Capturing contested states: structural mechanisms of power reproduction in Bosnia and Herzegovina, Macedonia and Montenegro

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Abstract

This article argues that external state contestation and internal ethnic divisions have resulted in a high degree of state capture in Bosnia and Herzegovina, Macedonia and Montenegro, thus providing structural mechanisms for the reproduction of power of political elites. The article focuses on two dominant forms of state capture – party membership in public administration and the privatization process. First, by examining the extent to which party membership influences the composition of public administration, the article explains the solidification of the link between electoral preferences and job security. Second, by looking at the privatisation of state assets, the article shows how state capture facilitated the elites' accumulation of private wealth. The latter developed into subsidiary networks for financing political parties, offering resources for corruption, clientelism and patronage that are key to the reproduction of political power in captured states. The article concludes by exploring the implications of the link between state contestation and state capture in the Western Balkan states.

Keywords: state capture, privatisation, Bosnia and Herzegovina, Macedonia, Montenegro

Introduction

The fall of the Iron Curtain across Eastern Europe sparked a recalibration of political structures across the continent. The emergence of a number of states, and the dynamics of political change therein, gave rise to a substantial amount of literature about the transition of political systems from communism to democracy. The shift from political monoliths and planned economies to pluralism and open markets in the new democracies gave rise to voluminous literature about state capture in the transitional countries in Central and Eastern Europe (Goetz 2001; Hellman, Jones and Kaufman 2004; Innes 2014; Roland 2004; Stark and Bruszt 1998). However, only a handful of academic efforts have focused on the informal and preferential structures that affect the making and implementation of laws in the contested Western Balkan states, which have been trapped in the process of transition since the early 1990s.

Academic studies focusing on the unconsolidated and challenged post-Yugoslav states of Bosnia and Herzegovina, Macedonia and Montenegro have concentrated primarily on the debates over post-conflict state-building, or the divisions over statehood and nationhood (Dzankic 2015; Jenne and Bieber 2014; Juncos 2005; Keil 2013; Koneska 2014; Marko 2005). What has been underplayed, however, is that these dynamics are played out within - even by the standards of other former Yugoslav republics – a very specific structural, political and cultural framework. This framework, characterised by structural anomalies resulting from external state contestation and internal ethnic divisions, has enabled a high degree of state capture in Bosnia and Herzegovina, Macedonia and Montenegro. More specifically, the unsettled statehood

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and identity issues have provided the political elites with a tool for legitimising the takeover of the structural mechanisms for the reproduction of political power.

To begin to fill this gap, this article focuses on the structural anomalies inherent in three different post-Yugoslav political systems, and discerns how these systemic glitches have been maintained by the ruling elites to pursue their objectives. The research posits that these specific structural anomalies emerge within different types of political systems, whereby issues of nationhood, statehood and identity have largely determined the character and trajectory of politics after the fall of communism. To that end, the empirical analysis uses the examples of Bosnia and Herzegovina, Macedonia and Montenegro, three countries that are contested internally by different ethnic communities that inhabit them, and externally, by the kin states of those minorities or other neighbouring countries.[2]

Despite these ostensible similarities, Bosnia and Herzegovina, Macedonia and Montenegro have developed very different social, political and economic courses after the breakup of Yugoslavia. The Dayton Peace Agreement that ended the war in Bosnia and Herzegovina established Europe's most complex multinational state; a country still torn by internal ethnic divisions; a country in which ethnic elites have captured different aspects of economic and social structures (Bieber 2002; Bose 2002; Keil 2013; Marko 2005). In contrast to Bosnia and Herzegovina, Macedonia seceded peacefully from Yugoslavia in the early 1990s, but was faced with a conflict between ethnic Macedonians and ethnic Albanians in 2001, at the time when the Balkan region experienced the 'democratizing turn' (Vachudova 2006). The Ohrid Framework Agreement (OFA) ended the conflict and introduced a form of decentralised consociational democracy. It also established channels for the ethnicisation of politics in the country on behalf of the two dominant ethnic communities. Their political elites used the structural anomalies brought about by the current constitution to capture the state and reproduce their political power, a dynamic also reinforced by external contestations of Macedonia's statehood and nationhood by neighbouring Greece. In Montenegro, which remained in a federation (and then a state union) with Serbia until 2006, the same structure of power has *de facto* held power since 1945: Democratic Party of Socialists (*Demokratska Partija Socijalista,* DPS. The monolith of the ruling party remained intimately intertwined with the state, a dynamic reinforced by the internal ethnic divisions between Montenegrins and Serbs and the tense relationship between Montenegro and Serbia in the post-independence period.

This article explores the effects of seizing structural, cultural and economic resources in Bosnia and Herzegovina, Macedonia and Montenegro. By doing so, the article demonstrates that internal ethnic divisions and external contestations enabled the political elites to remain in power by capturing the state. The article focuses on two interrelated forms of state capture – party membership in public administration (structural and cultural resources) and the privatization process (economic resources). While illustrating party dominance over a specific type of resources, these two forms of state capture enable a mutually reinforcing circle of state capture. That is, in addition to

[2] The case of Kosovo, which is another country challenged externally and internally, is not included in this analysis as it does not share the same institutional legacies with the countries that had the status of republics in the former Yugoslavia.

controlling electoral results, party membership in public administration allows for the control over public procurement. In turn, this lucrative element of state capture enables the elites to acquire economic resources needed for maintaining the grip over the structural and cultural capital of the country.

