

INTERNATIONAL FAILURE IN BOSNIA AND HERZEGOVINA:  
THE PROBLEM WITH LOCAL OWNERSHIP

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A thesis submitted to the faculty of the University of North Carolina at Chapel Hill in partial fulfillment of the requirements of the degree of Master of Arts in the Department of Russian and East European Studies.

Chapel Hill

2010

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## ABSTRACT

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International Failure in Bosnia and Herzegovina:  
The Problem with Local Ownership  
(Under the direction of Robert M. Jenkins)

International peacekeepers completed the military mission of peace implementation in Bosnia and Herzegovina, but this paper argues that divisions within the international community undermine the civilian mission of international institutions such as the Office of the High Representative (OHR) while weak political competition among local elites allows nationalist political parties to block reconciliation. Intervention is the only method to improve the political process. Local ownership would be extremely detrimental, but the international community seems either unwilling or unable to sustain pressure on Bosnian institutions. Strong support of the civilian mission is necessary to introduce constitutional reforms that develop an integrative model of power-sharing. Normative pressure has not coerced elites to comply and additional peacekeeping troops are unlikely, therefore international institutions should implement more aggressive financial incentives for Bosnian elites to complete constitutional reform.

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## LIST OF ABBREVIATIONS

BiH	Bosnia and Herzegovina
EU	European Union
EUFOR	European Forces in Bosnia and Herzegovina
EUPM	European Union Police Mission
EUROCLIO	European Association of History Educators
EUSR	European Union Special Representative
HDZ	Croatian Democratic Union
HDZ 1990	Croatian Democratic Union 1990
IDP	Internally Displaced Person
NATO	North Atlantic Treaty Organization
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
PIC	Peace Implementation Council
PLIP	Property Law Implementation Plan
RS	Republika Srpska
SAA	Stabilization and Association Agreement
SBiH	Party for Bosnia and Herzegovina
SDA	Party of Democratic Action
SFOR	Stabilization Force (NATO)
SNSD	Alliance of Independent Social Democrats
UNHCR	United Nations High Commissioner for Refugees

## **Chapter I**

### **A Moral Imperative**

It was a warm night in late summer on the road near Počitelj. I was returning to Sarajevo with friends from a weekend in Dubrovnik. The countryside rolled by in darkness. The headlights from our car captured only a few meters of the road in front of us. I began to drift off to sleep in the front passenger seat but snapped awake when my Bosnian friend who was driving suddenly hit the brakes. A policeman appeared in the road. Nothing happened for several long seconds until my friend grabbed her wallet and jumped out of the car. I watched with curiosity as she and the policeman had a calm conversation along the side of the road. They exchanged a few pieces of paper before she casually returned to the car and we went on our way. I found out that we had been speeding, but I was led to understand that it was no longer a problem. No one said anything for several minutes until she suddenly blurted out, “I hate this country, nothing works here.”

I listened and chose to say nothing, but the event illustrated the limits of reforms in Bosnia and Herzegovina (BiH) after 15 years of efforts led by the international community. From 1992-1995, BiH’s leaders mobilized nationalist armies and paramilitary units for the purpose of ethnic cleansing. BiH experienced the worst genocide in Europe since World War II. Hundreds of thousands of people were killed in the fighting. The international community intervened to stop a humanitarian crisis and

ended the war in 1995, but then remained in BiH in the post-war period to prevent another crisis.

At the end of the Bosnian War, the international community implemented the General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Accords). Dayton established the Office of the High Representative (OHR) to “coordinate the activities of the organizations and agencies involved in the civilian aspects of the peace settlement.”<sup>1</sup> Following Dayton, the international community decided to amend the responsibilities of the OHR. The OHR received virtually unlimited political authority through the Bonn Powers that in practice allow the OHR to impose any law and dismiss any politician within BiH.

The OHR represents the Contact Group (US, UK, France, Germany, Italy and Russia), the states who took an active interest in peacemaking in BiH, along with the broader array of concerned states who wish to see peace in BiH, such as the EU and many NATO countries. The OHR represents this community’s collective interest: a peaceful, democratic BiH. Following the end of hostilities, these nations set it upon themselves to aid BiH in its growth as a stable, democratic country.<sup>2</sup> The OHR’s authority has a moral component. Obviously, it has the legitimate interest to prevent another war in BiH. It also represents the economic weight of the countries that support

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<sup>1</sup> Dayton establishes the OHR as the leading institution for civilian reform in BiH, granting the OHR a position on the provisional election commission (Annex 3), chairmanship of the Joint Interim Commission for implementation of Dayton and the Constitution of BiH (Annex 4), and the ability to “facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation” (Annex 10). See OHR, “The General Framework Agreement for Peace in Bosnia and Herzegovina.” 14 December 1995. Available at [http://www.ohr.int/dpa/default.asp?content\\_id=380](http://www.ohr.int/dpa/default.asp?content_id=380). Accessed 12 January 2010.

<sup>2</sup> See also, Boris Kabanoff and Joseph Daly, “Espoused Values of Organisations,” *Australian Journal of Management* (2002): 89-104.

it. The OHR can politically influence the terms that the international community establishes for foreign aid to BiH.

In theory, the OHR possesses an immediate and unprecedented influence on BiH politics. On paper the Bonn Powers provide an ultimate means of coercion. The international community not only granted itself the ability to *set* conditions, but also gave itself the theoretical ability to *enact* them. In reality, however, the Bonn Powers are only based on the moral authority of the international community to carry out justice and protect democracy. They have a normative influence on Bosnian politics, but without a physical means of coercion the Bonn Powers have very little effect.

The OHR, Organization for Security and Co-operation in Europe (OSCE), EU Police Mission (EUPM) and other civilian institutions, however, represent only one aspect of international intervention in BiH. The international community's first post-war goal was peace implementation. To complete this goal, NATO's Stabilization Force (SFOR) deployed to BiH to physically implement peace. In accordance with Annex 1B of Dayton, SFOR separated the factions, transferred land and stored heavy military weapons. SFOR peacekeepers, however, were also able to aide civilian institutions. SFOR provided a physical means of coercion to enforce the OHR's mandate, but SFOR's mission ended when peace implementation was completed.<sup>3</sup>

### **Disorganized Internationals and Strong Political Parties**

This paper will argue that the external and internal dimensions of Bosnian politics are failing to promote reconciliation. Externally, when peace returned to BiH, the

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<sup>3</sup> "Keeping the Peace." *NewsHour Transcript*, 22 December 1997. Available at [http://www.pbs.org/newshour/bb/bosnia/july-dec97/bosnia\\_12-22.html](http://www.pbs.org/newshour/bb/bosnia/july-dec97/bosnia_12-22.html). Accessed 2 March 2010.

international community lost cohesion on its goals. With SFOR's mission complete, much of the international community shifted its focus towards institution-building and Europeanization. The West hopes to increase the opportunity costs for elites who resist reforms by building strong central institutions in BiH that are connected to the larger European system. The OHR still possesses a normative means of coercion (the Bonn Powers) to force local elites to comply with this goal, but SFOR's mission officially ended in 2004 and EUFOR's Operation Althea has dwindled in recent years.<sup>4</sup> Without SFOR, the OHR lost much of its ability to coerce Bosnian politicians to comply with the Bonn Powers, but now even civilian international involvement in BiH is hotly debated. Academic critics of intervention label the Bonn Powers "draconian," arguing that the time has come for local elites to take ownership of the political process. Chandler calls for the closing of the OHR to facilitate the country's democratic transition, arguing that the international community's involvement is too heavy-handed. Meanwhile, Knaus and Martin suggest that the OHR's authority in BiH blurs the line between Europeanization and liberal imperialism.<sup>5</sup> In political circles, states such as Russia, as a member of the Peace Implementation Council (PIC) with political oversight of the OHR, has repeatedly

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<sup>4</sup> See North Atlantic Treaty Organization, "NATO ends SFOR mission." *NATO Update*, 2 December 2004. Available at <http://www.nato.int/docu/update/2004/12-december/e1202a.htm>. Accessed 12 March 2010; EUFOR Althea, "EUFOR History." Available at [http://www.euforbih.org/eufor/index.php?option=com\\_content&task=view&id=13&Itemid=29](http://www.euforbih.org/eufor/index.php?option=com_content&task=view&id=13&Itemid=29). Accessed 12 March 2010.

<sup>5</sup> This is an extremely large and important debate. Many consider the international community's involvement to be too strict, especially in the days of High Representative Paddy Ashdown. See David Chandler, "The EU and Bosnia after Dayton: The Reform of International Policy towards Bosnia," *Studia Diplomatica* (2006): 95-116; Gerhard Knaus and Felix Martin, "Travails of the European Raj," *Journal of Democracy* (2003): 60-74.



opposed EU-led efforts in BiH that would strengthen BiH's ties to the West, such as the continuance of the OHR.<sup>6</sup>

On the internal side, the lack of political competition in Bosnian society has produced little incentive for local elites to cooperate. Ethnic tensions are high and a strong civic identity has not formed. Local politicians have stubbornly resisted interethnic cooperation with no real threat of being removed from office because of weak political opposition and a weakened OHR. The reluctance of the international community to support continued involvement is counterproductive because it emboldens Bosnian politicians to avoid cooperation. Unlike much of Central and Eastern Europe, the Western Balkans does not have a strong attachment to Europeanization. Removing the international means of coercion and influence has not and will not improve BiH's chances for long-term peace and Europeanization. As Joseph argues, local ownership in the political process is dangerous and irresponsible when local institutions increase tensions.<sup>7</sup> International institutions exert undemocratic influence in BiH, but locals have clearly shown that they are not ready to cooperate. Continued international involvement, therefore, is better than the alternative but effective intervention is not realistic without strong international support.

