin in 1948 had intensified the definition of Yugoslavia as a national communist federal state, and the Serbs’ perception was that the new state was created at their expense. The 1974 constitution only strengthened this perception as nationality became the defining feature of the state structure. The constitution marked a drift toward a more confederal relationship, with Yugoslavia defined as a “state community”. Six socialist republics and two autonomous regions, both within Serbia (Vojvodina and Kosovo), were declared to be “constituent”

units and “sovereign”. In contrast, large Serb minorities were included within other socialist republics without any special autonomy arrangement, for example in Krajina in Croatia and in parts of Bosnia and Herzegovina. This decentralising tendency was compounded by the transformation of party leaderships in the republics into semi-independent fiefdoms.

### **Explaining the Collapse of Communist Federations**

The three communist era state federations disintegrated into 24 internationally recognised independent nation-states and several other unrecognised nation-state-like entities. The disintegration process was peaceful and by mutual consent in Czechoslovakia, but was often contested and extremely violent in Yugoslavia and the USSR. The collapse of these federations gave rise to a new genre of political science literature which identified the similarities in the state structure of these communist states as being decisive in their collapse. The argument is not only that ethnofederalism is inherently destabilising for states but that there was a *causative* relationship between communist forms of ethnofederal state-building and the collapse of these states in 1989-1991.

An institutionalist theory of the collapse of communist federations is most directly addressed in the work of Roeder (1991 and 1993), Brubaker (1996), Bunce (1999a, 1999b), and Skalnik-Leff (1999) among others. Roeder (1991) was among the first political scientists to propose that ethnofederalism was, in fact, a major source of political instability in communist systems. Unlike democracies, where political organisation was largely grounded in class cleavages that usually crosscut national and ethnic ones, communist states were engineered around making the national and elite cleavages salient and, consequently, provided institutional resources for national and ethnic elites. Roeder argues that a legitimacy crisis of tensions and contradictions accumulated over a 35-year period in the USSR, peaking in 1989, which created an institutional deadlock on transformation (Roeder, 1993). The relative winners in Soviet development were, he suggests, the most nationalistic entrepreneurs – the Baltic Republics. Ethnofederalism gave nationalists in these republics institutional power and resources to challenge federal redistribution policies, with their secessions being driven by such economic calculations. Apart from downplaying the history of Baltic nationalism, this 35-year-long legitimacy crisis story stresses structural institutional factors over other contingent factors at work in producing the crisis in the late 1980s.

More precise explanations for the timing of collapse are offered by Linz and Stepan (1992) and Bunce (1999b), who suggest that the contingency of democratic transition in the late 1980s and early 1990s made communist federations “subversive institutions”. Empowered by democratising reforms and electoral politics this institutional architecture became a platform for the mobilisation of nationalist and ethnic politics, and thus generated centrifugal forces that tore the federal states apart. Linz and Stepan termed this an “electoral sequencing” problem: if the first major free elections are conducted not at the national or federal level but at the regional or federal constituent level, then democracy tends to empower national and ethnic secessionist movements (Linz and Stepan, 1992). The basic premise of the “institutional” explanation is that elites in the constituent units of the communist federations had in their institutions a “basic strategic advantage, an advantage unavailable to minority groups in unitary multinational states” (Skalnik-Leff, 1999: 231).

Bunce (1999a) further contrasts the “peaceful” dismemberments of Czechoslovakia and the USSR, compared with the “violent” dismemberment of Yugoslavia. The explanation she advances for this categorisation is that while Yugoslavia had a much longer tradition of horizontality and

“decentralisation”, which rendered it more gridlock prone after Tito, its federal institutions - in particular the military - were Serb-dominated and prepared to intervene directly to preserve the federation. Her argument does not hold, however, for the USSR, where there was sporadic violence and the federal institutions such as the armed forces, police and state security agency (KGB), were Russian-dominated, and a certain degree of force was employed at key junctures in certain places (Georgia 1989, Azerbaijan 1990, Estonia and Lithuania 1991, and Moscow 1991), but these agencies proved unwilling or incapable of acting decisively to preserve the USSR by force, while usually taking active part in conflicts which did occur after the dissolution. A great deal of violence also occurred in the ex-USSR after the collapse in 1991, including wars in Chechnya and Tajikistan which were among the bloodiest conflicts in Eastern Europe. These and other post-Soviet conflicts emerged from the politics of the collapse and cannot be logically separated from the process of collapse itself. Indeed, Bunce overlooks one of the key aspects of horizontality in both Yugoslavia and the USSR which increased the potential for armed conflict, namely, the decentralisation of weapons stocks throughout the state.

