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Bosnia and Herzegovina Twenty Years after Dayton
-Complexity Born of Paradoxes-
Soeren Keil and Anastasiia Kudlenko

Abstract

This paper will start with an analysis of the Dayton Peace Agreement, and assess to what extent it focused on peace-building, state-reconstruction and democratization. It will provide an overview of major peace-building, state-reconstruction and democratization initiatives by international and local actors in post-war Bosnia. Following the often-presented argument that “Dayton is a good peace agreement but a bad blueprint for a democratic state,” the paper will ask if the Dayton Peace Agreement has failed in the consolidation of Bosnian statehood and the democratization of the country. In order to do this, an in-depth analysis of the current situation in terms of state consolidation and democratization will be given.

The main argument of the paper demonstrates that while the Dayton Agreement had some inherent weaknesses, actions by local elites and international state-builders also explain some of the current issues of the Bosnian state.

Keywords: Bosnia and Herzegovina, peace-building, state-building, democratization, Dayton Peace Agreement

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Introduction

In December 1995, the Presidents of Bosnia and Herzegovina,¹ Croatia and the Federal Republic of Yugoslavia (FRY) signed the General Framework Agreement for Peace in Bosnia and Herzegovina (BiH) in Paris. This Agreement, often shortened to “Dayton Peace Agreement” (DPA)² because it was negotiated and finalized in Dayton, Ohio (USA) in November 1995, not only ended the three and a half year-long war in Bosnia, but it also re-organised the relations between these three countries and completed the first phase of the dissolution of Yugoslavia.³

We assess the DPA according to three dimensions, namely peace-building, state-reconstruction / state-building, and democratization. Peace-building has often been seen as the biggest success story of the Dayton Agreement. As this paper will highlight, this success was possible, because international actors were committed not only to provide a framework in which peace-building could take place, but they also were willing to provide resources and use their own troops to ensure that violence would not break out again in Bosnia after 1995. Further, Annex IV of the Agreement, called “Constitution of Bosnia and Herzegovina” provides a legal framework for the reconstruction of the Bosnian state. Establishing what is one of the most complex political systems in the world, this Annex, together with other Annexes that focus on refugee return and human rights, demonstrates that those who wrote the Peace Agreement foresaw the re-establishment of a Bosnian state after the conflict.⁴

A primary aim of the Dayton Peace Agreement was to establish a democratic state; hence democratization is one of the major objectives of the DPA.⁵ The argument presented is twofold. We will highlight that the DPA has been overly ambitious about post-war Bosnia and provided complex and indeed unrealistic targets for state-building and democratization in particular, without including provisions or the flexibility to achieve these targets. Especially when looking at Bosnia in 1995 – a divided country with multiple armies on its territory, a ruined economy and no functional political institutions – it will become visible how some of the rather “idealistic” targets of the DPA were always at best challenging and at worst impossible to achieve. In addition, we will highlight how some of these targets clashed and contradicted each other, so that multiple interpretations of the DPA and its intentions were possible, which have contributed to a lack of progress and continued political disagreement. At the same time, the achievement of these goals was in the hand of local and international actors, who have worked hard to achieve some goals (for example the international focus on peace-building), while they have failed to put their full weight behind others (for example in terms of ensuring deep-rooted democratization). This goes back to an inherent paradox in the Dayton framework that became obvious in the post-war period – it is not clear who is responsible for the implementation of the Agreement. While the Constitution empowers local actors, international involvement has consistently increased after 1997 (until 2005, when international involvement

substantially decreased), so that by the early 2000s the implementation of the civilian and military aspects of the DPA was mainly driven by international actors.

In order to assess the DPA, this paper will progress in three main steps. The first part will focus on Dayton's biggest success story – peace-building. The second part looks at Dayton's ability of state reconstruction and state-building. While Bosnia has remained as one united country until today (and in many respects, this is already a success), there are many who are critical of Dayton's ability to establish a functional state and make its political institutions work. The final part of the paper will look at Dayton's impact on the democratization of post-war Bosnia. While the Dayton Agreement made it very clear that the post-war state was to be democratic and included numerous sections that focused on human rights, minority rights and power-sharing democracy, in reality Bosnia remains an electoral democracy at best.

The DPA as an Instrument of Peace-Building

It has been widely acknowledged that the primary goal of the DPA was to stop violence and put an end to the war,⁶ thus paving the way for a stable and durable peace not only in Bosnia, but also in the wider Balkan region. Despite a variety of literature published on the topic of peace-building in Bosnia after Dayton,⁷ it should be noted that the type of peace the Dayton Accord set out to establish has not yet been researched in depth. One of the deficiencies present in the study of peace-building clauses of the DPA is connected with a lack of theoretical considerations on the matter.

The term 'peace-building' was introduced into the scholarly literature by the pioneer of peace studies Johan Galtung.⁸ In his seminal work 'Three Approaches to Peace' (1976) he differentiated between peace-making, peace-keeping and peace-building as three main types of third-party interventions into conflicts. He defined peace-making as a process of negotiations between decision-makers aimed at settling or resolving specific conflicts, peace-keeping as a type of intervention to keep warring parties apart and ensure the absence of violence, while peace-building was seen as an effort to create peace, based on justice, equity and cooperation, in a post-conflict society, which also had to address the root causes of conflict in order to prevent its recurrence in the future.⁹ This typology has been devised to complement Galtung's vision of peace, which has influenced the work of many researchers in peace and conflict studies.¹⁰ According to this vision, peace can be either negative or positive. Negative peace refers to the absence of direct violence, whereas positive peace means the presence of harmonious relations between different actors.¹¹ Peace-building, therefore, seeks to establish positive peace, which is closely connected with reconciliation and healing.¹² The overall idea of positive peace is to remove the structural sources of violence, to enable harmonious relations without continued fear, danger and the potential for a quick escalation and return to violence. As will be shown below, the Dayton Accord contains requirements for both types of peace with a focus on the positive one, yet gives much clearer instructions for achieving the negative one.

An important contribution into the development of peace research has also been made by John Paul Lederach, who similarly to Galtung argued that the concept of peace-building cannot be reduced to post-conflict reconstruction. According to him, peace-building is

a comprehensive concept that encompasses, generates, and sustains the full array of processes, approaches, and stages needed to transform conflict toward more sustainable, peaceful relationships. The term thus involves a wide range of activities that both precede and follow formal peace accords. Metaphorically, peace is seen not merely as a stage in time or a condition. It is a dynamic construct.¹³

Within the UN, the term peace-building was first mentioned in the landmark report *An Agenda for Peace* (1992). The report defined peace-building as ‘action to identify and support structures which will tend to strengthen and solidify peace in order to avoid relapse into conflict’.¹⁴ In 1995 *An Agenda for Development* extended the concept by relating it to economic, social and cultural development.¹⁵ The UN’s understanding of peace-building has been continuously evolving ever since.¹⁶ In 2000 the Brahimi report emphasised that the use of peace-building should not be restricted to the post-conflict phase, and defined it as ‘activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war’.¹⁷ The United Nations has also identified three essential features of peace-building, which can be used to assess the DPA’s success in building peace in Bosnia. These features include: national ownership, national capacity and common strategy.

