

Minority Veto Rights in Power Sharing Systems: Lessons from Macedonia, Northern Ireland and Belgium

By Shane Kelleher¹

Introduction

Veto rights have been described as the "ultimate weapon" available to minorities in a power sharing system within an ethnically divided society.² On the one hand, veto rights over laws or decisions affecting a minority's vital interests offer a minority a powerful guarantee that these interests cannot be overridden by majority voting. On the other hand, unless carefully designed and used sparingly – as a last resort – veto rights may have an immobilizing, ethnically divisive or destabilizing effect on a power sharing system. For the purpose of this paper, "power sharing" refers to the participation of all major ethnic groups in political decision-making processes, and a "veto" ("I forbid" in Latin) to a power to block, prevent or suspend a draft law or proposed measure.

This paper will argue that veto rights are not always the best tool for protecting a minority's vital interests. Examples supporting this view will be taken from Macedonia and Northern Ireland, where recent experiences of inter-ethnic tensions and violence have been followed by experiments with power sharing. The paper will begin by briefly outlining the ethnic composition, history of ethnic conflict and power sharing arrangements in these territories. It will then examine key issues relating to minority veto rights, including identifying the veto holder, defining the "vital interests" of the minority, and managing deadlocks or political crises that may follow the exercise of a veto. This examination will show that practical difficulties associated with minority veto rights include their potential to immobilize a political decision-making process, to reinforce existing ethnic divisions, and to have a confrontational and destabilizing effect within a power sharing system.

The final section will put forward an alternative approach to protecting the vital interests of minorities that relies partly, but much less heavily, on veto rights. In Belgium, a country with a long tradition of accommodating deep divisions between its Flemish and Walloon communities, each ethnic group is granted a high level of non-territorial autonomy over vital interests such as education, language and culture, making it much less dependent on veto rights as a means of protecting its vital interests. For decisions that still require veto protection (e.g. in fields reserved to central government that affect the vital interests of an ethnic group), Belgium has a unique "Alarm Bell Procedure" (which I will define as a "soft veto"). This "soft veto" reduces the likelihood of procedural abuse by opponents of power sharing, encourages mediation between different communities to end post-veto deadlock and reach a mutually acceptable solution, and generally minimizes the destabilizing effect of traditional vetoes (or "hard vetoes"), which create clear winners and losers.

Ethnic Composition, History of Ethnic Conflict and Power Sharing in Macedonia

Although Macedonia was spared the slaughter that accompanied the disintegration of Yugoslavia in the early 1990s, inter-ethnic violence erupted briefly a decade later. Ethnic Macedonians represent approximately 65% of Macedonia's population. They are overwhelmingly Christian and speak the Macedonian language. Approximately 25% of the total population is comprised of ethnic Albanians. They are predominately Muslim, speak the Albanian language, and are concentrated in western Macedonia around the borders with Albania and Kosovo. The remaining 10% of the population includes several smaller ethnic

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² Arend Lijphart, "The Power-Sharing Approach," in Joseph V. Montville (ed.), *Conflict and Peacemaking in Multiethnic Societies* (Lexington: Lexington Books, 1990) p.495.

minorities including the Turkish, Roma, Serb, Vlach and Bosniac minorities.³ In 1991, the newly independent state adopted a Constitution which described Macedonia as, "the national state of the Macedonian people." The ethnic Albanian minority was strongly opposed to the 1991 Constitution, arguing that it relegated Macedonia's ethnic minorities to the status of second-class citizens.⁴ The alienation of ethnic Albanians from the new state was further reinforced by discrimination; despite constituting approximately 25% of the population, ethnic Albanians accounted for only 7% of the civil service and 3% of the police force in 2001. Ethnic Albanian rebels began a violent uprising in Spring 2001, and, following swift intervention by the EU/NATO, the government and rebels concluded a peace agreement (the "Ohrid Agreement") in August 2001.⁵ This agreement resulted in constitutional recognition of ethnic Albanians and other ethnic minorities as constituent peoples of the Macedonian state, the granting of powerful veto rights to ethnic minorities over laws affecting their vital interests, increased recognition of the Albanian language, and a commitment to proportional representation for ethnic Albanians at all levels of the civil service and police force. In addition, an informal practice of inclusion of ethnic Albanian political parties and ministers in coalition governments, dating back to 1991, was continued.⁶ These power sharing arrangements have survived several crises to date, defying the predictions of many.