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<sup>6</sup> See Tomas Valasek, "Is Russia a partner to the EU in Bosnia?" *Centre for European Reform*, 19 March 2009. Available at [http://www.cer.org.uk/pdf/pb\\_tv\\_bosnia\\_19march09.pdf](http://www.cer.org.uk/pdf/pb_tv_bosnia_19march09.pdf). Accessed 15 March 2010; "OHR's decisions do not contribute to Bosnian stability – Russian envoy," *BBC Monitoring Europe – Political*, 9 October 2009. Database on-line. Available from LexisNexis Academic. Accessed 10 March 2010; "West wants to curb Russia's influence in Bosnia – unnamed international official," *BBC Monitoring Europe – Political*, 27 June 2008. Database on-line. Available from LexisNexis Academic. Accessed 10 March 2010.

<sup>7</sup> See Edward P. Joseph, "Ownership is Over-rated," *SAIS Review* (2007): 109-123.

Knaus is correct that international involvement in BiH uncomfortably resembles foreign imperialism, but serious threats to peace in BiH clearly remain.<sup>8</sup> I will demonstrate that Bosnian institutions are not capable of bringing about their own democratic reforms without outside influence. Local elites successfully frustrate reform efforts and maintain the status quo because they have the legal ability to do so. The Dayton Accords established a strongly decentralized government structure within BiH. Central state institutions have limited authority while entity and cantonal governments have greater control over their own affairs. Entity, cantonal and even municipal leaders have fought reforms on issues such as education, refugee return and election law. RS Prime Minister Milorad Dodik openly confronted the international community's efforts to reform the Dayton system at the recent Butmir Talks. Dodik challenges the legitimacy of a strongly centralized Bosnian state, an aim for which the international community claims to be shooting.<sup>9</sup> Politicians such as Dodik must notice that the OHR hesitates to use the Bonn Powers, making the actual implementation of a potential Bonn Power decision even more difficult.<sup>10</sup>

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<sup>8</sup> BiH, particularly, is awash with various cultural and religious minorities—competing traditions inherited from centuries of imperial division and subjugation. Knaus discusses this through the eyes of a Western observer, asserting that the Balkans seem “wild” to the West and in need of foreign direction. Knaus argues that the international community skips over achievements by local politicians. This may be true, but democratic actions by a few politicians does not mean that BiH is ready to govern itself. It is precisely because of the Balkans' history of foreign rule that today there are so many different cultural and religious groups with competing interests who make BiH difficult to govern. See Gerhard Knaus, “Why the Turks could not have built the bridge in Mostar – reflection on Bosnia.” *Rumeli Observer*, 3 August 2008. Available at <http://www.esiweb.org/rumeliobserver/2008/08/03/why-the-turks-could-not-have-built-the-bridge-in-mostar/>. Accessed 29 January 2010.

<sup>9</sup> Inherent in my argument is the Westphalian assumption that the international community wishes to preserve the existence of a unified Bosnian state.

<sup>10</sup> Very recently, Dodik has openly challenged the legitimacy of the OHR in BiH. In an unusual departure from its previous ritualistic tradition, at a recent meeting the Peace Implementation Council Steering Board did not even discuss setting a deadline for closing the OHR in 2010. See *Bosnia Daily*, 12, 13, 16, 20 October 2009; “PIC Steering Board consults with BiH leaders.” SETimes.com, 19 November 2009. Available at

The international community once had the necessary cohesion for peace implementation in BiH, but now is unwilling to provide the OHR with the sustained means of coercion necessary to complete Europeanization. Despite its potential overwhelming political dominance over BiH, the OHR as an institution no longer has the authority to enact its decisions because the international community (including former High Representatives) removed the necessary tools or undermined the political authority of the OHR. Peacekeeping troops provide a physical means of coercion to enforce decisions, but without the immediate threat of armed conflict, members of the international community withdrew troops and even began to question the OHR's role. Major NATO contributors such as the US are now looking elsewhere to Iraq and Afghanistan. This damaged the OHR's ability to influence the decisions of some Bosnian elites. Skeptics also attacked the legitimacy of the OHR's political authority over BiH, which gained traction internationally.

I will present my argument in four sections. Section one will examine the legal framework for BiH established under the Dayton Accords. I will demonstrate that the Dayton system itself reinforces nationalism, which necessitates continued international involvement in BiH. While the international community signed the Dayton Accords to bring peace to a unified BiH, the political system that it setup reinforced nationalist differences. The second section will provide a summary of the OHR's use of the Bonn Powers to enact reforms in BiH. I will show how earlier High Representatives such as Paddy Ashdown had the necessary means of coercion from the international community to implement international goals in BiH. The third section will show that the international

community is not unified in support of Europeanization. I will examine the divisions within the international community that led to weakened policies and how local politicians such as Serb leader Milorad Dodik have exploited those divisions to oppose continued reforms. In the final section I will outline my policy recommendations for the international community considering its divisions. The OHR is clearly unpopular with Russia and parts of the EU. Russian resistance to continued involvement is detrimental to the goal of Europeanization, therefore the replacement of the OHR by the EU Special Representative (EUSR) could improve BiH's relationship to the West, but local ownership is still untenable.

## **Chapter II**

### **Nationalist Politics**

Following the war in BiH, the international community implemented the Dayton Accords. In order to reach a peace agreement, the international community agreed to territorialize BiH's various ethnic communities. In Dayton's defense, it is to be commended for stopping the conflict in BiH, however, the system established by Dayton largely works against the goal of a strong central state with interethnic cooperation. Europeanization is fundamentally impossible as long as Dayton exists in its current form. On almost every level, Dayton reinforces wartime divisions that hinder sociopolitical consolidation.

There have been successes under the Dayton system. The most obvious accomplishment was the success of the military mission. Peacekeepers isolated the warring parties and since then security sector reforms have been largely successful thanks to international involvement. BiH now has one army and state-level intelligence institutions have been created thanks to international intervention. BiH has not descended into chaos and the likelihood of another war right now seems remote.<sup>11</sup> The civilian mission was also very successful with the Property Law Implementation Plan (PLIP) which made it possible for many refugees to return to their prewar homes, but as I will explain, serious property issues remain.<sup>12</sup>

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<sup>11</sup> Heinz Vetschera and Matthieu Damian, "Security Sector Reform in Bosnia and Herzegovina: The Role of the International Community," *International Peacekeeping* (March 2006): 28-42.

## The Consociational Model

Dayton embodies many ambiguities through the institutions that it setup. Journalist David Rieff once stated that, “Dayton is a schizophrenic document.”<sup>13</sup> Dayton’s first priority was to make peace in BiH and lay the groundwork for a unified, multiethnic democracy, but Dayton legitimized the military outcomes of the Bosnian War. As former Yugoslavia collapsed into various nation states, different ethnic groups within BiH successfully carved out territories for themselves. Dayton incorporated these divisions by separating BiH into two distinct entities that reflected the outcome of the fighting—a Muslim/Croat Federation and the Republika Srpska. Not only is BiH divided into two entities, but the Federation itself is further divided into ten cantons that roughly correspond to the distribution of Croats and Bosniaks within the Federation. Each canton has its own ministries with a high level of autonomy. The central state has weak authority to govern BiH, plus Dayton’s ethnic voting system strengthens nationalist political parties. Dayton gave BiH a consociational power-sharing arrangement in which the three main Bosnian minorities, Croats, Serbs and Bosniaks, share power at the state-level through a joint, 3-member Presidency. Dayton grants each group the right to veto decisions that they feel violate their own national interests.

Dayton itself is a roadblock to Europeanization in BiH and the international community is responsible for allowing it to continue to inhibit BiH’s transition by doing nothing. The international community attempted to bring a stable, multiethnic democracy

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<sup>12</sup> Mitchell Young, “Laissez-Faire Ethnic Unmixing? The Political Demography of the Property Law Implementation Plan in Bosnia–Herzegovina,” *Conference Papers -- International Studies Association* (2006): 1.

<sup>13</sup> “Keeping the Peace.” Available at [http://www.pbs.org/newshour/bb/bosnia/july-dec97/bosnia\\_12-22.html](http://www.pbs.org/newshour/bb/bosnia/july-dec97/bosnia_12-22.html).

to BiH with the Dayton Accords, but clearly the consociational power-sharing government that Dayton allows has not worked. A multiethnic BiH is an international goal, not a local goal. BiH's is technically democratic (free and fair elections occur) but Bosnian democracy based on national divisions only reproduces nationalism. The constitution of BiH does not encourage political competition. Dayton defines BiH's political system in national terms. National leaders are not forced to cooperate but may instead veto any legislation that they wish. The international community gave the OHR the means to correct institutional problems in BiH through the Bonn Powers, but it must strike an awkward balance between resolving interethnic (and even intraethnic) disputes while also representing international opinion. While the Bonn Powers may be undemocratic, avoiding the Bonn Powers does not necessarily mean that Bosnian institutions will develop the means to settle disputes themselves.

