

*Patterns of Territorial Self-governance in Postcommunist Europe: Historical Legacies and Contemporary Opportunities\**

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## Introduction

Defying earlier predictions about a dramatic transformation of sovereignty in a post-Westphalian Europe, the notion of the state as a territorially bounded collectivity with unmatched legitimacy remains central to ongoing debates over sovereignty after the end of the Cold War.

Yet the last centuries of dramatic (and often violent) changes in territorial borders and political regimes on the continent created a multiplicity of collectivities that have made competing claims to territorial self-government in ways that continue to challenge the notion of a coherent institutional framework encapsulated in the ideal Weberian state model and highlight the complexities of the issue of territorial rights.<sup>1</sup> In the words of Margaret Moore, “territorial right is a complex bundle of rights, immunities, duties and moral powers.”<sup>2</sup> Today, territorial self-governance claims by groups “below” the state remain highly salient and deeply divisive in post-Cold War Europe. There has been significant variation in state responses to such claims, resulting in a complex map of territorial self-governance arrangements on the continent.

Our goal in this article is to offer an explanation for the variation in the availability of territorial self-governance (TSG) to minorities today, focusing on the postcommunist region of Central and Eastern Europe. First, we explain the reasons why we should be interested in mapping the availability of TSG arrangements for minorities, taking account of the debate over its conceptualization and empirical uses, and proposing a definition of TSG that can serve as a comparative category. Second, we provide a description of the state of affairs in postcommunist Europe today: which minorities have demanded TSG, and how many have achieved it. Third,

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<sup>1</sup> Weber 1972, 821-2; see also Jellinek 1914, 394-343

<sup>2</sup> Moore 2010, 1.

we evaluate the impact of two factors commonly considered as important in explaining the availability (or not) of TSG for minorities: historical legacies and external intervention.<sup>3</sup>

An underlying assumption of the literature on majority-minority conflict over territory is that the legacies of past state development and conflict play a significant part in the later dynamics of contestation. The available literature, however, offers no systematic comparative explorations about the impact of those legacies. To advance our understanding of this issue, we focus on three aspects of continuity most commonly discussed in the scholarship: (1) the legacy of privilege, in other words past territorial and institutional changes that created majority-minority hierarchies, in most cases involving past status loss by current minorities; (2) the legacy of violence, that is, patterns of past violent conflict between the relevant groups, in most cases associated with territorial reorganization in the context of wars; and (3) the institutional legacy of TSG, e.g., the availability of territorial self-governance for the current minority in the pre-1989 period. Thus, we focus on legacies as part of a context in which minorities and majorities are motivated to seek or deny TSG, not whether particular legacies give rise to such motivations.

The impact of external intervention on the outcome of majority-minority conflict over territorial sovereignty is also broadly recognized in the literature, which has established that that external actors can either exercise a conflict-reducing and preventing influence *or* exacerbate existing conflict.<sup>4</sup> We focus on two types of intervention by external actors: (1) instances where external intervention reduced or prevented conflict by facilitating a negotiated settlement between conflict parties; and (2) instances where

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<sup>3</sup> We briefly also examined economic motivation discussed in the literature as a source of ethno-territorialism (cf. Fearon and Laitin, 2003; Collier and Hoeffler, 2004) but found it to have limited value in explaining the availability of TSG arrangements in this region. It helps to account, in part, for the desire to *sustain* de-facto statehood in three of the five such cases we encountered: Abkhazia, South Ossetia, and Transnistria.

<sup>4</sup> This literature includes conceptual work, among others, by Brubaker (1996); Smith (2002); and van Houten (1998), and empirical analyses, among others, by Carment and James (1997, 2004); Carment, James and Taydas (2006); Jenne, Saideman and Lowe (2007); Saideman (1997, 2002); Saideman and Ayres (2000, 2008); Weller and Wolff (2005); and Wolff (2002).

such intervention, rather than facilitating a negotiated settlement, either consolidated an existing status quo, or created a new status quo that remains contested by one of the conflict parties.

Thus we address two specific questions: To what extent do past group status, past availability of territorial self-governance for the group, and/or past violent conflict between groups explain the current availability of minority territorial self-governance? What role did external intervention play in shaping the contemporary minority TSG map?"

## **I. Territory, territorialism, and minority territorial self-governance**

In the course of European state development, territory became deeply ingrained in notions of democratic government.<sup>5</sup> For states, territory possesses a certain value in and of itself, including natural resources, the goods and services produced, the tax revenue generated from them, and the military or strategic advantages derived from natural boundaries, access to the open sea, and control over transport routes and waterways. For ethno-national groups engaged in processes of cultural reproduction, territory is very often also important in a different way—as a crucial component of collective identity formation. Territory is then conceptualized more appropriately as place, bearing significance in relation to the group’s history and collective memories. For ethnic groups, too, territory is, or can become, a valuable commodity that provides resources and a potential power base. Territory is, thus, an equally significant source of sovereignty for minority and majority groups.

What makes territorial self-governance problematic is when different groups claim the same territory and demand control over it. Although territorial self-governance exercised by a segment of the state’s population within a part of the state’s territory does not contravene the idea of a territorial state, it does require a particular territorial and institutional organization.

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<sup>5</sup> Keating, 2008.

Even if sub-state TSG does not challenge the territorial integrity of the state as a whole, it places certain constraints on the way in which that state exercises its sovereignty. Those constraints can become significant sources of conflict, especially if they are equated with limitations placed upon the rights of majority communities: those among the dominant state majority who identify the state and its territory most strongly as “theirs” often struggle with the idea that “others,” in their eyes, may have equally valid claims.

Nevertheless, contests between ethnic groups over territory, as an entity in which governance is exercised, can only partly be resolved by devolving governance functions to the disputed territorial entity. By its very nature, such self-governance is territorial, that is, it creates a political process within the entity designed to involve all residents, not merely those of a particular ethnic group. As an instrument of statecraft and conflict management, TSG is a mechanism to deal with competing territorial claims: sub-state communities can exercise a degree of self-governance in a territory (that in most cases they consider “their” homeland), while state majorities can retain overall control of the same territory that they consider part of “their” state. Thus, TSG commits both minorities and majorities to recognize the validity of each other’s claims and to respect the parameters of an institutional setup meant to accommodate them. Majorities—or more specifically a state’s central government controlled in large measure by a demographically and electorally dominant group—accept limitations to their authority to exercise public policy functions within part of the state’s territory. Minorities accept the overall legal constitutional order of the state and its existing borders, that is, they use TSG neither as a stepping stone towards unilateral secession nor as a way to limit rights guaranteed under the constitution to all the state’s citizens, regardless of whether they are members of minority or

majority communities in the self-governing territory or the state overall.<sup>6</sup> As we elaborate further below, however, majorities and minorities have reasons to look at TSG from different perspectives. For majorities, TSG becomes a question of state security and of the stability of its (democratic) governance institutions. For minorities, it is a question of group/identity security and of inclusion into the state's (democratic) governance institutions.

