

An Analysis of the Dayton Negotiations and Peace Accords

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Final Research Paper

DHP D224:
International Multilateral Negotiation
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2005

I. Introduction

The Dayton Accords, initialed in Dayton, Ohio on November 21, 1995, and signed in Paris on December 14 that same year by the Bosnian President Alija Izetbegovic, the Serbian President Slobodan Milosevic and the Croatian President Franjo Tudjman, ended the worst conflict in Europe since the Second World War. After almost four years of ineffective diplomatic efforts by the European Union, the United Nations, and the United States, the Clinton administration finally decided to take the initiative and sent Richard Holbrooke -- the Assistant Secretary of State for Canadian and European Affairs -- to lead an "all out negotiating effort"¹ to end the war in Bosnia. Holbrooke and his team mediated between the three sides -- the Federal Republic of Yugoslavia (FRY), Croatia, and Bosnia and Herzegovina -- to reverse what Holbrooke earlier had characterized as the "greatest collective failure of the West since the 1930s."²

This paper will examine the US mediation in the Dayton process as a case study of a negotiation effort. After presenting a short historical background of the conflict and the international community's reaction to it, we will discuss the problem of complexity as an important barrier to reaching agreement, and the strategies of party and issue simplification used by the Holbrooke team to deal with this complexity.

We will then analyze the strategies used by Holbrooke during the final stage of the negotiation process at the Peace Conference in Dayton. Finally, we will indicate some of the failures of the Dayton Accords and the general lessons that negotiators, mediators and students of international relations can learn from this negotiation process.

¹ Richard Holbrooke, *To End a War* (New York: Random House, 1998).

² As cited in Thomas G. Weiss, "Collective Spinelessness: U. N. Actions in the former Yugoslavia," in *The World and Yugoslavia's Wars*, edited by Richard H. Ullman (New York: A Council on Foreign Relations, 1996), 90.

II. Historic Background: Path to Dayton

Only two months after the UN mediator Cyrus Vance negotiated a cease-fire in Croatia, on February 29, 1992, Bosnia and Herzegovina proclaimed its independence. However, Bosnian Serbs rebelled under the leadership of Radovan Karadzic and created their own separate state in Bosnia -- the Serb Republic or Republika Srpska. The Serbian president Slobodan Milosevic cooperated closely with the Bosnian Serbs and provided them with military and political support. Three years of ensuing fighting killed hundreds of thousands, rendered two million people homeless and introduced the term "ethnic cleansing" into everyday vocabulary.³

The Bosnian Serbs made their most important territorial gains early in the war when they captured approximately 70 percent of Bosnia. After the Serbian offensive, the situation on the ground did not change much until 1995: the UN arms embargo imposed on all of the former Yugoslavia, in September 1991, prevented the growth of the Bosnian Muslim army, which was consequently unable to counter much stronger Bosnian Serb forces.⁴ Therefore, the conflict centered mostly around Sarajevo -- under siege from April 1992 until October 1995 -- and other "safe areas" established by the UN in April, 1993. In the same month, the conflict between the Bosnian Croats and Muslims escalated into war over the remaining 30 percent of Bosnia-Herzegovina. The situation improved somewhat in March 1994 when these two warring sides signed the Washington Accords: they agreed to cease hostilities and to create a Croat-Muslim Federation. However, the Federation, constituted under American auspices, was more of a

³ Norman Cigar, *Genocide in Bosnia: The Policy of "Ethnic Cleansing"* (College Station: Texas A&M University Press, 1995), especially pages 47-61.

⁴ At the beginning of the war the Yugoslav People's Army (JNA) fought directly on the side of the Bosnian Serbs, and after May 5, 1992, when it had to withdraw its troops from Bosnia under pressure from the international community, the JNA relinquished command of its estimated 100,000 strong forces, thus effectively creating a Bosnian Serb army. See: Laura Silber and Allan Little, *Yugoslavia: Death of a Nation* (London: Penguin Books, 1996), 225.

"marriage of convenience" than a sincere alliance: the wounds from the 1993 war would require a long time to heal.⁵

In the period from April 1992 to late 1994, the US, the UN and the EU treated the wars in the former Yugoslavia as an internal European problem. Two statements memorably express this notion: while in 1991 the foreign minister of Luxembourg, Jacques Poos, triumphantly proclaimed that "the hour of Europe has dawned," Secretary of State James Baker transmitted the official opinion of the United States when he said that "we [the US] don't have a dog in this fight."⁶ As Daniele Conversi argues, during this period, Western countries defined the conflict as a civil war, "a war without victims and aggressors" in which all parties were addressed as "warring factions."⁷ Western diplomats and policy makers believed -- or at least wanted to believe in order to justify their inaction -- the arguments of scholars and historians who claimed that ancient hatreds caused the wars in Croatia and Bosnia.⁸ Furthermore, Western leaders held that all sides were equally responsible for the war. However, this argument conceals an extremely important truth: in Bosnia, the Serbs committed 90 percent of all the atrocities -- including ethnic cleansing, systematic rape of women and mass executions.⁹

The West's approach -- a blurred definition of the conflict at hand and an unwillingness to act militarily to stop the war in Bosnia -- resulted in abominable failure. Henry Kissinger's question, "What is Europe's phone number?," was still very relevant. The competing interests of the European countries prevented the EU from acting as a single negotiating entity with clear

⁵ Warren Bass, "The Triage of Dayton," in *Foreign Affairs*, vol. 77, September/October 1998, p. 103.

⁶ As quoted in "Back to Bosnia: Charlemagne" in *The Economist*, March 19, 2005

⁷ Daniel Conversi, "Moral Relativism and Equidistance in British Attitudes to the War in the Former Yugoslavia," in *This Time We Knew: Western Responses to Genocide in Bosnia*, edited by Thomas Cushman and Stjepan G. Mestrovic (New York: New York University Press, 1996), 245.

⁸ A good example of the "ancient hatreds" explanation is Robert Kaplan's book *Balkan Ghosts: A Journey through History* (New York: Vintage Books, 1993). In his article "Rebecca West's War," Brian Hall explains the influence that Kaplan's book had on the thinking of the Bush administration as well as on Bill Clinton's in the period 1992-94. (*The New Yorker*, April 15, 1996).

goals and interests. The Russian-Serbian connection, as well as the pro-Serb sympathies of the British and the French during John Major's and Francois Mitterrand's administrations prohibited effective measures against the Serbs, such as the lifting of the arms embargo or air strikes.¹⁰ Moreover, European diplomats failed to secure agreement to four peace proposals: the Carrington-Cutileiro plan of 1992 that called for the confederation of Swiss-style cantons, the Vance-Owen plan (of the spring of 1993), the "Invincible" plan (of September 1993), and the Contact Group plan (of May 1994) that envisioned a partition of Bosnia along ethnic lines. All were dismissed by the Muslim or the Serbian governments.¹¹

However, what Holbrooke called "the brutal stupidity of the Bosnian Serbs," started to change the attitude of Western leaders. One could no longer ignore crimes such as the shelling of the Sarajevo marketplace on February 5, 1994, and the Srebrenica massacre of 8,000 Muslim men and boys in the UN "safe haven" in July 1995; both which were broadcast around the world by CNN and brave reporters such as Roy Gutman and David Rohde.¹² In May 1995, the Bosnian Serbs took several hundred UN peacekeepers hostage as a safeguard against possible NATO attacks. This action became the ultimate symbol of the impotence of the international community. The world moved away from "the delusion of impartial peacekeeping" and toward proclaiming the Serbs as aggressors and the Muslims as victims.¹³

The change in the perceptions of the Western leaders came at the same time as the situation on the ground began to change significantly in 1995. The new French President Jacques

⁹ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 23.

