

## **Subnational Competitive Authoritarianism and Power-Sharing in Bosnia and Herzegovina**

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### **Abstract**

Incremental democratic decline is evident in Bosnia and Herzegovina (BiH), but measures of democracy conceal an uneven subnational distribution of autocratization. So far there has been limited research on the drivers and constraints to subnational autocratization. This paper aims to contribute to the literature on power-sharing by exploring instances of illiberal politics enacted by parties in government at the subnational level in BiH. Evidence is gathered through semi-structured interviews and analysis of three specific cases of illiberal politics. We find that the political contest in BiH is purposefully contained within ethnic and subnational boundaries and constrained through several layers of institutionalized multilevel and ethnic checks and balances. The main drivers of subnational autocratization are opportunities that arise from the institutional framework established during early democratization and post-war structures that blend executive dominance with economic power and informal party networks, and occasionally from an individual actor's perceptions of threat. Democratization in BiH will need to address subnational politics and deep-rooted power structures if it is to be successful.

### **Keywords**

illiberal politics, competitive authoritarianism, Bosnia and Herzegovina, subnational, power-sharing, ethnic parties

### **1. Introduction**

Bosnia and Herzegovina (BiH) is commonly understood as one country consisting of two entities (essentially federal units), three constituent peoples (the main ethnic groups), and 14 semi-independent governments that retain some level of exclusive policy making. It has one of the most complex political systems that exist. Different constellations of political parties govern at multiple levels, often using them as a power base to exert influence on and establish linkages with government levels above and below. While turnovers in government do happen, it is largely the same political parties that win elections. By creating an uneven playing field at the subnational level parties are able to remain in power while professing to uphold the democratic

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virtue of free and fair elections. In December 2018 the government of Republika Srpska (RS), a subnational unit of BiH run by the Alliance of Independent Social Democrats (SNSD), restricted freedom of assembly by cracking down on protesters demanding justice and accountability of police and banning any further gatherings. The media, under tight political control, half-heartedly reported on the events and those that did so objectively were labelled as traitors to the Serb people. All this occurred during a heated election campaign where the ruling SNSD managed to secure re-election, in part due to the control and use of public resources for patronage. Even though the elections were considered largely free and fair, it is safe to say that RS is a subnational competitive authoritarian regime. At the same time checks and balances between levels of governance, and parties representing different ethnic groups, temper authoritarian challenges at the national level. The essence of illiberal politics in BiH is multi-layered and complex as the political system of the country itself.

There is a rich literature on the political system of BiH (Chandler 2000; Bose 2002; Bieber 2006; Keil 2016). Set up as a post-war consociational democracy, the country enshrines principles of power-sharing among political parties representing the main ethnic groups in a way that emphasizes accountability towards one's own group rather than to citizens of the country as a whole. The political system closely mirrors an ideal consociation where grand coalitions, group veto, proportional representation and segmental autonomy are explicitly institutionalized (Lijphart 1999). Elections are held regularly and are mostly free and fair (OSCE 2019). Electoral contest is fought between parties representing the same ethnic group and cross-ethnic voting is almost non-existent. The party system of BiH closely reflects the ethnic structure of the country and subnational units of governance. Measuring democracy at the national level can therefore be misleading as both the electoral contest and the tools to affect it are largely present at the level of the two subnational entities, RS and the Federation of Bosnia and Herzegovina (FBiH).

This paper has the aim to study instances of illiberal politics at subnational levels of government and their effect on democracy at the national level. Under illiberal politics we understand 'policies enacted (or proposed) by governing parties that create an uneven playing field with the aim to remain in power indefinitely' (Kapidžić 2020). The concept is useful in cases where we can witness an evident decrease in quality of democracy, but not extensive enough to warrant classification as competitive authoritarian (Levitsky and Way 2010). It also functions as an operationalization of democratic backsliding (Bermeo 2016) and a qualitative alternative

to measures of autocratization (Lührmann and Lindberg 2019).<sup>1</sup> The case of BiH further gives an opportunity to address a gap in the literature on power-sharing and explore the impact of segmental autonomy, in the form of territorial ethnic self-governance, and ethnic party systems on democratization.

In this sense the core purpose of the paper is theory building as a way to overcome limitations in the study of autocratization arising from the subnational arena in multilevel, multiethnic states. Through the case study of BiH the paper analyses the prevalence and distribution of illiberal politics. It explores the main drivers and inhibiting factors of (subnational) illiberal politics and whether these are structural in nature (institutional framework) or driven by an agent's perception of opportunity and threat (motivational framework)? To answer these questions, the paper relies on evidence gathered through 19 interviews with journalists, members of civil society, academics and political party members, in addition to 182 media reports, as well as surveys and research reports.

We find that structural issues arising from a combination of post-communist power distribution and post-war consociational democracy can explain most illiberal politics with the exception of challenges to ethnic legitimacy from in-group protests. Illiberal politics are deliberately contained within ethnic party systems and levels of government dominated by parties representing a single ethnic group. Where power-sharing in government is required illiberal politics are constrained by multilevel and cross-ethnic checks and balances. This leads to differentiated autocratization under asymmetric federalism in BiH where the predominantly Serb RS has become a competitive authoritarian regime while the joint Bosniak and Croat FBiH is still an electoral democracy.