The consociational model of power-sharing does not work in BiH. Political structures based on national identities perpetuate nationalism. BiH's collective Presidency is based on nationality. The integrative model of power-sharing creates cross-cutting cleavages among ethnic groups. Integrative power-sharing establishes vote-pooling that requires political candidates to earn not only a simple majority but also the support of a certain percentage of a different minority's electorate (Horowitz 1985). An integrative model of power-sharing could temper local elites in BiH. Unfortunately, local elites appear unwilling or unable to change the Dayton system, requiring continued international intervention.<sup>14</sup>

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<sup>14</sup> For more on integrative power-sharing, see Donald Horowitz, *Ethnic Groups in Conflict* (Los Angeles and Berkeley: University of California Press, 1985).

This consociational power-sharing arrangement produces a democratic outcome that threatens BiH's long-term stability. Democratically-elected nationalist elites block transitional justice and liberal reforms in some communities. Local elites in both entities and many cantons use their power for nationalist purposes to resist refugee return, education reform and changes to election law. Progress in each of these areas is extremely uneven across BiH, some cantons within the Federation have made substantial progress (for example, the Sarajevo canton) while other areas such as the Herzegovina-Neretva and Zenica-Doboj cantons and the Republika Srpska have made little or no progress in each of these areas.

### **Stagnant Politics**

Elites have political incentives to use nationalism to block reforms in BiH. Political parties in BiH reflect national identity, not political ideology. By opposing liberalization on nationalist grounds, local elites are able to hoard power for themselves in areas where their national minority is in the majority. Attempts to transform the Dayton structure would take power away from local elites. Therefore, BiH politicians seek out material gains (power, wealth) in a classic case of rent-seeking. Constructivists would argue that local politicians seek affirmation from the international community (Epstein 2008). It is true that international organizations approach cantonal and entity ministers to introduce reforms. Workshops and meetings held by the international community in BiH are routinely filled with local elites eager to present themselves to the cameras. Today the international community has little influence on elections in BiH outside of election monitoring. Unlike other post-communist politicians in countries that



introduced democratic reforms for NATO and EU membership, BiH politicians resist the long-term affirmation of membership in these international organizations for short-term gains.<sup>15</sup> Rent-seeking elites have learned that they may maintain power as long as they voice the goals of NATO and EU membership.

Nationalist political elites use the stagnant political system to block reconciliation on many issues. Today, thousands of persons remain displaced within BiH. A recent estimate by the UN High Commissioner for Refugees (UNHCR) predicts that nearly 115,000 internally displaced persons (IDPs) live within BiH alongside thousands of other refugees, asylum-seekers and stateless persons. Some of these individuals face risks in returning home.<sup>16</sup> Each individual's circumstances are unique, but the political situation in many communities is a factor contributing to the reluctance of many displaced persons to return to their prewar homes. Refugees make these decisions based on the political realities created by Dayton: Dayton's ethnic voting system and high degree of local autonomy has allowed nationalist elites to consolidate power. For example, in the 2006 elections nationalist parties defeated moderate competitors. Milorad Dodik's Serb party, the Alliance of Independent Social Democrats (SNSD), and Haris Silajdžić's Bosniak Party for BiH (SBiH) won majorities and have been militant towards one another since.<sup>17</sup>

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<sup>15</sup> Epstein explains the constructivist motivations for politicians to introduce reforms for social gains. See Rachel A. Epstein, *In Pursuit of Liberalism: International Institutions in Postcommunist Europe* (Baltimore, MD: Johns Hopkins University Press, 2008).

<sup>16</sup> UNHCR, "2010 UNHCR country operations profile – Bosnia and Herzegovina." Available at <http://www.unhcr.org/pages/49e48d766.html>. Accessed 17 January 2010.

<sup>17</sup> International Crisis Group, "Bosnia's Incomplete Transition: Between Dayton and Europe," Europe Report N°198 (9 March 2009): 1-3.

## **Refugee Return and Education Reform**

Refugee return is a necessary step for Europeanization. Transitional justice is vital to recovering from the Bosnian War, but refugee return cannot be completed because of the realities on the ground in local communities. PLIP requires the return of property to former owners, but many people choose to sell their original homes instead of returning to their communities or they are completely unable to reclaim their property because it has been destroyed. Even where refugee return has occurred, many former refugees simply sell their property and move to areas where their national minority is now in the majority.

Refugee return became a major driving force behind education reform for the international community. BiH's nationalist education curricula are a deterrent to refugee return in many areas. Ethnic tensions remain and, even worse, are being reinforced in schools. In some schools, tensions between ethnic groups have resulted in the *permanent* separation of students based on ethnicity, a model referred to as "two schools under one roof." International organizations such as the OSCE regard two schools under one roof as a "lesser and temporary evil" as opposed to placing returning students in classrooms where they are the minority. The divisions in the municipality of Stolac in Herzegovina-Neretva Canton are an excellent example of the negative influence of curriculum in certain parts of BiH. Stolac's Srednja Škola is an infamous example of the "two schools under one roof" model. Croat students attend morning classes under the Croat curriculum (Croatian language and history) while Bosniak students attend in the afternoon using the Bosniak curriculum (Bosnian language and history). There is absolutely no joint

administration of the two shifts. Both schools have their own directors, school boards and teachers despite using the same facilities. Students are taught nationalist accounts of history and Croat students learn that their capital is Zagreb, not Sarajevo.<sup>18</sup> Stolac illustrates that the current education system reinforces national, not civic, identities.

BiH struggles with education reforms because the Dayton Accords reinforce nationalist political agendas. Ministries of education across BiH have such broad competencies that they are able to resist international pressure. The RS Ministry of Education's competencies include education throughout the RS, while within the Federation, the ten separate cantonal ministries administer education. BiH's national divisions influence the agendas of BiH institutions, including the ministries of education, schools and municipalities. Following the wars, displaced persons began returning to their places of origin throughout BiH, but this placed a severe strain on local communities.<sup>19</sup>

Teaching history in this environment became a challenge that the international community failed to solve. The OHR allowed "national subjects" to be taught that include history, mother tongue and religious education. In order to protect the interests of minority students, students are still separated by ethnicity for national subjects. Reform efforts have no methods of coercion. The international community has been unable to end

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<sup>18</sup> "A generation of... ethnically overfed pupils." 23 August 2009. Available at <http://www.msnbc.msn.com/id/32527058/>. Accessed 18 November 2009; Working Group for Analysis of "Two Schools under One Roof" Phenomenon, "Report," (April 2009), 9.

<sup>19</sup> Education problems have also been a factor for many displaced persons or refugees to decide not to return to their prewar homes.

two schools under one roof, especially in Zenica-Doboj Canton and Herzegovina-Neretva Canton.<sup>20</sup>

The OHR has not used its means of coercion to force communities to comply with modern European education guidelines. Many of the necessary legal reforms for education already exist on paper in BiH, but local elites exploit Dayton's weaknesses to block access to education or avoid modernizing their education practices. For example, after consistent pressure from the OSCE, all the ministers of education (all cantons, both entities and the state-level ministry) signed the "framework law on primary and secondary education" in 2003 and the *Guidelines for writing and evaluation of history textbooks for primary and secondary schools in BiH* in 2006. These guidelines seek to bring Bosnian history curricula and textbooks in line with European guidelines, yet some Bosnian textbook authors and municipalities fail to keep nationalist political ideologies out of history education.<sup>21</sup> The OSCE offers many resources for curriculum reform efforts, but the OSCE's mandate limits its role in BiH to strictly being a mediating institution. The OSCE advocates for curriculum reforms in BiH that allow teachers to teach their students to analyze each text critically, but implementation of reforms requires the participation of local-level leaders. Education, unfortunately, is an issue that the OHR

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<sup>20</sup> See Gordana Bozic, "Reeducating the Hearts of Bosnian Students: An Essay on Some Aspects of Education in Bosnia and Herzegovina," *East European Politics and Societies* (2006): 319-342.

<sup>21</sup> Heike Karge, *20<sup>th</sup> Century History in the Textbooks of Bosnia and Herzegovina: An analysis of books used for the final grades of primary school*, Georg Eckert Institute for International Textbook Research (Braunschweig, Germany: 2008): 5. It is important to place these guidelines within their larger institutional context. In 2003, the state-level *Framework Law on Primary and Secondary Education* was adopted to provide equal access to education for all children. The *Guidelines* followed the spirit of the *Framework Law* by requiring textbooks to offer a multiperspective approach to history. See also OSCE Mission to BiH, "Development of History Textbooks – A Continuing Process." 17 September 2007. Available at [http://www.oscebih.org/public/print\\_news.asp?id=2106](http://www.oscebih.org/public/print_news.asp?id=2106). Accessed 30 November 2009; Robert Stradling, "Multiperspectivity in history teaching: A guide for teachers." Council of Europe. Available at <http://www.coe.int/t/dg4/education/historyteaching/Source/Notions/Multiperspectivity/MultiperspectivityEnglish.pdf>. Accessed 10 November 2009.

has mostly ignored for years. The OHR has the ability to influence education reform, but the OSCE shoulders the majority of the responsibility.

