# Democracy promotion through power-sharing: the role of mediators' constitutional templates

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## Introduction

Power-sharing is widely considered as the most influential constitutional prescription for divided societies struggling to attain stability and democracy (Lijphart 1977), in particular after civil conflicts (Walter 1997). Political scientists conceive of power-sharing as a comprehensive package of constitutional norms whereby all relevant groups in divided societies are to share political power. As power-sharing has inspired constitutional design across the world, scholars speak of an emerging global norm of political inclusion (Gurr 2002; Jenne 2007; Wimmer 2015). Power-sharing is widely advocated by peacebuilding practitioners (Bogaards 2000; Goetschel 2011) and has been institutionalised as a standard UN conflict mediation tool (McCulloch and McEvoy 2018).

The basket of constitutional norms addressed as power-sharing consists of guarantees that all relevant groups are represented across political institutions (most notably, in the parliament, government, and public administration). Moreover, it often encompasses political autonomy for minorities, for example through federalism (Lijphart 1977). Together, these constitutional norms aim to create a political culture whereby elites engage in compromise across ethnic or cultural divides.

While power-sharing is widely propagated by scholars and policymakers alike, it by no means forms a standardized, "one-size-fits-all" constitutional model (Bogaards 2019). Instead, there is a wide variety of arrangements that are often subject to intense negotiation. For example, in post-Hussein Iraq, the US-led transitional administration was convinced that the inclusion of Sunni and Kurdish minorities into government and their provision with autonomy was necessary to foster a

transition to stable, democratic rule. However, there were intense debates on how to design the new Iraqi state's foundational constitution to achieve these aims, most importantly as regards the composition of the Iraqi Presidency and the drawing of federal administrative boundaries (McGarry and O'Leary 2007).

In this chapter, we shed light on the actors that design specific constitutional power-sharing rules and which factors shape their choice of its specific constitutional form. In particular, we highlight the role of external mediators, in the context of peace negotiations, and their footprint on the power-sharing rules contained in post-conflict constitutions. We argue that where mediators *themselves* have previous experience with power-sharing rules, they will be more likely to advocate them during mediation efforts as well. Moreover, they will influence their specific constitutional form in accordance with the constitutional templates available to them through their own experience.

We investigate these arguments quantitatively using original, global data on constitutional rules of power-sharing and international mediation efforts between 1946 and 2013 (Juon and Bochsler 2022). In accordance with our argument, we find that where countries are 'exposed' to mediators that have past experience with corporate or liberal power-sharing constitutions, they become more likely to subsequently 'shift' towards the same type of power-sharing as well.

We proceed as follows. In the next section, we present our theoretical argument. Next, we introduce our data. The fourth and fifth section present the results of the statistical analyses and cases of application. In the conclusion, we highlight the political relevance of our findings.

## **Theory**

We contribute to two facets of the literature on institutional engineering: First, we shed light on the type of constitutional power-sharing rules that are introduced in post-conflict contexts. And, second, we highlight learning processes from foreign countries, focusing on the role of external mediators.

Scholars speak of institutional engineering when constitutional norms related to the main political organs of the state are chosen purposefully to engineer desirable outcomes (Sartori 1968). In the context of divided or post-conflict countries, political scientists primarily prescribe power-sharing with the aim of achieving political integration, stability and democracy (Lijphart 1977, 30; Horowitz 2003; Graham et al. 2017; Hartzell and Hoddie 2020). To achieve these purposes, power-sharing is underpinned by three inclusive constitutional pillars at the central state level: proportional representation of all relevant groups in parliament, provisions for grand coalitions or executive power-sharing, and minority veto rights (Lijphart, 1977). These are often complemented by a fourth pillar at the subnational level, group autonomy, but the latter is excluded from the present analysis, because of persistent findings according to which the factors explaining the introduction of autonomy rules, and their political consequences widely differ from the first three pillars (cf. Juon and Bochsler 2022).