¹⁰ Brad K. Blitz, "Serbia's War Lobby, Diaspora Groups and Western Elites," in *This Time We Knew*. See also James Gow, *Triumph of the Lack of Will: International Diplomacy and the Yugoslav War* (London: Hurst and Company, 1997), 156-183.

¹¹ While the Bosnian Serbs refused to accept the Vance-Owen and the Contact Group plan, Izetbegovic was not satisfied with other three proposals because they offered only a small part of the Bosnian territory to the Muslims. For a more detailed description of these various peace plans see David Owen's *Balkan Odyssey* (New York: Harvest Book, 1995).

¹² Laura Silber and Allan Little, *Yugoslavia: Death of a Nation* (London: Penguin Books, 1996), 345.

Chirac, appalled by the weakness of the international community and the helplessness of UN peacekeepers, prompted the UN to authorize a combat-capable Rapid Reaction Force (RRF), consisting of French and British soldiers to protect the "blue helmets" (UN forces) in Bosnia. In May, the Croatian army regained Western Slavonia and in August, the Krajina -- areas previously held by Croatian Serbs. The Serb army retreated in disarray almost without any resistance at all; Milosevic did not come to their rescue. Furthermore, the Croatian and the Bosnian Muslims' armies began their offensive during the summer, and thus started to win back important portions of Western and Central Bosnia.¹⁴ Finally, the economic and financial sanctions imposed on the FRY began to take a visible toll on the Belgrade regime.

At this point, the US Administration started to delineate the basics of a new negotiation effort in Bosnia. This new effort would be headed for the first time by the United States and would entail not only intensive diplomacy but also the use of NATO's threat to use force to push the parties into an agreement that would finally end the war. Richard Holbrooke was the person chosen by the US Administration to inaugurate what would be 'a new era in Balkan Diplomacy.'

III. Complexity as a Barrier to Agreement

Based on Michael Watkins' article entitled "Strategic Simplification: Toward a Theory of Modular Design in Negotiation"¹⁵ we will examine the structural complexity that worked as a barrier to agreement in the case of the Bosnian negotiations, and explain how design modularity represents a powerful tool for overcoming structural complexities.

The negotiations that preceded the signing of the Dayton Peace Accord exemplify what

¹³ Richard K. Betts, "The Delusion of Impartial Intervention," *Foreign Affairs*, vol. 73, Nov./Dec. 1994, p. 24.

¹⁴ The Bosnian Muslims, despite the UN arms embargo, succeeded in acquiring some weapons. Mostly Muslim countries sent military help to Bosnia through the Croatian border, although the Croats did not allow heavy weapons to pass in order to retain military edge over the Muslim forces. See: Holbrooke, p. 50-51.

complexity means in the realm of international negotiations. To start with, Holbrooke faced three major negotiating challenges. First, he had to end a bloody war. Second, he had to ensure the safe withdrawal of the UN peacekeeping forces that were effectively being held hostage by Bosnian Serb forces. Third, he had to work out an acceptable division of the Bosnian territory that would not lead to its partition and would discourage further conflict.

To make matters more complicated, he also had to deal with three daunting barriers to a negotiated agreement. The first one was the psychological barrier that resulted from the history of this bitter conflict leading to extremely low levels of mutual trust between negotiating parties. The second barrier was the lack of a "hurting stalemate," or "a situation in which the parties were incurring significant losses and no party could win through the application of force," which had failed successive efforts to end the conflict.¹⁶ The final barrier related to the structural complexity of the negotiation itself. This complexity had to do with (1) the large and diverse number of parties involved, and (2) the sheer range of issues to be negotiated, involving land, institutional governance arrangements, and enforcement mechanisms (refer to Figure 1 on next page).¹⁷

¹⁵ Michael Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation", in *International Negotiations*, 8 (the Netherlands: Kluwer Law International, 2003).

¹⁶ Ibid.

¹⁷ Ibid., 153.

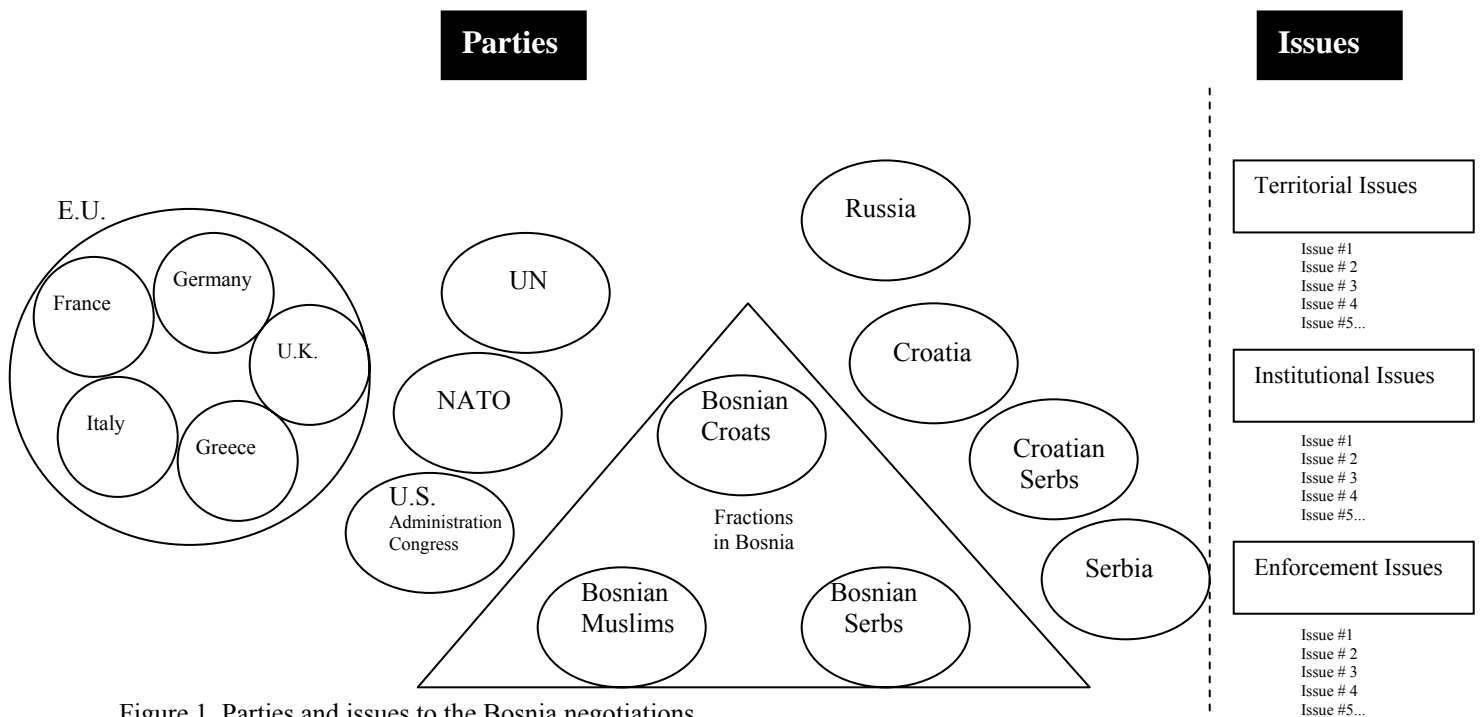


Figure 1. Parties and issues to the Bosnia negotiations.

