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Bosnia: Dayton is Dead! Long Live Dayton!

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The process of implementation of the Dayton Peace Agreement in Bosnia has come to a halt. Particularly since 2006, nationalist rhetoric has increased, political, economic, and social reforms have stalled, and some analysts warn that the country might be sliding towards collapse. This article traces the roots of the current crisis in the 2006 failed constitutional reform attempt, which has highlighted the precarious state of the Bosnian political situation and, more broadly, in the limited impact of the international community's illiberal, top-down strategies employed in the country since almost the beginning of the peace process. It concludes by suggesting the need for a new approach, led by the European Union, and aimed at reviving the domestic political process.

INTRODUCTION

From roughly 2006 onwards, the Republic of Bosnia and Herzegovina (hereafter Bosnia) has suffered from a deep political crisis. The constitutional edifice devised at Dayton, Ohio, in November 1995, which ended a bloody three-and-a-half year war, has come increasingly under pressure. Not only have Croats been forcefully complaining about an institutional structure that, in their view, marginalizes them, but both Bosniaks and Serbs have hardened their positions. Prominent Bosniak politicians have loudly denounced the existence of the semi-independent Serb Republic, which they consider to be an illegitimate entity carved out using ethnic cleansing, and asked for its abolition. By contrast, the Serb leadership has reaffirmed the Serb Republic's right to exist, enshrined in the Dayton Peace Agreement, and has threatened to hold a referendum on independence. In this context, "the international community," a hodgepodge of international organizations and bilateral donors

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led by the Office of the High Representative, has responded weakly to the challenge. After more than a decade of international intervention, and with other trouble areas needing attention, the political will to remain engaged has been slowly waning. The 11 September 2001 attacks on the United States have further contributed to a shift in the international community's attention towards other frontiers of conflict, most notably Iraq and Afghanistan. More recently the West, distracted by a global financial crisis, has been giving even more of an impression of indecisiveness and a lack of strategy.

As a result, many analysts and some diplomats fear that Bosnia is in danger of collapsing in on itself, with the international community possibly unable to deal with the challenge. For Richard Holbrooke, the senior American diplomat who was the main architect of the Dayton Peace Agreement, and Paddy Ashdown, who served as High Representative in Bosnia from 2002 to 2006, "the country is in real danger of collapse."¹ According to Patrice McMahon and Jon Western, "[t]he country now stands on the brink of collapse. For the first time since November 1995 ... Bosnians are once again talking about the potential for war."² Similarly, a report published by an international think tank, the Democratization Policy Council, warned that Bosnia is "sliding toward the precipice," arguing that "international listlessness has permitted Bosnian politicians to believe they can pursue wartime objectives without challenge."³ Many further examples of similarly apocalyptic analysis could be cited, all converging on the point that never since the Dayton Agreement of November 1995 has Bosnia faced such a great challenge to its existence. If armed conflict flares up again, the international capacity to stop it might be insufficient, given the current military presence in the country. The European Force (EUFOR), a weak European Union-led mission that replaced the NATO-led Stabilization Force, currently maintains fewer than 2,000 soldiers, and even this small number might soon be reduced to a 200-person training force.

This article assesses the current political stalemate. It traces the genesis of the Bosnian political problem, placing it within the context of the contested nature of the Bosnian state. Second, it identifies the main groups' preferred long-term institutional arrangement and shows how the 1995 Dayton Peace Agreement represented an acceptable compromise among mutually incompatible goals. The main part of the paper addresses the reasons for the recent escalation in political tensions in the country. Following the 2006 failed attempt at constitutional reform, the main political parties have increased their uncompromising rhetoric. Yet, although the situation has certainly deteriorated, fears of renewed fighting seem overstated—at least for the time being. Overall, the crisis in Bosnian politics is a reflection of the failure of the internationally led liberal peacebuilding project. As in other countries where post-Cold War peace operations have been deployed, Bosnia has been subjected to extensive liberal reforms in the political and economic spheres. However, rather than favoring domestic reconciliation and the development of locally

flavored political institutions, international assertiveness in the country has reified domestic divisions and perpetuated the existing political hierarchies at the local and national level. The paper concludes with a brief assessment of the European Union's potential for steering Bosnia towards European integration. The EU has the potential to advance a new, less intrusive phase of international intervention, one in which local actors can assume greater responsibilities in the management of Bosnian affairs.

GENESIS OF THE PROBLEM

Throughout the post-Second World War period, Bosnia was part of the Yugoslav Federation. Yugoslavia was reconstituted in 1945 as a political solution to the problem of providing a home to a multitude of south Slav peoples. The new federation was made up of six republics—Slovenia, Croatia, Bosnia, Montenegro, Macedonia, and Serbia. In each republic, a national group possessed a hegemonic status, with the exception of Bosnia, with its mixed population. According to the 1991 census, no group in Bosnia had a numerical majority, with the Muslims (who adopted the religiously neutral term of “Bosniaks” in 1993) constituting a relative majority of 44%, the Serbs 31%, and the Croats 17%. Self-identified Yugoslavs made up 5.5% of the population, and “others” the remaining 2.5%. Despite occasional tensions, these groups coexisted in relative peace for long periods.⁴