For the three pillars of power-sharing at the central state level, constitution-makers have a wide variety of different institutional possibilities to choose from (Bogaards 2019; Lijphart 1977). To facilitate our discussion, we group these into two major types. A first type, corporate power-sharing, 'accommodate[s] groups according to ascriptive criteria, such as ethnicity or religion' (McGarry & O'Leary, 2007: 675). For instance, Kosovo's constitution lists the specific minority groups that have representation rights in parliament. Usually, corporate rules also foresee reserved seats in government for privileged groups and veto rights over legislation. Such corporate rules have been widely used to promote transitions to peace and democracy, most notably in Bosnia, Lebanon, Kosovo, and Cyprus.

In contrast, a second, liberal type of power-sharing 'rewards whatever salient political identities emerge in democratic elections, whether these are based on ethnic or religious groups, or on subgroup or transgroup identities' (McGarry & O'Leary, 2007: 675). They avoid a clear specification of the groups between whom power is to be shared, and rely instead on encompassing constitutional rules. For instance, under the South African interim constitution after apartheid (1993-1995), the cabinet

portfolios were distributed proportionally to parliamentary parties, in correspondence to the number of seats they held in parliament, assuring that no relevant social group was left out. This second type too, has been used in diverse contexts to support democratic and post-conflict transitions, most notably in post-Hussein Iraq, Fiji (1997-2008), and North Macedonia.

We now discuss how power-sharing has become a global standard prescription for post-conflict and divided societies and what influences their choice between its corporate and liberal alternatives. We focus on horizontal diffusion processes between sovereign states. As existing studies show, democratic and inclusive forms of government are transmitted via international norms (e.g. Starr 1991; Gleditsch and Ward 2006). However, as regards the diffusion of more specific constitutional rules, the available evidence remains more embryonic. Studies show that countries are influenced by their regional neighbours in their choice of electoral systems (Bol et al. 2015) and that there are geographical patterns in the diffusion of power-sharing practices more broadly (Cederman et al. 2018).

We proceed from the observation that, in states that are ethnically divided or affected by intractable conflict, power-sharing is a convenient and intuitively appealing solution (McCulloch and McEvoy 2018). However, oftentimes, reaching a compromise on its specific constitutional form is difficult. In this process, international mediators can help: In the short term, they may facilitate interactions between formerly opposed groups, generate trust between them, and help them reach agreement on mutually beneficial power-sharing constitutions. In the long-term, mediators may stabilize power-sharing constitutions by threatening diplomatic, economic, and coercive sanctions, should one side unilaterally seek to alter or overturn them.

The choice of constitutional rules of power-sharing, then, depends both on the domestic political context of the host state and the actions of conflict mediators, along with other external actors. Domestically, constitutional choices are constrained by the government's expectations and preferences related to democratisation, as well as structural features, such as ethnic groups' relative sizes, their political geography, and political strength. McGarry and O'Leary (2009, 72) assert that

'most sensible consociationalists . . . eschew [corporate power-sharing] devices, and prefer liberal rules', expecting them to facilitate democratisation (see also Lijphart 1995). Vice-versa, corporate power-sharing might offer more robust securities for the inclusion of specific groups (Lijphart 1995). Hence, corporate power-sharing is often preferred by moderately-sized ethnic minorities or weaker parties in civil conflicts that seek lasting guarantees for their well-being and security (Jarstad 2008; McCulloch 2014). Conversely, liberal power-sharing is more flexible, and is often preferred by solid majority groups (Lijphart 1995; Jarstad 2008) and by smaller minorities that might be excluded from corporate power-sharing (Juon 2020).

Internationally, we highlight the preferences and experiences of the mediators *themselves*. The constitutional toolset that they advise on pertains to the constitutional templates which are available to them, owing to their previous use in mediators' 'home' countries. In this vein, mediators whose 'home' countries have previously used corporate (liberal) power-sharing, will be more likely to advocate it in divided societies as well. We justify this expectation with reference to instrumental reasons (mediators have witnessed that these constitutional templates 'work' in their own country), normative reasons (they have come to perceive these institutions as 'appropriate' for diversity management (cf. March and Olsen 1989), and pragmatic reasons (the required institutional toolsets are 'accessible' for them with little effort). Hence, they are more likely to prefer institutions they are familiar with and advocate similar solutions elsewhere.

