

## 9 A Durable Oligarchy: Bosnia and Herzegovina's False Post-War Democratic Transition

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Nearly a quarter-century after its first multiparty elections and two decades following the end of a wrenching war, Bosnia and Herzegovina (BiH) is the most problematic laggard in the region in terms of its progress toward the Euro-Atlantic mainstream in democratic and economic development. Why is this so? Why does an ostensibly democratic country demonstrate such a disconnect between the concerns of a majority of its citizens – of all self-identifications – and its political leadership? Is BiH really a case of “building democracy” or “transition” at all?

This chapter will attempt to answer these questions. It shall build upon the work of the multiple authors of *Bosnia-Herzegovina Since Dayton: Civic and Uncivic Values*,<sup>1</sup> one of the several volumes in the series to which the present volume serves as a capstone. The chapter shall focus on a number of themes included in the book, and touch upon several others. Political parties, democracy, elections, and electoral participation – all themes woven throughout this volume – are inextricably linked to the constitutional structure of the state, which is central to the author's contention that BiH is not actually a functioning democracy at all, but rather a competitive electoral oligarchy run by elites who ensure they remain unaccountable. The position and posture of the “international community” has also been a determining variable. Nationalism, the economy, poverty, corruption, the nature of privatization, the lack of rule of law, intolerance, and the media all play supporting roles in explaining the current dynamic – or are resultant from it.

### Political Development

To a greater extent than any other post-Yugoslav state, the democratic development – or lack thereof – of Bosnia and Herzegovina (BiH) was determined by violent conflict and its outcomes. This chapter will begin with a brief reflection on the 1992–1995 war and the first multiparty elections in 1990 which preceded it.

The November 1990 elections saw nationalist parties – the Muslim (later Bosniak) Party of Democratic Action (SDA), the Serb Democratic

Party (SDS), and Croatian Democratic Union (HDZ) – dominate the vote (more than 70 per cent collectively), sweeping aside the League of Communists of Yugoslavia and the Alliance of Reform Forces.<sup>2</sup> The three victorious parties formed a government.

BiH was, unlike Slovenia and neighboring Croatia, *not* pressing for independence following its first multiparty elections. Like Macedonia, BiH's leadership essentially stumbled into independence, only embracing the prospect when preservation of some semblance of Yugoslavia became impossible.<sup>3</sup> As the war in neighboring Croatia was unleashed, the governing coalition broke along ethnic lines, with the SDA and HDZ advocating independence and the SDS resisting. A Serb Republic of Bosnia and Herzegovina was declared in January 1992. A referendum held on 29 February–1 March 1992 was boycotted by the SDS and many Serbs, but returned a pro-independence vote with almost two-thirds of the eligible population participating.<sup>4</sup> The outbreak of hostilities in BiH soon followed, with barricades being erected in the capital, Sarajevo.

Beginning in April 1992,<sup>5</sup> the war in Bosnia and Herzegovina lasted until November 1995, and had both international and civil dimensions, with the heavy involvement of the Federal Republic of Yugoslavia (Serbia and Montenegro) and Croatia, both of which had nationalist, illiberal, quasi-democratic authoritarian regimes at the time. Initiated as an ethnic-cleansing campaign to clear non-Serbs from territory desired by the Belgrade government and the local Bosnian Serb leadership, particularly from the area bordering Serbia, it soon became a three-way war between the internationally recognized Republic of Bosnia and Herzegovina, which was structurally multiethnic but became increasingly dominated by the Bosniak (Muslim) SDA during the war,<sup>6</sup> and Serb and Croat separatists supported from without. Having been formed when Bosnian Serb recruits in the Yugoslav Peoples' Army (JNA) were transferred into a new Army of Republika Srpska (VRS) and with a massive heavy-arms advantage, the Bosnian Serbs had the upper hand for most of the war and already in 1992 they controlled about 70 per cent of the country's territory. In 1994, the US-brokered Washington Agreement ended the “war within a war” between the Republic of BiH and the Croat separatists, creating the Federation of Bosnia and Herzegovina with an ethnic majority and mixed cantons. In the late summer of 1995, following one of the war's worst atrocities in the Srebrenica genocide, a combined Croatian Army and BiH Army offensive swept into the Republika Srpska (RS) from the west. Sustained US-led NATO air strikes also hit RS military targets. A ceasefire was called in September, followed by US-brokered negotiations at Wright-Patterson Air Force Base in Dayton, Ohio. Slobodan Milošević, president of the Federal Republic of Yugoslavia (FRY,

consisting of Serbia and Montenegro), negotiated on behalf of the Bosnian Serbs; Alija Izetbegović, president of BiH, negotiated on behalf of Bosniaks; and Franjo Tudjman, president of Croatia, negotiated for the Bosnian Croats.

The 1994 Washington Agreement contained many of the elements that were included in the Dayton Agreement (and made state organization so fraught) – ethno-territorialism, vital national interests, recognition of separate languages, etc. It also included special relations between the Federation and Croatia, a provision later included in Dayton and extended to the RS and Serbia.