The events that led to the war in Bosnia and subsequent Dayton Peace Agreement can only be mentioned in summary here.⁵ The beginning of the process of Yugoslav dissolution posed Bosnia's leaders with a dilemma and strained relationships between its main national groups. The northern republics of Slovenia and Croatia declared independence in June 1991, thus ending the existence of post-Second World War Yugoslavia. Bosnia could choose between either remaining in a rump Yugoslavia dominated by Serbia, or attempting to gain independence, hoping that the international community would both recognize the creation of another new state and intervene militarily to defend it in case of external aggression. The presence of Slobodan Milošević at the helm of what was left of the Yugoslav federation accentuated fears among the Bosnian political elite of subordination to Serbian influence. In the second half of the 1980s, Milošević had begun playing the ethnic card to demobilize his internal political opponents and to propose himself as champion of the Serb national cause anywhere Serbs lived.⁶ Milošević's nationalist rhetoric and aggressive policies in Croatia, where he launched a full-scale war following that country's declaration of independence in 1991, convinced Bosnian elites that coexistence with Serbia would be impossible.

Bosnia's declaration of sovereignty was followed by a referendum on independence in February 1992. The referendum achieved a voter turnout of 64%, with 98% of votes cast in favor of independence, but was boycotted

en masse by the Serb population. Full-scale hostilities started in April, when Bosnian Serbs, supported by Milošević, tried to partition the republic along ethnic lines, to join Serbia, and thus to form a “Greater Serbia.” Bosniak-dominated government forces fought to defend and preserve Bosnia with the same borders it had enjoyed when it was part of Yugoslavia. In response, Bosnian Croats, with the support of the Croatian nationalist government in Zagreb, launched their own land grab in April 1993. Under heavy American pressure, in March 1994 Bosniaks and Croats signed an agreement creating a joint federation. The Serbs were eventually forced to negotiate a settlement by extensive NATO bombing and Bosniak-Croat advances in Northwest Bosnia.

This brief outline of Bosnia’s descent into war reveals the heart of the country’s political problems. It is the nature and very existence of the Bosnian state that has been in question since the process of Yugoslav dissolution began. Profound differences about the territorial boundaries of the political community and the rights of citizenship divide the three main national groups. Bosniaks fought to preserve and consolidate the state as their best avenue to political and national survival. Although sections of the Bosniak leadership have, at times, flirted with the possibility of partitioning the country to create a small Bosniak state, they are generally in favor of maintaining the country in its internationally recognized borders. By contrast, both Croats and Serbs fear a Bosniak-dominated government in Sarajevo. The Bosniaks’ relative majority in the country, they warn, could lead to the imposition of Bosniak political, cultural, and religious views on the rest of the population. Instead, both Croats and Serbs prefer extensive local autonomy and close links with Croatia and Serbia, respectively. These different views have given rise to a “stateness” problem: “the more the population of the territory of the state is comprised of plurinational, lingual, religious, or cultural societies, the more complex politics becomes because an agreement on the fundamentals of a democracy will be more difficult.”⁷ In late 1995, the international community, led by the American administration, imposed such an agreement—to which I now briefly turn.

THE PEACE SETTLEMENT AND ITS LIMITS

In November 1995, the Dayton Agreement concluded three-and-a-half years of war. The agreement attempted to strike a balance between the main groups’ preferred institutional options. Bosnia was maintained as an independent state, with a multiethnic and democratic government with limited functions in foreign, economic, and fiscal policy. Internally the country was divided between two entities with extended sovereign prerogatives: a Croat-Bosniak Federation (called the Federation of Bosnia and Herzegovina, a designation that scarcely helps to distinguish it from the bigger Republic of Bosnia and Herzegovina of which it is a part), covering 51% of the territory,



and a Serb-led *Republika Srpska* (Serb Republic), covering the remaining 49%. The federation was further divided into ten cantons, each with its own constitution, an assembly directly elected by federation voters, a prime minister, and ministries. Each entity was allowed to establish special relations with neighboring Croatia and Serbia.⁸ A NATO-led peacekeeping force of 60,000 troops was mandated to prevent hostilities and to monitor the military aspects of the agreement. The Office of the High Representative (OHR) was established to monitor the implementation of the civilian aspects of the settlement; the High Representative was to be appointed in accordance with provisions drawn up by the UN Security Council. Over time, the OHR acquired increasing legislative and political powers, most notably the authority to remove local elected officials.

The Dayton Agreement has been described as a “classical example of consociational settlement,” since it requires political elites to share power, in addition to prescribing proportionality in government and guaranteeing mutual veto rights and communal autonomy.⁹ It created a complex institutional structure, composed of one state, two entities, three peoples, an estimated 3.9 million citizens, and five layers of governance led by 14 prime ministers and governments, making Bosnia the state with the highest number of presidents, prime ministers, and ministers per capita in the entire world. Even taking into account the very real constraints of negotiating a peace settlement in the course of bloody, ongoing war, which prevented the assessment of the long-term implications of the peace deal, it is hard to disagree with the judgment that the agreement’s midwives created a “Frankenstein constitution.”¹⁰

This institutional monster, however, succeeded in transferring the conflict from the military to the political realm, and in reestablishing much-needed conditions for civil coexistence. Since the agreement was signed, more than a million people (out of about 2.2 million displaced by the war) were able to return home, many of them in areas under the control of another ethnic group. The state has been considerably strengthened. To the original three central ministries, six more were added over time, including the Ministry for European Integration, the Ministry for Human Rights and Refugees, the Ministry of the Treasury, the Ministry of Justice, the Ministry of Defence, and the Ministry of Communication and Transportation. Many indicted war criminals have been arrested and tried. The process of reconstruction is widely considered as successful. Sarajevo’s construction industry is booming—particularly in the Serb-dominated part of the town known as Eastern Sarajevo. Over the last few years, the Bosnian economy has grown at a healthy 6%–7% a year. Last, and perhaps more importantly, Bosnia has begun her first steps towards membership in the EU. In June 2008, Bosnia signed a Stabilisation and Association Agreement with the EU—a remarkable achievement in light of the state of the country at the end of the war in 1995.