### Territorial self-governance: a contested approach to conflict settlement

Contemporary international boundaries between sovereign states in Europe, and elsewhere, are results of long and complex historical processes, reflecting the rise and demise of states and empires over centuries, the balance of power between winners and losers of wars, and the territorial designs that the great (and super) powers of the day had in mind in furtherance of their own geopolitical agendas.<sup>7</sup> As a consequence of those processes, which involved also ethnic expulsions and other state-designed population movements, most of the existing states in postcommunist Europe contain an ethno-demographic patchwork of varying degrees—from the now near-homogeneous Poland to the almost bi-national Latvia. Nonetheless, in the majority of cases, ethnic minorities in the communist successor states live territorially relatively concentrated in their historic homelands. Regardless of whether these homelands are now part of one state or more, association with a territorial homeland remains a major aspect of ethnic group identification. In many cases, it also acquires an acute political salience that manifests itself in demand for political control of the homeland, or, more precisely, a demand for self-governance

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<sup>6</sup> Pluralist theorists argue that the liberal democratic state would be justified in denying TSG to historic minority communities only if they do not guarantee basic rights and freedoms due to individuals, including members of the national majority residing on the territory in which the minority exercises self-government (Kymlicka 2007). A similar argument is made by Brancati (2009, 30-40) in the context of a discussion on when TSG ('decentralisation', in her terminology) exacerbates ethnic conflict and secessionism.

<sup>7</sup> Tilly 1990.

in the homeland. We refer to this phenomenon as ethno-territorialism: a group's expressed preference for self-government that can involve: (a) demands for independent statehood, (b) unification with another state (usually viewed as a "kin-state"), (c) territorial self-governance within an existing state, and (d) non-territorial self-governance (or cultural autonomy). From the perspective of the traditional nation-state, the challenges that these claims present are substantively different. The former two claims<sup>8</sup> threaten the political boundaries of the state but do not challenge, and usually even reinforce, the traditional nationalist pursuit of "one state-one nation." By contrast, claims for self-governance within the existing boundaries of a given state challenge the fundamental principle of the modern territorial *nation*-state. Minorities that demand territorial self-governance are viewed as groups engaged in competitive nation-building that counters majority nation-building. For majorities, then, self-governance is primarily a question of state stability and conflict regulation. For minority groups, in turn, the pursuit of territorial self-governance usually becomes a question of state legitimacy and group maintenance: they view this form of self-governance as an instrument by which they can counter the inherent structural asymmetry of the unitary nation state that inevitably provides national majorities with control over the institutions of government and cultural reproduction throughout the territory of the state.

This kind of ethno-territorialism has been highly conflict-prone. At the same time, the academic community is deeply divided over the issue of whether the territorial self-governance of ethno-national minorities is an inherent source of conflict *or*, rather, it can offer useful mechanisms to keep or restore peace while preventing the break-up of an existing state. From the study of ethnic conflict we know that territorially concentrated groups in divided societies are

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<sup>8</sup> In some instances, such claims are made as part of a bargaining process at the end of which an improved internal status is sought.

more likely to demand self-determination<sup>9</sup> and to be engaged in violent conflict in its pursuit<sup>10</sup>, while the initiation of peace negotiations in such conflicts fought over territory is significantly less likely as are government concessions.<sup>11</sup> Cornell, in his analysis of ethnic conflicts in the Caucasus argues that the “institution of autonomous regions is conducive to secessionism,”<sup>12</sup> a point that Roeder<sup>13</sup> made more than a decade earlier in relation to Soviet ethnofederalism and later reiterated in a broader empirical study<sup>14</sup>, in line with similar findings by Hale<sup>15</sup> and Treisman.<sup>16</sup> Many authors are, thus, highly skeptical of territorial approaches to resolve conflicts, arguing that, rather than being a cure, territorial approaches induce conflict. Others have presented empirical evidence to the contrary. Gurr argues that the “recent historical track record shows that, on balance, autonomy arrangements can be an effective means for managing regional conflicts.”<sup>17</sup> Saideman et al.<sup>18</sup> find that “federalism reduces the level of ethnic violence”, Bermeo concludes that “federal institutions promote successful accommodation”<sup>19</sup> in cases of ethnic conflict, Hartzell and Hoddie offer statistical evidence that “[d]esigning a negotiated settlement or negotiated agreement to include [territorial power sharing] lowers the risk of a return to war”.<sup>20</sup> Cohen and Schneckener similarly endorse the use of territorial approaches to resolving self-determination conflicts<sup>21</sup>, while Wolff offers a survey of the widespread use of territorial

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<sup>9</sup> Jenne et al. 2007; Saideman and Ayres 2000; Toft 2003; Toft and Saideman 2010.

<sup>10</sup> Fearon and Laitin 1999; Quinn 2008; Weidmann, Rød, Cederman 2010.

<sup>11</sup> Walter 2003.

<sup>12</sup> Cornell 2002, 252.

<sup>13</sup> Roeder 1991.

<sup>14</sup> Roeder 2007.

<sup>15</sup> Hale 2000, 2004.

<sup>16</sup> Treisman 1997.

<sup>17</sup> Gurr 1993, 301.

<sup>18</sup> Saideman et al 2002, 118.

<sup>19</sup> Bermeo 2002, 97.

<sup>20</sup> Hartzell and Hoddie 2007, 169.

<sup>21</sup> Cohen 1997; Schneckener 2002.



approaches in contemporary conflict settlements<sup>22</sup>. Harff and Gurr argue that “if no autonomy options are open to regionally concentrated groups, armed conflict may occur.”<sup>23</sup>

The debate among scholars about the utility, viability, and range of different TSG arrangements as a strategy to deal with ethno-territorial conflicts is a mirror image, and in some ways a consequence, of a similar debate over its very definition as a strategy of conflict management and resolution. This latter debate is characterized by considerable conceptual and empirical disagreements and by a predominant focus in the literature on just two forms of TSG—autonomy and federation. Conceptually broader and more contested is the term autonomy—referring simultaneously to the specific territorial status of an entity within an otherwise unitary state (e.g., Crimea in Ukraine) and the functional status of a particular level of government within a multi-layered system (e.g., the autonomy of a federal state to make certain decisions independent of the federal government). Put differently, autonomy, which is one of the most often employed terms to describe territorial approaches to conflict resolution in divided societies, is used both in an abstract functional sense in the context of governance arrangements and as a concrete manifestation of territorial self-governance in a specific (often singular) sub-state entity in a given state.<sup>24</sup> At the same time, if the notion of autonomy implies a democratic process (e.g., a form of popular sovereignty), then the definition raises empirical issues particularly relevant in the postcommunist region: for instance, did the territorial arrangements in the former communist bloc, such as in Czechoslovakia and the Soviet Union—count as examples of TSG?<sup>25</sup> Without

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<sup>22</sup> Wolff 2009a.

<sup>23</sup> Harff and Gurr 2004, 186.

<sup>24</sup> Cf. also the more detailed discussion of the use of the term in Benedikter (2007, 16-20), Elazar (1987, Ch. 2), and Ghai (2000, 8-24).

<sup>25</sup> In the case of Czechoslovakia, the Czech Socialist Republic and Slovak Socialist Republic were established in 1969. In the Soviet Union, 15 Union Republics (16 if one counts the short-lived Karelo-Finnish Socialist Soviet Republic that existed from 1940 to 1956 when it was incorporated into the Russian SFSR as the Karelian Autonomous Soviet Socialist Republic) and numerous lower-level autonomous republics and districts within them existed, and, especially in the Russian Federation, have at least notionally survived the end of the Soviet Union.

pre-empting a proper definition of the term, TSG incorporates notions of both a territorial and functional kind, and it is, therefore, useful to trace the academic history of the concept of “autonomy” and its practical application.