The war had devastating effects on BiH's population. The pre-war population of 4.4 million had been reduced to 3.8 million by 2013.<sup>7</sup> The most commonly cited number for those killed directly is approximately 100,000, based on 97,207 deaths accounted for by the Sarajevo-based Research and Documentation Center (RDC) in 2007, with an attendant estimate that the number would not rise above 110,000. The ICTY arrives at a demographic estimate of 104,732.<sup>8</sup> The casualty figures reflect the lopsided correlation of forces. Navigating from the RDC's figures (57,523 soldiers, 39,684 civilian), about 64,000 of the dead were Muslim (66 per cent of total killed), split about equally between combatants and non-combatants.<sup>9</sup> For Croats, the smallest community and the smallest number of absolute casualties, just under 8,000 (8 per cent), the ratio of combatant deaths to non-combatants was 2:1. About 25,000 Serbs were killed (about 26 per cent of total killed), that ratio was 5:1.<sup>10</sup> More Bosniaks were killed in the genocidal Srebrenica massacre in July 1995 (8,000) than Serb civilians *through the entire war*. Around 83 per cent of the civilians killed and missing according to RDC figures were Bosniak.<sup>11</sup> In terms of relative regional casualties, the Drina Valley saw over 30 per cent of the total casualties; double that of northwest Bosnia or the Sarajevo area.<sup>12</sup> Population displacement peaked at approximately one million internally displaced<sup>13</sup> and nearly one million refugees by war's end in only the main countries of asylum.<sup>14</sup>

The psychological and social impact of the war was massive; post-traumatic stress disorder is estimated to have affected 60 per cent of citizens.<sup>15</sup> An estimated 20,000 women were raped.<sup>16</sup> Bridging social capital in BiH is the lowest in the region, not extending beyond families and local communities.<sup>17</sup>

Animal life also suffered as a result of the war, with those in zoos killed directly or through neglect, as in the case of besieged Sarajevo.<sup>18</sup> Wild animals also became internally displaced or refugees. BiH bears were found as far away as Slovenia and Italy.<sup>19</sup> The proliferation of stray

dogs in urban areas bespeaks household poverty and dysfunction of governance.<sup>20</sup>

The infrastructural and economic damage were also monumental. Estimates of total economic damage came to about US \$115 billion, with damage and destruction to homes estimated to cost US \$25 billion to remedy.<sup>21</sup> War also reinforced the informal linkages of politics to (often extra-legal) business, including black marketeering.<sup>22</sup> War strengthened the bonds between political parties and the broadcast media.<sup>23</sup> While there was more pluralism and competition within the Republic of BiH than in the Republika Srpska or Herceg-Bosna, by war's end each area was effectively or actually a one-party system, with its own army, police, media, and politically connected business elites.<sup>24</sup> These were the component parts which were merged first in Washington D.C. into the Federation of BiH,<sup>25</sup> then at Dayton into Dayton BiH. A necessary component in getting the deal forged was that each ethno-territorial party fiefdom could be maintained under the roof of the ostensibly democratic and multiethnic structure of the Dayton state.

### Post-Dayton Bosnia

The democratic development of BiH has gone through a number of distinct phases since the 1992–1995 war was brought to a close with the Dayton Peace Accords, signed in Paris in December 1995.<sup>26</sup> The role of the “international community”<sup>27</sup> has been integral in this progression – and since 2006, *regression*. So too has the state structure agreed at Dayton. As the title of US diplomat and Dayton chief negotiator Richard Holbrooke's 1998 book about the subject made clear, the overarching goal of this peace conference was “To End a War.”<sup>28</sup>

The *functionality* of the resulting BiH, divided into two “entities” – the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), which had been assembled in another US-led diplomatic process the previous year<sup>29</sup> – was not an immediate concern. The main priority was to insert 54,000 NATO troops (one-third of whom were American)<sup>30</sup> into a “permissive environment”; this was the focus of Dayton's Annex 1. The constitution of the country followed only in Annex 4, refugee return in Annex 7, and the provision for an international high representative, who was to coordinate the international community and oversee enforcement of the Dayton Agreement, in Annex 10. This sequencing gives one a sense of what the priorities of the drafters were at the time.

These inherent contradictions continue to play-out at present; American authors of the Dayton Accords noted that they had hoped that these contradictions would ultimately allow Bosnians to pry open

the oligarchical political system.<sup>31</sup> However, the first elections held after the war, in September 1996, were characterized by many as “an ethnic referendum,” delivering resounding victories to the SDA, SDS, and HDZ in their respective strongholds, reinforcing the perception both domestically and externally that they were genuine representatives of the popular will.<sup>32</sup>

This is not to say that there was *no* connection between political elites and the general population. In the immediate aftermath of a brutal war, security and ability to rebuild were paramount concerns; the political elites could claim to be presiding over the provision of both, with the full backing and legitimization of the international community. The political-business-organized crime-media nexus forged during the war<sup>33</sup> was reinforced by the electoral results, at least for some time.

Despite the built-in impediments to a functioning democratic state and the initial further division of the state in the immediate post-war period, a significant amount of progress was made in constructing state structures between 2000 and 2005. This process came to an abrupt halt in early 2006, and has been followed by ten years of accelerating degeneration, visible throughout the governance structures, particularly at the state level. Despite an open door toward EU candidacy and eventual membership, only declarative progress has been made toward that goal over the past decade. There remains persistent massive and manifest social dissatisfaction with the prevailing economic environment and the political system responsible for regulating it. Yet there is scant reason to hold out hope for a change in the prevailing political, social, and economic dynamic as a result of elections or the political process.

#### *Protests and the Self-Preservation of the Political Elites*

Popular protests, beginning in the formerly industrial northeastern city of Tuzla, erupted in early February 2014, rooted in local frustrations with the nature of privatization and the management of previously publicly owned firms.<sup>34</sup> Yet the overarching theme of anger at entrenched political elites and their mismanagement of public enterprises and the economy in general resonated throughout BiH, leading to protests in other cities and towns, most visibly in the capital, Sarajevo, in which a number of prominent government buildings, including the cantonal government and the BiH Presidency, were set alight. There were no fatalities, but several injuries (many as a result of belated police action). This violence may well have stunted the growth of the protest movement, which had coalesced mainly in Bosniak (Muslim)-majority areas of the Federation. Efforts to channel the popular discontent into concrete demands to the

canton level and Federation governments resulted in popular “plenums” in numerous municipalities. Participants in the *plena* expressed their deep distrust of the entire political system, declaring that the democratic deficit could only be compensated for by direct democracy in these roughly weekly gatherings.<sup>35</sup> Active for over a month after the initial protests, but fearful of attempts at co-optation by political parties or NGOs, the *plena* delivered collected demands to governments, but failed to develop an effective leadership, organizational structure, or coherent positive agenda. They had largely faded away by April 2014.