First, by looking at the extent to which party membership has influenced the composition of public administration, the article explains the mechanics of power reproduction through the solidification of the link between electoral preferences and job security. Second, by looking at the privatisation of previously owned state assets, the article demonstrates how state capture facilitated the elites' accumulation of private wealth. The latter developed into subsidiary networks for financing political parties, offering resources for corruption, clientelism and patronage that are key to the reproduction of political power in captured states. The article concludes by highlighting how state contestation enables state capture in the Western Balkan states and proposes some further research alleys in this regard.

State Capture in Post-Communism

In order to understand the specificities of how the mechanics of state capture in the Western Balkan countries has played out, it is essential to comprehend the dynamics of elite recruitment in the post-communist period. This focus will enable an analysis of how the top echelons of political parties used structural, political and cultural resources of states to ascend to power or reinforce their position therein. In the literature which focuses on post-communist transition, two ostensibly competing streams may be derived from Pareto's elite theory (Pareto 1968) to explain what happens to the 'old elites' with the fall of a system: elite reproduction (elite remains in power) and elite circulation (elite removed from power). In the context of the former Yugoslavia, while the former posits that the *old* 'nomenklatura' remained at the top of the system (reproduction), the latter suggests that a structural change occurred at the very top of the political landscape opening up the prospect for the emergence of *new* elites (circulation) (Szelenyi and Szonja Szelenyi 1995, p. 616).

In considering the applicability of these theories on the Western Balkan states, this article posits that elite reproduction and elite circulation are not mutually exclusive. In different contexts, however, one of them will have more explanatory power than the other. Which one is more helpful and relevant will depend on the extent to which old and new elites have had access to the political, economic and cultural resources in the country during political transition. In cases when the old elites prevailed over all of the three types of resources mentioned above (social, cultural, economic), elite reproduction occurred from the socialist into the democratically organised system. In the opposite cases, elite circulation ensued when the new (competing) elites from within or outside the system had access to political, economic, or cultural resources of a polity. As a consequence, revolutionary changes in Eastern Europe did not necessarily change the elite structure. Elites, after all, never willingly renounce the power that they have acquired in the 'old system', and once one form of political power and legitimacy has eroded, elites sought to shift their ideological focus and adapt their rhetoric in order to preserve their power (Hankiss 1990).

In view of the structural and cultural resources, particularities of the unconsolidated countries of the Western Balkan states need to be taken into account. Domestic and external challenges to statehood and nationhood provided ample opportunities for elites promoting particular national projects and ideologies to ascend to power (Kolsto 2014). In this respect, claims to culture served as a legitimation for the capture of the states' institutional frameworks and the power distribution among competing national communities. Even if such claims to culture differed significantly *ab initio* in the three cases examined, and even though they followed different trajectories after the fall of Yugoslavia, patterns of elite reproduction remained. The distribution of powers after the Dayton Agreement in Bosnia and Herzegovina enabled the elites from the three ethnic communities to legitimize and consolidate control over the state's structures, marginalising and suppressing the access points for alternative political arrangements and communities. The *Sejdic and Finci vs. Bosnia and Herzegovina* judgment of the European Court of Human Rights is a prime example of how an internationally mediated post-war constitution never substantially revisited can have an exclusionary effect on communities that do not belong to the key ethnic groups.[3] Power-sharing in Bosnia and Herzegovina has also affected the composition of public administration, and facilitated its capture by the ethnic elites.

In a similar vein, international arrangements for power-sharing have also enabled the Macedonian ethnic elites to seize the structures of the state by ethnic elites. After the signing of the OFA, the distribution of power in the country led to a further and formal ethnicisation of the Macedonian and Albanian communities. This was the case since both ethnic communities emphasised the 'boundaries and interests of ethnic groups' (Koneska 2015: 11) in implementing the power-sharing provisions. As a consequence of the ethnicisation of politics in Macedonia, the elite circulation that took place in the mid-2000s in this country replaced the reformed socialists with parties each

[3] The Dayton Peace Agreement, which in Annex IV contains the Constitution of Bosnia and Herzegovina, stipulates a power-sharing agreement among ethnic Bosniaks, Bosnian Serbs and Bosnian Croats. As a consequence, positions in the Presidency of Bosnia and Herzegovina and the House of Peoples (upper parliament chamber) are reserved for individuals belonging to these three communities. Jakub Finci and Dervo Sejdić, representatives of the Jewish and Roma communities in Bosnia and Herzegovina, separately appealed to the European Court of Human Rights (cases 27996/06 and 34836/06) claiming that such constitutional provisions violated their right to representation. In 2009, in a merged judgment *Sejdić and Finci v. Bosnia and Herzegovina*, the ECtHR decided that indeed the country's constitution violated Article 14 of the European Convention of Human Rights (prohibition of discrimination) in conjunction with Article 3 of Protocol 1 to the ECtHR (right to free elections) in case of the House of Peoples and Article 1 of Protocol 12 (general prohibition of discrimination) in case of the Presidency of Bosnia and Herzegovina. The judgment called for constitutional reform, which so far has faced resistance from the representatives of the three constituent peoples in Bosnia and Herzegovina.

pushing forward their increasingly ethnicised agendas (Vangeli 2011). In the context of domestic divisions and external challenges to the country's statehood, ethnic elites cemented their agendas in the state's structural resources through the capture of the public administration.