In sum, the institutionalist critique of ethnofederalism seeks a “magic bullet” explanation as to why communist ethnofederal states collapsed when they did. The explanations advanced in support of the theory, however, tend to rely on certain contingent factors of elite choices and calculations, rather than systemic “institutional” ones. They do not account for the resilience of ethnofederalism over many decades, and especially in the era after Stalinism, when the authoritarian coercion of communist states was significantly reduced. This suggests that ethnofederalism itself had legitimacy and is not the key destabilising factor. Nor do these works account for the sustainability of ethnofederations comparatively in other regions (McGarry and O’Leary, 2009). They also suffer from a problem of misattribution of historical causation in the rise of nationalism and national and ethnic conflicts in Eastern Europe during the Gorbachev reform era. Arguably, it was not simply a question of institutional resources for nationalist mobilization, but what nationalists did with their power. Nationalist political efforts to deinstitutionalise ethnofederalism and centralise power to the leaderships of dominant ethnic groups caused conflict in several cases, for example in Georgia and Moldova (Hughes and Sasse, 1999), and this argument applies equally as well to Kosovo.

Indeed, three critical factors in the collapse of ethnofederations are largely overlooked in the institutionalist critiques: the roles of political agency/leadership; spillover effects within the region; and external intervention. It is implausible to suggest that ethnofederalism would have collapsed without the presence of Gorbachev as USSR leader, the absence of Tito in Yugoslavia, or the spillover effect of Gorbachev’s policies on the Klaus and Mečiar rivalry that precipitated the break-up of Czechoslovakia. Gorbachev’s reforms assumed an immensity of scope that was difficult for any political leadership to control. In particular Gorbachev adopted three policies – perestroika (economic reform), glasnost (openness), and democratisation (in practice more akin to liberalisation) that eroded the authority of the communist system and led to its eventual collapse (Hough, 1997). Gorbachev miscalculated the differential impact of his reforms since the timescales for potential returns on economic reforms were much longer-term compared with the immediately destabilising results of democratisation and social reform (Ellman and Kontorovich, 1992). In the case of the USSR’s collapse, the debates pivot between the “essentialist” advocates, who point to the inherent illegitimacy of communist rule, those who criticise Gorbachev’s leadership skills and policy choices (Dallin, 1994), and those who are more sympathetic to Gorbachev and persuaded by the role of contingency in the reform period of the 1985-1991 period (Brown, 2004). Communist systems had muddled through sporadic crises across the region since the 1950s, however, by 1989 the multiple crises caused by the reforms had discredited communism across most of Eastern Europe and the USSR. Gorbachev’s refusal to rely on coercion to sustain his own authority, let alone maintain Soviet

power over the Warsaw Pact states, opened space for counter-communist political alternatives and led to the empowerment of nationalist movements.

The emergence of nationalist crises in the USSR is less directly related, in fact, to the two decades long era of economic stagnation from the 1970s, or to redistribution policies, but is linked more to central government policies aimed at reform, such as targeting corruption by changing the ethnofederal equilibrium in leadership (producing the riots in Kazakhstan in 1986) or in the way that glasnost reawakened historically rooted nationalist grievances (Nagorno-Karabakh 1987-1988, the Baltic states and Georgia 1988-1989) (Suny, 1993). Gorbachev's moves to liberalise and introduce democratisation permitted national and ethnic political mobilisation from below, and also incentivised hitherto compliant national and ethnic elites into using their institutional resources to seek and articulate new forms of legitimacy rooted in national and ethnic grievances, historical and contemporary, and subsequently to challenge the communist one party system of rule. Cultural intelligentsias were at the forefront of the new nationalism, notably in Armenia, Georgia, the Baltic states, Russia, and Yugoslavia. The fragmentation of ruling elites at all levels fuelled an increasing articulation of ethnic demands and inter-ethnic competition, leading to a surge in inter-ethnic tensions. Beissinger (2002) uses sophisticated process-tracing methods to prove how the bulk of mass protests during the period of collapse in the USSR were driven by nationalist and ethnic grievances rather than pro-democracy sentiments. Communist states experienced similar pressures for liberalisation and trends of nationalist mobilisation, and this affected states irrespective of whether they were ethnofederal or not.