Massive flooding in May 2014 hit central and northwestern Bosnia very hard, affecting about a quarter of the population and forcing tens of thousands from their homes in the Bosna, Drina, and Sava river basins. Local authorities struggled to cope with what was in many locations an unprecedented level of destruction, even compared to the war in the 1990s. With the partial exception of the BiH Armed Forces (whose structure and equipment are not designed to deal with such natural disasters),<sup>36</sup> the entire government apparatus above the municipal level – state, entity, and canton – failed miserably to meet the challenge.

All these events *should* have had an impact reflected in the October 2014 general elections. Yet turnout dropped from the previous general elections in 2010 to 54 per cent participation of eligible voters.<sup>37</sup> The practical impact of popular discontent on political developments was effectively nil.<sup>38</sup> What explains this clear disconnect of popular will from politics?

#### *The Parabola of the Dayton State, 1996–Present*

BiH’s post-war political development can easily be represented as a parabola or bell curve, beginning from a deeply divided state with few actual competences immediately after Dayton, which remained so for some years, through a concerted state-building effort lasting until a decade ago, and a period of increasingly pronounced recidivism and backsliding since early 2006 – simply put: stagnation, then progress, followed by regression. The determining variables of this parabola are: 1) the structure and operating system of the Dayton state and 2) the assumptions and shifting posture of the international community. Each will be addressed in turn.

#### *Government by Oligarchs, for Oligarchs: Dayton’s Structure and Functionality*

Dayton Bosnia is *structurally ethnified*, built around three “constituent peoples” – Bosniaks, Croats, and Serbs. The State Presidency, for example, has three members – one Bosniak and one Croat elected from the

Federation and one Serb elected from the Republika Srpska. Together, they serve one four-year term, during which the chairmanship rotates every eight months. The bicameral legislature consists of a House of Representatives (forty-two MPs – twenty-eight elected from the Federation and fourteen from the RS) and a House of Peoples (ten members from the Federation – five Bosniaks and five Croats – and five Serbs from the RS).<sup>39</sup>

The state structure outlined in the constitution is minimalist, with many functions commonly handled at the state level in the hands of the ethno-territorial entities and, in the Federation's case, the ten ethnically based cantons. In the first ten years following Dayton's signature, the competencies of the state increased considerably, with numerous state level institutions constructed, largely (but not solely) in efforts to promote Euro-Atlantic integration, which became a formal possibility in 1999.<sup>40</sup> Yet the written constitution still does not reflect the considerable institution-building process of this decade; with the exception of one amendment made in March 2009 to reflect the Brčko Final Award, the constitution has remained unchanged since 1995. Moreover, the results of these state-building efforts, much less the potential for further progress toward the European mainstream, have been proven unsustainable without consistent international pressure. Not only did the reform process come to a halt in 2006, but the changes previously made continue to be vulnerable to reversal, attempts at which are made by the RS in particular. In several instances, the EU has effectively aided the agents of regression in order to demonstrate that the processes it initiated in BiH have not stalled, failed, or yielded bitter fruit.

Many of the functions that would typically be vested at the state level in Europe are vested in the middle layers (entity in the RS; entity and canton within the Federation, with the latter holding more weight on most matters), which are controlled by ethnocratic power elites as fiefdoms. Education, for example, is among these. Most of the policing and judicial system is run at the cantonal level. Each of the four judicial jurisdictions – the state, the Federation, the RS, and the Brčko District – operates independently, and the country has fourteen Ministries of Justice.<sup>41</sup> While the constitution established a Constitutional Court, and a State Court of BiH with a very limited mandate was later established, there is no Supreme Court that could serve as a final court of appeal; on the contrary, each entity has its own Supreme Court.<sup>42</sup> The country had two armies until unified by a defense reform in 2005.<sup>43</sup> While the state does have a dedicated source of revenue with the Value Added Tax, the entities can control the taps on this as well. The RS is centralized, with only municipalities below the government. The Federation has ten cantons which

hold most governing powers. In both cases, local self-governance has been stunted by the layer above.<sup>44</sup>

The Dayton constitutional order contains a number of choke points and procedural requirements which can impede government decision-making. Perhaps the most vocally criticized is "entity voting" – a decision-making mechanism in Bosnia's state-level Parliament (in the Constitution and Parliamentary Rules of Procedure) whereby not only a majority in the State House of Representatives must be assembled for any decision to be made, but also at least one-third of the MPs from each entity.<sup>45</sup> In addition, deputies in the House of Peoples may raise objections when proposed legislation threatens undefined "vital national interests" (VNI). Both tactics have been employed to obstruct legislation which would otherwise have passed, including requirements for European integration. The entity veto (Article IV 4 d) is far more frequently employed, because unlike "VNI," which can be decided by the Constitutional Court, it does not require an affirmative act, and can halt the process completely. The entity veto is employed far more by legislators from the RS than by those from the Federation, particularly on ethnic (including education) and judicial questions.<sup>46</sup> In other words, entity voting is used as an ethnic veto.<sup>47</sup>