Unlike in the two other cases, Montenegro's political landscape has been marked by the continuation of the rule of the DPS, the heir of the League of Communists of Montenegro. The continued DPS rule would imply that reproduction of elites, rather than circulation took place in the Montenegrin politics. Notwithstanding, partial elite circulation occurred in two instances – the 'anti-bureaucratic revolution' of 1989 and the DPS split of 1997. In 1989, the old communist elites were superseded by a set of newly emergent leaders who, while ostensibly a modern and progressive force, retained the bureaucratic character of the previous system (Dzankic 2014). Moreover, they ascended in the relative absence of counter-elites powerful enough to generate a viable political challenge. Cultural capital, however, was immersed into the nationalist rhetoric of the ruling elites ever since the early 1990s.[4] As a consequence, the reproduction of the 'next-in-line'[5] former communist elites was uninterrupted in Montenegro until the split in the DPS in 1997. After the split, the faction of the DPS that held the political and economic resources remained in power (reproduced); the other faction became opposition in Montenegro (circulated downwards). The subsequent re-framing of agendas of these two elite factions in the context of Montenegro's relationship with Serbia induced a polarisation between self-declared Montenegrins and Serb citizens in Montenegro (Dzankic 2014). Similar to Bosnia and Herzegovina and Macedonia, the DPS, which remained in power emphasised the rhetoric of ethnic identity of Montenegrins. Such rhetoric, in turn, facilitated the DPS's control over public administration, and amplified possibilities for consolidating the political power of Montenegro's dominant political party.

The capture of structural and cultural resources has also been coupled with that of economic resources through the process of privatisation. In the transitional literature, privatisation has been viewed as the process of transfer of 'property rights from the state to private agents' (Lavigne 1999, p.162). While the removal of state property was at the core of this process, privatisation had major economic and political implications for transitional societies (Bornstein 1992; Jackson 1992). In economic terms, privatisation facilitated the establishment of a new class of capitalists functioning within a market that was no longer organised through the state's plans. In political terms, it reduced the

[4] The nature of this nationalist rhetoric in Montenegro changed throughout this period. In the early 1990s, when the DPS elite were close to Milosevic, the claim to culture equalized the Serbian and Montenegrin national projects. With the separation of a part of the Montenegrin elite from Milosevic in 1997 and the growing DPS's Montenegrin nation building project, these claims to culture became intimately related to the state's structures (see Jenne and Bieber 2014; Dzankic 2014).

[5] The term refers to elites that superseded the old communist elites at the time of circulation, but that were powerful enough even at the time, that should the system have not changed they would have naturally assumed the positions of power following the retirement of the old elites.

state's role in shaping the economic outlook and shifted the focus of power from political to economic elites. However, the mechanisms of privatisation throughout Eastern Europe have shown the symbiosis between the political and economic elites. The access to political power at the time of major systemic changes and in the absence of the rule of law or checks and balances facilitated the seizure of economic resources by top party echelons. According to Lavigne (1999), political elites used the process of post-communist transition to attain private wealth within this context. Possessing established networks (as members of the old communist *nomenklatura* they could easily achieve this end. In what Jadwiga Staniszkis (1991) describes as 'political capitalism', old socialist elites developed into a new capitalist class, and what they held as communist party power was converted into capitalist power.

These dynamics indicate that changes in the structure, or indeed the outlook, of the political power in Bosnia and Herzegovina, Macedonia and Montenegro have been based on a combination of historical and sociological factors related at least in part to the unconsolidated identities in the region. These factors have affected the cementing of political elites in two interlinked ways. First, the perpetuation of the old-style bureaucracy over the twenty-plus years of post-communist transition has assured the preservation of the intimate link between parties and the state. Second, the maintenance of these links facilitated access to and extraction of resources, which in turn further enabled the elites to catalyse their interests through the state. An additional important factor that has contributed to such state capture has been the poor track record of the establishment and consolidation of democratic culture (e.g., norms and the rule of law) in the Western Balkans. The lack of experience with the democratic system further facilitated the dominance of ethnic agendas in states whose social, cultural, and political contexts are challenged domestically and externally. Such dominance was key in enabling political elites to seize and maintain the resources of the state.

Composition of Public Administration

In post-war transitional countries, the political environment marked by strong ethnic cleavages enables the capture of the state administration by the dominant ethnic communities. Structural frameworks that have been established in Bosnia and Herzegovina, Macedonia and Montenegro since the Yugoslav breakup have allowed the dominant political elites to establish a series of informal and preferential networks that affect the making and implementation of laws (Hellman, Jones and Kaufmann 2000, p.2). This process has been amplified by a perpetuating absence of robust competition, i.e., a critical governing alternative, which would constantly question the policies of the ruling elites, thus helping to build democratic institutions. Grzymala-Busse (2007, p.1) highlights that a robust competition 'induces anxious governments to moderate their behaviour, create formal state institutions, and share power – in short, to construct safeguards against the extraction of state resources'. By contrast, the inexistence of such a competition reinforces the vicious circle of state capture: structurally weak, disorganised or corrupt opposition parties are unable to thwart state capture; incumbent elites, who have captured the state work actively to prevent the creation of a viable opposition.