Ethnic Composition, History of Ethnic Conflict and Power Sharing in Northern Ireland

Ethnic conflict in Ireland is rooted in centuries of colonization by the neighbouring island of Britain. In 1921, part of the island gained independence, but six counties remained in the United Kingdom, forming the province of Northern Ireland, the population of which according to the latest census is approximately 53% Protestant and 44% Catholic.⁷ The main cleavage in Northern Ireland's population is national affiliation, reinforced by a corresponding but secondary cleavage on the basis of religious affiliation. Unionists, who want Northern Ireland to remain part of the United Kingdom, are overwhelmingly Protestant. Nationalists, who favour Northern

³ The precise breakdown of the Macedonian population by ethnic affiliation according to the census of 2002 is Macedonian 64.8%, Albanian 25.17%, Turkish 3.58%, Roma 2.66%, Serb 1.78%, Vlach 0.48%, Bosniac 0.84% and Other 1.04%.

⁴ The relationship between identification of the state with a majority ethnic group and discrimination against minority ethnic groups is one of the most interesting features of ethnic relations in pre-2001 Macedonia. In an interview published on 6 April 2001, Arben Xhaferi, the leader of the Albanian Democratic Party, described the attitude of ethnic Albanians to the 1991 Constitution as follows: "To whom does the state belong? Macedonians want to create the state as their own ethnic property ... against the will of the Albanian minority. Since then we have had permanent ... conflict over the concept of the state. But the concept of the state – the constitution of the state – is incompatible with multi-ethnic reality. So the question now is whether we change the reality through ethnic cleansing or [change] the concept of the state?" See "An Optimist in Panic – An Interview with Arben Xhaferi," on the website of the London-based Institute for War and Peace Reporting.

<www.iwpr.net/index.pl?archive/bcr/bcr_20010406_1_eng.txt>

⁵ The formal title of the Ohrid Agreement is the "Framework Agreement dated 13 August 2001." See Vladimir Jovanovski and Lirim Dulovi, "A New Battlefield: the Struggle to Ratify the Ohrid Agreement," in Keith S. Brown, Paulette Farisides, Saso Ordanoski & Agim Fetahu (eds.), *Ohrid and Beyond*, (London: Institute for War and Peace Reporting, 2002) for a lively account of the peace negotiations leading up to the Ohrid Agreement and the difficulties encountered in persuading the Macedonian parliament to ratify the changes to the Constitution required by the Ohrid Agreement.

⁶ For further background on ethnic relations and power sharing in Macedonia, see Lisen Bashkurti, "Political Dynamics within the Balkans: the Cases of Bosnia Herzegovina, Macedonia, Bulgaria, Serbia and Montenegro", *Chicago Kent Law Review*, Volume 80:1 (2005) p.49; and David J. Ludlow, "Preventive Peacekeeping in Macedonia: An Assessment of U.N. Good Offices Diplomacy", *Brigham Young University Law Review*, Issue 1 (2003) p.761, and the Electronic Map of Ethno-Political Conflict webpage for Macedonia on the website of the German based European Centre for Minority Issues.

<www.ecmi.de/emap/mk_C04_03a.html>

⁷ The precise breakdown of the population of Northern Ireland by religious affiliation according to the census of 2001 is Protestant 53.13%, Catholic 43.76%, Other 0.39% and None 2.72%.