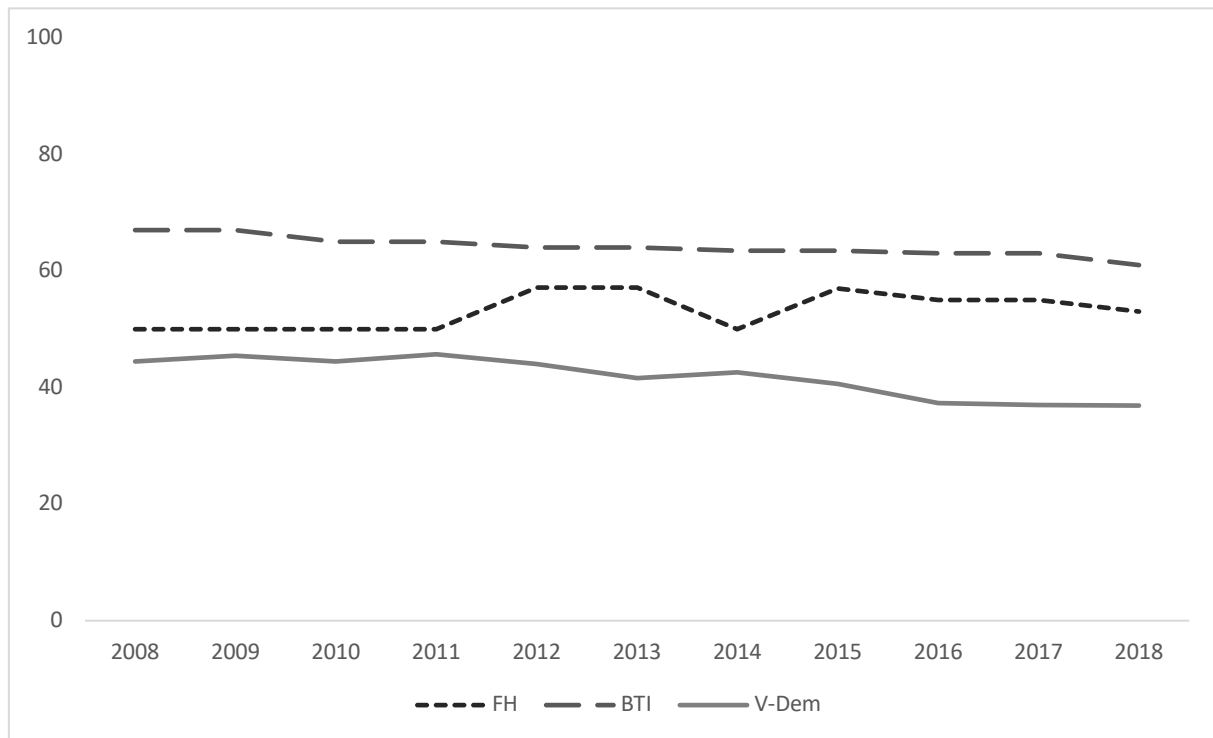
The following section of the paper introduces the case study of BiH and gives a theoretical overview on illiberal politics and subnational autocratization. The third section introduces BiH's main ethnic parties. The fourth, fifth, and sixth sections explore three specific cases of illiberal politics and the drivers behind each of them: restrictions to the freedom of assembly in RS in wake of the *Justice for David* protests, political control of media, and the prevalence of patronage in elections tied to ruling parties. The final section concludes and explores both constraining and encouraging structural factors that make BiH a case of asymmetric subnational competitive authoritarianism within a weak national democracy.

## **2. Subnational Autocratization in BiH's Power-Sharing Democracy**

The current political system of BiH was established through the Dayton Peace Agreement in 1995 following the dissolution of Yugoslavia and the Bosnian War. Designed to create a framework for post-war democracy to develop it institutionalized power-sharing between the three main ethnic groups that fought against each other, Bosniaks, Croats, and Serbs. Each group is represented by several political parties and the country functions as a consociational democracy (Bose 2002). Elections are held regularly and there is turnover in government but with serious deficiencies in, among other, civic rights and rule of law. This includes illiberal elements in the country's constitution that bar citizens not belonging to the three titular ethnic groups and those not residing in "their entity" from running for certain offices.<sup>2</sup> While reform of the political system is necessary and recognized by all domestic (and international) actors, the delicate post-war consociational power balance makes any attempt fraught with difficulty (Perry 2015, 34-35). Due to all this it is not possible to speak of a liberal or consolidated democracy in BiH.

Nevertheless, the already low level of democracy in BiH is further declining, or is stagnant at best, according to several indices. Political leaders in power, such as Milorad Dodik from the SNSD, but also Dragan Čović from the Croatian Democratic Union BiH (HDZ BiH) and Bakir Izetbegović from the Party of Democratic Action (SDA), are more than willing to undermine democracy and subvert media and independent institutions in exchange for political gain. This trend is part of a broader, empirically verifiable and ongoing phenomenon of democratic backsliding in Southeast Europe that is selective as it affects some but not all segments of democracy (Bieber 2018; Solska, Bieber and Taleski 2018). The Freedom House Index (FH) indicates a stagnation and slight decline of democracy in BiH while the downward trend is more evident in the Bertelsmann Transformation Index (BTI) and the Varieties of Democracy 'Liberal Democracy Index' (V-Dem). Even though they operate with different baselines, almost all indices display an identical trend of incremental decline over the past decade (Figure 1). The V-Dem index specifically highlights problems of media (self)censorship and harassment of journalists, civil society repression, autonomy of opposition parties, electoral irregularities and vote buying, non-compliance with judiciary and judicial constraints on the executive, and lack of effective legislative oversight (Coppedge et al. 2019). This indicates a selective dismantlement of democratic institutions, especially executive constraints and independent checks and balances on executive power. However, in the BiH national context, this does not equate to unrestrained rule of a single party and a descent into competitive authoritarianism.

Figure 1. Democracy measurements for BiH.



Sources: Freedom in the World 2018; Bertelsmann Transformation Index 2018; Coppedge et al. 2019.

To understand the stability of incremental democratic decline in BiH, it is necessary to look at structural factors and the institutionalization of consociational democracy in the country (see also Merdzanovic 2018). In this paper we argue that ethnic power-sharing provides opportunities for subnational autocratization. Simultaneously, it curtails authoritarian leaders through checks and balances that arise out of multilevel and inter-ethnic competition, where they exist, by containing and constraining illiberal politics. The existing literature on power-sharing largely focuses on the role of segmental autonomy in managing ethnic conflict and neglects any functional role in facilitating democracy or autocratization (Horowitz 1985; Lijphart 1999; McCulloch and McGarry 2017). In the literature on BiH, autonomy and decentralization are generally seen political tools for ethnic conflict management rather than for development and democratization (Bojičić-Dželilović 2013). This creates a gap in our understanding of how relevant segmental autonomy is in creating opportunities for subnational authoritarian politics to develop, and of national-level power sharing in restricting such developments. The theory building aspect of this paper aims to contribute to a better understanding of subnational authoritarian rule under power-sharing and the role of multilevel and inter-group checks and balances.

There is limited but recent literature on illiberal and authoritarian practices at the subnational level (Behrend and Whitehead 2016a; Behrend and Whitehead 2016b; Gibson 2012; Gibson 2005). These contributions build on what Guillermo O'Donnell described as 'brown areas' (O'Donnell 1993) and identify cases of either subnational authoritarianism or a broader category of subnational illiberal structures and practices. The authors show that large discrepancies in quality of democratic governance exist and can persist at the subnational level. Gibson, who pioneered this research, introduces the concept of 'boundary control' as a measure by subnational authoritarian governments to isolate themselves from influence of the national government (2012, 24-25). The result is contained, localized illiberal politics that do not get attention from beyond the subnational unit. The observed cases in the literature are mostly large federations, such as the United States, Argentina, India, Russia or Mexico, where national governments have considerable power. Empirically this literature neglects cases with power-sharing between subnational units and weak central governance, such as BiH, where the national government cannot act as a check and balance to subnational autocratization (nor can it rely on a unifying national identity in doing so). An additional aspect of theory building in this paper aims to expand our understanding of subnational authoritarianism to consociational power-sharing settings, and countries with weak central but robust regional government.