Although heightened complexity can sometimes create opportunities for joint gains, it is more often a barrier to negotiated agreement. In the Bosnian case, the large number of parties involved along with the diversity of issues to be addressed meant that structural complexity represented a clear barrier to negotiated agreement. Structural complexity also meant that negotiators had to deal with many flows of information. While losing track of such information flows was not an option—as it would have resulted in confusion and defensiveness—keeping track of them became very difficult. Therefore, simplification became essential to progress. According to Watkins, "negotiators must find ways to simplify the party structure, the issue structure, or both of them in ways that (1) preserve the potential for value creation, and (2) reduce information-processing demands on negotiators to manageable levels."¹⁸ The strategies

¹⁸ Michael Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation", in *International Negotiations*, 8 (the Netherlands: Kluwer Law International, 2003), 154.

used by Holbrooke illustrate a particular approach to managing complexity in negotiation: the application of principles of modularity to the design of negotiation processes.¹⁹

IV. Design Modularity and Negotiation Systems

Designers of computers and other manufacturing products often manage complexity by dividing systems into discrete and largely independent modules. In this section we will examine the concept of design modularity within the context of the Bosnian negotiations. The fundamental idea behind design modularity is that the complexity of any system can be reduced if "it can be divided in modules characterized by a high level of *internal interdependence* concerning what goes on inside modules, and a high level of *external independence* in terms of interactions among the modules."²⁰ The idea is that when this condition is met, work can proceed independently on separate modules, which can later be integrated easily.²¹

To apply the principles of modularity to the design of negotiations some steps have to be followed. First, the negotiation has to be conceptualized as "an interaction among a specific set of *parties* exploring the potential for agreement on a specific set of issues." Then, the parties' objectives have to be taken into consideration by finding out the parties' preferences across the issues to define the sets of tradeoffs they are willing to make. It is important to note that some parties may share interests on particular issues, have conflicting interests on others, and complementary interests across sets of issues. Parties can therefore choose to cooperate in seeking to achieve their interests on some issues, choose to contend on other issues, and/or create value by trading other issues. At this point, the full set of parties and issues, and the related set

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

of preferences and tradeoffs, defines what Watkins calls the "party-issue space" of a complex negotiation.²²

The third step is to transform the complex negotiation into two or more "simpler linked sub-negotiations." By breaking down the process into more manageable, modular sub-negotiations, each consisting of a subset of the parties negotiating over a subset of issues, the system of linked negotiations appears less complex than the original negotiation. Ideally, sub-negotiation modules are both internally interdependent and externally independent. Identifying subsets of parties that can engage in relatively independent negotiations over subsets of issues is important so that each of the resulting modules has significant potential for value creation through cross-issue trades.²³

The final step leads to the integration of the various pieces of the negotiation. It is often not possible to perfectly divide a complex negotiation into simpler modules. In such cases, it is still often possible to identify parties that have the potential to engage in value-creating trades on particular issues. Hence, it is advisable to split such parties into subgroups. The main difference is that, once these subgroups reconvene into the full group the remaining trades and concessions have to be worked out.²⁴

Finally, it is important to note that modular sub-negotiations can either be run in parallel or in sequence. Another possible approach is to have all sub-groups starting by negotiating "easy" issues to build momentum. In any event, the ability to design modules is necessary for the success of complex negotiations. Holbrooke seems to have mastered the process of modular design. Such a process required him to constantly gather the preferences of each party

²² Ibid, 155.

²³ Michael Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation", in *International Negotiations*, 8 (the Netherlands: Kluwer Law International, 2003), 155.

²⁴ Ibid, 156.

independently so that he could recognize which parties cared about which issues. In doing so, he was in a position to identify "party-issue clusters" with a potential for value-creation, and was able to apply the simplification strategies described in the following section.²⁵

V. Strategic Simplification:

Holbrooke's extensive use of simplification strategies in shaping the party-issue structure of the Bosnia negotiations greatly enhanced both his ability to deal with the complexity of the conflict and the prospects of success of his negotiation efforts.

Simplifying the Party Structure in Bosnia

In any negotiation, the more actors involved the more interests to be accommodated and the harder it is to reach an agreement that includes them all. As we already mentioned, the gathering of information about each party's interests, which is essential for the development of integrative solutions, becomes extremely demanding when many parties are involved. As Fen Osler Hampson states:

Complexity increases communication and information-processing difficulties. Parties are required to manage large amounts of information and to respond to a complex and competing array of interests [...] Instead of following a process of convergence, negotiations become an exercise in "puzzle solving", where the trick is for parties to find a solution that will accommodate their overlapping and conflicting interests.²⁶

The complexities related to the multiplicity of parties generate the need to develop mechanisms to better deal with them. One of these mechanisms, and probably the most important one, is the formation of coalitions. By forming coalitions, parties are able to enhance their negotiating

²⁵ Ibid, 157.

²⁶ Fen Osler Hampson, "Barriers to Negotiation" in *International Multilateral Negotiation* (Baltimore: John Hopkins University Press), 29.

power and lessen complexity, since the number of interests and positions are reduced to a more manageable size.

However, as Hampson explains, while the formation of coalitions can help simplify and facilitate the bargaining process, it can also hinder the prospects of reaching an agreement if interests are incompatible and rival coalitions deadlock. Thus, he argues, “one of the principal challenges to multilateral diplomacy is to design the negotiations in such a way that the creation of cooperative or “winning” coalitions is enhanced, while the formation of conflictual “blocking coalitions is minimized.”²⁷ This is exactly what Holbrooke did in the Bosnia negotiations.

Directly implicated in this conflict were the Bosnian Muslims, the Bosnian Croats, the Bosnian Serbs, Croatia, Serbia, and the Croatian Serbs. Outside the region and trying to intervene in the conflict were the US, NATO, the UN, and the Russian Federation.

The first step that Holbrooke took in trying to simplify the party structure was to “unify the West by subordinating key European players to US control of the process” (refer to Figure 2).²⁸ Before Hoolbroke entered the negotiation stage, representatives of the US, the UK, France, Germany, Italy, Greece and Russia had formed the so called “Contact Group” to address the Balkan crisis. Although negotiations within the Contact Group were difficult and extremely divisive at times, by skillfully making use of this forum, Holbrooke was able to unify positions and to obtain NATO’s military support for his negotiation effort. The Europeans were not really in the position to challenge US leadership in this new negotiation effort, given the failure of previous European-led initiatives.

²⁷ Hampson, 5.

