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FOREWORD

Capturing any change in time is difficult, particularly if the topic is as precarious as the post-war Bosnia-Herzegovina has been and still is. That is why each book dealing with and looking at the peace process in Bosnia-Herzegovina deserves a special attention. This especially relates to this piece of work created by an expert who had a chance to be very close to various segments of the implementation of this peace process be it on the ground or close up to the decision making institutions. This kind of practical experience combined with the outstanding analytical expertise makes this book very relevant and reliable source for any kind of historical analysis dealing with this period of time in this area.

The wars in the former Yugoslavia, among which the Bosnian one was the bloodiest, were the first after the fall of Communism and the last of the twentieth century. They took place at a particular time in history which facilitated their impact on regional, European and Euro-Atlantic relations. The international community was involved in the breakup of Yugoslavia from the very moment, beginning with the infamous “The Hour of Europe” statement to unenthusiastic peace initiatives to bombings and arms twitching of spoiler groups.

The involvement of the international community was particularly significant and intensive in relation to the war in Bosnia-Herzegovina and even more so in the implementation of the Dayton Agreement once it mounted enough pressure on the warring parties to end the war.

Therefore, the peace process in Bosnia-Herzegovina was a direct result of the involvement of the international community and the international community will be responsible, along with the locals, for its eventual success (or failure). Without going any deeper into the interventionist *problematique*, I will underline few key elements of this analytical peace of work.

The main asset of this book is the fact that it moves a step further from ‘simply’ analyzing relations among the foreigners, among the locals and relations between the two camps and rather strives to give a holistic

picture of the Bosnian peace process that revolves around one key issue – state building. The author develops an original model of phases of post-war state building under foreign supervision: first comes security building, then institution building and eventually norm building all this oriented to the final goal of democracy building. And yet than all this process, providing they will end successfully, will enable some form of nation building taking of course very persistently account of the specific Bosnian conditions, especially the relations among three constitutional nations. However it would be the task of some future analysis and research.

The author explains what constitutes each phase, making sure we understand that these phases flow into each other and are to be separated for analytical purposes only, allowing occasional sidestepping of developments on the ground. The key question the author asks herself is whether the intervention is viable, that is whether the international community as the guardian of state building will be able to transfer the process to the locals? Are locals to eventually ‘embrace’ the state that is being created by foreign decree?

There are other issues touched upon in this peace of work – the question of why intervening at all, ethical issues in intervention, the impact of Euro-Atlantic relations, the politics of victimhood and many more. Senada cannot give the final verdict on the level of success of the state building intervention in post-war Bosnia-Herzegovina, but she skillfully manages to create a firm analytical framework for a study of state building interventions as such, and the Bosnian case in particular. In addition, she manages to raise a few fundamental questions on defining the nature of intervention; on discerning a point in time when a peace process can be judged finished; on creating further problems by raising too high expectations; on empowering a local actor who can take over the process once the intervener decides to leave.

She has answered or has come close to answering some of these fundamental questions and has managed to end the analysis of the Bosnian state building experience in an optimistic tone. This is no easy task.

This book focuses, within certain time limits, on a phenomenon of state building in Bosnia-Herzegovina – the process that is still evolving and thus constantly redefined. The author has assumed a demanding task of capturing core elements of this process in a comprehensive framework, perceptively incorporating few fundamental issues in the analysis. The result is a piece of work that is informative, probing and multilayered, although a work-in-progress as the author herself concludes. A work-in-progress that, in my opinion, has managed to systematically order a number of elements of ‘state building under foreign supervision’. One could hardly expect more from the effort which is shaped in the time where there are still a lot of uncertainties, challenges and threats existing on the ground which makes impossible for all actors to create a reliable “exit strategy”

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I INTRODUCTION

This introductory chapter frames the ideas that have preoccupied me in relation to the nature of post-war reconciliation among the parties to the Bosnian conflict and the role of external actors in facilitating this reconciliation. This thesis is the result of my profound interest in Bosnia-Herzegovina and the doubts raised with regards to its fate: whether or not this newborn is a stillborn? My interest in the case in hand led me to explore several fascinating topics, most of which triggered new ideas and an ambition to research them more fully.

I-1 RESEARCH PUZZLE

My interest in the subject of the international intervention in Bosnia-Herzegovina came from a profound puzzlement with the mishmash of policies the international community was implementing in Bosnia-Herzegovina and the confusion among policy-makers and scholars alike about its merits and ultimate consequences. The key question is whether the complex matrix of change can lead to the creation of long-term stability and prosperity in this war-torn part of the world? Will the state building intervention finish in success, that is will the state that the international community is setting up in Bosnia-Herzegovina be accepted by the Bosnians and will they continue to maintain it once the international force leaves the country? On a more theoretical level I am interested to see whether policies that the international community is implementing in Bosnia-Herzegovina are building blocks of the international 'know-how' to create a lasting peace in war-torn societies?

This thesis is being written while the intervention in Bosnia-Herzegovina is still underway and this fact hampers the possibility of placing the case in a clear-cut analytical framework and of making any definite conclusions. The research focuses on the period from the beginning of 1996 to the end of 2003. These eight years represent a period in which the peace process was shaped and thus serve as a legitimate framework for an analysis. Therefore, this research is circumscribed to explain how the international intervention proceeded in

Bosnia-Herzegovina in the period 1996-2003, and still look one step beyond.

However, due to the fact that this phenomenon is evolving, information is still segmented at best. Adam Przeworski gives the following advice in relation to studying 'moving targets':

[I]n assessing the current state of knowledge we must guard against intuitions derived from some of the natural sciences. Social reality changes. Moreover, it changes incessantly and during the recent era has changed very rapidly. Thus one difficulty in accumulating social scientific knowledge is that our object is a rapidly moving target. To accumulate knowledge is not to fall too far behind the societal change, to be close enough to make intelligible the current possibilities of influencing processes of social transformation in accordance with our values and goals. We are not astronomers, whose distance is measured in light-years. Nor can we wait for methodologists to tell us what to do before anticipating what might be around the next corner of history. Sadly, many large-scale, well-organized, methodologically sophisticated, co-operative cross-national projects address questions which are of interest to no one when the results are finally published ten years later. Thus we must beware of both methodological purity and grand organizational designs.¹

In relation to studying peace processes, be they evolving or not, it is useful to consider another piece of advice: studying local actors is a way to derive more plausible inferences – while the rationale and the interest of international actors in a peace process may vacillate, quite the opposite is expected from local actors – they cannot freely substitute their problems for other people's problems and lend their expertise to the latest collapsed state. Local actors will be stuck with the results of their deeds and thus, assuming their rationality, would look for the maximum gain from their actions. However, individual interests do not necessarily

¹ Adam Przeworski, "Methods of Cross-National Research, 1970-83: An Overview" in Dierkes et al (eds.), *Comparative Policy Research. Learning from Experience* (Aldershot: Gower House, 1987), pp. 31-2.

translate into group interests as Levi rightfully warns: “Although the choice of each actor may be intentional and individually rational, the results to all may be unintentional and socially irrational.”²

The basic aim of this research is to systematize a huge amount of empirical material on the post-war intervention in Bosnia-Herzegovina, to regroup essential questions related to the intervention, and as far as possible, to answer them. A frustrating, but all the same appealing feature of this research is that it never gives as many answers as a number of new questions it raises. The attraction lies in the fact that the subject and the work have a future.

I-1a Analytical framework

One of ambitions of this research is to succeed in delineating a *model of intervention*, capturing the dynamic of the Bosnian case and by doing so saying something about cases of post-war state building under foreign supervision in general. This, however, is to be done with a certain degree of caution due to the open-ended nature of the process. The open-endedness impacts the use of data. In an analysis in which both a beginning and an end are known, data is evaluated in relation to these two evident values. However, if a researcher is analyzing an open-ended process, then the discrimination between relevant and irrelevant data becomes more difficult simply because a researcher can only speculate what will happen in the end.

The open-ended topic requires the research to be inductive in character. Researching a process that is not finished should be aimed at accumulating data, assessing the existing literature and generating hypotheses as they apply to the part of the process analyzed. Moreover, the concentration on a single case limits the extent to which findings from one particular case can be applied to other similar cases. Single case studies are indispensable in subsequent comparative research, but are themselves, in general, an insufficient source for theoretical

² Margaret Levi, “A Model, a Method, and a Map: Rational Choice in Comparative and Historical Analysis” in Lichbach, M.I. and Zuckerman, A.S. (eds.), *Comparative Politics. Rationality, Culture and Structure* (Cambridge, MA: Cambridge University Press, 1997), p. 20.

generalizations. Thus, the goal of an inductive single case study, such as the present research, is to accumulate and systematize data, to analyze it and to generate hypotheses that can be tested in subsequent research. One of major strengths of this research is its capacity to address a broader range of historical, attitudinal, and normative questions than are possible in *large-n* studies.

This is a case study research, an empirical inquiry that

- investigates a contemporary phenomenon within its real-life context; when
- the boundaries between phenomenon and context are not really evident; and in which
- multiple sources of evidence are used.³

A rationale for using a single case is, among several others, when the case represents an extreme or unique case, as one could describe the international intervention in Bosnia. The holistic design, i.e. a research strategy that addresses the case as an interpretable whole, is the central approach to this case study.⁴ However, the holistic design does not mean that embedded subunits within the case do not exist. The intervention in Bosnia-Herzegovina is defined by specific Bosnian conditions, but this does not mean that every aspect of the intervention in Bosnia-Herzegovina is novel. By means of several detailed, concentrated steps, I wheedle out certain elements and come up with a set of explanations that can be analytically comparable.

I-1b Core question

The core questions follow from the research puzzle: *What policies has the international community been implementing with the objective of creating the conditions for a lasting peace in Bosnia-Herzegovina? Which policies have and which have not been successful in creating the conditions for a lasting peace? What are the phases in the peace process and which policies are being implemented in which phase?*

³ Robert K. Yin, *Case Study Research. Design and Methods* (Beverly Hills, London, New Delhi: Sage Publications, 1984), p. 23.

⁴ Cf. Charles C. Ragin, *Fuzzy-set Social Science* (Chicago: The University of Chicago Press, 2000), p. 22.

More generally, to what extent can an external actor influence and control the process of change in a target state?

The following sub-questions may help us to clarify the core question:

- Who are main actors in the intervention and what roles do they play? The main distinction is between foreign and local actors, but these two can be further differentiated.
- What has been the interpretation of the text of the Dayton Peace Agreement? Is there a consensus over the interpretation?
- Under what conditions and with what objectives was the multilateral intervention launched in Bosnia-Herzegovina? What was the mandate of the intervening forces? How was the multilateral framework envisaged and implemented? What impact has the coordination of international forces (or lack of it) had on the peace process?
- In what ways has the intervention evolved to embrace policies of state building? What does the task of state building encompass? What are the conditions for successful state building?
- What has been the perception of the domestic actors in the peace process? What have been their objectives and interests? What kind of policies have they pursued with regard to the implementation of the peace plan?
- What pattern of interaction can be discerned between foreign and domestic actors? What impact has this interaction had on the peace process?

The international community drafted the text of the Peace Agreement, pressured the parties to the conflict to sign it, launched the peace process and has since supervised its implementation. Therefore, the name of the international community is closely tied to the outcome of the peace process. The intervention consists of three crucial elements: security, institutional and normative change. These three elements define the nature of the engagement which has surpassed way beyond a 'traditional' intervention of a third party in a target state, although the Bosnian intervention is neither the first nor the last example of

externally sponsored state building.⁵ It has only been the longest and the most comprehensive state building intervention since the end of the Cold War.

I-1c On the merit of the research

The international intervention in Bosnia-Herzegovina came after nearly four years of war that left the country in shambles. Over two hundred thousand dead, over a million refugees and around million and a half internally displaced. Considering that the population was four and half million before the war this meant that in late 1995 every second Bosnian citizen was either living abroad as a refugee or in Bosnia-Herzegovina as a displaced person in a house that belonged to someone who was forced to leave his or her home. The level of human and physical destruction was immense and the population depended on humanitarian aid in food and medicine to survive.

The literature on the wars in the former Yugoslavia is ample and a legitimate question is why another book on this topic? Moreover, even if one accepts the fact that there may be room for adding new information, how reliable is the analysis of a phenomenon that is not finished?

My answer to the first criticism is that this research broadens the topic by concentrating on the post-war period and the ongoing peace process. Consequently, it introduces new concepts and asks new questions. The theoretical validity of the research lies in its capacity to apply existing theoretical propositions to aspects of the peace process that relate to it. For those aspects of the peace process for which valid theoretical propositions do not exist, the value of the research lies in its capacity to expand the existing theory or introduce new theoretical propositions. The research's main restriction – its exploratory nature - is at the same time its main advantage. The lack of theoretical models on post-war state building allows for innovation and creative thinking.

⁵ Post-Cold War state building was carried out in El Salvador, Cambodia and even Somalia prior to the intervention in Bosnia-Herzegovina, while after Bosnia-Herzegovina state building was initiated in Kosovo, East Timor, Afghanistan and Iraq.

The criticism on the temporality of the research has already been touched upon. Suffice to say that social phenomena are always in a state of flux. Certainly, events in Bosnia-Herzegovina have undergone many unpredictable changes, but there is nothing unscientific in observing and analyzing a rapidly changing phenomenon. The intervention in Bosnia-Herzegovina relates to the literature on military interventions, conflict regulation, nationalism, democratization, state building, and integration; it uses assumptions derived from these subjects and refines them further.

I-2 BACKGROUND

The war in Bosnia-Herzegovina ended in late 1995 with the signing of the General Framework Agreement for Peace, popularly known as the Dayton Peace Agreement (DPA), since it was negotiated and initialed at the Air Force base in Dayton, Ohio. The Agreement was officially signed in Paris on December 14, 1995 by the Bosnian president, Alija Izetbegović, Croatian president Franjo Tuđman and Yugoslav president Slobodan Milošević, and witnessed by the EU representative and the leaders of the Contact Group countries – the United States, Great Britain, France, Germany, Italy and Russia.

Years of negotiations had not delivered any settlement that could stop the war until the negotiations in Dayton under U.S. supervision took place. None of the parties to the war were thrilled about the Agreement. All three Bosnian peoples - the Bosniaks, the Bosnian Serbs and the Bosnian Croats – were mutually dissatisfied with the provisions of the Agreement, but found themselves in a situation where the decision not to sign would cost more than the decision to sign. The Western countries, especially the United States who conducted the negotiating process, exerted pressure on the parties to accept the conditions for peace. It went so far that an international official claimed that the Agreement was good exactly because none of the parties endorsed it fully.

European efforts to stop the fighting from 1992 had not been successful.⁶ It was the increased involvement of the Clinton administration which

⁶ David Owen, the EU negotiator in the framework of the ICTY (the International Conference on Former Yugoslavia) during 1993/94, stated in *The Balkan Odyssey* that

produced the first breakthrough in the third party mediation marathon to stop the war in Bosnia-Herzegovina. The US brokered an agreement in February 1994 between the Bosniaks and Croats to stop the fighting between them and establish a Federation of Bosnia-Herzegovina, which came to be the basis for the final peace agreement negotiated in Dayton. It was preceded by the ceasefire of October 1995 between the three armies in Bosnia. The ceasefire itself came as a result of several earlier events.

Emboldened by humiliating the U.N. peacekeepers in May 1995, in July the same year the Bosnian Serb army focused pressure on the two isolated Bosniak enclaves in eastern Bosnia – Srebrenica and Žepa, – which had been completely surrounded by Serb forces since early in the war and which the United Nations Security Council had designated as ‘safe areas’ in 1993. The Bosnian Serb army started shelling Srebrenica on July 6, 1995 while the town and its surroundings were filled with refugees, numbering around 40,000.⁷ The Srebrenica massacre was the catalyst for a profound change in the Western response to the Bosnian conflict. The executions of civilians in a U.N. ‘safe area’ in the presence of the U.N. peacekeepers who were stationed in Srebrenica to protect the civilians revealed the impotence of the U.N. format of operation. “The Bosnian Serbs were entirely to blame for the massacre at Srebrenica in July 1995. But it could take place only because of the dreadfully flawed decisions made over a number of years by members of the Security Council of the United Nations.”⁸ Although some may take it as a too harsh criticism of the United Nations, this conclusion of a veteran journalist captured the prevalent belief of who was to blame for the Srebrenica massacre.

On July 10, 1995 the Bosnian Serb forces took the town and the next day the commander of the Bosnian Serb army, General Ratko Mladić, entered Srebrenica and announced that he was “presenting this city to

the Americans got involved when the conflict was actually ripe for resolution, thus did not require extensive effort on the part of the US negotiators to bring the parties to accept the final peace proposal.

⁷ Carl Bildt, *Misija mir*, (Sarajevo: Zid, 1998), p. 91.

⁸ William Shawcross, *Deliver Us From Evil*, (New York: Simon & Schuster, 2000), p. 167.

the Serbian people as a gift.” He added, “Finally, after the rebellion of the Dahijas, the time has come to take revenge on the Turks in this region” – a reference to a Serb rebellion against the Ottomans that was brutally crushed in 1804.⁹

On July 13, Kofi Annan, at the time the U.N. undersecretary for peacekeeping, issued a report that stated that “there were now four categories of Muslim men in Srebrenica: those alive and trying to escape through the woods; those killed on that journey; those who had surrendered to the Serbs and had already been killed; and those who had surrendered and would soon be killed.”¹⁰ Richard Holbrooke observed that at the time there was no more energy left in the international system. “Everywhere one turned, there was a sense of confusion in the face of Bosnian Serb brutality.”¹¹

On Monday, August 28, 1995 five 120mm mortar shells smashed into the marketplace in the center of Sarajevo killing thirty-eight and wounding around ninety people. This mortar attack was hardly the first challenge to the Western policy, nor was it the worst incident of the war. However, it was the last. These deaths, in effect, ended the war in Bosnia-Herzegovina. The U.S. government initiated the ‘endgame strategy’ that led to massive NATO strikes. On August 30, 1995 the operation *Deliberate Force* began at 2.00 A.M. local time. More than sixty aircraft, flying from bases in Italy and the aircraft carrier *Theodore Roosevelt* in the Adriatic, bombed Bosnian Serb positions. It was the largest military action in NATO history. Richard Holbrooke, the chief negotiator at the U.S. team, cites four factors for this sudden change of heart in the Western alliance: “the sense that we had reached the absolute end of the line, and simply could not let this latest outrage stand; the grim, emotional reaction of Washington after losing three close and treasured colleagues on Mount Igman;¹² the President’s own

⁹ Richard Holbrooke, *To End a War* (New York: Random House, 1998), p. 69.

¹⁰ William Shawcross, *Deliver Us From Evil*, p. 169.

¹¹ Richard Holbrooke, *To End a War*, p. 70.

¹² Robert Frasure, a senior U.S. diplomat and a deputy chief of the negotiating team, Joe Kruzal from the Pentagon, and Nelson Drew from the U.S. National Security Council, all members of the newly appointed negotiating team under Richard Holbrooke, died in a road accident on August 19, 1995 when their vehicle slid off the

determination; and the strong recommendation of our negotiating team that bombing should take place regardless of its effect on the negotiations.”¹³

The bombing was suspended on September 1, resumed on September 5 and ceased on September 14. The military phase of the negotiations was over and the negotiations would continue from there on by political means. The delicate military-political balance reinforced conditions for successful negotiations.¹⁴ Richard Holbrooke records the details of preparing the final settlement:

To determine our negotiating goals, we needed to know what Izetbegović and his government wanted. This proved far more difficult than we had expected, and began a debate that would continue for years, one that went to the heart of the matter – the shape of a post war Bosnia-Herzegovina, and whether it would be one country, or two, or three... We would return to this issue repeatedly – and after the end of the war it would take center stage as people debated whether or not the attempt to create a single multiethnic country was realistic. Many in the West believed – and still believe – that the best course would have been to negotiate a partition of Bosnia. At the outset we were ready to consider this approach, even though it ran against the stated goal of both the United States and the Contact Group – but only if it were the desire of *all three ethnic groups*. Most Bosnian Serbs would want to secede from Bosnia and join Serbia itself – this was after all the issue that had led to war. Similarly, most of the Croats who lived along the strip of land in the west bordering Croatia would, given a free choice, seek to join Croatia. But there were also many Serbs and Croats in towns and villages that were ethnically mixed and isolated who could not survive in anything other than a multiethnic state. There was no easy answer to this crucial question: to divide Bosnia-

narrow, winding road on Mount Igman on their way to Sarajevo. In August 1995 this dangerous road was the only connection Sarajevo had with the rest of the world, because the airport was closed by Serb artillery.

¹³ Richard Holbrooke, *To End a War*, p. 103.

¹⁴ Cf. James Gow, *Triumph of the Lack of Will* (London: Hurst & Company, 1997), esp. pp. 260-297.

Herzegovina into two independent parts would legitimize Serb aggression and ethnic cleansing, and lands that had been Muslim or Croat for centuries would be lost forever to their rightful inhabitants. On the other hand, trying to force Serbs, Croats, and Muslims to live together after the ravages and brutality of the war, after what they had done to one another, would be extraordinarily difficult. The key voice in this decision had to be the primary victims of the war.¹⁵

The peace process initiated at Dayton was tumultuous from the start. It opened the way for reconstruction that was wider in scope than simply restoring physical infrastructure. It included the fostering of economic and political cooperation, the return of refugees and displaced persons, a provision that was vital for the long-term success of the process, and “an educational policy that favored understanding of the past and notions of reconciliation.”¹⁶ The relatively brief text of the Agreement was supplemented by eleven annexes (in reality twelve because the first annex on military issues was *de facto* two separate documents), as well as one hundred and two maps.¹⁷ The military part of the Agreement was straightforward in contrast to the civilian aspects of the Agreement that made up five sixths of the documentation. The civilian implementation would define Bosnia’s future.

I-2a Peace implementation

The real test for the success of the international intervention in Bosnia-Herzegovina is the viability of the state that is being created. The Dayton Agreement defined a single, independent and sovereign state for all three Bosnian constituent peoples and others, within the pre-war boundaries of the Republic of Bosnia-Herzegovina. The country would be called Bosnia and Herzegovina, (dropping the previous designation of Republic), and it would be a democratic state operating under the rule of law and with free and democratic elections.¹⁸ The country was to be comprised of two entities, the Federation of Bosnia-Herzegovina and the

¹⁵ Richard Holbrooke, *To End a War*, pp. 96-7.

¹⁶ *Ibid.*, p. 296.

¹⁷ *Ibid.*, p. 286.

¹⁸ Annex 4 (Constitution of Bosnia and Herzegovina), Article I.2.

Republika Srpska.¹⁹ The Federation was the entity of the Bosniaks and the Bosnian Croats comprising 51% of the territory, while the Republika Srpska, as its name would suggest, was the entity of the Bosnian Serb people comprising 49% of the territory.

The city of Mostar, situated in the southwestern part of Bosnia-Herzegovina, was administered by European Union from the summer of 1994 through the European Union Administration of Mostar (EUAM). Following the election in September 1996, the EUAM Office was transformed into the Office of the Special Envoy for Mostar (OSEM), which existed until the opening of the Regional Office of the High Representative (South) in Mostar in January 1997.

At the Dayton Peace Talks, the Bosnian parties were unable to agree on control of the municipality of Brčko. The dispute was put to international arbitration in Annex II of the DPA. On February 14, 1997, the Presiding Arbitrator of the Brčko Tribunal, Roberts Owen (U.S.) issued a decision placing the portion of the Brčko municipality within the RS under international supervision. The Arbitral Tribunal further extended the supervision period, on March 15, 1998, for a year. The Final Award was issued on March 5, 1999. The Final Award created a Special District for the entire pre-war municipality whose territory belonged to both entities, the Republika Srpska and the Federation. An Annex to the Final Award, issued by the Arbitral Tribunal on August 18, 1999, deals with issues such as the structure of the District Government, the judicial and penal system, the police, education, taxation and others.²⁰

Both entities were given substantial authority except for those powers that were listed in the relevant Annex (Annex 4) as belonging to central state institutions. Although in the preamble of the Constitution (Annex 4) Bosniaks, Croats and Serbs (along with Others) were given equal constitutional status in the whole country, the entities' own constitutions defied this provision. For years, Serbs were treated as a minority in the Federation, just as Bosniaks and Croats were treated in the Republika

¹⁹ Annex 4 (Constitution of Bosnia and Herzegovina), Article I.3.

²⁰ Information available at www.ohr.int

Srpska. The 2000²¹ Bosnian-Herzegovinian Constitutional Court decision that all three peoples enjoyed equal rights in the entire Bosnia-Herzegovina and not only in their respective entities was a crucial blow to the entrenched ethno-politics that plagued the country for years.

In the DPA, the central institutions of Bosnia-Herzegovina were given authority over foreign policy, various aspects of economic policy (foreign trade, customs, monetary policy, finances of the central institutions, and servicing the international obligations of Bosnia-Herzegovina), immigration, inter-entity communications and inter-entity and international criminal law enforcement.²² The budget of the central institutions was to depend on entities' contributions, thus having no independent source of income.²³

In assessing the first six months of the intervention, Susan Woodward wrote:

Extraordinary effort, goodwill, and resources are being spent to implement the accord without any coherent design for how to achieve a stable outcome. It is said that the Dayton accord establishes a process by which Bosnians can reverse the current reality of partition with elections and economic reconstruction and restore a multiethnic, unitary Bosnia. But in fact only one option holds any possibility of long-term success – a recognition of the right of all three nations of Bosnia to territorial self-governance (its current political partition) and, at the same time, of their strategic, cultural, and economic interdependencies that require them to cooperate if each is to survive. This outcome of progressive reintegration will not occur on its own. Outsiders must design and execute an integrated strategy that enables Bosnians to live in one state and brings peace... No negotiated

²¹ Constituent Peoples Decision of the Constitutional Court of Bosnia-Herzegovina, September 14, 2000. See also the Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court, March 27, 2002.

²² Annex 4, Article III.1.

²³ Actually, the only direct income for the central government were to be various fees charged by Bosnian Consulates in the world.

settlement to a civil war succeeds without effective implementation.²⁴

The civilian implementation of the Dayton Agreement was to be a real test of the commitment and the ability of the international community to lead successful state building. The stated goal of the intervention has been building a stable, democratic and self-sustainable state. However, the institutional structure in itself is not the ultimate goal. *The ultimate goal is to entrench a perception that single and undivided Bosnia-Herzegovina offers more to each of the three Bosnian peoples than any other solution.* A way ahead is through the process of reconciliation that allows the three peoples to solve their problems without a third-party mediator.

Dayton institutional structure is there only to provide a framework within which peoples of Bosnia-Herzegovina can work out a formula for mutual co-existence. But institutions created on the basis of the Dayton Agreement are not and should not be irreversible. They represent a phase, a Dayton phase, in building the Bosnian state and are as such a product of the time. That means that they can, and moreover, should be pliant to refining in order for Bosnia-Herzegovina to meet challenges that new times bring.

The DPA is not a holy script or a well of wisdom that contains a solution to any imaginable problem. Its (hopeful) ingenuity lies in its capacity to *loosen up* over time allowing other solutions, which build upon the Dayton foundation, to emerge. The success of Dayton will be assessed against the fact whether Bosnia-Herzegovina becomes a single, democratic and self-sustainable state and whether its people are devoted to preserving it. All other solutions within these parameters are arbitrary and negotiable.

Under ideal conditions, the international community would engage in post-war state building by consciously circumscribing its role to

²⁴ Susan Woodward, "Policy Brief #2", *The Brookings Institution* (July 1996), p. 2. See also by the same author "Bosnia After Dayton: Year Two", *Current History*, 96(608): 97-103 (March 1997).

assisting locals in implementing peace agreements. It could even offer its own list of preferred solutions, but it would not engage, under ideal circumstances, in intricacies of local relationships to define the substance of the state-to-be. This would have to be done by locals who are to live the solutions being made. However, there is no ideal in this world and thus plenty of room for improvisation.

The key criteria for measuring success in externally-sponsored state building is whether a new state can sustain itself without external buttressing once the external force leaves. A state is a living body, not simply a meticulously written constitution or an array of imposing government buildings. It is about people, their identities, their fears and their interests. If the people in any given state choose not to sustain it, no amount of external support can save it. This is because a state requires domestication, its borders separate the internal from the external (regardless how limited the list of internal issues is). And only insiders can define the internal.

However, this is easier said than done. In most cases, massive external support for state building occurs because a majority of locals do not share the same vision of their state as the interveners. If locals prefer other options to building a particular state, then the international community, as the sponsor of state building, has double task – to carry out state building in cooperation with supportive locals and to persuade/pressure opponents to join in. If weak or weakened, opponents can also be marginalized. The point is that there are various strategies how the international community can carry out post-war state building.

In the Bosnian case, the international community had to devise strategies to resist local opposition and sway disbelievers to its cause. Dayton Agreement came not as a result of the will of the three Bosnian peoples, but rather of the will of the international community. If the international community manages to expand the level of support for its project within all three camps, Bosnia-Herzegovina visualized at Dayton may realize. If it fails, the Dayton Bosnia-Herzegovina will exist only in academic texts as a failed model of international intervention.

I-2b Overall structure

Bosnia-Herzegovina that was created in Dayton had three constitutions, sixteen parliaments (two at the state level, two in the Federation, one in each of ten Federation cantons, one in the Republika Srpska, one in Brčko), fourteen governments (one state government, one in each entity, one in each of ten cantons, and one in Brčko), three presidents, three constitutional courts, three supreme courts, and three supreme commanders of the armed forces. All these institutions have been formally subordinated to the central institutions and both entities were required to amend their constitutions and make them consistent with the state constitution, but this process was remarkably slow.

One of the most common definitions of a state says that a state is characterized by the monopoly of legitimate violence.²⁵ Another definition says that a state is “an organization which controls the population occupying a definite territory” with the following characteristics, “(1) it is differentiated from other organizations operating in the same territory; (2) it is autonomous; (3) it is centralized; and (4) its divisions are formally coordinated with one another.”²⁶

If assessed against these brief definitions, the structure of the Bosnian state has been problematic. Its institutions are numerous and ran in parallel with each other, although less and less over the years. In the beginning, the central state institutions had very limited power and no budget of their own and the entire structure was highly decentralized.

By a conservative calculation – on average fifteen ministries in each cabinet (less in the central, but more in entities’ and cantonal cabinets) times fourteen cabinets – it comes that Bosnia-Herzegovina has over two hundred ministers. Each minister has his/her deputies, secretaries, drivers and other administrative staff. The Dayton bureaucratic

²⁵ Max Weber’s definition of state holds that “the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it,” Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, edited by Guenther Roth and Claus Wittich, p. 56.

²⁶ Charles Tilly, “Reflections on the history of European state-making” in *The Formation of National States in Western Europe*, ed. by Charles Tilly (Princeton, NJ: Princeton University Press, 1970), p. 70.

apparatus is immense and while it would be a heavy burden for a rich country, it is absolutely unsustainable for the poor Bosnian economy.

On the one hand, ‘optimists’ think that this extensive bureaucratic apparatus is unavoidable in a transition from war to peace where each side requires maximal protection of its interests. Once mutual fears lessen and the social trust develops, Bosnians will be able to do away with the overwhelming bureaucratic apparatus that stifles their economy and reduces prospects for joining the European Union.

‘Pessimists’, on the other hand, hold that such institutional structure is the maximum that can be achieved in a hostile and distrustful environment as Bosnia-Herzegovina is. According to this view, the present structure will remain in place as long as the international community is there to guard it, but the moment it leaves the three Bosnian peoples will abandon it to carve out their mini-states and once again redraw the map of Southeastern Europe.

Bosnia-Herzegovina is a complicated case, but no case of post-war state building where external actors initiate extensive political, social and economic reforms is simple. The magnitude of these reforms requires vision, patience and long-term commitment to be successfully carried out.

To separate the armies in the beginning was relatively easy. To organize the elections was to meet an important technical and political challenge, but that also worked. However, to bring former enemies into joint sessions and into common institutions and to compel them to accept mutual responsibility for the future of the country was something completely different.²⁷

To sum up, Bosnia-Herzegovina, one of the smallest countries in the world, has one of the largest administrations (two entities, three peoples, and four levels of governance – municipal, cantonal, entity and central). To guarantee rights and to facilitate the development of trust, the international community used power-sharing formulas to create numerous administrations. However, in the end, to erect a viable state,

²⁷ Carl Bildt, *Misija mir*, p. 414.

the international community will have to partially dismantle what it created. The way for combating fears in the first post-war years was found in military and political mechanisms. Subsequently, a solution has to be found in economic and normative mechanisms. These are less visible policies, but necessary if state building is to be finished.

I-3 ACTORS IN THE PEACE PROCESS

The first delineation of actors in Bosnia-Herzegovina is between the locals and the internationals. The local political elite is further divided into many camps, but crudely there are four camps – three nationalist ones and one non-nationalist.

The international community is a key term that refers to a range of different international actors that operate in Bosnia-Herzegovina. Initially, this was a conglomerate of actors whose mandates and policies have not been necessarily coherent and coordinated, but they evolved over time. The international community is analyzed along the following lines:

- the number and roles of different actors who make up the international community in Bosnia-Herzegovina;
- the policies adopted by different actors to facilitate the implementation of the peace plan (the Office of the High Representative, NATO forces, the OSCE, the UN agencies, the EU agencies, the World Bank and the International Monetary Fund);
- the activities of different non-governmental organizations and their impact upon the peace process;
- the role of foreign media in the peace process;
- the impact of events in foreign actors' domestic settings that influence their performance in Bosnia-Herzegovina and consequently the peace process (change of government, loss of public support for the intervention);
- important international developments that influence the activities of foreign actors in the peace process (emerging crises elsewhere, the relationship among intervening actors in other areas of interaction – EU enlargement, economic issues, etc).

As explained, the term international community in Bosnia-Herzegovina describes the collective presence of various foreign bodies in the country – governmental, intergovernmental, international, military, and non-governmental. In the beginning a number of observers criticized the international role in Bosnia-Herzegovina, frequently using the argument that the intervention was not succeeding precisely because there were too many actors with too many separate agendas. The international community was criticized for a lack of cooperation, a lack of coordination, a lack of communication, for inter-institutional competition and for overall ineffectiveness. However, the internal organization of the interveners evolved over time mainly as a result of a *try and see* approach that gradually led to the accumulation of knowledge.

Local political elites in Bosnia-Herzegovina are both subjects and objects of the intervention. They act independently in the peace process, while at the same time they are acted upon. The international community, as the driving force of the peace process, controls its dynamic and sets the interventionist agenda. The intervention fosters change in the behavior and, to a certain extent, the objectives of the local political elites. Their actions are assessed along the following lines:

- the extent to which elites seek to achieve their goals outside the peace process (important relations that may exist with actors that are outside the international community framework in Bosnia, i.e. the presence/absence of an outside sponsor for each elite);
- how national elites answer demands from their electorate and how they represent their respective electorates' demands to the international community, the notion of partial accountability;²⁸

²⁸ The concept implies that national elites who won in the first post-war elections managed to retain power and perpetuate themselves in office over several subsequent rounds of elections, in part due to the fact that they managed to institute themselves as intermediaries between the international community and their respective ethnic groups. Thus, they draw strength from both sides, but are only partially accountable to each. As long as they can benefit from such a position, they have no real incentive to fully implement the peace plan, as that would mean undermining their position of intermediaries. (I borrow the term 'partial accountability' from James Rogan of OSCE in Bosnia-Herzegovina).

- benefit derived from the peace process (is elites' existence supported or threatened by the international presence: are elites in power dependent²⁹ on international community to retain that power, are emerging elites dependent on international community to gain power?);
- effects of the intervention on the behavior, norms and strategies of the local elites (an assessment of the change of the wartime goals of the local parties in the context of the peace process);
- an assessment of the learning process and its impact on all participants in the process;
- the extent to which the peace process constrains the behavior of local elites (which rules they have to adopt in order 'to play the game', i.e. be a part of the peace process);

The existence of strategic partners or sponsors outside the peace process influences the behavior and strategies of national elites. Particularly this applies to the existence of neighboring kin-states to two ethnic groups in Bosnia-Herzegovina, i.e. the Republic of Croatia to the Bosnian Croats and the Federal Republic of Yugoslavia to the Bosnian Serbs. It refers also to the wartime relations of Bosniaks with some Islamic states or states supportive of their cause.³⁰ The international community viewed

²⁹ Dependency in this context implies reliance of local elites on the international community in Bosnia-Herzegovina to deliver the 'goods' of the peace process. In that sense it breeds irresponsibility amongst local actors as they avoid taking upon the task of implementing the peace plan, and consequently being accountable for their actions. It suggests a practice whereby local elites assign more the difficult tasks of implementing the peace plan to the international community at the same time as seeking to preserve the loyalty of their respective ethnic groups. However, this practice does not only refer to elites in power, it has been recently noticed also with those who seek to gain power, as they need international support to win office. In that sense, the international community while withdrawing support from one camp and extending it to another has not managed to change the 'dependency mindset' in the initial years of the peace process. Dependency in this context is a different phenomenon from the one that the dependency theory sought to explain, for example, Latin American development.

³⁰ Neither states that form the core (the Contact Group) of the international community were perceived as neutral: the perception was that the United States supported Bosniaks; Germany supported Croats and thus Bosnian Croats; while Russia, along with Great Britain and France (though after changes in leadership in these two countries – Blair replaced Major in Britain, and Chirac replaced Mitterand in France – their policies changed) supported Serbs in the FRY and Bosnia.

these relations as undermining the peace process and therefore sought to impair them, but with mixed success.

It was most successful in breaking up Bosniak relations with Islamic states for three reasons. First, because these relations do not go far back in history, they were the result of circumstances and a by-product of war, not necessarily a strategic orientation of the Bosniaks. Second, it was easier to reduce contacts between Bosniaks and their 'sponsors' at the other end due to physical distance that exist between them, not to mention the difference in appearance, tradition, language and worldview. And third, the Dayton Agreement guaranteed the preservation of a single and independent state of Bosnia-Herzegovina, which was Bosniak goal throughout the war. Thus, it is only to be expected that they would demonstrate the utmost will to cooperate with the international community in implementing the Dayton Agreement.

As for the Bosnian Croats, as long as President Tuđman was alive and in power in Croatia, the international community had hard time in loosening up the ties that existed between the HDZ-led Croatian government and the Bosnian HDZ. Once Franjo Tuđman left the political scene and the new party came to power in Croatia, relations between Croatia and the Bosnian Croats gradually formalized and became more transparent. The return of the HDZ-led government in Croatia in late 2003 did not translate into the return of intensive and obscure Croatian support of the Bosnian Croats. The unequivocal orientation of all key political parties towards the European Union means that Croatia is willing to make any effort necessary to systematically apply European norms and standards to all areas of its political, economic and social life, including relations with the Bosnian Croats.

Severing relations between Serbia and Montenegro and the Bosnian Serbs has been a more difficult task. The change of government in Serbia, the extradition of former president Slobodan Milošević to the Hague Tribunal and the continuous pressure from the international community on the Serbian and the Federal government apparently were not sufficient to break up strong ties that exist between the Bosnian Serbs and their sponsors in Belgrade. Despite a strong pressure from the

Office of the High Representative on both Banja Luka and Belgrade, which included removal of highest ranking officials in the entity, it seems that every new Bosnian Serb leadership, much to the dissatisfaction of the international community, maintains the tradition of weekly consultations with Serbian/Yugoslav officials in Belgrade.

Any analysis of the local actors must necessarily be complex and requires a systematic approach. The conflict in Bosnia-Herzegovina revolves around competing views among the three peoples' strategic interests.³¹ Each of the three ethnic groups in Bosnia-Herzegovina had its own preferred political option that by and large stood in opposition to options of other groups. The war ended in such a way that none of the three groups triumphed, but rather the peace brought about the fourth option – the one preferred by the international community but inasmuch it retained the single Bosnian state it coincided with the Bosniak interests. This fourth option is multiethnic Bosnia as a counterbalance to options of ethnic exclusivity pursued (to different degrees) by the three nationalist parties. To succeed, the international community has to gain support among all three ethnic groups since there will be no multiethnicity without their active participation.

As already said, local actors are divided between nationalists with three ethnic labels and non-nationalists. The international community, as the third or fifth actor (depends whether one sees all nationalists as same) in the Bosnian peace process, has given itself a role of the leader of the

³¹ When the intervention began, the elites who led the war in Bosnia-Herzegovina remained in their positions. This fact raised doubts about the elites' capacity to transform and endorse the peace process in earnest.

See Lyon, M.B. James, "Will Bosnia Survive Dayton?", *Current History*, Vol.99, No.635, March, 2000, 110-16. Also, Burg, L. Steven, "Bosnia-Herzegovina: a case of failed democratization" in Bianchini, Stefano (ed.), *State-building in the Balkans* (1999); Roland Paris, "Peacebuilding and the Limits of Liberal Internationalism", *International Security*, Vol.22, No.2, Fall 1997, 54-89; J. Lenard Cohen, "Whose Bosnia? The Politics of Nation Building", *Current History*, Vol. 97, No. 617, March 1998, 103-12; Misha Glenny, *The Balkans 1804-1999. Nationalism, War and the Great Powers* (London: Granta Books, 1999, esp. pp. 647-652); Richard Holbrooke, *To End a War* (New York: Random House, 1998, esp. chapter 20); Chester A. Crocker, and Fen Osler Hampson, "Making Peace Settlements Work", *Foreign Policy*, No. 104, Fall 1996, 54-71.

non-nationalist camp in line with its goal of multiethnic (or rather a-nationalist) Bosnia-Herzegovina. Its capacity to win over support for the multinational cause and reduce support for exclusive ethnicity will determine the success of the international mission.

As in any other place on this planet, what happens in Bosnia-Herzegovina is not so unique and exceptional to be incomparable. However, just as Bosnia-Herzegovina resembles other places in how it tries to solve problems in its community, how it tries to overcome the memories of a violent past, how it tries to build upon memories of past cooperation and trust, it is also unique in a way that any community and any individual on this planet is unique. Just as it is up to every individual to decide how he or she wants to live, so it is up to each community to define how it is to live. What kind of life does the community imagine? What kind of future does it desire? What kind of values does it espouse? Which cost will it accept to realize its vision?

Each mature community has to answer these questions for itself. Answers will, of course, differ but most important is to keep the dialogue going on; a dialogue that must be carried on by those who will live with the consequences of decisions taken. This is important to bear in mind when the role of interveners in defining the future of a recipient state is analyzed. Basic elements of a state structure are common to most democratic states since democracy has been accepted as the best political system available. But the nuances of each particular state will have to remain particular and local. The nuances and details of how a particular community is to live can be defined only by the members of that community.

Some may question the necessity of discussing these issues here at such length. An intelligent reader probably thinks that it is common sense that correct decisions concerning life in a certain community are only those made by the members of that community. However, this seemingly redundant observation ceases to be so when we take a deeper look at how many communities in the world function today. And just as there are individuals who live in a state of sweet oblivion as to their true nature and their true desires but rather follow the dictum of others, be it family, friends, school, political party or church, so there are

communities who accept incompetence to decide on their own destiny and wait for others to solve their problems. It does not take sophisticated methods to conclude that the people of Bosnia-Herzegovina have been perpetuating this attitude for years.

I-4 LOCAL POLITICAL REGIMES

The forces at play within Bosnian society are more complex than they first appear. Ethnic conflict is the dominant feature and the root cause of the tumultuous nature of the peace process. However, ethnic reconciliation represents only one element of the peace process. Others are the transition from a communist to a democratic society and the search for a peaceful solution for the entire Balkan region.³²

Prior to the collapse of the former Yugoslavia, three nationalist parties – the Bosnian Croat HDZ,³³ the Bosnian Serb SDS³⁴ and the Bosniak (Bosnian Muslim) SDA³⁵ – won the first democratic elections in 1990. Wartime conditions gave these parties even more power. Nationalist

³² “Refocusing international policy in Bosnia and Herzegovina”, Part One, *European Stability Initiative*, p. 1, <http://www.esiweb.org/Report1-1999.htm>. With slight changes, this description appears in the cited Report.

³³ The local acronym for *Hrvatska demokratska zajednica* (HDZ) is used instead of the English translation – the Croatian Democratic Union (CDU).

³⁴ The local acronym for *Srpska demokratska stranka* (SDS) is used instead of the English translation – Serbian Democratic Party (SDP). A reason to use local acronyms is to avoid confusion which may emerge with translation (the party of reformed communists is called *Socijal-demokratska partija* – SDP, the same acronym for the SDS in English).

³⁵ The local acronym for *Stranka demokratske akcije* (SDA) is used rather than the PDA – the Party for Democratic Action. As a reader may notice, only the Bosniak party does not have ethnic denomination. The reason is that this party was inaugurated in May 1990 when the electoral rules prepared for the first democratic elections in the Socialist Federal Republic of Bosnia and Herzegovina forbade the use of religious or national designations. However, already in July that same year this provision was abandoned and in the same month two other national parties – HDZ and SDS – were inaugurated.

In September 1993, the Bosniak Sabor (the gathering of representatives of the Bosniak people) voted to change the name of Bosnian Muslims into Bosniaks, an old name for the Bosnian Muslims. The DPA also recognized Bosniaks as one of the three constituent peoples in Bosnia-Herzegovina. Hereafter, I use the name Bosniak, unless required otherwise by the context.

leaders have had a strategic interest in maintaining the conditions on which their power depended: ethnic separation; fear and insecurity among the population; a lack of democratic accountability; breakdown in the rule of law; control over the army and the police; and illegal economic activity.³⁶

‘Nationalists’ in the post-war Bosnian context are often wartime racketeer networks, grown rich on an abnormal political and economic situation, who manipulate the fears of the impoverished people of their respective groups in an effort to preserve their own dominance, and profit-making. Their apparent espousal of the collective identity and common interests of their national group is often simply a superficial ideological camouflage for their racketeering activities.³⁷

Although this profile nicely describes the majority among the nationalist elites in Bosnia-Herzegovina, for the sake of accuracy it should be added that not all are in politics only for personal enrichment. Some yearn fame. They project and relish the image of modern Messiahs. Personal enrichment is not necessarily the central goal of their political engagement. Financial rewards are accepted, but out of duty, almost as a burden and an unpleasant yet inevitable part of their job. Or so it appears. The point is not what the truth is, but that people believe them. Nationalist parties, among else, got reelected because they offered to their electorate images of national heroes, of defenders of national identity and tradition.

Nationalist rhetoric was a political tool – nationalist parties exaggerated threats posed by other ethnic groups to consolidate their groups.³⁸

³⁶ “Refocusing international policy...” The same explanation as in the footnote 32. applies here. This is because I found the analysis contained in the ESI Report so concise and straightforward that I had difficulty of finding a better way to express the given phenomenon.

³⁷ Sumantra Bose, *Bosnia after Dayton. Nationalist Partition and International Intervention* (London: Hurst & Co., 2002), pp. 6-7.

³⁸ *Reporter* magazine analyzed the electoral campaign prior to the September 1998 elections. The article concluded the following:

Moderates who emerged within the group were described as traitors and collaborators with the enemy.³⁹ Implementation of the Dayton Agreement, such as facilitation of minority return, creation of multi-ethnic institutions, or carrying out basic economic reforms were resisted because they were seen as threats to party's interests, and consequently, explained as threats to existence of an entire ethnic group. Thus, in

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- Nationalist parties use all means to stir inter-ethnic tensions and fears of alleged threat of two other rival ethnic groups, including terrorism since the beginning of campaign. The goal is to ethnically homogenize voters for a respective party that defends national interests.
 - Within its national corpus, these parties use nationalist arguments to denounce those who oppose ethnic exclusivity. Thus, they declare non-nationalists as traitors and collaborationists or, at least, weak Serbs, Croats and Bosniaks. HDZ qualifies in this way Krešimir Zubak and the New Croatian Initiative, SDS and the Serb Radicals qualify in this way the government of Milorad Dodik and the Coalition *Sloga*, and the SDA Bosniak democratic opposition in general.
 - Governing nationalist parties usurp the power to destabilize opposition parties and their candidates by exerting various kinds of pressure on them (job layout, blackmail, corruption, intimidation). Even Dodik government in the RS went as far as dismissing directors and chief editors at 16 local radio and TV stations because they were judged to promote the SDS and the Radicals in the election campaign. *Republika*, Feljton: Izbori u Bosni i Hercegovini, "Poljuljan monolitni tronožac SDA, SDS i HDZ", No. 196, August 1998.

³⁹ On October 22, 1999 a bomb exploded under the car of Željko Kopanja, the editor-in-chief and founder of *Nezavisne novine* (Independent). As a result of the assassination, Mr. Kopanja lost both legs, but he continued to publish his newspaper. Prior to the attack, *Nezavisne novine* published a series of articles about crimes committed by Bosnian Serbs during the war. The newspaper also exposed numerous cases of corruption and embezzlement in Republika Srpska. Marko Vešović, a Bosnian Serb who remained on the side of the Bosnian government throughout the war, has been often referred to as a traitor in the Bosnian Serb media.

In 2001 the car bomb also exploded in front of the house of Mladen Ivankić – Lijanović, a Bosnian Croat businessman and a founder of the Party for Prosperity. The Bosnian press connected the incident to hardliners in the Bosnian HDZ. Ivan Lovrenović, an academic and a scholar, has been criticized for years by Croats in Bosnia-Herzegovina for his criticism of the Croatian politics.

Two editors-in-chief of two main independent magazines in Bosnia-Herzegovina – Senad Pećanin and Senad Avdić – on several occasions reported receiving threats for exposing corruption and criminality in the SDA structures.

SDS, SRS⁴⁰ and HDZ political rhetoric, the international community was often accused of pursuing an agenda that threatened the physical security (territorial integrity) of their respective ethnic groups. Extreme nationalist rhetoric thus was not necessarily a sign of real inter-group hostility.⁴¹

To undermine the power of nationalist parties, which were seen as incapable to guarantee peace and stability in Bosnia-Herzegovina, the international community offered direct support to non-nationalist parties, but the result of this support was rather mixed. In the November 2000 general elections, the third since the end of the war, the non-nationalist Social Democratic Party managed to secure a narrow victory within the Federation, mainly among Bosniak voters. The HDZ and the SDS won landslide victories among the Bosnian Croats and the Bosnian Serb electorates respectively. These elections were yet another blow to the international approach that was trying to marginalize nationalists and institute non-nationalists through elections.⁴²

Many in the international community had hoped that democratic change in Zagreb and Belgrade in 2000 would translate into change among Bosnia's Croats and Serbs. Initially, however, these democratic victories did the opposite – they energized extremists within these two camps. With the death of the Croatian President Franjo Tuđman in December 1999 and the defeat of the Croatian HDZ in the January 2000 general elections, the Bosnian HDZ lost its sponsor and was therefore forced to show to its friends and foes alike that it would survive the loss of sponsorship. The Bosnian HDZ had to show that they would not only

⁴⁰ *Srpska radikalna stranka* – the Serb Radical Party – was banned in 1998 by the High Representative Carlos Westendorp on the grounds that its political rhetoric and the political action openly defied the DPA.

⁴¹ See “Changing the Logic of Bosnian Politics”, Discussion Paper on Electoral Reform, *International Crisis Group* (Sarajevo: March 10, 1998).

⁴² Under the Dayton Agreement, OSCE was in charge of running elections in Bosnia-Herzegovina until the Election Law was adopted. Provisional Election Commission, chaired by the OSCE Head of Mission, was to establish rules, oversee electoral campaigns and sanction irregularities. The Election Law was adopted in August 2001 and the Election Commission of Bosnia-Herzegovina appointed in November 2001.

maintain their previous rhetoric, but also that they could take a more radical position and still survive.

Reinforced extremism was even more pronounced in Republika Srpska. Bosnian Serb candidates – including western favourite Mladen Ivanić – linked the position of Republika Srpska in Bosnia-Herzegovina to Kosovo's position in Yugoslavia (FRY) arguing that Republika Srpska should be allowed to join Yugoslavia in case Kosovo is granted independence. This should come as compensation to Yugoslavia for losing its southern province. Vojislav Koštunica, newly elected Yugoslavia's President (outvoted Milošević in the September 2000 elections), openly supported the SDS, the party of the indicted war criminal Radovan Karadžić, in the November 2000 elections in Bosnia-Herzegovina.

Since 1996 the international community has attached too much importance to elections and has seen them as proof of progress in Bosnia. Although there is certainly progress in Bosnia since 1996, the elections as such have not generated it. One could almost say that Bosnia-Herzegovina has moved forward *despite* the regular elections that repeatedly brought back nationalists to power.

Elections were conducted without regard for the need to sever the link between the ruling political parties and their financial sources – state-owned companies and individuals enriched by and through the war, which further weakened the possibility for elections to be carried out in a tolerant and open fashion in an already weak postwar democracy.⁴³ The international community was at pains because it had clear preference for the non-nationalists, while at the same time it also had a clear goal to strengthen the legitimacy of the election process – the very one through which the nationalists kept returning to power.

⁴³ In November 1999, OHR and OSCE created the Legislative Advisory Group on Defamation and Freedom of Information Legislation. The Group was to facilitate the adoption of laws that were to protect the right of citizens and journalists to access information held by their governments and public institutions.

In 2000 the international community decided to intervene. It brokered a deal among ten parties and supported the creation of the ten-party coalition governments, led by the Social Democrats, at the state and the Federation level. In Republika Srpska the maximum the international community managed to do was to exclude the SDS from power despite a relative majority of votes it received. A task to form a new RS government without SDS ministers was given to Mladen Ivanić from the PDP (*Partija demokratskog progres*a - Party of Democratic Progress), a small party that gained prominence largely thanks to its president, Mr. Ivanić, who intelligently balanced international requests and Bosnian Serb interests.⁴⁴ The exclusion of the SDS came as a result of the American ultimatum which warned that the U.S. would suspend its aid to Republika Srpska if the SDS entered the new government.

The two-year mandate of non-nationalists at the state level and in both entities was spent in turf fighting between coalition parties over the distribution of power. The least energy was devoted to carrying out necessary reforms. Thus, in the 2002 general elections, the electorate punished the non-nationalists by voting nationalist again. The successor to Wolfgang Petritsch, the new High Representative Paddy Ashdown, explained that the swing in the Bosniak vote, which was mainly responsible for bringing the non-nationalists to power in 2000, was not a sign of their renewed nationalism but rather a sign of the SDA's shift to the political center. The nationalist parties of the Bosnian Croats and the Bosnian Serbs, the HDZ and the SDS respectively, although receiving a relative majority of their ethnic groups' vote, in absolute terms saw a decline in their share of the vote in these elections.

The results of the general elections last weekend in Bosnia-Herzegovina have been described as a swing back to nationalism – a vote for the parties that fought the Bosnia war. This makes good headlines at a time when the Balkans are finding it hard to

⁴⁴ In November 2000 elections, the SDS received 38% vote, the PDP of Mladen Ivanić 13%, the same as the SNSD (Srpski narodni socijal-demokrati – Serb People's Social-Democrats) of Milorad Dodik, a former RS prime minister. The SDA received 6% vote and had one minister in the Ivanić's cabinet (Fuad Turalić, minister of foreign economic affairs, the first Bosniak member of a RS government). For the elections results see www.oscebih.org

make the news – but it is wrong... [The] issue that dominated this election campaign was not nationalism, division or demands for secession. It was reform. And this was reflected in the parties' messages. All of them, including the old nationalist parties, talked almost exclusively about how to provide jobs, tackle corruption and fight crime. It was the first election since the war not to be dominated by a big nationalist question.

That is why I do not believe Saturday's vote was a vote for nationalism. It was instead a vote for faster reform, for real change, for more progress. Ask any Bosnian the question: was the last government punished for changing too much, or for changing too little? - and the answer you get could not be clearer. The voters sent an unequivocal message to the politicians: stop messing about and get on with changing the country. That is what the parties have promised. Now is the time to do it.⁴⁵

Although Mr. Ashdown, the fourth High Representative, explained that the 2002 elections were a vote for reform, not for nationalism, the fact that the nationalist parties had been voted in did not raise hopes of those who believed that the way out of Bosnia's quagmire was the defeat of the nationalist parties.

There is, however, another way of looking at the post-2002 elections results. Perhaps the best way to weaken nationalists is to give them power. Democracy, with its system of checks and balances, can become quite a burden for those who prefer to work in conditions of obscurity and unaccountability. The only way for such individuals to prolong their stay in power is to ensure that democracy is slow to take the root. Nonetheless, even in an unconsolidated democracy as Bosnia-Herzegovina is, a number of people who believe that a position in power should include responsibility is growing. Despite still strong nationalist sentiments among parts of the Bosnian population, the proportion of those who would rather have higher living standards than keep reviving national myths is growing. If unable to meet the needs of the electorate, the nationalist parties will inevitably suffer a loss of credibility. The

⁴⁵ Article by the High Representative, Paddy Ashdown, "Bosnia wants change not nationalism", *Financial Times*, October 11, 2002.

same applies to non-nationalist parties – if unable to offer more than a self-righteous sense of superiority over the nationalists, they will be punished at elections.

I-4a Profiles of the local regimes

Although the three nationalist parties share a number of key structural features, there are important differences between them, both in their origins and in their evolution since the war. The Serb SDS and the Croat HDZ were both instrumental in establishing the de-facto independent statelets of Republika Srpska and the Croatian Union of Herceg-Bosna respectively, under the direction of their political sponsors in Belgrade and Zagreb. By contrast, the main Bosniak party, the SDA, fought a defensive campaign throughout the war to prevent the dissolution of the Bosnian State, to avoid being left with a non-viable Bosniak enclave surrounded by hostile neighbors.⁴⁶

The paragraph closes with the observation that “this basic strategic profile remains relevant, and can lead the nationalist parties to behave in quite different ways.”⁴⁷ Although there is more complexity to the Bosnian post-war situation than this delineation suggests, I believe that this diagnosis has been correct and has stood the test of time.

⁴⁶ “Refocusing international policy in Bosnia and Herzegovina”, Part One, *European Stability Initiative*, p. 7, <http://www.esiweb.org/Report1-1999.htm>

⁴⁷ Ibid. Nonetheless, a number of local analysts insisted on difference not only among nationalist parties within Bosnia-Herzegovina, but also among leaders in the region. For example, “Tudman, who in spite of his fervent nationalism and his famous gaffs...was eager to establish Croatia as part of the 'West' cannot be compared to Milošević. Though he tried to destabilize Yugoslavia, he lacked the military capability and resolution to use force in order to achieve his goals... Similar behavior on the part of Izetbegović has been explained as an attempt to maneuver a dissolution without using force... Thus, the theory of equal guilt can only be seen as having therapeutic functions for Western leaders whose inaction or mistakes can, thus, be excused.” Josip Županov, Duško Sekulić and Željka Šporer, “A Breakdown of the Civil Order: The Balkan Bloodbath”, *International Journal of Politics, Culture and Society*, 9: 401-22 (1996), p. 411.

As already said, the international community forced the warring parties in Bosnia-Herzegovina to sign the Dayton Agreement. However, this was no novelty. The three leaderships from Bosnia, including the leaderships from Zagreb and Belgrade, took part in a series of peace talks since the beginning of the war and signed a number of peace plans that were loudly announced and silently buried quickly after. Thus, they also questioned the longevity of this Agreement although this time it was the Americans who stood behind the deal and pledged their commitment to its successful implementation.

Initially, the Dayton Agreement did not alter the Bosnian Serb and the Bosnian Croat wartime goals. The Bosniaks were more enthusiastic about the Agreement because it preserved the state of Bosnia-Herzegovina within its pre-war borders and brought peace, albeit an unjust peace, as Alija Izetbegović, the Bosnian president, declared. The sloppy nature of the implementation of civilian aspects of the Dayton Agreement encouraged hardliners' hopes that with enough patience and with an appropriate strategy they would eventually realize their wartime goals. Such hopes were, however, strongly counterbalanced by the military implementation of the Agreement, which was vigorous and efficient, and prevented anti-Dayton elements from pursuing their goals by force.