In the literature BiH is inversely defined as a confederation (Kasapović 2005; Bose 2002) or a highly decentralized state but is most accurately classified as a form of multinational federalism (Keil 2016) or an asymmetric ethnic federation with weak central authority (Bieber 2006). It is divided into two subnational entities, the Serb dominated RS and the Croat and Bosniak FBiH where Bosniaks are a majority, and an independent unit, the District Brčko. FBiH is further divided into ten cantons, local self-governance units with a high level of independence, while RS has a centralized government. There are only a limited number of exclusive or shared competences at the national level while most power resides with the entities (Marković 2012). FBiH and RS retain the major share of competences and resources and have their own constitutions, presidents, parliaments, governments and prime ministers. They grant citizenship and are primarily responsible for enforcing laws as the national level does not have ability to do so (Foreign Policy Initiative BH 2008). The entities are the main level at which nationally collected financial resources are distributed and regulate the largest portion of civil and political rights. They are directly represented in national level institutions and essentially have veto rights over all national policy. The cantons, which are specific to FBiH, retain their own police

forces and are responsible for select policy areas. They do not have fiscal independence or direct influence on national level governance, but strongly influence policymaking in FBiH. The division of competences among levels of governance in BiH is not clearly defined, resulting in a combination of dual and coordinative federalism. This introduces checks and balances between governments at different levels, especially when led by different parties.

Electoral competition in BiH is shaped by declared and perceived ethnicity of candidates, political parties and voters. It takes place within ethnically defined segments of the population. In the largely homogenous units of RS and the FBiH cantons it is also ethnoterritorial (Hulsey and Stjepanović 2017, 48). Political parties explicitly or implicitly position themselves towards ethnic identity, creating three ethnically bound party subsystems with a high degree of independence, and one not so well defined multiethnic or nonethnic party subsystem. Previous research found very little competition for voters between these three or four distinct party subsystems (Kapidžić 2017; Hulsey 2015). Each party subsystem usually has one party that dominates electoral competition and represents a titular ethnic group. Within the Bosniak party subsystem this is the SDA, within the Serb subsystem it is currently the SNSD, and within the Croat subsystem it is the HDZ BiH. These three parties are not each other's main electoral competitors, rather their main opposition are parties of their own ethnic group. It is possible to identify three distinct electoral playing fields corresponding to the three main ethnic party subsystems with different degrees of openness and impartial competition.<sup>3</sup> At the same time all parties in BiH engage in interactions with each other, but do not seek cross ethnic votes. The segmentation of the BiH party system serves as a further check and balance against the dominance of a single party at the national level, while allowing for subnational dominance.

The actions of the dominant ethnic parties and their leaders that constitute illiberal politics follow a political opportunity structure defined as 'the features of regimes and institutions that facilitate or inhibit a political actor's collective action' (Tilly and Tarrow 2007, 49), where opportunities and threats to remaining in power are assessed against institutional constraints. Further, we distinguish between illiberal politics that are centred around the electoral component of democracy and those that target the liberal component of democracy, where recent democratic backsliding selectively weakens restraints on executive rule, while keeping electoral provisions largely intact (Dahl 1989; Bermeo 2016).

A relevant question is whether illiberal politics arise from a structural framework centred

around institutional opportunities or from an agent's framework centred around individual motivations. The institutional and regime features that facilitate illiberal politics are best described through the notion of 'post-communist power mutation' that includes a concentration of power in the executive, a conversion of political into economic power and a dispersion of power from state administration and public institutions into a web of informal, party-controlled networks (Zakošek 1997; Dolenc 2013, 20-24). This power mutation created an opportunity structure and governance practices that persist from early democratization of the 1990's to the post-war consociational democracy and until today. On the other hand, a motivational agent's framework can best be described by individual perceptions of existential threat arising from challenges to legitimacy within the same ethnic group. We argue that most illiberal politics in BiH can be explained by a structural framework that is defined at the subnational and ethnic party system level. Examples of illiberal politics as a motivational reaction to perceived intra-ethnic threats are recent, especially in RS where citizen's protests against a politicized police and judicial system loyal to the ruling party have gained momentum.

This paper argues that autocratization in BiH is incremental not because of strong institutions or active citizens' movements, but because political contest is purposefully *contained* within ethnic and territorial boundaries and *constrained* through several layers of institutionalized multilevel and ethnic checks and balances. We argue that illiberal politics can largely be explained by opportunities arising from the *institutional structural framework* based on three types of post-communist power mutation (concentration, conversion and dispersion) and post-war consociationalism, and only in isolated cases by an *individual actor's perceptions of threat*. While we recognize the relevance of external legitimization of semi-authoritarian leaders linked to provision of internal stability (Kmezić and Bieber 2017), we disregarded it here in order to focus on domestic factors of autocratization at the subnational level.

Evidence was collected using methodological triangulation through interviews, media reports, research reports, and surveys. The three case studies were selected based on their prominence in media reports over the past two years, as well as their relevance to key aspects of democracy. Semi-structured interviews were conducted between February and April 2019 with a follow up in June 2019, in person or via phone, with 19 individuals (four journalists, six civil society representatives, six academics, three members of political parties) from Banja Luka (eight), Mostar (two) and Sarajevo (nine). Interviewees were selected based on media reports, personal contacts and/or snowball sampling. Due to the sensitive topic and safety/privacy concerns, full



anonymity was offered to all interviewees. 182 Media articles were identified and collected from the websites of Al Jazeera Balkans, Buka magazin, Dnevni avaz, Klix, Nezavisne novine, Radio Slobodna Evropa and Radio televizija Republike Srpske in June 2019,<sup>4</sup> while utilized research reports and surveys are referenced.

### **3. Illiberal Politics and Ethnic Party Dominance**

The three dominant BiH political parties, SNSD, SDA and HDZ, and their leaders Dodik, Izetbegović and Čović, respectively, are in a privileged position with access to power and resources to enact policies that can result in an uneven electoral playing field within their corresponding ethnic party subsystem. Each aims to reinforce their position as the primary representative of their own ethnic group within BiH's consociational democracy. Dodik and his SNSD have been in power in RS since 2006 and for most of this time at the national level as well. He has served as prime minister and president of RS and is now the Serb member of the BiH national presidency. Throughout his tenure he has greatly increased political control of media in RS and stacked independent institutions with loyal supporters. By selectively distributing public funding, favouring business allies and controlling large state-owned enterprises (SOEs) he has 'managed to create a political machine that relies on patronage politics.'<sup>5</sup> More recently the SNSD has become active in restricting civil liberties as they perceive an increase of challenges to their rule. The regime in RS under Dodik can now best be described as subnational competitive authoritarianism (Bieber 2018).