The OSCE Mission to BiH recommends policies to schools, municipalities, cantonal/entity ministries of education and pedagogical institutes, but the process of reform is painstakingly slow. Through the efforts of local historians, the OSCE even produced a set of teaching materials regarding national minorities meant to supplement existing textbooks, but it is impossible to monitor how and if these materials are used in schools.<sup>22</sup> Other organizations involved in BiH such as EUROCLIO offer numerous conferences and teacher training workshops meant to facilitate discussion about the existing curricula. These are extremely valuable efforts, but have been unable to persuade some leaders to change the existing curriculum.<sup>23</sup> The capacity for reform is limited by Dayton because reform relies on the willingness of local leaders to introduce new curriculum standards. The international community has given very few incentives for education reform.

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<sup>22</sup> OSCE Mission to BiH, "Promotion of the Teaching Materials on the Culture, Heritage, and Traditions of the National Minorities in Bosnia and Herzegovina." Available at <http://www.oscebih.org/public/default.asp?d=6&article=show&id=2322>. Accessed 2 December 2009.

<sup>23</sup> Two major examples of the OSCE and EUROCLIO's work in 2009 on curriculum reform are the "History for the Future" and "Bridging Histories in Bosnia and Herzegovina" conferences. See OSCE Mission to BiH, "History for the Future."; European Association of History Educators, "Report on the Teacher Training Seminar 'Bridging Histories in Bosnia and Herzegovina.'" 6 June 2009. Available at [http://www.euroclio.eu/site/index.php/materials-bosnia-848/doc\\_download/274-report-third-workshop-and-authors-meeting](http://www.euroclio.eu/site/index.php/materials-bosnia-848/doc_download/274-report-third-workshop-and-authors-meeting). Accessed 2 December 2009. The OSCE also works in other areas to improve access to education in cooperation with international civil society. For example, the OSCE recently began implementation of a school development program entitled "Index for Inclusion" that provides grants to schools that design programs meant to reduce violence or improve access to education for minorities, such as Roma. "Index for Inclusion" is implemented in cooperation with the NGO *Save the Children UK*. See OSCE Mission to BiH, "Promoting a Culture of Tolerance." Available at <http://www.oscebih.org/education/tolerance.asp>. Accessed 30 November 2009.

## Elections

Nationalist politics also complicated elections in some areas. The multiethnic city of Mostar embodies many of the larger issues that BiH faces. In 2004, High Representative Paddy Ashdown reformed the local consociational power-sharing government. Originally, the mayor of Mostar had weak authority to be shared by a deputy mayor of a different nationality. Furthermore, the city's six districts each elected their own mayors who altogether with the mayor and deputy mayor comprised an administrative board of eight city leaders. At that time, Mostar's landscape was still devastated and public utilities were divided along ethnic lines. Dayton gave the OHR special oversight of Mostar, so the OHR terminated the divide by issuing a statute granting greater powers to the mayor and ending the offices of the district mayors. Mostar held successful elections in 2004 and the situation rapidly improved. Utilities were merged, local landmarks were rebuilt and citizens of different nationalities traveled freely throughout the city.<sup>24</sup>

Unfortunately, Mostar continued to face problems. Under the new statute, elections were held on October 5, 2008 for Mostar's current city council, tasked with electing a new mayor by a two-thirds majority. For more than a year and after multiple ballots the city council was unable to agree on a mayor or a city budget. The International Crisis Group urged the Mostar city council to show leadership and maturity by agreeing on a mayor between the two most likely candidates, Ljubo Beslić (HDZ) and Suad Hasandedić (SDA). The OHR had the ability to circumvent the legal restrictions placed on the city council, but critics believed it was now the responsibility of Bosnian

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<sup>24</sup> International Crisis Group, "Bosnia: A Test of Political Maturity in Mostar," Europe Briefing N°54 (27 July 2009): 2-4.

politicians to handle these matters for themselves.<sup>25</sup> The international community stood by for many months while the democratic process failed. The city council was unable to form a two-thirds majority and in later rounds many councilors abstained from voting. Mostar went without a mayor for fourteen months. Ultimately, the current High Representative Valentin Inzko decided to use the OHR's authority to unilaterally relax the restrictions placed on the Mostar city council. In a Bonn Power decision issued in December 2009, the OHR amended the election law to allow a simple majority of those present and voting to elect the mayor. Beslić was elected on December 18.<sup>26</sup>

Mostar should be a lesson about international intervention in BiH in general. Ideally, the Mostar city council would solve its election crisis by itself, but the OHR had the ability to ease the legal requirements and still did nothing for more than a year. Instead of engaging the problem, international institutions chose to stay out of the political dispute. The OHR allowed the Mostar city council to fail to elect a mayor *seventeen* times in fourteen months. This should be a warning sign to all critics that a similar process could unfold at the state level if the international community withdrew. The eventual involvement of the OHR in the electoral process is not ideal, but the outcome is democratic, Beslić was elected by a simple majority. This outcome was not possible without amendments that only an outside institution such as the OHR could make without appearing biased. The OHR is the only institution in BiH with the legitimacy to amend the election law unilaterally, so like constitutional reform, the

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<sup>25</sup> See Ibid.

<sup>26</sup> See OHR, "Decision Enacting Amendment to the Statute of the City of Mostar." 14 December 2009. Available at [http://www.ohr.int/decisions/mo-hncantdec/default.asp?content\\_id=44279](http://www.ohr.int/decisions/mo-hncantdec/default.asp?content_id=44279). Accessed 20 January 2010; "Bosnian Croat elected as new mayor of Mostar." SETimes.com, 20 December 2009. Available at [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/newsbriefs/2009/12/20/nb-02](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/newsbriefs/2009/12/20/nb-02). Accessed 20 January 2010.

international community deserves partial blame for the repeated failure of the democratic process in Mostar.

The Mostar mayoral election also demonstrates that reforming the Dayton system will require substantial help from the international community. The OHR provides an independent voice on Bosnian politics, so it must engage these types of problems by offering solutions. The solution to Mostar's election crisis was not extreme, but the OHR was the only institution in BiH willing to implement it. Therefore, the answer is not to merely change the Dayton system, but to change it so that power-sharing institutions have a legal means of resolving future disputes. In Mostar's case, there was no legal framework to find a solution to the problem, so the city council deadlocked. A similar election crisis at the state-level could be solved by a strong, independent state-level judiciary able to overcome national interests.

Some within the international community have recognized the problems inherent in the Dayton Accords. Efforts have been made to reform the institutions established under the Dayton Constitution. In sections three and four I will show some of these efforts. Unfortunately, the international community for the most part has been as passive in reforming the Dayton system as it has been in dealing with the problems created by it.



### **Chapter III**

#### **The Use of the Bonn Powers**

When the Bonn Powers began, the OHR could impose decisions that were backed up by foreign SFOR peacekeeping troops, but SFOR's mandate ended and international support for continued involvement dwindled. Without other support, the OHR only has a normative influence, placing the OHR in a precarious situation in which it must rely on Bosnians to respect the legitimacy of a foreign institution. Is unified normative influence from the international community sufficient for interethnic cooperation and state-building? In BiH today that is a hypothetical question because even the OHR's limited normative influence is being second-guessed by members of the international community who disagree with the OHR's political ability to intervene when Bosnian politics need a course correction. Consequently, the international community's role is becoming increasingly uncertain (and arguably ineffective) in BiH. The fragmentation of the international community regarding BiH is to blame. The OHR can do very little because of weak international political support for continued intervention.

At its core, the OHR is a political institution imposed by the international community on the Bosnian people as a part of a solution to their conflict. Its legitimacy is based on Dayton, a foreign document created by international negotiations, and the PIC's decision to grant the OHR the ability to "use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of difficulties by making *binding* [my emphasis]

decisions” (the Bonn Powers).<sup>27</sup> These facts do not sit well with foreign governments, and rightly so. The OHR’s mission, however, relies on international support to be effective. As an international institution created by a coalition of foreign governments, the OHR’s policies must respond to international opinion. World governments are losing interest in continued involvement in BiH. The High Representative answers to no one within BiH, but the Bonn Powers and general involvement in BiH are losing popularity in the court of international public opinion.

While skeptics are correct that BiH will never be a full-fledged democracy as long as the OHR remains open, the end of international involvement in BiH is not the solution, *by itself*. Those in the West who object to international involvement in BiH miss the point: countries unable to manage their own transitions independently need international institutions with a *realistic* means of coercion to promote transition goals, in this case peace implementation and Europeanization. Without boots on the ground, strong economic incentives or even concerted political pressure to introduce reforms, international intervention is half-hearted. Full local ownership of the political process in BiH would be extremely dangerous. Local elites still have nationalist agendas that are only partially checked by the international community’s presence. In my opinion this is an old theme in Bosnian politics. Local elites have often appeared to “play ball” with the international community while secretly pursuing their own agendas, hoping if they outwait the international community then they will achieve their goals.