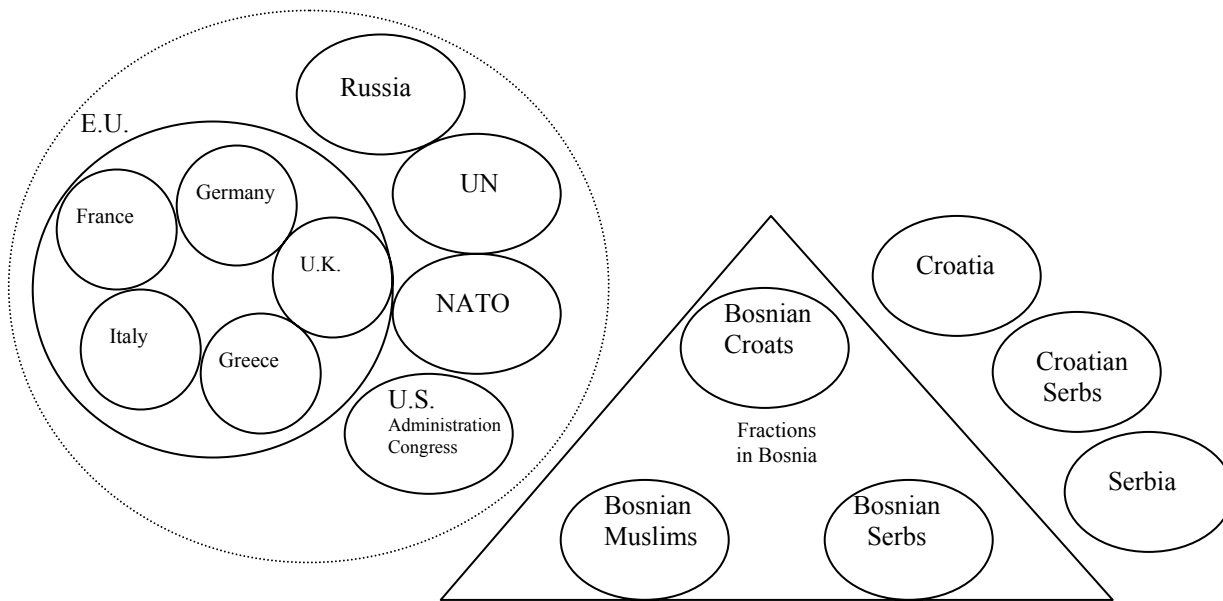
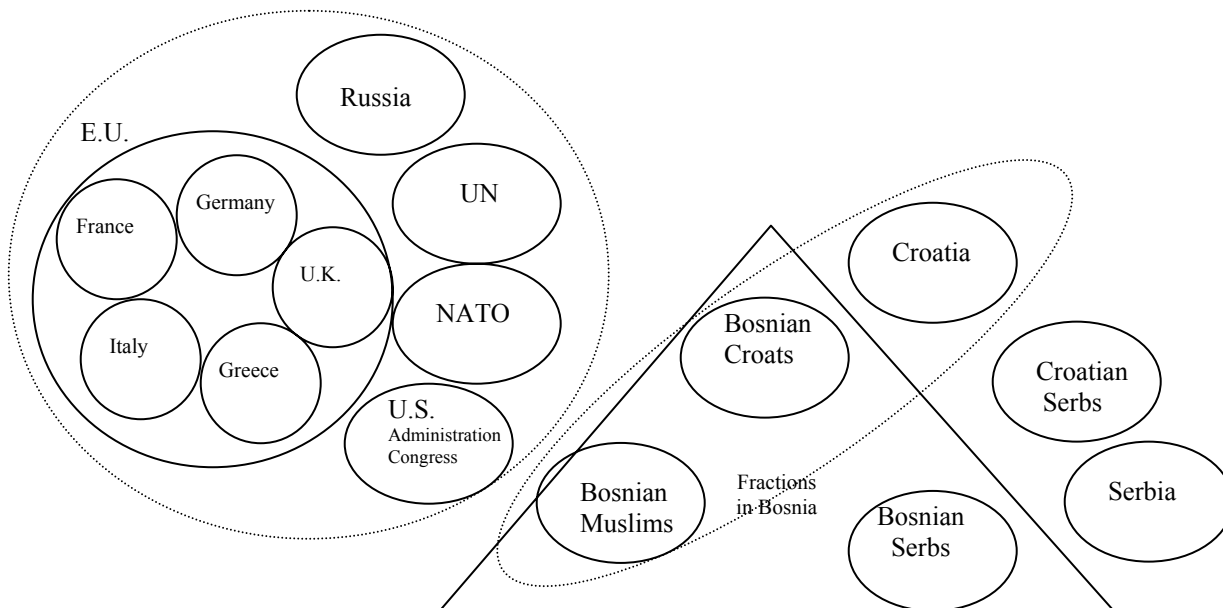


Figure 2. Unifying the West. (Watkins)

Holbrooke also took advantage of the newly formed Muslim-Croat Federation. This coalition was a highly fragile entity because of the numerous differences between the Bosnian Croats and the Bosnian Muslims, but Holbrooke strongly encouraged its maintenance, since he knew that a unified opposition to the Serbs was essential in order to equalize the balance of power and accelerate the ripening process (refer to Figure 3 below).²⁹



²⁸ Michael Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation", in *International Negotiations*, 8 (the Netherlands: Kluwer Law International, 2003), 160.

²⁹ Ibid.

Figure 3. Unifying the Muslims and Croats. (Watkins)

Finally, Holbrooke sought to confront the Bosnian Serbs' intransigence by persuading the Serbian President Slobodan Milosevic, who was experiencing substantial economic and political pressure from international sanctions, to use his influence over them. By doing this, Holbrooke was able to unify the Serb front. From now on, Milosevic will speak for the Pale Serbs.³⁰ This obviously infuriated the Bosnian Serb leaders, who were nonetheless powerless to overtake Milosevic's "authority". (Refer to Figure 4 below.)

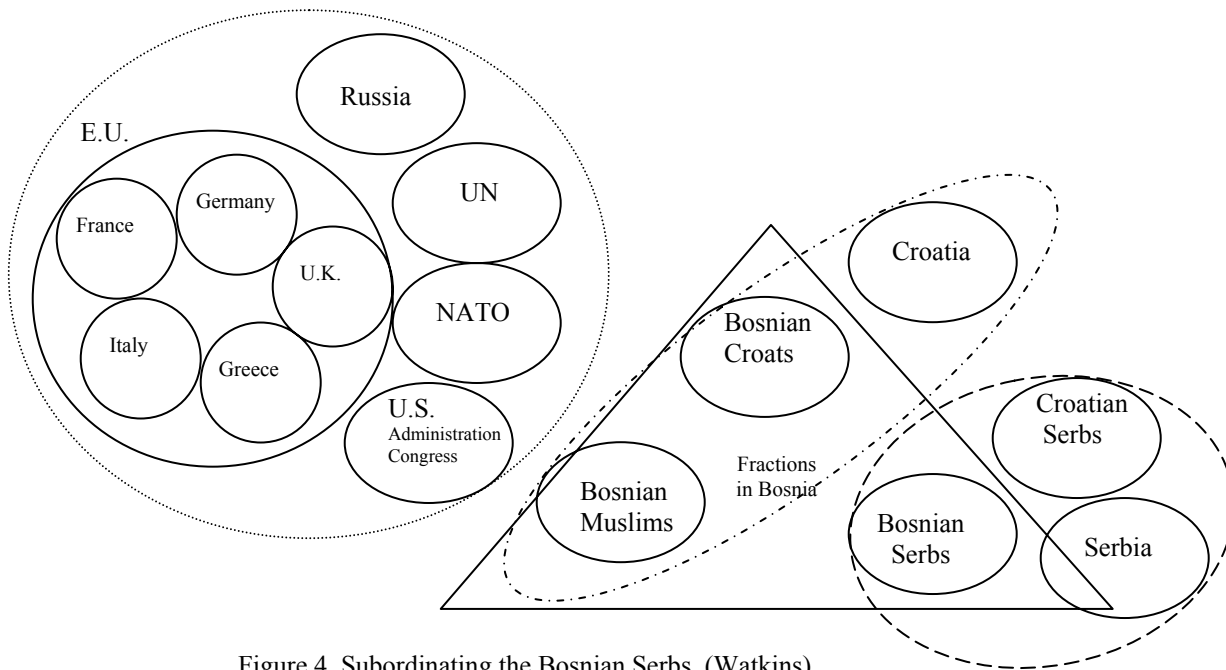


Figure 4. Subordinating the Bosnian Serbs. (Watkins)