### An overview of existing definitions

The difficulty to pin down and conceptualize autonomy has long been recognized in political science.<sup>26</sup> Almost two decades ago, John McGarry and Brendan O’Leary observed:

Overlapping cantonization and federalization there exists a grey area of territorial management of ethnic differences which is often found in conjunction with external arbitration. International agreements between states can entrench the territorial autonomy of certain ethnic communities, even though the ‘host state’ does not generally organize itself along either cantonist or federalist principles.<sup>27</sup>

Despite this difficulty to define clearly what autonomy is, a variety of definitions exist, many of which focus on the functional aspect of autonomy, rather than its concrete territorial manifestation. Michael Hechter describes political autonomy as “a state of affairs falling short of sovereignty.”<sup>28</sup> In Ted Robert Gurr’s understanding “autonomy means that a minority has a collective power base, usually a regional one, in a plural society,”<sup>29</sup> and Harff and Gurr define

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<sup>26</sup> Potier (2001, 54) makes the same point regarding international law.

<sup>27</sup> McGarry and O’Leary 1993, 32. More recently, McGarry and O’Leary (forthcoming) use the term ‘federacy’ for such arrangements, noting that “the grant of self-government is constitutionally guaranteed and cannot be revoked by the centre unilaterally” and that it “normally applies to a part of the state’s territory, and normally a small part (in population)”, thus setting it apart from both devolution (lack of constitutional guarantee) and federation (application to the entire territory). Elazar (n.d.) defines federacy in similar terms as a relationship “[w]hereby a larger power and a smaller polity are linked asymmetrically in a federal relationship in which the latter has substantial autonomy and in return has a minimal role in the governance of the larger power. Resembling a federation, the relationship between them can be dissolved only by mutual agreement.”

<sup>28</sup> Hechter 2000, 114.

<sup>29</sup> Gurr 1993, 292.

autonomy as “a political arrangement in which an ethnic group has some control over its own territory, people, and resources but does not have independence as a sovereign state.”<sup>30</sup> Hurst Hannum and Richard Lillich stated in their influential essay on the concept of autonomy in international law that “autonomy is understood to refer to independence of action on the internal or domestic level, as foreign affairs and defense normally are in the hands of the central or national government, but occasionally power to conclude international agreements concerning cultural or economic matters also may reside with the autonomous entity”<sup>31</sup>. In her extensive study on autonomy, Ruth Lapidoth defines territorial political autonomy as “an arrangement aimed at granting a certain degree of self-identification to a group that differs from the majority of the population in the state, and yet constitutes the majority in a specific region. Autonomy involves a division of powers between the central authorities and the autonomous entity”.<sup>32</sup> Daftary makes a similar point, emphasizing that such arrangements normally mean that “powers are not merely delegated but transferred; they may thus not be revoked without consulting with the autonomous entity. ... the central government may only interfere with the acts of the autonomous entity in extreme cases (for example when national security is threatened or its powers have been exceeded).”<sup>33</sup>

As a consequence of this wide range of definitions, there is little consensus over what forms of state construction actually qualify as “autonomies.” Palley, for example, claims that

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<sup>30</sup> Harff and Gurr 2004, 221.

<sup>31</sup> Hurst Hannum and Richard Lillich 1980, 859.

<sup>32</sup> Lapidoth 1997, 174-175. It should be noted here that autonomy in a functional sense need not be conceived of in territorial terms only. Rather, there is also a strand in the literature of conflict resolution that advocates non-territorial autonomy arrangements, especially in cases where claimant groups are territorially not sufficiently concentrated. Such “[p]ersonal autonomy applies to all members of a certain group within the state, irrespective of their place of residence. It is the right to preserve and promote the religious, linguistic, and cultural character of the group through institutions established by itself” (Lapidoth 1997, 175). This distinction between territorial and non-territorial autonomy is made by a number of other scholars as well, including Heintze (1997, 37-46; 1998, 18-24); Hechter (2000, 72ff); and Potier (2001, 55f and 59f). For a recent conceptual and empirical study of this phenomenon, see Cordell and Smith (2007).

<sup>33</sup> Daftary 2000, 5.

“[p]olitical autonomy may range from devolution of power to small communities, through regionalism, to federal government”<sup>34</sup> and cites the examples of South Tyrol, Swedish-speakers in mainland Finland and the Åland Islands, the German minority in Denmark and the Danish minority in Germany, Belgium, Switzerland, and the Netherlands all as cases of autonomy. Elazar, in the introduction to his *Federal Systems of the World: A Handbook of Federal, Confederal and Autonomy Arrangements* identifies 91 “functioning examples of autonomy or self-rule, ranging from classic federation to various forms of cultural home-rule”<sup>35</sup> in 52 different states, while Benedikter counts 58 regions across the world with territorial autonomy<sup>36</sup>.

Regardless of the scope and detail of the above definitions, the one common feature they all share, directly or indirectly, is the transfer of certain powers from a central government to that of the (thereby created) self-governing entity, and the relatively independent exercise of these powers. Such arrangements then can incorporate executive, legislative, and judicial powers to varying degrees. Where they are used as an instrument for conflict prevention and settlement in divided societies, they ideally include such a mix of the three that enables the self-determination movement in question to regulate independently the affairs central to the concerns of its members, which are normally easily identifiable, as they manifest themselves in concrete claims. However, as such TSG arrangements fall short of full sovereignty, such self-government usually happens within the broader constitutional and legislative framework of the existing state and under the supervision of a central government or similar agencies. TSG arrangements can thus take a wide variety of forms that can be conceptually captured by McGarry and O’Leary’s definition of territorial pluralism:

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<sup>34</sup> Palley 1991, 5.

<sup>35</sup> Elazar 1991.

<sup>36</sup> Benedikter 2007.

Territorial pluralism assists geographically concentrated national, ethnic, linguistic, or religious communities. It is not relevant for small, dispersed communities, including immigrant communities, for whom self-government is infeasible or undesirable.

Territorial pluralism should be distinguished not just from group-based (non-territorial) autonomy, but also from territorial self-government based on ‘administrative’, or ‘geographic’ criteria, including regional components of the state’s majority community.<sup>37</sup>

### A working definition

We define TSG as the legally entrenched power of territorially delimited entities within the internationally recognized boundaries of existing states to exercise public policy functions independently of other sources of authority in this state, but subject to its overall legal order.<sup>38</sup>

Conceptually, this definition of TSG applies its meaning as a tool of statecraft to the specific context of either managing existing conflict in divided societies or of preventing potential conflict. As such, it encompasses five distinct governance arrangements—confederation, federation, autonomy, devolution, and decentralisation.<sup>39</sup>

- ***Confederation: extensive self-rule without institutionalised shared rule.*** This is an empirically rare form of voluntary association of sovereign member states which pool some competences (e.g., defence, foreign affairs, and currency) by treaty without giving executive power to the confederal level of government. Relevant examples include Serbia

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<sup>37</sup> McGarry and O’Leary, forthcoming, cf. also McGarry, O’Leary and Simeon 2008, 63-67.

<sup>38</sup> The definition of self-governance has been adapted from Wolff and Weller (2005) and is identical to its usage in Csergo and Wolff (2009) and Wolff (2010).