The different definitions of peace-building used by Galtung and the UN point towards a normative/empirical imbalance in the discourses on peace-building. While the UN focuses much more on practical guidelines for the establishment of long-term peace, Galtung’s more normative distinction between positive and negative peace has become important for peace-builders who want to go further than just ending direct physical violence, and think about ways in which the structural sources of conflict can be addressed. Hence, this paper will consider both definitions.

Peace-building in and after Dayton: From Negative to Positive Peace

The DPA has highlighted military and civilian aspects for achieving peace in Bosnia, which share some of the characteristics of the negative–positive peace dichotomy, described above¹⁸. The violent nature of war and its devastating human cost (over 100, 000 killed and two million displaced internally and externally) have prompted peace negotiators to place clauses aimed at ending violence at the forefront of their agenda. As a result, military aspects of the peace settlement have been defined in Annexes IA, IB and II, while civilian implementation of peace was discussed in Annex X.¹⁹ Apart from been given a more central place, military clauses were also better developed, more detailed and, in some cases, even better guaranteed. Thus, the Agreement on Military Aspects of the Peace Settlement (Annex IA) and the Agreement on the Inter-Entity Boundary Line and Related Issues (Annex II) were also guaranteed by Croatia and Yugoslavia.²⁰ Such an endorsement of these two

Annexes can be viewed as an illustration of the importance attached by the international community to the cessation of hostilities and direct violence in Bosnia, hence, it is no surprise that the military aspects can be found in the first two Annexes of the DPA.

The task of implementing military clauses of the peace agreement was entrusted to the NATO-led Implementation Force (IFOR). The Force had to guarantee the end of hostilities and separate the armed forces of the two Entities:²¹ the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS).²² The military requirements also included the creation of a Zone of Separation along the agreed Inter-Entity Boundary Line, the collection of heavy weapons in cantonment areas and regional stabilization measures, such as cooperation within a Joint Military Commission.²³ As a whole, the military clauses of the DPA consisted of measurable and clearly defined steps, aimed at stopping the conflict and preventing it from recurring, i.e. promoted the establishment of negative peace. These detailed military clauses highlight the importance of the DPA as a tool of transferring the cease fire that existed in Bosnia since summer 1995 into a permanent peace deal, which was guaranteed by a heavy international presence in the country. Up to 60,000 NATO soldiers were deployed to ensure the end of hostilities, observe and control the disarmament, and after 1997 also engage more directly in the arrest of war criminals and support the agenda of civilian peace implementation.

Yet, even the military aspects of the DPA were not without their contradictions. For example, disarmament and collection of heavy weapons were highlighted strongly in Annex IA and B of the DPA, yet, the Constitution of BiH, which can be found in Annex IV of the DPA, gave responsibility for military matters to the two Entities. After 1995 Bosnia therefore had de jure two armies (one for the FBiH and one for the RS). De facto, however, Bosniak and Croat troops were not fully united until a comprehensive military reform in 2005/6.²⁴ Hence, this reveals the tension between addressing some of the structural sources of conflict in Bosnia, including building a more inclusive state, and the focus on the implementation of negative peace inherent in the DPA.

By the end of June 1996 IFOR accomplished all of its principal military tasks: it stopped hostilities, separated the armed forces of the two Entities, oversaw the transfer of territory between them and moved the majority of the parties' heavy weapons into secure sites.²⁵ By the September 1996 elections, NATO concluded that IFOR had successfully completed its mission, yet the instability on the ground prevented it from removing its forces from Bosnia completely. That is why in December 1996 a new smaller Stabilisation Force (SFOR) was deployed to BiH with the main aim to 'contribute to a safe and secure environment conducive to civil and political reconstruction.'²⁶ Just like its predecessor IFOR and successor EUFOR *Althea*, SFOR operated under Chapter VII of the UN Charter. It stayed in the country for eight years working on the deterrence and prevention of hostilities, promotion of a peaceful climate and provision of selective support to actors dealing with the civilian implementation of the peace settlement.²⁷ In particular, SFOR was engaged in de-mining

operations, arresting persons indicted for war crimes, assisting the return of refugees and supporting defence reforms.²⁸

The improved security situation in Bosnia allowed NATO to consistently reduce and restructure its forces: if initially it deployed 60,000 troops within IFOR, SFOR went down from 31,000 personnel in 1996 to 7,000 in 2004. Slowly but surely, as a result of the NATO-led military effort, the main challenge in BiH became less about the cessation of direct violence between different ethnic groups, but more about 'the diminution of factors threatening the security and hindering the further stabilisation and integration of BiH.'²⁹ Hence, while NATO focused in the first post-war years on the creation of negative peace, after 1998 the attention shifted more directly to addressing the structural reasons for violence and conflict, and build a positive peace in post-war Bosnia. This change allowed NATO to hand over the responsibility for the military aspects of the DPA to the European Union (EU), whose operation EUFOR *Althea* was deployed to Bosnia in December 2004. The main objective of EUFOR has remained consistent with the mandates of IFOR and SFOR, and is to contribute to the safe and secure environment in BiH.³⁰ Yet, following the opening of the membership perspective to the countries of the Balkan region at the Thessaloniki Council in 2003, EUFOR also assumed responsibility for assisting BiH on its path towards joining the EU. It, therefore, provides support to the overall EU strategy for Bosnia and offers capacity-building and training to Bosnia's defence structures.³¹ At the same time, BiH has undergone a complex military reform in 2005 and 2006, which was supported by the EU and NATO and was also part of Bosnia's closer integration into NATO. At the core of the reform is the creation of a state defence ministry, which would combine the units of the FBiH and RS, and put them under the joint command of the Presidency.³²

Compared to the post-war years, the situation in BiH has changed dramatically: the two Entities coexist peacefully, there has been a decline in ethnically motivated violence and most importantly, there is a very low risk of the country descending into a full-blown war, although minor conflicts might still occur.³³ What is more, thanks to the combined efforts of international and domestic actors, which collaborated through the Defence Reform Commission, the country now has a single Ministry of Defence and professional Armed Forces (AFBiH) – the goals seen as inconceivable in 1995.³⁴ These changes alone prompt us to speak about the success of the military clauses of the DPA. It has kept peace in Bosnia for 20 years, which is an accomplishment hard to deny. Having said that, it is too early to speak about a full completion of the military peace-building tasks in BiH. Large quantities of arms and ammunition remain dispersed throughout BiH with thousands of tons of explosives waiting for destruction in cantonment sites.³⁵ 10,000-strong army forces are yet too financially weak and dependent on external actors to be able to take the responsibility for the protection of the country. In case of conflict, the military structures could also easily fall apart, due to their structure, which reflects the constitutional order in the country and thereby focuses on the representation of the three constituent peoples. Further, the ability of EUFOR at a present strength of 600 troops to fulfil its mandate to contribute to a safe and secure environment in the country is rather

questionable. Yet, Bosnia's closer integration into the EU (the signing and implementation of a Stabilization and Association Agreement in 2008/2015) and NATO (Bosnia is a member of the Partnership for Peace since 2006 and was invited to join a Membership Action Plan in 2010) have also contributed to lowering the tensions and creating a more stable and peaceful environment. To sum up, though there is no question about the Bosnia of today being safer and more secure than in 1995, 20 years after the war ended the country is not yet ready to assume responsibility for its own defence. Reform efforts in military policy have mainly been driven by international actors, most notably NATO, and it remains to be seen if these reforms will be deep-rooted enough to survive if a new conflict unfolds.

