



Bosnia and Herzegovina
at the Crossroads:
EU Accession or a Failed State?

Sarajevo, December 2007

ACKNOWLEDGEMENTS

Editor: Boris Divjak

Assistant to the Editor: Srđan Blagovčanin

Translation: Vojislav Boljanić

Organisation of the Open Parliament and publishing of this book was made possible by funding of the Friedrich Ebert Foundation in Bosnia and Herzegovina, to whom thanks are due.

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Transparency International BiH
Gajeva 2
78000 Banja Luka
Bosnia and Herzegovina
<http://www.ti-bih.org>

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FINAL PROJECT REPORT

“Bosnia and Herzegovina Open Parliament: EU Accession or Failed State?”

Boris Divjak
Transparency International BiH

Introduction

An expert convention was held on 27 September 2007 in the Parliamentary Assembly of Bosnia and Herzegovina (BiH) in the format of an Open Parliament titled “Development at the Crossroads: Functional or Failed State?” organised by Transparency International BiH with support of the Friedrich Ebert Foundation and the British Embassy in BiH, in collaboration with the Parliamentary Assembly of BiH. Participants included H.E. Matthew Rycroft, United Kingdom ambassador to BiH and the training for parliamentarians was held by Prof. David Chandler, Westminster University. The afternoon session included a panel composed of:

- Prof. David Chandler, Westminster University
- Dr. Florian Bieber, Kent University
- H.E. Dr. Michael Schmunk, FR Germany Ambassador to BiH
- Prof. Nerzuk Ćurak, Political Science Faculty in Sarajevo
- Mr. Boris Divjak, Transparency International
- Michael Wiechert, Friedrich Ebert Stiftung BiH Director (moderator).

Project Purpose

An 'open parliament' discussion was aimed to stimulate further thoughts on state/capacity building on the road to the European integrations, with a particular emphasis on the rule of law and corruption issues, also to critically examine are governance and development under international administrations.

This 'open parliament' presentation was aimed to address the BiH leaders (legislative and executive) and other participants on matters relating to state/capacity building on the road to the European integrations, with a particular emphasis on the rule of law and corruption-related issues.

Prof. David Chandler delivered a keynote presentation and took part in the panel discussion afterwards. Panellists included several esteemed academics and/or practitioners who have been involved in diplomatic attempts to strengthen the state prerogatives. Following the round table, a set of conclusions and guidelines is being presented by TI BiH as an outcome of the event.

Background

Despite over a decade of reforms, enormous foreign aid and an intensive international presence in the country that often resorted to the 'authoritarian methods of state-building', BiH still faces the challenge of building functional and sustainable institutions. Fulfilling the conditions to joining the European Union assumes capacities of the country to face the painful reformist challenges and change management. Formally, all political and social groups endorse this process. In practice, the country lags in reform changes behind the other transition economies of Eastern Europe, burdened by the legacy of the war, deep ethnic divisions and serious corruption problems. One of the underlying dilemmas around the world is to what extent this process may be governed from the outside and at which point does it become necessary that the domestic forces take the 'ownership' and thus responsibility for the process in order to mitigate

the risk of creating virtual institutions that have no legitimacy and capacity to govern effectively.

Panellists invited to the round table are eminent experts in the 'failed states' phenomenon, who could greatly contribute to the current stocktaking and guidance on what priorities the country must observe in order to move from the basic institution building to a more robust accession to the European market and its core democratic principles, including an effective anti-corruption combat.

Over the last six years, hard work and commitment of its staff, members and Board of Directors have positioned Transparency International BiH (TI BiH) as one of the leading forces of the civil society capable of initiating a vehicle for changes in society by building regional and local coalitions and embracing the state, civil society and the private sector in anti-corruption combat. During that period TI BiH published more than 50 studies, surveys, papers and reports which were used as a valuable source of information for numerous domestic and international institution.

TI BiH has strongly been advocating a freer market economy approach, stricter adherence to democratic institutions, strengthening of rule of law and a viable 'exit strategy' of the international community (namely OHR), leaving the country in a proper shape for further European integrations and necessary state building.

The Event

Eight eminent foreign and national experts in total took an active role in the event, including state institutions' representatives, academia and civil society. Bearing in mind the importance of state-building in BiH with all its specifics, the goal of the Open Parliament was to open a debate on the successes of this process thus far, by analysing the results from the viewpoint of the key participants: national institutions, international community but also the state-building experts, as well as by offering recommendations for the challenges BiH faces in this complex endeavour.

In the first part of the Open Parliament, participants from State institutions had an opportunity to hear the presentation of Prof. David Chandler from the Westminster University, a leading global expert in state-building, who paid much attention to the Bosnia case-study in his valuable research. The afternoon session was structured in a panel format with an active participation from the audience of over 50.

Contributions

In his introduction remarks H.E. **Matthew Rycroft**, United Kingdom Ambassador to BiH stressed the importance of strengthening the rule of law as a key condition for any reform that are to result in formation of sustainable and functional state. Ambassador Rycroft elaborated that strengthening of the institutional capacities of the state has no alternative if the reforms are to be conducted from within, leading BiH to its ultimate goal – joining the family of European countries. The address was burdened by the on-going discussion in BiH on the police reform and the Ambassador's views was that the entire range of options should remain at the international community's disposal, including impositions of legislation and removals of elected officials should that become necessary. However, a much preferred option would be the early dealing with systemic issues including the police and constitutional reform. The role of the Office of the High Representative (OHR) is increasingly changing its role into the EU Special Representative Office and that is the appropriate route for a future EU candidate country. Ambassador Rycroft went to emphasise that the understanding of corruption is critical, to which extent trainings like this are very useful, but at the same time safeguards must be in place to protect whistleblowers, watchdogs and ensure their safety and integrity, which sometimes may be at stake in the BiH society.

The training session of Prof. **David Chandler** was opened with an assumption that this training for MPs was organised not by demand but as proposed by external agents, which speaks for the current dependence of the legislature on these factors.

Corruption is bad and various indices illustrate that, yet at the same time the anti-corruption policies tend to give too much weight to the corruption issues and distract the actual institutional capacity building. With it, the rule of law institutions are often distracted from their focus but also confidence in their operations is undermined. This shifts the work from the institutionally appropriate points to the alternative actors, such as the various committees, experts, civil society to deal with the critical issues, while politicians remain with ever fewer autonomy. This shifts the real authority outside of institutions and leaves less trust with the authorities. Governments nowadays are delegitimised more than ever before, but this is also assisted by the existence of nationalists and criminals in the executive power. This concept is more persuasive in BiH than in many other places in the world. At the same time, the international finance institutions try to take politics out of the economic decision-making by focusing too much on the good governance issues, the role of the state in economic affairs as co-shaped by the external agents etc. Such liberal policies lead to a political distrust and politics gradually transforms into a mere administration.

It is striking how the question of corruption has become the dominant framing in which issues from unemployment and poverty to the public's disillusionment and alienation from governing institutions has been discussed, underlined Prof. Chandler. This has produced a very unhealthy political climate, where there is a growing idea that all BiH needs is a few technical fixes, rather than addressing fundamental social, economic and political problems. Corruption works well for the opposition and not for the governments in power. All this happens at the time when the ideologies have come to an end and there is no traditional left and right divide. Instead the common views are that politics is evil, immoral and corrupt. Political parties globally no longer share a vision and higher goals. Social inequalities, particularly in the post-communist societies have transformed the social inequalities into corruption. There is also a different perception of corruption in the Western societies as opposed to the Eastern European countries.

Aid dependency too played a major role in shaping the political scene of BiH, where the donor agencies and the foreign governments had a tremendous leverage and influence over the current issues in the

country. However, increased aid inflows also added to the corruption phenomenon, all of which continued to fuel resignation among the citizens and in the long-run did not necessarily help building the civil society.

Prof. Chandler underlined that the only alternative to constructing a modern society is enhancing the capacities of the legislative and executive powers in the country, which must increasingly rely on their own capacities rather than those of the international community and the civil society could continue to play a role of a watchdog, but may never become a substitute for the traditional role of political parties and the governing institutions. Combating corruption therefore remains a priority of the official institutions, which is the only appropriate mode for them to demonstrate trustworthiness and gain more trust with the voters.

In the second part of the event, an open panel discussion followed, with eminent experts from BiH and abroad taking an active part, including representatives of the institutions, academia and civil society, who sought responses to the question: how can Bosnia do better?

Prof. **Florian Bieber** was the first panellist to speak and drew parallels between the political realities of Belgium and those of BiH. The reason Belgium is not being run from the OHR is due to a tradition of compromise. The issue is therefore how to conclude transition yet without the fundamental influence of the international community. On the other hand, one also must be clear about the goals and thus where transition is supposed to end. To that extent, Prof. Bieber suggests two 'historic agreements' to be signed by the BiH leaders: a) with the international community; and b) among the ethnic groups in BiH. The goal of BiH must be Brussels but this road is to go via Sarajevo, Banja Luka and Mostar equally. In order to be fit for the EU membership, it must exist as a state.

H.E. **Michael Schmunk** spoke as a practitioner with an extensive engagement in several post-conflict societies. He focused on the international community as the external nation builders in BiH. The country is yet at a crossroad: it must either opt for reconciliation or for

the use of the 'Bonn powers'¹. Democracies must be based on compromise and that should be a minimum national consensus. The international community has no clear manual for measuring success. However, all key players in BiH should not find it difficult to agree that the EU membership is good for a majority of its citizens.

As the first national participant in the panel, **Boris Divjak** looked into the incentives for office holders to foster divisions and grasp a full control of the country's boundaries, thus ceasing control of the large portion of economic flows. In such circumstances, local politicians engage in corrupt practices, which are often being tolerated by the dominant international community that finds benevolent dictators a feasible option with which they can easier achieve certain political goals, while permanently threatening with removals from office or indictments against them. As a result, BiH in years had unpopular politicians, extremely corrupt, who were yet the international community's reformist partners in reshaping the institutional landscape of the BiH. With no holistic approach to institutional capacity building, reliance on national institutions incl. non-state actors, corruption cannot be defeated and instability, divisions and national hatred will continue and BiH will remain a failed state dominated by the 'state capture' phenomenon.

Being the other national panellist, Prof. **Nezruk Curak** looked into the success of the international community's projects in BiH. The greatest success story of the post-war twelve years is the end to the conflict. Otherwise the country keeps undergoing a permanent crisis, rampant nationalism with no empathy, while any constructive opposition is being rejected. Any attempt to change the political framework requires a pre-political agreement. This however proves extremely challenging as the three ethno-nationalist politics manage a mutually agreed doctrine of hostility, while the international community remains the fourth political party in the country that holds the actual power in the shape of interior policies. This led BiH to an absurd situation in which

¹ Referring to the mandate of the High Representative to, besides various legal and constitutional impositions, have the capacity to remove any public office holder from power, under the assumption that the individual is in breach of the general spirit of the Dayton Agreement for peace in BiH.

those parties that would like to modify the Dayton peace agreement would want the international community to stay in the country, while those who want it to remain unchanged would like the international community to leave BiH. The EU membership remains an unreachable goal with no modifications to the BiH Constitution and its institutions.

Responding as a panellist, Prof. **David Chandler** spoke of the 'Washington consensus' that called for structural adjustments and which has changed in the 2000's. Now in the post-conditionality world, most issues are up to the countries themselves. However, it appears that the World Bank and the International Monetary Fund have merely changed the package, while the content remained the same. One should at least appreciate the honesty of the international community when saying the current settings of BiH and their powers should stay, i.e. continuation in using the impositions and removals. On the other hand, the international community is not ready to recognise that BiH is the only true European State: it is being run by the Office of the EU's Special Representative, the flag is made after the EU's, police forces are being administered and trained by the EU Police Mission, the laws are compatible and in line with the *acquis communautaire* etc. Issues however are political in nature and not technical as most internationals in BiH fail to acknowledge.

In responding to some questions from the audience, Prof. Chandler particularly emphasised the urgent need to run a census in BiH, which would finally present the country with a planning basis and empower the institutions with a *de facto* information on its state of being, rather than continue to rely on old assumptions and estimations. The international community must not continue to interfere with the national politics and must relinquish the 'Bonn powers'. If looking into the total amount of aid invested in the country, one should investigate why so few jobs have been created with so much money invested. It therefore appears that the moment the state of BiH was created, it may have been abandoned by the international community.

Conclusions and Recommendations

Despite a long and sometimes controversial debate, the participants all seem to agree on the facts that the international community played a pivotal role in the post-war history of BiH but it is now time that the national institutions are empowered to take over from the OHR and the other international power-holders in the country. This happens while the corruption level increases as the country economically strengthens, which is a result of the poor institutional capacity building and a lack of accountability to the electorate (which is shared between the international community, accountable to the foreign governments and the national leaders looking more to the OHR than their own citizens). Prioritising capacity building was not necessarily conducted in a manner that would provide the country with sustainable and responsible institutions. The EU has no alternatives for BiH and it can only enter the family of European nations as a single functioning state. This assumes further work in upholding the rule of law, strengthening national judiciary and law enforcement agencies, enabling formal control mechanisms that run a system of independent checks and balances that build confidence of the citizens in the system, so that they can gradually shift from the alternative social institutions to the core institutions: legislature and executive that possess popular trust. Ultimately, only those reforms that secure support of the political leaders in the country are the lasting ones and will gradually solidify the national institutions. No imposed solutions can substitute that and aspire to having successfully resolved the institutional crises. Ownership is the *conditio sine qua non* and it is a short-term imperative and not a long-term option for BiH.

However, besides the need for a greater ownership, a number of other specific actions are required in order to improve the inter-institutional collaboration and a stronger system of national integrity:

- Parliamentarians are obliged to debate the reports of supreme audit and pay due attention to its recommendations, which is often irresponsibly neglected.