The link between institutions and contingency can be illustrated well by examining the ambiguities in Communist federal constitutional frameworks. Under communist monism, constitutional ambiguities were meaningless, but they became imbued with political power under conditions of liberalisation. For example, these constitutions embodied vague formulations about "peoples" and the "sovereignty" of "constituent units". There was an intricate formal institutional structure of consensual decision-making and mutual vetoes as protective devices against ethnic domination, while real decisional power lay in party bodies. In the USSR, Yugoslavia, and Czechoslovakia, liberalisation and transition produced an elite fragmentation and weakening of party structures, which led to constitutional gridlock and exacerbated national and ethnic tensions. In 1989-1991 there was a "contagion" effect in the Soviet Union of *matreskha* (nested) nationalism leading to the so-called "parade of sovereignties" or the "war of laws" – a multiplicity of constitutional claims and counter-claims that made for administrative and political disorder. Gorbachev's attempts to re-federalize the USSR into a more confederal type structure were hindered by Yeltsin's rise to power on the back of a mobilization of latent Russian nationalism and antagonism at the costs of supporting the Soviet bloc and the other parts of the USSR. Yeltsin cleverly thwarted Gorbachev and undermined his authority by manipulating the Soviet constitution. Even when Gorbachev successfully negotiated a new confederal Novo-Ogarevo Treaty, the so-called 9-plus-1 agreement (nine existing Union Republics plus the USSR government) of May 1991, it was fatally undermined by the failed coup of communist hardliners in August 1991, and Yeltsin's instincts to dissolve the USSR in the aftermath of the coup (Hough, 1997).

The 1974 Yugoslav Constitution, for example, prevented any decision being adopted in the federal parliament if it was opposed by any one federal unit, including the autonomous provinces. In fact, the federal parliament was not quorate if a delegation from a constituent unit was not present. The constitution required a unanimous vote, and any one delegation could paralyse the federal parliament. This device was precisely what led to the institutional collapse of the Yugoslav system in the summer of 1991 over Slovenia's secession. Similarly, a federal presidency was created – principally for Tito (he was president for life) – but in the absence of Tito this was to be a collective

presidency, which rotated among all Socialist Republics and autonomous provinces and required unanimity. These kinds of constitutional power-sharing and veto devices were designed to enforce consensus and impose stability in the federal system by protecting against hegemony by any single ethnic group, but they also created conditions for constitutional impasse.

Similarly, the Czechoslovakian Law on the Federation of October 1968 established a minority veto in the federal parliament (Czechoslovakia, 1968). Designed to prevent Czech majority domination of Slovaks, the law held that constitutional and other important law reforms had to be approved by a special majority. Just 38 of the 300 parliamentarians in the lower house could block legislation and 31 parliamentarians from either republic could stop constitutional reform outright. As the powers of the federal government were increased the question of economic policy and investment distribution between the two constituent parts of the federation became the main undercurrent of Czechoslovak politics. Gorbachev's *perestroika* widened the political and economic divisions between the Czech and Slovak elites over how to respond to the need for reform. The divisions were reinforced by the differential territorial impact of the transition reforms after 1989. They had a more detrimental impact on Slovakia because of its greater concentration of obsolete military-industrial production and raw material extraction industries, leading to out-migration and low skills levels, and poor attractiveness for foreign investment. The result was widespread unemployment and greater relative impoverishment in Slovakia. These historical and structural differences framed the different politics of the two lands during the transition, with new ideological cleavages also being a prominent aspect of the confrontation as Czech Prime Minister Václav Klaus pushed for radical neo-liberalism and the Slovaks adopted a more gradual approach under the national communist Prime Minister Mečiar (Kraus and Stanger, 2000). The federal veto power was the principal cause of the frustration of Klaus's economic liberals in 1992 by the Slovak representatives under Mečiar. This was a key factor in impelling Klaus's and Mečiar's rush for the "velvet divorce". The Slovaks argued that 'sovereignty' for Slovakia was compatible with a common state, whereas the Czech political elite around Klaus argued that it was not (Wolchik, 1994; Innes, 2001).

Czechoslovakia and Yugoslavia offer much evidence that economic factors were critically important for the collapse of the federations. Bookman (1993) suggests that when constituent units "re-evaluate" the benefits of membership of a federation the main consideration is the relative perception of economic injustice based on budgetary and investment allocations, revenue sharing (whether a region is a donor or recipient of subsidies), central sectoral biases in investment and pricing, shares of foreign exchange, and external funding. The units at the extremes, the wealthiest and poorest, are most at risk of secessionism. This may account for why secessionism was strongest in Slovenia, the Baltic states, and Czech lands, and indeed we see similar trends elsewhere in Europe (for example, in Catalonia in Spain, Flanders in Belgium, Lombardy in Italy, and Scotland in the UK). Belonging to a federation, Bookman argues, becomes a cost-benefit calculation that may be mobilised by ethnic entrepreneurs along ethno-regional-religious fissures. Slovenia, for example, accounted for just 8.4% of the population of Yugoslavia but generated 16.8% of its gross domestic product (GDP) in the late 1980s. Along with Croatia, Slovenia wanted to decrease its contributions to the federal budget fund but was institutionally blocked.