<sup>39</sup> Note that as forms of state construction, each of these types of governance arrangement can be applied with their territorial boundaries cutting across or around the settlement areas of ethnic or national minorities. In our conceptualisation of TSG as a simultaneous conflict prevention/management/settlement mechanism, our empirical analysis focuses on arrangements with the latter kind of territorial boundaries.

and Montenegro under the terms of the 2003-2006 constitution (which was never fully implemented), Switzerland between 1291 and 1848 (formally Switzerland retains the term confederation in its official name, functionally, however, it is a federation). The relationship between Republika Srpska and the Federation of Bosnia-Herzegovina resembles a confederal arrangement, but also has clear federal characteristics, and increasingly so. As a potential model for resolving conflict in postcommunist Europe, confederation has been suggested by Russia and Transnistria for the settlement of the latter's conflict with Moldova.

- ***Federation: extensive self-rule with institutionalised shared rule.*** In contrast to confederation, this implies a constitutionally entrenched structure in which the entire territory of a given state is divided into separate political units, all of which enjoy certain exclusive executive, legislative and judicial powers independent of the central government.<sup>40</sup> The most commonly cited contemporary example of a successful plurinational federation is Canada, while recent developments in Belgium have cast some doubt over the long-term viability of that federation, even though there is no suggestion of a violent disintegration. Historically failed federations are those of Yugoslavia, the Soviet Union, and Czechoslovakia.
- ***Federacy arrangement: constitutionally entrenched extensive self-rule for specific entities.*** The main distinction between a federacy arrangement and a federation is that the former enjoys similar powers and constitutional protection as federal entities, but is distinct in that it does not necessitate territorial sub-divisions across the entire state

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<sup>40</sup> There are common exceptions to this entire-territory rule. For example, capital cities, unless they are federal entities of themselves, often have special status (Washington, D.C., vs. the German capital Berlin which is a *Bundesland*). Occasionally, there are also other special territories that are directly ruled by the federal government, even though they may enjoy some degree of self-governance (falling short, however, of full federal status), such as the India's Union Territories.

territory. In other words, federacy arrangements are a feature of otherwise unitary states<sup>41</sup> (Classical examples, frequently proposed for application in postcommunist Europe, include the Åland Islands (Finland) and South Tyrol (Italy). In postcommunist Europe, examples include Gagauzia (Moldova) and Crimea (Ukraine).

- ***Devolution: extensive self-rule for specific entities entrenched in ordinary law.*** Like federacy arrangement, devolution can be applied to selected territories in a unitary state. In contrast to federated entities, however, the degree of legal protection is weaker (in the sense that it is easier to reverse) and extends only to protection by ‘regular’ rather than constitutional laws. The primary example here is the United Kingdom with its four devolution settlements (London, Northern Ireland, Scotland, and Wales).<sup>42</sup> This form of TSG is absent from the postcommunist region of Europe.
- ***Decentralisation: executive and administrative powers at the local level.*** Guided by the principle of subsidiarity, decentralisation means the delegation of executive and administrative powers to local levels of government. It does not include legislative competences. Recent examples of the application of this form of TSG as a mechanism of conflict resolution in divided societies include Macedonia (under the 2001 Ohrid Agreement) and Kosovo (under the terms of its 2008 constitution and related ‘Athisaari legislation’).<sup>43</sup>

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<sup>41</sup> cf. also Weller and Wolff 2005, Wolff 2010.

<sup>42</sup> Northern Ireland enjoys additional, international legal protection of its status through the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland (the so-called Belfast Agreement of 1998), to which the Northern Ireland Agreement was appended.

<sup>43</sup> As noted above, decentralisation only ‘counts’ as a TSG arrangement if it is specifically applied as a mechanism of conflict resolution. Hence, Macedonia and Kosovo qualify as cases, whereas, for example, Greeks in Albania’s historical Northern Epirus region do not.

## II. The state of affairs in the postcommunist world

### Approach

Any comparative study of minorities assumes the existence of recognizable minority groups in states. The use of “group” as an analytical category has been compellingly challenged by an influential school in nationalism and ethnicity studies that highlights the responsibility of scholars in contributing to the solidification of group divisions by reifying group categories.<sup>44</sup> In our study, we use group categories as a short-hand for recognizable, organized, and systematically manifested majority and minority positions and preferences; similarly to the way such categories are employed in other scholarship about social cleavages.<sup>45</sup> Our understanding of minority groups is essentially similar to the definition most broadly cited in international law, formulated by Francesco Capotorti, former UN Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities: “a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language”.<sup>46</sup> Majorities and minorities are, of course, never unitary actors. In most of Europe’s postcommunist states with sizable minority groups, however, majorities demonstrate recognizable patterns of nation-building; and in each state only a limited number of minority groups make TSG claims to the state.

To assess the relationship between the availability of TSG in postcommunist Europe (our dependent variable) on the one hand, and “historical legacies” and “external intervention” (our

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<sup>44</sup> Brubaker 2004; Csergo 2008.

<sup>45</sup> Brubaker et al. 2007.

<sup>46</sup> Capotorti 1979é



main independent variables) on the other, we have combined smaller-n regional comparison, larger-n comparison, and case studies.<sup>47</sup> We constructed a dataset that includes minorities that have made TSG demands in postcommunist Europe (defined geographically, including the South Caucasus) since the first part of the 20<sup>th</sup> century. In doing so, we drew on the Minorities at Risk Project<sup>48</sup> and supplemented this with data available from the Minority Rights Group International<sup>49</sup> and data contained in Cordell and Wolff.<sup>50</sup> This way we generated a dataset of a total of 25 groups in 16 countries (including Kosovo). We coded our variables drawing on existing coding in the MAR dataset<sup>51</sup> and again supplemented this with qualitative data from Minority Rights Group International<sup>52</sup> and in Cordell and Wolff,<sup>53</sup> State Reports, Opinions, Comments and Recommendations submitted under the Council of Europe’s Framework Convention on National Minorities,<sup>54</sup> the Freedom House index,<sup>55</sup> especially the “Nations in Transit” index, which provides additional data on postcommunist countries, Polity Project,<sup>56</sup> as well as further research of our own. The purpose of this dataset is to serve as a descriptive device about the universe of TSGs in postcommunist Europe.<sup>57</sup> In this paper, we analyze a

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<sup>47</sup> For a discussion of qualitative methodology that combines case studies with statistical analysis of larger-n datasets, with the scope of addressing questions about both processes and causality, see Varshney (2008). For practical applications see, for example, Norris (2008) and Brancati (2009).

<sup>48</sup> Minorities at Risk Project 2009.

<sup>49</sup> Minority Rights Group International 2009.

<sup>50</sup> Cordell and Wolff 2004.

<sup>51</sup> Minorities at Risk Project 2009.

<sup>52</sup> Minority Rights Group International 2009.

<sup>53</sup> Cordell and Wolff 2004.

<sup>54</sup> Council of Europe 2009.

<sup>55</sup> Freedom House, 2009. As an indication of the generally accepted norm that minority protection and accommodation constitute a necessary part of democratic government, even Freedom House (FH), which focuses on the availability of individual liberties around the world in its survey “Freedom in the World” has increased attention on potential majority abuses of political advantages over ethno-cultural minorities. The 2008 report introduced two new “discretionary questions” under the political rights section, one of which is the following: “Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group?” (FH 2008) The description of the highest rating (the rating of 1) that a state can receive in the political rights category includes the following criterion: “Minority groups have reasonable self-government or can participate in the government through informal consensus.” (FH 2009)

<sup>56</sup> Polity IV.