The Dayton Agreement brought peace which in reality did not stop the war. The war continued by bureaucratic means of postponing and avoiding. The Dayton Agreement created two entities and gave them authority over police, army, the postal services, taxes, regulations. What is then the state government for? There are three Presidents who rotate every eight months, which means there is no concentration, no focus, no continuity and no responsibility.⁴⁸

Rhetorically, the international community always stood on the position of the single and integrated Bosnia-Herzegovina, but their actions or

⁴⁸ Jacques Paul Klein, the Head of the UN Mission to Bosnia-Herzegovina, in an interview to magazine *Reporter*, July 20, 2002 (translation mine).

simple inaction raised doubts about 'true' goals of the international community. A number of observers questioned the international commitment and even its *raison d'être* to pursue (re)integration of a state not wanted by two of its three peoples.

The Agreement, as already said, was dual in character since it preserved a single Bosnia-Herzegovina, while at the same time it acknowledged the internal partition of the country. And since the interests of the nationalist parties did not change, it was expected that each would seek to emphasize a feature of the Agreement that corresponded with its interests – the SDS and the HDZ would reinforce partition, while the SDA would reinforce reintegration of the country. Thus, there were to be no surprises in the Bosnian post-war equation.

However, SDA's actions raised some doubts about its true interests and/or intentions. As it was expected to be fully supportive of the international re-integrationist agenda, occasions when it failed to do so brought into question its true intentions, but also the utility of the overall objective – building a state that is rejected by the majority of its people.

The reason why at times the SDA failed to support the international goal more forcefully is to be found in the nature of a political party and the democratic system. A goal of every party is to win at elections and their actions are thus circumscribed to the elections' framework. From a short-term perspective – the election interval – a decision to fully support the international agenda would have probably cost the SDA a substantial proportion of votes and reduce the likelihood of its victory. It would have had to make a number of measures extremely unpopular with its electorate and would have to suffer the loss of support. For example, the SDA insisted on the right of refugees and displaced persons to return to their homes. However, when it came to evicting a family of a Bosnian Army soldier or a Srebrenica family who occupied an apartment that originally belonged to a Serb or a Croat who fled Sarajevo, then they resisted eviction because it would directly harm their interests – winning the next mandate. They did not want to undermine their power base, even at the price of undermining the peace process.

The SDA example explains why there were voices in Bosnia urging the international community to show more initiative in the peace process. A number of those who actually supported the Dayton Agreement could not act out openly without a risk of losing their political status. Instead, they transferred the responsibility for the implementation of the Agreement to the international community while they remained 'loyal' to their electorate. This partly explains why there was little or no significant resistance when some of the most unpopular measures in the implementation of the Dayton Agreement were taken.⁴⁹

Those impatient with the slow progress of the peace process accused the international community of a lack of commitment since it vacillated in its will to assume the full command. Although such cautiousness is understandable on the part of the international community, there may be a reason why foreigners rather than locals may be better suited in situations like this to put the peace process in gear – they do not have to face reelection. They are not accountable to the local electorate and therefore enjoy almost free reign. Of course, free reign is a double-edged sword because the lack of accountability carries a risk that foreigners can further aggravate the situation without having to answer to the people whose lives they control, but it also carries a possibility for faster improvements than would be the case if the process was left in the local hands.⁵⁰

Final outcome, however, rests with the locals. At some point they have to take over if the intervention is to succeed. The entire logic of an intervention is to help locals overcome difficulties so that they become self-reliant. However, this is another issue that I shall return to on a later stage in this thesis.

⁴⁹ The international community opened roads, guaranteed safe return to refugees and displaced persons, shut down TV and radio stations, dismissed high ranking officials, arrested indicted war criminals – heroes in their communities – without losing a single soldier. Despite some very unpopular measures, none of the three groups in Bosnia mounted any significant resistance to the international community.

⁵⁰ This is due to the nature of post-war period in which there is no obvious winner.

The following sections give basic profiles of the main protagonists of the Bosnian peace process. Knowing their character and interests facilitates our understanding of their actions.

I-4b The Bosnian Croats

The party that, since the first democratic elections in 1990, has received the majority of the Croat vote in Bosnia is the Croatian Democratic Union, the HDZ.⁵¹ It is an affiliate branch of the HDZ from the Republic of Croatia, whose founder was Dr. Franjo Tuđman, the first president of Croatia.⁵² During the war, the HDZ fought a campaign to establish an independent statelet called Herceg-Bosna, carved out of the territory of Bosnia-Herzegovina, and possibly join Croatia. The Croat Union of Herceg-Bosna⁵³ was established on November 18, 1991 as a regional entity comprised of 30 municipalities, with the city of Mostar as its capital.⁵⁴

Dr. Ciril Ribičič, a Slovene professor of constitutional law and an expert on constitutional arrangements in the former Yugoslavia, was approached by the Office of the Prosecutor at the War Crimes Tribunal for the former Yugoslavia in the Hague, to give an expert opinion about the establishment and the functioning of the Croat Union Herceg-Bosna. His analysis of the *Decision to establish the Croat Union Herceg-Bosna* stresses that the Croat Union Herceg-Bosna was established by the decision of “Croats of Bosnia-Herzegovina” and that it was created with a goal to “defend the Croat ethnic and historical territories and the Croat

⁵¹ As already explained, in this thesis I use local acronyms for the political parties as translating them might cause unnecessary confusion. Moreover, the international community in Bosnia-Herzegovina uses local acronyms and as such they are known to a foreign reader who follows the topic. See fn. 34, 35, and 36.

⁵² Under the Charter of the Croatian Democratic Union of Bosnia-Herzegovina, “the HDZ of Bosnia-Herzegovina is the constitutive element of the integral HDZ with the seat in Zagreb.” (*Charter of the Croatian Democratic Union of Bosnia and Herzegovina*, Sarajevo, August 18, 1990, article 4), quoted in Ribičič, *Geneza jedne zablude*, p. 46.

⁵³ In original, *Hrvatska zajednica Herceg-Bosna*.

⁵⁴ Dr. Ciril Ribičič, *Geneza jedne zablude (The Genesis of One Fallacy)*, p. 36. The book also contains the scanned original issue of the *Narodni list HZ Herceg-Bosna* (*Official Gazette of Croat Union Herceg-Bosna*) of September 1992 which published the *Decision to establish the Croat Union Herceg-Bosna*.

people in Bosnia-Herzegovina.”⁵⁵ Taking into consideration a number of articles of the *Decision to establish the Croat Union Herceg-Bosna*, Ribičić concludes that the “Croat Union Herceg-Bosna was intended to become a union of (all) Croats who live in Bosnia and Herzegovina, and not the union of (all) citizens of 30 municipalities (who make the Croat Union Herceg-Bosna), regardless of their nationality.”⁵⁶

The politics of Croats in Bosnia-Herzegovina and the politics of the Republic of Croatia towards Bosnia-Herzegovina were multilayered. In the beginning of the war, the Croat and the Bosniak forces fought together against the Serbs. It was these two nations who overwhelmingly voted for independence in the referendum of February 1992, an act which marked the final declaration of the goals of the three peoples in Bosnia-Herzegovina. The majority of Serbs boycotted the referendum and the Serb leadership accused Bosniaks and Croats of joining forces against the Serb people. The Bosniaks and Croats voted for independence on the premise that they did not want to remain in a rump, Serb-dominated Yugoslavia. The war started soon afterwards with the Serb-dominated Yugoslav Army (JNA – *Jugoslavenska narodna armija*) and Serb irregulars entering villages and towns, terrorizing the non-Serb population, and instigating their exodus from the territory that was soon demarcated and named Republika Srpska.

At the beginning of the war in Bosnia-Herzegovina, the Croats were much better prepared to deter the Serb assault than were the Bosniaks, whose forces were poorly organized and largely unarmed. On June 16, 1992 presidents Tuđman and Izetbegović signed an agreement on a military alliance,⁵⁷ although it materialized only in June 1995 prior to the joint Croat-Bosniak offensive in Western Bosnia.

While on the one hand Croatian leadership pursued cooperation with Bosniaks, on the other the Croatian president Franjo Tuđman discussed

⁵⁵ Ribičić, *Geneza jedne zablude*, p. 38.

⁵⁶ Ibid.

⁵⁷ Daniel Bethlehem and Marc Weller, *The 'Yugoslav' Crisis in International Law* (Cambridge, 1994), quoted as forthcoming in Noel Malcom, *Bosnia: A Short History*, p. 240.

the option of dividing Bosnia-Herzegovina between Serbia and Croatia, a step towards creation of the Greater Serbia and the Greater Croatia.⁵⁸ Such a plan was not new in the history of the region and had already been tried in 1939 with the Cvetković-Maček agreement. *Banovina Hrvatska*, the Croatian territory under that agreement that incorporated the territories of Bosnia-Herzegovina, was mentioned in the preamble of the new constitution of the Republic of Croatia in 1991. According to Zdravko Tomac, the Vice Prime Minister in the first Croatian government, Croatian politicians at the beginning of the war in Bosnia-Herzegovina had not decided which path to choose: to insist on the preservation of Bosnia-Herzegovina as a state or to respect the 'reality' that Bosnia-Herzegovina would disintegrate. "It had to be decided either to enter negotiations with Milošević about Croat-Serb separation line in Bosnia-Herzegovina, or insist on military alliance with Bosniaks, because the war would not end until the Greater Serbia was created or the idea of the Greater Serbia was defeated."⁵⁹ Several options were tried simultaneously: alliance with the Bosniaks, negotiations with Milošević, support for the preservation of Bosnia-Herzegovina, and division of Bosnia-Herzegovina.⁶⁰ Tomac also noticed that the discussion on the partition of Bosnia-Herzegovina between Croats and Serbs at the expense of Bosniaks⁶¹ would ultimately lead to a war between Croats and Bosniaks.⁶²

⁵⁸ See Miloš Minić, *Dogovori u Karađorđevu o podeli Bosne i Hercegovine* (Negotiations in Karađorđevo About Partitioning Bosnia-Herzegovina), (Sarajevo: Rabić, 1998). See also a number of interviews of Stipe Mesić, a former close associate of the late Croatian President dr. Franjo Tuđman, who left the HDZ over disagreement with the Tuđman's politics in Bosnia-Herzegovina. Mesić succeeded Tuđman as Croatian President in 2000. See also the book by Stipe Mesić, *Kako je srušena Jugoslavija* (How Was Yugoslavia Destroyed), (Zagreb: Mislav press, 1994). The original title of this book was *Kako smo srušili Jugoslaviju* (How We Destroyed Yugoslavia), but subsequent editions carried the changed title.

⁵⁹ Zdravko Tomac, *Tko je ubio Bosnu? (Who killed Bosnia?)* (Zagreb: Birotisak, 1994), p.26.

⁶⁰ Ibid, p. 27.

⁶¹ The so-called Boban-Karadžić agreement signed in Graz, Austria in April 1992 defined the terms of the partition of Bosnia-Herzegovina between the Croats and the Serbs.

⁶² Cf. Zdravko Tomac, *Tko je ubio Bosnu?*

The Office of the Prosecutor at the War Crimes Tribunal for the former Yugoslavia made public some of the documents they used in the trial against the Croatian general Tihomir Blaškić.⁶³ One of the documents made public by the Office of the Prosecutor is the *Minutes of a meeting between the President of the Republic of Croatia, Dr. Franjo Tuđman, and a delegation of the Croatian Democratic Union of Bosnia and Herzegovina, held in Zagreb on 27 December 1991. Also attending were officials of the Republic of Croatia.*⁶⁴ At this meeting the wing of the Bosnian HDZ, which was in favor of cooperation with the Bosniaks, was marginalized and the president of the Bosnian HDZ at the time, Stjepan Kljujić, was pushed aside. He officially resigned from the position soon afterwards. Discussing options for Croats in Bosnia-Herzegovina, President Tuđman offered the following argumentation.

...[The] survival, the sovereignty of Bosnia in the present circumstances, from the Croatian standpoint, is such that not only do we not have to advocate it, we must not even raise the issue openly. However, why not accept this offer of demarcation when it is in the interest of the Croatian people here in this Republic, and the Croatian people in Bosnia and Herzegovina. Because I do not see a single reason, a single serious reason, against it... And to create a statelet, therefore, out of the remaining part around Sarajevo where mostly Muslims and some Catholic Croats would stay which would resemble the small historical land of Bosnia. It would, therefore, be a buffer zone in the demarcation of Serbia and Croatia and in such conditions it would have to rely on Croatia to a large extent. That would also satisfy international actors who are now surely seriously counting, as you mentioned, on Serb policing for that Muslim element, Islamic element in Yugoslavia, whose intention it is to establish with the help of Teheran and Tripoli an Islamic state in Europe.⁶⁵

⁶³ Blaškić was initially sentenced to forty years for crimes against humanity, but the sentence was subsequently reduced by the Court of Appeal of the Hague Tribunal.

⁶⁴ United Nations International Criminal Tribunal for the Former Yugoslavia, Prosecutor's Exhibit, Case No. IT-95-14/2-T, Exhibit No. 2717a, English translation of 2717.

⁶⁵ Ibid, p. 20.

Miro Lasić, at the time a minister in the Bosnian government, at the same meeting warned about the possible consequences of supporting territorial partition.

Europe does not want to open a Pandora's box of borders. We must be fully aware that borders are a Pandora's box. The current relation of political and social forces is not the solution. Namely, the solution, which in the present relation of political and social forces may seem optimal, is to preserve Bosnia and Herzegovina as a whole and not touch its borders. And if we had Bosnia and Herzegovina as a whole, sovereign and independent, its convergence with Croatia would be completely certain, completely certain... A political solution could be found, for instance, between the Croats and the Serbs. I believe that some time ago I told the President, too, that Radovan Karadžić offered me personally to inform President Stjepan Kljujić⁶⁶, and so I did, that he offered talks. But when asked what about the Muslims, he replied, "We will send them to the sea, all the way to Bari and the Italian coast." It is also possible to agree with the Muslims, for us Croats to talk with the Muslims. So, an agreement between the two of the peoples is possible. But a very important question arises: what about the third people? The Serbs are offering us talks. But I am certain that they are offering us false gifts and that at a certain moment, when they find it suitable, they will simply walk out on us and shift to an agreement with the Muslims. We always have to keep in mind that this is Byzantine, Byzantine politics, Byzantine mentality.⁶⁷

The goal of demarcating the Croat territories in Bosnia-Herzegovina ran directly against the interest of the Bosniak people who, in time, found themselves confronting two hostile forces, those of Serbs and Croats in Bosnia-Herzegovina. The war between Croats and Bosniaks took place in 1993 and early 1994, to be officially ended on March 1, 1994 when the agreement on the creation of the Bosniak-Croat Federation of Bosnia-Herzegovina was signed by the officials of the two peoples. This Agreement was the result of a U.S. diplomatic initiative which judged

⁶⁶ At the time the President of the HDZ of Bosnia-Herzegovina.

⁶⁷ *Minutes of the meeting...*, pp. 28-29.

that the only effective way to end the war was to unite the two people against the third, i.e. the Serbs. Otherwise, the picture of the war as the fight of all against all was chaotic for which no viable solution could be found. Certainly, the U.S. exerted strong leverage on both sides to cease fighting and sit at the negotiating table. The Federation of Bosnia-Herzegovina was a marriage of convenience in which the two sides had to accept the fact that the only way to realize their goals was through mutual support.

The functioning of the Croat Union Herceg-Bosna did not end in 1994 and it would be years of continuous pressure by the international community before its structure was dismantled. In 2001, the High Representative in Bosnia-Herzegovina removed the Croat member of the state presidency and several other high-ranking HDZ officials on the grounds that they were undermining the Dayton peace process.

In banning Ante Jelavić from public office yesterday, I fulfilled my mandate to protect the Dayton Peace Accords and so secure the hard-won peace in Bosnia and Herzegovina... It is time to exorcise some Balkan ghosts... Time is not on the side of the nationalists and the institutionalized banditry that has plagued Bosnia, Serbia and other Balkan states for too long.⁶⁸

Despite the HDZ's continuous hold on power, it was not the only Croat voice in Bosnia-Herzegovina. Throughout the war and after, there were strong Croat voices who insisted on defending and preserving Bosnia-Herzegovina in its entirety, who did not support ethnic exclusivity but rather the notion of tolerance and multiculturalism. Croats of northern and central Bosnia felt betrayed by their southern brethren, who, they claimed, neither represented nor defended their interests. Several high-ranking officials accused the Tuđman regime, the ultimate decision-maker in all matters related to Croat existence in Bosnia-Herzegovina, as having sold out Posavina, the northern part of Bosnia, where a substantial number of Croats lived.⁶⁹ The Franciscans of central Bosnia vehemently opposed the politics of partition and were active in

⁶⁸ Wolfgang Petritsch, *Financial Times*, 8 March 2001.

⁶⁹ Ante Prkačin, the commander of the Croatian army in Posavina, on a number of occasions publicly accused Tuđman of selling out Posavina to Milošević.

promoting the idea of peace, shared history and the notion of *komšiluk* – the neighborhood.⁷⁰ The Croatian Peasant Party, the HSS, was from the beginning in favor of preserving the Bosnian state, as were a number of scholars, journalists, artists, and many others. The Catholic Church always held the position of preserving the whole of Bosnia-Herzegovina, fearing that the partition would leave a substantial number of Catholics outside the Herceg-Bosna borders. The Bishop of Bosnia-Herzegovina stayed in Sarajevo throughout the war.

I-4c The Bosnian Serbs

The key party of the Bosnian Serbs was the Serbian Democratic Party, the SDS. Its wartime president was Radovan Karadžić, the indicted war criminal who, under conditions negotiated at Dayton, had to withdraw from public life. “During the war, the SDS leadership had two explicit objectives: to establish an ethnically pure Republika Srpska in the largest possible portion of the territory of Bosnia; and to prepare Republika Srpska for unification with Serbia.”⁷¹

All those who worked on a project of creating ethnically pure territories in Bosnia-Herzegovina have their hands stained with blood. Bosnia-Herzegovina had mixed population throughout its territory and a continuous and ethnically pure stripe of land could be created only by means of force. The SDS, as the executor of the policy of ethnic cleansing, functioned as a terror organization that bred fear not only among non-Serbs but also among Bosnian Serbs who did not necessarily support the SDS goal.

However, according to many analysts, the masterminds of the Bosnian Serb politics during and after the war did not sit in the SDS headquarters in Pale and Banja Luka, but in Belgrade. The puzzle of who controlled whom and where were the sources of real power during the war is slowly being put together, much as the result of the work of the Hague Tribunal. Through the cases it has processed so far, the Tribunal has

⁷⁰ Fra Petar Anđelić, a Franciscan priest, was remarkably vocal throughout the war about the dangers of partitioning Bosnia-Herzegovina.

⁷¹ “Refocusing international policy in Bosnia and Herzegovina”, Part One, (Sarajevo: October 14, 1999); available at www.esiweb.org/Report1-1999.htm

‘written’ new chapters of the Bosnian and the post-Yugoslav recent history. However, the two most wanted indictees – Radovan Karadžić, the war-time SDS president and Ratko Mladić, the war-time Bosnian Serb Army commander – are still at large. ‘As long as those charged with war crimes are at large, the real process of reconciliation cannot start’ is a commonly accepted statement. The successful completion of the work of the Hague Tribunal will bear significant weight for measuring the success of the entire international mission in Bosnia-Herzegovina. However, it is not a panacea for a palette of fearful memories and painful experiences imbedded into a post-war Bosnian reality.

In Dayton, the international community acknowledged the success of the SDS wartime project by recognizing Republika Srpska and granting the Bosnian Serbs the right to maintain the entity created, in the opinion of many, through genocide. “In the territory controlled by the Army of Republika Srpska (*Vojska Republike Srpske* or *VRS*), fewer than two per cent of the original non-Serb population remained, and a large number of mosques, Catholic churches and other traces of non-Serb culture had been destroyed. Republika Srpska was economically and institutionally linked with the Federal Republic of Yugoslavia, using the Yugoslav Dinar as currency. Its payments system was linked to the central bureau in Belgrade, making it in practice one system. Public utilities, including electricity and telecommunications, were integrated with the former Yugoslav system. All public services, insofar as they functioned, were segregated from the rest of Bosnia, and the school curriculum and textbooks were provided by Yugoslavia. SDS leader Radovan Karadžić, speaking before the Republika Srpska National Assembly in the spring of 1996, described Republika Srpska as “a state which the government bodies and citizens are bound to preserve and – at a favorable political moment – integrate into the motherland Serbia, that is, Yugoslavia.””⁷²

Just as other nationalist parties, and even more so, the SDS draw its strength from the support received from its sponsor and from illegal and criminal activities. The international community accused the SDS for

⁷² “Refocusing international policy...”, p. 11. For Karadžić’s statement see also “Bosna: država na papiru”, *Oslobođenje* (Sarajevo: May 5, 1996), p. 4.

protecting and controlling the black market in coffee, fuel, cigarettes, and alcohol. The post-war period with the endemic lack of rule facilitated introduction of previously marginal forms of criminal activities – drug trade and human trafficking. In addition, a number of stories which described foreign soldiers involved in criminal activities circulated among the locals. Criminal activities came to be a source of living for substantial portion of the population, particularly demobilized soldiers and paramilitaries.

“Local SDS party leaders exercised tight control over local economic activity, and corruption was endemic. The autonomy of these power structures was maintained through an aggressive ideology of isolation, which included not only a refusal to permit minorities to return to Republika Srpska, but also a rejection of foreign assistance.”⁷³

However, by the time of the Dayton Agreement the Belgrade support for Republika Srpska decreased as a result of Milošević’s break with the SDS and economic hardships Serbia experienced. There was hardly any production in Republika Srpska and the economic activity was based on trade, the largest chunk of which was in smuggled goods.⁷⁴ The impoverishment of the population contrasted even more sharply with the SDS leadership and the new elite who accumulated their wealth through criminal activities.⁷⁵

Economic hardships and military setbacks suffered in the NATO bombings and the joint Bosniak-Croat offensive in the summer of 1995 bred dissatisfaction. Public morale was low and internal problems mushroomed, which in 1997 facilitated the defection of Biljana Plavšić, Karadžić’s successor as the President of Republika Srpska, and the relocation of the capital from Pale to Banja Luka.⁷⁶ “If there was a

⁷³ “Refocusing international policy...”, p. 11.

⁷⁴ Anyone passing by the Arizona market in the northern Bosnia (close to the District of Brčko) or driving along the so-called 'Corridor' tying up two parts of Republika Srpska would see numerous sellers of smuggled cigarettes and pirate CDs.

⁷⁵ A number of articles were published in *Nezavisne novine* and *Reporter* on these topics.

⁷⁶ Biljana Plavšić, who went a long way from the close Karadžić's ally to an SDS defector and the President of Republika Srpska, ended up as an indicted war criminal

motivation for Plavšić's coup beyond political opportunism, it seems to have been concern about the viability of an internationally isolated Republika Srpska, bearing in mind the fate of the Serb Krajina Republic in Croatia. Plavšić's speeches during 1997 revealed an awareness that, without Milošević as patron, Republika Srpska was dependent on the international community for economic and military security. Plavšić sought to gather public support by naming those figures in the SDS who were responsible for corruption. She described the way the SDS party-state functioned: "A part of the population are not paying customs, they are not paying taxes, they are robbing the state. This is why you have no salary, no pension... I would no longer allow phone calls telling the judges what to do. I would not disconnect electricity when somebody says something unpleasant about me."⁷⁷

Plavšić managed to carry out the coup relying heavily on the international community's assistance. Interestingly enough, neither the Bosnian Serb army nor ordinary citizens saw this coup as a reason to protest or show disagreement in any significant way. In the end, she was even able to appoint her own people to the military command.

"Since then, the international community based its Republika Srpska political strategy on strengthening the loose anti-Pale coalition in the National Assembly, and maintaining the political isolation of the SDS"⁷⁸ with intermittent attempts to separate the SDS leadership. After Biljana

and was tried at the ICTY. The Tribunal is to pass the sentence in the early spring of 2003. Although she offered remorse for crimes she was charged for, her earlier statements remain. As a scientist and a biologist, she introduced racist criteria for cleansing Bosnia-Herzegovina of Bosniaks "who abandoned their Serb origins." In an interview with *Novosadski svet* of September 6, 1993 she reiterated the thesis that Bosniaks originally were Serbs: "It is true. The genetically deformed material embraced Islam. And with every new generation this gene simply becomes more concentrated." Following these ideas, Plavšić's concludes: "We are disconcerted with the fact that a number of mixed marriages between Serbs and Muslims has grown, because mixed marriages lead to the exchange of genes between ethnic groups, that is they lead to Serb degeneration." (Translation is mine).

⁷⁷ "Refocusing international policy..." , p. 12.

⁷⁸ Ibid.

Plavšić marginalized hard-liners, or so it seemed, international reconstruction aid was offered to Republika Srpska in significant quantities for the first time. With this strong weapon in their hands, the international community began to tie the delivery of financial aid to Republika Srpska with its readiness to implement the Dayton Agreement. However, the mixture of financial rewards and political pressures appears not to be an incentive strong enough to compel the Bosnian Serb leadership to abandon their wartime goals. Minority returns, a prerequisite for restoring some of the Bosnian multiethnic identity, have been limited to a few parts of Republika Srpska.⁷⁹ Even in Banja Luka, the power base of political moderates, there was no significant progress in minority return.⁸⁰

Despite economic hardship, political pressure and the indictment of a substantial number of high-ranking officials from the political and military spheres, Republika Srpska practiced a very low pace of reintegration with the rest of the Bosnian state. To those who fought with the objective of separating themselves from the rest of the country it was very difficult to undergo the mental transformation and accept reintegration as a new objective. Such an objective questioned the utility of the sacrifice made in the quest for separation and bred frustration. It was humiliating to a nationalist to be forced to open his door for others, the very ones who he managed at high cost to get rid of. Those who were the chief executives of the project of ethnic cleansing felt betrayed by their brethren who in new circumstances saw an opportunity to get into a chief executive office.

Thus, the transition from one state of mind to another was characterized by harsh internal turmoil and struggles. The outcome of this struggle had a considerable impact upon the peace process as whole. The

⁷⁹ For example, Dobož is a place where a large portion of pre-war Bosniaks returned despite the fact that it was the SDS-stronghold for years.

⁸⁰ The reconstruction of the destroyed *Ferhadija* mosque, which was built in the 16th century, was stopped in May 2001 by Bosnian Serb protesters who beat to death one and wounded a number of Bosniaks who attended the ceremony of the commencement of the mosque reconstruction.

interveners learned that the best strategy was the effective marginalization of the side that opposed the goal of the interveners. Openly fighting hardliners would reinforce their power base and result in an increase of possible conscripts for their cause. In general, the stronger unwittingly delivers some bonus relevance to the weaker by confronting them openly. The low profile tactic of marginalizing the opponent is more time consuming, but in the long run stands a better chance of succeeding.

The international community tried several strategies with the Bosnian Serbs, from appeasing them, openly fighting them, and rewarding them to strategically manipulating them. During the war, appeasement did not work, as the Bosnian Serbs eventually went as far as committing massacres of Srebrenica proportions.⁸¹ The international community had to face the fact that its policy of not getting involved was interpreted as active appeasement. Open fighting followed, but this strategy, although it created a breakthrough, unified Bosnian Serbs against the powerful enemy. The policy of reward was practiced with Milorad Dodik when this Republika Srpska prime minister was heavily rewarded for rhetorically supporting the international community's objective, but hardly ever fulfilled any of his promises. And finally strategic manipulation came as a mixture of different tactics whose final goal was to strengthen the moderates and marginalize the hardliners. Of course, the promotion of moderates does not happen overnight. For the very reasons already discussed, i.e. the wartime ambitions, the lack of physical security and other factors, moderates had a limited chance of success in the beginning. But once the elements that created the war mentality are removed or weakened, a mentality more favorable to peace can emerge.

⁸¹ The Bosnian Serb army onslaught on the UN protected safe haven of Srebrenica on July 11, 1995 left between seven and eight thousand victims, mainly men. The General Secretary of the United Nations, Kofi Annan, five years later admitted that the world did not do enough to protect the civilians and that it shares its part of responsibility for the terrible event. The Dutch government, whose peacekeepers were in Srebrenica at the time of the massacre, collectively resigned in April 2002 after the report on Srebrenica, requested by the Dutch parliament, was released.

I-4d The Bosniaks

The main Bosniak party was the Party for Democratic Action, the SDA, whose wartime interest was to defend the Bosnian state which it saw as the best way to protect Bosniak interests who, if the Bosnian state were divided between Croatia and Serbia, might cease to exist as a nation.

The Bosniak delegation in Dayton expressed the greatest interest in establishing and strengthening the central state institutions. The other two delegations – represented by Tuđman and Milošević – were obviously considerably less interested in building the Bosnian state. However, the position of the Bosniak delegation at Dayton was puzzling. According to the chief negotiator at Dayton, the Bosniak delegation made hardly any vital contribution to the definition of the institutions to be established in the new state.

On the eve of the talks, the Bosnians [the Bosniak delegation] still had serious internal divisions within their government, few clear positions, and no qualified international legal experts.⁸²

Yet, because of their strategic orientation, the SDA was more cooperative and supportive of the Dayton agenda although during the implementation of the Dayton Agreement, the SDA occasionally found itself unable to mount support for the Bosnian state beyond the party interests. Therefore, although the interests of the SDA coincided with the interests of the international community, the SDA did not manage to rise above limited party interests and become a true state-building party.⁸³

“The SDA exhibits a greater diversity of opinion within its ranks than the other nationalist parties, and includes voices supportive of Dayton

⁸² Richard Holbrooke, *To End a War*, p. 224.

⁸³ For the purpose of clarification, I would like to say that the statement that the SDA did not manage to rise above its particular party interests is not to be interpreted necessary as a terrible fault on the part of the SDA – all parties follow particular interests. Unfortunately, Bosnian postwar situation required a leader able to transcend particular interests and embrace common interests. As much as this statement may be seen as reflecting political naivety, I insist that only a leader/political party capable of offering a common vision to all Bosnians will put the state-building in the right gear.

implementation as well as xenophobic elements. The isolation of Bosniak pockets from each other during the war led to the development of localized power structures which were formally part of the SDA, but which operated with a high degree of autonomy. As a result, the central SDA leadership is not always able to control cantonal and municipal authorities, which may be as obstructive as those found in Croat- and Serb-controlled areas.”⁸⁴ “Analysis of the evolution of Bosniak power structures shows that fragmentation of central authority can have contradictory effects: towards encouraging political pluralism on the one hand, but also towards replicating authoritarian power structures at a local level on the other. Some foreign observers avoided the complexity of the character of the three parties and their behavior in the war by attributing a false equivalence to all of them in the name of impartiality. Others interpret Bosniak politics only from the perspective of their wartime status as the defenders of a multiethnic ideal. Both generalizations are misleading.”⁸⁵

During the war, within the SDA-controlled territories an effort was made to preserve the multiethnic character of communities as a guarantor of the existence of the Bosnian state. The SDA, as already said, did resort to actions that undermined the Dayton agenda.⁸⁶ However, on a general level, the level of security for non-Bosniaks was considerably higher within the SDA-controlled territories than it was for Bosniaks on territories controlled by other two parties.

“On the whole, there was a higher level of responsible governance in Bosniak areas, and signs of institutional weakness were less pronounced. There was a degree of dispersal of power among independent institutions.”⁸⁷ There were attempts among the judiciary, the police, and the public administration to emphasize their profiles as based solely on

⁸⁴ “Refocusing international policy...”, p. 13. Bugojno personalized in Dževad Mlaćo, Goražde in Rijad Raščić, Sanski Most in Mehmed Alagić, and Bihać in Mirsad Veladžić are examples of localized Bosniak power.

⁸⁵ Ibid.

⁸⁶ The SDA had a problem of double standards where it insisted on the right of free return of refugees and displaced persons, but it, for example, resisted free return of Serbs to Sarajevo.

⁸⁷ “Refocusing international policy...”, p. 15.

professionalism, not a party affiliation. As the OHR identified the fight against corruption as one of its priorities, the SDA led cantons also came under scrutiny.⁸⁸

⁸⁸ For example, the investigation of corruption in the Tuzla canton in 1999 resulted in bringing up charges against the cantonal SDA prime minister Hazim Vikalo. In defense, Vikalo accused a few prominent SDA members of concealing their own criminality by setting him up. The initial charges, however, that operated with the figure of several hundred thousand KM ('convertible marks' are Bosnian currency tied to the German mark) of embezzlement were gradually reduced during the trial and in the end Vikalo was acquitted in 2003. His lawyer Faruk Balijagić explicitly accused the SDA for sacrificing his client in a cosmetic effort to gain a few points in a pre-election year by appearing determined to fight corruption. The international community welcomed and supported the local elite attempt to fight corruption within its ranks. "Two cases that the OHR's Anti Fraud Unit (AFU) closely monitored, assisting local authorities to investigate and prosecute suspects are on trial. The 'Tuzla case' against former Tuzla Canton Prime Minister Hazim Vikalo and three other government officials started at the Tuzla Municipal Court on November 2, after ten months of investigation and removal of Tuzla Canton Minister of Interior and four Tuzla prosecutors. Mr. Vikalo and others are charged with the abuse of office and negligence in official conduct involving multiple violations of cantonal and Federation laws and regulations. Current charges involve several hundred thousand KM. Financial aspects of investigations and a majority of charges that are currently being investigated are based on a 4000-pages report of the Finance Police on Tuzla Canton budget for 1997 and 1998." OHR: Economic Newsletter, Vol. 2, No 10, November 1999. Bosnian independent media, however, maintained that although Hazim Vikalo deserved no sympathy as a corrupted official, he deserved some as a member of the SDA. As small fish within the party's structure he was expendable in a way that big fish was not. "Regardless of the fact that there is no legal decision yet, all circumstances connected to the 'Tuzla case' indicate that his departure represents an act of basic justice... However, it would be considerable injustice if Hazim Vikalo were to remain an exemplar of a 'moral monster' of post-war Bosnia-Herzegovina, because he represents a model of local strongman who is characteristic for the entire Federation. If other cantons would 'unpack' in the same way as Tuzla canton, it would be quickly revealed that Hazim Vikalo is considerably lagging behind, for example, two Bakirs in Sarajevo (Bakir Izetbegović, the son of Alija Izetbegović, and Bakir Alispahić, former Interior Minister who was removed under the U.S. pressure over Pogorelica training camp affair, exp. mine), Veladžić family in Bihać, Čengić family and Šaja in Goražde..." Hasan Hadžić, "Tuzlanski kanton: Vikalov kraj", *BH Dani*, No. 102, May 14, 1999.

Alija Izetbegović cultivated the image of the sole defender of his people. The nature of the relation of the Bosniak people towards its leadership was mixed and somewhat confused, mainly as a result of the war experience and the tendency of Bosniaks to perceive themselves as the major victims of the war. In that regard, any strong criticism of Bosniak politics was rebuffed with a reply that the critic was insensitive and disrespectful of the victims. The victim mentality seriously undermined the capacity of Bosniaks for political evolution.

There were also instances when the role of the SDA as the defender of the multiethnic Bosnian state was questioned. A few former members of the political establishment accused the SDA of hypocrisy and dishonesty. Sefer Halilović, a Bosnian Army general and the Chief of Staff of the Bosnian Army in 1992-94, accused Alija Izetbegović and the SDA of deliberately executing the policy of partition of Bosnia-Herzegovina.⁸⁹ Rusmir Mahmutćehajić, an influential minister in the Bosnian government at the beginning of the war who resigned from his position over his disagreement with Izetbegović, in his book *Kriva politika (The Wrong Policy)* maintains that the key SDA leaders gradually agreed to the partition of the country, in conformity with the project carried out by Tuđman and Milošević, as well as the international community during the first years of the war.

⁸⁹ Sefer Halilović, *Lukava strategija (The Shrewd Strategy)*, (Sarajevo: Maršal, 1997). On the role of the KOS (the former Yugoslav Counterintelligence Service) cadre among the Bosniak leaders, see Munir Alibabić, *Bosna u kandžama KOS-a (Bosnia in the claws of KOS)*, (Sarajevo, 1996). At one point in his book (p. 23), Halilović recalls a conversation with Izetbegović on the flight back from Geneva on January 1, 1993 [where peace negotiations took place at the time under the International Conference for the Former Yugoslavia – ICFY, headed by David Owen on behalf of the European Union and Cyrus Vance, later replaced by Thorvald Stoltenberg, on behalf of the United Nations]. Halilović quotes Izetbegović as saying: “Let me tell you what Araft told me. He asked me: ‘Alija, are they offering anything to you?’ I told him: ‘They are, they are, and a good chunk too.’ And Araft says: ‘Take it, Alija. They made offers to me but I didn’t want that, I wanted it all. In the end I was left with nothing. Take it, Alija, while they are offering, because in the end you will be left with nothing too.’ When he had told all this, he looked straight at me and said: ‘You harbor dangerous illusions. Man, we have to take a chunk of Bosnia. Let the people return to this chunk of Bosnia, bring order and create a state. If we carry on like this, we will end up with nothing too.’”

Only on that platform becomes understandable the chain of events that gradually but steadily led to reducing the state to the 'Muslim content' as a way for the Bosniak political leadership to clearly utter its position that Bosnia should be reorganized as a union of three states, one of which would be "Muslim" in character. Almost all political action among Bosniak politicians have been directed towards this goal from the summer of 1993. The principle of partition was accepted and the later discussions focused on percentages and details. The Bosnian public, immersed in the war destruction, in general knows very little of what takes place during negotiations.⁹⁰

One camp of critics held that the SDA practiced the politics of double standard: rhetorically supporting the multiethnic Bosnia-Herzegovina, while in practice working towards the separate state for the Bosniaks – a Muslim mini state in Europe. This was the argument of the late Croatian president, dr. Tuđman, who appealed to the West to support Croatia in defending the Christian civilization from the Muslim threat.⁹¹ Another camp of critics would not deny that the SDA fought for the preservation of the Bosnian state, but would claim that it was the strategic maneuvering of the SDA as its ultimate goal was to subdue the entire state of Bosnia-Herzegovina to its rule. According to these critics, this was a reason why the SDA insisted on defining Bosnia-Herzegovina as a state of its citizens, while the other two nationalist parties insisted on defining Bosnia-Herzegovina as a state of its nations.

However, criticisms of this sort are still largely based on speculation. Thus, claiming that the ultimate goal of the Bosniak leadership was the creation of the separate state for Muslims is not based on a concrete fact – a written document, a public speech of an SDA leader, the political program – but on the understanding that the SDA could not be any different from other nationalist parties.

⁹⁰ Rusmir Mahmutćehajić, *Kriva politika* (Tuzla: Radio Kameleon, 1998), p. 66.

⁹¹ For this argument of Franjo Tuđman, see Warren Zimmermann, *Origins of a Catastrophe. Yugoslavia and Its Destroyers – America's Last Ambassador Tells What Happened and Why* (New York: Random House, 1996); and Carl Bildt, *Misija mir* (Sarajevo: Zid, 1998).

Those who defend the SDA politics, in reply, use the argument that a sustained campaign of ethnic cleansing was never mounted on the SDA-ruled territories. Critics, again, reply with two arguments. One is that the SDA leadership, because of its ambition to preserve the entire Bosnia-Herzegovina in order to subdue it to its rule, could not allow to be equaled to those who destroyed Bosnia-Herzegovina.⁹² The other is that the Bosniaks would have committed the same amount of crimes if only they had means with which to carry out such acts. Since the Bosniaks were poorly armed, they could not mount military actions of large proportions and commit crimes of the same magnitude as their opponents, but they would have done so if they could.⁹³

The debate amongst the Bosniaks about the true intentions of their leadership during the war was often emotional and beset by accusations of perceived treachery and disloyalty, although the passing of time calms emotions and allows the dialogue to be carried out in a less dramatic manner. The dialogue should continue until the Bosniak political thought crystallizes, until it will be possible to communicate in a clear and coherent manner the Bosniak political position, and its vision of the future. This process of political maturation may be slow, but is inevitable if true national autonomy is to be achieved. To shape their own future, the Bosniaks have to face and acknowledge their mistakes in the past.

Although mostly identified with the SDA, there have been other non-nationalist political forces among the Bosniaks. In the local and general elections of 2000, the Bosniak vote was split between the SDA and the non-nationalist Social Democrats (SDP) and Haris Silajdžić's Party for Bosnia-Herzegovina (SBiH).

⁹² Independent magazines *Dani*, *Slobodna Bosna* and *Reporter* (especially in the years 1997, 1998 and 1999) published a series of articles and interviews in which some of this criticism was articulated.

⁹³ See General Lewis MacKenzie, *The Peacekeeper: The Road to Sarajevo* (Douglas & McIntyre, 1993); also Chapter Five of Carlos Branco's thesis (unfinished) on the UN peacekeeping in Bosnia-Herzegovina, EUI.

I-4e The Alliance for Change

The November 2000 elections brought to power the ‘Alliance for Change’ – a coalition of non-nationalist parties – strongly supported by the international community.⁹⁴ The main party within the coalition, which managed to form governments at the State and Federation level, were the Social-Democratic Party (SDP) and the Party for Bosnia-Herzegovina (SBiH), supported by a number of smaller parties endorsing the Dayton agenda. Their electorate included the urban, mainly Bosniak population. “Nearly 90 per cent of the SDP vote is concentrated in five Federation cantons...This compares to 89 per cent of HDZ voters concentrated in the remaining Federation territory...The SDA, SDP and SBiH strongholds are in the same regions, putting these parties into direct competition. The SDP and SBiH also share with the SDA the fact that nearly all their voters and candidates come from those who fought the war on the side of the Republic of Bosnia and Herzegovina during the war.”⁹⁵

To form a government, the SDP and SBiH had to create an unwieldy ten-party coalition, established after the elections under close international supervision.⁹⁶ The alliance of federation-based parties of disparate size, ideological orientation and national coloration cooperated at state level with parties from Republika Srpska that were both in power and in opposition in that entity. The Alliance thus lacked cohesion on both levels of government. It sought to push a reform agenda, but one that could not help but reflect the lowest common denominator of what was acceptable to its different sets of partners in the Federation and the

⁹⁴ The elections took place on November 11, 2000. The races included the Parliamentary Assembly of Bosnia-Herzegovina, the Federation House of Representatives; the National Assembly of the Republika Srpska; Presidency and Vice-Presidency of the Republika Srpska; the municipal elections in Srebrenica; and the elections assemblies in the ten Federation cantons.

⁹⁵ «The end of nationalist regimes and the future of the Bosnian state», Part Three, *European Stability Initiative*, 22 March 2001, p. 14 (the original paragraph is changed to the extent that I add the SBiH to the SDA and the SDP in explaining their regional support base).

⁹⁶ “High Representative welcomes formation of new Council of Ministers”, *OHR Press Release*, Sarajevo, February 22, 2001.

Council of Ministers. Changes acceptable to the Federation parties often proved anathema to those from Republika Srpska. Even in the Federation, the Alliance had difficulty in maintaining cohesion with and among cantonal governments that were expected to be under its control.

Both the international community and non-nationalist Bosnians expected much from the Alliance: the eradication of corruption, economic reforms, jobs, regular pensions and a new relationship between the local and international actors. Improvements followed in those areas where consensus existed (enhanced revenue collection and fiscal reforms such as the merger of pension funds), where there was little resistance (fulfillment of conditions for accession to the Council of Europe), or that were perceived as inevitable (constitutional reforms and anti-terrorist measures). But in those spheres requiring a commitment to overcome diverging interests within the Alliance – such as reform of the social service sector, privatization, and economic revival – action was to be deferred or abandoned.⁹⁷

The 2002 general elections saw again the return to power of nationalist parties. The Social Democrats, although favored by the international community, lost not only because of their ineffectiveness in the previous two years to make any substantial progress towards political and economic stabilization of the country, but also because the nationalist parties discarded some of their nationalist rhetoric and instead adopted the reform agenda for their political programs. Many observers pointed out that the 2002 elections bore historical significance since the mandate of the elected officials was for four instead of two years, as had previously been the case. Those who came to power in 2002 would have more time to carry out their political programs, and the fact that the nationalist parties were given these mandates was received with a large dose of caution by the international community. However, the international community then changed its strategy from promoting its favorites and running down its opponents, thus interfering with the democratic process and weakening the very rules it was trying to establish, to the strategy of insisting on strict respect for the Dayton

⁹⁷ See International Crisis Group (ICG) Report, “Bosnia’s Alliance for (Smallish) Change”, Sarajevo/Brussels, August 2, 2002.

agenda and the rules of peace implementation, regardless of who was in power. This long-awaited evolutionary step in the intervention strategy stands a good chance of delivering some sound long-term results.

I-5 INTERNATIONAL POWER

The international force in Bosnia-Herzegovina consists of both military and the civilian forces. The military consists of the NATO-led forces called the Stabilization Force (SFOR) as of December 1996. Until the end of 2002, there was also the UN Mission to Bosnia-Herzegovina (UNMBIH) which was in charge of police restructuring and training. The civilian force consists of a long list of different institutions, agencies and organizations. The civilian implementation is headed by the Office of the High Representative (OHR) and represented by the High Representative (HR).⁹⁸

To move from the role of a coordinator to the one of a chief implementer of the Dayton Agreement, the international community considerably expanded its area of authority. At a meeting in late 1997 in Bonn, the Peace Implementation Council⁹⁹ granted extensive new powers to the High Representative. With these powers the High Representative became the principal voice in setting up the international strategy and communicating it to the locals.

Analyses of the international mission in Bosnia-Herzegovina five years after the end of the war concluded that the peace process had stalled.¹⁰⁰

⁹⁸ See "Background Paper 7-2000: For the Stockholm Seminar on Bosnia and Herzegovina", *European Stability Initiative* (Sarajevo: February 24, 2000); also "Whither Bosnia", *International Crisis Group* (Sarajevo: September 9, 1998); and "Background Paper 4-1999: International efforts to combat corruption in Bosnia and Herzegovina", *European Stability Initiative* (Sarajevo: October 1999).

⁹⁹ The Peace Implementation Council was created in early December 1995, after the initialing of the Dayton Agreement. It is made up of foreign ministers from western countries and directors of agencies involved in the Bosnian peace process.

¹⁰⁰ BBC News on Wednesday, May 24, 2000 reported: "Time is running out for the leaders of Bosnia-Herzegovina, who have failed to create a stable democracy and economy in four years since the end of the war. Western representatives in Brussels made it clear to Bosnian nationalist parties and their allies that they were losing their patience... Wolfgang Petritsch, the man in charge of implementing the Dayton peace

While giving the international community credit for preserving the peace, these reports noted that the many international objectives were not realized. The interpretation most commonly offered was that the international community had reached the limits of its influence, and was doing little more than maintaining the status quo. As the High Representative put it in his 2000 New Year's letter to the people of Bosnia-Herzegovina:

This is the fifth year of the peace process, and Bosnia and Herzegovina cannot continue to muddle along as it has so far. There is a growing perception in Western countries that at the present rate of peace implementation, international involvement will be almost indefinite.¹⁰¹

Although substantial progress in some areas was recognized, there was a general feeling of fatigue and a lack of direction. The exit strategy was seriously debated, all the time weighed against the investment made. The rationale was that an early exit would jeopardize those accomplishments already achieved, which in effect would mean the failure of the intervention. However, positive changes were recorded where the international community applied a concerted and determined approach.

The only logical conclusion is that the local conditions are not incorrigible, but the change depends on making a sound diagnosis and carrying out the proper treatment. If this medical metaphor seems harsh, in essence it very closely resembles the situation on the ground. The interveners have had a discrete power to 'diagnose' the problem and 'treat' it by methods thought to fit the diagnosis. Thus, the diagnosis determined the interveners' action and the local reaction. With this

agreement... said he felt most of the brain power in Bosnia went into how to obstruct rather than how to create." See page:

http://news.bbc.co.uk/1/hi/english/world/europe/newsid_762000/762299.

The IWPR's Balkan Crisis Report, No. 143, of May 26, 2000 states: "The international community is losing patience with Bosnia's ineffectual political leaders... [and] is questioning its commitment to Bosnia because of the slow pace of the peace process."

¹⁰¹ OHR Press Release, *Can Bosnia and Herzegovina and Europe work as one? New Year's Letter by the High Representative to the Citizens of Bosnia and Herzegovina*, Sarajevo, December 31, 1999.

intervening cartel as the only care provider, locals who did not agree with the diagnosis and the treatment did not have the possibility to seek a second opinion. The realization that *this is all there is* has led to profound change in perception of locals of the options available.

The sense of overall improvement from the fifth to the seventh year of the peace implementation shared by most observers can be ascribed only to the resolute and concerted action of the interveners. Cooperation and determination among the interveners ran directly against the interest of those local actors who, opposing the intervention and observing the lack of cooperation and resolve among the interveners, were encouraged to remain patient and wait for the intervention to fail. In that sense the events in the first half of 2001, that is the clashes of the Bosnian Croats with the international community and the violence in Republika Srpska against the return of refugees, in effect are not proof of Dayton failing, but instead of Dayton succeeding. The low-profile politics of anti-Dayton elements during the first years of the peace process seemed the best strategy to see the imminent failure of the intervention. However, as the Dayton objectives began to be slowly realized, the anti-Dayton elements grew impatient. Eventually, an open showdown against the peace implementation replaced the low-profile politics.

This way of interpreting the peace process implies that the supervisors of the intervention have extensive manipulative power which they can choose to use or not. The choice is between two options:

- an aversion to using power limits one's responsibility, but at the same time limits the potential for realizing the goals; and
- the will to use power increases the responsibility, but at the same time increases the potential for realizing the goals.

The peace process in Bosnia-Herzegovina has revolved around outward aspects of reintegration, such as freedom of movement, the institutional structure, the use of the single currency, etc. However, deeper reintegration, the reintegration in which there would be one capital, one parliament, and one president did not take place. This scenario was not envisaged in the Dayton Agreement, but it was advocated by a number

of observers who criticized the DPA as an obstacle to establishing a sound basis for long-term peace.¹⁰²

The ultimate goal of the nationalist hardliners – the partition of Bosnia-Herzegovina – and the goal of the international community – the reintegration of Bosnia-Herzegovina – have been in conflict and the question is who will prevail? The international community is more powerful, has greater resources and, as long as it is interested in the Bosnian case, the hardliners' goal cannot be realized. However, since the international community has other cases to attend to, the final solution for Bosnia-Herzegovina may come to be left with the locals. This leads one to pose the following question: is there a force in Bosnia-Herzegovina that could play an integrative role in the future of the country?

¹⁰² Haris Silajdžić's political rhetoric in the years following the end of the war mainly focused on criticizing the Dayton Agreement as an obstacle to genuine, long-term peace. He openly called for the revision of the DPA, for which he was criticized by Bosnian Serbs and Bosnian Croats, as well as the international community.

II THEORETICAL FRAMEWORK

This chapter outlines the theoretical groundwork for the research problem as defined in the previous chapter. The body of literature on international interventions is voluminous and I make no pretense to have summarized it in its entirety. To systematize the existing literature, as well as the main arguments and schools of thought would take an entire thesis.

Post-Cold War state building interventions are projects characterized by three principal elements. The first element is the nature of international politics after the end of the Cold War that defines collective response to emergent crises. The second element is the nature of the conflict in which the international community intervenes. The third element is the goals that the intervener sets forth, thus determining the type of the intervention it undertakes.

This chapter discusses these elements and is organized in four main parts. The first part focuses on the nature of post-Cold War interventions – basic assumptions that drive interventionist politics and its main criticism. The second part introduces general definitions of states and their internal organization and move to the discussion of specific requirements of states that suffer deep internal divisions. The third part addresses the issue of externally sponsored state building that takes place in the post-war setting of a target state. Post-war German and Japanese experience illustrates the complexity of state building projects. The fourth part explains the specificities of the Bosnian case and introduces the state building model as being implemented in Bosnia-Herzegovina as of 1995.

Our capacity to understand interventions that come as part of a post-war peace package depends largely on our capacity to understand the underlying processes of conflict the intervention is trying to overcome. While the study of war and conflict is relatively advanced, we are still far from producing a *coherent approach* to the study of conflicts, and the interventionist literature lacks a clear baseline in international relations theory to rely upon. While rationalist literature struggles to explain

conflicts, the introduction of third-party intervention adds another tier to the analysis and with it more complexities arising out of the large number of actors, incentives, interests, and possible configurations. It is therefore not surprising that peacemaking literature in general and literature on interventions in particular has produced little consensus and is beset by severe problems of conflicting empirical results.

The intervention can be analyzed from a variety of perspectives. We could study types of interventions, such as financial interventions, natural-disaster interventions, humanitarian interventions, preventative interventions, peacekeeping interventions, military interventions, and many others. We could also concentrate on different time periods and analyze the evolutionary path of intervention. We could concentrate on normative discourses relating to interventions. We could study the effect of intervention as a foreign policy tool. Finally, we could analyze the current, post-Cold War debate on the changed nature of intervention and the new rhetoric that accompanies recent interventionism.¹⁰³

II-1 POST-COLD WAR MILITARY INTERVENTIONS

II-1a Definitions

States have always employed different tools to influence the behavior of other states. War as an instrument of politics, in the famous phrase of Clausewitz, has remained a constant element of human existence. Intervention as a method of operating in the international arena is less extreme than war, although it does not proscribe the use of arms in realizing the intervener's objectives. In this thesis, **intervention is**

¹⁰³ A sign that interventionism as a tool of international politics will be around for some time to come and will therefore be an option in career planning comes not only from international organizations, think-tanks, and foreign affairs departments, but also from academic institutional settings. The University of Miami offers a Masters degree in International Administration, a program designed "to reflect the changed circumstances of the world at the end of the 20th century and the subsequent changing career opportunities in international service... Thus, an understanding of conflicting cultures and values, the global flow of information, and applied management techniques is of equal importance with a working knowledge of diplomacy, trade and finance." Available from <http://www.miami.edu/international-studies/mais.html>

defined as a tactic (military or otherwise) used by one state to influence or change the internal situation in another state. It is strategic manipulation based on diplomacy and the use of force, on carrots and sticks, directed towards winning over the opponent to support the intervener's goal. As Thomas Schelling emphasized many years ago in his seminal work, *The Strategy of Conflict*, strategy needs to be thought of more broadly in terms of how one actor attempts to get another actor to do something it might not otherwise do.¹⁰⁴

Most other writers on interventions operate within the same categories as those already put forward. Thus, Karin von Hippel defines military intervention as a “coercive tactic used to manipulate a country into taking a certain path that would not otherwise be chosen.”¹⁰⁵ Neil MacFarlane defines military intervention as “the coercive attempt to change the internal political balance of another state.”¹⁰⁶ Richard Haass explains that “armed interventions entail the introduction or deployment of new or additional combat forces to an area for specific purposes that go beyond ordinary training or scheduled expression of support for national interests.”¹⁰⁷ In his view armed intervention entails activities ranging from the ‘classic’ form, i.e. the use of force as a response to an actual or potential behavior of another state beyond its borders, to the use of military force “for the purpose of affecting the internal situation in or politics of another state.”¹⁰⁸ Haass classifies interventions according to the following purposes: deterrence, prevention, compellence, punishment, peacekeeping, war-fighting, peace-making, nation-building, interdiction, humanitarian assistance, and rescue.¹⁰⁹

¹⁰⁴ Thomas Schelling, *The Strategy of Conflict* (Cambridge, MA: Harvard University Press, 1960).

¹⁰⁵ Karin von Hippel, *Democracy by Force. US Military Intervention in the Post-Cold War World* (Cambridge, UK: Cambridge University Press, 2000), p. 3.

¹⁰⁶ S. Neil MacFarlane, “Intervention in Contemporary World Politics”, *Adelphi Paper* 350, The International Institute for Strategic Studies, 2002.

¹⁰⁷ Richard N. Haass, *Intervention. The Use of American Military Force in the Post-Cold War World*, Revised edition (Washington, D.C.: The Brookings Institution Press, 1999), p. 20.

¹⁰⁸ Ibid.

¹⁰⁹ Haass, *Intervention*, p. 50.

II-1b Normative discourse on intervention

In the post-Cold War world, humanitarian intervention became a *sine qua non* for international involvement in a conflict-ridden state. In fact, humanitarian interventions are often referred to as armed humanitarian interventions, which is not an oxymoron, but a precise definition of what it stands for: the use of arms in realizing humanitarian objectives.

Nonetheless, intervention as a systematic feature of the international order has always been around. During the Cold War the superpowers intervened in a number of places, mainly within the Third World, in order to advance their particular interests.¹¹⁰ The end of the Cold War somewhat changed the way the intervention was initiated and justified. The particular interests of potential interveners gave way to universally shared values of human rights. The emerging 'conventional wisdom' holds that the further internationalization of society places greater limitations on national sovereignty and legitimates collective humanitarian intervention. According to Adam Roberts,

[...the] humanitarian action as a response to war, and to violent crisis within states, has been tried in the 1990s as never before ...[taking] any form – provision of food and shelter for refugees; airlifts of supplies to besieged populations; proclamations of 'safe areas'; attempts to ensure implementation of the laws of war; monitoring of detention conditions; the use of outside armed forces for 'humanitarian intervention' in situations of chaos, warlordism, massive atrocities and tyrannical government; mine-clearance, and post-war (even sometimes intra-war) reconstruction ... The fact remains that alongside the growth of humanitarian action there has been a policy vacuum. Major powers and international organizations have lacked long-term policies addressing the substantive issues raised by the conflicts of the 1990s. The vacuum increases the demand for humanitarian responses but reduces their effectiveness.¹¹¹

¹¹⁰ Major Western interventions took place in Indochina, the Middle East, Central America and the Caribbean, Africa, and elsewhere. The USSR also carried out numerous interventions as part of its foreign policy, including Hungary, Czechoslovakia, and Afghanistan.

¹¹¹ Adam Roberts, *Humanitarian Action in War: Aid, Protection and Impartiality in a Policy Vacuum*, (Oxford: Oxford University Press for the IISS, 1996), pp. 7-9.

Humanitarian and peacekeeping operations, democracy promotion, defense of human rights, multilateral military campaigns, actions against international drug trafficking, and the anti-terrorist campaign have been carried out with increasing frequency since the end of the Cold War under the aegis of the UN and other multilateral venues. These new modalities of intervention suggest the rise of collective political authority in the global system, but they have generated a sharp polemic. Critical analyses challenge the conventional interpretation of the new interventionism with the claim that it represents no more than a shift in mechanisms of control, and even a new form of colonialism, by an increasingly unified transnational elite intent on maintaining structures of domination and suppressing demands for the redistribution of wealth and a more systematic democratization of the global capitalist order.¹¹²

Has humanitarian concern changed the traditional concept of a military intervention? A forceful ‘no’ comes from the following authors:

Throughout the Cold War, under the auspices of the global ideological conflict, the United States and the Soviet Union were engaged in an elaborate game of intervention and proxy wars on the periphery. Since the end of the Cold War a ‘new game’ of intervention with potentially more participants has begun. Military intervention will remain an instrument of statecraft and thus a constant feature of international politics. The various powers may have different motivations for participating in this new game, but they are all linked to their perceived respective national interests. The national interest remains the main driving force behind the foreign policy actions of individual states. It is a wide enough concept to embrace the more traditional concern with national security and international power as well as humanitarian concerns. Humanitarian intervention, defined as a forcible action without the prior invitation or consent of the target state’s government for the specific purpose of protecting fundamental human rights (Arend and Beck, 1993: 113), fulfils all the essential characteristics of ‘traditional’ military

¹¹² Noam Chomsky remains one of the most prominent critics of the evolution of international politics in the post-Cold War world.

intervention: it is military intervention with a humanitarian objective. In conclusion, it may, therefore, be argued that the post-Cold War international system may see the beginning of a new game of intervention, perhaps over different issues, possibly with new actors, but that they will abide by the same old rules.¹¹³

The end of the long peace¹¹⁴ raised new foreign policy issues that have confused governments in search of new security doctrines. It is in this context that the literature on new types of intervention is emerging, as part of a search for rationale and strategy in operating in the international arena. As the “security community exists on both sides of the Atlantic”,¹¹⁵ the focus of the Western world is on other regions.