Among Croat parties the HDZ BiH and its leader Čović are unrivalled, having won the majority of Croat votes in every election. In FBiH cantons where Croats are a majority the party has been in government since independence. Throughout this time HDZ BiH has established deep patronage networks, linking SOEs with party structures and remnants of the defunct wartime entity Herzeg-Bosnia (Bojičić-Dželilović 2004). These 'party affiliated SOEs employ a significant share of the local Croat population and in return create loyal voters.'<sup>6</sup> Illiberal politics among Bosniak parties are slightly more refined as intra-ethnic competition is more developed. The SDA, headed by Izetbegović, has always 'relied on a close-knit network of family and party officials to distribute public resources' in order to maximize electoral gain.<sup>7</sup> This includes managing SOEs and running public procurement procedures with patronage in mind. Likeminded civil society organizations with close ties to SDA leadership are supported through public funding only to 'serve as a pretence of broad grassroots support',<sup>8</sup> while light-handed control of media is used to temper criticism.

Through effective capture of public administration all three parties are able to control economic resources and redistribute them to loyal supporters (Günay and Džihic 2016; Džankić 2018; Blagovcanin and Divjak 2015). Thereby each party primarily operates within their own ethno-territorial and party subsystem and does not interfere in other groups' interests. The following three sections will each focus on a set of illiberal politics surrounding a particular case or policy. The first will examine restrictions to freedom of assembly in wake of the Justice for David protests in RS. The second will look at the weakening of independent media in RS and FBiH, and control of the public broadcaster Radio Television of Republika Srpska (RTRS). The final section will examine the influence of patronage in electoral contest and the role of SOE's as electoral prizes.

#### **4. Restricting Freedom of Assembly: The Justice for David Protests**

In late March 2018 the body of twenty-one-year-old David Dragičević was found on the banks of the Vrbas River in Banja Luka after he went missing six days earlier. By the end of that month the police investigation concluded that the death was accidental and that he drowned after tumbling into a swollen creek. The official report made an inept attempt to criminalize the young man. David's family did not accept the report and insisted that he had suffered a violent death that was covered up by RS police structures under control of the ruling SNSD party. Starting on March 26<sup>th</sup> a group called *Justice for David*,<sup>9</sup> led by the boy's father, gathered in the main Banja Luka square to demand a full investigation into David's death. The daily protests grew quickly in size and numbered over 10000 participants by mid-April.

The protests started out of a sense of frustration. Frustration with the police and justice systems, frustration with the ruling party elite. People feel like living in a state where some are more equal than others. It was a cause that a lot of people could relate to. That is why the movement was able to grow so big, so fast.<sup>10</sup>

Consistent public pressure and scrutiny revealed a botched police investigation with mishandled evidence, false claims and bullyish rhetoric of officials against the family of the deceased. This prompted the National Assembly of RS to form a Board of Inquiry to look into the matter. Their report concluded that David could have been murdered which was swiftly rejected by the ruling majority on the grounds of it being a politicized decision. Instead, the SNSD leadership insisted on an investigation by the prosecutor's office. At the same time, across the country in Sarajevo,

another group was protesting for similar reasons: the unresolved death of the young Dženan Memić. Attempts to join the two causes and capture broader support that crossed ethnic and entity lines emerged. The young men's families held joint protests and exchanged support, and media coverage followed, painting a broader picture of unaccountable BiH institutions as a national policy issue. While both groups continued to portray themselves as ethnic patriots rather than civic ones, the joint cause of justice for David and Dženan was creating unwanted attention for the RS government.

The protests continued throughout the summer and into the national and RS election campaigns of October 2018. During this time several opposition figures expressed support for the movement but were not able to assume any leading role. The act of occupying the main Banja Luka square became a ritual, with the sculpture of a raised fist serving both as a shrine of mourning and a sign of solidarity and defiance. This attracted repeated attention of local and international media (Zdeb 2019). The protests acted as a medium to voice anger at public institutions and the perceived lack of accountability, mostly at the entity level. The anger was directed at the police and judiciary for their direct involvement in the Dragicević case, but also at the ruling class in general and especially the SNSD. 'Bit by bit the protests became a symbol of a popular challenge to SNSD rule and to the power structures the party had put in place. They were not nationalist or anti-nationalist, definitely not against RS, but against the political elite and their economic partners in crime.'<sup>11</sup>

The October elections passed and SNSD emerged victorious within the BiH Serb party subsystem. Yet the protests did not stop, on one occasion bringing together 40000 people in the streets of Banja Luka. After a new SNSD government in RS was formed in mid-December, official pressure on the protests increased with a set of illiberal policies aimed at restricting freedom of assembly. Top ranking SNSD politicians discredited the protesters as foreign agents through public broadcasts and blamed Western countries for meddling in internal affairs and plotting to abolish RS, a tactic previously used to discredit NGOs and independent journalists.

The showdown with the RS government and police forces came on December 25<sup>th</sup> when police officers in riot gear launched a violent crackdown on protesters. They arrested 18 of the group's leaders including Davor Dragičević, the father of David, and two oppositions MPs on charges of threat to public safety. The central square in Banja Luka was cleared and the makeshift shrine removed. The following day police released everyone but banned any further gathering.

Foreshadowing what was to come Dodik declared that ‘the street will not model political decisions in RS’ (Reuters 2018). Government controlled media framed the protesters as violent individuals and citizens were advised to stay away. At the same time a prosecutorial investigation into Davor Dragičević and other protest leaders was started. The final protest, held on December 30<sup>th</sup>, descended into violence as police and protesters clashed. In the following days, criminal charges were pressed against the movement’s leaders while public intimidation continued. Davor Dragičević went into hiding and later fled the country. By separating the protest leaders, prosecuting them individually, and using force to disperse crowds gathered to support them, the RS police and government were able to repress the Justice for David movement. ‘All is well as long as the problems remain in your house, or should I say entity. When your dirty laundry becomes an issue for neighbours to see you can get into trouble.’<sup>12</sup>

It was easier for the ruling SNSD to stomp out a protest movement than to change their way of doing politics and increase transparency and accountability. But the citizens proved that they see through this charade, they are not afraid anymore. Once they have attention from outside BiH they will speak up.<sup>13</sup>

The following analysis does not focus on the unresolved death of David Dragičević or the subsequent investigation, but rather on illiberal politics enacted by the SNSD controlled government in light of prolonged civic protests and public criticism. Three phases of interaction between the government and protesters can be identified: 1) from the first protests in March 2018 until the October elections that year, 2) from the elections until the formation of a new RS government under SNSD in mid-December, and 3) following the establishment of the new government until the writing of this paper in June 2019.