Political pluralization began to manifest itself first among Bosniaks in the Federation, where the relative pluralism and tolerance during the war allowed non-SDA parties to survive and continue to operate, in some areas – such as Tuzla – as the dominant political force. Wartime RBiH Foreign Minister and later Prime Minister Haris Silajdžić left the SDA to form his own party, the Party for BiH (SBiH), competing with Izetbegović for the Bosniak seat on the BiH Presidency in 1996.<sup>48</sup> The successor party to the League of Yugoslav Communists, the Social Democratic Party (SDP), had been in the wartime government, and included several prominent and popular figures at the time. A separate Social Democratic party, led by Tuzla Mayor Selim Bešlić, had its origins in Marković's Union of Reform Forces, but ultimately merged with the SDP. Numerous smaller parties existed immediately after the war or were soon formed. This fact helped reinforce the perception (and reality) that the Bosniak-majority areas of the Federation, roughly contiguous with areas which remained under RBiH control through the war, were the most politically pluralistic and open social environments in BiH. Parties have proliferated in the years since,<sup>49</sup> with a number forming from defectors and expellees from the increasingly personality-centered SDP, led by Zlatko Lagumdžija since 1997.<sup>50</sup> The most recent entrants to the political spectrum in the Bosniak (or avowedly Bosnian-Herzegovinan) arena, which Serb and Croat observers often see as a distinction without

a difference) are: Our Party (*Naša Stranka* – NS), a civic party strongest in Sarajevo; the Bosniak Party for a Better Future (SBB), led by newspaper tycoon Fahrudin Radončić; and Democratic Front – Dr. Željko Komšić (DF), led by Croat member of the BiH Presidency Željko Komšić, who was elected as a member of the SDP, but left the party in 2012. Popular disappointment in Lagumdžija and the SDP is pronounced; the party's share of the vote plummeted in the October 2014 elections (he finally left the helm of the party in 2015). Overall, those elections saw the SDA rebound to be the largest party gaining votes from the Bosniak electorate, followed by the DF, the SBB, and more distantly by the SDP.

1997 also saw a major split in the Bosnian Serb political scene. RS President Biljana Plavšić, who had been a hardline nationalist in the SDS during the war, split from the party and formed her own party, the Serb People's Alliance, citing corruption by senior figures of the SDS, including wartime leader and war crimes indictee Radovan Karadžić. This split immediately had a territorial nature, as the RS capital, Pale (just above Sarajevo), remained firmly in the grip of the SDS and its then-leader Momčilo Krajišnik, a close partner of Karadžić. So Plavšić moved her alternative government to Banja Luka and declared it the RS capital. She was supported by the international community in this, including then international High Representative Carl Bildt and US Secretary of State Madeleine Albright. As in the RBiH, there had been other parties active in the RS wartime and post-war legislature, but they had had little to no leverage until this point. Plavšić assembled a majority in her ironically named *Sloga* ("unity") coalition. Leading as prime minister was the current RS president, Milorad Dodik, leader of the Union of Independent Social Democrats (SNSD) who has led the RS since early 2006. Political pluralization in the RS accelerated, though it was only in the October 2006 elections that a single party, Dodik's SNSD, was able to eclipse the SDS as the RS's dominant (if not constantly governing) party.<sup>51</sup> The SNSD was able to run the RS, though not all RS municipalities, in a governing coalition in which it was preeminent for eight years, effectively supplanting the SDS in its oligarchical role. While severely dented in the October 2014 general elections, the SNSD assembled a majority in the RS with the same coalition partners, the Democratic People's Alliance and the Socialist Party. The RS's simple structure allows political leadership to exercise what Dodik's political idol, Russian President Vladimir Putin, has evocatively termed a "vertical of power."<sup>52</sup> However, eight years of political dominance led to a swing against Dodik and the SNSD. In the 2012 municipal elections, in which voter turnout actually rose,<sup>53</sup> the SNSD lost control of twenty-six municipalities (from a pre-election total of forty-one).<sup>54</sup> This was manifest in the 2014 general elections as well.

The SDS-led Alliance for Change candidate, Mladen Ivanić of the Party for Democratic Progress, won the seat on the BiH Presidency. The Alliance joined a state government composed of the SDA, new Democratic Front, and HDZ. But it was unable to assemble a majority in the RS People's Assembly, and Dodik retained the RS presidency amid widespread allegations of fraud.<sup>55</sup> This set the stage for a power struggle between the entity and state-level governments. Dissension in the SNSD ranks became open in January 2015, when a former de facto spokesman for Dodik called on him to resign his leadership of the party.<sup>56</sup> Dodik regularly derides the Alliance as sellouts to the SDA.

The smallest constituent people, the Croats, were the last to experience political pluralization and the first to see relapse into one-party dominance. Former HDZ leader and member of the BiH Presidency Krešimir Zubak (hailing from the Posavina city of Doboje – now in the RS, not the Herzegovinian tradition stronghold of the HDZ) – was the first to split from the party, forming the New Croat Initiative (NHI) in 1998. Another previous HDZ leader, Sarajevo Stjepan Kljuić, who had led the party in the 1990 elections, was deposed as party leader at Zagreb's instigation.<sup>57</sup> He then formed the Republican Party. Yet neither played an influential role in BiH politics after they left the HDZ. In 2002, a party led by Herzegovinian meat-packing magnate Mladen Ivanković-Lijanović, Working for Improvement (RzB), entered the political fray, earning notoriety for offering voters by text message free chickens for votes for his avowedly non-ethnic party.<sup>58</sup> His brother, Jerko, served as FBiH minister of agriculture, forestry and waterways, and was fined in 2013 for having used public resources to fund a "buy domestic" advertising campaign in advance of 2012 municipal elections which depicted him prominently.<sup>59</sup> But the biggest political challenge to the HDZ BiH's undisputed dominance over the Croat political landscape had its origins within the party. When party leader Dragan Čović was indicted for corruption and abuse of office, he was removed from his office as Croat member of the BiH Presidency by then High Representative Paddy Ashdown.<sup>60</sup> Rivals within the HDZ BiH assembled and attempted to seize control of the party while Čović was weakened. However, he met the challenge and the rebels were expelled from the party. They soon founded the HDZ 1990, the date meant to connote a return to the party's roots. In 2006, an internationally convened effort to forge agreement on a package of constitutional amendments (the "April Package," covered more below) gave the newly formed HDZ 1990 a plausible point on which to differentiate itself from the mother party. This paid off handsomely initially; it looked like it might eclipse the HDZ BiH. However, this was to be the party's peak of influence. The HDZ BiH remained the

stronger of the two electorally, and by 2014 its relative strength had only grown.<sup>61</sup> Frictions within the HDZ 1990 led to the departure of its erstwhile party leader, Božo Ljubić, and the ascendancy of his younger rival, Martin Raguž. But while late in the campaign some speculated that Raguž could attract enough votes from non-Croats in the FBiH to tip the balance in his favor in the BiH Presidency race – and he seemed to campaign in a way to support such a thesis – Čović won the seat handily, and the HDZ BiH was overwhelmingly dominant in representing the Croat electorate in the legislatures at the cantonal, entity, and state levels.<sup>62</sup>