Conditionality arguments applied to other transition states now in the EU and NATO in Central and Eastern Europe do not apply to BiH. Instead of assuming that states

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<sup>27</sup> Office of the High Representative, “PIC Bonn Conclusions.” 10 December 1997. Available at [http://www.ohr.int/pic/default.asp?content\\_id=5182](http://www.ohr.int/pic/default.asp?content_id=5182). Accessed 15 March 2010.

in the Western Balkans are willing to do whatever is necessary to join international economic and security institutions, NATO and the EU must realize that states like BiH will require active pressure to institute reforms. The conditionality literature emphasizes that elites require incentives to institute reforms (Vachudova 2005, Pop-Eleches 2007). In Central Europe, membership in the EU alone was enough incentive for post-communist states to reform. Elites were either receptive to the terms of membership in international organizations such as the EU or voters replaced them with elites who were, but in a multinational post-conflict environment such as BiH, political elites reify the nationalist concerns of the Bosnian public. EU membership is desired, but discussion is framed in nationalist terms making compromise more difficult.<sup>28</sup>

Political conditionality and the potential for EU market access have produced limited results. The international community in BiH struggles to use carrots and sticks effectively. Bosnian politicians are aware of the conditionality imposed by organizations such as the EU and NATO, but Bosnian voters do not force political elites to institute sweeping changes as long as they at least voice goals of European integration. The EU has the potential to use more aggressive financial incentives such as greater market access or foreign direct investment but has failed to do so.

Seven High Representatives have overseen BiH since the Dayton Peace Accords were signed in 1995. Each High Representative had a different relationship with Bosnian politicians. Some have understood the OHR's necessity in guiding Bosnian institutions

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<sup>28</sup> For more on conditionality, see Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism* (New York: Oxford University Press, 2005); Randall W. Stone, "The Political Economy of IMF Lending in Africa," *American Political Science Review* (November 2004): 577-591; Roland Vaubel, "A Public Choice Approach to International Organization," *Public Choice* (Vol. 51, 1986): 39-57; Grigore Pop-Eleches, "Between Historical Legacies and the Promise of Western Integration: Democratic Conditionality after Communism," *East European Politics and Societies* (Winter 2006): 142-161.

that are incapable of reforming themselves. As Joseph argues, BiH's setbacks "are proof that outsiders doing less does not necessarily translate into locals doing more."<sup>29</sup> More recent High Representatives have been forced to pick their battles with local politicians, choosing to exert the Bonn Powers only when it was realistically possible to do so. Some of the earlier High Representatives, however, frequently exercised the full authority of their office, notably the second and fourth High Representatives, Carlos Westendorp and Paddy Ashdown. Both High Representatives used the Bonn Powers frequently to impose necessary laws and remove politicians that obstructed international goals. Ashdown, especially, understood that "you can't build loyalty, and you can't build identity, especially after a war of genocide and ethnic annihilation, overnight. This is a process, it's not an event."<sup>30</sup>

### **Carlos Westendorp**

Westendorp became High Representative in 1997 and faced nationalist politicians who hampered international involvement. Westendorp dismissed RS President Nikola Poplasen in March 1999 when he attempted to unseat RS Prime Minister Milorad Dodik. At that time, Dodik was perceived as a relative moderate: nationalist, but willing to work with the international community. The OHR cited Poplasen's attempts to circumvent the OHR's constitutional decision requiring civilian control of the armed forces. Poplasen also attacked the legitimacy of the OHR and obstructed Dayton's implementation by refusing to recognize election results within the RS. In a written statement, the OHR

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<sup>29</sup> Joseph, "Ownership is Over-rated," 112.

<sup>30</sup> Gabriel Partos, "Bosnia to build on Ashdown legacy." *BBC News*, 31 January 2006. Available at <http://news.bbc.co.uk/2/hi/europe/4663168.stm>. Accessed 27 January 2010.

legitimized Poplasen's removal by citing that the Peace Implementation Council's meeting in Bonn "authorized the High Representative to take actions against persons holding public office who are found by the High Representative to be in violation of legal commitments made under the Peace Agreement or the terms of its implementation."<sup>31</sup> Westendorp used the Bonn Powers regularly against mayors and police who obstructed refugee return, but Poplasen's dismissal angered Serbs and the Rump Yugoslav government. The objections were no different from those made today. The Milošević government asserted that it was "an illegal act, an act of unprecedented wilfulness [sic], and the most serious violation of the letter and spirit of the Dayton and Paris accords, the Serb Republic constitution, and the Bosnia-Herzegovina constitution thus far."<sup>32</sup> The situation was delicate, but the OHR's control of the situation was not in doubt. When Westendorp served as High Representative a significant number of SFOR peacekeepers were stationed in BiH to maintain order. Their presence lent a physical means of coercion to the OHR, which legitimized the Bonn Powers.

### **Paddy Ashdown**

Paddy Ashdown was a target of critics for his use of the Bonn Powers as High Representative from 2002 to 2006. Almost from the beginning of his office, international skeptics criticized him for prolonging the use of the Bonn Powers. The European

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<sup>31</sup> Human Rights Watch, "Human Rights Watch World Report 2000 - Bosnia and Hercegovina." 1 December 1999. Available at <http://www.unhcr.org/refworld/docid/3ae6a8d034.html>. Accessed 27 January 2010; Office of the High Representative, "Removal from Office of Nikola Poplasen." 5 March 5, 1999. Available at [http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content\\_id=4706](http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=4706). Accessed 28 January 2010.

<sup>32</sup> "Belgrade's anger at sacking." *BBC News*, 6 March 1999. Available at <http://news.bbc.co.uk/2/hi/europe/291135.stm>. Accessed 28 January 2010.

Stability Initiative, a think tank based out of Berlin, was one of Ashdown's most vocal opponents for the continuation of the Bonn Powers, arguing that the Bosnian state could not develop as long as BiH remained an international protectorate.<sup>33</sup> Ashdown, however, used the Bonn Powers to advance Europeanization when local politics went dangerously awry. Ashdown's immediate predecessor, Wolfgang Petritsch, encouraged the development of non-nationalist political parties such as the Alliance for Change coalition after the November 2000 elections. Unfortunately, these efforts failed and nationalist politicians soon returned to power.<sup>34</sup>

Ashdown feared that local politicians were derailing Dayton's implementation. In a single day in 2003 Ashdown removed 60 Bosnian Serb politicians from office for refusal to hand over war criminal Radovan Karadžić.<sup>35</sup> Critics of continued international intervention railed against Ashdown for their removal. The ESI responded by releasing an extremely controversial report calling Ashdown an imperialist who ruled BiH as a "raj," similar to the British rule of India. Ashdown furiously denounced the report, arguing that control of Bosnian institutions was slowly being handed over to local leaders. *The Economist* reported that polls showed that Bosnians themselves remained skeptical of both their own politicians and the international community throughout the

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<sup>33</sup> Marcus Cox and Gerald Knaus, "Open Letter to Lord Ashdown." 16 July 2003. Available at [http://www.esiweb.org/pdf/esi\\_document\\_id\\_60.pdf](http://www.esiweb.org/pdf/esi_document_id_60.pdf). Accessed 27 January 2010.

<sup>34</sup> International Crisis Group, "Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building." Balkans Report N°146, 22 July 2003. Available at [http://www.crisisgroup.org/library/documents/report\\_archive/A401057\\_22072003.pdf](http://www.crisisgroup.org/library/documents/report_archive/A401057_22072003.pdf). Accessed 29 January 2010.

<sup>35</sup> "Ashdown sacks 60 Serbs over Karadzic." *Telegraph.co.uk*, 30 June 2004. Available at <http://www.telegraph.co.uk/news/1465831/Ashdown-sacks-60-Serbs-over-Karadzic.html>. Accessed 27 January 2010.

entire incident, but institutions never ground to a halt and the OHR's authority was recognized.<sup>36</sup>

The ESI report written by Knaus and Martin was the first major report to criticize the OHR. The OHR's position substantially weakened following the Knaus and Martin article. Each High Representative confronts unique circumstances, but still no High Representative since Paddy Ashdown used the Bonn Powers as frequently. The situation steadily worsened until High Representatives were in a very precarious position to enforce democratic reform in Bosnian politics.

### **Lajčák and Inzko**

The OHR was hung out to dry. Recent High Representatives Miroslav Lajčák and Valentin Inzko received tepid support. For example, Lajčák attempted to finalize the conditions necessary for a Stabilization and Association Agreement (SAA) between the EU and BiH. Despite improvements in the Bosnian police, local leaders resisted conditions for an SAA set by the EU. Police districts follow political boundaries. Lajčák attempted to use the authority of the OHR to force local elites to reform the police boundaries, but the EU ignored the OHR and signed an SAA with BiH without the required reforms.<sup>37</sup> The PIC wants to close the OHR and transition entirely to an EU Special Representative (EUSR), but within BiH the RS is unwilling to cede its relative autonomy to the state. Now the OHR is unable to take a convincing stand on this issue

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<sup>36</sup> Knaus and Martin, "Travails of the European Raj"; "The viceroy rules, OK? Not everyone thinks so." *The Economist*, 24 July 2003. Available at [http://www.esiweb.org/pdf/esi\\_europeanraj\\_reactions\\_id\\_10.pdf](http://www.esiweb.org/pdf/esi_europeanraj_reactions_id_10.pdf). Accessed 30 January 2010.