In addition to the within-region spillover effects of Gorbachev's reforms there were also powerful international influences that shaped the collapse of communist federations. The geographical proximity of Central and Eastern Europe, and the history of the Cold War, made the states of this region a primary geostrategic concern for the Western Alliance. The collapse of communism occurred contemporaneously with a historical trend for deeper integration within the European Community (EC), later the European Union (EU), which developed into an even more ambitious strategy of capturing states in the region for the Western orbit by a policy of eastwards enlargement

of the EU and expansion of NATO (despite assurances to the contrary given to Gorbachev during the negotiations over German unification). Initially, the US under the Bush presidency and European Great Powers took a cautious position on the dissolution of communist federations and the recognition of new states, anticipating and fearing the violent destabilisation of the region. President Bush even equated independence movements with “local despotism” and “suicidal nationalism” in an infamous speech in August 1991 in Kiev, where he urged support for Novo-Ogarevo. This caution changed into active promotion from late 1991, partly in response to the *de facto* dissolution of the USSR and Yugoslavia, and partly due to the change to the Clinton presidency in the US. The strategic calculus also radically changed under the Clinton presidency, as the US sought to exploit for its own interest the collapse of the USSR and Yugoslavia under the guise of “democracy promotion”. The secessionist crises in the communist federations were then treated under international customary law as akin to decolonisation, with the principle of *uti possidetis iuris* used to recognise only the highest constituent administrative level in the federations as new states (Cassese, 1995). International recognition stopped at that level leaving all the other secessionist units, irrespective of other legal and moral claims, as ambiguous ‘entities’ in the international system, and many of these entities were forged out of civil wars post-collapse.

The most radically politicised Western intervention on the secession question was felt in Yugoslavia (Woodward, 1995). Germany held the then EC presidency at the time of the declarations of independence by Slovenia and Croatia in June 1991, and was proactive in pushing a divided EC into favouring recognition (Glaudić, 2011). The EC had two main instruments for managing the Yugoslav crisis: the London “Peace Conference” headed by UK foreign secretary Lord Carrington, and the “Arbitration Commission”, headed by French socialist party luminary Robert Badinter (thus usually termed the Badinter Commission). Nominally the Badinter Commission was composed of a panel of leading constitutional lawyers of EC states, but they were also ruling-party politicians from France, Germany, Italy, Spain, and Belgium. The Badinter Commission declared in its famous Opinion One of November 1991 that Yugoslavia was a state “in the process of dissolution”. The basis in law for the decision is controversial. The Opinion stated that the “factual” basis for the decision was that federal institutions were not functioning, and referendums in favour of independence had been held (even though these did not have federal government sanction) (Radan, 2001). The decision ignored the fact that the Yugoslav federation was only in crisis because Croatia and Slovenia were attempting to secede in the first place (Weller, 2005). The consequence was that the political question was transformed from one of evaluating the claims for secession to the criteria for legitimating by recognition the new states according to the principle of *uti possidetis iuris* and any other conditions favoured by the Western powers. In December 1991 the EC Foreign Ministers meeting in Brussels issued two significant declarations “On the Guidelines on the Recognition of the New States in Eastern Europe and in the Soviet Union”, and “On Yugoslavia” (Rich, 1993: Annex 2). The declarations made selective references to the Helsinki Final Act and the Charter of Paris, stressing the ‘principle of self-determination’, while omitting the principles of respect for national sovereignty and respect for borders. The “Guidelines” asserted that recognition would be restricted to those new states which were constituted on a “democratic basis” and respected the rule of law, human rights, and the inviolability of borders, and provided guarantees for the rights of ethnic and national groups and minorities, amongst other conditions. The EC countries committed themselves to not recognising “entities which are the result of aggression”. The criteria provided a rationale for even greater Western intervention (Caplan, 2005). Later, Carrington spoke of how “that man” (Badinter) had “torpedoed” his efforts to keep Yugoslavia united (Glaudić, 2011).

## Federalism in Eastern Europe after Communism

### *The Refederalisation of Russia*

The institutional theory of collapse also tends to ignore the existence of a fourth communist-era federation within a federation, namely, the RSFSR within the USSR. The fact that Russia successfully refederalised itself as an ethnofederal state is a serious challenge to the hypothesis that ethnofederalism causes state instability. Moreover, Russia's territorial integrity has been preserved and has been challenged by only one major ethnic secessionist conflict, that of Chechnya in 1991-2005. What factors account for the exceptionalism of Russian federalism?