Simplifying the Issue Structure in Bosnia

Aware of the difficulties of negotiating very divisive issues from the beginning (especially those involving territorial claims), Holbrooke adopted what Watkins calls "a split-and-sequence logic strategy," dividing the agenda into subsets and negotiating the subsets

sequentially.³¹ Holbrooke believed that he “had to approach this negotiation piecemeal, step by step, locking in your gains.”³²

Hence, his first goal was to obtain agreement on a set of principles that dealt primarily with basic institutional arrangements. (Recognizing Bosnia’s existing borders, accepting the creation of two entities within Bosnia – one for the Bosnian Muslims and Croats and one for the Bosnian Serbs, allowing each entity to establish relationships with neighboring countries, and asserting a commitment to basic human rights.)³³

While many Administration officials criticized Holbrooke for not giving priority in the negotiations to the achievement of a cease-fire, Holbrooke maintained that “seeking a cease-fire that early in the process could have complicated the ultimate goal of securing a lasting peace in Bosnia.”³⁴ Holbrooke’s next goal was obtaining the lifting of the siege of Sarajevo. By making clear to the Serb leaders that the NATO bombing campaign will continue unless they agreed to discuss an end to the siege, he forced them to sign a withdrawal agreement.³⁵

His third step was to seek agreement on a second set of principles that would define how the two entities within Bosnia would bind together, by establishing a governmental superstructure. The final signed agreement established, among other things, definitions of the unifying structures to govern all of Bosnia, a commitment to free democratic elections under international supervision in both parts of Bosnia, and a pledge to allow the international community to monitor compliance to the agreement.³⁶

³⁰ Michael Watkins, "Getting to Dayton: Negotiating an End to the War in Bosnia," HBS Case No. 1-800-134. (Cambridge: Harvard Business School, 1999), 13.

³¹ Watkins, "Strategic Simplification: Toward a Theory of Modular Design in Negotiation," 161.

³² Watkins, "Getting to Dayton: Negotiating an End to the War in Bosnia," 14.

³³ Ibid, 16-17.

³⁴ Watkins, "Getting to Dayton: Negotiating an End to the War in Bosnia," 17.

³⁵ Ibid, 19.

³⁶ Ibid, 22.

By now, Holbrooke was convinced that it was time to seek a cease-fire agreement. But the Bosnian Muslims suddenly became unwilling to negotiate because they felt they could win on the battleground. President Izetbegovic insisted that his troops would not lay down their arms.³⁷ In order for Holbrooke to secure a cease-fire he had to use pressures and incentives in order to alter the Muslims' perception of their BATNA and to convince them that agreement was their preferred alternative.

Finally, Holbrooke's team scheduled a peace conference (that would take place in Dayton, Ohio), in which all the difficult issues that had not been discussed so far (such as the status of eastern Slovenia and the Bosnian map) would be addressed in order to negotiate a final Peace Settlement.

In addressing these issues at the Peace Conference, Holbrooke made use once again of split-and-sequence strategies. He divided the negotiations into six "party-issue clusters".³⁸

- First, Michael Steiner, assisted by his German colleague Christian Clages and two Americans, Dan Serwer and Chris Hill, would negotiate a new and tougher Federation agreement between the Croats and the Muslims;
- Second, Carl Bildt (UN), Williams Owen (US), and Holbrooke would negotiate constitutional and electoral issues with Milosevic and the Bosnians;
- Third, Wesley Clark (US) and James Pardew (US) would begin discussions on the military annex with the parties, which Holbrooke later joined;
- Fourth, they would conduct a two-track negotiation on eastern Slavonia, led by Chris Hill (US) and Holbrooke in Dayton and Peter Galbraith (US) and Stoltenberg in the region;

³⁷ Ibid, 22.

³⁸ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 225.

- Fifth, they would try to complete unfinished business internal to the Contact Group, with Robert Gallucci taking the lead on two issues that had not been resolved: the role of the international police task force and the mandate of the senior civilian implementation official, who would be Carl Bildt.
- Finally, they would continue to defer most discussion on the territorial issues (“the map”) until they had made progress on other matters.

This last point proved to be one of the most contentious for all three Balkan leaders. By continuing to remind the leaders that this was their last chance to end the war with the help of the United States and the International community, Holbrooke and his team were eventually able to convince each leader to concede some parts of land for the sake of ending the war and obtaining peace in the region. They all knew this was in their long-term interests because their people were suffering and they were at a mutually hurting stalemate. They were already being threatened with sanctions and knew that if they lost the US support, they would be worse off with the Europeans eventually resuming future negotiations.³⁹

It is important to point out that Holbrooke also made use of “issue-subtraction” strategies, as in the case of the city of Brcko and the province of Kosovo. The status of the city of Brcko, (a Serb-occupied town in the Posavina Corridor connecting Serbia with the Republika Srpska), had threatened to kill the entire settlement when three weeks into the talks, the Bosnian President demanded that Brcko be returned to Bosnia. Holbrooke, by exerting pressure on both Izetbegovic and Milosevic, was able to obtain agreement that the issue would be separately decided by arbitration.⁴⁰ This was a smart move since, as Lawrence Susskind explains, “the

³⁹ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 241.

⁴⁰ Watkins, “Strategic Simplification: Toward a Theory of Modular Design in Negotiation,” 162.

subtraction of an issue that in and of itself has no obvious zone of agreement from a larger array of questions allows support for a treaty to grow.”⁴¹

With respect to the status of Kosovo, Holbrooke decided that the issue would not be included in the agenda of the Dayton negotiations. He considered that this issue was too divisive and would only stall the negotiations if included. However, as Michael Watkins claims, “the use of issue subtraction in this case planted the seeds of future problems [...] History has shown that the issue could not be ignored indefinitely; it has subsequently arisen as a flashpoint for conflict, requiring outside intervention and negotiation.”⁴²

VI. Analysis of the overall strategies used by Holbrooke at the Dayton Peace Conference

In retrospect, Richard Holbrooke admitted that although he and his team had prepared extensively and believed they were ready, nothing had prepared them for the pressure they encountered during the negotiations at Dayton, Ohio. They estimated the conference duration to be 15 to 17 days maximum. However, 21 days later, on the last morning, they were facing defeat, with only 20 minutes left before they terminated the negotiations.⁴³ Holbrooke described the Dayton negotiations style as:

A high-wire act without a safety net. Much work must precede the plunge into such an all-or-nothing environment. The site must be just right. The goals must be clearly defined. A single host nation must be in firm control, but it is high risk for the host, whose prestige is on the line. The consequences of failure are great. But when the conditions are right, a Dayton can produce dramatic results.

Their goals were ambitious: first, to turn the sixty-day cease-fire into a permanent peace and second, to gain agreement for a multiethnic state. Many observers believed these were

⁴¹ Lawrence Susskind, “The Advantages and Disadvantages of Issue Linkage”, in *Environmental Diplomacy* (New York: Oxford University Press), 89.

⁴² Watkins, “Strategic Simplification: Toward a Theory of Modular Design in Negotiation,” p. 162.

