



Woodrow Wilson
International
Center
for Scholars

East European Studies



**The Tenth Anniversary of the
Dayton Accords and Afterwards**
Reflections on Post-Conflict State- and Nation-Building

Edited by Nida Gelazis

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East European Studies, in cooperation with West European Studies program and the Southeast Europe project,

present a conference on:

The Tenth Anniversary of the Dayton Accords: Reflections on Post-Conflict State- and Nation-Building

The 1995 Dayton Accords ended the violent conflict that raged in Bosnia-Herzegovina from 1992 to 1995. Yet, while the fighting has ended, ten years afterwards the Dayton Accords have not been replaced by a more permanent legal foundation in Bosnia-Herzegovina. More than simply commemorating the end of a war, East European Studies proposes holding a conference to reflect on what the Dayton Accords achieved over the last decade, what remains to be done in terms of creating a cohesive and self-sustaining state in Bosnia-Herzegovina, and what role the international community can play to promote state-building there. A better understanding of the Dayton Accords will add to the knowledge of peace brokering and state-building, which has become highly relevant in terms of US Security Policy towards the wider world.

Wednesday, December 7, 2005

9:00 am – 4:00 pm

9:00 **Introduction: Martin Sletzinger**

9:10 **Keynote: Ambassador Lawrence Butler, OHR Sarajevo**

Panel 1: The Record of the Dayton Accords

Chair: Martin Sletzinger

9:30 **Derek Chollet, CSIS**

9:45 **Gerard Toal, Virginia Polytechnic and State University**

10:00 **John Lampe, University of Maryland**

10:15 **Discussion**

10:50 **Coffee Break**

Panel 2: Post-Dayton Institutional and Constitutional Constructs

Chair: Nida Gelazis

- 11:15 **Sumantra Bose**, London School of Economics
11:30 **Henry Clarke**, Former US Ambassador and Brcko District Supervisor
11:45 **Robert Hayden**, University of Pittsburgh
12:00 **Discussion**

12:30 **Lunch** in the 6th floor dining room

Panel 3: Bosnia: The View from Within (immediately following lunch in the dining room)

- 1:15 **Luncheon Keynote Address: Haris Silajdzic**; former Prime Minister and Foreign Minister, currently President of the Party of Bosnia and Herzegovina
Introduction: John Lampe
1:35 **Dragan Mikerevic**, Professor and former Prime Minister, Republika Srpska, Bosnia and Herzegovina
1:55 **Discussion**

Panel 4: Bosnia's Future

Chair: Samuel Wells

- 2:30 **Milada Anna Vachudova**, UNC-Chapel Hill
2:45 **Obrad Kesic**, TSM Global Consultants
3:00 **Julian Braithwaite**, Embassy of UK
3:15 **Discussion**
4:00 **Closing remarks**

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INTRODUCTION

THE TENTH ANNIVERSARY OF THE DAYTON ACCORDS AND AFTERWARDS: REFLECTIONS ON POST-CONFLICT STATE- AND NATION-BUILDING

The 1995 Dayton Accords ended the violent conflict that raged in Bosnia-Herzegovina from 1992 to 1995. Yet, while the fighting has ended, the Dayton Accords still have not been replaced by a more permanent legal foundation in Bosnia-Herzegovina. Beginning in December 2005, the East European Studies program, with support from the West European Studies program and the Southeast Europe Project and Wilson Center federal conference funding, began an on-going effort to both mark the tenth anniversary of the Dayton Accords and to examine how to make Bosnia a more viable and self-sustaining country. This effort began with a conference held on December 17, 2005. More than simply commemorating the end of a war, this conference aimed at reflecting on what the Dayton Accords have achieved over the last decade, what remains to be done in terms of creating a cohesive state in Bosnia-Herzegovina and what role the international community can play to promote state-building there. In addition to framing the conference papers published here, this introduction also includes a summary of a meeting held at the Wilson Center in May 2006, which was devoted to analyzing the constitution-draft initiative that began in the autumn of 2005 but which ultimately failed to be adopted by consensus in March 2006. Observations that were made after several EES staff trips in April 2004, and in July and September 2006 are also included here.

The December 17, 2005 conference began with a keynote address by Ambassador **Lawrence Butler**, representing the Office of the High Representative in Sarajevo. On the day the Dayton Accords were concluded, the parties accepted an agreement that none liked and all hoped to circumvent in due course. But 10 years later, the document is still in

force and the party that resisted it the most Republika Srpska seems to have since invested the most into ensuring that it is followed. Butler reflected that the push by the international community for a settlement on Bosnia “changed the way we do peacemaking.” While political leaders preferred to focus on symbolic victories over the other groups, Butler asserted that there has been a clear preference in society for pragmatic solutions toward building a normal state in Bosnia-Herzegovina. What must be done now is to complete what the Dayton Accords failed to do, which is to create the necessary institutional structure that would allow BiH to “plug into” the European and international community.

Derek Chollet, a fellow at the Center for Strategic and International Studies, echoed Butler’s comments, explaining that Dayton is a maximalist agreement, since it created a “bold blueprint for the Bosnian state,” but it hardly considers the issue of how the Accords would be implemented. As a result, its implementation has been dependent upon a continued international presence and intervention. In addition to ending the fighting in Bosnia, Chollet added that the Accords also normalized the relationship between the US and Europe, which had been tense since the fighting in the Balkans began.

A more critical perspective was offered by **Gerard Toal**, Professor of Government and International Affairs at Virginia Tech. The Dayton Accords ended the war, Toal challenged, but did not end the conflict since the agreement was made by both the perpetrators and the victims of the war; rewarded ethnic cleansing by creating the Republika Srpska; is based on contradictory legal foundations; was not legitimately adopted by the Bosnian people; and created an unwieldy bureaucratic structure. Despite these grave problems with the Dayton Accords, the international community has achieved some success in Bosnia, most notably with the refugee return policy.

The limited political success of the Dayton Accords is reflected in the limited economic development in Bosnia. **John Lampe** offered his insights into the difficulties associated with the creation of a functioning single market, given the multiple institutional layers and separate ethnic governments. It seems clear that further development in creating a single market, unifying the tax codes, encouraging free movement of goods and labor and attracting foreign direct investment are all tied to the success of reforming Bosnia’s political structure into that of a single state.

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The second panel on constitutionalism in Bosnia-Herzegovina was launched by **Sumantra Bose**, Professor at the London School of Economics.¹ Bose presented the central conundrum facing Bosnia today. In a country where there is mass incidence of poverty and unemployment; where professionals and highly trained people feel forced to emigrate; where the quality of secondary education is extremely poor; and where organized crime dominates, nitpicking about the institutional structure is hardly the most pressing issue. Nevertheless, a functional institutional structure for the Bosnian state is necessary if these problems are to be addressed properly. Bose noted that the Dayton Accords, which favored *self rule* of the entities over *shared rule* associated with federalism, has not provided a precedent upon which to build cooperation between the parties in creating a constitution for a multinational federal state.

By contrast, **Robert Hayden**, Professor of Anthropology, Law and Public and International Affairs and Director of the Center for Russian and East European Studies at the University of Pittsburgh, argued that a long history of conflict between the constituent groups of Bosnia and Herzegovina make it unsuitable for any political system other than a federalized state. Using the often-cited metaphor of the bridge, a constitution for Bosnia needs to connect otherwise disconnected, not to say incompatible, groups.

Former Supervisor of the Brcko District, **Henry Clarke**, offers his insights into how institutional structures have evolved over the last ten years in order to overcome the failings of the Dayton Accords, which created weak state institutions and did not resolve the question of Brcko District. Although many are now calling for a wholesale constitutional change in Bosnia, Clarke asserted that the experience of the last decade shows that the constitutional structure of the Dayton Accords contains much flexibility. Given the divisions in Bosnia's political sphere, working to reform the current constitutional framework may be a more viable option.

Obrad Kesic urges the international community to step up its efforts to promote change in the Western Balkans. He highlights four steps that are necessary if we are to improve the situation. Although there are still multiple flashpoints in the Balkans, he contends that the international community must resist the urge to treat each of these issues independently, and instead maintain a regional perspective on all of these problems. Indeed, the developments in Kosovo and Montenegro certainly impact

upon Bosnia's identity as a unified state, and it would be foolish to artificially separate these issues. Kesic asserts the importance of focusing on democracy building, both by working towards closing down the OHR and through the EU accession process. But the most essential step will be for the question of state unity to be settled in Bosnia. Although stabilizing the country will not be easy, it is a precondition for all future reforms in Bosnia and the wider region.

CONSTITUTION DRAFTING

The commemoration of the ten-year anniversary of the Dayton Accords seemed to launch a new chapter in the international community's policy on Bosnia. Most notably, the international community attempted to push the constitutional reform process in an effort to jump-start further economic and political reform. On May 10, 2006, EES hosted a seminar on Bosnia's attempt at drafting and adopting a new constitution, with Robert Hayden, Professor of Anthropology, Law and Public & International Affairs, Director of the Center for East European and Russian Studies, University of Pittsburgh and **R. Bruce Hitchner**, Chair of the Dayton Project and Professor of International Relations, Tufts University.

Ten years after the adoption of the Dayton Accords, the awkward, redundant, expensive and often ineffective institutional structure that resulted from that process is largely still in place today. Careful not to give too much power at the federal level to any one ethnic group, the Dayton Accords divested power from the center to local governing bodies. Among other problems, the nearly powerless central government was not granted authority over crucial state interests—such as defense, taxation and the environment—which are necessary for Bosnia and Herzegovina to accede to the European Union.

R. Bruce Hitchner described the goals and methods of the Public International Law Group's "Dayton Project," which created a process for bringing the relevant parties to the table in Bosnia to discuss, and hopefully adopt constitutional, amendments. The Project's goals were to negotiate a package of constitutional reforms according to Euro-Atlantic norms, to enhance human rights commitments and to make the Bosnian government more cost-effective, smaller and more efficient. The negotiations were conducted in executive session, so that discussion was not for

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press attribution, in an effort to reduce public chatter over specific issues and thereby improve the chances that consensus could be reached.

There was no initial consensus, by the international or Bosnian participants, about what the outcome of the process would be. The Dayton Project aimed at creating an “authentic” process of constitution making, which was driven and owned by the government representatives. The meetings began in March 2005, with the idea that draft amendments would be ready for public discussion by November 2005, and then adopted by the legislature by March 2006. The fast pace was due in part by the desire to put reforms into place before the next elections, scheduled for fall 2006.

To begin the discussion, the parties were invited to focus on the most important problems facing the country and debate was restricted to weighing the options for dealing with those issues. International observers, some from the Venice Commission, were present only in a supportive capacity to offer examples of how other countries have dealt with similar problems. The Secretariat, as the Dayton Project staff and observers were called, did not lead discussion, but simply offered options for the government representatives to consider. The Secretariat also worked on creating detailed reports of what had been agreed upon during the meeting, in the hope of creating a transparent process.

As a first step, the discussion focused on finding agreement among the parties on the definition of “vital national interests,” which Hitchner described as being the lynchpin for achieving consensus on the constitutional amendments. The idea was that the leaders of the three ethnic groups might begin to view Bosnia as a unitary state by working to resolve issues in which all people shared common interests. Once agreement was reached on which vital interests bound all the constituent people of Bosnia, it became possible to move decision-making away from the deadlock that has plagued the Bosnian government for a decade. It was also agreed that if the Entities ceded power, they could not take it back without the agreement of the federal government. Finally, the participants agreed that the federal government should be empowered to deal with the European Union, which offered the participants a guide for where to focus in the empowerment of the state at the federal level.

The agreement reached through this process proposed several important changes to the institutional structure of Bosnia and Herzegovina.

First, the system in which three presidents were directly elected (one by each ethnic group) was streamlined so that there would be one president and two vice presidents, each elected indirectly by the House of Representatives. Joint approval of the president and the vice presidents would only be required for the selection of Constitutional Court justices, the board of the Central Bank and regarding military policy. Second, the house of the Peoples, which currently consists of 15 directly elected delegates (three from each Entity) was changed to 21 delegates, each elected indirectly by the House of Representatives. Moreover, the powers of the House of Peoples were diminished, such that it would only review legislation for issues of vital national interest, rather than having full legislative powers. The bicameral Parliament was maintained, but the size of the House of Representatives was increased from 42 to 87 delegates.

Third, the agreement created the institution of the Prime Minister, who would be empowered to select (and dismiss) the Council of Ministers with the approval of the Parliament and would set the priorities, policies and timelines for the Council's work. In order to avoid deadlock, the Prime Minister could overrule the Ministers and if a decision could not be reached by consensus of the Council, the Prime Minister could pass a decision with the approval of at least one Minister from each ethnic group.

Fourth, authority over issues such as defense and security, the judiciary and taxation were transferred from the entity level to the central government. In addition, the agreement created a Ministry of Agriculture and a Ministry of the Environment, which are vital institutions in the EU accession process. Finally, the agreement gave the central government all authority necessary to implement the requirements for EU accession and membership.

The process that created this agreement on constitutional amendments proved that although ethnic leaders could be difficult, they are not blind to the need for government reform. The draft constitutional amendments were brought to a parliamentary vote on April 26, 2006. To the Dayton Project's dismay, the reform effort fell two votes short of the two-thirds majority needed for it to pass.

Hitchner blamed the failure of the initiative, on the one hand, on a few Croatian delegates from Herzegovina who felt that the amendments went too far and, on the other, because one of the Bosnian Muslim parties felt that they did not go far enough in creating a strong central gov-

ernment. The failure of the amendments in Parliament showed that politics in Bosnia is still bogged down by the past; that political parties are more interested in preserving their power than creating a viable state; and that few people are able to envision a hopeful future and take the necessary steps to begin the EU accession process.

Despite these setbacks, Hitchner urged the international community to continue to support the process now, since it is unlikely that the political climate will change dramatically, and could even worsen, as it has in 2006–2007. He also presented an alternative model for the constitution-drafting process, which entailed setting up a constitutional commission made up of scholars and political leaders who could not simultaneously hold political office. Like the process put into place by the Dayton Project, the commission would have a full support staff and make decisions by consensus on reforms through a legitimate and authentic process. Hitchner concluded that Bosnia needs a new vehicle for continuing the reform process that does not rely heavily on the international community or the local political structure.

Robert Hayden offered a critical perspective on the constitutional reform process in Bosnia. He began by agreeing with the obvious point that constitutional reform was necessary. After all, the Dayton agreement did not create a workable state, but instead ended the war by creating a system of “lots of checks and little balance,” in which anyone can block any proposal, thereby creating an institutional structure that could accomplish nothing. Indeed, the only institution that could accomplish anything in Bosnia is the Office of the High Representative (OHR). He also agreed with Hitchner that democratic elections will not provide a solution for the current crisis, since the electorate consistently supports nationalist parties, which always seem to work against the wishes of the international community and the OHR.

Hayden criticized the institutional structure put forward by the agreement on the constitutional amendments because it brought back the problems of government legitimacy. The Dayton Accords created a convoluted institutional structure precisely because governance of Bosnia and Herzegovina was only possible if power was given to the Entities. The amendments proposed would have disempowered the Entities, not only by transferring competence on taxation, security and agriculture to the federal level, but by giving the central government control over everything

necessary to fulfill EU accession criteria, the amendments would have given *carte blanche* to the government to usurp power in nearly every policy sphere. Given this wholesale negation of the Dayton Accords, Hayden argued, it should have come as no surprise that the adoption of the amendments failed.