### How the Political Spectrum ≠ An Ideological Spectrum

#### *Ideological Spectrum*

The Dayton structure was constructed around the interests of the signatories and their proxies. So it is hardly surprising that it functions to preserve and further those interests or those of their successors. First among those interests is the ability to control the distribution of public resources, including public sector employment, which remains a large proportion of the economy. The patronage system, based on party affiliation, reaches to the lowest levels of public employment.<sup>63</sup> Furthermore, the prevalence of patronage works in tandem with the ability of political actors to leverage fear. For example, if voters do not believe their votes are actually secret (and many do not),<sup>64</sup> then fear of casting a vote that could have an adverse effect on one's own or a family member's employment serves as an avenue of social control. Ruling parties buy many votes with public employment in precisely this way. The fact that the private sector economy is so stunted by the political environment and lack of rule of law has the perverse effect of magnifying the attraction of public sector employment, thereby rewarding the political elite for their malgovernance.

The issue of corruption is usually raised as if it were a function of a weak institutional immune system, which can be remedied with new laws, institutions, media attention, and so forth. But corruption in Dayton BiH is not an opportunistic infection, but rather an integral part of the systemic DNA.<sup>65</sup> Politics in BiH is a for-profit enterprise; corruption – abuse of public office for private gain – is *the point*. Nothing short of a total systemic overhaul which ensures political accountability and transparency will break the linkage between power and patronage.

In the Federation in particular, “opposition” is very difficult to define, since there are multiple layers of governance, and coalition politics is a mathematical necessity.<sup>66</sup> For example, there are rarely parties of any size based in the Federation which are outside the state, FBiH, or cantonal governments – or were at least not in government at some point during a government's term. The Alliance is regularly termed “opposition” despite being in the state government, since Dodik's coalition controls the RS authorities. So even were there to be clear and consistent ideological predispositions of the major political parties in BiH – and there are not – governments would be devoid of ideological content. All parties aspire to be “parties of power,” as the SNSD has succeeded in being in the RS from 2006 onward. The SDA and HDZ BiH have been such parties for most of the time since 1990, outside ruling coalitions only occasionally. Lagumdžija apparently wanted to make the SDP dominant in the Federation in the same way the SNSD was dominant in the RS, despite the structural differences between the two entities.<sup>67</sup> The compromises (political and moral) and contortionism required to pursue this (unsuccessfully) led to the SDP's precipitous decline in popularity. Among these was an interparty deal between the SDP and Dodik's SNSD which would confine vote counting to the local level, close electoral lists, appoint prosecutors in legislatures, and concentrate debt within the state and direct revenues within the entities.<sup>68</sup> The SDA and HDZ BiH again dominate the Federation government, having fallen out with the DF over patronage allocation, replacing it with Radončić's SBB at the entity and state level.<sup>69</sup> Radončić has been indicted by the state prosecutor for obstruction of justice, along with his nominee for state minister of transport, who is accused of witness intimidation from his office at the State Investigation and Protection Agency (SIPA).<sup>70</sup> Given the close relations among HDZ BiH leader Čović, Radončić, and Dodik, the Alliance's days in the state government may be numbered.

The effective, in many cases deliberate, collaboration among parties which are ostensibly nationalist enemies, has numerous examples. In the immediate post-war period, before substantial minority returns took place beginning in 1999, ruling nationalist parties did what they could to discourage and prevent their ethnically cleansed co-ethnics from returning to their pre-war places of residence. One particularly egregious but illustrative example was an effort by the SDS in 1997 to prevent Serbs from returning to then HDZ-controlled Drvar in Western Bosnia, which had been until 1995 (and is again now) overwhelmingly Serb.<sup>71</sup> All nationalist parties wanted “kept populations” which would depend on them for housing (usually in homes of those ethnically cleansed and driven elsewhere) and social benefits in exchange for votes and other

services. Often this activity would directly contradict the public narrative a party would promote. The SDA, for example, regularly referred to the plight of returnees in its campaigns, particularly to the Drina Valley of eastern Bosnia, now in the RS. Yet the party did little to facilitate or support *actual* return, as it would have meant losing what amounted to solid blocs of votes on the outskirts of Sarajevo and Tuzla.

Voter turnout was respectable in the first election cycles after the Dayton Agreement, but dropped off precipitously in 2002 to about 40 per cent.<sup>72</sup> Over time, many of those eligible to vote have abandoned the process altogether. The 2010 general elections saw a bounce in turnout to 56.3 per cent of eligible voters (marginally higher in the FBiH than in the RS).<sup>73</sup> The SDP, which had been out of power for eight years (and even then only in state-level government in 2001–2002) effectively portrayed itself as an exponent of change and a more credible defender of the state than the SDA or other parties sullied by collaborative kleptocracy. The SDP candidate for the Croat seat on the BiH Presidency, incumbent Željko Komšić, performed even better than the party, garnering 337,000 votes.<sup>74</sup> Yet the triumphalist hubris exhibited immediately after the election<sup>75</sup> and through the term – the understanding with Dodik being but one example – led many erstwhile SDP voters to conclude that the SDP was just as corrupt as other parties, and hypocritical to boot, since it portrayed itself as morally superior. Dashed hope for positive change drove turnout to 54.5 per cent overall in October 2014, with a more pronounced drop in the Federation than in the RS, where the electoral choice was binary.<sup>76</sup>

### **Building the State, Declaring Victory Too Soon: The International Factor**

As noted previously, a role for the international community is inherent in the Dayton Accords. External actors are an integral part of BiH's constitutional structure; the international high representative has been the main enforcement mechanism for the Accords, and therefore the Annex 4 Constitution.