The following sections provide an analysis of the dynamics of state administration capture rather than details of the process. They highlight how ethnic

divisions have reinforced the grip of political parties over the state, regardless of whether the (reformed) communist rule continued after the Yugoslav breakup or not. While communist elites originally circulated and gave way to nationalist elites in Bosnia and Herzegovina, the latter managed to seize the state and reproduce themselves within the system. In Macedonia, the former communist elites originally remained in power and captured the state, but were overthrown by the nationalist ones, who 're-captured' the state; and in Montenegro the former communist elites stayed in power initially but embraced the national project, which then became a catalyst for elite reproduction. In other words, in divided and challenged societies reproduction of nationalist elites is dependent on state capture, while non-nationalist elites can circulate despite their stronghold on political power.

The Bosnian triangle of ethnicised public administration

In Bosnia and Herzegovina, the substantial role of supervision of the international community that followed the war developed for some years into an ambitious and thorough reform effort, aimed to fully restructure the institutional setup of the state to primarily accommodate the preferences of the three ethnic communities (Annex IV, Dayton Peace Agreement 1996). While indeed the country's institutions have been modified compared to the pre-war period, the success of the underlying reform for the efficient functioning of BiH democracy has been questioned by international actors, policy analysts and academics (European Stability Initiative 2012; International Crisis Group 2012; Keil and Perry 2015; Shkaratan 2005). Milovich and Ossewaarde (2013) have highlighted that the failures in the restructuring of public administration in Bosnia and Herzegovina emanate from the relationship between ethnic communities in this post-war, post-communist country and the international community; each with its own vision of the country's sovereignty and a different perspective on the country's institutional setup.

On the one hand side, public administration reform has been engrained in the country's statebuilding and principles of 'good governance' including transparency, legitimacy and accountability, norms themselves engrained in EU accession conditions (Bieber 2004; Lazinica 2011). Yet, the inability to substantially push forward different reform processes, according to Blagovcanin and Divjak (2015), is largely attributable to the effective capture of public administration by ethnic political parties. The major ethnic political parties emerged in the early 1990s,[6] with the demise of Yugoslav

[6] These parties include Party of Democratic Action (*Stranka demokratske akcije,* SDA) an ethnic Bosniak/Muslim party; Croatian Democratic Union of Bosnia and Herzegovina (*Hrvatska demokratska zajednica Bosne i Hercegovine*, HDZ BiH) an ethnic Croat party in BiH; and Serb Democratic Party (*Srpska Demokratska Stranka*, SDS). In 1996, Alliance of Independent Social Democrats (*Savez nezavisnih socijaldemokrata*, SNSD) was established as another ethnic Serb party, in opposition to SDS. While the party initially was envisaged as socio-democratic, it gradually embraced nationalist rhetoric. As of 2015, the independence of the Republika Srpska from Bosnia and Herzegovina is officially embedded

socialism, and were involved in the war as well as the development of the peace accord. Since the end of the war, the power-sharing that institutionalised ethnic divisions among Bosniaks, Croats and Serbs, demotivated a comprehensive transformation of programs and agendas of these political parties. As a consequence of this, while initially faced with elite circulation (from communist to ethnic elites), there has been a continuous process of ethnic elite reproduction in post-war Bosnia.

The inexistence of detailed and comprehensive regulation of the funding and functioning of political parties at the level of Bosnia and Herzegovina, rather than at the level of entities, was a further factor that contributed to elite reproduction after the war. Perpetuation of the same political parties with few changes in their top echelons, has enabled parties and their leadership to consolidate positions of power. That is, it enabled them to seize control over the state's resources.[7] Linking the question of internal party organisation to the control over the public administration in Bosnia and Herzegovina, Blagovcanin and Divjak (2015, p. 9) highlight that,

> [t]he internal party election process is fraudulent. Senior party leaders appoint their loyal supporters as delegates to the election conventions or assemblies. These in turn vote for the leaders who appointed them, helping them get re-elected. Lists of candidates for the general elections are drawn up in a similar manner. Loyal party supporters get appointed into managerial positions in public enterprises or political offices in local governments. Once appointed to these positions by the party leaders they are expected to provide party funding. The appointments within a party are never merit or competence based, but rather contingent on loyalty to the party leadership.

The intimate link between party membership and public administration has also been emphasised in Shkaratan's (2005) study for the World Bank, where she noted that employment in public administration is dependent on political affiliation. Its key repercussion in Bosnia and Herzegovina has been the establishment of a network in which jobs in public administration are allocated in a politicised and corrupt manner.[8] In turn, the allocation of positions in the public administration is key to political elites to influencing decision making processes at lower levels, including the adoption and implementation of legislation. Weak fiscal autonomy of municipalities (funded by taxes collected by entities) has led to the situation in which '[n]ational political parties and central government authorities wield considerable influence over local officials, who

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in the party's political strategy.

[7] For instance, the 2012 Law on Financing Political Parties has been criticised for offering a leeway to corruption. Transparency International (2012) has noted that the system of donations foreseen by the law enables to manipulate party finances by 'registering fictive members'.

[8] For example, legislation on civil service and public administration prevents termination of employment when governments alter. However, new governments often amplify the public sector and introduce new positions for party loyalists.

risk losing financing or political support for their projects if they do not fall into line in areas such as election campaigning' (Jahic 2015: 154).

