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Bosnia's Paradox: The Irony of External Pressure within Consociational Democracy

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Abstract

The merits of consociational democracy as a suitable approach in achieving stabilization in plural societies, especially societies deeply divided along ethnic lines, have come under fire in the case of Bosnia and Herzegovina. This paper argues that the consociational approach enshrined in the Dayton Peace Accords, which ended the Bosnian conflict in 1995, has been unable to fulfill the stabilizing potential due to the active interference of international institutions. Too frequently international actors have offered “quick fixes” to heal Bosnia; however, in attempting to reform, international figures undermine the existing consociational framework. This is the irony of prolonged intervention. A mathematical proof of accommodation by consociational logic further accentuates this claim by demonstrating that the problem is not with consociationalism, but rather with outside intervention.

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Thesis Title: Bosnia's Paradox: The Irony of External Pressure within Consociational Democracy

LAKE FOREST COLLEGE

Senior Thesis

Bosnia's Paradox:
The Irony of External Pressure within Consociational Democracy

by

Finnian James Bunta

April 24, 2018

The report of the investigation undertaken as a
Senior Thesis, to carry one course of credit in
the Department of Politics

Michael T. Orr
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Table of Contents

Preface	5
Introduction	7
Chapter IA: Consociational Theory	13
Chapter IB: The Mathematics of Consociational Theory	21
Chapter II: Bosnia: Europe's Forgotten Corner	31
2.1 Bosnia Before Dayton	
2.2 The Dayton State	
2.3 The Entities	
2.4 The Consociational Classroom	
Chapter III: The Office of High Representative	65
3.1 In Good Faith	
3.2 The First Elections of 1996	
3.3 The Bonn Powers	
3.4 The Scapegoat-Dependency Cycle	
3.5 The OHR as a Politician	
3.6 The 2006 April Reform Package	
3.7 Bonn Mutiny	
Chapter IV: The Centripetalist Antithesis	95
4.1 Horowitz's Alternative	
4.2 Alternative Voting in the Republika Srpska	
4.3 The Alliance for Change: A Centrist Coalition	
4.4 Brcko: Administrative Federalism	
Chapter V: European Pressure	121
5.1 Occasional Goodwill: The EU Club	
5.2 OHR Double-Hatting	
5.3 Elite State Capture	
5.4 Sejdic and Finci Reopens the Croat Question	
Bibliography	146

Preface

The first place I travelled to in Bosnia was Banja Luka. I had learned that this was the one place in the world McDonalds had not stayed in business. High quality meat was too affordable for the American-based chain to appeal to customers. When I tried the local meat dish ćevapi, I saw how far short the Big Mac fell. It was simply incredible and my taste buds have been ruined ever since. Next I went to Jajce, the small mountain town renowned for its stunning waterfall. It was a hot day, so I went down to the river and put my feet in the cool lapping water. After a few minutes I heard someone shouting deeply at me from behind: it was the police. They informed me I was in danger of falling in and washing down the waterfall. But, this was explained in Bosnian to me, and I believed I was in grave danger given the aggression in the officers' tone. I put my hands in the air and froze, motionless. The officers looked at each other and then started laughing. My last stop was the capital, Sarajevo. I was blown away. Mountains, reminiscent of my hometown Boulder, Colorado, surrounded the city on all sides. I woke up to the smell of fresh burek and coffee and the sound of prayer and bells mixed together from the countless mosques and churches. One day, I wandered into a Catholic church, and was approached by a young man, about my age, who had just entered the seminary. I explained I was Irish Catholic and he took an immediate interest in me. We became acquaintances, and he invited me to Sunday mass the following day. Little did I know, at this mass I would be shaking hands and praying with a Croatian archbishop. The last place I visited was Srebrenica. This is where my path to writing this paper began, and this is where I will begin my introduction. I will never fully recover from the shock of that day. I dedicate this thesis to those names on the graves at Srebrenica, all the innocent

lives lost in the Bosnian war, and all of the lives that are still affected by the misery that has followed.

Almost a year later, I travelled to Sarajevo to conduct research for this thesis. I was taking the bus from Serbia, and I noticed this time after I crossed the river into Bosnia, that a village on the journey that was flying green flags. I realized this was the symbol of a Bosniak Muslim community. Then, the bus went over a small hill into the next valley. Here was a town without a single mosque and the colors of red, white, and blue flying in a distinct Serbian pattern. I cannot understand what it would be like growing up in such a divided society. When the bus arrived in Sarajevo, we were unable to use the main transit center. Instead, the buses to and from Serbia must use another smaller station, on the Serb side of the town. Lucky for me, the taxi drivers at the station took Serbian Dinars. But after the twenty-minute drive to the other side of Sarajevo, the staff at my accommodations would not accept this same currency. Little did I know, I had just crossed a border that cuts through the Bosnia's capital. Two decades before, this border was the scene of intense violence, and I could now see, this invisible border still remained a very real divide.

Introduction

In 1993, ethnic war had consumed the region of Yugoslavia since the nations of Slovenia, Croatia, and Bosnia declared independence. All had been bloody, but none so much as the multi-ethnic Bosnia. Communities of Bosniaks (Muslim), Serbs and Croats were suddenly trapped in a land crawling with enemies, seeking to use any means to establish the authority of their ethno-nationalist group. In March 1993, 60,000 mainly Bosniak refugees swelled into the little Bosnian town Srebrenica without sufficient materials of survival. United Nations commander Philippe Marillion was beckoned to the town from worldwide the cries for humanitarian aid. He replied, “You are now under the protection of the United Nations ... I will never abandon you.”¹ He was mistaken. In April, Bosnian Serb forces commanded by General Ratko Mladic surrounded the town of Srebrenica. The U.N. declared the city a safe zone, but Serb forces cut off the town of basic necessities for many months to force surrender. Then, tensions in Srebrenica escalated in 1995 as NATO bombed a nearby Serb munitions enclave. In response, a Serb assault took 400, mainly Dutch, U.N. peacekeepers hostage. This move gave room for the Serbs to bargain with the U.N., ultimately leading the U.N. relinquishing control of the thousands of refugees they had sworn to protect in Srebrenica. The Serb forces descended into the camps raping and killing at will. July 11, 1995, as international forces tried to regain protection for the refugees of Srebrenica, General Mladic corralled all the refugee males of military age and murdered them outright. 7,079 were killed in the Srebrenica massacre: the bloodiest day on European soil since World War II. In response, NATO

¹ David Rhode, *Endgame: The Betrayal and Fall of Srebrenica, Europe's Worst Massacre Since World War II*, NY: Penguin Books, 2012, <http://rbdigital.oneclickdigital.com>.

Operation Deliberate Force dropped over a thousand bombs on Serbian forces, crippling their military and forcing them to the negotiating table by the end of summer. Peace was finally secured; there is no doubt the NATO campaign led by the United States saved thousands from perishing like those at Srebrenica.

Considering the bloody context of Bosnia, the United States' aim of intervention is justified. Morally, the sheer number of innocent deaths at the heart of Europe was a calamity. Politically, the Clinton Administration was brought under immense pressure after two years of standing by. Strategically, the viability of NATO was on the line. Ivo H. Daalder concludes there are five principle reasons the United States decided in August 1995, after watching the Bosnian conflict for well over two years, to engage in intervention, "The expected collapse of UNPROFOR following the humiliation of the hostage crisis; the threat Bosnia posed to the vitality, if not continued vitality, of NATO; the prospect of having to deploy U.S. troops to rescue UN forces and sustain the alliance's credibility; and congressional pressure to lift the arms embargo against Bosnia. Undergirding all of these was the president's reelection campaign, then only months away."² The U.S. and its allies set an artificial twelve-month deadline for the removal of troops from the country. Ivo Daalder, the key strategist of U.S. policy in Bosnia, emphasized that President Clinton, learning from experience in Somalia and Haiti, wanted a concise "exit strategy."³ However, once the American agenda of ending of the war was in reach, it quickly became a much harder issue of creating lasting peace in Bosnia. The United States and Western Allies secured peace on the European continent

² Daalder, Ivo H. *Getting to Dayton: The Making of Americas Bosnia Policy*. Washington, D.C.: Brookings Institution Press, 2000, 163.

³ Daalder, *Getting to Dayton*, 149.

through force then brought the leaders of the warring factions to Dayton, Ohio to ensure this catastrophe would not be repeated. The Dayton Peace Agreement was an accomplishment for global peace and enshrined Bosnia's commitment to democracy. But, peace negotiations did not follow the traditional course of waiting for a solution for the political conflict to ripen; "Dayton differed from this traditional negotiating method by substituting American leadership and bluster for the parties' commitment to search for a negotiated solution." Therefore, Dayton becomes more an imposition than an agreement. Thus, the reality of lasting sustainable peace in Bosnia proved to be much more difficult than perhaps the United States imagined.

In this thesis, I will argue that the international democratization in Bosnia and Herzegovina, albeit in good faith, has been to the detriment of the fundamental logic on which it was designed. The logic of Dayton follows the age theory of consociationalism. Consociational theory has been key orthodoxy of comparative politics, and more specifically, in post-conflict constitutional design throughout the 20th century around the globe. In chapter IA, I summarize the work of Arend Lijphart, father of consociationalism and author of over a dozen seminal works on the topic, is outlined. I will define consociationalism as it was originally created. In Chapter IB, I will formalize Lijphart's logic into a series of mathematical expressions. I will prove what previously had only been conjectured: that consociationalism will provide stability if implemented properly. Moreover, I prove that accommodation occurs under the conditions of a plural society as Lijphart theorized. This mathematical section is supplemental to this topic, but not necessary to understanding my argument on the Bosnian case study.

Next, in Chapter II, I will outlay the historical background of Bosnia in brief, up until the signing of the Dayton Peace Agreement in 1996, which ended the Yugoslav war of nationalist groups in Bosnia. I will illustrate how consociational theory can be slightly adjusted to fit the international context of Bosnia and Herzegovina. Lijphart did not consider the imposition of consociationalism onto a state, but theorists after him believed that this type of democracy can be “learned,” as if the Bosnian politicians are pupils of the global consociationalists. Lastly, I will demonstrate how Dayton formerly endorsed imposed consociational mechanisms and institutions on the Bosnian state. In all, chapter 2 shows that Bosnia can be accurately termed as a consociational democracy.

Chapter III argues that the Office of High Representative, tasked with the civilian implementation of Dayton, is the specific teacher of consociational means of political consensus. This institution is the appendage of the global intervening powers and illustrates the principal ongoing international effort in Bosnia. However, through the overbearing usage of the Bonn powers, the Office of High Representative reversed the incentive structure for the politicians to compromise. Instead of consociational logic providing accommodation, the theory became the means of ethnic fragmentation. I will demonstrate this is due to the scapegoat-dependency cycle perpetuated by the Office of High Representative and not consociational theory in itself.

In Chapter IV, I will describe an alternative theory to that of consociationalism, which is called centripetalism. Based on the extensive works of Donald L. Horowitz, the theory runs in contradiction to consociationalism, except that both would reject a simple majoritarian system. Horowitz and Lijphart have different visions of constitutional design in plural societies like Bosnia. I will examine how three different attempts to implement

centripetalist reforms within the larger consociational framework significantly undermined the success of the former theory. Alternative voting in the Republika Srpska entity, a heterogeneous populace of the Brcko district, and a foreign bolstering of the 2000 centrist coalition – The Alliance For Change – are three measures that backfired on the consociational fabric that provides stability in the country.

Finally, chapter 5 focuses on the immense pressure from European institutions to accommodate on behalf of their demands. Because the conditionality principles of accession to the European Union are non-negotiable, the consociational logic of consensus is undermined. The method of consociational compromise is unable to function with such an imposing and inflexible force. Further, the issue of police reform demonstrates that the Bosnian politicians and the European elites are concerned with occasional gestures of goodwill rather than real change. I argue that state capture by the politicians in Bosnia, encouraged by the IMF privatization procedures, has rendered democratic accountability null and void. Last, The 2009 Sejdic and Finci decision by the European Court for Human Rights demonstrates how European pressure, by trying to fix the situation, frequently and consistently makes matters worse. In this example, the decision allowed the Croat Question to destabilize the electoral system. This poses the gravest crisis facing Bosnia in 2018.

In conclusion, this thesis argues that the efforts of the international community in Bosnia have been detrimental to consociational theory. Ironically, the more the foreigners try to help, the worse the situation becomes. I suggest halting European imposition, issuing OHR closure, ending centripetalist ideology, and returning to a classroom of consociational learning approach. Yet, perhaps it is too late for this relationship to

develop in Bosnia. There are no ‘easy fixes’ to this dire situation, and I will not attempt to provide one. Rather, my main argument is that ‘easy fixes’ are what killed consociational democracy in Bosnia, and that the next international democratization campaign in a highly divided society ought to learn from the Bosnian paradox. Even efforts in good faith are harmful to the hope of consociational democratization.

I have Romanized all names of individuals and locations in this thesis. Also, I refer to Bosnia and Herzegovina as simply Bosnia throughout the thesis.

Chapter IA: Consociational Theory

The leaders of rival subcultures may engage in competitive behavior and thus further aggravate mutual tensions and political instability, but they may also make deliberate efforts to counteract the immobilizing and unstabilizing effects of cultural fragmentation. As a result of such overarching cooperation at the elite level, a country can, as Claude Ake states, “achieve a degree of political stability quite out of proportion to its social homogeneity.”⁴

—Arend Lijphart

Consociationalism represents one of the leading theories of comparative politics. This is largely due to the extensive works of Arend Lijphart, a Dutch scholar of constitutional design. Arend Lijphart formed the theory from observing his native country, the Netherlands. He noticed the stability of the Dutch democratic state despite an, “extraordinary degree of social cleavage,” between the traditional Dutch factions of Calvinists, Catholics, Socialists, and Liberals in what he called a plural society. Lijphart believed that the segmental cleavages were not a mere fiction of rhetoric to serve the political elite, but solidified blocs of society. Thus, Lijphart established a configuration for this type of society both empirical and normative in form. He portrayed Dutch society as “highly elitist,” thus passively accepting the rule of the political elite. This, he argued, is the “secret of its success.”⁵ In a highly elitist society, the elite is capable of bridging the divided citizenry even when very little interaction occurs between them. Even if the blocs that make up society have exceptional distance between them, the elites form an all-embracing continuum of accommodation, “Overarching cooperation at the elite level can

⁴ Arend Lijphart, “Consociational Democracy,” *World Politics* 21, no. 2 (1969), doi:10.2307/2009820, 212.

⁵ Arend Lijphart, *The Politics of Accommodation: Pluralism and Democracy in the Netherlands*, 2nd ed. Berkeley, CA: University of California Press, 1975, 103.

be a substitute for cross-cutting affiliations at the mass level.”⁶ This example illuminates the early developments of consociationalism. Even if citizens from different cleavages do not agree, or even interact, the elite would possess the incentive to compromise across dividing lines by the consociational framework.

It may be difficult, but it is not at all impossible to achieve and maintain stable democratic government in a plural society. In a consociational democracy, the centrifugal tendencies inherent in a plural society are counteracted by the cooperative attitudes and behavior of the leaders of the different segments of the population.⁷

Lijphart believed that majoritarian democracy is akin to tyranny of the majority in plural societies. Thus, majority rule is conducive to civil conflict in plural societies, “consociational democracy violates the principle of majority rule, but it does not deviate very much from normative democratic theory.”⁸ Therefore, divided societies must not implement majority-based mechanisms. Instead, Lijphart outlines four criteria that are conducive to democracy in plural societies: (1) *grand coalition* – an overarching cooperation of elites from each cleavage, (2) *mutual veto* – cleavages are able to block one another in turn (3) *proportionality* – representation is based on population, and (4) *segmental autonomy* – each cleavage is granted some degree of legal independence.⁹ Lijphart clearly emphasizes the grand coalition as the most significant factor of the consociational framework, “Grand coalitions violate the rule in parliamentary systems

⁶ David Earle Bohn, “Consociational Democracy and the Case of Switzerland,” *The Journal of Politics* 42, no. 1 (1980): 169.

⁷ Arend Lijphart, *Democracy in Plural Societies*, London: Yale University Press, 1977, 1.

⁸ Lijphart, “Consociational Democracy,” 214.

⁹ Lijphart, *Democracy in Plural Societies*, 1.

cabinets should have, and normally do have, majority support, but not the support of an overwhelming majority.”¹⁰ Therefore, in the consociational model, an adverse opposition does not exist as it does in the minimum-winning coalition framework. Majority rule is intentionally neglected in order to accommodate the views of minorities in an encompassing union.

Mutual veto, proportionality, and segmental autonomy are meant as measures to ensure no cleavage is institutionally superior to another. Thus, a consociation can be summed as a framework where multiple communities can, “peacefully co-exist, with none being institutionally superior to the others, and in which the relevant communities co-operate politically through self-government and shared government.”¹¹ This example highlights the goal of consociations to be a well-balanced unity of communities.

Consociationalism is intrinsically flexible, allowing numerous implementations of the four cleavages the theory promotes. The grand coalition was initially associated with the Dutch formation of a multiparty cabinet in the parliamentary system from 1917 to 1967, but has expanded to many contexts around the globe. The Federal Council of Switzerland “offers an excellent example of such a grand coalition,” because it uses the “magic formula” 2:2:2:1 to split the seats of the executive among the three large parties and grants one to a smaller party. Additionally, there is an informal rule that the linguistic groups – French, German, and Italian – must be represented proportionately with the

¹⁰ Lijphart, *Democracy in Plural Societies*, 25-26.

¹¹ Brendan O’Leary, “Consociation: What We Know or Think We Know,” Paper presented at the Conference organized by the National and Ethnic Conflict Group (London: University of Western Ontario, November 8-10, 2002), 2, emphasis omitted.

population.¹² Although Lijphart believes parliamentary regimes are less conducive to majoritarian tendencies, presidential systems have implemented grand coalitions as well.¹³ Typically this appears in the form of joint presidencies with separate platforms. For example, Bosnia and Herzegovina has a seat of its joint state tri-presidency reserved for a leader of each of the ethnic groups: Bosniak, Serb, and Croat. Furthermore, the community they represent elects each president, separating the platforms. Both presidential and parliamentary models can incorporate grand coalitions. Furthermore, it may be the case that each cleavage is constitutionally entitled to executive status. Perhaps, any given party that reaches a defined threshold is entitled to membership in the government. Lijphart references cases of these mechanisms in Belgium, Cyprus, and Fiji.¹⁴ The key in any case is that executive power sharing is inclusive across dividing lines rather than a minimal winning coalition such as the British model Lijphart laments in the context of plural societies. The grand coalition is the foundation of consociationalism; the latter three characteristics are intended to complement this device.

First, the mutual veto is necessary to ensure the grand coalition functions as a vestibule for minority empowerment. Since grand coalitions ensure the attendance of minorities, yet still must make decisions by majority consensus, “a minority veto must therefore be added to the grand coalition principle; only such a veto can give each segment a complete guarantee of political protection.”¹⁵ Lijphart strains the danger that

¹² Arend Lijphart, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries*, New Haven, CT: Yale University Press, 1984, 24.

¹³ Arend Lijphart, *Thinking about Democracy: Power Sharing and Majority Rule in Theory and Practice*, New York, NY: Routledge, 2008, 80.

¹⁴ Lijphart, *Thinking about Democracy*, 81.

¹⁵ Lijphart, *Democracy in Plural Societies*, 36-37.

minority veto could lead to minority tyranny, thus upending the effectiveness of the consociational model. However, Lijphart quells this danger arguing that since the veto is *mutual*, then a group's overuse will result in the reaction of other groups to use the veto retributively. Thus, there is an incentive to not use it superfluously. Lijphart describes how the Netherlands and Switzerland used the mutual veto informally, but in Austria the mutual veto had formal legal standing.¹⁶

The principle of proportionality is intended to inhibit majority rule, "It can be contrasted with winner take all principle of unrestrained majority rule," while concurrently inducing the inclusion of all the social cleavages. This entails that allocations of civil service appointments and scarce financial resources are proportionate among the segments in the polity. To ensure parliamentary proportionality, Lijphart argues for an electoral system founded on proportional representation (PR). PR is an electoral system where voters cast their ballot for their preferred party and parties are allocated seats according to the proportion of votes they receive. The winning candidates are taken from the open or closed rankings of the party lists. Open means that the constituents can vote on individual candidates within the parties to ensure the party sends them to office, while closed entails the discretion of the party bosses. Additionally, PR systems can vary in the threshold of entry to office. Lijphart mentions Israel has too low of a threshold of 1 percent, while Germany's is too high at 5 percent.¹⁷ Also, how the parliamentary seats are divvied out is calculated in various ways. The two most popular options are the Sainte-Laguë method, favoring small parties, and the d'Hondt formula,

¹⁶ Lijphart, *Democracy in Plural Societies*, 38.

¹⁷ Lijphart, *Democracies: Patterns*, 156.

giving large parties a bias. In conjunction with this method, “district magnitude” is an important factor of PR systems, which refers to how many representatives win in a given area. Lijphart recommends high district magnitude, to ensure smaller parties can earn representation.¹⁸ In all, Lijphart believes that proportionality makes minimal winning coalitions (i.e. majoritarian tyranny) less attractive because the power is shared across the cleavages accurately reflecting the demographics of the land.

The final aspect Lijphart underlined as conducive to the overarching consensus of a grand coalition is segmental autonomy, defined as, “rule by the minority over itself in the area of the minority’s exclusive concern.”¹⁹ On matters of common interest, the cleavages must come together with proportional degrees of influence backed by mutual veto, but otherwise ought to be left alone to manage their own affairs. Together with the proportional allocation of state funds, segmental autonomy allows a plural society to maintain stability. Moreover, autonomy allows segmental communities to safeguard their vital interests to ensure these interests are represented in the larger institutional body. Segmental autonomy could be incorporated territorially or through an internal fashion. The 1925 Law of Cultural Autonomy in Estonia inspired Lijphart to consider the internal option.²⁰ According to the law, any ethnic group amounting to at least 3,000 members can establish a cultural council to be elected by the ethnic group, which would have jurisdiction over education and other cultural institutions, such as libraries, theatres, and museums. Plus, the councils could issue decrees, raise taxes, and were eligible for state subsidies so their schools were funded at the national standard. This example

¹⁸ Lijphart, *Democracies: Patterns*, 155.

¹⁹ Lijphart, *Democracy in Plural Societies*, 41.

²⁰ Lijphart, *Thinking about Democracy*, 71.

demonstrates how segmental autonomy need not rely on homogenous territorial boundaries. When homogenous communities do exist, such as the Francophone population of Canada is concentrated in Quebec, then, “federalism offers an especially attractive way of implementing the idea of segmental autonomy.”²¹ Therefore, the regional cleavages will coincide with the segmental cleavages. This is exemplified with the promotion of federalism and biculturalism in Canada to quell the separatist movements of French Quebec in the 1960’s.²² There exists a close correlation between federalism and consociation but Lijphart clarifies that federalism can be applied to non-plural societies too.²³ Furthermore, we have seen how federalism is just one way of operationalizing segmental autonomy. In conclusion, segmental autonomy remains the final component necessary to ensure a grand coalition of elites creates stability in plural societies.

There are three factors that appear to be strongly conducive to the establishment or maintenance of cooperation among the elites in a fragmented system. The most striking of these is the existence of external threats to the country.²⁴

This example highlights the interpretation of external factors in Lijphart’s analysis of consociations. Lijphart emphasizes the fact that consociational democracies established in Lebanon, Switzerland and Austria under the hardship of the Second World War give credit to his notion that external forces can mobilize the consociational state. However, John McGarry, when confronting the context of Northern Ireland, argues that Lijphart is

²¹ Lijphart, *Democracy in Plural Societies*, 43.

²² Adrien Elleboudt, “The Limits of Consociationalism (As a Method of Conflict Management): Belgium and Canada as Crucial Tests,” (master’s thesis, Central European University, Budapest, 2007), 35, http://www.etd.ceu.hu/2007/elleboudt_adrien.pdf.

²³ Lijphart, *Democracy in Plural Societies*, 42.

²⁴ Lijphart, “Consociational Democracy,” 217.

too internally focused. He neglects the potential for external parties in consociational state building, and further emphasizes the moderating potential of inter-state institutions to achieving liberal democratization in consociations. On the other hand, Lijphart believes that the segments of consociations, above all, understand the “perils of fragmentation.”²⁵ This demonstrates that Lijphart does not believe that a Hobbesian Leviathan is needed to implement consociational democracy. But similar to the fear that keeps man from descending into the Hobbesian state of nature, a “war of all against all,”²⁶ the segments of a plural society will engage in accommodation through the incentives of consociational theory.

²⁵ Lijphart, “Consociational Democracy,” 216.

²⁶ Thomas Hobbes, *Leviathan* (London: A & C Black, 2006).