The reaction of the SNSD government of RS towards the Justice for David movement does not follow an institutional opportunity framework. Rather it can be seen as a reaction to a perceived existential threat. Both the timing and scope of illiberal politics show a gradual escalation in government and police actions in light of the perceived threat (Touquet 2012). In the initial phase illiberal politics were limited and mostly consisted of spreading misinformation on the aim of the protests in order to discourage their spread to other cities in RS. The large turnout at the protests quickly made Dodik and other SNSD leaders aware that the movement could potentially ruin their chances at re-election. The movement’s leaders and governing official also cooperated to inadvertently frame the protest as a singular and family-centred cause for justice,

each out of their own interests. This diverted attention away from underlying socio-economic issues and did not let opposition parties co-opt the movement as a broader political platform.<sup>14</sup> In the lead-up to the elections there was no room for sudden or forceful government action.

The second phase, following SNSD's electoral victory, was characterized by quiet tactical manoeuvring and preparation. During this time, outside attention had begun to shift away from BiH. As the protests did not subside but served as a cause to bring together weakened Serb opposition parties, the existential threat resurfaced.<sup>15</sup> Illiberal politics enacted during the third phase were swift and forceful, starting as soon as the new SNSD government assumed power. These included brief detention of the movement's leaders, especially the father of David, as well as opposition politicians who supported the protests; using violent police tactics to disperse protesters; 'cleansing' the protest site of any symbols and messages of support; denying protest permits to any gathering linked to the movement or its leaders; intimidating or prosecuting individual protest leaders through various means, such as judicial processes, media disinformation, administrative scrutiny, withholding employment, and denying public services.<sup>16</sup> The sum of these illiberal politics, while conducted behind the veil of legality and administrative procedures, amount to unmistakable restrictions in freedom of assembly and freedom of speech. This way the SNSD was able to remove a perceived threat to its continued rule originating from the Justice for David movement. The use of illiberal politics was reactionary and constitutes an agent's framework centred around individual motivations and perceptions of threat.

A strategy of containing protests within RS was pursued both by the SNSD and other national parties, relying on institutional opportunities. Containment is best illustrated through ethnic party spheres of influence in BiH power-sharing. As the predominant party among Serb voters, SNSD is in the position to shape political discourse within its party subsystem by interpreting ethnonational interests. By initially engaging in dialogue with the movement's leaders, and by framing it as a local issue, SNSD was able to limit the spread of protests and the emergence of an inter-ethnic and national call for justice, such as a joint Justice for David and Dženan movement, which the party would find more difficult to influence or obstruct. Political parties in FBiH, especially the SDA and HDZ BiH, complacently supported such action as not to "import" unrest from RS. Therefore, the core of the movement remained subnational. This strategy was used with previous protests as well, such as the 2014 plenums where the issue was contained within FBiH (Gilbert and Mujanović 2015; Mujanović 2017).

At the same time there was no effort to constrain SNSD in their use of illiberal politics from the national level as the RS government acted within its' institutional competences. External actors, who still exert influence on BiH politics, only expressed declarative concern. Afterward, the European Union (EU) launched an initiative to monitor and evaluate the rule of law system in BiH, with a focus on accountability and independence of judiciary (EU Delegation to BiH 2019).

To sum up the events, the RS government and Ministry of Interior banned citizens from holding peaceful protests, and public gatherings in Banja Luka were dispersed by force, open intimidation, judicial means, and through an artificially constructed atmosphere of fear. The illiberal politics by the SNSD were purposeful and actor-motivated in their aim to thwart a perceived threat to their continued rule. This was achieved through institutional opportunities to contain the protests within RS and from becoming a more prominent national issue, as well as through a lack of constraints which limited possibility for outside influence.

## **5. Weakening Independent Media and Political Control of RTRS**

Sometimes I am afraid to do my job, or at least to do it professionally and consciously. Journalists are not protected in BiH and when you report against politicians and their associates who have real power or are rich enough to buy it you feel vulnerable. And it is even worse for my colleagues in RS. I believe that many of them choose to be friendly with the regime not because they support it, but rather as a survival tactic.<sup>17</sup>

Media is supposed to give us a clear, unbiased view on politics and enable citizens to act as a check against those in power (Levitksy and Way 2010). Especially public media are envisaged as a non-partisan source of information that aims to promote public interests. In BiH there are many media outlets but only few with significant impact, among which are the public broadcasters. The public broadcast system is as fragmented as the political system with three main outlets, the state-wide Radio and Television of Bosnia and Herzegovina (BHRT), the Radio-Television of the Federation of Bosnia and Herzegovina (FTV) in FBiH and the RTRS in RS. Each operates independently of each other, although they are supposed to function as one public corporation. Most citizens (66%) still get their daily political news from television, among which FTV and RTRS are the most viewed and trusted sources (Center for Insights in Survey Research 2018). They are also the most widely available, which gives them a lot of

political leverage. It is no wonder that control of their broadcast agendas is high up on the priority lists of governing parties.

Control of public broadcasters is achieved through appointing politically loyal governing boards. They are, in turn, responsible for appointing directors, program committees, steering broadcast agendas, and approving budgets. The governing boards are appointed by the respective parliaments: the RS National Assembly for RTRS, the Parliament of FBiH for FTV, and the national Parliamentary Assembly of BiH for BHRT. By looking into the boards' compositions, we can notice that political control of the governing boards is, however, not equal. The BHRT governing board is largely professional and represents multiple interests. FTV has had no governing board at all for several years as ruling parties in FBiH could not agree on its composition. Differences between the SDA and HDZ BiH regarding programming language, editorial appointments, and broadcast agenda created a situation where a lack of political control is preferable to becoming a partner with minority influence. This has allowed FTV to maintain a level of professionalism and independence. In both cases inter-ethnic consensus is required, and we can witness strategies of constraining potential misuse of public broadcasting.