Consociation and State Capture in Macedonia

The issue of state capture in Macedonia is also highly salient. After the OFA, public administration positions have been allocated in line with equitable representation of national minorities at state and municipal levels. However, positions for minority representatives are often distributed in line with party membership (Lyon 2011; Kacarska 2012). Minorities also seldom receive key positions in public administration. Hence even though the formal aspects of equitable representation are respected, there is no substantive effort at ensuring adequate participation of minorities in the country's governance.

Drawing on the findings of an UNDOC study, Stojanoska (2011) notes that despite the legislative measures that have been introduced in order to prevent the influence of political parties on public administration, malpractice in recruitment in Macedonia is persistent. In effect, the implementation of the legislative measures aimed at eradicating corrupt recruitment processes in the country is hampered by the reproduction, since 2006, of the ruling Internal Macedonian Revolutionary Organisation – Democratic Party for National Unity (*Vnatresna Makedonska Revolucionarna Organizacija – Demokratska Partija za Nacionalno Edinstvo,* VMRO-DPMNE). Since it ascended to power, the VMRO-DPMNE party has reorganised the Macedonian public administration in a way that a number of former employees associated with the country's opposition or with no party affiliation have been removed or relocated. At the same time, new workplaces have been created for supporters of the new government (Faktor 2015, web).

Therefore, VMRO-DPMNE has captured the public administration, facilitating the party's influence over the functioning of the state (Cvetkovska 2012; Lyon 2015). In addition to this, McEvoy (2014: 187-188) highlights that the Macedonian ruling party has effectively blocked the principle of equitable representation at higher administrative levels by citing the lack of education and skills of the Albanian minority population. This issue has also been highlighted by representatives of the ethnic Albanian Democratic Union for Integration (*Demokratska unija za integracija*, DUI), which has been a part of the governing coalition with the VMRO-DPMNE since 2008.

The degree of state capture in terms of employment in public administration in Macedonia came to the centre of political developments in February 2015, when the leader of the opposition Social Democratic Union of Macedonia (*Socijal Democratski Sojuz na Makedonija*, SDSM) released tapes of illegally wiretapped individuals, including VMRO-DPMNE high officials, academics, civil society representatives, and employees in public administration. The tapes contained information regarding

> direct influence on the judiciary including dismissing criminal charges against government ministers, appointment of party loyal judges, influence on the media, selective prosecution of political opponents, mass electoral fraud during past elections, using fictive voters, fake ID cards, buying votes, registering up to 50 such voters at individual addresses and instructing them to vote for the ruling party, intimidation of public servants including threats to fire them if they do not vote accordingly, attempts of stealing election material, misuse of police and

public administration for party agenda, and pressure on individuals and firms (CRPM 2015, p.1).

While the country's government denies its grip over public institutions, the revelation of the tapes has raised significant questions on the functioning of Macedonian democracy, and a number of academics have highlighted a slip towards authoritarianism in the country (Bieber 2015; Keil and Dzankic 2015). Yet, significantly, this rise of authoritarianism and the capture of the state's institutions have been facilitated by domestic and external contestations of the country's statehood and nationhood. Both the on-going nation-building project of the Macedonian elite (Vangeli 2011) and the conflict over the country's name with Greece have given rise to a populist discourse that facilitates state capture in the country. Hence Macedonia is an example of a country in which elite reproduction from the socialist period, followed by elite circulation in 2006, and the reproduction of ethnic elites ever since, have had state capture as their final result. This indicates that state capture is intimately related to domestic divisions in and external contestations of the country, which enable elite reproduction even after initial circulation.

Montenegro: Unchanged Melody

Unlike Bosnia and Herzegovina and Macedonia, Montenegro is a unitary state and ethnic differences are not managed through power-sharing. Yet the political transition of this former Yugoslav republic has been characterised by extreme elite reproduction and the rule of the reformed communist party ever since the introduction of political pluralism in the early 1990s. The DPS, as the 'heir' of the Communist Party, retained most of the institutional and structural networks in Montenegro. In the first half of the 1990s, the international trade embargo allowed for the flourishing of a shadow economy, in which the DPS leadership had a central role. According to Uzelac, the grip that the political elites held over the Montenegrin institutional setup at the time of international sanctions allowed for the creation of irregularities in the process of transition (Uzelac 2003:108; Malesevic and Uzelac 2007: 697). In turn, these transitional irregularities allowed a small oligarchy to use the power vacuum at the top of society, created by the fall of the previous system, in order to seize the state and gain wealth and power (Medojevic 2001: 7-10).

As a consequence of deep political divisions resulting from the division over statehood and identity, robust competition, in terms of a critical opposition that would serve as a mechanism of constraint over the extraction of state resources, never existed in Montenegro. Hence, a genuine circulation of elites did not occur in communist or post-communist Montenegro. Instead, the anti-bureaucratic revolutions of 1988/89 changed the leadership of the League of Communists of Montenegro, and the 1997 split of the DPS cemented the dominant faction of this party in power. The division over identity and statehood that followed the DPS split only reinforced the state capture as it detracted society from transitional issues. It created a framework in which the DPS vindicated its dominance over the state's institutions as the representative of the 'Montenegrin' people. However, the relationship between the party and the state remained unchanged.