⁴³ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 232.

impossible goals, and were certain that Bosnia would divide into three parts. Holbrooke recognized this as a possibility but not at Dayton—and not under US leadership; he was determined to establish an agreement. It would not legitimize Serb aggression or encourage Croat annexation; especially since this could unleash a new round of ethnic and border conflicts in Central and Eastern Europe.⁴⁴

To reach their goal, it required agreements on many issues: Eastern Slavonia (part of Croatia), the Muslim-Croat Federation, a constitutional framework, elections, a three-person presidency, a national assembly, freedom of movement and the right of refugees to return to their homes, compliance with the International War Crimes Tribunal, and an international police force. Finally, their most contentious task: determining the precise internal boundaries of Bosnia, those between the Serb portion of Bosnia and the Croat-Muslim Federation (The IEBL).⁴⁵

Holbrooke's governing principle for the ambitious agenda was simple: what does not get done at Dayton, will not get done later. Therefore, it was important to put everything on paper rather than settling for "the sort of short and vague (and ultimately ignored) agreements that had been the products of all previous Yugoslav peace efforts. Better a high benchmark than a weak compromise."⁴⁶ Despite the difficulties that implementation was to encounter, this approach was effective in achieving the objective. Any lesser goal at Dayton would have likely resulted in larger problems later. While some people criticized Holbrooke and his team for trying to accomplish too much, his main regret is that he did not attempt more.⁴⁷ However, finding the

⁴⁴ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 233.

⁴⁵ Ibid, 223.

⁴⁶ Ibid.

⁴⁷ Ibid.

right balance and knowing when to stop before reaching the failure point is critical and undoubtedly very difficult.

The Preparation of the Conference

As Watkins, and other scholars and negotiators believe, the physical location and structure of the negotiations matter and are very important throughout the process and for the outcome. Holbrooke was cognizant of this and therefore made strategic decisions about the location and set-up. The Dayton Compound was structured so that all delegations were in close proximity with one another and could easily walk back and forth to each other's rooms. The buildings were also subtly strategically placed—Bosnians to the left of the US, Croatians to the right, and the Serbians and the Bosnian Serbs directly opposite the US. Holbrooke could view Milosevic's room from his own, so he knew when he was there. The facilities were "adequate but hardly elegant"⁴⁸ and completely different from the more sumptuous arrangements at most European conferences.

Christopher and Holbrooke met with each President privately before the opening event to review the ground rules that had been discussed the previous month. The most important rule was no contact with the press. State Department Spokesman Nick Burns was the only authorized spokesman on Dayton. This was an important decision because it allowed for media control and for the information to be filtered through one person. Previous negotiations like the Madrid conference (regarding Israel-Palestinian conflict) demonstrated the danger of allowing the media to interview the parties and to interpret their own messages. Message control is essential during sensitive high-level negotiations; the risk of a leak is too high. External factors must not influence the involved parties so as to disrupt the negotiations in any way.

⁴⁸ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 224.

Each President made his priority clear in these initial meetings. Tudjman's focus was eastern Slavonia; he did not even mention Bosnia. They told him that eastern Slavonia could only be settled within the framework of a larger agreement. Milosevic was concerned with sanctions. Christopher offered a slight change in the American position: they would agree to suspension of the sanctions upon initialing an agreement, instead of waiting for its formal signing (since a month would lapse between initialing at Dayton and the formal ceremony).⁴⁹ This small change in US position would give Milosevic more incentive to reach agreement in Dayton, and simultaneously relieve some of the strain within the Contact Group over the sanctions issue.⁵⁰

Izetbegovic and Silajdzic reminded Christopher that they had to renegotiate the Federation agreement before the start of serious territorial discussions with the Serbs. The US had already agreed to this even though it would cause a delay. This was a needed step because the Federation was indeed weak, and no peace with the Serbs would work unless Croat-Muslim tensions were contained (especially in Mostar).⁵¹ Michael Steiner from the German delegation was asked to lead this effort—a smart decision to involve the Europeans more and make them feel important, for the sake of the transatlantic relationship. This was important because the Contact Group felt excluded since the US was essentially 'running the show.' Christopher reminded them that although some of them "may not be happy with every aspect of the negotiations," they had to remember that they "were all pursuing the same result together," and could not to lose sight of that.⁵² Managing the Contact Group was also a critical component of the Dayton process. Holbrooke began the first part of the Dayton negotiations meeting with the

⁴⁹ Ibid, 235.

⁵⁰ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 236.

⁵¹ Ibid.

⁵² Ibid.

Contact Group each morning but then concluded that he was “wasting time” in unproductive meetings instead of working with the Balkan leaders. He therefore delegated the Contact Group “maintenance meetings” to a few of his team members.⁵³

The opening event was planned for maximum symbolic value: a public face-to-face meeting among the three Presidents, the first in more than two years, and the first ever under American auspices. Fortunately, the three leaders all shook hands when asked to by Christopher. This was a symbolic handshake that was essential to be captured for the rest of the world to view. Christopher commented, “We are here to give Bosnia and Herzegovina a chance to be a country at peace, not a killing field.”⁵⁴ He stated four conditions for a settlement: Bosnia had to remain a state with “a single international personality;” a settlement must take into account “the special history and significance” of Sarajevo; human rights must be respected and those responsible for atrocities to be brought to account; and finally, eastern Slavonia must be resolved.⁵⁵

Holbrooke’s personal style

Holbrooke was incredibly committed to obtaining his goal (and the government’s) and would push forward even when most were exhausted. Roger Fisher describes Holbrooke as more of a gladiator than a mediator.⁵⁶ However, his gladiator tactics were effective in dealing with the Balkan leaders. Several other negotiating styles—such as those of the Europeans, the UN, and President Carter—had proven ineffective and played into the hands of the Balkan leaders. As Holbrooke witnessed, the Balkan leaders responded only to pressure and a forceful bullying approach. It is apparent that one must alter his/her negotiating style according to how the other

⁵³ Ibid, 238.

⁵⁴ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 241.

⁵⁵ Ibid, 237.

⁵⁶ Roger Fisher, presentation given at the Fletcher School of Law & Diplomacy (Medford: Tufts University, 2004).

parties respond. Not many mediators are able to do this, but fortunately, Holbrooke was perfectly suited for the job.

Managing the leaders

During the Dayton negotiations process, Holbrooke quickly learned how overly sensitive each of the leaders were. If he or another team member paid more attention to one leader, the other would become upset and withdraw from the group. Their over-inflated egos were fragile and each had to be given the required attention he needed. Knowing how much attention the leaders needed and when, was a challenging aspect of the negotiations and very time consuming. Holbrooke's perception and understanding of their personalities and motives allowed him to ameliorate relations between them and boost their sensitive egos. This ultimately saved the negotiations process on numerous occasions.

Although these instances were unapparent to many, Holbrooke's past experiences with the leaders and understanding of their desires provided him with this significant negotiating advantage. An obvious lesson is the value of thoroughly researching and understanding the agents involved, as well as cultivating relationships with them to better understand them. This time commitment is often needed to achieve certain outcomes—especially when the relationships of the agents involved are complex and delicate. Holbrooke succeeded in conducting a “transactional mediation” by using a “lock-in” strategy—i.e. he would get step by step commitment from each of the parties, and persuade them to agree to one thing, and then a little more the next time. This gradual but clever approach allowed him to more easily change the parties' perceptions of their BATNAs.