John Ruggie explained that it was initially believed that the end of the Cold War would be conducive to a stronger UN, in line with Roosevelt’s scheme of a concert-based UN security system. However, without decisive U.S. support for the UN, it became hard to expect the UN to play a useful global role. Prospects for a prominent UN have remained slim as long as the U.S. administration perceives the UN’s peace operations as merely “a sometime tool for third-level American interests,” as the *Washington Post* characterized a long-awaited Clinton administration UN policy directive.¹¹⁶

Stanley Hoffmann assumes that interveners, sticking to a narrow humanitarian mandate and without addressing the causes that produced it, “may well be doomed to playing Sisyphus... If the political causes are not removed, victims will remain in danger and the intervention will risk, at best, being no more than a band-aid, and at worst, becoming part of the problem.”¹¹⁷ Once in, an intervener is usually driven to expand

¹¹³ Thomas Otte et al, “The West and the Future of Military Intervention”, p. 187.

¹¹⁴ John Lewis Gaddis, *The Long Peace* (New York: Oxford University Press, 1987).

¹¹⁵ *Washington Summit Communique*, “An Alliance for the 21st Century”, Washington D.C., April 24, 1999, item 1.

¹¹⁶ “Peace-Keeping Guidelines”, *Washington Post*, Editorial, May 8, 1994, p.C6, quoted in Ruggie (1996: 78).

¹¹⁷ Stanley Hoffmann, “Out of the Cold: Humanitarian Intervention in the 1990s,” *Harvard International Review* 16(1):9 (Fall 1993). Quoted in Haass, *Intervention*, p. 99 and in Garrett, *Doing Good and Doing Well*, p. 78.

the mission, to do more than was initially planned. The Somali experience is a proof of this tendency. An explicit and limited humanitarian goal proved to be unachievable as long as other issues were not tackled. Tackling other issues meant doing a job for which the intervening force had no capacity, nor will. In the end, as the costs started to exceed the tolerance level, the interveners decided to pull out. The intervention in Somalia was perceived by most as nothing but purely humanitarian in character. Neither the United States nor any other nation that intervened later in Somalia faced any imminent danger from the horrific events that took place in this unfortunate country. However, it challenged the purported view of the time that a safer and better world was possible. It was Somali warlords that induced a wide-scale famine by plundering food, and it was the international intervention that was aimed at preventing that.

When U.S. troops intervened in December 1992 to stop the theft of food, they disrupted the political economy and stepped deep into the muck of Somali politics. By re-establishing some order, the U.S. operation inevitably affected the direction of Somali politics and became nation building because the most basic component of nation building is an end to anarchy. The current conventional wisdom that draws distinctions between different types of intervention and stresses the desire to avoid nation building may be analytically attractive, but it is not particularly helpful. How could anyone believe that lending 30,000 troops in a country was anything but a gross interference in its politics? The Mogadishu line¹¹⁸ was crossed as soon as troops were sent in.¹¹⁹

The U.S. Ambassador to Kenya argued from the beginning against the U.S. intervention in Somalia, explaining his argument sardonically “if

¹¹⁸ In Bosnia, U.N. peacekeepers under fire from or taken prisoner by Serb forces were expected to turn the other cheek for fear of “crossing the Mogadishu line.” This expression, reportedly coined by Lieutenant General Sir Michael Rose, former commander of the United Nations Protection Force in Bosnia (UNPROFOR), describes the need to maintain neutrality in the face of all provocation for fear of becoming an unwilling participant in a civil war.

¹¹⁹ Walter Clarke and Jeffrey Herbst, “Somalia and the Future of Humanitarian Intervention”, *Foreign Affairs*, 75 (2): 66-85 (March/April 1996), p. 66.

you liked Beirut, you'll love Mogadishu." He added that the effects of a major American presence in Somalia would be to "keep tens of thousands of Somali kids from starving to death in 1993 who, in all probability, will starve to death in 1994."¹²⁰

According to Stephen Stedman, the urge to take preventive action – to do something, anything – can lead to ill-considered policies that lack strategic sense.¹²¹ This is not an argument against early action, which Stedman endorses by quoting official statements on three cases of humanitarian intervention (Somalia, Rwanda, Bosnia)¹²², but what he implies is that if a decision "to do something" is not linked to a broader strategy of how to tackle the complexities of the crisis, it can in some circumstances even exacerbate it.

According to Neil MacFarlane, in the contemporary world politics intervention "has been transformed from its traditional role as a vehicle for the promotion of political interests of states into a mechanism for the promotion of purportedly universal norms."¹²³ He contends that there are two aspects of the post-Cold War normative dimension of

¹²⁰ Don Oberdorfer, "The Path to Intervention," *Washington Post* (December 6, 1992), A35; quoted in Garrett, *Doing Good and Doing Well*, p. 112.

¹²¹ Stephen Stedman, "Spoiler Problems in Peace Processes", *International Security*, 22(2):5-53 (Fall 1997), p.17.

¹²² Mohamed Sahnoun, former head of the UN mission in Somalia, argued that there were several opportunities for international intervention to prevent the anarchy and civil war that engulfed Somalia in 1992 and 1993. "A preventive approach", he stated, would have had "a fairly good chance of success without great expense, and without the need for a large military presence." Sahnoun, Mohamed, *Somalia: The Missed Opportunities* (Washington: United States Institute of Peace, 1994:5); Alain Destexhe, secretary-general of Medecins Sans Frontieres, wrote that early action would have averted genocide in Rwanda: "Deploying an intervention force early in crisis can save not only lives but also money." Destexhe, Alain, "The Third Genocide", *Foreign Policy* (Winter 1994-95: 16); According to Secretary of State Warren Christopher, even the Bosnian crisis was avoidable: "The West has missed repeated opportunities to engage in early and effective ways that might have prevented the conflict from deepening... An early and forceful signal might have deterred much of the aggression, bloodshed, and ethnic cleansing." Warren Christopher, quoted by Reuters News Service, February 10, 1993. All quoted by Stedman (1995: 17).

¹²³ Neil MacFarlane, *Intervention in Contemporary World*, p. 7.

intervention. The first aspect for which an intervention may be carried out is the defense of human rights and the protection of civilian populations threatened by civil war. The activities that an intervener may undertake for these purposes are the delivery of relief supplies, protection of the personnel delivering them, or coercing states and other parties involved in the conflict to cease violating the individual and group rights of the civilians living under their authority. The second aspect for which the intervention may be carried out is to restore (or establish) democracy in a state that had fallen victim to internal conflict. “It may be becoming legitimate for international actors to use force to promote particular forms of internal state arrangements.”¹²⁴

This change in the normative nature of intervention has been recorded and discussed by various sources – in law, international relations, military studies, peace and conflict resolution studies, and others. Moreover, substantive normative and structural changes have recently taken place in other fields of the human domain. Thus, it is not that we only register change in interventionist politics at the end of the 20th century, but changes are also discussed and analyzed in literature concerning the nature of the contemporary state, on the challenges of globalization, on new cultural and social divisions, etc. Therefore, the study of the nature of current interventionism cannot be devoid of complex and multifaceted changes occurring simultaneously in other related fields.

As a society we witness and, to a degree, influence this change, while as scholars we attempt to capture the change within a comprehensible framework. However, creating such a framework is inherently difficult when one is dealing with a contemporary phenomenon that is undergoing constant change at the same time as it is being analyzed. This has significant repercussions for defining the scope of research and research goals. Since the evolution of the phenomenon occurs in parallel to the analysis, our conclusions are ultimately limited and case(s) based. However, similar limitations could be applied to a number of other

¹²⁴ Neil MacFarlane, *Intervention in Contemporary World*, p. 8. For more detailed discussion on normative aspects of the international intervention after the Cold War, see pp. 7-10.

scholarly ingressions into spheres of contemporary life, despite the sweeping generalizations some of them tend to make.

To sum up, post-Cold War interventions were granted legitimacy only if understood in terms of humanitarian purpose. Nonetheless, despite this professed altruism and benevolence, interventions have continued to demonstrate particular state interests that may have little to do with any genuine concern for the well-being of civilians in distant places. As a reaction to the fall of the Berlin Wall, the notion of international relations as being driven by integration and cooperation prevailed for a short while and was epitomized in the *New World Order* concept of the American president at the time, George Bush Sr.¹²⁵ However, the initial enthusiasm vanished the moment post-Cold War challenges and problems surfaced for which the world did not have any ready-made solution to offer. This led to a perpetuation of the politics of reaction rather than the politics of vision and insight.

Despite certain claims that the world changed substantially after the Cold War, the effect of this change seems less and less apparent as times goes by. The initial optimism was premature because as long as states remain key players in the international arena, they will consistently display behavior that is inherent to the nature of the state and to its particular interests. The behavior can be and is modified over time, but the basic, fundamental characteristic of the state's nature is not altered. If there is to be a profound change in the international system, it will not occur with states as we know them still around. A profound change would require an extensive transformation of the international system, a much more ambitious makeover than the one made by the end of the Cold War.

¹²⁵ Jean-Marie Guéhenno questions the assumption that globalization equals integration and instead proposes to view fragmentation as a part of globalization. Philippe Schmitter eloquently sums up this argument: "...[I]t seems logical to assume that instead of a uniform trend toward larger and larger units, or the recourse to any 'small is beautiful' tendency, we should expect diversity according to the conditions of individual and collective choice prevailing in the regions..." *International Relations and Democracy*, International Conference, Warsaw, June 25, 1998, the Conference Report, p. 12.

II-1c Interventions bounded

The term intervention is prone to conceptual overstretching, as it is used to describe almost any kind of behavior and thus often does not describe anything. Military assistance to a government, for example, may come in the form of arms supplies or training programs for the domestic combat forces of a target state and may eventually prove more effective than an intervener's direct military deployment.¹²⁶ Financial and economic conditionality applied to a target state may also be defined as an intervention, since the conditionality measures are carried out in order to influence and modify a certain government's policies. The media also possess powerful tools with which to influence events in places it focuses on that in itself may constitute a direct interventionist act. Finally, doing nothing is an action that delivers certain results and creates certain effects.¹²⁷ Not intervening in an internal conflict, for example, directly influences the balance of power in a state at war. Stanley Hoffmann summarizes the perplexity relating to the term "intervention":

The subject [intervention] is practically the same as that of international politics in general from beginning of time to the

¹²⁶ An example of training as a form of military assistance is the *Train and Equip* program of the US Army for the Bosniak-Croat Federation Army in Bosnia-Herzegovina.

¹²⁷ The record shows that pure neutrality is rare in interventions. The principle of neutrality has long guided the work of intervening forces, traditionally led by the United Nations. The poor peacekeeping record in several cases after the end of the Cold War has seriously brought the principle of neutrality into question. If a peacekeeping mission fails to achieve its objective, the question is why. Some authors claim that the primary reason for failure is the insistence of neutrality in disregard of a number of vital issues that define a conflict. In some conflicts the neutral approach is well suited. In some others, however, it cannot lead to a path of peace because the neutral position is a value-laden position. Not taking a side is taking a side. In some conflicts acting as a neutral force translates into support for one party (or parties) to the conflict against their opponent(s). Because interventionism as such is a contested issue, the intervener attempts to incur the least damage to itself by playing on the card of neutrality. However, neutrality is not a panacea against possible damage. Neutrality translates into a lack of responsibility which is the essential defining element of intervention – without responsibility intervention clings on the verge of triviality.

present... Anything can constitute an intervention, indeed even non-acts can constitute intervention.¹²⁸

However, in the absence of a better term, I use it as a first step in delineating the area I am looking at in this thesis. The second step is to define the type of the intervention I am analyzing, i.e. the post-Cold War multilateral military and civilian intervention in an internal conflict with the objective of halting hostilities and of (re)creating the institutions of a failed state. Thus, what I am analyzing is not a general type of a post-Cold War intervention, humanitarian or not, but a specific type of intervention in which the intervener makes commitments and undertakes a series of tasks that lead to a long-term and intense engagement in a target state.

In this regard, Cold War interventions, which occurred within a crudely defined ideological framework, are no longer relevant. Our case study relates neither to the Cold War Cyprus model (a traditional UN peacekeeping mission to oversee the separation of the warring parties), nor the unilateral superpower interventions like the US intervention in the Dominican Republic, the USSR intervention in Hungary, or proxy wars such as in Afghanistan. Cold War interventions were set within the ideological framework of delineating superpowers' spheres of influence that makes their explanatory power for post-Cold War interventions limited.

Delineating the line between intervention and war creates difficulties for which there is no straightforward solution. Basically, the boundary that defines an act as either war or intervention is determined by the perspective from which it is being viewed. The NATO-led action in Kosovo and the bombing of Yugoslavia or the U.S.-led action in Afghanistan are both instances where the boundary line is obfuscated. The NATO action in Kosovo is treated by most analysts and scholars as an intervention, because it came as a response to the Yugoslav government's treatment of the Albanian population in the province. Bombing of Yugoslavia went without the consent of the Yugoslav

¹²⁸ Stanley Hoffmann, "The Problem of Intervention" in Bull, *Intervention in World Politics*, quoted by MacFarlane, "Intervention in Contemporary World Politics", p. 14.

government (and understandably so) and as such stood as a direct attack on an independent state. The general Yugoslav consensus is that the NATO action represented an act of war on their country.

Policy-making circles in the West, however, are unwavering in their view that the 1999 NATO action in Kosovo (including the bombing of selected targets in Yugoslavia) was an intervention for humanitarian purposes, while academic circles remain less coherent.¹²⁹ Bombing of Yugoslavia created yet another precedent: NATO initially acted without the approval of the UN Security Council, which was granted only after the action began. All these questions were again rigorously debated in the context of terrorist attacks on the United States in September 2001 that resulted in a broad, U.S.-led anti-terrorist military campaign. The anti-terrorist campaign has raised additional questions not only about the nature of the military actions, but also about what follows after the military campaign is over. Limits of military engagement and challenges of civilian reconstruction of war-torn societies are issues that preoccupy policymakers, generals, aid workers and academics alike.

II-1d Sovereignty and the concept of non-intervention

Discussion of the concept of intervention is tightly linked to the issue of sovereignty and the question of whether it proscribes interference by one or more states into the internal affairs of another state. Traditionally, sovereignty was understood as the state's right to exercise full jurisdiction over its territory and that this right was to be recognized by other states. States exist as equal members of the international community and, since there is no supreme authority in the international system, it is in the interest of each individual member to maintain this order. This understanding of sovereignty formed the basis for the development of the norm of non-intervention.

¹²⁹ For criticism on NATO intervention in Kosovo see Noam Chomsky, *The New Military Humanism: Lessons from Kosovo* (Monroe, ME: Common Courage Press, 1999); P. H. Liotta, *The Wreckage Reconsidered. Five Oxymorons from Balkan Deconstruction* (Lanham and Oxford: Lexington Books, 1999); Tariq Ali (ed.), *Masters of the Universe. NATO's Balkan Crusade* (London: Verso, 2000).

The norm of non-intervention, which is based upon the concept of sovereignty, can be tracked back to the Treaty of Westphalia and thus has been one of the cornerstones of the practice of international relations since then. Article 2(4) of the UN Charter prohibits the threat or the use of force between states, and other legal international conventions enshrine the principle of non-interference in the internal affairs of states.

However, such understanding of sovereignty does not give a *carte blanche* to states to do whatever they want within their borders, fearing no reaction from the outside world. The sovereignty principle is not an absolute right, as some states would have it. Sovereign states remain the primary political actors in international society, although they appear to be in a condition of relative decline as compared to international institutions, transnational corporate and financial actors, and transnational citizens' associations. However, these non-state actors are not fully independent and are to a varying degree controlled by states. For example, only states can become members of the United Nations and most other international organizations.¹³⁰

For Rousseau, sovereignty rested with the people and his writings gave rise to the terminology of popular sovereignty and the 'will of the people'. Yet, the concept of sovereignty is of primary importance in international relations, not domestic politics. Sovereignty as an idea and practice has persisted in international relations since Machiavelli and Hobbes. However, their idea that each state is a law unto itself, as there is no superstate, and that the state is the ultimate arbiter of its own fate in relation to the outside world, has been challenged extensively. Despite the prevalence of the *realist* school in both the study and practice of international relations, conceptual and policy tensions are increasing.¹³¹

¹³⁰ Cf. Joel Krieger (ed.), *The Oxford Companion to Politics of the World*, Second edition (Oxford: Oxford University Press, 2001) on the discussion of sovereignty, pp. 789-791.

¹³¹ Realism is the label given to the traditional orthodoxy in political approaches to international relations. It is conventional to counterpose realism to idealism. Realism dominated the discipline in the decades following the Second World War and its intellectual heritage goes back to Thucydides, Machiavelli, Hobbes and Rousseau. *Realpolitik* refers to the realist's determination to treat politics as they really are and not as the idealist would wish them to be.

International law arose to regulate relations among states and has expanded steadily over time in response to the growing complexity of the international system. But an effective international law is not easily reconcilable with the conceptions of sovereignty that underlie realist thinking on international relations.

The recent emphasis on the international protection of human rights is a particular challenge to sovereignty, as it implies that a state is not territorially supreme and does not have absolute jurisdiction over how its government treats those who live within its boundaries. These challenges to the traditional understanding of sovereignty arise from both normative and functional pressures. The normative pressure is based on the notion that no state possesses an inherent and undeniable right to abuse its own citizens. The functional pressure is reflected in the increasing interdependency of different parts of the world as a result of globalization. Thus, for the international system to function properly states can no longer be considered as exerting authority solely within their boundaries, but their authority is expanded due to rapid technological advancement. For example, the capacity to operate in space and in the ocean modifies perceptions of the internal and external. Environmental concerns diminish the territorial delineation of states' authority and instead compel them to loosen their sovereignty principles when issues of well-being and health protection are at stake.

II-1e Who intervenes

Who are the actors in an intervention? Traditionally, an intervener has been a state, while the recipient may be either an incumbent government or its adversaries. However, in the twentieth century this cast broadened. Communists from different countries intervened to assist anti-fascist forces during the Spanish civil war. Thus, the events of the 1930s raised the possibility that transnational political movements could also engage in intervention. The end of the Cold War particularly facilitated the possibility for various non-state and transnational actors to assume an interventionist role and engage in world politics. Examples of such non-state actors include terrorist organizations, mercenaries, drug cartels and other groups involved in organized crime. These transnational movements provoke a reaction from states that are threatened by their activities. A second category of non-state actors that

are taking on an increasingly significant role is that of international institutions. The capacity of such organizations prior to the twentieth century was minimal, while their capacity to exercise the role of potential intervener during the Cold War was circumscribed by the bipolar division of the world. The end of the Cold War witnessed a substantial change in the way the United Nations and other regional multilateral organizations, such as the North Atlantic Treaty Organization (NATO) and the Economic Community of West African States (ECOWAS), assumed broad mandates in carrying out interventions in a number of places.

II-1f Why to intervene

Given the assumption that potential interveners do not rush indiscriminately into any state that makes itself available for intervention, let us now discuss the key issues in decision-making prior to the launch of an intervention.

The first task is to define the objectives. The definition of objectives is usually based on the intervener's available resources and its will to employ them, rather than on what the crisis requires to be done. Thus, the intervener is the one who dictates the terms of intervention, not the recipients. It is the will of the intervener that is the main determinant, not the need of the recipient. If the objective is to cease violence and lay down conditions for long-term stability, then it is indeed very important to decide how an intervener will go about it. The decision to intervene or to not intervene is made on the basis of the cost of doing either of the two. If the cost of non-intervention is judged higher than the cost of intervention, the political will of a prospective intervener is reinforced and the intervention is more likely to follow. However, always cost-conscious, an intervener tries to realize the maximum of its objectives with the minimal investment.

The necessity of limiting the cost, although understandable from the position of a decision-maker, is not necessarily conducive to realizing the objective. Quite often the high cost of intervention is incurred in the initial phase, whose design is revealed to be inadequate for the problem at stake. An intervener starts with a lower cost in the hope that a restricted level of engagement might prove sufficient to deliver

satisfactory results. The emphasis in the previous sentence is on the word *hope* because it is purely hope or a miracle that interveners expect when they allocate very limited resources for a mission that sets out to deal with a severe crisis. This statement should not be interpreted as a call for an indiscriminate increase in commitment on the part of the world's well-to-do for the welfare of their less successful counterparts. However, if the intervener is not prepared to bear the cost of intervention, it should not intervene. Otherwise, it may not only worsen the situation for the recipient of the intervention, but may also bring about a loss of credibility for itself. Therefore, some conservatism is well advised in a situation where a potential intervener has the power, but limited interest to make long-term commitments.

Once in, the intervener has to make some strategic decisions. If it judges that it has to up-scale the engagement to achieve initial objectives, it means that the resources allocated in the beginning were quickly spent and/or insufficient to realize the objectives. If the intervener is willing to invest more, it is because doing the reverse would actually incur higher cost. To save time and resources, the potential intervener should stay clear from raising unwarranted expectations. A prior knowledge of the situation and a clear objective are critical in determining the amount of resources the intervener is willing to invest. Time and effort lost in the beginning can be saved if proper entry is made.

The criterion for deciding the level of cost a potential intervener is willing to tolerate is usually based on the strategic interests it has. The definition of strategic interests in literature is far from being clear-cut and uniform, but we can safely say that the strategic interest for a state is securing its well-being and protecting its existence. A conflict that is perceived as a threat to another state or a number of states becomes an issue of strategic interest and threatened states will be required to act. Situations of direct threat are obvious, in contrast to situations where no such direct threat can be established. In situations of a direct threat to a state, the decision to intervene is much simpler for a decision maker. When a state is attacked by another state, it is obvious that its security, stability and prosperity, i.e. its strategic interests, are threatened.

Cases of *indirect* threat are less clear-cut and thus more perplexing. Nonetheless, interventions have traditionally taken place because strategic interests of states have been indirectly threatened. The decision to intervene is based on the perception that a conflict in another place is also endangering the potential interveners. If the threat is interpreted in economic terms (oil, for example) or political interests (the fight against Communism during the Cold War), then deciding whether to intervene is usually a less complicated task. However, if the threat is not measurable on a traditional scale of interests, it becomes much more difficult for a decision maker to decide what to do.

Since decisions to intervene are not necessarily based on transparent and universally understandable criteria, as such criteria do not exist, the room for free interpretation of the nature of intervention is vast. The recent tendency to justify intervention as a humanitarian undertaking expands the category of strategic interest and makes it rather volatile. For analytical purposes it is best to avoid the false dichotomy of interventions falling either in the category of sole strategic interest or pure humanitarian concern.¹³²

The experience of the last ten years suggests that once in, the intervener finds it difficult to disengage from a crisis that is not resolved. Should

¹³² As Adam Roberts pointed out in his lecture on the right of humanitarian intervention on April 13, 2000 at the European University Institute, the picture is certainly not clear. The confusion surrounding the dilemma of whether to intervene or not, and if so, when, how and for how long is a real and earnest one. Few cases fit neatly into categories of either pure national interest or selfless humanitarianism. The most often cited case to be found in the first category – the Gulf War – is also believed by some to be primarily a case of upholding the international value of sovereign statehood, while economic considerations are merely an intervening factor (Otte et al., 1995: 177). The pure humanitarian concern as a rationale for ‘Operation Restore Hope’ in Somalia, on the other hand, is widely upheld. Yet, some argue this was only a pretext for an American-led mission to enter the country in order to “prevent Somalia from falling into the Iran-Sudan camp. Such an eventuality could directly threaten Western economic interests – in this case oil, given the strategic position of Somalia, lying at the back of the Arabian oilfields...” (Mohamoud, 2000: 159). To sharpen analytical tools, research focused on international intervention should, it seems, investigate cases of interest without arbitrarily trying to place them in any category. Rather, findings from each particular case should be directed primarily towards informing the theory and broader debate, so that a more reliable set of assumptions and testable hypotheses can be generated.

this suggest that no intervention in an intra-state conflict should take place? The norm of non-intervention to be reinforced? Choices will continue to be case-based. Conflicts and crises in which an intervener would be willing to bear the cost of the intervention to achieve its objectives or protect its interests seem to remain a feature of the international system.

II-1g How to intervene

Generations of policy elites since Thucydides' time have been learning and revising lessons about war and peace. According to Crocker and Hampson they do this in cycles and spasms in times of profound historical changes or simply when "things are not going well". Inability to make peace work in processes that have started after negotiated settlements to ethnic or intrastate conflicts have been concluded, cause despair from a "strong sense of intervention fatigue and reluctance to risk political capital and devote resources to causes where the chances of success are less than even." This despair is heightened by the fact that since 1945 only one third of civil wars has ended in lasting peace. The major reason for such a poor track record is the easily forgotten fact that "implementing peace agreements is a no less formidable task than negotiating them."

In the view of Crocker and Hampson, the use of third parties like the United States, NATO, and the United Nations plays "a critical role" in sustaining peace and implementing peace agreements. For the foreseeable future, "outsiders will be essential in moving peacemaking forward through direct action and diplomatic initiative and in defining the parameters of tolerable behavior and legitimizing the principles by which settlements and membership in the global system can be achieved."¹³³ Such a statement, however, is not to be understood as an invitation for the proliferation of interventions. What Crocker and Hampson stress, though, is when the international community decides to act, it should be aware of the challenges inherent to the implementation of any peace plan. In this "trial-and-error phase of modern history" a

¹³³ Chester Crocker and Fen Osler Hampson, "Making Peace Settlements Work", *Foreign Policy*, 104: 54-71 (Fall 1996), p.55.

crucial part in any implementation process will be “imaginative improvisation and the spontaneous solving of problems that are certain to arise.”¹³⁴

According to these two authors there are five fundamental elements for the successful implementation of a peace agreement. First, “controlling the definition of success” implies that decision-makers should be conservative in stimulating excessive expectations of an intervention that is often used for domestic political reasons. There is no firm answer how to define success, but “those who decide to intervene have an obligation to develop their own definition of success and to keep it firmly in mind so as not to become part of the problem and make things worse.” The second element is to “defer elections if necessary” because holding elections too early may aggravate the situation by further polarizing already divided and fragile societies, thus watering down the long-term prospects for peace. Experience has shown that most successful agreements typically contain power-sharing formulas, but in the absence of such provisions, an agreement must offer equal and fair access to political life to all groups. The third element implies that “disarmament and demobilization are key objectives” because failure to disarm and demobilize has often led to a resumption of fighting if parties encounter problems in the political process. The fourth element should be an effort to “help promote new norms and codes of conduct”, particularly in the area of human rights, but also within judicial and legal systems. Finally, the fifth element is that “economic and social reconstruction is crucial to the success of the peace process.”¹³⁵ Here, third parties play a crucial role in reconstructing and rebuilding civil society in order to achieve long-term peace and stability. Civil society plays a significant role not only in democratic societies but also in societies that are in transition from war to peace. In this sense coordination of donor efforts is a “fundamental ingredient for success”, but in order to undertake reconstruction programs a basic level of security is a prerequisite.

¹³⁴ Ibid., p. 57.

¹³⁵ Ibid., pp. 62-70.

In a similar vein, Michael Brown holds that international efforts directed at preventing, managing and resolving internal conflicts face formidable obstacles.¹³⁶ The starting point for Brown in assessing international efforts to deal with internal conflicts is first, to distinguish between the main tasks: conflict prevention, conflict management, and conflict resolution. The second step is to distinguish between different kinds of policy instruments: humanitarian assistance; fact-finding; mediation; confidence-building measures; traditional peacekeeping operations; multifunctional peacekeeping operations; the manipulation of arms supplies through embargoes and transfers; the utilization of economic levers, including sanctions and aid; judicial enforcement measures; and the use of military force. The third step is to distinguish between three main types of actors: independent states; international organizations (including the United Nations and regional organizations); and non-governmental organizations.¹³⁷

An intervention has to be well thought over, since even militarily powerful countries may fail to intimidate weaker opponents into giving up their gains and changing their objectives. If the opponent refuses to be intimidated, the coercing power must decide whether to back off or to escalate the use of force. Alexander George identified three necessary conditions for the successful employment of this strategy: The coercing power must create in the opponent's mind (1) a sense of urgency for compliance with its demand; (2) a belief that the coercing power is more highly motivated to achieve its stated demand than the opponent is to oppose it; and (3) a fear of unacceptable escalation if the demand is not accepted.¹³⁸

The success of the strategy also depends on the demands of the coercing power. If it demands a great deal then this can only strengthen the opponent into opposing it. However, if the coercing power can limit its demands to what is essential, without damaging important interests of

¹³⁶ Cf. Michael E. Brown (ed.), *The International Dimensions of Internal Conflict* (Cambridge, MA: The MIT Press, 1996) and idem. (ed), *Ethnic Conflict and International Security* (Princeton: Princeton University Press, 1993).

¹³⁷ Michael Brown, 1996, p. 604.

¹³⁸ Alexander L. George (ed.), *Avoiding War. Problems of Crisis Management* (Boulder, CO: Westview Press, 1991), p. 385.

the opponent, then it becomes more likely that the strategy will be successful. This relates to the earlier statement that the long-term success depends on the ability to win over the opponent without humiliating him/her. Coercive inducement (or coercive diplomacy), then, is best conceived as a flexible carrot and stick strategy whereby what the stick cannot always achieve by itself, one can possibly obtain by adding a carrot.

Thus, in contrast to pure coercion, coercive inducement typically requires negotiation, bargaining, and compromise. The intervening parties have the potential to strategically influence the domestic setting of another state. The inherent characteristics of interveners is the supremacy of power with which they enter. No rational intervener would intervene in a situation where it itself can become a victim of its own act. If it is weaker than an opponent, then its manipulative capacity is very limited indeed.

Providing that there is a strong military-supported intervention, then the question of success, i.e. creating conditions for either downscaling or up-scaling the mission, largely depends on the commitment of the interveners. The range of issues that can be tackled in an intervention directly depends on the extent of foreign commitment. Short-term engagements address only a certain set of questions. The problem of long-term commitment is, however, painfully obvious. Only specific and highly pronounced interests can induce an intervener to plan a long-term commitment. The record of meager success is directly related to the limit of the foreign commitment. This is not to criticize the lack of commitment, but only to say that the assumption that other societies are impenetrable is inaccurate since the capacity to penetrate other societies is directly related to the intervener's interest and commitment to create an impact in a recipient state.

Barbara Walter forcefully argues for the indispensability of third parties in peace processes.¹³⁹ "The greatest challenge (in ending a civil war) is to design a treaty that convinces the combatants to shed their partisan

¹³⁹ Barbara F. Walter, "Designing Transitions from Civil War", *International Security*, 24(1): 127-155 (Summer 1999).

armies and surrender conquered territory even though such steps will increase their vulnerability and limit their ability to enforce the treaty's other terms. Groups that obtain third-party security guarantees... will implement their settlements. If an outside state or international organization is not willing or able to provide such guarantees, the warring factions will reject a negotiated settlement and continue their war."¹⁴⁰

The most puzzling issue for Walter is "not why civil war combatants are unable to agree on a compromise settlement, but why they would resume fighting after one had been reached."¹⁴¹ The author argues that implementation of the negotiated terms of the peace agreement is a risky operation which parties emerging from war are not capable of accomplishing on their own. They will return to war "if credible, enforceable guarantees on the terms of their agreement cannot be arranged. Once the underlying issues are resolved, negotiations become a search for guarantees that combatants will be protected as they demobilize and that they will not be permanently excluded from a new government once they have done so."¹⁴² Although some authors see partition as a way out from the problem of recreating the state, rebuilding the institutions and restoring trust, Walter maintains that governments rarely agree to a territorial partition, but rather opt for power-sharing as the only negotiable alternative.¹⁴³ However, preoccupied with security issues, fearing marginalization, lacking established, democratic mechanisms through which to channel their grievances, former warring parties will credibly commit to the implementation of the peace agreement only if there is a third party which is equally credibly committed to the peace process.

Walter is straightforward: what is lacking is not the will on the part of the warring sides to negotiate a settlement, but some kind of external guarantee that the terms of the settlement will be implemented and

¹⁴⁰ Ibid, pp. 129-130.

¹⁴¹ Ibid, p. 129.

¹⁴² Ibid, p. 133.

¹⁴³ On partition see Chaim Kaufmann, "When All Else Fails", *International Security*, 23(2): 120-156 (Fall 1998).

honored. “If outside states expect civil war settlements to endure, they must consider how the institutional parameters of any new government shape groups’ expectations about their future security and factor into decisions to fight or cooperate. Military force might be crucial for demobilization, but creative institutional design matters far more in the long run.”¹⁴⁴

In a successful attempt to bring to the fore the main issues concerning the role of third parties in peace processes, Chester Crocker and Fen Osler Hampson offer clear guidelines to policy makers contemplating or designing a mission into a state ridden with internal conflict.¹⁴⁵ They see the quality and content of negotiated agreements as only partially affecting the eventual success or failure of a peace process. “Third parties... have a critical role to play in nurturing peace and helping with the implementation of peace settlements.”¹⁴⁶ Because of the difficulties conflict-torn societies encounter after the fighting ends, “for the foreseeable future outsiders will be essential in moving peacemaking forward through direct action and diplomatic initiative and in defining parameters of tolerable behavior and legitimizing the principles by which settlement and membership in the global system can be achieved.”¹⁴⁷

They in no way advocate intervention in every possible conflict; however, once a decision to engage in peacemaking is made, it is essential to face the challenges of implementation in a way that ensures success rather than failure. “Just as conflicts seldom resolve themselves, peaceful settlements do not implement themselves. The role of foreign interveners cannot end on the day that agreements are signed. Implementing mechanisms are essential to keep things on track, to sustain the political chemistry that produced the deal, and to continue the linkages and pressures that led to the breakthrough. As in law or business, statecraft illustrates the maxim that the real negotiation begins

¹⁴⁴ Ibid, p. 155.

¹⁴⁵ Chester A. Crocker and Fen Osler Hampson, “Making Peace Settlements Work”, *Foreign Policy*, 104: 54-71 (Fall 1996).

¹⁴⁶ Ibid, p. 55.

¹⁴⁷ Ibid, p. 56.

only *after* the agreement is signed. Outsiders who orphan the settlements they have helped to produce, by getting out too early due to lost interest or political will, will watch the agreements collapse.”¹⁴⁸

The two authors discuss some of the concerns the intervening forces may hold as a result of earlier negative experiences. The “mission-creep” experience from Somalia can be avoided if the initial (humanitarian) intervention is wedded to a political process that can provide the basis for a successful operation and subsequent exit. Another political problem is the lack of an exit strategy on the part of interveners; a problem that clearly manifested itself in the Cyprus conflict. However, the real lesson of Cyprus should be that one can use the interval created by a peace agreement “to cultivate a political process that will produce decent and durable results.”¹⁴⁹ In fact, what this experience suggests is that military action alone cannot achieve much unless linked to a genuine political process. Successful examples of third party management in ending hostilities and setting the grounds for a lasting peace in places such as El Salvador, Mozambique, Cambodia, Nicaragua and Namibia show that the international community played a crucial role not only in ending military hostilities, but also in building a durable peace. In these cases the third party remained fully engaged during both the negotiation and the implementation of the agreements in question and, if violence flared up, did all they could to keep the parties to their negotiated commitments.¹⁵⁰

Why is international crisis management in the post-Cold War period proving to be both inadequate and incompetent? According to Quentin Peel there are a whole host of reasons: inadequate information, or information that is available but fails to percolate through to a high enough level of decision-making; an inability to pay attention until crises are exploding; and an urgent desire throughout the western world to

¹⁴⁸ Ibid, p. 57.

¹⁴⁹ Ibid, p. 61.

¹⁵⁰ Ibid. p. 71. See also Chester A. Crocker and Fen Osler Hampson with Pamela Aall, eds., *Managing Global Chaos* (Washington, D.C.: U.S. Institute of Peace Press, 1996); Fen Osler Hampson, *Nurturing Peace* (Washington, D.C.: U.S. Institute of Peace Press, 1996); Chantal Joune de Oudraat, ed., *Coercive Inducement* (Washington, D.C.: U.S. Institute of Peace Press, 1998).

respond to the CNN factor – that “something must be done” to tackle pictures of human suffering. Then there is the desire or inclination to impose solutions designed in western capitals; and unwillingness to pay for those solutions, even when they are imposed.¹⁵¹

Stephen Stedman explains that “a defining characteristic of the post-Cold War era has been the disjuncture between its complex, horrifying events – anarchy in Somalia, civil war in the former Yugoslavia, genocide in Rwanda – and the presumption among some foreign policy elites that easy solutions to such disasters can be found.”¹⁵² The lack of an agreed understanding about the nature of nontraditional UN peace operations and the problem of command and control led to frustration and failure for several UN missions in the 1990s, most notably in Somalia and Rwanda. As Lt. Gen. Francis Briquemont of Belgium complained when he led UN forces in Bosnia: “There is a fantastic gap between the resolutions of the Security Council, the will to execute those resolutions and the means available to commanders in the field.”¹⁵³ According to Ruggie “it was the Bosnian conflict that became a defining moment for post-Cold War cooperative security relations, not solely because of its savagery – Rwanda was a far worse human tragedy – but because the conflict took place in Europe, where expectations were highest, and it humiliated not only the UN but also NATO and the West as a whole.”¹⁵⁴

Stedman holds that the greatest source of risk in peace processes comes from “spoilers – leaders and parties who believe that peace emerging from negotiations threaten their power, worldview, and interests, and use violence to undermine attempts to achieve it.” In his view, the ultimate success or failure of spoilers depends on the role played by international actors as custodians of peace: “Where international custodians have created and implemented coherent, effective strategies for protecting peace and managing spoilers, damage has been limited and peace has

¹⁵¹ Ibid.

¹⁵² Stephen Stedman, “Alchemy for a New World Order”, *Foreign Affairs*, 74(3): 14-20 (May/June 1995), p. 14.

¹⁵³ “U.N. Bosnia Commander Wants More Troops, Fewer Resolutions”, *New York Times*, December 31, 1993, p. A3, reported by Ruggie, p. 92.

¹⁵⁴ Jogn G. Ruggie, *Winning the Peace*, p. 97.

triumphed. Where international custodians have failed to develop and implement such strategies, spoilers have succeeded at the cost of hundreds of thousands of lives.”¹⁵⁵ There are combatants in war, but Stedman holds that “spoilers exist only when there is a peace process to undermine.” Not all parties benefit from ending the war and signing a peace treaty. Even if they all come to value peace, they do not do so simultaneously.

II-1h Conditions for success: a summary

The recommendations by the above authors of how an intervener is to handle a peace process represent only a limited part of the literature on interventions. However, my intention has been to show the reader that, although assessments and recommendations are written in different ways, they ultimately share the same key points.

My focus is on an intra-state conflict in which a third party intervenes and exerts pressure on the parties to the conflict in order that they may cease their hostilities and commence the peace process. Once it decides to intervene, the third party has to decide what it wants to achieve and how it will achieve this, taking into consideration certain key points that I shall now list. It is important to remember that the following list is intended to correspond to the specific situation on which I am focusing:

- (1) Interventions are costly and time consuming, they should not be undertaken without a clear goal supported by a strong political will.
- (2) Once an intervener is ‘inside’, it becomes a party to the conflict. There is no privileged neutrality if one is engaged in ending the conflict. The intrusion distorts the war dynamic and this means that the intervener must share responsibility for the outcome.
- (3) The intervention creates winners and losers, but these are not fixed categories because the intervention is a process, not an end product. Therefore, local actors may shift categories as time passes to the bewilderment of the intervener.

¹⁵⁵ Stephen Stedman, “Spoiler Problems...”, p. 6.

- (4) A robust beginning saves time, commands respect, and gives credibility. Muddling through is the most expensive and least successful strategy.
- (5) People are the key. The staff that demonstrate knowledge and interest in the region are better at recognizing essential issues, establishing better communication channels, making better judgment in policy formulation, and eventually reducing fear and mistrust.

This list of conditions for a successful intervention is intended for prospective interveners, not the recipients of the intervention, who are also equally responsible for the outcome. However, the literature deals primarily with the position and the role of interveners, as they are the ones who decide whether they will enter a target state or not. It also pays considerable attention to the period prior to intervention and focuses on the debate as to whether to intervene or not, and if yes, when and how to do so. Despite skepticism of how influential an external actor can really be in a target setting, the assumption of this research is that no society is impenetrable. The capacity to influence is also determined by the intervener's knowledge, will and commitment.

The next section introduces theoretical literature on states and state building in general and continues by discussing the post-Cold-War state-building paradigm, namely the creation of a market democracy, and what kind of challenges this paradigm encounters in deeply divided societies.

II-2 THE STATE BUILDING PARADIGM

Once basic security is restored in a war-torn place, the next step is either to downscale or up-scale the mission. The intervener has to decide whether its objective is realized in the first phase or whether it has to extend its mandate and carry out additional tasks in order to achieve this objective. In a situation in which an intervener is dealing with a failed state, minimal security standards in the post-Cold War period demand more than simply ceasing the hostilities by disarming the rebels, or interposing a foreign military force between the combatants.

The dominant idea is to create a framework in which enemies in a target state can peacefully resolve their problems. Different strategies are employed to create such a framework and they can go either in the direction of separating the enemies into independent territorial units, i.e. partition, or they can be aimed at keeping them together by establishing an institutional structure that will secure for each enemy group the protection of its vital interests. Although some authors argue that partition is the easiest and cheapest way to create a lasting peace in an intra-state conflict, this is not necessarily the case. Frequently, partition may escalate the conflict and reduce the possibility of a lasting peace. The solution a partition offers is additionally weakened by the predominant idea in international relations that cooperation and integration is the main avenue that leads to a lasting peace. However, the strategy of cooperation and integration requires a certain institutional structure to sustain it. The end of the twentieth century has brought with it the almost universal claim that it is democracy coupled with a market economy that serves as the best structure to accommodate conflict and the best framework in which to create the conditions for a lasting peace.

The interventionist paradigm after the Cold War is thus defined along the following lines: **lasting peace in an intra-state conflict is established and sustained through the practice of democracy and a market economy. Democracy offers mechanisms to solve internal disputes by peaceful procedural means as it grants individual and group rights to all members of a society. A market economy fosters competition and cooperation of individuals at the local and international level, thus defining rules and procedures and shifting the focus from war to wealth.**

If the institutions of market democracy are nonexistent in the target state, the intervener may decide to establish them and so embark upon state building. Richard Haass defines state building¹⁵⁶ as “an extremely

¹⁵⁶ Haass uses the term *nation-building*, although in effect this means the same as state building, since the primary goal of the interveners is to (re)create institutions in a collapsed state, not create a nation. (Although I have to add here at the expense of parsimony that the process of institution building also entails nation-building, but I shall come to this point later in the thesis). The difference that exists between

intrusive form of intervention” in which the intervener sets out to change the institutional and political arrangement in the target state. For the post-Cold War interveners, the goal has been to establish and sustain democratic and free-market practices.

[State building] is an option for dealing with failed states (that is, those where order breaks down because it has no widely accepted and functioning central authority) once resistance is overcome through peace-making or exhaustion.¹⁵⁷

According to von Hippel, state building is an external effort to construct a government that may or may not be democratic, but preferably is stable.¹⁵⁸ The differentiation between ‘democratic’ and ‘non-democratic’ state building is important when earlier interventions are assessed. The military occupations of both Germany and Japan after the Second World War were intended to build democracies, while in Vietnam and most of Central America during the Cold War the focus was on building anti-communist, not necessarily democratic governments. However, in the post-Cold War world we can safely argue that state building by a third party (usually a multinational force) is not only aimed at creating stability, but also democracy as a way to sustain and strengthen world peace. **We can define the post-Cold War state building intervention as a multilateral military and civilian effort to create the institutions of democracy and a market economy as a basis for sustaining peace.**

Roland Paris calls the interventionist paradigm, which appears to guide most international agencies engaged in state building¹⁵⁹ today, liberal internationalism.¹⁶⁰ He defines the core of this paradigm along the same lines as in the above definition i.e. that the foundation for peace is democracy and the free market, in other words “a liberal democratic polity and a market-oriented economy.” In Paris’s view, the principal

American scholars and others in the use of the term stems from the particular American situation where “state” refers to the fifty states that comprise the USA.

¹⁵⁷ Haass, *Intervention*, p. 61.

¹⁵⁸ Karin von Hippel, p. 10.

¹⁵⁹ Paris uses the term peace building in the same sense as I use state building.

¹⁶⁰ Roland Paris, “Peacebuilding and Limits of Liberal Internationalism”, *International Security*, 22 (2): 54-89 (Fall 1997), p. 55.

flaw of this approach is that it prescribes “market democracy as a remedy to civil conflict” without acknowledging that “creating a stable market democracy is a tumultuous, conflict-ridden, and lengthy process, particularly in the fragile political environment of a war-shattered state.” State building should therefore not simply aim at the cessation of hostilities, it should create conditions for peace to endure long after the interveners depart, i.e. a self-sustaining peace. Paris advocates neither authoritarianism nor partition as state-building strategies; interveners, in his view, should “preserve the principal goal of liberal internationalism – the transformation of war-shattered states into market democracies.”

What, however, has to be reconsidered are ways in which this goal is pursued. Paris recommends several ways in which liberal internationalism can be made more successful and he labels this alternative “strategic liberalization”, which shares the liberal internationalist goals of peace through political and economic liberalization, but aims to minimize the destabilizing effects of liberal internationalism. The main elements of this approach are: “(1) developing a more gradual and controlled process of democratization in war-shattered states – in particular, by delaying elections until passions have cooled, promoting citizen associations that cut across cleavage lines, excluding extremists from active politics, and controlling the promulgation of inflammatory propaganda; (2) designing electoral arrangements that reward moderation rather than extremism; (3) promoting equitable, growth-oriented adjustment policies rather than destabilizing austerity measures; (4) creating effective, central coordinating bodies for peace-making operations; and (5) extending the duration of peace-making operations from the current norm of one to three years, to approximately seven to nine years.”¹⁶¹

These guidelines stand as a good general orientation of “know how”, and at the same time are an important forewarning to a potential intervener about the series of steps that lie ahead. A hope that a quick fix can be found to a complex problem, after which things will go back to ‘normal,’ is unrealistic. There is no going back to an earlier ‘normal’ after any intervention. Things can certainly become ‘normal’ but it is always a

¹⁶¹ Ibid., p. 58.

different ‘normal’ from the previous one. The search for the new normalcy takes place in politically, economically, and militarily vulnerable circumstances. However, it is also because of this vulnerability that intervention has a chance to make a substantial impact. Intervention in a stable setting has limited maneuver and has to be circumscribed to a limited range of possible policy options. In contrast, in situations of fluctuation and uncertainty, the intervener can profoundly influence and shape the local environment, because there is no shape yet that has to be done with. In this sense, an early intervention tends to produce better results than a late one.

The post-Cold War state building experience is not vast, but it can generally be said that, after basic security has been established in a collapsed state, the objectives expand to institution building. However, here is where the real problems of intervention emerge. How far and how deep should this institution building go? How many institutions are sufficient for a state to exist? What determines the extent of involvement of the intervener: the establishment of institutions or their actual functioning? And if functioning is the answer, and knowing that the learning process is rather slow, how long does the intervener have to stay to make sure that the institutions are fully functional?

I am exaggerating the issue on purpose, in order to underscore the fact that state building is essentially about the substance, not only content. Thus, it seems that up to a certain point, the intervention can only expand, to the bewilderment of intervener and those who bear the cost. However, despite these logical fears, the expansion is not endless and unlimited. At a certain moment the scaffolding is removed and the construction remains in place. Removing the scaffolding before the construction is finished could precipitate its collapse. State building intervention extorts commitment from interveners, who soon realize that if they want to claim success, they need to persist – once in, there is no shortcut out.

In the following section I discuss state building in its classic meaning and then proceed to discuss the challenges of state building in a deeply divided society. The main orientation in post-Cold War state building has been to set war-shattered states on the path of democracy and

towards a market economy. However, the process of democratization is not uniform and is particularly intricate in deeply divided societies. Different strategies of how to tackle the challenges of democratization in deeply divided societies are described on the pages to come.

II-2a State building in classic terms

A state represents a distinct set of political institutions whose specific concern is with the organization of domination, in the name of common interest, within a delimited territory. Since the state is a central concept in the study of politics, its definition is the object of intense scholarly debate. Marxists, political sociologists, and political anthropologists usually favor a broad definition which draws attention to the role of coercion-wielding organizations which exercise clear hegemony in decision-making and claim supremacy in the application of naked force to social problems within territorial boundaries.

The most influential definition of the modern state is provided by Max Weber in the *Economy and Society*. Weber emphasizes three aspects of the modern state: its territoriality; its monopoly of the means of physical violence; and its legitimacy. Without social institutions claiming a monopoly of the legitimate use of force within a given territory, Weber argues, a condition of anarchy would quickly ensue. In raising the issue of why the dominated obey, Weber draws our attention to a fundamental activity of the state, its attempt to legitimate the structure of domination.

There are three main traditions within political science which inform 'theories of the state': the pluralist, the Marxist, and the statist traditions. Robert Dahl, who belongs to the pluralist "camp", either sees the state as a neutral arena for contending interests or characterizes its agencies as simply another set of interest groups. With power competitively arranged in society, state policy is the product of recurrent bargaining. Although Dahl recognizes the existence of inequality, he maintains that in principle all groups have an opportunity to pressure the state. The pluralist approach to economic policy suggests that the state's actions are the result of pressures from diverse organized interests. A series of pressure groups compete and state policy reflects the ascendancy of a particularly well-articulated interest. This approach is often criticized for its over empiricism. Critics argue that any attempt to explain state

policy in terms of the ascendancy of pressure group interests introduces a pattern of circular reasoning.

Modern Marxists offer an instrumentalist view of the state. In *The State in Capitalist Society*, Miliband attempts a literal interpretation of Marx's (in)famous statement that the executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie (*The Communist Manifesto*). Instrumentalists argue that the ruling class uses the state as its own instrument to dominate society by virtue of the interpersonal ties between, and the social composition of, state officials and economic elites. The main criticism of this approach is its subjectivist view of the state and its unintended reliance on pluralist elite theory.

The realization that the internal structures of states differ has been the dynamic behind the development of post-Marxist approaches to state theory. Whereas there is no uniform agreement on what constitutes Marxian orthodoxy, post-Marxism argues against derivationism and essentialism (the state is not an instrument but at the same time does not 'function' unambiguously or relatively autonomously in the interests of a single class).

Empirical studies of the role of the state in foreign economic policy-making and the theoretical critiques developed by post-Marxists have led to the development of statist theories which conclude that states pursue goals which cannot be derived from interest group bargaining or from the class structure of capitalist societies. An approach has thus emerged whereby states are considered as distinctive structures with their own specific histories, operating in a sphere of real autonomy.¹⁶² Writers influenced by this tradition often utilize the distinction between 'strong states' and 'weak states', claiming that the degree of effective autonomy from societal demands determines the power of state. This position has found favor in the field of international political economy.

¹⁶² See, for example, Peter Evans, *Embedded Autonomy. States and Industrial Transformation* (Princeton: Princeton University Press, 1995).

All states embedded in an international system face dilemmas relating to internal and external security and legitimation. International relations theorists have traditionally posited the existence of an international system whereby states take into account the behavior of other 'like-units' in making their own calculations when considering whether or not to pursue certain objectives and advance their interests. A recent innovation in international relations has been the concept of an international society (a society of states) to refer to a group of states who by dialogue and common consent have established rules, procedures, and institutions for the conduct of their relations. There is, then, an emerging sense of a world common good and an increasing recognition that the world as a whole faces certain common dangers in relation to ecological disruption, nuclear war and the rising imbalance between the First and the Third World. In this way the foundation has been laid for international law, diplomacy, regimes, and organizations.¹⁶³

In developing his paradigm of state formation and nation building¹⁶⁴ Stein Rokkan relied on Talcott Parsons' schema for the development of political systems. This schema posits four distinct processes of development from the primordial community with a low level of internal role differentiation, a primitive, locally bounded economy and a structurally embedded system of religious beliefs and ritual practices: first, the establishment of regular institutions for the settlement of disputes within and across close lineages and the codification of rules of adjudication; second, the growth of militarily powerful conquest centers imposing physical control over the surrounding populations through exactions of food, manpower, and other resources; third, the differentiation of a distinct class of priests, the divorce of mythologies and ritual practices from the social structure of the local populations, and

¹⁶³ See, for example, Kai Alderson and Andrew Hurrell (eds.), *Hedley Bull on International Society* (Houndmills: Macmillan and New York: St. Martin's Press, 2000).

¹⁶⁴ Since the absolutist period, states have predominantly been organized on a national basis. The concept of the national state is not, however, synonymous with nation-state. Even in the most ethnically 'homogenous' societies there is necessarily a mismatch between the state and the nation – hence the active role undertaken by the state to create national identity through an emphasis on shared symbols and historical heritage.

the incipient growth of world religions and missionary agencies; and finally, the differentiation of technical skills from the underlying social structure and the growth of independent supra-regional networks of craftsmen, merchants, and tradesmen.

With reference to state building in Europe and, in particular, to the relatively late state-builders of recent times, Rokkan underscores the following lesson:

[T]he European sequence simply cannot be repeated in the newest nations; the new nation-builders have to start out from fundamentally different conditions, they face an entirely different world. But they can learn to develop new combinations of policies from a detailed analysis of the many facets of the European experiences of state building and national consolidation. They may learn more from the smaller countries than from the large, more from the multiculturally consociational polities than from the homogenous dynastic states, more from the European latecomers than from the old established nations: what is important is that these experiences be sifted and evaluated, not just case by case, but within an effort of cross-regional systematization.¹⁶⁵

Now is the time to look briefly at the *essential features* of the modern state. Charles Tilly defines a state as “an organization which controls the population occupying a definite territory ... insofar as (1) it is differentiated from other organizations operating in the same territory; (2) it is autonomous; (3) it is centralized; and (4) its divisions are formally coordinated with one another.”¹⁶⁶ Gianfranco Poggi expands Tilly's definition of state, which he sees as comprising only the fundamental (and abiding) features of the modern state in the early stages of its development. Poggi offers a new definition in which he

¹⁶⁵ Stein Rokkan, “Dimensions of State Formation and Nation-building: A Possible Paradigm for Research on Variations Within Europe” in *The Formation of National States in Western Europe*, edited by Charles Tilly (Princeton: Princeton University Press, 1975), p. 600.

¹⁶⁶ Charles Tilly, “Reflections on the History of European State-making” in *The Formation of National States in Western Europe*, edited by Charles Tilly (Princeton: Princeton University Press, 1975), p. 70.

considers some additional features, reflecting primarily the experience of the last two centuries. According to Poggi, a modern state must have the following properties: it must function as an **organization**, it must exhibit organizational **differentiation**, as well as the capacity for **coercive control**, it must exercise **sovereignty**, its **territory** must be delineated, it must be **centralized**, its parts must be **formally coordinated** with one another, and there must exist a **system of states** in which it is placed.¹⁶⁷ In my view, this definition must be enlarged by one additional element and that is the capacity for **taxation** as a way for the state to finance its existence.

From this brief discussion of the nature of state, its historical development and its modern characteristics, let us move to particular challenges that state building faces when coupled with democratization in deeply divided societies.

II-2b The exigencies of state building

Historically, state building preceded democratization and was generally accomplished by coercive means through conquests or resisting conquests. Referring to nationalism and state building in nineteenth-century Europe, Lewis Namier, for example, notes that “states are not created or destroyed, and frontiers redrawn or obliterated, by arguments and majority votes; nations are freed, united, or broken by blood and iron, and not by generous application of liberty.”¹⁶⁸ The current global democratization and growing concerns about human rights violations have made the option of state building by means of coercion less viable. As a result, state building has increasingly become fused with democratization.

This fusion has serious implications for the way in which the process of state building can take place as well as for the nature of democracy. In regard to state building, it implies that integrating the disparate groups and determining the relations between them and the state can best be

¹⁶⁷ Gianfranco Poggi, *The State. Its Nature, Development and Prospects* (Cambridge, UK: Polity Press, 1990), pp. 19-24.

¹⁶⁸ Lewis Namier, “The Diversity Myth: America’s Leading Export”, *The Atlantic Monthly* 275, No. 5 (May 1995), 57-67.

accomplished through consensual decisions by all the parties involved. Democracy entails empowering the general population to control decision making. As such, it implies that integration of hostile ethnic groups to form a state would need to be on a voluntary basis and on carefully negotiated terms that are acceptable to all of them. If such agreements are not reached, ethnic groups may opt for secession, which implies that democratization may facilitate state disintegration.¹⁶⁹

International interventions in the post-Cold War period, as has previously been said, have been carried out with the goal of setting failed and/or war-torn states on the path of democracy and towards a market economy, although democratization in itself can be a conflict-triggering process, as many authors point out. Philippe Schmitter makes no effort to embellish democracy by only stressing its virtues. As an open-minded scholar of democracy and democratic transitions, he is well aware of the problems that are part of the democratic package. However, despite its shortcomings, Schmitter holds that democracy remains the best system the world has developed so far because of its capacity to deal “with the inevitable dissatisfactions and frustrations experienced by its participants...Democracy manages to prevent too much change from happening by changing all the time” and by doing so it “exists in a perpetual state of imbalance” providing that essential democratic rules are accepted by all participants. In addition, democracy assumes that everyone is the custodian of his or her own good. “It assumes that all actors, including the highest leaders, are condemned to be self-interested and, hence, capable of exploiting each other – if allowed to do so. Instead of relying on the presumption that politics can maximize benefits for all its participants, democracy aims at the more prosaic goal of minimizing the harm that they can do to each other.”¹⁷⁰

¹⁶⁹ Kidane Mengisteab and Cyril Daddieh, “Why State Building Is Still Relevant in Africa and How It Relates to Democratization” in *State Building and Democratization in Africa. Faith, Hope, and Realities* edited by Mengisteab and Daddieh (Westport: Praeger, 1999), pp. 8-9.

¹⁷⁰ Philippe C. Schmitter, “Instead of a Conclusion”; draft of the work in progress.

The post-War promotion of democracy, or democratization,¹⁷¹ began with the early efforts after the Second World War towards denazification, demilitarization, and the re-education of entire populations, while during the Cold War it came to be equated with the fight against communism.¹⁷² After the Cold War, democratization has been attempted with the aim of strengthening international peace and stability. The promotion of democracy is based on the assumption that democracies rarely go to war with each other and therefore the underlying rationale is that a greater number of democratic states would lead to a more peaceful world.¹⁷³ Anthony Lake described this goal in the following way:

“Throughout the Cold War, we contained a global threat to market democracies; now we should seek to enlarge their reach, particularly in places of special significance to us. The successor to a doctrine of containment must be a strategy of enlargement – enlargement of the world’s free community of market democracies.”¹⁷⁴

Which type of democracy the intervener will pursue in a target setting depends on the internal situation of the target country or region, as well as the predominant preferences of the intervener in general. Wars generally produce havoc and instigate fear and mistrust in the societies in which they take place. And if conflicting issues are not solved in war,

¹⁷¹ The term *democratization* describes the process of regime change from a previous form of rule (be it authoritarian, totalitarian, tribal, and so on) to the rooting of democracy.

¹⁷² See Thomas Carothers, *In the Name of Democracy: US Policy Towards Latin America in the Reagan Years* (Berkeley, CA: University of California Press, 1991).