The reason Hayden gave for the failure of the constitutional amendment proposal was that Bosnia's leaders have failed to reconcile two competing visions of the state. On the one hand, there is a movement to unify Bosnia-Herzegovina through a citizenship-based government and, on the other, through a system of local ethnicity-based governments. Yet, Hayden reminded the audience that this problem was not the result of the war, but was in fact the cause of the war. He referred to the Vance-Owen plan, which stated that creating a centralized state in Bosnia would not be acceptable because it would not address the interests of at least one of the three parties. Even now, Hayden argued, it is unlikely that they would give up protecting their own interests.

Therefore, the attempt to create a centralized state based on citizenship, according to the French or American model, is doomed to failure in Bosnia, and Hayden sees little reason to support such attempts. Instead, Hayden urged Bosnian leaders and the international community to continue to work towards constitutional reform, but in the direction of creating a consociational system, following the Swiss or Belgian model. And the opportunity to do so is here, since, as both speakers noted, even if the three ethnic groups in Bosnia do not love each other, they do literally speak the same language (unlike the parties in Belgium or Switzerland) and understand that they have an interest in cooperating with each other, and this opportunity should not be lost.

WHAT DOES THE FUTURE BRING?

The post-war reconstruction and nation-building in Bosnia and Herzegovina, which the international community—led by the United States—undertook, is still far from complete. Despite hopeful progress in many areas, including refugee returns, 2006–2007 has seen a dramatic reversal in that progress, even to the point that Bosnian state unity has again come into question.

During the 2000 presidential campaign, then-candidate George Bush and his foreign policy advisor Condoleezza Rice advocated a United States

withdrawal from state-building in Bosnia and Herzegovina. This policy of withdrawal from Bosnia has been implemented over the last six years, as the State Department and Department of Defense continue to reduce their involvement in the Balkan region. Only a symbolic US force remains stationed in Bosnia today. These troops work alongside the EU's Althea contingent, which was reduced in April 2007 to a mere 2,500 from more than 6,000. The Office of the High Representative—the international community's representative in Bosnia—Christian Schwartz-Schilling tendered his resignation in early 2007. The closing of the OHR (which had been scheduled for June 2007) has been postponed until June 2008.

In place of the strong arm of the OHR, the international community plans to rely on the European Union's soft power to guide Bosnia into the community of stable democracies. By bringing Bosnia into the process of European Union integration, the Bosnian government, it is thought, will be compelled to make the necessary reforms in order to achieve member state status. Many observers have criticized the OHR for its interference in the normal democratic process in Bosnia, and there is no doubt that having an international representative who has the power to pass legislation and sack elected officials is fundamentally undemocratic. Thus, many view the closing of the OHR to be the first step in allowing Bosnia to stand on its own feet.

The appointment of Christian Schwartz-Schilling as the successor of Paddy Ashdown was clearly a step in that direction: rather than appoint someone who would match Ashdown's forcefulness and willingness to intervene in Bosnia's domestic affairs, the job was given to someone who clearly opposes international influence in Bosnia's governance. Schwartz-Schilling's approach is based on the premise that the international community's strong involvement in Bosnian politics has crippled the country's ability to govern itself and move towards self-sustainability. At an April 18, 2006 meeting of the UN Security Council, Schwartz-Schilling argued that the international community should resist the temptation to intervene, especially through the use of Bonn powers, which give the High Representative the power to impose laws and dismiss officials who do not comply with the Dayton Agreement.

During his tenure as High Representative, Schwartz-Schilling's open reluctance to use the Bonn powers created the conditions that will indeed be in place after the OHR is closed. It has been, in effect, an experi-

mental period in which we can witness how the Bosnian government will operate without the threat of international intervention. The results of this experiment have not been encouraging, to say the least. Each of the goals set by the US and the International Community for 2005–2006 have failed, including constitutional reform, the adoption of a unified Bosnian police force, and full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY). As this publication goes to print, it is not clear if the Bosnian government will make the necessary agreements to meet the requirements of the Stabilization and Association Agreement. Stalling this process also holds up all progress toward European integration—the often stated goal of the region.

Moreover, Bosnia-Herzegovina's territorial integrity has again become a question. In response to Montenegro's referendum on secession from its union with Serbia in May 2006, Republika Srpska Prime Minister Milorad Dodik, called for a similar referendum in the Serbian entity of Bosnia-Herzegovina. In response, Schwartz-Schilling declared that no part of Bosnia would be able to secede while the OHR is in place, but one week later, announced that the OHR would be closed by June 2007. Dodik's rejoinder was to schedule the referendum to be held in July! There is no way to tell how much of Dodik's swagger reflects his true intentions and how much it was simply a matter of taking an opportunity to raise his popularity in the electoral campaign season. In any case, the OHR has come to be seen as not only unwilling but also unable to reign in Dodik's nationalist rhetoric. At the same time, Party for Bosnia-Herzegovina leader Haris Silajdzic's calls that the Republika Srpska should cease to exist as a separate entity, in clear violation of the Dayton Peace Agreement, were similarly ignored by the OHR.

Even more alarming than the country's lack of progress is that the ultimate goal for the region—EU accession—may be undermined. Because the EU is now associated with the OHR, the EU has also become a target of nationalist's jeers: with the election campaigns in full swing in September 2006, the cover art of two of the leading news magazines featured political cartoons in which both Schwartz-Schilling and the EU were seen as powerless against the nationalist rhetoric of the electoral campaigns. While the cartoons themselves are easy to dismiss, their effect on public attitudes towards the EU could undermine the international community's current policy there. If they manage to convince the

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Bosnian people of the EU's impotence (or if they reflect that general sentiment), there is little hope that the EU can rely on its "magnetism" to compel Bosnian officials to build a viable democracy on their own.

The elections held in September 2006 did not offer much hope that the newly-elected officials will catalyze the process of reforming the state and consolidating democracy in Bosnia. Although the traditionally nationalist parties are now in the minority, the supposedly centrist parties that succeeded them won by borrowing their nationalist rhetoric. At the end of the day, the institutional system built upon Dayton will need to be almost entirely revamped in order for Bosnia to follow the process that other postcommunist countries have undergone. The question is whether EU's "magnetism" is strong enough in Bosnia to hold the country together without the Dayton Peace Accords? That is the central challenge and it is one that will require long-term, focused interest and investment, not only by the EU but by the United States as well. The EU accession process should not be seen as a way around the most difficult problems facing Bosnia. Rather, the EU accession process will make the issues of Bosnia's state structure, ethnic-based voting, and state cohesion all the more critical. What is needed now is not a policy based upon faith in the EU's "magnetism," but a complex policy based in EU and international law that is tailored to Bosnia's unique problems.

NOTE

1. Sumantra Bose's comments were based on his article "The Bosnian State a Decade after Dayton" published in the journal *International Peacekeeping*, Vol.12, No.3, Autumn 2005, pp.322-335. We did not republish this article in this volume.

LESSONS IN PEACEMAKING: THE VIEW FROM BOSNIA AND HERZEGOVINA

LAWRENCE BUTLER

The postwar settlement in Bosnia and Herzegovina (BiH), and its implementation under international supervision, over the last decade, has changed fundamentally the way we understand peacemaking. It should also change the way we *practice* peacemaking. This has clear and compelling implications for the current situation in conflict zones elsewhere in the world.

Peacemaking, however imperfect, has succeeded in BiH. This isn't a tentative conclusion or argument. It is a statement of fact. Consider this: At November's end in 1995—hours away from the breakdown of talks and a return to hostilities, and under immense concerted pressure from the International Community as a whole and the United States in particular—the parties buckled down to accept an agreement that not a single one of them liked, and which most of them believed they could circumvent in due course.

At the end of 1995, BiH was a country laid to waste by 40 months of war, its surviving people were traumatized, its future not so much bleak as practically non-existent. Perhaps as much as 5 percent of the prewar population was dead and more than half of the survivors had been forcibly evicted from their homes. The economy, if you could call it that, was in the hands of warlords and black marketeers. The primary and urgent task of international relief agencies was to sustain the remaining population during the deep winter with food deliveries and rudimentary shelter. I can tell you that winter there is brutal.

Ten years on, BiH has opened stabilization and association talks with the European Union, seeking to establish the first contractual relationship that leads to membership. More than a million people have returned to their homes and BiH has one of the fastest growing economies in the Balkans.

A decade ago, more than a million men were under arms. Competing armies controlled huge swathes of territory across the country. Since Dayton, there has not been a single military action against the peace set-

tlement by domestic forces. The BiH armed forces, as of the end of 2005, under the operational control of the BiH State Ministry of Defense, number just over 10,000 troops. They are now actively preparing for participation in NATO's Partnership for Peace. The question is not *whether* Bosnia and Herzegovina has been a success. The question is, what lessons can be learned from the success that it *has* achieved?

I am not, I should stress, attempting to paint an unremittingly rosy picture. BiH has come back from the brink, but at huge human cost, and is left with a very imperfect political system imposed by the Dayton Agreement. We are also at a key moment where the successful solidarity of the International Community will inevitably be tested as Europe assumes the leading role as OHR winds down. More on that at the end.

The peacemaking achieved in 1995 followed the failure, not just on the part of the United States but also on the part of its European allies to allow the bloodletting in Bosnia to continue for years when it could have been stopped in weeks. And the success of the last ten years, though it has been substantial—much more substantial than even the most optimistic commentators had reason to expect a decade ago—continues to be compromised by Bosnia's failure, as yet, to escape definitively from the poverty trap in which wartime destruction and years of economic mismanagement have mired it. But the picture is nonetheless positive, because Bosnia is at peace; it has a growing economy and a promising future. For lessons learned, let me focus on four key sectors, military, political, economic and social.

MAY THE FORCE BE WITH YOU

The NATO-led international peace implementation force (IFOR) entered Bosnia and Herzegovina in December 1995—decisively, in strength and at speed. Within days of the deployment, IFOR troops were patrolling the streets and highways and village squares, and standing between the former warring factions along the Inter-Entity Boundary Line (IEBL). It was an impressive display—and it worked. If there was any prospect of organized military resistance to the settlement by hardliners it was snuffed out in those first weeks.

Ten years later, the original, 60,000-strong international military deployment—which has metamorphosed from NATO's IFOR, then SFOR, to Europe's EUFOR—has been scaled back to a force of 7,000.

Successive troop reductions have reflected the steadily reduced security threat. In the last two years, a political consensus has been built—and maintained—that has enabled the transfer of all defense responsibilities and personnel to the state, the abolition of conscription, and the establishment of a small reserve force to back up the downsized professional army. The three former armies are being melded into a single, NATO-compatible military force of 12,000 under an eminently capable defense minister, who happens to be a Bosnian Serb.

The lesson? Show military resolve upfront and you are less likely to have to use military force later.

THE POLITICS OF POSSIBILITY

We know from conflicts now raging in other parts of the world that the above-mentioned lesson does not necessarily apply. Overwhelming military force only works if it is used to support an enforceable political settlement. BiH's enforceable settlement, the Dayton Agreement, came into the world unloved. It was a singularly ugly baby, its gestation period far too short. Many of the domestic actors who signed it had little interest in or expectation of its long-term success.

The priority of the international mediators was to stop the fighting. The priority of the BiH signatories was to accept the bare minimum of compromise, with a view to dodge the logical consequences. In many cases, they intended to use or abuse the settlement period in order to secure eventually what they had failed to secure in three and a half years of fighting.

Yet the settlement has worked. And I can tell you that there are still people, including civic and religious leaders, who resent that it worked. The first reason for this is that the International Community showed that it was determined to *make* it work. Successive High Representatives, backed by donor governments and donor agencies, have sought to make recalcitrant parties honor their Dayton obligations. These obligations include guaranteeing freedom of movement throughout the country, upholding the right of return for all refugees and displaced persons, and ensuring full and effective political representation for all citizens.

It was certainly not the intention of some of the Dayton signatories to pay anything more than lip service to these commitments. But they signed up to them and they have been held to them. This has been done with

increasingly broad popular support. In a social and economic environment of tremendous hardship, citizens again and again express a clear preference for the kind of pragmatic politics that delivers material improvements in their day-to-day lives.

FOLLOW THE NORTH STAR(S)

A second reason for Dayton's success has been the change that has been wrought in the regional environment since 1995. The hope, once entertained by large numbers of Serbs and Croats in BiH, that parts of the country would calve like an ice chunk from a glacier, and float to join Serbia and Croatia, has disappeared. This is not going to happen, and the International Community has consistently made it clear that it is not going to happen. And we are not going to tolerate efforts by those attempting to link developments in other parts of the former Yugoslavia to Bosnia and Herzegovina. And here is why: Croatia and Serbia have each embarked on their own journeys to European Union accession and NATO membership. Their present overarching political and economic aspirations are thoroughly incompatible with the arid nationalism that led to catastrophe in the early 1990s.

As an example of this, we can see substantial progress in transferring the remaining individuals indicted for war crimes to stand trial before the ICTY. Following a sea change in official thinking in Banja Luka and Belgrade, 12 indictees were transferred to The Hague in 2005, six of them charged with war crimes committed in BiH, compared to zero in the preceding nine years.

In consequence of this regional shift in orientation to the political star of the Brussels institutions, the Bosnian Serbs and Bosnian Croats have increasingly applied themselves to ensuring that they have a prominent voice in the politics of Bosnia and Herzegovina. They see their future in a functioning state, and the state has an interest in ensuring that they have a bright future within it as it also responds to the magnetic pull of the starred flags that fly over Brussels.

By 2000, it was clear that the competing nationalist projects had no future. Dayton had lasted longer and was being implemented more rigorously and effectively than many had expected. What was equally clear was the need to fine-tune this unexpectedly durable settlement that was the product of compromise driven by the need to stop the killing.

Just as the agreement has proved unexpectedly durable, it has also proved surprisingly flexible. It contains within it provisions for its own evolution. This is not your “daddy’s” Dayton anymore. At the beginning of 2002, for example, the principal political parties, using the Dayton mechanisms for constitutional amendments, negotiated new arrangements for the representation of constituent peoples at various levels of government and administration throughout the country. This met requirements laid down by the BiH Constitutional Court, which had ruled that the existing representative structure violated the rights of different groups in the two Entities.

Former High Representative Paddy Ashdown spearheaded a remarkable and effective effort aimed at creating the basic institutions of a light-level state, governing a highly decentralized country. Under the original Dayton settlement, many of these institutions either did not exist or were too weak to be effective. Dayton failed to give the country the right kind of “adapter” to plug into the European integration process, but it did give it the means to modify the adapter to do this.

Progress achieved just between 2002 and 2005 has been notable:

- The BiH Council of Ministers was expanded from six ministries to nine and the Chair of the CoM no longer rotates on an eight-month basis, but is a permanent position, lending greater stability and stature to State structures.
- The High Judicial and Prosecutorial Council is now a fully domestic institution, and the BiH State Court, with its chambers to fight organized crime and war crimes, now tackles the endemic lawlessness that has at times threatened to overwhelm the institutions of government.
- A single state intelligence structure under democratic parliamentary oversight was put in place and the State Information and Protection Agency and State Border Service are fully functioning.
- The final acceptance by all the main parties—in autumn 2005—of the European Commission’s three principles on Police Restructuring means that BiH will establish within the next five years a European-standard police system that is democratically controlled and efficiently run.

- After years of frustratingly slow progress, steps taken in 2004 to unify the administration of Mostar are now delivering positive dividends to the people there, in practical areas such as refuse collection and fire-fighting and urban development, and paving the way for Mostar to become a normal European city.

This is the context of rapid and substantial institutional development within which BiH has been able to prepare itself for the next stage of integration in Europe.

IT'S THE ECONOMY, STUPID

But just as military intervention without a political settlement would not have worked, the political settlement without a workable economic strategy would have floundered. None of the initiatives I have outlined would have had much of an impact on a weary and overburdened citizenry if progress had not been made at the same time in restarting public services and creating new jobs.