Chapter 1B: The Mathematics of Consociational Theory

April 26, 2018

1 Introduction

In this chapter, I will give a formal analytical assessment of Arend Lijphart's theory of consociational democracy. Lijphart suggests that the structure of democratic institutions described in the previous chapter will lead to politics by accommodation. I assume, as Lijphart does, that if I have accommodation then the society is stable. I will transform Lijphart's theory, and the incentive structure he creates for the political elite, into a set of mathematical equations, derived from the work of G.R.Boynton and W.H. Khon. Acknowledging that this analysis may distort Lijphart's argument, Boynton and Khon believed that the equations represent the most accurate formalization of Lijphart's logic. I agree with this assumption. Despite possible distortion, it is worthwhile to examine the theory through mathematics due to the vast potential of elucidating solutions that become within reach. Unlike Boynton and Kwon, in this chapter, I will come to the result that consociational theory creates stability, and I will prove it mathematically.

2 Formalization of Consociational Logic

Boynton and Khon derived a set of five assumptions that sufficiently capture consociational logic, I have added the sixth which will be used later in the proof.

1. The political actors are:
 - (a) divided in blocs
 - (b) within blocs they are divided into elites and citizens
2. There is no dialogue between the citizenry of different blocs.
3. The elite engage in political decision making by accommodation, forming a "grand coalition."

4. The elites of each bloc are independent of the citizens of each bloc.
5. The different blocs respond to the same political issue in different ways, forming different reactionary opinions.
6. The political elite only give the impression of distance from the other blocs, but are always positively induced toward consensus when it aligns with their interests. In another way, the elite will not change their position because another bloc is closely aligned with them.

For simplicity, we will begin with two blocs, and then add the third later. Boyton and Khon configured mathematical equations from these five assumptions. The political problem is the input of the function. Further, it is assumed that difference of opinion will occur, especially at the initial point of the equation. Accommodation is the merging of the opinions to a single point. Therefore, the output is the views of the different groups over time (t). Since change in views over time is what we are concerned with, let us create differential equations to represent this process.

Using two blocs, there are four groups of interest:

$C_1(t)$: represents the position of the citizens in bloc 1 on a political issue at a given time.

$P_1(t)$: represents the position of the political elite in bloc 1 on a political issue at a given time.

$C_2(t)$: represents the position of the citizens in bloc 2 on a political issue at a given time.

$P_2(t)$: represents the position of the political elite in bloc 2 on a political issue at a given time.

The change of the position of the groups over time will be represented as: $C'_1(t)$, $P'_1(t)$, $C'_2(t)$, $P'_2(t)$.

Assumption 5 requires that the blocs react to the same political problem in different ways.

Allow:

$U(t)$ to represent the political problem being examined, or the input to the equation.

$\beta_1, \beta_2, \beta_3, \beta_4$ to represent the response of each group to the political problem.

Now, let us construct equations from the tools we defined to represent the effect of $U(t)$, the input, on the change of the positions of each bloc, the output. $C'_1(t) = \beta_1 U(t)$ is an example of how the input changes the output over time.

Assumption 4 states that the elite of each bloc are relatively independent of the citizens, however the two groups within each bloc will influence one another. Politicians will not let their position stray too far from their constituency, while citizens will be influenced by their leaders. The difference between the position of groups positions over time is for-

malized by the α coefficients:

$$C_1'(t) = \alpha_{12}[P_1(t) - C_1(t)] + \beta_1 U(t)$$

$$P_1'(t) = \alpha_{21}[C_1(t) - P_1(t)] + \beta_2 U(t)$$

$$C_2'(t) = \alpha_{34}[C_2(t) - P_2(t)] - \beta_3 U(t)$$

$$P_2'(t) = \alpha_{34}[C_2(t) - P_2(t)] - \beta_3 U(t)$$

Boyton and Kohn suggest that the influence of elite on citizenry is greater than citizenry on elite.

$$\alpha_{12} > \alpha_{21}$$

$$\alpha_{34} > \alpha_{43}$$

Assumption 3 requires that the elite will engage in decision-making by accommodation. Thus, the political elite must compromise with the other politicians and are thereby influenced by the difference between their views and the views of the other elite on the issue.

$$P_1'(t) = \alpha_{21}[C_1(t) - P_1(t)] + \alpha_{23}[P_2(t) - P_1(t)] + \beta_2 U(t)$$

$$P_2'(t) = \alpha_{34}[C_2(t) - P_2(t)] + \alpha_{32}[P_1(t) - P_2(t)] - \beta_3 U(t)$$

Boyton and Kohn suggest that the influence of the elite on one another ought to be larger than the influence of the citizenry on the elite.

$$\alpha_{23}, \alpha_{32} > \alpha_{21}, \alpha_{43}$$

Assumption 2 requires no influence coupling among the citizen groups, so we leave that one as is.

Lastly, assumption 6 requires that all α values are positive. This assumption means that the elite will act in good faith, their antics of nationalism are acts of theater more so than acts of deliberate non-accommodation.

Now we have our mathematical representation of consociational theory.

$$C_1'(t) = \alpha_{12}[P_1(t) - C_1(t)] + \beta_1 U(t)$$

$$C_2'(t) = \alpha_{34}[C_2(t) - P_2(t)] - \beta_3 U(t)$$

$$P_1'(t) = \alpha_{21}[C_1(t) - P_1(t)] + \alpha_{23}[P_2(t) - P_1(t)] + \beta_2 U(t)$$

$$P_2'(t) = \alpha_{34}[C_2(t) - P_2(t)] + \alpha_{32}[P_1(t) - P_2(t)] - \beta_3 U(t)$$

$$\alpha_{23}, \alpha_{32} > \alpha_{21}, \alpha_{43}$$

$$\alpha_{12} > \alpha_{21}$$

$$\alpha_{34} > \alpha_{43}$$

3 Analysis with Two Blocs

In mathematical analysis, **bounded** means there exists a real number that is greater than any output of a function. We define the system as **stable** if and only if the positions of the functions are bounded. The mathematical definition of **convergence** is that a series will approach a limit more and more closely as a parameter of the function (time, in our case) increases (or decreases). For example, if $f(x) = \frac{1}{x}$, then as x goes to infinity, $f(x)$ approaches zero. Similarly, if our equation approaches a value as t goes to infinity, then we have convergence. These definitions are needed to begin the analysis.

Given $U(t)$ is bounded, we can determine the following statement: if the outputs, $C_1(t)$, $P_1(t)$, $C_2(t)$, $P_2(t)$, are bounded, then stability has been satisfied. If stability is satisfied, then this would demonstrate the validity of Lijphart's theory. Boynton and Khon suggest that the simplest way to show stability is to ask whether the difference between the groups are bounded. The authors conjecture that the difference is bounded, but I will prove that the difference converges to zero under the conditions that $U(t)$ approaches zero.

First, Boynton and Kohn correctly point out that only if the input $U(t)$ is decreasing and approaching zero will the system be stable. This is a more powerful statement than if the input is bounded. Let's consider Figure 1 and Figure 2. For identical conditions and coefficients that are given above, but altering $U(t) = e^{-t^2}$ in Figure 1 to $U(t) = \sin(t)$, the result is that the positions no longer converge. $\sin(t)$ is bounded by 1 and -1 , but it is not approaching zero like the Gaussian function in Figure 1. Both of the figures have the same starting positions and use the coefficients defined as the following, which adhere to the confines of the formalization of Lijphart's theory, but while the positions of Figure 1 remain bounded, in Figure 2 the positions converge. Both are stable under the conditions we defined.

To further illustrate the fact that $U(t)$ approaching zero causes convergence, for any starting points or coefficients, I have taken the example of $U(t) = 1$ with coefficients and starting points defined as before. This example is depicted in Figure 3. Notice that the positions increase at the same rate, the same as $U(t)$. This is because the differential system of equations are linear with respect to $U(t)$, therefore the slope of the positions of $C_1(t)$, $P_1(t)$, $C_2(t)$, $P_2(t)$ will approach the value of $U(t)$ as t increases. Furthermore, $U(t)$ is not bounded, so the positions of the citizens and politicians are not bounded and the system is not stable.

From Figures 1, 2, and 3 we can determine that the overall system is marginally stable, depending on if input $U(t)$ is bounded as it is in Figures 1 and 2. Now, we will demonstrate that the coefficients do not effect the marginal stability of the system of equations at all.

```

a21 = .4;
a12 = 1;
a34 = .1;
a43 = 1;
a23 = .9;
a32 = .9;
β1 = 1;
β2 = 1;
β3 = 1;
β4 = 1;

```

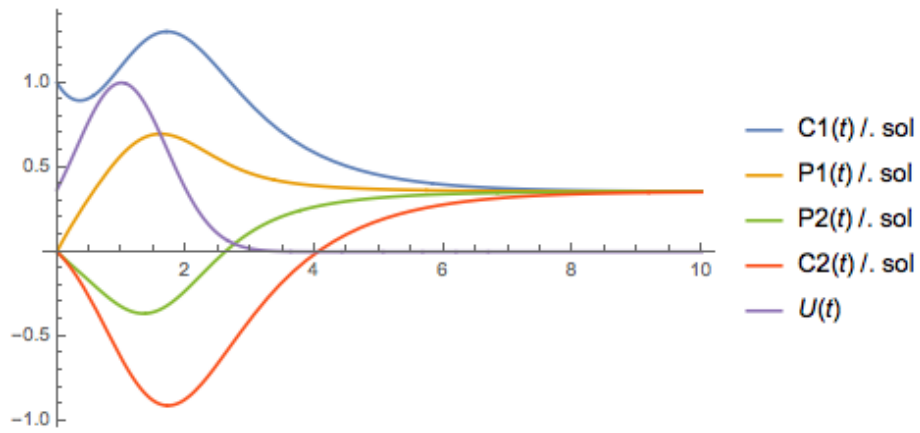


Figure 1: $U(t) = e^{-t^2}$

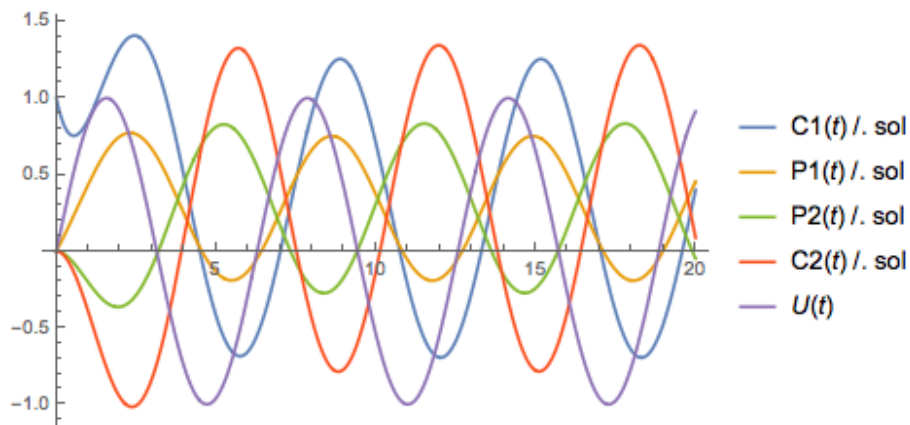


Figure 2: $U(t) = \sin(x)$

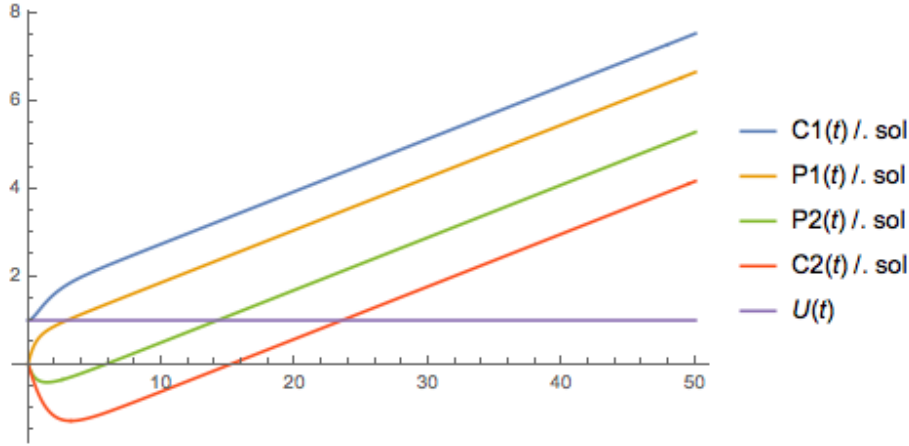


Figure 3: $U(t) = 1$

4 Proof of Marginal Stability

Given that the equations are first order linear differential equations we want to put them in the form of a nonhomogeneous matrix:

$$[x]' = A[x] + g(t).$$

This can be done by using the following substitutions:

$$x_1 = P_1(t) - C_1(t),$$

$$x_2 = P_2(t) - P_1(t),$$

$$x_3 = P_2(t) - C_2(t),$$

Making these substitutions in the original equations, we come up with a matrix equation that captures the entire system of first order differential linear equations in the nonhomogeneous matrix form we want.

$$\frac{d}{dt} \begin{bmatrix} x_1 \\ x_2 \\ x_3 \end{bmatrix} = \begin{bmatrix} -(\alpha_{12} + \alpha_{21}) & \alpha_{23} & 0 \\ \alpha_{21} & -(\alpha_{23} + \alpha_{32}) & -\alpha_{34} \\ 0 & -\alpha_{32} & -(\alpha_{34} + \alpha_{43}) \end{bmatrix} \begin{bmatrix} x_1 \\ x_2 \\ x_3 \end{bmatrix}$$

Above, I have set $U(t) = 0$, as is the assumption I made, thus removing the input and β elements from the system of equations. We are left with a homogeneous system of first order linear equations with a real valued coefficient matrix A . I have done this in order to consider if the coefficients cause the positions to be bounded or converge.

$$A = \begin{bmatrix} -(\alpha_{12} + \alpha_{21}) & \alpha_{23} & 0 \\ \alpha_{21} & -(\alpha_{23} + \alpha_{32}) & -\alpha_{34} \\ 0 & -\alpha_{32} & -(\alpha_{34} + \alpha_{43}) \end{bmatrix}$$

The eigenvalues of the matrix follow the form

$$Ax = \lambda x$$

$$(A - \lambda I)x = 0$$

$$\det(A - \lambda I) = 0$$

This is the characteristic equation where \det is the determinant of the matrix. Then, we use this framework to solve for the eigenvalues of our matrix A.

$$(A - \lambda I) = \begin{bmatrix} -(\alpha_{12} + \alpha_{21}) - \lambda & \alpha_{23} & 0 \\ \alpha_{21} & -(\alpha_{12} + \alpha_{12}) - \lambda & -\alpha_{34} \\ 0 & \alpha_{32} & -(\alpha_{34} + \alpha_{43}) - \lambda \end{bmatrix}$$

Let's solve for the determinant of this matrix as follows:

$$(-(\alpha_{12} + \alpha_{21}) - \lambda) \begin{bmatrix} -(\alpha_{23} + \alpha_{32}) - \lambda & -\alpha_{34} \\ \alpha_{32} & -(\alpha_{34} + \alpha_{43}) - \lambda \end{bmatrix} - \alpha_{23} \begin{bmatrix} \alpha_{21} & -\alpha_{34} \\ 0 & -(\alpha_{34} + \alpha_{43}) - \lambda \end{bmatrix} = 0$$

Now, use basic algebra to solve for the 3 values of λ in the cubic equation. These answers could be real or complex. Let's plug in the coefficients of $\alpha_{12}, \alpha_{23}, \alpha_{32}, \alpha_{43} = 0.7$ and $\alpha_{34}, \alpha_{21} = 0.2$ to provide an example. Notice, this means that we are using different parameters than the figures of the previous section.

$$(-(0.7+0.2)-\lambda) \begin{bmatrix} -(0.7+0.7)-\lambda & -0.2 \\ 0.7 & -(0.2+0.7)-\lambda \end{bmatrix} - 0.2 \begin{bmatrix} 0.2 & -0.2 \\ 0 & -(0.7+0.7)-\lambda \end{bmatrix} = 0$$

When solved under these conditions, the eigenvalues are

$$\frac{1}{20}(-23 - \sqrt{137}), -\frac{9}{10}, \frac{1}{20}(-23 + \sqrt{137}).$$

This is approximately $(-1.735, -0.900, -0.565)$ rounded to the nearest thousandths.

I have shown a method of solving for the eigenvalues of the matrix with an example. Now, by the Gershgorin Circle Theorem ¹, I will prove that the real part of the eigenvalues are all negative. Gershgorin's Theorem states: Every eigenvalue of matrix A_{nn} satisfies:

$$|\lambda - A_{ii}| \leq \sum_{i \neq j}^{\infty} |A_{ij}|,$$

¹"Gershgorin Circle Theorem," Wikipedia, February 17, 2018, accessed April 25, 2018, https://en.wikipedia.org/wiki/Gershgorin_circle_theorem.

where

$$i \in 1, 2, \dots, n.$$

Given, by assumption 6, that all of the α values are positive. It follows that from the first column of matrix A that the first eigenvalue is in a circle centered at $-(\alpha_{12} + \alpha_{21})$ with a radius of $|\alpha_{21}|$. Therefore the real part of the eigenvalue in this circle must be negative. This is because the entire area of the circle is within negative space. Similarly, the second column yields a circle centered at $-(\alpha_{23} + \alpha_{32})$ with a radius of $|\alpha_{23}| + |-\alpha_{32}|$, which yields a result of at most, zero. Since Gershgorin's Theorem uses open circles, the real part of the second eigenvalue must be negative. Lastly, the third column yields the final circle centered at $-(\alpha_{34} + \alpha_{43})$ with a radius of $|-\alpha_{43}|$, which yields a circle with an area that is, once again, entirely in negative space. This proves that the real part of the eigenvalues will be negative when $n = 2$ blocs.

If the real part of the eigenvalues are all negative, how does this prove convergence? If we seek solutions in the form of $x = \xi e^{rt}$, then it follows that r must be an eigenvalue and ξ a corresponding eigenvector of the coefficient matrix A . For our system of equations $n = 3$, so there are 3 eigenvalues. Let's allow the eigenvalues to be defined as r_1, \dots, r_n . Recall, eigenvalues are the roots of the characteristic equation $\det(A - rI) = 0$ Where I is the identity matrix and \det refers to the determinant. If A is real, then the coefficients in the polynomial equation for r are real, and any complex eigenvalues must occur in conjugate pairs. For example, if $r_1 = \lambda - i\mu$, where λ and μ are real, is an eigenvalue of A , then so is $r_2 = \lambda + i\mu$.

It is obvious that if the eigenvalues are negative, then the solutions of the form $x = \xi e^{rt}$ will approach zero as t approaches infinity. By the Gershgorin Theorem, we proved that λ , the real part of the eigenvalue, calculated from the coefficient matrix A , are always negative. Boyton and Kohn suggested that this could be true, but offered no proof. In summary, I have proved that $A[x]$, the homogeneous system of first order linear equations, converges to zero. Therefore, the nonhomogeneous system of equations $[x]' = A[x] + g(t)$ will result in $[x]' = g(t)$ as t approaches infinity. This is because the general solution of the nonhomogeneous form can be expressed as:

$$x = c_1 x^{(1)}(t) + \dots + c_n x^{(n)}(t) + g(t),$$

where $g(t)$ is the particular solution of the nonhomogeneous system.² This conclusion is what Figures 1,2,and 3 illustrate graphically, examine the difference between the lines approach $U(t)$. Therefore, given the six assumptions and $n = 2$ blocs, we have proved that if $U(t)$ approaches zero, then stability is satisfied. We have also proved that if $U(t)$ is bounded, then marginal stability satisfied.

²William E. Boyce and Richard C. DiPrima, *Elementary Differential Equations and Boundary Value Problems*, 10th ed. (New York: Wiley, 2012), 440

5 Analysis with 3 Blocs

In this section, we will enlarge from $n = 2$ blocs to $n = 3$ blocs. Therefore, our basic equations will now be as follows:

$$\begin{aligned}
 C_1'(t) &= \alpha_{11}[P_1(t) - C_1(t)] + \beta_1 U(t), \\
 C_2'(t) &= \alpha_{21}[C_2(t) - P_2(t)] - \beta_2 U(t), \\
 C_3'(t) &= \alpha_{31}[C_3(t) - P_3(t)] - \beta_3 U(t), \\
 P_1'(t) &= \alpha_{12}[C_1(t) - P_1(t)] + \alpha_{13}[P_2(t) - P_1(t)] + \alpha_{14}[P_3(t) - P_1(t)] + \beta_4 U(t), \\
 P_2'(t) &= \alpha_{22}[C_2(t) - P_2(t)] + \alpha_{23}[P_1(t) - P_2(t)] + \alpha_{24}[P_3(t) - P_2(t)] - \beta_5 U(t), \\
 P_3'(t) &= \alpha_{32}[C_3(t) - P_3(t)] + \alpha_{33}[P_1(t) - P_3(t)] + \alpha_{34}[P_2(t) - P_3(t)] + \beta_6 U(t).
 \end{aligned}$$

With this system of first order linear equations, I make the substitutions along the same lines I did previously:

$$\begin{aligned}
 x_1 &= P_1(t) - C_1(t), \\
 x_2 &= P_2(t) - P_1(t), \\
 x_3 &= P_2(t) - C_2(t), \\
 x_4 &= P_2(t) - P_3(t), \\
 x_5 &= P_3(t) - C_3(t), \\
 x_6 &= P_3(t) - P_1(t).
 \end{aligned}$$

Then, I calculate the homogeneous matrix which represents the system of first order linear equations.

$$\frac{d}{dt} \begin{bmatrix} x_1 \\ x_2 \\ x_3 \\ x_4 \\ x_5 \\ x_6 \end{bmatrix} = \begin{bmatrix} -(\alpha_{12} + \alpha_{11}) & \alpha_{13} & 0 & -\alpha_{14} & 0 & 0 \\ \alpha_{12} & -(\alpha_{23} + \alpha_{13}) & -\alpha_{22} & -\alpha_{14} & 0 & \alpha_{24} \\ 0 & -\alpha_{23} & -(\alpha_{22} + \alpha_{21}) & 0 & 0 & \alpha_{24} \\ -\alpha_{12} & \alpha_{13} & 0 & -(\alpha_{14} + \alpha_{33}) & \alpha_{32} & \alpha_{34} \\ 0 & 0 & 0 & \alpha_{33} & -(\alpha_{32} + \alpha_{31}) & -\alpha_{34} \\ 0 & \alpha_{23} & \alpha_{22} & \alpha_{33} & -\alpha_{32} & -(\alpha_{34} + \alpha_{24}) \end{bmatrix} \begin{bmatrix} x_1 \\ x_2 \\ x_3 \\ x_4 \\ x_5 \\ x_6 \end{bmatrix}$$

In conclusion, I can determine that the Gershgorin Theorem is not strong enough to prove that the real part of the eigenvalues are negative with $n = 3$. However, using software to manipulate the coefficients, I observed that the eigenvalues always remained negative as I manipulated the coefficients and starting points. Also, I observed that the eigenvalues remained real as well. This encourages further investigation and a potential proof of $n = 3$ using something stronger than Gershgorin's Theorem.

6 Conclusion

I have proved that if we have stability, meaning that $U(t)$ converges to 0, then the difference between the positions of the politicians and the citizens of two blocs, under the assumptions of consociational theory provided, will converge to an arbitrary quantifiable value. It follows, that within the context of a political system that seeks to remedy problems that the society faces, $U(t)$ can logically be expected to decrease over time. While this might not always be the case in the electoral lifetimes of political elite, or even the lifetimes of citizens, we can expect a polity to remedy social ills. For example, the debt a country could be reasonably quantified as an increasing problem and input as $U(t)$. But, monetary officials has discovered other ways of alleviate debt, such as increasing inflation and money supply. This is just one example of how societies can remedy the problems they face in multitudes of ways, making $U(t)$ very difficult to quantify. Though, if we do assume that the political elite and citizens have the collective incentive to remedy social problems, then $U(t)$ is approaching 0 and the proof provided in this paper demonstrates mathematically that consociational democracy creates accommodation.

However, it would be much more noteworthy to prove the logic goes the other direction as well, satisfying an “if and only if” math proof. I leave this as a challenge for future mathematicians, along with proving that the conditions for 3 blocs also yield real negative eigenvalues so this result can be applied to the general case.

Lastly, it is important to note, I never once was required to use the inequalities which Boynton and Kwon derived for the α values. Perhaps these would become more important when proving the real part of the eigenvalues are negative for $n = 3$ blocs, but it does not seem likely. It does seem likely that the inequalities would make the system converge more quickly, which is a significant result.