The situation with the civilian aspects of the DPA is even more complicated. Civilian clauses in the agreement were less specific than the military ones, although not necessarily less ambitious. Annex X listed a wide range of activities, needed for achieving positive peace in BiH, among them: 'continuation of the humanitarian aid effort for as long as necessary; rehabilitation of infrastructure and economic reconstruction; the establishment of political and constitutional institutions in Bosnia and Herzegovina; promotion of respect for human rights and the return of displaced persons and refugees; and the holding of free and fair elections.'³⁶ The oversight of these tasks was given to a High Representative (HR) as the final authority in theatre regarding the interpretation and implementation of the civilian aspects of the peace settlement. The HR, however, was not the only actor in this field as the DPA envisioned 'a considerable number of international organizations and agencies' to assist the post-holder.³⁷ Having defined a rather broad scope of civilian activities, the DPA did not offer a clear road map for approaching them.³⁸ Instead, it outlined the mandate of the High Representative and general methods for coordinating peace-building efforts of various international actors involved in the process. Here we will only focus on two civilian aspects – the economic reconstruction of the country and return of refugees and internally displaced persons. This is to give more precision to the analysis and avoid repetition since most other civilian aspects of the peace settlement will be covered as part of our discussion on the state-building and democratization clauses of the DPA.

Both post-war economic reconstruction and return of refugees have been integral components of peace agreements since the 1990s. The international community has seen them as steps, necessary for bringing war-torn countries back to normalcy as well as indicators of stability, reconciliation and well-being. By emphasising the need to re-build the economy and ensure the return of refugees, peace-builders have been working towards reducing the chances of backsliding into violence and improving the probability of harmonising relations in post-war environments. From the point of view of Galtung's dichotomy these actions are aimed at positive peace, which, as stated above, goes beyond ending hostilities. By the same token, according to Lederach's view the focus on economic reconstruction and reconciliation can also be understood as part and parcel of the process of building lasting peace. It needs to be highlighted furthermore that economic reconstruction and refugee return

also link peace-building to state-building (an essential element of which is reconstructing a state's infrastructure including its economy) and democratization. As will be discussed below, refugee return was essential in the DPA's focus on democratization and promotion of human rights.

The economic losses of Bosnia in the war were vast: the country's GDP fell to less than \$500 per capita, which was around 20% of the pre-war level, the industrial production plummeted to 10-30% and the majority of physical capital was destroyed.³⁹ The total damage was estimated at \$50-60 billion or including indirect effects – \$100 billion.⁴⁰ Immediately after the war, international actors, including the World Bank, the International Monetary Fund (IMF) and European Bank of Reconstruction and Development (EBRD), just to name a few, agreed on the Priority Reconstruction and Recovery Programme for BiH with a budget of \$5.1 billion.⁴¹ This money was mostly used for the reconstruction of the country's infrastructure and housing, as well as the restoration of public services, e.g. education and health sectors. After 2000 the international community started allocating resources for different priorities, which were mainly aimed at supporting the country's transition into a homogeneous economic entity. Thanks to this shift BiH has adopted some important reforms, in particular, on the unification of the customs service and the adoption of a single value-added-tax, covering the territory of the whole country.⁴²

The results of the economic reconstruction in general, however, have been rather modest. Bosnia today, though showing signs of economic recovery and even some slow growth (2% in 2015, which could increase to 4% in 2016⁴³), suffers from fragmentation and lacks a unified economic space.⁴⁴ The country is dependent on international assistance and is far behind other European economies in terms of development and employment.⁴⁵ The sheer number of external actors involved in the economic reconstruction of BiH, poor coordination between them and their almost complete disregard for the local capacities are among the factors explaining the lack of sustainability in Bosnia's economy 20 years after Dayton. In addition, local actors, including political and business elites, have used the fragmented political space to develop their own patronage and clientelistic networks, which have also hindered wider economic development. Political decentralization has added additional layers of administration to those wanting to do business, and poor infrastructure and a lack of vocational training have also contributed to the fact, that Bosnia has not returned to the pre-war economic situation and is still recovering from the war and the latest financial crisis.⁴⁶

The implementation of the DPA clauses on the return of refugees, similarly to military and economic clauses, had big significance for building peace in Bosnia. In 1995 nearly half of the BiH's pre-war population was displaced: 1.2 million sought refuge abroad, while another million was displaced inside the country as Internally Displaced Persons (IDPs).⁴⁷ The Dayton Agreement guaranteed 'the right freely to return to their homes of origin' to all refugees and displaced persons.⁴⁸ Refugee return also highlighted a moral commitment by international actors to undo at least some of the results of ethnic cleansing practices, which have been a symbol of the conflict in Bosnia, and have had a lasting impact. Initially the implementation of the return policy met the resistance of local

authorities, but gained momentum after 1999 when the international community shifted the focus from the ‘politicised right to return to an individual right to property.’⁴⁹ As a result of the Property Law Implementation Plan the restitution of property lost in war amounted to 95% already in 2005.⁵⁰ This, in its turn, had a positive impact on returns, which remained the main goal of the policy: they reached more than a million in 2008, out of which 467,297 constituted minority returns.⁵¹ Despite these remarkable statistics, the problem of refugees and IDPs has not been entirely solved: research shows that high restitution rates often mean house exchanges and sales, while those returns that do take place usually involve only a part of the family.⁵² Even more, minority returnees often experience discrimination in employment, access to public services and suffer from isolation. All this shows that the return policy has been only partially successful.

In conclusion, we can say that the peace-building effort in BiH has brought about a wealth of positive results: the two Entities have clearly defined borders, the country has a professional army and unified Ministry of Defence, its infrastructure and public services destroyed by the war have been largely rebuilt, the economy is showing signs of recovery, more than million refugees and displaced persons returned to their pre-war homes, and, most importantly, peace has been holding for 20 years. Yet, if we assess the DPA’s peace-building clauses against the UN’s criteria of success our conclusions will be less positive. There is still a lack of national ownership when it comes to the security of the country: BiH is a semi-protectorate with the international community in charge of the military and civilian aspects of the DPA. The country remains dependent on international assistance, therefore, its national capacity is not yet sufficiently strong. Finally, the international community has failed to produce a common strategy for BiH which would be playing to the country’s strengths, while simultaneously coordinating the efforts of the myriad of external actors.