Ireland's secession from the United Kingdom and unification with Ireland, are predominantly Catholic. From 1921 to 1972, Northern Ireland was largely self-governing, with its own parliamentary assembly and executive ("Stormont"). However, its Westminster-style system of government resulted in Unionist hegemony and no Catholic cabinet minister was appointed between 1921 and 1968.⁸ Persistent discrimination against Catholics fuelled ethnic tensions and, in the mid-1960s, Catholics established a civil rights movement, inspired by the US model, demanding equal treatment in areas such as political representation, policing, housing and public sector employment. The almost exclusively Protestant police force, supported by emergency legislation, cracked down heavily on civil rights marches, most notoriously "Bloody Sunday," 30 January 1972, when 13 Catholic civil rights marchers were shot dead by British soldiers. In March 1972 the UK government abolished Stormont and re-imposed direct rule from Westminster. Sectarian violence (the "Troubles") continued until the early 1990s and claimed over 3,000 lives. In 1994 the IRA⁹ declared a ceasefire, and in 1998 the Irish and British governments concluded a comprehensive peace agreement (the "Good Friday Agreement"¹⁰), which was subsequently approved by the people of Ireland and Northern Ireland in concurrent public referenda. The Good Friday Agreement established ambitious new power sharing institutions including a 108-member Northern Ireland Assembly elected by proportional representation and a Northern Ireland Executive comprising ministers from all the major Unionist and Nationalist political parties. It also introduced a cross-community voting procedure, granting the Unionist and Nationalist groups mutual veto rights for certain votes in the Northern Ireland Assembly.¹¹ However, implementation of the Good Friday Agreement has been sporadic and troubled and, since the power sharing institutions were suspended, for the fourth time, in October 2002, Northern Ireland has been ruled directly from Westminster and power sharing has ground to a halt.

The Role of Veto Rights in Power Sharing Systems in Ethnically Divided Societies

One of the main roles of veto rights in a power sharing system within an ethnically divided society is to encourage decision-making that is acceptable to different ethnic groups. In theory, the threat of a veto being exercised is intended to deter one ethnic group from proceeding with a proposal that infringes the vital interests of another ethnic group. A veto may be justified on the basis that guarantees of proportional representation of minority groups in a power sharing assembly and/or executive are not sufficient to protect the vital interests of that minority because the minority may simply be outvoted. Therefore, veto rights are intended as an

⁸ For a thought-provoking analysis of the political history of Northern Ireland, see John McGarry, "'Democracy' in Northern Ireland: Experiments in Self-Rule from the Protestant Ascendancy to the Good Friday Agreement," *Nations and Nationalism*, Volume 8:4 (2002) p.451. McGarry's description of discrimination against Catholics in the twilight of the Stormont era (1921–1972) is worth quoting at length: "Catholics were discriminated against in public-sector employment and in public housing. Local government wards were gerrymandered to turn local Catholic majorities into minorities. A police force...was established that was almost exclusively Protestant. It was backed by emergency legislation that was used to quell minority dissent. The Flags and Emblems Act ... permitted police to take down displays of the [Irish flag] but not the [British flag]. There was not a single Catholic cabinet minister appointed until 1968 ... when the regime was experiencing terminal crisis. The only legislation passed as a result of an opposition (Catholic) motion was the Wild Birds Act of 1931."

⁹ The Provisional Irish Republican Army, commonly known as the IRA, is a paramilitary organization whose goals include British withdrawal from Ireland and the establishment of a United Ireland as a socialist republic.

¹⁰ The formal title of the Good Friday Agreement is the "Agreement reached in the Multi-Party Talks dated 10 April 1998."

¹¹ For a thorough study of the power sharing arrangements in the Good Friday Agreement, see Brendan O'Leary, "The British-Irish Agreement of 1998: Results and Prospects," paper presented at University of Notre Dame conference on constitutional design (1999) and Brendan O'Leary, "The Nature of the Agreement," text accompanying the 9th John Whyte Memorial Lecture at Queens University Belfast (1998).

ultimate guarantee to minority groups that they will be able to defend their vital interests if these are threatened. However, veto mechanisms are not the only possible way to defend the vital interests of a minority. The following sections will discuss some of the practical problems inherent in minority veto rights in power sharing systems.

Problems Relating to the Identity of the Veto Holder

The first key issue that arises in relation to minority veto mechanisms is identifying an appropriate veto holder. A veto that is granted collectively to a number of different ethnic minorities acting as a single veto bloc may fail to perform its essential minority protection function as each ethnic group has its own unique traditions and culture, and its vital interests may conflict with those of other ethnic minorities in the bloc. Veto rights that are granted to one or more particular ethnic groups may prove ethnically divisive by discriminating against smaller ethnic minorities as well as groups that cross ethnic lines.