¹⁷³ Edward D. Mansfield and Jack Snyder qualify this argument by emphasizing that only mature democracies are less prone to war, but countries do not become mature democracies overnight. “In this transitional phase of democratization, countries become more aggressive and war-prone, not less, and they do fight wars with democratic states.” Mansfield and Snyder, “Democratization and the Danger of War”, *International Security*, Vol. 20, No. 1 (Summer 1995), pp. 5-38. See also Jack Snyder, *From Voting to Violence. Democratization and Nationalist Conflict* (New York and London: W. W. Norton, 2000).

¹⁷⁴ ‘From Containment to Enlargement’, Address at the School of Advanced International Studies, Johns Hopkins University, September 21, 1993, quoted in von Hippel, *Democracy by Force*, p. 10.

the conflict over given issues may continue into the post-war period. In such circumstances cooperation among former enemies is difficult to achieve, but it is absolutely necessary if the state is not to be partitioned, but instead reintegrated.

As building democratic regimes is the indisputable goal of post-Cold War interveners, then the interveners must decide which type of democracy to apply in a given target state. In ideal circumstances, it would be the people of a target state themselves that would decide what kind of system was to be adopted. However, if they cannot agree, which is usually the case because otherwise they would not have waged war with one another but would instead have resolved their problems peacefully, then the intervener has to make some crucial decisions for the future of the target state.

The next four sections discuss first the nature of a deeply divided society and then look at several strategies of conflict resolution as a basis for state building in deeply divided societies.

II-2c The nature of deeply divided societies

All societies are differentiated along various lines or cleavages, be they class, ethnic, religious, linguistic, occupational, and so on. Individuals usually feel themselves to be members of a certain community although they may not necessarily share all the values of that community. They can maintain their reservations or demonstrate open disagreement on some issues with other members without necessarily ceasing to identify further with the community or getting engaged in an effort to destroy the community. However, when a sizeable proportion of individuals who share similar beliefs come to value their similarity positively in contrast to others in the community who do not share this similarity, then these social differences result in segmental divisions or segments. "If segments take on a high degree of political salience, as they invariably do in deeply divided societies, they will form the bases of *conflict groups*."¹⁷⁵

¹⁷⁵ Eric A. Nordlinger, *Conflict Regulation in Divided Societies* (Center for International Affairs, Harvard University, No. 29, January 1972), p. 7.

Conflict groups develop when a substantial number of individuals believe that their segment's social identity, cultural values, or material interests are incompatible with the segmental interests of other individuals and they organize to carry out political or other action to advance their interests and influence the conflict's outcome. Conflict organizations may be political parties, religious, racial, ethnic, or linguistic affiliations, or trade unions, that is, they can be any associations that are defined by a particular segmental identity. However, not all conflicts lead to violent outcomes and deep divisions within a society. Literature offers various definitions of a conflict's intensity based on several criteria: the distance separating opposing groups' goals; the degree to which two or more segmental divisions are mutually reinforcing or cross-cutting; the proportion of conflict group members belonging to a conflict-promoting organization; the degree of interaction or communication between opposing segmental groups; and the energy expenditure and degree of involvement of conflicting parties.¹⁷⁶ As regards the most extreme end of the spectrum, Nordlinger proposes the following definition of intense conflict:

A conflict is intense when the issues at stake are thought to be of the greatest importance, involving the segment's social identity, its most sought-after material rewards, its most cherished cultural values, or its perceived inalienable rights. An intense conflict is also present when at least one segment views another according to highly unflattering stereotypes, invidious beliefs, long-standing jealousies, and deep-seated prejudices, which, when taken singly or together, produce strongly felt and emotionally charged antagonisms. Although these two types of intense conflict are analytically and to some extent empirically distinct, the second type rarely occurs without giving rise to the first, and when the first is present over a sufficiently long period of time it is likely to engender the second.¹⁷⁷

A society is thus deeply divided when belonging to one segment inevitably negates the possibility of belonging to other opposing

¹⁷⁶ The overview of the conflict theory is given in Nordlinger, *Conflict Regulation in Divided Societies*.

¹⁷⁷ Nordlinger, *Conflict Regulation*..., p. 9.

segments within that society. As segmental divisions harden, they further impair interaction among segments, and this over time leads to strongly entrenched divisions. Deeply divided societies are closed societies, since any opening necessarily loosens up the segmental straightjacket, threatening the interests of those who benefit from the perpetuation of the divisions. Segmental divisions may readily lead to violence and repression when one conflict group manages to assume control of the government or the army at the expense of other segments. However, violence may also occur as a result of opening up, when integrationists enter the conflict with divisionists. Integrationists' goal is to replace segmental politics with the politics of cross-cutting interaction, thus reducing the divisionist political space.

II-2d Partition as a solution to conflict

One way to regulate conflict among hostile groups is to eliminate the differences among them that are the cause of the conflict. This can be done in several ways:

- genocide;
- forced mass-population transfers;
- partition and/or secession;
- assimilation.¹⁷⁸

These are rather heavy-handed strategies that have a long history of application, although their lasting impact on conflict regulation is mixed at best. Since they exert a severe toll in human suffering, they are certainly not peaceful conflict regulating mechanisms. The first two methods ("genocide" and "forced mass-population transfers") are clearly unacceptable, but it is worth considering the second two ("partition/secession" and "assimilation/integration").

The suggestion that populations must be forcibly separated to prevent them from killing each other has inspired both approval and criticism. Chaim Kaufmann elaborated a set of hypotheses on the usefulness of

¹⁷⁸ For more cf. John McGarry and Brendan O'Leary (eds.), *The Politics of Ethnic Conflict Regulation* (London and New York: Routledge, 1993).

partition as a solution to ethnic conflict.¹⁷⁹ He maintains that separating populations should be the last resort when all other options fail. However, he does not agree with those critics of population transfers and the partitions that accompany them who say that these methods do not reduce suffering and death but actually increase them. In researching four cases of ethnic separation and subsequent territorial partition – Ireland, India, Palestine, and Cyprus – Kaufmann concludes that in all four cases ethnic separation reduced violence.

His analysis suggests three lessons for the management of ethnic civil wars. First, the international community should “identify the threshold of intergroup violence and mutual security threats” at which the only solution would become separation and partition. Although Kaufmann acknowledges that the absence of a fully developed theory impedes defining where this threshold may lie, he still maintains that even with limited knowledge, this policy can be useful. “We should not fail to separate populations in cases that have produced large-scale violence and intense security dilemmas...” Second, he insists that partition should be performed in communities that are already ethnically separate. “Partitions that do not unmix hostile populations actually increase violence...” Third, Kaufmann holds that the international community should stop trying to prevent the movement of refugees away from threats of ethnic massacres and should instead support and safeguard their resettlement. “Concern that facilitation of refugees movements amounts to support for ethnic cleansing is misguided. Ethnic cleansing can only be stopped by an army on the ground strong enough to defeat the cleansers. Otherwise, making it harder for ethnic cleansers to expel their enemies only invites them to escalate to murder.”¹⁸⁰ In a similar vein, John Mearsheimer holds that “some borders are untenable and preserving them causes conflict, not peace.”¹⁸¹

¹⁷⁹ Chaim Kaufmann, “Possible and Impossible Solutions to Ethnic Civil Wars”, *International Security* Vol. 20 (Spring 1996) and idem, “When All Else Fails”, *International Security*, Vol. 23 (Fall 1998).

¹⁸⁰ Kaufmann, “When All Else Fails”, p. 156.

¹⁸¹ John J. Mearsheimer, “The Case for Partitioning Kosovo” in *Nato’s Empty Victory. A Postmortem on the Balkan War* edited by Ted Galen Carpenter (Washington, DC: Cato Institute, 2000), p. 137.

Donald Horowitz puts forward the argument that if it is impossible for groups to live together in a heterogeneous state, perhaps it is better for them to live apart in more than one homogeneous state, “even if this necessitates population transfers.”¹⁸² However, partition is a complex undertaking despite some claims of its almost surgical precision at delivering the desired results. Divorcing populations may take an enormous toll on human life, which could hardly be considered an attractive outcome. Although Horowitz discusses the option of partition on purely pragmatic grounds, he concludes that “if the benefits of partition are not likely to materialize but new costs are, partition can hardly be recommended as a generally applicable solution to domestic ethnic conflict.”¹⁸³

Based on a host of empirical tests, Nicolas Sambanis found that partition does not help reduce the risk of the recurrence of war. “Negotiated settlements, a strong government army, and a lengthy previous war all reduce the probability of war recurrence. Thus, if the international community’s interest lies in preventing new civil wars, it could manipulate some of these significant variables towards desirable goals.”¹⁸⁴ Sambanis proposes a new hypothesis for future research: if border redefinition is on the cards after a civil war (or before the war), then the strategy of supporting ethnic diffusion by combining rather than partitioning large ethnic groups may be worth pursuing.¹⁸⁵

Christopher Hitchens warns of the dangers of partition. Using the same cases as Kaufmann – Ireland, Palestine, Cyprus and pre-independence India, and adding Vietnam – he concludes that political partitions have rarely worked. Partition “always leads to another war,” and it empowers the “most hectically nationalist and religious elements” in the newly divided societies.¹⁸⁶ His conclusions are contrary to those of Kaufmann. The UN partition plan for Palestine, which gave each side three

¹⁸² Donald L. Horowitz, *Ethnic Groups in Conflict*, p. 588.

¹⁸³ Ibid., p. 591.

¹⁸⁴ Nicholas Sambanis, “Partition as a Solution to Ethnic War. An Empirical Critique of the Theoretical Literature”, *World Politics*, Vol. 52 (July 2000), p. 24, available at www.wb.org

¹⁸⁵ Ibid., p. 23.

¹⁸⁶ Christopher Hitchens, “Minority Report,” *Nation*, August 14-21, 1995, p. 155.

disconnected patches of land, could only generate a bloody civil war.¹⁸⁷ More than fifty years of recurring violence the solution to the territorial division has not been found.¹⁸⁸

There are, however, positive examples of partitions, or non-violent separations. Czechoslovakia's 'velvet divorce' or Swedish-Norwegian separation are examples of stability of some partitions. The break-up of the Soviet Union was relatively peaceful, as eventually came to be Eritrea's separation from Ethiopia. As we can see, then, there are both successful and unsuccessful cases of partitions. As the goal is downscaling violence, before a partition is considered as an option to an intra-state conflict, it has to be understood under what conditions does partition decrease violence. So far, there are no sufficient data on partitions that could be used to draw inferences about conditions for a successful partition.

Radha Kumar suggests that partition, with its long infamous record, might have become an anachronistic solution to ethnic conflict. Drawing on the historical cases of Cyprus, India, Palestine and Ireland (like Kaufmann), she concludes that partition fomented further violence and forced mass migrations. Kumar indicates that Bosnia will constitute a turning point in partition theory. If partition leads to an indefinitely prolonged commitment, perhaps the international community may invest in reintegration as an easier route to withdrawal.¹⁸⁹

¹⁸⁷ Kaufmann, "When All Else Fails", p. 156.

¹⁸⁸ The one-day conference held at the EUI on December 2, 2000 that brought together academics, activists, journalists and officials from both Israel and Palestine was a poignant testimony how difficult it was to try untangling a tight knot of interrelated contending issues, even when all actors shared the common goal: finding a lasting solution. The issue of borders and territorial viability was understood as crucial to creating the basis for long-term stability. Then presented proposals for territorial division deprived the possible Palestinian state of territorial integrity, thus making it unviable. The inability to find a compromise solution on territorial partition was singled out as the cause for the second Intifada. See also EUI Review, Spring 2001 for the report on the conference.

¹⁸⁹ Radha Kumar, *Divide and Fall? Bosnia in the Annals of Partition* (London and New York: Verso, 1997).

The assimilation/integration model for overcoming divisions in a divided society relies on the process of nation building or national integration in which different identities will give way to an overarching single national identity. The task for national integration lies with the leaders within deeply divided societies and this task should be awarded absolute priority according to this view. Nation building entails the eradication of primordial sub-national attachments and their replacement with national loyalty.¹⁹⁰ However, assimilation/integration is unlikely to be successful when sub-national social identities are too strong to be eradicated. A way out for a deeply divided society is either domination by a center composed of one segment of the population or the creation of a national consensus which would encompass the broadest segments of the population, delivering the needed unifying factor.

II-2e Consociational democracy: strengths and weaknesses

The term conflict regulation includes the elimination of differences, as discussed in the preceding section, and the managing of differences. According to McGarry and O'Leary, strategies for managing differences are the following:

- hegemonic control;
- arbitration (third-party intervention);
- cantonization and/or federalization;
- consociationalism or power sharing.¹⁹¹

I shall briefly discuss these points here, except for arbitration (third-party intervention) which has been already discussed at length. This thesis assumes a much greater third-party intervention than arbitration and thus the discussion focusing only on arbitration is of limited relevance. Moreover, I do not equate consociationalism with power sharing. Consociationalism is one model of power sharing, but there are also other power-sharing models that do not rely only on consociational arrangements. Thus, at the end of this section I discuss consociationalism and in the next section power sharing based on integrative approach.

¹⁹⁰ Leonard Binder, "National Integration and Political Development", *American Political Science Review*, 58(3):630 (September 1964), discussed in A. Lijphart, *Democracy in Plural Societies*, p. 20.

¹⁹¹ McGarry and O'Leary (eds), *The Politics of Ethnic Conflict Regulation*, p. 4.

Hegemonic control, as a strategy for managing differences in a deeply divided society, has been suggested by some scholars. M. G. Smith proposes that domination by one of the segmental groups within a deeply divided society is the norm. According to Smith, deep divisions require that the political order be maintained by domination and force. "Cultural diversity or pluralism automatically imposes the structural necessity for domination by one of cultural sections. It... necessitates non-democratic regulation of group relationships."¹⁹² This is a rather appealing explanation to those who believe that only an iron fist can keep antagonisms at bay in a volatile society.

Federalism is often recommended as the best institutional arrangement where ethnic groups are territorially based. In advanced democracies with divided societies, including Switzerland, Belgium, Canada, and Spain, federalism has helped to keep states unified and democratic in the face of possible secession by territorially based minorities. A federal system exists when there is a layer of institutions between a state's center and its localities, when this layer of institutions has its own leaders and representative bodies, and when those leaders and bodies share decision-making power with the center.

Successful accommodation does not involve the elimination of all conflict but rather the elimination of violent conflict and the lessening of the conditions that might instigate violence in the future. Federal systems provide more layers of government and thus more settings for peaceful bargaining. They also give at least some regional elites a greater stake in existing political institutions.¹⁹³ At the same time, federal structures, which initially reduce conflict, may also become a future obstacle to development and precipitate a delayed integration-

¹⁹² Leo Kuper and M. G. Smith (eds.), *Plural Societies: Perspectives and Problems* (Berkeley: University of California Press, 1969), p. 14, quoted by Arend Lijphart, *Democracy in Plural Societies* (New Haven: Yale University Press, 1977), p. 18.

¹⁹³ Nancy Bermeo, "The Import of Institutions. A New Look at Federalism", *Journal of Democracy*, Vol. 13, No. 2 (April 2002), 96-110.

development crisis.¹⁹⁴ Moreover, federalism is more difficult when ethnic groups are dispersed across the territory.

Consociational democracy, as a power-sharing model, is largely associated with Arend Lijphart, a Dutch political scientist who described and analyzed the Dutch particular democratic system as the one in which divisions within a society are bridged by particular mechanisms that are not present in other democratic systems. What the consociational model does is that it first recognizes the segmental cleavages that exist within a society and then it offers cooperation among segmental elites as an instrument for overcoming the reality of deep divisions within a society. The political problems of any deeply divided society is that it lacks a unifying consensus on the most important issues that pertain to its existence.¹⁹⁵

The ‘classic’ consociational democratic model can be defined in terms of four characteristics. The first and most important element is government by a grand coalition of the political leaders of all significant segments of the plural society. This can take several different forms, such as a grand coalition cabinet in a parliamentary system, or a ‘grand’ council or committee with important advisory functions, or a grand coalition of a president and other top officeholders in a presidential system. The other

¹⁹⁴ Cf. Albert F. Eldridge, “Introduction: On Legislatures in Plural Societies” in *Legislatures in Plural Societies: The Search for Cohesion in National Development* edited by Albert F. Eldridge (Durham: Duke University Press, 1977), p. 6.

¹⁹⁵ Scholars have traditionally believed that internal ethnic divisions are detrimental to democratic stability. Although few scholars argue that ethnic divisions are a positive force, there is a debate about whether different degrees of ethnic heterogeneity can help or hinder democracy. In its 1998-99 report, Freedom House found that “countries without a predominant ethnic majority are less successful in establishing open and democratic societies than ethnically homogenous countries.” Benjamin Reilly has challenged existing theories concerning the relationship between ethnic fragmentation, democracy, and internal conflict. He argues that the conventional wisdom – that the more ethnically fragmented a state, the lower its chances of democracy – is wrong. “In fact, a high level of ethnic fragmentation can actually help democratic consolidation if no group has the capacity to control power alone.” “Democracy, Ethnic Fragmentation, and Internal Conflict. Confused Theories, Faulty Data, and the ‘Crucial Case’ of Papua New Guinea”, *International Security*, Vol. 25, No. 3 (Winter 2000/01), pp. 162-185.

three basic elements of consociational democracy are (1) the mutual veto or 'concurrent majority' rule, which serves as an additional protection of vital minority interests; (2) proportionality as the principal standard of political representation, civil service appointments, and allocation of public funds; and (3) a high degree of autonomy for each segment to run its own internal affairs.¹⁹⁶

The above definition represents the classic model of consociational democracy that was being practiced in several small European states at the time Lijphart described it and that was later implemented in a range of Third World countries with mixed success. All four characteristics of the consociational democratic model defy majority rule and instead offer themselves as mechanisms for bridging divisions within a society. The first element implies that there is a will to cooperate and compromise as a prerequisite for the formation of a grand coalition. Participation in a grand coalition offers each member important political protection, but no absolute protection. A mutual veto must therefore be added to the grand coalition principle, since only such a veto can give each segment a complete guarantee of political protection.

The principle of proportionality serves two main functions. First, it is a method of allocating civil service appointments and scarce financial resources in the form of government subsidies among different segments. Second, the proportionality principle allows that the decision making process in the state is proportionally distributed, thus removing a large number of potentially divisive problems from the consociational government. The final element of the consociational model is segmental autonomy, which entails minority rule: rule by the minority over itself in areas belonging to its own exclusive concern. On all matters of common interest, however, decisions should be made by all segments together with roughly proportional degrees of influence. On all other matters, decisions and their execution can be left to the separate segments.¹⁹⁷

¹⁹⁶ Arend Lijphart, *Democracy in Plural Societies*, p. 25.

¹⁹⁷ Cf. Lijphart, *Democracy in Plural Societies* for more detailed explanations of the four elements of consociational democracy, pp. 25-44.

The existing literature suggests that consociationalism has been approached from three principal standpoints:

- (1) As a pattern of social structure, emphasizing the degree of religious, ideological, cultural or linguistic segmentation in the society itself;
- (2) As a pattern of elite behavior and mass-elite relationships, emphasizing the processes of decision-making and conflict regulation;
- (3) As an underlying characteristic of the political culture arising from historical circumstances that may antedate the period of mass politics.¹⁹⁸

There are two possible sources of weakness for the consociational model. One is that consociational democracy may be criticized for not being democratic enough, the other is that it is not sufficiently capable of achieving a stable and efficient government. Those who argue that this model is undemocratic regard the presence of a strong opposition as an essential ingredient of democracy. From this premise it follows that consociational democracy is less democratic than a government-versus-opposition democratic model.

The other type of criticism leveled against the consociational model is its potential failure to bring about and maintain political stability. Rule by grand coalitions implies that the decision making process will be slow. The mutual veto involves the further danger that decision-making may be completely immobilized. Proportionality as a standard of recruitment for the civil service may be anti-meritocratic in that an individual is not employed on the basis of merit, but by virtue of membership of a certain segment. Moreover, segmental autonomy bears with it a real danger that, because of the creation of numerous governmental offices, the bureaucratic apparatus will become too expensive and therefore financially unsustainable.¹⁹⁹ However, these weaknesses of the consociational model may, in one respect, be regarded as strengths, since

¹⁹⁸ Kenneth D. McRae (ed.), *Consociational Democracy. Political Accommodation in Segmented Societies* (Carleton University: McClelland and Stewart, 1974), p. 5.

¹⁹⁹ Cf. Lijphart, *Democracy...*, pp. 47-52.

the model can be discarded with relative ease once it ceases to deliver any benefits to the society that uses it.

Donald Horowitz holds that consociational arrangements can work in societies marked by moderate levels of conflict, but not in severely divided societies. Furthermore, he criticizes consociationalism for assuming that each segmental group is cohesive and has unitary leadership. Consociationalism, Horowitz continues, starts with the premise that political elites enjoy a high degree of freedom of choice and that they may resort to consociational methods of decision-making as a result of the rational recognition of the divisive tendencies in their societies, assuming the consociational model is not imposed from outside.

However, political leadership within conditions of deep social divisions in general has very limited freedom to choose its own path. Horowitz also criticizes the ‘grand coalition’ technique of accommodation for its claim that it can deliver unanimity in decision-making. “The point is not that coalitions are not possible, for they are. It is rather that, in democratic conditions, *grand* coalitions are unlikely, because of the dynamics of intraethnic competition.”²⁰⁰ The goal of grand settlements is to find a minimal basis for living together; however, the fact that such settlements barely intrude into existing areas of group strength is not evidence that this approach is essential to conflict reduction. According to Horowitz, contractual settlements are likely to impinge as little as possible on the interests of the contracting parties and thus leave many areas of social life unregulated. “Yet, despite its inevitable deficiencies, the grand settlement by itself is usually a worthwhile achievement... Retrospective evaluation of the failings of settlements should not obscure the importance of the short run, the dangerous short run, in ethnically divided societies.”²⁰¹

Another way to view conflict reduction, according to Horowitz, is to consider how any given technique or policy actually works. More

²⁰⁰ Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 2000, 2nd edition), p. 575.

²⁰¹ Ibid., p. 588.

important than any institutional feature is whether it brings into play an effective mechanism to reduce conflict. Horowitz identifies several common mechanisms of conflict reduction. First, interethnic conflict may be reduced by proliferating the loci of power so as to take the heat off of a single focal point. One way to do this is by dispersing power among institutions at the central and regional levels, which in fact is what federalism is all about. Second, interethnic conflict may be reduced by arrangements that emphasize intraethnic conflict instead. Interethnic cooperation may be more likely where intraethnic divisions are present, since links may be easier to forge between portions of groups than between groups that are cohesive and undivided. If intraethnic conflict becomes more salient, this may reduce the energy available for conflict with other groups. Third, interethnic conflict may be reduced by policies that create incentives for interethnic cooperation. Electoral inducements for coalition-making may be one way to heighten the incentives for cooperation, but certain preferential and territorial arrangements may also do this. Fourth, interethnic conflict may be reduced by policies that encourage alignments based on interests other than ethnicity (for example, infrastructural projects, cultural cooperation, etc). Fifth, interethnic conflict may be reduced by reducing disparities between groups so that dissatisfaction declines. This mechanism cuts deeper than other described mechanisms, which in the main emphasize restructuring the incentives for conflict behavior, on the part of political leaders. "To cut deeper takes longer, though in the end the deep cut may produce the more enduring result."²⁰²

As already discussed, consociational approaches rely on elite accommodation and guarantees to groups that their interests will be protected by safeguards such as the mutual veto, whereas the integrative approach relies on incentives for intergroup cooperation by mechanisms such as electoral systems that encourage the formation of political parties across lines of division.²⁰³ Horowitz concludes that the

²⁰² Ibid., pp. 598-9.

²⁰³ Timothy Sisk proposes two sets of conflict-regulating practices in relation to these two power-sharing approaches.

Consociational conflict-regulating practices are as follows:

- (1) Granting territorial autonomy and creating confederal arrangements;
- (2) Creating a polycommunal, or ethnic federation;

mechanisms described entail measures to contain, limit, channel, and manage ethnic conflict, rather than to eradicate it. “They involve living with ethnic differences and not moving beyond them.”²⁰⁴

II-2f Integrative approach

In every society the problem of integration exists, but the task is much more complicated for deeply divided societies due to the presence of multiple divisions in the social order. Thus, power sharing seeks to establish institutions that will effectively deal with challenges posed by social divisions. The success of power-sharing arrangements for dealing with various antagonistic groups within a deeply divided society must be measured by the success of those institutions and processes that can reduce the conflict and foster social integration.

Power sharing is the result of a pragmatic perception that the failure to accommodate will precipitate wider strife and therefore political leaders and the wider public must be motivated to implement power-sharing practices in order to avoid worsening the conflict. Unfortunately, not every violent conflict leads to the realization that a solution should be found in power-sharing arrangements rather than in escalating the violence.

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- (3) Adopting group proportional representation in administrative appointments, including consensus decision rules in the executive;
 - (4) Adopting a highly proportional electoral system in a parliamentary framework; and
 - (5) Acknowledging group rights or corporate (nonterritorial) federalism.

Integrative conflict-regulating practices are as follows:

- (1) Creating a mixed, or nonethnic, federal structure;
- (2) Establishing an inclusive, centralized unitary state;
- (3) Adopting majoritarian but ethnically neutral executive, legislative, and administrative decision-making bodies;
- (4) Adopting a semimajoritarian or semiproportional electoral system that encourages the formation of preelection coalitions (vote pooling) across ethnic divides; and
- (5) Devising ‘ethnically-blind’ public policies.

Timothy D. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (New York: Carnegie Corporation and Washington, DC: USIP, 1996), pp. x-xi.

²⁰⁴ Horowitz, *Ethnic Groups in Conflict*, p. 600.

According to Grossholtz, integration is defined in the following way:

Integration is [...] treated as a process and, specifically, as a process leading to political cohesion and sentiments of loyalty toward central political institutions. Integration is not merely unification; it is more than simply bringing diverse groups or political units under central control. Integration implies some level of effective commitment to the commonality of all groups or political levels, but it does not require the obliteration of primary identifications of race, religion, family, or culture. The process of national integration involves the penetration of the primary, occupational, or geographic groups by a broader national identification... The acceptability of the central political institutions and associations depends on the level of security that contending groups feel is provided them and their interests, and on the recognition on the part of the contenders that the interests of other groups are legitimate. Integration is defined as the acceptance on the part of primary bureaucratic and associational groups of the fact that other group interests are legitimate and must also be satisfied.²⁰⁵

Integrative power sharing can evolve from peace processes in which parties adopt agreements, or mutual security pacts, that seek to limit the ability of groups to inflict mutual harm. The degree of unity and organizational coherence of the parties, and the ability of political leaders to persuade their constituents to act peacefully, are the most important variables in creating improved relations among ethnic groups. "Conciliatory attitudes must be both broad (including hard-liners) and deep (including key publics as well as leaders)."²⁰⁶

The Dictionary of World Politics describes integration in the following way:

²⁰⁵ J. Grossholtz, "Integrative factors in the Malaysian and Philippine legislatures", *Comparative Politics*, No. 3 (October 1970), 93-113; quoted in Malcom E. Jewell, "Legislative Representation and National Integration" in *Legislatures in Plural Societies* edited by Eldridge, p. 13-53.

²⁰⁶ Sisk, *Power Sharing and International Mediation in Ethnic Conflicts*, p. xi.

Integration is both a process and an end state. The aim of the end state sought when actors integrate is a political community. The process or processes include the means or instruments whereby that political community is achieved.²⁰⁷

Integration requires at a minimum the existence of a security community, that is a system of relationships which has renounced force and coercion as a means of settling differences. For a political community to exist, the majority of its constituents need to display loyalty to it. The creation of a political community in a deeply divided society, however, requires the double task of providing a new focus of loyalty for the constituents while combating the centrifugal impulses of particular original attachments.

Thus, wide-ranging state building in a post-war environment means not only laying down one's arms or establishing formal procedures according to which opposing groups are to conform, but also a normative element that relies on the perception and persuasion that such a course of action carries with it the vital promise for a peaceful and prosperous future.

II-3 THE SUBSTANTIAL (NORMATIVE) STATE BUILDING

In this thesis I make a distinction between three elements of state building, namely security building, institution building and norm building that take place in the context of a post-war intervention by a multilateral force in a target state. Elements and issues pertaining to both security and institution building have already been discussed. The concept of norm building, as an indispensable ingredient of state building, if reforms in security and institutional sectors are to be made long lasting, needs to be clarified.

The *Handbook of International Relations* identifies two classical meanings of the term 'norm'.

²⁰⁷ Graham Evans and Jeffrey Newnham, *The Dictionary of World Politics. A Reference Guide to Concepts, Ideas and Institutions* (New York: Harvester Wheatsheaf, 1990).

On the one hand, norms are identified by regularities of behavior among actors. Norms reflect actual patterns of behavior and give rise to expectations as to what will in fact be done in a particular situation. On the other hand, norms reflect patterned behavior of a particular kind: a prescribed pattern of behavior which gives rise to normative expectations as to what ought to be done.²⁰⁸

This thesis uses the concept of norm building to refer to the evolution of state building into the sphere of values and norms. Norm building is characterized by a change in perceptions and beliefs among people (if they occur) in deeply divided societies who are obliged to work across the lines of division and build a framework for peaceful coexistence. Norm building thus relies heavily on constructivism.

The constructivist research program studies the role of ideas, norms and identities, as opposed to material factors, in the integration process. Ruggie has argued that "... at bottom, constructivism concerns the issue of human consciousness."²⁰⁹ Checkel argues that ideas, norms, and identities are important but not as external constraints. Norms, then, are simply constraints that agents run up against when they make choices. For Checkel, norms can become constitutive of agents, part of who they are, and deeply internalized. When this occurs, the overall interpretation changes from one based on conscious adjustment to changing costs to one based on the enactment of values.²¹⁰

Some authors, perhaps inadvertently, refer to norm building as the third transformation, which takes place in conjunction with political and

²⁰⁸ Walter Carlsnaes et al (eds.), *Handbook of International Relations* (London: Sage, 2002), p. 143.

²⁰⁹ John Gerard Ruggie, *Constructing the World Polity* (London and New York: Routledge, 1998), p. 33.

²¹⁰ Cf. Jeffrey T. Checkel, *Ideas and International Political Change. Soviet/Russian Behavior and the End of the Cold War* (New Haven and London: Yale University Press, 1997); J. T. Checkel, "Why Comply? Constructivism, Social Norms and the Study of International Institutions", ARENA (Advanced Research on the Europeanisation of the Nation-state) Working Papers 99/24, Oslo University, 1999; J. T. Checkel, "Norms, Institutions and National Identity in Contemporary Europe", ARENA Working Papers 98/16, Oslo University 1998.

economic transformation.²¹¹ Since there are problems or constraints that derive from historical memories of past divisions, any meaningful (re)moulding of a society requires working through these legacies. Fine political judgment and skillful leadership are essential to guide transition within this complex area. For third parties as external sponsors and supervisors of state building, as well as for the local political elites who are encouraged to assume full command of state building in their country, the burden of security and institution building is far greater when the task is also norm building. In essence, norm building is about the substance that fills the institutional structure.

In ideal circumstances establishing new norms should run in parallel with erecting new institutions, but in practice the process is not smooth. Logically, it is easier to make parties to the conflict agree to minimal formal procedures than it is to make them fully endorse cooperation as a way of handling outstanding issues. To make the shift from conflict to cooperation requires the extensive engagement of interveners within a post-war setting and even when such engagement is present, the prospect of replacing conflict by cooperation is uncertain. State building is taxing, especially when attention is focused on constructing a new democracy as well as running it.

In post-war Germany and Japan the intervener, although working under different conditions, recognized what had to be done if both the German and the Japanese societies were to become fully functional and integrated with the rest of the world. Of course, neither of the two societies were as deeply divided as are the societies in which interventions have taken place since the end of the Cold War, but nonetheless post-war interventions in Germany and Japan reveal the significance of focusing on normative, as well as other aspects of state building. In the next section I analyze the experience of these two countries and focus in particular on the normative change that was initiated by the interveners.

²¹¹ Geoffrey Pridham, *The Dynamics of Democratization. A Comparative Approach* (London and New York: Continuum, 2000); see esp. Chapter Eight, "Stateness, national identity and democratization".

II-3a State building in Germany and Japan

The urge of the United States and her Allies to (re)create West Germany were only made more pressing by developments on the world stage after the war – most notably the polarization between the capitalist West and the communist East at the beginning of the Cold War. In such a setting, post-war Germany was at the frontline of the Cold War, hence its even greater importance. Therefore, one can safely conclude that the right mixture of internal pre-existing and external structural conditions led to the surprisingly successful state building in West Germany.

The experience of the interventions in Germany and Japan suggest that the key to the success was the commitment to vast economic, political, and educational reforms affecting the entire population and most government institutions. The reforms were facilitated by the unconditional surrender of the two states, and at the same time enhanced by the public who desired a distinctly different government from the imperialistic and militaristic rulers who had brought them to defeat. The fact that these two societies enjoyed high literacy rates, high levels of industrialization and a respect for education contributed significantly to the reforms' success.²¹²

The success in both cases is strongly associated with the role of the American military; in the case of Germany, the U.S. military governed one of the four zones into which post-war Germany had been divided, while in the case of Japan the U.S. had unrestricted, sole control of the country.²¹³ Even in West Germany the American influence was the strongest as Britain and France, who had control of the two other zones, were preoccupied with rebuilding their own countries after the war. Most studies on modern Germany underscore the key influence the American presence had on the development of post-war Germany.

The Germany and Japan of today attest to the success of externally sponsored state-building. Von Hippel underscores that “the resulting

²¹² Karin von Hippel, *Democracy by Force. US Military Intervention in the Post-Cold War World* (Cambridge: Cambridge University Press, 2000), p. 18.

²¹³ The United States, Britain and France assumed control of West Germany, while the Soviet Union controlled East Germany.

governments are impressive testimony that it is possible for outsiders to establish relatively benign governments which locals will support for at least half a century.”²¹⁴

The task of the U.S. military government in Germany was to prevent “Germany from ever again becoming a threat to the peace of the world... (and to prepare for) an eventual reconstruction of German political life on a democratic basis.”²¹⁵ The Potsdam Agreement defined the purpose of the occupation to be “to bring about complete disarmament and demilitarization of Germany” and to “convince the German people that they have suffered a total military defeat and that they cannot escape responsibility for what they have brought upon themselves.”²¹⁶ The occupation period was intended to “prepare for the eventual reconstruction of German political life on a democratic basis and for eventual peaceful cooperation in international life in Germany.”²¹⁷

The task of rebuilding and democratizing the country, although primarily under American domination, was carried out in cooperation with Germans. According to Peterson, although U.S. involvement was significant, “the occupation worked when and where it allowed the Germans to govern themselves.”²¹⁸ This devolution of power was born out of necessity due to the pressing need to feed and sustain 45 million Germans, without the U.S. government footing the whole bill.²¹⁹ The

²¹⁴ Roy Licklider, ‘State Building After Invasion: Somalia and Panama’, Presented at the International Studies Association annual convention, San Diego, CA, April 1996; quoted in von Hippel, p. 12.

²¹⁵ Cited in Merritt, Richard L., *Democracy Imposed: US Occupation Policy and the German Public, 1945-1949* (New Haven: Yale University Press, 1995:270).

²¹⁶ U.S. Department of State, *Participation of the U.S. Government in International Conferences, 1 July 1945 – 30 June 1946* (Washington, 1946), p. 144; quoted in Boehling, p. 29.

²¹⁷ “Protocol of the Proceedings of the Berlin Conference of 2 August 1945,” *House of Commons, Accounts and Papers*, XXIV, 1946-47 (London, 1947), p. 4; quoted in Boehling, p. 30.

²¹⁸ Peterson, Edward N., *The American Occupation of Germany: Retreat to Victory* (Detroit: Wayne State University Press, 1977: 115).

²¹⁹ Edward N. Peterson, *The American Occupation of Germany: Retreat to Victory* (Detroit: Wayne State University Press, 1977), p. 10.

British estimated that their zone was going to cost them GBP 80 million (well over a GBP 1 billion in 1990's values) in the first year.²²⁰ From 1945 to 1947 the British found themselves having to spend much of their precious supply of dollars, borrowed under what they saw as harsh terms from the USA, on feeding their zone with food purchased from the Americans.

Democratization in Germany started at the grass-roots level and moved up in an orderly fashion to the top. Local council elections preceded regional elections, which were held before national elections. As General Clay explained, "the restoration of responsible German government from the village to the state within the United State Zones was a systematic, planned, and to a large extent scheduled-in-advance program to carry out our objectives."²²¹

Germans refer to the immediate aftermath of the war as the *Stunde Null*, the point in time when the old Germany ceased to exist and the new one began to be built. In Germany in 1945 there was certainly denunciation, resentment, and recrimination, but the Germans also turned to the expectation of the rebirth of civilized life. To dwell on the past would solve little, and perhaps this is one reason why most Germans - after the process of denazification and judicial punishment - focused on hope for the future, rather than on incessant condemnation of each other.²²²

One historian depicts a similar experience in Japan after the war: "So sharp was the break with what had gone before that one is tempted to treat September 1945 as the end, not of a chapter, but of a story, making all that followed part of a fresh beginning. Indeed, in many ways it was. Defeat acted as a catharsis, exhausting the emotions which the Japanese had hitherto focused on their relations with the outside world. It also

²²⁰ Anne Deighton, *The Impossible Peace. Britain, the Division of Germany, and the Origins of the Cold War* (Oxford: Oxford University Press, 1990), p. 30; quoted in A.J. Nichols, *The Bonn Republic. West German Democracy 1945-1990* (London: Longman, 1997), p. 13.

²²¹ Lucius D. Clay, *Decision in Germany* (New York: Doubleday, 1950), p. 393.

²²² Dennis L. Bark and David R. Gress, *From Shadow to Substance 1945-1963* (Oxford: Basil Blackwell, 1989), 46.

opened the way for radical changes in social and political institutions, imposed by the victors.”²²³

When the western Allies entered Germany, their main concern, as reflected in the American Chiefs of Staff occupation directive, JCS 1067, was to denazify, demilitarize, and decentralize Germany and to deconcentrate German industry - the famous four Ds. Denazification was to take place through the apprehension and trial of those tainted with a Nazi past. By September 1945 66,500 people had been interned in the American zone and by the end of that year 70,000 Nazi suspects were under arrest in the British zone.²²⁴ Major Nazis were tried at Nuremberg, while denazification tribunals were to deal with other suspects, ranging from major offenders to followers and persons exonerated. At one point there were 545 tribunals in the American zone with staffs totaling 22,000. However, the whole procedure was slow due to purges that severely undermined the efficiency of the remaining administration. There was thus an incentive to deal with the minor cases first in order to get them out of the way and help rehabilitate those who were only found guilty of lesser involvement. It began to seem, however, as if the small fry were being persecuted, whereas the bigger fish would be left unpunished. This created a sense of solidarity among Germans and against the occupiers.

Denazification was one of the most heavily criticized aspects of Anglo-American occupation policy.²²⁵ Its delayed impact (in its final form it got under way only in the autumn of 1946), its scale and its perceived unfairness discredited it among the public. Nichols concludes that it did, however, have some advantages:

The pressure of denazification forced Nazi enthusiasts to keep low profile at a time when the embryonic institutions of a West German state - including political parties, *Land* administrations,

²²³ W.G. Beasley, *The Rise of Modern Japan. Political, Economic and Social Change Since 1850* (London: Weidenfeld and Nicolson, 1995, Second Edition), p. 214.

²²⁴ A.J. Nichols, *The Bonn Republic*, p. 17.

²²⁵ The French adopted a more pragmatic view of the denazification doctrine, thus enabling many competent administrators to help in the work of the zonal rehabilitation. The Soviets, for their part, carried on without much reference to the US-British denazification model.

the press and radio, and the education system - were being established. If they wanted to keep their jobs, or at least stay out of jail, xenophobic German nationalists and racist social Darwinists had to pay lip service to the ideals of pluralistic democracy as represented by the western occupiers.²²⁶

Denazification, however, did not only take the form of arresting and punishing former Nazis. As General John Hilldring, who headed the State Department's Civil Affairs Bureau, argued: "The very essence of our policy in Germany and Japan is to take control of these countries away from the fascist-minded people until democratic ideas and ideals take root in these countries."²²⁷ The whole project was understood as planting the seed of a new political culture in Germany to replace that of the Third Reich. One way of doing this was through the concept of re-education. There was much discussion of the prevalence of an authoritarian element in German culture and the aggressive and militaristic nature of German politics, which was perceived and explained in terms of family life and schooling. An extreme statement of this position came in a 1946 OMGUS report: "It happens that the German culture is a bad culture which also represents a menace to orderly world society... The German culture is authoritarian and has made real democracy an impossibility."²²⁸

As in Germany, democratic reforms in Japan were implemented in a relatively autocratic manner by the U.S. military, as General Douglas MacArthur retained tight control of the entire operation. One of MacArthur's political advisors would later comment, "This was heady authority. Never before in the history of the United States had such enormous and absolute power been placed in the hands of a single

²²⁶ A.J. Nichols, *The Bonn Republic*, p. 19.

²²⁷ John H. Hilldring to Eisenhower, 16 January 1946, Pre-Presidential, Box 42, Dwight D. Eisenhower Presidential Library, Abilene, Kansas; quoted in Frank A. Ninkovich, *Germany and the United States. The Transformation of the German Question Since 1945* (Boston: Twayne Publishers, 1988), p. 34.

²²⁸ Quoted in Ninkovich, *Germany and the United States*, p. 37.

individual.”²²⁹ The overall intention was to change economic and political institutions, but in the case of Japan, this was done indirectly through existing governmental structures, while the focus was on a program of extensive reeducation. Another important aspect was the purge of tainted Japanese from public life. Overall, von Hippel contends that between two and three hundred thousand Japanese were eventually removed from their positions, including military officers, government officials, party politicians, and business leaders. While over 80 per cent of military personnel were purged, only 1 per cent of civil servants and 16 per cent of the pre-war Diet were replaced (many, however, committed suicide).²³⁰

There were three significant factors that facilitated the process of state building in general and norm building in particular in Germany²³¹ and Japan.²³² One, their unconditional surrender after World War II gave the Allies a *carte blanche* to do what they wanted. Two, the level of development and education in both countries favored and facilitated change. And three, the serious commitment on behalf of the Allies to create democratic states in both countries was evident.

In 1946, Byrnes gave a speech in Stuttgart in which he offered hope to the German people. Twenty years later, a German historian of the postwar era wrote that the Stuttgart speech "marked the transition of the western occupation policy from the Morgenthau Plan to the Marshall Plan, from the annihilation of Germany to the reconstruction of Germany."²³³

²²⁹ Karin von Hippel (2000:16) cited from Toshio, Nishi, *Unconditional Democracy: Education and Politics in Occupied Japan, 1945-1952* (Stanford: Hoover Institution Press, 1982:34).

²³⁰ Karin von Hippel, *Democracy by Force*, p. 17.

²³¹ The Allies (the United States, Great Britain and France) managed separate zones in Germany, although they cooperated on major decisions. The US and British zones were united in 1946, while France joined this bizonal area after the creation of the North Atlantic Treaty Organization in 1949, when the Federal Republic of Germany was created. The Soviets kept their zone of occupation separate.

²³² The Allied occupation of Japan under General Douglas MacArthur was close to an end by 1952, although a number of troops remained.

²³³ Ibid.

The occupation of West Germany was officially concluded on May 5, 1955 and four days later the Federal Republic of Germany became a member of NATO. All this could not have been achieved without clear goals and a clear commitment on the part of those who were to supervise this change. In the book *Lucius D. Clay, An American Life*, Jean Edward Smith writes that Clay was truly the father of what became West Germany. By supervising a denazification program, directing the Berlin airlift, instituting currency reform, helping to establish constitutional law and self-government and by standing up to both the Soviets as well as Washington's Western Allies, who wanted to keep Germany divided and weak, Clay was more responsible than anyone for the "creation of a prosperous, stable and democratic Germany."²³⁴ At the foot of his grave in West Point is a memorial from the citizens of Berlin that says, "Wir danken dem Bewahrer unserer Freiheit" – "We thank the defender of our freedom."

The political goal of the occupation of West Germany was to uproot fascism and instill a democracy that would guarantee an anti-fascist political orientation. However, it was precisely through democratic procedures that Adolf Hitler and his National-Socialists came to power, and therefore the goal of the occupying powers was not to instill a valueless democracy, but manifestly an anti-Nazi democracy. In this way the concept of the Zero Hour was practically implemented. Fascism was defeated and the highest *regierungsgewalt* was thus to be exercised by the winners, without much consideration for the defeated. The Potsdam agreement stipulated that the National-Socialist party with its subsidiary organizations was to be destroyed and all *nazionalsozialistischen* offices were to be wiped out. Parallel to this was the fact that such organizations could not be permitted to rise again in any form.²³⁵ In such circumstances, the German people had no option but to accept the situation and adapt themselves to it.

²³⁴ An excerpt from the Cold War Archive on Lucius D. Clay, available at www.cnn.com

²³⁵ "Official announcement over the conference of Potsdam from 17 July to 2 August 1945", p. 2.

The stress is on ‘no other option’. Obviously, if some other option was also permitted in Germany after the Second World War, most likely some individuals would have chosen not to subscribe to anti-fascism. Or, to be more precise, if the National-Socialist party had not been abolished but rather permitted to stand for elections after the war, it would have undoubtedly received a certain proportion of votes. By permitting Nazis to stand in elections, the occupying powers would have legitimized their political program and absolved them from responsibility for what they had done in the late 1930s and early 1940s. However, this did not happen. The National-Socialist party was prohibited, while the brutality of the Nazi ideology has been encrypted into the collective mind of post-war generations. The defeat of fascism in the world brought about the creation of a new set of values and principles that would define human existence thereafter. Germany, as one of few countries in which the fascist ideology took root, was subject to a profound change after the defeat. The Zero Hour concept captures the essence of this fracture.

The application of the concept of the Zero Hour facilitated norm building in Germany and Japan. Norm building is ultimately about whether the state that is being (re-)established is going to retain the institutions, norms and procedures after the interveners leave. Can local people internalize the sizeable package of rules, regulations and procedures that are being imposed upon them? Can local people continue to practice democratic power sharing once they are fully in command of their destiny? Can the *habits of the heart* be gradually changed through external manipulation?

II-4 STATE BUILDING IN BOSNIA-HERZEGOVINA

The model of state building in Bosnia-Herzegovina integrates three aspects of the intervention – chronological, functional and normative. The chronological aspect conveys progression from one phase of the intervention to another. More space is devoted to the functional aspect of the intervention, i.e. how much a state building intervention is capable of achieving, what kind of challenges emerge, and which approaches to institution building stand the greatest chance of success? As the intervention in Bosnia-Herzegovina is an ongoing process, there are

substantial limitations both on which questions can be asked (for example, which approach is most effective in creating conditions to reform the education system that overrides group segregation and provides a non-nationalist curricula?) and on the answers that can be given (was a particular approach successful in reforming the educational system in Bosnia-Herzegovina?). The answer cannot be given in the framework of this thesis as the reform is still ongoing. Finally, the normative aspect of state building represents an altogether separate set of theoretical questions and these are explored to the extent that the Bosnian case permits.

The international community did not enter Bosnia-Herzegovina with a ready-made model of state building applicable to this case of a post-Communist, post-war deeply divided society. State building models do not wait on shelves, ready to be picked up whenever a situation demands. A model is crafted through a *trial and error* process, sculpted by a long succession of moves, deadlocks, and breakthroughs. The will to move forward despite unavoidable obstacles is what sustains the state-building project. Moving forward, however, does not necessarily mean moving in the right direction since the intervener does not necessarily know which policy is the most suitable one. Sustaining the state-building intervention long enough generates an accumulation of lessons learned which represent the building blocks of a later theory.

In the case of Bosnia-Herzegovina the international community started with a strategy that had already been tested in other places – a military presence that was to establish the crucial security framework in which civilian tasks were to be carried out. The civilian implementation equaled the institution building, i.e. the creation of the basic structure of the emerging Bosnian state. However, not long after they entered, the interveners had to face a range of unexpected problems. These problems contributed to the deepening of the international involvement beyond the limit that was initially foreseen. The dilemma was obvious: to pull out early would mean risking the renewal of the conflict, thus losing the investment made, which policy makers tended to view as too high to justify pulling out. The other option was the intensification of engagement. This brought problems of different kind – criticism of imperialistic intentions from one side and criticism of imprudent

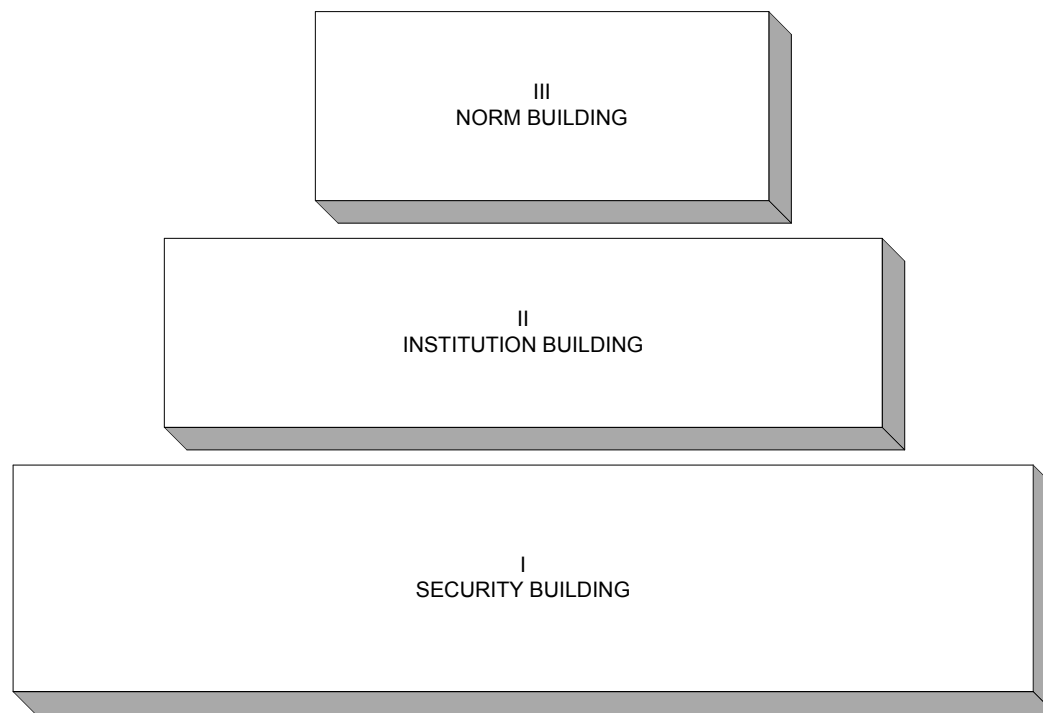
humanitarianism from the other. Cost-conscious critics questioned the price of the ultimate goal arguing that its realization could not justify such high expenditure.

America has no legitimate interests in the Balkans that even remotely justify baby-sitting that region and becoming obsessed with its parochial disputes. America should view the Balkans as a strategically and economically irrelevant snake pit. The ugly ethnic-group-identity politics of the region and the zero-sum-game mentality of many of the players need be of no concern. (...) Matters are somewhat different for the Europeans. Disorder in the Balkans creates refugee flows and a variety of other problems for EU members. It would not be unreasonable for the EU to conclude that its own security interests require an interventionist role. (On the other hand, it would be equally reasonable to conclude that the costs and risks entailed in peacekeeping missions outweigh any probable benefits.)²³⁶

II-4a The model of state building

The intervention, despite criticism, proceeded in the following phases. Each phase is given a name according to its overriding characteristic. Thus, the first phase (1995-1997) is security building, the second (1998-2000) institution building, and the third (2001-) is norm building.

²³⁶ Ted Galen Carpenter, "Waist Deep in the Balkans and Sinking", Policy Analysis No. 397, *The Cato Institute* (April 30, 2001).



In the first phase the effort focused on creating a secure framework within which other initiatives could be launched. It was a period in which the stage was set for various actors to participate in the state building process. It is also a phase in which the interveners established themselves vis-à-vis the local actors, when different interests were screened and assessed. Finally, it was a phase that determined the subsequent action – for example, if there was a strong military opposition to the NATO force once it had entered Bosnia-Herzegovina, the logical step would be to concentrate more substantially on security problems than on institution building.

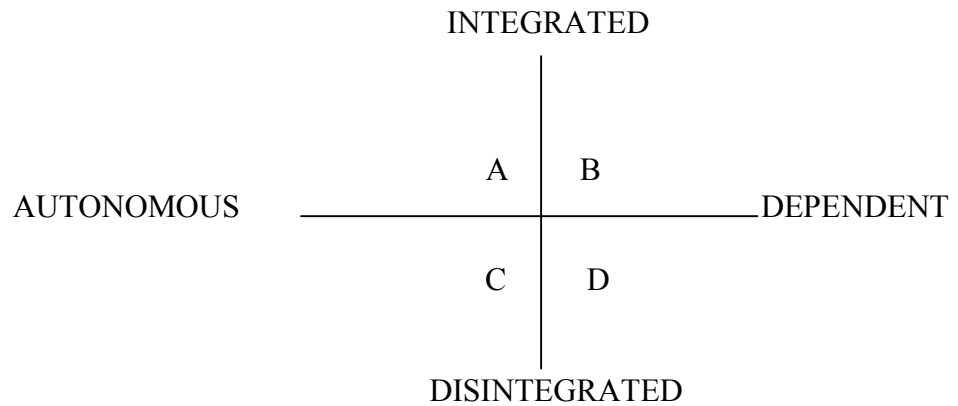
The second phase saw a dramatic increase in the expansion of the international mandate causing the local political structures to be effectively sidelined. It is a phase in which various approaches to institution building were tested and implemented with mixed results. It is also a phase in which the international community spent a lot of time

not only sharpening its strategies to address Bosnian problems, but also devising strategies of how to best address its own internal problems stemming from a lack of coordination, poor information sharing, and competition among different international agencies.

The third phase was marked by the ‘recalibration’ of the international engagement both in terms of their internal cohesion as well as towards the local structures in Bosnia-Herzegovina. The international community improved its internal organization, bringing all civilian implementation agencies under the same roof, leaving outside only the NATO structure. This improved cooperation and information exchange led to greater efficiency, and at the same time reduced the overall cost. The wide-ranging intrusive approach was replaced by a pillar system – a delineation of core policy areas on which the international community would concentrate, dropping all projects that did not come under this core umbrella. Furthermore, the crisis-driven approach, characteristic of the second phase, was replaced by a goal-oriented approach. This step required that the international community started visualizing the end result of its mission, i.e. the final status for Bosnia-Herzegovina. It also meant that it had to engage local political and economic structures in an intense dialogue about Bosnia’s future. The norm-building phase thus reflects the changed attitude of both the international community and the local political elites in recognizing their share of responsibility for peace implementation.

II-4b Scenarios for the future of Bosnia-Herzegovina

Basically, there are four possible scenarios for the future of Bosnia-Herzegovina. These four scenarios lie between the two axes, integrated or disintegrated, and autonomous or dependent.



Although the terms used in the chart are probably self-evident, I shall explain what I mean by each of them. *Autonomous* means that the state is self-sustaining, independent and sovereign. *Dependent* means that the state depends on others for its survival, either as a protectorate of the international community or as a subject to some other kind of foreign governance. It is economically unsustainable and is not an independent actor on the international scene. *Integrated* and *disintegrated* refer to the territorial and political arrangement in Bosnia-Herzegovina, where the first term implies that the country remains territorially and politically integrated, while the latter term implies that the country is partitioned into two or three separate and independent units. These scenarios reflect the earlier discussed strategies of conflict management according to McGarry and O’Leary. In fact, partition, cantonization/federalization and consociationalism/power-sharing have all been vying for dominance in Bosnia-Herzegovina in the post-Dayton period.

Judging by the current definition of the international involvement in Bosnia-Herzegovina, anything except scenario A would be seen as a failure. Scenario C – autonomous and disintegrated – would be acceptable to the international community on the condition that the three Bosnian groups work out a model for peaceful implementation of this scenario. Scenarios B and D are unacceptable to the international community because of Bosnia’s dependent status in both of them. The intervention that would end with Bosnia-Herzegovina that is not self-sustainable would be a failure.

The next chapter covers the first phase of the international intervention in Bosnia-Herzegovina, i.e. security building. It opens up with the analysis of the Dayton Peace Agreement (DPA) and proceeds to analyze activities and accomplishments of both military and civilian international implementation force in the period 1995-1997. The following two chapters – chapters four and five – analyze the two subsequent phases, institution and norm building respectively.

III SECURITY BUILDING – THE FIRST PHASE OF STATE BUILDING (1995 – 1997)

“Peace is best thought of not as a single or simple good, such as the absence of war or violent conflict, but instead as a complex and variable process. Especially once one looks for a long- term peace, real peace requires more than an absence of violence. On the one hand, a temporary peace can be achieved through efficient coercion by a police force, but it is unlikely to last. Longer lasting peace involves aspects of legitimacy, political participation, social integration and economic development.”²³⁷ Post-conflict societies are usually at a higher risk of renewed conflict during the first decade after conflict has ended. There is, however, much that can be done both by post-conflict governments and by the international community to reduce these risks.²³⁸

This chapter opens up with an overview of the situation that preceded the 1995 intervention in Bosnia-Herzegovina, namely the international response to the Bosnian war that culminated with peace talks at Dayton. The arrival of the international military and civilian force following the signing of the Dayton Agreements represents the first phase of the post-war international involvement in Bosnia-Herzegovina. As explained in the theoretical chapter, the security-building phase defines the creation of the security framework in which civilian implementation can move forward. The NATO force was responsible for the military aspects, while a host of different organizations and agencies was responsible for the civilian aspects of peace implementation. The crux of this chapter is thus devoted to the analysis of the role of these forces in the period 1995-1997.

²³⁷ Kenneth Boulding, “Toward a Theory of Peace” in Roger Fisher (ed.), *International Conflict and Behavioral Science* (New York: Basic Books, 1964), pp. 70-87.

²³⁸ See Paul Collier, “Policy for Post-Conflict Societies: Reducing the Risks of Renewed Conflict”, paper prepared for The Economics of Political Violence Conference, March 18-19, 2000, Princeton University; available at www.wb.org.

III-1 BOSNIA-HERZEGOVINA AND TRANSATLANTIC RELATIONS

The decade-long Yugoslav crisis had two phases and two sorts of Western response. In the first phase, between 1990 and 1995, Europe led international initiatives to find a solution to the war in Bosnia-Herzegovina. However, the gradual, hesitant and unevenly distributed assumption of responsibilities in the face of ethnic cleansing caused considerable unease on the other side of the Atlantic. None of the Yugoslav conflicts threatened the core security of Western countries, but the fact that they were directed against civilians threatened values such as universal human rights, democratization, and globalization that gained in importance once the Soviet threat had disappeared.

The Bosnian war's corrosive effect on transatlantic unity was one important factor that led to a more effective American and NATO-led intervention in 1995. Bosnia's agony challenged the assumption of shared values and common interests. It mocked Europe's ambitions for unity and a greater presence on the global stage. And it raised a stark question about the continued seriousness of U.S. military engagement in Europe. Thereafter, a determined effort was made to preserve alliance unity on Balkan matters. The transatlantic partners had come to appreciate the high cost of disunity and their positions on the challenges posed by the war did eventually converge.

Three themes in particular dominated transatlantic debates on the war in Bosnia-Herzegovina.²³⁹

- The use of military force. Critics of the European response to Bosnia-Herzegovina argued that the West's greatest Balkan error was a disinclination to use military force to stop the war against civilians.
- The balancing of 'exit strategies' against the need for a sustained and open-ended engagement. In this case it was Europeans who got the better part of the argument – they were less reluctant to pledge commitment for the long-term engagement.