RTRS has a governing board mostly composed of SNSD supporters and, consequently, a loyal director and supportive program committee. The current RTRS director, Draško Milinović, was previously head of office for the President of RS and Dodik's public relations officer. Opposition parties in RS have no influence on RTRS or ways to ensure its neutrality. This has real consequences for framing of political and contentious issues. In 2018 the BiH Communications Regulatory Agency, the national broadcast media oversight body, fined RTRS for 'continuous and biased promotion of the interests of the ruling party, favouring of individuals or entities in a positive context, with a constantly present critical tone towards the opposition parties' within its political news program (Communications Regulatory Agency 2018). The fine did not lead to a change of the broadcast agenda. 'The political program of RTRS only superficially attempts to be neutral. There may be a negative comment Dodik once a month. But there is almost no positive news on civil society and the opposition is just ignored.'<sup>18</sup>

It is not sensible to be a real journalists and work at RTRS. From the director to the technician, everyone under control of the party can tell you how to report on issues. Those who value their professional dignity choose to leave, while others keep quiet and

put their own economic benefit ahead of public interest or embrace the SNSD brainwash.<sup>19</sup>

It is possible to characterize RTRS a public propaganda tool of the SNSD, a regime-friendly outlet that can be used to influence public debate in ways favourable to Dodik, the party, and their allies. Exerting control over RTRS is an example of illiberal politics that has clear consequences on electoral competition and skews the playing field in SNSD's favour. The institutional framework defined by weak media regulation, insecure financing and a dominant executive has created conditions where parties in government are able to subvert independent and public broadcast media for partisan aim. By doing so with RTRS, the SNSD encountered almost no constraints as the company is institutionally contained in RS and largely Serb-controlled. In FBiH and at the national level significant inter-ethnic constraints have managed to preserve some independence of public broadcast.

Parties in government also use other avenues to weaken independent and media through illiberal politics. These are mostly employed against commercial media that are not under direct control of government. Some illiberal politics are directed at outlets, such as a police raid of the popular news portal Klix in 2014, requested and carried out by RS police in cooperation with their colleagues in FBiH, after the portal uncovered a scandal implicating the SNSD in buying off MPs. Others are personal, such as Dodik's repeated hostility towards female journalists, the expulsion of an opposition-affiliated journalist from a SNSD press conference, accusations of treason to RS against investigative journalists, and threats and physical violence against journalists that are only half-heartedly condemned or prosecuted (Turčilo and Buljubašić 2017).

Various illiberal politics directed at media owners aim to create economic incentives or, alternatively, pressure to conform to more benign reporting. Although verifiable data on economic pressure is lacking, it is safe to say that public companies and SOEs offer significant support to regime friendly media through lucrative advertising (Turčilo and Buljubašić 2017, 36–43; Cvjetičanin et al. 2019, 83). Regarding ownership it is possible to identify strong links between media owners and political leaders, both personal and through political parties. For example, Fahrudin Radončić, the leader of a centric Bosniak party, is also the de-facto owner of the largest daily newspaper Dnevni avaz.

As a last resort, political party leaders increasingly make use of defamation lawsuits against



journalists or their outlets in an attempt to censor and discredit their work (Sorguc and Rovcanin 2019). ‘Defamation lawsuits are a highly effective tool as they portray the journalist in a negative light and consume their time and effort to deal with the charges instead of reporting. The outcome of the lawsuit is ultimately not important, but rather the Kafkaesque process itself.’<sup>20</sup>

Individually or combined, these illiberal politics lead to widespread self-censorship of media and individual journalists. The result is a weakening of media independence, poorer government oversight, and less professionalism. As with the control of public broadcasting, illiberal politics are enabled through an institutional framework and an ethnically segmented media sphere that creates opportunities for executive party dominance. The SNSD and Dodik have managed to largely subvert independent commercial media in RS, but the SDA and HDZ BiH have also used their fair share of illiberal politics to shape media coverage within their respective media spheres in FBiH. Even smaller regional parties use these tactics towards local-level media. Containment of illiberal politics to ethnic media spheres is evident in BiH making all dominant ethnic parties culpable. Constraints to executive actions are non-institutionalized, weak and lack enforcement mechanisms, mostly coming from professional associations and international observers.

Finally, governing parties resort to purposefully disseminating disinformation. This more recent phenomenon is increasingly present in the online media sphere. It is most evident in RS among media connected to the online presence of RTRS. Writing about online disinformation in BiH Cvjetičanin et al. find that ‘public media are the largest individual sources of disinformation’ where RTRS and the Serb news agency Srna ‘stand out as single most prolific sources’ forming a disinformation network with numerous media outlets in BiH and Serbia (2019, 7–8). The targets of negative disinformation campaigns are Bosniak parties and their leaders, the Serb opposition, Justice for David and other civic organizations, while disinformation portrays Dodik, the SNSD and members of the RS government, but also the HDZ BiH in a positive light. Another important disinformation source, the Dnevni avaz, aims to positively portray Radončić to Bosniak readers but is not part of a broader disinformation network (Cvjetičanin et al. 2019, 41–43, 60). The spread of disinformation is, again, conditioned on institutionally presented opportunities and lacking regulations, as well as ethno-political containment and very weak constraints.

It is currently not possible to speak of an independent and professional media sphere in BiH. Media is certainly not a mechanism to ensure control and accountability of ruling parties. Rather it is increasingly dependent and disciplined by those in power. Nowhere is this more evident than in RS where Dodik and the SNSD are able to control public and private media through illiberal politics by taking advantage of structural circumstances and a weak regulatory framework. Their actions are self-contained within subnational boundaries an ethnic media sphere where multilevel and interethnic constraints are limited. Political parties in FBiH and the national level were not able to establish far-reaching media control. Constraints between national, entity and canton levels of government, as well as between ethnic party interests, limited their scope of action.

## **6. Patronage in Elections: SOE's as Electoral Prizes**

The electoral process in BiH is fraught with issues and segmented along ethnic lines, but elections are considered 'genuinely competitive' and largely transparent as most irregularities do not happen on election day (OSCE 2019). Political parties and BiH institutions make an effort to portray electoral contest as free and fair in order to emphasize the legitimacy they gain from electoral victory.<sup>21</sup> What happens before and after elections is much more problematic and ultimately undermines the democratic process by creating an uneven playing field. It is not possible to look into all problems of BiH elections such as a deficient legal framework, outdated voter registries, biased media coverage or manipulations in the composition of polling station commissions. Instead we will focus on misuse of public resources for clientelism, more specifically patronage, through informality and illiberal politics of ruling parties. We understand clientelism as a non-programmatic distribution of material benefits combined with conditionality of political support. Patronage is a form of clientelism 'used to refer to intra-party flow of benefits' (Stokes et al. 2013, 13–14). It is also described as relational clientelism that builds on long-term relationships and more permanent benefits, in contrast to electoral clientelism as an ad-hoc transaction focused on election day, such as vote buying (Gans-Morse, Mazzuca and Nichter 2014). The most prominent feature of patronage is the use of public resources to reward individuals and strengthen party structures, such as employment or donations to party related causes.