<sup>57</sup> The dataset is available in excel form upon request. Please email the authors.

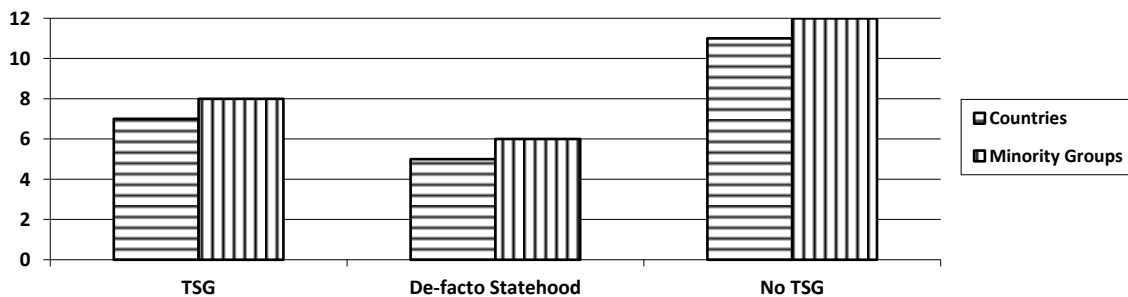
specific subset of data only—the postcommunist states of Europe (excluding Russia) in which minority groups have made demands for TSG.

### Case selection

Employing the definition and categorization of empirical types of TSG developed in the previous section, a diverse picture of its application in postcommunist Europe emerges (see Figure 1).

Specifically, of the 16 countries and 25 in-country minority groups our analysis covers (see Appendix 1), some form of TSG is available in six countries and for seven groups (see Table 1), in five countries six groups have secured a status of de-facto statehood<sup>58</sup> (see Table 2), and no TSG (in the sense of a mechanism specifically employed for state construction *and* conflict settlement) is available for the remainder of the groups (see Table 3).

**Figure 1:** Forms of Territorial Self-governance in Postcommunist Europe



<sup>58</sup> We define de-facto statehood in the context of this paper as a situation in which a territorial entity unilaterally declared its independence but finds its statehood contested by both its (former) metropolitan state (i.e., the secession is not accepted) and internationally (recognition is not universal and specifically rejected by some states as illegal under international law). Applying these two criteria, Kosovo (and its Albanian majority) are counted as a case of de-facto statehood alongside Nagorno-Karabakh (Azerbaijan), Abkhazia and South Ossetia (Georgia), and Transnistria (Moldova). Unlike the four other cases, Kosovo retains a significant, albeit reduced, Serb population and makes TSG provisions for its members qua decentralisation. However, these provisions currently only apply to Serbs in central and southern parts of Kosovo (which we treat as cases of decentralisation), while Serbs in Mitrovica have attained a status more akin to that of a de-facto state (and are therefore treated as a separate case in this category).

**Table 1: Available Forms of TSG in Postcommunist Europe<sup>59</sup>**

<b>Confederation</b>	<b>Federation</b>	<b>Autonomy</b>	<b>Decentralisation</b>
BiH (state level; Serbs)	BiH (Federation of Bosnia-Herzegovina; Croats)	Georgia (Adjars) Moldova (Gagauz) Serbia (Hungarians) Ukraine (Crimean Russians) <sup>60</sup>	Kosovo (Serbs in central and southern Kosovo) <sup>61</sup> Macedonia (Albanians)

**Table 2: De-facto Statehood in Postcommunist Europe**

<b>Country</b>	<b>Group</b>
Azerbaijan	Armenians in Nagorno-Karabakh
Georgia	Abkhaz in Abkhazia
Georgia	Ossetians in South Ossetia
Kosovo	Serbs in Mitrovica region
Moldova	Russophones (primarily Russians and Ukrainians) in Transnistria <sup>62</sup>
Serbia	Albanians in Kosovo

<sup>59</sup> Devolution as defined in this paper does not exist as a model of TSG in postcommunist Europe.

<sup>60</sup> The autonomy of Crimea is de jure not defined in ethnic, but in territorial terms; de facto, however, it operates as a TSG arrangement that benefits the large ethnic Russian and Russophone population, while it all but excludes the Crimean Tatar from meaningful political participation. We thus count Crimean Russians as a case of autonomy, and Crimean Tatars as a case of no TSG.

<sup>61</sup> The constitution of Kosovo makes specific provisions for local governance units with significant non-Albanian populations. While we treat the Mitrovica region in the north of Kosovo as a ‘de-facto’ state, the constitution’s provisions still apply in parts of central and southern Kosovo.

<sup>62</sup> While ethnically distinct, Russians and Ukrainians in Transnistria, as well as the vast majority of ethnic Moldovans share a ‘distinct Transnistrian feeling of identity’ anchored in language (Russian), geography (natural separation from the rest of Moldova by the River Nistru), history (Transnistria as part of the Russian empire, rather than historic Bessarabia, with self-governance arrangements in the early Soviet period), and a perception—rightly or wrongly—to have been at the receiving end of a Moldovan attempt to resolve the dispute by force in 1992 (CSCE 1993). There is also a widely shared political aspiration for independent statehood, or at least a very high level of TSG in Moldova.

**Table 3:** Claimant Groups in Postcommunist Europe without TSG

<b>Country</b>	<b>Minority Group</b>
Albania	Greeks
Bulgaria	Turks
Croatia	Serbs
Estonia	Russians
Georgia	Armenians
Georgia	Azeris
Lithuania	Poles
Poland	Germans in Opole Silesia
Romania	Hungarians
Serbia	Sandzak Muslims
Slovakia	Hungarians
Ukraine	Crimean Tatars

We have excluded the Russian Federation from our analysis partly for conceptual and partly for methodological reasons. Conceptually, TSG in Russia exists nominally in a variety of different forms, but is practically very limited because of the centralizing nature of the Russian state, especially after the Yeltsin period. Few nominally self-governing entities have real independent authority, and decreasingly so with the ever stronger central control of their affairs, including the direct appointment of regional governors by Moscow. Methodologically, the sheer number of (nominally) self-governing entities within Russia would significantly skew our findings: based on the same data sources as noted above, 30 minority groups in Russia have made claims to some form of TSG. While 25 of these claims have been accommodated in some form, the status of the relevant territorial entities often reflects the legacy of state construction in the former Soviet Union, rather than a genuine effort at accommodating TSG demands. TSG in Russia, thus, warrants separate analysis that cannot be accomplished in this paper.

### **III. The impact of historical legacies on contemporary TSG arrangements in postcommunist Europe**

### The legacy of privilege: past minority status

With few exceptions, the overwhelming majority of current minorities in postcommunist Europe that aspire to some form of TSG have gained their minority status through dramatic territorial changes (such as from empire to “nation-state” or from communist federation to postcommunist successor state), which also resulted in significant status loss for half of the 25 contemporary minorities. The minorities that did *not* experience significant status loss include 7 cases: Greeks in Albania; Adjars in Georgia (who maintained both their minority status and their TSG since Georgia’s independent statehood); Azeris in Georgia (who became the largest minority in the state, though without TSG); Armenians in Georgia (who only went from largest to second largest minority and remain without TSG); Albanians in Macedonia (who went from official national minority in Yugoslavia to non-recognized minority in Macedonia and then to recognized constituent community of Macedonia in 2001 including gaining TSG in the form of decentralization); Gagauz in Moldova (who gained unprecedented and extensive “national-territorial autonomy” in 1995, including an option to secede if Moldova ever chooses to unite with Romania); and Crimean Russians in Ukraine (who experienced moderate status loss in 1954 but enjoy TSG today, in contrast to Crimean Tatars). The 4 groups that have gained *de facto* statehood (Armenians in Nagorno-Karabakh in Azerbaijan, Abkhaz and South Ossetians in Georgia, and Transnistrian Russophones in Moldova) constitute a sub-set of cases that have not lost their status.