Chapter II – Europe’s Forgotten Corner

2.1 Bosnia Before Dayton

April 1992 to January 1996, in a land of obscurity for most of the world, Bosnia and Herzegovina, dominated world headlines and sound bites with news of mass conflict.²⁷ Bosnia is a small hilled region of roughly four million people²⁸ on the outskirts of Europe. In the 1990s, the region exploded into ethnic warfare, drawing in the eyes of the world like it had never before. Ethnic tensions collided, neighbors turned on neighbors, and families were split apart by the overnight identities: Croat, Muslim, and Serb. Under the banner of the North Atlantic Trade Organization (NATO), the great Western Powers swept into the bloody chaos in the summer of 1995. The Clinton administration led the Western nations of the world to a “miraculous” victory for peace, thus halting the most violent outbreak of European conflict since World War II. The International Criminal Court in The Hague condemned Bosnian atrocities as genocide for the first time since the Nuremberg Trials of the Nazis. After the horrors of World War II, Europe hoped to never let systematic murder wash up on its shores again – Bosnia proved otherwise. But thanks to NATO intervention, at the turn of the twenty-first century, Bosnia and Herzegovina became the shining exemplar of the Western liberal success story. Less than a decade before, the Berlin Wall crumbled into blocks of Soviet rumble. Peace in Bosnia, the front yard of the once great Soviet Union, was a key triumph for the

²⁷ Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention* (Oxford: Oxford University Press, 2002), 2.

²⁸ “Bosnia 2013 Census,” European Parliamentary Research Service Blog, September 15, 2017. <https://epthinktank.eu/2014/01/27/bosnia-2013-census/>.

West. But victory tasted bitter as we were all reminded of the horrors of ethnic cleansing. The democracies of the West had secured peace for the forgotten corner of Europe, but these powers failed to bring reconciliation for the blood spilled, and today the country is still locked in depressed stalemate.

In the final months of the war, American lawyers, equipped with the latest gadgetry of Western democracy and humanitarian law, created an agreement that would supposedly quell the ethnic hatred. In the austere offices of Dayton, Ohio, leaders of the three sides of the Bosnian war and the Croatian and Serbian state leaders discussed the bargain. Later, it became known as the Dayton Accords, signed into affect in Paris in 1996. The United States, under the Clinton Administration, took a central role in the intervention of Bosnia after failed European leadership in the early 1990s. President Bill Clinton spoke in defense of NATO military intervention and the active role of the United States in the peace agreement, “as NATO's leader and the primary broker of the peace agreement, the United States must be an essential part of the mission. If we're not there, NATO will not be there. The peace will collapse; the war will reignite.”²⁹ There were strong words ushered at the dawning of U.S. hegemonic order. Today, though the American promise of peace in Bosnia has held, the ideal of democratization has fallen woefully short. As the first major international intervention of many in the post-Cold War era, Bosnia offers the most revealing glimpse of the potential illogical implementation of consociational democracy.

²⁹ William J. Clinton, “Address to the Nation on Implementation of the Peace Agreement in Bosnia-Herzegovina,” November 27, 1995, White House, Washington D.C. <http://www.presidency.ucsb.edu/ws/?pid=50808>.

2.1.1 Trading Empires

One need not glance deep into the history of Bosnia and Herzegovina to see it was no stranger to foreign occupation before the Americans arrived. The Ottoman Turks maintained control of Bosnia from 1463 until 1878 as a central province of their domain. Turkish influence became evident, most importantly establishing a permanent Muslim population in Bosnia. “Slav Muslims in Bosnia are the only nation, certainly in Europe and possibly in the world, who are nominally identified by their religion and not their language or ethnicity.”³⁰ By the seventeenth century, two thirds of the population in Bosnia had converted to Islam and the term “Bosniak” became widespread in the region to identify as a Slavic Muslim. However Bosnian citizens coexisted peacefully, living in the same valleys and towns; even intermarriage was common. There are many accounts that the ancient-ethnic argument provided by the Clinton Administration to facilitate war was utter nonsense.³¹

Bosnia traded hands in 1878 to the Austro-Hungarian Empire after suffering decades of frontier conflict squeezed between bellicose empires. In light of the external pressure, the passion of revolution began taking hold amongst neighboring Slavic peoples. In 1814, Serbs solidified secession from the Ottoman Empire; for the first time in three centuries, Serbs governed themselves. But it took a second uprising, 1815-1817

³⁰ Misha Glenny, *The Fall of Yugoslavia: The Third Balkan War* (London: Penguin, 1996), 139.

³¹ Stevan Bozanich, “Debunking the Myth of Yugoslavia's ‘Ancient Ethnic Hatreds’,” ResearchWorks Archive, University of Washington, June, 2016, <http://hdl.handle.net/1773/35996>.

to free the Serbs permanently from the Turks. Similarly, a Croatian national revival occurred in the 1830's through the Illyrian movement.³² Croatian domestic autonomy within the Austrian-Hungarian Empire was won bloodlessly in 1867. Over the next few decades, relations between Austrian-Hungarian and Ottoman Empires would continue to deteriorate, with the Serb, Croat, and Bosnian regions squeezed in the military frontier.

Tensions hit the apex on June 28, 1914. Archduke Franz Ferdinand, heir to the Austrian-Hungarian throne, was assassinated on the streets of Bosnia's capital city, Sarajevo. Bosnian Serb, Gavrilo Princip, spilled the royal blood in the name of Bosnian independence. In result, Bosnian Croats staged massive anti-Serb riots in Sarajevo. Austria-Hungary invaded Serbia, Russia mobilized to defend the Serbs, and dominos across the world began to fall; alliances were drawn, legions swept across oceans, the first global war had begun, Bosnia's Sarajevo its matchbox. In 1918, the war ended and emerged the formation of various new political entities, one of which was the Kingdom of Serbs, Croats, and Slovenes. Then, a decade later, this state would expand. The dreams of southern Slavs were fully achieved; the Kingdom of Yugoslavia was borne. However, the Bosnian territory was eliminated under the new regime, absorbed into surrounding larger powers yet again.

Stepping back, Bosnia, and the Balkans as a whole, had created a boisterous reputation in the globe from the events of WWI. This is in part due to ethnic fabric of Bosnia was quite different than many places in the world. Of course, this was due to the

³² Marc L. Greenberg, "The Illyrian Movement: A Croatian Vision of South Slavic Unity." *The Success-Failure Continuum in Language Identity Efforts*, Vol. 2 of *Handbook of Language & Ethnic Identity*, edited by Joshua A. Fishman and Ofelia García, New York: Oxford University Press, 2010, 368.

vast amount of external pressure the region had received for centuries. Thus, ethnic identities were constructed differently. Joane Nagel provides a suitable description of this process, “Ethnicity is constructed out of the material of language, religion, culture, appearance, ancestry, or regionality. The location and meaning of particular ethnic boundaries are continuously negotiated, revised, and revitalized, both by ethnic group members themselves as well as by outside observers.”³³ Bosnia, thus, must be defined by its demographic *complexity*.³⁴ Bosnia lives on the crossroads of Orthodoxy, Catholicism and Islam. Thus, religion served as the ethnic divisor. BiH (Bosnian) Croats were Catholic, BiH Serbs were Orthodox, and Bosniaks, as mentioned prior, were a firmly established Islamic community. All spoke the same tongue, shared the same Slavic blood, and lived immersed amongst each other; yet, religion would become a tool of ethnic division wielded by the nationalists during the war in the 1990’s. Each town was unique in its own balance of ethnic tensions and camaraderie. From the global perspective, a shroud of mystery dwelt upon the region, depicted in Agatha Christie’s *Murder on the Oriental Express* published in 1934. This world-famous novelist catches the popular view of Yugoslav Kingdom as the troublesome corridor between Istanbul and Western Europe. In *The Secret of Chimneys* (1925) Christie writes, “*It’s one of the Balkan States. . . . Principal rivers, unknown. Principal mountains, also unknown, but fairly numerous. Capital, Ekarest. Population, chiefly brigands. Hobby, assassinating kings and having revolutions.*” This example demonstrates the mystery and instability that defined the Balkans, including Bosnia, in the early twentieth century.

³³ Nagel, Joane. “Constructing ethnicity: Creating and Recreating Ethnic Identity and culture.” *Social Problems* 41, no. 1 (1994): 152-76, <http://www.jstor.org/stable/3096847>.

³⁴ Bose, *Bosnia After Dayton*, 17.

Yugoslavia buckled under fascism in 1941 with the invasion of Adolf Hitler and the German forces. The Nazis buttressed the formation of an independent fascist Croatian state, antagonizing the fragile ethnic coherence of the Balkans. The area of Bosnia fell into the hands of the Croatian fascists, called *Ustashe*, erecting concentration camps, similar to their Nazi patrons, to exterminate mainly Serbs. In response, paramilitary groups of Serbs, named *Chetniks*, fought back with equally unethical vengeance. The region of modern day Bosnia was the apex of Serb-Croat engagement; Bosniaks were forced to take sides, often regrettably.³⁵ Then, Yugoslav socialists, led by Josip Broz Tito, organized a Serb-dominated group, the Partisans, which led a rebellion defeating the Croatian fascists. Incredibly, the Partisans accomplished liberation from Axis control without any aid of external Allied powers, the only movement to have done so in World War II. The victors created a socialist state, named Yugoslavia, which carved the borders of Bosnia as one of its republics as it remains today.

2.1.2 The Collapse of Yugoslavia

Tito was the dictator of the unification of southern Slavs experiment. Under his administration, in 1974 Bosniaks were elevated from a national minority to a constituent nation, enshrining the identity in the constitution for the first time. Yugoslavia effectively subdued the animosity of the three ethnicities in Bosnia through the secular doctrine of socialism. Many hoped the Pandora's box that erupted in World War II had dissipated, but as Croatia edged towards independence in the 1980's, the tensions were proven to merely have been frozen by Tito, and now thawing with devastating consequences. The

³⁵ Glenny, *The Fall of Yugoslavia*, 140.

decision of the International community to recognize Slovenian and Croatian independence “pushed Bosnia into the abyss” claims Misha Glenny, a Yugoslav wartime journalist.³⁶ In many respects, he is correct. Bosnian Croats and Bosnian Serbs, both predominately peasantries, wished to annex territory for their “mother countries”. Despite being the landed aristocracy for centuries in Bosnia, the Bosniaks faction was muzzled in the political debate without a patron state in Yugoslavia. Consequently, Bosnia had three options when Croatia seceded: first, to remain in rump Yugoslavia with Serbia, second, to divide Bosnia as the nationalist leaders Milosevic (Serbia) and Tudjman (Croatia) had agreed, or third, to declare independence. Since Bosniaks and Croats rejected the first, Bosniaks and Yugoslavs rejected the second, and Serbs rejected the third, “(all) three roads led to war.”³⁷ Glenny’s assertion is qualified by the fact that before the war only 20% of Bosnian cities and towns were overwhelmingly populated by members of a single community before the war broke out.³⁸ This would prove to be a potent recipe for neighbor against neighbor violence. But it is important to recognize the Croat-Bosniak-Serb animosity was not ancient-ethnic hatred; it was rather nationalism, largely imported, that split Bosnian communities into identities based on WWII hysteria and propaganda.

Bosnia had not been an independent state since its medieval ancestry. There had always been a powerful external force, Ottomans, Austrian-Hungarians, or Yugoslavs, to deliberate between the three communities. In the brief window of 1941-1945 when external pressure collapsed, the results were horrific. Chetniks and Ustashe butchered one another outright. In spite of this historical context, on April 17, 1992 the International

³⁶ Glenny, *The Fall of Yugoslavia*, 35.

³⁷ Glenny, *The Fall of Yugoslavia*, 143.

³⁸ Bose, *Bosnia After Dayton*, 33.

Community recognized the independence of Bosnia, essentially issuing death sentences to minority populations in countless towns and villages around the formerly Yugoslav region. These cities had no means of protecting minority communities from the spillover of nationalistic hate. Additionally, the nationalistic political elite, for their own gain, embellished victim rhetoric of their own people. In October 1991, Serbian media ran a story that Croat forces had beaten an Orthodox priest. The same day, Croatian TV aired coverage of Serbian forces beating a Catholic priest. The stories were both true, but Serbs and Croats could only see their stations and had not the access to the blood on their hands.³⁹ Sarajevo was an exception. Here both stories were covered, and all nationalist sides were mobilizing. In only a few months, the Serbs began bombarding the city. Naturally, Serbian TV did not divulge this to its millions of viewers. This saturation of victimization invigorated the war effort, and splintered Bosnia according to ethno-nationalistic lines.

³⁹ Nenad Pejic, "Media's Responsibility for the War in Former Yugoslavia," (working paper 31, Trier University, Zentrum für Europäische Studien, 1998).

Ethnic make-up of Bosnia-Herzegovina, before and after the war

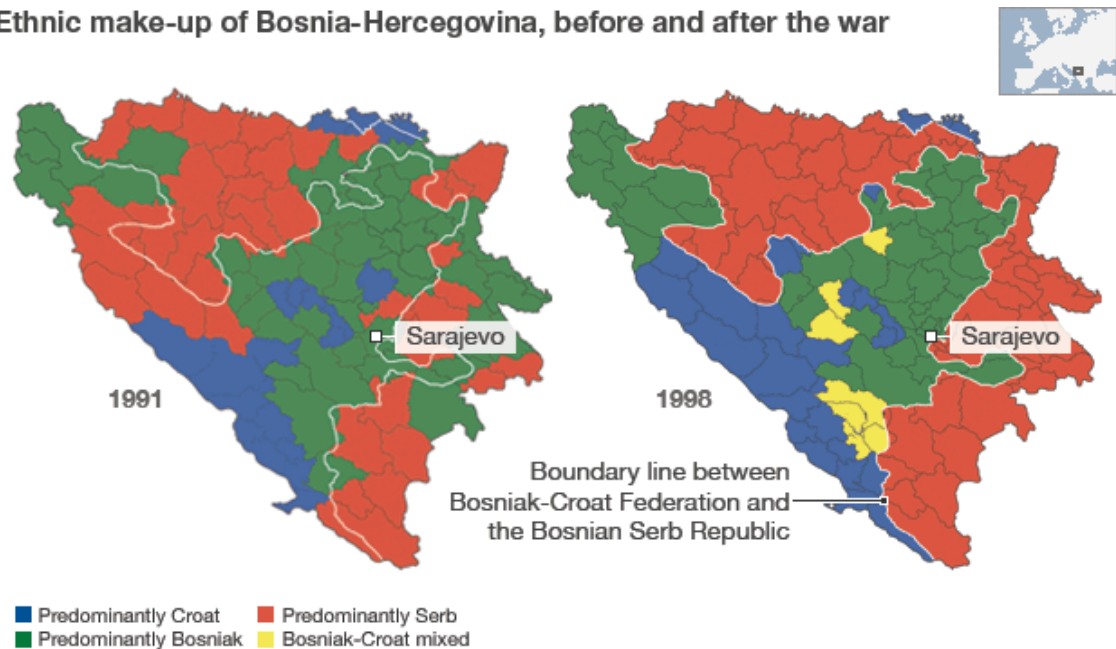


Figure 1.1 The Results of Ethnic Cleansing in the Bosnian War

The majority Serb region, Republika Srpska, proclaimed independence in 1992 but failed to earn international endorsement due to considerable minority dissent of Bosniaks and Croats. Figure 1.1 above displays the mixed composition of Bosnia before the war, and how the territory of the Serbs (Republika Srpska) became more ethnically homogenous by the end of the war. Additionally, majority regions of Bosniaks and Croats became more concentrated in the Federation of BiH. This demonstrates how the Bosnian tragedy was caused by a highly heterogeneous demography, there was no peaceful solution satisfying each of the groups. What Figure 1.1 fails to really show is the extent of how heterogeneous the towns scattered across the hills of Bosnia; territorial majorities were a rarity before the war. But when the conflict began, criminal war used ethnic cleansing to fashion the homogenous population desired to prove legitimacy for a claim to any given territory. Innocent minorities were slaughtered on all sides, and this is the heart of the Bosnian tragedy.

Misha Glenny argues that, “Bosnia could only have been saved if a political party which spanned the three communities had emerged after the collapse of communist rule.”⁴⁰ Alas, not one law was passed in the Bosnian parliament in the eighteen months of its existence before war broke out. This example illustrates the impossibility of a pluralist system in Bosnia while the voters filed into three ethnic groups in 1993. The Western powers encouraged Croatian independence yet failed to prevent Bosnia from sliding into the abyss. Misha Glenny hereby claims the international community shares responsibility for the worst ethnic warfare that had plagued Europe since World War II. While he is indeed qualified in this claim, Glenny romanticizes the influence of foreign politicians on the people of Bosnia. Bosnia was teetering on the edge of chaos ever since nationalistic rhetoric entered the political foray of Yugoslavia again. With a rich history of autocracy, newly independent Bosnians were bound to follow nationalistic leaders rather than experiment with liberal democracy for the first time.

Bosnia split in two entities before the Yugoslav war poured over its borders. In 1992, the Serbs attempted to secede from the newly independent state, creating an entity rather exclusively named Republika Srpska (Republic of Serbia). This discontinuous red territory is depicted in Figure 1.1. The other region became the Federation of BiH. Following a brutal campaign between Bosniaks and Croats in 1993 and 1994, the Washington Agreement peace deal fashioned by the American diplomats silenced the fighting within the Federation. This was the first step towards the ultimate Dayton peace bargain. First, war continued in Bosnia against the better-organized Bosnian Serb forces backed by its powerful patron, the Yugoslav army. Citizens absorbed the propaganda of

⁴⁰ Glenny, *The Fall of Yugoslavia*, 147-148.

the brazen state media, making it nearly impossible to discern responsibility for the violence. For instance, Serbians were not aware that the Bosnian Serbs were the ones shelling Sarajevo, the capital and largest city of Bosnia, for nearly three years.

This changed in July 1995 in the hills of Srebrenica with a massacre of civilians that eerily resembled the nightmares of World War II. The systematic extermination of Bosniak male citizens by Serb militants caused the United States Clinton Administration to put NATO into decisive military action. Western forces were deployed for the first time since the fall of communism against a very different enemy from the typical Soviet-backed villain. But, the Serbs were battered to the negotiating table within the year. The ‘general framework for peace’ was initiated November 21, 1995 in Dayton, Ohio, United States. The Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia soon signed the treaty. The agreement, known as the Dayton Accords⁴¹, ended the war and created a unified Bosnian state *de jure* committed to consociational democracy, but simultaneously allowing international institutions sweeping latitude in Bosnian state building.

2.2 The Dayton State

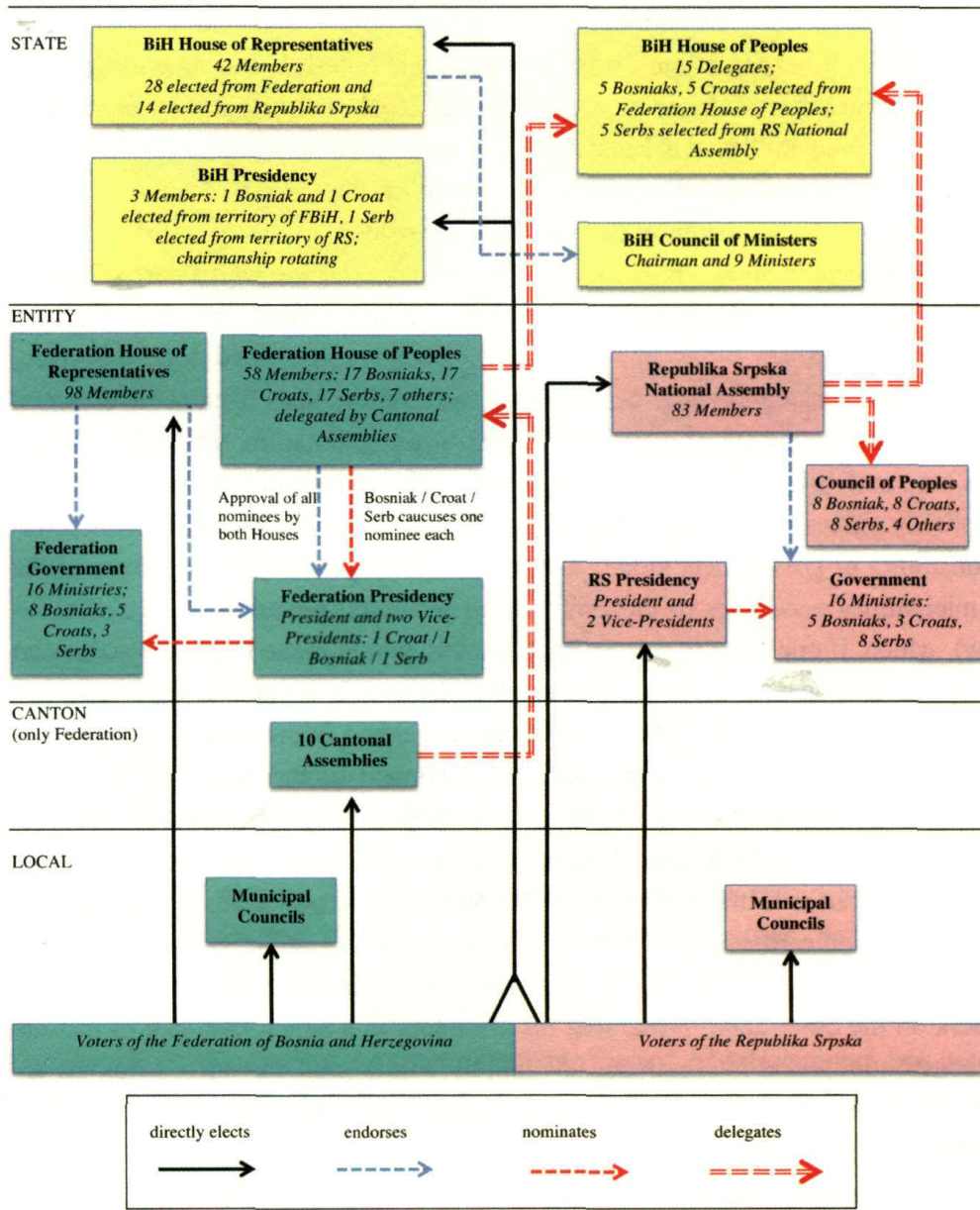
Transitioning to a extensive explanation of the characteristics of consociationalism, the Bosnian state level government possesses very limited capabilities under Dayton, strictly responsible for: foreign policy, foreign trade policy, monetary policy, state financial institutions, immigration, refugee and asylum law, international and

⁴¹ *Dayton Peace Agreement*, RefWorld, United Nations High Commissioner for Refugees, December 14, 1995, <http://www.refworld.org/docid/3de495c34.html>.

inter-entity criminal law enforcement, common and international communication facilities, and inter-entity transportation and air traffic control.⁴² All powers not specifically delegated to the central state, remain in the hands of the entities, which are the two federal contingents of Bosnia that will be the focus of the next section.⁴³ Moreover, roughly 80 percent of all institutional governance is located on the entity level. Bosnia is thus a highly decentralized state. For instance, only in 2006 did the central state add unified armed forces and a state border agency to its ranks.

⁴² *Dayton*, annex IV, art III, § 1.

⁴³ *Dayton*, annex IV, art III, § 3a.



Source: Website Office of the High Representative, <http://www.ohr.int/ohr-info/charts/images/legislative-and-exec-bodies.gif>, accessed 15 August 2013.

Figure 2: Bosnia's Executive and Legislative Anatomy

2.2.1 The Executive

The state level executive is, theoretically, although the line is often blurred, divided into the tripartite Presidency and the Council of Ministers. The Chairman of the Council of Ministers, often referred to as the Prime Minister, is nominated by the Presidency and approved by the House of Representatives.⁴⁴ The Council of Ministers essentially governs the country, while the tripartite presidency leads the country. One of each ethnic group, Serb, Croat, and Bosniak, simultaneously occupy the head of the tripartite Presidency of Bosnia and Herzegovina in an eight-month rotation. The joint Presidency's major constitutional mandate is conducting the foreign policy of BiH⁴⁵ including selecting ambassadors and diplomatic representatives abroad under the condition 'no more than two-thirds of whom can be selected from the Federation of BiH.' This is a prime example of consociational logic that is the framework of the Dayton structure. The balance of the three ethnic groups is installed in the Presidency institution. The Serb president is elected from the Republika Srpska entity while the Bosniak and Croat presidents are elected from the Federation of Bosnia and Herzegovina entity⁴⁶; therefore, every ethnic cleavage is well represented in a power-sharing coalition. It must be noted that a voter in the Republika Srpska can only cast a ballot for a Serb candidate, while voters in the Federation of Bosnia can cast a ballot for either Bosniak or Croat. On the other hand, another example of consociational logic is in the provision that every ministry of the Council of Ministers, whether it is the Ministry of EU Integration or Health, must have one minister and two deputies each from respective ethnic cleavages.

⁴⁴ *Dayton*, annex IV, art V, § 4.

⁴⁵ *Dayton*, annex IV, art V, § 3.

⁴⁶ *Dayton*, annex IV, art V.

Moreover, each government at the entity and cantonal level must abide by this protection as well. This creates an encompassing norm of grand coalition building.