This exercise has had a checkered history. In the months after Dayton, those who had done well in the wartime black market set themselves up as suppliers of goods at inflated prices in an environment of acute scarcity. As the political parties poured their energies into delivering makeshift assistance to their supporters (typically by diverting international aid from its intended purpose) and vying for the spoils of office, the economy simply stagnated.

This was for a long time masked by the enormous sums of assistance disbursed at that time, which amounted to US\$5 billion between 1995 and 2000. But even before 2000, it had become apparent that deep structural reforms would be necessary in order to wean the economy from aid dependence and generate growth through trade and investment.

Recent years have seen an exponential step forward in remodeling the BiH business environment:

- The previously fractured and inefficient customs system was integrated under the Indirect Taxation Authority, which introduced VAT on January 1, 2006; the unified customs service has already staunched the hemorrhaging of revenue that was a function of the old fractured customs system.

Lessons in Peacemaking: the View from Bosnia and Herzegovina

- Utilities regulation has been brought up to international standards.
- Banking reform, which got properly underway in 2002, has produced a vibrant finance sector that is beginning to channel funds into promising SMEs.
- Standards for corporate governance at public companies are at last being raised, through effective audits and through a package of recently enacted laws.
- Business registration has been streamlined.

The results of this are now being seen. There are, at long last, signs that the BiH economy is turning the corner in a sustained way:

- GDP growth in 2005 was around 5.6 percent—the fastest in the Balkans.
- Inflation stood at 0.5 percent—the lowest in the Balkans
- The Convertible Mark remains among the most stable currencies in the region.
- Foreign direct investment was up 25 percent in 2004 and is now five times higher than it was in the late nineties.
- Exports were up 25 percent in 2004.
- Industrial production is also up by around a quarter.
- Interest rates have halved since 2000.
- Real unemployment is around 20 percent.

This is a launch pad for the kind of growth that can take BiH onto a classical prosperity trajectory. But the economy has not yet left that launch pad. Poverty, as I mentioned earlier, remains widespread; investment is up,

but not enough; more jobs are being created, but not nearly as many as are needed.

What is clear, though, is that economic growth is now self-sustaining—an economy that was on life support as little as five years ago now maintains the people of BiH as international assistance slows.

KEEP IT CIVIL, AND LEGAL

Military, political and economic strategies have combined (often messily, often with an unsatisfactorily modest level of effectiveness) over the long run in a way that has produced the desired results. The fourth component of successful peacemaking may customarily appear to be the least compelling at the beginning, but over the long run it is as indispensable as the other three. It has two segments: civil society and rule of law.

The ultimate mechanism for sustaining productive public dialogue and ensuring the viability and effectiveness of representative democracy is a robust civil society. This, by the way, is not just a matter of *political* significance. The link between a strong civil society and an expanding market economy is well established: one feeds the other. Freedom of speech goes together with freedom to create wealth.

However, a well resourced, politically empowered and pervasive international engagement in a country recovering from conflict can easily militate *against* the growth of civil society. Why should citizens risk social ostracism or financial liability or even physical danger in order to speak out on issues of importance if foreign interlopers with more resources can get things done at no risk at all?

This is a field in which *helping* can turn to *hindering*. It is a field in which well-intentioned efforts to foster democratic institutions, for example, can undermine the integrity of those institutions by making them appear dependent on foreign authority. There is a point in any international engagement where the engagement itself becomes counterproductive. This does not happen overnight, and it does not necessarily affect every aspect of the engagement at the same time or to the same degree.

BiH, for example, no longer needs 60,000 peacekeepers, but there is a clear popular and political consensus that the remaining international troops continue to have a role, as a small, effective and much-appreciated deterrent against any resurgence of violence.

With the launch of Stabilization and Association talks with the European Union now ushering in a period of rapid and radical Euro-Atlantic integration, it is equally clear that the role of the High Representative in BiH—the principal arbiter of, and dynamic force behind Dayton implementation—can, indeed must, be scaled back. There are now plans to phase out this institution, perhaps by as early as the end of 2006. There is a very good reason for this, as many observers have pointed out: the OHR has contributed to a dependency culture: we occupy the space that BiH political parties should occupy. We are expected to deliver politically difficult reforms, while nationalist politicians are shielded from real accountability for the consequences of their policies.

The citizens of a sovereign democracy have sovereign responsibility for their own affairs. In the West, the process of assuming this responsibility took centuries. BiH, after a terrible war, is seeking to secure the development of popular sovereignty in less than a decade, while consolidating the country's postwar recovery and engineering a transition to the free market. This extraordinarily ambitious exercise can only succeed if the authentic voices of domestic BiH interests—social, professional, cultural, religious, artistic, popular, eccentric and distinctive—make themselves heard. These BiH voices are sometimes impenetrable to outsiders, sometimes alien. But they *must* be heard and will only be heard if the volume of competing international voices is lowered.

This does not mean that the International Community is bowing out. BiH *still* needs an international engagement, but a transformed one. From now on, this engagement must be at the level of conventional political, economic and social partnership—of the type that the European Union and the United States have successfully developed with other European transition countries. This, in itself testifies to the remarkable success of the process that was launched at Dayton a decade ago.

Therein lies a risk that I alluded to in the beginning. Fifteen years ago, we, the United States and Europe, were not united in addressing the challenges of responding to the break up of Yugoslavia. Even after Dayton, the internal squabbling and lack of coordination among the International Community verged on the destructive. I can tell you that the people of Bosnia have a centuries-old tradition of driving wedges between foreign powers—they certainly have had a lot of practice.

Over the past four years, the International Community has pulled closer together through regular meetings to align and enhance individual national and institutional efforts. Today, as the push of Dayton is replaced by the pull of Brussels, it is imperative that we recall our hard-won lessons—unity and coordination makes the job easier and costs less. We must also recall that BiH is not a normal transition or accession-aspirant country. It will require active, and tight, international coordination as leadership starts to shift from the OHR and the countries that make up the PIC, to the institutions of Europe. What once were *international* rivalries, overcome with great effort, and with greater effect, cannot be replaced by *institutional* rivalries or turf battles.

Finally, just a brief mention of the role that rule of law plays. The importance of having functional policing and courts so that civic, political and business life can develop is not always appreciated. Security in the form of large peacekeeping forces is not the same as fully-functioning national judicial and law enforcement institutions that give citizens and investors the confidence to go about their daily business. We should have tackled this earlier after Dayton, but we are there now. All of these, I believe, are important lessons for future interventions.

DAYTON AT TEN: A LOOK BACK

DEREK CHOLLET¹

In November 1995, at a wind-swept US Air Force Base in Dayton, Ohio, the leaders of Bosnia, Serbia and Croatia agreed to end a war. The signing of the Dayton Peace Accords concluded one of the most intensive diplomatic ventures the United States had undertaken since the end of the Cold War—18 weeks of whirlwind shuttle diplomacy, followed by 21 intense days in Dayton. The agreement brought peace to a troubled corner of Europe and established an ambitious blueprint to build a new Bosnia—and a new NATO.

The fundamental objective of the American intervention in Bosnia was to end the war. For three years, Bosnia was the site of the worst conflict in Europe since the end of World War II. It has now been peaceful for ten years. What many feared in a post-Dayton Bosnia—that renewed fighting between the parties could draw the NATO-led Implementation Force (IFOR) into a quagmire and kill or wound many troops—never came true. Hundreds of thousands of refugees have returned to their homes, and cities like Sarajevo have come back to life and are again thriving. Bosnia's economy, although it still needs to be propped up by the international community, is improving. The key figures of the Dayton process have left the scene—Croatia's Franjo Tudjman and Bosnia's Alija Izetbegovic and Serbia's Slobodan Milosevic have all passed away. A new generation of leaders in Bosnia and throughout the region is emerging, many of whom embrace the future of hope and opportunity that the negotiators in Dayton envisioned.

But forging peace among Bosnia's three nationalist factions was only one ambition of the Dayton Accords. The other goal was far more challenging and controversial—to create a single, democratic, tolerant and multi-ethnic state. Like any complex negotiation, the Dayton agreement contained many compromises that were necessary to end the war but made implementing a settlement difficult. Some of these challenges were inherent in the governing structures that the agreement created; others stemmed from the specifics of its implementation.

The first challenge stems from a problem the Dayton agreement addressed but never really answered: would Bosnia be one state or two (or three)? While many parts of the agreement sought to push the country together, other parts work to pull the country apart. Today, the core question of the war—what Bosnia’s identity should be—remains unanswered.

One reason for this is that the central government created by the agreement remains too weak. The American negotiators at Dayton always wanted a stronger central government, but each of the Balkan leaders resisted. They all had powers they wanted to enshrine at Dayton. The agreement therefore created many institutions that have not worked well. As Richard Holbrooke, the American architect of Dayton, put it in his 1998 book on the talks, “the good news” was that “joint institutions actually existed; the bad news was that they barely functioned” and that “extremist, separatist parties” were able to block needed legislation and hold up reforms.

Dayton institutionalized ethnic politics. The Muslim, Croat and Serb leaders demanded that they each be guaranteed a piece of the government pie. Because power within the state structures has been divided along ethnic lines, allowing each ethnic group to hold a guaranteed number of leadership posts, rejectionists have had ample opportunity to undermine Bosnia’s common institutions.

Another cause of the weak central government and virulent ethnic politics is that those least invested in Dayton were the ones most responsible for implementing it. By design, the negotiations left out significant factions within each party that remained opposed to the idea of Bosnia as a single, multi-ethnic state.

Throughout the negotiations, the Americans simplified the process by concentrating on Serbian leader Slobodan Milosevic and what would become the “entity” of the Muslim-Croat Federation (as distinct from the Bosnian Serb entity, which at American insistence was represented only by Milosevic). Yet this strategy placed significant obstacles in the way of successful implementation. Because many aspects of Dayton were imposed on the parties within Bosnia—by Milosevic, by Tudjman, and by the United States and the Europeans—meaningful political reconciliation has proved difficult. The Bosnian Serbs and Croats claimed that they had nothing to do with the agreement, and some Bosnian Muslims argued that they had been coerced into it.

Nearly every step of progress in Dayton's implementation has thus required a heavy hand from the outside. Most of the attributes of a single state (common currency, passports, license plates, a state border and customs service, and the like) have come about only after significant intervention by the international community or US-induced pressure from Zagreb or Belgrade. While each externally mandated decision has been respected, few doubt that Dayton should have sought to do more to reconcile the differences between these opposing visions of Bosnia and to root out those rejectionists who still stand in the way of creating a tolerant and multi-ethnic polity.

Pressure for Bosnia's continued division is also fueled by what Holbrooke has called "our biggest mistake at Dayton"—allowing the country to have, in effect, three separate armies—one of which is armed and trained by the United States. Even though "equip and train" for the Bosnian Muslims defied the unifying logic of Dayton's goals, the program was a key incentive to induce endorsement of the accord by the Sarajevo government. Throughout the negotiations Holbrooke and his team tried to obligate NATO to take on the task of disarming all these armies, but American military leaders rejected this as too dangerous. The existence of three armies, organized and motivated by divergent objectives and loyalties, made the security situation more like a military stalemate than a peace agreement for a single state. Although the three armies did not come to blows, their very existence worked against fulfilling the concept of Bosnia as one country. It was not until 2005 that High Representative Paddy Ashdown managed to cajole and coerce the Bosnian Serbs, Muslims and Croats to accept a defense ministry and unified armed forces command.

MINIMALISTS VS. MAXIMALISTS

Some of Bosnia's post-Dayton challenges originate from the details of the agreement or the way it was negotiated; others follow from the ways the agreement has been implemented. Just as Bosnia today is defined by the tension between unification and partition, the international implementation effort has revolved around another core argument that the Dayton Accords themselves did not solve: whether the goal was to help implement a cease-fire or help construct a new Bosnia state.

Dayton itself is a “maximalist” agreement. It created a bold blueprint for a new state. Yet many areas of Dayton’s implementation have suffered from “minimalism,” whether because of the limits placed on the instruments the agreement created for implementation, or because those responsible for implementation have interpreted their roles, responsibilities and powers narrowly. This tension between Dayton’s ends and means slowed implementation immediately after the peace agreement and still plagues Bosnia to this day.

This was particularly the case in civilian implementation. For years after Dayton, the international civilian authority was not led or structured in a way that could make it an effective player in implementation. While the Americans spent hours at Dayton negotiating among themselves over the parameters of NATO’s implementation force (IFOR), they spent comparatively little time poring over the same kinds of details for the civilian aspects of the agreement. The result left open many questions about how the civilian aspects of the agreement would actually work in practice; drawn-out negotiations between the United States and Europe about how civilian implementation should proceed were the consequence.

Yet even if the instruments of civilian implementation had been better negotiated and stronger, they still would have been hindered by the other major contributor to Dayton’s ends-means gap: America’s self-imposed limits on military implementation. The 12-month deadline for IFOR, and later the 18-month deadline for its successor “Stabilization Force” (SFOR) set up the single greatest contradiction between Dayton’s aspirations and reality. The Americans lived in fear of “mission creep” and wanted to guarantee an exit strategy from Bosnia. US military officials insisted on these deadlines for the same reasons they fought hard to limit IFOR’s obligations: to keep American troops out of danger and to end the mission as soon as possible.

The Americans believed that these arbitrary deadlines were necessary—mainly to maintain political support at home—but they were inherently minimalist and wholly unrealistic. They made sense only if the goal was to create a stable military balance on the ground (which could arguably be done in a year), but not a lasting peace, which would take much longer. The deadline undermined the ability to implement the maximalist parts of the agreement. It gave Dayton’s opponents hope that they could simply outwait the international community. It also weakened civilian implemen-

tation, since the High Representative had no hope of enforcing decisive action if NATO's 60,000 troops were going to withdraw soon.

The American negotiators at Dayton understood this dilemma. Yet they still publicly defended the deadline as realistic. Since they had given the IFOR commander the "silver bullet" authority to take any action he considered necessary, they argued—skeptically, but honestly—that if the military intervened forcefully from the moment it entered Bosnia, it could accomplish its objectives by the end of the year. When IFOR deployed, however, its commanders interpreted their responsibilities in the most limited terms, often refusing to use the authority given to them and refusing, in particular, to arrest the indicted political and military leaders of the Bosnian Serbs, Radovan Karadzic and Ratko Mladic.

The struggle over IFOR's "authority" *versus* its "obligations"—which had been the subject of intense debates inside the Clinton administration before and during the Dayton talks—continued to be the most contentious issue during the initial years of implementation. Slowly, as major bloodshed did not transpire, the argument that NATO troops needed to exercise their authority gained support. By 2004, the security situation had improved sufficiently for NATO to turn over its mission to "EUFOR," the European-led force, with no more than a few hundred residual US NATO troops remaining in country autonomously.

A parallel evolution occurred in the civilian implementation. During his term from 2002 to 2005 High Representative Paddy Ashdown intervened intrusively in domestic politics to keep Bosnia on the path of reform, frequently making and enforcing decisions over the opposition of local officials, and even dismissing obstructive Bosnian leaders from office. He worked to stitch Bosnia together, most dramatically in compelling the three armies to come under a single command (though he has been unable to do the same with the more crucial police forces). Greater coordination between civilian and military authorities also developed, and several indicted war criminals have been arrested, though the two most important—Karadzic and Mladic—remain free.