Yet the process of implementation of the Dayton Agreement has drawn attention to two major problems, both of which have deepened after 2006 and have led to the apocalyptic assessments mentioned above.¹¹ First,

consociational institutions are frequently in a state of deadlock. Nationalist elites maintain zero-sum views of each other. Reversing Clausewitz, politics in Bosnia is the continuation of war by other means. The consociational system, while necessary in 1995 to convince the fighting parties to lay down their weapons, has created conditions for a centrifugal competition that severely limits interethnic compromise in the post-Dayton period. Politicians are elected into office as representatives of their respective ethnic groups and have no incentive to make any cross-ethnic appeals. Without incentives for cooperation, they can win popularity by defending their national group and by portraying the others as enemies. Under these conditions, effective governance is very difficult to achieve.

Second, the entire institutional system is based on ethnicity, which is precisely what divides the Bosnian peoples. The Dayton Agreement recognizes the three main ethnic groups as "constituent peoples," makes political representation dependent upon ethnic belonging and thus discriminates against individuals who do not identify themselves ethnically or, even if they do, might not be able to exercise a variety of rights because they reside in an area where they constitute a minority. Instead of creating conditions for softening ethnic identities, the agreement entrenches them by making ethnicity integral to constitutional design. Unsurprisingly, civil society remains fragmented and alternative non-nationalist projects find difficulty in establishing themselves. Frustrated by years of deadlock, nationalist corruption and international rule by decree, citizens expect little from the political process and rarely mobilize to place demands on politicians.

THE FAILURE OF CONSTITUTIONAL REFORM

The limits of the constitutional structure established at Dayton forced the issue of reform onto the agenda from almost the beginning of the peace process. Local politicians' views of the agreement changed slightly over the course of more than a decade of peace implementation, reflecting the ups and downs of the peace process and changing electoral fortunes but, since Dayton was an effective compromise, nobody's interests were ever satisfied fully. Currently, few political leaders in Bosnia are wholeheartedly committed to the Dayton Agreement, with the exception of the Bosnian Serbs, who obtained most from the peace settlement, and thus remain in favor of the status quo. The agreement recognized Serbs' military gains by granting them territory they had conquered during the war through extensive ethnic cleansing of the non-Serb population. In addition, it recognized the Serbs' right to govern their entity without external interference on crucial issues ranging from the privatization of state companies to policing and education.

The Bosniaks have frequently condemned the existence of the Serb Republic, which they consider as an entity created through genocidal policies,

and have called for its abolition in favor of a stronger, unified government in Sarajevo. The Bosnian Croats also have deep grievances. Unlike the Serbs, Bosnian Croats do not have a territorial unit they can govern autonomously. Moreover, within the Bosniak-Croat Federation they are outnumbered (and often outvoted) by the numerically stronger Bosniaks. Even in Mostar, the most populous and politically significant city with a numerical majority of Croats, they are unable to secure a political majority in the city council. The city statute, imposed in 2004 by the OHR, limits the ethnic majority to a minority of council seats.¹² Bosnian Croats have reacted by demanding the creation of a territorial unit with a Croat plurality (a sort of Croat version of the Serb Republic), a request they voiced for the first time in 2001. The Bosnian Croats' demographic decline has further contributed to this group's fears of being outnumbered. Since no census has been carried out in postwar Bosnia, numbers are necessarily speculative, but most estimates agree on a drop from about 820,000 Croats living in Bosnia before the war to less than 500,000 today.¹³

Thus, both Bosniaks and Bosnian Croats are in favor of constitutional reform—although they disagree on the exact shape such reform should take.¹⁴ It is an irony of Bosnia's political life that the major attempt so far at reforming the constitution ultimately failed because of the opposition of certain Bosniak and Croat political parties. In 2006, eight major political parties, prodded by American involvement, tentatively agreed on a number of reforms.¹⁵ The most important changes involved the strengthening of the Council of Ministers and the creation of two new state ministries, one for agricultural policy and one for science, technology, and the environment. The entities would retain their place in the constitution, but the Council of Ministers would be allowed to negotiate, to adopt, and to implement all measures necessary for compliance requirements set out in the process of European integration. This package of constitutional reforms was discussed by the Bosnian Parliament in April 2006 but narrowly failed to reach the two-thirds majority necessary for its adoption. Most "no" votes came from the Bosniak-dominated Party for Bosnia, which argued that the reform package would consolidate the existence of the Serb Republic. The other negative votes were cast by a small Croat party demanding the creation of a third (Croat) entity. For both parties, the decision to turn down the reform package was motivated both by principled reasons and by electoral posturing in the run-up to the October 2006 elections.