Macedonia's approach is to bundle all of its ethnic minorities into a single bloc for the purposes of minority veto protection. According to Macedonia's Constitution,¹² certain laws may only be passed by double majority vote in the Macedonian Assembly, namely, a majority within the Assembly as a whole that includes a majority of the votes of the Assembly members attending who "claim to belong to the communities not in the majority in the population of Macedonia." However, according to the latest Macedonian census of 2002, the 35.2% of Macedonia's population who do not belong to the ethnic Macedonian community comprise one large ethnic minority (the ethnic Albanians who represent 25.17% of the total population and hold a somewhat lower proportion of the total seats in the Macedonian Assembly) together with many smaller ethnic minorities.¹³ Accordingly, while the ethnic Albanians have sufficient representation to veto legislation without the support of any of the other ethnic minorities, the smaller ethnic minorities can never veto legislation without the support of ethnic Albanians, so their vital interests are only protected to the extent that they overlap with those of the predominately Muslim ethnic Albanian group.

In contrast, Northern Ireland recognizes the veto rights of two specific communities, but its veto mechanism ignores representatives of parties that cross ethnic lines and therefore refuse to affiliate themselves with a particular ethnic/national group. According to the Good Friday Agreement, each member of the Northern Ireland Assembly is required to designate himself/herself as "Unionist", "Nationalist" or "Other," and this designation is used for "cross-community" voting procedures requiring thresholds of Unionist and Nationalist support. Cross-community votes can take either of two forms, namely, "parallel consent" (i.e. a simple majority in the Assembly including at least 50% within the Unionist group and 50% within the Nationalist group), or "weighted majority" (a 60% majority in the Assembly including at least 40% within the Unionist group and 40% within the Nationalist group). This form of mutual veto is designed to promote decisions which will be acceptable to both the majority Unionist group and the minority Nationalist group. However, one of the criticisms levelled at this approach is that it discriminates against the "Other" group and contributes to the entrenchment of the existing ethnic/national divide. Any Assembly member who is elected with the support of Protestants and Catholics and who refuses to designate himself/herself as "Unionist" or "Nationalist," either out of principle or for fear of alienating his/her Protestant or Catholic electorate, is ignored for the purposes of the veto mechanism and may be regarded as wielding less political power than Unionist or Nationalist Assembly members. This disparity in power is a very practical disincentive to vote for a cross-ethnic/national candidate, and the veto structure may therefore be regarded as contributing to the entrenchment of Northern Ireland's already deep ethnic/national divisions.

¹² Articles 69(2) and 114(5) of the Macedonian Constitution (as amended in 2001).

¹³ See footnote 3 for a precise breakdown of Macedonia's population by ethnic affiliation.

Problems Relating to the Definition of the "Vital Interests" of the Minority

A second practical problem associated with minority vetoes is defining the "vital interests" of a minority. If the "vital interests" of a minority are defined too narrowly, veto rights may fail to perform their essential function as a tool to protect the minority from having its essential interests overridden by a majority vote. However, if the "vital interests" of a minority are defined too widely, veto rights may be open to abuse as they will allow the minority to hold the majority to ransom over a wide range of legislative issues, and such abuse may ultimately discredit and destabilize the entire power sharing system.

Macedonia has opted to pre-determine the "vital interests" of its ethnic minorities by specifically identifying each interest that is protected by veto rights in the Macedonian Constitution. These protected interests include "laws that directly affect culture, use of language, education, personal documentation, and use of symbols,"¹⁴ and "local self-government ... laws on local finances, local elections, boundaries of municipalities, and the [capital] city of Skopje."¹⁵ Although this list may appear comprehensive, it is in fact narrower than the list of vital interests protected by veto rights in the constitutions of other Balkan states, including Bosnia-Herzegovina and Kosovo.¹⁶ Furthermore, this rigid approach of identifying ethnic minorities' vital interests in an exhaustive list leaves no room for manoeuvre for a particular minority to protect itself should new areas of vital interest emerge from time to time.

Northern Ireland has adopted a more flexible approach. Rather than confining "vital interests" to a pre-determined list, each community is granted the freedom to self-determine its "vital interests" to a much greater extent. The Good Friday Agreement identifies certain "key decisions" of the Northern Ireland Assembly which must always be taken by a cross-community vote. In other cases, however, a significant minority of Assembly members may trigger a requirement for a specific decision of the Assembly to be taken by a cross-community vote. In order to trigger a cross-community vote, at least 30 Assembly Members (out of a total of 108) must sign a "petition of concern" requesting one. However, some of Northern Ireland's political parties have expressed dissatisfaction with the "petition of concern" approach in practice.¹⁷ Its very flexibility leaves it open to abuse by political parties who oppose the Good Friday Agreement and its power sharing arrangements, and whose ultimate aim in using veto rights may be to immobilize the decision-making process, or even destabilize the Good Friday Agreement's power sharing system.