The list of 13 groups that *did* experience significant status loss includes those whose status changed from politically dominant community to subordinate minority in the early part of the 20<sup>th</sup> century –such as Turks in Bulgaria, Poles in Lithuania, Hungarians in Romania, Slovakia, and Serbia, and Germans in Poland. Groups that experienced similarly significant

status loss after 1990 include Croats and Serbs in Bosnia, and Serbs in Croatia and Kosovo.

Groups that underwent significant status loss also include Crimean Tatars in Ukraine (who were deported from Crimea in 1944), Russians in Estonia, and Sandzak Muslims in Serbia (who went from constituent people in Yugoslavia to minority without TSG in current Serbia).

Within a general pattern of status loss, in a significant sub-set of cases status change meant reversal of fortunes, in other words a switch from previously (politically) dominant status to subordinate minority status in the new setup. Some scholars have used the term “post-imperial minorities” to describe the latter category<sup>63</sup>, which includes: Hungarians in Romania, Serbia, and Slovakia (early 20<sup>th</sup> century); Poles in Lithuania (early 20<sup>th</sup> century); Germans in Poland (early 20<sup>th</sup> century), Russians in Estonia and Ukraine (post-1990); Serbs in Bosnia, Croatia, and Kosovo (post-1990); and Turks in Bulgaria (reversal in the 19<sup>th</sup> century). Today, less than a quarter of this sub-set has access to some form of TSG: 2 out of 9 cases, namely Russians in Ukraine; and Serbs in Kosovo. The powers of TSG vary greatly, from the autonomous republic status of Crimea to relatively weak self-governance among Hungarians in the Vojvodina province of Serbia. Except for Hungarians in Serbia, the instances where minorities enjoy TSG are those where the reversal of fortune occurred *after* 1990.<sup>64</sup> The low number of cases prevents us from making generalizable claims about the specific impact of such “reversals of fortunes.” Our survey about the broader pattern of status loss, however, suggests that groups that experienced status loss after 1990 are more likely to have access to TSG today than those who lost their status in the early part of the 20<sup>th</sup> century or decades before the end of

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<sup>63</sup> Galbreath and Muiznieks, 2009.

<sup>64</sup> In the case of Hungarians in Serbia, parliament reinstated Vojvodina as an autonomous province as of 1 January 2010. Hungarians comprise only 14% of Vojvodina’s population, so this autonomy provides relatively weak forms of TSG: the ability to influence policy is contingent on electoral outcomes. Since Fall 2009, Serbian legislation has also created a new framework that will allow for group non-territorial cultural autonomy for minorities in the spheres of culture and education.

the communist state. In other words, if historical legacy indeed matters in the case of “post-imperial minorities” that seek TSG today, it may mean that the farther back in history a given minority had a privileged status, the less likely it is that it enjoys TSG today. In other words, the legacy of privilege, thus, means that contemporary state majorities are inclined to grant TSG to formerly privileged ethnic (minority) groups only in situations where the latter’s loss of status has occurred relatively recently, and where the now minority is still perceived as a source of threat to the territorial integrity of the new state.

#### The institutional legacy: past TSG arrangements

The question of whether majorities and minorities can sufficiently trust each other to implement TSG as a sustainable and effective form of minority self-government can be addressed through another important element of historical legacy: the degree to which minorities had sub-state self-governing institutions in the past. We found two strong correlations between past and current availability of territorial self-governance for groups. De-facto statehood is strongly associated with pre-existing TSG arrangements at the end of the communist period and its subsequent (violent) abrogation.<sup>65</sup> All five cases in this category exhibit this pattern: Nagorno-Karabakh (Azerbaijan), Abkhazia and South Ossetia (Georgia), Transnistria (Moldova), and Kosovo (Serbia). The absence of current TSG arrangements, in turn, is strongly correlated with their previous non-existence, regardless of minority demands. None of the 12 groups without access to TSG today had TSG during the last decades of the communist state. This set of cases includes Greeks in Albania, Turks in Bulgaria, Russians in Estonia, Armenians and Azeris in Georgia, Poles in Lithuania, Germans in Opole Silesia in Poland, Hungarians in Romania, Sandzak

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<sup>65</sup> Note that our argument here is not that pre-existing TSG leads to the (violent) disintegration of states, but that it is its abrogation that does. This is different from arguments made, inter alia, by Cornell (2002), Roeder (1991, 2007), Hale (2000, 2004) and Treisman (1997).

Muslims in Serbia, Hungarians in Slovakia, and Crimean Tatars in Ukraine. Two of these groups (Crimean Tatars and Hungarians in Romania) had autonomy in the earlier decades of communism, but in both cases autonomy was abrogated and replaced with aggressive policies aimed at weakening these groups in the state. The Soviet-style autonomy that Crimean Tatars had been granted from 1921-44 in the form of the Crimean Autonomous SSR was abrogated by Stalin. The reoccupation of Crimea by the Red Army was followed by mass deportation of Tatars to Central Asia. Hungarians in Romania were granted a Hungarian Autonomous Province from 1952-68 in the form of another Soviet-style autonomy (created upon Soviet pressure on the Romanian government) with nominal powers. This autonomy was abrogated as soon as a more assertive nationalist government (e.g., the Ceausescu government) came to power in Romania.

When it comes to explaining the presence of TSG arrangements today, the pattern is more mixed, and historical legacies—distant and not so distant—do not easily explain the relevant situations in full. Two groups with some form of territorial self-governance in the immediate pre-1989 communist state that did not embark on a path towards de-facto statehood have access to TSG today: Hungarians in Vojvodina (Serbia) and Adjars in Adjara (Georgia). However, in the case of six groups, current access to TSG does not build on a legacy of TSG arrangements during the last decades of communism: Serbs and Croats in Bosnia and Herzegovina, Albanians in Macedonia, Gagauz in Moldova, Serbs in Kosovo, and Russians in Crimea (Ukraine).

#### The legacy of violence: past conflict

In almost half of the cases included in our study, the history of relations between the current majority and minority has involved significant instances of violence since the beginning of the



20<sup>th</sup> century. In most of these cases, violence was associated with territorial and institutional reorganization in the context of the two World Wars and their aftermaths, and at the end of the Cold War. Despite variation in the spread and degrees of violence in the region (e.g., whether violence was sporadic or sustained and whether it was intermediate or high intensity), there is no generalizable pattern of correlation between violent conflict in the pre-1989 period and the current availability of TSG.