The failure of the constitutional reform package highlights two major shortcomings of the liberal peacebuilding framework. First, as often noted,¹⁶ the election process exposes and accentuates the existing political divisions. Political parties are tempted to increase the nationalist rhetoric to improve their electoral chances by denouncing any interethnic compromise as a "sell-out." In Bosnia, this dynamic has been very visible since the beginning of the peace process, as Bosnians have been frequently called to the polls

for elections at the national, entity, cantonal, and municipal levels. In April 2006, when the reform package was under discussion, the electoral cycle was in full swing, contributing making compromises among political parties unappealing and the timing of the reforms less than ideal.¹⁷ Moreover, it is likely that some parties, especially the Party for Bosnia, decided to maintain their maximalist position, hoping that the international community would in the future intervene to impose a solution more favorable to their views. The frequent use throughout the Bosnian peace process of illiberal means, particularly the “Bonn powers,” lent credit to this belief. **Second, the heavily securitized and institutionally oriented liberal peacebuilding approach has done little to favor citizens’ engagement.** The constitutional reform package was initially developed in secret, as international officials did not trust Bosnian citizens to be politically mature enough to consider the advantages and disadvantages of the proposed reforms. As a result, misinformation about the issues under discussion was extensive, no sense of ownership among the general public was ever created, and, not surprisingly, no vocal reaction was heard when the parliament rejected the package.

THE INTERNATIONAL MISSION

In the absence of a compromise among the major local political parties, for a great deal of the post-Dayton period the Office of the High Representative has played a key role in pushing through much-needed political and economic reforms. In late 1997, the High Representative was granted the so-called “Bonn powers,” whereby he could take actions against persons “in violation of the legal commitments made under the Peace Agreement or the terms of its implementation.”¹⁸ Successive High Representatives have **used these powers more than 800 times**, probably overstepping the original intention of ensuring the functionality of the Council of Ministers. The High Representative and his office have sacked elected politicians and imposed laws, thus transforming the international mission from one of providing assistance to the local parties into an undeclared protectorate. Political accountability was effectively detached from policy making, as international officials could impose policy on Bosnian citizens but were neither accountable to them nor responsible for the consequences of their decisions.¹⁹

Political and Constitutional Issues

The attempt to create a liberal democracy through illiberal means produced **several short-term successes**. Most notably, the creation of a common currency set the foundation for stronger economic growth, the design of a car plate not revealing the town of origin (and probable ethnic identity of the

driver) greatly improved freedom of movement, and the imposition of a set of property laws proved indispensable in favoring the process of property repossession and the postwar return home of refugees and displaced persons. While initially not widely accepted, changes imposed by the High Representative have become part of the everyday life of Bosnian citizens.²⁰

Yet, at the same time, liberal assertiveness came with considerable costs. Although useful in the short term, the High Representative's decisions reduced the local parties' incentives to reach political compromise. Liberal interventionism has allowed Bosnian politicians to free ride on international initiatives. Politicians could raise unrealistic expectations among their constituencies in order to gain popular support, knowing that decisions that could bankrupt domestic institutions would be overturned. Moreover, they could maintain an intransigent attitude, aware that the political costs of compromise would be assumed by the High Representative.²¹ On occasion, as with the "Prud Agreement" (see below), Bosnian leaders have reached a compromise on issues of interest to the international community but dragged their feet on the implementation process. Overall, international activism has contributed blocking the domestic political process by making Bosnians' mutual intransigence less costly, while creating an impression of progress.²²

Moreover, the top-down imposition of policies in the name of short-term efficiency has been compounded by a lack of attention to local knowledge, talents, and aspirations.²³ Liberal peacebuilders have dedicated much time and effort to developing Bosnian civil society, but their attention has focused squarely on those individuals and groups that conform, or appear to conform, to the Western view of nongovernmental actors. Spurred by the availability of funding, thousands of nongovernmental organizations (NGOs) have arisen to implement changing international priorities. Since 2000, when international support began to be scaled back, most of these organizations have disappeared, leaving in their wake the same social vacuum that, according to international officials, motivated their establishment.²⁴ At the same time, throughout the peace process any local variation of society not in conformity with the broader precepts of the liberal peace was ignored. This tendency to remove local voices from involvement in the peace process has prevented domestic actors from taking ownership of their political, economic, and social development and from trying to shape existing structures. Unsurprisingly, each assertive intrusion of international peacebuilders into Bosnian affairs has raised questions about the sustainability of an intervention model that turns Bosnians into objects of international initiatives instead of agents with legitimate views and aspirations.

These limits of liberal peacebuilding have been most clearly exposed from 2006 onwards. Christian Schwarz-Schilling, a veteran German politician, became the fifth High Representative in February 2006. While he maintained the same prerogatives granted to his predecessors, he refused to use his

powers to impose legislation on the Bosnian Parliament. After a decade of international interventionism, the Peace Implementation Council (PIC), an international body composed of 55 representatives of the international community and tasked with appointing the High Representative and providing him with strategic direction, judged that the time for transition to local ownership was ripe.²⁵ This assessment was due as much to an evaluation of the progress Bosnia had made since the signing of the Dayton Agreement as to the declining interest among those involved in international intervention. However, throughout Schwarz-Schilling's tenure little progress towards state-building and European integration was achieved. The reasons for this setback cannot be conclusively ascertained.²⁶ Bosnian and international observers in favor of strong, illiberal intervention privilege an explanation that reveals lack of trust of Bosnian leaders and a preference for continuing international supervision. However, equally and perhaps even more plausible is the suggestion that some of the failures were due to a delayed backlash against the interventionist policies during the mandate of Paddy Ashdown, Schwarz-Schilling's predecessor (2002–06).²⁷ From the point of view of Bosnian political actors, the frequent use of illiberal means prior to Schwarz-Schilling's appointment could be interpreted as a willingness to use similar means in the future—should the domestic situation reach a dangerously unstable point. Be that as it may, a new High Representative, Miroslav Lajcak, replaced Schwarz-Schilling in June 2007 and attempted, though unsuccessfully, to set the reform process on a new course.