- Parliamentarians must hold accountable all those institutions of the executive that obtained negative or neutral opinions of the supreme audit.
- Parliamentarians must pay due attention to the reports of the Ombudsmen and instruct its own supporting offices as well as the government agencies to act in accordance with the recommendations.
- Critical political reforms should not be discussed only between the heads of political parties and the international community – much healthier debates can be held in the legal and constitutional environment of the national legislature.
- An all engulfing Anti-Corruption Strategy must be adopted at the State level and due to inability of the Council of Ministers to effectively implement and monitor it, this exercise must be driven from the central legislative authority – the BiH Parliamentary Assembly.
- This strategy must take a holistic approach to institutional and legislative capacity building, following good international practices, the progress of which is monitored and verified independently.
- The law enforcement triangle is inefficient due to the lack of co-operation among judiciary, prosecution and police. Professional level discussion on how this can be operationalised is not dependent of the outcome of the police reform and should begin without hesitation.
- Parliaments at all levels must provide strong support for independent institutions such as media, NGOs, business associations etc. that are often being restricted in operating freely and democratically, providing thus useful analytical inputs and recommendations to the executive and legislature.
- Open parliament sessions of this kind are highly desirable as they provide a useful forum for discussions and engagement of various important non-MP stakeholders in assessing progress and proposing further improvements in the reform agenda.
- EU accession should remain the key target for BiH politicians but both ends to this process must take the national specifics into account, though the guiding principals of the EU

represent excellent standards for BiH to strive to achieve that will benefit its citizens and the broader region.

Contributors to this publication

This report also contains additional papers written on the conference's subject with some previously published analyses and those that were prepared on the occasion of the event. The four contributors include: David Chandler, Boris Divjak, Florian Bieber and Nerzuk Ćurak. Their short biographies are presented here.

David Chandler is Professor of International Relations at CSD. He is the founding editor of the Journal of Intervention and Statebuilding and a regular media commentator. His research focus is on new forms of international intervention and regulation, particularly those projected in the therapeutic language of ethical foreign policy, the rule of law, human security, empowerment, democratization, state capacity-building, human rights, civil society development, anti-corruption and transparency, country 'ownership', post-conditionality, and 'pro-poor' development. Professor Chandler is the author of a number of monographs, including *Empire in Denial: The Politics of State-Building* (Pluto, 2006); *Constructing Global Civil Society: Morality and Power in International Relations* (Palgrave-Macmillan, 2004, 2005); *From Kosovo to Kabul (and Beyond): Human Rights and International Intervention* (Pluto, 2002, 2006); and *Bosnia: Faking Democracy after Dayton* (Pluto, 1999, 2000). He has edited or co-edited a number of books and has contributed to many journals.

Boris Divjak has been Chair of Transparency International (TI) Bosnia and Herzegovina since 2000, and is a member of the Global Board of Directors at Transparency International. An economist by training, he is a leading expert in enabling business in Southeast Europe, with a 12-year professional experience and more than 30 international references and publications. He has been advising governments in: public policy and institution-building, regulatory governance, investment-friendly local economic and regional development, foreign direct investment policies, and public-private sector dialogue mechanisms. Most of this work was conducted through Foreign Investment Advisory Service of the World Bank, although he also worked for the OECD, EU, USAID and UNDP. Boris

Divjak is also the founder of TI Bosnia and Herzegovina. In this capacity, he has been involved in: corruption analysis, design and implementation of anti-corruption strategies and tools, and training of public officials. In 2005 he was elected to the global Board of Directors. In 2007 he was appointed the Chair of the Membership Accreditation Committee. He holds a Masters degree in International Studies from Reading University, UK.

Florian Bieber is a Lecturer in East European Politics, who joined the Politics and International Relations Department of the University of Kent in 2006. Prior to moving to Kent, he worked for five years in Belgrade (Serbia) and Sarajevo (Bosnia-Herzegovina) as a senior non-resident research associate for the European Centre for Minority Issues and held teaching appointments at the Central European University, at the Regional Masters Program for Democracy and Human Rights at the University of Sarajevo and at the University of Bologna. He has been an International Policy Fellow of the Open Society Institute and conducted post-doctoral research with the Solomon Asch Centre for the Study of Ethnopolitical Conflict, University of Pennsylvania. He has published articles on power-sharing, institutional design and nationalism in Southeastern Europe. He is the author of *Serbian Nationalism from the Death of Tito to the Fall of Milošević* (Münster: Lit-Verlag, 2004, in German), *Ethnic Structure, Inequality and Governance of the Public Sector: Bosnia-Herzegovina* (London: Palgrave, 2005) and *Institutionalising Ethnicity. Success and Failure in Post-war Bosnia-Herzegovina, Kosovo and Macedonia* (Sarajevo: International Forum Bosnia, 2004, in Bosnian). In addition he has also edited several publications and is the co-editor of the journal *Southeast European Politics* and editor of the electronic network *Balkan Academic News*.

Nerzuk Ćurak, holding PhD in political science, is a lecturer at the Faculty of political science at the University of Sarajevo and a guest researcher at the University of Ljubljana (Faculty of Social Sciences). His focus of scientific attention includes: geopolitics, globalization, political philosophy, international relations, international security, polemology, peace studies, public policies, political parties and ethnonationalism. He is the author of three books: *Geopolitics as Destiny: Case Study Bosnia – Post-modernist review of a peripheral*

country (Sarajevo, 2002), Dayton Nationalism (Sarajevo, 2004), Revival of Bosnian Utopias – Politology, political philosophy and sociology of the Dayton state and society (Zagreb-Sarajevo, 2006). His bibliography includes books where he was a co-author, specialised analyses, scientific and publicist texts, essays, reviews, introductions, presentations at international, regional and national conferences, fora and round tables. He was the editor of the international review Srebrenica – Recollection of the Future (2005) published by the Heinrich Boll Foundation. He is the editor of the annual publication of the Faculty of political science in Sarajevo. His texts have been translated into English, German, Italian and Spanish.

Building Trust in Public Institutions?

Good Governance and Anti-corruption in Bosnia-Herzegovina²

Prof. David Chandler³
Centre for the Study of Democracy,
University of Westminster, London, UK

Abstract

Ten years after Dayton corruption and good governance rather than ethnic nationalism are widely alleged to be the central problems facing international attempts to construct capable and legitimate Bosnian state institutions. Political corruption substitutes private interests for public interests and in so doing undermines trust in public institutions, which depends on the fair and equal treatment of all citizens. In prioritizing anti-corruption and good governance initiatives, the international administration in Bosnia reflects an increasing international focus on these aspects as crucial to state-building initiatives. This paper considers the anti-corruption policies developed in the past decade and assesses the extent to which anti-corruption and good governance practices, developed by Bosnia's international administrators, have, in fact, rebuilt trust in Bosnia's public institutions.

² Reprinted with Author's permission from Ethnopolitics (Formerly Global Review of Ethnopolitics), Publication details, including instructions for authors and subscription information: <http://www.informaworld.com/smpp/title~content=t713735027>, Online Publication Date: 01 March 2006

³ Correspondence Address: David Chandler, Centre for the Study of Democracy, University of Westminster, 32-38 Wells St., London W1T 3UW, UK. Email: d.chandler@wmin.ac.uk

Both the development of anti-corruption strategies and their use as a component part of international programmes for good governance are fairly recent developments. Corruption hardly figured in international discourse before the 1990s. However, during the past decade major world powers and international agencies—such as the International Monetary Fund, World Bank, United Nations, Organisation for Economic Co-operation and Development, the G7 group of industrialized nations and the European Union—have increasingly focused on both good governance and the problem of corruption (Doig & Theobald, 2000; Robinson, 1998, pp. 1–2; Szeftel, 2000). For many commentators there is an assumption that anti-corruption strategies fit closely with the aims of good governance and can be effective in increasing the accountability of state institutions and revitalizing networks of trust in civil society (US Government, 1999; Theobald, 2000, p. 149).

Over the past 10 years a high international profile has been given to the development and implementation of an internationally coordinated anti-corruption strategy in Bosnia. This experience allows anti-corruption strategy, and the good governance agenda informing it, to be assessed and for some lessons to be drawn regarding the external management of good governance programmes designed to strengthen collective state institutions in post-war states, such as Bosnia. The following sections consider the centrality of good governance and anti-corruption to the international administration of Bosnia, international community responses to the problem of corruption, especially in relation to public awareness and institution building, and the questions arising from this experience.

“Only The Highest Standards Will Do”

In March 2005 the Croatian member of the Bosnian Presidency, Dragan Covic, due to chair the Presidency in June 2005, was dismissed from his post, without appeal, by the international High Representative Lord Paddy Ashdown. This was not for any opposition to the Dayton peace settlement, nor for any obstruction to the EU integration process—in fact his performance in post was praised by Ashdown (Ashdown, 2005). Covic was just the most recent of a long

line of highly ranked elected politicians to be forced out of office, or barred from running for high office, as a result of anti-corruption and good governance practices.

Ashdown's rule as High Representative has been marked by the priority he has given to emphasizing good governance and anti-corruption initiatives. After only a few days in office, in June 2002 he sacked Nikola Grabovac, minister of finance and deputy prime minister of the Bosnian Federation (FBiH) on the grounds that Grabovac had failed to act according to the highest standards of ministerial responsibility in the wake of the AM Sped affair (where public money from the federal government was misappropriated by the director of the private company, but there was no allegation that the lapse in financial controls reflected on Grabovac personally) (Chandler, 2002). In the same week he forced the resignation of the Republika Srpska (RS) minister of finance, Milenko Vracar. In April 2003 Mirko Sarovic, the president of RS was forced to resign to maintain Bosnia's "standards of political responsibility" again on the basis of allegations which were not proven in any court of law (Ashdown, 2003). Mila Gadzic faced charges and was forced to resign from her position as minister of foreign trade and economic relations in the state government in August 2003. In June 2004 Ashdown removed 59 elected and appointed RS officials at entity and municipal level on the basis of allegations of their failure to carry out their responsibilities (in relation to the Hague international criminal tribunal) and 60 municipal bank accounts were removed from their party, the SDS, and funds of up to KM 1 million transferred to state institutions. In December 2004 Ashdown prevented Milorad Dodik from running for the post of RS prime minister because criminal charges had been laid against him.

Lord Ashdown has administered the Bosnian protectorate according to rules of 'good governance' which are much tougher than those of many Western democracies, where there is no expectation that government ministers (or even US presidents) should resign on the basis of allegations which are yet to be proven in a court of law. In the Grabovac case the issue was that of ministerial responsibility for "the actions or inactions of his ministry", again, a question where there are no common guidelines for practice, nor any consensus on rules even

among members of the European Union. The Office of the High Representative (OHR) claimed the dismissal was justified on the grounds of Bosnia's particular need for "proper governance and transparency". Ashdown stated in the wake of the Covic dismissal, in March 2005, that Bosnia (BiH) needed to be ruled according to even higher standards than those existing in established Western democracies, which "have long histories, well founded stability and the established trust of their citizens", because its "democracy is still very fragile, its peace not yet fully secured and its institutions in their infancy" (Ashdown, 2005). He continued:

The truth is, as we all know, that BiH's institutions still have to win the trust of their citizens. And one of the reasons for that distrust, as every citizen knows, is the dangerously close connection between criminality and politics, as well as the high levels of corruption in BiH's political structures and governmental institutions. None of this is to say that any individual is guilty of the indictments laid against them. It is merely to assert that, if BiH is to win the trust of its citizens, without which no secure form of government or stable peace can be established, then, in choosing which standards are appropriate to BiH, only the highest will do (Ashdown, 2005).

Corruption and bad governance practices, rather than international administration or residual inter-ethnic mistrust, are alleged to be the key reason why Bosnia's citizens feel little connection to institutions of the Bosnian state. For Lord Ashdown and the international administrative OHR the need to win the trust of Bosnian citizens and legitimate Bosnia's ruling institutions has necessitated an international focus on good governance and anti-corruption measures.

One other consequence of the anti-corruption campaign and holding Bosnia's politicians to the highest standards of good governance is held to be a cleansing of the political system itself:

And there is another reason why holding to this principle, however difficult, is so important to BiH's future. Next year, after the 2006 elections, the winning political parties will have to consider whom they choose for high government positions.

Perhaps the fact that politicians' immunity is now severely limited and that we have held to the principle of resignation in the case of criminal indictment will cause political parties to think twice about putting forward for high office individuals who have a questionable past or close connections with the criminal world. If so, then this would be the biggest step ever taken to cleaning up BiH politics and would open the way to new, younger and cleaner hands to take over the government of this country. (Ashdown, 2005)

This paper questions whether the international administration's approach to anticorruption and good governance over the past 10 years has, in fact, contributed to building trust in Bosnia's public institutions or to undermining the ethnic electoral segmentation of Bosnian society. It also seeks to question the international administration's allegations of a partnership between the main nationalist political parties, corruption and organized crime, which are repeated so often that they are simply assumed by most commentators and international officials. It will be suggested that the tendency to see the political sphere as one of crime, corruption and sectional interests is a one-sided and problematic reading of the situation in Bosnia, one which marginalizes the capacities of the political sphere to generate trust in state institutions.

Corruption

From the late 1990s onwards the discussion of corruption in Bosnia has been highlighted as a political question of good governance, through the assertion of a link between the nationalist political leaderships and criminal elements involved in tax and customs evasion. However, where corruption claims have been investigated there has been relatively little evidence of the involvement of leading political parties. In fact, surprisingly, the OHR and other international bodies have at no point produced a comprehensive report documenting the extent of corruption and fraud in Bosnia and Herzegovina (CILE, 2000, p. 14). As Sam Gejdenson argued at the US House of Representatives International Relations Committee in September 1999, one of the problems with addressing the issue has

been “exaggerated guesstimates of corruption figures and misidentified reports” (Gejdenson, 1999). Gejdenson, the top Democrat on the Committee argued that the problems had been “grossly overstated” and that Bosnia was facing troubles no different from those of other emerging democracies in the region (Wolfson, 1999).