The structure of opportunities for elite reproduction in Montenegro is partly

attributable to the strength of the communist party in the smallest republic of the former Yugoslavia. The proportion of economic resources and political positions that Montenegro received from the socialist establishment in Yugoslavia were larger than those of the other republics of the former Yugoslavia compared to their size (Roberts 2007, p. 423; also, Rastoder 2003). As a consequence, allegiance to the party was higher in Montenegro than in the other republics of the former Yugoslavia. This prevented the emergence of a critical opposition at the time of the first multiparty elections in 1990, when the communists won the majority (56.18%) of the popular vote. The election rounds of 1992 and 1996, conducted in line with D'Hondt seat allocation formula,[9] produced a similar outcome, favourable for state capture at the time of economic sanctions. During the period of the wars in Montenegro's immediate neighborhood, coupled by international isolation in light of international sanctions against rump Yugoslavia (Serbia and Montenegro), only the reformed communist elites had access to the resources of the state and to channels for the use of those resources. Yet, while elite reproduction in Montenegro allowed for the capture of the state in the first instance, the fact that the state was captured by the ruling elites ensured the continuation of the DPS rule. This created the vicious circle of elite reproduction through the political and economic resources of the state. As a consequence of the structure of opportunities described above, even before the 1997 split the united DPS took the opportunity to seize the state during the time of the embargo.

After the split, the majority of the formerly owned state assets remained the property of the DPS wing that remained in power. The control over employees in public administration was exerted during electoral cycles, when they were commonly intimidated or 'motivated' through benefits such as promotions to vote for the ruling party (Jovicevic 2013). The nature of political competition in Montenegro and the mesmerisation of the population into parties' nationalist agendas after the Yugoslav breakup has largely contributed to this process. Specific to the case of Montenegro, the support of the international community for the democratization of the country in the late 1990s was used to subsidise the public companies, increase the salaries in the public sector, and to expand the administration (Huszka 2003:56). In turn, this created a public administration intimately related and loyal to the ruling elite, which persists to this day. In this case, the lack of a credible democratic opposition enabled communist elite reproduction and the initial state capture in Montenegro. The questions of independence and national identity then transformed the former communist party into a party engaged in a nation-building project. This transformation of the DPS, coupled with the seized state, ensured further elite reproduction in Montenegro.

Privatisation

The process of privatisation of state assets has been a major source of power for the nationalist political elites in the divided states of the Western Balkans. Mechanisms through which the process has granted preferential access to the formerly owned state assets to the top echelons of political parties have contributed to their grip over the state, thus cementing the vicious circle of state capture, nationalism and corruption. In all

[9] D'Hondt seat allocation formula favours large parties and coalitions.

three cases, mechanisms of direct sale of state assets as well as mass voucher privatisation have been used.

The Eth(n)ics of Privatisation in Bosnia and Herzegovina

In Bosnia and Herzegovina, the shift from socialism and war to 'political pluralism and economic liberalism' was accompanied by state capture, nepotism, cronyism and corruption (Singer 2000: 31). The process of privatisation of formerly state-owned enterprises is the best example of the link between failed economic transition and state capture in Bosnia and Herzegovina. Privatisation in this country started in the late 1990s; almost a decade later than in other post-communist countries.

Due to the complex post-war structure of the country, there was no institution at the state level that would oversee privatisation. The process was implemented at the levels of the two entities, who held almost all state assets after the war. Separate privatization agencies were established in each of the two entities, and in addition to this, in each of the ten cantons of the Federation of Bosnia and Herzegovina, and in Brčko District. The multitude of separate agencies, each acting in line with the entity and cantonal rules, contributed to the inefficiency of the process (Transparency International 2011).

Moreover, privatisation in Bosnia and Herzegovina has been ethnicised from the beginning. This ethnicisation has been most manifest in mass voucher privatisation. Buff (cited in Donais 2002: 2) has highlighted that in both entities, most of the vouchers used for privatisation had been granted to veterans and widows of war 'from their "side of conflict'. In addition to this, this aspect of the process of privatisation in the Republika Srpska required individuals to register in order to obtain company vouchers. This enabled entity administration to discriminate against minority populations and refugees. As Donais (2002: 6) noted, the process of privatisation

> reveals a two - pronged strategy by ruling parties on all three sides of Bosnia's ethnic divide: first, delay the process as much as possible, since within the tripartite Bosnian partocracy a state-owned enterprise is as good as a party-owned enterprise; and second, ensure that whatever privatization does take place leaves former state enterprises in the hands of either (in descending order of preference) the ruling parties themselves, their friends and allies, or their ethnic compatriots.

The other aspect of privatisation in Bosnia and Herzegovina – the direct sale of the state's assets was as problematic as mass voucher privatisation. While the process included some broad monitoring on the behalf of the international community, above all the USAID, 80 per cent of privatisations in the country failed (Associated Press 2014, web). This left almost a hundred thousand workers unemployed (Zurnal 2013). In exploring the process of international oversight, Donais (2002: 5) noted that 'USAID has viewed privatization as a technical rather than a political exercise, and has been more concerned with the fact of privatization than with the identity of the new owners'. The lack of appropriate oversight along with the inadequacy of the country's institutions for transitioning towards a regulated capital market has resulted in the transfer of the state's property to the hands of those close to the political elites (Zurnal 2013).

Early Start and Re-start in Macedonia

Unlike in Bosnia and Herzegovina, the process of privatisation in Macedonia was initiated already in the early 1990s, due to this country's peaceful separation from the former Yugoslavia. The Macedonian Law on Transformation of Enterprises with Social Capital was adopted in 1993 thus enabling the transfer of the state –owned capital to private owners. While the formal aspects of the process were largely successful, given that a decade after the start of privatisation over 90 per cent of enterprises had been privatised (OECD 2012), the implementation thereof enabled preferential access to political elites of the SDSM, which was the ruling party in Macedonia at the time. According to Sadiku (2013), a 'rapid and comprehensive privatisation weakened the possibility for the formation of any resistance or political discourse that would mobilise around the defence of public good'.