2.2.2 The Legislature

Dayton too sought that the legislative branch was also is founded upon consociational theory. There are two chambers of state level parliament – the House of Peoples and the House of Representatives. In a glaring example of the *grand coalition* element of Lijphart’s theory, the House of Peoples consists of five delegates of each ethnic group, selected institutionally, not by an electorate. Dayton chose to not prescribe the seats proportionally, but prioritizes the equality of the ethnic cleavages as the Council of Ministers does. On the other hand, the much larger legislative chamber is the House of Representatives with 42 members.⁴⁷ Despite that 28 are selected from the Federation entity and 14 from the Republic Srpska entity, the characteristic of *proportional representation* is illustrated by the use of a party list system without ethnic constraints but based on the percentage of votes. The mandates are assigned according to the Sainte-Laguë method. This proportionality device tends to favor smaller parties, keeping a mixed template within the Bosnian parliament. Thus, the *proportional representation* and *grand coalition* characteristics are achieved in the state legislature.

The most striking feature of Bosnian consociation, are the four veto mechanisms built in the system in line with the *mutual veto* insight Lijphart provided for a consociational system. First, the entity voting mechanism ensures that, in addition to securing an overall majority in parliament, one third of each of the two entities must

⁴⁷ Dayton, annex IV, art IV, § 1.

approve of a law as well.⁴⁸ This clause especially favors the Serbs, which possess their own entity. Second, the members of the House of Peoples carry significant veto power of another vein. All legislation requires a minimum of a nine votes in the House of Peoples, “provided that at least three Bosniak, three Croat, and three Serb delegates are present.”⁴⁹ In effect, if three members of a certain group do not show up, then the entire legislative system is blocked. Third, the members of the House of Peoples can declare a law ‘destructive to a vital interest’ of their respective cleavage, and then the law is sent to the three group delegations requiring a majority vote. Fourth, any of the three state presidents can trigger the ‘vital interest’ clause, forcing a vote in the House of Representatives by their group’s officials. If this obtains a two-thirds majority, the law will be struck dead immediately. All in all, Dayton ensures bloc parity, “The constitutional system was not created on the basis of the equality of individuals, but on the equality of ethnic groups.”⁵⁰ The *mutual veto* philosophy of Dayton ensures the stable balance of constituent peoples.

2.2.3 The Judiciary

Ironically, one of the most significant features of the Bosnian framework is the one where non-Bosnians play a direct role: the Constitutional Court. (65 Post-Dayton) This is the supreme judicial organ of the state. Nine judges reside over this body: two Serbs nominated by RS National Assembly; two Croats and two Bosniaks from FBiH Parliament; and three foreigners nominated by the European Court of Human Rights after

⁴⁸ *Dayton*, annex IV, art IV, § 3d.

⁴⁹ *Dayton*, annex IV, art IV, § 1b.

⁵⁰ Bose, *Bosnia After Dayton*, 17.

consultation with the tripartite BiH Presidency.⁵¹ The court's jurisdiction encompasses inter-entity disputes, state-entity disputes, and intra-state disputes. The Constitutional Court is the ultimate guarantor of the Dayton Accords in that it has jurisdiction whether any law at any level of government conflicts with the Bosnian Constitution (Annex 4 of Dayton). Therefore the consociational characteristics, recognized in the legislative and executive, are present again in the judiciary. For instance, if the House of People deem a law in violation of a 'vital interest' and further compromise is unreachable, then the Constitutional Court steps in, transforming the legislative process to a legal decision. This illustrates the consociational logic of the judiciary as the Court becomes involved in veto mechanisms.

In the summer of 2000, the court delivered a landmark verdict sanctioning all three ethnic groups, referred to as 'constituent peoples,' as fully entitled to representation throughout each level of governance in both entities. Consequently, those not of the three groups are termed 'Others' legally. In practice, this decision put mandatory institutional quotas for Bosniaks and Croats in the Republika Srpska entity and for Serbs in Federation of Bosnia entity. For example, after this decision the government, or council of ministers, of the Republika Srpska need consist of eight Serbs, five Bosniaks, three Croats, and one "other" that may or may not replace a Serb. This decision by the Constitutional Court enshrines the key characteristic of consociationalism in Bosnia: accommodation by a grand coalition of elites. The three social cleavages would be represented in every corner Bosnia on each level of governance. Grand coalitions in the Bosnian state, entities, cantons, and municipalities reinforced the consociational character of the democracy.

⁵¹ *Dayton*, annex IV, art. VI, § 1.

Although, the constituent peoples decision has had unforeseeable consequences. December 22, 2009 the European Court of Human Rights in Strasbourg delivered the *Sejdic and Finci v. Bosnia and Herzegovina* verdict. The decision condemns the Dayton system exclusionary measures against BiH citizens that are not of the three constituent peoples. Dervo Sejdic and Jakob Finci were prominent Bosnian citizens of the Bosnian capital, Sarajevo; the former was of Roma origin and the latter a Jew.⁵² Thus, Sejdic and Finci are members of the ‘Others’ minority in Bosnia. Since Dayton prescribes the state-level parliament chamber, the House of Peoples, and the BiH Presidency are composed solely and exclusively of constituent peoples, Roma and Jews cannot hold this public office. Both men lodged complaints with the European Court of Human Rights in 2006. The court acknowledged Dayton had served as a fragile ceasefire to end inter-ethnic conflict, but noted that considerable progress had since been made in Bosnia. Evidence to this affect being that Bosnia amended its constitution for the first time in 2009 and became a member of the UN Security Council for a two-year term. Nonetheless, the court agreed in December 2009, “the time was perhaps still not ripe for a political system that abandoned the power-sharing mechanism in place,” but that, “did not automatically lead to the total exclusion of representatives of the communities that were not constituent peoples.”⁵³ The Bosnian parliament has yet to implement the decision. This inability has

⁵² Lucy Claridge, “Discrimination and Political Participation in Bosnia and Herzegovina: *Sejdic and Finci v. Bosnia and Herzegovina*,” *Minority Rights Group International*, January 2010, <http://minorityrights.org/wp-content/uploads/old-site-downloads/download-787-Briefing-Paper-Discrimination-and-political-participation-in-Bosnia-and-Herzegovina.pdf>.

⁵³ *Sejdic and Finci v. Bosnia and Herzegovina*, application nos. 27996/06 and 34836/06, Judgment, European Court of Human Rights, December 22, 2009, Sec. 48, <http://www.refworld.org/cases,ECHR,4b44a28a2.html>.

contributed to Bosnia's clogged accession to the European Union. Moreover, this case highlights how consociational democracy cannot accompany strong individual rights. The two are in logical disagreement, and this disagreement has dislodged the efficiency of courts throughout the Bosnian system.

2.3 The Entities

As referenced in the previous section, the state of Bosnia and Herzegovina contains two federal units called entities. They are the Republika Srpska (RS) and Federation of Bosnia Herzegovina (FBiH). The RS is predominantly Serb while Croats and Bosniaks share the FBiH. How the Bosnian state arrived at two territorial bodies instead of three, one for each ethnic group, is due to the outcomes of the war in the 90's. In the preliminary stages of the conflict, strong nationalist ideology from Serbia and Croatia created an incentive for Bosnian Serb and Bosnian Croat war leaders to create "strong territorial segregation." Therefore, in January 1992, the Serbs established the *Republika Srpska* of Bosnia and Herzegovina, and a few months afterwards; the Croats founded the Croat Community of *Herceg-Bosna*. Meanwhile, the Bosniaks, though never exclusively, took the reigns of the newly independent Bosnian state, which had been diminished, to 20% of the Bosnian territory due to ambitious borders the Croats and Serbs drew. Moreover, as Misha Glenny points out, the territory of Bosnia was too mixed to draw clear boundaries as the nationalists wanted, "Many doomed settlements were a jumble of all three (Croat, Serb, and Muslim). This deeply entangled demography would ensure that if terror and war were to break out in any region of Yugoslavia, the pressure

on the three communities in Bosnia-Herzegovina to fight would be overwhelming.”⁵⁴ As we know, this tragedy became too real. A border between the Croats and Bosniaks would never be found. The Washington Peace deal ended the fighting between the two groups in 1994, establishing the roots of the Federation entity at a massive cost of life. On the other hand, the Bosnian Serbs were able to create a territory to ensure their autonomy, but only by the means of resettlement and in the shadow of ethnic cleansing. Most importantly, considering the realistic outcomes of the fighting, Dayton was forced to obey the territorial status quo on the ground. With the exception of the unification of Sarajevo under Federation control and the establishment of a corridor between the Federation and Gorazde, the Bosnian constitution, and the entity structure it enshrined, is a codification of the spoils of war.

Today, the Republika Srpska and the Federation of Bosnia and Herzegovina encompass 49 percent and 51 percent of the state territory respectively. The relationship between the entities and the central state lies at the heart of the Dayton constitutional system. The entities are separate from the state level institutions, but reserve all powers that are not explicitly granted to the central state, eighty percent of institutional authority in Bosnia by the account mentioned previously. The extension of considerable federal power to the hands of the entities illustrates the fourth consociational criteria, *segmental autonomy*, within the Bosnian system.

Dayton granted the entities a generous share of autonomy. Each entity possesses the institutions of president, parliament, and judiciary that operate largely in isolation of the central state. The most noteworthy autonomous ability is to conduct foreign policy

⁵⁴ Glenny, *The Fall of Yugoslavia*, 147.

with adjacent countries. In affect, this means that RS can form bilateral ties with Serbia and the Federation can form bilateral ties with Croatia.⁵⁵ Indeed, this is a particularly unique characteristic of Bosnia that is typically not present in federal systems. On the other hand, the entity autonomy is limited in that it cannot contradict the central state constitution and are subject to the decisions of the Constitutional Court. For example, the aforementioned ‘constituent people’s decision’ of the Constitutional Court required representative parity in institutions at the entity level too. Although the central state seldom flexes its muscles on domestic policy, it can pass, enforce, and interpret laws for the entities. If the central state is unable to step in to protect the Bosnian Constitution, the international community will check entity separatism in the spirit of protecting Dayton. This occurred in 2011 when Milorad Dodik, an influential Serb politician of the RS, was whipping up ethno-nationalism in support of a referendum to undermine central state institutions.⁵⁶ In response to the crisis, EU foreign policy chief Catherine Ashton met with Dodik to squash the referendum before it went out. Ashton was successful and the spirit of central state authority was restored. But ultimately, Dodik, the leader of a federal entity, should never have been granted an audience with a foreign power if Dayton functioned properly. This example illustrates the blurred autonomy the entity level possesses in Bosnia, unlike a typical case of federalism.

⁵⁵ *Republika Srpska Constitution*, art IV, Bosnia and Herzegovina: Official Gazette of Republika Srpska, no. 3 (1992). <http://rai-see.org/wp-content/uploads/2015/08/constitution-of-RS-en.pdf>.

⁵⁶ Eldin Hadzovic, and Drazen Remikovic, “Bosnia: Dodik Agrees to Drop Disputed Referendum,” *Balkan Insight*, May 13, 2011, <http://www.balkaninsight.com/en/article/catherine-ashton-to-meet-bosnian-leaders>.

2.3.1 Republika Srpska: Territorial Autonomy

As mentioned prior, the Republika Srpska attempted to declare independence in the early stages of the Bosnian War. In result, the border between Republika Srpska and the rest of Bosnia (the Federation) became a very tangible and violent division over the next few years. The peace deal, Dayton, reunited RS with Bosnia, but could not dare go so far as erasing the autonomy of the Serb enclave. Since Dayton, there are countless examples of secessionist rhetoric used by Republika Srpska political elites. However, from a legal perspective, the calls for statehood are legally invalid. The president of Republika Srpska, Milorad Dodik, claims, “Serbs as a people have two homes, Serbia and Republika Srpska. RS has all the criteria of a state: territory, government, and a people. And these are the criteria from Montevideo.”⁵⁷ As the author Merdzanovic lays out, the Montevideo Convention of 1933 outlined three criteria for statehood that Dodik correctly names. While Dodik is correct in his claim for people and territory, he is mistaken in the third, government. Legal experts have interpreted the Montevideo Convention as prescribing a *sovereign* government. Since the Republika Srpska is clearly subject to the institutions of the central state by the Dayton accords, the government of RS does not meet the Montevideo standard for statehood. Milorad Dodik’s statement is inconsistent with the international law he cited; however, Dodik is engaging an uneducated audience. His words are less for the truth of the matter asserted, and more to incite Serb patriotism. He is playing the role of the nationalist, a very natural role of Balkan politicians. Political elites from the Republika Srpska, such as President Dodik,

⁵⁷ Merdzanovic, *Democracy By Decree: Prospects and Limits of Imposed Consociational Democracy in Bosnia and Herzegovina*, Stuttgart: Ibidem-Verlag, 2015, 168.

still fire off claims for secession in the 2018 election campaign. Dayton is constructed on the consociational logic of allowing the Serb cleavage to remain autonomous in a territorial sense through the entity structure, but to this affect the elite collaboration envisioned is squandered by secessionist rhetoric.

The institutional framework of Bosnia and Herzegovina and the Federation of BiH are heavily influenced by the consociational ideology of fragmented power and parity of groups, but the Republika Srpska is not. The RS constitution is loaded with rhetoric demanding self-rule of the Serb cleavage. “Republika Srpska shall be the State of the Serb people and of all its citizens.”⁵⁸ Author Bose describes the RS as having a “siege mentality” from its birth in the perils of implosion and civil war surrounded by enemies. Article 104 of the Republika Srpska Constitution was amended with encouragement from the international community from, “the defense and protection of the sovereignty and independence of Republika Srpska is the right and duty of all citizens,”⁵⁹ to the right of merely defending their ‘territory’ and ‘constitutional order.’ Notably, the Republika Srpska firmly held onto the power of an autonomous standing army until 2006, more than decade since Dayton was enacted.⁶⁰ This example further evidences the autonomous bunker mentality the RS entity possesses. This is precisely the circumstance consociational theory is equipped for.

The Republika Srpska echoes an age-old Serbian political tradition in the supreme standing of the parliament. The RS legislature is called the National Assembly, consisting

⁵⁸ *Republika Srpska Const*, art I.

⁵⁹ Bose, *Bosnia After Dayton*, 69.

⁶⁰ Eralp, Doga Ulas, *Politics of the European Union in Bosnia-Herzegovina: Between Conflict and Democracy* (Lanham: Lexington Books, 2012), 93.

of eighty-three delegates in a single chamber representing the whole territory. Delegates are elected for four-year terms, and the chamber operates by majority vote. In practical terms, the RS legislature is unicameral, but there is an ‘advisory body’ the Senate, of 55 ‘distinguished individuals from the public sector, the academic and the science sector, as well as the arts and culture sector.’⁶¹ The executive arm, the Government, consists of a Prime Minister, deputy minister, and numerous other ministers assigned a portfolio. The Government can be removed by a vote of no confidence by the National Assembly, thus are ‘responsible to the NA.’⁶² Furthermore, the President of the RS is elected directly by the citizens by a popular vote.⁶³ The role of the President is not entirely symbolic, but also a player in the legislative procedure. The President nominates each of the Senate members. Furthermore, the president can chose to promulgate a law the NA passes, sending it back to the chamber to be voted on again. Of course, if passed for a second time, the law goes into effect.⁶⁴ The President can also interfere in the executive process. With the support of 20 delegates of the NA, request the resignation of the Prime Minister.⁶⁵ As for the judiciary, the RS has its own constitutional court deciding conflicts between the separate branches of entity government and intra level quarrels between the entity and the municipalities. Additionally, there is a network of courts in RS with a Supreme Court sitting on the pinnacle.

Following this incredibly brief overview, we can determine the RS system resembles a Western parliament-dominated organism. This is further evidenced in the

⁶¹ *Republika Srpska Const*, art 89.

⁶² *Republika Srpska Const*, art 94.

⁶³ *Republika Srpska Const*, art 83.

⁶⁴ *Republika Srpska Const*, art 80.

⁶⁵ *Republika Srpska Const*, art 94.

140 articles in the RS Constitution that directly address the municipalities. Thus, the roles of the municipalities are ‘largely limited to implementation and administration’ and not a centre of ‘autonomous decision-making.’⁶⁶ This illustrates the centralized nature of the aspiring government. In addition, the RS has its own television-broadcasting network and its own ‘National Bank’.⁶⁷ To this affect, Bosnia and Herzegovina’s consociational structure engineered *segmental autonomy* through the physical and institutional separation of the Republika Srpska for the Serb cleavage within the context of consociational logic.

2.3.2 The Federation: Integrated Autonomy

The international interventionists used the Washington Peace Deal to silence the Croats-Bosniaks front in 1994 with the intention of transitioning focus to Bosnian Serb aggression. Thus, the FBiH territory was a pragmatic creation in desperate times, rather than a thorough review of the delicate dynamic between the two groups. In March 1996, the President of the Federation, Croat Kresimir Zubak said, “We entered the project called the Federation under time pressure. The principles and goals of neither the one nor the other people were predefined or redefined. The Croats can accept the Federation, but the problem is that the Muslim (Bosniak) leadership did not accept the Federation as the ultimate model, but as a temporary solution in which one people dominates the other.”⁶⁸ Furthermore, Bozo Rajic, President of the dominant Croat nationalist party HDZ, spoke out in 1996 that, “Croats sacrifice that degree of autonomy that they would have in a

⁶⁶ Bose, *Bosnia After Dayton*, 74.

⁶⁷ *Republika Srpska Const*, art. 98.

⁶⁸ Merdzanovic, *Democracy By Decree*, 239.

Republic of their own, and the Bosniaks sacrifice the concept of a unitary civic state.”⁶⁹

This illustrates how the two demographic cleavages of the Federation are innately in tension; Bosniaks want more centralization, the Croats fragmentation. This tension lies at the heart of the Federation construct.

While the autonomy of the Serb cleavage is afforded through the territorial structure of Dayton, the autonomy Bosniaks and Croats in the Federation of BiH is integrated into the cantonal structure. The canton is another layer of administrative institutions that are unique to the FBiH. There are ten of these cantons: five majority Bosniak, three Croat, and two mixed. Each canton possesses individual executive, judicial and legislative branches. While, RS rests supremacy in a unicameral parliament, the Federation must be more delicate to balance the autonomy of the cleavages Bosniak and Croat, thus the cantons possess the lion’s share of power. This is rooted in the fact that Croats are outnumbered in the FBiH. 2013 census numbers reveal there are 497,883 Croats living in the FBiH, which is 22.4% of the population.⁷⁰ However, Croats are given constitutional mandates by Dayton that entitles them to equal representation in most institutions with the 70.4% Bosniak population. Thus, the Croats have fought hard to capture enough cantonal-level power to ensure their autonomy is protected.

Part III of the Federation Constitution apportions power between the cantons and the entity levels, and it leaves much to be desired from the entity-level. The Federation itself is merely granted: making economic policy (meaningless), fiscal policy, inter-cantonal crimes, combatting terrorism, allocating electronic frequencies, and making

⁶⁹ Merdzanovic, *Democracy By Decree*, 239.

⁷⁰ [Census 2013 in Bosnia and Herzegovina], accessed April 24, 2018, <http://www.statistika.ba/?lang=en>.

energy policy.⁷¹ Excluding the last item, those powers are meek. However there is a *concurrent* list of responsibilities for the entity and cantons: health, human rights, environmental policy, infrastructure for transportation and communications, social welfare policy, tourism, and the use of natural resources. The constitution encourages, or rather services, the levels to work harmoniously, ‘the Cantons and the Federation Government shall consult one another on an ongoing basis with regard to these responsibilities; but, in execution, the cantons have taken most of these powers.

Lastly, the cantons are specifically granted the responsibility of police forces, education policy, cultural policy, housing policy, public services, local land use, regulating and promoting local businesses and charities, regulating availability of energy resources, policy concerning radio and television facilities, implementing social welfare policy, implementing Cantonal tourism policy, and financing everything with taxation or borrowing.⁷² Clearly, many of these responsibilities run parallel with the concurrent list; therefore, cantons have assumed the lion’s share of responsibility for them. Furthermore, cantons have absorbed the governing of energy resources, the one remaining prerogative of the entity level, due to the substantial hydroelectric resources in the territory.

In keeping with the strain of consociational logic from the central state configuration, the framers of the FBiH constitution enshrined the parity of three ethnic cleavages through quota mechanisms. The House of Peoples is the upper chamber of the Federation. It is composed of 58 delegates; 17 from each of the constituent peoples and 7

⁷¹ *Constitution of Federation of Bosnia and Herzegovina*: Official Gazette of the Federation of Bosnia and Herzegovina, (1994), https://advokat-prnjavorac.com/legislation/constitution_fbih.pdf.

⁷² *Const of Federation of Bosnia and Herzegovina*, part III, art 4.

from the ‘Others.’⁷³ Delegates of the House of Peoples are not elected by the voters, but nominated by the cantonal representatives. Each canton must send at least one delegate of each ethnic cleavage to the Federation House of Peoples. However, the Constitutional Court struck down this law in the recent case brought by the Croat leader Ljubic. The Federation, as of May 2018, is in a state of crisis without a method of electing the House of Peoples. This body nominates two-thirds of the central state House of Peoples, thus the entire Bosnian state is facing imminent shutdown. An extensive analysis of this impending situation is in chapter 5. Though, the primary takeaway is that the Croats, despite being the minority group in the Federation, have used triggered their segmental autonomy through a judicial mechanism. This demonstrates how consociational theory has been integrated into the structure of the Federation BiH despite possessing a heterogeneous populace.

2.4 The Consociational Classroom

The consociational framework invoked by Dayton constructs a highly decentralized bureaucracy and complex framework of political accommodation as described in the following two sections. The complexity and decentralization is due to two factors: (1) innate consociational theory and (2) the internationals integrated in the framework.

First, complexity arises from consociational theory. As anti-majoritarian, this system requires the full participation and accommodation of all the minority groups. According to Lijphart, “past violence among the subcultures,” is a takeoff mechanism for

⁷³ *Constit of Federation of Bosnia and Herzegovina*, part IV, art. 6.

consociational theory, and this is certainly present in post-war Bosnia.⁷⁴ So, Dayton decided that the collective interests of Serbs, Croats, and Bosniaks (Muslims) would be protected. These protections are engrained in the structure of the Bosnian state. Richard Holbrook, the architect of Dayton, noted that the Dayton agreement was chiefly influenced by the front lines of the war. Thus, the agreement is not an ideal consociational application, but is rather limited to the realities of the post-conflict state. This generated a difficult balancing task amongst ethnic interests.

Second, complexity arises from the international community being engrained in the functionality of the state. For example, Dayton asserts the supremacy of the European Convention for the Protection of Human Rights and Fundamental Rights over all other law in Bosnia.⁷⁵ Bosnian officials must provide unrestricted access to international human rights monitoring mechanisms including the United Nations and NATO, and any supervisory board that has approval by these two including IFOR (Implementation Force) and the ICTY (International Criminal Tribunal of Yugoslavia). Additionally, Dayton restricts the Bosnian Parliament from amending the clause granting the international community unrestricted access.⁷⁶ Consequently, Dayton has created legal dependence on the active role of the international community within the consociational structure. This is the second root of complexity in the Bosnian system.

⁷⁴ Gerhard Lehbruch, "Consociational Democracy in the International System," *European Journal of Political Research* 3, no. 4 (1975), 380.

⁷⁵ *Dayton*, annex 4, art 2.

⁷⁶ *Dayton*, annex 4, art 10.

Many scholars have blamed the dysfunction of Bosnia on the complexity of the first type, that ethno-nationalist parties do not agree because they are legally entitled to preventing majoritarian rule.

In multiethnic Bosnia, where the Dayton accords have forced the Bosnian Serbs, Bosnian Croats, and Bosnian Muslims to live together in an artificial state, pluralism and democracy are going backward.⁷⁷

In the words of the American journalist and three-time Pulitzer Prize winner, Thomas Friedman, systematic civil democratization is incompatible with societies deeply divided along ethnic lines. His argument illustrates the conventional viewpoint that societies deeply divided along ethnic lines are unsuitable for democracy.⁷⁸ He reasons, that perhaps Bosnia would be better off divided into three states, each encompassing a different ethnic group. However, this stance undervalues the complexity of Bosnian divisions. The three ethnic groups lived relatively harmoniously for centuries; the differences between the groups were artificial creations of external forces, much more so than the artificial creation of the Bosnian state today. As Misha Glenny pointed out, the spillover of nationalism from Yugoslavia's breakup cracked the centuries of Bosnian multi-ethnic coherence into pieces. Despite the divisions dug in the war, the Bosnian population remains too intermixed to suggest clean boundaries. The parties are already formed along ethnic lines. I believe the partition suggestion made by the Pulitzer winner would result in certain civil war.

⁷⁷ Thomas L. Friedman, "Foreign Affairs; Not Happening," *New York Times*, January 23, 2001, <https://nyti.ms/2j7zTun>.

⁷⁸ Bose, *Bosnia After Dayton*, 42.

However, Arend Lijphart, the Dutch scholar whose contributions made consociational theory one of the most renowned approaches to comparative constitutional design in the 20th century, argued against this blanket pessimism. As the first chapter of this paper explained, Lijphart argued that institutionalizing segmental identities in a ‘grand coalition’ of elite would allow the polity to cooperate where there is extremely limited coherence between isolated groups of citizens. The drafters of Dayton recognized the priority of consociational democracy to deliver stability as a compelling incentive to implement it in Bosnia. “Normative consociational theory is a theory of democratization intending to produce stable democratic rule.”⁷⁹ This example highlights the crisis-orientated potential of Lijphart’s theory, but also raises the question if this arrangement is capable of sustaining a polity under the conditions Bosnia has faced.