EMPOWERING EVIL

Another troubling legacy of Dayton for Bosnia and the Balkan region was its empowerment of those responsible for Bosnia's nightmare. Throughout

the negotiations and far into implementation, American and European diplomats had to bargain with—and to a great extent rely upon—individuals such as Franjo Tudjman and Slobodan Milosevic, who bore responsibility for some of the worst crimes against humanity in Europe since the end of World War II. The Americans refused to negotiate directly with indicted war criminals like Mladic and Karadzic. Yet Milosevic (who was not indicted by the Hague war-crimes tribunal until 1999) was hardly a more appealing partner. The Americans, knowing at the time that his hands were dirty, faced the moral dilemma of dealing with evil to end evil, and made the choice to stop the bloodshed.

In the years after 1995, the demands of implementation often conspired to prolong the dilemma. For Dayton to work, Milosevic had to be kept as a legitimate partner for peace—and despite negotiators' best attempts to keep the pressure on him, this process of empowerment inevitably obfuscated his guilt. Because of his central role in delivering the Bosnian Serbs, the “Milosevic strategy” often brought American negotiators back to Belgrade to secure Milosevic's agreement to aspects of Dayton's implementation. The bon mot was coined that Milosevic was both the arsonist and the fireman of the Balkans. As long as the international community needed his help in Bosnia, it did not press him hard in other areas, such as his political repression inside Serbia or, initially, his brutal ethnic cleansing of Kosovar Albanians.

The hard truth is that a Bosnia peace agreement could not have been accomplished at the time without working with Milosevic. And while his empowerment is one of Dayton's greatest tragedies, the Accords did establish a precedent of justice, set an example for international intervention to enforce accountability—and ultimately put Milosevic behind bars at the Hague Tribunal.

THE UNITED STATES, EUROPE AND DAYTON

Dayton also brought to an end one of the most difficult periods in the history of US-European relations, helping to define a new purpose for NATO and the broader transatlantic alliance and, ultimately, restoring the credibility of American leadership. It gave life to the Clinton administration's strategy for Europe, centered on NATO enlargement as the engine to a Europe whole and free. For years, the Alliance's inability to

solve Bosnia had raised serious questions about NATO's future relevance. The combination of the NATO air campaign against the Bosnian Serb siege of Sarajevo and the Dayton accord that ended the war and sent 60,000 peacekeeping troops to Bosnia under NATO command, settled that argument and showed that NATO had a vital role as a peacemaker and peace enforcer.

Dayton also blazed important new paths in US-Russian relations and NATO-Russia relations, showing that the former adversaries could work together to solve common problems. Russia was made part of the solution; its troops participated in IFOR; and it later became a major player in ending the 1999 war in Kosovo.

Dayton thus demonstrated NATO's importance as a security organization that could move beyond its half-century-old mission of collective defense to help solve conflicts and enforce peace agreements outside the narrow NATO theater. In its first hot war—ironically, outside its own home theater—NATO found its post-Cold War role in the world and, on a practical level, taught a generation of military commanders and soldiers important lessons about how to organize and conduct peace enforcement operations. By the time NATO turned over the responsibility for Dayton's military implementation to the European Union in December 2004, the alliance was already carrying out major missions in Kosovo and Afghanistan, and many were calling for it to take greater responsibility for security in Iraq and to end the genocide in Sudan's Darfur region.

Dayton was a turning point for American foreign policy. The course the US chose fit within a well-established American diplomatic tradition: a policy that challenged the status quo and rejected incrementalism, reflecting an all-or-nothing approach that was driven less by concerns about niceties or allied consensus than by getting something done. The Bosnia experience has taught many lessons, but the most important one is this: when it comes to solving global problems, American leadership remains indispensable. America's failure to lead during the early 1990s contributed to the international community's inability to solve the Bosnian crisis; but its bold action in 1995 stopped the war.

This approach had a patina of allied involvement and buy-in, but in the end it was unilateral, rejecting the United Nations and keeping allies at arm's length. The United States acted first and consulted later. And it was not only truly "maximalist" in means, but also in ends. Rather than

simply seeking a cease-fire between the parties (as most Europeans wanted), the United States sought to create the contours of a new Bosnian democratic state.

Inaction in the name of consensus is not a virtue. And maximalism in the name of results is not a vice (especially when the results end conflicts). When it comes to solving many of the world's problems—from the Israeli-Palestinian conflict to the current genocide underway in the Sudan's Darfur region—American power is essential, even if it at times it has to act alone.

Looking back at 1998, the top European involved in the Dayton negotiations, Carl Bildt, concluded that the “simple and fundamental fact” of this story was that the “United States was the only player who possessed the ability to employ power as a political instrument and, when forced into action, was also willing to do so.” One of the last great American diplomatic achievements of the 20th century—the Dayton Peace Accords—began the process of defining the purpose and character of America's 21st century leadership.

NOTE

1. Derek Chollet is a Fellow in the International Security Program at the Center for Strategic and International Studies in Washington, DC, and served in the State Department during the Clinton administration. He is the author of the recent book, *The Road to the Dayton Accords: A Study of American Statecraft* (Palgrave Macmillan, 2005).

“WITHOUT BRUSSELS THERE CAN BE NO BOSNIA-HERZEGOVINA”? MANAGING BIH’S GEOPOLITICAL CHALLENGES

GERARD TOAL (Gearóid Ó Tuathail)

BOSNIA’S GEOPOLITICAL CHALLENGES

“Without Bosnia-Herzegovina there can be no Yugoslavia, and without Yugoslavia there can be no Bosnia-Herzegovina.” This old aphorism from the former Yugoslavia is dated but it reflected a certain geopolitical wisdom relevant to considerations of Bosnia-Herzegovina (BiH) ten years after Dayton. In broad historical, geographical, political and economic terms, BiH is an independent state with six significant structural challenges:

1. Until 1992, BiH had never been an independent sovereign state (in the age of nationalism, i.e., sovereignty vested in ‘the people’). Throughout its modern history, it was a region stabilized by an outside geopolitical force.
2. BiH is a state of three self-recognizing peoples and minority groups. It has the smallest large group in Europe, a Bosniak (Muslim) population that represents less than half of the total state population. It is an historical meeting point of three different faiths: Islam, Catholic and Orthodox. Many powerful parties and politicians represent these identities in essentializing antagonistic terms as ‘clashing civilizations.’
3. Historically and in the 1990s, Bosnia’s territory was coveted by expansive nationalists in neighboring states. Significant numbers of people within Bosnia identified with these expansionist projects and literally fought against the establishment of a sovereign Bosnian state.
4. Bosnia was the site of a horrific war between 1992 and 1995 that left an estimated 200,000 people dead. The polarization and trauma induced by that war has left Bosnian political territory and life deeply

divided. This will persist for decades absent a broad societal process of reconciliation.

5. There are very few symbols that unite Bosnians of different nationalities. The prospects of creating an overarching ‘Bosnian’ identity appear dim and reminiscent of the attempt to create a common ‘Yugoslav’ identity.
6. BiH’s economic foundations were destroyed by war. It is currently experienced a daunting quadruple transition: from war to peace, from an authoritarian Communist political culture to a democratic political culture, from Yugoslav self-management socialism to market capitalism, and, now, from ‘Balkan’ political space to the European Union.

While these structural disadvantages are important, they are neither deterministic nor primordial. States and nations are what the exercise of political power—domestic and international—makes of them. *They are built (or destroyed) and not natural or preordained.* The ‘Bosnian war’ (in actuality, a regional war) is an example. Those claiming BiH was an ‘artificial country’ had to use extraordinarily brutal force to create the ‘national homelands’ that were supposedly more ‘natural.’² People were forcefully displaced from their homes in order to demonstrate that ‘people cannot live together.’ Yet, despite their bloody cartographic practices, apartheid nationalists were unable to extinguish the idea of a sovereign Bosnian state. The peace settlement and the after-war period are further examples of how political power can (re)build states and, in the long run, influence the institutions that produce ‘national identity’.

THE DAYTON PEACE ACCORDS: A SHORT-TERM ‘SOLUTION’ AND LONG-TERM ENCUMBRANCE

The Dayton Agreement had the important virtue of ending the Bosnian war, though who really benefited from the circumstances of its ending—with Banja Luka about to fall and more than 51 percent of Bosnian territory in Croat-Bosniak hands—is debatable. A little more war may have produced a much more just peace. While the agreement formalized the end of fighting, it is worth underscoring the weaknesses of the agreement:

“Without Brussels there can be no Bosnia-Herzegovina”?
Managing BiH's Geopolitical Challenges

1. The Dayton Peace talks featured negotiations between the perpetrators and the victims, between those who initiated the war (the Milosevic regime and its local allies), those who exploited it (the Tudjman regime and extreme Croat nationalists), and those who suffered most from it (ordinary Bosnians, particularly Bosniaks). Slobodan Milosevic had the central role at Dayton even though Western officials knew that his regime was a chief instigator of the Bosnian war. This triumph of short-term pragmatism over long term principle did not serve Euro-Atlantic structures well (as the subsequent need to go to war against the Milosevic regime over Kosovo demonstrated).
2. The General Framework Agreement rewarded ethnic cleansing by dividing Bosnia into ethnoterritorial entities that were given state-like administrative powers. In recognizing Republika Srpska, it legitimated a wartime political entity with state aspirations that was cleared of non-Serbs through murder, forced displacement and war crimes. Richard Holbrooke admitted that allowing the name ‘Republika Srpska’ was a mistake but the basis for the Dayton Peace Accords was a Contact Group plan based on a 49/51 percentage division of territory. Apartheid thinking had already been conceded by Western negotiators.
3. The Dayton Peace Accords (DPA) mixed Yugoslav (‘constituent peoples’) and Western legal principles (‘citizens’). It was marked by contradictions between its empowerment of ethnoterritorial polities and its articulation of principles that, if enacted, would undermine these ethnoterritories. An example is Annex 6 (which mandates cooperation with ICTY), Annex 7 (the right of the displaced to return to their pre-war homes) and the embedding of the BiH Constitution in international conventions and treaties. The recent Venice Commission’s Opinion on the Constitutional Situation in BiH³ documents clear tensions between the BiH Constitution and the European Convention on Human Rights.
4. The Constitutions of BiH and its entities were forged during wartime and never received democratic legitimation through state-wide refer-

enda. The Venice Commission correctly notes that “the Constitutions of BiH and the FBiH were political compromises to overcome armed struggle and the main focus was their contributions to the establishment of peace. They were negotiated in foreign countries and in a foreign language and can in no way be considered as reflecting a democratic process within the country.”⁴

5. The Dayton Peace Accords saddled BiH with an unwieldy bureaucratic structure of governance. BiH became a weak central state with two strong entities, ten cantons and a special district (Brčko), under military occupation and international supervision. As is well known, it had 13 different constitutions, prime ministers, assemblies and law making institutions. The Dayton Peace Accords created what some have termed an ‘ungovernable country,’ a cumbersome excess of administrative offices for political party capture and patronage. The Venice Commission properly notes that “there are too many bureaucracies and too many posts for politicians.”

Dayton was an armistice that ended the war in BiH but did not resolve the conflict. It was the product of a particular geopolitical conjuncture. It marked a significant compromise of the principle of modern civic democratic politics within a unified polity. While this helped BiH transition from wartime to a negative peace, this has hindered the development of BiH as a modern effective and coherent state since then.

IMPLEMENTING DAYTON: THE SUCCESS AND LIMITS OF THE RETURNS PROCESS

In 1996 the Report of the International Commission on the Balkans noted that the DPA left Bosnia’s political geographic future undecided, foreclosing neither reintegration nor partition. The agreement “did in theory create a window of opportunity for new political forces” in BiH to reverse the displacement and destruction of ethnic cleansing, and to support the reintegration of the country. But this opportunity, the report noted, depends upon rigorous implementation by the most powerful of these new political forces, the institutions created by the international community itself.⁵ The ‘international community’ that began the task of

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implementing the DPA was made up a heterogeneous group of institutions and NGOs. Initially, it was not capable of ‘rigorous implementation’ (and, indeed, the Gingrich-led US House of Representatives made this politically difficult for the Clinton administration). As is well known, there was little or no initial coordination between IFOR and the fledgling OHR office.⁶ Many mistakes were made in the initial two years, such as not arresting war criminals, misdirected aid, rushed elections and permitting the coercive displacement of an estimated 60,000 people in 1996. Yet peace was secured, road blockages along the Inter-Entity Boundary Line (IEBL) removed, and infrastructure slowly repaired.

Despite the flaws in the DPA and in implementing it, the international community has achieved some remarkable success in BiH in the last decade. A notable achievement has been the level of displaced person and refugee returns. With a pre-war population of 4.4 million, over one million persons were made refugees by the Bosnian war and another million internally displaced within the country. In September 2004, the UNHCR and BiH Ministry of Human Rights and Refugees announced that over one million persons had returned to their pre-war homes in BiH. Today, nearly half a million of these are ‘minority returns,’ that is, returns of people to places where they are now an ethnic minority. This represents a landmark achievement for the international community and the Bosnians who have worked hard to make this happen. Success did not come overnight. It can be attributed to five central factors:

Security and strategy:

State-building was only possible in Bosnia because the country was at peace and demobilization had occurred. IFOR/SFOR made this happen and created the possibility for change. The international community took Annex 7 of the Dayton Peace Accords seriously and correctly grasped that an extensive and effective returns process was central to building peace in Bosnia. It invested in this conviction.

International cooperation and coordination:

After an initial period of disorganization, the international community, under the leadership of the Office of the High Representative, developed an inter-agency Reconstruction and Return Task Force that was a clearing-house for returns strategy and the returns process. This allowed the develop-

ment of a comprehensive approach to the returns challenge and brought together reconstruction funds from a number of different countries.

Localized capacity:

The international community established itself at the local level in Bosnia's *opstine* (counties). IFOR, the OHR, the UNHCR and the OSCE all invested in local offices. This allowed them to take on the localized form (personnel and structures) of ethnonationalist obstructionism to return.

The imposition of standardized national laws:

The acquisition of the Bonn Powers by the OHR was absolutely crucial in tilting power at the local level towards the agenda of the international community. The OHR imposed a national license plate and a property law implementation process (PLIP) that facilitated a dramatic rise in minority returns numbers from 1999 to 2002.

Developing local ownership of process:

Returns would not have happened without the desire of the displaced to return. Displaced person associations were crucial in disseminating information and organizing the returns process among returnees. Entity and local authority politicians had to be persuaded that returns were inevitable but when this occurred—by 1998 with Milorad Dodik as Republika Srpska (RS) prime minister—their active participation in facilitating returns was necessary in allowing them to happen.

While over one million returns is an impressive achievement, it is worth remembering that there are serious limits—demographic, institutional, local geopolitical and economic—to the returns process.⁷ It is the case that some returnees have sold their property and chosen to move rather than live as 'minority returnees.' It is also true that many other returnees are hedging their bets and have not fully returned. The sustainability of returns to urban areas (where there are no jobs) and rural communities (where land offers a living but not prosperity) is also in question. But there is no statistical evidence to back up the claim made by the Helsinki Committee for Human Rights in BiH that "only in Tuzla the majority population does not reach 90 percent of the total population, while that percentage in other communities ranges between 92 percent

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and 99 percent.”⁸ This error is worth highlighting because it has spread to the 2005 Report on Police Reform issued by the International Crisis Group⁹ and generated dystopian discourses about Bosnia at the 10th anniversary of Dayton.¹⁰ The best estimates are that the population of the RS is between 950,000 and 1.2 million, with approximately 87 percent Serbs, 6 percent Bosniaks, 6 percent Others and 1 percent Croats. The Federation has about 2.3 million inhabitants, with an estimated 73.9 percent Bosniaks, 22 percent Croats, 3 percent Serbs, and 1 percent Others.