The US government’s General Accounting Office’s (GAO) July 2000 report found no evidence to support the widely repeated New York Times’ claim (Hedges, 1999) that American or international aid was “being lost to large-scale fraud or corruption”. One of the main examples of losses was the US Embassy’s loss of \$ 900,000 in operating funds thanks to the failure of the bank holding these assets. Out of the total of \$1000 million spent on Bosnia since 1995 by the US government, this was a very small proportion, less than 0.1%, and it was believed that the full amount could be recovered (Tully, 2000). Nevertheless the GAO report also suggested that “crime and corruption were endemic at all levels of Bosnian society” (Marquis & Gall, 2000). This was not based on hard evidence of endemic corruption but on “a near consensus opinion among officials we interviewed” that endemic crime and corruption threatened Dayton implementation (Johnson, 2000). Similar subjective anecdotal evidence is produced regularly, along the lines of Transparency International (TI) interviews which operate on the basis of general ‘perceptions’ of corruption (Heywood, 1997). The Organisation for Security and Cooperation in Europe’s (OSCE) Citizen Outreach Campaign Anti-Corruption Opinion Poll in 2000 asked questions like ‘Do you believe that corruption exists in Bosnia and Herzegovina?’, asked people to gauge the level of corruption from ‘endemic’ to ‘insignificant’ and asked ‘Is corruption affecting the continuing development of Bosnia?’ (OSCE, 2000a). Earlier subjective opinion poll evidence of corruption, such as that conducted in December 1999 by the US State Department, indicated that over 50% of Bosnian citizens believed corruption was prevalent in government and business. However, this is consistent with similar polls in Central and Eastern Europe (OSCE, 2000b).

The main evidence of political collusion seems to be the claim that “Bosnian authorities may be using the foreign donations to make up

for income the government has lost to crime". According to the GAO this could be "hundreds of millions of dollars" (Marquis & Gall, 2000, p. 8). The IMF estimates that the bulk of this is the result of black-marketing of cigarettes, with an estimated \$230 million lost annually (Miroslavljivic, 2000). More often figures for corruption are not even 'guesstimates' of the level of tax and customs evasion but established simply on the basis of the budget deficit made up by the international administration. The Dutch ambassador to the UN therefore puts the annual figure at \$500 million (Miroslavljivic, 2000). Of course, tax or customs evasion is hardly unique to Bosnia. In Britain the estimated loss to the tax payer from cigarette smuggling alone is estimated at far more than in Bosnia, at £4 billion annually; however, no commentators have considered this to be 'corruption' (BBC, 2000). Yet even at this level the facts are not clear concerning a lack of local commitment on the issue. Allan Wilson, General Manager of the International Customs and Fiscal Aid Organisation Office in Banja Luka, stated that the international monitors were "impressed with the achievements of the Sector for Customs Frauds of the [Srpska] Republic Customs Administration, obtained in spite of the shortage of personnel" (Miroslavljivic, 2000), while Bosnian Federal police in Tuzla Canton developed a compendium of case files running to 5500 pages (CILE, 2000, p. 14).

From the available evidence the political ties to corruption, assumed by the international community policy makers developing good governance regulations, are yet to be conclusively established. In August 2004 the publication of the in-depth Transparency International National Integrity Systems study report on Bosnia-Herzegovina was heralded at a major Sarajevo press conference and endorsed by international representatives, such as the UK ambassador Ian Cliff, who emphasized the headline findings of a 'serious corruption challenge'. Unfortunately, few people appear to have read further into the report to question the methodology used. This includes implying levels of corruption from correlations with economic indicators such as unemployment levels or government economic subsidies, the use of conclusions from other agencies, such as the US Agency for International Development (USAID) or the OHR, without supporting data, and the repetition of unfounded allegations made elsewhere. When pressed to come up with evidence of links

between Bosnian government officials and crime or corruption the TI report is revealing:

Although a great number of criminal charges have been brought against public officeholders, only one judgment has been delivered so far... The Basic Court in Banja Luka found Mr Nenad Suzic, the former RS minister of education, guilty of abusing his office. In particular, during his term as minister of education, Mr Suzic approved £ 5000 for postgraduate studies in Great Britain for the daughter of a politician, at that time president of the municipal assembly of Prijedor. (TI, 2004, p. 23)

Even this one case is not yet settled and has been appealed. It would seem that, although there are undoubtedly cases of political representatives acting corruptly, there is no evidence that Bosnia is, in this regard, any different from any other Western state, and certainly no evidence that the problem is in any way exceptional. Detailed investigative evidence is scarce. In September 1999 the Federation Government established a Commission of International Legal Experts to investigate international press allegations of political corruption, consider the cause and extent of corruption, and to recommend measures to improve anti-corruption efforts. The Commission reported in February 2000, concluding that "the nature of corruption in Bosnia is not... systematic corruption organized by all three sets of 'nationalist leaders'" (CILE: 2000, p. 21). The International Commission stated:

The types of corruption and organized crime afflicting Bosnia are similar to those that afflict other Central and East European states and states of the former Soviet Union, where they are endemic at the domestic level. They relate primarily to tax evasion, customs evasion, and misappropriation of domestic public funds. In Bosnia, they are augmented by the fact that a significant volume of illicit and contraband goods passes through the country on their way to Western Europe... The Commission found no reliable, quantitative estimate of the total level of corruption in the Federation. It may be, however, that the level and type of corruption in Bosnia differs

from their Central and Eastern European neighbours in a number of important ways. According to some NGO workers familiar with the problem in these countries, corruption in Bosnia is 'bush league' by comparison, and neither as highly organized nor as sophisticated. (CILE: 2000, pp. 21–22)

From the evidence alone it would appear that the most effective strategy for tackling the problems of budgetary deficits through tax and customs evasion would be through giving Bosnian police, prosecutors and judges the resources to investigate cases with the support of the United Nations Mission in Bosnia Herzegovina International Police Task Force (now the European Union Police Mission) and the European Commission's Customs and Fiscal Assistance Office (CAFAO) programme. However, subsuming international anti-corruption strategy under the mechanisms of good governance has meant that the international focus of resources has not been centred on dealing with corruption as part of the drive against major crime. International institutions working in Bosnia have used anti-corruption initiatives primarily to introduce mechanisms of good governance. These governance mechanisms include regulative measures to increase government transparency; initiatives to strengthen the workings of Bosnian government institutions; and public awareness campaigns to inform and encourage the public to see corruption as a major political issue. It is these aspects of 'systemic' anti-corruption strategy, rather than international support for criminal 'case' work, that this paper seeks to examine in more depth.

International Strategy

The Luxembourg Peace Implementation Council (PIC) Steering Board, meeting in June 1998, encouraged the OHR to coordinate the international community in implementing a comprehensive anti-corruption strategy. The Madrid PIC meeting in December 1998 reiterated concerns regarding a comprehensive anti-corruption strategy:

The Council expresses deep concern about continuing corruption and evasion of public funds. It welcomes the High

Representative's development of a comprehensive anti-corruption strategy which will... provide the framework necessary to identify, develop and implement changes in the structure and procedures of government, to significantly reduce corrupt activities and to establish a public awareness program... The High Representative will take the lead in co-ordinating International Community efforts aimed at eliminating opportunities for corruption, tax evasion and diversion of public revenue; ensuring transparency in all phases of governmental operations; strengthening the legal system and the judiciary; and implementing control mechanisms and appropriate penalties to ensure compliance. A key component of the strategy will be to develop a public awareness campaign to educate citizens about the deleterious effects of corruption on their lives and on society. (OHR, 1999, p. 6)

In February 1999 the OHR's Anti-Fraud Unit launched its 'Comprehensive Anti-Corruption Strategy' defining corruption, using the World Bank definition, as "the abuse of public office for private gain" (OHR, 1999, p. 6). The OHR's 'Comprehensive Anti-Corruption Strategy' was approved by the Peace Implementation Steering Council and closely involved the UN, European Commission, World Bank, US Treasury, US Justice Department and USAID. In addition to the individual case approach, providing assistance to the investigation and prosecution of major criminal cases, there was to be a two-track approach to deal with systemic political corruption: one track dealing with public attitudes, the other attempting to marginalize the influence of nationalist parties.

The Comprehensive Anti-Corruption Strategy sought to address 'Bosnian mindsets' through education and public awareness campaigning. According to the OHR: "An informed citizenry is crucial for the success of any anti-corruption program. If the public is apathetic towards corruption and accepts it as an inevitable presence, efforts to alleviate corruption will be futile" (OHR, 1999, p. 11). The problem of nationalist party dominance was to be approached by establishing mechanisms of external oversight to safeguard governing structures from party-political influence, ensuring transparent financial

management with strict control and monitoring of public revenue, tax and customs regulation. The work of government itself was to be closely monitored by parliamentary commissions, audit institutions and transparency offices.

Public Awareness

The systemic anti-corruption strategy entails a high level of international involvement in public education and political awareness to facilitate greater public participation in the political process. The public education campaign is premised on the assumption that the people of Bosnia are unaware of their real interests in this area and therefore in need of education by their international administrators. Christopher Bennett and Gerald Knaus argue: "Most Bosnians are aware how corrupt their leaders are and secretly support international efforts to restructure their country. But given their dependency on the current system, they are not yet ready to demand reforms, transparency and accountability" (Bennett & Knaus, 1999). According to the director of the US state department's Office of Bosnia Implementation, David Dlouhy, "democratic concepts of accountability to the public and transparency are not yet second nature to most Bosnians" (Dlouhy, 1999).

This need for increased awareness about the issue of corruption is seen to fit in with broader governance aims of developing a more participatory political environment, undermining the influence of the three main nationalist parties, and with replacing the political salience of ethnicity with themes which cut across ethnic lines. As James Pardew, Balkans special advisor to President Bill Clinton and the Secretary of State, put it:

Our strong preference would be that the Bosnians undertake the changes themselves because it is clearly in their long-term, collective self-interest to do so. To promote that kind of thinking, we set a high priority on promotion of independent media, support of open and transparent elections, and encouragement of pro-reform and pro-Dayton leaders and

political candidates, regardless of ethnic background or party.
(Pardew, 2000)

In fact, the segmented voting patterns of Bosnian voters and political corruption have become increasingly interlinked in the minds of Bosnia's international administrators, with electoral support for the leading nationalist parties seen as an indicator of public attitudes towards corruption. For this reason the international institutions involved in the Bosnian political process have heavily emphasized the question of political corruption in the run-up to recent elections. As the OHR has stated: "only when citizens recognize corruption and are aware of its effects, will they be able to make the correct choices at the ballot box" (OHR, 1999, p. 38). It would appear that the anti-corruption strategy is a highly politicized one. According to Peter Singer, the anti-corruption issue is the strongest card the international community has in encouraging political opposition to the leading nationalist parties:

The one issue that has consistently motivated Bosnian voters to turn against the ethnic-nationalist parties is graft—when it is fully exposed. Voting for reconciliation with 'the enemy' is one thing, but it is a lot easier to abandon party allegiances in order 'to get rid of those thieves'. Exposing, condemning, and removing corrupt officials from power is one of the few points of leverage against the nationalists that is popular with the typical Bosnian on the street. Anti-corruption is the best multiethnic issue of all. (Singer, 2000)

The OHR asserts that: "The ultimate success of the battle against corruption will be determined by the political will of the citizens of Bosnia and Herzegovina and the expression of that will in the election of their leaders" (OHR, 1999, p. 41). To this end the OHR has made 'public awareness' a central pillar of its anti-corruption strategy, stating: "All segments of society, from children in primary school to the business community and government officials, must be made aware of both the nature and consequences of corruption" (OHR, 1999, p. 11). Often public anti-corruption awareness campaigns are timed to coincide with elections, where critical campaign slogans such as 'Gdje idu nase pare?' 'Where is our money going?' seek to bolster the

opposition and are promoted in special TV episodes, radio spots, jumbo poster campaigns and special comic books and animated video clips, all designed to “inform citizens about how they can become involved in the fight against corruption, by insisting on their right to a responsible, accountable government” (OHR, 2000).

Until 2002 the OSCE was directly responsible for organizing elections in Bosnia and played a central role in encouraging non-nationalist parties through attempts to “raise citizens’ awareness of corruption, thus allowing voters to make an informed choice at the polls” (OSCE, 2000c). Like the OHR, the OSCE also ran a major anti-corruption publicity campaign in the run-up to elections. Rather than making any specific allegations of corruption against the major parties, the OSCE would instead urge voters to speak out against corruption ‘in general’ by voting for ‘anti-corruption’ candidates (OSCE, 2000d). The Civil Society Anti-Corruption Public Outreach Programmes organized by local internationally funded NGOs and OSCE ‘Community Facilitators’ set up radio shows, public tribunes, roundtable discussions and public meetings and crudely argued for the public to support the opposition parties who were ‘raising awareness’ about government corruption.

While all Bosnian parties condemned corruption, the international education and public awareness campaigns created tensions with Bosnian politicians. For example, it was in the context of publicizing political corruption that the OHR Anti-Fraud Unit briefed the, later discredited, material to Chris Hedges from the New York Times (Dlouhy, 1999). The resulting catalogue of misrepresentations played a useful role in increased international pressure on Bosnian institutions but brought angry responses of bias from the then Bosnian president, Alija Izetbegovic (A. Izetbegovic, 1999; B. Izetbegovic, 1999). Despite the anti-corruption campaigning focus, funded and encouraged by international institutions at successive elections, up to the present time the main nationalist parties have continued to dominate the political scene and achieve much better showings than expected, while no genuine cross-ethnic political alternative has emerged. This would appear to indicate some limitations on the strategy of making political corruption and good governance central political issues at elections.