<sup>37</sup> International Crisis Group, "Bosnia's Incomplete Transition: Between Dayton and Europe," 11-12.

without international support. Consequently, a recent International Crisis Group report argues that the OHR is now more of a problem in Bosnian politics than a facilitator of disputes.<sup>38</sup>

By the time that Lajčák left office in March 2009, inflammatory rhetoric against the state and other minorities was so prevalent from Bosnian Serb leader Milorad Dodik that Lajčák remarked that, “Does anyone serious really believe that Dodik’s removal would resolve the problems in BiH? Here is my answer: at this moment, it would create so many problems that the very existence of Bosnia and Herzegovina would be jeopardised! [sic]”<sup>39</sup> Support for state institutions and cooperation between entities and cantons failed to materialize. After Ashdown, High Representatives began to hesitate to use the Bonn Powers, emboldening Bosnian politicians, particularly Milorad Dodik.

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<sup>38</sup> International Crisis Group, “Bosnia’s Dual Crisis,” Europe Briefing N°57 (November 12, 2009) 1, 12.

<sup>39</sup> OHR, “Interview: MIROSLAV LAJČÁK, HIGH REPRESENTATIVE: DODIK’S REMOVAL WOULD JEOPARDISE THE EXISTENCE OF BiH.” 2 February 2009. Available at [http://www.ohr.int/ohr-dept/presso/pressi/default.asp?content\\_id=43135](http://www.ohr.int/ohr-dept/presso/pressi/default.asp?content_id=43135). Accessed 30 January 2010.



## **Chapter IV**

### **The End of Liberal Imperialism?**

By Dayton's tenth anniversary in 2005, local politicians in BiH were under intense political pressure from the international community to introduce constitutional reforms. It was widely acknowledged that a path for BiH into the EU was not possible without significant constitutional reforms that integrated BiH's entities and strengthened central Bosnian state institutions. In other words, international and local leaders agreed that the Dayton framework clearly needed reforms. This was a critical moment in BiH's development. Former Deputy High Representative Donald Hayes began work with the US Institute for Peace and leaders of all Bosnian political parties to develop key constitutional reforms. The negotiations went slowly, but by April 2006 the working group developed a set of amendments that would have reduced the Bosnian Presidency to one member, doubled the size of the Parliament, increased the authority of the state-level Council of Ministers and created state ministries of agriculture and technology and the environment.

These reforms, nicknamed the "April Package," stalled in the Bosnian Parliament. The leader of SBiH, Haris Silajdžić, was the only party leader to reject the reforms, arguing that they did not weaken the entities. The Bosniaks have consistently worked to reduce the autonomy of the RS and Federation in favor of stronger state-level institutions in BiH, so it was unlikely that Silajdžić would support a proposal that did not weaken the entities, but members of other parties also opposed the April Package. A faction of the

Croatian Democratic Union (HDZ) split off to form their own group, HDZ 1990, that allied with members of the Party of Democratic Action (SDA). The April Package soon failed because its supporters could not muster enough votes in Parliament.<sup>40</sup>

The OHR was already involved in this process and had the opportunity to force modest constitutional reforms past the Parliament and into Bosnian law at that precise moment, but decided to refrain from imposing any reforms. The debate over international involvement in BiH had convinced many governments that using the Bonn Powers would be unwise. The Knaus and Martin argument clearly had an influence on decision makers in European capitals. Dr. Christian Schwarz-Schilling became BiH's fifth High Representative in January 2006. Schwarz-Schilling described the High Representative's role in BiH as a total contrast to Paddy Ashdown's aggressive intervention in BiH. While Ashdown believed that intervention was necessary, Schwarz-Schilling argued that the High Representative should act as an "adviser" in Bosnian politics.<sup>41</sup> The April Package was a concrete proposal that would have made measurable improvements in BiH, but in the end Schwarz-Schilling allowed constitutional reforms to fail.

Schwarz-Schilling's contrasting style to Ashdown illustrates the differences among the members of the international community with interests in BiH's democratic transition. Both men clearly have distinguished records of public service with connections to policy circles in the British and German governments. Ashdown served several terms as a Liberal member of the British Parliament and as Leader of the Liberal

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<sup>40</sup> Saida Mustajbegovic, "Bosnia: Constitution Reform Setback." *Balkan Investigative Reporting Network*, 25 January 2007. Available at <http://birn.eu.com/en/67/10/2141/>. Accessed 1 February 2010.

<sup>41</sup> "Christian Schwarz-Schilling takes over as High Representative in Bosnia." *European Stability Initiative*, 1 February 2006. Available at [http://www.esiweb.org/index.php?lang=de&id=237&news\\_ID=68](http://www.esiweb.org/index.php?lang=de&id=237&news_ID=68). Accessed 3 February 2010; "Profile: Christian Schwarz-Schilling." *BBC News*, 30 January 2006. Available at <http://news.bbc.co.uk/2/hi/europe/4662246.stm>. Accessed 3 February 2010.

Democrats before retiring from the House of Commons in 2001.<sup>42</sup> Schwarz-Schilling undoubtedly has connections inside the German government after years of membership in the German Christian Democratic Union and serving as telecommunications minister under Helmut Kohl from 1982-1992. His policy of indirectness blatantly draws on Knaus and Martin's argument that the OHR's use of the Bonn Powers is a modern example of liberal imperialism. In fact, Gerald Knaus acted as Schwarz-Schilling's adviser throughout his BiH "mediation."

### **Ending the OHR?**

The British government, consequently, has taken a lonely stance toward the Bonn Powers and the OHR's continuation in recent years. During Ashdown's time as High Representative, the British Foreign Office unabashedly supported the OHR's use of the Bonn Powers to remove local politicians from office. When Ashdown ended the RS Supreme Defense Council in 2003, Foreign Secretary Jack Straw openly praised Ashdown's decision, stressing that "the UK Government fully supports efforts throughout the region to take forward the difficult and substantive reforms required for it to realise [sic] its full potential."<sup>43</sup> Ashdown hoped to be the last High Representative, but by the end of his term it was clear that the OHR's mission in BiH was far from over.

On June 23, 2006, Schwarz-Schilling and the Peace Implementation Council boldly stated that the OHR would close on June 30, 2007, explaining that "the nature of

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<sup>42</sup> OHR, "Curriculum Vitae: Paddy Ashdown." 27 May 2002. Available at [http://www.ohr.int/ohr-info/hrs-dhrs/default.asp?content\\_id=28051](http://www.ohr.int/ohr-info/hrs-dhrs/default.asp?content_id=28051). Accessed 9 February 2010.

<sup>43</sup> Foreign and Commonwealth Office, "STRAW WELCOMES ASHDOWN'S ACTION IN BOSNIA AND RESIGNATION OF BOSNIAN PRESIDENT." 30 September 2003. Available at [http://www.fco.gov.uk/resources/en/press-release/2003/10/fco\\_npr\\_020403\\_strawbosnia](http://www.fco.gov.uk/resources/en/press-release/2003/10/fco_npr_020403_strawbosnia). Accessed 9 February 2010.

[international community] involvement in BiH had to change as BiH moved from peace implementation to Euro-Atlantic integration,” despite the April Package’s failure in the Bosnian Parliament.<sup>44</sup> Paddy Ashdown vehemently called for the OHR to remain open beyond 2007 and 2008, with support from British Foreign Secretary David Miliband.<sup>45</sup> The PIC repeatedly urged local politicians to pass constitutional reforms, but it was obvious within months that the international community could not motivate local elites to pass reforms themselves with words alone. Ultimately, the OHR did not close as scheduled. The German government publicly remained silent on these developments as they occurred.<sup>46</sup>

BiH has certainly made some very admirable progress in recent years, but to assume that central BiH institutions are poised to take over full responsibility for running their country on the road to NATO and EU accession is delusional. Since Ashdown left the post of High Representative, BiH has been unable to complete the largest and most important steps toward becoming a sustainable democracy. The international community was successful in a number of areas by using direct intervention. Why should constitutional reform—arguably the largest and most important reform attempted to date by the international community in BiH—be any different? The reform process clearly stalled when the OHR changed tactics between Ashdown and Schwarz-Schilling. The

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<sup>44</sup> OHR, “Communique by the PIC Steering Board – Towards Ownership: From Peace Implementation to Euro-Atlantic Integration.” 23 June 2006. Available at [http://www.ohr.int/pic/default.asp?content\\_id=37503](http://www.ohr.int/pic/default.asp?content_id=37503). Accessed 9 February 2010.

<sup>45</sup> OHR, “PIC Calls For A Renewed Focus On Constitutional Reform.” 4 October 2006. Available at [http://www.ohr.int/pic/default.asp?content\\_id=38217](http://www.ohr.int/pic/default.asp?content_id=38217). Accessed 9 February 2010; OHR, “Communiqué by the PIC Steering Board.” 27 February 2007. Available at [http://www.ohr.int/pic/default.asp?content\\_id=39236](http://www.ohr.int/pic/default.asp?content_id=39236). Accessed 9 February 2010; David Miliband, “Balkans.” 29 October 2008. Available at <http://blogs.fco.gov.uk/roller/miliband/entry/balkans>. Accessed 9 February 2010.

<sup>46</sup> “Bosnia and Herzegovina.” 18 December 2009. Available at <http://www.auswaertiges-amt.de/diplo/en/Europa/Suedosteuropa/BosnienHerzegowina.html>. Accessed 10 February 2010.

international community's split over continued intervention handicapped the reform process. Many Bosnian politicians are extremely adept at telling international leaders in places like Berlin what they want to hear: that progress has been made and the last major obstacle to EU accession is constitutional reform.