²³⁹ Cf. Dana H. Allin, *NATO's Balkan Interventions*, Adelphi Paper 347, The International Institute for Strategic Studies (Oxford: Oxford University Press, July 2002).

- The problem of ethnic coexistence versus national self-determination in a multiethnic setting. Americans systematically criticized peace plans offered through several European-led diplomatic initiatives arguing that they rewarded ethnic cleansing. After the Dayton Agreement came into force as a result of the U.S.-led diplomatic initiative, some European diplomats concluded that Dayton ethnic solutions did not differ significantly from some, previously criticized, European proposals.²⁴⁰

Constitutional, historical and cultural factors on both sides of the Atlantic had the practical effect of making transatlantic policies converge around an ineffectual lowest common denominator. In time, the U.S. approach proved effective in bringing the war to an end. The most consciously planned strategic element was the 1994 Washington Agreement between Bosniaks and Bosnian Croats, which ended the war between these two groups and laid the basis for a reconstituted anti-Serb alliance. If the United States was more successful in its strategic approach than the Europeans, it was partly because of its preponderant power and prestige, and also because its 'default' attitudes were more appropriate to the crisis. These included using force and taking sides. The UN template of 'impartiality' was not just morally problematic, but also the source of strategic incoherence. A settlement proved possible only after the Croat-Bosniak side gained the offensive on the ground; and after the Serb actions (the seizure of UNPROFOR hostages and the Srebrenica massacre) provoked NATO into joining the war as an ally, in effect, of the Sarajevo government.

As much as the intervention was crucial to the Bosnians in ending the war, it was of comparable importance to the interveners themselves. The intervention was a first in many different aspects. The NATO-led operation in Bosnia-Herzegovina, *Joint Endeavor*, was NATO's first-ever ground force operation, its first-ever deployment "out of area", and its first-ever joint operation with NATO's Partnership for Peace partners and other non-NATO countries, including the Russians. This was a first-ever for the French in support of a NATO-led operation.

²⁴⁰ See Carl Bildt, *Misija mir* (Sarajevo: Zid, 1998).

[T]he 32-country IFOR has brought France back to NATO, launched the Combined Joint Task Force, integrated Russian soldiers into the U.S. division, and become a trial run for all former Warsaw Pact countries aspiring to NATO membership. The goals attached to this operation are of such consequence – for U.S. leadership, for a new, transformed, and credible NATO, for European security arrangements adapted to post-cold war circumstances... that it cannot afford to fail.²⁴¹

The salience of the intervention to the interveners was a factor counted on by those who wanted to see the intervention succeed. The post-Cold War experience, although limited, implied that interveners would maintain a very short time span of interest in a target state. Commitment, although emphasized by scholars as the essential element of a successful intervention, was lacking because the interveners could not artificially produce the salience of an intervention that would require their extensive commitment.

In the case of Bosnia-Herzegovina, the war took place in Europe and this was perhaps the most important single reason why the interveners judged the intervention as being of greater salience than some other conflicts that were probably more destructive, but were not as close to them as Bosnia-Herzegovina was. Even under conditions of the high proximity of the conflict and the positive value attached to the development of internal relations among the interveners, the commitment oscillated. Interventions are fertile ground for advancing partisan interests among the interveners and for continuous internal wrestling to wield power.

III-1a Setting the stage

The peace process in Bosnia and Herzegovina²⁴² began with the signing of the General Framework Agreement for Peace, also known as the Dayton Peace Agreement (DPA) as it was negotiated at the Wright-

²⁴¹ Susan Woodward, “Policy Brief # 2”, The Brookings Institution (July 1996); available at www.brookings.org

²⁴² While ‘Bosnia and Herzegovina’ is the official name of the state, I use Bosnia-Herzegovina, or simply Bosnia, in this thesis unless otherwise required by the text.

Patterson Air Force Base in Dayton, Ohio. At the initialing ceremony on November 21, Richard Holbrooke, the architect of the Agreement, made a cautionary remark:

The agreements and territorial arrangements initialed here today are a huge step forward... But ahead lies an equally daunting task: implementation. On every page of the many complicated documents and annexes... lie challenges to both sides to set aside their enmities, their differences, which are still raw with open wounds. On paper, we have peace. To make it work is our next and greatest challenge.²⁴³

The Agreement was officially signed in Paris on December 14, 1995 by Alija Izetbegović on behalf of the Republic of Bosnia-Herzegovina, Franjo Tuđman on behalf of the Republic of Croatia, and Slobodan Milošević on behalf of the Federal Republic of Yugoslavia.

As an inducement to the parties to sign the Agreement and as a proof of its commitment, the international community pledged extensive military, political, and economic assistance. At the time, the international community was already present in Bosnia-Herzegovina under the United Nations, whose forces had been deployed in the peace-keeping mission since 1992 along with a number of governmental, inter-governmental and non-governmental organizations that had operated in Bosnia-Herzegovina for years. The 1995 post-Dayton intervention was launched with the goal of (re)creating the Bosnian space in such a way as to lay down conditions for a lasting peace both in the country and in the region at large.

In order to mobilize support for the peace process, the international community decided to establish the Peace Implementation Council (PIC) composed of states, international organizations and agencies who expressed the will to facilitate the implementation of the DPA. While the PIC was to meet annually to review progress in peace implementation, a Steering Board of the PIC, composed of representatives of Canada, France, Germany, Italy, Japan, Russia, United Kingdom, the United States, the Presidency of the European Union, the

²⁴³ Richard Holbrooke, *To End a War*, p. 312.

European Commission, the Organization of the Islamic Conference (OIC), as well as representatives of relevant international organizations,²⁴⁴ under the chairmanship of the High Representative, was to meet on a monthly basis and guide the peace implementation.

The purpose of the London Peace Implementation Conference, held on December 8-9, 1995 at which the PIC was established, was to “mobilize the international community behind a new start for the people of Bosnia and Herzegovina.”²⁴⁵ The Conference concluded that the peace should result in:

- the creation of a climate of stability and security in Bosnia-Herzegovina and the achievement of a durable and lasting political settlement;
- the establishment of new political and constitutional arrangements for Bosnia-Herzegovina that would bring the country together within a framework of democracy and the rule of law;
- the protection and promotion of human rights and the early return of refugees and displaced persons;
- the establishment of an open, free-market economy in Bosnia-Herzegovina;
- a kick start to economic reconstruction;
- the normalization of relations between Bosnia-Herzegovina and her neighbors, the region and the rest of the international community;
- the creation of a direct and dynamic contractual relationship between Bosnia-Herzegovina and the European Union within the framework of a regional approach;
- the fostering of important economic opportunities for countries neighboring the former Yugoslavia.

The realization of these objectives was to involve an initial phase of peace implementation during which the international community, including a wide range of international and regional organizations and

²⁴⁴ Regularly present in these meetings have been the United Nations, the United Nations High Commissioner for Refugees, the Organization for Security and Cooperation in Europe, and the North Atlantic Treaty Organization.

²⁴⁵ “Conclusions of the Peace Implementation Conference Held At Lancaster House, London, 8-9 December 1995”, pp. 1-2.

agencies, would be deeply involved in assisting in the implementation of the tasks flowing from the Peace Agreement.²⁴⁶ Over the years, the PIC countries and agencies supported the peace process in many different ways - by assisting it financially, by providing troops for IFOR/SFOR, or by directly running operations in Bosnia-Herzegovina. Since the London Conference, the PIC came together at ministerial level five times to review progress and to define the goals of peace implementation for the coming period: in June 1996 in Florence; in December 1996 for a second time in London; in December 1997 in Bonn; in December 1998 in Madrid; and in May 2000 in Brussels.²⁴⁷

Responsibility for reconstruction, the Conference concluded, was to lie primarily with the authorities of Bosnia-Herzegovina, but at the same

²⁴⁶ Ibid., underlining mine.

²⁴⁷ PIC members and participants are: Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China (resigned in May 2000), Croatia, Czech Republic, Denmark, Egypt, the Federal Republic of Yugoslavia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Jordan, Luxembourg, Malaysia, Morocco, Netherlands, Norway, Oman, Pakistan, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom and the United States of America; the High Representative, Brčko Arbitration Panel (dissolved in 1999 after the Final Award was issued), the Council of Europe, the European Bank for Reconstruction and Development (EBRD), the European Commission, the International Committee of the Red Cross (ICRC), the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Monetary Fund (IMF), the North Atlantic Treaty Organisation (NATO), the Organisation for Security and Co-operation in Europe (OSCE), the United Nations (UN), the UN High Commissioner for Human Rights (UNHCHR), the UN High Commissioner for Refugees (UNHCR), the UN Transitional Administration of Eastern Slavonia (UNTAES; disbanded in January 1998) and the World Bank.

PIC observers are: Australia, the Central Bank of Bosnia and Herzegovina, the European Investment Bank (EIB), Estonia, the Holy See, the Human Rights Ombudsperson in Bosnia-Herzegovina, Iceland, the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Mediator for Bosnia-Herzegovina, the International Organization for Migration (IOM), Latvia, Lithuania, New Zealand, Liechtenstein, South Africa and the Special Co-ordinator of the Stability Pact for South Eastern Europe.

time donors, including international financial institutions (IFIs), were “prepared to make a substantial contribution on the basis of appropriate burden-sharing within the international community of the overall effort needed to secure and implement the peace.”²⁴⁸ With regards to the reconstruction efforts, the Conference underscored that the views of the major donors were to be of particular importance. Frequent meetings of aid donors were necessary to achieve wide and equitable participation in the international aid effort and to enhance coordination between programs and projects. Such meetings were to inform the work of the Steering Board. The first such meeting took place in Brussels on December 20-21, 1995 and was co-hosted by the European Commission and the World Bank.

The Conference also stressed the importance of creating effective central institutions capable of adopting responsible fiscal and monetary policies; conducting business with the international community and in particular the IFIs; and contracting and servicing debt on behalf of Bosnia-Herzegovina. Moreover, the Bosnian authorities were to assume the responsibility of pursuing policies which fostered the creation of a market economy and an open trading system.

Mr. Javier Solana, the President of the EU Council of Ministers, stressed that “legitimate and effective political structures in Bosnia-Herzegovina were needed in order to be able to establish strong relations with the European Union.”²⁴⁹ He also stated that long-term stability required a normalization of relations within the region and between the states of the former Yugoslavia and the rest of the international community.

The initial military and civilian implementation tasks, such as the disengagement of the parties, arrangements to promote the return of refugees and displaced persons, and the holding of free and fair elections for new democratic structures, were planned to be the basis from which

²⁴⁸ “Conclusions of the Peace Implementation Conference Held At Lancaster House, London, 8-9 December 1995,” *OHR Document* at <http://www.ohr.int/docu/d951208a.html>; accessed March 5, 2001, p. 13.

²⁴⁹ “Conclusions of the Peace Implementation Conference...”, p. 13.

the peoples of Bosnia and Herzegovina would take over the task of the long-term development.

III-1b Elements of the security framework

The Dayton Peace Agreement provided the foreign powers – as represented by the NATO-led Implementation Force (IFOR), the Office of the High Representative (OHR), the Organization for Security and Cooperation in Europe (OSCE), the United Nations and other bodies – with broad authority over civilian, military and political activities in the territory of the Bosnia-Herzegovina. It also provided for a fundamental social, military and political transformation of the former Republic of Bosnia-Herzegovina, which was to be replaced by the new state of Bosnia-Herzegovina. The state was to consist of two entities: the Federation of Bosnia-Herzegovina (FBH) and Republika Srpska (RS).

NATO was given a mandate by the UN, on the basis of UN Security Council Resolution 1031, to implement the military tasks of the Peace Agreement. The NATO-led multinational force was called the Implementation Force – or IFOR – and the operation, code-named *Joint Endeavor*, began on December 16, 1995. The Dayton Agreement granted IFOR virtually complete discretion to control any military activity and to carry out policing activity in Bosnia-Herzegovina. IFOR's authority to use force primarily concerned the enforcement of a no-fly zone over Bosnia-Herzegovina and the separation of forces along the 'zone of separation' between the FBH and RS. The DPA did not provide guidelines or means of enforcement of their military provisions after IFOR had terminated its mission. The DPA also did not explicitly provide for the stationing of troops at any point on Bosnia's international borders.

Fifty-one percent of the Bosnian territory (including all of Sarajevo) was allotted to the FBH. The remaining forty-nine percent was allotted to Republika Srpska. Control of the narrow 'Brčko area', which links the RS's eastern and western territories, was to be resolved through international arbitration.²⁵⁰ The Federation and Republika Srpska could mutually agree to further territorial exchanges.

²⁵⁰ See Chapter I.

The DPA's constitutional arrangements provided for the legal continuation of the Republic of Bosnia-Herzegovina as Bosnia-Herzegovina and provided for the preservation of the state's sovereignty, unity and territorial integrity. The central government's powers, however, were few in number while those of the entities corresponded more closely to those of internationally recognized states. Actions by the central government could be vetoed by a minority of parliamentary deputies voting as an ethnic bloc. In addition, the government was given neither the means nor the authority to enforce compliance with any aspects of its constitution or other parts of the DPA.

The Office of the High Representative was to be the leading international civilian agency in Bosnia-Herzegovina. The High Representative was given the task of overseeing the civilian aspects of the Agreement. He was to be the final authority in the theatre regarding the interpretation of the DPA and was charged with coordinating the activities of other international civilian agencies. Subsequently, the High Representative was authorized to impose legislation and dismiss obstructive local officials. Thus, the High Representative was appointed to "monitor the implementation of the peace settlement," facilitate the local parties' own efforts, and "coordinate the activities of the civilian organizations and agencies in Bosnia and Herzegovina."²⁵¹ However, "the High Representative shall have no authority over the IFOR and shall not in any way interfere in the conduct of military operations or the IFOR chain of command,"²⁵² although cooperation and consultation between the High Representative and the IFOR Commander was required.²⁵³

²⁵¹ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, Article II, Item 1.

²⁵² General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 10, Article II, Item 9.

²⁵³ It is interesting to see how this civil-military relationship came about. "Negotiations about civilian implementation structures were deeply influenced... by two crucial assumptions of U.S. policy. The first reflected congressional and perceived public sentiment against the United Nations... Accordingly, U.S. officials insisted that the UN could not have the leading role in the civilian or military effort... Second, the military operation had to be under sole NATO command, completely separate from, and

The UN High Commissioner for Refugees (UNHCR) was to develop a plan for the repatriation of refugees and displaced persons. The plan was to be implemented by the local sides. The UNHCR, the International Committee of Red Cross (ICRC) and other organizations were to be provided full freedom of movement and access to facilitate their activities relating to refugees and displaced persons. The local sides were obliged to abolish laws, eliminate structures and discourage activities that interfered with the return of the refugees or displaced persons, and to remove or prosecute authorities responsible for human rights violations. Property was to be returned to its lawful owners. Lawful owners were to be compensated if they so requested or if the property could not be returned, although the DPA did not define the criteria for legitimate reasons why property could not be returned.

Annex 3 of the Dayton Agreement gave the OSCE powers of regulation and control over the electoral process. The OSCE was to supervise – but not conduct – elections throughout Bosnia-Herzegovina between six and nine months after the signing of the DPA. However, this supervision was broadly defined since the OSCE was given powers far beyond the supervisory role it had in other Eastern European states. Refugees and internally displaced citizens could vote in places where they were residents before the war. They could also apply to vote elsewhere. A Provisional Election Commission was established, chaired by the Head of the OSCE mission, who was to have the final word in the interpretation of provisional electoral rules. Also involved in the work

certainly not subordinate to, the civilian implementation effort.” (Daalder, pp.153-4). The discussion on the role of the High Representative started thereafter and here U.S. policy went through an interesting evolution. The U.S. negotiating team believed that the High Representative would be an American and they developed a draft annex that contained a strong mandate for the HR who would have direct authority over the international organizations. “... [T]he Europeans made clear that if Washington expected them to pay the lion’s share of reconstruction and other economic assistance, the civilian coordinating effort would have to be in Europe’s hands. Once it was clear that a European rather than an American would be the first HR, ... American negotiators worked hard to *limit* the authority and responsibility of the High Representative, for fear that a powerful person whom Washington could not control might fumble the implementation effort or, worse still, interfere with the military effort.” Daalder, p. 157.

of the Commission was the High Representative, Bosnian representatives and any other invitees of the OSCE Head of Mission. In case of disagreement within the Commission, the OSCE Head of Mission had the power to adopt electoral rules and regulations regarding the registration of political parties, the eligibility of candidates and voters, the role of election observers and the nature of electoral campaigning. The OSCE Head of Mission, whose post was from the beginning filled with different U.S. diplomats, regularly exercised this power vested in him. With every round of elections there was division on a number of issues with Bosnian representatives, but there were also divisions between the OSCE and other international agencies, particularly the OHR.

Annex 9 of the DPA established the Commission on Public Corporations to examine creating joint public corporations for the benefit of both entities, including their appropriate internal structure, the conditions necessary to ensure their permanent operation, and the best means of securing long-term investment capital. These were to include utility, energy, postal, and communications facilities. The Commission comprised five members, two appointed by the Federation, and one by Republika Srpska. The President of the European Bank for Reconstruction and Development was charged with appointing the remaining two members and designating the Chair.

One of the first tasks of the Commission was to establish a Transportation Corporation to organize and operate transport facilities such as roads, railways and ports. The Board of Directors of this corporation, chosen by the Commission, was to appoint in turn its own officers and staff. The Transportation Corporation, if the Commission decided, was to serve as the model for other joint public corporations. However, the job of the Commission was wrought with difficulties and years after the signing of the DPA the process of establishing joint public corporations was yet to be launched.

While the Bosnian constitution and political system would ostensibly be democratic, ethnic quotas and ethnic veto powers were institutionalized at several levels (at the level of the central state, in the entities, in mixed cantons, in Brčko, Mostar and Sarajevo). At the same time, the DPA

provided for the elimination of political elements that actively undermined Bosnia's sovereignty, territorial integrity and political independence through the work of the UN War Crimes Tribunal for the former Yugoslavia in the Hague. No individual indicted by or serving a sentence imposed by the Tribunal was to be allowed to hold any appointive, elective or other public office, including military offices and offices related to the implementation of the DPA. The local sides were to cooperate with the Tribunal, although this cooperation was largely undefined except that the local sides were to comply with any request by the Tribunal for the arrest, detention, and access to military prisoners or civilians held in relation to the conflict who were indicted by the Tribunal.

However, the DPA did not define the mechanisms by which this provision was to be implemented, nor did it provide for enforcing compliance, although other provisions granted IFOR the authority (but did not oblige it) to use necessary force to facilitate the conditions for international personnel (as opposed to the local personnel) to conduct tasks associated with the DPA, including the apprehension of the indicted war criminals.

Annex 11 defined the role of the UN International Police Task Force (IPTF) whose task in essence was to police the police. Thus, the IPTF was not authorized to conduct police work itself, but to supervise the conduct and the work of the local police force. It had the power to monitor and inspect law enforcement activities and to provide training, advice and assistance to the local police. Bosnian representatives were to provide the IPTF with full information about their police structures, employment and service records. They were also to make personnel available for IPTF training. The IPTF mission was part of the UN mission in Bosnia-Herzegovina (UNMBIH) that was established by the DPA. The mandate of the UNMBIH ended on December 31, 2002 after which the IPTF job was taken over by the EU police force.

The first year of the implementation largely concentrated on security issues. From 1997 the focus started to shift to the civilian tasks. Although aspects of civilian implementation started right away, i.e. as of January 1996, they were perceived as marginal in comparison to the

tasks of military implementation.²⁵⁴ The reason was that both the people of Bosnia-Herzegovina and the interveners alike waited for a while to see whether the fighting was really over before starting to carry out civilian tasks in earnest. A number of ceasefires in the previous three and a half years that did not hold, and although this time the situation was different because the ceasefire did not depend on the goodwill of the belligerents to honor their signatures but on the will and the capacity of the NATO-led force to neutralize any potential threat to the established ceasefire, it took some time for people to get used to the enduring silence of guns.

The OHR was charged with political, economic and legal tasks in advancing the implementation. The Organization for Security and Cooperation in Europe (OSCE) was to be responsible for conducting elections, democratization, civil society and human rights. The UN retrained and supervised the local police. A range of NGOs implemented various projects from housing reconstruction to book publishing to micro credit to setting up creative development curricula in schools.

The peace process brought about some dramatic changes in the security area. However, the lack of progress in political and economic areas led to a general sense of dissatisfaction with the peace implementation. An assessment by an influential NGO at the end of the fifth year of the peace implementation stated:

The key test for the international community in Bosnia is self-sustainability. To date it has failed this test. Five years and five billion dollars after the signing of the Dayton Peace Agreement, it's time for the international community to take a more systematic approach to implementing the Dayton Peace Accords... The investment of time and money must not be lost. Pulling out of Bosnia is not a viable option, as it would certainly

²⁵⁴ OSCE started very early in the year with preparations for general elections that took place in September 1996.

lead to renewed conflict and probably renewed intervention at a later time.²⁵⁵

An implementation strategy that would guarantee success does not exist. The interveners adopted an approach based on trial and error, as there existed little prior knowledge on how to create the internal structure of another state. A clear problem in the intervention is its experimental character and the uncertainty about an outcome which predisposes a large part of the intervening force towards becoming extremely risk averse. The result is a slow, incremental progress.²⁵⁶

III-2 MILITARY IMPLEMENTATION

The security-building phase of the international intervention in Bosnia-Herzegovina was primarily associated with the presence and operation of NATO-led troops whose overwhelming military power guaranteed (or so it was hoped) the observation of the ceasefire. The essential role of the NATO troops was to serve as a credible guarantor of safety for civilian international agencies and local people to proceed with peace implementation. The psychological effect of having NATO troops to keep the peace instead of UN troops was immense. NATO military structure differs from that of UN peacekeeping forces in its organization

²⁵⁵ "Bosnia's November Elections: Dayton Stumbles," *ICG Balkans Report No. 104* (Sarajevo/Brussels: 18 December 2000).

²⁵⁶ In understanding the problematique of peace implementation it may be of help to delve into the fields of learning theory and behavioral psychology, which offer an insight into the process of attitude formation. These fields provide us with the following insights: the more frequently a particular stimulus prompts a response that is rewarded, the greater the probability that this response will be repeated in the future when the same stimulus appears. In relation to the experience of learning new things, another proposition can be made: a new stimulus produces unknown responses, which is the cost that has to be incurred in order to increase knowledge. There are two corollaries to these statements: a response tends to become repetitive to the extent that future stimuli are similar (or perceived to be similar) to past stimuli; and repetitive responses are positively related to the value placed upon the reward. These statements can be used to explain the learning process of the interveners in implementing the state building agenda in Bosnia-Herzegovina.

and ground operations. The intervention gained credibility because it was safeguarded by an overwhelming ready-to-combat military force.

The military mission, as defined in Annexes 1 and 2 of the Dayton Agreement, was carefully planned and limited to a certain number of specific tasks: marking boundaries and enforcing compliance with the cessation of hostilities agreement, the separation of forces, and the withdrawal of forces to agreed territories.²⁵⁷ In addition to these primary tasks, IFOR could consider supporting other tasks within the limits of its capabilities, such as: securing conditions for the conduct by others of other tasks associated with the Peace Agreement; assisting in the observation and prevention of interference with the freedom of movement of civilian populations, refugees, and displaced persons; assisting in monitoring the clearance of minefields; and providing assistance to the UNHCR and other international organizations in their humanitarian missions.²⁵⁸ IFOR's mission was thus to be circumscribed to strictly military issues, although it could undertake other non-military engagements upon its discretion.²⁵⁹

As part of the military implementation of the Peace Agreement, UNPROFOR (the United Nations Protection Force) was to be replaced by IFOR (the NATO-led Implementation Force). This came to be the first NATO military operation since it was established in 1949. The

²⁵⁷ See Annex 1 and Annex 2 of the General Framework Agreement for Peace in Bosnia and Herzegovina. Also, Ivo H. Daalder, *Getting to Dayton*, p. 142.

²⁵⁸ "Conclusions Of The Peace Implementation Conference...", *OHR Document*.

²⁵⁹ An explanation of how the role of the military was designed is provided by Ivo Daalder in *Getting to Dayton*. "The debate about IFOR's role was driven to a considerable extent by political considerations of what the Congress and the public were likely to support a year before presidential elections. It was also characterized by a typical bureaucratic politics, pitting a Pentagon bent on minimizing the military's involvement against a State Department that looked to the military to force – on enforce – what its diplomacy could not achieve alone." (p. 144). General John Shalikashvili, the Joint Chief of Staff, repeatedly emphasized that IFOR would have the authority – but not the responsibility – for these supporting tasks. "IFOR will not be responsible for the conduct of humanitarian operations. It will not be a police force. It will not conduct nation building. It will not have the mission of disarming, and it will not move refugees." Statement by Shalikashvili, *Situation in Bosnia*, Senate hearings, October 17, 1995, p. 332; quoted in Daalder, p. 148.

military force was to number sixty thousand troops, one third contributed by the U.S., who had been pledged earlier as an incentive to the Bosnian parties to sign the peace agreement. The rest of the troops were already present in the country and switched from UN to NATO command. A small contingent of Russian soldiers was also deployed, officially under NATO command.

The United Nations had grown weary of the Bosnian war in which its forces were sent as peacekeepers to keep a peace that was not there. With the mandate and resources that UNPROFOR had been given, its influence was severely limited. UNPROFOR could not make a difference and it could not control the direction or the intensity of fighting. However, much had been expected from the UN forces and the discrepancy between such great expectations and the limited scope of their mandate led to an inevitable sense of frustration.

Initially UNPROFOR was deployed to Croatia in 1992 to monitor the ceasefire arrangements between the Croatian and the Croatian Serb forces. Authorized for a period of one year, its mandate was subsequently extended several times over the next few years until it eventually transferred its peacekeeping authority to NATO on December 20, 1995. During this time it grew in size and its area of responsibility. In particular, UNPROFOR was deployed to Bosnia-Herzegovina to support the delivery of humanitarian relief and to monitor 'no fly zones' and 'safe areas' there, after this republic too had degenerated into war. When the conflict spread to Bosnia-Herzegovina, the UNPROFOR Headquarters, initially located in Sarajevo, was relocated to Zagreb.

UNPROFOR developed into the largest, most expensive, and most complex peacekeeping operation in the history of the UN. By March 1994, it had expanded to more than 38,000 troops from 37 countries, the largest contributions coming from the United Kingdom, France, and Pakistan. No U.S. ground forces were committed to the operation; the U.S. role in UNPROFOR was limited to logistical and other support, including a medical hospital.²⁶⁰ In addition to its military forces, the

²⁶⁰ As of July 1993, a small contingent of U.S. troops took part in the UNPROFOR mission to Macedonia. In December 1992, UNPROFOR was also deployed in

UNPROFOR had a civil affairs department that dealt with political, legal, and humanitarian issues. Chief among these were securing the passage of supply convoys, arranging for the fair treatment and release of prisoners of war, and most importantly, mediating between the warring parties. The UN High Commissioner for Refugees (UNHCR) has been entrusted to ensure the international protection of refugees in the Yugoslav conflict since 1991. UNHCR, in line with the DPA, has been the lead agency with regard to the implementation of the Annex 7, that is the return and reintegration of Bosnian refugees and internally displaced persons.²⁶¹

The UN Bosnian experience gave rise to deep disillusionment about the potential of the UN to play a constructive role in situations of serious conflict.²⁶² The Bosnian case confirmed the realist-school maxim that the most effective tool against those with arms is to use more powerful arms to counter them. Those who speak the language of guns understand best the language of guns.

Of course, we must take care not to simplify the historical record and ignore developments such as the more active multilateral diplomacy, the concern for human rights violations, etc. that contributed to the signing of the Dayton Agreement. However, without a strong military presence the international community would not have been able to carry out the

Macedonia to monitor her borders and the general situation as a measure of preventive action. On March 31, 1995 the Security Council decided to restructure UNPROFOR, replacing it with three separate (Bosnia-Herzegovina, Croatia and Macedonia) but interlinked peacekeeping operations.

²⁶¹ More information available at the UN website under the heading Peacekeeping Operations (www.un.org), at UNMBIH website (www.un.org/Depts/dpko/missions/unmbih), and at the UNHCR website (www.unhcr.ba).

²⁶² The Report of the Panel on United Nations Peace Operations (A/55/305-S/2000/809, released August 2000), generally known as the Brahimi Report, summarizes the dilemmas and the shortcoming of the UN peacekeeping experience and offers a list of crucial steps that has to be taken if the UN peacekeeping is to become an effective tool in contributing to the world peace. The Report does not address the question of whether the UN should become involved in specific situations. It deals exclusively with how the UN can improve its performance once a decision has been made to undertake a specific operation. Available at www.un.org.

numerous tasks that come as part of the post-war peace package. The overwhelming military presence came to serve as the best guarantor of peace. The military operation in the post-Dayton Bosnia was entrusted to the NATO-led and American-commanded Implementation Force (IFOR). Its mandate was for one year only, and in December 1996 it was reconstituted into the Stabilization Force (SFOR) that remained on the ground throughout the peace process.

III-2a The IFOR Command Arrangements

The most important physical feature of Bosnia-Herzegovina as a scene of military operations is its wild terrain. The rugged mountain landscape, craggy peaks, and roadless forest areas offer troops numerous places to hide, opportunities to shift forces unseen from the air, and locations for ambush. The major transportation routes are by road, rail, and inland waterways. The country covers a land mass of 51,197 sq km and its pre-war population consisted of roughly 44 percent Bosniaks, 31 percent Serbs, 17 percent Croats, 5.5 percent Yugoslavs (those who did not define themselves according to any ethnic affiliation), and 2.5 percent others.²⁶³ The estimated figures after the war were 40 percent Serbs, 38 percent Bosniaks and 22 percent Croats.²⁶⁴

A large part of the in-country infrastructure, such as power, water, and telecommunications, was destroyed by the war. Consequently, IFOR forces had to bring with them most of what they needed to execute the peacekeeping operation. In addition, minefields were numerous and added a certain danger factor to all deployed personnel.

In accordance with the DPA, IFOR had the following primary military tasks:

- to ensure continued compliance with the ceasefire;

²⁶³ These figures are from the 1991 census. See Federalni zavod za statistiku (the Federal Bureau for Statistics); available at www.fzs.ba.

²⁶⁴ The CIA cautions that all data dealing with population estimates in post-war Bosnia-Herzegovina are subject to considerable error because of the dislocations caused by military action and ethnic cleansing. See "The World Factbook 2002"; available at www.odci.gov/cia.

- to ensure the withdrawal of forces from the agreed ceasefire zone of separation back to their respective territories, and to ensure the separation of forces;
- to ensure the collection of heavy weapons into cantonment sites and barracks and to ensure the demobilization of remaining forces;
- to create conditions for the safe, orderly, and speedy withdrawal of UN forces that have not transferred to the NATO-led IFOR; and
- to maintain the control of airspace over Bosnia-Herzegovina.²⁶⁵

IFOR operated under Chapter VII of the UN Charter (peace enforcement). Its rules of engagement provided for the robust use of force, if necessary, to accomplish its mission and to protect itself. NATO and NATO member states assumed primary funding responsibility for IFOR, which was a mix of common and national funding.

In the beginning, the highest attention was given to IFOR and the possible problems it could face. However, it turned out that the military aspect of the intervention was the easiest to handle. The reason for this came from the fact that IFOR had a clear mandate limited to specific military issues and those were its primary tasks. The supporting tasks IFOR was to fulfill were “within the limits of its assigned principal tasks and available resources”.²⁶⁶ These supporting tasks were the creation of secure conditions “for the conduct by others of other tasks associated with the peace settlement, including free and fair elections.”²⁶⁷ However, for years secondary mandates were to be very much secondary. The secondary tasks could be implemented only with the provision that they did not divert IFOR from its primary mandate.

Most energy and concern was devoted to the draft of the military annex in which every sentence was analyzed. Foreign ministries in London, Paris and Bonn sent their representatives who, just as their colleagues from the Pentagon, took every precaution to

²⁶⁵ Larry K. Wentz (ed.), *Lessons From Bosnia. The IFOR Experience*, Chapter 2, p. 8.

²⁶⁶ Annex 1A, Article VI.3.

²⁶⁷ Ibid.

ensure that their forces did not receive any responsibility that was not clearly defined and for which full resources were not secured. I saw how in the military annex that was becoming much longer and with much more details, the resources of the military forces, which were named the Implementation Force – IFOR, were maximally enlarged, while their responsibilities maximally reduced.²⁶⁸

The Dayton Agreement contains two annexes that deal with military aspect of the peace process – Annexes 1A and 1B. The first Annex (i.e. 1A) stipulated the arrangements and the timetable for the separation of forces and the deployment of the Implementation Force (IFOR), the NATO-organized military peace implementation force that would be responsible for ensuring the military parts of the DPA. The IFOR commander was to take over the authority from UNPROFOR and the force would operate under the authority of and subject to the direction and political control of the North Atlantic Council (NAC) through the NATO chain of command. All foreign forces “including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other states” were to be withdrawn from the territory of Bosnia-Herzegovina.²⁶⁹

The second Annex (i.e. 1B) addressed issues of regional stabilization. The parties to the conflict were to establish “progressive mechanisms for regional stability and arms control”, which were essential to creating a stable peace in the region.²⁷⁰ Annex 1B specified that to create stability, the parties must agree on the importance of devising new forms of cooperation in the field of security aimed at building transparency and confidence, and achieving balanced and stable defense force levels at the lowest numbers consistent with the parties’ respective security and the need to avoid an arms race in the region.²⁷¹ The military part of the Dayton Agreement envisaged neither the abolition of the rival forces nor their unification, and a decision on the future of the military force in

²⁶⁸ Carl Bildt, *Misija mir*, p. 183.

²⁶⁹ Annex 1A, Agreement on the military aspects of the peace settlement, Article II.2.

²⁷⁰ Annex 1B, Article I.

²⁷¹ Ibid.

Bosnia-Herzegovina was left to the subsequent civilian implementation. However, since none of the parties to the conflict had a viable option for returning to armed hostilities in the near future, the implementation of this military aspect was also relatively straightforward.

The three framework nations (the United States, United Kingdom, and France) formed the basis for the multinational divisions (North, South West, and South East, respectively). OPCON (the operational control) and OPCOM (the operational command) of the divisions were also assigned to the Allied Rapid Reaction Corps (ARRC). IFOR headquarters was split between Naples and Sarajevo and ARRC headquarters was located at Ilidža near Sarajevo. The U.S.-led Multinational Division North [MND(N)], with its headquarters in Tuzla, was the largest division and included brigades from Turkey, Russia, and a third non-U.S. brigade referred to as the NordPol brigade (made up of troops from Finland, Sweden, Norway, and Poland). The British-led MND(SW), with its headquarters located in Banja Luka, was built around a British brigade along with troops from Canada, the Netherlands, and Denmark. Finally, the French-led MND(SE), with its headquarters in Mostar, was the smallest division and was comprised of troops from France, Italy, and Portugal. Both the British and French already had a large number of troops in Bosnia in support of UNPROFOR and the Rapid Reaction Force. Hence, the bulk of the deployment activities for IFOR involved the NATO command unit forces, the U.S. forces, and the forces of the other participating nations.

The Allied Forces Southern Command (AFSOUTH) headquarters served as the operational-level headquarters for the operation, due in part to the success of *Operation Sharp Guard* (maritime control in the Adriatic sea during the war in the former Yugoslavia) and the need to use air bases on Italy's territory. AFSOUTH, located in Naples, is a 45-year-old NATO headquarters, which had the mission to watch over naval deployments in the Mediterranean Sea during the Cold War. AFSOUTH was neither staffed nor equipped to lead a land force into combat. Had IFOR encountered more combat in this operation, the headquarters structure probably would have failed without much additional U.S./NATO staff support and equipment.

NATO's ability to influence events during early preparation for IFOR helped to avoid the problems that had been encountered by UNPROFOR and to ensure a clear definition of military tasks under a unified chain of command. This is largely attributable to the close involvement of NATO military planners with Contact Group negotiators prior to and during negotiations at Dayton to ensure that the security tasks that could be accomplished realistically, i.e. those for which NATO wanted to assume responsibility, were incorporated into the Agreement.

UN Security Council Resolution 1031 provided NATO with the mandate and the necessary political authority to direct NATO and non-NATO forces under IFOR. However, NATO's robust military terms of reference contrasted with the paucity of authority for the civil activities of the High Representative—the weak link in the implementation of the Dayton Agreement.

In the first year, apart from its primary mandate, IFOR also gave support to the Organization for Security and Cooperation in Europe (OSCE) in preparing and conducting the September 1996 elections. By the end of the first year, the assessment was that IFOR had successfully completed its mission in implementing the military annexes of the Dayton agreement. However, it was clear that much remained to be accomplished on the civilian side and that the political environment would continue to be potentially unstable and insecure. This led to the reassessment of the role of the military in implementing the DPA, which ended with the creation of the Stabilization Force.

III-2b SFOR mandate

The week after the Bosnian elections, NATO Defense Ministers at a meeting in Norway concluded that the Alliance needed to reassess how it might continue to provide support for the establishment of a secure environment after the end of IFOR's mandate in December 1996. One month later, the North Atlantic Council approved detailed political guidance for a study to be undertaken by the NATO military authorities of post-IFOR security options. This resulted in drafting a two-year consolidation plan that was endorsed by the PIC. On the basis of this plan, the number of NATO troops was reduced to the level necessary for consolidating peace.

The mission of the Stabilization Force – SFOR - has been to “deter hostilities and stabilize the peace, contribute to a secure environment by providing a continued military presence in the Area of Responsibility (AOR), target and coordinate SFOR support to key areas including primary civil implementation organizations, and progress towards a lasting consolidation of peace, without further need for NATO-led forces in Bosnia and Herzegovina.”²⁷² This desired end-state is assessed against the following criteria:

- All parties adhere to the requirements of the Dayton Peace Agreement on a sustained basis.
- All parties demonstrate commitment to continue negotiations as a means to resolve political and military differences.
- Established political structures are sufficiently mature to assume responsibilities to continue monitoring compliance with the DPA.
- Conditions have been established for the safe continuation of ongoing state-building activities.²⁷³

While the SFOR mandate expanded, the size of the force shrunk from over 60,000 troops in 1995-96 to some 18,000 in 2002.²⁷⁴ The contribution of the United States fell from 20,000 troops at the outset to less than 3,000 in 2002 – from roughly one-third to one-sixth of the total, despite the fact that America spearheaded the intervention in 1995, and has continued to exercise overall command of SFOR. On the other hand, the U.S. still provided the single largest contingent. In Kosovo, by contrast, the American contribution of some 7,000 troops to the Kosovo Force (KFOR) in 2001 was twice as large, but constituted just 14 per cent of the total.

²⁷² “SFOR Mission” at www.nato.int/sfor [Accessed June 5, 2002].

²⁷³ Ibid.

²⁷⁴ Out of 18,000 troops, in 2002 there were 17,500 SFOR personnel in Bosnia-Herzegovina and about 400 in Croatia. Approximately 2,000 personnel worked in the National Support Elements (NSEs).

As of 1998, CIMIC (Civil-Military Cooperation) was established as the means by which the military command could forge formal relations with national and local authorities, the civilian population, international organizations and non-governmental organizations. It represents a vital link in the efforts to implement provisions of the Dayton Agreement that are not strictly military in nature. Thus, CIMIC represents a channel that connects the civilian implementation force with its military counterparts. It is an essential connection in respect to fulfilling the tasks laid down by the DPA, because the military has provided a safe framework in which the civilian implementation is taking place.

At the same time there were calls from Western countries for the withdrawal of forces because the intervention was slow in achieving the desired results. There were strong voices in the West who argued that the mission should be abandoned, because the objectives were not reached and progress was not substantial. If NATO withdrew, it was argued, the locals would have to assume the responsibility for finding solutions to their own problems. However, the regular calls for pulling out from Bosnia-Herzegovina were countered with arguments that a period of robust implementation, focusing on concrete benchmarks, was necessary if progress was to be made and the opportunity seized. Abandoning the Dayton agenda would mean consigning the country to a state of simmering unrest requiring near-permanent military occupation or, at worst, to a renewal of hostilities following its desertion by the international community. Moreover, it is naïve to think that the region could be sealed off to prevent a spillover effect in case of a renewed conflict. In May 2000, a UNMBIH (UN Mission in Bosnia and Herzegovina) report stated: “Four years since the Dayton Peace Accords, an objective assessment of the overall situation in Bosnia and Herzegovina is that the international community is at the beginning, not the middle, of self-sustaining peace implementation.”²⁷⁵

An article in a Bosnian weekly magazine in October 1998 brought a story of SFOR building a huge military complex speculating that such an investment would not be made if NATO had not had plans to stay for the next fifty years. Lieutenant Lesperance, a Canadian SFOR officer for

²⁷⁵ UNMBIH Report, 9 March 2000.

engineering, was quoted giving the following explanation for the building the military base:

One could also call this the consolidation of our headquarters which will house all offices in one place from which SFOR operations throughout Bosnia-Herzegovina will be conducted and controlled. NATO extended its stay in Bosnia-Herzegovina, after which we decided that it would be more effective if we centralized our various offices. All our bases so far have been of temporary character, while this base will be permanent. When we leave we shall return the land to the local authorities who gave us permission to build on this land now.²⁷⁶

After the NATO mandate in Bosnia-Herzegovina was extended indefinitely, the sense of permanence released the pressure on civilian actors to operate within strict time limits and made it possible for them to initiate long-term policies.

III-2c Indicators of progress in security building

In the first phase of the peace process the international community focused on preserving and enforcing the cessation of hostilities. The 60,000 troops in the NATO-led Implementation Force (IFOR) were able to stabilize the security situation with impressive efficiency. IFOR managed in the first few months to establish a 4-kilometer buffer zone separating opposing armies along the cease-fire lines, the total length of which exceeded 1,000 kilometers. It also supervised an exchange of territories between the two entities, which in effect led to the creation of an inter-entity boundary line, as envisaged in Annex 2 of the Dayton Agreement. It also succeeded in establishing a 10-kilometer free zone by moving soldiers and weapons away from the borders of the entities into designated areas.

IFOR maintained a presence all over the country, providing for security and carrying out a number of other tasks: securing sensitive areas; repairing roads, bridges and railways; tearing down illicit checkpoints; and facilitating greater freedom of movement for civilians. In accordance with precise requirements and timetables set out in the

²⁷⁶ *Slobodna Bosna* No. 98 (Sarajevo, October 3, 1998), pp. 14-15.

Dayton Agreement, heavy weapons were destroyed or moved into designated sites, which were subject to regular inspection by international forces. The three armies were demobilized to peacetime levels, and their deployment in the field was controlled by IFOR so as to reduce tensions. The 'Train and Equip' program, carried out by U.S. contractors outside the NATO chain of command, built up the Bosniak and Bosnian Croat armies to achieve a balance of power with Bosnian Serb forces.

The NATO-led military force was over the years increasingly drawn into performing a range of security-related tasks. The purpose of this shift from 'implementation' to 'stabilization' is described in NATO's own language.

By successfully accomplishing [its] principal military tasks, SFOR will contribute to a secure environment within which civilian agencies can continue to carry out the process of economic development, reconstruction, political institutions, and overall climate of reconciliation for Bosnia-Herzegovina and its citizens. (...) SFOR will work closely with the High Representative, the International Police Task Force, the UN High Commissioner for Refugees, the OSCE, and the International Criminal Tribunal for the Former Yugoslavia (ICTY) ... to assist their efforts ... which are essential to the long term consolidation of peace in BH.²⁷⁷

Under the Dayton Agreement, SFOR has had authority to provide security in support of the "free movement of civilian populations, refugees, and displaced persons, and to respond appropriately to deliberate violence to life and person."²⁷⁸ Prior to 1999, SFOR refused to assume a significant measure of responsibility for protecting returnees. Since then, coordination between international organizations dealing with returns and SFOR improved markedly, through the work of

²⁷⁷ Supreme Headquarters Allied Powers Europe (SHAPE), *Information Booklet on NATO, SHAPE and Allied Command Europe*, September 2000, p. 42.

²⁷⁸ Annex 1A of the General Framework Agreement for Peace, Article VI, paragraph 3d.

both the joint Return and Reconstruction Task Force (RRTF) and the Property Law Implementation Plan (PLIP). This was one of the reasons why 2000 saw significant minority returns throughout the country, including ‘breakthrough’ returns to areas of eastern Republika Srpska where some of the worst crimes had been committed and which were, as a result, considered impervious to return.²⁷⁹

While there were many examples of SFOR units successfully providing security to returnees, it had to be recognized that SFOR support was inconsistent, and that there were striking differences in the willingness of SFOR’s various components to make use of their authority under the Dayton Agreement.²⁸⁰ The increasing incidence of attacks on minority returnees was a matter of serious concern. At the same time, however, it was the evidence that Dayton was succeeding and that the enemies of Dayton were resorting to desperate and violent strategies to stem the refugee flow. As was the case with so many other aspects of Dayton implementation, the situation was wrought with promise and menace in roughly equal measures.

Parallel to securing military stability in the country, the international community started a comprehensive reconstruction program, driven by urgent humanitarian considerations and the need to kick-start the economy. “Jointly coordinated by the World Bank and the European Commission, the priority reconstruction program attracted over US\$5 billion in international aid. At the time of the Dayton Agreement, more than 2,000 kilometers of roads, 70 bridges, half the electricity network and more than a third of houses were destroyed. Despite the logistical difficulties, by 1999 the reconstruction program had repaired a third of the housing, and most urban infrastructures had been restored to pre-war

²⁷⁹ Cf. “Bosnia’s Refugee Logjam Breaks: Is the International Community Ready?”, *International Crisis Group*, Balkans Report No. 95 (Sarajevo/Brussels: May 30, 2000).

²⁸⁰ The Russian and Italian troops who stood by as mobs attacked Bosniaks in Bratunac and Janja in the summer of 2000 were cases in point. The opening of a small U.S. SFOR base in Bratunac in April 2001 sent a signal of encouragement to would-be returnees that SFOR would secure their right to return.

levels, from telephone lines to electric power generation, from water services to primary schools.”²⁸¹

However, the reconstruction program was implemented at the expense of institution building. Whenever the international community needed quick action to solve particular problems, it demanded action directly from the nationalist parties ignoring proper constitutional channels and reinforcing parallel structures. Thus, the first phase of the international intervention, i.e. the security-building phase, led in effect to the consolidation of the wartime regimes. The international community disbursed assistance without conditioning this disbursement on the active support of the parties to the Dayton Agreement. The international reconstruction program was carried out in such a way that there was no financial or political cost to obstructing the state building process. It was only in the subsequent years that the international community realized its mistakes and started to tie the financial assistance to the implementation of the peace agreement.²⁸²

III-3 CIVILIAN IMPLEMENTATION

Although almost entirely associated with the role and the operations of the military force, the security-building phase also concerned the civilian aspects of the Peace Agreement. The ultimate goal of the international intervention has been to create a framework in which the local people would take over the peace process and continue building the society and the state upon the foundations set down by the international community. The strong military presence, the imposition of laws, the frequency of conducting elections – these were means by which the international community would create the state-building framework.

²⁸¹ Marcus Cox, “State Building and Post-Conflict Reconstruction: Lessons from Bosnia” (Geneva: January 2001), p. 11. The paper is part of the project *The rehabilitation of war-torn societies*, coordinated by the Center for Applied Studies in International Negotiations (CASIN), Geneva. See also European Commission and World Bank, *1996-1998 Lessons and Accomplishments – Review of the Priority Reconstruction Program*, May 1999.

²⁸² Ibid.

The beginning of the work of the High Representative was rough. The first High Representative, the former prime minister of Sweden, Mr. Carl Bildt, described the difficulties he faced in defining the role of the High Representative and the reasons why limited powers were entrusted with the civilian implementation agencies.

As regards the civilian coordination, the Americans still did not want to show us the document they had prepared, which did not stop us from obtaining it. They did their utmost to undermine the 'High Representative.' He was to receive a lower, bureaucratic title – 'the first implementation coordinator.' He was given no authority to solve anything and would be nothing more than a simple decoration to the military headquarters in Sarajevo. They did not want to hear of the idea of giving the High Representative a coordinating and a robust political role, which Europe deemed necessary.²⁸³

Opinions of the role of the High Representative and, more generally, of the overall importance of the civilian implementation differed on the two sides of the Atlantic. The Administration in Washington was under pressure from the Congress, the Pentagon and NATO not to enlarge the possible role for the military forces. The U.S. negotiating team made a strong case for strengthening civilian implementation, but the military remained firm.

At first, Carl Bildt, now the High Representative, had so little money and support that he was forced to operate without an office or telephones, and used his personal cellular telephone as his primary means of communication. After appeals to the European Union, he received enough funding to open his offices in Sarajevo, where he presided like an elegant squatter over a building filled with wrecked rooms, broken toilets, shattered windows, and almost no staff.

This lag in civilian implementation troubled us enormously, although we shared in the blame for it. While the military, sixty thousand strong, met every early deadline, the civilian side, functioning out of Carl Bildt's cellular telephone, met almost

²⁸³ An observation of the negotiations at Dayton, Carl Bildt, *Misija mir*, p. 185.

none, and fell steadily behind the schedule. For this Bildt was personally criticized, but the fault was more in the structures we had imposed on him, particularly the failure to give him sufficient funding or stronger backing from IFOR.²⁸⁴

III-3a The Office of the High Representative

The Office of the High Representative is the chief civilian peace implementation agency in Bosnia-Herzegovina. The mandate of the High Representative was set out in Annex 10 of the Dayton agreement. It declared him (or her) the final authority in the theatre to interpret the agreement on the civilian implementation of the peace settlement and to coordinate and facilitate civilian aspects of the peace settlement, such as humanitarian aid, economic reconstruction, establishment of political institutions, protection of human rights, return of displaced persons and refugees, and the holding of free elections.²⁸⁵ The High Representative was to chair a Joint Civilian Commission comprised of senior Bosnian political representatives, the military commander, and representatives of civilian organizations. However, he/she was to have no authority over the military forces. The Peace Implementation Council subsequently elaborated on the High Representative's mandate.²⁸⁶ The Steering Board of the PIC nominates the High Representative, who is then endorsed by the United Nations Security Council.

The first High Representative was Carl Bildt (December 1995 – June 1997), the former Prime Minister of Sweden and the European Union's Special Negotiator at the end of the war in Bosnia-Herzegovina. He was succeeded by Carlos Westendorp (June 1997 – July 1999), former Spanish Secretary of State for European Affairs and Minister of Foreign Affairs. The third High Representative was Wolfgang Petritsch (July 1999 – June 2002), Austrian diplomat. As from June 2002, the High Representative has been Paddy Ashdown, a former leader of the Liberal Democratic Party in the UK, an MP and a diplomat.

²⁸⁴ Richard Holbrooke, *To End a War*, p. 324.

²⁸⁵ Annex 10, Agreement on civilian implementation of the peace settlement, Article I.

²⁸⁶ More on December 1997 Bonn PIC conference later.

The High Representative has three deputies, the Principal Deputy High Representative, a post that has been occupied by a U.S. diplomat from the beginning, and two Senior Deputy High Representatives, posts that have normally been occupied by European diplomats. Article II of Annex 10 of the Dayton Peace Agreement directs the High Representative to:

- Monitor the implementation of the peace settlement;
- Maintain close contact with the parties to the Agreement, to promote their full compliance with all civilian aspects of the Agreement;
- Co-ordinate the activities of the civilian organizations and agencies in Bosnia and Herzegovina to ensure the efficient implementation of the civilian aspects of the peace settlement. The High Representative shall respect their autonomy within their spheres of operation while giving general guidance to them about the impact of their activities on the implementation of the peace settlement as the need arises;
- Facilitate, as the High Representative he or she judges necessary, the resolution of any difficulties arising in connection with civilian implementation;
- Participate in meetings of donor organizations;
- Report periodically on progress to the United Nations, the European Union, the United States, the Russian Federation and other interested governments, parties and organizations;
- Provide guidance to the United Nations International Police Task Force.

In contrast to the initial conditions in which the High Representative operated, the conditions seven years later were dramatically different. The Office of the High Representative in 2002 was situated in a newly built large, white, modern building, surrounded by a high fence in the center of Sarajevo. Sarajevo residents call it 'the Presidency.' The staff of 60 in 1996 grew to 681 at the end of 2000 and remained at around 700 for the next two years. The OHR opened 18 offices throughout Bosnia-Herzegovina plus one representation office in Brussels. The Bosnian OHR's offices are five regional offices – in Banja Luka, Mostar, Brčko, Tuzla and Sarajevo Region – and thirteen field offices.

The OHR's involvement in Bosnia-Herzegovina's political life has also expanded over time. At the beginning of the peace process, the High Representative chaired a number of joint bodies that brought together representatives of the wartime parties and took care of the initial requirements of the peace process. The state and entity institutions envisaged in the constitution were set up after the first post-Dayton elections in September 1996, but it took some time before they started meeting regularly. Afterwards, one of the OHR's key tasks has been to ensure that the institutions function effectively and in a responsible manner.

In the economic field, the High Representative initially coordinated the repair and reconstruction of the Bosnian infrastructure, including its roads, bridges, airports, telephone networks and utilities. The reconstruction phase, financed under a \$5.1 billion World Bank/European Commission program, was largely completed by the year 2002 and the emphasis shifted on revitalizing the economy through reform.

Among the most important milestones in the peace implementation process was the PIC Conference in Bonn in December 1997. Elaborating on Annex 10 of the Dayton Peace Agreement, the PIC requested the High Representative to remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia-Herzegovina's legislative bodies fail to do so.

Nonetheless, the governing principle of the OHR's engagement in Bosnia and Herzegovina has been the concept of ownership. This concept calls on the officials and citizens of Bosnia-Herzegovina to take ownership of the peace process and the problems that their country faces, and not to rely on the international community to the degree that they had in the beginning, both in terms of financial assistance as well as political interventions.

Since 1998, the OHR has focused its efforts on three priority areas - the effective functioning of the institutions of a modern state, in particular

Bosnian state institutions, economic reform, and refugee return.²⁸⁷ Other important issues are judicial and legal reform; the protection of human rights; reform of the education system; media reform, in particular the establishment of independent public service broadcasting; and Bosnia-Herzegovina's integration into Europe.²⁸⁸

The High Representative, his Principal and Senior Deputies and their cabinets are all based in the OHR's headquarters in Sarajevo. In addition, the Sarajevo Office accommodates the Political, Economic and Legal Departments, the Anti-Fraud Department, the Return and Reconstruction Task Force (RRTF), the Department of Human Rights and Rule of Law, the Department of Media Development, the Military Cell, the Press Office, the Personnel, Administration and Finance Departments, and the Special Envoys Co-ordinator.

Under the Office of the High Representative there were a number of special task forces. The Economic Task Force concentrated on reconstruction and was seen as a key instrument for influencing the reintegration of the country.²⁸⁹ Control of economic reconstruction was organized through OHR coordination of the economic development agencies – the World Bank, the European Commission, the European Bank for Reconstruction and Development, the International Monetary Fund and the International Management Group – through meetings in Brussels and weekly meetings in Sarajevo. After the London PIC Conference in December 1996, the OHR Economic Department was strengthened by the establishment of the Deputy High Representative for Economic Issues.

The Human Rights Task Force was chaired by the High Representative and consisted of the key international organizations involved in human rights issues – the OSCE, the European Community Monitoring Mission, UNHCR, the Council of Europe, IPTF, the International

²⁸⁷ See Chapter IV.

²⁸⁸ Cf. "General Information", *Office of the High Representative* at www.ohr.int [accessed June 11, 2002].

²⁸⁹ "PIC London Conference: Summary of Conclusions", December 05, 1996, *OHR Documents*; available at www.ohr.int/pic.

Committee of the Red Cross, IFOR, the Helsinki Citizens' Assembly and the UN Mission in Bosnia-Herzegovina. This forum was of particular importance in developing and implementing policy because the area of human rights was broadly defined to include vital issues in government, such as institution building and the rule of law.²⁹⁰

The Freedom of Movement Task Force was established to develop and implement mechanisms to promote freedom of movement for people, goods, and services.²⁹¹ This Task Force included representatives of the OHR, UN, IPTF, SFOR and interested countries.

After restructuring in 2002, the OHR was left with eight departments, of which the economic pillar, the rule of law pillar, and the resources department were recreated by incorporating projects that were previously spread among several departments.

Under Annex 10, the OHR has the status of a diplomatic mission to Bosnia-Herzegovina, although its activities expand the traditional role of a diplomatic mission. It is made up of diplomats seconded by the governments of the PIC countries, international experts hired directly, and national staff. A representation office in Brussels liaises with international organizations outside Bosnia-Herzegovina. The Brussels-based units for Political Affairs and Policy Planning were established with the aim of developing policies for discussion at Peace Implementation Council level; policies which then, after consultation, were to be implemented by the High Representative on the ground. However, the Brussels office, physically removed from daily events, was not able to design a strategy, but has served mainly as a coordinative body. In order to develop closer coordination of policy, the Human Rights Coordination Center and the Economic Task Force are based both in Sarajevo and Brussels. The OHR is funded by the Peace Implementation Council. Its budget in 2002 was 25,1 million Euros. Contributions to the OHR budget break down as follows: EU 53 %, USA 22%, Japan 10%, Russia 4%, Canada 3.03 %, OIC 2.5%, others: 5.47%.²⁹²

²⁹⁰ Ibid.

²⁹¹ Ibid.

²⁹² See OHR General Information at www.ohr.int

Assessments of the role of the international community have oscillated between two types of criticism. On the one hand, the international community was criticized for its lack of commitment and will to get more deeply engaged in peace implementation, while on the other it was criticized for interfering too much in the internal affairs of Bosnian politics. Those who wanted to see faster progress in peace implementation accused the international community of wasting resources by refusing to tackle difficult but essential issues and by allowing imprudent inter-agency competition.

In an open letter to the Bosnian public on February 8, 2001, the High Representative responded to some of the criticism. He went on to clarify the roles of the diplomatic corps, on the one hand, and the international community – including Ambassadors of PIC Steering Board Member Countries – on the other.

Traditional diplomatic relations are regulated under the Vienna Convention and exercised in Bosnia-Herzegovina as they are elsewhere in the world. However, various members and representatives of the international community are present in Bosnia-Herzegovina not only on behalf of their governments, but also, and more importantly, on behalf of the Peace Implementation Council. In that regard, interference in the internal affairs of the Bosnian state is permitted under the Dayton Agreement and applies to the activities of the international community in Bosnia-Herzegovina. This is not the case with the activities of the diplomatic corps that are regulated only by the Vienna Conventions.

It is simply beside the point to apply the traditional concept of non-interference in internal affairs to the present situation in Bosnia-Herzegovina. The citizens and the peoples of Bosnia-Herzegovina may rest assured that the international community shall continue to exercise its role as required by the Peace Implementation Council until the political leadership of Bosnia-

Herzegovina is going to take over in a suitably constructive fashion.²⁹³

III-3b The Organization for Security and Cooperation in Europe

Under the auspices of the Dayton Agreement, the OSCE Mission to Bosnia-Herzegovina has been one of the key implementing agencies responsible for helping Bosnia-Herzegovina make a transition to democracy. To meet this goal, the Mission has implemented programs to promote the development of a stable, open and dynamic civil society and democratic political institutions from the municipal to the state level.

The OSCE Mission covers the entire territory of Bosnia-Herzegovina, and includes a Sarajevo-based Head Office; regional centres in Banja Luka, Mostar, Sarajevo, and Tuzla; 24 field offices and the so-called Team Brčko. The Mission's departments for Democratization, Elections/Implementation, Human Rights and Security Co-operation work in the development and implementation of mission-wide policies and programs.