The posture of the international community in BiH has gone through at least three, and arguably four, discrete phases since the signature of the Dayton Agreement. The first was a very minimalist approach, focused on implementation of the military and security elements of the Accords. This phase was meant to last just one year, as signaled in statements made by the Clinton administration to the US Congress. American troops were to withdraw by the end of 1996 – hence the focus on having an election so soon after the war. The Organization for Security and Cooperation in Europe (OSCE)

conducted the elections and had heavy American involvement. A joke at the time called the OSCE the “Organization to Secure Clinton’s Election.” But the newly elected government(s) did little to breathe life into the shell of a state envisioned in Dayton. So the NATO peacekeeping force mandate was extended in two six-month steps. Finally, in December 1997, two important breakthroughs occurred. The Peace Implementation Council (PIC), an international body comprising representatives from fifty-five countries and agencies, agreed at a meeting in Bonn to invest the international high representative with executive authorities to ensure that Bosnian authorities met their obligations under Dayton. These “Bonn Powers” allowed the high representative to impose laws necessary for Dayton implementation, rescind those which impinged on it, and remove (even permanently ban) officials for violating Dayton.<sup>77</sup> The second event was President Clinton’s announcement while visiting Bosnia that US troops would remain as long as necessary.<sup>78</sup> Occurring somewhat earlier in the year, soon after British Prime Minister Tony Blair took office, the forcible arrest of war crimes indictees began. The introduction of the Bonn Powers and the greater clarity on American commitment allowed for forward movement. But there was still no *strategic* application of the Bonn Powers for some years.

Following NATO’s Kosovo intervention in 1999, NATO and the EU launched the Stability Pact for Southeastern Europe with a conference in July 1999 in Sarajevo, which was the first articulation that the countries of the region could aspire to membership in the Alliance and the Union, once they fulfilled the necessary criteria.

The next year, BiH’s two predatory neighbors, Serbia and Croatia, began democratic transitions. Croatian President Tuđman died in late 1999; parliamentary and presidential elections in January 2000 brought the opposition to power. President Stjepan (Stipe) Mesić, a former senior member of the HDZ who had departed over Tuđman’s pursuit of a carve-up of BiH, bluntly told BiH Croats that their capital was Sarajevo, not Zagreb. On 5 October 2000, Slobodan Milošević’s regime was ousted by a democratic coalition (albeit electorally led by the pronounced nationalist presidential candidate Vojislav Koštunica). This shift in regional geopolitics spurred greater international assertiveness in BiH. International High Representative Wolfgang Petritsch, with the backing of the international community, made a point of pressing to facilitate minority refugee return,<sup>79</sup> as well as ensuring that a BiH Constitutional Court ruling which would make all three constituent peoples equal statewide was implemented. During his tenure, new state institutions also were planned and brought into being. Petritsch was the first of two strong state-building high representatives.

His successor, Lord Paddy Ashdown, took office in May 2002.<sup>80</sup> High Representative Ashdown, who was also “double hatted” as EU Special

Representative (EUSR), entered with an ambitious reform agenda, Jobs and Justice, but also took advantage of situations which strengthened his hand, such as the discovery prior to the invasion of Iraq that Serbian and Bosnian Serb firms were selling equipment and expertise to Baghdad.<sup>81</sup> These discoveries facilitated security sector reforms across a full spectrum during Ashdown's tenure, including the formation of a state Intelligence and Security Agency (OSA), the State Information and Protection Agency (SIPA), and a single common military, the Armed Forces of BiH (OSBiH).<sup>82</sup> Further reforms were made in the judicial sector, including the establishment of the High Judicial and Prosecutorial Council (HJPC) – with the role of appointing and disciplining these officers of the court, the Court of BiH – with its specialized war crimes and organized crime and corruption chambers, and the Indirect Taxation Agency (ITA) – which administers the Value-Added Tax, which was intended to give the state a dedicated source of revenue. Ashdown formed close relationships with two politicians in particular: Chair of the BiH Council of Ministers Adnan Terzić (SDA) and RS Prime Minister Dragan Čavić (SDS). Yet the Bonn Powers remained an essential ingredient, not only to focus the minds of the BiH politicians, but also to ensure unity of effort in the international community.

As Ashdown's tenure drew to an end, the primary focus was achieving a reform of policing structures in BiH to ensure they met criteria set forth by the EC, and to allow for negotiations on Stabilization and Association Agreement (SAA) to begin.<sup>83</sup> Victory was declared on this issue in Ashdown's final months, but all the most difficult work was punted to a commission. There was also a below-the-radar non-governmental effort to begin to bring political party leaders to agreement on a set of constitutional reforms, meant to facilitate the country's integration into the EU which involved the former deputy high representative.

But the overarching sense by late 2005 was that the state-building process had been enormously successful. The international consensus was that the normal incentive to integrate into the EU, as seen in the 2004 wave of enlargement, would soon take hold of BiH politicians, obviating the need for the high representative's big stick. The common phrase at the time was that the "push of Dayton" would be replaced by the "pull of Brussels."<sup>84</sup> Based on these assumptions, a very different sort of HR/EUSR was selected in October 2005 to succeed Ashdown.

Christian Schwarz-Schilling had served as Germany's post and telecommunications minister before resigning over Germany's Bosnia policy during the war. He later became a mediator in disputes in divided municipalities in the Federation. On the eve of his arrival, High Representative Schwarz-Schilling vowed that he would "step back," using the Bonn Powers only to ensure compliance with the International Criminal

Tribunal for the former Yugoslavia (ICTY) or to meet dire threats to the state.<sup>85</sup> He expected to be the last high representative,<sup>86</sup> allowing BiH to enter an era in which it would propel itself into the Euro-Atlantic mainstream without need for international tutelage.