Lijphart never considered the international context of consociational design, but many scholars after him have deeply considered the topic. In the view of political philosopher Eldar Sarajlic, the relationship can be termed a, “convenient consociation,”⁸⁰ or rather, a convenient approach to consociational democracy from the viewpoint of the international community. By placing themselves as the mediators between the ethnic cleavages, the foreigners make themselves indispensable within the logic of social and political accommodation. Sarajlic warns that accommodation which is more cosmetic than functional falls short of Lijphart’s theory. In result, we ask if consociational theory can exist under the weight of international interference. According to Sarajlic, imposing

⁷⁹ Merdžanović, *Democracy By Decree*, 136.

⁸⁰ Eldar Sarajlic, “The Convenient Consociation: Bosnia and Herzegovina, Ethnopolitics and the EU,” Paper presented at Political Identities and Identity Politics in Bosnia-Herzegovina, Geneva, Switzerland, 2009.

consensus on the segmental cleavages is not traditionally consociational. According to Lijphart, the social cleavages must discover the incentive to accommodate from the fear of disintegration and conflict.

On the other hand, international weight will not necessarily crush consociational logic. Gerhard Lehbruch explains how consociational theory can be adapted to fit the international setting, “If, as a result of *octroi* or mediation (by international powers), consociational strategies are introduced and turn out to be advantageous for the interested parties, consociational norms of behavior may be internalized in the process of learning through success.”⁸¹ This example highlights how even though consociational theory may be imposed in its structure of institutions; internal consociationalism can be “learned.” In Lehbruch’s view, this is the essence of Lijphart’s logic. The internal process of teaching consensus has largely been the mandate of the Office of the High Representative (OHR), an international institution crafted by Dayton. Therefore, the OHR should be teaching the Bosnian elite how accommodation is enticing in Lehbruch’s terms. Through the pupil-guide relationship, Lehbruch argues the consociational democracy can be internationally designed in contrast to Sarajlic’s argument.

Lehbruch highlights how the regional pressures impact consociational democracies too. Due to the ethnic camaraderie between Serbia and Croatia for their Bosnian counterparts, this consideration is certainly pertinent for Bosnia. Along Lehbruch’s logic, if Bosnian Croat elites are closer with, or influenced more by, the Bosnian Serb elites and Bosniak elites, rather than the homeland Croatian elites, then consociational theory will function as designed. However, if this is not the case, “If the

⁸¹ Lehbruch, “Consociational Democracy,” 382.

internal genetic conditions of consociational strategies are weakly developed, then the distance among the internal elites will tend to be larger, while the distance between the internal elites and the corresponding external elites will be smaller.”⁸² This example highlights how it might as well be the job of the international community to ensure homeland affinities do not breakdown consociational theory. But Lehmbruch says, under these conditions, partition may still not be a viable solution because either the ethnic groups are intermingled or because one or more of the parties will see partition as a zero-sum game. Both are the case. The territory remains heterogeneous and the state centralization is engaged in a zero-sum game. Notice, any attempt to give Serbs or Croats greater decentralization will negatively affect the Bosniak push for Bosnian state centralization. Therefore, under these conditions, Lehmbruch argues that consociational theory can and must be “learned” by the Bosnian elite. I add on that the consociational community could limit the influence of homeland politicians on the Bosnian microcosm. All in all, Bosnia should engage in an international consociational classroom in order to ensure the theory creates grand coalition accommodation.

Interestingly, another author has published on the topic this thesis seeks to address: the ironies of consociational government. Aaron Vlasak wrote that administration of forestry in Bosnia represents the problems with a highly fragmented and consociational design.

In FBiH, the constitutional protection of local self-governance rights led to the disintegration of Federal forest law. There, forest administration is composed of many authorities on multiple layers, and the presumption of cooperation among them is principally a theoretical tenant of consociational democracy. Although there are statutory imperatives of cooperation, in action, interagency relations

⁸² Lehmbruch, “Consociational Democracy.” 384.

more resemble reluctant coalescence or utter dissociation than cooperation. Postwar consociation in FBiH generally lacks the liberal value of compromise. This is a key irony of so-called “consociation”: political accommodation becomes a blockage to consensual politics, going forward.⁸³

While Vlasak aptly points out that complexity of administration plagues the system, he is mistaken to believe that creating “*ad hoc* implementation bodies” will remedy cross-segmental accommodation. The true irony of consociationalism is the push to impose consociationalism, thereby departing from the ownership doctrine that is found in the classroom. The Bosnian elites need to be taught how to form consensus, not given the end product. This is not how learning works, and this represents the crux of the problem with consociationalism in Bosnia today. The next three chapters validate this specific claim.

⁸³ Aaron Vlasak, “Ironies of Consociation: Forest and Natural Resource Governance in Post-War Bosnia and Herzegovina,” *Society & Natural Resources* 31, no. 5 (2018): 611, <https://doi.org/10.1080/08941920.2017.1421281>.

Chapter III – The Office of the High Representative

3.1 In Good Faith

In 1993, ethnic war had consumed the region of Yugoslavia since the nations of Slovenia, Croatia, and Bosnia declared independence. All had been bloody, but none so much as the multi-ethnic Bosnia. Communities of Bosniaks (Muslim), Serbs and Croats were suddenly trapped in a land crawling with enemies, seeking to use any means to establish the authority of their ethno-nationalist group. In March 1993, 60,000 mainly Bosniak refugees swelled into the little Bosnian town Srebrenica without sufficient materials of survival. United Nations commander Philippe Marillion was beckoned to the town from worldwide the cries for humanitarian aid. He replied, “You are now under the protection of the United Nations ... I will never abandon you.”⁸⁴ He was mistaken. In April, Bosnian Serb forces commanded by General Ratko Mladic surrounded the town of Srebrenica. The U.N. declared the city a safe zone, but Serb forces cut off the town of basic necessities for many months to force surrender. Then, tensions in Srebrenica escalated in 1995 as NATO bombed a nearby Serb munitions enclave. In response, a Serb assault took 400, mainly Dutch, U.N. peacekeepers hostage. This move gave room for the Serbs to bargain with the U.N., ultimately leading the U.N. relinquishing control of the thousands of refugees they had sworn to protect in Srebrenica. The Serb forces descended into the camps raping and killing at will. July 11, 1995, as international forces tried to regain protection for the refugees of Srebrenica, General Mladic corralled all the refugee males of military age and murdered them outright. 7,079 were killed in the Srebrenica massacre: the bloodiest day on European soil since World War II. In response, NATO

⁸⁴ Rhode, *Endgame: The Betrayal*.

Operation Deliberate Force dropped over a thousand bombs on Serbian forces, crippling their military and forcing them to the negotiating table by the end of summer. Peace was finally secured; there is no doubt the NATO campaign led by the United States saved thousands from perishing like those at Srebrenica.

Considering the bloody context of Bosnia, the United States' aim of intervention is justified. Morally, the sheer number of innocent deaths at the heart of Europe was a calamity. Politically, the Clinton Administration was brought under immense pressure after two years of standing by. Strategically, the viability of NATO was on the line. Ivo H. Daalder concludes there are five principle reasons the United States decided in August 1995, after watching the Bosnian conflict for well over two years, to engage in intervention, "The expected collapse of UNPROFOR following the humiliation of the hostage crisis; the threat Bosnia posed to the vitality, if not continued vitality, of NATO; the prospect of having to deploy U.S. troops to rescue UN forces and sustain the alliance's credibility; and congressional pressure to lift the arms embargo against Bosnia. Undergirding all of these was the president's reelection campaign, then only months away."⁸⁵ The U.S. and its allies set an artificial twelve-month deadline for the removal of troops from the country. Ivo Daalder, the key strategist of U.S. policy in Bosnia, emphasized that President Clinton, learning from experience in Somalia and Haiti, wanted a concise "exit strategy."⁸⁶ However, once the American agenda of ending of the war was in reach, it quickly became a much harder issue of creating lasting peace in Bosnia. The United States and Western Allies secured peace on the European continent

⁸⁵ Daalder, *Getting to Dayton*, 163.

⁸⁶ Daalder, *Getting to Dayton*, 149.

through force then brought the leaders of the warring factions to Dayton, Ohio to ensure this catastrophe would not be repeated. The Dayton Peace Agreement was an accomplishment for global peace and enshrined Bosnia's commitment to democracy. But, peace negotiations did not follow the traditional course of waiting for a solution for the political conflict to ripen; "Dayton differed from this traditional negotiating method by substituting American leadership and bluster for the parties' commitment to search for a negotiated solution." Therefore, Dayton became more an imposition than an agreement. Thus, the reality of creating sustainable peace in Bosnia proved to be much more difficult than perhaps the United States imagined.

Dayton's Annex IV is the portion of the agreement that outlined the constitutional structure of Bosnia agreeing with the four tiers of consociationalism. Additionally, Dayton is laden with language that evokes the arbitration of the international community in the state-building process. This includes: Annex II granting IFOR (backed by NATO) the mandate to rule the irksome Brcko district; Annex III endorsing the OSCE with expediting free and fair elections; and Annex VII giving unrestricted access to the UNHCR, UNDP, and International Committee of the Red Cross (ICRC) for return of refugees and humanitarian aid. Measures such as these allowed the Western powers to play an active role in planting democracy into the highly divided Bosnian soil. While the international involvement is extensive, the rationale and implementation of these external measures were done in good faith. However, even acting in good faith one can become carried away. No Dayton provision would lay the foundation for such excessive international power as Annex X, the formation of the Office of the High Representative (OHR).

Annex X is titled: “Agreement on Civilian Implementation,” meaning that this institution is responsible for the non-military affairs of international intervention specifically refugee resettlement, economic reconstruction, and the establishment of political institutions.⁸⁷ The nations who participated in the Dayton Accords created the OHR to protect their stake in the intervention.

The High Representative is working with the people and institutions of Bosnia and Herzegovina and the international community to ensure that Bosnia and Herzegovina evolves into a peaceful and viable democracy on course for integration in Euro-Atlantic institutions. The OHR is working towards the point where Bosnia and Herzegovina is able to take full responsibility for its own affairs.⁸⁸

As this example demonstrates, the High Representative is the diplomatic guardian of the Dayton Peace Agreement from a global and local perspective. Dayton ensures that progress reports are published to the United Nations, European Union, United States, Russian Federation, and any other interested governments.⁸⁹ Furthermore, the High Representative convenes a “Joint Civilian Commission” of various BiH political elite at any level of government. This hereby entails that the OHR possesses the responsibility to create consensus among the three ethnic cleavages within the consociational incentive structure. Consociational democracy, explained in detail in the Chapter I of the thesis, relies upon the accommodation political elites across the social divisions of the citizens. The task of safeguarding consociational Dayton by fostering multiethnic cooperation has proven to be the ultimate challenge of every High Representative over the past two

⁸⁷ *Dayton*, annex X, art I, paragraph 36.

⁸⁸ “General Information,” Office of the High Representative, accessed April 17, 2018, http://www.ohr.int/?page_id=1139.

⁸⁹ *Dayton*, annex X, art II, paragraph 26, § f.

decades. All seven High Representatives have taken different approaches to this mandate as the Bosnia evolved over the past twenty years; however, the key problem is always the same. External pressure to crosscut social cleavages is not necessary to ensuring a stable democratic state.

The Dayton Peace Agreement established a group of nations called the Peace Implementation Council (PIC) to oversee democratization process in Bosnia. The PIC comprises of fifty-five nations and agencies that provide financial support, troops, or direct operations on the ground in Bosnia.⁹⁰ From the first meeting in London, the Peace Implementation Conference established the Steering Board to work as the executive representative of the diplomatic body. The Steering Board includes: U.S., Canada, Japan, Italy, Germany, France, United Kingdom, Russia, the presidency of the E.U., the European Commission, and the Organization of the Islamic Conference represented by Turkey. This collection of substantial global power guides the aims of the international agency, the Office of the High Representative (OHR). The OHR is the external agency tangibly in Bosnia influencing the political elite directly. Formed (in 1995) as a temporary monitor and implementer of democratization in Bosnia, the OHR carries the burden of maintaining compliance with the Dayton agreement. In other words, the OHR is needed to make sure the international intervention for lasting peace does not turn out a bust.⁹¹

To this end, Dayton outlays the functions of the OHR, “Maintain close contact with the Parties to promote their full compliance with all civilian aspects of the peace

⁹⁰ Eralp, *Politics of the European Union*, 40.

⁹¹ *Dayton*, annex X, art II, § 26a.

settlement and a high level of cooperation between them and the organizations and agencies participating in those aspects.”⁹² This example illustrates an important nuance of consociational thought. Dayton directly addresses the parties of Bosnia, implying that the subjects of Dayton are not as much the Bosnian citizens, but rather the nationalist ideologies the parties represent. In the wake of the war, this is an intentional and essential property of consociational theory. Rampant ethno-nationalism was the tiger that brought the country to war; thus it is vital that Dayton addresses the cleavages plainly. The OHR is responsible to ensure each of the ethno-cleavages would cooperate with the peace, meaning that the Bosnian constitutional structure engineered in Annex 4 of Dayton came to fruition. All in all, the OHR was tasked with the very mission of guaranteeing consociational theory did not fail by addressing the nationalist parties directly.

3.2 The First Elections of 1996

High Representative Wolfgang Petritsch (1999-2002) recognized that while consociational theory depends on an ‘elite cartel’ to bridge the gaps between the social cleavages, the Bosnian elite from the war needed to be exchanged for a new generation that was sincerely capable of compromise. However, due to the pragmatism of creating peace, Dayton kept the nationalist elite in power. The clinging existence of the political elite that dragged Bosnia into the nationalist war did not hold a compelling promise of reconciliation, but this elite held the power to stop the fighting – the first priority of the Clinton Administration in Bosnian intervention. Recall from the previous chapter how Dayton specifically addressed the parties that represent the sides of the war rather than

⁹² *Dayton*, annex X, art II, § 26b.

the citizens of Bosnia themselves. High Representative Petritsch conceded that while the nationalist parties make it inconvenient to find multi-ethnic agreement, the nationalist elites were the ones in charge of the war in Bosnia, and any serious attempt to make peace in Bosnia needed to go through them.

If you ask me to choose between having an elite, and it was inevitably the same elite around from the war, or having a charge of people unconnected to the war but less elite in their experience, I'd chose the second. [But when we go into a country]...we, the international community, do an immediate deal with the people in charge because it makes it easier for us to run the country-and, by the way, solves the problem of legitimacy as well. But what [you] do then is you buy in the very people who brought the war. In almost all cases they are the corrupt people because that's what wars produce...So we do the easy deal, the quick deal.⁹³

— Paddy Ashdown, High Representative (2002-2006)

On January 10, 2018, I met with a pair of electoral lawyers at the Office of the High Representative in Sarajevo. One of the individuals commented that the greatest blunder the International Community made in Bosnia was to allow the wartime blocs to remain in power in 1996 following the signing of Dayton. While the foreign diplomats sought to reconcile ethnic hate with a free election in 1996, the result was an entrenchment of the ethno-nationalist cleavages that started the war without sufficient time for the opposition to campaign. The three nationalist parties that won the elections in 1996 almost uniformly represented the three wartime blocs. The traditional nationalist parties are SDA (Bosniaks), HDZ (Croats), and SDS (Serbs). These winning parties

⁹³ Merdzanovic, *Democracy By Decree*, 273-74.

structured themselves into three cleavages that captured much of the wealth of the state by taking control of public institutions.

The OHR representative I interviewed thought that maybe Bosnia could have been better declared a protectorate state, like Kosovo. This would enrich the political soil before holding elections he argued. Yet, creating a protectorate was rejected since it meant investing significantly more resources into the country. Regardless, the contemporary OHR representative advocated that allowing ethno-nationalism that killed Yugoslavia to seep into the Dayton structure in 1996 is the key problem in Bosnia still today. However, my OHR interviewee failed to recognize the essence of their institutional consociational mandate as described in Dayton:

Maintain close contact with the Parties to promote their full compliance with all civilian aspects of the peace settlement and a high level of cooperation between them and the organizations and agencies participating in those aspects.⁹⁴

This is the language of the Dayton treaty forming the OHR's official mandate. This legal articulation demonstrates the OHR is tasked with facilitating consensus amongst the cleavages as prescribed by consociational theory. Recall, the elite incentive structure provides that while the cleavages may antagonize each other, ultimately the incentive to compromise would win out under mutually advantageous conditions. Simply put, the OHR is employed with keeping an eye on this incentive structure on behalf of the international community. This role is compatible with Gerhard Lehmbruch's adaptation of consociational theory in the international context. In his view, the international force can act as a teacher of

⁹⁴ *Dayton*, annex IV, art II, paragraph 26, § b.

consociational logic in order for the theory to be ‘learned’ or internalized.

Consequently, the OHR would be given expansive power to serve this mandate.

3.3 The Bonn Powers

As the previous quotation from High Representative Petritsch denotes, the strong nationalist foundation from the 1996 elections did not make the OHR job as the facilitator of consensus any easier. Carl Bildt (1996-1997) was the first of seven to hold the High Representative post. He had previously been Sweden’s Prime Minister and facilitated Sweden’s ascension to the E.U. When he arrived in Sarajevo, Bosnia’s capital, under the mandate of the Steering Board nations, he was left to sleep on the floor of the Swedish Ambassador’s quarters. The PIC left the OHR underfunded and poorly organized; but Bildt was dedicated to building an the institution from the ground up. The Joint Interim Commission (JIC) was the first attempt in Bosnia to bring international and elite collaboration in tune with the Dayton model.⁹⁵ This meeting was intended to discuss all issues of Dayton’s framework for the central state or inter-entity relations. Quickly, the first High Representative, Carl Bildt, discovered consociational consensus would be difficult to generate.

“My problem in all of these meetings is that I did not have much leverage against either of them. I had the moral authority of the international community, but moral authority alone did not cut much ice in the hard political game over the future of Bosnia.”⁹⁶

— Carl Bildt, High Representative (1996-1997)

⁹⁵ Merdzanovic, *Democracy By Decree*, 240.

⁹⁶ Carl Bildt, *Peace Journey: The Struggle for Peace in Bosnia* (London: Weidenfeld and Nicolson, 1998), 202.

In the first six months of Bildt's tenure, there were no agreements across ethnic cleavages without the intense pressure of high-level international officials. The removal of Serb war leader, Karadzic, and the chaotic events in Mostar are two such examples where the OHR was incapable of the consociational mandate to initiate the 'grand coalition' Lijphart prescribes for stability. However, Lijphart emphasizes, "the length of time a consociational democracy has been in operation is also a factor of importance."⁹⁷

Consociational norms become more firmly established as inter-elite cooperation becomes habitual and does not represent a stark departure from competitive Bosnian divisions.

However, the OHR did not wait patiently. The Sarajevo Agreement in March 1996 established harsh penalties for Dayton-reluctant local elites by revoking financial support for cantons unable to form governments in a respective timeframe and for municipalities that blocked refugee return. This marks the initial swing of the OHR into the local foray of Bosnian politics. The analogy of a pendulum is fitting for the OHR's role in Dayton Bosnia. The OHR began with little real power, then would swing into a role that exceeded its purpose vested by Dayton, and finally would swing back to near impotency. Bildt's term can be viewed as the pendulum's release and beginning the swing motion into active imposition.

When I completed my assignment in 1997 and handed [it] over to my successor, the Office of HR was seen no longer as something to be limited, representing a threat to the primacy of the military efforts, but instead, as the very key to the success of the overall peace implementation... particularly important has been shifts to restrict the mandate of the high representative to efforts to strengthen it.⁹⁸

— Carl Bildt, High Representative (1996-1997)

⁹⁷ Lijphart, "Consociational Democracy," 216.

⁹⁸ Bildt, *Peace Journey*, 251.

In December 1997, the Steering Board determined that the limited capabilities of the OHR needed to be expanded in order for democracy to take root. In the German town of Bonn, the PIC convened to expand Annex X of Dayton giving the High Representative full authority to bypass the Bosnian legal system foisted by Dayton. This authority would come to be known as the *Bonn Powers*. They gave the OHR the competency to tamper with two daunting strings: (1) to pass laws without any justification or checks from the locals and (2) to remove elected officials from office without democratic inhibitions. In many ways, the Bonn Powers were justifiable. The international community had tasked a rather powerless mediator with only threats of economic sanction and politicians' travel restrictions to induce cooperation.⁹⁹ The OHR was part of a larger project to transition Bosnia from a war-torn, divided country into a modern and efficient state. So the Bonn Powers became an instrument of breaking blockades and helping state building occur quicker. However, the problem with the Bonn Powers lay less in why they were first implemented, and more in the unintended consequences.

It was midway through the administration of the second high representative, Carlos Westendorp (1997-1999), that the aforementioned *Bonn Powers* were infamously crafted and first brandished.

At the Bonn conference, we managed to introduce a method by which the High Representative can take these decisions, which is not exactly in legal terms with Dayton. It was not very legal, I have to admit; but I have to confess that everybody accepted it. Nobody protested. Why? Because they [i.e. the members of the international community] knew that all these things [i.e. the

⁹⁹ Merdzanovic, *Democracy By Decree*, 257.

implementation of laws] were necessary but they [i.e. Bosnian parties] were not able to accept [the proposed laws] by definition, you know.¹⁰⁰

— Carlos Westendorp, High Representative (1997-1999)

For many years, the Bosnian political elite could not break the deadlock on citizenship law. Since citizenship was viewed as a fundamental state-building issue with no path through the impasse in sight, it was the first selected to get Bonn treatment. Without a word of justifying rationale, HR Westendorp, with the stroke of the pen, signed a version of citizenship policy into conclusive law, thereby solving the deadlock.

In accordance with my authority under Annex 10 of the Peace Agreement and Article XI of the Bonn Document, I do hereby decide that the Law on Citizenship of Bosnia and Herzegovina shall enter into force by 1 January 1998 on interim basis, until the Parliamentary Assembly adopts this law in due form, without amendments and no conditions attached...The Peace process is, after Sintra and Bonn, entering a new and decisive phase. I am decided to fully use my authorities under annex 10 of the Dayton peace Accord and Article 11 of the Bonn Document to insure an efficient implementation and fully count on your fully co-operation in this endeavor.¹⁰¹

High Representative Westendorp and the PIC that backed him understood the Bonn Powers as a means of accelerating the progress of fundamental state building. While this was not ideal, they agreed that Bosnia needed to be forced to make progress. Westendorp bemoaned the elites for not agreeing on a flag, national anthem, currency, or any unifying symbols of a standard country. So the OHR would use Bonn Powers to achieve results on all of these issues stuck in gridlock. Accommodation was not learned, it was imposed.

¹⁰⁰ Merdzanovic, *Democracy By Decree*, 256.

¹⁰¹ “Decision Imposing the Law on Citizenship of BiH,” Office of the High Representative, December 16, 1997, <http://www.ohr.int/?p=67204>.

3.4 The Scapegoat-Dependency Cycle

Consociationalism allows the political elites to breathe nationalist fire during election cycles in the Bosnia. Lijphart anticipated this return to the centrifugal forces in plural societies. However, the elites are supposed to return to the consensus table after elections in order to keep their positions. If the political elites do not broker deals, then society suffers the consequences and votes out the politicians in the next electoral cycle. Since the internationals have not allowed the politicians to let down their constituents by using Bonn Powers, then cross-cleavage compromise does not possess an incentive for the elites. This section will demonstrate how OHR blocks the incentive structure of consociationalism.

The elite scapegoat the OHR for the Bonn Powers; yet, ironically, depend on this scapegoating function to win elections. In the words of Arend Lijphart, “external threats... appear to be strongly conducive to the establishment or maintenance of cooperation among elites in a fragmented system.”¹⁰² Thus, the strongest incentive for the social cleavages in a consociational structure to unite is in the face of a common ‘external threat.’ If the nationalist parties of Bosnia successfully portray the OHR as an external threat they are more likely to find consensus than through any diplomatic efforts of the OHR. This is the inherent irony of the OHR’s active role in a consociational structure – the more help it tries to provide, the more hostile the cleavages are permitted to act.

Westendorp believed in the limitations of the Bonn Powers as to not have the system fall into habitual dependency on the OHR. “Of course, I knew that it was only a temporary measure. It shouldn’t be forever, because otherwise it creates habit. This is the

¹⁰² Lijphart, “Consociational Democracy,” 217.

dependency syndrome, as they call it.”¹⁰³ As Adis Merdzanovic, political scientist and author of *Democracy by Decree*, rightly points out this unhealthy dependency on external intervention is exactly what happened, and consequently the local elite were abdicated from their duty to form the grand coalition prescribed by Lijphart’s theory. ‘Imposed consociationalism’ is the term coined by Merdzanovic. He tediously outlays the international involvement in Bosnia since Dayton and the consequence of active political interference on consociational democracy. The ‘dependency syndrome’ reverses the positive incentive structure for politicians to accommodate once elected. Inter-elite consensus, which is necessary for self-sufficient stabilization in consociational theory, is, thus, unable to materialize. Rather than coming together, elites out-nationalize each other, scapegoating the OHR for coercing compromise. This chapter will validate Merdzanovic’s claim that the OHR abdicated the incentive of elites to form consensus, but takes another step. An external force imposed on Bosnia, especially the Bonn Powers, has long-term negative effects on the consociational system.