Importance of “ripening”

Holbrooke was aware of the most opportune/ ripe moment of bringing in high level officials to meet with the leaders and attempt to influence them; he did so on numerous occasions. This ability to identify the appropriate moment for the ripening process was critical but also risky because it could have back-fired. Towards the end of the negotiations, Holbrooke decided it was time to bring President Clinton into the process to influence Tudjman. Holbrooke claimed that:

Intervention (but not a visit) by the President had always been part of our operating assumptions for Dayton, but the questions were when and how. It was important not to weaken the President. The presidential coin is precious, and should not be devalued. The rest of us could rise or fall, succeed or fail, be replaced or repudiated if necessary. But the President represents the nation. There is no higher authority, and his failure or error can hurt the national interest. Thus any involvement of the nation’s chief executive is something that White House staffers debate strenuously.⁵⁷

Fortunately, President Clinton was able to convince Tudjman to give up 75 percent of the land needed to reach the previous 49-51 land agreement.⁵⁸ Holbrooke’s strategy proved to be successful in persuading Tudjman to compromise further. But if it had not worked, then Holbrooke would have utilized his final resort and possibly have jeopardized the US image.

VII: Some Failures of Dayton Peace Agreement

For several years after the Dayton Peace Agreement (DPA), the ruling nationalist oligarchies in Bosnia-Herzegovina attempted to preserve their war gains. Every side interpreted the DPA to its own advantage, trying to create an illusion of cooperating while implementing

⁵⁷ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 304.

⁵⁸ Richard Holbrooke, *To End a War* (New York: Random House, 1998), 304.

only the parts of the Agreement that benefited their position of power.⁵⁹ This inconsistent implementation has clearly been one of the issues of the post-Agreement process. At the Dayton Assessment Roundtable discussions regarding the DPA, Professor Nedo Milicevic asserted that one of the flaws of the Agreement is the Constitution, which does not determine who and under what circumstances state office can be held. He claimed that the articles of the Constitution contain the open constitutional basis for discrimination that “causes a large number of Bosnia-Herzegovina (B-H) citizens from all of its three constituent peoples, as well as all citizens who are classified under the category of ‘others,’ to be deprived of their basic human rights.”⁶⁰

The neglect of B-H citizens and the simultaneous emphasis on ethnic collectives led to the partition of Bosnia-Herzegovina into “ethnic statelets.”⁶¹ Therefore, civic democracy and the rule of law cannot exist in B-H without a real and legal improvement of the individual citizen’s position—or without adequate treatment of its three constituent peoples. Several of the participants at the Roundtable also agreed that the international community needs to prevent misrepresentations of the Dayton Constitution in B-H. It is the international community’s responsibility to ensure that misinterpretations do not occur, so as to avoid people from inappropriately establishing their legitimacy and legality from it.⁶² There is a clear sense from the Roundtable discussions that most of these intellectuals do not trust the ruling nationalists who are solely focused on their own political power. This is precisely the reason why these intellectuals are concerned and have agreed to “monitor” the nationalists and inform citizens and the international community of any suspicious behavior.⁶³

⁵⁹ BiH Roundtable, *Dayton Peace Agreement: Four Years of Experience- Position of the Democratic Alternative* (Sarajevo: Helsinki Citizen’s Assembly, 2000), 8.

⁶⁰ Ibid, 13.

⁶¹ BiH Roundtable, *Dayton Peace Agreement: Four Years of Experience- Position of the Democratic Alternative* (Sarajevo: Helsinki Citizen’s Assembly, 2000), 73.

⁶² Ibid, 70.

⁶³ Ibid, 71.

Four years after the signing of the DPA, the International Crisis Group conducted an assessment of the Agreement and identified several flaws. They claimed that there are structural problems inherent in the treaty itself. One of its flaws is its failure to address a primary cause of the wars of Yugoslav dissolution (1991-present), which was the inability of Yugoslavia's economic and political structures to provide economic growth, prosperity and free political expression.⁶⁴ The resulting problems of the politico-economic system, created fertile ground for nationalist extremists—such as Slobodan Milosevic—to exploit. The Titoist economic, political, and legal system which placed all economic, political and legal power in the hands of one ruling party, remained in place, relatively unchanged.

A second flaw of DPA was the misguided hope that the three warring Bosnian factions would “put aside their differences, cooperate and live together in peace and harmony in a unified state.”⁶⁵ Since Dayton there has been little real ethnic reconciliation and at least two of the three factions have yet to achieve their wartime goals. Even though almost one half (i.e. 1 million) of the forcibly displaced minorities have been able to return to their prewar homes in certain areas in Bosnia, these returns have taken place mostly within the Federation, while very few people returned to Republika Srpska.⁶⁶

The third most significant flaw of DPA relates to enforcement. Because the U.S.—fearing American casualties—did not allow NATO troops to fulfill their full mandate, no enforcement mechanism was created to implement the civilian aspects of the Accords. Lacking an enforcement mechanism, the Office of the High Representative (the agency responsible for

⁶⁴ International Crisis Group, *Is Dayton failing?: Bosnia four years after the peace agreement* (Brussels: ICG, 1999), 126.

⁶⁵ Ibid, 127.

⁶⁶ Woodard, Colin, “In rebuilt Bosnia, no terror toehold” (The Christian Science Monitor: March 24, 2004)

implementing the civilian aspects of DPA) had major limitations.⁶⁷ Unfortunately, after receiving international community aid, Bosnian politicians often refuse to comply with DPA or structural reform efforts. This is especially true of Bosnian Croats and Serbs, and to a lesser extent the Bosnian Muslims.⁶⁸

A fourth problem that arises from the lack of an enforcement mechanism in DPA, is international appeasement of local officials. Anxious to achieve anything that could be considered as progress, officials in many organizations often follow the path of least resistance.⁶⁹

A fifth deficiency of the Dayton Accords was that no institution was made accountable for the apprehension of war criminals indicted by the Hague Tribunal. Even today the two key protagonists of ethnic cleansing in Bosnia, Radovan Karadzic and Ratko Mladic are still at large, and long after Dayton, Republika Srpska remained under their influence. Without their apprehension, the reconciliation process was slowed down significantly.

Although the Dayton negotiations and peace accords can be considered effective in ending a bloody ethnic conflict, there were obviously flaws in it—as there are in most negotiations and agreements. Many lessons can be learned from it and parts of it can be used as a nation-building model. There will never be a perfect negotiation and solution to any conflict; but the strategy used regarding the process, parties and issues can determine the overall degree of success.

⁶⁷ International Crisis Group, *Is Dayton failing?: Bosnia four years after the peace agreement* (Brussels: ICG, 1999), 126.

⁶⁸ Ibid.

⁶⁹ Ibid, 128.

VIII. Lessons Learned

Even though it is often very difficult to generalize about negotiation techniques and strategies used in a particular case that occurred in specific historical circumstances, the Dayton process seems to offer several important lessons for negotiations theory. First, mediation by the international community is almost impossible if the key players supporting it have contradictory visions of a conflict at hand as well as differing views on what constitutes achievable and desirable final outcomes. The political goals behind any mediation effort have to be clearly defined and realistic. The divergence of interests between European countries in the period when they were leading diplomatic efforts in the region prior to 1995, the divergence between peace plans and the situation on the ground, and lastly the divergence between U.S. strategies and designs and those of its European allies, symbolized the ineffectiveness of pre-Dayton diplomacy. However, with the U.S. taking the leading role, and with the Holbrooke team developing concrete and stable military and diplomatic goals to end the conflict, the Dayton Accord began to look possible.

Second, mediation in difficult conflicts is usually not effective without a credible threat of force and without a certain level of ability to control the events on the ground. The U.S. negotiation initiative finally received a legitimate stick in the form of NATO bombings in addition to the sanctions imposed on FRY that were slowly taking their toll. And as Frederick the Great liked to notice many centuries ago, "Diplomacy without arms is like music without instruments."⁷⁰ The availability of this stick increased the credibility of U.S. determination and commitment, especially in the eyes of the Serbian leadership, and made many aspects easier for the Holbrooke team. Despite all of its achievements and diplomatic shrewdness of the Holbrooke team, the question remains whether, without a very different situation on the ground

and the availability of a credible stick (something the previous negotiators did not have), this diplomatic initiative would have been any more successful than the previous ones.