We summarize these arguments in the following hypotheses:

Hypothesis 1: Countries are likely to adopt higher levels of corporate power-sharing following mediation attempts by mediators that have previous experience with corporate power-sharing.

Hypothesis 2: Countries are likely to adopt higher levels of liberal power-sharing following mediation attempts by mediators that have previous experience with liberal power-sharing.

#### **Data and variables**

We examine these expectations quantitatively, relying on evidence from 130 countries around the world between 1946 and 2011. Our dependent variables are each country's time-variant corporate and liberal power-sharing levels, as given by the Constitutional Power-Sharing Dataset (Juon 2020) and as introduced by Juon and Bochsler (2022). Mirroring Lijphart's (1977) concept of consociational power-sharing, these indices capture degree to which each country provides constitutionally-enshrined grand coalition, proportional representation clauses, and mutual veto rights in the legislative process to ethnic minority groups. Ranging from 0 to 1, they provide a fine-grained operationalization of the degree to which a country employs such power-sharing provisions. Importantly for our purpose, these two indices differentiate between constitutional power-sharing provisions following the corporate and liberal logic, respectively.

To capture the impact of international mediators on power-sharing levels, we first identify whether a 'host' state has been subject to *any* mediation attempts in the last 20 years, relying on existing datasets (DeRouen et al. 2011; Melander et al. 2009). Second, we measure the mediators' experience with corporate and liberal power-sharing, based on their sending states' previous constitutions (Juon 2020). For each host country, this results in an overall, time-variant index measuring to what degree it relied on expertise from either corporate or liberal power-sharing experts in the last 20 years (for details see Juon & Bochsler 2022). These measures take the value 0 if no mediation was recorded in the last 20 years or if mediators' countries never institutionalized power-sharing themselves. They

<sup>&</sup>lt;sup>1</sup> We exclude full autocracies from our sample (polity index < -8).

approach 1 as more of the active external actors' countries had prior experiences with the respective type of power-sharing.

## Quantitative analysis

Our interest is in examining how the efforts of international mediators, and their previous experience with power-sharing, affect changes in a 'host' state's power-sharing levels. For this analysis, we rely on a global sample of ethnically plural countries, for which we have analysed power-sharing norms in the constitutions for the period of 1946-2013 (Juon 2020; Juon and Bochsler 2022). Our statistical analysis investigates constitutional changes within each country over time, and the factors contributing to these changes.<sup>2</sup> While our focus lies on the role of external mediators, and their constitutional templates, we also take into consideration domestic factors that might affect the introduction of power-sharing (see Juon & Bochsler 2022 for details).

Table 1 shows our main results: the first and third model show our estimates for corporate power-sharing norms, the second and fourth model for liberal constitutional norms of power-sharing. In the first two models, we run a placebo test, probing whether mediation efforts after domestic contestations by themselves engender systematic changes in the constitution. In models 3 & 4, we identify the specific mediators involved in these efforts, and their experience with corporate (model 3) and liberal (model 4) power-sharing, thereby shifting focus to the constitutional templates available to them. Figure 1 visualizes the political influence of mediators, depending on their own experiences with power-sharing.<sup>3</sup>

We find no effect by mediation efforts by themselves (models 1, 2). However, in line with our argument, we observe that the mediators' previous experience with power-sharing leaves a clear imprint on host states' constitutions. Host states subject to mediation efforts where mediators' 'home'

<sup>&</sup>lt;sup>2</sup> We rely on country-fixed effects, restricting our analysis to within-country variation. We also employ year-fixed effects, whereby we control for secular time trends and concurrent global shocks.

<sup>&</sup>lt;sup>3</sup> All our control variables were set to their mean, median or mode, respectively. We show our predictions for the range of observed values in our sample.

countries themselves had previous experience with corporate power-sharing are more likely to shift towards higher levels of corporate power-sharing as well. Conversely, host states subject to mediation efforts by mediators from countries with liberal power-sharing substantially increase their own degree of liberal power-sharing as well.