It seems that the anti-corruption campaigns have promoted political cynicism rather than a hoped for political change, and have backfired on the international community. Voting returns indicate that, while the public awareness aspects of international anticorruption strategy have been successful in getting the message across, this has neither had a beneficial influence on levels of public political participation nor had any positive impact on levels of trust and cooperation either within or between ethnic groups. It seems that the conclusion Bosnian voters have drawn from the institutionalisation of anti-corruption into every walk of life has been that no politicians can be trusted. While the international community promoted the corruption issue as a way of undermining support for the nationalist parties, the impact has been a wider one, undermining the political process more broadly. If all politicians are corrupt, then voters are less likely to see change and progress as possible through the ballot box.

Evidence indicates that far from anti-corruption being a vehicle for broadening support for multi-ethnic parties, the issue seems to be one that favours the nationalists. The less trust people have in the broader political process, the more likely it is that parochial and local links will come to the forefront. This is supported by literature on the importance of high levels of generalized trust for establishing inter-communal bonds, 'bridging' social capital as opposed to 'bonding' social capital, in the terminology of Robert Putnam (Putnam, 2000, pp. 134–147; see also Fukuyama, 1995). If elected representatives are just out to line their own pockets, they can not be trusted to prioritize the interests of their voters. Concern over representation can only lead to a higher level of insecurity and atomization. Political pessimism and insecurity are more likely to lead to support for nationalist parties or to non-participation than to support for parties which promise political change. It is little surprise that in the run-up to subsequent elections, the key concern of the OHR has been whether voters will vote at all. These concerns seem justified with turnout dropping to 45% in the local elections of October 2004, with young and urban voters abstaining. The low level of participation has been widely held to have benefited the nationalist parties, with younger, urban, less politically aligned voters more likely to abstain and more politically connected elderly and rural voters more likely to vote (Dervisbegovic, 2004).

Institution Building

According to leading international statesmen and policy makers, the popular nationalist parties are putting the personal interests of the political elites above those of the Bosnian public: “politicians play the nationalist card to mask their lack of commitment to develop state institutions. For them, public accountability and personal responsibility are notoriously absent” (CILE, 2000, p. 6) Former High Representative Wolfgang Petritsch has argued that the political elites have the wrong approach to the political process: “The government is there to work for the citizen, and not the other way around” (Petritsch, 2000). For Petritsch “the corruption of public institutions is one of the most serious and major obstacles” preventing Bosnia from becoming integrated into European institutions (CILE, 2000, p. 26). Because the problem of corruption is seen to lie with Bosnian politicians themselves, they are caught in a no-win situation. They have been criticized for failing to do more than create committees and commissions that have not ‘measurably’ reduced crime and corruption (Johnson, 2000). Yet, when they do form anti-corruption teams headed by the entity prime ministers and involving key ministers such as the minister of the interior and justice and members of the intelligence and security services and customs, they are accused of attempting to hamper anti-corruption initiatives or of seeking to whitewash the situation (Miroslavljivic, 2000).

The response from international policy advisors has been to call for more regulation of the actions and power of Bosnian politicians. One approach has been to call for the decentralised powers at entity, canton and municipal level to be weakened. For some commentators the problem is that there is ‘too much’ government in Bosnia, with the division of responsibilities between the state and entity governments making it difficult to clearly allocate responsibility (Martin, 1999; Wilkinson, 1998). A similar complaint is expressed by advisors who argue that all levels of political authority need to be restricted: “The basic difference between the two entities of Bosnia is the fact that there are three levels of corruption in the Federation (municipalities, cantons and the Federal authorities) while there are ‘only’ two in the Republika Srpska (no cantons)” (Divjak, 2000). International analysts

argue that: “Without dismantling Bosnia’s existing domestic power structures, there is no way out of the current quagmire” (Bennett & Knaus, 1999).

The only solution to corruption appears to be greater external regulation. Steve Hanke, John Hopkins professor and advisor on economic issues to the Bosnian government, suggests the solution lies in “shrink[ing] the size of the government down to almost zero... That is the only way to get rid of corruption. Have no aid, no government officials, minimum state” (Wood, 1999). Professor Hanke argues that the monetary system set up by the USA and the IMF is “the only non-corrupt institution in Bosnia... because it is run by a foreigner” (Wood, 1999). Rather than strengthening Bosnian political institutions, the OHR has targeted them as the central problem, stating that there is no evidence of corruption involving internationally administered funds, but that: ‘Corruption and fraud, which are undoubtedly a serious problem in the country, primarily centre on the misuse of local public funds and budgets’ (OHR, 1999, p. 13). International policy, informed by good governance principles, starts from the assumption that elected government is an opportunity for corruption and inevitably leads to the conclusion that “corruption-busting is therefore a task for the West” (Bennett & Knaus, 1999).

The Bosnian political institutions are increasingly restricted or bypassed by current international policy. They are restricted through external pressure on policy making. As James Pardew states, the US government is working with the IMF, World Bank and European Bank for Reconstruction and Development (EBRD) to strengthen conditionality “to apply as much leverage as possible to overcome resistance by the Bosnian leadership to implement the changes necessary to undercut corruption” (Pardew, 2000). They are bypassed by the creation of new regulatory mechanisms which include little Bosnian representation—for example, the Anti-Corruption and Transparency Group (ACT) formed by the OHR, with the objective of strengthening international efforts. The membership comprises about a dozen international organizations, as well as the US government’s newly formed Anti-Corruption Task Force. ACT does not, however, include any participation by Bosnian officials or independent experts (CILE, 2000, p. 39). This trend to bypass or restrict the political

institutions is supported by the European Stability Initiative (ESI) Bosnia Project, which warns that transferring responsibility for governance and overseeing the operation of public institutions to Bosnian political leaders would be a mistake. Far from giving elected representatives increased authority, the ESI suggests that more control should be given to Bosnian civil servants backed by the international community (ESI, 1999).

This consensus of international support for anti-corruption mechanisms of good governance to take precedence over representational mechanisms of government has led to the politicisation of the question of corruption and to the practices of anti-corruption and the 'corruptionisation' of the political process. By this I mean that the political process is increasingly played out through the language of corruption and anti-corruption. Allegations of corrupt practices have been used to provide a blank cheque to legitimise political interference by international administrators and as the language of political and personal faction fighting between Bosnian parties themselves. Questions of political power and resource distribution which could have been justified in political terms of international administrative or of party-political interests have been corruptionised—i.e. taken out of the public political sphere. They have been turned into administrative and bureaucratic questions of administrative etiquette and 'good practice' or of good governance, alleged to stand independently of—or over and above—political interests. Whether an issue remains one of political choice or is corruptionised is a matter of international administrative decision—a 'speech act' in the analogous framework of 'securitisation' developed by the Copenhagen school of security studies (Buzan et al., 1997).

The focus on the politicization of corruption and anti-corruption or the corruptionisation of political-administrative external regulation is a useful framework for analysing the issue in the Bosnian context. This framework of analysis places the focus on the 'speech act'—the decision to name an act as 'corrupt'—rather than taking a prejudged view that corruption is normatively bad or that the definition of corruption is in any way a 'given' rather than a constructed one. High Representative Paddy Ashdown has used allegations of corruption to impose his will on the political process by dismissing politicians and

disciplining political parties. Transparency International's 2004 National Integrity Systems report found that one of the main problems in the prosecution of corruption cases had been the politicization of the process. It stated that "the proceedings have largely been hastily initiated, with the aim of appeasing the public or discrediting a political opponent" (TI, 2004, p. 23). The international administration's politicization of corruption has done little to strengthen trust in public institutions or the rule of law, according to that widely respected policy NGO. Regarding Ashdown's dismissal of RS officials and the freezing of bank accounts in June 2004, the report argues:

The High Representative has demonstrated that he can bring charges against any individual in BiH without presenting sufficient (or any) evidence and that the entire process of 'democratic' elections comes close to being a farce. Dispossessing legal entities of their funds without a proper public investigation and a trial would be classified as theft in any Western democracy. Regardless of the profiles of the 59 individuals removed from office, many of whom are widely considered to be crooks, no trial has been set and they have had no opportunity to present their case. Besides, pressing criminal charges and presenting a clear case would have done more for the national integrity system of the country and would have painted a powerful image of the 59 individuals and their party. (TI, 2004, p. 24)

The undermining of domestic political and legal processes in the cause of anti-corruption and good governance is inherently self-defeating. The creation of a modern state framework requires that Bosnian political institutions be strengthened rather than external administrative powers. In fact, the desire to restrict and regulate the Bosnian political elites can only weaken trust in political institutions. Samuel Huntington, in his classic early work *Political Order in Changing Societies*, argued that:

The administrator opposed to parties accepts the need to rationalize social and economic structures. He is unwilling, however, to accept the implications of modernization for broadening the scope of popular participation in politics. His is

a bureaucratic model; the goal is efficiency and the elimination of conflict. Parties simply introduce irrational and corrupt considerations into the efficient pursuit of goals upon which everyone should be agreed. The administrative opponent of parties may wear any dress, but he is less likely to be in mufti than in uniform. (Huntington, 1968, p. 404)

For Huntington, leaving aside the acuteness of his observation on the link between the military mindset and the administrative one—captured well by Lord Ashdown the ex-Royal Marine Commando who has never enjoyed elected government office—the point is that hostility to the political sphere is essentially counterproductive. While kings and bureaucrats understand their legitimacy as existing independently of society, links between individuals and the state—provided by the political sphere and by the mediation of political party competition—are crucial to creating identities which transcend parochial and particularist groupings and to the legitimation of state-level institutions.

Conclusion

The international community's systemic anti-corruption strategy aimed at developing mechanisms of good governance has been successful in Bosnia, but only in so far as it has acted to marginalize the sphere of politics. The process of imposing decisions that the international community feels are in the public interest has strengthened external mechanisms of international governance but undermined domestic Bosnian institutions of government, weakening political institutions and discouraging public participation in the political sphere. If the international community is deciding which parties represent the public interest and which policies they should be implementing, there is little room for political contestation or for public involvement. The current policies for promoting good governance in Bosnia, such as the international anti-corruption campaigns and high-level sackings, raise the question of whether the international administrators see the sphere of internal Bosnian politics as necessary at all.

The narrow view of legitimate politics apparently held by Bosnia's international overseers would reduce Bosnian political institutions to the role of administrators of international policy decrees. From the point of view of the international community, leading nationalist political parties appear to be corrupt precisely because they are engaged in representing and negotiating on behalf of the particular interests of an ethnic constituency, interests which are defined as conflicting with the public interest. However, there is nothing innately corrupt about politicians supporting the aims of a particular political constituency. The reflection of particular interests is the essence of representational politics; all political parties historically reflect particular social, sectional or regional interests. In a highly segmented society, such as Bosnia, it is inevitable that elected representatives will reflect this social division. The international community is, in fact, calling for a Bosnian political class that is apolitical, which does not reflect these particular concerns and therefore is disconnected from Bosnian society.

As commentators have noted in relation to other good governance initiatives, there is a clash between the demands of these programmes, such as anti-corruption campaigns, and the demands of politics because the 'public interest' demands impartiality while "the stock in trade of party politicians is partiality" (Williams, 2000, 135–148). Politics would indeed not be necessary if all questions could be decided by the technicians of good governance developing the 'correct law' or ideal method of administration. As with all techniques of good governance, anti-corruption campaigns can easily neglect the political realities of coalition- and consensus building necessary to political life, seeking in effect to remove politics from government. The reason representational politics is necessary is because individuals, in Bosnia or anywhere else, do not subjectively see the world through some automatic and agreed understanding of what the public interest is.

The political sphere in Bosnia may reflect political cleavages in society but it also remains a necessary mechanism in the reconciliation of these conflicting interests. Particularly in circumstances of social and political division, representational politics is central to overcoming the fears and concerns of citizens through the transparent and

accountable process of consensus building and decision making in political assemblies. The artificial institutional settlement in Bosnia, where the international community assumes executive and legislative powers, makes the development of trust impossible as this process lacks transparency or accountability. The manipulation of pliant political elites, isolated from any electoral base in society, may make it easy for international legislators to impose good governance decrees but can only institutionalize societal divisions rather than overcoming them. Politicians who have little representational legitimacy are unlikely to be able to build bridges within society and lack the capacity to resolve conflicts. The weak position of the new elites highlights the artificial nature of this internationally enforced process, in which decisions arrived at are dependent on international supervision. This increases insecurity on all sides, as there is little local control or ownership of the political process, necessary for the settlement to be self-sustaining after international withdrawal. International administrators who have no respect for the political choices of Bosnian citizens and distrust the political process are poorly placed to help restore trust in public institutions. Public trust in state institutions will not be possible until the international administration allows meaningful public participation and public accountability.

References

- Ashdown, P. (2003) High Representative comments on resignation of Mirko Sarovic from BiH Presidency, 2 April, OHR Sarajevo, at: http://www.ohr.int/ohr-dept/preso/pressr/default.asp?content_id=29615.
- Ashdown, P. (2005) Remarks by the High Representative at the press conference on the removal of President Covic, 29 March, OHR Sarajevo, at: http://www.ohr.int/ohr-dept/preso/pressb/default.asp?content_id=34399.
- BBC (2000) Cigarette smuggling “costs £4bn”, BBC News, 27 November, at: <http://news.bbc.co.uk>.
- Bennett, C. & Knaus, G. (1999) Battling corruption in the Balkans, Global Beat Syndicate, 27 August.
- Buzan, B., Wæver, O. & de Wilde, J. (1997) Security: A New Framework for Analysis (Boulder, CO: Lynne Rienner).
- Chandler, D. (2002) The King of Bosnia, Spectator, 22 June, p. 20. CILE (2000) Corruption and anti-corruption measures in the Federation of Bosnia and Herzegovina, Final Report of the Commission of International Legal Experts, 25 February.
- Dervisbegovic, N. (2004) Nationalists dominate Bosnia’s local election, Reuters, 3 October.
- Divjak, B. (2000) Corruption in Bosnia and Herzegovina—the Iron Fist channelled, at: http://vrhinka.com/vrhinka/anti-corruption%20forum/clanek_3.htm
- Dlouhy, D. B. (1999) Director of the State Department’s Office of Bosnia Implementation, David Dlouhy on corruption in Bosnia-Herzegovina, Statement to the House International Relations Committee, 15 September, at: <http://www.usembassy.it/file9909/alia/99091711.htm>.
- Doig, A. & Theobald, R. (2000) Introduction: why corruption?, in: A. Doig & R. Theobald (Eds), Corruption and Democratisation, pp.1–12 (London: Frank Cass).
- ESI (1999) International efforts to combat corruption in Bosnia and Herzegovina, Background Paper 4, European Stability Initiative Bosnia Project.
- Fukuyama, F. (1995) Trust (New York: Free Press).