HR Petritsch echoed his predecessor that the ‘dependency syndrome’ must be temporary and avoided at all costs, but in truth he caused more dependency. Petritsch went to the Wall Street Journal to squabble with an international audience over the detrimental consequences Bonn Powers had on the consociational arrangement.

At heart, the leaders of the three ethnic groups – Bosniacs, Serbs, Croats – know what needs to be done to secure a future for their country. But our presence here has inadvertently absolved them of their responsibilities as democratically elected leaders. We enable the politicians to fight their tribalistic battles, and then

¹⁰³ Merdzanovic, *Democracy By Decree*, 258.

to place the blame for potentially unpopular compromises squarely on the shoulders of foreigners. I call this 'dependency syndrome.'¹⁰⁴

-Wolfgang Petritsch, High Representative (1999-2002)

This statement defines two parts of the dependency syndrome. First, the politicians are capable of, but chose otherwise, to engage in accommodation. This is due to their anticipation that the OHR will impose accommodation regardless of their positions. Second, the decision by the elites to withhold the token of their consensus is more strategic because if this compromising measure becomes unpopular with their ethnic group, then the elite (in choosing to let the OHR impose consensus) can scapegoat foreign imposition. Without a track record, the elites dodge accountability.

However, what Petritsch does not realize, is that the course of scapegoating will inevitably be a course of anti-Dayton nationalism. Centrifugal forces are inherent in plural societies, and only counteracted by the accommodation structure of consociational theory. Without it, the elites will drive election rhetoric non-stop. This is especially inherent in the Croat and Serb camps, because these groups lean toward the fragmentation of Bosnia, contrary to the OHR's mission of bringing integration. Therefore, despite Petritsch and Westendorp being aware of the 'dependency syndrome,' both issued increasingly more Bond decisions each year thereby guaranteeing that nationalism did not go away.

To exemplify the ironic cycle of scapegoat dependency let us examine theme of OHR dismissals. In the first decision of this kind, Westendorp removed Pero Raguz, the

¹⁰⁴ Wolfgang Petritsch, "The Future of Bosnia Lies with Its People," *Wall Street Journal Europe* (September 17, 1999), <http://www.ohr.int/?p=57971>.

mayor of the Southern Herzegovinian town of Stolac.¹⁰⁵ This dismissal was the first of many under the rationale of noncooperation with refugee return. This merits an essential state-building measure, due to local elite attempting to hold wartime gains. Furthermore, refugee return falls under the humanitarian legal jurisdiction of international institutions in Dayton. However, the case of Stolac represents one of the countless attempts at electoral engineering. Croat refugees in Germany and Central Bosnia were encouraged by HDZ (Croat nationalist party elite) to resettle in strategic areas, including in former Bosniak houses in Stolac.¹⁰⁶ The Serb elite, SDS, did the same, relocating some 60,000 displaced Serbs from the suburbs of Sarajevo to the Republika Srpska by force. The SDS did not even register in the Federation BiH elections in 1997, despite thousands of Serbs living there. Thirdly, the SDA took advantage of the influx of Bosniak refugees into the Federation BiH to relocate them to Sanski Most so that Serb resettlement would be exceedingly difficult. All in all, this depicts a nightmare situation for the OHR engaged in state building procedures. Hundreds of OHR dismissals would come over the next few years primarily due to obstruction of refugee resettlement and non-cooperation with the ICTY. HR Petritsch fired 21 officials on a single day in November of 1999, breaking the previous record of Westendorp of 16 earlier that year. The dismissed officials had no legal recourse for appeal of OHR decisions until 2005, when a rehabilitation policy was finally enacted. But by then, the damage had already been done.

¹⁰⁵ “Decision Removing Pero Raguz from His Position as Mayor of Stolac,” Office of the High Representative, April 3, 1998, <http://www.ohr.int/?p=67530>.

¹⁰⁶ “Minority Return Or Mass Relocation?” International Crisis Group, May 14, 1998, <http://www.refworld.org/docid/3ae6a6eb0.html>.

While the United States espouses the rule of law and rules-based world order, the OHR was blatantly circumventing this standard in Bosnia. HR Westendorp himself described the Bonn powers as ‘not very legal.’¹⁰⁷ The OHR claims that its extensive authority is vested in Dayton, Annex X, Article V: Final Authority to Interpret and Article II (d): *Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation.*¹⁰⁸ Yet, clearly the OHR is subject to and limited by international law, which in this case is the *Vienna Convention on the Law of Treaties* Article 31: “The general rule of interpretation.” The VCLT is applicable because Dayton is ‘a treaty between states’ in the sense of Article 1 of VCLT and Article 31 VCLT is customary international law. Article 31 declares that the OHR is bound to interpret Dayton in ‘good faith,’ and Dayton Annex IV (The Bosnian Constitution) Article I (2) espouses rule of law as an important democratic principle. Therefore, the Bonn power of dismissal without due process can be seen as a crude infringement on rule of law. The nationalist elite latched onto this contradiction with far-reaching effects that have continued to leave a bad taste in the mouths of Bosnian citizens, regardless of their ethnic identification.

Nonetheless, the dismissals continued *en masse*. The pendulum would reach the apex of its swing with HR Ashdown. He was the most interventionist High Representative, issuing a grand total of 307 decisions invoking Bonn Powers. This is an average of ten decisions per month, prying his foreign fingers into defense, police,

¹⁰⁷ Merdzanovic, *Democracy By Decree*, 181.

¹⁰⁸ Tim Banning, “E ‘Bonn Powers’ of the High Representative in Bosnia Herzegovina: Tracing a Legal Figment,” *Goettingen Journal of International Law* 6, no. 2 (2014), <https://doi.org/10b.3249/1868-1581-6-2-banning>.

education, and taxation reform. Ashdown reinvented ‘political responsibility’ with the 2002 dismissal of the FBiH finance minister for involvement in a procurement scandal. The rationale for removing an individual from office was no longer limited to anti-Dayton tendencies, but the abuse of public office became the jurisdiction of the international imposition. Despite supporters of HR Ashdown’s removals claiming that the intervention was conducive to greater transparency and accountability in the public sector, it is inescapable that there was no legal recourse for Bosnians to take against his decisions. Essentially, a parallel system had been forged outside of the rule of law inscribed in Dayton. The international powers, through the OHR, undermined the very Bosnian government they had pieced together in Dayton, Ohio.

3.5 The OHR as a Politician

While HR Petritsch perceived Bonn Powers as kicking in when Dayton fails, HR Ashdown, his successor, saw them as an integrated part of the structure. In an address to the BiH Parliament, HR Ashdown called upon the local elite to find pragmatic consensus, even threatening them if they fail to do so.

So the choice is not whether to reform. But how fast, how soon and, above all, who will drive the process of reform – you or me? Donors and investors don’t think High Representative impositions are a sustainable way to build a country in the long term. Increasingly their assistance to this country will be conditioned on BiH institutions passing and implementing reforms themselves. I will act if I have to. But let’s be clear. Every time I have to use my powers, it represents a failure of the system – your system. My job is to get rid of my job. But the pace at which that happens will be decided not by me, not by the international

community, but by you. The more you reform, the less I will have to. The less you reform, the more I will have to. So, like I say, it is up to you.¹⁰⁹

-Paddy Ashdown, High Representative (2002-2006)

This example demonstrates that Ashdown thought the Dayton structure was flawed and Bonn Powers necessary for progress in state building. However this circumvents the logic of consociational theory along the same dependency-scapegoat cycle once again. By doing more consensus building, Ashdown was really doing less.

Consider if the majority of Bosnian citizens view a Bonn power decision favorably. Then, politics is functioning according to the people's will. However, the 'grand coalition' is not able to form self-sufficiently, thus stability is dependent on the OHR. While a popular OHR imposition might have worked as a quick fix in 2002, in 2018 the Bosnian structure is suffering. HR Ashdown, former speaker of the British Parliament, avoided public backlash against his highly interventionist doctrine due to personal charisma. When reflecting on his stint as HR he wrote, "so, the crucial battlefield I had to win on was the battlefield of public opinion."¹¹⁰ This example highlights how Ashdown operated like a politician clearly casting the OHR as an active character in the political scene of post-war Bosnia. Ashdown even called himself the 'public servant of Bosnia' in his inaugural speech. Issuing an emblazoned path toward creating a common identity of Bosnia and Herzegovina with himself as a key representative. If he wanted to sidestep elected officials with any strain of democratic

¹⁰⁹ "Speech by the High Representative for Bosnia and Herzegovina Paddy Ashdown to the BiH House of Representatives" Office of High Representative. September 17, 2002. <http://www.ohr.int/?p=49508>.

¹¹⁰ Paddy Ashdown, *Swords and Ploughshares Bringing Peace to the 21st Century* (London: Phoenix, 2008), 225.

legitimacy, he reckoned public consent could warrant his decisions. To his credit, a 2003 opinion poll found his approval rating in the ninety percentile while most of the local political elites were in the single digits.¹¹¹ However, this exemplifies an unnerving approach High Representative Ashdown brought to Bosnia. Ultimately, like those before him, Ashdown's approach failed to transition ownership and responsibility to the local Bosnian leadership as Dayton foresaw. When Ashdown left office, exceptional *absolute* progress had been made, but little *real* progress had occurred. Rather, an aesthetic of national unity was produced in concert with the American agenda of pulling attention and resources out of Bosnia and into the Iraqi invasion.

Furthermore, if the High Representative is mandated to 'behave as a politician,' as Ashdown did, then the international arbitrator is thrust into political competition with the local elites. Since HR Ashdown possessed the power to implement what he publically promised (thanks to the Bonn Powers) while his competition (the local elite) was shackled by consociational mechanisms of tripartite consensus, Ashdown stood head and shoulders above the Bosnian political field. For some time, Ashdown's interventionism cast the OHR as indispensable in the perception of the public. Operating in the pseudo-sincerity of public approval, Ashdown managed to structurally link Bosnian institutions (the political elite) with the OHR. This is the premise of Eldar Sarajlic's argument of 'convenient consociation,' or rather, a consociational democracy that relies on direct interaction between internationals and local elites, naturally making progress from an outsider's perspective more convenient.¹¹² Therefore, the Dayton incentive structure for a

¹¹¹ Merdzanovic, *Democracy By Decree*, 299.

¹¹² Sarajlic, "The Convenient Consociation," 61-80.

‘grand coalition’ is, more or less, fabricated. The elites will work with the international institutions as it serves their electoral interests. However, when things turn messy and voter support dissipates, the international officials keep their jobs, but the local politicians are immediately dead in the water for selling out their group to the imposition. It makes more sense to stick with nationalist side, allow the OHR to do state building, and criticize them with nationalist sentiment.

3.6 The 2006 April Package

Mislead by the cosmetic returns of Ashdown’s tenure, the international community sought to close down the OHR by 2006. Consequently, Christian Schwarz-Shilling agreed to take the job as the final High Representative with the condition that progress on the ground matched international assessment.¹¹³ However, this condition could not be fulfilled. The OHR had made progress on paper, but Bosnian state building was overtly behind schedule. HR Schwarz-Shilling recognized politicians were still irresponsible public servants and Bosnia was incapable of functioning without the OHR because of the ‘dependency syndrome’ Petritsch described years prior. Unlike Petritsch and Ashdown, Schwarz-Shilling chose to step back from the limelight role, opting for less dependency and more local ownership. Consequently, his tenure represents the beginning of the swinging back of the pendulum in our analogy for OHR interventionism. He aimed at halting the incursion of dependency on his very first day in office, “elections are the crowning moment in any democracy. It is not the selection of the new High Representative but the choices of the voters of this country that will determine how this

¹¹³ Merdzanovic, *Democracy By Decree*, 314.

country will be governed.”¹¹⁴ A few months later he reiterated his faith in the Bosnian people and his departure from a heavy Bonn Powers approach.

I have made it clear that I *will* use the Bonn Powers without hesitation should this be necessary to maintain peace and stability or to further BiH’s cooperation with the ICTY. I have made it equally clear that I will *not* use the Bonn Powers for anything else. Let me take this opportunity to reiterate this commitment. The days when OHR micromanaged the political process in BiH by using – or simply by threatening to use – the Bonn Powers are over. This causes some people – in the International Community but also in the BiH political establishment – to throw up their hands in horror. Well, change is often challenging. And we are entering challenging times.¹¹⁵

The transition away from the Bonn Powers would not be as decisive as Schwarz-Shilling alleged; the pendulum would take time to swing back. At this point, the OHR was conscious the United States was anxious to step out of the region. With explosive interventions in Iraq and Afghanistan, the Bush administration was keen to wrap up Bosnia as a success story. Consequently, the 2006 April Package was an attempt by the Americans to constitutionally restructure Dayton (for the first time) before permanently exiting the Bosnian scene.¹¹⁶ The Americans came close to obtaining consensus for the April Package, but Schwarz-Shilling refused to impose the final push. In the wake of failure, the general elections months later showed the true colors of the Bosnian political

¹¹⁴ “High Representative’s TV Address to Citizens of BiH,” Office of the High Representative, January 31, 2006, <http://www.ohr.int/?p=42039>.

¹¹⁵ “Address by the High Representative, Christian Schwarz-Schilling to the Permanent Council of the OSCE,” Office of the High Representative, March 16, 2006, <http://www.ohr.int/?p=41839>.

¹¹⁶ Merdzanovic, *Democracy By Decree*, 322.

elite – vivid nationalism. The victors of this election were the few politicians that stood against the April package and vehemently attacked the international community.

Under immense pressure of the international community, the Bosnian political elite signed a declaration of intent for constitutional reform in 2005 at the tenth anniversary of Dayton.¹¹⁷ More efficient legislative structures, mechanisms to prevent deadlocks, introduction of local self-government following European principle, and reform of sections of the Bosnian Constitution¹¹⁸ that contradicted the European Convention For Human Rights were all aims of the international (particularly American) agenda. The negotiations began with the eight dominant BiH parties present: SDA, HDZ BiH, SDS, HNZ, PDP, SBiH, SNSD, and SDP. The negotiations split into two antagonistic models for the Bosnian state in response to the age-old question of *stateness*. This question lies at the crux of political tension between the ethnic cleavages in Bosnia: whether sovereignty began with 1992 international recognition of Bosnian independence; or, whether sovereignty began with the signing of Dayton in Paris in late 1995. Bosniaks claim the former, emphasizing the unity of the original Bosnia and Herzegovinian state. Serbs claim the latter with Dayton institutionalizing the entity model. Then, there are the Croats. Being at odds with Bosniak centralization or an entity model that places them in an unhappy marriage with the Bosniaks in the Federation, Croats were sidelined by the Americans in their claims for greater federalism and local power. Moreover, many Croat politicians, under the leadership of Bozo Ljubic, broke away from HDZ because of the

¹¹⁷ Saida Mustajbegovic, “Bosnia: Constitution Reform Setback,” *Balkan Insight*, September 18, 2017, <http://www.balkaninsight.com/en/article/bosnia-constitution-reform-setback>.

¹¹⁸ *Dayton*, annex IV.

April Package. On the other hand, Haris Silajdzic, founder and leader of SBiH, a Bosniak nationalist party, also walked away from the negotiations. Once it became clear that the entity mechanisms would be maintained, Silajdzic pulled out with harsh words, “such an arrangement is an embargo on the democratic future of Bosnia. It is also an embargo on truth regarding the past, for [it] presents the undeniable legitimization of genocide and ethnic cleansing.”¹¹⁹ This example highlights the severe tension over the Bosnian origin of statehood. Silajdzic believed that Bosnian statehood stemmed from before the war and the horrors of ethnic cleansing. Recall the Srebrenica tragedy described in the beginning of this chapter.

The final version of the constitutional package (1) legalized the OHR decisions to centralize defense and security, (2) increased the quantity of representatives in the state House of Representatives maintaining the entity mechanisms, and (3) the tri-presidency would be elected by the House of Representatives.¹²⁰ Believing that the negotiations had prevailed, a SDP (Serb) politician told the US ambassador that, “this [April Package] is an agreement between us in BiH, without any interference from the OHR or international community.” As ironic as this statement is, it illustrates the genuine sense of satisfaction amongst the political elite that had finally reached consensus. The politicians wanted to believe their country was self-sufficient and the citizens believed they were capable of making decisions.

With the combined resistance of SBiH Bosniaks, five HDZ Croats, and a few rogue individuals, the April reform package failed by one vote to pass in the House of

¹¹⁹ Merdzanovic, *Democracy By Decree*, 324.

¹²⁰ Merdzanovic, *Democracy By Decree*, 325.

Representatives with 26 in favor and 16 against. Despite how close the elite were to formal consensus, HR Christian Schwarz-Shilling remained committed to the ‘ownership’ doctrine. To his credit, he refused to use Bonn powers to fabricate consensus. The failure was a setback from the American perspective, but the full extent of this failure showed itself a few months later in the October general elections.

The split Croat HDZ party, the rift between Bosniak SBiH and SDA, and the Serb division between SNSD and SDP resulted in 2006 being one of the most volatile election cycles in Bosnia’s history. Facing internal competition within an already multi-national front resulted in the universal strategy of candidates to out-nationalize one another. Milorad Dodik won the Republika Srpska Presidency by galvanizing calls for secession. Meanwhile, Siljdzic, who walked out of the April Package negotiations, renewed his bombardments on the Republika Srpska as a creation by genocide. But, most significantly, the Croat elite was split in two for the first time. In the BiH Presidential election, the Croat nationalist parties HDZ and HDZ 1990 received 26.1 and 18.2 percent of the vote respectively for their candidate. However, Zeljko Komsic won the Croat seat of the BiH Presidency with 40.0 % of the vote. Both HDZ and HDZ 1990 fumed that this candidate was elected by Bosniaks, and did not represent the Croat identity. This issue is called the *Croat Question* and has been the thorn in the side of Dayton, forcing the shutdown of the Federation in the early months of 2018.

The American framers of the April Package could not foresee the detrimental consequences of their actions, but this example illustrates how the political elite reacts to consensus imposition. Whether issued by the OHR, UN, EU, or American ambassador, any attempt to impose reform on Bosnia has been met with harsh criticism in the

following election cycle. In a functional consociational system, Bosnian elections would see a return of the elites to the centrifugal positions of their group, and a temporary slide toward nationalism. Incumbents would be held responsible for cooperating with the other sides, but they also would potentially be held responsible for failing to produce results they had promised. Since inter-ethnic cooperation is necessary for productivity, the political elite would have a compelling incentive to cooperate. However, that incentive structure did not operate in Bosnia. The traditional nationalist parties: SDA, HDZ, and SDS were the major proponents of the April Package, and those three parties were the biggest losers in the election after the package failed.¹²¹

The example of the 2006 April Package indicates that the consociational model possesses the potential to bring the three groups together. Despite intense international pressure, the political elite failed to compromise due to the positive incentive structure typical of consociationalism being broken. Siljdzic and Ljubic realized if they broke away, their electoral success was guaranteed. Either the reform package would pass leading them to argue it was an international imposition; or, the reform package would fail and that would validate their objections. All in all, the Bosnian consociational system is marred by the scapegoat-dependency cycle. The more international intervention, the more the incentive structure is reversed and politicians are compelled away from compromise.

3.7 Bonn Mutiny

¹²¹ Mustajbegovic, "Bosnia: Constitution Reform Setback."

Since the formation of Dayton, there have been calls for two means of further decentralization of the state: first, the secession of the RS; second, the creation of an independent Croat entity. Both are contrary to Dayton and therefore the mandate of the OHR. Thus, the High Representative has taken great measures to block both agendas, including dismissals of BiH Presidents and party leaders. Recently, the nationalist Serb and Croat parties have borne an alliance, as Lijphart predicted the cleavages would under the pressure of an ‘external force.’ Covic (Croat) and Dodik (Serb) have been at the heart of the Bosnian political elite since the Dayton Agreement, and have represented their social cleavages in multiple high-level positions.

Experts say Covic needs Dodik’s support to move towards the creation of a third entity. On the other side, Dodik needs Covic’s support for his own plan, which is to continue weakening the central state, and perhaps move towards the total independence of the RS, which he long ago declared his life-long goal.¹²²

This example demonstrates that the Serbs and Croats are capable of forming inter-ethnic consensus as hoped by consociational theory. Furthermore, the alliance clearly leaves out the OHR, illustrating that without the scapegoat-dependency cycle consociationalism has merit to work in Bosnia. However it is impossible to measure the degree of sincerity of local elites’ calls for secession. The OHR is too quick to snuff them out. Therefore, perhaps in knowing the OHR will step in, Dodik and Covic will play the part of radical separatists in order to buttress their mantle as the nationalist leaders of the Serbs and Croats respectively. Then, the calls for secession, and the alliance itself, is not a serious venture but an act of political theatre. What remains certain, is that consensus,

¹²² Danijel Kovacevic, “Bosnian Croat-Serb Alliance Makes Bosniaks Nervous,” *Balkan Insight*, January 31, 2017, <http://www.balkaninsight.com/en/article/bosnian-croat-serb-alliance-makes-bosniaks-nervous-01-31-2017>.

whether artificial or genuine, has been forged excluding, and sometimes in opposition to, the international community.

On the other hand, Bosniaks, generally in favor of centralizing authority in the civic state, tended to support OHR decisions because they coincided with their ideology. Since the Bosniaks very rarely made efforts to prevent an OHR decision, they did not possess an impetus to form consensus with the other cleavages. Conversely, the Serbs were most damaged by the Bosniak and OHR efforts to form Bosnian and Herzegovinian central authority. Instead Serbs favor entity autonomy, a legitimate claim under the Dayton agreement. But, when the Serb elite knew the OHR would not step in, they had very little reason to compromise. Thus, when the OHR abandoned its active role, the cleavages reevaluated their strategy.

The problem was that the political atmosphere was changing because the Serbs, with the arrival of Milorad Dodik, were becoming more and more vocal – and there was no reaction from the OHR...The problem was that the approach of the international community looked very inconsistent because you had Paddy Ashdown's approach, which was very heavy, and then he was immediately replaced by Schwarz-Shilling, whose approach was extremely soft. Therefore he [Schwarz-Shilling] decided not to intervene and the Serbs had used it. They also used the failure of the April package and, by the time I arrived, it was quite clear that the point of no return had been crossed. That means the international community was no longer in a position to continue acting as during Paddy Ashdown's times.¹²³

This example highlights the impotency of the OHR after the failure of the April reform package. The political elite caught whiff of a distracted international position, and no

¹²³ Merdzanovic, *Democracy By Decree*, 332.

longer catered to the requests of the OHR. Tensions would culminate at the 2007 mutiny against Ljacak and the OHR's parallel Bonn system.

High Representative Ljacak, frustrated by the lack of progress in long-divisive police reform, issued a decision on October 19, 2007 intending to prevent obstruction by non-participation with the executive arm of the state government.

Bearing in mind that the principle of continuity of public service relies on the right for the citizens of Bosnia and Herzegovina to expect that decisions will be made and the business of governance will be completed on their behalf at all time; Noting that a pattern of postponement, delay and absenteeism contributes to the reduced capacity of the Council of Ministers; Considering that in order to give Bosnia and Herzegovina stable, effective and functional government, the Council of Ministers and its decision making processes require to be reformed.¹²⁴

This decision would prove to be HR Ljacak's greatest mistake. He did not anticipate the ferocity of the response by the Serbs who supported the non-participation mechanism as a function of consociational theory's *segmental autonomy*. RS Prime Minister, Milorad Dodik, responded with a thunder defense of the independent Serb police force, 'I believe that Mr. Lajcak has made a huge mistake.' Dodik said the decision confirmed an, 'arrogance that seeks to change the BiH constitution and that neither recognized any of our positions nor accepts that the RS is a part of BiH.'¹²⁵ The BiH state Prime Minister, and member of Dodik's party SNSD, Nikola Spiric resigned in protest to Lajcak's decision by the beginning of November. Furthermore, Dodik threatened to withdraw all

¹²⁴ "Decision Enacting the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina," Office of the High Representative. June 5, 2016, <http://www.ohr.int/?p=64667>.

¹²⁵ Merdzanovic, *Democracy By Decree*, 335.