Several structural constraints have been important limitations on secessionism. Demographic composition is an important difference with the USSR. At the time of the 1989 census Russians constituted a bare majority (50.78%) of the USSR's 286.7 million population. In contrast, in the Russia Federation ethnic Russians were an overwhelming majority (81.5%) of the 147 million population (SSSR, 1990). Of the eighty-eight constituent units of the Russian Federation in late 1991, thirty-one had a titular ethnic designation, of which twenty were republics and the rest autonomous districts. Of these only four (Ossetiya, Tuva, Chechnya, and Chuvashiya) had an absolute majority of the titular ethnic group. In three republics (Tatarstan, Kabardino-Balkar, and Kalmykia) the titular ethnic group constituted a simple majority. For example, the largest ethnic minority in the Russian Federation, the Tatars (6.64 million), are a minority within their own titular ethnic homeland the Republic of Tatarstan (Tatars are 48% of the population, Russians 43%). In 12 republics ethnic Russians are an absolute majority or the majority group. It is not, therefore, simply numerical superiority at the state level that makes ethnic Russian homogeneity such an important factor in limiting ethnic separatism, but also the spatial dispersion of Russians in strength throughout the bulk of the territory of the federation. Resource interdependencies are another factor. Most ethnic republics are net beneficiaries of federal budgetary transfers. Only four ethnic republics are economically important or have significant natural resources: Tatarstan (oil/military-related manufacturing), Bashkortostan (oil/transit), Sakha-Yakutia (diamonds), Chechnya (oil, refining capacity). Geography is a further constraint. Chechnya's peripheral/border location gave it more capacity to attempt secession, but Tatarstan and Bashkortostan are landlocked by ethnic Russian regions, and Sakha (Yakutia) is effectively landlocked in remote Eastern Siberia (Hughes, 2001).

The sheer size of Russia and its ethnic, cultural, and economic diversity, arguably, demands regional autonomy and some form of fiscal federalism. Russia's elites inherited a federal structure from the USSR but they engaged in a process of experimentation with the whole federal institutional design in the 1990s in an effort to balance the demands for greater autonomy with an effective central state. Yeltsin had been pivotal in undermining Gorbachev's efforts to preserve the USSR, and in August 1990 had famously exhorted Russia's ethnic leaders to "take as much sovereignty as you can swallow". At first, in the Federal Treaty of March 1992, this was achieved by empowering the asymmetric federal arrangement inherited from the Soviet constitution. The six types of federal subject, with differing powers, were retained (regions, territories, republics, cities of federal jurisdiction, autonomous regions, and autonomous districts). A special status and powers was given to the 20 ethnic republics on taxation, culture, and control of natural resources (neither Tatarstan nor Chechnya signed this treaty). Later, in the 1993 Constitution, an equalisation of the status and powers of republics and regions was imposed by Yeltsin. The thornier issues of separatism that were most serious in just two republics, Tatarstan and Chechnya, were consistently postponed. Under its wily president Mintimer Shaimiev, Tatarstan held a referendum on the republic's sovereignty in March 1992: 62 percent voted in favour. In November 1992 it adopted its own constitution and declared itself "a subject of international law".

From early 1994 the experimentation changed as the Yeltsin administration focused on a more selective asymmetric federalism. A hierarchical framework of bilateral asymmetric power-sharing treaties between the federal government and republics and regions was developed. The basis for this policy was Yeltsin's unilateral imposition of strong presidential rule in the December 1993 constitution in the aftermath of the violent clashes between president and parliament in October 1993. Yeltsin's management of federal relations was bound up with the nature of his autocratic presidential style, which rested on a combination of coercion, co-optation, and charismatic populism. US scholars, in particular, have viewed the asymmetric federalism as being intrinsically destabilising (Lapidus, 1999; Solnick, 1996). For others, the non-transparent executive patrimonial federalism that developed from early 1994 based on the bilateral treaties, helped to stabilise Russia by co-opting the most important elites in Russia's regions and ethnic republics (Hughes, 2001). Yeltsin's patrimonial federalism was the key to the negotiated and mutually agreed accommodations with President Mintimer Shaimiev of Tatarstan, President Murtaza Rakhimov of Bashkortostan, and President Nikolaev of Sakha. Equally, however, it proved to be the main stumbling block to an accommodation with the other significant challenge to an integral Russian Federation – President Dzhokar Dudaev's secessionist Chechnya. By summer 1998, 46 subject units of the Russian Federation had signed federal treaties, but most were symbolic and only a few gave any significant concessions. These treaties were not formally constitutionalised, which made them vulnerable to a change of president, and that was precisely what followed when Putin came to power in January 2000.

There were also external constraints on secessionism in Russia. No Western country recognised secessionist Chechnya, although there was much sympathy for the Chechen cause. Rather, the Western Alliance, led by Clinton, developed a "special relationship" with Yeltsin, who was regarded as compliant with Western interests, and sought to bolster him against all of his domestic opposition. Clinton even compared Yeltsin to Lincoln justly battling separatists.