While the military aspects of the DPA were detailed and framed clearly according to responsibility, aims and timing, much of the civilian aspects of peace-building were rather vaguely defined and the multitude of actors involved made their implementation often more difficult. In many respects, even in the area of peace-building, which is often highlighted as the most successful element of the DPA, it is possible to conclude that the Dayton framework was incomplete and sometimes even contradictory.⁵³

State-Building and State-Reconstruction within the Dayton Framework

It has widely been established in the academic literature that the DPA focused extensively on state-building and state-reconstruction.⁵⁴ The already mentioned Annex IV of the DPA laid down the ‘Constitution for Bosnia and Herzegovina’ while Annex III focused on elections, Annex VI specified human rights provisions and Annex VII highlighted the importance of refugee return. The discussion above also mentioned that Annex X laid down the role of a HR as the civilian oversight mechanism to ensure the implementation of these Annexes. In Bosnia, post-war state-reconstruction was a new form

of state-building. The post-Dayton Bosnian state had little in common with its predecessor, which became independent in April 1992. First, the name changed to “Bosnia and Herzegovina”, losing “The Republic of” in the process. Second, the structures of the post-war state were very different if compared to the state that became independent in 1992. Finally, the political environment had changed substantially. While the same parties dominated Bosnia before and after the war, the landscape had massively changed. Ethnic cleansing and the destruction of the war had created a new political, economic and social reality in Bosnia, in which most territories were ethnically homogenous.⁵⁵ The vast amount of destruction made transportation throughout the country in 1995 virtually impossible, while the new rulers over these homogenous territories had little interest in welcoming refugees from other ethnic groups back. Economic and political elites, many of whom profited from the war through the war economy, were now rulers over homogenized territories, in which they did not only control the population, but also the media, the economy, social benefits, state investment, and public administration.⁵⁶ The clientelistic networks and patronage systems forged during and shortly after the war would remain in place throughout the last 20 years, and would have a massive impact, not only on state-building and reconstruction, but also on democratization and the success of external intervention in post-war Bosnia.

While state-reconstruction has been widely discussed as a key element of the DPA, little attention has been drawn to the fact, that Dayton is not clear on what kind of state it foresees. The weak political structures of the Republic of BiH were replaced with complex provisions, outlining that

The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be "Bosnia and Herzegovina," shall continue its legal existence under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders.⁵⁷

The Constitution, together with more academic research on Bosnia’s constitutional framework allow for its classification as a multinational federal state, based on consociational power-sharing between the main ethnic groups – Bosniaks, Serbs and Croats.⁵⁸ Institutions such as the House of Peoples, which consists of five Bosniaks, Serbs and Croats, and the three-member Presidency (one Bosniak, one Serb and one Croat) demonstrate this dominance of the main ethnic groups, which the Constitution labels as ‘constituent peoples’. This strict power-sharing is coupled with a high degree of decentralization, major tasks including tax collection, policing, economic planning and military provisions were given to the two Entities. Since ethnic cleansing had resulted in largely ethnically homogenous territories in Bosnia after the war (the RS and the cantons in the FBiH), this means that each of the ethnic groups also enjoys a vast amount of autonomy in the territory in which they are a majority.⁵⁹ Such a model of state-reconstruction after civil wars has long been promoted by members of the consociational school, who argue that elite cooperation and group autonomy are key for making ethnically divided societies work.⁶⁰ Bosnia’s constitutional framework laid the foundation of a strict

consociational model, yet, it also emphasized elements such as human rights and refugee return. As Jens Woelk has argued, this demonstrates one of the most important paradoxes in the DPA, that it connects multinational power-sharing democracy with refugee return and human rights. If all refugees would have returned, this would have undermined the main basis of consociational power-sharing – ethnically homogenous territories in which elites can represent the dominant ethnic groups.⁶¹

This contrast between strict power-sharing and human rights promotion can be found throughout the DPA and in the Constitution as well, where Article II lays down a long list of human and fundamental rights, while Articles III-V provide the framework of an ethnic power-sharing system. The Dayton framework, in other words, provides a paradoxical blueprint for state-reconstruction. Different interpretations are possible, including those that see the state as a union of two Entities, of three constituent peoples, or as a component and pact of all its people who are protected by core human and fundamental rights. This is further worrying, as these different interpretations have been dominant in post-war Bosnia's political discourse, as will be demonstrated below. It could be argued that such a framework was necessary in order to get all parties to agree to the DPA. Bosnian Serb leaders would have failed to agree to and implement the Agreement if their Entity was not recognized, while Bosniak elites focused on the territorial unity of Bosnia in which each citizen is treated the same way. Furthermore the strong emphasis on democratization with early elections was designed to give Bosnian elites ownership over the future development of their state. Yet, because no blueprint for what kind of state Bosnia was given in the DPA, this ownership principle was severely limited and remains so until today. The DPA provides a framework for a paradoxical state, which focuses on consociational power-sharing and mechanisms to overcome the dominance of ethnicity at the same time.

External State-Building and International Intervention in post-Dayton Bosnia

Because of the fundamental paradoxical nature of the DPA, and the lack of international involvement and pressure, state-reconstruction and state-building efforts lagged well behind some of the successes of the military elements of the DPA. Indeed, in the immediate post-war period, Bosnian elites could not even decide where to meet, let alone agree on major reforms. Issues such as a law on citizenship, a political framework for the reconstruction of the country, support for the freedom of movement, and government support for refugees and internally displaced persons were not addressed because elites representing the three constituent peoples were unable to find any agreement. Instead, Bosnian Serbs focused on the integration of the RS into Serbia, while the Bosnian Croats, with the support of Franjo Tuđman's Croatia, also emphasized the integration of 'their' territory into Croatia. The FBiH was not working properly internally, and the RS refused to work with central state institutions, it did not send representatives to joint institutions and did not contribute in any way to measures that would strengthen the state of Bosnia and Herzegovina.⁶² While Dayton ensured the

territorial integrity of Bosnia and provided a complex political framework to hold it together, in the first post-war years, different local elites used Dayton and the weakness of international state-builders to continue the policy of dismantling and ethnically homogenising the state's territory.⁶³

As a result of this failure by local elites to implement important elements of the DPA in relation to state-building, and participate actively in a political process, international actors enhanced the power of the High Representative in 1997 to include the ability to impose laws, to suspend and amend existing and proposed laws and to 'take actions against persons holding public office [...] or 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.'⁶⁴ These, so called Bonn Powers resulted in the HR becoming the most important political actor in post-war Bosnia, implementing a variety of laws, including on Bosnian citizenship, customs and taxation, border control and security issues, state symbols, and constitutional changes to the Entity constitutions. Bosnia became 'a state of international design that exists *by* international design.'⁶⁵ Most HR interventions aimed at strengthening the central state and weakening the Entities. This state-strengthening exercise was a result of the realization that Dayton created a state that was too weak to exist without external support and needed to be strengthened in order to ensure peace, democratic governance and reform progress. This form of external state-building has demonstrated some important success stories, including a more inclusive political environment, the departure of many people indicted either for war crimes or corruption from politics and public administration, and a visible strengthening of the state, which also encouraged Bosnian Serbs and Croats to participate more regularly in central state matters and be represented in its institutions. Indeed, as Florian Bieber has highlighted, Dayton proved to be more flexible in terms of state-building and reconstruction than many would have suggested.⁶⁶ Yet, international intervention through HR impositions also undermined the power-sharing structure and political decision-making framework that Dayton provided – and has resulted in a lack of political consensus and compromise building among Bosnian elites, and has raised serious questions about the legitimacy of the international state-building operation.⁶⁷ The international engagement ended with High Representative Paddy Ashdown, as his successor Christian Schwarz-Schilling was told to prepare the country for the closure of the Office of the High Representative. For many in the international community, 2006 was the right time to complete the international state-building and reconstruction mission, assuming that the Bosnian state was strengthened enough to survive by itself and that the EU integration process would drive further reforms.⁶⁸