For the first five years the Mission had primary responsibility for organizing and supervising Bosnian post-Dayton elections, including national elections in 1996, 1998, and 2000, municipal elections in 1997 and April 2000, as well as the 1997 extraordinary elections for the Republika Srpska National Assembly.²⁹⁴ The Mission oversaw the implementation of municipal election results, and continued to monitor the work of municipal assemblies throughout the country. Following the adoption of the election law the OSCE is supporting the work of the Secretariat of the Bosnia-Herzegovina Election Commission.

After the adoption of the election law in 2000, the OSCE has continued to be engaged in transferring the administration of the election process to

²⁹³ "OHR Press Release: The Role of Peace Implementation Council Steering Board Ambassadors in BiH", February 8, 2001 at www.ohr.int

²⁹⁴ The 2002 general elections were organized by the Bosnian Independent Election Commission set up under close supervision by the OSCE and the international community after the 2000 elections.

the national authorities. In particular, attention has remained focused on three functional areas:

- Monitoring the compliance of elected officials with the electoral Rules and Regulations under which they were elected;
- Promoting and sustaining the establishment of an independent and permanent Election Commission accountable to Parliament and its operational Secretariat;
- Providing legal, technical and political advice to the Municipal Election Commissions on all electoral matters.²⁹⁵

Within Human Rights the Mission worked to advance civil, legal and economic rights for all Bosnian citizens. It reported on and investigated allegations of human rights violations and, when necessary, intervened in individual cases.

Much of the Mission's human rights work focused on facilitating the return of refugees and displaced persons to their pre-war homes and on enabling returnees to re-claim their property. The Mission also promoted safe and sustainable return by assisting, monitoring, and pressing local authorities to ensure this; it also aimed to prosecute any perpetrators of violence against returnees, to provide non-discriminatory access to utilities and to implement an educational curriculum that was not ethnically biased. Finally, the Mission worked on establishing a sustainable and functioning ombudsman structure, which would support national reconciliation.

As regards security cooperation, in order to promote stability in the region the OSCE monitored and implemented various military aspects of the Dayton Agreement. Specifically, the OSCE was mandated to undertake activities that promoted transparency, cooperation and confidence building among the armed forces of both entities, and to also carry out activities aimed at limiting the equipment and manpower of the armies of Bosnia-Herzegovina, Croatia, and the Federal Republic of Yugoslavia.

²⁹⁵ Information on the OSCE mission in Bosnia-Herzegovina at www.oscebih.org

III-3c Consolidation of peace implementation

From the above description of the two main civilian peace implementation agencies in Bosnia-Herzegovina (the OHR and the OSCE), as well as the long list of other international agencies²⁹⁶, it is obvious that the mandates of all these organizations overlapped causing frictions between various institutions. Their lack of coordination slowed down the peace process.

The international community has established an extremely diffuse institutional structure in Bosnia, and problems of coordination and joint strategy development have been endemic to the mission. There is a tendency of the international community to acquire ever more objectives without any corresponding increase or rationalization of resources, with the result that international efforts have become less intensive over time. (...)

296 Since the beginning of the peace process, there were numerous international agencies that opened their offices in Bosnia-Herzegovina and took part in the process. Apart from those already mentioned, there were the UN Development Program (UNDP), the UN Educational, Scientific, and Cultural Organization (UNESCO), the UN High Commissioner for Human Rights, the UN Children's Fund (UNICEF), the UN Mine Action Center, the World Health Organization (WHO), the World Food Program (WFP), the Advocacy Institute, the Association of Election Officials in Bosnia-Herzegovina, the International Foundation for Electoral Systems (IFES), the International Institute for Democracy and Electoral Assistance (IDEA), the National Democratic Institute for International Affairs (NDI), the National Endowment for Democracy, the Open Society Fund, SIGMA (a joint initiative of the OECD and the EU's Phare Program for the support of good governance in Central and Eastern Europe), CIVNET (an international NGO focusing on civic education and civil society), Delphi International, the US Agency for International Development (USAID), the Human Rights Watch, Amnesty International, CARE International, the European Community Humanitarian Office (ECHO), the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies, the International Management Group (IMG), International Rescue Committee (IRC), Medecins sans frontiers (MSF), OXFAM (an NGO that works to end poverty), Save the Children, SOS Kinderdorf International (an NGO voluntary organization caring for orphaned and destitute children), the United Methodist Committee on Relief, the American Refugee Committee, the Danish Refugee Committee, the International Organization for Migration (IOM), the Repatriation Information Center, the Center for European Policy Studies, the International Crisis Group, International Research and Exchanges Board (IREX), the United States Institute of Peace (USIP), and many others.

Lacking alternatives, international organizations find themselves repeating with variations the programs of the past four years. In the year 2000, the Organization for Security and Co-operation in Europe (OSCE) will conduct still more elections, the United Nations (UN) will once again screen local police for misconduct, while the Office of the High Representative (OHR) will continue to chastise, instruct and occasionally dismiss local politicians who fail to support the international agenda. (...) Most international efforts in Bosnia are unfocused and reactive in nature. Many of them centre on political developments within a narrow Bosnian elite (playing the “moderates” against the “extremists”), while structural problems are neglected. International officials become distracted by the crisis of the day, in effect allowing local politicians to dictate the international agenda. Rapid rotation of seconded personnel and poor information management inhibit institutional learning. Too often, the decision-making processes within international organizations are no more transparent than those of the Bosnian power structures. (...) The international community has never conducted a thorough analysis of resource allocation, instead throwing human resources and funding at the same problems from one year to the next, even where no strategy has been identified for resolving them.²⁹⁷

The ministerial meeting of the Steering Board and the Presidency of Bosnia-Herzegovina a year after the peace implementation began adopted the consolidation plan of civil implementation. The progress made in the first year was judged positive, opening the way to “a lasting military and civilian stabilization of the country.”²⁹⁸ The Bosnian authorities were once again denoted as the prime implementers of the Peace Agreement, but the international community reiterated its will to assist the local efforts during the peace process. The participants

²⁹⁷ “Reshaping International Priorities in Bosnia and Herzegovina”, Part Two, April 2000, *European Stability Initiative* at www.esiweb.org [accessed April 18, 2000].

²⁹⁸ “Conclusions: Guiding principles of the Civilian consolidation plan”, Paris, November 14, 1996, *OHR Document*; available at www.ohr.int/pic.

emphasized that “the consolidation of peace in Bosnia-Herzegovina [was] integral to stabilization of the region.”²⁹⁹

The priorities of the consolidation plan were listed under thirteen headings: regional stabilization, security, human rights, democratization, elections, freedom of movement, refugees and displaced persons, war crimes, reconstruction, market economy, reconciliation, education and mine removal. The two-year consolidation plan, as initially envisaged, was divided into action plans of twelve months each, with a review at the mid-term.

Therefore, at the end of 1996 the international community decided to move from immediate security problems onto a broader agenda of engagement in Bosnia-Herzegovina. It took another year, 1997, to define policy areas and to develop mechanisms to implement new projects. As of 1998, institution building moved to the center of attention for the peace implementers.

²⁹⁹ Ibid.

IV INSTITUTION BUILDING – THE SECOND PHASE OF STATE BUILDING (1998 – 2000)

The second phase of the implementation of the Dayton Agreement in Bosnia-Herzegovina took place roughly in the period 1998-2000. The reader has to be reminded that the definition of phases in the implementation of the peace agreement serves two purposes: one is empirical and describes the progress of the implementation in Bosnia-Herzegovina, and the other is theoretical and discusses the evolution of the role of a third party in a post-war peace process.

While the first phase of the international engagement in post-war Bosnia-Herzegovina focused on military stabilization, the second phase saw a dramatic evolution in the scope of activities the international community took upon itself in order to create the institutional structure of the Bosnian state. However, this escalation did not come as a result of any consensus among the local parties as to what was to be achieved. Rather, it was the international community that set the stage and defined the rules by which they had to play. The international community, despite possessing enormous power and resources compared to the local actors, had difficulties in offering a comprehensive formula for devising an institutional structure that would first make Bosnia-Herzegovina a functional state, and second set the new state on the path to reintegration and full stabilization.

The complexity of the Bosnian post-war state building process is reflected by its duality: alongside the process of implementing very specific state-building projects, a discussion of different scenarios for the future of the Bosnian state runs in parallel. That is, while the international community is implementing one scenario for the future of Bosnia-Herzegovina, at the same time it permits the discussion of other scenarios that do not necessarily correspond to the one that is being implemented.

Thus, on the one hand there is the implementation characterized by clear deadlines and specific targets, while at the same time there is an open-

ended debate about the ultimate solution for the country. Thus, although the international community has pursued a certain path in state building in Bosnia-Herzegovina, it has not been able to obtain consensus on its state building model from all the local sides in Bosnia-Herzegovina.

In setting the stage for the process of institution building in Bosnia-Herzegovina, the international community stated that it “considers multi-ethnicity a fundamental goal for the consolidation of a stable and democratic Bosnia-Herzegovina. It therefore recognizes the need to support the establishment of new multi-ethnic parties and to strengthen the existing ones.”³⁰⁰

The seriousness of the situation is reinforced by the fact that the institutional design created by the international community is not an indigenous solution, but is being imposed on the Bosnian people. Will the Bosnian people, after a rather long international presence, endorse the structure that is being created and sustain it in the future without the international supervision, as did Germany and Japan? Or will they discard it the moment the internationals leave? Are interveners capable of making a lasting change in another place, a change that will remain in place once they are no longer present on the ground? And if such a change is possible, what kind of policies should interveners pursue to make the intervention more effective and less costly? Is time the only credible factor that counts?

An intervention as profound and encompassing as the one being carried out by the international community in Bosnia-Herzegovina has strategic manipulation built into its basic structure. Manipulation as a word generally bears a negative connotation – a non-transparent activity directed at influencing someone into a certain kind of behavior that he or she would not necessarily choose. For better or worse, strategic manipulation represents an indispensable part of the interventionist

³⁰⁰ *OHR Documents*, Bonn Peace Implementation Conference, “Bosnia and Herzegovina 1998: Self-sustaining Structures”, Bonn, December 10, 1997, p. 17. Available at www.ohr.int

package. Whether it contributes to the realization of the goals of the intervention is another question. But I do not *a priori* take it as being a “lethal mechanism” for destroying the “healthy fabric” of either the Bosnian society or any other.

Manipulation, although many avoid the word because of its negative connotation, is part of human relationships in all aspects of life. It is only much more so in situations where profound change is taking place. The real scope of the effect of international presence may not be even evident immediately. Once the international mission is terminated, assessments may begin to accumulate. In this regard, contemporary assessments of the role of the international community in Bosnia-Herzegovina, including this one, are premature since they lack information about how the intervention will finish. Thus, these assessments are limited, and their value lies not only in the fact that they collect and systematize the data, but also because, one after another, they raise new issues and open topics for further discussion. An example of this is the issue of strategic manipulation. Manipulation should not be taken lightheartedly since a few million people will live with its consequences. These are serious problems and they cannot be left in charge of bureaucrats who are forced to make *ad hoc* solutions to the problems they face for the first time.

The issue of responsibility in carrying out these profound changes has to be mentioned. The progress in peace implementation after the first couple of years was judged as slow and the international community explained that local conditions undermined the peace process. As a result, the Peace Implementation Council granted extensive powers to the High Representative in Bosnia-Herzegovina at its Bonn meeting in late 1997. It commended the efforts of the High Representative in creating conditions for a self-sustaining peace in Bosnia-Herzegovina. In addition, “The Council welcomes the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of difficulties by making binding

decisions, as he judges necessary.”³⁰¹ However, the report ends without the Peace Implementation Council making any reference to the responsibility of the High Representative in exercising such a broad mandate.

Responsibility has been a highly arbitrary concept, but it cannot remain so if interventionism is to continue. If the international community has the ambition to change the order of things in one place, it has to bear the responsibility for the change it instigates and the new order it creates. The argument of an intervener that it is invited to become engaged and that for this reason it has not imposed the solution upon the parties to a conflict does not suffice, since it is still the free will of the intervener to decide whether to engage itself in such a project or not. Once it makes a decision, it has to bear the consequences of that decision – good or bad.

IV-1 INSTITUTIONAL TRANSFORMATION OF POST-CONFLICT SOCIETIES

Institution building in Bosnia-Herzegovina followed the blueprint of the Dayton Agreement. The formula for the existence of the future Bosnian state devised in Dayton has been to extensively grant rights to each of three ethnic groups, allowing for extensive divisions of powers at all levels of government and for internal territorial partition. The basic premise upon which the international community acted was to facilitate power sharing among Bosnians. Thus, the idea was that Bosnia-Herzegovina would remain *de iure* one state, while *de facto* each of its peoples would retain extensive powers to pursue the political goals that best suited their interests. The unarticulated hope was that these minimum common institutions and decision-making bodies would gain in relevance as time passed and emotions cooled down. The hope was that time would work for integration, bearing in mind the legacy of mutual coexistence and downplaying the consequences of the recent war. However, over the years these proved to be false hopes as they never materialized. Instead of facilitating the voluntary renunciation of the initially granted autonomous rights, the Dayton Agreement came in

³⁰¹ *OHR Documents*, Bonn Peace Implementation Conference, “Bosnia and Herzegovina 1998...”, p. 29. Available at www.ohr.int

fact to reinforce the cleavages that existed between the three groups and that were legitimized by the Peace Agreement.

The international community then found itself in a position to reinterpret some elements of the Dayton Agreement that would allow it to prevent a further deepening of institutionalized cleavages and to facilitate, where possible, their undercutting. The reason for this change was that by allowing for further segmentation of Bosnian society and by not creating stronger integrative institutions for the Bosnian state, the international community faced the imminent prospect that its intervention in Bosnia-Herzegovina would fail. As a result, it put forward policies that were designed to foster the reintegration of the country. However, this has been done cautiously and to a limited extent, for fear of not antagonizing those who opposed such a reorientation on the part of the international civilian force.

Whether the international community was right in changing its course, but wrong for not making it more transparent and forceful is not yet fully clear. Additionally, it cannot yet be determined whether it was right in changing its course if the result eventually is to be a Bosnian state so weak that it would cease to exist if left to its own devices. However, this last point becomes irrelevant if the international community decided to stay in Bosnia-Herzegovina as long as necessary to realize their goals.

IV-1a Reasserted powers of the High Representative

As the goals of the peace mission broadened from physical reconstruction and containment of conflict to the reintegration of society, economic reform and a more determined effort to create central institutions, the international community became increasingly frustrated with the political obstructionism it encountered and came to see the continuing power of the three nationalist parties as the core problem. The presence of the international force contributed to the tendency towards political irresponsibility among Bosnia's domestic leaders.³⁰²

³⁰² "Whither Bosnia", *International Crisis Group* (Sarajevo: September 1998); available at www.crisisweb.org/projects/bosnia/reports/bh39

The institution-building phase went along the lines set in the consolidation plan and was initially to last for two years.³⁰³ The Bonn Implementation Conference in December 1997 reformulated the consolidation plan, placing it within a new ten-year time framework. In the document entitled “Bosnia and Herzegovina 1998: Self-sustaining Structures” the Peace Implementation Council reiterated its previously set goals and added a few more, which were judged as essential for advancing state building in Bosnia-Herzegovina.

The Council considers multi-ethnicity the fundamental goal for the consolidation of a stable and democratic Bosnia-Herzegovina. It therefore recognizes the need to support the establishment of new multi-ethnic parties and to strengthen the existing ones.³⁰⁴

The Peace Implementation Council reiterated its conviction that until all persons indicted for war crimes were brought before the International Criminal Tribunal for the former Yugoslavia, there would not be normalization and reconciliation in Bosnia-Herzegovina. The Council also stated that the remaining parallel and para-constitutional structures in the territory of Bosnia-Herzegovina were illegal and detrimental to the reintegration of the country. Therefore, the Council demanded that they be dissolved immediately.

Another goal of the international community in the institution-building phase was to be the implementation of anti-corruption measures.³⁰⁵ Therefore, the Council supported the establishment of the Anti-Fraud Unit with the Office of the High Representative in 1998 to assist the

³⁰³ See Bosnia and Herzegovina 1997: Making Peace Work – Regional Stabilization”, Peace Implementation Conference, London, December 5, 1996; available at www.ohr.int/pic

³⁰⁴ “Bosnia and Herzegovina 1998: Self-sustaining Structures, Conclusions”, Bonn Peace Implementation Conference, December 10, 1997; available at www.ohr.int/docu/d971210a.htm, p. 17.

³⁰⁵ “Foreign aid must not be a substitute for diverted state resources. Donors have to protect their assistance funds from possible misuse, as well as from having to compensate for misappropriation”, concludes the Peace Implementation Council at its Bonn Conference. “Bosnia and Herzegovina 1998: Self-sustaining Structures”, p. 20.

authorities in Bosnia-Herzegovina to identify illegal activity and coordinate international technical assistance.

With regards to reconstruction and economic reform, the Council reconfirmed that the international community was to continue to apply conditionality to international reconstruction assistance, both by excluding non-compliant municipalities from reconstruction as well as by applying positive measures. However, the conditionality strategy delivered meager results in tying aid with political cooperation. As the ultimate goal in economic reform, the Council emphasized the need to increase the pace of transition to a market economy in order to create conditions for sustained growth based on private investment, exports and privatization.³⁰⁶

In the end, the Council granted the High Representative broader powers to take ‘interim measures’ where state institutions failed to act consistently with the Dayton Agreement, and to take “actions against persons holding public office... who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms for its implementation.”³⁰⁷ These powers amounted to an almost unlimited power by the High Representative to direct the peace implementation, pass laws and dismiss officials. The use of these powers set the implementation process in fast gear.

A series of laws on media reform reduced political influence and facilitated the development of professional standards.³⁰⁸ The creation of a comprehensive legal framework facilitated the return of refugees.³⁰⁹ A

³⁰⁶ “Bosnia and Herzegovina 1998: Self-sustaining Structures”, p. 19.

³⁰⁷ Ibid., p. 30.

³⁰⁸ See “Decision on the establishment of the Independent Media Commission”, June 11, 1998; “Decision on the appointment of members of the Council and the Enforcement Panel of the Independent Media Commission”, August 5, 1998.

³⁰⁹ See “Decision imposing the Law on Amendments to the Law on Housing Relations in the Federation, restoring to displaced persons and refugees occupancy rights cancelled under Article 47 of the old law and extending from 6 to 12 months the deadline for requesting”, September 17, 1998; “Decision extending for three months the 4 April 1999 deadline for filling claims to socially-owned apartments in the Federation, April 1, 1999; “Decision amending the Law on Housing Relations in the RS and annulling all court-ordered cancellations of occupancy rights of refugees and

series of decisions were directed at strengthening the central state institutions.³¹⁰ The High Representative also introduced a common currency, a prerequisite for a necessary economic reform.³¹¹ The introduction of a common vehicle license plate and national passport facilitated the freedom of movement.³¹²

IV-2 THE STATE INSTITUTIONS OF BOSNIA-HERZEGOVINA

The institutional structure created in Bosnia-Herzegovina has been extremely diffuse. Multi-level governance, territorial divisions, exclusive identities – these have been the elements employed to (re)construct a multiethnic Bosnia-Herzegovina. A multiethnic government was seen as a buttress against the aggressive nationalism that had plagued the country and the region for years.

If there is to be a post-Cold War peace in Europe – and not a cold peace, but a real one – it must be based on the principle of multiethnic democracy... The United States is one of the first and one of the greatest examples of that principle. What's more, the civic behavior and constitutional structures associated with pluralism are conducive to regional peace and international trade.

displaced persons since April 1992 and re-allocations of apartments made on the grounds of space rationalization", April 14, 1999; "Decision canceling all permanent occupancy rights issues in RS during and after the war in BiH and converting them into temporary occupancy rights", April 14, 1999; "Decision canceling all permanent occupancy rights issues in the Federation during and after the war in BiH and converting them into temporary occupancy rights", April 14, 1999.

³¹⁰ See "Decision imposing the Law on Citizenship of BiH", December 16, 1997; "Decision imposing the Law on the Flag of BiH", February 3, 1998; "Decision on flying the flag of BiH", April 2, 1998; "Decision on the shape and design of the coat-of-arms of BiH", May 18, 1998; "Decision on the implementation by the BiH authorities of the GFAP [General Framework Agreement for Peace, i.e. the Dayton Agreement] with a view to reconciliation and multi-ethnicity", July 1, 1998; "Decision ordering a session of the Presidency of BiH after a long break", April 15, 1999.

³¹¹ See "Decision imposing the Draft Law on the Policy of Foreign Direct Investment in BiH", March 5, 1998; "Decision imposing the design of bank notes", March 27, 1998; "The Letter of the Governor of the Central Bank of BiH", September 28, 1998.

³¹² See "Decision on the deadlines for the implementation of the new uniform license plate system", May 20, 1998.

Hence, it is in our interest that multiethnic democracy ultimately prevails.³¹³

Common state institutions are based on the principle of full proportional national representation, a principle that was taken from the former socialist system. Annex 4 of the Dayton agreement outlined the constitutional procedures and powers in relation to the Presidency, the Council of Ministers and the Parliamentary Assembly.

The following matters were to be the responsibility of the institutions of the *state* government of Bosnia-Herzegovina:

- Foreign policy,
- Foreign trade policy,
- Customs policy,
- Monetary policy,
- Financing the institutions and the international obligations of Bosnia-Herzegovina,
- Immigration, refugee, and asylum policy and regulation,
- International and inter-entity criminal law enforcement, including relations with Interpol,
- Establishment and operation of common and international communications facilities,
- Regulation of inter-entity transportation,
- Air traffic control.³¹⁴

The structure of the government of Bosnia-Herzegovina is as follows:

- Legislative branch (Parliamentary Assembly),
- Executive branch (Presidency and the Council of Ministers),
- Judicial branch (Constitutional Court and the Court of Bosnia-Herzegovina).

The state institutions are financed by the two entities of which the Federation provides two-thirds and the Republika Srpska one-third of

³¹³ “US Leadership and the Balkan Challenge”, Deputy Secretary of State Strobe Talbott, remarks at the National Press Club, Washington, D.C., November 9, 1995, released by the Office of the Spokesman, US Department of State; available at www.state.gov. Quoted in David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press, 2000, 2nd edition), p. 66.

³¹⁴ Annex 4, Article III of the Dayton Peace Agreement.

the revenues required by the budget. The Parliamentary Assembly, on the proposal of the Presidency, adopts a budget covering expenditures required to execute the responsibilities of the central institutions and the international obligations of Bosnia-Herzegovina.

IV-2a Parliamentary Assembly of Bosnia-Herzegovina

The Parliamentary Assembly has two chambers: the House of Representatives and the House of Peoples. All legislation requires the approval of both chambers.

The Parliamentary Assembly has responsibility for:

- Enacting legislation as necessary to implement the decisions of the Presidency of Bosnia-Herzegovina or to carry out the responsibilities of the Assembly under the Constitution of Bosnia-Herzegovina,
- Deciding upon the sources and amounts of revenues for the functioning of the institutions of Bosnia-Herzegovina and its international obligations,
- Approving a budget for the institutions of Bosnia-Herzegovina,
- Deciding whether to consent to the ratification of treaties, and
- Such other matters as are necessary to carry out its duties or as are assigned to it by mutual agreement of the entities.

The House of Representatives has 42 members, of which two-thirds are from the territory of the Federation and one-third from the Republika Srpska. Members of the House of Representatives are elected directly from their own entity. Among its members, the House of Representatives elects one Bosniak, one Croat and one Serb member to assume the duties of Speaker, first deputy speaker and second deputy Speaker. The Speaker cannot be of the same constituent people as the Chairman of the BH Presidency and the Chairman of the Council of Ministers. The Speaker rotates automatically every eight months, starting with the initial election of the Speaker. The Speaker has to consult the first and the second deputy in carrying out his or her responsibilities.

The House of Representatives has eight permanent commissions to cover the following areas: constitutional and legal issues; foreign affairs;

foreign trade and customs; finances and budget; human rights, immigration, refugees and asylum; transport and communications; administration; and gender. The formation of commissions also has to follow the ethnic key, i.e. two-thirds from the Federation and one-third from the Republika Srpska.

The House of Peoples has 15 delegates where two-thirds are from the Federation (5 Bosniaks and 5 Croats) and one-third from Republika Srpska (5 Serbs). Nominated Croat delegates are elected by the Croat delegates in the Federation House of Peoples and the nominated Bosniak delegates are elected by the Bosniak delegates in the Federation House of Peoples. Nominated Serb delegates are elected by the Republika Srpska National Assembly. Among its members, the House of Peoples elects one Croat, one Serb and one Bosniak member to assume the duties of the Speaker, first deputy Speaker and second deputy Speaker. The Speaker of the House of Peoples cannot be of the same constituent people as the Speaker of the House of Representatives. The Speaker rotates every eight months, starting with the initial election of the Speaker and he or she consults with deputies in carrying out the responsibilities.

IV-2b The Presidency

At the top there is a three-member Presidency with a four-year mandate. The Croat and the Bosniak member of Presidency are directly elected from the territory of the Federation, while the Serb member is directly elected from the territory of Republika Srpska. The Chair of the Presidency changes every eight months by the principle of rotation among the members of the Presidency.

The Presidency has responsibilities for:

- Conducting foreign policy,
- Appointing ambassadors and other international representatives of Bosnia-Herzegovina, no more than two-thirds of whom may be selected from the territory of the Federation,
- Representing the country in international and European organizations and institutions and seeking membership in those in which Bosnia-Herzegovina is not a member,

- Negotiating, rejecting, and ratifying treaties of Bosnia-Herzegovina,
- Executing decisions of the Parliamentary Assembly,
- Reporting as requested, but not less than annually, to the Parliamentary Assembly on expenditures of the Presidency,
- Coordinating as necessary with international and non-governmental organizations in Bosnia-Herzegovina,
- Performing such other functions as are necessary to carry out its duties.

Another central institution is the Standing Committee on Military Matters (SCMM). The members of the Presidency are members of the SCMM and select other members of the Committee. Other members are the Federation defense minister, the Federation deputy defense minister, the Republika Srpska defense minister, the chief of the Federal army joint command, the deputy chief of the Federal army joint command, and the chief of the Republika Srpska army. The current structure of the Bosnian state provides for two separate armed forces who on top are united by the state's Presidency, which acts as the supreme commander of the armed forces. Each member of the Presidency, by virtue of the office, has civilian command authority over the armed forces.

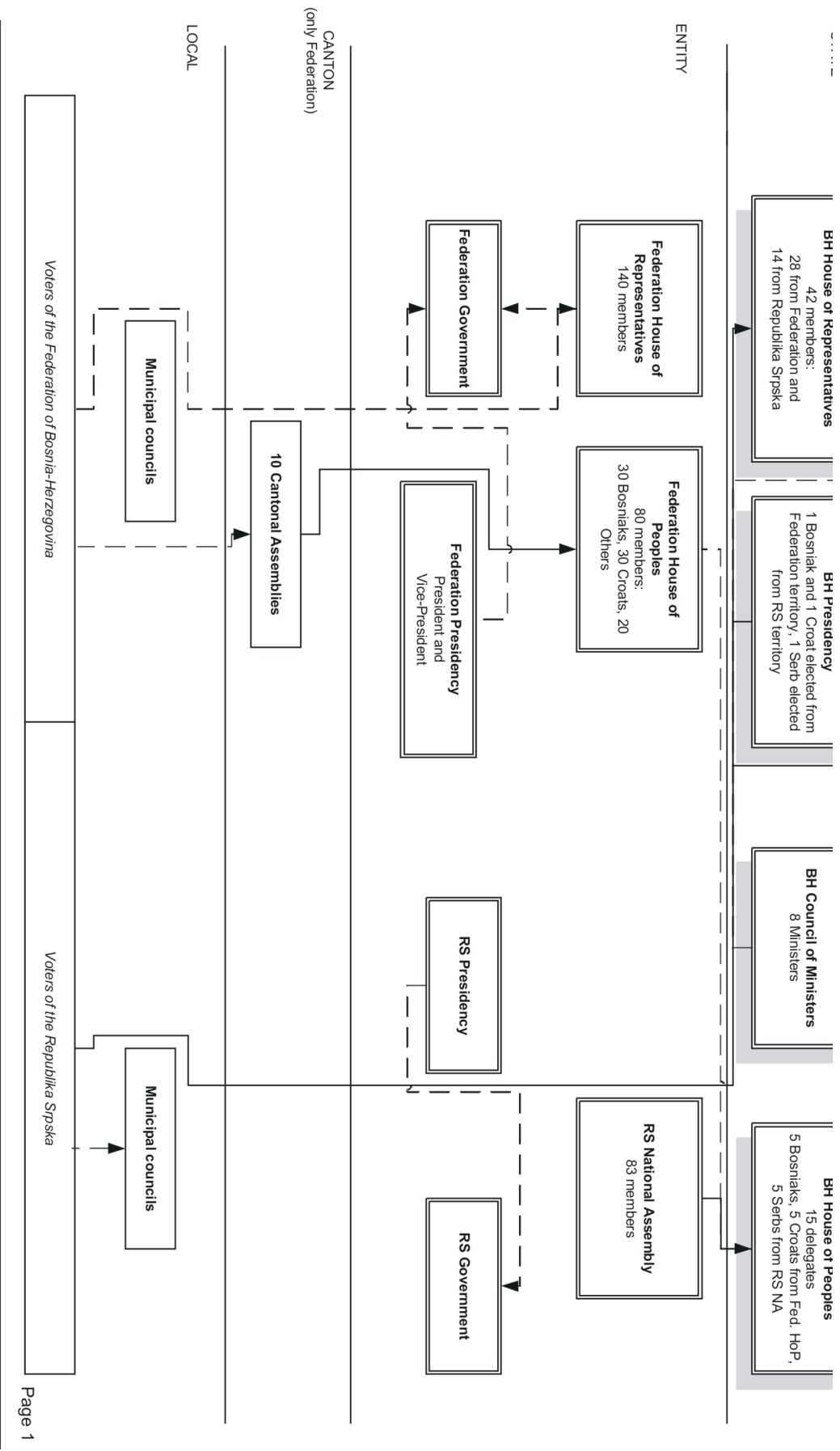
The forces consist of the army of the Federation and the army of Republika Srpska. The Federation army is further divided into two components, a Bosniak one and a Croat one, but at the headquarters it is manned by officers and soldiers of the two components working together. The Republika Srpska army, just like the entity it belongs to, is centrally organized. Ensuring the forces are under civilian control, each of the two entities has a ministry of defense. Entities' armed forces are under no circumstances to enter into or stay within the territory of the other entity without the consent of the government of the latter and the Presidency.

In 2002 there were 34,000 professional troops and about 15,000 reservists in the armed forces in Bosnia-Herzegovina. Steady personnel reductions over the previous years helped to bring the number of troops down, especially from a 1995 end-of-war estimate of 430,000. Still, in a country of less than 4 million, supporting 34,000 troops is a great

economic burden when levels of unemployment are at a level of almost 40 per cent. The intention of the Dayton agreement was to have the two forces working together in the name of common defense, that it to operate consistently with the sovereignty and territorial integrity of Bosnia-Herzegovina. While great strides in the cooperation between the two militaries have been made, much work still needs to be done to restructure and downsize the armed forces. Military expenditures are too high and the forces too large to justify such a burden on a peacetime economy.

IV-2c The Council of Ministers

The Council of Ministers (CoM) is responsible for the implementation of decisions in the areas specified by the Constitution. The organization of the Council has changed substantially over the years. At Dayton, the CoM was granted limited powers since the parties opposed to the reintegration of Bosnia-Herzegovina objected to strong central institutions. The devolution of power, however, was so extensive that it rendered the CoM almost completely ineffective. The virtual lack of any capacity to carry out the tasks that are normally expected of a cabinet frustrated efforts to move Bosnia-Herzegovina towards the goal of self-sustainability. The international community stepped in on several occasions to amend the law on the Council and gradually, particularly under U.S. diplomatic pressure, the CoM was expanded to include new ministries in addition to the three ministries established in Dayton.



The Bosnian Serbs refused to participate in the Council of Ministers even in the initial limited design and a compromise was found with the institution of the co-chairmen of the Council. Thus, the reformed CoM was to have two co-chairmen and one deputy co-chairman instead of a permanent chair as earlier planned. The first High Representative, Mr. Carl Bildt, who was to supervise the creation of the Council of Ministers, says the following,

And when the final agreement on the structure of the Council of Ministers at the session of the Presidency was reached on November 30 [1996], the solution was the following: to introduce a position of deputy co-chairman in addition to the two co-chairman. And therefore, on Saturday, November 30, one month after the envisaged date, agreement was reached on the Council of Ministers, using the principle of 3+3+6. (...) It was a significant success, although it contained some troubling elements. We were forced to capitulate on the solution of the important question of the prime minister. I realized that such a solution was unavoidable, but I was still worried what might happen in the long run. Was this structure capable of integrating the country in the coming years and solving all those problems that worried common people?³¹⁵

From its creation until the September 1998 elections, the Council of Ministers comprised the following individuals – two co-chairmen (a Bosniak and a Serb), the deputy co-chairman (a Croat), the foreign minister (a Bosnian Croat), the minister for foreign trade (a Bosniak), and the minister for civil affairs and communications (a Serb). Each minister had two deputies from the other two constituent peoples.

After the September 1998 elections, the Council of Ministers was reorganized and expanded. There were six ministries in the Council and the post of chairman, who continued to perform the duty of a minister while acting as a chairman of the Council of Ministers. This post rotated every eight months among the ministers. The distribution of the portfolios (foreign affairs, European integration, finances, foreign trade and economic relations, civil affairs and communications, human rights

³¹⁵ Carl Bildt, *Misija mir*, p. 412.

and refugees) was based on the ethnic principle where two ministers came from each constituent people. Each of the six ministers had two deputies who came from the other two constituent peoples.

The seat of the Council of Ministers is in Sarajevo. Initially, the CoM had two seats – one in Sarajevo and another in Lukavica, a suburb of Sarajevo that belonged to Republika Srpska. The sessions of the CoM interchangeably took place between the two seats. As of 1998, the CoM received a permanent seat in Sarajevo.

On December 2, 2002 the High Representative passed a new law on the Council of Ministers, as the Presidency was not able to reach consensus on improving the operational capacity and the efficiency of the Council. The new law established two new ministries, which means that as of December 2002 the CoM was to have eight, instead of the previous six ministries.³¹⁶

Subsequently, the CoM consisted of the chair and the following ministries:

- Ministry of foreign affairs,
- Ministry of foreign trade and economic relations,
- Ministry of finance and treasury,
- Ministry of communications and transport,
- Ministry of civil affairs,
- Ministry of human rights and refugees,
- Ministry of justice, and
- Ministry of security.

The Council is also made up of a number of agencies, services, commissions and other bodies. These include a Foreign Investment Guarantee Agency (IGA), a Foreign Investments Promotion Agency (FIPA), and a Communications Regulatory Agency (CRA). The latter is the only body in Bosnia-Herzegovina responsible for regulating the area

³¹⁶ “Law on the Council of Ministers of Bosnia-Herzegovina”, High Representative’s Decision relating to State Symbols and State-Level Matters, *OHR Documents*, December 2, 2002; available at www.ohr.int/decisions/statemattersdec/default.asp?content_id=28609.

of telecommunications and electronic media. The Agency was established by the decision of the High Representative by merging the Independent Media Commission (IMC) and the Telecommunication Regulatory Commission (TRC) that had hitherto worked separately. It is responsible for three main segments of modern communications: telecommunication, frequency spectrum management and electronic media. Among some twenty different bodies and agencies under the CoM, this is the only one whose director is a foreigner.

The Chairman of the CoM is appointed by the Presidency and he or she assumes the duty upon approval of the House of Representatives of Bosnia-Herzegovina. The Chairman of the Council of Ministers cannot be of the same constituent people as the Chair of the BH Presidency. The new law also abolished the earlier principle of rotation and instead introduced a permanent position of a chair of the Council of Ministers and two deputies. This amounted to a revolutionary step in tailoring the CoM to resemble functioning governments in other countries. The term of the CoM coincides with the mandate of the Parliamentary Assembly of Bosnia-Herzegovina.

The chair of the Council of Ministers is responsible for:

- Coordination of the work of the CoM,
- Coordination of the constitutional relations of the CoM with the work of the BH Presidency and the Parliamentary Assembly, as well as with the entities,
- Convening and chairing sessions of the CoM,
- Taking the minutes of the sessions and recording decisions issued by the CoM,
- Ensuring cooperation between the CoM and the governments of the entities.

The overall composition of the Council of Ministers is to fully respect the Constitution of Bosnia-Herzegovina to ensure equal representation of the constituent peoples of Bosnia-Herzegovina. The chair and deputy chairs cannot come from the same constituent people. Another change from the previous model is that each minister has one deputy instead of two deputies as before. The deputy, as before, cannot be of the same constituent people as the minister.

The Council of Ministers is responsible to the Parliamentary Assembly. In line with its duties, it prepares proposals of law, documents and other material as requested by the Parliamentary Assembly. The CoM has the right to participate in the sessions of both Houses of the Parliamentary Assembly and working commissions.

IV-2d Constitutional Court of Bosnia-Herzegovina

Among other notable common institutions is the nine-member Constitutional Court made up of two representatives from each constituent people and three international judges. Four members are selected by the House of Representative of the Federation and two members by the National Assembly of Republika Srpska. The remaining three members are selected by the President of the European Court of Human Rights subject to prior consultation with the Presidency. These three judges cannot be citizens of Bosnia-Herzegovina or of any neighboring state.

The seat of the Court is in Sarajevo. The term of judges initially appointed is five years, unless they resign or are removed by consensus of other judges. Judges initially appointed are not eligible for reappointment, but those subsequently appointed can serve until the age of 70.

A decision on the equal constitutional status of all three ethnic groups throughout the territory of Bosnia-Herzegovina arose from the case that Alija Izetbegović, a former Bosniak member of the Presidency, brought in 1998 before the Constitutional Court for the purpose of evaluating entities' Constitutions with respect to the state Constitution.³¹⁷ The decision in favor of equal constitutional status was backed by the three international judges and the two Bosniak judges, and opposed by the Croat and Serb judges. The Constitutional Court ruling came in 2000 and enabled the High Representative in 2002 to make a binding decision on both entities to bring the entities' constitutions in accordance with the state constitution, which guaranteed the equal constitutional status for all

³¹⁷ "Constituent Peoples' Decision of the BiH Constitutional Court", September 14, 2000; available at www.ohr.int/ohr-dept/legal/const/

three ethnic groups (and others) on the whole territory of Bosnia-Herzegovina. The “Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia and Herzegovina” was imposed by the High Representative after the entities’ parliaments failed to adopt it. This Agreement was a long-awaited breakthrough in the peace process and although it could not solve all outstanding issues, it stood out as a firm step forward in reinforcing the principle of multi-ethnicity. In effect, the provision of the Agreement annulled, to a greater extent than any decision before, the effect of ethnic cleansing. Thus, with regard to the minimum representation in the government of the Federation and of the Republika Srpska, the Agreement specified that half of the ministries would be given to the other two constituent peoples. Thus, in the Republika Srpska government, out of 16 ministers, 8 would be Serb, 5 Bosniak, and 3 Croat, while in the Federation government, out of 16 ministers, 8 would be Bosniak, 5 Croat, and 3 Serb. In both governments there would be a prime minister who would have two deputy prime ministers from different constituent peoples selected from among the ministers. Moreover, one member in both governments had to come from the group of Others, nominated by the prime minister from the quota of the largest constituent people.³¹⁸

Entities’ presidents were also to have two vice-presidents coming from different constituent peoples. Moreover, the High Representative instructed that the overall distribution of key political functions had to observe the equal representation principle. Thus, out of the following positions not more than two may be filled by representatives of any one constituent people or of the group of Others:

- Prime Minister,
- Speaker of the House of Representatives/ RS National Assembly,
- Speaker of the House of Peoples/ Council of Peoples,
- President of Constitutional Court,
- President of Supreme Court,

³¹⁸ “Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia-Herzegovina,” *OHR Document*, March 27, 2002, Item III; available at www.ohr.int/ohr-dept/legal/const/

- Public Prosecutors,
- Presidents of entities.³¹⁹

There was also to be proportional representation in public institutions in the Federation and in Republika Srpska. “As a constitutional principle, such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented.”³²⁰ Those who opposed reintegration rejected the Court’s Decision and opposed the High Representative’s imposition of the Agreement because it undermined their efforts in uprooting multi-ethnicity. Those who favored reintegration welcomed both the Decision and the Agreement, although many criticized the Agreement as not going far enough in wiping out ethnic separatism.

IV-2e Central Bank of Bosnia-Herzegovina

The Central Bank of Bosnia-Herzegovina was established on June 20, 1997, as defined in the Dayton Agreement, and started its operation on August 11, 1997. It is responsible for achieving and maintaining the monetary stability of the domestic currency (convertible mark or KM) in accordance with the ‘currency board’ arrangement (1KM: 0,51129 EURO), managing official foreign currency reserves made by domestic currency emission, coordinating the activities of entity banking agencies that are in charge of bank licensing and supervision, assisting and maintaining appropriate payment and settlement systems, as well as such other tasks in accordance with the Law on the Central Bank. It is also the only authorized institution for money printing and monetary policy covering the entire state of Bosnia-Herzegovina.³²¹ The first KM banknotes were issued on June 22, 1998 in the value of 50 pfenings, 1 KM, 5 KM, and 10 KM. The other banknotes followed in the course of the year.

³¹⁹ “Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia-Herzegovina”, March 27, 2002, Item II, *OHR Document*; available at www.ohr.int/ohr-dept/legal/const/

³²⁰ Ibid., Item IV. Annex 7, the Agreement on refugees and displaced persons, of the GFAP guarantees the right to all refugees and displaced persons to return to their homes of origin. The decision to base the proportional representation following the 1991 census in effect annuls the result of ethnic cleansing.

³²¹ For more information on the Central Bank see the Bank’s website www.cbbh.gov.ba.

The Governing Board is the senior body of the Bank and is responsible for establishing and supervising monetary policy. The Board consists of the governor (who is at the same time the chairman) and three members, out of whom two members (one Bosniak and one Croat) are from the Federation and one member (Serb) is from Republika Srpska. The governor is appointed by the International Monetary Fund (IMF) after prior consultations with the BH Presidency. The three members are appointed by the BH Presidency. The governor cannot be a citizen of Bosnia-Herzegovina or of a neighboring country for the first six years.

The establishment of the Central Bank is used as an example of successful institution building in a post-conflict society. At the time of the Dayton Agreement, four different currencies were in circulation in Bosnia-Herzegovina. Despite opposition from nationalist leaders and weak economy, the new currency has replaced its rivals. International management of the establishment of the Central Bank included the following elements:³²²

- Transitional international management: under the Dayton Agreement, the Central Bank is placed under international management for the first six years of its operations. The International Monetary Fund (IMF) appointed an international governor with the technical and managerial expertise to build up the institution. During its period of international management, the Bank's role is limited to that of a currency board, with no authority over monetary policy. The path to full autonomy has been a gradual one, but the locals are steadily taking over from the internationals.
- Transitional budgetary support: the first DM 25 million in reserve capital for the Bank was provided by the IMF, which also contributed to the initial operating costs. Within a short period of time, the institution was able to meet its operating costs from regular operations.

³²² This insightful analysis of the combination of methods to strengthen the Central Bank was done by Marcus Cox; see "State Building and Post-Conflict Reconstruction: Lessons from Bosnia", pp. 17-18.

- Technical support: the IMF remained involved in the development of the institution, providing technical advice in the drafting of the law and helping to develop operating procedures and management systems.
- Training and identity building: local staff in the Central Bank have been trained in such a way as to help the institution acquire a corporate identity. For example, this has included fostering contacts with other central banks in the region.
- Dismantling parallel structures: the development of the Central Bank was complemented by a concerted international campaign to dismantle extra-constitutional parallel structures. The Bosniak authorities sought to preserve the National Bank which they had established during the conflict. The IMF insisted on its liquidation as a condition to its May 1998 Stand-By Agreement and the OHR was instrumental in appointing a foreign liquidator.
- Introduction of the new currency: the process of introducing a single currency, the Convertible Mark (KM), met with intense political resistance by anti-Dayton forces, which manifested itself in a refusal to agree upon a common design.³²³ A concerted international campaign led by the OHR was required in order to resolve these disputes and the international community arranged and paid for the new currency to be printed in Western Europe and introduced into circulation in July 1998. Once in circulation, OHR encouraged international agencies to pay their staff in KM, which made it uneconomic for traders to refuse it, and within a short period of time the KM replaced the parallel currencies in most transactions.

IV-2f The Human Rights Ombudsman of Bosnia-Herzegovina

Annex 6 of the Dayton Agreement established the Commission for Human Rights, which consists of the Human Rights Ombudsman and the Human Rights Chamber.

³²³ There was much arguing about which Bosnian historical figure would appear on bank notes. For example, agreeing to have Ivo Andrić, the writer and the Nobel Prize winner, on one of the bank notes caused much rancor with regards to his ethnic and political background.

The Human Rights Ombudsman is an independent institution, set up in order to promote good governance and the rule of law and to protect the rights and freedoms of natural and legal persons, as guaranteed by the constitution and the international treaties to which Bosnia-Herzegovina is a signatory.³²⁴

The Ombudsman considers matters of inadequate functioning or violations of human rights and freedoms made by any government body, including the military authorities. Also, the Ombudsman is authorized to make investigations on all complaints concerning the inadequate functioning of the court system or the irregular processing of individual matters.

The institutions of the Ombudsman in the entities and the Ombudsman of the state of Bosnia-Herzegovina cooperate and citizens may, in most cases, choose which one to appeal to. However, the Ombudsman of Bosnia-Herzegovina has exclusive competence over cases referring to:

- Bodies of Bosnia-Herzegovina,
- A body of the government of an entity and a body of Bosnia-Herzegovina at the same time,
- Bodies of government of both entities at the same time.

IV-2g Election Law of Bosnia-Herzegovina

The Election Law of Bosnia-Herzegovina was passed by the BH House of Representatives at its session of August 21, 2001 and by the BH House of Peoples at its session of August 23, 2001, with a view to promoting free, fair and democratic elections ensuring the achievement of democratic goals.

This law, amended by the Decision of the High Representative of April 19, 2002³²⁵, regulates the election of members and delegates of the

³²⁴ DPA, Annex 6, Chapter Two.

³²⁵ The Decision refers to the “Decision amending the BH Election Law in accordance with the new Entity Constitutions.” On the same day, the High Representative issues two other Decisions regarding constitutional amendments in the Federation and Republika Srpska in accordance with the Constitutional Court decision on the constituent status of all three peoples in Bosnia-Herzegovina.

Parliamentary Assembly of Bosnia-Herzegovina and members of the Presidency, and defines the principles applicable to elections at all levels of government in Bosnia-Herzegovina. The election law is a mixed formula of direct and proportionate voting, open lists, compensatory votes, multi-member constituencies, and other elements. The constituencies and the number of mandates allocated to each of them that is established in the election law is to be reviewed every four years by the Parliamentary Assembly of Bosnia-Herzegovina to ensure that they are drawn in a manner that reflects proportionality between the number of mandates and the number of registered voters.

IV-3 THE FEDERATION OF BOSNIA-HERZEGOVINA

The Federation of Bosnia-Herzegovina is one of the two entities comprising the state of Bosnia-Herzegovina and covers 51% of Bosnian territory. After the signing of the Washington Agreement on March 18, 1994 by the Bosniak and the Bosnian Croat sides, as well as by the Croatian leadership, the first session of the Parliament of the Federation was held in Sarajevo on March 30, 1994. The assembly included representatives elected in the 1990 elections for the Parliament of the Republic of Bosnia-Herzegovina from the territory defined by the Washington Agreement as belonging to the Federation. This Parliament ceased to exist in October 1996, following the elections for the Parliament of the Federation of Bosnia-Herzegovina.³²⁶

Chapter I, Article 1 of the Federation Constitution identifies Bosniaks and Croats, along with Others, as constituent peoples of the Federation.³²⁷ This article of the Federal constitution was amended to include Serbs as a constituent people in line with the 2000 Constitutional Court decision on the constituent status of the three people on the territory of Bosnia-Herzegovina.

³²⁶ More information on the Federation can be obtained from the official Federation government website at www.fbihvlada.gov.ba.

³²⁷ Constitution of the Federation of Bosnia and Herzegovina, "Official Gazette" of the Federation of Bosnia and Herzegovina, 1/94, 13/97.

The Federation, a decentralized unit, consists of ten cantons with equal rights and responsibilities, named exclusively after the cities where the seats of cantonal authorities are located or after their regional and geographical features. Each canton has legislative, executive and judicial powers, which operate in accordance with the Federal constitution.

The cantons in the Federation are:

1. Una-Sana canton, seat: Bihać,
2. Posavina canton, seat: Orašje,
3. Tuzla canton, seat: Tuzla,
4. Zenica-Doboj canton, seat: Zenica,
5. Bosnian Podrinje canton, seat: Goražde,
6. Central Bosnia Canton, seat: Travnik,
7. Herzegovina-Neretva canton, seat: Mostar,
8. West Herzegovina canton, seat: Široki Brijeg,
9. Sarajevo canton, seat: Sarajevo,
10. Canton 10, seat: Kupres.

The official name of the Federation is the Federation of Bosnia and Herzegovina, and the capital is Sarajevo. Under the constitution of the Federation, the entity has a coat-of-arms, a flag, a national anthem, a seal, and other symbols as decided by the Parliament of the Federation. The official languages are Bosnian, Croatian, and Serbian. Other languages may be used as a means of communication and teaching. The official scripts are Latin and Cyrillic. The capital of the Federation is Sarajevo.

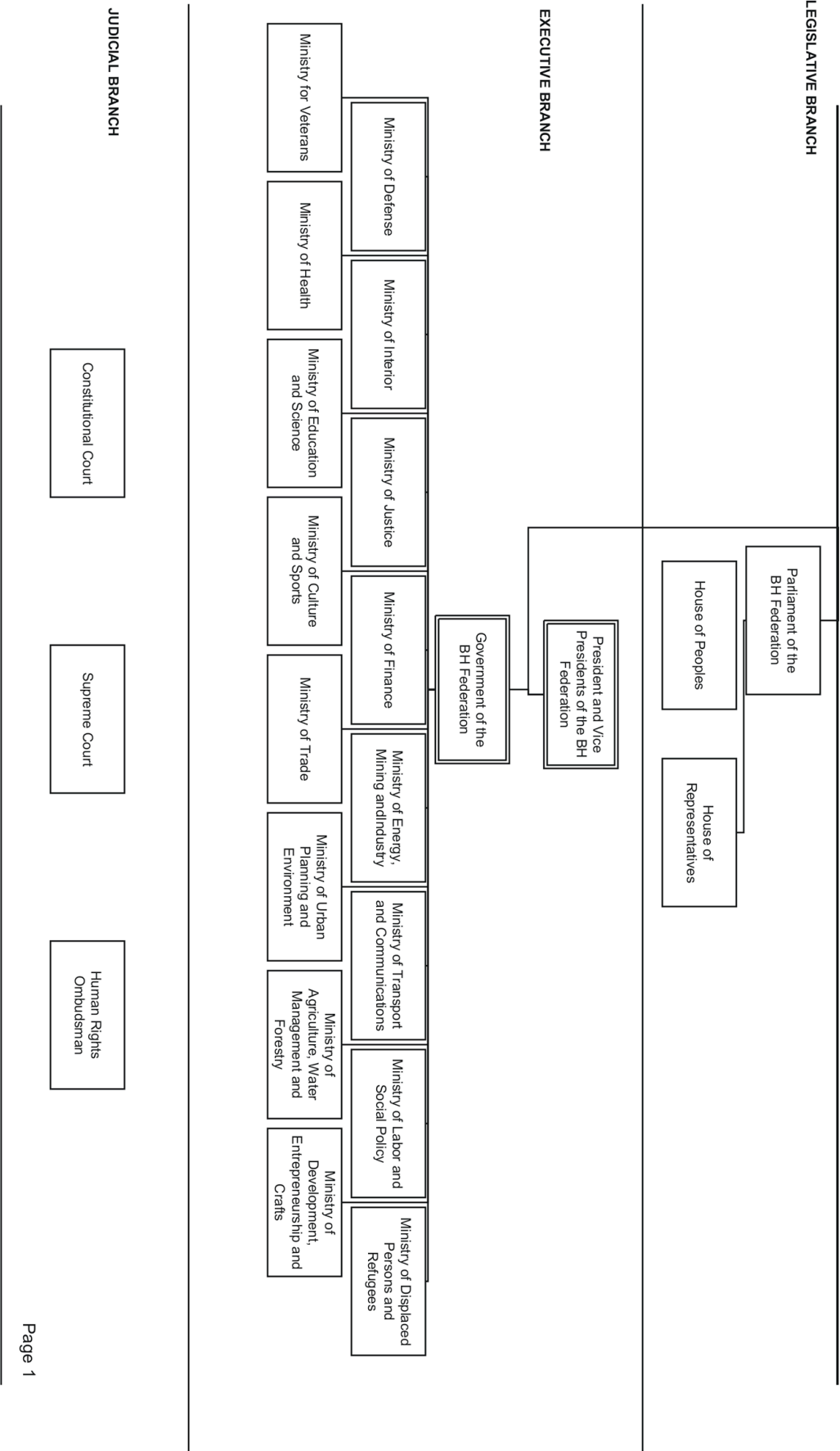
The Federation has all the authority, powers and responsibilities that, under the constitution of Bosnia-Herzegovina, are not the exclusive responsibility of the state institutions of Bosnia-Herzegovina. Some areas are the exclusive responsibility of the Federation government, and in some areas the Federation government and cantons share responsibility.

The exclusive responsibilities of the Federation government are the defense of the entity and the joint command of the armed forces; citizenship; economic policy, including planning and reconstruction;

finances and fiscal policy; telecommunications and allocation of electronic frequencies; the fight against terrorism, international crime, inter-cantonal crime, drug trafficking, and organized crime; energy policy; financing of the Federation institutions.

The Federation and cantonal governments share responsibilities for: health policy; social policy; environmental policy; protection of and implementation of human rights; communication and transport infrastructure; implementation of laws on citizenship and travel documents; tourism; and exploitation of natural resources. Each canton may further delegate its functions to municipalities and is required to do so to a municipality whose population majority is different from that of the canton. Each canton has a legislature consisting of one House comprising a number of legislators determined in proportion to its population but no

The Government Structure of the Federation of Bosnia-Herzegovina



fewer than thirty and no more than fifty. The term of cantonal legislators was previously two years but was later changed to four years.³²⁸ Each canton has a president, who is elected by a majority of the cantonal legislature from among candidates nominated by legislators. The cantonal president serves a term of four years and may not serve more than two successive terms.³²⁹

Municipalities exercise self-rule on local matters. Each municipality has a statute, consistent with the Federal constitution and the constitution of its canton, and has to conform to any relevant cantonal legislation.³³⁰ Each Municipality has a governing council. The term of the members of municipal governing councils is four years (previously two), provided that the term of the first members of the municipal governing councils was one year.³³¹ The city of Sarajevo in the Sarajevo canton is established as a unit of local self-government.

The structure of the government of the Federation of Bosnia-Herzegovina is as follows:

- Legislative branch (Parliament of the BH Federation),
- Executive branch (the President and Vice-President of the Federation and the government of the Federation),
- Judicial branch (Federal Constitutional Court, Federal Supreme Court, and Office of the Ombudsman for Human Rights).

IV-3a Parliament of the Federation of Bosnia-Herzegovina

The Parliament of the Federation consists of the House of Representatives and the House of Peoples. Unless stipulated otherwise, decisions of the Parliament require confirmation by both Houses, except

³²⁸ Ibid., Chapter V, Item 2, Article 5.

³²⁹ Ibid., Chapter V, Item 3, Article 8.

³³⁰ Ibid., Chapter VI, Article 2.

³³¹ Ibid., Chapter VI, Article 3.

for rules and procedures, and declarations passed independently by both Houses. Other decisions are passed by simple majority vote in each House.

The House of Representatives consists of 140 delegates. The mandate of the delegates is for a period of four years and they are elected by secret ballot in direct elections across the entire territory of the Federation. The House of Representatives elects from among its members a Speaker and Deputy Speaker who may not be from the same constituent people.

The House of Peoples consists of a total of 80 delegates: 30 Bosniak, 30 Croat, and 20 from among Others, whose number is “in the same ratio to 60 as the number of cantonal legislators not identified as Bosniak or Croat is in relation to the number of legislators who are so identified.”³³² Delegates are elected from among members of cantonal legislatures. The number of delegates elected to the House of Peoples in any canton is proportional to the ethnic make-up of the canton’s population.³³³ The mandate of the delegates is four years. As elsewhere, the Speaker and the Deputy Speaker may not be from the same constituent people.

Decisions concerning the vital interests of any of the constituent peoples require the approval of a majority of delegates. The vital interests are defined as follows:

- The exercise of legislative, executive, and judicial authority;
- The identity of a constituent people;
- Constitutional amendments;
- The organization of public government authorities;
- Equal rights of constituent peoples in the decision-making process;
- Education, religion, language;
- Preservation of culture, tradition, and cultural heritage;
- Territorial organization;
- Public information system;

³³² Ibid., Chapter IV, Section A, Item 2, Article 6.

³³³ Ibid., Chapter IV, Section A, Item 2, Article 8.

- And other issues if considered vital by two-thirds of one of the caucuses of delegates of constituent peoples.³³⁴

IV-3b President of the Federation

Nominees for the president and vice-president require joint approval by majority vote in both Houses, including a majority of the Bosniak delegates and a majority of the Croat delegates. Should either House reject the joint slate, the caucuses must reconsider their nominations. The persons elected serve alternative one-year terms as president and vice-president during a four-year period. Successive presidents may not come from the same constituent people. The president serves as the head of the Federation executive branch and the commander-in-chief of the military of the Federation. The president nominates the cabinet (with the prime minister), after which the cabinet needs to be approved by a majority in the House of Representatives.³³⁵

IV-3c Government of the Federation of Bosnia-Herzegovina

The government of the Federation consists of a prime minister, two deputy prime ministers, and ministers, each of whom has a deputy. No deputy, including the deputy prime ministers, may be from the same constituent peoples as his/her minister. The mandate of the government is four years, but is used to be two during the period when elections were held every two years. The government may be removed either by a decision of the Federation president, with the approval of the vice-president, or by majority vote of no confidence by both Houses. The president removes ministers and deputy ministers upon the proposal of the prime minister.

On the basis of the April 19, 2002 High Representative's Decision, the Federation government is made up of 8 Bosniak, 5 Croat, and 3 Serb ministers, plus the prime minister and deputy prime ministers.³³⁶ One

³³⁴ See the High Representative's "Decision on Constitutional Amendments of the Federation of Bosnia-Herzegovina", April 19, 2002, *OHR Documents*; available at www.ohr.int/decisions.

³³⁵ Ibid., Chapter IV, Section B, Item 1, Article 2.

³³⁶ "Decision on Constitutional Amendments of the Federation of Bosnia-Herzegovina", April 19, 2002, *OHR Documents*; available at www.ohr.int/decisions.

Other may be nominated by the prime minister from the quota of the largest constituent people.

Decisions of the government that concern the vital interest of any of the constituent peoples require consensus. This provision may be invoked by one-third of the ministers excluding the prime minister and the deputy prime ministers, unless otherwise determined by the Constitutional Court in an expedited procedure requested by the prime minister or the deputy prime ministers.³³⁷

The Federation ministries are the following:

- Ministry of Defense,
- Ministry of Interior,
- Ministry of Justice,
- Ministry of Finance,
- Ministry of Energy, Mining, and Industry,
- Ministry of Transport and Communications,
- Ministry of Labor and Social Policy,
- Ministry of Displaced Persons, and Refugees,
- Ministry of Health,
- Ministry of Education, Science,
- Ministry of Culture and Sports,
- Ministry of Trade,
- Ministry of Urban Planning and Environment,
- Ministry of Agriculture, Water Management, and Forestry,
- Ministry of Development, Entrepreneurship and Crafts,
- Ministry for Veterans.