- Gejdenson, S. (1999) Gejdenson on corruption in Bosnia, International Relations Committee Democratic Staff Press Release, 15 September.
- Hedges, C. (1999) Leaders in Bosnia are said to steal up to \$1 billion, New York Times, 17 August.
- Heywood, P. (1997) Political corruption: problems and perspectives, Political Studies, XLV pp. 417–435.
- Huntington, S. (1968) Political Order in Changing Societies (New Haven, CT: Yale University Press).
- Izetbegovic, A. (1999) The goal of article in The New York Times is to slander what Chris Hedges calls Bosnian government, Dnevni Avaz (Sarajevo), 18 August.
- Izetbegovic, B. (1999) Bakir Izetbegovic will sue OHR, Dnevni Avaz, 19 August.
- Johnson, H. J. (2000) Crime and corruption threaten successful implementation of the Dayton Peace Agreement, Statement of Harold J. Johnson, Associate Director, International Relations and Trade Issues, National Security and International Affairs Division, before the House of Representatives Committee on International Relations, 19 July, at: http://www.usis.it/file2000_07/alia/a0071906.html
- Marquis, C. & Gall, C. (2000) Congressional report says corruption is stifling Bosnia, New York Times, 7 July.
- Martin, S. T. (1999) Corruption mars Bosnia mission, St Petersburg Times, 19 August.
- Miroslavjevic, M. (2000) Corruption in Republika Srpska, AIM Banja Luka, 29 September, at: <http://www.aimpress.ch>
- OHR (1999) A Comprehensive Anti-Corruption Strategy for Bosnia and Herzegovina, Anti-Fraud Unit, Economics Department, Office of the High Representative, Sarajevo, February.
- OHR (2000) OHR launches 2nd phase of anti-corruption campaign, Press Release, 7 September, at: <http://www.ohr.int/press/p20000907a.html>
- OSCE (2000a) Citizen outreach campaign anti-corruption opinion poll, OSCE Mission to Bosnia and Herzegovina, at: <http://www.oscebih.org>
- OSCE (2000b) Facts about corruption, OSCE Mission to Bosnia and Herzegovina Public Information Office.

- OSCE (2000c) Civil society takes part in anti-corruption campaign in Bosnia and Herzegovina, OSCE Mission to Bosnia and Herzegovina Press Release, 12 October.
- OSCE (2000d) Anti-corruption campaign FAQs, OSCE Mission to Bosnia and Herzegovina Press Information.
- Pardew, J. W. (2000) The impact of corruption in Bosnia, Statement before the House International Relations Committee, James W. Pardew, Principal Deputy Special Advisor to the President and the Secretary of State for Democracy in the Balkans, 19 July, at: <http://osce.usia.co.at/bos19july00.html>
- Petritsch, W. (2000) Speech by the High Representative, Wolfgang Petritsch at the BiH Anti-Corruption and Transparency Conference, Sarajevo, 14 February, at: <http://www.ohr.int/speeches/s20000214.html>
- Putnam, R. (2000) Bowling Alone: The Collapse and Revival of American Community (New York: Simon & Schuster).
- Robinson, M. (1998) Corruption and development: an introduction, *European Journal of Development Research*, 10(1), pp. 1–14.
- Singer, P.W. (2000) Bosnia 2000: phoenix or flames?, *World Policy Journal*, Spring, pp. 31–37.
- Szeftel, M. (2000) Between governance and underdevelopment: accumulation and Africa's 'catastrophic corruption', *Review of African Political Economy*, 27(84), pp. 287–307.
- Theobald, R. (2000) Conclusion: prospects for reform in a globalised economy, in: A. Doig & R. Theobald (Eds), *Corruption and Democratisation*, pp. 149–159 (London: Frank Cass).
- TI (2004) National Integrity Systems Transparency International Country Study Report Bosnia and Herzegovina 2004 (Berlin: Transparency International).
- Tully, A. F. (2000) Bosnia: Clinton administration sees hope in fighting corruption, *Radio Free Europe/Radio Liberty*, July.
- US Government (1999) Final Report, A Global Forum on Fighting Corruption: Safeguarding Integrity among Justice and Security Officials, Washington, DC, 24–26 February, at:

http://www.state.gov/www/global/narcotics_law/global_forum/global_forum_report.pdf

- Wilkinson, T. (1998) Bureaucracy, corruption plague foreign investment in Bosnia, Los Angeles Times, 29 March.
- Williams, R. (2000) Democracy, development and anti-corruption strategies: learning from the Australian experience, in: A. Doig & R. Theobald (Eds), Corruption and Democratisation, pp. 135–148 (London: Frank Cass).
- Wolfson, P. (1999) Bosnia corruption, Voice of America, 15 September.
- Wood, B. (1999) Bosnia corruption, Voice of America, 20 August.

Peacebuilding and Corruption Case study Bosnia and Herzegovina⁴

Boris Divjak⁵

Transparency International Bosnia and Herzegovina

Abstract

Over a decade since the cessation of conflict in Bosnia and Herzegovina the country still records extremely high levels of corruption. Despite most extensive donor efforts to reform the country and develop it to a sustainable level, the ruling elites managed to slow progress down and profit from such a *status quo*. The international approach had its flaws that worked well for the corrupt elites and allow them to maximise their illegal proceeds. Duality of power removed accountability and responsibility from either the international community running affairs, or the elected leadership. Lack of clarity relating to development aid, role of the international agencies, their exit strategy and reform priorities only fuelled corruption, not only locally but sometimes also among the international staff present in BiH. Lack of democracy was displayed by the corrupt leaders as well as some top international representatives, diminishing the quality of delivered aid and the citizens' living standards.

⁴ presented on the occasion of the International workshop on Peacebuilding and Corruption organised by Centre for International Studies Department of Politics and International Relations, University of Oxford, 22-23 March 2007

⁵ Boris Divjak, Chair of Board of Directors of Transparency International Bosnia and Herzegovina and member of the global Board of Directors of TI.

Corruption profile in Bosnia and Herzegovina

Despite years of reforms, extensive analysis and billions of dollars in international assistance invested into the decade long post-war development of Bosnia and Herzegovina (BiH), the country still faces a serious corruption challenge and only weak and ineffective institutions to combat it. In 2006, the Corruption Perception Index of Transparency International (TI) included 163 countries and ranked them on a scale from the least corrupt to those where corruption is most pervasive. Following its drop from the 70th place in 2003 to the 88-96th in 2005, in 2006 BiH shared the 93 to 98th position with a score 2.9 out of a clean score of 10⁶, which ranked the country among the most underdeveloped and corrupt in the world where reforms are slowly implemented, transition is characterised by numerous affairs that further indicates a permanent lack of vision and strategy in anti-corruption combat.

A number of newly adopted laws in BiH reflect good global practice, but inconsistent and weak implementation mechanisms and a consequent lack of positive results lead to a continuous decrease in public trust in the country's institutions.

The analysis of the status of corruption on the basis of the corruption surveys and findings shows that corruption is most pervasive at the local (municipal and particularly cantonal) level⁷. This is due to the fact that the majority of contacts between citizens and public administration take place at the sub-national levels, while the price of corruption is certain to rise at the higher levels of power. In most cases the incriminating trail of criminal activities in connection with misappropriation of public funds, mismanagement of public companies and irregularities in the privatisation process leads to the top levels of power. This poses a conclusion that most of the criminal activities could not happen without a direct engagement or patronage of high-ranked officials.

⁶ TI (2006)

⁷ TI BiH (2004) and (2007)

Disturbing fact that yet has not been properly addressed is that the key positions in privatisation agencies as well as in managing boards and other managing functions in public enterprises are held by persons whose most important qualification for carrying out such responsible duties is the fact that they belong to a specific political party. The public thus perceives the political parties as the most corrupt segment of the society, introducing fraud, theft, cronyism and other corrupt behaviour into the executive, legislative as well as, indirectly, to the law enforcement institutions (judiciary, prosecution and police).

Noteworthy is also the lack of a multi-stakeholder approach. Most efforts have concentrated on strengthening of individual institutions and very rarely have taken a holistic countrywide approach that would begin by bringing the key parties to discuss the agenda and priorities together. This approach to the system, based on combined effectiveness suggests that e.g. a strengthening of judiciary without implementing simultaneous measures in the police, prosecution, public attorney's office, lawyers etc., will not bring about any sustainable improvement. While progress has been made in professionalising judiciary, police and other institutions of the legal system, the lack of communication and co-operation between the parallel institutions has inhibited substantive systemic reforms. More than a decade since the end of hostilities there has been little or no serious sanctioning of economic crime committed either during the war or thereafter. This confirms the hypothesis that an uncoordinated system is unsustainable in the long-term.

The public sector has demonstrated its incapability to effectively address the governance issues, efficiently build its capacities and lead a strong anti-corruption campaign. Three anti-corruption strategies (including two prepared by the international community) have failed thus far for the reasons of the lack of institutional commitment, close collaboration, but also the actual political will to combat corruption. This is understandable from the prism of benefits the national politicians retain by maintaining their non-transparent self-governed feudal territories, effectively accountable to nobody and gaining from financial and economic resources solely at their disposal.

The apparatus of orderly government is too often hijacked by political elites who siphon the national treasury and transform government bureaucracies into bribe-collection agencies, which impede business. E.g. BiH remains a regional leader in how long it takes to register a new business. The customs procedures both when importing and exporting take several times longer than in the neighbouring countries. Similar is the case of business compliance and inspections⁸. Moreover, corruption in BiH creates an atmosphere of ambiguity that stymies businesses from investing and initiating operations. Certainty premised on the rule of law is a prerequisite for investment. Pervasive corruption in BiH has long-term consequences on the country's economic development. Corruption has also played a pivotal role in driving away foreign investment, because most foreign companies have refused to set up operations after demands by officials to pay bribes and do business exclusively with local party officials⁹. BiH thus remains one of very few countries where even McDonalds was discouraged from entering the country. No significant multinational manufacturing or trade business has invested any capital in BiH either. With EUR 239 million of foreign direct investment in 2005¹⁰, it has the lowest regional FDI figures. Administrative barriers are far too numerous and the country runs the highest per capita costs for setting up a business and among the highest social and fiscal contributions in the region. These are extremely discouraging for investors, aimed at financing the excessive bureaucracy and kleptocracy and are keeping the unemployment rate at approximately 40% while encouraging the grey economy estimated at 50% of the country's GDP¹¹. The country remains aid dependent at the times when there are very little international sources willing to continuously fund its development, with no growth strategy of its own and sustainable structures to take BiH into the family of the European states.

⁸ Several surveys of costs of doing business have been conducted by the World Bank and particularly its Foreign Investment Advisory Service (FIAS). E.g. it takes 54 days to register a business; the customs procedures may take up to 100 hours; and an on-site market inspection may consume over 30 inspector/days per company per year etc. Sources: Administrative and Regulatory Costs Survey, FIAS, Washington 2005; Cost of Doing Business Database, World Bank, Washington, 2007

⁹ Skulrak (2001), p. 10

¹⁰ WIIW (2006)

¹¹ Central Bank of BiH figures from TI BiH (2002)

Corruption fuelling conflicts

BiH came into being in 1992, facing an immediate inter-ethnic war threat, which the separation was expected to trigger. Almost four years of the conflict ended with a peace agreement signed in Dayton by the end of 1995 that left the country administratively divided in two constituent Entities: Federation of BiH (further divided in 10 state-like cantons) and Republika Srpska. The wartime parties were able to fund their political and military activities by controlling the movement of arms, fuel, tobacco, alcohol and foodstuff¹². Intelligence investigations conservatively estimate that between 1992 and 1995 up to US\$ 800 million worth of weapons was smuggled into BiH¹³ channelled through foreign-based firms, managed by the local politicians. Such businesses represent a breeding ground for corruption, making their managers, thoroughly selected members of the elite, the richest people in the region. In many ways, the war created and solidified networks premised on trust and loyalty and created alliances between politics and crime, very often crossing the frontline too. Many members of the nationalist parties became and are still linked to these political-criminal networks whose structure is difficult to dismantle. For most part, these alliances remained even after the peace agreement was signed.

Among many political and economic theories of the Yugoslav break-up, one has recently become rather popular among the international relations scholars. The fact that the republics' borders within the former Yugoslavia represent the largest redistributing mechanism of national wealth may have triggered the desire for a greater control of these boundaries. Due to the small capacity of republics' individual economies, the value of goods and services crossing the boundaries of the Balkan countries in some cases reached up to 85% of GDP¹⁴ irrespective of the conflicts. Therefore, those politicians who sought a tight command of such a large GDP portion first had to establish firm borders and then control the customs and border police, inspections etc. with an aim to grasp the proceeds from new duties, levies, fees as

¹² Chandler (2000)

¹³ Center for Study in Democracy (2002), p. 13

¹⁴ Center for Study in Democracy, *ibid.*, p. 6

well as massive bribes. Immediately with the break-up of Yugoslavia, the post of the Head of Customs became more important than any ministerial position. This may explain the political goal of administrative divisions from the criminal viewpoint that characterised the early 1990s. In fact, while the national leaders promoted the policy of threat and domination of other ethnic groups thus calling for self-determination and separation, what they had in mind was the territorial partition that renders a significant illegal yield. Likewise, their determination to maintain such a strict division of the ex-Yugoslav republics and territories with endless tariff and non-tariff, administrative barriers and customs procedures, they maintain their corrupt source of income, while claiming that the national division is good. This is true only for the ruling elites, as they practically monopolise the intra-regional and national trade hence sustaining control over the bulk of economic flows. This explains the persistence of various divisions within BiH, including its Entities, 10 cantons in the Federation of BiH, self-governed towns, districts and municipalities. Only the selected few: certain state-owned companies and crony businesses would be spared of the bureaucratic hurdles, their doing business made unevenly cheaper and granting them a huge advantage in the market. This picture dominated the decade long post-conflict divisions in the country, coupled with growing corruption and poverty.