The Police Reform Impasse

A confrontation between the High Representative and the Serb Republic over police reform has effectively eroded the little influence the international community could count on. The controversy began in February 2005, when the European Commission endorsed the recommendations put forward by the OHR-established Police Restructuring Commission, requiring Bosnia to reform its police force in order to conclude a stabilization and association agreement.²⁸ Bosnia was asked to meet three criteria: all budgetary and legislative policy making on police matters should be transferred to state-level institutions; police districts should be drawn on technical, not political grounds, thus allowing police units to cross the interentity line according to necessity; and policing should be free from political interference. When Lajcak took on his post as new High Representative, police reform represented the main stumbling block on Bosnia's road to the EU, and he made it his priority. The new Bosnian Serb Prime Minister, Milorad Dodik, who came to power in 2006 as a result of a realignment in politics in the Serb Republic following the failed constitutional reform and continuing disagreement over police restructuring, blocked the attempt to transform the separate entities'

police forces into one national force. Lajcak reacted by using his sweeping powers to change the voting procedures and to make it more difficult for the entities to block decision making at the national level. The changes were immediately interpreted by politicians in Banja Luka, capital of the Serb Republic, as an unacceptable attack on the autonomy and integrity of their entity.²⁹ Dodik temporarily withdrew Serb ministers from the Council of Ministers and threatened to quit his job.³⁰ Russia openly sided with the Serb Republic and encouraged the Bosnian Serbs in their intransigence.³¹

The Peace Implementation Council and its member states did not give the High Representative the kind of support he would have needed to overcome Bosnian Serb resistance. Because the height of the confrontation occurred in 2007–08, when most diplomatic attention was focused on settling the problem of Kosovo's final status, few had any interest in pushing confrontation with the Serb Republic authorities and risking political instability. Moreover, the EU never fully identified with the police reform pursued by the High Representative. As a result, Lajcak accepted a weak compromise. Fearing a complete loss of influence, the EU followed suit and decided to sign a stabilization and association agreement with Bosnia in June 2008—despite Bosnia's apparent failure to meet the required conditions. Although the international community presented the agreement on police reform as a reasonable middle ground between two hard-to-reconcile positions, in reality the Serb Republic succeeded in forcing on international actors the acceptance of one major point: no cross-entity police regions were established. Having backtracked from his principled decisions and having failed to secure political support from the Peace Implementation Council, the High Representative's executive powers, already weakened by Schwarz-Schilling's timid approach during his tenure, have been eroded further and are unlikely to be revived. As Lajcak blatantly put it, politically the international community in Bosnia is a "dead horse."³² This erosion of international influence, and in particular that of the OHR, is alarming to those international officials who have been accustomed to rely on short-term, top-down measures to push the peace process forward, but at the same time it could represent an opportunity to open a new phase of international engagement in the country, as argued below.

THE PURSUIT OF A POSTSETTLEMENT SETTLEMENT

The decline of international influence in Bosnia coincides with an awareness of the need for improving the functionality of domestic institutions. Most domestic and international actors acknowledge that the structure created at Dayton demands reform. As it stands, Bosnia does not possess many of the capacities to implement what is required in order to join the EU—a goal shared by Bosnian citizens and the political class alike. The lack of a

Ministry of Agriculture is perhaps the most visible shortcoming of the current form of the Bosnian state, negatively affecting both farmers' livelihood and more broadly Bosnia's political prospects. Without a food certification process, which within EU states is normally conducted by the Ministry of Agriculture, Bosnian farmers cannot export their products anywhere into the European Union. Furthermore, given the centrality of agricultural issues within European politics, it is unlikely that the EU will ever grant Bosnia a fast-track association process without major reforms in this policy area. Paradoxically, while a much-needed Ministry of Agriculture is missing, the Bosnian state spends huge resources to preserve a far-from-indispensable bureaucratic giant. About 56% of the state budget is allocated to finance the various administrative units, from the national to the local level, and even this amount of resources often fails to meet Bosnian citizens' needs.