Data from expert and population surveys illustrates the scope of the issue. According to the Electoral Integrity Project, elections in BiH suffer substantially from misuse of state resources for campaigning, influence of money on electoral outcomes, and non-transparent financial

accounts of parties and candidates (Norris and Grömping 2019). Data from the INFORM project looks in detail at informal mechanisms and clientelism in Southeast Europe and BiH, finding an exceptionally high dependence in regard to elections (Gordy and Efendić 2019). More specifically, 15.4% of respondents report to have been offered money in exchange for their vote during the 2014 general elections as a form of electoral clientelism. Also, 9,6% of respondents have turned to a party official for help which increases their likelihood to participate in a relational clientelist transaction sevenfold. This ‘suggests that clientelist linkages are forged continuously, not only just before or after elections’ (Popovikj, Gjuzelov and Bliznakovski 2019, 106, 111). Our interviews confirm these findings.

It is common knowledge that if you want a job in city or canton administration you need to talk to the right party officials. Openings are earmarked by political parties, one for HDZ [BiH] one for SDA, and they informally select the applicant who is most loyal or can deliver best. You need to have a *štela* to get a job there.<sup>22</sup>

Even with 14 distinct governments the number of jobs in administration in BiH is limited. This is where control of employment opportunities and resources of SOEs becomes important. With numerous patronage opportunities SOEs present an even greater electoral prize than ministerial positions. ‘Access to sought-after jobs at SOEs is a principal means of political and ethnically based patronage’ where political parties run the companies for their own purpose (McGill 2019). A recent IMF report on SOEs mapped out the staggering size of the sector. ‘Roughly 80 thousand workers are employed in 550 SOEs across all sectors of the economy (about 11 percent of total employment)’ most of them in the 20 largest, entity owned SOEs (Parodi and Cegar 2019, 6). These include the FBiH and RS electricity companies, coal mines in FBiH, the RS forestry company, the BH Telecom company, and the FBiH and RS railways. A majority of SOEs are in a bad financial shape due to persistent mismanagement and an oversized workforce with large accumulated losses. At the same time, they maintain average salaries at 40% higher than in private firms.<sup>23</sup>

Employment opportunities and resources of SOEs are tightly controlled by political parties who appoint their governing boards.<sup>24</sup> As one interviewee stated ‘the word state owned enterprise is actually a misnomer. We can talk about Serb, Bosniak or Croat SOEs but never of BiH SOEs. There is no state control there, just that of [ethnic] peoples.’<sup>25</sup> Just like with public broadcasting, the boards make all key decisions and the principal requirement to become a board member is

party loyalty. These boards informally forward company information to the party leaderships while concealing full reports from oversight bodies and opposition parties in parliament (Centar za istraživačko novinarstvo 2018). SOEs are treated as electoral prizes that can be used to fulfil a party's electoral promises, such as employment, at the expense of public interest. Ethnic party control of SOEs is the main form of patronage in BiH. 'We pretty much know which SOEs [in FBiH] belong to the Croats and which belong to us [Bosniaks]. Those in RS are of course controlled by Serbs so we have no say. And of course, it is important to have people the party trusts in leading positions [at SOEs].'<sup>26</sup>

There has not been a single BiH party that has not descended into clientelism. And the longer they are in government [at entity level] the more control they have. I can safely claim that BH Telecom [the largest telecom operator] is an SDA business affiliate. They use it as their intra-party employment bureau. The HDZ [BiH] has its own SOEs in Herzegovina, such as Aluminij [an aluminium smelter]. The opposition can offer nothing except electoral promises while SDA and HDZ [BiH] have means to deliver on theirs.<sup>27</sup>

Relational clientelism in the form of patronage based on control of SOEs is a major driver of electoral outcomes in BiH. It is also one of the most difficult to research thoroughly because it often entails illegal activities. Most patronage is concentrated at the level of the entities, and further shaped by ethnicity where parties that dominate each ethnic party subsystem control "their" public companies. The institutional framework defined by post-communist power mutation is instrumental to executive exploitation of SOEs for electoral gain. Concentration of power enables unregulated executive control of public assets and leads to a conversion of political into economic power which is then reinforced by preferential dispersion into informal party networks. Ethnic parties, predominantly the SDA, SNSD and HDZ BiH, seek containment of SOE control within ethnic party systems and subnational levels of government as a form of ethnic oligopoly. They actively limit market expansion of most SOEs into each other's territories, even where this makes economic sense, in order to keep jobs concentrated and appease core ethnic voters. Due to weak regulations and oversight, as well as limited market competitiveness in BiH, there are few constraints to exploitation of public companies. By using illiberal politics and informality as a mechanism to control SOEs, dominant ethnic parties are able to connect voting preferences to economic benefits. The result is a large number of ethnically defined political machines with stable voting patterns where opposition parties are at

a significant disadvantage.

## **7. Conclusion**

BiH is a unique political system where, in the aftermath of the Bosnian War, governance was divided between national and several subnational levels with a significant role for both ethnic parties and international intervention. Each level has distinct responsibilities, but many are shared. Competing interests of ethnic groups and colliding lines of authority ultimately merge to undermine accountability. This paper aimed to analyse cases of illiberal politics at subnational levels of government and their effect on democracy in BiH. We argue that subnational autocratization is possible due to opportunities arising from the institutional framework. At the same time, it is contained by asymmetric subnational governance and a segmented party system, as well as constrained by the checks and balances that arise out of multilevel and inter-ethnic competition. Incremental autocratization at the national level, or rather the lack of strong trends observed through several indices that measure quality of democracy, can be explained by the structural constraints of BiH's consociational democracy.

By looking at three specific cases of illiberal politics at the subnational level the paper aimed to identify drivers of autocratization, and actions of governing parties aimed at remaining in power. First, restrictions to freedom of assembly in RS in wake of the Justice for David protests present the most forceful example of illiberal politics. The SNSD government under Dodik used a combination of intimidation, violence and judicial means to suppress the protests. The driver was the party's perception of existential threat arising from dissent within its own Serb ethnic group. By containing the issue within RS, the party was able to limit external constraints to its actions. Second, illiberal politics are heavily employed by governing parties to weaken and control media by taking advantage of structural circumstances and a weak regulatory framework. The SNSD was able to gain control of public broadcasting in RS as it contained the issue at subnational level, while SDA and HDZ BiH constrained each other's attempts to subvert public broadcasting in FBiH. Third, BiH political parties use illiberal politics to gain control of state resources, most notable SOEs, with the aim to create long-lasting forms of relational patronage that can be used in electoral contest on an uneven playing field. Thereby they rely on an institutional framework defined by executive dominance, a combination of political and economic power, and informality through party networks. All the while, illiberal politics and borderline lawlessness are masked behind a veil of legality as maintaining an appearance of rule of law is necessary for the legitimacy of parties and their leaders.