Constitutional reform is not a simple process that could be carried out quickly in a few months, allowing the OHR to close. Many members of the international community still have not learned this lesson. Russia, in particular, pushes strongly for an end to international involvement in BiH. In November 2009, Russian Foreign Minister Sergei Lavrov called for an end to the Bonn Powers and the closure of the OHR, saying, "we believe that the people of Bosnia must take their country's destiny into their own hands."<sup>47</sup> The PIC was unable to set a date for closing the OHR at their meeting held later that month, but by prematurely and repeatedly calling for the end of international intervention in BiH, the international community has made Europeanization even more difficult. Stronger central institutions are necessary for Europeanization. Local ownership of the reform process is irresponsible in a country such as BiH without strong power-sharing institutions, but the international community's declining interest in BiH signals to local elites that they can continue to resist reforms.

### **Local Politics**

Local elites took some initiative by making their own attempts at constitutional reform, but their efforts failed. In January 2009, the leaders of the SDA (Sulejman Tihić), SNSD (Dodik) and HDZ (Dragan Čović) produced an agreement that would have allegedly divided BiH into four territorial units with their own legislative, executive and

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<sup>47</sup> *Bosnia Daily*, 6 November 2009.

judicial authority. The agreement also supposedly proposed a way to transfer state property to these units. The discussions among the party leaders became known as the Prud Process, but the three parties did not have the necessary majority in Parliament, leading Inzko to declare that the Prud Process is now “basically dead.”<sup>48</sup>

Local politicians who failed to implement constitutional reforms after years of international intervention began openly criticizing the international community’s attempts to reform the Dayton constitution. The critique of international involvement by Bosnian politicians is not a new phenomenon, but the argument underwent a paradigmatic shift. Early on, local elites attempted to block implementation of the Dayton Accords, but as the implementation process was completed the Dayton constitution became a barrier to Europeanization. Instead of attacking Dayton’s implementation, some local elites actively defended the BiH constitution precisely because it granted nationalists autonomy.

One of the most vocal proponents of the Dayton constitution is RS Prime Minister Milorad Dodik. Dodik initially appealed to the international community by not being a hard line nationalist. The international community supported Dodik because he basically did not obstruct implementation of the Dayton Accords. Dodik’s nationalist credentials were unmistakable, but that made him no different from most politicians in BiH following the war. The OHR praised Dodik’s original cooperation with international attempts to arbitrate ownership of the municipality of Brčko in northeastern BiH between

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<sup>48</sup> “BiH main parties announce new decentralisation agreement.” SETimes.com, 27 January 2009. Available at [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2009/01/27/feature-01](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2009/01/27/feature-01). Accessed 12 March 2010; Mihriban Demir, “Constitutional Amendments: Raise the Alarm in Bosnia-Herzegovina?” *The Journal of Turkish Weekly*, 13 February 2009. Available at <http://www.turkishweekly.net/op-ed/2479/constitutional-amendments-raise-the-alarm-in-bosnia-herzegovina.html>. Accessed 15 March 2010; “Inzko says BiH’s Prud Process basically dead.” SETimes.com, 20 July 2009. Available at [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/newsbriefs/setimes/newsbriefs/2009/07/20/nb-06](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/newsbriefs/setimes/newsbriefs/2009/07/20/nb-06). Accessed 12 March 2010.

the RS and Muslim/Croat Federation. In March 1999, the Brčko Arbitral Tribunal released a statement saying that, “without RS Prime Minister Dodik's pro-Dayton efforts during the past year, the Tribunal might have been obligated to award Brcko [sic] outright to the Federation.” That same day, Carlos Westendorp removed RS President Nikola Poplasen from office for trying to remove Dodik from the post of RS Prime minister.<sup>49</sup>

Dodik’s amicable relationship with the international community, however, eventually faded. Dodik was out of office for much of Paddy Ashdown’s tenure as High Representative, but before Dodik returned to office he began to severely criticize the international community. Unlike Silajdžić, Dodik supported the April Package, but after it failed he was politically unwilling to endorse constitutional reforms, instead using the Dayton constitution as a pretense for the autonomy of the RS. Dodik once criticized the international community along with other nationalities within BiH for moving toward greater centralization of BiH institutions by saying, “we're not the ones working to undermine Dayton or threatening the existence of Bosnia-Herzegovina in that way. We just want to be inside -- and nothing else.”<sup>50</sup>

Dodik exploits the divisions in the international community to perpetuate the status quo within BiH. The international community and local leaders such as Dodik both began to openly consider moving from peace implementation to Euro-Atlantic

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<sup>49</sup> OHR, “Statement by Roberts B. Owen, Presiding Arbitrator for the Brcko Arbitral Tribunal.” 5 March 1999. Available at [http://www.ohr.int/ohr-offices/brcko/default.asp?content\\_id=5353](http://www.ohr.int/ohr-offices/brcko/default.asp?content_id=5353). Accessed 12 February 2010; OHR, “Removal from Office of Nikola Poplasen.” Available at [http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content\\_id=4706](http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=4706).

<sup>50</sup> Ljudmila Cvetković, “Milorad Dodik – One Foot In Bosnia, But His Heart In Serbia.” *Radio Free Europe*, 28 April 2009. Available at [http://www.rferl.org/content/Milorad\\_Dodik\\_\\_One\\_Foot\\_In\\_Bosnia\\_But\\_His\\_Heart\\_In\\_Serbia/1617635.html](http://www.rferl.org/content/Milorad_Dodik__One_Foot_In_Bosnia_But_His_Heart_In_Serbia/1617635.html). Accessed 12 February 2010.

integration, but the international community did not apply sustained political pressure on Bosnian leaders to implement constitutional reforms. Dodik's ideas about BiH's integration did not involve constitutional reform. Dodik took advantage of the debate over continued international involvement in BiH by calling for local ownership in the political process and criticizing the use of the Bonn Powers, particularly their use by Paddy Ashdown, whom Dodik blames for BiH's stagnant political situation.<sup>51</sup> Ideally, local ownership would be a good thing, but Dodik's mistrust of central Bosnian institutions and flagrant Serb nationalism threatens to perpetuate BiH's system of rent-seeking for the foreseeable future. The international community is now unable to agree on a course of action for Europeanization. Once pressure to pass constitutional reforms relented, Dodik boldly stood up against the international community. Dodik rejected the OHR's attempts to reform the Dayton system and even suggested that it was within the rights of the RS to secede from BiH on the principle of self-determination.

Dodik's emboldened stance frustrated recent international efforts to reform the Dayton constitution. In October 2009, leaders from the US and EU held a summit with Bosnian leaders at the Butmir NATO base near Sarajevo. On hand for the negotiations were US Deputy Secretary of State James Steinberg, EU Enlargement Commissioner Olli Rehn and Swedish Foreign Minister Carl Bildt. Leading into the negotiations, the international community applied political pressure on local elites to consent to constitutional reforms. The summit's goal was to reach an agreement on constitutional reforms in order to allow the November meeting of the PIC to set a deadline for the closing of the OHR. If the PIC was ready to discuss closing the OHR, then they were

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<sup>51</sup> "We've seen excessive use of force in Bosnia. That will surely leave some sort of mark on the country. Paddy Ashdown is directly responsible for this destabilization and for the growing dysfunction." See Ibid.



ready to sign off on BiH's completion of the PIC's 5 objectives + 2 conditions necessary for closing the OHR if Butmir produced constitutional reforms.<sup>52</sup> Despite several weeks of negotiations, Dodik and other BiH leaders failed to agree to constitutional reforms. Dodik refused to accommodate reforms that would strengthen central Bosnian institutions, saying that BiH is not only an unsustainable state, but that the RS is "not interested in Bosnian constitutional changes." For example, Dodik rebuked a proposal from the SDA's leader Sulejman Tihić to incorporate a Supreme Court into the constitution, asserting that the RS also deserved the right to a referendum to secede from BiH.<sup>53</sup>

EU and US negotiators at Butmir had a consensus that they were unwilling to give the RS the ability to secede from BiH, but deep divisions between the US and Europe still existed that wrecked the Butmir talks. Journalists noted a rift forming between policy in Washington and the general opinion of leaders in Brussels toward the continuation of the OHR. The EU signalled its desire to close the OHR after 14 years of failure to produce a stable state. US policy circles, in contrast, seemed less supportive of the OHR's closure.<sup>54</sup> International officials lambasted Dodik for asserting that the RS has a right to a secession

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<sup>52</sup> The objectives include: Acceptable and Sustainable Resolution of the Issue of Appointment of Property between State and other levels of government, Acceptable and Sustainable Resolution of Defence Property, Completion of the Brčko Final Award, Fiscal Sustainability (promoted through an Agreement on a Permanent Indirect Taxation Authority Coefficient methodology and establishment of a National Fiscal Council), Entrenchment of the Rule of Law (demonstrated through Adoption of National War Crimes Strategy, passage of Law on Aliens and Asylum and adoption of National Justice Sector Reform Strategy). The conditions are: Signing of the SAA and a positive assessment of the situation in BiH by the PIC Steering Board based on full compliance with the Dayton Peace Agreement. OHR, "Declaration by the Steering Board of the Peace Implementation Council." 27 February 2008. Available at [http://www.ohr.int/pic/default.asp?content\\_id=41352](http://www.ohr.int/pic/default.asp?content_id=41352). Accessed 21 March 2010.