The mechanisms of privatisation largely contributed to state capture by the SDSM in the 1990s. For instance, company shares were not sold at their real but at a nominal (estimated) value (Shajnoski 2015). This implies that the estimates that were set for the value of companies varied in accordance with whether shares were purchased through citizens' vouchers or by direct acquisition. While their cost would be higher in the first case, it would decrease in the latter and funds would be 'pumped in' or 'pumped out' of companies to regulate their nominal price. Shajnoski (2015) notes that the Macedonian Tobacco Company (*AD Makedonija Tabak*) was illegally devaluated ahead of privatisation. This reduced the stock price hence enabling easy access to the top party echelons in possession of funds. Yet the failed restructuring of these companies led to their bankruptcy and increased the unemployment level in the country to 30 per cent; a percentage of unemployment that persists to this date (Sadiku 2013). Such a course of privatisation contributed to the overall perception of the population that the public good had been robbed. Coupled with the conflict in Macedonia, the deeply flawed privatisation contributed to the removal of the SDSM from power in 2006.

Since the key aspects of the privatisation process had been concluded during the rule of the SDSM, the current ruling elite implemented a 're-privatisation' by opening the country's market to foreign capital without previously adopting adequate regulation (Princip 2015). The foreign capital was primarily aimed at financing the activities of a network close to the ruling VMRO and subsidising various aspects of the 'antiquisation' process. A total of 260 individuals and enterprises took part in the government-sponsored project 'Skopje 2014' aimed at changing the outlook of the country's capital by emphasising the roots of Macedonian nationhood in antiquity. However, BIRN notes that in this half-a-billion euros worth endeavour, preferential contracts had been given to companies close to the VMRO-DPMNE government, and highlights that

> Beton construction company has won most contracts and built most of the buildings and sculptures that form part of Skopje 2014. The company has earned €163 million, a third of all the money spent on the revamp, from the project. Four other construction companies, Granit, Strabag, Beton–Stip and Bauer BG, follow as big players (BIRN 2015, web).

Hence the VMRO-DPMNE government deployed re-privatisation and re-capitalisation as mechanisms to reinforce its political position and to reproduce itself in power. The

case of Macedonia is an outlier in this respect, and shows an interesting dynamic between economic resources and political power. The original privatisation was conducted by the reformed communists who used it to seize the resources of the state. Yet, the seizure of the state assets was a necessary yet not sufficient condition for the perpetuation of the SDSM elites. With the ascent to power of the nationalist elite in 2006, economic resources became central to state capture. Elite circulation, therefore, led to the second wave of privatisation, which included the public service sector that underpinned the project of national identity reconstruction.

Privatise.me

In the case of Montenegro, the consolidation of the economic power base was particularly significant for the ruling DPS. The subsequent processes of privatisation and economic reform were only an extension of that state capture aimed at reinforcing the party's grip over Montenegrin economic structures. This privatisation occurred in two waves: 1) in the late 1990s, when the DPS's agenda changed from reformed communism to instrumental nationalism; and 2) in the mid-2000s, when Montenegro became an independent state and the DPS sought to ensure its dominant political position in Montenegro.

Uzelac (2003, p. 107) noted that in the years immediately after the DPS split, 60 per cent of the state-owned capital was privatised, while the 40 per cent that remained in the ownership of the state were the largest contributors to Montenegro's GDP. The latter included the more profitable companies such as the Aluminium Plant in Podgorica, Telecom Montenegro, and the Electricity Company – all of which were headed by people close to the ruling DPS. For instance, in the late 1990s, the former DPS president Milica Pejanovic – Djurisic became the president of the management board of Telecom Montenegro; while Mihailo Banjevic - Djukanovic's close ally – became the general manager of the Aluminium Plant. At the same time, the companies that were privatised were often sold under irregular conditions to 'friendly firms' (Medojevic 2001, pp. 7-12); that is to companies owned by DPS' allies. This first wave of privatisation was central to the DPS's longevity in power. Without the economic resources, the DPS would have been unable to pursue its 'creeping independence', distance itself from the Belgrade authorities and subsequently redefine the content of Montenegrin identity.[10] At the same time, those very processes helped the DPS to reproduce itself within the captured economic and political system.

[10] In addition to companies, the issue of media privatisation was particularly salient. Up until a month before the Presidential elections in 1997 (after the DPS split), there was only one printed daily newspaper in Montenegro – Pobjeda. Having undergone several unsuccessful attempts of privatisation, Pobjeda is still state-owned and has been an 'extended hand' of the government. Being the only permanent source of information to the public until 1997, this newspaper and the National Broadcasting Service (RTCG) had an important influence on the formation of public opinion both during the wars of the Yugoslav