BEYOND DAYTON: CONSTITUTIONAL REFORM AND A CROSS-ETHNIC ‘VITAL CENTER’ FOR THE EU

One of the considerable powers of the international community in Bosnia, led by the OHR, is the power to set the agenda for politics and shape political discourse about the country and its future. Under Paddy Ashdown, the OHR did this brilliantly, setting out an agenda of embedding BiH in Euro-Atlantic security and economic structures, and cajoling Bosnian politicians to move towards this goal. This process has been beset by numerous crises and complications as is to be expected given Bosnia’s cumbersome governance structures. But the country has nevertheless slouched forward, with politicians committing themselves to defense unity, public broadcasting reorganization, police reform and, in autumn 2005, constitutional change. As a consequence, BiH was invited to begin Stabilization and Association (SAA) talks with the European Union, which is an important achievement. It remains to be seen how these reforms will be implemented in detail and whether the SAA process will provoke the depth of reformism required to create an ‘efficient and coherent state’ ready for EU membership. This process, undoubtedly, will not be smooth.

Ashdown’s discourse promoting constitutional change, based on the considerable efforts of his former deputy Don Hays, was particularly powerful.¹¹ While conceding that Dayton is ‘the foundation’ for moving forward, he called for its modernization. He frequently declared that 70 percent of the taxes collected in BiH go to supporting governance structures and only 30 percent go to health, education and other functions of government. At a 2005 meeting in Washington, he declared that “Bosnia’s politicians are impoverishing Bosnia’s people.” By making the road towards Brussels central to BiH life and sowing skepticism about the motives of

local politicians, the OHR under Ashdown hoped to create a ‘vital center’ that crosses ethnic divides in Bosnia: for ‘Europe’ and against ‘old style’ (Yugoslav, Balkan, 19th century nationalist) politicians. Has this worked?

During November 2005, while Bosnia’s political leaders debated constitutional change in high profile conferences in Brussels and Washington, some colleagues and I commissioned a survey of 2,000 Bosnians and Herzegovinians. One question examined the attitudes of BiH citizens towards Dayton. Giving respondents four storylines on Dayton, we asked which one best expressed their opinion of the agreement (Table 1). A solid plurality (47.5 percent) of Bosnians and Herzegovinians chose the OHR storyline that ‘Dayton was a necessary agreement to end the war but now Bosnia needs a new constitution to prepare for Europe.’ Less than 20 percent chose the second storyline ‘Dayton has generally been positive and should not be altered.’ The ‘Dayton was imposed’ storyline attracted 14 percent while the ‘Dayton was negative and should be abolished’ over 10 percent.

A different picture emerges when we look at the results by ethnicity. For Serbs, the second storyline—‘Dayton has generally been positive

TABLE 1. It is now 10 years since Dayton Peace Accords were signed. Which of the following best expresses your opinion of Dayton? (Answers in percentages for each group; n=2000)

	BiH	Bosniaks	Serbs	Croats
Dayton has generally been positive and should not be altered	19.7	7.0	41.5	7.6
Dayton was necessary to end the war but now BiH needs a new constitution to prepare for the EU	47.5	63.2	28.6	43.7
Dayton was imposed on BiH by foreign powers	13.9	7.7	17.4	24.7
Dayton has generally been negative and should be abolished	10.8	13.4	3.8	18.7
Don't know/difficult to say	7.1	7.1	8.0	5.0
Refuse to answer	0.9	1.5	0.5	0.3

Source: NSF Project Survey, Prism Research, November 2005

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and should not be altered’—is the most popular, garnering over 41.5 percent of all Bosnian Serb respondents. We cross-tabulated the responses with other factors such as education, age, income and socio-economic status and nothing is statistically significant, except ethnicity. The question of whether there is a cross-ethnic vital center for the EU in BiH needs more extensive treatment than can be provided here.¹² But this one question suggests that the Bosnian Serb component of this vital center is weak.

EMBEDDING BiH IN EURO-ATLANTIC INSTITUTIONS: MULTIPLE ENCUMBRANCES AS A LONG-TERM ‘SOLUTION’?

“Without Brussels there can be no Bosnia-Herzegovina.” Is this a modernized aphorism for contemporary BiH? Does the attractive power of the EU ameliorate the six structural disadvantages BiH has inherited as a state? Let’s briefly consider each:

1. Euro-Atlantic institutions—particularly the EU but also the Council of Europe, the OSCE and NATO—have emerged as the successor to empires and Yugoslavia as BiH’s outside geopolitical stabilizer. Euro-Atlantic institutions are an ‘empire of norms’ that can help bind BiH’s different peoples together in a common state that works for all.
2. Politicians and intellectuals committed to essential antagonism between BiH’s different peoples are still powerful but, under the influence of Euro-Atlantic norms and democracy promotion institutions, there is some evidence that nationalist political parties are transforming themselves and their platforms into more modern European parties of the right. Nationalist parties are splitting into pragmatic Euro-nationalists and Balkan paelo-nationalists, with all the incentives lying with the former not the latter. Bosnia’s national groups are more spatially concentrated than before. This means that ethno-regionalism will inevitably be part of Bosnia’s political governance structure into the future. The OHR vision of a “light-level state governing a highly decentralized country” is the most acceptable state form, in effect a decentralized federal state. This is not incompatible with membership of the European Union, though transitioning to a functional decen-

tralized federal state that is appropriate and affordable for such a small impoverished country will be a considerable struggle.

3. Though BiH does have potentially destabilizing neighboring states with unresolved issues that can disrupt its internal politics, all of its neighbors have embarked on an accession process to the European Union themselves and are likely to be bound by its soft power.
4. The process of reconciliation has hardly begun in Bosnia but the RS's much delayed Srebrenica Report is the start of the process, and local war crimes courts will further it, though a Truth and Reconciliation Commission is needed.
5. There is no immediate prospect for the development of a common 'Bosnianism' that would unite all of Bosnia's different nationalities. Yet, public opinion polls demonstrate that Bosnians think similarly about many of the problems facing the country, from economic stagnation to corruption and the need for reconciliation. By virtue of the common legal status of most as BiH passport holders—not the case for those Bosnian Croats and Bosniaks who also have Croatian passports—Bosnians have a common administrative and legal identity before the European Union.

Mass unemployment, economic restructuring and the poor quality of post-secondary education are endemic problems across BiH and remain profound structural weaknesses of the state. Euro-Atlantic institutions and the EU *acquis communautaire* process can be a positive driver for change to address these challenges.

While BiH struggles with many geopolitical challenges, the EU accession process offers it a means of managing and ameliorating them. Many states have multiple nations within their borders and live in difficult neighborhoods. Bosnia's geopolitical neighborhood is not as challenging as some in Africa and the Middle East. EU accession binds international structures and domestic forces in BiH together in ways that should prevent it from failing as a state. But it will require considerable resources and political commitment because it is always much harder to build states than to destroy them.

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NOTES

1. The survey research cited in this paper was supported by a grant from the Human and Social Dynamics Initiative of the U.S. National Science Foundation, grant number 0433927.
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DAYTON'S DECADE: ON THE ROAD TO A MARKET ECONOMY AND A BOSNIAN STATE, IF NOT A NATION

JOHN R. LAMPE

Rather than reviewing the full decade since the Dayton Agreement was signed in November 1995, I propose to concentrate on the past five years (2000–2005). And rather than recapitulating the political stalemate and struggle within Dayton's jerry-built, gerrymandered legislative framework, I leave the question of its replacement or reduction under a new constitution to others. Let me emphasize instead the economic framework that has evolved under the Dayton Agreement. The steps taken since 2000, along with a couple before then, point in a single positive direction. They point toward the creation of a single market economy for Bosnia-Herzegovina, the foundation stone of any state's accession to the European Union. And they also point to the gains from state-building, as I argued in assessing "The Lessons of Bosnia and Kosovo for Iraq" in the March 2004 *Current History*, even if the illusive process of nation-building lags behind.

Where, to begin at the halfway point, did the Dayton regime stand in 2000? Physical reconstruction of infrastructure was largely complete and urban utilities restored. And well they might have been, given the \$4 billion of international recovery aid delivered since 1995. The leading donors in almost equal measure were the United States, the European Union and international financial institutions led by the World Bank. Here I should pause to point out that it was the World Bank and USAID, energetically led in this initial period by Rory O'Sullivan and Craig Buck respectively, who worked best together and accomplished the most in the shortest time. Lagging well behind to this mid-point was the European Union, represented only by the PHARE program and with few feet on the ground.

The cessation of armed warfare, always rightly cited as Dayton's major accomplishment, was holding fast. The number of SFOR troops had been drawn down from the original 58,000 in IFOR to 20,000, and the US contingent reduced to 5,000. Hostile action had caused not a single SFOR casualty, while public opinion polling in both entities showed that

the fraction expecting the resumption of warfare when SFOR withdrew had fallen to 25 percent.

At the same time, it might be noted, in light of the post-2000 emphasis on local responsibility for handing over war criminals, that this large, uncontested international force had made no effort, at least none risking casualties, to apprehend the Hague tribunal's two most notorious and sought-after indictees, Radovan Karadzic and Ratko Mladic. In Iraq, after all, a force far smaller in proportion to the territory was able to capture Saddam Hussein.

In Bosnia, there were of course other reasons to be discouraged in 2000. I well recall the frustration of Haris Silajdzic with the labyrinth of Dayton's legislative framework, frustration that had prompted him to resign as co-chair of the Federation's Council of Ministers and to decline to run for the Presidency. Early in 2001, Tom Friedman was calling Dayton a failure in the *New York Times*, and Paula Dobriansky was arguing in the *Washington Post* to pull all US troops out of SFOR because nation-building was going nowhere and was not the business of our military in any case. How times have changed. I myself joined with US Treasury advisor in Sarajevo, Jean Tesche, in maintaining that it was premature to declare the Dayton framework a failure.

Let me first call to your attention several areas where progress has been made in economic reconnection since 2000, progress beyond the two celebrated, Bonn-powered decisions already made by the international community's Office of the High Representative (OHR) in 1998–1999. Its head, Carlos Westendorp, forced agreement on the design of a single currency, the KM or Convertible Mark, and mandated a single license plate for vehicles. They masked the entity or ethnic origin of bearers and drivers, as local proposals for a common currency and existing license plates (designating the town of origin) did not.

Still reinforcing the division of the Federation between Bosniak and Croat areas in 2000 are their combined set of 10 cantons, each with separate powers to levy taxes and sets of employees. They were prefigured, not only by the Vance–Owen Plan of 1993, but by the *opstina* and *srez* system of the former Yugoslavia. The Communist leadership had first entrusted these smaller districts and their party heads in the 1950s with keeping control over presumably empowered Workers Councils. The Dayton framework accepted them rather than created them. The wel-

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come reduction in their financial authority since 2000 has not only cut the Federation's inordinate 60 percent share of public sector expenditure in GDP down to under 50 percent. It has also allowed the number of state ministries, with authority extending across all entities, to grow from three to 10 and the share in public employment particularly of those with economic responsibilities to rise significantly. Florian Bieber's prudent appraisal of post-Dayton Bosnia at the 2005 conference of the Association for the Study of Nationalities went so far as to say that the Council of Ministers in Sarajevo is beginning to look more like a government in an institutional center that is more federal than confederal. We see state-building under way, with not enough national identity in place even to agree on words for the national anthem.

More directly relevant to the creation of a single market economy is the free movement of labor and capital. Certainly little had been done for either by 2000. But for labor, we must resist the temptation to fasten on the impressive return of refugees to minority areas since 2000 as evidence of labor mobility. True, that number climbed from less than 100,000 in 2000 to over 400,000 by this year, approaching the nearly 600,000 who had returned largely before 2000 to their majority areas.¹ And true, as I emphasized in my *Current History* article, the "mission creep" from 2000 that brought US troops and SFOR out into civil-military cooperation with the UNHCR and a better-prepared International Police Force has played a crucial role in the minority returns. All the same, permanent residence and local employment for returnees or opportunities to work across entity lines still remain severely limited, made worse by an unemployment rate that approaches 30 percent even when we include the grey economy. Only the isolated, if nonetheless encouraging case of the Brcko District, whose joint-entity imprimatur also dates from 2000, has achieved multi-ethnic employment as well as administration. But whether its promising start under US oversight can serve as a model for integration or remain a dilemma for Bosnia's Constitutional Court remains in doubt.

The availability of capital has however advanced significantly since 2000, although more in the Federation than the Serb entity. Until 2000, the payments bureaus of the former Yugoslavia continued to operate separately in each entity. They required that all business enterprises have accounts with them, through which all their financial transactions and tax payments were required to pass. The Bureau accounts added delays and

collected surcharges that inhibited the privatization of state banks and discouraged foreign ones. The result was a minuscule supply of local credit at prohibitive interest rates approaching 30 percent. Only a separate USAID operation, the Bosnian Reconstruction Finance Facility (for small loans to small enterprises) offered rebuilding credit at reasonable rates. And over \$100 million worth were dispensed, complementing a useful USAID program for commercial bank training. Admittedly led the OHR and encouraged by the long-standing, still standing until this year Director of the central Bank of Bosnia-Herzegovina, New Zealand's Peter Nichol, the negotiations to close the bureaus, privatize the state banks and create a new tax administration across the entities could not have succeeded if local representatives from all sides had not been able to agree.

The opening up of the banking system proceeded more quickly than tax reform. By 2003, a network of 21 private banks, one-third of them foreign banks but accounting for two-thirds of bank capital and also one-third of all foreign direct investment, had replaced the 11 state banks and a set of smaller, struggling private ones. In the process, interest rates for enterprises as well as individuals have fallen below 10 percent. The effort to replace entity with state authority over customs as well as indirect taxes took longer but finally succeeded last year, with a common VAT to take effect in 2006. The effort succeeded on the basis of an agreement between local representatives rather than the High Representative's resort to using the Bonn powers. The Indirect Tax Authority (ITA) still has no control over income taxes for enterprises. They are too high, 30 percent or more, in both entities to encourage compliance.²

These necessary changes have been sufficient conditions, along with a stable KM and a low rate of inflation under the management of the central bank's currency board, to start the flow of direct foreign investment that was so conspicuous by its absence in 2000. Recall the International Crisis Group study of 1999 titled "Why Will No One Invest in Bosnia-Herzegovina?" The annual amounts since then are still not significant, but totaled \$2 billion by 2004. Another \$600 million has been expected for 2005. The case history of the Zenica metallurgical complex, launched with Nazi German investment in 1938 and then built up during the 1950s emphasis on heavy industry in Tito's Yugoslavia, is instructive. The Kuwaiti investment of 2000 foundered on the combined discouragements of the federation's financial structure and the opposition of Zenica's "social man-

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agement," resistant to losing the sense of ownership and entitlement that came straight from the framework of the former Yugoslavia. By 2004, an Anglo-Dutch enterprise was made sufficiently welcome to resume the downsizing and informed specialization that has succeeded for a number of the big metallurgical "losers" across post-1989 Eastern Europe.

Encouraging this recent direct investment and also explaining its limited extent has been Bosnia's somewhat improved standing in two international indices of business climate. Its ranking in Transparency International's corruption index of 133 countries has moved up to 70 from 90. Its score on the Index of Economic Freedom has dropped (and therefore improved) from 4.40 in 2000 to 3.16 in 2005. Yet the latter's detailed scoring still marks Bosnia down for property rights insufficiently protected by the judicial system and layers of official regulation applied neither regularly nor transparently. The same 14 steps needed to register a new business that I lamented in 2000, the same steps that Serbia has now trimmed drastically down in an effort to introduce 'one-stop shopping,' are still in place.