Much of the criticism of the asymmetric arrangements focused on two aspects. Firstly, whether the ethnified federalism would mean that Russia "would go the way of the USSR". Secondly, that the patrimonial ties between Yeltsin and regional leaders embedded local authoritarianism and resistance to a progressive transition in Russia. Charges of clientelism within Russia and from outside were often levelled at Shaimiev in Tatarstan (Matsukato, 2001). Shaimiev, like Yeltsin, was a communist party *Obkom* (that is, oblast-level committee) Secretary who had successfully reinvented himself as an ethnic nationalist entrepreneur, and someone who was embedded in the new business oligarchy that emerged after the fall of communism. Furthermore, the bilateral treaty between the federal government and Tatarstan was by far the most constitutionally perverse. It established a co-sovereignty arrangement whereby relations were regulated by the Russian constitution and the constitution of Tatarstan, and the Treaty. Tatarstan had its own citizenship, tax arrangements, banking, customs, education, symbols, controls on natural resources, and Tatar was equal with Russian as a state language in the republic. There was also a power to conduct foreign relations. The lessons of Chechnya, which was devastated by two costly wars with Russia, made Shaimiev and the Tatar elite approach these arrangements with a great deal of caution and conservatism.

Yeltsin himself seems to have started the backlash against his own variant of asymmetric federalism by appointing Vladimir Putin *de facto* as his federal supremo - in May 1998 as First Deputy Chief of Presidential Staff for regions, and then in July 1998 as Head of the "Commission for the preparation of agreements on the delimitation of power of regions and the federal centre" of the Presidential Administration. Under Putin the commission completed no further agreements. In June 1999 a new federal law stipulated that all treaties had to comply with the Russian constitution by 2002. After Putin became president in January 2000 he launched a Blitzkrieg to revive Russia as a Great Power.

He embarked on a federal territorial restructuring/ recentralisation in May 2000 (dividing the country into seven overarching federal districts headed by directly appointed presidential plenipotentiaries). The assault on the treaties was formally approved by a Constitutional Court ruling in June 2000 that instituted a judicial review process. In August 2000 a new federal law reformed the structure of the upper chamber of parliament, the Federation Council, replacing elected governors by nominees selected by the regional parliaments then approved by the president. After the Beslan School massacre in September 2004, the structure was changed again so that the president made the nomination for approval by the regional parliaments. During his second term as president (2004-2008), Putin also oversaw the amalgamation of a few regions and the number of federal regions dropped from 89 to 83 due to mergers. Five regions in the Urals, Siberia, and Far East absorbed small ethnic (in population) autonomous *okrugi*. The recentralisation of Russian federalism under Putin's policy of rebuilding a "power vertical" to "pull the state together" has led some to suggest that Russia is no longer a federal state but a hybrid state with more unitary features than federal ones (Ross, 2010).

Putin also devised a more sophisticated neo-imperialist divide-and-rule strategy to manage the Chechen insurgency, which is generally termed "Chechenisation". It required the co-option of a former rebel group, the Kadyrovtsy clique, and then its installation as a collaborationist regime, first under its elder Ahmad Kadyrov until his assassination in 2004, and then under his son Ramzan Kadyrov, who was appointed president of Chechnya by Putin in 2007 (Hughes, 2007). Putin views Kadyrov not only as the key to stabilisation in Chechnya but also as a pivotal, special, regional client in Russia (Russell 2008; Souleimanov 2015). By "Chechenisation" Putin accepted what has been termed "separatism without secession" – a higher degree of self-rule for Chechnya than any other Russian federal subject, and a form of authoritarian Islamisation that sets Chechnya *de facto* outside the Russian constitutional order in a kind of "dual state" (Sakwa 2010). The Putin-Kadyrov tandem has successfully crushed the Islamist insurgency in the North Caucasus, at the price of a special autonomy for the Kadyrov regime, and massively disproportional fiscal subsidies to stabilise and reconstruct Chechnya (Hughes and Sasse, 2016).

### *The Federalisation of Bosnia and Herzegovina*

The Dayton Agreement of December 1995, mediated by the USA on the basis of an International Contact Group plan, brought to an end one the bloodiest civil wars to occur in modern Europe. Conservative estimates are that of a pre-war population of 4.4 million: an estimated 100,000 died, and about 50% of the population migrated, many through ethnic cleansing (about 1.5 million became refugees, and almost one million persons were internally displaced). The Agreement affirmed that Bosnia and Herzegovina (BiH) would be preserved as a single state within the borders that it held under Yugoslavia, but it was to be constitutionally reconstructed on a complex ethnofederal concept. The new state would be confederal in its composition with two "entities": the Federation of Bosnia and Herzegovina that was further sub-divided into ethnic cantons, and the Bosnian Serb Republika Srpska. The Agreement divided BiH spatially roughly equally between the former (51%), and the latter (49%). The ceasefire borders were essentially maintained by the agreement.