SNSD representatives from office and resign himself if Lajcak failed to backtrack.¹²⁶

This would effectively stymie the state, but Dodik did not stop there. He called on the masses to protest the decision, leading to widespread demonstrations in 63 municipalities across Republika Srpska territory.¹²⁷

The strong response took the OHR by surprise. While, the PIC initially backed its agent Ljacak, the disarray of the international community soon confounded to this being a rather weak promise. Lajcak quoted the Steering Board, “Any political leaders or institutions in BiH which defy the High Representative and the PIC Steering Board will be the subject of appropriate measures.”¹²⁸ To Dodik, these were hollow words. Earlier in 2007, Russia vetoed the resolution of the Kosovo status issue. In the context of a confident Serbia, with the backing of a growing economic and political presence of Russia, Dodik stepped up to the Western powers and the Bonn powers legitimacy. Dodik ultimately questioned if Dayton gave the OHR the right to implement Bonn power decisions. But Lajcak realized that the parallel system had been undone. Lajcak found the new ‘way out’ of deadlock to be the incentive of European integration. The OHR would pivot the international arm of influence from Bonn Powers sticks to EU integration carrots. The consociational incongruences of this external force are contained in a following chapter.

¹²⁶ “Bosnia PM Resigns,” *Balkan Insight*, November 1, 2007, <http://www.balkaninsight.com/en/article/bosnia-pm-resigns>.

¹²⁷ Merdzanovic, *Democracy By Decree*, 336.

¹²⁸ Srecko Latal, “Bosnia Faces Turmoil,” *Balkan Insight*, November 1, 2007, <http://www.balkaninsight.com/en/article/bosnia-faces-turmoil>.

Chapter IV – The Centripetalist Antithesis

This chapter will focus on the second tenant of the principal argument of this thesis: consociational theory has been undercut by the external role of the international community. Further, this chapter portrays the irony of intervention in consociational democracies in that the more the arbitrator attempts to interfere, even in good faith, the worse the outcome. The previous chapter focused upon the role of the Office of the High Representative in creating a dependency-scapegoat cycle that reverses the incentive logic of consensus within the consociational model. This chapter will focus on the efforts of electoral manipulation in the attempt to guide the politics towards moderation. However, in this area too, the irony proves insurmountable. In trying to rig an electoral system to moderation, the international community has instead given credibility to nationalist politicians' calls of foreign imposition.

Recall, the second official to hold the post of High Representative, the domestic body of civilian Dayton implementation, Carlos Westendorp realized in 1999 that nationalism was a chief obstructing force to the local Bosnian elite coming to consensus. “I am convinced that ethno-parties are responsible for the straight of affairs in the country,”¹²⁹ Westendorp went on to say, “I tried very hard during my tenure to foster elections of non-nationalistic parties, more inter-ethnic parties. As my interview with the OHR electoral experts confirmed, the initial post-Dayton elections in 1996 cemented the nationalist parties in power.¹³⁰ Dayton specifically referred to these wartime parties as brokers of the peace deal. Acknowledgement of the dominant status of these parties from

¹²⁹ Merdzanovic, *Democracy By Decree*, 270.

¹³⁰ Personal Interview with the OHR in Sarajevo, January 10, 2018.

the war was needed to ensure Dayton would stop the conflict. Yet, lacking sensible foresight, the International Community was shocked by the 1996 election results. Despite the clear criteria of *segmental autonomy* in consociational theory, members of the International Community had wished to see the elections bring moderate (i.e. more liberal) voices to the local elite. Consequently, in the decade following Dayton, the OHR used Bonn Powers to usurp nationalist politicians and policies. This is the focus of the preceding chapter, but the story continues. The international community also sought to dismantle nationalist power in a more discrete way. Electoral engineering along the theory of *centripetalism* was a clandestine attack on the nationalist local elites. Since this method ultimately failed and contributed to the credibility of nationalist political elite, it too demonstrates the irony of external interference in consociational Bosnia. I must emphasize that I do not find fault with Horowitz's theory in its pure form. I simply find fault with its implementation on top of an already highly complex consociational design.

4.1 Horowitz's Alternative

“The electoral system is the most easily manipulated element of a political system and therefore a powerful tool for political engineering. . . . If one wants to change the nature of a particular democracy, the electoral system is likely to be the most suitable and effective instrument for doing so.”¹³¹

—Arend Lijphart

“The electoral system is by far the most powerful lever of constitutional engineering for accommodation and harmony in severely divided societies.”¹³²

¹³¹ Arend Lijphart, *Electoral Systems, Party Systems and Conflict Management in Segmented Societies*, in *Critical Choices for South Africa: An Agenda for the 1990s*, ed. Robert A. Schrire (Cape Town: Oxford University Press, 1990), 11.

¹³² Donald L. Horowitz, *A Democratic South Africa?: Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1992).

What Arend Lijphart is to consociational theory, Donald L. Horowitz is to centripetal theory. The two counterparts of comparative political theory are both experts of constitutional design, and hold the electoral system as the key ingredient to creating stabilized democracies, as illustrated in the preceding statements. Except that neither theorist condones the conventional majoritarian model of democracy in a plural society such as Bosnia, Lijphart and Horowitz stand across the aisle within academia of post-conflict constitutional design.

The authors acknowledge that in the context of plural societies, the ‘winner take all’ system has often resulted in tyranny and civil war. The breakup of Yugoslavia serves as evidence of this conjecture. Arend Lijphart believed that the centrifugal forces found in societies with deep cleavages could be ‘counteracted’ by cooperation among different leaders of the segments within the polity.¹³³ Recall, his theory reasoned a ‘grand coalition’ of political elites proportionally representing their group could bridge the gaps between the citizens while allowing segmental group autonomy. As described in this thesis, the Dayton Peace Agreement constructs tri-rotating offices, veto mechanisms, and segmental autonomy, qualifying post-war Bosnia as a consociational democracy.

On the other hand, Donald Horowitz disagrees that consociational theory is the optimal way to stabilize divided societies, “consociational methods are inapt to mitigate conflict in severely divided societies [and] are more likely the product of resolved struggles or of relatively moderate cleavages than they are measures to resolve struggles

¹³³ Lijphart, *Democracy in Plural Societies*, 1.

and to moderate cleavages.”¹³⁴ As this statement clearly illustrates, Horowitz reasons that Lijphart’s approach would not create stability in a deeply divided post-conflict scene such as Bosnia. He has lodged two primary grievances with consociational logic. First, consociationalism reinforces national/ethnic identities thereby entrenching social cleavages. Second, the overarching cooperation of elites cannot be taken for granted, especially when those elite are culpable of the descent into war.¹³⁵ As a renowned expert on comparative constitutional design, Horowitz created an alternative theory to consociationalism called *centripetalism*.

Instead of letting the groups remain politically isolated, centripetalism seeks to pull the groups together through electoral incentives. “The alternative approach I have advocated is to adopt an electoral system that will make moderation rewarding by making politicians reciprocally dependent on the votes of members of groups other than their own.”¹³⁶ This example demonstrates an alternative course of constitutional policy in Bosnia: a course of electoral manipulation to move the political elite toward the center (i.e. – centripetal motion) instead of granting the segments autonomy.

The underlying assumption in Horowitz’s model is that politicians must be given electoral incentives to “make moderation pay.”¹³⁷ Thus, Horowitz assumes that political elite will ascribe to moderation by choice given the right incentives are provided by the

¹³⁴ Donald L. Horowitz, “Constitutional Design: An Oxymoron?” in *Designing Democratic Institutions*, ed. Ian Shapiro and Stephen Macedo (New York: New York University Press, 2000), 256.

¹³⁵ Bose, *Bosnia After Dayton*, 217.

¹³⁶ Bose, *Bosnia After Dayton*, 218.

¹³⁷ Donald L. Horowitz, “Making Moderation Pay: The Comparative Politics of Ethnic Conflict Management,” in *Conflict and Peacemaking in Multiethnic Societies*, ed. Joseph V. Montville (Lexington: Lexington Books, 1990).

electoral system. Horowitz underlines four key changes to create the incentives for moderation: (1) the Alternative Voting (AV) method, (2) the formation of centrist coalitions, (3) the presidential office being elected by regional quotas, and (4) administrative federalism. While the consociational model was in use, three of these four centripetalist ideas were experimented with in the Bosnia.

As consociational theory champions the grand coalition of elite accommodation, centripetalists rest their faith on Alternative Voting. The system allegedly motivates elites to campaign outside of their nationalist group in order to receive enough votes to get elected. Therefore, AV forces the majority elite to consider the minority to ensure electoral success, resulting in moderation. Consociationalists rebut that AV leads to minority groups being left out of the government. They are not likely to accept another group in power that merely considers their interests; minorities want true representation. Consequently, Lijphart believes that the AV method is as “equally harmful” to divided societies as a first-past-the-post system because it excludes minority representation.¹³⁸

Similar rationale explains the difference between the two theories on the topic of coalitions. Horowitz favors a centrist coalition that excludes the extremes, while Lijphart favors an inclusive grand coalition. Lastly, Horowitz believes that administrative federalism is key to developing moderation on a local-scale. This means forming constituencies that are multi-ethnic, like the Brcko district in Bosnia. In contrast, the consociational tends to use federalism in the event of geographically separated communities, such as the Republika Srpska. To conclude, consociationalism is concerned with empowering minorities, while centripetalism is concerned with limiting the potential

¹³⁸ Lijphart, *Thinking About Democracy*, 189.

hegemony of majorities. Proponents of both viewpoints were present in Bosnia in the post-Dayton era.

“It [international Community] continues to use its authority within the political sphere in attempts to influence electoral outcomes and exclude the nationalists from power. It has also sought to redesign constitutional and electoral systems by stealth to favour moderates over nationalists.”¹³⁹

This example highlights the covert efforts to implement centripetalist-designed reform in Bosnia. The next three sections will focus on three different experiments of centripetalism imposed by the international community. Each section will: (1) contextualize the given experimental reform; (2) evaluate the disappointing results of the experiment in comparison to Horowitz’s theory; and (3) illustrate how the given experiment runs contrary to consociationalism.

4.2 Alternative Voting in the Republika Srpska

In the AV method, or social choice function, each voter has the option of ranking n candidates from 1 to n on their ballot. If a candidate receives a majority of the first place rankings, then he/she is declared the winner. However, if no candidate receives a majority, then the candidate with the least first-place rankings is eliminated from all of the voters’ ballots. The ballots are tallied again to see if there is a majoritarian winner. If not, another is eliminated. This process is repeated until a candidate possesses a majority of the first place rankings and is declared the winner. This social choice function is also

¹³⁹ “Reshaping International Priorities in Bosnia and Herzegovina: Part I—Bosnian Power Structures,” European Stability Initiative, October 14, 1999, https://www.esiweb.org/index.php?lang=en&id=156&document_ID=4.

known as the Hare method, and currently used in Ireland, Australia, and San Francisco.¹⁴⁰

Centripetalists champion the AV method because it professes to protect voters from wasting their ballot on less-popular candidates. Even if a voter's top candidate were eliminated, this voter's ballot would be transferred to their second-choice alternative.

With a high electoral threshold, the AV method is less forgiving to small parties than the proportional representation in consociationalism; yet, this is viewed as a benefit by Horowitz, "a modest reform of first-past-the-post, a sound way of diminishing the arbitrariness of the plurality system without yielding to the dominance of central party officials in candidate selection that tends to accompany list-system PR."¹⁴¹ This example highlights how Horowitz has compensated for the issue of wasted votes in single-member plurality, or first-past-the-post, system.

The international community, according to a European Stability Initiative report on Bosnia report published March 2001, waged an "undeclared war" against the nationalist elite in the Republika Srpska. Internationals engaged in a series of strategic interventions to accelerate the demise of 'Karadzic's SDS para-state.'¹⁴² Radavan Karadzic was a Serb war criminal and SDS was the Serb Democratic Party, the Serb nationalist party in power throughout the war. Since 1997, SFOR has played a crucial role in arresting SDS war criminals and preventing paramilitary and intelligence services from playing an overt political role. Furthermore, SFOR and the OHR dismantled the SDS nationalist Serb propaganda machine and destabilized the clientele network SDS

¹⁴⁰ Arthur E. Robinson and Daniel Ullman, *A Mathematical Look At Politics*. (Boca Raton, FL: CRC Press, 2011), 34.

¹⁴¹ Horowitz, *A Democratic South Africa*, 191.

¹⁴² "Reshaping International Priorities in Bosnia and Herzegovina—Part I: Bosnian Power Structures," European Stability Initiative.

had created using public funds. The report concludes, “By 1999, the SDS regime had fragmented into a series of municipal fiefdoms.”¹⁴³ This soft power attack identifies the anti-nationalist character of the internationals.

Out of the disarray, the internationals lifted a new party, SNSD, led by Milorad Dodik, winning the 1998 election and forming a new parliamentary coalition. The international community rejoiced as Dodik’s government signaled the return of 80,000 refugees in the first year in power. The government of Dodik had, ‘strong European and American backing, as the perceived antidote of the SDS.’¹⁴⁴ Dodik’s external patrons viewed him as “a moderate with sufficient nationalist credentials to be effective.”¹⁴⁵ Dodik catered his policy and his statements to an international audience – they were his constituency. Despite tremendous funding from the international community, SNSD proved no better than SDS at changing the fortunes of the war-battered territory: the government passed a number of anti-Dayton laws stating the supremacy of the RS over the BiH state, financial collapse loomed with a DM 200 million deficit due to public money being siphoned by corrupt officials, and refugee resettlement failed to materialize. It was clear that SDS would regain power in 2000, but the international community would not accept the old nationalists back so easily.

¹⁴³ “Reshaping International Priorities in Bosnia and Herzegovina—Part III: The End of the Nationalist Regimes and the Future of the Bosnian State,” European Stability Initiative, March 22, 2001, https://www.esiweb.org/enlargement/wp-content/uploads/2009/02/balkanexpress/swf/pdf/index.php?lang=en&id=156&document_ID=14.

¹⁴⁴ Bose, *Bosnia After Dayton*, 231.

¹⁴⁵ Carrie Manning, “Elections and Political Change in Post-war Bosnia and Herzegovina,” *Democratization* 11, no. 2 (2004), 69.

The internationals announced that Alternative Voting, the precise method provided by Horowitzian centripetalism, would be implemented by decree for the 2000 Republika Srpska election. According to the European Stability Initiative, the “changes to the electoral rules – the introduction of preferential voting – were intended to favor Dodik.”¹⁴⁶ However, instead of candidates adopting a more moderate strategy, radical nationalists harnessed the change to fuel their campaigns. The SDP won a commanding 49.8% of the first-preference votes on the first round. The first party eliminated was a Bosniak party with only 2% of the first-place votes. This elimination was enough to tip the scales for a SDS majority, as depicted in Figure 4.3. The popularity of the SDS reflected a general suspicion of international efforts to rig the election for Dodik and SNSD. Further, Richard Holbrooke, the American ambassador to the United Nations, publicly commented that he wanted to ban SDS from the 2000 elections. This proved to be the cherry on top of the reactionary push against SNSD and the foreign manipulators. Contrary to the Horowitz’s assumptions, the nationalist hardliners not only won the election, but also won by a larger margin than they did in the simultaneous elections to the RS National Assembly and to the BiH House of Representatives, in which they also beat out SNSD.

¹⁴⁶ “Reshaping International Priorities in Bosnia and Herzegovina—Part III: The End of the Nationalist Regimes,” European Stability Initiative, 11.

Political Party	1 st Preference	Percent of Vote	2 nd Preference	Votes after Transfer	Percent of Vote
Serb Democratic Party (SDS)	313,572	49.8	35	313,607	50.1
Party of Independent Democrats (SNSD)	161,942	25.7	212	162,154	25.9
Party of Democratic Progress of the Republika Srpska (PDP)	54,392	8.6	41	54,433	8.7
Social Democratic Party (SDP)	48,992	7.8	3,419	52,411	8.4
Civic Democratic Party (GDS)	37,614	6.0	5,220	42,834	6.8
Bosniak Party (BOSS)	12,851	2.0	-12,851	0	0
Total	629,363	100	-3924	625,439	100
Votes required (50 per cent)	314,681.5				

Sumantra Bose points out that one of Horowitz’s key conditions for preferential social choice functions to produce cross-cleavage results, “electoral constituencies that are heterogeneous (mixed) in their ethnic make-up,” are not present in Bosnia.¹⁴⁷ Of the 628,443 voters in the 2000 RS election, 525,325 (84%) were cast in RS polling stations, presumably by Serbs, while absentee voters, presumably Bosniaks, cast the remaining 16%. Thus, Bose concludes, there is not a ‘sufficiently heterogeneous’ population for the AV method to create the centripetal effect desired.

Nevertheless, preferential voting for the RS Presidency was unlikely to be a reliable test for at least for two reasons. First, this system is unlikely to produce conciliatory behavior where ethnic groups are concentrated in particular geographic regions. In these instances, the politicians’ incentive to seek support from various groups depends on the presence and size of minority groups. Because the RS electorate was not ethnically heterogeneous, only under the most unusual circumstances could AV [alternative votes/voting] have influenced the results.¹⁴⁸

¹⁴⁷ Bose, *Bosnia After Dayton*, 235.

¹⁴⁸ Roberto Belloni, “Peacebuilding and Consociational Electoral Engineering in Bosnia and Herzegovina,” *International Peacekeeping* 11, no. 2 (2004): 342.

The territory of the Republika Srpska was callously gerrymandered throughout the course of the war, resulting in a patchwork homogenous population. Non-Serbs accounted for 46% of the population in RS territory prior to the war, but that figure fell to only three percent by 1997.¹⁴⁹ With Serb returns nearly double the quantity of Bosniaks, and Croats' numbers almost insignificant, refugee resettlement did little to offset the monoethnicity. Therefore, Serb voters had no incentive to elect a moderate candidate to accommodate the other cleavages while they could comfortably elect a nationalist candidate on their own that guarantees Serb interests. Furthermore, the Bosniak absentee voters did not cross over ethnic lines in support of SNSD as the international community hoped. Despite being outnumbered by Serb voters by a ratio of six to one, Bosniaks still decided to vote along ethnic lines, even if they knew their candidate would lose. The only non-ethnic, truly moderate party, SDP, did not put up a fight against the nationalists, despite having a Serb presidential candidate. Conclusively, Alternative Voting did not create the cross-cleavage voting the centripetalism model hoped for in the 2000 RS elections.

How did centripetalism affect the consociational norm? The elite incentive structure created by consociational democracy supposes that the collective interests of minorities will be accounted for through quota mechanisms, such as the necessity to have equal representation of the three ethnic groups in legislative and executive institutions. The RS Council of Peoples requires 8 Bosniaks, 8 Croats, 8 Serbs, and 4 others and the RS Council of Ministers has 16 ministries of which 5 are Bosniak, 3 are Croat, and 8 are

¹⁴⁹ Allison McCulloch, "Seeking Stability Amid Deep Division: Consociationalism and Centripetalism in Comparative Perspective," (PhD diss., Queen's University Kingston, Ontario, Canada, 2009), 163.

Serb. However, centripetalism undermines this fragile balance, seeking to use a voting method that already allegedly accounts for the minority interests. By stacking another layer of imposition on the already malcontent Republika Srpska citizens, a backlash against the international community should have been foreseeable.

4.4 The Alliance for Change: A Centrist Coalition

As the international community's investment in the RS backfired with SDS sweeping the 2000 elections, another centripetal move was transpiring on another, grander stage. The first centrist coalition, dubbed the 'Alliance for Change,' was formed in the BiH state government on the coattails of the narrowly victorious, non-nationalist Social Democratic Party (SDP). The SDP formed a centrist coalition with nine other small parties that emphatically excluded the big three nationalist parties from the war: SDP, HDZ, and SDA. While the Alliance's triumph was espoused as a victory for the future of Bosnia, behind the curtain lurked the international community pulling all of the strings. While the accomplishments of the Alliance are commendable, this example also highlights the consequences of externally imposed centripetalism working in contradiction of the consociational model.

The internationals had begun a "vigorous campaign"¹⁵⁰ against the nationals in the previous municipal elections in 1998 that saw Dodik's SNSD win a majority in the National Assembly as mentioned in the previous section. Therefore, the internationals stuck to this strategy for the general elections in 2000. NATO Secretary General George Robertson and US President Bill Clinton were among the choir of peripheral voices

¹⁵⁰ Merdzanovic, *Democracy By Decree*, 282.

supporting the moderates in this race.¹⁵¹ Moreover, the fall of Milosevic in neighboring Serbia and the death of Franjo Tudman in Croatia, saw the end of the two great nationalist leaders from the war simultaneously exit the political scene at the turn of the century. The new governments of Serbia and Croatia opted against supporting their Bosnian counterparts quite as generously as their predecessors. In response, the SDP caught a lucky break with regional nationalist slump and supplementary support of the internationals coinciding with the 2000 general elections.

In the Federation BiH, the Alliance included SDP and SBiH (previously mentioned in this thesis). Plus, the Croat representative was NSRzB replacing its big brother HDZ. On a state level, PDP, SNSD, SPSR, and SNS from the Republika Srpska joined the alliance to earn a slight majority over HDZ, SDA and SDS. Because of this narrow majority, the Alliance was an incredibly stretched coalition, needing all the small parties in order to form a majority. There was no ideological consistency within the coalition; therefore the internationals were needed to step in with, “energetic lobbying and arm-twisting by the then American and British ambassadors.”¹⁵² In result, the Alliance was borne out of an internationally compelled marriage of ten parties.

This alliance of Federation-based parties of disparate size, ideological orientation and national coloration has cooperated at state level with parties from Republika Srpska that are both in power and in opposition in that entity. The Alliance has thus lacked cohesion on both levels of government. It has sought to push a reform agenda, but one that cannot help but reflect the lowest common

¹⁵¹ Merdzanovic, *Democracy By Decree*, 282.

¹⁵² Merdzanovic, *Democracy By Decree*, 285.

denominator of what is acceptable to its different sets of partners in the Federation and the Council of Ministers.¹⁵³

However, it cannot be unstated that the Alliance did accomplish a degree of success. Most notably, the Alliance passed a permanent election law, which allowed Bosnia to join the Council of Europe during the Alliance's tenure. On the other hand, much of the progress was in the form of strengthening state structures and making institutions work better, invisible changes in eyes of the voters. Thus, after two years, the Alliance lost its slim majority to the nationalists. In no election since have the nationalist parties –HDZ, SDA, SDS, or SNSD (which morphed into the dominant Serb nationalist party) – been universally excluded from a ruling coalition of the BiH state House of Representatives. While some success was accomplished by the Alliance, the voters have never since elected to have this type of government again. Perhaps this is due to the fact the Alliance was unfocused and undisciplined, unlike their nationalist counterparts.

The Alliance for Change illustrates how the consociational 'grand coalition' conflicts with the centripetalist, 'centrist coalition.' As the international community seeks to form a centrist coalition, nationalist members are innately excluded. Since the center hardly exists in Bosnia, and certainly is not a majority without the perfect combination of external factors (and even then barely so), then the notion of a centrist coalition is an exclusionary measure against the vast majority of Bosnians. This demonstrates that the centrist coalition implementation is quite contradictory to democratic principles.

Moreover, by empowering a centrist coalition of the internationals making, fundamental

¹⁵³ "Bosnia's Alliance for (Smallish) Change," Bosnia's Alliance for (Smallish) Change, August 2, 2002, <https://www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/bosnias-alliance-smallish-change>.

state building was done by the puppets of the external forces instead of by the Bosnian elite, which *de facto* represent the significant portion of citizens in Bosnia. Therefore, the elite accommodation that is supposed to be “learned”¹⁵⁴ instead of merely institutionally imposed in a consociational system, is unable to take hold. In the long-term, this results in the collapse of consociationalism entirely.

Horowitz critiques grand coalitions for prohibiting the formation of a healthy opposition within the legislature, thereby the political elites are not held accountable by their peers. Horowitz labels this as one of the “peculiar set of problems” that ethnically divided countries face in democratization.¹⁵⁵ He contends that in a consociational system the voters are unable to vote elites out of power. Lijphart’s response would be that, in a plural society, it would be more damaging for national stability to not have the segments represented, than to have this sort of competition. This was the line of logic of the Dayton creators, and as to why the *Constituent Peoples* decision by the Bosnian Constitutional Court in 2000 granted tripartite appointments according to ethnicity across Bosnian institutions. Besides, every ethnic group, even Croats, have had multiple ethnic-oriented alternatives in the political scene. SDA, HDZ, and especially SDS have lost numerous elections to opposing parties. An opposition does exist in Bosnia, but it should not play a robust function within the consociational framework. According to Lijphart, an opposition would entail minority oppression.

The consistent inability of coalitions to properly function has been a feature of Bosnia since Dayton; “A coalition means an alliance of members acting jointly to achieve

¹⁵⁴ Lehbruch, “Consociational Democracy,” 382.

¹⁵⁵ Donald L. Horowitz, “Constitutional Design: An Oxymoron?,” *Democratic Culture* = תרבות דמוקרטית (2000): 117.

an agreed goal. This is not the case now. The question is whether it ever was...it was clear from the beginning that their interests were opposed,” said Adis Arapovic, a political analyst at the Centre for Civic Initiatives, in May 2017.¹⁵⁶ The context he is referring to is the recent breakdown of the 2014 general election state-level coalition among Bosniak SDA and SBB, Croat HDZ, and Serb SDS and PDP and its rocky experience during and after the 2016 local elections. Continuous failures to form governments have plagued the Federation. For example, despite the incentive of millions worth of International Monetary Fund loans, the politicians in the following ruling coalition failed four times to pass an excise law as of May 2017. Not until December of the year could were they able to come to sufficient consensus to secure approximately one billion euros of much needed development funds.¹⁵⁷ Despite the slow progress, the American ambassador rejoiced at the accomplishment. But why did consensus take so long on such an issue? Part of the answer lies in the weakness of the coalition itself.