Our comparative survey suggests that the post-1990 period has more relevance in this context than earlier episodes of violence. In cases where significant inter-group violence took place after 1990, minorities today have access to TSG (or, in four cases, gained de-facto statehood). Sandzak Muslims in Serbia, who have no TSG, may constitute an exception, as acts of violence have been reported since 1991<sup>66</sup>—though in the context of the post-Yugoslav wars this case represents a relatively low degree of violence. Overall, the pattern that emerges about the link between past violence and TSG supports the view that in the postcommunist context minority TSG has become a form of conflict settlement rather than an outcome of a democratic process by which minorities can gain self-governing rights through negotiation with democratic majority forces.<sup>67</sup>

Importantly, however, these cases also indicate that high levels of violence—which were characteristic of only a small sub-set of cases, including Bosnia, the Krajina region of Croatia, Kosovo, and South Ossetia—are unlikely to engender conditions for TSG as a stable institution for minority self-government. In Bosnia, although the Serb Democratic Party no longer dominates politics in the Republika Srpska, the now dominant Alliance of Independent Social Democrats (SNSD) and its leader, Milorad Dodik, have continued to articulate desires for

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<sup>66</sup> Poulton 2000.

<sup>67</sup> Similar observations about the linkage between violence and TSG status are made by Kymlicka (2007: e.g., 48, 51-3, 199, 204, 215ff.).

secession from Bosnia (and unification with Serbia). In Croatia, where excessive violence during the war resulted in the nearly complete expulsion of the Serb minority to Serbia, Serbs were granted transitional TSG under UN administration, before the region was fully re-integrated into Croatia. In Kosovo, although TSG is provided in the constitution, the jury is out on the viability of the arrangement, as Serbs in the north (where their main territorial base lies) refuse to participate in it. In South Ossetia and Abkhazia, high violence has forced self-determination claims to move much beyond the possibilities of TSG: after a prolonged period of de-facto statehood, both regions had their unilaterally declared independence recognized by Russia in August 2008. These cases appear to validate the wisdom derived from theories of credible commitment in conflict scholarship<sup>68</sup>, according to which institutions that result from conflict settlement will become sustainable only if all parties commit credibly to their implementation. Otherwise, dynamics of escalation associated with the security dilemma will continue to shape inter- and intra-group interactions, leading to the resurgence of violence.<sup>69</sup> Thus, against the backdrop of past violence we can expect that, in the absence of credible commitment, national majorities are not likely to “reward” minorities with effective TSG but will instead pursue centralized control and assimilation. Similarly, in the absence of credible commitment minorities are not likely to be satisfied with TSG granted by “untrustworthy” majorities but will instead aim for separation.

Our analysis of the three factors of historical legacy (history of group status, history of self-governance, and past conflict) shows that potentially they all offer some explanation individually or collectively for some of our cases, but no comprehensive and compelling patterns emerge that would allow us to account systematically for variation in the current availability of

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<sup>68</sup> e.g., Fearon 1995, 1998; Walter 2002.

<sup>69</sup> cf. Lake and Rothschild 1996.

TSG in on the basis of these historical legacy factors commonly discussed in the literature. The strongest correlation appears between the spread of TSG and violent inter-group conflict associated with the collapse of the communist state (during or immediately after the collapse). Significantly, it was in the same context that external actors became involved in the contestation.

#### **IV. Beyond historical legacies: the impact of external intervention**

The literature on external intervention in majority-minority conflicts has established that third party actors can either exercise a conflict-reducing and preventing influence *or* exacerbate existing conflict.<sup>70</sup> In the context of our cases, as we detail below, we find evidence for both patterns. Individual (kin-) states, such as Germany, Hungary, Russia, and Armenia, as well as regional and international organizations, like the EU and OSCE, have acted to reduce and prevent conflict in some instances and to exacerbate it in others. In the first instance (which we call “Type-1 external intervention” below), third-party involvement has facilitated a negotiated settlement between the conflict parties. In the second instance (which we call “Type-2 external intervention” below) third-party involvement has not facilitated a negotiated settlement between the conflict parties but instead either consolidated an existing status quo, or created a new status quo that remains contested by one of the conflict parties.

In the remainder of this section, we explore the combinations of factors that account for the overwhelming majority of our three principal outcomes: the availability of TSG arrangements, lack of TSG arrangements, and de-facto statehood. We find three main patterns

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<sup>70</sup> This literature includes conceptual work, among others, by Brubaker (1996); Smith (2002); and van Houten (1998), and empirical analyses, among others, by Carment and James (1997, 2004); Carment, James and Taydas (2006); Jenne, Saideman and Lowe (2007); Saideman (1997, 2002); Saideman and Ayres (2000, 2008); Weller and Wolff (2005); and Wolff (2002).

that explain our cases (with only four exceptions), which can be summarized as follows. In those five instances where we find the presence of negotiated TSG arrangements, two other factors are also present: significant inter-ethnic violence at and/or after the end of communism, and Type-1 external intervention.

Current de-facto statehood, of which we also count five cases, occurs in all those situations in which we see a combination of a history of TSG arrangements, significant interethnic violence at and/or after the end of communism, and Type-2 external intervention. Finally, the vast majority of our cases (11 in total) in which we do not find current TSG arrangements share the following factors: no TSG arrangements at the end of communism and no significant interethnic violence at and/or after the end of communism. Focusing on these three patterns, we account for outcomes in 21 of our total of 25 minority cases (see Table 4).

**Table 4:** Explaining the absence or presence of TSG arrangements in contemporary postcommunist Europe

<i>Significant interethnic violence at/after the end of communism + Type-1 external intervention → current TSG</i>	<i>Significant interethnic violence at/after the end of communism + Type-2 external intervention → current de-facto statehood</i>	<i>No significant interethnic violence at/after the end of communism → no current TSG</i>
Croats in Bosnia Serbs in Bosnia Albanians in Macedonia Serbs in central and southern Kosovo Gagauz in Moldova	Armenians in Nagorno-Karabakh, Azerbaijan Abkhaz in Abkhazia, Georgia Ossetians in South Ossetia, Georgia Russians, Ukrainians in Transnistria, Moldova Serbs in Mitrovica, Kosovo	Greeks in Albania Turks in Bulgaria Russians in Estonia Armenians in Georgia Azeris in Georgia Poles in Lithuania Opole Silesia Germans in Poland Hungarians in Romania Sandzak Muslims in Serbia Hungarians in Slovakia Crimean Tatars in Ukraine

This leaves us with four cases that do not fit (neatly) into any of the three patterns above. In the Vojvodina province of Serbia, where the overwhelming majority of Hungarians in Serbia live, and in the Adjara region of Georgia, TSG arrangements are in place today as they were at the end of communism.

The Adjarans have been able to preserve their territorial self-governance, established in 1922 and internationally guaranteed in the 1921 Soviet-Turkish Treaty of Kars, without external intervention, in the context of sustained, intermediate-level violence associated first with the leadership struggle between Shevardnadze and Saakashvili and then with the implementation of Saakashvili's election platform to reintegrate Georgia. Adjara had held Autonomous Republic status both within the Georgian SSR and later post-Soviet Georgia. From 1991 to 2004, Adjarans exercised de facto near complete powers in the region, although they were careful not to label it so. Adjarans have managed to maintain their autonomy status through the post-Soviet period for three main reasons. First, Adjara never demanded independence from Georgia, nor did it seek to remain part of the Soviet Union or Russia. Thus, second, the region was initially simply not important enough in the greater scheme of things in Georgia where real secessionist threats escalated quickly into violence (in Abkhazia and South Ossetia), and neither Gamsakhurdia nor Shevardnadze had a desire, or indeed the capacity, for yet another confrontation with an entity that did not threaten Georgia's territorial integrity. Third, later on, especially under Saakashvili, abrogating Adjara's autonomy completely (rather than retaining it in the present, albeit more centrally-controlled form) would have sent the wrong signal to Abkhazia and South Ossetia and at the same time threatened underlying political interest in Adjara with no obvious benefit to the central government.