The largest obstacle to the further growth of direct foreign investment and also the impetus toward a single, legally regulated market economy is the slow and sometimes corrupt process of privatizing the large industrial enterprises and utilities. The division of enterprises such as Energoinvest and the utilities between the entities sacrificed economies of scale and complementary resources from the start. For banks and small enterprises in the Federation, privatization has gone ahead successfully. But for the large, typically overlarge enterprises that were the hallmark of all the pre-1989 Communist economies, the pace has stayed slow. Only about one quarter had been privatized in the Federation by the end of 2004. While the proportion reached 40 percent in the Serb entity, that same still low figure applied to its small enterprises. As in Serbia and Macedonia, moreover, public attitudes toward sales to foreign investors have remained unfriendly. We may trace this hostility back to the former Yugoslavia's fiction of social ownership by all employees and also to the initial programs of voucher privatization favoring the exiting management, started under Ante Markovic and popular elsewhere in Eastern Europe during the early 1990s. Hostility surfaced most noticeably in 2005 in the opposition to the telecommunications purchase proposed by a consortium including the Deutsche Bank. Outraged articles in the influential Sarajevo weekly *Dani* led the way.

Their emphasis on the allegedly nefarious role of the OHR's Donald Hays points to a more recent element in the resistance to privatization, one that encourages us to conclude that the useful term of the OHR's existence has expired. Too much of the constructive change in Bosnia since Dayton has come from the High Representative's use of the Bonn powers and from the OHR's implicit leverage from them. And while too much local responsibility has been evaded with the authority of the OHR as an excuse. The OHR's Mark Wheeler aptly identified the problem as "the iron law of colonial ingratitude."

Fortunately, the largest incentive to address the obstacle of unfinished privatization, as well as the major prospect for increasing exports (still barely one third of imports) and paying down a domestic debt that is half of Gross Domestic Product, is the magnetic attraction of EU membership. Full marks are due here, as many have observed, to the tenure of Paddy Ashdown as High Representative. Since his arrival in 2002, we witnessed a concerted effort from the OHR to move the potential candidacy of Bosnia-Herzegovina forward. His first Bulldozer Committee of business representatives put some 50 stalled reform proposals into effect within six months, and the second aimed, with somewhat less success, to do the same for 50 more. In the process, the local business community acquired experience in cooperating across entity lines, the cumbersome official framework aside. The OHR's subsequent Jobs and Justice agenda, formulated with the central bank, focused on harmonizing entity reforms. Ashdown's promotion of an enlarged EU presence in Sarajevo has also helped Bosnia's candidacy. It has arguably cut into some of the public resentment at his dismissal of elected officials in the Federation and the Serb entity.

The European Union's own interest in Bosnia's candidacy must also be emphasized, as it often is not. We may trace its origins back, once again, to 2000. NATO's Kosovo intervention in 1999 had already prompted the European Commission to join with the World Bank in proposing to support the hastily announced Stability Pact for Southeastern Europe. It proposed \$5 billion of new long-term funding for the entire region. Whatever the Pact's subsequent problems with providing a full and coordinated program for all of Southeastern Europe, particularly in coming to constructive terms with a separate US initiative (SECI), its efforts brought Bosnia back into focus for the European Union. Already envisioned as the EU's major contribution to the Stability Pact, the European Commission

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approved a Road Map for a Bosnian “feasibility study” in 2000. Its previously lagging financial support now took the lead, delivering over half of the \$3 billion of international aid to Bosnia for from 2001 to 2004 and targeting it on the promotion of a single market economy, as the European Parliament had explicitly urged on Bosnian authorities in 2002. At the Thessaloniki summit in 2003, the EU formally announced its own joint “national interest” in membership for what was now dubbed the “Western Balkans.” That same year, the European Commission designated 16 priority issues which a Bosnian candidacy needed to address before a Stability and Association Agreement could be considered. The Bosnian effort to make sufficient progress to qualify for an agreement by November 2005 admittedly did not match Macedonia’s promised chance to start after a final review next year. But the language of the November 8, 2005 announcement is nonetheless encouraging. It identifies only privatization, property rights and bankruptcy procedures along with judicial capacity (presumably including some inter-entity police integration) as unresolved issues.

The Dayton decade has therefore set some of the economic stage for the accession of Bosnia–Herzegovina to the European Union, an accession that can only take place if the entities are regarded as a single state, however national identities are preserved, with a single market economy. More remains to be done of course, including the difficult setting of a single political stage. Perhaps the way to a single, democratic state lies through a new set of regions, replacing both the cantons and the entities but based on their economic coherence and large enough in number to respect probably irreversible ethnic concentrations. But of this I am sure: it will be up to Bosnian representatives from all sides to secure the membership of Bosnia–Herzegovina in the European Union. The international community, including the United States, can and still must help, but as referee rather than ringmaster. I wish them all well.

NOTES

1. See the 2005 article on “The Legacy of Ethnic Cleansing” by Carl Dahlman and Gearoid O Tuathail in *Political Geography* for details.
2. For details, see the EES Wilson Center Report by Jean Tesche on “Tax Reform in Bosnia and Herzegovina and Serbia and Montenegro,” October 2005).

CONSTITUTIONAL STRUCTURES IN A NATIONLESS STATE¹

ROBERT M. HAYDEN

International dissatisfaction with the highly-decentralized and ethnically-divided constitutional situation of Bosnia and Herzegovina has been pronounced, especially on the tenth anniversary of the Dayton agreement. In 2005, the Council of Europe's Venice Commission questioned the democratic legitimacy of a polity based on three constituent peoples rather than on the equality of citizens, and also the efficacy of Bosnian state structures. It also found that the exercise of unreviewable authority by the unelected international Office of the High Representative (OHR) does not conform to democratic principles. The OHR and European Union (EU) exerted heavy pressure on the elected Bosnian political authorities to transfer various powers from the entities to the central government. In November, 2005, a US-sponsored attempt was made to replace the Dayton constitution with a new, centralized one. After much pressure, on November 21 eight Bosnian politicians signed in Washington a "Commitment to Pursue Constitutional reform" that provides no details of any specific reforms. And the politicians seem to have signed in their personal capacities since neither governmental nor party offices are specified for any of them.²

Aficionados of the constitutional history of post-Yugoslavia Bosnia and Herzegovina may be reminded of other such agreements, such as the Cutliero Principles of March 1992³ (see Burg and Shoup 1999: 110); the various efforts by Vance and Owen, and those of Stoltenberg and Owen of August 1993.⁴ All of those proposed solutions failed because of disagreements over territorial divisions, or over governmental structures. On the latter point, Vance and Owen noted in October 1992 that "a centralized state would not be accepted by at least two of the principle ethnic/confessional groups in Bosnia and Herzegovina,"⁵ the Serbs and Croats.

Bowing to this reality, the Dayton Constitution was acceptable precisely because it did not provide a workable structure for a single Bosnian state.⁶ This Constitution gave the central authorities of Bosnia and Herzegovina virtually no authority inside the country, while reserving almost all power

on 49 percent of the territory to the Entity of Republika Srpska, and to the Cantons within the Entity of the Federation, on the other 51 percent (the Federation government itself having no more authority in the territory of that Entity than the central government at the level of the Bosnian state).⁷ It was as true in Dayton in 1995 as it had been in Lisbon and Geneva in 1992–93 that neither the Serbs nor the Croats were willing to accept a Bosnian state that would actually have authority over them. Thus, as I said at the time, “Dayton gained the nominal consent of the governed by providing that the supposed government would itself be nominal, with no power to govern.”⁸

And the Dayton Constitution has ensured that there has been little central authority in Bosnia and Herzegovina apart from OHR, the situation that the international calls for a new constitution would supposedly remedy. However, as noted by Laura Silber in a *New York Times* op-ed for the tenth anniversary of Dayton, most Serbs and Croats in Bosnia do not regard Bosnia and Herzegovina as their homeland, and there is actually very little popular support in Bosnia for politicians who support a “modern, multiethnic state.” This is the same political situation that obtained in 1992 when the Serbs and Croats, in large proportions, rejected the imposition of a government from Sarajevo and went to war to prevent it, although war now seems precluded.

In my view, the international pressure to create a centralized Bosnian state has had the very unfortunate effect of increasing the opposition to Bosnia by those Serbs and Croats who are supposed to become its willing subjects. Among the Bosnian Serbs, the people most resistant to inclusion in Bosnia, the percentage who rejected Bosnia had dropped from almost 52 percent in 2002 to just under 45 percent in 2004.⁹ It is likely, however, that this rejectionist percentage is now even higher than it was in 2002. As one pro-Western Serbian politician told me in some wonder in November 2005, the pressure to accept a centralized Bosnian state has achieved the impossible: unity among Bosnian Serb politicians, against it.

It is my belief that it is still possible to create a constitutional structure for Bosnia which may gain the consent of most of those Serbs and Croats who now reject Bosnia as their homeland. Doing so, though, requires taking seriously the beliefs of the Bosnian peoples about the divisions between them, and their fears of domination by each other. It remains as

true now as it was in 1992 that most Bosnians see the primary threat to their own well-being as stemming from other Bosnians. With this in mind, the primary models for a Bosnian state would not be the USA, UK, or India (*pace* the recent remarks of Nicolas Burns¹⁰), but rather Canada, Belgium or Switzerland. In all of these cases, there is no question which group rules in specific territories, which are marked as constituent parts of federal structures.¹¹

“Taking seriously the beliefs of the Bosnian peoples about the divisions between them,” however, requires abandoning some of the mythology of Bosnian multiculturalism that has been prominent in American journalistic and official accounts. While most accounts of the wars in the former Yugoslavia have exhibited Orientalist images of Balkans savagery, a counter image, of Bosnia as being by nature a place of peaceful multiculturalism, has also been prominent. Both images are unreal, and if we do not take seriously the views of the Bosnians themselves about how they view other Bosnians, there is little chance of constructing a framework for a political system that will meet with wide acceptance.

BOSNIA THE GOOD, BOSNIA THE DAMNED OR BOSNIA IN BETWEEN?

As Bosnia started to head into conflict, a mythology developed that the country’s lack of a single overwhelming ethnic majority made it a place not only of multiculturalism by default but also of “tolerance,” where there has always been “unity in diversity,” even if disrupted at times by conflict.¹² This idea was reinforced by some foreign intellectuals who were very much aware of the dangers involved in partitioning Bosnia. The basic thesis was stated succinctly by U.S. historians Robert Donia and John Fine:

Bosnia has been a coherent entity for centuries It is only the fanaticism of nationalists that insists that states must be based on ethnicity and be nation-states and that pluralism is artificial and unworkable. And these neighbors, and their local surrogates, have been doing their best to make facts fit their theory through demagoguery, hate-mongering, and violence. But Bosnia—for centuries a pluralistic society—has shown over the centuries that pluralism can successfully exist even in a Balkan context.¹³

At a time when multiculturalism and diversity are seen as being not only positive in themselves but also the natural condition of healthy societies, Bosnia became a cause, as embodied in U.S. journalist David Rieff's accusations of "the West's" failure there:

the values that the Republic of Bosnia—Herzegovina embodied exemplified were worth preserving. These ideals, *of a society committed to multiculturalism (in the real and earned sense rather than the American and prescriptive sense of that much overused term) and tolerance, and of an understanding of national identity as deriving from shared citizenship rather than ethnic identity*, were precisely the ones that we in the West so assiduously proclaim ... (emphasis added).¹³

Certainly a civil society of equal citizens would have been the best solution for Bosnians—as it would have also been for Yugoslavs. But the problem was that about half of the population of Bosnia did not fit Rieff's prescription then and do not now, either. Nor is this rejection simply a matter of fanaticism—unless half the population may be seen as fanatics. Further, far from being an oasis of tolerance, since the late 19th century, mass violence between the three major groups resulted every time that the larger polity encompassing Bosnia broke down: 1875–1878 (the withdrawal of the Ottoman Empire,¹⁵ 1914–1918 (the collapse of Austro-Hungarian empire,¹⁶ and 1941–1945 (the collapse of first Yugoslavia.)¹⁷ Politically, every relatively free and fair election since 1910 has produced the same results, with the electorate partitioning itself and voting for separate (and separatist) Muslim, Serb and Croat nationalist parties.¹⁸ To buy the idea of "Bosnia the Good,"¹⁹ one would have to believe that the previous electoral partitions, and violence whenever the larger imperial powers ruling Bosnia have withdrawn, were somehow unfortunate coincidences that all just happened to develop along similar trajectories, rather than manifestations of structural tensions in Bosnia's pluralisms. Even the myth that Bosnia has an unusually large share of "mixed" marriages is false: the rate of intermarriage in Bosnia and Herzegovina was under the national average for Yugoslavia.

A quite different image of Bosnia was presented by Mesa Selimovic, one of the very few cultural figures acceptable to both Serbs and Bosniaks for depiction on the Bosnian currency in use since 1998 (he appears on the 5 KM note). In his best known novel, set in Ottoman Bosnia but

written during the period of compulsory socialist “brotherhood and unity” in the early 1960s, Selimovic (1996 [orig. 1966]: 408) embodied Bosnia in “the cripple Jemail,” who

when seated astonished everyone with his beauty and strength But as soon as he stood up all of his beauty disappeared It was he who had crippled himself. While drunk he had stabbed himself in the thighs with a sharp knife until he severed all of his tendons and muscles, and even now when he drank he would drive the knife into the withered stumps of his legs. Jemail is the true image of Bosnia. Strength on mutilated legs. His own executioner.²⁰

The point is not, of course, that the peoples of Bosnia are inherently damned to hate each other to death and be their own executioners, but rather that the image of Bosnian self-destruction was at least as salient, and current, as that of “Bosnia the good.” The period 1941–1945 had seen terrible inter-ethnic conflict, and well-orchestrated campaigns to recall the massacres were indeed used to incite nationalist antagonisms in Serbia and Croatia.²¹ But the memories were real for too many people—after all, between 896,000 and 1,210,000 people had been killed in Yugoslavia in the period 1941–1945,²² very much within living memory. The approximately 100,000 deaths in the 1990s have certainly not brought back “brotherhood and unity,” and it is difficult to see how the insistence of the International Community of keeping the atrocities of the war constantly in the news (via the ICTY and its support groups) can be said to be contributing to reconciliation.

Not without reason, then, the peoples of Bosnia see the greatest threats to their individual and (separate) collective well-being as lying in other Bosnians. This configuration makes it difficult to envision a single “nation” as inhabiting the territory recognized as the state; and this being so, it seems highly dubious to insist on the creation of a unitary state to govern a highly disunited population.

BRIDGES AND MIDDLEMEN

A configuration for a Bosnia acceptable to all of its citizens would need to provide them with assurances that no group will be threatened by the

other two. It is naive to suppose that a pious invocation of various human rights principles and treaties will achieve this. The Stalin Constitution for the Soviet Union, after all, supposedly guaranteed an impressive list of rights and freedoms. Better to accept that the Bosnian peoples view themselves as just that: separate peoples (*narodi*), which may be connected in various ways, but which will not accept the risk of subordination to each other. While this image may not be congruent with the Venice Commission's definition of democracy as non-ethnic, the recent fires in France show the limits of pretending that a population that is socially differentiated on ethno-religious grounds is undifferentiated politically. *Égalité* and *fraternité*, it seems, have been no more susceptible to imposition than were *bratstvo* and *jedinstvo*, even without a recent war.

Perhaps a better approach is to take seriously the metaphor of "the bridge" that has come to dominate depictions of Bosnia and that was celebrated by the international community in 2004 with the rebuilding of the bridge in Mostar. The image stems from Ivo Andrić's Nobel-prize winning novel, and is usually interpreted to mean that Bosnia's peoples are closely interconnected. However, a bridge links shores that otherwise remain separated, like the ethno-national groups in Bosnia. The social links between these peoples have been at times broken, at other times repaired—rather like the bridges in their literature. But the links are repaired as people see the need to interact with each other and come to depend upon each other.