The powers of the state government and those of the entities were intricately demarcated in the Agreement's Annex 4 which set out the new constitution (Dayton, 1995). There was some continuity with the ethnofederalism of the communist era, including in the ambiguous constitutional language used. Bosniaks, Croats, and Serbs were defined as "constituent peoples", and there were

consociational-type provisions for ethnic self-government, mutual vetoes, and constitutional checks. There was to be external cooperation from the two regional powers (The Federal Republic of Yugoslavia and Croatia) but oversight and guarantees came mainly from the Western Alliance through a NATO peacekeeping force (initially a 60,000 strong force, but after various restructurings the mission became an EU-led one, and after 2012 EUFOR had less than 600 troops in BiH), a Western-dominated “Peace Implementation Council” (PIC) composed of 55 countries and international organisations which appointed a High Representative (HR) as a kind of Western proconsul, and international representation on the constitutional court. BiH would have three armies and a weak central government (with no defence competence), and a cumbersome rotating tripartite ethnically denominated presidency. As a condition of the NATO membership process, the army was later unified by a reform in 2005, but it retained its ethnic units (three ethnic battalions in three regiments, one located in each ethnic area). The upper chamber of Parliament, the “House of Peoples” was composed of 15 members (five from each of the three ethnic “constituent peoples”, though there were other minorities in BiH). Annex VII of the Agreement made provisions for the return of property and displaced persons to their locale of origin but it embedded a high degree of de facto segregation; also allowed for compensation in lieu of return, which appears to have become the norm. In many ways, the Agreement replicated the ethnofederal structures of Yugoslavia which had led to gridlock, which itself was considered by Badinter as grounds for declaring the state to be “in dissolution”.

President Clinton and the US diplomats involved in its negotiation, notably Richard Holbrooke, considered the Agreement a great success, while regretting the use of the term Republika Srpska (Holbrooke, 1998). However, the ethnofederal character of the Agreement stirred much Western liberal criticism about the stability and sustainability of the peace, as well as normatively driven opposition on the grounds that; there was no moral distinction made between signatories considered to be war criminals and those on the “right side”; the new state was ethnically grounded not liberal; there was insufficient focus on the “humanitarian” and “civil society” dimensions; no systematic reversal of ethnic cleansing; no conflict transformation mechanisms for transcending the divisions; and no incentives for change. Questions about the sustainability of the peace have lost some of their edge over time, as the Agreement has now been in place for more than twenty years without a renewal of conflict. The normative critique about the ethnofederal character of the state, however, has endured.

A Western liberal agenda to reform Dayton “from above” was enacted from the late 1990s, using the so-called “Bonn Powers” approved by the PIC in 1997 (Belloni, 2008). The powers, which exceeded those allowed to the HR under the Agreement, included the right to impose decrees/laws, sack public officials including elected ones, overturn entity decisions, and even those of the constitutional court. The aim was to override deadlocked decisions between the entities, strengthen the confederal level over the entities, and remove BiH politicians considered to be “spoilers” for the Western agenda, and circumvent locally elected politicians by relying more on Western-funded civil society actors. The effort was criticised as “liberal imperialism” and peaked during the tenure of British politician and ex-special forces officer Paddy Ashdown as HR in 2002-2006. Some have called this period the “Ashdown Raj” because of his propensity to bulldoze over the wishes of recalcitrant local politicians by frequent use of the Bonn Powers, behaving in ways reminiscent of the British imperialism of a bygone age (Knaus and Martin, 2003). The agenda was pursued under a classic imperial guise of promoting “progress”, and the rational-technical goals of reducing “dysfunctionality” and promoting interdependence and cooperation between the entities. Ashdown’s behaviour led to a Venice Commission report of 2005 which recommended the closure of

the OHR and a speedy transition to greater legal oversight of the OHR's arbitrary decree powers and power of removal of elected officials (Venice Commission, 2005).