There are a number of working bodies of the government for the discussion of issues falling under its jurisdiction. In addition, there are institutions and agencies dealing with specific issues, such as the Privatization Agency, Budget Review Office, Public Health Institute and so on.

³³⁷ Constitution of the Federation of Bosnia-Herzegovina, Section B, Item 2, Article 6.

IV-3d Judiciary of the Federation of Bosnia-Herzegovina

The judicial function in the Federation is carried out through the courts of the Federation (the Constitutional Court, the Supreme Court, and the Human Rights Court, i.e. Ombudsman's Office), cantonal courts, and municipal courts. The Federation president, with the approval of the Federation vice-president and confirmation by the majority of delegates of the House of Peoples, appoints the judges of Federation courts. On May 23, 2002 the High Representative passed a new law that established the High Judicial and Prosecutorial Council.³³⁸ The Council is an independent constitutional body of judicial authority in the Federation, whose task is to ensure an independent, impartial and professional judiciary and to establish a professional and effective judicial system and prosecutorial function.

Among other responsibilities, the Council selects and appoints judges, lay judges, reserve judges, prosecutors, and deputy prosecutors. The following courts and prosecutor's offices fall under the jurisdiction of the Council: the Federation Supreme Court, cantonal and municipal courts, magistrate courts, the Federation Prosecutor's Office, cantonal and municipal prosecutor's offices in the Federation.

The Office of the Ombudsman for Human Rights has three judges – one Bosniak, one Croat, and one Other – and its competence relates to any question concerning a constitutional or any other legal provision relating to human rights. The House of Representatives and the House of Peoples appoint and relieve the ombudsmen. The Office of the Ombudsman, as provided by the Federal constitution, protects human rights, as well as the dignity and freedom of persons. The Bosnian and the Federal constitutions provide for the highest guarantees of human rights and freedoms and the ombudsmen work to eliminate the consequences of violations of human rights and freedoms, in particular the consequences of ethnic persecution and discrimination. The Office of the Ombudsman does not interfere with the judicial responsibilities of Federation courts, but may institute judicial proceedings, in accordance with the relevant provisions of the law.

³³⁸ "The Law on Federation BiH High Judicial and Prosecutorial Council", May 23, 2002, *OHR Documents*; available at www.ohr.int/laws.

IV-4 REPUBLIKA SRPSKA

The Republika Srpska, an entity of the state of Bosnia-Herzegovina, occupies 49% of the territory of Bosnia-Herzegovina. It was proclaimed on January 9, 1992 and was officially recognized as a sub-state entity by the Dayton Peace Agreement. The capital of the Republika Srpska is Banja Luka. The war-time capital Pale (a mountain village near Sarajevo) was seen as the stronghold of hard-liners. In order to curb their influence, the international community assisted forces that defied rule from Pale and instead transferred the power to Banja Luka. The central area of dispute with the Office of the High Representative was over the powers and authority that elected representatives could wield over the entity. The desire for greater autonomy was interpreted as the pursuit for statehood and thus in violation of the Dayton Agreement.

The Republika Srpska, in contrast to the Federation and the state of Bosnia-Herzegovina, is markedly centralized with a strong presidency, a unicameral legislative assembly, a cabinet, as well as a constitutional and supreme court. The High Representative's decision, following the Constitutional Court ruling on the constituent status of all three peoples throughout Bosnia-Herzegovina, changed the unicameral legislature into a bicameral one. Thus, apart from the National Assembly, the High Representative instructed the establishment of a Council of Peoples whose function is the protection of vital interests. The Council of Peoples is composed on the basis of parity so that each constituent people has the same number of representatives (minimum 8 and maximum 17 representatives), elected by the respective caucus of delegates of the RS National Assembly.³³⁹

Republika Srpska is divided territorially into five regions, and the power rests with the central entity's institutions and municipal institutions, which operate in accordance with the entity's constitution. Under the RS Constitution, the entity's bodies regulate and ensure its integrity,

³³⁹ "Agreement on the Implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia-Herzegovina", March 27, 2002, *OHR Document*, available at www.ohr.int.

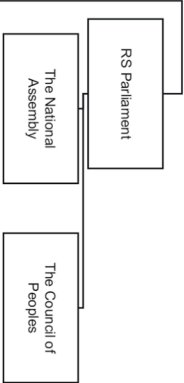
territorial unity, defense, security, constitutionality and legality. Constitutional amendments introduced during the peace implementation (esp. the 2000 the Constitutional Court decision) guarantee to constituent peoples and members of the group of Others proportionate representation in public institutions in both entities. In the same package of amendments, the official language and script in Republika Srpska were expanded to include, apart from the Serbian language and the Cyrillic script, “the language of the Bosniak and Croat people” and the Latin script.³⁴⁰

The advisory body of the highest constitutional institutions in Republika Srpska is the Senate. The Senate discusses issues of particular importance for the political, national, economic and cultural development of Republika Srpska, and forwards its opinion to the highest constitutional institutions concerning the issues falling within their competence. The Senate consists of 55 members appointed by the president of the entity. Appointed Senate members are distinguished persons from public, scientific and cultural life. The Senate members enjoy the same immunity as the Assembly deputies. Sessions of the Senate are convened and

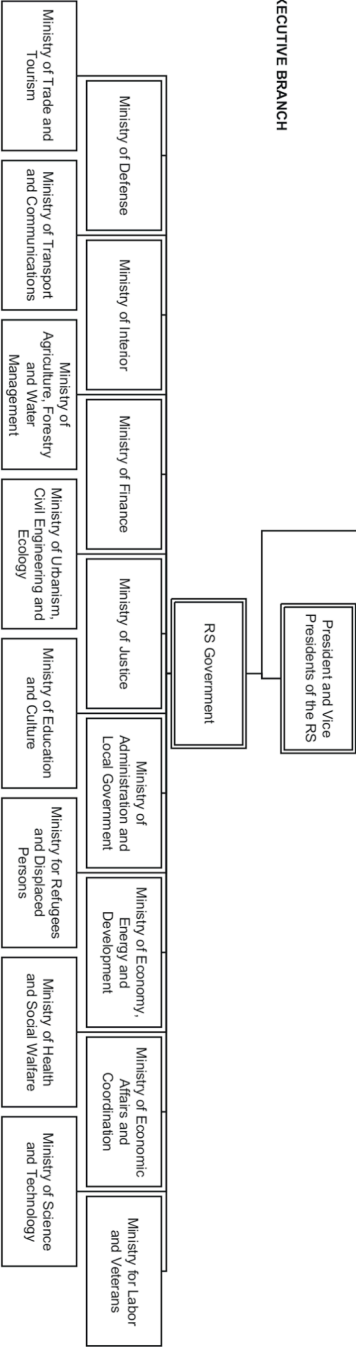
³⁴⁰ “Decision on Constitutional Amendments in Republika Srpska”, April 19, 2002, *OHR Document*; available at www.ohr.int/decisions.

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LEGISLATIVE BRANCH



EXECUTIVE BRANCH



JUDICIAL BRANCH



chaired by the president.³⁴¹ Power in Republika Srpska is divided among the legislative (the National Assembly and the Council of Peoples), executive (the President and the Government), and judicial bodies (the Constitutional Court, the Supreme Court and the Human Rights Court).

IV-4a National Assembly of Republika Srpska

The National Assembly numbers 83 deputies elected directly for a four-year term.³⁴² The deputies elect from among themselves a president and two vice-presidents of the National Assembly. A minimum of four members of each constituent people have to enter the National Assembly.

The National Assembly carries out duties as they generally apply to a parliamentary body, such as decisions on amending the Constitution; the enactment of laws and other regulations; the adoption of the budget, urban planning and development planning; decisions concerning the territorial organization of the entity; referendums; the election and dismissal of officials; the ratification of treaties; control over the work of the government; the election of delegates to the House of Peoples of Bosnia-Herzegovina; declaration of war; as well as other activities in accordance with the Constitution and the law.

IV-4b President of Republika Srpska

The president of the entity is elected for a four-year mandate³⁴³ in direct elections by secret vote. Constitutional amendments of 2002 with regards to the constituent people status introduced a second vice-president in Republika Srpska. Thus, the president has two vice-presidents coming from different constituent peoples, elected at the same time. The president has broad powers, is the commander-in-chief of the army of Republika Srpska, nominates to the National Assembly the candidate for a prime minister and proposes to the National Assembly

³⁴¹ *Constitution of Republika Srpska*, Chapter V, Item 2, Article 89.

³⁴² Until 2002 elections took place every two years.

³⁴³ Until 2002 constitutional amendments, the mandate of the president and the vice-president was five years.

candidates for the Constitutional Court “upon proposal by the High Judicial and Prosecutorial Council.”³⁴⁴

IV-4c Government of Republika Srpska

The government is elected for four years, every time a new Assembly is elected, and consists of the prime minister, two deputy prime ministers and ministers. After the constitutional amendments of 2002, the Republika Srpska government is composed of a prime minister and 16 ministers – 8 Serb, 5 Bosniak, and 3 Croat ministers. One Other may be nominated by the prime minister from the quota of the largest constituent people. The prime minister has two deputy prime ministers from different constituent peoples selected from among the ministers. After Annex 7 of the Dayton Agreement³⁴⁵ is fully implemented (although indicators for determining the end of the implementation are mixed), a minimum of 15% of the members of the government will have to come from one constituent people, a minimum of 35% of the members of the government will have to come from two constituent peoples, and one member of the government will have to come from the group of the Others.³⁴⁶ Bureau for relations with International Tribunal for War Crimes is also a body of the government.

- The government has boards for internal affairs, the economy and finance, and social affairs, as well as a commission for personnel. Prior to the 2002 constitutional amendments there were 19 ministries that were reorganized into 16 ministries:
- Ministry of Defense,
- Ministry of the Interior,
- Ministry of Education and Culture,

³⁴⁴ “Decision Amending the Constitution of Republika Srpska”, May 23, 2002, *OHR Document*; available at www.ohr.int/decisions.

³⁴⁵ Agreement on Refugees and Displaced Persons guarantees refugees and displaced persons their right to return to their homes of origin. In this regard, the implementation of Annex 7 has been taken as a yardstick for measuring success in the peace process because the full implementation of Annex 7 in effect annuls the effect of ethnic cleansing.

³⁴⁶ “Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia-Herzegovina”, March 27, 2002, Item III; available at www.ohr.int.

- Ministry of Finance,
- Ministry of Justice,
- Ministry of Administration and Local Government,
- Ministry of Health and Social Welfare,
- Ministry of Economy, Energy and Development,
- Ministry of Transport and Communications,
- Ministry of Agriculture, Forestry, and Water Management,
- Ministry of Science and Technology,
- Ministry of Trade and Tourism,
- Ministry of Urbanism, Housing, Civil Engineering and Ecology,
- Ministry of Labor and Veterans,
- Ministry of Economic Affairs and Coordination,
- Ministry of Refugees and Displaced Persons.

IV-4d Judiciary of Republika Srpska

In Republika Srpska there are basic courts, district courts, the Supreme Court, the Constitutional Court and the Office of the Ombudsman for Human Rights.

Judicial power belongs to courts that are established and abolished by law. The number of judges in the courts and members of the jury are determined by the High Court Council at the proposal of the Minister of Justice. The National Assembly elects and removes court presidents and judges at the proposal of the Council. A judge cannot be a deputy, a councillor, a member of a political party, perform political or administrative functions or any other service, job or duty that may influence his/her autonomy and/or diminish respect for the court.

The function of courts in Republika Srpska is equal to corresponding courts in the Federation, which have already been described. As in the Federation and in Bosnia-Herzegovina, the Ombudsman in Republika Srpska may not change or cancel court and administrative decisions and measures, but it may propose correction criteria to be used at their adoption.

IV-5 BRČKO DISTRICT

One major challenge facing the civilian implementation of the agreement relates to the Brčko district in the north of the country, administered by an international supervisor as of 1997. The status of the town of Brčko was not solved at the negotiations in Dayton and the parties agreed that the final status of Brčko would be decided by international arbitration, although it would remain within the Bosnian Serb entity until the Tribunal made the final decision.

In 1999 the Arbitration Tribunal, presided over by Roberts Owen, a U.S. lawyer, made a final ruling on the status of Brčko. Three alternatives had been on offer. One was to transfer Brčko to the Federation, which claimed the right of governance on the essential grounds (a) that historically the Brčko municipality was predominantly Bosniak and Croat, as well as the fact that it was a vital northern gateway between central Bosnia and Europe, (b) that it would be intolerable for the Republika Srpska to retain exclusive possession of a city which the Serbs captured and “ethnically cleansed” during the war, and (c) that the only just result would be to award the Brčko area to the Federation.

A second alternative was to confirm the RS’s claim to the right of permanent governance on the essential ground that, whatever its history, the Brčko corridor along the Sava River provided a vital strategic connection between the two halves of the RS. It claimed that any change in its exclusive possession would be inconsistent with the alleged principle of territorial continuity and the Dayton objective of allowing the RS to control 49% of the territory of Bosnia-Herzegovina.

A third alternative was to remove Brčko from the exclusive control of either entity and place its governance in the hands of an independent District government under the exclusive sovereignty of Bosnia-Herzegovina.

The third option was chosen. The Brčko area would be governed by a new multiethnic democratic government to be known as “The Brčko District of Bosnia and Herzegovina” under the exclusive sovereignty of Bosnia-Herzegovina and subject to the powers of the common

institutions of the state. Responsibility for overall coordination and for issuing directives to ensure that the entities fulfilled their obligations with respect to the new District was to fall to the Supervisor, who might delegate that responsibility to an appropriate Bosnian institution.³⁴⁷ To answer the criticism of changing the 49-51% ratio, the Tribunal provided that upon the establishment of the new District, the entire territory within its boundaries was to be held in “condominium” by both entities simultaneously.³⁴⁸

To the RS complaint that this ruling by the Tribunal was a direct threat to the security of the Bosnian Serb entity because it would be prevented from moving its armed forces from one part of the RS to another, the Tribunal gave three answers to this contention. First, whenever the RS had a legitimate need to move military forces through the District, it only needed to make an application to SFOR for an appropriate transmit permit. Second, as long as Bosnia-Herzegovina remained a unified and peaceful state as provided at Dayton, the RS had neither a military or “strategic” need for an RS-controlled corridor. Third, apart from military transit, the RS and its citizens would continue to have an absolutely unrestricted right to move freely through the District – a right that was to be vigorously enforced by the new multiethnic District police force. Thus, the desired corridor would remain open for all legitimate purposes, and all legitimate “territorial continuity” was to be preserved.³⁴⁹

Both entities were required to withdraw their armed forces from the area and the only military force to remain was SFOR. The multiethnic police force was to provide for the safety of the District. The District government was to consist of (a) the District Assembly, a legislative body whose membership was to be selected through democratic elections to be scheduled by the Supervisor; (b) an Executive Board, to be selected by the Assembly; (c) an independent judiciary, consisting of two courts, trial and appellate; and (d) a unified police force operating

³⁴⁷ See “Brčko Final Award”, Arbitral Tribunal for Dispute over Inter-Entity Boundary in Brčko Area, March 5, 1999 at www.ohr.int [accessed June 11, 2002].

³⁴⁸ Ibid., Article 11.

³⁴⁹ Ibid., Article 53.

under a single command structure with one uniform and badge, with complete independence from the police establishments of the two entities.³⁵⁰ The expenses for the District were to be shared between the two entities, although the District also received direct donations from international donors. Supervision of the District was to continue until terminated by the Steering Board of the Peace Implementation Council.

IV-7 COMPREHENSIVE APPROACH TO PEACE IMPLEMENTATION

In May 2000 the Peace Implementation Council laid down an agenda for building the Bosnian state in a systematic way.³⁵¹ This Declaration has been taken as a ‘turning point’ in the state building agenda for Bosnia-Herzegovina, marking a dramatic shift in international management.³⁵² The international community pledged to concentrate its resources on building the core structures required for Bosnia-Herzegovina to function as an integral and independent state. The PIC Declaration contained a specific program for the next phase of the peace process for building effective institutions at state level and creating a single Bosnian economic space. It called for:

- State institutions to have their own funding;
- Donor assistance to be channeled to Bosnia-Herzegovina through state institutions;
- A professional state civil service to be urgently established;
- The Office of the High Representative to rapidly develop state-level regulatory bodies in telecommunications, energy, transport, and media;
- All international policies to support the creation of a single economic space; and
- Direct international involvement in the restructuring and privatization of strategic industries.

³⁵⁰ Ibid., Article 36.

³⁵¹ “Declaration of the Peace Implementation Council” and “Annex to the PIC Declaration”, Brussels, May 24, 2000; available at www.ohr.int/pic

³⁵² “Turning Point: The Brussels PIC Declaration and a State-Building Agenda for Bosnia and Herzegovina”, European Stability Initiative (ESI), Sarajevo, June 7, 2000; available at www.esiweb.org/reports/bosnia

The Brussels PIC Declaration was shorter and more concrete than its predecessors. It indicated the priority areas in which the High Representative was to mobilize international influence to create Bosnian institutions capable of taking responsibility for the new state. It thus established clear benchmarks to measure the performance of both Bosnian and international institutions in the coming years.³⁵³

With these issues on the agenda, the international community closed yet another chapter of its intervention in Bosnia-Herzegovina and opened a new one. The norm-building phase of the state building intervention came as a further upgrade on the efforts invested since 1995. The elements and the rationale of this third phase I analyze in the next chapter.

³⁵³ “Annex to the PIC Declaration” contains a list of specific benchmarks for carrying out state building in Bosnia-Herzegovina. In the economic sphere, the PIC asked for the following:

- Complete dismantling of the Payment Bureau (December 2000).
- A catalogue of trade and investment barriers to be drawn up and urgent steps taken to remove these barriers, especially the full adoption of harmonized FDI legislation at state and entity level.
- Legislation on political party financing and conflict of interest to be passed by September 2000.

A list continued with exact laws to be passed by precise dates. The Declaration also set explicit targets in areas of return issues, institution building, exhumations, military issues, public security, media, sport, and education.

V NORM BUILDING – THE THIRD PHASE OF STATE BUILDING (2001 -)

The third phase of the international intervention in Bosnia-Herzegovina is taken to begin in 2001 and extend beyond as the intervention continues. The reader has probably noticed that the phases of the intervention, although delineated in time, overlap and their temporal borders are not firm and fixed. The intervention flowed from a focus on security onto institutions to culminate with a focus on norms, but these phases are not strictly separated. In this sense, norm building originates in the earlier phases and comes as a further step down the evolutionary path of the intervention in Bosnia-Herzegovina.

Norm building, as already explained in the theoretical chapter, has a dual meaning. On the one hand, norms reflect actual behavior among actors and give rise to expectations as to what will be done in a particular situation. On the other hand, they reflect a prescribed pattern of behavior which gives rise to normative expectations as to what ought to be done.

When applied to Bosnia-Herzegovina, norm building marks a crucial period in Bosnia's state building because it reveals the role local actors are or are not willing to play in Bosnia's future. If local actors are willing to assume responsibility for strengthening the state, Bosnia-Herzegovina has a chance to survive. If they are not willing to assume responsibility after the international community ends its engagement, Bosnia-Herzegovina has only slim chances of survival.

How Bosnian parties can overcome their antagonisms and begin to cooperate of their own free will and without constant foreign pressure to do so is the key question. Successful conflict regulation would represent a decisive step towards political cohesion. The international intervention in Bosnia-Herzegovina has evolved from a scattered and uncoordinated mission to strategic policy making in certain core areas that are recognized as basic elements of a stable and self-sustaining state structure. The interveners have undergone a transformation from not having enough power to having so much power that they have to

consciously restrict it in order to foster the development of local *know-how*. This is a demanding phase for both local and international actors, because the former have to learn how to increase their capacity to rule, while the latter have to learn how to reduce it.

The entire project of external supervision and state engineering is not based on any preconceived or tested formula, but is being upgraded on a step-by-step basis. The criteria for evaluating the role of the interveners will not be the scope and diversity of the actions carried out, but will instead be the relevance of these actions in contributing to peace and stability in Bosnia-Herzegovina. Failure to transfer the process to the local actors would represent a failure of the intervention.

V-1 PREMISES THAT DRIVE NORM BUILDING

One of the goals of the phase of norm building is to make the institutions of the state fully functional. Before power can be limited, it has to exist. One of the problems of governance in a society like Bosnia is not that there is too much power, but rather too little power vested in state institutions. The institutions have extremely limited authority and this undermines the prospect for effective rule by a functioning state. The empowerment of the newly-created institutions is actually what the third phase is all about. The task is ever more demanding in a society such as Bosnia because of its internal divisions.

Huntington pointed to the challenges of modernization and governance in his book *Political Order in Changing Societies*. He defines political community in terms of the relationship a society has achieved between its political institutions and the social forces that comprise it. A social force is an ethnic, religious, territorial, economic, or status group. Modernization involves, to a large degree, the multiplication and diversification of the social forces in society. Although Huntington writes about modernization, we could also extend his analysis to the sort of transition that a society such as Bosnia experiences as it is transformed from a state of war to a state of peace. The peace process is defined by a change of values and principles and it is only all too normal that it creates diversifications and further divisions within the society, or at least a regrouping among the previous segments. The problem of

transition from war to peace is further exacerbated in a society that is complex to start with, involving various segments, each of which has its own particular interests to tend to. If a society is rather simple, being composed of one predominant ethnic, religious or occupational group, then the changes that transition places upon it are demanding, but may not lead to severe divisions within the society because the notions of winners and losers is not so threatening. If the majority shares the same identity in a society, the consequences that a change causes within that society will be shared by the majority of its members. However, in a more complex society any change that society undergoes will cause different reactions within the different groups belonging to it and will thus bring additional stress upon an already fragile social fabric. "The more complex and heterogeneous the society, however, the more the achievement and maintenance of political community become dependent upon the workings of political institutions."³⁵⁴

Political institutions are an arrangement by means of which a society resolves disputes, selects representative leaders and thus promotes community among two or more social groups. Political institutions cannot be created or maintained in a society in which the main social groups view each other as archenemies, at least not until these perceptions are changed. There must be some compatibility of interests among the groups that compose that society. In addition, a complex society also requires some definition of the general principles or ethical obligations that define the bond which holds the groups together and which distinguishes their community from other communities.

The obligation to some principle, tradition, myth, or purpose that the persons share is essential for the normal existence of such a society. "Among the laws that rule human societies," de Tocqueville observed, "there is one which seems to be more precise and clear than all others. If men are to remain civilized or to become so, the art of associating together must grow and improve in the same ratio in which the equality of conditions is increased."³⁵⁵ De Tocqueville's advice is therefore that

³⁵⁴ Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), p. 9.

³⁵⁵ Alexis de Tocqueville, *Democracy in America* (New York: Knopf, 1955), p. 118.

if conflict is to be avoided, the development of political institutions has to promote the development of the art of associating. Having the right to participate is not enough to avoid a conflict. Very often conflict is instigated when the right to participate is granted to all, if at the same time the members of society have not yet devised ways how to peacefully associate with each other.

In the case of Bosnia-Herzegovina, the glue that kept the society together seven years after the war was being provided by the international community, which did not have a clear idea how to create a functioning state out of a dispersed institutional structure. Its general formula is that governments should be based on free and fair elections. In the post-war Bosnian context, however, this formula proved irrelevant. The problem is not to hold the elections, but to create functioning institutions. In Bosnia-Herzegovina elections enhanced the power of disruptive and reactionary social forces. The capacity of elections to actually slow down the peace process is not an exclusive Bosnian phenomenon; it was stressed by a number of scholars analyzing other post-Cold War cases.³⁵⁶

The primary problem is not liberty but the creation of a legitimate public order. Men may, of course, have order without liberty, but they cannot have liberty without order. Authority has to exist before it can be limited, and it is authority that is in scarce supply in those [transition] countries where government is at the mercy of alienated intellectuals, rambunctious colonels, and rioting students.³⁵⁷

Hostile groups cannot form a genuine society – a society can exist only if there is some compatibility of interests among its members. A norm-building phase should be exactly about this – to emphasize interests that facilitate peaceful coexistence.

³⁵⁶ For example, see the work of Stephen Stedman, Jack Snyder, and Michael Brown.

³⁵⁷ Samuel P. Huntington, *Political Order in Changing Societies*, p. 7-8.

V-1a The function of norms

Norms express the moral code or law concerning people's behavior towards each other or the prescription of how people should behave in a certain situation. Norms become valid by custom or by an act of formal imposition and then internalized. A norm that commands a certain behavior can be observed or violated. A norm is applied when behavior in accordance with the norm is observed and behavior violating the norm is abandoned.

Constructivist scholarship has broadened our understanding of the role played by norms in defining standards of interaction among groups who are to overcome their conflict. However, constructivism exhibits two weaknesses. First, constructivists fail to specify mechanisms how the adoption of each particular norm can constitute a change in the behavioral patterns of actors.

Second, constructivism is weak in theory development because the constitutive impact of one norm in one setting may not be the same in another setting. However, constructivists' "soft" theory captures a range of phenomena that take place in a changing world, the changes that realism, for example, cannot account for. In this regard, norm building as a part of state building intervention in Bosnia-Herzegovina most readily corresponds to constructivist literature, which itself is in the process of development in the same way as the phenomena it is attempting to research.

To have a powerful constitutive effect, norms must be empowered, that is they must change the interests and preferences of actors. The top-down approach of the international community in Bosnia-Herzegovina has been based on the notion that external pressure can be applied to domestic actors in order to change their preferences and thus their behavior. Social learning, after being initiated by foreigners, should over time become internalized and begin constituting a set of shared understandings. This process is based on notions of complex learning

drawn from cognitive and social psychology, where individuals, when exposed to the prescriptions embodied in norms, adopt new values.³⁵⁸

“Introducing new order”, as Machiavelli warned centuries ago, is the most difficult task for a prince. It is because both Machiavelli’s prince and the modern ruler has to simultaneously perform two tasks – defeat those who benefited from the old order and attract those who have not yet benefited from the new one. When applied to the Bosnian context, introducing a new order, or norm building, has focused on eradicating nationalism. Thus, the international community has opposed ethnic intolerance and introduced norms that foster multiethnic tolerance. In doing so it has had to marginalize nationalists and attract supporters for its multiethnic cause. The peace process in Bosnia-Herzegovina in essence revolves around the conflict between these two ideologies. The one that wins will determine the future of the country.

Friedrich Kratochwil explains that “all rules and norms are problem-solving devices for dealing with recurrent issues of social life: conflict and cooperation.”³⁵⁹ They are crafted through the challenges posed by everyday life and experience in meeting these challenges. The need to interact requires that people develop and share certain rules and norms acceptable to all those involved. This is so much more important for people who live close to each other than those who live further apart, because proximity necessarily creates opportunities for people to learn how to solve conflicts, advance their interests, and cooperate with others.

In the Bosnian situation the international community uses its power to keep the local sides together while, at the same, tries to instill in them the belief that staying together is the best option they have in life. Metaphorically speaking, the international community is converting Bosnian heretics to the faith of multiethnic tolerance. To do so, the

³⁵⁸ Jeffrey T. Checkel, “Norms, Institutions and National Identity in Contemporary Europe”, *ARENA Working Papers* (WP 98/16), p. 7.

³⁵⁹ Friedrich V. Kratochwil, *Rules, Norms, and Decisions. On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge, UK: Cambridge University Press, 1989), p. 69.

international community introduces rules and norms that foster tolerance that locals are expected to accept. What, in effect, the international community does is to demonstrate to the local population that their previous norms proved ill suited for the challenges of the current age and that in order for the local population to be part of a peaceful and prosperous world they have to adopt new norms, the same ones that govern successful societies.

What are the elements of the international norm building in Bosnia-Herzegovina? It is the introduction of normative standards that define relations among the Bosnian ethnic groups. Norm building is about replacing ethnic and religious intolerance with multiethnic tolerance. Designing and implementing multiethnic standards that fit the Bosnian situation should assuage inter-ethnic conflict and shift the attention of Bosnians from ethnicity to prosperity. Multiethnicity, of course, does not bring only benefits. Living it requires sacrifices and conscious decisions by community members to deliberately circumscribe some of their rights and ambitions in order for others within that community to also realize theirs.

An open society forces its members to get to know those different from them and to learn how to advance their interests without harming the interests of others. Harmonization of life in a divided society implies a growing compatibility of interests among divided groups over time, as no society can advance if its members need to invest huge amounts of energy into discussing every little issue regarding everyday life. Divided societies can overcome crises, but they cannot live in a permanent crisis. The solution that carries within it a promise of solving the crisis and leading to the harmonization of life is the one that has to prevail despite how difficult it may be to implement it.

It also has to be noted that there may be more than one solution to a crisis, and preferences for each solution may vary among the different groups involved. In the Bosnian case, advocates of both partition and multiethnic coexistence claim that their solution would strengthen the peace. However, since partition proved impossible to realize without bloodshed, the international community stepped in, discarded territorial partition as a legitimate solution to the Bosnian conflict and instead

replaced it with multiethnic coexistence as a way to a lasting peace. Multiethnic coexistence requires the growth of mutual trust among the groups in conflict, which is no easy task to achieve. Because progress in trust building is incremental, partition is occasionally reconsidered by those who believe that it can faster deliver results.³⁶⁰

Yet, in the course of the past seven years, the international community publicly remained committed to the multiethnic cause despite unofficial skepticism of some international officials. Some others, on the other hand, have tried to paint a rosy picture of multiethnicity and have tried to compel Bosnians to rejoice in having been granted an opportunity to live it, even though most internationals are aware of the difficulties involved in introducing it. However, the belief is that this is *the* way, no matter how hard it may be.

Bosnia-Herzegovina's future lies in a successful unified and stable state fully integrated into European transatlantic structures. We are committed to helping Bosnia-Herzegovina reach that destination. But how fast you get there depends on your commitment to reform. That is the choice facing Bosnia-Herzegovina: reform or fall behind... The international community will work with all those genuinely committed to reform.³⁶¹

Or, in the words of an OSCE official, "We are trying to change mentalities. But the people here have a limited view of what democracy means... Democracy is a work in progress everywhere. Here it's early on that road."³⁶²

Introducing normative standards in a post-war setting requires considerable investment. However, the calculation usually boils down

³⁶⁰ See Thomas L. Friedman, "Something strange is going on", *International Herald Tribune*, January 24, 2001 and William Pfaff, "Time to concede defeat in Bosnia-Herzegovina", *International Herald Tribune*, October 10, 2002.

³⁶¹ "Declaration of the Political Directors of the Peace Implementation Council Steering Board", September 24, 2002; available at www.ohr.int/pic

³⁶² Pascal Fieschi, OSCE Head of Mission in Kosovo quoted in an article by John Lloyd, "We came here to build a state, that's all", *Financial Times*, December 31, 2002, p.3.

to the following: the (relatively) short cost should deliver a (relatively) long benefit. A range of institutional, social and political arrangements, once in place, should generate patterns of costs and benefits that actors will not easily change if they believe that the ratio is optimal or close to it. Even in new circumstances, unless the cost-benefit ratio dramatically changes, actors are expected to retain the status quo because a change generates cost. Here I introduce the concept of path dependence as used in theory to explain the reoccurrence of certain patterns over time. One way in which theory explains path dependence is by treating actors as homogeneous: it assumes everyone makes roughly the same cost-benefit analysis favoring the status quo. This version of path dependence is common among economists. The second version treats actors as heterogeneous: costs and benefits are unequally distributed but the actors who prefer change are relatively weak while actors who favor the status quo – vested interests – are powerful enough to determine political outcomes. Both versions suggest that substantial change is likely to occur only as the result of exogenous shocks.³⁶³

Applying the latter version to the Bosnian situation, we see that nationalist parties wanted to protect their vested interests and thus the preferred status quo, i.e. the territorial partition of the country, while supporters of the country's reintegration were weak. The international intervention came as an exogenous shock that facilitated substantial change. The new normative standards should solidify the longer they are in place. Since they are imposed from the outside for a certain time period they require outsiders to safeguard them until a local force that has internalized them and that is capable of sustaining them becomes strong enough.

Norm building in Bosnia-Herzegovina is also about passing over the job to the locals, thus having the locals assume the responsibility for peace implementation. In a 2001 New Year message to the Bosnians, Wolfgang Petritsch, the High Representative, affirmed:

My Office and the international organizations operating in Bosnia-Herzegovina will continue to insist on progress and on

³⁶³ Gerard Alexander, "Institutions, Path Dependence, and Democratic Consolidation", *Journal of Theoretical Politics*, 13(3): 249-70 (July 2001).

improvement in the lives of the country's citizens. Our strategy is consistent, focusing on three priority areas: economic reform, return and property law implementation, and the building of a functioning state that can participate in the European integration process and in international trade and relations... in 2001, I will keep on using my powers to initiate the necessary change and trigger further positive developments. But the outside world notices which laws I impose, and which are passed by the usual parliamentary procedures. The latter counts much more. I can only provide a legal and institutional framework, while it is up to the citizens and officials to instill it into life and create a different reality. They have to take ownership of their country and create a modern, democratic and lawful state... Let me be frank and open: the clouds on the horizon are dark, forecasting difficult times. It is the last moment for you to change your attitude and become active. I can only help those who help themselves. And accept my help. Your officials must start acting responsibly, and you, the citizens, must hold them accountable and support much-needed changes, which will lead to a better future. You are the owners of your country and its fate. It is now or never.³⁶⁴

The ownership concept foresees Bosnians assuming the responsibility for their existence. It also implies that the normative standards that are introduced become internalized. In the course of adopting new standards, the meaning of the complex set of new relations becomes intelligible to actors when they start to acquire a common 'background knowledge', i.e., "a set of conventions by means of which they can in most cases correctly predict the actions of other actors."³⁶⁵ In other words, the strengthening of background knowledge means taking certain things 'for granted'.

³⁶⁴ "High Representative's New Year's Message to the Citizens of Bosnia-Herzegovina", Sarajevo, January 2, 2001.

³⁶⁵ Friedrich V. Kratochwil, *International Order and Foreign Policy. A Theoretical Sketch of Post-War International Politics* (Boulder: Westview Press, 1978), p. 2.

V-2 NORM BUILDING AS NATION BUILDING

Stretching the concept of norm building, one could say that in the Bosnian context this also implies nation building. As the reader may remember, in the theoretical chapter I made the distinction between nation building and state building. Although scholars, especially from the United States, interchangeably use state building and nation building, in this section I specifically refer to nation building as a process of constructing nations that is different from constructing the institutional structure of a functioning state.

According to most modern scholars, the nation is a construct of the modern imagination and an historical invention on the part of particular categories or classes of modern societies. Such an approach is the ultimate reaction against an evolutionary determinism which regarded the rise of nations as an inevitable process in the development of human society. The reaction against this kind of evolutionary explanation began in the post-Second World War era and was particularly associated with the idea of ‘building’ the nation. But the Deutschian concept of nation building, although theoretically it should have reinvigorated political activism, was fundamentally process based. It pointed to underlying socio-demographic processes (i.e. urbanization, mobility, literacy, communications) which set in motion and fuelled the growth of nations and the activities of nationalists.³⁶⁶

For Karl Deutsch, nation building signified the mutual adjustment of the processes of social mobilization and cultural assimilation, to produce the necessary complementarity of social communication and the creation of

³⁶⁶ Deutsch and Foltz explained what it means to overcome social and political attachment to a small ethnic, cultural, or linguistic group in the process of national integration. “Open or latent resistance to political amalgamation into a common national state; minimal integration to the point of passive compliance with the orders of such an amalgamated government; deeper political integration to the point of active support for such a common state but with continuing ethnic or cultural group cohesion and diversity; and finally, the coincidence of political amalgamation and integration with the assimilation of all groups to a common culture – these could be the main stages on the way from tribes to nation. However, since a nation is not an animal or vegetable organism, its evolution need not go through any fixed sequence of these steps.” Karl Deutsch and W. J. Foltz (eds.), *Nation-Building* (New York: Atherton, 1963), pp. 7-8.

linkages between centers and regions. In general, national identity is in a process of flux even among the established nations. The changes of the modern era present nations with challenges that they need to face and adapt to, which in consequence also modify their identity, that is, how they perceive themselves. Constructing a nation from scratch then becomes a much more demanding task. The primordialist school holds that one inherits national identity like one inherits a skin color.³⁶⁷

However, a growing number of scholars view identities as constructed concepts. Individuals, as they go through their youth, are exposed to family, community, and national histories; they are brought up with a particular repertoire of languages and speech styles; they may be given training in certain religious rituals. Through being exposed to all this conditioning they adopt a variety of social categories – local, national, religious, linguistic. People also identify differently according to the different groups they refer to: within their country but outside their community they usually express their local identity; when outside their country, they may identify themselves with their nation.

All societies... have cultural entrepreneurs who offer new identity categories (racial, sexual, regional), hoping to find 'buyers'. If their product sells, these entrepreneurs become leaders of newly formed ethnic, cultural, religious, or other forms of identity groups. As individuals grow up they consequently feel pressure... to organize 'identity projects'; that is to say, to choose the category that exemplifies them as individuals and ties them to a social group. These identity projects carry with them, whether in religious texts or social practices of past members, sets of beliefs, principles and commitments.³⁶⁸

Eric Hobsbawm and Benedict Anderson analyzed nationalism from the perspective of social engineering that led to inventing traditions and

³⁶⁷ See Clifford Geertz, *Interpretation of Culture* (New York: Basic Books, 1973).

³⁶⁸ David D. Laitin, *Identity in Formation. The Russian-Speaking Populations in the Near Abroad* (Ithaca and London: Cornell University Press, 1998), p. 11.

imagining communities.³⁶⁹ For these authors, such invented traditions are a peculiarly modern phenomenon. The term nationalism denotes a set of practices that are normally governed by overtly or tacitly accepted rules. The practices are of a ritual or symbolic nature and seek to inculcate certain values and norms of behavior by repetition.

For example, the post-Second World War Yugoslav experience of nation building highlights the role of social engineering in identity formation. Although the percentage of citizens who declared themselves as Yugoslavs was never large, research demonstrated the influence of social conditions on changes in self-perception of national identity. Authors of these studies, however, were humbled by the collapse of the Yugoslav project, and the persistence of newly constructed identities has been questioned.³⁷⁰

Proposing an alternative to the focus on social background conditions, several scholars began to examine the role of the state in manipulating a certain range of identities while ignoring others.³⁷¹ The state, when it acts as an agent of identity construction, forms social identities (distinct from personal identities), built from available categories that both divide and unite people in a society. People have *inter alia* national identities, racial identities, ethnic identities, religious identities, and regional identities. Issues of social identity become part of public discourse only when the categories themselves become fuzzy. “Self-appointed boundary-keepers arise to redefine these categories so that rules of inclusion and exclusion, as well as the behavioral implications of belonging to this or that category, can be clarified.”³⁷²

³⁶⁹ Eric J. Hobsbawm, *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983); _____, *Nations and Nationalism Since 1780* (Cambridge: Cambridge University Press, 1990); Benedict Anderson, *Imagined Communities* (London: Verso, 1991, Revised Edition).

³⁷⁰ Duško Sekulić, Garth Massey, and Randy Hodson, “Who Were the Yugoslavs? Failed Sources of a Common Identity in the Former Yugoslavia”, *American Sociological Review* 59: 83-97 (February 1994).

³⁷¹ Ernst B. Haas, *The Uniting of Europe* (Stanford: Stanford University Press, 1958); Mark Robinson and Gordon White (eds.), *The Democratic Developmental State. Political and Institutional Design* (Oxford: Oxford University Press, 1998).

³⁷² David Laitin, *Identity in Formation. The Russian-Speaking Populations in the Near Abroad*, p. 16.

Nationalist politics in general involve two interrelated identity issues. First is the issue of a 'national revival' in a relatively homogenous region within a culturally heterogeneous state. A second issue in nationalist politics involves the 'assimilation' of members of minority groups, or immigrants, into the new national culture. Nation building in a heterogeneous state that does not rely on national revival or assimilation is a task that has to be limited in ambition from the start. The heterogeneity of the state implies that there are different identity formations within it. Forging a new, integrative identity in theory should bolster internal cohesion and the overall identity of the state, but no nation builder should expect that a new identity can in the short term, or ever, replace old ones. The attachments created through regional, religious, and family backgrounds are impossible to eradicate in order to impose a new formal identity. Such an undertaking is doomed to failure from the start.

The task, therefore, of those who set out to forge modern nations is more one of reconstructing the traditions, customs and institutions of the ethnic communities which form the basis of the nation than of inventing new traditions, that is to reinforce 'inclusive' rather than 'exclusive' traditions.³⁷³ In this way manipulation and reconstruction can coexist and reinforce the process of nation formation. If it is possible to construct an identity that generates mutual reliance and reinforces intrasocial bonds without renouncing erstwhile identities and attachments, then nation building may succeed in constructing a possibly weak, but nevertheless harmonious identity.³⁷⁴

³⁷³ Anthony D. Smith, "The Nation: Invented, Imagined, Reconstructed?" in Marjorie Ringrose and Adam J. Lerner (eds.), *Reimagining the Nation* (Buckingham and Philadelphia: Open University Press, 1993), p. 16.

³⁷⁴ See the interview with prof. dr. Esad Ćimić, the sociologist of religions, "Bosna kao sudbina [Bosnia as destiny], *Dani*, Sarajevo, March 10, 2000. Professor Ćimić argues that it is Bosniaks who have the duty and the right to lead the reconciliation process and to create the framework for the Bosnian inclusive identity. "I think, although it may sound utopian, that the Islamic Community and Bosniaks, precisely because they are the main victims, have the moral right and the advantage to start the reconciliation process, to make steps that nobody expects of them." (Translation mine).

Nation building in this regard has two components. Political integration refers to the extent of similarity, or dissimilarity of values and attitudes in a multiethnic community trying to create a larger political entity.³⁷⁵ If opposing groups can relate to a limited number of common identity issues, then there is a window of opportunity that these groups may continue to coexist in the same community. From there, providing there are no violent upheavals, such a community may grow into a more coherent union.³⁷⁶

Thus, a possible step forward would be to collapse some particular rights into collective rights for all in Bosnia-Herzegovina; to reduce the salience of particularistic identities that shape every imaginable aspect of Bosnian social, economic and political life and instead to construct a new identity that could be acceptable to all. The creation of this new identity cannot be solely based on the alleged ideal of the multiethnic tradition of pre-war Bosnia-Herzegovina. The new identity has to incorporate the current realities of the consequences of the war, but also take account of the broader international context in which the new Bosnian state exists.

This attempt at post-war nation building in Bosnia-Herzegovina thus should not be overly ambitious by attempting to create some perfect amalgam out of rich variety of Bosnian ethnicity, but neither can it declare itself dead simply because the task is not an easy one. Both strategies are wrong. The Bosnian state can be refurbished to attain some positive characteristics to which the majority of the Bosnian citizens could relate to and identify with. The genius lies in the capacity of nation builders to define realistic goals and to develop strategies of how to realize them.

An aspect of norm building that the international community can influence is the creation of strong, efficient and legitimate central institutions. The proper function of these institutions, as we observed

³⁷⁵ Gary K. Bertsch, *Nation-Building in Yugoslavia. A Study of Political Integration and Attitudinal Consensus* (Beverly Hills and London: Sage Publications, 1971).

³⁷⁶ See William Shawcross, "The UN and Nation Building", *The Scotsman*, October 14, 2001.

from the example of the Central Bank of Bosnia-Herzegovina, can foster among Bosnians the feeling of belonging to a particular community. Thus, by creating an efficient democratic state, the international community is also affecting the norm building.³⁷⁷

A multiethnic Bosnia is not an illusion designed by ambitious do-gooders. It is the answer to the war. Rebuilding a war-torn country and ending a war are about more than peace secured by troops. It means establishing functioning political institutions, it means economic reform, it means civil peace. We have come a long way down this road... So the real project for Bosnia is to integrate, not to separate. The concept of ethnic exclusiveness would lead straight to an atomizing of the Balkans, ripping away any political or economic stability.³⁷⁸

V-3 A CHANGE OF NORM – FIRST IN THE INTERNATIONAL CAMP

The main argument for the extension of the international mandate, every time the issue of exit was brought up, was that the international community could not pull out because the entire project would fall apart. The conclusion was not that the goal of reintegrating Bosnia-

³⁷⁷ The “Declaration of the Political Directors of the Peace Implementation Council Steering Board” at its meeting in Brussels on January 30, 2003 stated that the international goal remained the “full implementation of the GFAP, so that BiH would become a peaceful, viable state irreversibly on course for European integration.” The following six core tasks were identified:

- Entrenching the Rule of Law,
- Ensuring that extreme nationalists, indicted war criminals and organized criminal networks cannot reverse peace implementation,
- Reforming the economy,
- Strengthening the capacity of BiH’s governing institutions, especially at the state-level,
- Establishing state-level civilian command and control over the armed forces, reforming the security sector, and paving the way for integration into the Euro-Atlantic framework,
- Promoting the sustainable return of refugees and displaced persons.

³⁷⁸ Wolfgang Petritsch, High Representative to Bosnia-Herzegovina, “Yes, Multiethnic Bosnia”, *International Herald Tribune*, February 01, 2001.

Herzegovina was unreachable, but that it required a substantial amount of time and resources to be realized.

However, deliberately or not, the international community accommodated other ambitions in Bosnia, including those that were in opposition to the politics of the comprehensive reintegration of the country. As a result, an awkward situation was created in which the Dayton Agreement was used as a blueprint for processes that run contrary to each other forcing the international community to make an effort to develop a common and clear position.

In the first few years of the peace process, political realities forced all actors, both local and international, to accept the minimal state. Later, however, this began to change for a number of reasons. One critical factor was the evolution in the way the international community approached the problem. Initially, the international community established security and started the reconstruction program by working with the existing local power structures. However, since the Peace Implementation Council meeting in 2000, building a credible state became an explicit international objective. The PIC Declaration set out concrete institutions, including a professional civil service, a state treasury, a court of first instance, public corporations and the regulatory bodies and structures necessary for a Bosnian common market.

A second factor was the gradual weakening of the parallel power structures. With three parallel revenue, budgetary and payment systems where the three ethnic segments each had their own systems, the design of the state did not impact on the material well being of citizens or political elites. Constitutional mechanisms such as ‘vital interest vetoes’ were rarely used because they were not needed. However, as external subsidies dried up, the political elites on all sides began to realize that it was in their strategic interest to participate in the state. The renewed interest in constitutional matters was therefore a sign of progress.

On the occasion of the fifth anniversary of the signing of the Dayton Agreement, the Peace Implementation Council reaffirmed the international commitment “to promote enduring peace in Bosnia-

Herzegovina.”³⁷⁹ The year 2000 marked democratic transitions in both Croatia and Yugoslavia, a regime change that was believed would facilitate the process of normalization in Bosnia-Herzegovina.

These changes in the wider region have created new opportunities for Bosnia-Herzegovina and opened its path to Europe. The European Union, with the support of the international community, has responded by setting forth a clear agenda to realize BiH’s European orientation... The Steering Board calls for all concerned to cooperate democratically as fellow Europeans; for all refugees and displaced persons to be welcomed back; and for Bosnia-Herzegovina to function normally at state and entity levels alike. This can only be achieved in a new social and political atmosphere in which the citizens of Bosnia-Herzegovina finally look to the future in a spirit of reconciliation.³⁸⁰

The international approach evolved over the years of peace implementation. It started with a diffuse structure and solidified over time. The third phase of state building saw the most progress in this regard – the functional integration of international efforts in order to realize the functional integration of the Bosnian state. To do more was actually to do less. In this sense, the international community started to plan their policies carefully – they were to be directed towards a clear objective (the integration of the Bosnian state) and lower costs (optimal use of competences among the international agencies in Bosnia-Herzegovina).

A reassessment of the international mission was suggested by a number of observers for quite some time before it was actually decided to rethink the international approach. At the time the intervention had entered its

³⁷⁹ “Communique by the PIC Steering Board”, Brussels, December 7, 2000; available at www.ohr.int/pic

³⁸⁰ Ibid.

seventh year and it was high time that the international presence acquired both an efficient structure and a strategic vision.³⁸¹

Five main problems were identified in relation to the international mission in Bosnia-Herzegovina: absence of overall vision and effective structures; lack of leadership and coordination³⁸²; duplication and non-cooperation; personality conflicts³⁸³; and economic reform.³⁸⁴

The international set-up in Bosnia-Herzegovina up to the year 2002 was described as a “nightmare of prevarication.”³⁸⁵ The general feeling of dissatisfaction and frustration led to a serious revision of the international role in Bosnia-Herzegovina. The recalibration required, at the very least, much better mechanisms of coordination. The lack of progress in strengthening central state institutions could be traced back to shortcomings both in the OHR’s policymaking and in the management of the international intervention in Bosnia-Herzegovina. The need for further economic reform and the consolidation of the rule of law was likewise urgent. The proposals for change were discussed and elaborated for months at international forums in Bosnia-Herzegovina, at Peace Implementation Council meetings, and among various donors and embassies.

The High Representative’s initial proposals, which involved drawing all international civilian implementation agencies (OHR, UNMBIH, IPTF,

³⁸¹ See the “Inaugural Speech by Paddy Ashdown, the new High Representative for Bosnia and Herzegovina”, Sarajevo, May 27, 2002; available at www.ohr.int

³⁸² For example, the draft of the maternity law envisaged extensive protection and reimbursement mechanisms that could not be realized in the dire economic conditions which Bosnia-Herzegovina faced after the war. Despite the good intentions of international lawyers who prepared the draft, its contribution to social protection in Bosnia-Herzegovina was zero.

³⁸³ See, for example, Senad Pećanin, “Thomas Miller vs. Wolfgang Petritsch: Sukob istih interesa”, *BH Dani*, No. 186, December 22, 2000; Amra Kebo, “West Considers Radical Bosnia Plan”, *Balkan Crisis Report*, No. 259, Institute for War and Peace Reporting, June 27, 2001.

³⁸⁴ *International Crisis Group*, “Bosnia: Reshaping the International Machinery”, ICG Balkans Report No. 121, Sarajevo/Brussels, November 29, 2001.

³⁸⁵ ICG interview with senior international official, September 27, 2001, quoted in ICG Balkans Report No. 121, p. 8.

OSCE, UNHCR, WB and IMF) around a single table chaired by the High Representative (the 'Table Model'), met with pronounced resistance.³⁸⁶ Criticism from the OSCE, UNMBiH, the IFIs (International Financial Institutions), and various embassies and donors took two main forms: an objection to the subordination of civilian organizations to the OHR; and criticism that the plan was being driven by administrative rather than strategic interests. Several heads of mission reminded the High Representative that they were accountable to bodies far more prominent than his. The World Bank made it clear that it was responsible to its Board in Washington; the OSCE pointed to its Permanent Council in Vienna; and UNMBiH invoked the Security Council. Missions had their clear-cut mandates and under no circumstances would they be accountable to the OHR.

Wolfgang Petritsch then presented a revised proposal to the PIC Steering Board in Stockholm in June 2001. This envisaged a merger of the OHR, OSCE and UN missions in Bosnia-Herzegovina with the High Representative as a double-chair – as High Representative of the UN and also Special Representative of the UN Secretary-General. Although this proposal was better received than the earlier one, it was not endorsed. The Steering Board agreed that discussions on streamlining should commence on the basis of a phased, functional and transparent approach.³⁸⁷

At the September meeting in Brussels, international objectives were outlined. The presentation set out four core functions for the international community in Bosnia-Herzegovina: institution building, refugee return and reconstruction, economic reform, and the rule of law.³⁸⁸ It also identified several possible time frames for the completion

³⁸⁶ There were comments like: King Arthur and the Knights of the Round Table Proposal. See "Volfgang Petrič želi apsolutnu vlast u BiH!", *Oslobođenje*, Sarajevo, June 16, 2001.

³⁸⁷ "Communique by the PIC Steering Board", Stockholm, June 21, 2001; available at www.ohr.int/pic

³⁸⁸ OHR Presentation to PIC Steering Board Political Directors, "Recalibrating the Activities of the International Community – the Challenges of Partnership", Brussels, September 13, 2001.

of the international mission in Bosnia-Herzegovina: a three to five-year period, a seven to eight-year period, and a twelve to fifteen-year period.

The Steering Board concluded that the Peace Implementation Council should define what it required of the peace process, so that the OHR could formulate an appropriate plan. The PIC agreed with the OHR that planning should be based on a seven to eight-year time frame, but that there should be an accelerated civilian implementation period from 2002 to 2005. Benchmarks – not deadlines – were deemed necessary for each main implementation objective. The OHR was given the task of preparing a comprehensive implementation plan that would contain strategies to achieve desired end states in four functional areas for the PIC Steering Board meeting in December 2001. It was also charged with streamlining the international community field presence and presenting options as to which agency should undertake a follow-on police monitoring mission.³⁸⁹

The December meeting asked for yet another revision of the High Representative's Action Plan, although it endorsed the concept of policy coordination task forces³⁹⁰ to be complemented by a cabinet of lead agencies chaired by the High Representative. It underlined the special importance of clear benchmarks and concrete end-states allowing the

³⁸⁹ "The Steering Board expects the IC Action Plan proposed by the HR to be further elaborated in coordination with the IC and the BiH Government and to be presented for consideration by the Steering Board at its December 2001 meeting. This plan:

- Will include clear benchmarks and an assessment of matching multi-year funding requirement;
- Will identify core requirement and functions for the international community, recalibrating its mandates and additional tasks as well as streamlining its field presence;
- Will include proposals on structural reforms towards integration of the different international agencies in BiH;
- Will project a re-focused and accelerated Implementation Period for 2002 – 2005, to be followed by an additional phasing out of the IC's post-war engagement in BiH; and
- Will present options for a follow-up police monitoring mission.

"Communique by the PIC Steering Board", Brussels, September 13, 2001; available at www.ohr.int/pic/archive

³⁹⁰ Rule of Law, Institution Building, Economic Reform, and Return & Reconstruction.

Steering Board not only to review and evaluate the progress but also to provide timelines for the transition of ownership to Bosnian authorities or other international agencies.

The Steering Board acknowledged that a continued, but recalibrated IC presence remains crucial to complete the objectives necessary to achieve the common vision of the international community and the BiH authorities about ownership – a self-sustainable BiH, serving its citizens, meeting its international obligations, and integrating into Europe.³⁹¹

Recalibration proposals continued for another half year during which they were further refined³⁹² and completed by the creation of the Board of Principals in July 2002.³⁹³ The responsibility in four core areas – the four pillars – of the newly reshaped structure was divided among the principal agencies. The OHR remained the leading international agency, creating the overall international policy and coordinating international agencies in Bosnia-Herzegovina. It was to be primarily responsible for

³⁹¹ “Communique by the PIC Steering Board”, Brussels, December 5-6, 2001; available at www.ohr.int/pic/archive

³⁹² “The Steering Board endorses the refined Task Force Model as presented by the High Representative. This model will facilitate the development of a still more effective international presence, thus strengthening the role of the High Representative. It includes the Rule of Law, Institution Building, Economic, and Return & Reconstruction Task Force, a Cabinet of lead agencies chaired by the High Representative, and a Situation Group. The Steering Board welcomes this framework and the appropriate integration of BiH authorities into these structures. It also endorses the presented measures aimed at achieving closer and more efficient coordination in the field and at reducing IC field presence by 30% by the end of 2003.” “Communique by the PIC Steering Board”, Brussels, February 28, 2002.

³⁹³ “Following an extensive study carried out by the Office of the High Representative at the request of the Peace Implementation Council the coordinating structure of the international community in Bosnia-Herzegovina was ‘streamlined’ in 2002 so as to eliminate overlapping effort and responsibilities and increase effectiveness. As part of this process the Board of Principals, under the chairmanship of the High Representative, was to serve as the main coordinating body of international community activity in BiH. The Board of Principals meets once a week in Sarajevo. Its permanent members are OHR, SFOR, OSCE, UNMBIH [replaced by the European Union Police Mission – EUPM – as of January 1, 2003], UNHCR and the European Commission. International financial institutions such as the World Bank, the IMF and the UNDP are also regular participants at the Board of Principals.” Information on the Board of Principals available at www.ohr.int/board-of-princip/default.asp?content_id=27551

institution building. The OSCE was to coordinate primarily human rights/rule of law, but also security cooperation and education reform. Within those areas, the OSCE's main priorities would be to strengthen the legal system, assist in establishing firm democratic control over the armed forces, and co-ordinate efforts to bring about a modernized, non-discriminatory education system.³⁹⁴

The European Union Police Mission (EUPM) replaced the UNMBiH, whose mandate ended on December 31, 2002, and its mission is to help the Bosnian authorities develop local police forces and to ensure that sustainable institutional structures that are conducive to multiethnic coexistence and returns are in place by the end of 2005. The EUPM will do this through monitoring, mentoring and inspecting the managerial and operational capacities of the Bosnian police.³⁹⁵ The European Union Police Mission is the first civilian crisis management operation under the European Security and Defense Policy.

UNHCR continued to be the leading agency supporting refugee return through the Return and Reconstruction Task Force. The Economic Task Force continues to coordinate economic reform projects under OHR chairmanship. The OHR, in close consultation with the IFIs and specialized agencies, prepares an overall reform agenda for the economy, which a range of different agencies are then to implement. The European Commission acts as the driving force in the Bosnian accession process to the European Union. SFOR continues to stabilize peace by providing a continued military presence and by supporting the principal civil implementation agencies in Bosnia-Herzegovina.

The goal of recalibration is to produce a stable, efficient and economically viable state within the given time framework. It is oriented towards completing the Dayton agenda, and to look somewhat beyond Dayton, that is to set Bosnia-Herzegovina firmly on the path to the European membership.

³⁹⁴ Information on OSCE available at www.oscebih.org/mission/mandate.asp

³⁹⁵ Information on the European Union Police Mission available at www.eupm.org

The norm-building phase embodied the culmination of the international effort to devise a comprehensive state building strategy in Bosnia-Herzegovina, the drive fueled by frustration accumulated in the previous years. It also saw a change in the attitude of the local elites towards the peace implementation. With time, even vehement defenders of national rights began to adapt to the intricate Dayton institutional structure. The rationale was the following: if the Bosnian state was there to remain and if there was no use in trying to do away with it, then one would better accept it.

VI CONCLUSION

There are only two forces that unite men – fear and interest.

Napoleon Bonaparte

The post-Cold War era started with new challenges to international peace and security – the focus shifted from the traditional concern with inter-state conflicts to a new preoccupation with intra-state conflicts. Of 27 major conflicts around the globe in 1999, all but two occurred within national boundaries.³⁹⁶ Some of the most serious threats to international peace and security were posed by the breakdown of domestic order, with consequences such as refugee flows or economic crises which spread well beyond the borders of the state itself.

The international community responded with new types of military interventions – interventions that go beyond pure military engagement to encompass a whole range of state building tasks.³⁹⁷ An important benchmark in implementing civilian aspects of a peace agreement has been creation of an institutional structure that secures peace, stability and prosperity of a war-torn society. Constitutional arrangements are important elements of a peace process and it may take long periods of time for the parties involved to negotiate the text of a constitution. The interest of the international community has not been a proliferation of new states and a frequent redrawing of the world map. Therefore, the international community always tries to induce parties to the conflict to

³⁹⁶ Paul Collier, “Economic causes of civil conflict and their implications for policy” (World Bank, 15 June 2000).