A number of events converged in early 2006 to set BiH on a retrograde course – a trajectory which continues to date. The international consensus that Dayton BiH no longer required an external enforcement mechanism in a strong high representative was the first. Second, in March 2006, Milorad Dodik became RS prime minister. All progress on the reform – both in maintaining and reinforcing the state institutions established through inter-entity agreement and building new institutions and processes, such as police restructuring – halted abruptly. In April, the international effort to get a package of constitutional reforms passed by the required two-thirds majority in the BiH House of Representatives failed by two votes (see below).<sup>87</sup> Finally, Montenegro's independence referendum in May 2006 revived "referendum" as a loaded term in BiH politics, with Milorad Dodik employing it in the election campaign, implying that the RS would seek independence. When High Representative Schwarz-Schilling was queried in Summer 2006 whether he was serious about a threat made in an Austrian newspaper interview to remove Dodik if he kept threatening a referendum, he demurred, noting that he meant only if such a referendum were actually *organized*.<sup>88</sup> The confrontational rhetoric between Dodik and his Bosniak nationalist foil Haris Silajdžić only intensified at this point. The election campaign was the most divisive BiH had seen since the war. The resulting governments took months to take office. There was no reform impetus to speak of.

Yet despite these ominous signals, the international posture was not fundamentally reassessed. While the PIC Steering Board replaced Schwarz-Schilling with a Slovak diplomat with considerable regional experience, Miroslav Lajčák, the aim remained to shift to an EU enlargement-focused policy. The United States acquiesced to this. In early 2008, the PIC Steering Board set forth a set of five objectives and two conditions (the so-called "5+2" formula) for OHR's closure.<sup>89</sup> A number of elements considered for inclusion, such as constitutional reform and full implementation of Constitutional Court rulings, were left out because they were considered too ambitious.<sup>90</sup> While much hope was projected onto Lajčák upon his arrival in mid-2007 (including by the author),<sup>91</sup> he soon got mired in an arcane dispute on an imposition he himself had made affecting the quorum of the Council of Ministers. The lack of forward movement led to a humiliating act of political contortionism, in which the high representative sought an "authentic interpretation" of his own orders, which had been rejected by Banja Luka. He also desperately



sought a way to declare victory on the police reform issue. In the end, he managed to get the European Commission to fudge its own conditionality to allow initialing of the SAA based on the establishment of two police coordination agencies.<sup>92</sup> While touted as a great leap forward, it did not create the sought-after “momentum” in the reform process. Although the SAA was signed in 2008, there has been little progress in meeting the obligations undertaken therein to harmonize legislation with the *Acquis Communautaire*.<sup>93</sup> While pursuing the “authentic interpretation,” Lajčák also undertook a public outreach program that was thin on substance. With little warning in January 2009, and claiming he no longer wanted to “ride a dead horse,” Lajčák departed to take up the job of Slovak foreign minister, leaving his office in disarray and the PIC Steering Board scrambling to find a replacement.<sup>94</sup> He continued to involve himself in BiH, however, much to the chagrin of his erstwhile colleagues, partnering with former High Representative and Swedish Foreign Minister Carl Bildt in calling for his former office to be closed outright, 5+2 be damned.<sup>95</sup>

Lajčák’s successor as high representative is the incumbent at the time of writing, Austrian diplomat (and former Ambassador to BiH), Valentin Inzko. Soon after his arrival, the RS Peoples’ Assembly declared HR orders to be illegal and refused to abide by them. The high representative annulled these conclusions. The internationally convened “Butmir process” (see below) seemed designed by the EU to undercut its own special representative. In December 2009, soon after Butmir’s failure and directly linked to hopes it could be revived, the high representative relented to the majority on the PIC Steering Board – against his better judgment – and agreed not to extend the terms of international prosecutors and judges for war crimes and organized crime and corruption.<sup>96</sup> This public humiliation seemed to break Inzko’s resolve. While he has exercised the Bonn Powers on numerous occasions since then, these uses have not been to *drive* reform, but have rather been defensive in nature: to protect state institutions or avert disaster.<sup>97</sup> Inzko’s last stand came when RS Prime Minister Dodik threatened to hold a referendum on the legality of the entire state judicial infrastructure, along with RSNA conclusions which essentially deemed the entire post-Dayton reform and state-building process unconstitutional “legal violence” against Republika Srpska. Inzko’s position was that any such anti-Dayton moves would be illegal and annulled if they were to go forward. As late as early May 2011, High Representative Inzko stated that he had the full unity of the PIC Steering Board, except for Russia, behind his stance.<sup>98</sup> Yet on 13 May, EU foreign and security policy chief Catherine Ashton visited Banja Luka and offered Dodik a “structured dialogue” on the judiciary in which RS concerns would be taken into account. This move undercut Inzko brutally – and appeared engineered to do precisely

that. For a brief period, Western members of the PIC Steering Board were more divided than ever before, between those who supported the EU bureaucracy and its quest for primacy on BiH policy (such as Germany, France, Italy, and Spain – Russia was also aligned with this camp),<sup>99</sup> and those who were increasingly skeptical that the EU enlargement approach alone could work (Turkey, the United States, Great Britain, Canada, Japan, and the Netherlands). An ongoing battle over the OHR’s staffing and budget intensified. But the United States and United Kingdom made a policy decision to proclaim unity after the EU Delegation (EUD), which now combined the EUSR and Commission Delegation, was assembled with career EU bureaucrat Peter Sørensen at the helm in September 2011 – in the vain hope that it would come true. The line then became that the EUD and the OHR were cooperating perfectly, despite the fact that at the staff level relations between the missions were downright poisonous.<sup>100</sup> In any case, by this time Inzko had learned his lesson. The OHR at present, whatever its legal importance as an integral part of the BiH constitutional order, has been rendered a practical irrelevance by the EU. Without its active role, BiH has become a rules-free environment.