The nationalist parties that led the conflict remained in power for years after the civil war with an effective control over the bureaucratic mechanisms, economic flows and the public revenues system. The same individuals who masterminded the wartime activities and monopolised the economic flows, surrounded by their party cronies governed the dominant state-owned sector and its privatisation process, which ensured a continuous tight grip over the domestic resources and indirectly aid supporting its growth. Partisan control of the economy-related ministries, state-owned enterprises and privatisation agencies ensured domination of the economy and a smooth ownership transition, governed through and performed by the party triangle.

The international protectorate was comparatively weak in the early reconstruction years and its powers vested in the High

Representative¹⁵ grew over years and reached its peak in the latest period 2003-2005. However, the disbursement of the international post-war assistance started as early as December 1995 and largely lacked a monitoring scrutiny for most of the intensive reconstruction period. By 2000, the bulk of the money had been spent and the institution building agenda was barely addressed.

While the total amount the donor community pledged and committed in the country up to 2000 alone exceeded US\$ 5.1 billion¹⁶, which sets the annual per capita recipient figure to US\$ 255¹⁷ – highest ever in the developing world – the changes were far from the early expectations. Five donor conferences were organised to accommodate the needs of the devastated country, but what these conferences failed to arrange were the aid co-ordination, its disbursement and control mechanisms. This not only resulted in the mismanagement of the donor funds, but also in this generous international assistance to become a subsidy for the misused fiscal revenues. A steady inflow of aid grants and loans hardly encouraged a more robust fiscal policy and tax collection. Those scarce funds provided by the taxpayers served the poorly planned public spending, with no aid co-ordination mechanisms, procurement law and internal or supreme audit in existence in the first post-war half a decade. The results were incredibly rich tiny portion of the society and an impoverished vast majority. The former is particularly true for the arms traders and smugglers, prominent members of the nationalist parties

¹⁵ The High Representative's post was created by the Framework Peace Agreement, enabling decision-making in the implementation of the civilian aspect of the treaty possible where the national parties could not reach an agreement. The High Representative derives his powers from Annex X to the Dayton Agreement making him the "final authority in theatre regarding the interpretation of this Agreement on the civilian implementation of the peace settlement" and giving him, inter alia, the power to "facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation."

¹⁶ The principal donors being the European Commission, the World Bank, and bilaterally USA, followed by Japan, the Netherlands etc. Respectively, they have participated with: 21, 13, 16, 8 and 5.5 %. All others have pledged 36.5% combined. Source of data: Divjak (2000), p. 7

¹⁷ IMF's 2005 estimate of BiH population used for per capita national accounts – 4 million citizens over five years of aid delivery

in power, who opted for a quiet senior post in the local or sub-national governments. In fact, according to a seminal New York Times article, the OHR Anti Fraud Unit only in 1999 was examining 220 cases of embezzled cash intended to help rebuild roads, buildings and schools aimed to provide municipal services across the country. For example, in the town of Sanski Most, which was heavily damaged during the war, municipal funds were being used to build a horseracing track. The town's Mayor was charged with 358 counts of corruption. One charge included the theft of \$450,000 in relief aid from Saudi Arabia, which was supposed to buy feed and farm equipment, but instead was allegedly given to the Mayor's brother to start a bank¹⁸. Lower government level posts were even further isolated from the international scrutiny, public watchdog agencies, media attention etc. and sometimes it took years of public fund or donor aid embezzlement until that person was removed from the office, which still left them non-prosecuted and/or at large.

The international response to the Bosnian dilemmas

The current slow and unproductive institutional capacity building which did not go in parallel with the earlier physical reconstruction and establishment of the social infrastructure comes at the time when the donor attention turned to the countries and regions other than BiH and SEE. International patience with the local authorities is said to have run out, but the truth of the matter is that in protectorate conditions, the national governments cannot be blamed alone. Except for a few sectors (macroeconomic stability, banking and finance in particular), the others cannot claim to be success stories. In the meantime, poverty continues to strike BiH and organised crime keeps running business from this infamous critical hub in the Balkans.

Hardly any international engagement globally encountered such a broad criticism as did the reign of Lord Paddy Ashdown, the penultimate High Representative of the international community for implementation of the civilian aspect of the Dayton Peace Accords (DPA). This long title disguised an accumulation of powers, which have only been compared to the imperial rules of bygone centuries.

¹⁸ Hedges (1999)

The fact that Lord Ashdown was British, triggered comparisons with the Imperial rule in India of the 19th century¹⁹, while in other German media he was named the 'Drina Despot'²⁰.

The role of the Office of the High Representative (OHR) by far surpasses mere donor co-ordination and an influence on the implementation of the civilian aspect of the DPA. In fact, all international relations scholars and experts in international law agree that the sovereignty of the country in the post-Dayton decade rested with the international organisations and most dominantly with the mechanisms of the OHR.

With the intention of leaving behind a functioning administration and a state with all its prerogatives, the OHR has been playing an increasing role in the BiH society despite such criticisms and contrary to many of its own statements. Nevertheless, this has resulted in an apparent improvement in the overall climate in the country, certain economic reforms, including finally an apparent control of the level of corruption²¹. In terms of the long-term sustainability of BiH institutions and the concept of the transfer of ownership, the following balance is hardly supportive of the integrity system in the country.

OHR frequently imposes not only laws, but also amends constitutions of the State and its constituent Entities (almost 100 impositions only in 2005 alone²²). That Office checks each member of parliament (MP) candidate and, once elected, retains the possibility to remove any MP and install a replacement, without presenting evidence or holding by-elections. Likewise, ministers, deputies and assistants at all levels down to the municipalities are approved by the OHR prior to their appointment and can be removed with no constraints²³. An Ashdown's

¹⁹ Knaus & Martin (2003)

²⁰ Ringler (2003), pp 76-77

²¹ TI BiH (2006)

²² Decisions of the High Representative available at:
<http://www.ohr.int/decisions/archive.asp?m=&yr=2005>

²³ Peace Implementation Council granted in the conclusions of its meeting on 10 December 1997 in Bonn the explicit authority to the High Representative to impose measures on an interim basis when the parties were unable to reach agreement, to

invention was the internally branded 'soft imposition' instrument for laws and decrees, whereupon fear of full imposition or sacking leads to 'government' driven solutions.

OHR is also active in the judicial sector, where a prior approval of OHR is sought for most judicial and prosecutorial posts. The High Judicial and Prosecutorial Council's members are also appointed by the OHR, driving the judicial reforms process and the nomination of judges and prosecutors. In addition, Independent Judicial Council's mandate too was established by the OHR and it reports to the Senior Deputy High Representative in charge of Rule of Law matters on a regular basis on matters concerning the above mandate. There is also a special audit, which supersedes the Entity and joint administration supreme audit. In many spheres, the national supreme auditors are expected to liaise closely in the process of their investigations. OHR also runs the Anti-Crime and Corruption Unit, which may assume a combined mandate of police force, prosecutors, auditors etc. as required by an investigation.²⁴

In all this, there are no means of electing the OHR representatives; that Office is accountable to a very vague *ad hoc* Peace Implementation Council's Steering Board; most of its senior employees/diplomats have dual accountability – to OHR but also to their national governments; and finally there has rarely been any acknowledgement of errors and acceptance of responsibility.

When dealing with embezzlements of public funds, Mr. Ashdown exercised his powers in the utmost undemocratic manner. The 30 June 2004 removals of 59 elected and appointed officials in the Republika Srpska, imposed by the High Representative²⁵, hardly yielded the desired anti-corruption effects. Above all they undermined democratic institutions as well as the very free elections – the will of

remove public officials from office and to take other measures to ensure the smooth implementation of the Peace Agreement (the so-called Bonn powers).

²⁴ Institutional review of the degree of the international community's engagement in BiH from TI BiH: NIS (2004) pp. 109-110

²⁵ In comparison, throughout his term in the office, Wolfgang Petritsch removed 22 politicians on the merit of obstructing refugee returns. Because of this he branded his mandate 'highly interventionist' (OHR: 2002)

the citizens. It was unacceptable that these officials had no rights to justify their position vis-à-vis the accusations of the High Representative presented in a short media communiqué dismissing them. This approach denied their basic human right to defend themselves against the charges, before any sanctions are applied.

Moreover, the public had no information, which a trial for crimes would have offered. No details existed that indicate to the BiH citizens the direct responsibility of the individuals that fully state their guilt. Just ahead of the end of his mandate, Mr. Ashdown 'pardoned' a few of those and brought them back to public life – quietly and without explanations, just as he removed them. There are equally no publicly available indicators that suggest when a removed politician may be reinstated to their previous post, which never halted Ashdown to remove and then unexplainably restore selected politicians.

The institutional scars remain. The individuals, who replaced the removed members of the Republika Srpska Parliament, made the preferential voting system in the general elections absurd and the citizens rightly wonder about the purpose of the expensive procedures and the ballot papers, when the vote could be reduced to the names of the political parties, with which the High Representative identifies these 59 persons. Ultimately, the very institution of the democratic elections was being ridiculed.

Related to the dismissals, a freezing of the legal persons' accounts in 60 municipalities and the transfer of 1 million KM to the bank accounts of selected State institutions, with no investigation, presentation of appropriate evidence, criminal facts and a possibility to state their position before the relevant institutions of BiH, finds its equivalent only in the freezing of the accounts following the World War II and represents an institutional theft.

So while the general public in many of the 59 instances did not question a very probable criminal history of the suspended individuals, whose moral and track records may have pointed to illegal activities, but excluding the rule of law and the public institutions in BiH, the High Representative only underpinned the fact the BiH protectorate at that point was strengthening instead of its loosening. He then

demonstrated the non-existence of an exit strategy for the international community in BiH, which was not moving in the direction of a transfer of 'ownership' to the domestic public institutions.

However, whether or not the BiH judiciary, particularly at the Entity level is fit to try such individuals in a professional, independent and fair manner is yet another question – precisely the one which correspond to the issue of how long the High Representatives will be running the country. The Venice Commission in 2005 concluded that such situation cannot last forever and that a day will soon come when the national judiciary will take over the responsibilities from the High Representative²⁶. It is rather bizarre that despite a significant control the High Representative exercises over the BiH judiciary, Mr. Ashdown still preferred not to deal with it when self-indicting these individuals. However, whether or not this was to Ashdown's or his current successor Schwarz-Schilling's liking, such situation is not acceptable to the Venice Commission, which proposes setting up an independent, possibly international authority to review decisions of the High Representative²⁷. Such body has not been established to date, though it would be a very smart and transparent move of good will for Schwarz-Schilling in demonstrating further that his rule differs from his predecessors.

The Commission's summary represents one of the most accurate descriptions of the current BiH dilemma: "the need for the wide powers exercised by the High Representative certainly existed in the early period following the conclusion of the Dayton Agreement. However, such an arrangement is fundamentally incompatible with the democratic character of the state and the sovereignty of BiH. The longer it stays in place the more questionable it becomes. There is a strong risk of perverse effects: local politicians have no incentive to accept painful but necessary political compromises since they know that, if no agreement is reached, in the end the High Representative can impose the legislation. So why take responsibility and not leave it

²⁶ Art 97 of the Venice Commission (2005)

²⁷ Art 98 of the Venice Commission, *ibid.*

to the High Representative? A dependency culture incompatible with the future development of BiH risks being created.”²⁸

Sharing responsibility – a non-functioning duality of power

A majority of the crucial long-term decisions for BiH have been adopted beyond its frontiers (from Dayton onwards) and that mostly without any wider consultations and discussions with the elected representatives. This has created a rather unfortunate precedent and a practice that remained in power for a long time and to some extent still does. The international community maintained its semi-colonial presence very strong and in order to better control corruption, it has set up several watchdogs. Those that had a greater degree of integrity were its own institutions, such as the Office of the High Representative’s former the Anti-Crime and Corruption Unit (ACCU). Insufficient resources were invested in setting up and training the local institutions with the anti-corruption mandate, particularly judiciary, prosecution, supreme audit and police. Even where the ACCU was investigating crime, in co-operation with the Special Auditor also acting under the OHR’s auspices, there were few attempts to investigate jointly with the domestic authorities. This hardly assisted the country’s long-term self-sustainability.

Meanwhile, the citizens were running out of options. When the ‘democratic change’ came with the general elections of 1998 and 2000, replacing the nationalist parties with the political ‘moderates’, it became clear that given the institutional environment, all parties will resort to corruption the moment they grab the executive power. By 2004, every significant political party held public office in BiH and all of them proved to be equally corrupt. The TI BiH’s perception monitoring demonstrates that the perceived level of corruption in fact reached its peak with the ‘moderates’ rule of that period, maintaining the record high since²⁹. The citizens continuously place corruption immediately behind unemployment on the list of the biggest BiH’s contemporary problems. This has prompted several national good governance and anti-corruption initiatives of the civil society, led by TI BiH and

²⁸ Art. 90 of the Venice Commission, *ibid.*

²⁹ TI BiH (2002) and TI BiH (2004)

financed by the donors present in the country and the region of SEE. Such synergies have resulted in the initiatives such as the toll free anti-corruption phone line that is currently networking prosecution, police, judiciary and the civil service in building the capacities for a swift processing of crime. However, all such attempts remain relatively low key.