Judicial review of the constitution by the constitutional court in several judgements between 2000 and 2005 also significantly moderated the trend for a deepening of ethnically segregated constitutional spaces in BiH and enhanced the role of the HR. One of the most important decisions was the so-called "Decision on the constituency of peoples", which was actually a set of decisions during 2000. The court decided that the constitutions of the entities must conform to that of the state, and in so doing the territorial division of BiH into two Entities by the Agreement could not serve as "constitutional legitimacy for ethnic domination, national homogenisation or the right to maintain results of ethnic cleansing" (BiH Constitutional Court, 2000). Consequently, the designation of Bosniaks, Croats, and Serbs as constituent peoples in the Preamble of the Constitution of BiH was to be understood as an all-inclusive principle for the entities as well as the state itself. In 2000-2001 the court judged that it could not review the exercise of powers by the HR granted by the Agreement and the Bonn PIC decisions, but it could review the constitutionality of laws enacted by the HR. The Agreement had also imposed international supervision on the multi-ethnic Brčko District of BiH, and over a 15-year period (to the end of international supervision in 2012) a major effort was made to transform the area into a model for interethnic cooperation and development.

From 2000, the EU assumed a steadily increasing role in assuming the lead responsibility for the external management of BiH. Ashdown was the first HR to simultaneously hold the office of EU Special Representative. After Ashdown, HRs became more nuanced and took a much less proactive interventionist role in BiH government. The current HR, Austrian Slovene Valentin Inzko, was the former EU Special Representative prior to becoming HR, and he is one of the least interventionist, arguing that it is for the politicians of BiH to resolve their differences themselves (Inzko, 2016). The government of BiH submitted its membership application to the EU in February 2016 but the reform of Dayton by the ethnic blocs has been made a condition by the EU for progress in accession, and in implementing the Stabilisation and Association Agreement of 2005, which came into force only in June 2015. It provides the EU road map toward membership. However, interethnic negotiations on broader constitutional reform, notably internationally mediated talks in 2005 and in Butmir 2009, stalled over EU and US proposals to create a unified presidency and the strengthening of the central government. Elections in BiH have consistently consolidated the power of the respective ethnic parties and blocked progress on reform (Sebastián-Aparicio, 2014). BiH's accession to the EU has also been made conditional by the EU on the implementation of the European Court of Human Rights (ECHR) decision in the case of *Sejdić and Finci v. Bosnia and Herzegovina* (2009). The Applicants were a Bosnian Roma (Sejdić) and a Bosnian Jew (Finci) who were barred under the Agreement (as non-members of one of the "constituent peoples") from being elected to the upper house of parliament and to the tripartite presidency. The ECHR ruled that their human rights are infringed. So far, there has been no progress in implementing the decision in BiH.

BiH has been a grand project for Western state-building. With over \$14 billion in international aid in the 1990s, 60,000 troops, 17 different foreign governments, 18 UN agencies, 27 intergovernmental organisations, and about 200 nongovernmental organisations (NGOs), BiH was probably the most expensive per capita, and extensive peace-building and democratisation experiment in history (McMahon and Western, 2009). The refrain among many Western actors, even those involved in its negotiation, has been consistent almost from the outset: the settlement seemed "morally wrong and politically impracticable" (Weller and Wolff, 2006). Yet, HRs have come and gone in BiH, yet Dayton endures, as does peace in BiH.

## Conclusion

Despite the extensive theoretical speculation about the relationship between ethnofederalism and political instability arising from the collapse of three of four communist-era ethnofederations, the concept of federalism persists in state-building in Eastern Europe. It is a form of state-building that has been implemented both by the elite successors of the communist era in countries such as Russia and BiH, but has also been proposed and implemented by Western states as a conflict management device. Federalism and regional autonomy, often asymmetric, are widely proposed solutions for many of the protracted “frozen conflicts” in the broader Eastern European region as a method of conflict management and state-building in multi-ethnic societies. Regional autonomy and federal type relations were the basis of the Boden Plan (2002) for resolving the Georgia-Abkhazia conflict and the Kozak Memorandum (2003) for resolving the Transdnistria-Moldova conflict, and were embodied in the decentralisation provisions for Kosovo Serbs from 2005 and in the EU-mediated agreement between Kosovo and Serbia in 2015. That none of these proposals have been implemented should not distract from the fact that the major powers involved in these proposals – Germany, France, and Russia- do not avoid ethnofederalism and autonomy as vital conflict management devices.

The post-communist federal types of state-building or re-federalisation offer a testing ground for research into firstly, whether the federal concept remains a viable one in the region for managing the political problems arising from multinational and multi-ethnic societies, and secondly, whether the theoretical claims linking ethnofederalism to state collapse will be affirmed. Fundamentally, the critique of ethnofederalism has less to do with state stability and is rooted, in essence, in a normative repulsion among Western liberals at the institutionalisation of ethnic power. Few could argue that ethnofederalism offers an attractive vision of the “Good Life” for any state seeking to build an integrated democratic civic culture. However, the realities of divided societies, in particular where they have endured ethnic discrimination and been broken by violent conflict, make for the necessity for a trade-off between peace and stability and ethnofederalism (and other forms of consociational and regional autonomy) on the one hand, and liberal forms of state-building on the other hand.

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