Yet, what happened since 2006 is that neither international actors nor local elites have been able to uphold the reform agenda in Bosnia. The incentive of EU integration has not been strong enough to push local elites towards consensus and cooperation. Instead, a failed constitutional reform in April 2006 has highlighted how different the visions on Bosnia's future are. While Bosniak elites strongly pushed for a more centralized state, Serb and Croat elites feared for the autonomy of territories under their control. Milorad Dodik, the president of the RS, has threatened to call for a

referendum on the Entity's secession in order to block any further progress that he sees as weakening his Entity.⁶⁹ Bosnian Croats have recently become more vocal, arguing that they are being discriminated within the FBiH, and also demand their own territorial unit.⁷⁰ What all of this highlights is a lack of common state vision that goes back to the above described paradoxes of the DPA. Furthermore, BiH has been stuck between a rock and a hard place since 2006, with local elites unwilling to implement important reforms in relation to Bosnia's EU integration progress, and international actors unable to intervene again as a result of disagreement between major international players. In an environment like this, in which local institutions and elites are incapable and unwilling to come to joint decisions and address major policy issues such as environmental legislation, agricultural reform, citizenship and registration issues, and cultural funding, Bosnia has indeed become a state impossible to build.⁷¹ There is no consensus within Bosnia on the common state and where to go, and there is no consensus among major international actors on the future of the Bosnian state and the best way forward.

The DPA did not provide a blueprint for a functional state. Instead, it outlined a general framework for some institutions, and many of its core elements were contradictory and paradoxical. As a result of this, no progress in terms of state-reconstruction was achieved in the first post-war years, until international actors intervened in 1997. While some progress was achieved between 1997 and 2006, since then the country has been stagnating and falling behind others in the region, not least in terms of EU integration. Yet, Dayton alone is not to blame for this situation. Neither local elites nor international state-builders have been able to provide a common vision of what Bosnia is as a state and how its three main peoples can live together and work together to achieve EU membership (which is widely accepted as the main goal for Bosnia's future). Instead, there are still fundamental disagreements over what kind of state Bosnia is, and what role the three constituent peoples have in it.

Dayton and Democratization

The DPA was also rather explicit in relation to the democratization of the post-war Bosnian state. Article I.2 of the Constitution states that 'Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections.'⁷² Annex III (Elections) and VI (Human Rights) of the DPA also indicate the focus on democratization, and indeed a strong focus on democracy, which goes beyond free elections. Instead, both the Constitution and different Annexes highlight the importance of free media, refugee return, human rights, and the rule of law. In the words of Wolfgang Merkel, it is possible to conclude that the DPA foresaw a concept of democracy, which is embedded rather than minimalist.⁷³ This form of democracy highlights the importance of free and fair elections, but also focuses on additional elements to ensure that democracy becomes consolidated and accepted by all major actors. These include the focus on the rule of law, free media, and the protection of fundamental human rights. Dayton clearly focused on these

elements, many of which are mentioned either in the Constitution (for example free media, fundamental rights, human rights, rule of law) or in some of the DPA's Annexes (Annex VI – Human Rights). As was the case with state-building and reconstruction, a key aim of democratization was to undo some of the results of the conflict in Bosnia (hence the focus on refugee return and human rights), to counter-balance the dominance of political elites representing exclusively the main ethnic groups (hence the focus on individual rather than group rights), and to provide a framework for the future development of the Bosnian state, which would enable reconciliation, and a move towards a less restrictive power-sharing system.

However, as has already been mentioned above, the institutional framework provided was characterized by complexities and paradoxes, especially the contrast between consociational power-sharing on the one side, and the focus on individual and human rights and refugee return on the other side.⁷⁴ While the DPA foresaw an embedded democracy in Bosnia, it is not clear what kind of democracy this would be. One interpretation is to say that major groups (i.e. the constituent peoples) would elect their elites who would cooperate and work together in post-war Bosnia. This interpretation is further supported by the strong focus on autonomy in the DPA, which gave the three constituent peoples a vast amount of autonomy over the territory in which they were the majority. However, another interpretation would be that Dayton, while protecting the rights of the constituent peoples, foresaw a liberal democracy, in which the human rights of all citizens would be central, independent of their ethnic belonging and place of residence. The focus on refugee return and on human rights would allow for this interpretation, which would result in a very different form of democracy in post-war Bosnia. The DPA is not clear which form of democracy it favours, but Bosnian elites have clearly opted for consociational power-sharing, because it consolidated and enhanced their power, not only over the territory where their group was a majority, but also over the central institutions of the Bosnian state.

Furthermore, the democratization process in post-war Bosnia has also been at the centre of attention of many commentators. While many have criticized the interventions of the HR as a form of new colonialism,⁷⁵ others have defended them as a form of controlled democracy, as the HR had to intervene when local elites failed to act.⁷⁶ Be that as it may, clearly the involvement of international actors in post-war state-building and democratization in Bosnia needs to be analyzed critically 20 years after the peace agreement was signed. As has been mentioned above, while the international intervention has contributed to strengthening the state and making the state more self-sustaining, it has also created new dependencies (Bosnian elites beginning to rely on the HR, even when they agreed on decisions),⁷⁷ and more importantly, it limited the possibilities for consensus finding and the search for compromise amongst Bosnian elites. Power-sharing systems tend to work best when elites are willing to work together, respect each other's point of view, and have been socialized into working together and finding suitable compromises that benefit all groups.⁷⁸ This socialisation was undermined through the interventions of the HR in Bosnia. What is more, the HR has been unable to use his

interventions to push Bosnia towards democratization. When the international community ended its heavy interventionist policy in 2006, progress stopped in Bosnia. The differences between the elites representing the constituent peoples are too big to overcome, there is little willingness to work together, and the main elites remain focused on their access to key resources and control over the territory in which their group is the majority.⁷⁹

20 years after Dayton, Bosnia remains an electoral democracy at best. Freedom House labels it as 'partly free.'⁸⁰ Neither is the media fully free, nor is the rule of law independent and functional throughout the country. The EU has failed to incite important reforms in the country, including judicial reform, police reform⁸¹ and media reform. Parties still function as large patronage networks that control a huge system of clientelistic interests, and therefore ensure their permanent access to votes and funding via representation in parliaments and governments. Dayton's ambiguity in terms of what kind of democracy Bosnia should be, plus the inability of international actors to promote democratic reforms and system-internal democratization, and the unwillingness and resistance of local elites to promote democratization, have resulted in the lack of democratic progress in post-war Bosnia.

Conclusion

Bosnia and Herzegovina has gone through a challenging transition in the last 20 years. The country had to consolidate its statehood, implement a functional democracy, and switch from the Yugoslav system of workers' self-management to a liberal market economy. The war between 1992 and 1995 has contributed to a delayed and even more complex transition period after 1995.