Several international analyses and media reports also criticised the donors' own transparency and disbursement or procurement procedures. This has more recently improved their performance, setting higher benchmarks to themselves as well as the national authorities. However, it is more important that the international aid, while targeting the most disadvantaged, enabled the ruling elites to abuse the scarce regular revenues and indebt the country internationally to fund the basic reconstruction and transition. The cost of international borrowing is high as well. As the country matures from the poorest nations and the equivalent lending terms, its crediting is ever more expensive to the authorities and the existing credit rating prohibits any significant borrowing³⁰. Such assistance is often linked to large consultancy operations aimed to build domestic capacities, which given the lack of national strategy has little impact and meaning. Therefore, the funds are being wasted several fold and the per capita debt expands. With no clear national objectives, the overall climate in BiH is that of the youth leaving the country while the others struggle to survive.

A report of the International Crisis Group on BiH, which critically examines the promotion of a sustainable economic growth, makes several concerns over inconsistent behaviour of some parts of the IC. As with many other reports listed in this paper, the ICG recognises the danger when "a multiplicity of international agencies with overlapping mandates creates confusion by giving Bosnia's governments sometimes-conflicting advice and then abjuring responsibility for the consequences. The rapid turnover of international consultants and the lack of transparency and accountability damage the quality and

³⁰ Foreign debt in the last four years ranged between 60 and 70% of the country's GDP and the current account deficit over 20% of GDP. Source of figures: European Balkan Observer, *ibid*.

continuity of reform.”³¹ The ICG brands the international community’s approach to economic reforms reactive, lacking transparency and sometimes inadequate or even counterproductive.

Although the efforts aimed at co-ordination of aid and harmonisation of donors remain unimpressive, some steps have indeed been taken to eliminate the lack of transparency in the work of international organisations. Following an extensive study carried out by the OHR at the request of the PIC, the co-ordinating structure of the international community in BiH was ‘streamlined’ in 2002 so as to eliminate overlapping efforts and responsibilities and increase effectiveness. As a part of this process a Board of Principals was established, under the chairmanship of the High Representative, to serve as the main co-ordinating authority of the international community activities in BiH.

Nevertheless, the infinite discretionary powers of several international agencies led to an inappropriate behaviour of some of their staff that abused such institutional arrangements to their personal benefit. There have been internal investigations resulting in cancellation of the employment contracts with the individuals in question and their return to the country of origin was swiftly arranged. International corruption was found to exist in the public procurement sector, as it offered a very direct contact with local business entities. There have been other cases of abuse of powers of the international missions for private gain, which was commented on in a TI BiH’s report “International Community is Not Immune to Corruption Either”³². Additionally, a number of corrupt practices have been identified in the application of criteria for awarding funds for reconstruction of houses, giving loans to refugees and the like, but these were mainly committed by the local officials who misused the funds donated by international organisations, with insufficient oversight mechanisms.

BiH appears to have had a largely subordinated role in relation to the international institutions, given the fact that the perceptions of the ‘international community’ have had a direct influence on whether a certain politician will remain in power or not. That international

³¹ ICG (2001), p. 22

³² TI BiH (2001)

organisations enjoy an 'untouchable' status in BiH is witnessed by the fact that, since the signing of the Dayton Peace Agreement, the employees of international organisations have caused thousands of car accidents killing over 200 people and leaving many more with permanent injuries, without anybody being held responsible for these accidents before the domestic courts³³. There have even been instances of investigation of international organisations' employees for criminal offences such as trafficking in human beings or organised prostitution, which resulted only in termination of their employment contracts and return of these individuals into the countries of origin³⁴. As for their relation with the media, the international organisations tend to enjoy wide and affirmative coverage in the media outlets to which they provide some form of development support.

The Washington Post of 29 May 2001 on its front page reports about racketeering of brothels, trade of prostitutes, receiving of favours etc. yet this time not as BiH domestic activities but as a troublesome behaviour of some IC representatives in this country. The text talks about the existence of bribes, trade of documents, inadequate selection of staff for BiH etc. A story of six International Police Task Force (under the UN mandate) officers is particularly interesting as they represent the international security forces tasked with professionalisation of the local police, who have been dismissed and removed from BiH, having been found guilty of racketeering of brothels and mistreatment of prostitutes (with no payment for services)³⁵. The text came out not long after an entire IPFT spokespeople hierarchy had denied identical claims of the local media, calling them unprofessional and deceitful. Zagreb-based "Vecernji list" only several days after the Washington Post article was published, draws the public attention to a follow-up story in which it publishes allegations against certain UN co-ordinators in Mostar, who

³³ BH Dani (2004)

³⁴ Gajić (2000)

³⁵ Washington Post (2001). In a 10 August 2001 correspondence with TI BiH, the contents of the article have been dismissed by the UNMIBH as "baseless" and "hearsay allegations" but the Mission also admits to having taken "an immediate action in all cases where any UNMIBH official, including IPTF monitors are found to be in violation of the code of conduct".

appear to be involved in the smuggling of asylum seekers from the poorer Asian countries³⁶.

The least successful in attaining their objectives appeared to be the UN Mission in BiH (UNMIBH, closed in 2003), which operated in BiH longer than any other international institution and had most staff coming from numerous countries worldwide. On the other hand, corruption seems to have been most successfully targeted by the international financial institutions (WB and IMF) and their missions to BiH, since anti-corruption combat does fall within the scope of their mandates. These institutions conducted systematic diagnostics, provided the domestic authorities with guidance on how to tackle corruption and no cases of embezzlement or corrupt conduct on the part of their staff have ever been recorded.

The international agencies led by OHR failed to ensure the rule of law and increased transparency prior to disbursing either grants or development loans. To the contrary, the corrupt 'moderates' were often encouraged through a more intensive delivery of aid, in order to depress popular support for the nationalist parties, at the further expense of the country's institutions and sustainable development. Most notable example is that of Prime Minister Dodik in the Republika Srpska during whose two terms in the office, his Cabinet outnumbered all its predecessors in the number of media reports of embezzlements and corruption scandals. Dodik was installed to power with a significant support of the international community first in 1998 and his government was the largest recipient of the donor funds in the post-war RS³⁷. He returned to power in 2006, to date never prosecuted for any embezzlement. Similarly, the Party for BiH of the wartime Prime Minister Haris Silajdzic with hundreds of cronies running multi-million conflicts of interest, maintain their political weight, are being respected by the international community as pro-democracy and the media and other corruption-related reports remain uncontested by the national prosecution and judiciary. The economic interests of that political elite is disguised in the 'national interest' of centralising the country and abolishing its sub-national levels – a populist statement aimed at its

³⁶ Vecernji List (2001)

³⁷ Divjak (2005), p.5

dominantly Bosniak constituency³⁸. Political pressure exercised against the wartime Serbian Democratic Party resulted in the party's internal power struggles (coupled with the attraction Serbian voters found in the increasingly nationalist political rhetoric of Mr. Dodik) and eventually their disappearance into a weak opposition. Similarly, the wartime Croatian Democratic Union in 2006 suffered a split, which can be ascribed to the domination of individual interests, as the international community's attempts to lessen their influence on the Croatian political corps. Yet their agenda fostering alleged Croatian minimisation can only shift support from one wing to the other, without actually expelling the war profiteers from either party ranks. In this environment the international community and the OHR chose their temporary partners and politicians through whom they promote certain laws, principles, mechanisms and institution building, much to the discontent of the citizens of BiH, who acknowledge the wartime and post-war corrupt background of the country's political leaders.

However, regardless of the criticism that is rightfully levelled at the international institutions in BiH, it is important to note their crucial role in initiating and implementing much needed reforms. Comparatively successful regulation of the banking, financial and taxation sectors and some of the integrity pillars such as supreme audit is mainly ascribed to donors' technical assistance. Quality of certain laws has often been a product of pressure from OHR or other international institutions on the public officials. Donors and embassies will have to continue to protect the integrity of such laws and institutions bilaterally or through the institution of the EU Special Representative for BiH, which is to succeed the OHR yet in its entirety will never reach the extent of powers that OHR exercised during the mandate of Mr. Wolfgang Petritsch or Mr. Paddy Ashdown.

A proper ownership of, and responsibility and accountability for an integrity system can therefore only be achieved when relations with the international community achieve the status of a partnership based on mutual support, rather than a full-scale involvement of the OHR and other international agencies in running the day-to-day business of the country. This is of course easier said than done, and the fact is

³⁸ Some examples in TI BiH (2007), p. 166

that national authorities and certain pillars of the system may not be sufficiently ready for such a transfer of responsibilities. To illustrate the fact, it also happens that authorities sometimes seek the imposition of a law or a solution, feeling too weak and too vulnerable to social pressure and associated risks. This unique symbiosis, weakening the public administration in BiH, continues and is expected to remain in place until at least the end of 2007. It is then the country is estimated to be ready for a pullout of the OHR. A gradual phasing-out has in fact begun with the arrival of Mr. Ashdown's successor Christian Schwarz-Schilling.

Nevertheless one can argue that such a dual responsibility shared between the OHR and the national governments at all levels presents a comfortable position to both: failures can easily be assigned to the other party, while everyone claims the rare success stories. Yet this diminishes credibility of the national institutions, particularly justice and law enforcement agencies that are in dire need of reforms. Their profile is strongly undermined by every isolated activity of the OHR, when its decisions are taken in the international circles, without empowering the national institutions with professional and fair trials, prosecution and sanctioning mechanisms.

"No society is free from corruption, and each has to fine-tune its integrity system continuously to keep the menace in check. Now it is coming to be recognised that only those who live in a particular society can truly appreciate its nuances, and only they are in a position to judge both what is possible, and what may or may not be workable. The donors' role should therefore be limited to facilitating internal discussions and assisting in building internal ownership of well-informed reform programmes. Donors should not attempt to dictate these from outside, or to impose conditionalities that are unrealistic or which are not supported by significant internal actors."³⁹

³⁹ Pope (2000), p. 162

Recommendations

BiH, being the largest per capita post-conflict recipient of development aid and the largest European peacekeeping mission ever, certainly has several lessons to present:

1. An effective aid co-ordination mechanism should be set up from the very outset, with sufficient monitoring capacities that bring together the international donors and the national government representatives. Ideally, this would be accompanied by a degree of donor harmonisation to aid programming, delivery, co-ordination and implementation. Development aid must be structured and conditioned in a way not to become an indirect subsidy for revenues lost to corruption, or directly mismanaged by the corrupt recipient governments.
2. Those systems where the government is not fully in control of its legislative and executive functions and where these responsibilities partly rest with the appointed international authorities, there must be a clear division of responsibilities, governed by the subsidiarity principle: what the international community does differs from the activities of the national and sub-national authorities and only one can be held accountable for specific reforms, undertakings, legislative drafting etc. Ideally, the international partners consult, train and monitor the national institutions, but do not supplement or reverse their decisions once made. This must be accompanied by a definite and very detailed exit strategy that spells out the full transfer of responsibilities to the national institutions (in reality – the schedule of institutional capacity building). Evidence also demonstrates that relying on 'benevolent dictators' who display corrupt behaviour but may serve the temporary international agenda is profoundly inappropriate and the price is fully borne by the citizens of the country.
3. The anti-corruption agenda must take a holistic approach – it is to be centrally located in the executive that oversees the implementation of an anti-corruption strategy. The ownership

must be local with analytical inputs, good international practice, standards and tools provided by the donor community. It is most effective when independently monitored with progress verified by reputable watchdogs and/or NGOs.

4. There can be no sequential institutional development. Several sectors must be addressed, i.e. reconstructed and developed simultaneously. This involves removal of administrative barriers to doing business nationally (and regionally too, ideally) often in parallel with a decisive privatisation of state-owned economy that effectively demonopolises the ruling elites, enhances growth and builds confidence among the divided communities⁴⁰. Therefore, physical reconstruction must be supplemented by social and commercial/business infrastructure reforms.

⁴⁰ This is further supported by Banfield et al (ed.) (2006) that in its case studies section particularly examines the BiH lessons learned.