 Table 1. Model results

	Corporate PSI	Liberal PSI	Corporate PSI	Liberal PSI
	Model 1	Model 2	Model 3	Model 4
Mediation	0.023	0.019	-0.038	-0.057 <sup>†</sup>
	(0.021)	(0.020)	(0.025)	(0.032)
Mediator corporate			1.737 <sup>†</sup>	
PSI			(0.931)	
Mediator liberal PSI				$0.481^{*}$
				(0.191)
GDP p.c. (logged)	-0.017	-0.041*	-0.013	-0.035*
	(0.012)	(0.016)	(0.012)	(0.015)
Population (logged)	-0.035	0.020	-0.042	0.014
	(0.049)	(0.025)	(0.049)	(0.023)
Nelda index	-0.004	0.073***	0.002	0.074***
	(0.007)	(0.012)	(0.007)	(0.012)
Fuel rents (log)	-0.002	$0.003^\dagger$	-0.001	$0.003^{*}$
	(0.002)	(0.002)	(0.002)	(0.002)
Minority	0.037	-0.108*	0.050	-0.073*
population %	(0.061)	(0.047)	(0.055)	(0.035)
Postconflict	-0.008	0.004	0.004	0.005
	(0.015)	(0.019)	(0.009)	(0.016)
Negotiated	0.029	$0.041^*$	$0.027^{\dagger}$	$0.035^{*}$
settlement	(0.019)	(0.017)	(0.016)	(0.014)
Battle-related deaths	0.0005	0.001	-0.002	0.00000
(logged)	(0.003)	(0.004)	(0.002)	(0.003)
Constant	0.322	$0.412^{\dagger}$	0.300	$0.377^{\dagger}$
	(0.308)	(0.224)	(0.307)	(0.210)
Country-fixed effects	yes	yes	yes	yes
Year-fixed effects	yes	yes	yes	yes
N	4756	4756	4756	4756
R-squared	0.802	0.717	0.817	0.733
Adj. R-squared	0.794	0.704	0.809	0.721
Residual Std. Error	0.076 (df = 4556)	0.076 (df = 4556)	0.073 (df = 4555)	0.074 (df = 4555)
F Statistic	93.022*** (df = 199; 4556)	57.884*** (df = 199; 4556)	101.892*** (df = 200; 4555)	62.569*** (df = 200; 4555)

<sup>†</sup> p<0.1; \* p<0.05; \*\* p<0.01; \*\*\* p<0.001; country-clustered SE's in parentheses.

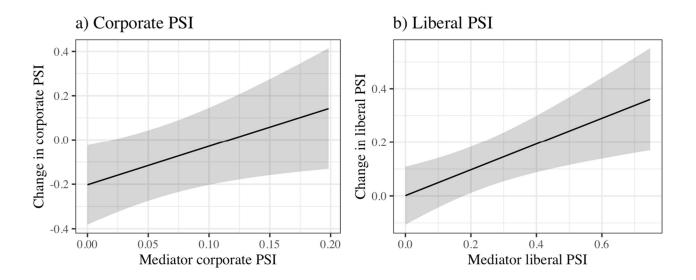


Figure 1. Influence of mediators' constitutional power-sharing templates on 'host' states degree of power-sharing (based on models 3 and 4).

Note: x-axis limited to range between minimum and maximum values of average mediator corporate and liberal power-sharing in our sample.

## **Institutional engineering in practice**

We illustrate how mediators shape the diffusion of constitutional power-sharing rules with several specific examples. A first example is Burundi, which adopted a power-sharing constitution in 2004, aiming to stop a violent conflict between ethnic Hutu and Tutsi that claimed more than 300'000 lives between 1993 and 2005 alone (Mehler 2013). In Burundi, governing elites were nudged by external actors towards the adoption of power-sharing institutions, most notably by a team of South African politicians and diplomats who were involved in mediation efforts spanning several months (Mehler 2013; Samii 2013). Most notably, Burundi's constitutional provision that all parties with a vote share of more than 5% had to be proportionally represented in the cabinet (Constitution of 2004, article 129) closely resembled a similar clause in the 1993 South African constitution (article 88). Moreover, South African mediators also heavily pushed for fixed ethnic quotas in the military, along the South African model (Samii 2013, 571).