The DPA attempted to end the war in December 1995 and provide a blueprint for Bosnia's future. With sections focusing on peace-building, state-building and democratization, it is fair to say that the DPA is one of the most detailed and complicated peace agreements in history. Yet, as the discussion above demonstrated, 20 years after the DPA, Bosnia remains a country stuck between complexity and paradoxes. While many elements of the peace-building framework that Dayton provided have been successfully implemented, the record is less impressive when looking at state-building and democratization. Here, local resistance, the lack of a coherent strategy by international state-builders and the paradoxes inherent in the DPA have led to a lack of progress and encouraged stagnation. Until today it is not clear who is in charge of the democratization and state-building exercise in Bosnia – local elites (who are often resistant and unwilling to work together) or international actors (who have no democratic legitimacy and no clear overall strategy). Bosnia still lacks a coherent vision for the future of the country, and a common understanding over what kind of democracy Bosnia should be (and should implement) on its way to membership in the EU. European integration has not sparked the same reform efforts as seen in Central and Eastern Europe, but also in

neighbouring Croatia – mainly because Bosnia remains a contested state, with unconsolidated statehood and a democratic framework that is limited to free and fair elections.

It should come as no surprise that international actors abstained from using Dayton as a blueprint in similar situations. Neither the international state-building missions in Kosovo and Macedonia, nor the more complex democratization missions in Afghanistan and Iraq have used Dayton as an example of good practice.⁸² If anything, the DPA was used as a worst case scenario that should be avoided under all circumstances.⁸³ It is too easy to blame Dayton for all the ills Bosnia faces today, but it did lay a foundation based on contradictory frameworks and paradoxical provisions. Without finding a common definition of what Bosnia and Herzegovina is as a state, and how it can best accommodate the ethnic, religious, cultural and social diversity of the country, it can be predicted that there will be little to no progress in Bosnia.

¹ Following the general use in the literature, the short forms “Bosnia” or “BiH” will be used throughout this paper. This always refers to the whole country.

² The terms Dayton Peace Agreement, DPA and Dayton will be used interchangeably throughout this paper and all refer to the General Agreement for Peace in Bosnia and Herzegovina.

³ The first phase started when in 1991 Slovenia and Croatia declared their independence from Yugoslavia, soon to be followed by similar declarations from Macedonia and Bosnia. The second phase would take place in 1999 with the Kosovo war, before the third phase started in 2006 with Montenegro’s independence and finished in 2008 with Kosovo’s unilateral declaration of independence.

See: Sabrina Ramet, *The Three Yugoslavias – State-Building and Legitimation 1918-2005*, Bloomington: Indiana University Press, 2006, pp. 413-536; Laura Silber and Allan Little, *The Death of Yugoslavia*, London: Penguin Books, 1995, pp. 345-379; Steven Burg and Paul Shoup: *The War in Bosnia and Herzegovina – Ethnic Conflict and International Intervention*, Armonk and London: M.E. Sharpe, 1999, pp. 415-418.

⁴ State-Building refers to the process of re-establishing a state after violent conflict. It usually covers three dimensions, namely the physical re-establishment of a state, including its borders and infrastructure, the re-establishment of political institutions and the provision of state services such as welfare policies. For a general discussion on state-building see: Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century*, Ithaca: Cornell University Press, 2014.

For a more detailed discussion on state-building in Bosnia and Herzegovina, see: Roberto Belloni, *State Building and International Intervention in Bosnia*, Abington: Routledge 2007.

⁵ Democratization is a complex process, which involves a number of transitions, including the establishment of a competitive party system and free and fair elections, the establishment of the rule of law, the provision of a free economic space and dealing with the previous regime / the past. This discussion will focus on the political elements of democratization, namely the extent to which the DPA attempted to establish a democratic state, based on free and fair elections and democratic institutions. For a detailed discussion of democratization see: Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation – Southern Europe, South America and Post-Communist Europe*, Baltimore: The Johns Hopkins University Press 1996. On democratization in Bosnia see the critical discussion in David Chandler, *Bosnia: Faking Democracy After Dayton*, 2nd edition, London: Pluto Press.

⁶ Florian Bieber, ‘Building Impossible States? State-Building Strategies and EU Membership in the Western Balkans’, *Europe-Asia Studies*, Vol. 63, No.10, 2011, p.1783. Also see Elizabeth M. Cousens and Charles K. Cater, ‘Toward Peace in Bosnia: Implementing the Dayton Accords’, London: Lynne Rienner Publishers, 2001;

Pauline Neville-Jones, 'Dayton, IFOR and Alliance Relations in Bosnia', *Survival: Global Politics and Strategy*, Vol. 38, No. 4, 1996, pp. 45-65 and Ivo H. Daalder, 'Getting to Dayton: The Making of America's Bosnia Policy', Washington, DC: The Brookings Institution, 2000.

⁷ Some of the examples include Stefano Recchia, 'Beyond International Trusteeship: EU Peacebuilding in Bosnia and Herzegovina', Occasional Paper No. 66, Paris: European Union Institute for Security Studies, 2007 (at: <http://www.iss.europa.eu/uploads/media/occ66.pdf>); Richard Caplan, 'Assessing the Dayton Accord: The structural weaknesses of the general framework agreement for peace in Bosnia and Herzegovina', *Diplomacy & Statecraft*, Vol. 11, No. 2, 2000, pp.213-32; Timothy Donais, 'The Political Economy of Peacebuilding in Post-Dayton Bosnia', NY: Routledge, 2005.

⁸ UN, 'UN Peacebuilding: An Orientation', Peacebuilding Support Office, September 2010, p.5 (at: www.un.org/en/peacebuilding/pbso/pdf/peacebuilding_orientation.pdf).

⁹ Michelle I. Gawerc, 'Peace-Building: Theoretical and Concrete Perspectives', *Peace & Change*, Vol.31, No. 4, 2006, p.439.

¹⁰ Edward E. Azar, 'The Management of Protracted Social Conflict: Theory and Cases', Hampshire/Aldershot: Dartmouth, 1990; John Burton (ed.), 'Conflict: Human Needs Theory', London: Macmillan, 2005; Michael Lund, 'Preventing Violent Conflicts – A Strategy for Preventive Diplomacy', Washington, DC: USIP, 1996.

¹¹ Johan Galtung, 'A Mini Theory of Peace', Galtung-Institute for Peace Theory and Peace Practice (at: www.galtung-institut.de/en/research/).

¹² Gawerc (see n.6 above), pp.438-9.

¹³ John Paul Lederach, 'Building Peace – Sustainable Reconciliation in Divided Societies', Washington, DC: USIP, 1997.

¹⁴ UN, 'An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping', UN doc., A/47/277 - S/24111, 1992 (at: www.unrol.org/files/a_47_277.pdf).

¹⁵ Eglė Elena Šataitė, 'Peace-Building Operations: The Case of Bosnia and Herzegovina', in Gediminas Vitkus (ed.), *Lithuanian Annual Strategic Review 2008*, Vilnius: Military Academy of Lithuania, 2009, p. 71 (at: www.isn.ethz.ch/Digital-Library/Publications/Detail/?lang=en&id=121679).

¹⁶ The UN's constant drive to review and update its approach to peace-building can be partly explained by a desire to avoid mistakes of the past, which can be seen on the example of failed peace agreements such as one in Angola or protracted conflicts in Afghanistan and DRC.

¹⁷ UN, 'Report of the Panel on United Nations Peace Operations ("Brahimi Report")', UN doc., A/55/305–S/2000/809, p.3.

¹⁸ By focusing on military and civilian aspects the paper follows the distinction introduced by the DPA.

¹⁹ General Framework Agreement for Peace in Bosnia and Herzegovina.