The second wave of privatisation in Montenegro regarded precisely the companies such as the Aluminium Plant Podgorica (KAP), Telekom, and the Electricity Company (EPCG) – all major contributors to the state's GDP, yet companies that remained under state ownership in the late 1990s. Ceranic (2015: 1) notes that these '[p]rivatisations were often prepared and conducted behind closed doors, with companies often sold to allegedly murky businessmen or investors with close ties to high-ranking state officials'. The KAP, Montenegro's key exporter, was privatised in 2005. Although there had been a formal tender, the company was privatised by Russian tycoon Oleg Deripaska, following his negotiations with the Montenegrin Prime Minister Milo Djukanovic (Vlahovic and Prelevic 2005). The failure of the investor to meet his obligations to restructure the company led to the KAP bankruptcy in 2012 and a 350 million euros loss to the Montenegrin state budget (European Commission 2013).[11]

The lack of transparency in the course of privatisation also occurred in the case of the formerly state-owned telecommunication company, sold to Magyar Telecom in 2005. In 2012, the United States' Securities Exchange Commission revealed that prior to the acquisition of the company Magyar Telecom 'made € 7.35-million in corrupt payments to government officials in Montenegro to facilitate the acquisition of Montenegrin Telekom' (Ceranic 2015: 6). While the link between the privatisation of Telekom and the government's officials had been discussed in the Montenegrin Parliament, the parliamentary committee charged with investigating the case failed to reach consensus and take action (Conclusions adopted by the Parliament of Montenegro, Podgorica, 29 December 2013). Further to this, 43 per cent of the country's electricity company EPCG was sold in 2009, to the Italian company A2A owned by the former Prime Minister Silvio Berlusconi. Zola (2013) notes that the sale was preceded by a number of meetings between Berlusconi and Djukanovic, and that the tender arrangement foresaw the investment of privatisation funds in Prva Banka Crne Gore, a bank owned by Aco Djukanovic, the brother of the Montenegrin Prime Minister Milo Djukanovic.

Snapshots of these key instances in the first and second waves of privatisation point to two important issues that link the seizure of the state's economic resources and political power. The first wave of privatisation was 'domestic' and largely used by a circle close to the DPS elite to seize the state and push forward their political goals. The second wave was 'external' and included the channelling of foreign funds through the elites that had previously captured the country's economic resources. This, in turn, ensured the reproduction of the party within the captured political system of Montenegro.

Conclusion

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disintegration (Pavlovic 2004; Andrijasevic 2001), as well as in the period preceding and following the country's independence.

[11] Losses to the state budget are compensated through a one euro tax on citizens' telephone, electricity and cable TV bills.

The study of political and economic transitions in Eastern Europe has indicated a strong trend towards state capture aimed at elite reproduction in the early years after the fall of communism. The lack of experience with democratic systems grounded in the rule of law and the "Wild West" economic transformation, coupled with elites who emerged from grassroots nationalist movements or "reformed" communists, had as its consequence the concentration of institutional, economic and political resources of the state in the hands of the few. Akin to this trend that was pronounced in Eastern European countries in the 1990s, the unconsolidated Western Balkan countries are also experiencing state capture. In the cases of Bosnia and Herzegovina, Macedonia and Montenegro, this occurrence has largely been facilitated by factors including the post-conflict/post-war environments, divided societies and contested states.

Strong contestations among ethnic communities and domestic and external challenges to sovereignty have underpinned the rise of nationalist elites. The environment of uncertainty, in which society is distracted from transitional issues for the sake of 'national questions', has offered ample opportunities to political elites to develop mechanisms for capturing the state and preventing political opponents or new political options from rising to positions of power. In the studied countries, the installation of cadres loyal to incumbent political parties in the public administration and privatisation of previously state owned assets have been two key mechanisms for capturing the state in Bosnia and Herzegovina, Macedonia, and Montenegro.

In all three countries, the process of appointment in public administration is not based on meritocracy but on party membership, which is commonly an informal condition for obtaining a position in public administration. In turn, appointing party members in the state's institutions serves a twofold purpose for political elites in the context of state capture. First, having loyal persons within public administration facilitates elite's grip over the drafting and implementation of legislation, as well as control over the distribution of the state's resources (e.g., financing of projects, party finances, etc.). Second, exceptionally oversized public administrations in the Western Balkan states provide for a large pool of votes. Hence, associating party membership to employment in public administration has become one of the key elements that political parties, such as the Macedonian VMRO-DPMNE or the Montenegrin DPS, use in order to stay in power.

Equally, the capture of the former property of the state through privatisation processes has also provided political elites in the divided states of the Western Balkans with significant resources used to cement their political power. Common to all three cases has been the tendency to offer preferential access to individuals loyal to the top echelons of political parties in the process of direct sale of the state's assets. In addition to this, voucher privatisations in which the state companies were sold through shares have also proven to be a major mechanism for capturing the state, since shares were offered to citizens at a nominal value, which fluctuated not in line with supply and demand laws, but in line with 'who was in demand'. As a result, the process opened preferential routes for wealth accumulation to those who were close to the top party echelons in the subsequent waves of privatisation. In turn, this provided resources for corruption, clientelism and patronage that became key for capturing the contested Western Balkan states.

In a broader context, the large patronage networks in Bosnia and Herzegovina, Macedonia and Montenegro have weakened the democratisation prospects of these

three countries. The large patronage networks pose an obstacle to citizens' protests. Simultaneously, opposition parties are structurally weak, disorganised, and often as corrupt as those in power. Such a situation reinforces the vicious circle of state capture, as no domestic actor has sufficient cultural, structural or domestic resources to challenge the elites' stronghold on power. It also raises a major field for future research investigating the role of the international community, and above all the EU, in eradicating state capture as one of the major impediments to democracy.

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