References

- Banfield, J., Gunduz, C., Killick, N. (ed.): Local Business, Local Peace: the Peacebuilding Potential of the Domestic Private Sector, International Alert, London, 2006
- BH Dani [*BH Days Weekly*], No. 375, 20 August 2004
- Center for Study in Democracy: Anti-Corruption In Southeast Europe – First Steps And Policies, Sofia, 2002
- Chandler, D: Bosnia: Faking Democracy After Dayton, 2nd Edition, London, Pluto Press, 2000
- Divjak, Boris: Corruption in Post-Conflict Reconstruction – BiH Case Study, Transparency International BiH, on the occasion of the launch of the Global Corruption Report, Banja Luka, March 2005
- Divjak, Boris: Discussion paper: Aid Co-ordination successes and failures – BiH Case Study, Oslo, 16 February 2000
- European Commission for Democracy Through Law (Venice Commission): Opinion On The Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative, adopted by the Venice Commission at its 62nd plenary session, Venice, 11-12 March 2005
- Gajić, Irena: Six UN Police Removed from Bosnia, Associated Press, 30 November 2000
- Hedges, Chris: Leaders in Bosnia Are Said to Steal Up to \$1 Billion, The New York Times, 18 August 1999
- Knaus, Gerald and Martin, Felix: Travails of the European Raj, European Stability Initiative (ESI), Berlin, 07 July 2003
- International Crisis Group: Bosnia's Precarious Economy: Still not Open for Business, ICG Balkans Report No. 115, Sarajevo/Brussels, 07 August 2001
- Office of the High Representative: Adress of the High Representative Wolfgang Petritsch to the Permanent Council of the OSCE, 09 May 2002, OHR's Press Office, Sarajevo, http://www.ohr.int/dwnld/dwnld.html?content_id=7993
- Pope, Jeremy: Confronting Corruption: the Elements of a National Integrity System (TI Source Book 2000), Berlin, 2000, Chapter 17 – International Actors and Mechanisms

- Ringler, Verena: Despoten an der Drina (article), Profil No. 29 of 14 July 2003
- Skulrak R.: Crime, Corruption and Endangerment of Bosnia's Statehood, University of Pittsburgh, http://www.ksg.harvard.edu/kokkalis/GSW3/Robin_Skulrak.pdf, 2001
- Transparency International: Corruption Perception Index 2006, Berlin, 2006, http://www.transparency.org/policy_research/surveys_indices/cpi/2006
- Transparency International BiH: Corruption Perception Study, Banja Luka/Sarajevo, 2002
- Transparency International BiH: Corruption Perception Study 2004, Banja Luka/Sarajevo, 2004
- Transparency International's National Integrity System Study 2004 BiH, Banja Luka, 2004
- Transparency International BiH: National Integrity System Study BiH 2007, Banja Luka, 2007
- Transparency International BiH: Press release of 06 November 2006, <http://www.ti-bih.org/documents/06-11-2006/Press%20release%2006-11-2006.pdf>
- Transparency International BiH: The International Community is Not Immune to the Corruption Plague Either (English translation), Report No. 2, Prepared by expert team led by Divjak, Boris, 18 August 2001, Banja Luka, <http://www.ti-bih.org/documents/izvjestaji/e/Corruption%20in%20IC.%20report.pdf>
- The WIIW Balkan Observatory: Selected Economic Indicators for Bosnia and Herzegovina, The Vienna Institute for International Economic Studies, <http://www.wiiv.ac.at/balkan/files/data/Bosnia.pdf>, July 2006
- Vecernji List: Setups and blackmails within the UN Mission in BiH (translated and distributed by the OHR Mostar), OHR BiH Media round-up, 12 June 2001
- Washington Post: Misconduct, Corruption by U.S. Police Mar Bosnia Mission, 29 May 2001, p. A01

Ways out of the Bosnian Maze?⁴¹

Dr. Florian Bieber
University of Kent

Not only does the complexity of politics in Bosnia in Herzegovina puzzle many external observers, but one gets an impression that it also poses a major obstacle to the functioning of the state. Bosnia and Herzegovina has retrogressed since the tenth anniversary of the Dayton Accords. It has become quite popular to blame “Dayton”, especially the political system it put in place, for all the ailments Bosnia and Herzegovina is currently suffering from. This perspective, however, overlooks the deep divisions that define the BiH society. Not moving further from the Dayton constitutional framework actually highlights the fact that there is no broad consensus about the state and its structure. One gets an impression that the failure to adopt the 2006 constitutional amendments and the electoral success of two diametrically opposed political visions of the country’s future not only returned Bosnia and Herzegovina to the past, but also underlined the lack of common understanding of the nature of the state. While many Bosniacs, if not most of them, consider the Republic of Srpska illegitimate and see it as a transient feature, many Serbs see the existence of the Republic of Srpska as the best way of protecting their interests and attach only secondary importance to Bosnia and Herzegovina.

The Dayton agreement and its implementation, initiated and imposed by the international community, managed to conceal this fundamental disagreement about the structure of Bosnia and Herzegovina. Technocratic upgrade of the state level institutions was guided by the logic of “putting Bosnia into operation” and making it a functional state, but at the same time these administrative measures could not hide the underlying divisions in the country.

⁴¹ Excerpt from Florian Bieber, *Post-War Bosnia: The Political System of a Divided Society*. Sarajevo: Buybook, forthcoming. Translated by Milena Maric

Just when it seemed that the presence of the international community, and especially the OHR's Bonn powers, would come to a close following the arrival of the advocate of the *laissez-faire* principle Christian Schwarz-Schilling in place of interventionist-oriented Paddy Ashdown, and after the failure of a rather poorly structured process of changing BiH's institutional setting, a crisis erupted. The electoral success of Milorad Dodik was based on the demands for return to the mid 1990s and the period before the building of state-level institutions at the Entities' expense, while Haris Silajdžić won Bosniac votes by arguing for deconstruction of Dayton.

This development suggests that the system of power in Bosnia and Herzegovina should rest on a historical compromise. One of the key aspects, and sometimes even advantages, of Dayton is its ambivalence and the fact that it leaves certain controversial issues (such as the question of whether the state of Bosnia and Herzegovina is a federation or confederation) unresolved. The constitutional amendments that the parliament failed to adopt in 2006, on the other hand, represented an attempt to gradually institutionalise and further fine-tune the *de facto* changes that had taken place over the last ten years. Although the constitutional amendments failed by only two votes to achieve the necessary two-thirds majority, the dynamics of the political discussions in Bosnia and Herzegovina from that moment on has shown that the room for compromise has disappeared in the meantime.

By a bitter irony, the need for reforms gets more pronounced in exactly those periods when trust is very low and tensions run high, than in periods of increased cooperation. There is no easy way out of the maze of the BiH political system. Bosnia and Herzegovina will continue to be ruled by institutions that are more complex than in most other countries, ethnicity will continue to be more important than in many European countries, and a great majority of BiH citizens will continue to seek assistance and protection from their neighbours. In no way do the foregoing premises suggest that *status quo* is desirable or that it will be maintained. However, in order to move forward from Dayton and the blockades of the current political system, what needs to happen is a historical compromise on a range of taboo issues that have accumulated in Bosnia and Herzegovina since the end of the

war. First, the return of refugees and internally displaced persons is basically complete. Although many have returned and the return of refugees has undoubtedly been a success in comparison with other post-conflict regions (like Kosovo and Cyprus, to mention but a few), Bosnia and Herzegovina today is dramatically less diverse than it was in 1991 and no refugee return is going to change this. Second, Bosnia and Herzegovina is increasingly becoming a binational state. As suggested by the primary line of confrontation between the Bosniac and Serb political elites, Croats in Bosnia and Herzegovina have become marginalised. Although there are no official data confirming this, it would not be a surprise if less than 10 percent of the country's population declared themselves as Croats. The irony is that the number of Croats in Bosnia and Herzegovina has not dwindled so much because of the political system in the country as due to the economic successes in Croatia proper. Third, international actors and a lot of citizens foster or, at least, used to foster an illusion that the other constituent people will ultimately realise that its political demands are unreasonable and change its elite. Denying the legitimacy of demands made by one community thus constantly enables maintenance of the potential for renewed escalation. The fact that the political escalation in Bosnia and Herzegovina was spearheaded by the political parties that had been considered more moderate than their nationalist counterparts indicates that the internal pluralism does not necessarily support moderation and compromise, and this is not because nationalist parties exert pressure on the moderate ones.

As the Venice Commission noticed in their 2005 report, changes within Bosnia and Herzegovina are closely linked with the role of the internal actors. If it is only after institutions and the political elite become more functional that the international intervention, especially that personified in OHR, may end, then similarly, institutions may start to work effectively and democratically only after the distortions of an external intervention are eliminated. Over the last years, the challenge has reflected in the fact that in the process of two-way transformation the two segments have been slowing each other down. This interlinked dynamics suggests that these two aspects can be addressed only in connection with one another. A way out of the BiH maze thus creates a paradox: it requires a comprehensive and

historical compromise between the international actors and political elites of Bosnia and Herzegovina about the building of a consensual state. At the same time, such an agreement cannot constitute an end to the process of development of Bosnia and Herzegovina, but a new starting point.

Since 2005, the key demand by EU and a number of domestic actors has been the transition of Bosnia and Herzegovina “from Dayton to Brussels”. While it symbolises a transition from a post-war country to an EU-integrated country, this metaphor still leads to an erroneous conclusion. It suggests that the fate of Bosnia and Herzegovina will be determined externally: if not by twisting arms in an American airbase, then by applying milder EU force. This approach is wrong. The European Union’s inability to put an end to and resolve ethno-political conflicts (see Cyprus and Serbia & Montenegro), coupled with the acute crisis and a highly strained situation in Bosnia and Herzegovina despite the EU’s “carrot”, indicates that the problems besetting Bosnia and Herzegovina cannot be solved in Brussels, but must be solved in Bosnia and Herzegovina itself. The road from Dayton to Brussels inevitably leads through Sarajevo and Banja Luka.

International Community and Self-Sustainability of Corrupt State⁴²

Dr. Nerzuk Ćurak
Faculty of Political Science,
University of Sarajevo

When the Dayton Peace Agreement was signed on 21 November 1995, there ensued different reactions to Holbrooke's peace offer from members of the negotiation team from our country. Political leaders from the Republic of Srpska resolutely rejected the Agreement, while the political representatives of Bosniacs and Croats generally supported the political structure of the new state as a mechanical summation of two entities. Twelve years later everything has changed: now it is the nationalist representatives from the Republic of Srpska who argue strongly for adhering firmly to the Dayton agreement, unlike Croat and Bosniac politicians, who argue for changes to the peace agreement. Who used to be in favour is now against, who used to be against is now in favour. This is an epochal political change. And it is most intimately linked with the nature of the internationally community's mission to BiH and OHR's stay in our country.

When deciding on this extremely important question that affects the future of our society, politicians should not lose sight of the Dayton agreement, due to whose complex structure, rather than somebody's diplomatic whim, the power of the international community was installed in the first place. Ever since the Dayton agreement was signed, OHR has been the most important resource centre of this power. Even though there is not much of Bosnia and Herzegovina as long as OHR is here, there would hardly be any of it without OHR. We would be living in a geopolitical *provisorium* which may exist, but, on the other hand, does not have to. Now initiatives are launched ranging

⁴² November 2007, prepared for the occasion of the "Bosnia and Herzegovina Open Parliament: EU Accession or Failed State?" organised by TI BiH

from the radical ones demanding that the Office of the High Representative be closed to the so-called soft ones calling for revocation of the Bonn powers. These are irresponsible demands, especially if they come from those political elites that resist the building of a decentralised yet efficient and hierarchically organised state structure. If such a structure is not wished for, than there is no point in demanding that the institution mandated to encourage the building of this structure should be dismantled. If this is not the mandate of OHR, then what is? It cannot be that, after billions of dollars pumped into BiH, the OHR's mandate is to create conditions that will hinder the state-building process?!? The purpose of OHR is to *uncapture the state*, to help it struggle free from the state of absolute capture by corrupt political elites.

With this approach we build argumentation for an attitude which, albeit obvious, requires permanent support. This is an attitude which implies a need for understanding the Dayton state as, whether the international actors want to acknowledge it or not, a joint undertaking of the national authorities and the international community. This Bosnia and Herzegovina cannot by any means be a state of its own people only, but it is also, in the truest sense of the word, a state product of the international community, whose field player is OHR. The Office of the High Representative is a natural political ingredient of today's Bosnia and Herzegovina. If OHR is getting prepared for self-destruction by possibly agreeing to revise its decisions under pressures from internal kleptocratic and nationalist policies, this would then tear down the fourth pillar of the Dayton's state – international administration – and the country would be handed over to the ethno-nationalist elites that cannot create conditions necessary for the country's self-sustainability, because, in addition to other handicaps they suffer from, they still do not know whether they come from BiH or are set on their way out of BiH. Just to make things clear, this Buridan's status applies equally to all three nationalist elites. This is just one of the pretexts for the White House at Vrbanja – i.e. the international community – to extend, in full capacity of condign power, its stay in *its country* Bosnia and Herzegovina. How?

Without doubt, there is currently no single policy in the ruling political scene which could be termed objectively Bosnian policy, so the

responsibility of the international community as a Bosnian institution is to try and stimulate production of such a policy. The Dayton BiH is a really experimental state of the international community, hence the international community cannot reduce its position to the policy of moderation and building compromises between domestic policies. The policy of the international community is one of the domestic policies and should compete, using its powerful instruments, with other domestic policies, rather than attempt to reconcile them. Revision of the international community's attitude towards *its state* BiH is imperative if future violence is to be prevented.

What I am going to propound now may sound too radical for ears accustomed to conventional interpretation of sovereignty, but the international community should stay in BiH for a long time and demand legitimacy for its policy by standing for parliamentary elections and putting up their list of non-discredited actors from the BiH political scene plus the best people from the international community. This list may be led by the High Representative himself. The stakes are high, thousands of young people may decide to vote for European and international Bosnia rather than barbaric national-socialists, parochial peasants, and Bosnian unitarians with their mouths full of Bosnia, whose history, culture and geography they discovered only in 1990.

But the question remains how to convince political actors in the country and abroad that the Dayton BiH, as an experimental state of the international community, tolerates this type of sovereignty upgrade?

Although the task seems onerous and impossible, it is worth addressing in the following way: if, for the sake of example, the Prime Minister of RS argues that OHR should leave BiH, this is a demand without any logical or political rationale! As we have already stated that the Prime Minister of RS belongs to the political nomenclature which, based on the Dayton agreement, demands long-term and unquestionable survival of RS as one of the BiH entities, then it is exactly this policy – the one which insists on preservation of the Dayton structure of the state – that must insist that the international community should stay. Why? Because the international community is

the key factor in preservation of the political structure which safeguards RS as an entity. It is therefore difficult to make sense of the demand for dismantling OHR or revoking the Bonn powers. However, since this demand does exist, and is unanimously agreed upon by a number of political parties, the demand for termination of OHR must, unfortunately, be interpreted as having another, hidden intention, regardless of whether it does or does not have these intentions.

On the other hand, the policies arguing for changes to the Dayton agreement, which seem to be best personified in Haris Silajdžić and Božo Ljubić, would have to demand that the OHR should leave BiH as it is the institution installed by the Dayton agreement. By doing so, they would confirm that they are opposed to the entity-based settlement of BiH. However, neither side of the political spectrum is in tune with its political platform so their policies look like lies and a sort of abnormality.

If lies and political abnormality are what makes them tick, as they obviously are, then the reasons for a long-term stay of the international community in BiH, with new and more powerful instruments, are acceptable to anyone who is guided by truth. But then again, who on earth in this country is guided by truth?