²⁰ Paola Gaeta, 'The Dayton Agreement and International Law', *European Journal of International Law*, Vol. 7, No.2, 1996, p.154.

²¹ Bosnia and Herzegovina is a federal country consisting of two entities, the Federation of BiH (FBiH) and the Republika Srpska. In the FBiH, mainly Bosniaks and Croats live, and it consists of 10 cantons. The RS is centralised and mainly Serbs live in this entity. In addition, the District of Brčko is administered independently but belongs to both entities.

For further information on federalism in Bosnia see: Soeren Keil, 'Federalism as a Tool of Conflict Resolution – The Case of Bosnia and Herzegovina' *L'Europe En Formation*, Vol. 54, No. 363, 2012, pp. 205-218.

²² NATO, 'Peace Support Operations in Bosnia and Herzegovina', 11 November 2014 (at: www.nato.int/cps/en/natolive/topics_52122.htm).

²³ David Last, 'Implementing the Dayton Accords: the Challenges of Inter-Agency Coordination', in Ted Woodcock (ed.), *Analysis of and for Conflict Resolution, Proceedings of the Second Cornwallis Group Seminar*, Canadian Peacekeepers' Press, 1998. (at: http://www.davidmlast.org/davidmlast-home/Publications_files/last-cgs-dayton.pdf).

²⁴ Heinz Vetschera and Mattheu Damian, 'Security Sector Reform in Bosnia and Herzegovina – The Role of the International Community' *International Peacekeeping*, Vol. 13, No. 1, 2006, pp. 28-42.

²⁵ SFOR, 'History of the NATO-led Stabilisation Force (SFOR) in Bosnia and Herzegovina' (at: www.nato.int/sfor/docu/d981116a.htm).

²⁶ NATO (see n.22 above).

²⁷ SFOR (see n.25 above).

²⁸ NATO (see n.22 above).

²⁹ Jannik Knauer, 'EUFOR Althea: Appraisal and Future Perspectives of the EU's Former Flagship Operation in Bosnia and Herzegovina', *EU Diplomacy Paper 7*, Bruges: College of Europe, Department of EU International Relations and Diplomacy Studies, 2011, p.7.

³⁰ EEAS, 'EU military operation in Bosnia and Herzegovina (Operation EUFOR ALTHEA)', January 2015 (at: www.euforbih.org/images/stories/eufor/Factsheet_E.pdf).

³¹ *ibid.*

³² See on this and a current assessment of the security situation in Bosnia: Kurt Bassuener, 'Virtual Deterrence – BiH's Institutionalized Insecurity and the International Flight from Responsibility' in: Soeren Keil and Valery Perry (eds.) *State-Building and Democratization in Bosnia and Herzegovina*, Farnham and Burlington: Ashgate, 2015, pp. 83-108.

³³ Soeren Keil and Bernhard Stahl, 'A Security Community in the Balkans? The Foreign Policies of the Post-Yugoslav States', *Sudosteuroopa Mitteilungen*, Issue 2, 2013, pp.14-25.

³⁴ Vlado Azinović, Kurt Bassuener and Bodo Weber, *Assessing the Potential for Renewed Ethnic Violence in Bosnia and Herzegovina: A Security Risk Analysis*, Sarajevo: Atlantic Initiative Democratization Policy Council, 2011, p.31 (at: www.democratizationpolicy.org/uiimages/pdf/DPC-AI_BiH%20Security_Study.pdf).

³⁵ Kurt Bassuener, 'Virtual Deterrence – BiH's Institutionalized Insecurity and the International Flight from Responsibility' in: Soeren Keil and Valery Perry (eds.) *State-Building and Democratization in Bosnia and Herzegovina*, Farnham and Burlington: Ashgate, 2015, p. 99.

³⁶ General Framework Agreement for Peace in Bosnia and Herzegovina. Annex X, Article I.I.

³⁷ *ibid.*

³⁸ It should be noted that although Annex X was devoted solely to civilian aspects of peace, some other agreements within the DPA touched upon the topic as well. Annex VII, which dealt with the question of the refugee return, could serve as an example here. Compared to the military clauses in the Dayton Accords, however, civilian aspects of peace were less clearly defined.

³⁹ Mersiha Hukic, 'Rebuilding Bosnia-Herzegovina: Achievements and Difficulties', Vienna, 9 February 2000 (at: www.i-p-o.org/rebuilding-bosnia.htm).

⁴⁰ Papić, Žarko and Ninković, Ranka, 'Reconstruction Survey, Bosnia and Herzegovina 2007', London: Tiri, 2007, p.5.

⁴¹ Papić, Žarko and Ninković, Ranka (see n.34 above), p.11.

⁴² Vitalino Canas, 'Bosnia and Herzegovina, Prospects for the Post-Dayton Era', NATO Parliamentary Assembly Doc., 164 CDS 06 E, 2006 (at: www.nato-pa.int/default.asp?SHORTCUT=993).

⁴³ IMF, 'Bosnia and Herzegovina: Concluding Statement of the 2015 Article IV Mission', 12 May 2015 (at: www.imf.org/external/np/ms/2015/051215.htm).

⁴⁴ Nikolaos Tzifakis and Charalambos Tsardanidis, 'Economic reconstruction of Bosnia and Herzegovina: The lost decade', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, Vol. 5, No.1, 2006, p.71.

⁴⁵ Papić, Žarko and Ninković, Ranka (see n.34 above), pp.14-15.

⁴⁶ Sören Keil, 'The Political Conditions of Economic Development in the Western Balkans' *Sudosteuroopa Mitteilungen*, Vol. 55, No.2, 2015, pp. 82-94.

⁴⁷ Vlado Azinović, Kurt Bassuener and Bodo Weber (see n.28 above), p.61.

⁴⁸ General Framework Agreement for Peace in Bosnia and Herzegovina. Annex VII, Article I.I.

⁴⁹ *ibid.*

⁵⁰ Marita Eastmond, 'Transnational Returns and Reconstruction in Post-war Bosnia and Herzegovina', *International Migration*, Vol.44, No.3, 2006, p.143.

⁵¹ Huma Haider (see n.44 above).

⁵² *Ibid.*

⁵³ Soeren Keil and Valery Perry, 'Introduction: State-Building and Democratization in Bosnia and Herzegovina' in: Soeren Keil and Valery Perry (eds.) *State-Building and Democratization in Bosnia and Herzegovina*, Farnham and Burlington: Ashgate, 2014, pp. 1-14.

⁵⁴ See for example: Florian Bieber, *Post-war Bosnia: Ethnicity, Inequality and Public Sector Governance*, Basingstoke: Palgrave MacMillian 2005, as well as Sumantra Bose, *Bosnia After Dayton – Nationalist Partition and International Intervention*, Oxford and New York: Oxford University Press, 2002, and Roberto Belloni, *State-Building and International Intervention in Bosnia and Herzegovina*, Abington and New York: Routledge 2007.

⁵⁵ Both the cantons in the FBiH and the RS are mainly ethnically homogenous as a result of ethnic cleansing. There are some exceptions, namely two mixed cantons in the FBiH and the District of Brčko, which remain multi-ethnic.