A constitution linking Bosnia's peoples while not pretending to dissolve them would seem most suitable to the social constructions used by the Bosnian peoples themselves. If we return to the recent history of attempts to negotiate a constitution for a Bosnian state inhabited by three nations (and others) instead of one, it would seem that Dayton did solve the primary problem that blocked the Cutliero, Vance-Owen and Stoltenberg-Owen plans: the division of territories between the Muslims, Serbs and Croats. The various efforts to grant additional powers to the central authorities of Bosnia and Herzegovina have also provided the framework for a workable central government of extremely limited jurisdiction, but competent within its allocated powers.

Would such a state be acceptable to the peoples of Bosnia? Perhaps, if they are given incentives rather than subjected to unachievable "conditionalities" (especially when the "conditions" have been waived for other

states in the region, such as Croatia). For Serb and Croat politicians in Bosnia, the choice between running their own polities in Bosnia, or being marginal in the structures and politics of Serbia and Croatia, should be apparent. Further, buffer states between larger European countries have potential advantages, as the histories of Switzerland and Belgium attest. Bosnia has at times been a ground of contestation between Serbia and Croatia, at other times a link between them. The bridging role seems most likely if Bosnia's own federalized structure is maintained, rather than an attempt being made to force a centralized government on the large portion of the population that rejects it.

In closing, a reference to morality. Part of the justification for imposing a centralized state in Bosnia has been moral: to overcome the consequences of the war, especially the ethnic cleansing and massacres; and to ensure the prosecution of the worst offenders, Mladic and Karadzic. This amounts to preventing the reconstruction of the region in the ways that people there will accept, on the grounds that *we* do not accept the only kinds of configurations of nation and state that *they* are willing to live under, and conditioning the welfare of millions of people on the fate of a few war criminals. This is an odd morality, since it condemns the victims of the conflicts to continued misery, supposedly in the name of justice. Keynes's brilliant and prescient polemic against the economic punishment of Germany by the 1919 Versailles treaty is apt: "in the unwinding of the complex fates of nations, justice is not so simple. And if it were, nations are not authorized, by religion or by natural morals, to visit on the children of their enemies the misdoings of their parents or of rulers."²³

NOTES

1. © 2005, by Robert M. Hayden; all rights reserved. Paper presented at the conference on "The Tenth Anniversary of the Dayton Accords: Reflections on Post-Conflict state- and Nation-Building," Woodrow Wilson International Center for Scholars, Washington, DC, December 7, 2005.
2. A facsimile of this document was downloaded from the website of the American Embassy in Sarajevo, <http://sarajevo.usembassy.gov/>, on 25 November 2005.
3. See Burg, Steven and Paul Shoup 1999. *The War in Bosnia - Herzegovina*. Armonk, NY: M. E. Sharpe: p. 110.
4. *Ibid.*, pp. 270–286.

5. Hayden, Robert M. 1999. *Blueprints for a House Divided: The Constitutional Logic of the Yugoslav Conflicts*. Ann Arbor: University of Michigan Press: p. 102.
6. Ibid. Chapter 8.
7. See Ibid, Chapter 7. The creation of the Brcko District, under the authority neither of the RS nor of the Federation, complicates the matter slightly but need not concern us.
8. Ibid. p. 138.
9. Polls reported in Tuzla Night Owl and carried on Justwatch listserv 6/1/2004 <<http://listserv.buffalo.edu/cgi-bin/wa?A2=ind0406&L=justwatch>>.
10. Remarks as prepared by Undersecretary of State for Political Affairs Nicholas Burns at the Conference on “Bosnia Ten Years Later: Successes and Challenges,” at U.S. Institute of Peace, November 21 2005, at <http://www.usip.org/events/2005/burns_remarks.pdf>.
11. India is interesting because after the reorganization of states on linguistic grounds in 1957, each state is much like a European country, but linked by a strong central government. But the difference between India and Bosnia is that at independence in 1947, the great majority of the people of India (except for what became Pakistan) accepted India as their country, quite unlike the situation in Bosnia.
12. See Lovrenovic, Ivan. 2001. *Bosnia: A Cultural History*. New York: New York University Press.
13. Donia, Robert and John Fine. 1994. *Bosnia & Hercegovina: A Tradition Betrayed*. New York: Columbia University Press: pp. 8–9
14. Rieff, David. 1995. *Slaughterhouse: Bosnia and the Failure of the West*. New York: Simon & Schuster: p. 10.
15. Lampe, John. 1996. *Yugoslavia as History: Twice There Was a Country*. Cambridge: Cambridge University Press: pp. 65–66.
16. Ibid., pp. 106–107.
17. Dulic, Tomislav. 2005. *Utopias of Nation: Local Mass Killing in Bosnia and Hercegovina, 1941–42*. Uppsala: Acta Universitatis Upsaliensis, Studia Historica Upsaliensia 218.
18. Arnautovic, Suad. 1996. *Izbori u Bosni I Hercegovini '90*. Sarajevo: Promocult.
19. Mahmutcehajic, Rusmir. 2000. *Bosnia the Good: Tolerance and Tradition*. Budapest: Central European University Press.
20. Selimovic, Mesa. 1997 (originally published in 1966). *Death and the Dervish*. Evanston: Northwestern University Press: p.408.
21. See Hayden, Robert M. 1994. “Recounting the Dead: The Discovery and Redefinition of Wartime Massacres in Late - and Post-Communist Yugoslavia.” in Rubie S. Watson, ed., *Memory, History and Opposition Under State Socialism*. Santa Fe: SAR Press., and Denich, Bette. 1994 “Dismembering Yugoslavia: Nationalist Ideologies and the Symbolic Revival of Genocide.” *American Ethnologist*. 21: 367–390.

Constitutional Structures in a Nationless State

22. Bogosavljevic, Srdjan. 2000. "The Unresolved Genocide." in N. Popov, ed., *The Road to War in Serbia*. Budapest: Central European University Press: 157 and Dulic, Tomislav. 2005. *Utopias of Nation*.
23. Keynes, John M. 1988 (originally published in 1920). *The Economic Consequences of the Peace*, New York: Penguin: p. 225.

TEN YEARS OF UNFINISHED CHANGE IN THE CONSTITUTIONAL STRUCTURE OF BOSNIA AND HERZEGOVINA

HENRY L. CLARKE

The constitutional structure of Bosnia and Herzegovina has evolved greatly from its roots in the Dayton Accords.¹ Two of the shortcomings recognized at Dayton—the weakness of the state institutions vis-à-vis the Entities, and the Entities’ failure to agree on their boundary in the Brcko area—have been addressed, step by step, if not resolved to everyone’s satisfaction.

Before calling for a new constitutional structure to modify Dayton, we should look at the present constitutional structure—not just the Constitution, but the whole constitutional structure based on the Dayton Accords—to see what has changed, what has worked, and what has not.

I would summarize the process of 10 years of change in the constitutional structure as a series of stages. In the first stage, the international community sharply increased the powers of its representatives in BiH in order to ensure that the Dayton Accords were actually implemented. The High Representative received his Bonn powers, the International Police Task Force (IPTF) received new powers to regulate the police and to dismiss police officials, and a Supervisor was appointed with broad powers in Brcko.²

Second, the State began to assume more of the responsibilities listed in the BiH Constitution (Article III.1).³ Although the formal agreement of the Entities was *not* required, the State Parliamentary Assembly consists of representatives of Entity parties, so in practice either Entity can block new State laws. Often the High Representative would step in and impose laws. For example, the High Representative imposed, and the Constitutional Court upheld, the creation of the State Border Service, which appears to be well within the constitutional responsibilities of the state, despite opposition from Republika Srpska.

Third, in 1999, the Final Award of the Arbitral Tribunal for the Dispute Over the Inter-Entity Boundary in the Brcko Area resolved the

border dispute, by creating Brcko District in 2000 out of territory of both Entities. The Constitution had given the Entities all governing responsibilities not listed as state responsibilities,⁴ and the Final Award transferred almost all of these Entity powers to the District within its territory.⁵ Thus the Final Award and the District became integral parts of the BiH constitutional structure.

Fourth, the Constitutional Court's major contribution to the development of the constitutional structure of BiH has been its "constituent peoples" decision, implemented in time for the 2002 general elections, requiring greater minority representation in the Entity legislatures and governments.

In the fifth stage of structural change, starting in 2003, the High Representative obliged the Entities to transfer certain Entity responsibilities to the state, by agreement, as provided in the Constitution.⁶ One of these transfers, the power to appoint and discipline judges, was a part of major reform of the judicial system. The other transfer, establishing state responsibility for the collection and administration of indirect taxes (customs duties and sales taxes, soon to be replaced by a value added tax), gives the state vastly increased control over revenue.

Now the High Representative and the European Union are pressing to transfer Entity responsibilities for internal policing and law enforcement to the state. Since these Entity responsibilities are enumerated in the Constitution, Article III.2 (c), presumably this will require a formal constitutional amendment. But it is not clear how this "reform" will obtain the voluntary consent of Republika Srpska or Brcko District.

Finally, the first stage—the extraordinary powers of the international community institutions—must disappear. The IPTF left with its special powers in early 2003, and the High Representative has signaled that he will leave soon. If the permanent status and institutions of Brcko District can be secured, then the Brcko Supervisor can leave too.

These various stages have overlapped chronologically. For example, the creation and consolidation of the state's constitutional responsibility for national defense is still underway. It does not require formal Entity agreement,⁷ but it will require legislative change to shift a responsibility exercised by the Entities.

Taken together, these shifts of constitutional responsibility away from the Entities, to the state (and to the District), have at least nominally given

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the state of Bosnia and Herzegovina most of the powers exercised by other democratic federal governments. Considering that Sarajevo became the capital of an independent state only through a bitter war, it is a remarkable achievement after 10 years.

WHAT IS MISSING?

First, it is not yet clear whether some of the basic reforms facilitated by these constitutional changes will last. The rapidly increased legal competence of state institutions has not yet been matched by the political and professional competence to execute the much broader state responsibilities effectively. Some observers believe political weaknesses at the state level can be corrected in part through constitutional change in the structure of the Presidency, the Council of Ministers and the Parliamentary Assembly.⁸ I believe some of these changes will be necessary if the state is to function without a High Representative. Whether these changes occur or not, state institutions must also develop the professional and managerial capacity to carry out the responsibilities already received.

Second, some reforms imposed by the High Representative still have not been fully implemented or accepted by the public, political leaders or the bureaucracy. For example, one objective of centralizing indirect tax administration was to reduce corruption, yet there was no international screening of personnel, so corruption was reorganized along with the existing officials. Moreover, it is not clear how reforms that are unpopular—like paying taxes or indicting corrupt officials—will be sustained in the absence of a High Representative with intrusive powers. Even if the imposed changes in the constitutional structure are not repealed after the departure of the High Representative, as some Serb leaders have threatened, the new structures can easily be eroded through corruption, inefficiency or neglect.

Third, the process used by the Office of the High Representative (OHR) for obtaining Entity agreement to transfer their responsibilities for the judiciary and for indirect taxes to the state has denied that right of agreement to Brcko District, contrary to the provisions of the Final Award and the Constitution.⁹ OHR is using a theory that the Entities may transfer the District's self-governing powers to the state without agreement from the District.¹⁰ If not corrected, this practice will almost

certainly lead to dismantling the District's institutions, in violation of international law. It will seriously undermine the rule of law, and economic and political stability in the Brcko area. As long as the Entities endure—and I am sure the RS will not abolish itself—the District cannot simply be ignored and allowed to become a new source of conflict between the Entities.

The problems of governance in Bosnia and Herzegovina do not arise primarily from flaws in the constitutional structure. This is not postwar Germany or Japan, or even post-civil-war America. The war split the country along ancient cultural fault lines. Even after ten years of peace, most citizens' political loyalties are primarily to their cultural groups as Serbs, Croats or Bosniaks, and not to Bosnia and Herzegovina. The state, whatever its greater legal responsibilities, is controlled entirely by parties based upon Entity national groups. While citizens of all three groups may have many common concerns—unemployment, corruption, distrust of politicians, a desire to become more integrated into Europe—the parties and the politicians do not often address, let alone take the lead on these issues. The parties' real objectives are generally to place supporters into key positions in the public sector, and to obtain financial advantages for their specific group, while blocking other parties' attempts to do the same thing. Elections are fought to obtain support from the “national” or cultural base of each party, not to advance the common interests of the country. The parties and leaders feel little incentive to compromise, or to create multi-cultural coalitions to legislate or to solve problems. They have left these essential tasks largely to the international community.

For instance, if there is a preference to build a more multi-cultural society, and not a society based on segregation by national groups, there is a working model to be found in the Brcko District. Unique in BiH, Brcko District has fully integrated all public institutions, from the police to the schools, and in most cases the result has been greater transparency, greater efficiency and greater public service than elsewhere in BiH. In Brcko, none of the three main groups has a controlling majority—unlike most communities in the Entities. Brcko District would not be sustainable without a balanced multi-cultural system.

But this multi-cultural “model” has been resisted by political parties in the Entities, and sometimes even by branches of the same parties in Brcko. In general, people in the Entities do not appear ready for it, and

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no one is promoting it. Could Sarajevo become a real capital for Serbs and Croats, and not just a Bosniak capital, perhaps by creating a special district? Although the country also has a history of the three groups living together peacefully, it will take more time before a new level of political and social trust is established—and perhaps a new set of leaders. In the meantime, it is essential that the progress already made in reforming Bosnian institutions not be reversed.

AN URGENT AGENDA

Bosnia and Herzegovina has an agenda that must proceed, parallel to the debate on additional constitutional changes. The new, reformed institutions of the state and in Brcko District must be fully implemented and defended if they are to survive, and become the base from which future improvements can be made. *None* of the extensive changes in the constitutional structure has been tested in the absence of special powers of the international community, and they *will* be tested, perhaps severely. Those who tried to undermine the independence of the judiciary under the nose of the High Representative will surely try harder when he is gone, for example.¹¹ Corruption and political discrimination, always a temptation in experienced democracies, are special risks in the Balkans, and can fatally weaken the new institutions.

As I see it, there are several critical tasks that must be addressed:

1. Democracies cannot function without respect for the rule of law, and in BiH the rule of law is absent in some places, and fragile where it exists. Enforcement of criminal laws, preventing political or corrupt pressures on the judiciary, and uprooting corruption in tax collection must become a foundation for all other efforts.
2. Brcko District must have the same recognized constitutional right to protect its self-governing powers that the Entities have. The OHR theory that Entities or the state can take those powers away without its consent must be repudiated. Otherwise, the District's multi-cultural institutions, perhaps starting with the police, will surely be dismantled, and Entity competition for power in the District will become destabilizing.

3. The proposed police “reform,” in which the state would have budgetary and nominal control over all domestic police forces, and regional police departments would overlap Entity lines, cannot be effectively implemented without intrusive international supervision. It is a bridge too far, now that the international community is withdrawing its powers. The European Police Mission did not receive from the IPTF the power to remove corrupt or uncooperative officials, nor does the EUPM have the power to enforce fundamental democratic reform. Its advice will certainly not be sufficient to create a multicultural police force in the face of determined opposition within and outside the police. The outcome will most likely be a superficial reorganization, in which corruption and political interference will also be somewhat reorganized but not removed.¹²
4. Rather than give up completely on police reform, the EU might undertake a more realistic approach, without trying to ignore Entity and municipal boundaries. The EUPM could devise one or more better means for public accountability of local police forces in local communities, including returnee communities. At the state level, it could establish an Inspectorate General, with the legal authority to make inspections and investigations. It could begin with two teams, selected by EUPM officials—one an anti-corruption force, the other an anti-discrimination force—consisting of both EUPM and BiH officers working together. These teams could initiate inspections at all levels, and assist prosecutors in removing corrupt and anti-democratic officers. Without direct EUPM participation in selecting and managing these teams, even this reform would probably fail.
5. Now that there is a prospect of negotiating a Stabilization and Association Agreement with the European Union, the state must create a capacity to analyze the economic needs of the whole country, and to prepare for effective negotiations that are transparent and responsive to the needs of the whole country. Until now, economic policy has been largely set by the IMF and World Bank according to their standards, and presented to the Entities on the basis of “do this if you want financial support,” so that it hardly mattered whether local officials understood or agreed, especially at the state level.