<sup>53</sup> *Bosnia Daily*, 9, 12, 13, 16, 21, 22 October 2009.

<sup>54</sup> Ian Traynor, "Threat by Bosnia Serbs alarms Europe and US." *Guardian.co.uk*, 14 October 2009. Available at <http://www.guardian.co.uk/world/2009/oct/14/bosnia-serbs-break-away-threat>. Accessed 17 February 2010.

referendum, but ultimately Dodik refused to compromise. The international community was unwilling to impose a decision so the Butmir talks ended without an agreement.

Butmir's failure strengthens Dodik's position. Dodik obstructs the centralization of the Bosnian state and clearly wants to see the OHR closed, which is most likely a major factor why the PIC decided to avoid setting a closure deadline at its November 2009 meeting. On paper, the international community has achieved peace implementation. BiH has been at peace for 15 years with no immediate signs of a return to conflict. Furthermore, democratic, power-sharing institutions exist throughout BiH that are the result of free and fair elections. In other words, BiH is officially a peaceful, multiethnic democracy. As a result, the international community is gradually losing interest in sustained intervention in BiH. Dodik must support Dayton's framework for peace, but he is under increasingly less pressure to reform the Bosnian state.

Dayton's goal is to bring peace to BiH and attempt to setup a multiethnic democracy, agendas that Dodik has supported, but now that they have been accomplished he is under no real pressure to continue reforms. At the Butmir talks, the EU and US negotiators promised not to impose an international decision on BiH. The outcome should be unsurprising—Dodik simply had no reason to change his position. Despite political pressure from the international community on Bosnian politicians to agree to constitutional reforms, the international community lacked the resolve to impose any new decisions developed at the talks. Without this threat, Bosnian politicians knew that the status quo would continue as long as they outwaited the international community. In the midst of the negotiations, the US and Swedish Ambassadors to BiH along with the Head of Delegation of the European Commission to BiH issued statements urging Bosnian

politicians to take advantage of the opportunities presented at Butmir, but by publicly considering the closure of the OHR, the EU played into Dodik's hands and undermined their own leverage.<sup>55</sup>

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<sup>55</sup> *Bosnia Daily*, 14 October 2009.

## **Chapter V**

### **Policy Recommendations**

Nothing will change in BiH until the OHR closes or the international community allows it to drastically change its policies. Today, the OHR's closure seems much more likely than a return to actively using the Bonn Powers. Implementation of the Dayton Accords is virtually completed, but now the Dayton Constitution blocks further Europeanization in BiH, so it is time to reform it. Unfortunately, after almost fifteen years many international governments are losing interest in the sustained pressure necessary to make the OHR an effective institution today. Members of the international community want to decrease the role of the OHR in Bosnian politics because they feel that its authority over Bosnian institutions represents a gross violation of BiH's sovereignty. Opponents acknowledge the international community's influence but recognize that local politicians will not pursue constitutional reforms any further by themselves.

As I have argued in this paper, the international community stood together to implement peace in BiH, but fractured over the OHR's role in Europeanization. Reforms have not progressed evenly in BiH, making it impossible for the international community to withdraw at this stage. Resistance against reforms from local politicians in BiH is a symptom of a larger, related problem: the international community's involvement failed in BiH. Nationalist concerns mask political competition and block reconciliation. Removing the tools of coercion meant to encourage the growth of a unified state is

detrimental. As much as skeptics may wish to see the end of international intervention in BiH, the defiance of the central state of BiH and international institutions by BiH politicians should be extreme cause for concern. The international community's goal of a unified Bosnian state is currently in danger. The hesistance of the international community to support the OHR's use of the Bonn Powers emboldens politicians who oppose strong central institutions.

The OHR is currently the only *foreign* institution in BiH with the political authority to impose decisions and remove politicians, but it has not used this power sufficiently, especially in recent years. Local politicians use their autonomy given to them by Dayton to resist reforms. Today, thousands of persons remain displaced in BiH, but the OHR has done little to improve conditions for refugee return. Education reform would improve conditions for refugee return in many areas, but the OSCE constitutes the brunt of the international community's involvement in BiH education. The work that the OSCE does is necessary for the formation of a Bosnian civic identity, but it has had little support from other institutions capable of ensuring the success of education reforms in BiH, such as the OHR. Despite the (over)emphasis on free and fair elections by the international community, election problems remain in areas such as Mostar, yet the OHR waited months to intervene with a simple decision.

BiH is now at a crossroads. The international community completed its Dayton goals to bring peace to BiH and setup a consociational power-sharing democracy. There is no immediate threat of violence and free and fair elections occur regularly. Unfortunately, Dayton is not a document that provides a framework for EU accession. The Dayton Constitution territorializes the outcomes of ethnic violence and establishes a

power-sharing system that does not force political leaders to compromise with members of other national minorities. The consociational model, therefore, is insufficient and must be reformed, but BiH's nationalist politicians have no reason to change it. Responsibility for reform rests with the international community which must intervene to impose a constitution on BiH that institutes an integrative power-sharing arrangement that crosses ethnic lines.

Local politicians recognize that the international community is divided over the OHR's continued involvement in BiH. The OHR has nearly unlimited authority in BiH on paper, but in reality without international support in the form of political pressure or peacekeeping troops it lacks the means of coercion to enforce decisions. Europeanization cannot continue until the international community gives the OHR the teeth to impose constitutional reforms. If the international community does nothing or, even worse, withdraws from BiH, nationalist tensions are likely to only continue. A strong central state does not exist in BiH. Considering the national animosities, it will take international involvement to make a strong central state a reality. It is not my intention to play “Monday morning quarterback” regarding the decisions that the international community made (and has not made) in BiH, however, Bosnian institutions have repeatedly demonstrated that they are unable to guide universal democratic reforms or carry out transitional justice. Blame for these failures should be shared by the international community and unresponsive local elites.

Realistically, there are now two options: the international community may reinvest resources in the OHR or transition entirely to an EU Special Representative.<sup>56</sup> Strengthening the OHR would require stronger bilateral support from some of the larger EU countries. An EU consensus for this option is unlikely (especially with Russian support) and the larger EU members are divided over the OHR. The second option is to replace the OHR with a more aggressive EUSR dedicated to constitutional reform. Unlike the OHR, the EUSR would isolate Russian resistance to continued intervention since Russia is not an EU country. Many skeptics are calling for an end to all international intervention in BiH, but for this option it is critical that the international community reaffirms that intervention is still vital to peace and Europeanization in BiH. Complete local ownership of the political process would still be extremely irresponsible today. Election reform, education reform and refugee return should demonstrate to the international community that BiH institutions are still not ready to stand on their own.

Therefore, ending the OHR would require an EUSR with the authority to extend larger carrots. International intervention in BiH has strong American and British political support, but the US and UK are unlikely to redeploy forces to the Balkans short of another armed conflict. Hopefully, additional EUFOR troops will not be necessary in BiH, but more major European capitals must come together to show stronger support for the authority of international institutions working in BiH. Normative pressure has failed and additional peacekeeping troops are unlikely, so the EU and NATO must consider larger financial incentives.

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<sup>56</sup> For a similar argument, see International Crisis Group, “Bosnia’s Dual Crisis.” The ICG report also recommends closing the OHR, leaving the EUSR. I do not have a realistic expectation that full local ownership without a foreign presence is possible given the fragile political situation in BiH today.

Bosnian elites have repeatedly demonstrated that they respond to material incentives, presenting a potential solution but additional problems. Potential EU membership appears insufficient, so the international community must adopt an aggressive financial policy in return for interethnic reconciliation. Instead of assuming that the potential for EU market access is an incentive for elites, actually extending greater market access in return for political tradeoffs such as constitutional reform could produce significant results. Doing so would require the EU to loosen its market restrictions and might hamper EU leverage with other nations, but market tradeoffs are a more realistic policy in dealing with intractable elites in a relatively tiny economy. Greater foreign aid and direct investment for infrastructure developments in return for reforms are also possible, but create problems. BiH is a heavily corrupt country where transparency is low and patronage networks are prevalent. Managing the flow of capital into BiH would require strict oversight using the EUSR's institutional capacity.

EU expansion fatigue and the current economic crisis are also serious factors to be considered. The latest round of EU expansion in 2007 brought BiH's Balkan neighbors Romania and Bulgaria into the EU, states with wild corruption not unlike BiH. The EU should legitimately be concerned about similar problems in BiH. The economic costs imposed by expansion dissuade EU voters from favoring the accession of additional countries such as BiH. Market access and monetary aid to BiH would place strains on the EU economy at a time when the global banking sector is in turmoil.

Skeptics, however, should remember that the EU has already taken a very large stake in the future of the Western Balkans. The EU recognized that NATO and EU accession are in the best interests of BiH when it began sending aid and supporting



institutions there. BiH is also a small country whose impact on the EU economy could be absorbed. Finally, the time horizon for BiH to actually complete reforms is likely very long. It will still be many years before Bosnian elites will complete all the stages necessary for EU accession, so it is unlikely that the EUSR will be able to implement multiple infrastructure projects in BiH within a short time period.

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