Positive prospects for reform suddenly materialized in late 2008. On 8 November, the leaders of the three main political parties, each representing one of the three main groups, reached the Prud Agreement, named after the village in northern Bosnia where it was concluded. The agreement, which was defined by its signatories as a "historic compromise" and took most observers by surprise, addressed a number of issues aimed, above all, at strengthening the state in order to make it more efficient and capable of meeting the criteria for joining the EU.³³ As for constitutional reform, the agreement recognized the need to change the structure of the state and identified the creation of "four units" between the central state and the municipal level as a way to simplify the current institutional structure. Although the agreement created hopeful expectations among international officials that a viable domestically led process of constitutional reform was finally under way, it soon appeared to be another instance of a step taken by local actors to appease international pressure.³⁴ The parties maintained different views about what the "four units" should consist of. Each side preserved its preferred solution: the Serbs considered the Serb Republic one of the units, the Croats saw the agreement as a way to carve out a Croat-dominated entity, while the Bosniaks hoped to redraw the political map to cut across existing ethnic lines.³⁵

Not surprisingly, in early 2009 the talks broke down. Sulejman Tihić, leader of the (Bosniak) Party of Democratic Action, was heavily criticized from within his own community for compromising with former enemies. Bosniaks were split between those, such as Tihić, who are willing to recognize that the Serb Republic is there to stay, and those, such as Haris Silajdžić and his Party for Bosnia, who are committed to an ethnically blind "state of the citizens." Despite these differences, Bosniaks are united in lobbying the OHR and Western diplomats to impose those constitutional changes they cannot achieve in the process of negotiation with the other ethnic groups. Bosnian Croats are also internally divided. Croats in central Bosnia live in relative harmony with the Bosniak majority, while those in Herzegovina share political and economic links with neighboring Croatia and are

aggrieved by the impossibility of running local institutions autonomously. In general Croats, while benefiting from a third of power at the state level with a population of less than a fifth, would consider favorably an institutional restructuring granting them more exclusive power at the local level.

Bosnian Serbs represent the most determined supporters of the status quo. They remain in favor of maintaining and possibly strengthening the existence of their semi-independent republic. Their Prime Minister, Milorad Dodik, has repeatedly called for a halt to the transfer of responsibilities from the entities to the state. In spring 2009 the National Assembly of the Serb Republic issued a declaration containing a list of 68 powers that the Bosnian state had "stolen" from the Serb Republic, including control of the judiciary, the power to collect customs duties, and management of foreign trade.³⁶ Occasionally, in particular following the independence of Montenegro in 2006 and that of Kosovo in early 2008, Bosnian Serbs have also threatened to hold their own referendum on independence.³⁷ According to international analysts in the country, Dodik, who has been under investigation for corruption, might be tempted to call for such a referendum to deflect attention from his own judicial problems.³⁸ If held, the referendum would trigger a reaction from the Bosniaks, who would probably fight a new war to prevent the dismemberment of the country, as they did during the 1992–95 period. Militarily a war could be made possible by the structure of the Bosnian Army. Although currently counting only about 10,000 troops and operating under a unified command and with a single defense budget since January 2006, the Army still maintains nine ethnically based infantry battalions.

As mentioned at the beginning of this article, some policy makers and international analysts fear that these mutually incompatible political views are pushing the country dangerously backwards. However, these fears might be overstated. Although the political climate has clearly deteriorated, this could also represent a sign of progress of a kind. As most Bosnian leaders privately recognize in their dealings with international officials, the Dayton constitution needs revisions to make local institutions more functional and rational.³⁹ Local leaders' maximalist views could be an expression of the inevitability of reform as much as of the intransigence of local politicians. For example, Serbs' threat to hold a referendum is not based on a realistic assessment of the likelihood that such a referendum could lead to independence. As Bosniaks are fond of saying, there are only 75,000 Serbs living between Sarajevo and the Drina River (Bosnia's eastern border with Serbia).⁴⁰ These could not resist Bosniaks' military advance. Rather, the Serbs' position is a bargaining one aimed at securing their real political goal in entering discussions on constitutional reforms: the preservation of their semi-independent Serb Republic.

It is impossible to know what changes, if any, local parties might ultimately accept. Throughout the post-Dayton period, various international agencies, analysts, and donors have put forward their own proposals for

reform and/or assessed existing ones.⁴¹ Interestingly, all of these proposals endorse some variation of Dayton's basic compromise: a common state, constitutional protection for the three constituent groups, and extensive individual human rights provisions to ensure that no one living in an area controlled by a different ethnic group would be discriminated against. With no apparent irony, some of these proposals are even presented as "Dayton II." **Conspicuously absent from the discussion is a realistic articulation of Bosnians' own views.** Several political parties have formulated policy ideas about constitutional reform, but these reflect the parties' maximalist positions mentioned above.⁴² An interesting out-of-the-chorus voice is that of the **Serb Mayor of Foca, Zdravko Krsmanović**, who has put forward a radical plan based on the establishment of only **two levels of governance—state and municipal.**⁴³ In Krsmanović's view, the municipalization of the country would improve Bosnia's institutional efficiency, transparency, and accountability. **Krsmanović cites the experience of Foca, once considered as a hotbed for extremism, as an example of how local level government can better provide for the needs of Bosnian citizens and can reduce ethnic tensions and insecurities.** Yet, although the mayor's proposal could be considered as a sensible response to the constitutional impasse, it remains politically unrealistic and is unlikely to be adopted because of the opposition of the leadership of the Serb Republic. The fact that its Prime Minister, Dodik, tried to engineer an unsuccessful **recall referendum for Krsmanović** testifies to the resistance to this plan.