Problems Relating to Situations of Deadlock and/or Political Crisis following the Exercise of a Veto

A third key issue that arises in the context of minority veto mechanisms is the emergence of deadlock or political crises after the exercise of a veto. The failure of a veto mechanism to provide for a mediation process to assist the different ethnic groups in arriving at a mutually

¹⁴ Article 69(2) of the Macedonian Constitution (as amended in 2001).

¹⁵ Article 114(5) of the Macedonian Constitution (as amended in 2001).

¹⁶ For a comparison of the power sharing arrangements in Bosnia-Herzegovina, Kosovo and Macedonia, see Florian Bieber, "Institutionalizing Ethnicity in the Western Balkans – Managing Change in Deeply Divided Societies," *Working Paper No. 19* (Flensburg: European Centre for Minority Issues, 2004). Bieber is often critical of what he perceives to be the entrenchment of ethnic divisions in the Balkans through rigid power sharing institutional arrangements based on ethnicity.

¹⁷ Such critics include the Alliance Party, which, along with the Women's Coalition, is one of the few political parties in the province that is not organized along sectarian lines. The Alliance Party has also proposed the introduction of a new voting mechanism for cross-community matters based on weighted majority voting free from ethnically worded vetoes based on designations of "Unionist," "Nationalist" or "Other."

acceptable solution following the exercise of a veto may lead to a period of political deadlock that is damaging to ethnic relations. Further, the manipulation of veto rights by opponents of a power sharing system whose true objective is to destabilize the power sharing system can result in a political crisis in which the veto functions as a weapon in an ethnic "showdown" with clear winners and losers, rather than as a tool of minority protection.

Northern Ireland provides a useful example of how veto rights may be manipulated to destabilize a power sharing system. The Good Friday Agreement provides for the appointment of the First Minister and the Deputy First Minister of the Northern Ireland Executive by a cross-community vote in the Northern Ireland Assembly. In November 2001, the appointments of David Trimble and Mark Durkan, the leaders of the then largest Unionist and Nationalist parties¹⁸ as First Minister and Deputy First Minister respectively, received the support of over 70% of Assembly members. Nevertheless, the appointments were vetoed because the threshold for Unionist support was not reached after representatives of the anti-Good Friday Agreement Democratic Unionist Party and two rebels from David Trimble's own pro-Good Friday Agreement Ulster Unionist Party voted against the appointments. The resulting political crisis was almost fatal to Northern Ireland's power sharing system, since the Executive could not function until these offices were filled, and the Democratic Unionist Party called for suspension of the power sharing institutions and the re-imposition of direct rule from Westminster. The crisis was narrowly averted only when three Assembly members from a small political party that crosses the ethnic divide were persuaded to switch their designation temporarily from "Other" to "Unionist," and a second cross-community vote approved the appointments with the requisite majorities. Although this particular emergency was defused, the solution was artificial and unsustainable.

Like Northern Ireland, Macedonia's veto mechanism does not incorporate formal mediation procedures to help resolve deadlocks that may follow the exercise of a veto. However, Article 78 of the Macedonian Constitution establishes a Parliamentary Committee for Inter-Community Relations, comprised of seven representatives of ethnic Macedonians, seven representatives of ethnic Albanians, and five representatives of the smaller ethnic minorities. Although this committee is not specifically empowered to act as a mediator between ethnic groups following the use of a minority veto, it could conceivably assume this role under its wider brief of making proposals to promote inter-community relations. The fact that it is not dominated by either of the two largest ethnic groups would also lend it credibility as a mediator.

The final section will put forward an alternative approach to protecting the vital interests of minorities in power sharing arrangements that relies partly, but much less heavily, on veto rights.