The latest iteration of the EU’s attempt to spur evolution among the BiH political elite is the “Compact for Growth and Jobs in Bosnia and Herzegovina,”<sup>101</sup> a collection of proposals for economic reforms. The Compact is the centerpiece of the new EU initiative for BiH announced in late 2014, now known as the Reform Agenda. The proposed reforms are in themselves sensible – reducing crippling taxes on enterprises and other bureaucratic hurdles to investment, reformulating the social safety net to a needs-based system, adopting legislation and procedures to tackle endemic corruption, etc. But the likelihood of the political elites adopting and implementing them, as with constitutional reform, is absolutely nil. Such changes would cripple their operating system. By early 2016, the only product of over a year of effort was a new labor law in each entity, speeded through the legislatures in urgent procedure, to the protest of labor unions.<sup>102</sup> Still, the EU proclaimed progress in announcements around the EC’s 2015 BiH report (formerly called the “progress report”), unsupported by its own document, let alone the ground reality.<sup>103</sup> BiH delivered an application for EU membership in February 2016.<sup>104</sup> The likelihood of forward movement toward membership is, however, remote.

#### *The Economics of Oligarchy*

Recent economic data illustrate the problem as experienced by the overwhelming majority. While BiH is an “upper middle income” country

according to the World Bank, with a GDP of US \$18.29 billion (2014) the poverty rate is 17.9 per cent (2011).<sup>105</sup> Unemployment is 27.6 per cent and public sector employment is 32 per cent. Youth unemployment rose from 59 per cent in 2013 to 63 per cent in 2014.<sup>106</sup> (See Box 9.1.) Per capita GDP remains at 28 per cent of the EU average.<sup>107</sup>

### Box 9.1 Basic facts about Bosnia and Herzegovina

Area: 51,197 sq. km.  
 Population (2013 census<sup>108</sup> preliminary results): 3,791,622  
 Capital city: Sarajevo (389,000)  
 Ethnic groups (2000 est.): Bosniak 48%, Serb 37.1%, Croat 14.3%, other 0.6%<sup>109</sup>  
 Language(s): Bosnian, Serbian, and Croatian are all officially recognized as languages in BiH  
 Religious affiliation (CIA World Fact Book est.): Muslim 40%, Orthodox 31%, Roman Catholic 15%, other 14%<sup>110</sup>  
 Literacy: 98%<sup>111</sup>  
 GDP per capita (2014 est.): US \$4,837<sup>112</sup>  
 Labor force (2012 est.): 1.29 million

### Box 9.2 Chairs of the Council of Ministers of Bosnia and Herzegovina since 1995

Year/Mandate	Chairman
3.1.1997	Boro Bosić (SDS) Haris Silajdžić (SBiH)
4.2.1999	Haris Silajdžić (SBiH) Svetozar Mihajlović (SP)
22.6.2000	Spasoje Tuševljak (SDS)*
18.10.2000	Martin Raguž (HDZ BiH)
22.2.2001	Božidar Matić (SDP)
18.7.2001	Zlatko Lagumdžija (SDP)
15.3.2002	Dragan Mikerević (PDP)
13.1.2003	Adnan Terzić (SDA)
9.2.2007	Nikola Špirić (SNSD)
20.2.2008	Nikola Špirić (SNSD)
10.2.2012	Vjekoslav Bevanda (HDZ BiH)
31.3.2015	Denis Zvizdić (SDA)

\* Tuševljak was the first chair; his predecessors were co-chairs.

There is a profound sense of regression and downward mobility, together with a popular consensus that BiH's best days are past.

Despite largely vague commitments by political parties to pursue economic improvement, there was no obvious political vehicle for the sentiments expressed in the 2014 protests or plena,<sup>113</sup> nor is there any political exponent of an integrative agenda, as had been displayed at the ground level in the popular flood response.<sup>114</sup>

### Supports in the Architecture of Power: Education, the Media, and Patriarchy

#### *Education in BiH: Indoctrination to Perpetuate the System*

As Sabrina Ramet has stressed in the Introduction to this volume, as well as in her book *The Liberal Project and the Transformation of Democracy*,<sup>115</sup> values are hugely important for the construction and maintenance of a democratic system. A society in which the rule of law is not respected, in which intolerance is considered normal, in which notions of individual rights are weak and "the rights of the nation" paramount, and in which there is no real concept of human/citizens' equality can scarcely develop a democratic system. For this reason, textbook reform and the content of the media have been widely understood to be central to the project of creating a sustainable democratic system in Bosnia-Herzegovina.

Education was always part of the nationalist will to power in Bosnia-Herzegovina; it remains an eminently political topic. Pilvi Torsti has documented how dividing the education system in order to indoctrinate BiH students was a central political objective in the war, and drew on socialist-era norms as well.<sup>116</sup> Following the war, textbooks from Serbia and Croatia were employed for Serb and Croat students, respectively, while locally produced texts were used in the instruction of students in Muslim/Bosniak-controlled areas.<sup>117</sup> Each of these texts reflected a different "we group" and aimed to inculcate a particular narrative, especially about the 1992–1995 war, which (as already mentioned) killed more than 100,000 people. The Bosnian-oriented textbook characterized the war as "aggression" while the Serbian one (with a supplement produced in the RS) characterized the beginning of the war as violent separatism.<sup>118</sup> All three separate narratives focused on victimization of the "we group." The values expressed diverged, with greater emphasis on equality in the Bosnian/Bosniak text and a focus on oppression in Yugoslavia in the Croatian text. The Serbian book focused on Serbia proper, with a supplement filling the gaps with BiH-specific expressions of Serb nationalism.<sup>119</sup> Tellingly, "the word *democracy* was found only