Peacebuilding and Corruption
Case study Bosnia and Herzegovina

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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.

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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 10[2], 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) level[3]. 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.

[2] TI (2006)

[3] 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 inspections[4]. 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 officials[5]. 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 2005[6], 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 cleptocracy and are keeping the unemployment rate at approximately 40% while encouraging the grey economy estimated at 50% of the country's GDP[7]. The country remains aid dependent at the times when there are very little international sources willing to continuously fund its development,

[4] 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

[5] Skulrak (2001), p. 10

[6] WIIW (2006)

[7] Central Bank of BiH figures from TI BiH (2002)

with no growth strategy of its own and sustainable structures to take BiH into the family of the European states.

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 foodstuff[8]. Intelligence investigations conservatively estimate that between 1992 and 1995 up to US$ 800 million worth of weapons was smuggled into BiH[9] 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

[8] Chandler (2000)

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

up to 85% of GDP[10] 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 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

[10] Center for Study in Democracy, ibid., p. 6

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 Representative[11] 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 billion[12], which sets the annual per capita recipient figure to US$ 255[13] – 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-

[11] 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."

[12] 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

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

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 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 bank[14]. 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.

[14] Hedges (1999)

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. The fact that Lord Ashdown was British, triggered comparisons with the Imperial rule in India of the 19th century[15], while in other German media he was named the 'Drina Despot'[16].

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 corruption[17]. 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 alone[18]). That Office checks each member of parliament (MP) candidate and, once elected, retains the possibility to

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[15] Knaus & Martin (2003)

[16] Ringler (2003), pp 76-77

[17] TI BiH (2006)

[18] Decisions of the High Representative available at:
http://www.ohr.int/decisions/archive.asp?m=&yr=2005

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 constrains[19]. An Ashdown's 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.[20]

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.

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

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

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 Representative[21], hardly yielded the desired anti-corruption effects. Above all they undermined democratic institutions as well as the very free elections – the will of 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 reinstalled 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

[21] 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)

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 Representative[22]. 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 Representative[23]. 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,

[22] Art 97 of the Venice Commission (2005)

[23] Art 98 of the Venice Commission, ibid.

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 to the High Representative? A dependency culture incompatible with the future development of BiH risks being created."[24]

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

[24] Art. 90 of the Venice Commission, ibid.

level of corruption in fact reached its peak with the 'moderates' rule of that period, maintaining the record high since[25]. 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 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 borrowing[26]. 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

[25] TI BiH (2002) and TI BiH (2004)

[26] 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.

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 continuity of reform."[27] 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"[28]. 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

[27] ICG (2001), p. 22

[28] TI BiH (2001)

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 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 courts[29]. 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 origin[30]. 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)[31]. The text came out not long after an entire IPFT

[29] BH Dani (2004)

[30] Gajić (2000)

[31] 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

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 appear to be involved in the smuggling of asylum seekers from the poorer Asian countries[32].

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 RS[33]. He returned to power in 2006, to date never prosecuted for any embezzlement. Similarly, the Party for BiH of the wartime

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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".

[32] Vecernji List (2001)

[33] Divjak (2005), p.5

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 dominantly Bosniak constituency[34]. 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 as 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.

[34] Some examples in TI BiH (2007), p. 166

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 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."[35]

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 overseas the implementation of an anti-corruption strategy. The

[35] Pope (2000), p. 162

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 communities[36]. Therefore, physical reconstruction must be supplemented by social and commercial/business infrastructure reforms.

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

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