

Centrifugal powers - implications for Ukraine?

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Introduction

The Ukraine crisis is a complex, multi-level conflict which involves a geopolitical confrontation over control and influence in the shared neighbourhood between Russia and the West and territorial contestation between Ukraine and Russia (over Crimea) and between the Ukrainian government in Kiev and Moscow-backed separatists in Donetsk and Luhansk.

Drawing on recent research on power sharing and territorial self-governance, this paper focuses on the options available for dealing with the territorial contestation between Kiev and the separatists in the two eastern regions of Ukraine. I first review relevant findings from three different sets of data and then outline their implications for moving towards a sustainable arrangement for relations between Kiev and Donetsk and Luhansk.

Recent research on Power Sharing and Territorial Self-governance

Institutional outcomes of territorial contestation

Csergo, Roseberry and Wolff (2015) undertook an examination of the institutional outcomes of territorial contestation in Central and Eastern Europe for the period 1989-2012, focusing on the conditions in which governments in this region were likely to concede some form of territorial self-governance (TSG) to groups demanding a higher degree of self-rule. The primary finding of this research is that territorial self-government arrangements have not emerged from peaceful domestic negotiations. Rather, the sub-state territorial arrangements that materialized were facilitated through direct international intervention, in states weakened by violence (or a credible threat of violence). In cases where an external patron-state became militarily involved in violent conflict over territorial claims, the usual outcome was de facto statehood for the contested territory—unless external intervention was countered by the involvement of international organizations that helped to facilitate a negotiated outcome.

Negotiation outcomes

In an analysis of 72 post-1989 peace agreements, Kartsonaki, Walsh, Wolff and Yakinthou (2015) found that only four of these agreements did not include any power sharing provision at all. Of a combined total of 253 power sharing measures, 216 made provisions for representation of different conflict parties in post-agreement legislatures and executives. Of these, 144 were specific (or hard) measures; that is, they determined precisely, for example, the number of seats allocated to specific parties in a future assembly or the number (and sometimes even specific portfolios) of cabinet positions. In contrast, enabling (or soft) measures, such as a proportional system for parliamentary elections or a sequential allocation method for cabinet appointments and portfolio allocation, accounted for only one-third (or 72) of all power sharing measures. A very small number of power sharing measures (11 in total) provided for particular forms of participation, such as the mandatory use of qualified majority voting (e.g., a super-majority or concurrent majority) in the executive (3) or legislature (8), all of which were hard measures.

Inclusive institutions and the likelihood of violent conflict

Assessing the effectiveness of TSG as part of a broader package of inclusive institutions (PR election system, parliamentary form of government), Neudorfer, Theuerkauf and Wolff (2015) found robust empirical evidence that TSG on its own as well as in combination with a PR electoral system for the national legislature and a parliamentary form of government is an effective conflict management tool, decreasing the likelihood of the incidence of violent territory-centred conflict.

Implications for Ukraine

Taken together, these findings suggest two sets of implications. First, some form of TSG for the territories under separatist control will be an essential element of any negotiated settlement. The current “Law on the Special Status of Local Governments in Parts of Donetsk and Luhansk”, adopted pursuant to the Minsk Agreement of 12 February 2015 and its accompanying notes presents an insufficient first step in this direction, especially considering that other research has indicated that TSG needs to be meaningful and substantive in order to have a conflict-mitigating effect (Weller and Wolff 2005).

Although only temporary in nature, the current provisions will therefore require significant improvement through a process of negotiation between the conflict parties.

Second, the broader political system of Ukraine may also not be overly conducive in its present form for a sustainable settlement. The current electoral system is a parallel system under which half of the members of parliament are elected by a PR List system with a 5% threshold, the other half by a single-round plurality system in 225 single-member constituencies. The system is thus not fully proportional (and would not have been so either if proposed amendments had been adopted prior to the elections at the end of October 2014). The form of government is a semi-presidential system, in which the president has to co-habit with a prime minister led cabinet, which in turn is dependent on majority support in the legislature. While this involves some elements of a parliamentary system, it remains distinct from a fully parliamentary system and leaves significant powers with the president. There is some evidence that semi-presidential systems have the capacity to offer opportunities for power sharing (Choudhry and Stacey 2014), depending on the balance of power between president and cabinet/parliament and provided that efforts are made to form a consensus-based government and that the two arms of the executive do not engage in adversarial politics. At present, Ukraine's form of semi-presidentialism is relatively far from such a more consensual system both in letter and in spirit (related especially to the relatively far-reaching use of decree powers by the president).

Conclusion

As a possible way forward, negotiations on a permanent special status of (parts of) the regions of Donetsk and Luhansk, apart from the necessary implementation of substantive TSG measures, could be focussed on specific (hard) power sharing measures for an interim period and on improved enabling (soft) measures beyond such an interim period. This would address the current lack of trust between the conflict parties, not create unrealistic expectations of likely negotiation outcomes, but equally leave a degree of flexibility as to the way in which more inclusive institutions of government may be implemented in Ukraine in the longer term. It would also be in line with research findings that power sharing is not a *sine qua non* ingredient of successful peace agreements (Ottmann and Vüllers 2014) and offer an 'exit' from more entrenched forms of power sharing (Horowitz 2014, Sisk 2008).

These arrangements will need to be accompanied by proper international and domestic guarantees and take account of the broader complexity of this particular dimension of the wider Ukraine crisis. This latter point presents a significant caveat to the suggestions above: at present, the territorial contestation in eastern Ukraine has all the ingredients of becoming yet another 'frozen conflict'. Such a scenario may well be considered to serve the short-term interests of both Kiev and Moscow, as well as the separatists: Kiev's limited economic capacity to re-build Donetsk and Luhansk and its fear of 'institutionalising' the Kremlin's influence on Ukrainian politics, as well as the traumatic legacy of a violent conflict on relations between people on both sides of the conflict in Ukraine will be significant obstacles on the way to a conflict settlement. Based on recent research into such conflicts, as outlined above, this, however, need not be a foregone conclusion.

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