Third, even though it is often very difficult to evaluate and forecast the “ripeness” of a conflict, it is very important. Diplomatic efforts can even be counter-productive in the absence of such conditions as it will only frustrate the parties involved and lead to the mediators’ credibility loss. Through successful management and control of the situation on the ground, by using Bosnian Muslim and Croatian armies as substitute ground troops, Holbrooke increased this “ripeness.” Despite some opposition coming from the administration, Holbrooke supported the continuation of a Muslim-Croat offensive and NATO bombings "in order to give us [the US team] the best chance for negotiations."⁷¹ In addition, when the needed level of ripeness is achieved, negotiations need to move quickly. Once the conditions on the ground and parties’ position seem favorable to an agreement, the tempo of shuttle diplomacy must be very fast and the negotiators must be given a large degree of independence and discretions so that such opportunities are not missed. Holbrooke and his team flew to Belgrade, Sarajevo and Zagreb, sometimes on the same day, attempting to learn the interests and concerns of the three sides, to find points of agreement and disagreement and to exert pressure or offer inducements.⁷² Holbrooke had to respect several general guidelines, but otherwise, as he himself admits, he had an unusual degree of freedom.⁷³ This flexibility and high level of independence allowed him to build up the momentum of negotiations as he did not have to confirm each step with the administration.

⁷⁰ As quoted in http://www.quotationspage.com/quotes/Frederick_The_Great (Accessed April 10, 2005).

⁷¹ Susan Rosegrant, "Getting to Dayton: Negotiating an End to the War in Bosnia." Boston: Harvard University, John F. Kennedy School of Government, 1996, p. 22.

⁷² Negotiation Theory and Practice. Ed. J. William Breslin and Jeffrey Z. Rubin. Cambridge: The Program on Negotiation and Practice, 1991, p. 360.

⁷³ According to Holbrooke, Secretary of the State Christopher was the one who allowed this level of flexibility and freedom to American negotiating team. Holbrooke, p. 159.

Fourth, the personality of the negotiator is also very important even though it is sometimes difficult to gauge which traits of a mediator could be crucial for resolving a particular crisis. Holbrooke's image as a tough negotiator, with enormous energy and attention for details seemed to be appropriate for the Bosnian crisis that already tested and defeated some other high profile negotiators.

Fifth, leaving some important and contentious issues off the table proved to be useful for negotiating an end to the conflict at hand. At the same time, this strategy laid the foundation for new headaches for the international community in the future as some of the issues, such as the status of Kosovo, were certain to reemerge in the future. While it made sense not to include it in the Dayton settlement, they should have at least been mentioned in the final document, giving some specific dates and instruments when they would be reconsidered. A good example of dealing with and neutralizing a connected regional conflict to increase the chances of succeeding, on the one at hand, was the way the international community dealt with the simmering crisis in Macedonia, the only Republic that peacefully seceded from the former Yugoslavia.

Sixth, building on the experience of Camp David, Holbrooke and his team prepared the "proximity talks" phase in Dayton very carefully, understanding the importance of physical location and setting appropriate negotiation rules. The Air Force Base in Dayton provided a perfect environment for the proximity talks: it was secure, large enough to accommodate all participants of the conference without making them feel imprisoned, and it made it possible to exclude the press and to control any leaks. Secrecy was made a priority because it was essential to liberate the three Presidents from the pressure of home constituencies.

Finally, as we have discussed in detail, simplifying the issues and the parties proved to be an essential factor in the success of the negotiations. Holbrooke was successful in reducing the

complexity of negotiations' party structure as he nurtured the Croatian-Muslim alliance, and ensured that the Bosnian Serb leadership was subordinate to the Belgrade authorities. He also conducted, very successfully, periodic meetings of foreign ministers of Croatia, Bosnia and Serbia to agree on basic principles; thus simplifying the issue structure of the negotiations. The question remains whether this experience can be universally applied because sometimes this type of strategy can lead to agreements that look good on paper, but solve very little in reality since they do not address some of the key divisive issues, and can often postpone re-emergence of a conflict. One could argue that this strategy can be beneficial in very bloody and divisive conflicts as it can bring about peace. However, the international community then needs to closely monitor the situation and deal with the remaining issues as soon as that becomes realistic. A good example of that was redefinition of the powers of the High Representative in Bosnia in 1997 as it became obvious that the rebuilding of this country required a stronger civilian leadership. At the same time, the international community failed to deal with many other contentious issues from the Dayton Accords such as the final status of Brcko and closer integration of Republika Srpska (including the return of refugees), even though there might have been opportunities to do so.

IX. Conclusion

The Dayton Accords even today represent a contentious topic as many analysts and authors cannot agree whether to consider them a major success or failure. One of the most vocal critics, Radha Kumar argues that the Dayton Accords with its formal recognition of Republika

Srpska were mainly partition agreements, with IFOR troops controlling internal frontiers of a divided land.⁷⁴

However, one member of Holbrooke's negotiating team was perhaps close to the truth when he acknowledged that although the Dayton Accords provided an imperfect solution, it was the "best anyone could do."⁷⁵ Fierce opponents of Dayton miss an important point: the Accords must be evaluated on the basis of what would have happened if they were not negotiated, and not from the perspective of what could have been done better in 1992 or 1993. The US mediators could not nullify the effects of four years of unsuccessful negotiating efforts of the international community. They had to accept the realities that existed on the ground and establish their goals accordingly. The US team brilliantly negotiated what they thought they could achieve: immediate end to brutal fighting and prevention of formal partition of Bosnia-Herzegovina.⁷⁶

Had this kind of American peace initiative, with clear political and diplomatic goals, come two or three years earlier, together with the credible threat of NATO military intervention, the results of "the Dayton-type" conference could have been certainly much better. In 1992 or 1993 the US would not have had to accept certain things that were essential to winning the agreement in 1995. Milosevic would not have been as crucial to the negotiations and therefore the unfortunate metamorphosis of his image from the engineer of genocide to a champion of peace would not have taken place. Moreover, earlier intervention would have prevented a Muslim-Croat war in 1993 and the Federation would have been a genuine stronghold for US peace efforts, and not just a "marriage of convenience." It would have been possible to preserve a truly unified and multiethnic Bosnia-Herzegovina.

⁷⁴ London: Verso, 1997. See also Albert Wohlstetter, "A Photo-Op Foreign Policy," in *The Wall Street Journal*, October 23, 1996, and Silber and Little, 379.

⁷⁵ Susan Rosegrant, "Getting to Dayton: Negotiating an End to the War in Bosnia." Boston: Harvard University, John F. Kennedy School of Government, 1996, 46.

In addition to discussing the key failures of the Dayton Accords, this paper analyzed the different strategies used in the negotiation process. Holbrooke and his team used simplification strategies very effectively. Through decreasing the complexity created by the multiplicity of issues and parties, US negotiators laid out the foundation for the proximity talks in Dayton. Within our analysis of the strategies used in that last part of the negotiations, we emphasized the importance of careful preparation, Holbrooke's personal style and management of the Balkan leaders, as well as his attention to the "ripening" of the talks. Finally, we identified the general lessons that negotiation practitioners can draw from this experience.

⁷⁶ Charles G. Boyd, "Making Bosnia Work," in *Foreign Affairs*, volume 77, No. 1 (January/February 1998), 43.

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