⁵⁶ Julia Bake, Simon Runkel and Rob Scheid, *Socio-Economic Aspects of Peacebuilding – Corruption, Informal Labor and Brain Drain in Bosnia and Herzegovina*, CCS Working Papers, No. 8, 2008, available at: edoc.vifapol.de/opus/volltexte/2011/3413/pdf/ccswp08.pdf

⁵⁷ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV, Article I.I.

⁵⁸ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV, Article I.3, as well as Soeren Keil, *Multinational Federalism in Bosnia and Herzegovina*, Farnham and Burlington: Ashgate, 2013, pp. 95-124.

⁵⁹ On the role of homogenized territory in post-war Bosnia, see: Gerard Toal and Carl Dahlman, *Bosnia Remade – Ethnic Cleansing and Its Reversal*, Oxford and New York: Oxford University Press, 2011, pp.46-141.

⁶⁰ The most notable author of this school of thinking is Arend Lijphart. See for example: Arend Lijphart, *Democracy in Plural Societies*, New Haven: Yale University Press, 1977 as well as Arend Lijphart, 'Constitutional Design for Divided Societies'. *Journal of Democracy*. Vol. 15, No.2, pp. 96–109.

See also for a more recent discussion on this topic: John McGarry and Brendan O'Leary, 'Consociational Theory, Northern Ireland's Conflict, and its Agreement. Part 1: What Consociationalists can learn from Northern Ireland' *Government and Opposition*, Vol. 41, No. 1, 2006, pp. 43-63.

John McGarry and Brendan O'Leary, 'Consociational Theory, Northern Ireland's Conflict and its Agreement 2. What Critics of Consociation can learn from Northern Ireland' *Government and Opposition*, Vol. 41 No. 2, 2006, pp. 249-277.

⁶¹ Jens Woelk, 'Trying to Build a Federal State on Paradoxes' in: Michael Burgess and Alan Tarr (eds.) *Constitutional Dynamics in Federal Systems*, Montreal: McGill-Queen's University Press, 2012, pp.109-139.

⁶² For an assessment of the first years after the DPA, see Carl Bildt, *Peace Journey – The Struggle for Peace in Bosnia*, London: Weidenfeld and Nicolson, 1998.

⁶³ For an example of this homogenization see: Louis Sell, 'The Serb Flight From Sarajevo: Dayton's First Failure' *East European Politics and Societies*, Vol.14, No.1, 1999, pp. 179-202.

⁶⁴ Peace Implementation Council, *Bonn Summit Conclusions*, 10 December 1997, (at: www.ohr.int/pic/default.asp?content_id=5182)

⁶⁵ Sumantra Bose, 'The Bosnian State a Decade After Dayton' in: David Chandler (ed.), *Peace without Politics? Ten Years of International State-Building in Bosnia*, London: Routledge, 2005, p. 17, emphasis in original version.

⁶⁶ Florian Bieber, 'After Dayton, Dayton? The Evolution of an Unpopular Peace' *Ethnopolitics*, Vol. 5, No.1, 2006, pp. 15-31.

⁶⁷ See for example the very critical report by the Council of Europe, which criticizes international intervention and the strict power-sharing provisions in post-war Bosnia.

Venice Commission (European Commission for Democracy through Law), *Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative*. CDL-AD (2005) 004 2, March 11, 2004. (at: [www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.pdf).)

More generally on constitutional reform see: Sofia Sebastian, *Post-War Statebuilding and Constitutional Reform – Beyond Dayton in Bosnia*, Basingstoke: Palgrave MacMillian 2014.

⁶⁸ Mateja Peter, 'No Exit. The Decline of International Administration in Bosnia and Herzegovina' in: Soeren Keil and Valery Perry (eds.), *State-Building and Democratization in Bosnia and Herzegovina*, Farnham and Burlington: Ashgate, 2015, pp. 131-150.

⁶⁹ Gerard Toal, "'Republika Srpska Will have a Referendum" The Rhetorical Politics of Milorad Dodik' *Nationalities Papers*, Vol. 41, No.1, 2014, pp. 166-204.

⁷⁰ See Valery Perry's paper in this forum on this issue.

⁷¹ Florian Bieber, 'Building Impossible States, see n.4 above, pp.1783-1802.

⁷² General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV, Art. 1.2. Available at: www.ohr.int/dpa/default.asp?content_id=372

⁷³ Wolfgang Merkel, 'Embedded and Defective Democracies' *Democratization*, Vol. 11, No. 5, 2004, 33-58.

⁷⁴ This contrast can also be seen in the legal interpretation of Bosnia's Constitution. While the Bosnian Constitutional Court has continuously promoted the idea of power-sharing between the three constituent peoples, the Venice Commission and the European Court of Human Rights have strongly focused on individual and human rights.

See for example

Case U 5/98 Partial Decision III 1(A), 1(B), Constitutional Court of Bosnia and Herzegovina, July 1, 2000.

and

Case of Sejdic and Finci v. Bosnia and Herzegovina, European Court of Human Rights, Judgment 9, December 22, 2009. (at:

cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=860268&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649)

⁷⁵ David Chandler, *Bosnia – Faking Democracy after Dayton*, 2nd ed., London: Pluto Press; Gerald Knaus and Felix Martin, 'Travails on a European Raj' *Journal of Democracy*, Vol.14, No.3, 2003, pp.60-74.

⁷⁶ Viktor Bojkov, 'Democracy in Bosnia and Herzegovina: Post-1995 System and its Functioning' *Southeast European Politics*, Vol. 4, No. 1, 2003, pp. 41-67.

⁷⁷ This so-called “culture of dependency” can be seen in numerous policy areas. Military reform was agreed upon by all parties, but the OHR had to implement it. The same is true for constitutional changes to the entity constitutions in 2006, which all parties agreed upon, yet they relied on the HR to impose the decision.

⁷⁸ Matthijs Bogaards, ‘The Favourable Factors for Consociational Democracy: A Review’ *European Journal of Political Research*, Vol. 33, No.4, pp.475-496.

⁷⁹ John Hulsey, “‘Why did they vote for those guys again?’” Challenges and contradictions in the promotion of political moderation in post-war Bosnia and Herzegovina’ *Democratization*, Vol. 17, No. 6, 2010, pp. 1132-1152.

See also John Hulsey’s paper in this forum.

⁸⁰ See: freedomhouse.org/country/bosnia-and-herzegovina#.VXQfAs9Viko

⁸¹ Ana Juncos, ‘Europeanization by Decree? The Case of Police Reform in Bosnia’ *Journal of Common Market Studies*, Vol. 49, No.2, 2011, pp. 367-389.

⁸² However, there have been suggestions to use Dayton as a success story in other cases, see: Richard Holbrooke, ‘Lessons from Dayton for Iraq’ *The Washington Post*, April 23, 2008, (at: www.washingtonpost.com/wp-dyn/content/article/2008/04/22/AR2008042202522.html)

⁸³ Bieber and Keil for example argue that in Macedonia and Kosovo EU and American officials wanted to avoid some of the mistakes made in Dayton, particularly by avoiding a too rigid system and by leaving ownership in the hands of local elites.

Florian Bieber and Soeren Keil, Power-Sharing Revisited - Lessons learned in the Balkans? *Review of Central and East European Law*, Vol.34, No. 4, 2009, pp. 337-356.