In this polarized environment, it is by no means clear what reforms might be politically feasible. Yet, it may still be possible to identify the broad outline of such reforms. As mentioned above, the post-Dayton peace process has brought to light **two main problems: the lack of functionality of Bosnian institutions, and the marginalization of Bosnian citizens who, in turn, have grown increasingly disillusioned with the political process.** No reform is likely to succeed in the long term unless it addresses these issues. In practice, this would require three important adjustments. First, the current institutional structure would need to be simplified to meet citizens' needs and to comply with the requirements set by the process of European integration. Such a simplification requires not only **streamlining governance** between the state and the municipalities but also **limiting the groups' veto rights** (which are integral to consociational institutions) in order to allow for more efficient decision making.⁴⁴ Second, political and social **space for nonethnic identities** would need to be opened and developed. Currently, citizens are identified by their ethnic belonging—which is precisely what divides them. Those Bosnians who identify themselves in civic, not ethnic, terms are discriminated against and unable to put forward a political and social alternative. Third, the top-down, state-based interventionist approach needs to be rethought. The use of **illiberal means such as the "Bonn powers"** has contributed to the securitization of political life, turned the domestic political process into the



problem, not the solution, of the Bosnian conundrum and failed to mobilize individual and collective resources in shaping social reality. The manner in which the international community could support these changes is the question addressed in the next section.

TOWARDS A NEW INTERNATIONAL STRATEGY?

The formulation of a new international strategy capable of supporting and sustaining the reform process over time is complicated by lack of attention and conflicting interests among key international players, as well as differing assessments of the situation on the ground. To begin with, most of the countries that comprise the 55-strong Peace Implementation Council are politically disengaged. In the first few post-Dayton years, council meetings were attended by prime ministers and foreign ministers, later replaced by political directors of foreign ministries. Currently, international officials appointed to serve as council members have Bosnia as only one of the many items on their agenda. In the summer of 2009 Canada, a council member, closed its embassy in Sarajevo, a clear indication of lack of concern, and indicated that it is in favor of closing the OHR as well. Among the other council members only Turkey maintains Bosnia on the list of its top ten foreign policy priorities: it considers the Western Balkans as its own “near abroad” and is determined to influence political developments in the region, in particular by preventing the creation of an Islamic state.

The other members of the Peace Implementation Council do not give Bosnia the same level of attention. Most notably, since the 11 September 2001 attacks, the United States has displayed a low strategic interest in Bosnia, limited to a narrow concern for the possible presence of al-Qaeda cells. Only after the election of President Barack Obama has a more proactive attitude been noticeable, with Vice President Biden visiting Sarajevo in spring 2009. Paradoxically, however, this renewed interest could also represent an obstacle in moving international intervention towards a new phase. If the OHR closes down in favor of a reinforced EU mission, as discussed below, the United States would lose a direct channel to influence developments on the ground. Currently the United States appoints the Deputy High Representative, a high-ranking position that would be impossible to secure within an EU-led operation. Because of this, the United States does not want to use its influence to accelerate OHR closure—particularly at a time when the situation on the ground has been deteriorating.

Thus, the lack of attention and of a clear strategy among key players, divergences between the United States and the EU, and a politically difficult situation in Bosnia have all combined to postpone early plans to restructure the international mission in the country. The Peace Implementation Council began in June 2006 to plan OHR closure. A reinforced EU

engagement to fill the political vacuum that would be left by the end of the Office's mandate was anticipated, while integration into Euro-Atlantic bodies was expected to proceed apace.⁴⁵ As noted, however, since then conditions in the country have progressively deteriorated. In June 2007, the council reviewed the situation and decided to put off closure by one year due to a "severe deterioration in the political atmosphere" and a "near total deadlock in peace implementation and the delivery of reforms."⁴⁶ In February 2008, it abandoned a specific timeline, indentifying instead five objectives and two conditions, commonly referred to as the "five plus two" requirements, in order to endorse closure. The five objectives are resolution of state property issues, resolution of defense property, establishing the legal relationship of Brčko District to the state, fiscal sustainability, and entrenchment of the rule of law. The two conditions include the signing of an association and stabilization agreement with the EU and a positive assessment by the Peace Implementation Council Steering Board on "full compliance with the Dayton Peace Agreement."⁴⁷ As of mid-2009, none of the objectives have been fully met, although some limited progress has been recorded.⁴⁸

How strictly the international community will monitor further progress remains unclear. On the one hand, a soft attitude towards the "five plus two" requirements might allow the speedy closure of the OHR and might solve one of the contradictions of liberal interventionism. The OHR was created to monitor the implementation of the Dayton Agreement, but in fact it has supported the strengthening of the central institutions at the expense of the entities, justifying these centralizing efforts as required by the process of European integration. Since 2002 the High Representative has also worn a second hat as European Union Special Representative. With OHR closure, a new High Representative appointed by the EU could focus squarely on the task of helping Bosnia to meet the criteria for EU integration—and not just on monitoring the implementation of an outdated agreement. At the same time, lowering standards might negatively affect the EU's future ability to use conditionality. All too often the international community has declared high principles but then, faced by domestic opposition, retreated and accepted cosmetic changes while, oddly, declaring victory.

On the other hand, a strict adherence to the "five plus two" criteria might postpone the transition from the OHR to a new Office of the Special EU Representative for a long time. In 2010 an election will fall due in Bosnia—perhaps not an ideal time to push for major changes to the international mission. Not only would this deferral suit American needs, as noted above, but it would also reassure the Bosniaks, who fear that Europe might be unprepared to guarantee Bosnia's stability and security. A similar scenario of marginal US interest and hopeful European involvement was not able to prevent bloodshed breaking out in Bosnia in 1992. Understandably, Bosniaks, who suffered most during the war, are wary of taking another chance.