Belgium's Alternative Approach

One of the chief characteristics of Belgium's approach to protecting the vital interests of its different ethnic/linguistic groups is that each group is granted a high level of non-territorial autonomy over matters such as education, language and culture, which makes each group less dependent on veto rights as a means of protecting its vital interests. For decisions that still require veto protection (e.g. in fields reserved to central government that affect the vital interests of one of the communities), Belgium has a unique "Alarm Bell Procedure" (which I

¹⁸ One of the notable after-effects of the Good Friday Agreement and its sporadic implementation is the sharp reversal in the fortunes of political parties in both communities. The moderate unionist UUP and the moderate nationalist SDLP, which were traditionally the largest political parties in their respective communities, have recently been overtaken by the hardline anti-Good Friday Agreement unionist DUP and the hardline nationalist Sinn Fein. The UK general election of 5 May 2005 revealed the full extent of the province's political polarization: the DUP took nine seats, almost wiping out the UUP, who took only a single seat. On the nationalist side, the SDLP fared rather better, winning three seats to Sinn Fein's five seats.

describe as a "soft veto"), which minimizes the possibility of procedural abuse by opponents of power sharing, encourages mediation between different groups to end post-veto deadlock in a mutually acceptable manner, and generally minimizes the destabilizing effects associated with traditional vetoes (or "hard vetoes").

Belgium is a country with a long tradition of accommodating deep divisions between its Flemish and Walloon communities. The Flemish, who are Dutch speaking and concentrated in the region of Flanders, comprise approximately 58% of the total population. The Walloons, who are French speaking and concentrated in the region of Wallonia and the capital city, Brussels, comprise approximately 31% of the population. There is also a small German-speaking community. Belgium was established in 1831 and its suppression of the Dutch language in the 19th century fuelled Flemish nationalism and reinforced the separate linguistic and cultural identity of its population.¹⁹ The decline of Wallonia's economy after the Second World War, and ensuing socio-economic disparities between Flanders and Wallonia, reinforced the existing linguistic cleavages in Belgium's population and sparked pressure for greater territorial autonomy for each region and greater non-territorial autonomy for each ethnic/linguistic community. In 1963 the country was divided into distinct linguistic regions. Some of these are officially unilingual (e.g. Flanders which is Dutch-speaking and Wallonia which is French-speaking) and others are officially bilingual (e.g. Brussels). Several waves of constitutional amendments have followed, including the constitutional recognition of three distinct communities within Belgium in 1970, regionalization in 1980 and federalization in 1993.²⁰

The first strand of Belgium's alternative approach is the granting of a high level of non-territorial autonomy to different ethnic/linguistic communities over some of their most vital interests, particularly education, language and culture. Article 2 of the Belgian Constitution provides that, "Belgium is made up of three Communities: the French Community, the Flemish Community, and the German-speaking Community". This is not simply an empty gesture of constitutional recognition; these Communities are granted budgets and enjoy significant levels of non-territorial autonomy in matters including education, health, language policy and culture (e.g. arts, youth policy and tourism). Whether an individual is subject to the jurisdiction of a particular Community depends on that individual's affiliation with the Community, irrespective of where the individual resides in Belgium (e.g. the French-speaking Community has powers relating to the education of French speakers not only in French-speaking Wallonia but also in Dutch-speaking Flanders).²¹ The fact that each Community is largely self-governing in relation to some of its most vital interests makes each Community less dependent on veto rights because, to a large extent, each Community is free to make its own decisions regarding these interests.²²

¹⁹ Linguistic affiliation is such a sensitive issue in Belgium that, since 1947, Belgian censuses have stopped collecting data about it. The questions that are not asked in an official census in an ethnically divided society are often very telling. In Northern Ireland, the census does not distinguish between "White – British" and "White – Irish" ethnic groups, unlike the census in other parts of the United Kingdom.

²⁰ For a full account of the forces that drove the unitary state of Belgium to become a federal state, see Liesbet Hooghe, "The Dynamics of Constitutional Change in Belgium," in Patrick Dunleavy and Jeffrey Stanyer, (eds.), (British Political Science Association, 1994), p.314, and Liesbet Hooghe, "Belgium: From Regionalism to Federalism," in John Coakley (ed.), *The Territorial Management of Ethnic Conflict*, (London: Frank Cass 1993), p. 41.

²¹ For a fuller account of how non-territorial autonomy works in practice in Belgium, see Sherrill Stroschein, "What Belgium Can Teach Bosnia: the Uses of Autonomy in 'Divided House' States," *Journal on Ethnopolitics and Minority Issues in Europe*, Issue 3 (2003), p.1.