The case of Hungarians in Vojvodina deserves further qualification. Although Hungarians in this region of Serbia did not make ethno-territorial claims, we count this as a case of TSG, because Vojvodina—the traditional homeland of Hungarians in Serbia—has autonomy under current Serbian legislation, and this autonomy has made it possible for Hungarians to have a significant voice in the provincial government. Vojvodina enjoyed a similar status in Yugoslavia, but lost its autonomy under the Milosevic regime in 1989, and regained it in 2008. Hungarians in Vojvodina did not make specific ethno-territorial claims, and they only make up about 14% of the population of the province, thus their autonomous powers are contingent upon the dynamics of electoral politics. This puts them in a position more akin to that of Germans in Opole Silesia (Poland) and Crimean Tatars in Crimea (Ukraine), both of whom are local minorities of 10% and 14%, respectively. While Crimea as a whole enjoys a TSG arrangement in the form of territorial autonomy within Ukraine, Crimean Tatars, more so than Germans and Hungarians, are excluded from the political process in their respective homeland territory. The latter two groups live in locally more compact settlements and thus enjoy some measure of political control at the level of local governance and at the same time participate in coalition governments at the respective regional/provincial level. This makes the existing TSG arrangement more meaningful for Hungarians in Vojvodina than it is for Crimean Tatars in Crimea.

Russians and Russian-speakers in Crimea, on the other hand, benefit from the territorial autonomy in Crimea. Yet, among the cases that today enjoy TSG, they are an outlier in the sense that they had neither TSG during the last decades of communism nor any significant inter-ethnic violence. What the situation in Crimea has in common, however, with the other cases that today enjoy some form of TSG is a Type-1 external intervention. In the long drawn-out process of

negotiating the content of Crimea's autonomy,<sup>71</sup> both Russia and the OSCE (through its High Commissioner on National Minorities) played a constructive role working towards *preventing* violence and facilitating a negotiated agreement between Crimean separatists and the government in Kiev. In the case of Adjara, the claim that there was any kind of external intervention is more tenuous. At best, one could argue that Georgian President Mikhail Saakashvili was clearly aware of certain western expectations of how to handle this kind of conflict—he could reign in the separatists in Adjara, but not take away their autonomy.

The last case that does not fully fit any of the three patterns outlined above is that of Serbs in Croatia who did not have TSG within Croatia at the end of communism and do not have any today, despite the severe interethnic violence that occurred during the break-up of socialist Yugoslavia. Yet, this also needs to be qualified. Following a Type-2 external intervention by Serbia during the Yugoslav succession wars in the first half of the 1990s, Serbs in Croatia established the Republic of Serbian Krajina and refused to re-integrate into Croatia after the 1992 Croat-Serb ceasefire. They refused the offer of autonomous status in the 1992 constitution of Croatia and thus, in our terminology, obtained de-facto statehood. After their military defeat by Croats, Serbs managed only to hold on much smaller territories in eastern Croatia along the Danube, which they re-constituted as the Republic of Eastern Slavonia, Baranja and Western Sirmia. Following a Type-1 intervention by the United Nations, the 1995 Erdut Agreement temporarily established a regime of internationally-supervised TSG by placing the area under a two-year transitional UN administration (UNTAES). In accordance with the Erdut Agreement, the area was fully reintegrated into the Republic of Croatia in 1998.

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<sup>71</sup> The principal agreement to establish autonomy for Crimea predates the collapse of the Soviet Union. Cf. Sasse 2007.

## **Conclusion**

The patterns that emerge from our comparative analysis of the contemporary “spread” of minority territorial self-governance in postcommunist Europe allow us to draw two specific conclusions. First, they defy expectations that longer-term historical legacies have demonstrable impact on the contemporary politics of minority TSG arrangements. The strongest “legacy” factor in accounting for the availability of contemporary TSG arrangements is violent conflict between groups at or after the end of communism. Except for the cases of Vojvodina and Crimea, violent conflict is correlated with the presence of TSG, a lack of violence with an absence of TSG. Second, whether TSG is state-preserving or not—e.g., whether it is established as a negotiated settlement between the conflict parties or manifests itself as de-facto/contested statehood—is a function of the type of external intervention that occurs in response to the outbreak of violent conflict. “Type-1 external intervention,” where third-party involvement has facilitated a negotiated settlement between the conflict parties, leads to TSG arrangements that preserve the territorial integrity of existing states. “Type-2 external interventions,” in contrast, where third parties become involved in support of secessionist groups, establishes and/or consolidates de-facto states. Our findings, based on this set of cases, thus suggest that TSG is an externally facilitated outcome, with external involvement being a response to the outbreak of violent conflict.

While these findings about post-communist Central and Eastern Europe may be disappointing to those interested in the broader question of whether democratization can result in minority TSG arrangements in multiethnic societies, they are not without an important lesson for those interested in minority TSG as a form of statecraft that can help prevent violent conflict and potentially contribute to democratization. The case of Crimea, for all its flaws in the actual TSG



arrangement that was established largely as a result of Type-1 external intervention, demonstrates that TSG can succeed as a mechanism to prevent violent conflict. Further research is needed to establish more clearly why conflict prevention was possible in Crimea but not in other cases where TSG arrangements that preserved the overall status quo regarding states' external boundaries emerged only after violent conflict. The fact that TSG arrangements, regardless of whether they were established in response to actual violent conflict or not, have contributed to preventing the break-up of several postcommunist states in Central and Eastern Europe is another finding of some promise for future conflict management practice in settings where TSG arrangements may emerge from contestations over sovereignty.

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## Appendix 1: Postcommunist Countries in Europe with TSG-seeking Minorities

Country	Minority Group
Albania	Greeks
Azerbaijan	Armenians in Nagorno-Karabakh
Bosnia	Croats
Bosnia	Serbs
Bulgaria	Turks
Croatia	Serbs
Estonia	Russians
Georgia	Abkhaz in Abkhazia
Georgia	Adjars
Georgia	Armenians
Georgia	Azeris
Georgia	Ossetians in South Ossetia
Kosovo	Serbs <sup>72</sup>
Lithuania	Poles
Macedonia	Albanians
Moldova	Gagauz
Moldova	Russians and Ukrainians in Transnistria
Poland	Germans in Opole Silesia
Romania	Hungarians
Serbia	Albanians in Kosovo <sup>73</sup>
Serbia	Hungarians
Serbia	Sandzak Muslims
Slovakia	Hungarians
Ukraine	Crimean Tatars
Ukraine	Russians in Crimea

<sup>72</sup> Kosovo retains a significant, albeit reduced, Serb population and makes TSG provisions for its members qua decentralisation. However, these provisions currently only apply to Serbs in central and southern parts of Kosovo (which we treat as cases of decentralisation), while Serbs in Mitrovica have attained a status more akin to that of a de-facto state (and are therefore treated as a separate case in this category).

<sup>73</sup> As noted earlier, we define de-facto statehood in the context of this paper as a situation in which a territorial entity unilaterally declared its independence but finds its statehood contested by both its (former) metropolitan state (i.e., the secession is not accepted) and internationally (recognition is not universal and specifically rejected by some states as illegal under international law). Applying these two criteria, Kosovo (and its Albanian majority) are counted as a case of de-facto statehood.