Ultimately, the decision to close the OHR will be a political one, dependent both on an assessment of Bosnia's progress and on the EU's ability to step up to the task. The European Commission mission in Sarajevo currently maintains about a staff of about 100, the third largest such mission in the world after those in Moscow and Tokyo—a clear sign of the EU's interest in Bosnia. European officials seem confident that European institutions are ready to take up the challenge. On 31 October 2008 two senior officials, Olli Rehn and Javier Solana, presented a joint declaration arguing in favor of a new policy.⁴⁹ The paper recommended closure of the OHR and a stronger EU initiative. The identification of future European prerogatives in Bosnia was missing; in particular, it was not clear whether a strengthened EU representative would continue to hold the kind of powers that the OHR had enjoyed since late 1997. This gap in the proposal reflected the presence of different views among major EU members. The United Kingdom and the Netherlands insist on the need for continued international interventionism, while France, Italy, and Spain consider the job of international agencies concluded—at least in their current form. Although Rehn and Solana did not take a clear stand on the “Bonn powers,” it is very likely that any future EU mission will not hold them, since they appear incompatible with the democratic beliefs guiding EU foreign policy.

In principle, the EU has the potential to overcome some of the major flaws in the liberal peacebuilding approach implemented since the signing of the Dayton Agreement.⁵⁰ The EU shares with liberal peacebuilders a general commitment to the promotion of democracy, human rights, the rule of law, and free market principles. However, the EU's major potential advantage vis-à-vis previous international involvement lies in the attractive force that the prospect of EU integration casts over prospective EU member states. Rather than enforcing reform through illiberal means, the EU can favor a process of domestic change without the blatant and problematic use of the “Bonn powers.” The recent experience of Central and Eastern European states, which in a few years successfully reformed their political and economic institutions and were able to join the EU collectively in 2004, suggests that the EU integration process can be crucial, committing all major political forces to the goal of EU membership.⁵¹ By so doing, the domestic political process could be revitalized and indigenous resources mobilized. The presence of a “silent majority” in the country committed to EU integration and constitutional change is a hopeful indication of the viability of this approach.⁵²

Whether the EU will be able to steer a new course, and how it might do so, is a matter of debate.⁵³ The EU integration process is often seen as being too insubstantial and long term to provoke much enthusiasm among Bosnian politicians and citizens. Most notably, the delay in adopting the Lisbon Treaty poured cold water on prospective EU members. Pending adoption of the new EU Constitutional Treaty the enlargement process was stalled, effectively undermining the EU's conditionality powers and the reforming force of the

European integration process. Lack of an open commitment on the part of the EU to the process of European integration contributes to explaining Bosnia's limited attention to European issues. For example, between mid-2008 and mid-2009 the position of Minister for European Integration has been vacant, apparently because the local parties did not see any reason to agree on a new appointment at a time when the process of EU enlargement has come to a halt. As for constitutional reform, the EU has refrained from indicating its preferred outcome. The 27 EU members have vastly different institutional arrangements, hindering the adoption of a template for reform. So far, the EU has only demanded compliance with the European Convention on Human Rights, not with any particular constitutional principles. It has been reluctant to identify which reforms it favors because of concerns about imposing a sort of "Dayton II" from the top down with little domestic support.

This attitude has fomented speculation among the parties involved. The Bosnian Serbs in particular fear that the EU might eventually come out in support of the abolition of the Serb Republic. By remaining on the fence, the EU has left the initiative to those who favor the status quo, or who are willing to accept only cosmetic changes. An alternative, wiser approach would lead the EU to identify the reforms it does not want, leaving the local parties the task of sorting out a new constitutional structure within defined limits. As Judy Batt aptly put it, the EU's effort in mediating the constitutional reform process "does not mean imposing any new blueprint, but assuring the quality of the process."⁵⁴

CONCLUSION

There is little doubt that the Bosnian peace process has reached a difficult stage. The liberal interventionist approach, often pursued through illiberal means, has marginalized the domestic political process, has ignored local resources and has prevented Bosnians from shaping political, economic, and social life. Paradoxically, the unsustainable nature of this approach has been most evident with the 2006 failure of the constitutional reform package, when local political parties enjoyed unprecedented room for maneuvering to reach their own solutions but continued to reason that future international intervention could replace domestic agreement. Eventually the failure of the reform effort led to a further deterioration of the domestic political situation and to the postponement of OHR closure. At the time of writing in late 2009, it is not known whether and when international intervention will be refocused away from peace implementation and towards European integration. The lack of agreement between international actors (particularly American and European ones) on the future role of the OHR contributes to hold Bosnia back in her transition process towards Euro-Atlantic institutions.

A speedy transition from the OHR to the EU is likely to improve a dangerously unstable situation. The EU does possess the potential to overcome

some of the limits of earlier assertive interventionism. The reform of state institutions can probably not be imposed without a backlash, and the EU is well placed to stimulate a process of domestic change without the blatant use of illiberal and undemocratic means. Ultimately, however, Bosnian political and social actors will have to assess their prospects and take responsibility for their choices. Only Bosnians' commitment to a meaningful political process can ground Bosnia's future on more solid foundations.

NOTES

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