²² The reliance of each ethnic/linguistic group on veto rights at federal level is further reduced by the high degree of territorial autonomy granted to Belgium's three Regions recognized in Article 3 of the Belgian Constitution (the Flemish Region, the Walloon Region and the Brussels Region), particularly in relation to economic matters, and by the recognition of four distinct Linguistic Regions in Article 4 of the Belgian Constitution (the French-speaking Linguistic Region, the Dutch-speaking Linguistic Region, the bilingual Linguistic Region of Brussels-Capital and the German-speaking Linguistic Region).

The second strand is the conferral of "soft veto" rights on different ethnic/linguistic communities in relation to matters of vital interest over which they do not enjoy autonomy (e.g. areas reserved to the central government that affect the vital interests of one of the communities). According to my definition, a "soft veto" is a veto that has the effect of suspending (rather than destroying) a draft law/measure and triggering a formal mediation procedure designed to reach a mutually acceptable solution, whereas a "hard veto" is a veto that has the effect of immediately destroying a draft law/measure, creating a clear win/lose situation, and which fails to incorporate a formal mediation procedure to help resolve any ensuing deadlock or political crisis.²³ Belgium has developed a unique and sophisticated "soft veto" mechanism called the "Group Veto Procedure," or, more accurately, the "Alarm Bell Procedure".²⁴ For certain votes in the federal parliament, deputies are required to designate themselves as part of a linguistic group.²⁵ If 75% of the members of a linguistic group sign a "justified motion" (i.e. a motion with reasons) claiming that, "the provisions of a draft bill or of a motion are of a nature to gravely damage relations between the Communities," the offending law/motion is automatically suspended and the matter is referred to the federal cabinet. The federal cabinet is comprised of 15 ministers, and by constitutional requirement must include as many French as Dutch speakers (with the possible exception of the Prime Minister).²⁶ The federal cabinet, which acts by consensus rather than by majority, must make a "justified recommendation" (i.e. a recommendation with reasons) to the federal parliament in relation to the matter within 30 days. The federal parliament then reconsiders the matter in the light of the federal cabinet's recommendation and expresses its opinion or decision. The practical advantages of this "soft veto" over traditional "hard vetoes" (such as those in Macedonia and Northern Ireland), are numerous. Firstly, relatively onerous veto thresholds (i.e. support of 75% of a linguistic group and the need to state reasons supporting a claim that a draft bill or motion will "gravely" damage Community relations) limit potential abuse of the procedure. Secondly, suspending rather than immediately defeating a draft law/measure avoids a clear win/lose situation and reduces the likelihood of an instant political crisis that may have a divisive effect on ethnic relations and destabilize the power sharing system. Thirdly, referral of the matter to a trusted third party (i.e. a federal cabinet that comprises an equal number of ministers from the two main Communities and takes its decisions by consensus rather than by majority) greatly increases the likelihood of the ethnic groups reaching a mutually acceptable solution.

Conclusion

Sustainable power sharing arrangements are dependent on fostering and maintaining practices of political accommodation between ethnic groups and avoiding polarizing situations in which ethnic groups are pitted against one another in full public view, and the outcome produces obvious winners and losers. Minority veto rights over legislation are a powerful, though not a sensitive, tool in the protection of a minority's vital interests. Through a combination of non-territorial autonomy over some vital interests and "soft vetoes" over other vital interests, Belgium provides its main ethnic groups with the protection they need while minimizing many of the practical difficulties that are commonly associated with traditional "hard vetoes".

²³ On the basis of my definitions of "soft veto" and "hard veto", I regard the veto mechanisms of Macedonia and Northern Ireland, examined earlier in this paper, as "hard vetoes," while the "Alarm Bell Procedure" in Article 54 of the Belgian Constitution is an example of a "soft veto". A "soft veto" does not necessarily guarantee that the passage of the offending draft law/measure will ultimately be prevented (i.e. mediation may not result in a mutually acceptable outcome) and therefore it is arguably not a "veto" in the truest sense of the word, though it is akin to a veto. The Belgian Constitution includes examples of both "hard" and "soft" vetoes, the former being reserved for ultra-sensitive constitutional amendments such as changes to the boundaries of a Linguistic Region (Article 4(3) of the Belgian Constitution).

²⁴ Article 54 of the Belgian Constitution.

²⁵ Article 44 of the Belgian Constitution.

²⁶ Article 99 of the Belgian Constitution.