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Dayton neglected the economy, and with a few exceptions, economic policy has been low priority for the High Representatives. Yet nothing could do more to unify Bosnia and Herzegovina in the face of political and cultural obstacles than a rapidly growing, integrated economy, and nothing could better prepare BiH for integration into Europe.

To conclude, as important as further constitutional change may be for BiH, no one should underestimate the difficulty of consolidating and fully implementing the major reforms of the constitutional structure already begun, without intrusive powers of the international community. The leverage for change inherent in the process of negotiating with the European Commission is external, while the institutions that carry out reforms must be built up from the inside, and defended by the domestic political process

NOTES

1. This presentation is based on research by the author published as *Changes in the Constitutional Structure of Bosnia and Herzegovina*, Occasional Paper No. 74, Washington: Woodrow Wilson International Center, October 2005.
2. These powers are not mentioned in the text of the Dayton Accords, but are rooted in Annex 10, Annex 11, and Annex 2, and were expanded by the Peace Implementation Council, the U.N. Security Council, and the Arbitral Tribunal for Brcko, respectively.
3. Annex 4, Article III.1 and III.5(a), second and third clauses.
4. Annex 4, Article III.2 and III.3.
5. Final Award, paragraphs 9,10,11. The Final Award did not transfer citizenship to the District (although District residents may choose which Entity citizenship they prefer), nor did it change Entity representation in State institutions.
6. Article III.5(a), first clause.
7. Article III.5(a), third clause.
8. E.g., European Commission for Democracy Through Law (Venice Commission), *Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative*, Venice, 11 March 2005.
9. This issue is explained more fully in the author's research paper, *op.cit.*, pp. 10–13.
10. Office of the High Representative (OHR), "Consolidating the Self-Governing Status of Brcko District of Bosnia and Herzegovina: A Legal and Political Brief, 17 March 2005, p.4.

11. The State Parliamentary Assembly and Presidency pardoned one of the highest-level Bosnian politicians ever convicted of corruption, Munib Jusufovic, as soon as his prison sentence was upheld on appeal in 2004. He remains the head of the SBiH party in Brcko District, where he was convicted.
12. As proposed by the High Representative and EUPM, the reorganization would subordinate the Brcko District police to a regional headquarters in one of the Entities, probably the RS—a very serious violation of the Final Award and international law. During a brief discussion of police reform at the Conference, it was suggested that one objective of the proposal was to prevent the use of police by the Entities for paramilitary purposes. If so, then the concept in the Brcko area is self-defeating: radical Serb nationalists would find it much easier to use police directed from Doboï or Bjeljina for a paramilitary occupation of Brcko—just as they did in 1992—in the absence of a professional, multiethnic police force in Brcko. Sarajevo, four hours away by car, would play no role. The reorganization itself would cause a loss of confidence in police protection and law enforcement and tend to upset Brcko’s multiethnic balance.

KEEPING BOSNIA AND HERZEGOVINA ON THE ROAD TO EUROPEAN INTEGRATION

OBRAD KESIC

Much has been written and said about the problems, shortcomings and failures of Bosnia and Herzegovina since the signing of the Dayton Accords ten years ago. I will not dwell on these criticisms or arguments. Instead, I will concentrate my remarks on what can be done to truly accelerate the integration of Bosnia and Herzegovina into the European Union (EU). Before discussing the four steps I believe must be taken to not only accelerate Bosnia's admission into the EU, but also to insure durable peace and stability in the country, it is important to acknowledge a few facts.

First, the approach of the EU to Bosnia and Herzegovina has been at best lukewarm, hypocritical and often at odds with reality. Not only has the EU sent clear signs that member states are less than eager to accept Bosnia quickly, this same message is being sent for all countries in the region aspiring to join the EU. Given the EU's Constitutional referendum results in France and the growing anti-immigrant and nationalist feelings in most of the EU member states, it is hard to foresee quick acceptance for any states in the long waiting line for entry into the EU.

The EU approach has been hypocritical in that entry and acceptance into the EU has been linked to the development of democratic institutions and the acceptance and adherence to democratic norms and rules, but at the same time the Office of the High Representative (OHR) under the banners of both the United Nations and the EU has created and administered the last autocratic state in Europe. A state in which basic human rights, civil rights and constitutional rights of citizens was regularly violated by the High Representative and his office. Instead of focusing on this real obstacle to EU admission, the EU instead chose to blame local leaders and institutions for being the main obstruction to Bosnia's acceptance into the EU.

The EU's approach has often been out of touch with reality because EU officials have little real knowledge about Bosnia and have even less of a

desire to learn what they should know. As a result, the EU has supported the OHR in trying to force police reform that was not only at odds with EU standards and practices, but that flew in the face of global trends in the area of police reform, which call for less centralization and greater community empowerment; something opposite to what the OHR demanded.

Second, the public presentation of the issues hindering Bosnia's acceptance into the EU have been done in such a way that this has deepened divisions in the country between the three main ethnic groups and their political leaderships. This has provoked conflict and created a pretext for each group to try and force its maximalist demands on the other groups. The rhetoric used by the EU has also added fuel to the fire concerning the debate within the country over constitutional reform and changes to the Dayton Accords.

Given all of this, it is important that the EU and the US government develop a new approach in assisting Bosnia and Herzegovina and its people along the road to full European integration. I believe there are four concrete steps that need to be taken in order to develop a new and more productive policy that will truly help Bosnia and Herzegovina, not only in its quest to join the EU, but also in the desire of its people to attain a lasting and durable peace. These four steps are:

1. Regionalization
2. Deprotectoratization
3. Stabilization
4. Democratization—integration into the EU

REGIONALIZATION

By regionalization, I mean that the EU and the US must approach Bosnia in a regional context. Until now, the problems in the Balkans have been handled in such a way as to deny any linkages between the aspirations of Serbs in Bosnia, Croats in Herzegovina and Albanians in Kosovo or Macedonia. This approach has often been ad hoc and without a vision as to how to deal with the underlying causes of conflicts. Instead of substantive analysis, we had sloganeering. As a result, we now have a situation in which people in the region either really believe that their problems can be solved overnight simply through membership in the European Union or have come to real-

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ize that the EU is less than they had hoped for and in fact, does nothing to address their immediate aspirations and needs.

Bosnia and Herzegovina and its problems must be addressed in a regional context. Developments in Serbia and Croatia definitely have an impact on Bosnia itself. Likewise, developments in Bosnia and Herzegovina impact politics both in Serbia and Croatia. It is ludicrous to continue with the naïve belief that Serbia and Croatia have only minimal and peripheral interest in Bosnia. Likewise, it is equally ludicrous to believe that the Kosovo negotiations or Montenegro's 2006 referendum on independence have no effect on Bosnia or on any other state in the region.

A regional approach not only is a realistic way to assess where Bosnia should be going, but it also will help provide stability throughout the wider region. Bosnia's integration into the EU can only succeed if it is linked and coordinated with the accession drives of its neighboring states. A regional approach also will help the EU avoid negative backlash to some of its policies, which instead of promoting integration have served to create new barriers between the countries in the Balkans. An example of this is visa policies where people in the region are having their travel through neighboring countries hindered and obstructed by EU policies, often at odds with not only local aspirations, but also with local state policies. As Croatia gets closer to EU membership, it is expected to tighten its visa regime with neighboring states including Bosnia and Serbia. This serves to frustrate regional cooperation and creates tension that often spills over into conflict.

DEPROTECTORATIZATION

Although I normally do not like to create new words, it seemed that decolonialization really does not capture the essence of what should be done in Bosnia. Bosnia really is no one's colony, and as a result, no particular state has full responsibility for what happens in Bosnia. As a protectorate of the UN and now the EU, Bosnia faces a similar process and challenge that colonial territories did when they pursued independence and full membership in the international community.

First in this process of deprotectoratization, the OHR needs to be dismantled and it should be replaced with a special EU representative that has more of an advising/observing role than a governing one. Especially,

the Bonn powers of the representative need to be completely eliminated as they are at odds not only with Bosnia's Constitution and laws, but they also do not comply with European or international democratic standards.

Not only should the OHR as an institution be dismantled, but its legal legacy needs to be gradually dismantled as well. This means that decrees that were issued by the High Representative need to be rescinded and local law-giving institutions need to step forward and make new decisions wherever needed. The decrees/actions of the OHR that violated human rights and civil rights should be rescinded immediately and individuals should be compensated for any damages that they sustained as a result of these autocratic and undemocratic actions.

It is also essential that a plan be prepared that specifically lays out the reduction of international administration and personnel within local institutions so that an end date is clearly laid out when Bosnia's local institutions and leaders will have to take full responsibility for the governance of the state. It is important to create a sense of "ownership" among Bosnia's leaders in all three main ethnic groups. They have avoided responsibility long enough, preferring to have difficult decisions imposed rather than to have to make them themselves. Now, it is time for them to be forced to accept responsibility by immersing them fully in positions of responsibility where they can no longer blame the OHR or other international representatives for their own failures. A large part of doing this is accepting the possibility that local leaders are not mature enough to provide the leadership necessary to lead the country on its path into EU integration. If this is the case, so be it. Local leaders should have the full responsibility to represent their people and the interests of their people in the ways they see fit. If this produces stagnation or political paralysis, so be it. The only way that all of Bosnia's citizens will accept ownership over their own country is if they realize that they have full authority and power within their own country to decide their own fates.

If implemented, this will break the dependency mentality that has been created by the international community in Bosnia for not only leaders, but for Bosnia's citizens as well. The only way to build a country that will have the full loyalty of all of its citizens is to create the conditions in which fear (of new conflicts, of the 'other,' of being a minority, of being outvoted, etc.) is eliminated and people realize they have full responsibility over what happens, not only in their country, but also in a broader regional context.

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It is essential that people in Bosnia are induced to follow their interests as expressed in a desire for a better life through EU membership and that they are not forced to go in a direction that is defined for them by others.

STABILIZATION

Efforts in this area of stabilization need to concentrate on encouraging an historic concord between the peoples of Bosnia and Herzegovina, one that would set the course for a common state that protects the interests of all of its citizens and that provides them the highest protection of human rights in accordance with European standards. This process will not be easy, since the years since Dayton have mostly been squandered and the real core causes of the conflict in Bosnia and Herzegovina have yet to be adequately addressed. The fear that prompted the conflict in the first place between the three ethnicities has been reduced, but it is still a significant part of everyday life. Moreover, uncertainty remains and this uncertainty continues to fuel fear.

The first step in eliminating this fear is to have local politicians come to an agreement about the nature of the Bosnian state. Politicians need to address two main issues. First, what kind of polity will Bosnia be? Will the state be a federation, a confederation, a union, a republic or something else? Second, the institutional structure of the state must be decided upon. It is now clear that the Bosnian Serbs will never give up their entity, the Republika Srpska. Therefore, what is the best internal organization of a joint Bosnian state that maintains the entities? Personally, I feel very strongly that Bosnia should be a federation and should contain multiple entities, at a minimum, three. Whereas most people see Dayton as being the root cause of the current debate over Bosnia's internal organization, the real problem is in fact the Washington accords between the Croats and Bosniaks. That agreement, according to Bill Clinton's autobiography, created the Croat-Bosniak federation as the first step in the goal of creating a confederation between the Bosnian-Croat Federation and the Republic of Croatia. Although that goal was later dropped, yet, from this context, it is clear that the Washington accords and the entity it created are at odds with the basic principles later embraced by all parties at Dayton.

The second step in stabilization is an agreement over constitutional reform. Once the representatives of the three main peoples agree upon the nature and organization of their state, then it is essential that they

either amend the current Dayton Constitution or that they write a new one. The inconsistencies currently preventing the normal functioning of the Bosnian state can be fixed only in this way.

The third step in stabilization is to complete the process of demilitarization. Currently, Bosnia's army of 10,000 and joint command structure are little more than a joke. Each ethnic group sees in the military a threat. For this reason, if for nothing else, Bosnia's army should be completely eliminated. Instead of an army, Bosnia can field a limited national guard that will be formed at local municipal levels and that would be mostly designed to provide assistance in emergency situations. Bosnia's overall security should be guaranteed first and foremost by NATO or EUFOR and secondly by its neighbors who themselves should also undergo additional demilitarization.

Finally, it is necessary that a process of reconciliation truly begin in Bosnia. At the heart of reconciliation is the need for accountability and the need for closure for the hundreds of thousands of people who suffered and lost loved ones in the war. The Hague Tribunal has proven to be inadequate in providing the closure needed for a true process of reconciliation to begin. Another approach is needed if we are going to prompt reconciliation within the country. Therefore, I advocate the creation of a Truth Commission that would function along similar lines to the one established in South Africa following the collapse of Apartheid. It is essential that the peoples of Bosnia have a sense of ownership over the process of justice, especially in holding people accountable for atrocities and war crimes. At the same time, it is essential that this process involve representatives of the three main ethnic groups. These representatives should be examples of people with impeccable moral and ethical credentials.

DEMOCRATIZATION AND EU INTEGRATION

Once stabilization is achieved, then and only then can a true process of democratization take hold and Bosnia can find its right momentum on the road to European integration. In addition to the reform that will be necessary to adopt in order to comply with EU requirements, Bosnia also needs to organize new and, for the first time, completely free and fair elections. In order to set the framework for these elections, it would be necessary to create a completely free political system. This would mean allowing band politicians and parties to challenge these elections, including parties and

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individuals that were banned from politics due to their opposition to the Dayton Accords or to the international administration within Bosnia.

Bosnia's citizens should be allowed to choose those candidates that can best help them attain their aspirations for a better life in a stable and normal state, without the interference of the OHR or other international actors, which have been heavy handed in dictating who is a democrat and who is not, and who can run for elections and who cannot. Under such conditions, many of Bosnia's nationalist parties will lose one of their greatest PR tools, since they will have to compete for the first time in elections not as victims, but as parties with a long history of failure both of leadership and in governance.

The most essential component of any future democratization process in Bosnia will be the EU's ability to clearly express its desire to accept Bosnia and Herzegovina within its union. The EU must also issue a very specific and detailed roadmap with a clear end date that would serve to guide reforms and democratization within the country and which would serve to motivate support for these reforms.

CONCLUSION

There will be many critics of what I have laid out in these short remarks. Many will feel that Bosnia and Herzegovina cannot on its own produce leaders responsible enough to resolve the fundamental problems confronting the country. To these critics I say, Bosnia and Herzegovina, like any other state, has to have leaders that will adequately and competently represent their people. It is the only way to build a common state that will be stable, democratic and prosperous. It is impossible to impose democracy or even stability. If Bosnia fails, then the blame should squarely go on its own leaders. There are no guarantees in this world that all states will be successful or that they will be eternal. History is full of examples of failed states. The only hope for Bosnia and Herzegovina is not greater international control, but just the opposite. With this, it is important to keep in mind that a multi-ethnic state can only succeed if all of its citizens accept that state and see it as the best guarantee of their individual and collective aspirations. For Bosnia, this means that Bosnians (Croats, Bosniaks, and Serbs) must come to essential agreements that will guarantee the future of a common state.



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