The paper finds widespread use of illiberal politics that add up to significantly impact the liberal component of BiH's democracy. The electoral component of democracy is largely left intact as most effects on electoral competition are indirect. We find substantial subnational variations between RS and FBiH where the former can be described as a competitive authoritarian regime and the latter as an electoral democracy.<sup>28</sup> The main drivers are found to be of institutional nature and can be traced back to democratic transition and subsequent wartime ethnic polarization in the 1990's. Back then several unfavourable aspects of communist governance transferred to the new newly established proto-democratic regime in the absence of effective rule of law (Zakošek 1997), and further consolidated into ethnic rule during the war. Additionally, threat to regime survival is a potent driver for illiberal politics that may become more important if protests in BiH continue. We also find that segmental autonomy in BiH's consociational democracy has the potential to contain illiberal politics at the subnational level. Such containment can be purposeful in order to avoid national and international scrutiny, a strategy pursued by all three ethnic elites. Where consociational democracy introduced checks and balances between levels of government or ethnic groups, strategies of constraint are used to prevent illiberal politics being used to achieve ethnic dominance.

The theory building aim of this paper was to contribute to a better understanding of subnational authoritarian rule under conditions of power-sharing and weak national government. In this sense we can make several conclusions. First, where strong subnational governments are not inhibited by national government or other constraints at the subnational level, contained autocratization is possible and effective. Second, where subnational government is fragmented or inhibited by institutionalized constraints, autocratization is unlikely or partial. Third, under conditions of power-sharing subnational competitive authoritarianism is unlikely to spill over to the national level as this might break containment and endanger the subnational regime. Fourth, democratization of power-sharing regimes is not possible without fully addressing subnational governance practices. The relevance of this paper for the power-sharing literature is in highlighting the important role of autocratic subnational politics in cases where segmental autonomy and ethnic veto rights are institutionalized. In such cases consociational democracy is found to inhibit autocratization where power-sharing requirements are high, and to promote autocratization where ethnic self-governance is far-reaching. As an effect, this makes democratization more complex and multi-layered.

Illiberal politics are likely to continue in BiH, especially at the subnational level. The three dominant parties have established mechanisms to create an electoral advantage, each within their own ethnic party subsystem. While it is reasonable to expect mostly free and fair elections in the future, these will be contested on an increasingly uneven playing field. To revitalize democratization in BiH domestic and foreign actors will need to look beyond elections and national institutions. They will need to focus on subnational politics and deep-rooted power structures that blend executive dominance with economic power and informal party networks.

## BIOGRAPHICAL NOTE

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## ENDNOTES

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<sup>1</sup> In this paper I use the term autocratization when referring to BiH for reasons elaborated by Lührmann and Lindberg (2019).

<sup>2</sup> In the Sejdīć and Finci case the European Court of Human Rights found that BiH's constitution discriminated against certain groups of citizens and violated the European Convention on Human Rights (Hodžić and Stojanović 2011).

<sup>3</sup> The fourth, multiethnic playing field partially overlaps with the Bosniak one and is bound by the same degree of openness.

<sup>4</sup> The following search strings were used to identify articles: <protesti OR prosvjedi+Dragičević+“Banja Luka”>; <politički+utjecaj+mediji+RTRS OR BHT OR RTVFBiH>; <javna+preduzeća+izbori+SDA OR SNSD OR HDZ>; from Al Jazeera Balkans (<http://balkans.aljazeera.net>, 24 June 2019), Buka magazin (<https://6yka.com>, 24 June 2019), Dnevni avaz (<https://avaz.ba>, 26 June 2019), Klix (<https://www.klix.ba>, 25 June 2019), Nezavisne novine (<https://www.nezavisne.com>, 25 June 2019), Radio slobodna Evropa (<https://www.slobodnaevropa.org>, 24 June 2019), Radio televizija Republike Srpske (<https://www.rtrs.tv>, 26 June 2019).

<sup>5</sup> Personal interview #2 with journalist, Banja Luka, April 2019.

<sup>6</sup> Personal interview #14 with academic, Sarajevo, February 2019.

<sup>7</sup> Personal interview #8 with member of civil society, Sarajevo, March 2019.

<sup>8</sup> Personal interview #8 with member of civil society, Sarajevo, March 2019.

<sup>9</sup> In local language: Pravda za Davida.

<sup>10</sup> Personal interview #11 with academic, Banja Luka, March 2019.

<sup>11</sup> Personal interview #1 with journalist, Banja Luka, March 2019.

<sup>12</sup> Personal interview #6 with member of civil society, Banja Luka, March 2019.

<sup>13</sup> Personal interview #2 with journalist, Banja Luka, April 2019.

<sup>14</sup> Personal interview #11 with academic, Banja Luka, March 2019.

<sup>15</sup> Personal interview #11 with academic, Banja Luka, March 2019.

<sup>16</sup> Personal interview #11 with academic, Banja Luka, March 2019 and personal interview #2 with journalist, Banja Luka, April 2019.

<sup>17</sup> Personal interview #3 with journalist, Sarajevo, February 2019.

<sup>18</sup> Personal interview #7 with member of civil society, Banja Luka, March 2019.

<sup>19</sup> Personal interview #1 with journalist, Banja Luka, March 2019.

- <sup>20</sup> Personal interview #15 with academic, Sarajevo, April 2019.
- <sup>21</sup> Even though there are reported cases of occasional voter intimidation, vote buying, and mail voting fraud (Pod lupom 2018).
- <sup>22</sup> Personal interview #10 with member of civil society, Mostar, April 2019. *Štela* is a colloquial expression for personal connections with the potential to produce benefits.
- <sup>23</sup> The report concludes that 'BiH governments forego up to 3.0 percent of GDP in potential income per year through inefficiencies' in SOEs (Parodi and Cegar 2019, 23).
- <sup>24</sup> Research on interest groups shows ethnic party dominance that results in a bifurcated system with three separate interest group subsystems (Kapidžić 2019).
- <sup>25</sup> Personal interview #17 with a member of a Serb political party, Banja Luka, March 2019.
- <sup>26</sup> Personal interview #19 with member of a Bosniak political party, Sarajevo, March 2019.
- <sup>27</sup> Personal interview #3 with journalist, Sarajevo, February 2019.
- <sup>28</sup> There are also variations among cantons within FBiH but such inquiry is beyond the scope of this paper.

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