³⁹⁷ This challenge has transformed the role of military interventions. First, at the level of state and international institutional practice, military intervention has become central to policy making. Second, at the level of public activism, peace movements in the West opposed to military interventions have been displaced by NGOs and professional associations concerned with peace education and conflict resolution programs. See David Chandler, *From Kosovo to Kabul. Human Rights and International Intervention* (London: Pluto Press, 2002), p. 157.

find the *modus vivendi* formula acceptable to all and guaranteed by the constitution and renounce the change of state borders.³⁹⁸ International lawyers often refer to this as ‘internal self-determination’: the right of national groups within a multiethnic state to preserve their cultural, religious, and linguistic identity, to participate in the national political process, and possibly to exercise a degree of self-governance or regional autonomy.³⁹⁹ To this end, in defining the international role in solving internal conflicts around the globe, international experts bring to the negotiating table a range of tools, from ideas of consociational democracy⁴⁰⁰ to electoral systems designed to promote moderate political behavior.⁴⁰¹

In practice, however, the challenge of post-conflict reconstruction is not solely, or even primarily, one of constitutional design. Whatever constitutional model is adopted, there is a significant risk that the new institutions and political processes will not take hold. As the World Bank found in a recent study, immediately after the settlement of a civil

³⁹⁸ All subjects in multinational societies must be allowed to take part in changing the founding legal act that determines the rules of the political game, namely, the constitution. Liberals such as Rawls who spoke of constitutions (of constitutional essentials, to be exact), believed that the constitution could not be subject to political debate because it embodies the essential values of a society. However, it is no longer assumed that the norms of membership within a constitutional democracy can be determined outside the political process itself, by theoretical reasoning aimed at discovering the *a priori* forms of universal membership. It is now widely argued in theory and in practice that those identities worthy of recognition must be worked out and decided on by the members of the association themselves. See, for example, Alain-G Gagnon and James Tully (eds.), *Multinational Democracies* (Cambridge: Cambridge University Press, 2001).

³⁹⁹ See for example Antonio Cassese, *Self-Determination: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995).

⁴⁰⁰ ‘Consociational democracy’ contains a range of techniques designed to ensure that a majority ethnic group cannot exclude a minority from power, including regional autonomy, proportional representation in legislative and executive posts. The classic statement of the theory is in Arend Lijphart’s 1971 article “Cultural diversity and theories of political integration. See also Arend Lijphart, *Democracy in Plural Societies* (New Haven: Yale University Press, 1977).

⁴⁰¹ For examples, see Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985) and Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991).

war, the risk of conflict breaking out again is around 40 per cent.⁴⁰² Even where an extensive international peace mission is deployed to prevent a return to armed conflict, the obstacles to building an effective state are substantial. The question of whether it is possible for external actors to guarantee a new constitutional order by building and supporting institutions from the outside is one which is now being tested in Bosnia-Herzegovina, Kosovo, East Timor, Afghanistan.

This chapter first provide a summary of how the Bosnian state functions seven years since the beginning of the intervention and then looks at the criticisms and assessments of this intervention. The second part of this chapter assesses the intervention in relation to the five criteria initially stated and creates a limited, but coherent list of lessons learned from the Bosnian state building experiment. It ends with a hope.

VI-1 SHORTCOMINGS OF THE BOSNIAN MODEL

Those who opposed the state integration viewed the Dayton Agreement as a guarantee of far-reaching entity independence vis-à-vis the state.⁴⁰³ Those who opposed partition criticized the Agreement for granting too large powers to entities.⁴⁰⁴ The lack of consensus over the interpretation of the Dayton Agreement slowed down the peace process. The disagreement between those who wanted to preserve the state and those who wanted to partition it did not end in Dayton. Radovan Karadžić, the war-time leader of Bosnian Serbs and indicted war criminal, was not discouraged by the Dayton peace implementation: “Our final goal is a unified state of all Serbs,” whether that occurs “in one, two, or three steps.”⁴⁰⁵

⁴⁰² Paul Collier, “Economic causes of civil conflict...”

⁴⁰³ Mladen Ivanić, at the time prime minister of Republika Srpska, in addressing the RS National Assembly stated that the Dayton Agreement guaranteed the preservation of Republika Srpska, despite calls for its dissolution. BH Press, May 20, 2001.

⁴⁰⁴ Haris Silajdžić, former Bosnian prime minister and the founder of the Party for Bosnia-Herzegovina, for years called on the international community to revise the Dayton Agreement and dissolve the entities in Bosnia-Herzegovina. His Party’s slogan during the 2000 election campaign was “Bosnia Without Entities.”

⁴⁰⁵ Quoted in the Balkan Watch, September 11, 1995, p.1.

In contrast to the situation in post-war Germany where the Allied powers canceled even the remotest possibility of any political group continuing the program of the National-Socialist party, the international community in Bosnia-Herzegovina tolerated different options.

Unwilling to impose a solution on the parties that would reverse the war's partition of Bosnia and equally unwilling to abandon international norms – for example, that borders cannot be changed by force or war crimes rewarded – that require commitment to a multiethnic, single state, the Dayton accord chose both. As a result, it does not provide the minimal condition for translating the parties' signatures into peace: an end to the uncertainty over the political future of Bosnia.... Because the Dayton accord does not finish the job, the peace operation cannot depend, as it must to succeed, on the political will of the parties involved... To the extent that they support the accord and its implementation, they are not all supporting the same aspects and goals.⁴⁰⁶

Richard Holbrooke, the chief architect of the peace plan, was aware of the shortcomings of the Agreement:

The most serious criticism of the peace agreement came from those who questioned its central premise that Bosnia should, or could, be reconstructed as a single, multiethnic country... While Dayton was a successful cease-fire agreement, this argument went, its political provisions – giving refugees the right of return and affirming a single country and a central government – could never be implemented... [A]s implementation slipped seriously behind the schedule... some criticized Dayton as a partition agreement, while others criticized it precisely because it was not one... The negotiating team did not share this view. It was not that we underestimated the difficulties of getting the leaders of the three ethnic groups to cooperate... But every other choice was worse. Dividing the country along ethnic lines would create massive new refugee flows... Thus, contrary to the arguments of the partitionists, the chances of fighting would be increased, not decreased, by partition and relocation that would follow. In

⁴⁰⁶ Woodward, Susan, "Policy Brief # 2", The Brookings Institution (July 1996).

addition, there was a moral issue: the United States and its European allies could not be party to creating more refugees and legitimizing the Serb aggression.⁴⁰⁷

Thus, the struggle between partition and integration and the effort to design the constitution acceptable to all continued. Some authors warn, however, that in the search for a compromise formula which encourages all parties to participate in a new institutional structure, the possibility of creating a democratic, viable and self-sustainable state can be lost.⁴⁰⁸

Unwilling to intensify the seething conflict, the international community opted for an evolutionary approach to state building. Under the Dayton constitution, the state had authority over a limited number of policy areas. But even within the few areas to which the state government was initially circumscribed to, the international community managed to expand and strengthen the central state institutions. Thus, the state was authorized to conduct the process of European integration and to ensure Bosnian compliance with international regulations and standards. A legal opinion issued by the OHR, concerning state competence in telecommunications, illustrates how significant this power can be:

The international obligations of the State form a framework within which the State's domestic regulatory arrangements must fit. Without attempting a specific analysis of all such obligations, it suffices to note as examples that telecommunications related to air traffic control is largely governed by international agreements, and that ITU regulations establish basic parameters which circumscribe the domestic allocation of frequencies for broadcasting and other telecommunication purposes. The international obligations associated with such agreements and regulations are those of the State, and it is the responsibility of the State to ensure that its

⁴⁰⁷ Holbrooke, Richard, *To End a War* (New York: Random House, 1998), p. 363.

⁴⁰⁸ See, for example, Ian S. Spears, "Africa: The Limits of Power-Sharing", *Journal of Democracy* 13(3): 123-136 (July 2002).

domestic regulatory system fulfills and is in conformity with those obligations.⁴⁰⁹

However, this evolutionary approach⁴¹⁰ had to be occasionally ‘stirred up’. The High Representative imposed a number of decisions and laws to speed up the peace implementation and strengthen the central state structure. In December 2002, he passed a decision that allowed for the reorganization of the Council of Ministers. From the earlier model with six ministries, a rotating chair, and two deputies for each minister from a different ethnic group, the High Representative decided that the new Council of Ministers would have eight ministries, a permanent chair and one instead of two deputies per minister.⁴¹¹

Step by step, state building gained momentum over the years. A critical benchmark that would represent a point of no return has not yet been met, but the impression is that it is not far away.

⁴⁰⁹ OHR Legal Opinion 1999/3, “On the competence of Bosnia and Herzegovina to regulate the use of the electromagnetic spectrum for telecommunications and broadcasting”, quoted by Marcus Cox in “State building and post-conflict reconstruction...”, p. 16.

⁴¹⁰ An example of the evolutionary approach to state building is the creation of the audit offices in Bosnia-Herzegovina. The project on creating the supreme audit office and the entities’ audit offices started in 1999 with the extensive assistance from the World Bank which closely coordinated and monitored the establishment of the offices. In 2000 the Swedish National Audit Office (SNAO) accepted the concept of institutional cooperation and technical assistance to the Bosnian audit offices. Swedish International Development Agency (SIDA) was in charge of managing the 5-year assistance program. The first year (2000) SIBA and SNAO representatives traveled to Sarajevo, Mostar and Banja Luka to meet with Bosniak, Croat and Serb auditors respectively. The following year, after three such separate meetings, the three sides agreed to hold a joint meeting. After this first meeting, they realized they had a common agenda and decided to hold joint sessions. In 2003, the third year since the beginning of the project, Croat, Serb and Bosniak auditors cooperate, the supreme audit office is in full operation, as well as the two entities’ audit offices. Through conversations (July 2003), auditors said they believed Bosnia-Herzegovina had the future as one state and that they would have began to cooperate sooner or later, but it was easier and quicker with the help from the Swedes.

⁴¹¹ “Law on the Council of Ministers of Bosnia-Herzegovina”, High Representative’s Decision relating to State Symbols and State-Level Matters, *OHR Documents*, December 2, 2002; available at www.ohr.int/decisions/statemattersdec/default.asp?content_id=28609

VI-2 CRITICAL VIEWS

VI-2a Traditional and postmodern imperialism

In assessing the intervention in Bosnia-Herzegovina, the imperialist argument has to be briefly mentioned. Some observers saw the intervention in traditional imperialistic terms, while others as a necessary postmodern imperialist paradigm for dealing with problematic states.

To an outsider who naively stumbles across them, such political arrangements bear an uncanny resemblance to a form of governance that has long gone out of fashion – namely, that of an imperial power over its colonial possessions... Of course, there are obvious differences between Bosnia and the imperial colonies of the nineteenth century – chief among them the fact that Bosnia's international administration was established with the agreement of the Bosnians as part of a peace treaty. Nevertheless, the similarities of style and substance are astonishing. Vast ambitions, the fervent belief in progress, the assumption that outsiders can best interpret the true interest of a subject people – all these are hallmarks that the international administration in Bosnia shares with the British East India Company and the Utilitarian philosophers who staffed it in the early nineteenth century.⁴¹²

Bosnia-Herzegovina was not seen as a type of a classical colonial model where the colonizer occupied territory with the intention to domesticate itself.⁴¹³ Adherents of the 'traditionalist' view argued that the intervention was a subtype of the 19th century imperialism and claimed

⁴¹² Gerald Knaus and Felix Martin, "Travails of the European Raj. Lessons from Bosnia and Herzegovina", *Journal of Democracy*, 14(3): 60-74 (July 2003), pp. 61-2.

⁴¹³ Thus, English colonization of both Wales and Ireland or the colonization of the New World by European settlers was colonization in the classical sense. Today, the descendants of early colonizers feel themselves to be as much a part of the colonized territory as those whose ancestors they displaced.

that the real incentive for the intervention came from the concern to protect Western interests.⁴¹⁴

I think that there is grand imperial design. To celebrate its 50th anniversary, NATO has announced a new doctrine under which it would be permitted to operate outside of its area to defend what it defines as its interests... If that doesn't sound like imperialism I'm not sure what does. Certainly the idea of eliminating

⁴¹⁴ “To the extent that the media maintained its monomaniacal focus on the theme of ethnic cleansing, it deterred an examination of the more substantial and essential reasons for the decision of the Clinton administration to launch its assault against Yugoslavia. Unfortunately, with only a few honorable exceptions, U.S. academic experts in the field of Balkan history and international politics showed little inclination to publicly challenge the propaganda campaign. Indeed, they lent a degree of intellectual credibility to the U.S. government's humanitarian posturing by dismissing the very suggestion that any significant material interests were at stake in the Balkans...Of course, the presence of such resources cannot, in and of itself, provide an adequate explanation for the war. It would be too great a simplification to launch a war to the presence of certain raw material in the targeted country. However, the concept of material interests embraces more than immediate financial gains for one or another industry or conglomerate. The financial and industrial elites of the imperialist countries determine their material interests within the framework of international geopolitical calculations...The Balkans do not float above a sea of oil; nor is it a barren wasteland. But its strategic significance has been a constant factor in imperialist power politics. If only because of its geographic location, either as a critical transit point for Western Europe toward the east, or as a buffer against the expansion of Russia (and later the USSR) toward the south, the Balkans played a critical role in the international balance of power.” David North, “After the Slaughter: Political Lessons of the Balkan War”, June 14, 1999.

“The importance of Yugoslavia to this twenty-century superhighway is evident from its position straddling the Danube along the Danube-Main-Rhine canal connecting the Black Sea with the North Sea. Remarkably, Yugoslavia was the only country west of the Ural Mountains that was quietly, but deliberately, excluded from TRACECA and INOGATE programs. It is obvious that Yugoslavia was perceived as an island of nationalism in a sea of pan-European globalism. Somehow Yugoslavia would have to be pacified and assimilated to ensure a safe economic climate for ‘free trade’” J. Robbins, “Wagons East – NATO oil trade route war”, June 23, 1999.

Both articles, among many others, were a contribution to the Balkan War Forum, published by the International Committee of the Fourth International (ICFI) at the World Socialist Web Site, www.wsws.org

Russian influence from the Balkans is part of what's driving this.⁴¹⁵

The last American ambassador to Yugoslavia, also reported that Milošević “claimed that, moving up from Albania, the United States intended to turn the Balkans into a sphere of influence, sharing domination with Germany.”⁴¹⁶ Those who advocated the traditional imperial argument explained that the inability of the international community to stabilize the Balkans was not a result of their benign incompetence, but actually the result of their fundamental intention to preserve instability since it served their interests. Thus, the lack of any serious attempt to objectively define the causes of the conflict, to determine the basis for the integration processes, or to prepare the constitutional and legal framework conducive to peace and stability was the result of a deliberate decision on the part of the international community.

Every initiative [to achieve these objectives] has been obstructed by the world centers of power which are now holding a monopoly on the use of force for the simple reason that a stable region would reduce the need for their engagement and therefore the centers of power would lose their own *raison d’être*.⁴¹⁷

However, does the late-twentieth-century intervention in Bosnia-Herzegovina resemble the interventions of late-nineteenth-century imperialists who conquered large tracts of the globe to find themselves ruling, in Kipling’s phrase, ‘new-caught, sullen peoples, | Half-devil and half-child’?⁴¹⁸ Some, as already mentioned, argued that the Balkan

⁴¹⁵ Interview with Robert Hayden, the Director of the Center for Russian and East European Studies at the University of Pittsburgh, “A Very European War”, *Left Business Observer*, 89 (April 1999).

⁴¹⁶ Warren Zimmermann, *Origins of a Catastrophe* (New York: Random House, 1996), p. 24.

⁴¹⁷ Gostimir T. Popović, “Conference on the Balkans. The way out for the Balkan peoples and an opportunity for long-term organization of states in the Balkans and throughout southeastern Europe”, *Republic of Srpska News*, July 2001. E-mail of the author: prota49@hotmail.com.

⁴¹⁸ Rudyard Kipling, *The White Man’s Burden*.

intervention was no different from colonial ventures into exotic wonderlands.⁴¹⁹ The difference was one of form, not of substance, as it allowed for an unwarranted sense of superiority towards the local peoples. To be certain, the set of beliefs, attitudes and practices that sprang from such sense caused much of the suffering in the history of humankind. It was argued that racism and xenophobia are colonialism brought home. There were situations where Bosnians described some foreign officials as demonstrating a belief in their inborn superiority vis-à-vis the local tradition and customs.⁴²⁰

Although appealing to some, the imperialist hypothesis fails to account for three important elements. First, the intervener as a postmodern conqueror had a range of options to exert domination rather than physically occupying the country. Bosnia's geographic location is strategically relevant, but is not crucial to make the intervention self-understandable. There is no oil or gas, the Balkans is not the cradle to any of the worlds' religions, nor is the local Mafia armed with nuclear weapons.

Advocates of the imperialist hypothesis, however, would claim that this fact is irrelevant and would use the "crossroads of civilizations" argument to underscore their view. The notion of a dividing line or a crossroads of civilizations was extremely popular in the Balkans, an inclination in reasoning to which Huntington's *Clash of Civilizations* gave enormous succor.

In a section of his book with the subtitle 'Islam's Bloody Borders,' Huntington argues that the "fault line" between Islam and the West tends to produce wars all over the world, and not just in Bosnia-Herzegovina. This is an important observation for

⁴¹⁹ Apart from Gostimir Popović (quoted above), there was a range of similar opinions distributed by Republika Srpska newsgroups, on Pale television during the war, and within Internet chatrooms. Although it is obvious that such opinion was not prevalent and that it was openly biased against any international involvement in the former Yugoslavia, it did exist.

⁴²⁰ Local media reported a number of such stories. See also Lindsey German (ed.), *The Balkans: Nationalism and Imperialism* (London: Bookmarks, 1999).

establishing an international context for apprehending what occurred in Bosnia-Herzegovina in the 1990s.⁴²¹

A number of foreign officials who shuttled between Zagreb, Belgrade, and Sarajevo in the 1990s reported being lectured on the relevance of the Bosnian war for the future of humanity. The Croats would claim they were defending Christian Europe from Orthodox barbarism and Islamic fundamentalism in the east.⁴²² Further to the east, the Serbs claimed they were fighting Ustashes⁴²³ and Islamic fundamentalists.⁴²⁴ In-between, the Bosniaks claimed they were defending the very European values of tolerance and multiculturalism.⁴²⁵

⁴²¹ Expert testimony by dr. Stjepan G. Meštrović at the War Crimes Tribunal for the Former Yugoslavia, The Hague, June 4, 2000, Ir-15-14/2-T, D17597-D17095, Appendix B submitted by the witness, "Samuel Huntington's views on the cultural East-West divide", pp. 15-16.

⁴²² "To us Croats, Yugoslavia was built on an illusion. Croats, Serbs, and Slovenes are products of different civilizations, different cultures. Croats are Catholic and Europeans; Serbs are not. Croats and Serbs never even lived together until 1918; the longer they've lived together since then, the more difficult their relations have become." Franjo Tudman, quoted by Zimmermann, *Origins of a Catastrophe*, p. 72.

⁴²³ The Ustasha regime established a Nazi-puppet state in Croatia and parts of Bosnia-Herzegovina during the Second World War.

⁴²⁴ He [General Veljko Kadijević, the last Yugoslav defense minister] told me with fire in his eye that the danger came from Germany, which was spreading its economic and political tentacles around the Balkans [that is through Slovenia and Croatia] in an effort to dominate the area. In the heat of his hostility he might have been back in the World War II bunkers battling the panzers and the Luftwaffe... The Germans had been defeated then; now they had to be kept permanently down. In his view, the Federal Republic of Helmut Kohl was no different from the Third Reich of Adolf Hitler..." You like to praise democracy, Mr. Ambassador, but in Yugoslavia democracy has revived the Ustaše and other forces that we defeated in World War II. Democracy is leading to bloodshed and to an abyss for our people." Zimmermann, *Origins of a Catastrophe*, pp. 89-90.

⁴²⁵ "Izetbegović wore the mantle of Bosnian president with extreme discomfort. When I went to see him after the election, he told me he bore a double weight on his shoulders. 'I have to ensure that Bosnia remains a multiethnic community,' he said. 'The constitution calls for the executive power to be divided among Serbs, Croats, and Muslims. Our prime minister is Croatian, and the president of our assembly is Serbian. They're being pulled toward extreme positions by the nationalist leaderships in Belgrade and Zagreb – outside forces that we can't control.'" Zimmermann, *Origins of a Catastrophe*, p. 115.

Although popular during the war in the region and in the international media, this civilizational crossroads argument cannot justify the intervention. The rationale of occupying a small and devastated state to invest money in its rebuilding is not the logic of the imperialist mind. Hegemonic powers have less obtrusive and more powerful methods of 'colonizing' nations whom they want, rather than propping up the 'colonizing' project and then using the investment-already-made argument to justify further investment. Those who see the intervention in Bosnia-Herzegovina as a replication of the earlier colonizing experience reason with a nineteenth-century frame of mind.

The second element which the traditional imperialist hypothesis does not account for is the division among the local population. The cleavage is not between the foreign occupier and domestic population, but between segments of the locals. On one side are pro-integration locals and the interveners, while on the other are pro-partition locals and their sponsors in the neighborhood. Thus, the dividing line is not between the foreigners and the locals, but between those who are for the Bosnian state and those who oppose it. The colonizing argument comes from those who oppose the integration and accuse the interveners of colonizing their land and taking away the right of the people to decide their future. Those who support the reintegration of Bosnia-Herzegovina want the international community to stay. If the presence of the international force is colonization, they want to be fully colonized.

The third element not accounted for in the hypothesis is the identity issue. The division between 'us' and 'them' in Bosnia-Herzegovina is volatile. Internal divisions mean that local population identify with those who support their respective group goals. To the leadership in Sarajevo, Washington and Brussels were for years closer than Banja Luka.⁴²⁶ Similarly to Pale, the wartime Bosnian Serb stronghold, Belgrade, Athens and Moscow were closer than Sarajevo.

However, the Western involvement in the Balkans has some imperial elements. Although the policy of the international community does not replicate old models and although the international presence has been

⁴²⁶ Banja Luka is the capital of Republika Srpska.

supported by segments of the local population, there are some elements of the imperialistic logic that are built into a postmodern global security paradigm and thus into the intervention in Bosnia.

The interventions in the Balkans in the 1990s, the war on terrorism, the humanitarian, financial or political measures to tackle security issues – they are all part of the ongoing search for an international order.

The challenge is to harness globalization to advance our enduring objectives of democracy, shared prosperity and peace – to build a foreign policy for the global age. Some of the most hopeful recent developments in the world have come about because of how we chose to do that, not because globalization preordained them.⁴²⁷

Robert Cooper's chapter from the 2002 Foreign Policy Center publication *Re-Ordering the World: The long-term implications of September 11th* caused a stir with its call for 'a new kind of imperialism'. Cooper explained that the world today is divided into pre-modern, modern and postmodern states. Pre-modern states are failed states, they are zones where the state has ceased to exist and where "a Hobbesian war of all against all is under way." Postmodern states are those that view their security challenges through a plethora of issues, rather than through strictly military terms. And there are modern states in the traditional sense of the word, states that follow Machiavellian principles and *raison d'état*.

In Cooper's view, the origin of the change in the state system is that "the world's grown honest."⁴²⁸ A large number of the most powerful states no longer want to fight or conquer. It is this that, according to Cooper, gives rise to both pre-modern and postmodern worlds. Imperialism in the traditional sense is dead. Within the postmodern world there are no threats in the traditional sense, but threats are posed by the modern and pre-modern worlds. How the postmodern world decides to manage

⁴²⁷ Samuel R. Berger, "A Foreign Policy for the Global Age", The Twenty-first Oscar Iden Lecture, Institute for the Study of Diplomacy, Edmund A. Walsh School of Foreign Service, Georgetown University, October 19, 2000, p. 2.

⁴²⁸ Ibid.

these threats represents a new security dilemma. Cooper here proposes the strategy of “double standards”. When dealing with issues within itself, the postmodern world should operate upon the premises of laws and cooperation. But when dealing with more old-fashioned kinds of states, the postmodern world needs to revert “to the rougher methods of an earlier era – force, preemptive attack, deception, whatever is necessary to deal with those who still live in the nineteenth century world of every state for itself.”⁴²⁹

The author suggests a new kind of imperialism – an imperialism which aims to bring order, but which rests on the voluntary principle. It takes two forms – the voluntary imperialism of the global economy and the voluntary imperialism of neighbors. The first form of imperialism is managed by the international financial institutions such as the International Monetary Fund and the World Bank. If states wish to benefit, they must open themselves up to interference by these institutions, by international organizations, and by foreign states. The second form takes place when instability in a particular region threatens the postmodern world. Where misgovernment, ethnic violence and crime threaten the postmodern world, as was the case in the Balkans, the response is to create voluntary protectorates.

The ultimate end state of voluntary imperialism is a cooperative empire. The postmodern European Union offers such vision – a cooperative empire of common liberty and common security without ethnic domination and centralized absolutism. Like in the Roman Empire, the cooperative empire “would provide its citizens with some of its laws, some coins and the occasional road.”⁴³⁰

To use Cooper’s vocabulary, voluntary protectorates have been implemented in Bosnia-Herzegovina since 1995 and in Kosovo since 1999. Will they succeed and end up in a cooperative empire remains to be seen.

⁴²⁹ Ibid.

⁴³⁰ Ibid.

VI-2b Some doubts about the Dayton agenda

A number of authors have advocated the partition of Bosnia-Herzegovina as a way out of a protracted international engagement with limited prospects of success. Partition, according to this argument, would offer the international force a way out of the Bosnian imbroglio. Peace could be guaranteed in such a way that the side that would lose most through partition, namely the Bosniaks, could be compensated by attractive financial and security arrangements with the West. The Bosnian Croats and the Bosnian Serbs would attach their territories to Croatia and Serbia respectively. In such a situation, the argument goes, even if the conflict were to occur again, its negative effect on Europe could be contained, as there would be no engagement on the part of the world powers to remedy the destruction brought by the local parties themselves.⁴³¹

It now seems necessary for the international community to admit that the Dayton solution was not a solution. It was a way to end a war. It did not provide the foundation for a modern state. It did not offer a structure conducive to national reconciliation. It may be that the constructive response now is simply to concede the failure, to concede to the nationalists what the international community was mobilized to deny them.⁴³²

Stephen Stedman, a scholar of post-Cold War interventions who recognizes that interventions are an inescapable feature of the current international system and who is therefore preoccupied with building a model for a successful intervention, puts the blame on Americans for the failure of Dayton.

The Americans were not willing to make an additional effort to guarantee the full implementation of the Dayton Agreement.

⁴³¹ See Thomas L. Friedman, "Something strange is going on", *International Herald Tribune*, January 24, 2001 (referred to in the previous chapter). See also the arguments for partition made by Chaim Kaufmann and John Mearsheimer that are discussed in the theoretical chapter. Finally, see articles by Ted Galen Carpenter on the Balkans (for example, apart from the one quoted here, see also "The Balkans: International Mission Is Now a Mockery of Democratic Principles", January 8, 2001 and "Waist Deep In the Balkans and Sinking", April 30, 2001; available at www.cato.org).

⁴³² William Pfaff, "Time to concede defeat in Bosnia-Herzegovina", *International Herald Tribune*, October 10, 2002, p. 9.

They were ready to use force to stop the war, but were unwilling to use this force to implement the civilian aspects of the Agreement. I think this was the biggest mistake from the beginning. There was a naïve belief that a simple separation of the warring sides would have led to the take-over by political forces in the country that wanted peace. Such approach was not only naïve, it was comical.⁴³³

Ted Galen Carpenter, from the conservative Cato Institute also criticized Americans, but not because they put too little effort to build the Bosnian state, but because they put too much. He mocked the “veritable obsession” of the U.S. negotiators to preserve a single Bosnia.⁴³⁴ Although Carpenter mentioned that several high-level U.S. officials privately stated that Bosnia would continue to exist as a country only in theory, as there would be a de facto partition,⁴³⁵ he was still perplexed by the insistence of President Clinton and of State Secretary Christopher to stress repeatedly the importance of maintaining Bosnia’s sovereignty and territorial integrity as it suggested “that they may be serious about that objective... Countries do not exist in theory; they exist in reality or not at all. A Bosnia with two political heads may be theoretically innovative, but it is utterly impractical.”⁴³⁶

The convoluted nature of the all-Bosnia institutions, combined with the supposed autonomy of the self-governing entities, does not represent an experiment in enlightened democratic federalism. Rather, it has all the earmarks of an arrangement drafted by State Department functionaries who specialize in abstract political theories. To work at all, such a complex scheme would require an extraordinary degree of goodwill on the part of all parties and a willingness to compromise – qualities that have not been abundant in Bosnia and are not likely to be in the foreseeable future... The Clinton administration’s insistence that any peace settlement must maintain at least the appearance

⁴³³ Interview with Stephen Stedman “Amerikanci su krivi za Dayton” (Americans are to be blamed for Dayton), *Dani*, No. 284, November 22, 2002, p. 32 (translation mine).

⁴³⁴ Ted Galen Carpenter, “Holbrooke Horror: The U.S. Peace Plan for Bosnia”, Cato Foreign Policy Briefing No. 37, October 27, 1995.

⁴³⁵ *Ibid.*, p. 3.

⁴³⁶ *Ibid.*, p. 5.

that Bosnia will be a unified state is puzzling. It is not as though the country had a lengthy history of independence and a sense of nationhood.⁴³⁷

“The tendency of U.S. policymakers to build elaborate, gossamer political structures for Bosnia did not begin with the latest political offensive. Nearly two years ago Washington exerted tremendous effort to help create a Muslim-Croat federation. The remarks of a ‘senior official’ shortly after the parties signed the agreement in March 1994 illustrate the continuity of U.S. thinking. ‘What we have in mind is that the central government would be weak, but the Muslim-Croat part would be stronger. The links to Croatia on the outside could be stronger than those to the Serbs within the country of Bosnia. You’d end up with an asymmetrical federation in Bosnia.’”⁴³⁸ Carpenter succinctly points out that “the notion of a country in which the constituent population groups have stronger political ties to outside powers than they do to each other is, to put it charitably, peculiar.”

He finally offered his vision of a stable settlement: “The notion of a united Bosnia was a utopian fantasy from the outset. There is no Bosnian nation; Bosnia is little more than a battleground for contending ethno-religious factions. An official partition, negotiated by the belligerents and reflecting their respective battlefield fortunes would merely confirm a reality that has existed for more than three years... [A] multiethnic Bosnia in which toleration is practiced is not a realistic expectation; there is simply too much ingrained hatred on all sides.”⁴³⁹

The international community was heavily criticized during the war in Bosnia-Herzegovina for not doing more to stop the fighting. After it intervened, critics shifted their focus from the international community doing little to the international community doing it the wrong way.

As it stands, the international community policy in Bosnia appears self-defeating. Rather than working from a clear long-

⁴³⁷ Ibid.

⁴³⁸ Ibid., p. 7. The quote is from Roger Cohen, “Washington Might Recognize a Bosnian Serb State,” *New York Times*, March 13, 1994, p. A10.

⁴³⁹ Carpenter, pp. 9-11.

term strategy, the international community keeps readjusting its focus according to what is politically expedient. In this vein, civil society development is a last attempt to compensate for the lack of effectiveness of economic incentives and political direction. However, civil society can do little in light of the structural problems Bosnia faces. Ethnic division, internal political stalemate, insufficient refugee and minority return, corruption and cronyism, and a general feeling of political, economic, and social insecurity are the unresolved challenges that loom darkly on Bosnia's future.⁴⁴⁰

I mentioned criticism of those who objected to the intervention on the grounds that the international community had no strategic interest to waste resources on irrelevant places like Bosnia-Herzegovina. In the following paragraphs I shall in some detail present the view of those who do not necessarily object to the international community entering Bosnia-Herzegovina, but who vehemently object to the approach the international community has taken.

According to Robert Hayden:

Despite all the rhetoric about human rights, democracy, and other nice phrases, the Dayton agreement amounts to trying to create a state when its creation is rejected by a large portion of its putative citizens. It is for this reason that the constitution could not be conditioned on acceptance by the Bosnian people themselves. The Dayton peace plan attempts to create a state without the consent of the governed, which is the logical outcome of a regime of negative sovereignty.⁴⁴¹

Hayden compares the "dictatorial approach" of the High Representative to that of the leadership of the League of Communists, which invited

⁴⁴⁰ Roberto Belloni, "Building Civil Society in Bosnia-Herzegovina", Paper presented on Panel 42-6, 'Political Economy, Cultural Hegemony, and Democratic Civil Society,' Annual Meeting of the American Political Science Association (APSA), Washington, DC, August 31 – September 3, 2000, p. 17.

⁴⁴¹ Robert M. Hayden, *Blueprints for a House Divided. The Constitutional Logic of the Yugoslav Conflicts* (Ann Arbor: The University of Michigan Press, 1999), p. 133.

nationalism by creating an unworkable constitution and then largely ignoring its provisions.

The High Representative and the international community that he serves have faced a frustrating contradiction. In order to gain Serb and Croat consent to inclusion within Bosnia, the Dayton agreement provided that there would be, in fact, no real Bosnian government...In order to overcome this contradiction and to make the state real, the High Representative finally decided to dispense with consent. Yet this seems unlikely to be a winning strategy, because the High Representative's actions themselves reinforce the message that Bosnia is a creation of the international community, not of Bosnians themselves. The more that the High Representative ignores the need for the people of Bosnia themselves to consent to be governed by a Bosnian state, the less legitimate that state is likely to be to those whose consent was conditioned on its being illusory.⁴⁴²

David Chandler questions the assumption that democracy can be taught or imposed by international bodies as if some cultures were not rational or civil enough to govern themselves. One of his claims is that "the more rights and freedoms are granted to the Bosnian people by their international administrators the less freedom they have to reach negotiated compromises over disputed issues, as every aspect of Bosnian society from media content to housing policy is imposed by external regulators."⁴⁴³

His argument is that the driving force of the international action is the widely held belief that building democratic institutions is not enough – what a prospective democratic society needs to have (according to this belief) is also a will to democracy and a democratic culture as these are indispensable supporting conditions to the establishment of democratic institutions. Chandler's conclusion with regards to the efforts of the international community in Bosnia-Herzegovina is two-fold. First, it is detrimental to the prospects for autonomous democratic development in

⁴⁴² Hayden, *Blueprints for a House Divided*, pp. 138-9.

⁴⁴³ David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto, 2000, 2nd ed.), p. 3.

Bosnia. The intervention kills local initiative, breeds disillusionment among the local people about their own capacity to solve their problems, and undermines their self-confidence in overcoming mistrust and fear in their society. Second, it is no surprise that the international community is doing such a bad job when the real goal of the intervention was not to improve life in Bosnia-Herzegovina, but to reinforce cohesion and cooperation among key intervening states.

The Dayton process has been one of international target-setting in which the coherence and legitimacy of international institutions have had to be constantly affirmed. As soon as the original targets are met new ones have been constantly placed on the agenda as new mission statements for these institutions. This is why the UN High Representative's office has constantly expanded its powers at the expense of Bosnian self-government, NATO have been compelled to play a civilian role and the OSCE have acquired unique powers to ratify elections on the basis of post-election policy-making.⁴⁴⁴

The importance of Bosnia-Herzegovina came with the timing in which the problems erupted. The end of the Cold War initiated changes in international relations and Bosnia came as a ready-made testing ground for international institutions to redefine their political and strategic objectives. According to Chandler, Bosnia-Herzegovina has become a parody of democratization because international action in Bosnia appears to be geared towards the democratization process as opposed to democracy. Chandler's final verdict is that the problem faced by the Bosnian people is one that is not of their own making.⁴⁴⁵

The democratization process, through linking democratization to international institutional mechanisms, has ensured that the international administration will be prolonged for as long as it is

⁴⁴⁴ Ibid., p. 192.

⁴⁴⁵ For more of Chandler on the intervention in Bosnia-Herzegovina, see "Democratization in Bosnia: The Limits of Civil Society Building Strategies", *Democratization* 5(4): 78-102 (Winter 1998); *From Kosovo to Kabul. Human Rights and International Intervention* (London: Pluto Press, 2002).

in the interests of the major international powers to use Bosnia as a focus for international cooperation.⁴⁴⁶

The solution according to Chandler is to “allow people in the region greater autonomy to develop their own solutions.”⁴⁴⁷

Chandler is extraordinarily lucid in some of his observations and comments. He has made a convincing and thorough criticism of the role of the international community in Bosnia-Herzegovina, their underlying motives for entering this war-torn state and the consequences of their policies.

However, in order to make his argument more appealing and convincing, Chandler goes too far in the direction of not acknowledging any local mistake and blaming it all on the foreigners. In his analysis, Bosnians come out as inherently good and peaceful people who happened to make the mistake of waging war at the wrong time, since their problems came to serve the strategic interests of powerful states who appeared to be willing to help them, but who in reality only used the Bosnians to solve their own problems. He takes it for granted that Bosnia-Herzegovina would solve its problems if it were not for the internationals who make the mess.

If the international community is indeed investing huge resources into an intervention that is doomed to failure, then certainly the intervention should be abandoned. However, the problem with this kind of criticism is twofold. First, it has been made while the intervention is still underway and its final outcome is not yet known.⁴⁴⁸ Second, the critic assumes that the local population is collectively disadvantaged by the intervention and does not take into account a substantial portion of the

⁴⁴⁶ Ibid., p. 189. For criticism on democracy promotion see, for example, Thomas Carothers, “The End of the Transition Paradigm”, *Journal of Democracy* 13(1): 5-21 (January 2002).

⁴⁴⁷ David Chandler, “Bosnia: The Democracy Paradox”, *Current History*, March 2001, p. 119.

⁴⁴⁸ Of course, this argument applies to all attempts to analyze the ongoing intervention, including this thesis.

local population that support the intervention and reintegration of the state.

If the question *why intervene* was answered prior to the entry of the international force in Bosnia-Herzegovina, much of the criticism would have been avoided. Since it was not, the interveners made themselves easy targets. The first High Representative, Mr. Carl Bildt, criticized international efforts for not having an 'entry strategy' in Bosnia, which is why any serious discussion about an 'exit strategy' was unable to get off the ground.

[At the beginning of the war] the EU... had nothing that could resemble a common foreign policy or a common security policy. Disagreements over the Yugoslav conflict were deep and the decisions in most cases were made out of concern for domestic politics rather than assuming a common European responsibility. Of course, it should be added that the EU had almost no instruments with which to exert authority and credibility for action in such a sensitive and complicated situation. Europe had ambitions, but, unfortunately, not much more.

NATO was a different story. There were military resources, but there was no ambition to use them. In the military sphere, NATO, which actually meant the United States, was confused, just as Europe was in the political sphere.⁴⁴⁹

However, as the intervention evolves the focus of criticism shifts from *why* to *how*. There is no doubt that the underlying rationale for the intervention has to be examined. However, criticism is valid only if it takes into account the complexity of the problem. Those critics that deliberately reduce the complexity may gain at clarity but at the expense of reality.

The international community is not acting out of selfless humanism, but if their efforts can also benefit Bosnians then their mission has to be evaluated for its positive aspects too.

⁴⁴⁹ Carl Bildt, *Misija mir (Mission Peace)*, (Sarajevo:Zid, 1998), pp. 525-6.

VI-3 ASSESSMENT OF THE INTERVENTION

In relation to the five conditions for the success of an international intervention as defined in Chapter II, the intervention in Bosnia-Herzegovina can be assessed as follows:

The first condition was that interventions are costly and therefore they should be undertaken for clear goals. The reason is logical: a strong political will to realize one's goal is essential to overcome the obstacles and to bear the cost of engagement. Without the will to sustain the effort, the intervention does not stand much prospect for success. The cost is accumulated in a large number of ways, involving the engagement of personnel, equipment, time, political capital and much more.

In the case of Bosnia-Herzegovina, the goal and the political will to support that goal crystallized over time. It was certainly not there unambiguously in the first year of the intervention. NATO officially went in with a one-year mandate, although it was clear that if anything were to be achieved, the mandate of both the military and civilian forces would have to be extended.

There was too much unnecessary maneuvering. Nonetheless, such an approach was probably the only possible way to go since decision-makers were aware of the cost of such an engagement and thus reluctant to make long-term commitments without leaving open the option of reconsidering their policies. From their perspective, it was legitimate and logical to reassess their objectives and pledges on a regular basis. How much this approach impeded the effectiveness of the international forces on the ground in Bosnia-Herzegovina is another issue.

Despite the many problems in peace implementation, the general conclusion regarding the initial phase of the international engagement is that the military, with a clear mandate and a strong will, was decisive for the peace process to commence and be sustained. The initial

determination was not wide in scope, but it was crucial for setting the whole process in motion.⁴⁵⁰

The second condition was that once inside, the intervener becomes, in a certain sense, a party to the conflict. This means that there is no safe neutrality if one is engaged in altering the dynamic of a conflict. Implicit in any decision to enter a conflict is responsibility for the actions one takes.

In the literature on international interventions, especially that which deals with post-Cold War interventions, the neutrality of the intervener is taken as a precondition for a successful intervention. This has contrasted sharply with the Cold War experience and those earlier interventions in which the intervener was conducting an intervention in order to secure one or more of its strategic goals. The end of the Cold War created, for a limited period of time, the impression that any intervention in another state for any reason other than purely humanitarian was impermissible. Furthermore, neutral humanitarian interventionism became the only alternative to the normative premise of non-interventionism.

Neutrality on the part of the interveners permits impartiality when addressing short-term threats to the ceasefire, usually the result of localized disputes or misunderstandings. In this regard a neutral force allows the third party to act effectively as the 'go between,' or arbitrator, in efforts to diffuse challenges to the peace. Since a neutral intervener does not disproportionately coerce any one side in the conflict, the climate should be such that the resort to violence is at best only a final option and no longer an immediately accepted tool of policy. This will increase the cooperation of all parties to the dispute. In effect, neutrality of the part of the outside party may contribute to a change in the

⁴⁵⁰ In the beginning, the psychological factor was even more important than any realistic assessment of how much safety to an ordinary citizen the NATO presence could guarantee. NATO forces were heavily armed and one look at their regular daily patrols underscored their claim that they were uncompromising about their job. Thus, the belief that these soldiers were prepared to respond to the challenges they faced deterred anti-Dayton forces from demonstrating their dissatisfaction by military means.

structure of the payoffs resulting from cooperation with and defection from the status quo.⁴⁵¹

Neutrality understood as a determination by the intervening force to pursue its goal, which in most cases at least means securing a ceasefire regardless of the ambitions or actions of the local actors, is almost always accepted. However, neutrality as defined in the above paragraph presents an unlikely scenario whose direct consequence is the creation of unrealistic expectations both on the part of the potential intervener and also on the part of potential recipients of the intervention. The position of an intervener in an internal conflict contains an element of interest to achieve a certain outcome towards which the intervener cannot be neutral.

Multilateral interventions have been perceived as more conducive to humanitarian goals than unilateral interventions because they appear less capable of inflicting harm since partners in the intervention serve as a corrective to each other's ambitions and interests. Some argue that they are also less effective, but that is open for discussion. In situations where the intervener has to be engaged for years to realize its goals, sustaining the commitment is easier when the cost is shared among a number of actors rather than endured by a single actor.

Thus, regarding the second condition – the neutrality of the intervener – the Bosnian case demonstrates that those who did not insist on formal neutrality were more effective in carrying out their mandate than those who were reluctant to reveal their preferences. Thus, the military seemed to have an easier task because it was openly non-neutral towards any attempt at renewing hostilities. Civilian implementers were more tolerant towards any kind of political behavior by the local actors and were thus less successful.

The third condition – the issue of winners and losers – is a timeless category. Any change produces outcomes that are valued differently by different participants. Even wars, generally perceived as harmful to all

⁴⁵¹ Patrick M. Regan, *Civil Wars and Foreign Powers* (Ann Arbor: The University of Michigan Press, 2000), p. 112.

affected, are nonetheless deemed beneficial by some. A criminal may increase his wealth by operating in the war zone, a politician may find himself globally known through the misery he represents, a refugee may leave not only her house but also her bad marriage, etc.

The one caveat regarding the issue of winners and losers is that these may not be permanent categories. That is, since the intervention itself is a process and causes perpetual change, it may affect the recipients of the intervention in different ways as time passes. A local actor who is supportive of the intervention in the beginning may not remain so till the end. A local side may judge the arrival of the international force as serving its interests. After some time, however, if the actions of the international force come to threaten these interests, for example by threatening its illegal business activities, it may change its attitude towards the interveners. Thus, the intervener can expect success only if it is ready to pursue its goal regardless of any temporary distribution of supporters and opponents.⁴⁵²

The fourth condition suggests that a robust beginning saves time, exerts respect, and gives credibility. The opposite sort of beginning is muddling through, and this is the most expensive and the least successful strategy.⁴⁵³ Of course, the question that any prospective intervener will raise is how much is enough, i.e. how much resources and personnel have to be engaged in order to prevent muddling through, but at the same time avoiding too large a force when a smaller one would suffice.

⁴⁵² When it entered Bosnia-Herzegovina, the international community had two clear opponents who favored the partition of the country, namely the SDS and the HDZ. The third local actor, the SDA, welcomed the arrival of the international forces, but only as long as the interveners did not threaten their political survival. As the goal of the international community expanded towards instilling a non-nationalist democratic regime, the attitude of the SDA changed towards the international community.

⁴⁵³ The dilemma of the cost to benefit ratio has to be solved by any potential intervener before deciding to engage in something as risky and as costly as entering another state and initiating change. In multilateral interventions, benefits are not necessarily distributed equally. Where there is high success in the intervention, every participating state can claim success, even if its contribution consisted of voting in favor of the policy. However, if the success is only marginal, it becomes easier for states in a multilateral framework to play down their individual responsibility and distance themselves from failure.

The ratio of costs to benefits, therefore, would tend to increase quite substantially the longer the time frame under which the intervention is planned. If the planning stage of the intervention suggests a long-term involvement, then the relative costs to benefits might quickly overwhelm the capabilities – or interests – of the potential intervener. Spreading out these costs across a larger number of actors should increase the likelihood of orchestrating an interventionary force.⁴⁵⁴

In Bosnia-Herzegovina the intervention was launched, among other reasons, to strengthen international cooperation. The cost of non-intervention to the international community at one point became too high to be tolerated further. Thus, to help itself the international community helped Bosnia-Herzegovina.

As U.S. Policy was lurching, like a punch-drunk boxer, from one crisis to the next, the president met with his senior advisers on June 14, 1995...The discussion made clear the president's growing frustration with his inability to control developments in Bosnia – or even his own policy. Clinton accurately put his finger on the problem: "We've got no clear mission, no one's in control of events." Vice President Al Gore joined in, seizing an opportunity to make his case for tougher action. "It's the issue from hell," he said. "The Europeans are self-delusional" in rejecting strong NATO action to back up the UN force. NATO was weakened and the United States, as NATO's leader, looked even weaker. "The need for us to protect and preserve the alliance is driving our policy," Gore said.⁴⁵⁵

Daalder explains how the essential component of the U.S. *endgame strategy* for Bosnia-Herzegovina was a deep concern about the preservation of the Western alliance.

They [Lake and Albright] maintained that the stakes went far beyond the particulars of Bosnia. The issue was not one state or

⁴⁵⁴ Patrick M. Regan, *Civil Wars and Foreign Powers*, p. 106.

⁴⁵⁵ Ivo H. Daalder, *Getting to Dayton. The Making of America's Bosnia Policy* (Washington, DC: Brookings Institution Press, 2000), pp. 90-1.

two, three, or none. Rather, the issue was U.S. credibility as a world leader, its credibility in NATO, the United Nations, and at home.⁴⁵⁶

For these reasons, it was easier to sustain the cost of the intervention in Bosnia-Herzegovina over the years, where the international community intervened for itself as much as for Bosnia, than, for example, in Somalia where the international interests were limited.

The fifth condition for the successful intervention emphasizes that people are the key. The significance of this condition is self-evident. In the previous chapter I discussed problems stemming from poor staff management in Bosnia-Herzegovina. The rapid turnover of seconded staff limits expertise, dissipates momentum, and undermines institutional loyalty and memory. The described recalibration also addressed organizational issues which should result in better staff management.

VI-3a Where to go from here

Seven years of international engagement in post-war Bosnia-Herzegovina provoked some strong criticism. I have already mentioned some of it and argued why some of the criticism is unwarranted. In this last section I look at the lessons that can be drawn from the Bosnian intervention and how they can be applied elsewhere.

Robin Cook, the former British Foreign Secretary, in his first public statement on Bosnia-Herzegovina, emphasized the relevance of the international intervention not only for Bosnia itself but also for the wider region: "The basic political rights of democratic pluralism are now needed in Eastern Europe to combat totalitarian nationalism as much as they ever were to challenge communism."⁴⁵⁷ Other authors underscored the relevance of the intervention beyond the Balkans and the East European region.

Perhaps one of the most useful functions of the Balkans in the 1990s is to be a mirror to the face of a West European nearly-

⁴⁵⁶ Ibid., p. 108.

⁴⁵⁷ Robin Cook, "Bosnia: What Labour Would Do", *Guardian*, 10 December 1994, quoted in Chandler, *Bosnia: Faking Democracy...*, p. 186.

union which has lost belief in the federalist idea and the policies of a economic and social consensus that fuelled its progress. If Europe was now a vital political concept rather than a geographical expression, then the problems of South-Eastern Europe, far from being a nightmare from hell, might instead be viewed as a marvelous preparatory ground for diplomats, administrators, politicians and NGOs imbued with the need to promote a post-nationalist agenda across the continent.⁴⁵⁸

In the end, results of the intervention will be larger than the sum of various policies. For example, the policy of anti-nationalist democracy, one of the key aspects of the intervention, easily translates itself into nation building although this may not seem obvious at a first glance. Nation building, as defined in the previous chapter, is premised upon the notion of a functioning state. Thus, if the international community succeeds in building a stable and functioning Bosnian state, it will also succeed in building a perhaps circumscribed, but evident Bosnian identity.

At a press conference after the 2002 general elections, the High Representative Paddy Ashdown made the following assessment. “The priority after the war,” said Ashdown, “should not have been the strengthening of democracy through frequent elections, but the strengthening of the rule of law. This lesson is even more important if one considers that Bosnia today faces a bigger threat from criminals than nationalists.”⁴⁵⁹ The solution to nation building depends upon structural preconditions, that is the existence of an efficient and functional state, and thereafter, the willingness and interest of the elites to build a Bosnian identity.

Somewhere along the road from Vietnam – where it [nation-building] was once the proudly proclaimed mission of the United States, including its military – to Somalia, this once important

⁴⁵⁸ Tom Gallagher, “A Culture of Fatalism Towards the Balkans: Long-Term Western Attitudes and Approaches”, paper presented at the British International Studies Association, 22nd Annual Conference, Leeds, 15-17 December 1997, quoted in Chandler, *Bosnia: Faking Democracy...*, p. 184.

⁴⁵⁹ “Ashdown: Uspjeh nacionalnih stranaka je rezultat razočaranja”, *HINA*, October 10, 2002.

part of our national security policy became a dirty word. By the mid-1990s everyone in Washington was proclaiming that we were not nation building...Euphemisms were substituted...[like] post-conflict reconstruction. But whatever we call it, nation building is an essential part of our policies in the Balkans...⁴⁶⁰

Some lessons of the Bosnian state building have been obvious, others not so. Devising the effective and functional framework for a collapsed state is a 'job from hell'. Since there are no ready-made solutions, the entire state building consists of a sequence of experiments, some of which work and others do not. The key to success is to sustain the will, that is the will to tolerate the cost, to continue experimenting.

Nation building [i.e. state building] has now become a key U.S. foreign policy mission. But it won't work without high-level attention and a budget to match.⁴⁶¹

The first lesson of the Bosnian intervention concerns institutional arrangements. The Dayton Agreement, it has been argued, empowered 'spoilers' while it disempowered moderates since the power-sharing arrangement has not translated into a stable governing formula in Bosnia-Herzegovina. Although aware of the shortcomings of power sharing, the international community has not yet articulated a different governing formula.

The second lesson is that the international community was slow to address the economic issues which impeded state building and thus contributed to corruption and criminality. The economic strategy has

⁴⁶⁰ As explained earlier, the term "nation building" in the U.S. usage equals state building. Thus, when Richard Holbrooke, the architect of the Dayton Agreement, rhetorically asks "What's wrong with nation building anyway?" he does not mean that the international community should build a Bosnian identity, but rather a Bosnian state. However, it should be reiterated that the successful state building carries in itself the element of identity building. Richard Holbrooke, "Rebuilding Nations...", *Washington Post*, April 1, 2002; at

www.globalpolicy.org/security/peacekpg/us/2002/holbrooke.htm

⁴⁶¹ James P. Rubin, "Start honoring the nation-builders", *International Herald Tribune*, October 22, 2002. At the same time, there is no shortage of critics. For example, see Gary Dempsey with Roger W. Fontaine, *Fool's Errands: America's Recent Encounters with Nation Building* (Washington, DC: Cato Institute Press, 2001).

been revised on several occasions, but the reforms undertaken have not yet yielded success.

The third lesson relates to regional issues. Although the international community underscored the relevance of the regional approach for the success of its mission in Bosnia-Herzegovina, its regional policy has been neither coherent nor constant. It has been basically reactive in responding to emerging crises and unable to develop a pro-active approach that would certainly deliver more success.⁴⁶²

The most important lesson that is drawn from the intervention in Bosnia-Herzegovina is that a change is possible. There are no 'impenetrable' societies with fixed identities, permanent relations and predetermined cultures. Interventions inevitably bring about change in a society in which they take place. The question only is what kind and how much change an intervener wants to make. This is not to say that interveners possess omnipotent power and that they can model other societies according to their liking. For all logical reasons, this is not and cannot be the case. However, what I want to stress is that a lot can be achieved through a determined and focused effort. The half-hearted approach delivers meek results, while focus and determination lead to triumphs.

⁴⁶² Javier Solana, at the time NATO Secretary General, suggested seven most important lessons that the international community learned in Bosnia-Herzegovina that are relevant for the NATO agenda and "in the way we think and prepare in future for peacekeeping and crisis management. The lessons are the following:

- Local conflicts can become an international problem;
- Interventions require military flexibility;
- Crisis management requires the broadest possible coalition of contributing nations;
- For a NATO operation to be successful, Russia must be engaged;
- Effective cooperation between military and civilian institutions is essential;
- Europe must play a more visible role in maintaining peace and stability on its own continent; and
- Resolute action can bring results.

Speech by dr. Javier Solana, NATO Secretary General, "Lessons learned from Bosnia", delivered at the Instituto De Defesa Nacional, Portugal, March 12, 1999; available at www.nato.int/docu/speech/1999/s990312a.htm

History will look back on our engagement in Bosnia and Herzegovina as the first faltering step toward a doctrine of international community. Bosnia will be seen as a new model for international intervention – one designed not to pursue narrow national interests but to prevent conflict, to promote human rights and to rebuild war-torn societies. We are already applying the lessons of Bosnia in Kosovo, East Timor and Afghanistan. Perhaps they will be applied in Iraq as well.⁴⁶³

On the basis of seven years of international engagement in Bosnia-Herzegovina, three key points can be drawn that underscore the possibility for success in a state-building intervention:

- State building is possible;
- It is possible with the commitment of the intervener; and
- Follow-through is the key.⁴⁶⁴

People say that hope dies last. The hope for Bosnia is that the locals take over the state building process. A dream is this: a critical mass of pro-Bosnia-Herzegovina citizens begins to share the same goal. They are willing to carry out reforms and reduce the general fear. They become agents of change not subjects of international engineering. They are smart enough to envision the future and brave enough to translate the vision into reality.

Will it realize? Let us hope (but in the meantime continue implementing the state building agenda).

⁴⁶³ Paddy Ashdown, “What I Learned in Bosnia”, *The New York Times*, October 28, 2002.

⁴⁶⁴ On the international experience in Kosovo, see, for example, John Lloyd, “We came here to build a state, that’s all”, *Financial Times*, December 31, 2002. Also the interview with Michael Steiner, Head of UN Mission to Kosovo, with Tim Sebastian at Hardtalk, BBC World, January 30, 2003.

VII AFTERWORD

Writing a doctoral thesis for me resembled a cooking experience in which I was a chef who tirelessly experiments with various ingredients in order to create a gastronomic delicacy whose value only true connoisseurs will recognize. Creating a dish that will carry her name is a dream of every talented and ambitious chef. For there is no preexisting recipe, only the training in basic cooking techniques, followed by practice and practice and practice. If amidst never-ending peeling, cutting, chopping, stirring, boiling and roasting the chef still has the interest, energy or will to add something of herself in the existing repertoire of acclaimed dishes, then she possesses the attitude required to be able one day present a dish ‘a la chef’.

In the process of devising her own culinary signature, she has to accept burning, spilling, rumpling and crumbling as inevitable part of the process. However, the ceaseless effort pays off and one day the cooking wizard presents her edible concept to colleagues, friends and family. The reaction is – yummy! Relief, excitement, and joy. On the day when she has to formally present her innovation to a jury of gastronomic specialists across the field (New York Times culinary column, Michelin guide, Globus lifestyle section and the Relais & Chateaux gourmands guide), she panics, feels miserable, makes mistakes and notices every tiny *faux pas* she has made. There are flashbacks. She should have reduced basil and instead add more mint. She should have let it cool in a fridge for two instead of one hour. She should have...

But there is no time. The table is set, appetizers eaten and the judges ready for the main course. Dry-mouthed, she hears only the beating of her own heart while they consume her creation. Expecting the worst, she gets prepared for scorns, frowns and yawns. Surprise, she has survived the *onslaught* of critical remarks. Criticism is still echoing in her head, when, in disbelief, she hears compliments paid to her, to her, yes to her name.

Nobody suggested more mint. Instead, she got advice for some lemon grass, a touch of cardamom, perhaps some double cream and even a zucchini flower. But all in all, the creation ‘a la chef’ has been officially recognized. The lifelong exercise in excellence can continue.

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This research started with my sincere interest in the politics of the international community towards the Balkans in general and Bosnia-Herzegovina in particular. In the end, this interest led me into doctoral studies. The result is this thesis – a testimony of where I stood at the beginning of my development as a scholar, a free thinker and a confident individual.

From the initial conceptualization, the research evolved just as the case evolved. The dual dynamism set the tone for the entire thesis. The decision to create such format was almost intuitive – I opted for following the progress of the case in order to capture most significant elements and changes in the intervention. One could almost say that this thesis employs the model of the Bosnian state building – the one of expansion, consolidation, and contraction.

The events on the ground forced me to move faster than a systematic doctoral analysis usually permits. Once I completed the information on a new set of events in Bosnia-Herzegovina, I would go back to literature. In this way, the case itself set the tone of the research, requiring additional exploration and dictating the selection of literature.

I mastered piles and piles of literature (the problem of yet another book on the subject before one can start writing a thesis is a nightmare of every doctoral student I know). As the intervention acquired more and more elements of the state building exercise, I moved from the literature on post-Cold War military interventions into the area of state building interventions. Once I came to mechanisms of state building – power sharing, consociationalism, ethnic quotas, parity formulas – I went back to literature.

Without question, this approach has its setbacks and the most visible one is the lack of systematic analysis. However, I will argue that the biggest asset of this thesis is its capacity to capture numerous elements of the intervention and to stand itself as an example of how complex the issue of post-war state building is. To me, it mattered more to present the full story, although it is not necessarily a neat one, than to present a neat, but inherently a partially true story.

To conclude, both this thesis and the intervention have been ones of tireless remodeling. As a metaphor, I could say that they resemble a ball of clay in an art student's hands. A few paragraphs and a few years were a collateral waste of the evolutionary approach, but clay is pliant material that can endure tireless clutching and wringing. If properly molded, heated and painted, the entity can survive decades, even centuries. Ceramics may not equal marble in its resilience in time, but today's sculptors are not, and perhaps should not be, new Michelangelos.

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