A similarly central role of mediators influencing the adoption of specific types of power-sharing institutions can also be observed in numerous other cases. For instance, the member states of the NATO and EU clearly played a key role in shaping the introduction of power-sharing in post-

Yugoslav states, including Bosnia and Herzegovina, Macedonia, and Kosovo (McCulloch and McEvoy 2018). Similarly, (transitory) liberal power-sharing institutions were imposed onto Iraq by the United States following their invasion of the country in 2004. And in a last-minute effort to prevent a looming external military intervention in the Comoros, South African mediators were able to successfully advertise power-sharing institutions there as well in 2000 (Mehler 2013).

Finally, turning a specific state that often engages in mediation during peace processes, we discuss the case of Switzerland. Switzerland is one of the established 'classical' cases of power-sharing, and one of the archetypes of liberal power-sharing specifically: its historical Catholic minority gained its disproportional power indirectly, through double majority rules, the bicameral parliament, and the federal organisation of the state.

The Swiss Ministry of Foreign Affairs has long been actively involved in civil peacebuilding, which since 2002 have a legal basis. With Swisspeace, the government also sustains a research and policy-institute for peacebuilding. Cases where Swiss mediators took leading roles in the negotiation of power-sharing constitutions include Burundi and Nepal (Comprehensive Peace Agreement of 2006, following a Maoist insurgency) (Greminger 2011, 19). However, these mediation efforts appear to have occured with hardly any reference to the idea of institutional learning from the Swiss experience with power-sharing itself. Neither of the two constitutions has significant similarities to the Swiss power-sharing model. Moreover, senior diplomats describe the function of Swiss peacebuilding professionals as using their expertise to support the host states, in order to find constitutional solutions suited to their specific political and social context (Greminger 2011, 18-9; Baechler and Frieden 2006). Reports by Swisspeace experts of power-sharing primarily refer to comparative expertise and evidence from post-war societies (e.g. Lanz et al. 2019; Raffoul 2019), and much less to the Swiss case (Iff and Töpperwien 2008).

These findings deviate from those offered by our statistical analysis. This suggests the need for future research to look beyond how mediators' own experience with power-sharing informs their constitutional advocacy. Instead, it should also consider how their previous mediation experiences shape their subsequent constitutional recommendations, as in the Swiss case. This highlights the need for more comparative qualitative evidence (further external actors and a longer timespan), and more nuanced evidence on the role that external actors play in the decisions leading to new constitutions in general.

## **Conclusion**

In the scholarly literature and in the peacebuilding practice, "power-sharing" is employed as a wide concept, covering a variety of dimensions (Strøm et al. 2015) and types of constitutional provisions for political inclusion (McGarry & O'Leary 2007; McCulloch 2014). Contributing to the literatures on institutional engineering and the origins of power-sharing (Wucherpfennig et al. 2016; Cederman et al. 2018), our chapter sheds light on the actions of external actors in post-conflict environments. It goes beyond earlier work, looking not only at the introduction of power-sharing, but also at the mechanisms leading to the introduction of specific constitutional provisions.

Our statistical analysis suggests strong diffusion effects, whereby mediators shape the choice of power-sharing in post-conflict contexts: Where countries are 'exposed' to mediation efforts by mediators that have past experience with corporate or liberal power-sharing constitutions, they become more likely to subsequently 'shift' towards the same type of power-sharing as well. Our results call for new research into the mechanisms at play and new research investigating the role of external actors in the constitution-building process.

This choice of constitutional rules is also politically highly consequential, as they have been subject to controversial debates on how they affect democracy. Empirical research indicates that power-sharing supports and bolsters various aspects of democratic quality as well (Bochsler and Juon 2021). The choice of the constitutional norms is crucial therein entails trade-offs between various

aspects of democratic quality (Lijphart 1995; McCulloch 2014; McGarry & O'Leary 2007; Bochsler & Juon 2021). Possibly, the choice of mediators in peace processes could thus also have indirect consequences for the future degree of political and social liberalism, and the political rights of smaller groups.

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