The international community has attempted to pressure Bosnia to create cross-cleavage coalitions and this has been successful. In the 2014 elections, HDZ, SDS, and SDA formed a ruling coalition, however the coalition failed to pass consistent legislation.¹⁵⁸ This is evidenced in the excise law, despite the massive incentive given by the international community. At the Federation level, a coalition between SDA, HDZ,

¹⁵⁶ Srečko Latal and Danijel Kovacevic, “Ruling Coalition Breakups Heighten Bosnia's Agony,” *Balkan Insight*, May 15, 2017, <http://www.balkaninsight.com/en/article/ruling-coalition-breakups-heighten-bosnia-s-agony-05-15-2017>.

¹⁵⁷ Mladen Lakić, “Bosnia Raises Excise Taxes to Secure IMF, EU Funds,” *Balkan Insight*, December 15, 2017, <http://www.balkaninsight.com/en/article/parliamentary-assembly-of-bosnia-and-herzegovina-adopted-new-law-on-excise-12-15-2017>.

¹⁵⁸ “Bosnia and Herzegovina,” Freedom House, December 1, 2016, <https://freedomhouse.org/report/freedom-world/2016/bosnia-and-herzegovina>.

and Democratic Front (DF) dissolved only a few months after the 2014 polls leaving the government dysfunctional for months. This is not the exception in Bosnia; rather, coalition breakdown is the norm. In the most extreme case of crosscutting coalition failure, the major city of Mostar has lacked elected officials since 2008. This illustrates that the centrist coalition vision is impractical in the context of Bosnia.

Horowitz would term the 2014 arrangement as a “coalition of convenience,” which was strategically built by nationalist factions, and he would be correct.¹⁵⁹ Instead of promoting stability, Horowitz believes a coalition of convenience will sham camaraderie due to the incentive to hold power. However, this argument fails to acknowledge that the ten party Alliance for Change in 2001 the internationals bolstered to power comprised of much more extreme spectrum than the 2014 marriage of convenience. The internationals themselves deployed the most notable example of a “coalition of convenience.” In trying to escape this fate, the internationals simply plunged Bosnia deeper into its snares. The nationalists were able to mobilize behind the common enemy posed by the international interference, precisely as Lijphart predicts what will happen in a consociational system in the shadow of an “external threat.” Since the coalition of convenience was forged by the internationals, the nationalists bonded together:

The final irony is that the parties representing the victims of Serbian aggression against the integrity of Bosnia-Herzegovina during the war are now, likewise, eager partners with the SDS—the party formerly of Karadžić, which orchestrated the genocide and all but destroyed the country’s social and economic fabric.¹⁶⁰

¹⁵⁹ Donald L. Horowitz, *Ethnic Groups in Conflict*, updated edition with a new preface (Berkeley: University of California Press, 2001), 395.

¹⁶⁰ Peter Lippman, "Setbacks and Coalition-Building After October Elections in Bosnia-Herzegovina – 2015 January-February," *Washington Report on Middle East*

As this example from the 2014 coalition building effort demonstrates, the centripetalist model has been pushed on Bosnia with detrimental effects. The coalitions are simply of convenience between extreme parts, thus any attempt to work towards moderation and exclude these extremes, would result in a nationalist fervor as it did in the aftermath of the Alliance for Change in 2002. The bottom line is that Lijphart's notion of a grand coalition, where the elite are comfortable representing the fragile views of their minority, is negatively impacted by the promotion of centrist opposition by the international community and ironically leads to further radicalization. Centripetalist, centrist coalitions have proven fallible in Bosnia because the center does not exist in large enough quantities to be democratically feasible.

4.4 Brcko: Administrative Federalism

Therefore, the constituent units of a centripetalist federation would not be formed around the groups involved in the conflict, as in consociations, but rather would ideally consist of heterogeneous units wherein the groups are intermixed. Arranging the constituent units in such a fashion is commended for "its capacity to lower the high temperature of politics at the center by reducing the all-or-nothing nature of the stakes at that level" and for its ability to socialize norms of interethnic cooperation.¹⁶¹

There are no alternative voting methods, centrist coalitions or presidential offices being elected by regional quotas in Brcko, so it too cannot be claimed as an ideal application of centripetal design. However, the centripetal notion of administrative

Affairs (January/February 2015), <https://www.wrmea.org/2015-january-february/setbacks-and-coalition-building-after-october-elections-in-bosnia-herzegovina.html>.

¹⁶¹ McCulloch, "Seeking stability," 53.

federalism is certainly present, granting an insightful experiment with this centripetalist motive. This characteristic of Horowitz's theory is characterized by the federalist choice to draw ethnically heterogeneous districts. Horowitz believed a plural society should not be carved into the mono-ethnic constituencies; rather multiethnic districts would facilitate micro-cooperation among the cleavages that could eventually translate to cooperation on a grand scale. According to the 2013 census, Brcko has a population of 83,416 inhabitants of which Bosniaks account for 42.36%, Serbs 34.58%, Croats 20.66%, and others 2.28%. This demographic demonstrates that the Brcko district adheres to the centripetal characteristic of administrative federalism. While the Republika Srpska entity and Federation BiH cantons are nearly completely homogenous, Brcko proves to be the noteworthy exception.

While most of the governing units of Bosnia are homogenous, the Brcko region is an exception. In fact, Brcko is an exception in more ways than one. Brcko is a port town on the river Sava in the northeastern corner of Bosnia, but it was undoubtedly the most fought over spit of land throughout the war due to its strategic location and mixed population. The 1991, pre-war census placed the Brcko population at 87,627, of which 44.1% Bosniak, 20.7% Serb, 7.0% Croat, 12.6% Yugoslav, and 5.0% others.¹⁶² The gloomy trend in the Bosnian conflict was that previously peaceful multi-ethnic communities became the frontlines of nationalist forces. As the international community attempted to end the war in Dayton, heated controversy over Brcko threatened to tank the

¹⁶² Alexander Sam Jeffrey, *The Improvised State: Sovereignty, Performance and Agency in Dayton Bosnia* (Chichester, UK: Wiley-Blackwell, 2013), 204.

entire peal agreement in 1995.¹⁶³ The district's military importance is evident in the fact it forms a land bridge between the two halves of the Republika Srpska as well as between the Posavina canton and the rest of the Federation territory. The Brcko valley also borders the adjacent country of Croatia and is less than 30km from the Serbian border. Clearly, the little valley was stuck as the crossroad of the Yugoslav conflict. And due to this, Serb forces wasted no time before invading in April 1992. Crimes of ethnic cleansing from Brcko led the International Criminal Tribunal of Yugoslavia (ICTY) to indict Goran Jelisic and Ranko Cesic. In all, the territory witnessed terrible devastation, even in the context of the Bosnian War, making a diplomatic solution at Dayton almost impossible to reach.

The issue Dayton could not agree on was which entity would be awarded the district. The sides failed to concede and the decision was postponed. Lord Roberts Owen was tasked with making a final judgment on Brcko within a year.¹⁶⁴ However, Lord Owen would annually delay for five years until March 1999, before giving the decision that the Brcko district would be awarded to neither entity and continue to operate autonomously with independent parliaments, courts and governments. Due to this, Brcko is an exotic element in the Bosnian theatre. Yet, the international community implemented key consociational components like the rest of Bosnia. For example, the Brcko Municipal Assembly would have a president, vice president, and secretary all of a different ethnicity. Plus, the president of the executive board of the municipality would

¹⁶³ Michael G. Karnavas, "Creating the Legal Framework of the Brčko District of Bosnia and Herzegovina: A Model for the Region and Other Postconflict Countries." *The American Journal of International Law* 97, no. 1 (2003): 111-31. doi:10.2307/3087109.

¹⁶⁴ Jeffrey, *The Improvised State*, 209.

have two deputies, all three individuals required to be of different nationalities.¹⁶⁵ Article 33a of the Statute of Brcko District of Bosnia and Herzegovina, “Prevention of Outbidding,” contains requirements of the presence of all three ethnic groups for various important legislative functions.¹⁶⁶ Thus, the consociationalism is not altogether vanquished in Brcko.

On the other hand, Brcko contains many un-consociational measures. While Brcko remains under the auspices of the central state, it rules with a higher degree of self-government than the rest of the country. The local polity in Brcko governs policy areas such as police and education¹⁶⁷ while these powers are vested in the entity level in the FBiH and RS constitutions. The Brcko parliament has 31 Councilors, with the only caveat is that two of which must represent solely ‘others’ minorities.¹⁶⁸ There are no further parliamentary quotas or veto mechanisms for ethnic groups like there are in the entity and state level legislatures. This is an abrupt departure from consociational design. Even more surprisingly, parliamentary decisions are made by simple majority rule, exotic in the context of consociational Bosnia. Thus, the district is a combination of the two clashing theories.

Brcko also exhibits the dependency-scapegoat cycle of ironic external intervention. The external powers played the integral role in fundamental state building in

¹⁶⁵ Jeffrey, *The Improvised State*, 213

¹⁶⁶ *Statute of the Brcko District of Bosnia and Herzegovina*, Bosnia and Herzegovina: Brcko District Official Gazette (Dec 7, 1999), art 33a. <https://advokat-prnjavorac.com/legislation/Statute-of-the-Brcko-Distrikt-of-Bosnia-and-Herzegovina.pdf>.

¹⁶⁷ *Statute of the Brcko District of Bosnia and Herzegovina*, art 8.

¹⁶⁸ *Statute of the Brcko District of Bosnia and Herzegovina*, art 23.

Brcko, especially in refugee return and elections. Due to this superfluous oversight, Brcko shared the same fate as the Bosnian whole – an imposition of consensus.

Right from the very beginning certainly from the beginning of the supervisory regime we did not seek to do things by consensus. It was just imposed. You know “democracy” came fairly low down the list of what was required in terms of getting the job done.¹⁶⁹

-Former Brcko OHR Official, 2nd June 2003

Starting from the beginning, on March 14, 1996, the final award of Brcko, as prescribed by Dayton, was due to be decided. But, the international community considered the situation too volatile, and instead announced that the OHR would establish an office in the district. On March 7, 1997, the PIC once again pushed back the decision. High Representative Carl Bildt appointed the U.S. Ambassador Robert Farrand as Supervisor of Brcko.¹⁷⁰ The Supervisor was essentially the OHR of Brcko; acting to ensure laws and officials did not violate Dayton. On March 15, 1998, for the third time, the Final Award was postponed. Furthermore, The PIC granted the Supervisor Bonn powers – the ability to remove elected officials and enforce law without a checks and balances. On March 5, 1999, the Final Award was finally given, granting the Brcko district to the international community rather than the entities. In June 1999, the Brcko Law Revision Commission (BLRC) was established comprising of one representative from the Republika Srpska, two from the Federation, and a number of international lawyers. The BLRC reformed the judiciary, executive, legislature and continued on to improve education, labor, and property law.

¹⁶⁹ Jeffrey, *The Improvised State*, 216.

¹⁷⁰ Karnavas, “Creating the Legal Framework,” 113.

The BLRC was funded separately from the OHR. As the BLRC's structure and funding make clear, the draftsman of the Final Award intended to create a legislative drafting commission dedicated solely to the Supervisor and independent of the OHR, with a view to ensuring that the legal reform envisioned for the District would be carried out without any coercive interference or influence by the international community, including the OHR itself.¹⁷¹

As this example demonstrates, the BLRC was aware of the negative effects of excessive international pressure. The only difference between the OHR scapegoat-dependency cycle and the BLRC is that the BLRC closed up shop. On May 23, 2012, the OHR issued a decision that their office in Brcko would be closed and the Supervisor would be suspended. Despite the initial symmetry of the international approach of the Brcko Supervisor with the OHR, the two paths finally did diverge. But, this has not been because the inspiring results of Brcko. In fact, today Brcko follows the same misery as the rest of the country: stuck with corrupt political elite and economic depression. In the most recent general elections (2016), the nationalist parties of SDS (Serb), SNSD (Serb), SDA (Bosniak), and HDZ (Croat) were the winners of the most seats in the Assembly. Ballots for these parties accounted for more than half of the total votes cast.

Identical the prior two examples of centripetalist intervention, the nationalist elite have grown stronger in the face of external pressure. Both the Alliance for Change centrist coalition and the AV method in Republika Srpska shared this fate, and in Brcko, the result has been the same. After the first elections in the newly formed Bosnia in 1996, Brcko erupted in riots against the OHR, OSCE and other international institutions

¹⁷¹ Karnavas, "Creating the Legal Framework," 114.

labeling them, “the occupying army.”¹⁷² Robert W. Farrand was the first Supervisor of the Brcko district, and reveals with harrowing honesty the process of helping Bosniaks and Croats relocate to their old homes, reversing ethnic cleansing, build new housing for Serb refugees, rejuvenate the local economy, create a legal system, give authority to a multi-ethnic legislative assembly, reintegrate the police force, and many more state-building measures. Farrand admits he could fit the description of a dictator, and the Brcko citizens often saw him as such.

When the Kosovo scene exploded, American attention was directed elsewhere. Over the next few years, the Americans engaged less in Brcko, and the city folded into the same melancholy as the rest of Bosnia.

Multi-ethnicity collapsed, corruption re-emerged, the public institutions created by Farrand and his team disintegrated, and private capital fled. When, from 2006, the US disengaged more or less completely from the supervision project, Brcko District collapsed. It now persists as a sad well of endemic poverty, ethnic resentment and political insecurity. Tacit repartition has begun, and gradual envelopment by Republika Srpska – the very evil that supervision was supposed to foreclose – has returned as a credible political prospect.¹⁷³

-Mathew Parish, Chief Legal Adviser to the International Supervisor of Brcko

This result beckons the question; if the decline of Brcko coincided with the decreased presence of international supervision, then why not reintroduce external pressure? But, this conclusion is optimistic of the international commitment to the region.

¹⁷² “Bosnia's Future,” International Crisis Group, July 10, 2014, <https://www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/bosnia-s-future>.

¹⁷³ Matthew Parish, “The Painful Legacy of Brcko's Imperial Experiment,” *Balkan Insight*, January 20, 2012, <http://www.balkaninsight.com/en/article/the-painful-legacy-of-brcko-s-imperial-experiment>.

At first, Brcko was heralded as the shining example of Bosnian reconstruction and international democratization efforts. Privatization of companies and economic growth surpassed the rest of the country. 800 American troops and the creation of a multi-ethnic police force made remarkable progress in refugee returns.¹⁷⁴ However, beneath this veil of top-level institutional progress, the citizens of Brcko remain divided. Janine Natalya Clark finds evidence of three harrowing themes from researching the grassroots cooperation of ethnic groups in Brcko, “that the war is a taboo topic, that trust is in short supply and that important inter-ethnic divides persist.”¹⁷⁵ As Clark aptly points out, this is startling data for the long-term viability of democracy in Brcko. While the top-level institutions created an aesthetic of sustainability, the return of Brcko to the clutches of the nationalist elite in the recent election (2016) signifies that the multi-ethnic efforts of the international community did not sink into the social fabric. Moreover, these efforts failed because they were centripetalist in nature and tried to overcome deep social divisions by placing a very multi-ethnic constituency in a single district. But, perhaps this was the best course of action for the international community to take with regard to the highly controversial region, it does not warrant the continued interface of foreigners in Brcko.

Even if Brcko was an oasis under external control, this was not a self-sustainable. Brcko failed to produce moderation as Horowitz foretold. Contrary to centripetalism, in June 2008, the Supervisor of Brcko elected to enact a consociational adjustment that decisions on sensitive subjects such as religion, culture, education, monuments, language, budget and spatial planning now require support from at least one-third of the councilors

¹⁷⁴ Janine Natalya Clark, “Bosnia's Success Story? Brčko District and the ‘View from Below’,” *International Peacekeeping* 17, no. 1 (2010): 67-79.

¹⁷⁵ Clark, “Bosnia's Success Story?” 71.

from each ethnic group or, in legal terms, each constituent peoples.¹⁷⁶ This example highlights how the centripetalist experiment with administrative federalism was determined to be a failure in Brcko. The minority groups needed this consociational mechanism to prevent the predatory danger of majorities along the same logic of Dayton. All in all, Brcko offers yet another example of a harmful attempt at centripetalist reform within the consociational framework.

¹⁷⁶ Raffi Gregorian, “Supervisory Order Amending the Statute of Brcko District, Enacting the Election Law of Brcko District, Enacting the Rules of Procedure of the Assembly of Brcko District and Amendments to Respective Regulations of Brcko District,” Brcko Supervizija, June 05, 2008, <http://www.brckosupervizija.ba/web/?p=411>.

Chapter V – European Pressure

The last two chapters have focused on aspects of external pressure that have caused rupture in consociational implementation in Bosnia since the enactment of Dayton treaty in 1996. This chapter will focus on a third occurrence regarding external pressure of European integration on the Bosnian political sphere. This chapter will argue that consociational theory has been warped because the external actors, specifically the institutions of the European Union, have predetermined the points of accommodation on behalf of the local Bosnian elite. This has been a form of indirect imposition.

Recall from Chapter 2, within consociational theory there are a values of convergence that represent where the all the elite would eventually come to a compromising position. This is the output of the mathematical equations. Without carefully calculating the coefficients and starting positions, we are incapable of controlling the point of convergence. Moreover, it may be rather implausible to reach a convergence point with certain coefficients starting values. In this Chapter, imagine if an external force predetermines a value of convergence. For example, an external force predetermines the budget for border security. Given the external forces lack of control of the starting points and have limited control of the coefficients, setting a predetermined convergence point is extremely unlikely to match the model's calculated value. In result, imposing a border security budget is likely to leave one or more groups cheated out of the consociational process of mutual accommodation. The theory of consociationalism argues that a consensus point would be achieved by a grand coalition; however, Lijphart did not say that consensus point could be predetermined or controlled by an imposing council. Yet, this is the reality of the European Union's policy toward consociational

Bosnia. External forces have set consensus points on behalf of the local elite. This is the third manner the international community has undermined consociational theory.

The process of integration to the European Union (EU) has been the root of substantial intervening action in Bosnia since the signing of the Dayton Peace Agreement. This section will solidify the accuracy of this statement through numerous facets including: the OHR *double-hatting* as the EU Special Representative, the imposition of the *Sejdic and Finci* case from the European Court for Human Rights (ECHR), and the dire situation of *state capture* begun by the International Monetary Fund (IMF) and European Bank for Reconstruction and Development (EBRD). Through these avenues, the internationals formed an obstinate burden on the consociational system in Bosnia in the past decade. The theory has been eroded. As preceding the two chapters illustrate, the external pressure from Bonn Powers and centripetalist reforms have faded; however, European integration pressure has largely been sustained. This chapter will distinguish how external imposition from a European integration perspective has resulted in the undermining of consociational democracy.

5.1 Occasional Goodwill: The EU Club

As Yugoslavia fell into disarray in the early 1990's, the European Community (not yet named the EU) declared itself *primus inter pares* (first among equals) to provide a solution to the predicament. The head of the EC at the time stated it was “the hour of Europe, not the United States”¹⁷⁷ to solve the problems that faced its continent. However,

¹⁷⁷ Ana E. Juncos, “The EU’s post-Conflict Intervention in Bosnia and Herzegovina:(re) Integrating the Balkans and/or (re) Inventing the EU?” *Southeast European Politics* 6, no. 2 (2005), 88.

I have exhaustively illustrated that the United States under the Clinton Administration took a key role in military intervention through the NATO alliance. Nevertheless, the European Union wished to play a prominent role in the reconstruction of Bosnia affirming:

The European Union will coordinate its actions with other members of the international community in order to provide long-term assistance with the objectives of supporting economic development, reinforcement of civil society and reconciliation and regional economic co-operation. In the perspective of peace, the EU is developing its long-term policy toward the region, to help build stability and prosperity.¹⁷⁸

While the EU was committed to Bosnia, the Union attached the typical conditionality principles that Bosnia would adhere to measures of human rights, democratic practices, and the rule of law in order to advance in the process. On January 10, 2018, I interviewed two individuals at the Office of the High Representative in Sarajevo, Bosnia that requested anonymity, but described the process of joining the EU as the following:

The EU is a club, and they say you must meet all of the criteria in order to join. If you do not have them all, then you cannot join. The EU tells us (Bosnia) to come back when we have everything, then they will consider us.¹⁷⁹

Before joining the EU, a prospective member state must adopt the *acquis communautaire*, “80,000 pages of EU law governing thirty-three major subjects,

¹⁷⁸ “EU Council Conclusions on Guidelines for Former Yugoslavia (30 October 1995),” CVCE, October 21, 2012, https://www.cvce.eu/content/publication/1997/10/13/98e4b1f7-d93a-4a23-9dd2-2b2ec702e687/publishable_en.pdf.

¹⁷⁹ Personal Interview with the OHR in Sarajevo, January 10, 2018.

including taxation, commerce, judiciary, fundamental rights, and environmental regulations.”¹⁸⁰ The prospective member must demonstrate an adherence to the *acquis* on every level of government in society. Thus, this was the chief goal of the EU from the birth of Bosnia in 1995. Then, the Europeans established the Stabilization and Association Process (SPA) in 1999 for the Western Balkan countries, including Bosnia, to: “draw closer the prospect of full integration into the EU structures, and supporting consolidation of democracy, rule of law, economic development and reform.”¹⁸¹ The EU and Bosnia attended the Zagreb Summit in November 2000, officially endorsing the SPA and the EU conditionality principle as the token into the continental ‘club.’ In order for Bosnia to meet EU conditions, it must pass laws in accordance with the following: The Copenhagen Criteria (1993), the conditions set by the SPA meetings (1997,1999), the Zagreb declaration, and the Thessaloniki Agenda (2003).¹⁸² The last of these documents strengthened the SPA and kicked off a pact called the “European Partnership.” This document, officially initiated by the EU in June 2004, developed a plan with a set timetable of European priorities for Bosnia. In November 2005, the EU Commission believed that BiH had made enough progress to begin talks of the Stabilization and Association Agreements (SAA). In June 2008, the SAA deal was done and BiH and the Union entered into a contractual relationship where BiH had to complete reforms on liberalization and institution building to guarantee qualifying for EU membership status. This concludes the summary of EU-Bosnia relations from 1995 to 2008.

¹⁸⁰ Don Hays and Jason Crosby, *From Dayton to Brussels: Constitutional Preparations for Bosnia’s EU Accession*, Special Report (Washington, DC: United States Institute of Peace, 2006), 175.

¹⁸¹ Eralp, *Politics of the European Union*, 62.

¹⁸² Eralp, *Politics of the European Union*, 66.

There are multitudes of factors to consider in the EU-Bosnia process. One, the Union's top priority in the late 90's and turn of the century was not accession Bosnia and its Western Balkan neighbors, but the "economic facilitation" of Central and Eastern countries.¹⁸³ Hungary, Poland, Slovakia, and Czech Republic achieved EU membership in 2004 and Romania and Bulgaria in 2007. EU accession in these Central European countries was an effort to bring free-market reforms to the former Eastern bloc. Although, these countries did not contain three ethnic cleavages, two separate federal units, and a state government with very limited capabilities. Most of the struggle in BiH has been focused on centralizing power in the state-level body, hence antagonizing the fragile autonomy of Serbs and Croats supposedly allowed in a consociational model. The centralized countries in Central and Eastern Europe more easily accommodated EU conditions and were hurried under their economic umbrella.

Extreme financial assistance was used to push along the broken Dayton cart on the long road of EU integration. The EU was the largest donor to Bosnia from the international community from 1996 to 2003, issuing billions of euros of reconstruction aid. The Community Assistance for Reconstruction, Development and Stability (CARDS) program became the primary vestibule of support of the EU designed for SAP countries. Between 2001 and 2006, BiH made use of €412 million from CARDS. However, this is dwarfed by €1.952 billion grand total of EU assistance, as of 2006, since the conflict ended. Without a doubt, the financial assistance was meant to induce the Bosnian elite to accommodate the EU conditions. In good faith, the Europeans have

¹⁸³ Eralp, *Politics of the European Union*, 61.

attempted to create stability and foster democracy in Bosnia, but the European Partnership part of the SPA became a tool of imposition.

This European Partnership outlines short and medium-term priorities of BiH in excruciating detail; everything from police to public broadcasting reform is contained in this document. This is how the EU selected consensus points for the Bosnian elite, contrary to consociational theory. While the Europeans were arguing the necessity of ownership of the reform process by the Bosnians, at the same time they were threatening to cut off financial assistance if the conditions of the European Partnership were not met, “The EU attempted to leverage the accession process as a permanent conflict transformation tool.”¹⁸⁴ Thus, the European Partnership was a coercive and punitive document intended to impose state building and democratization on Europe’s terms, not the elected Bosnian leadership’s. With consistent and very intentionally configured holdups within the Dayton system, Bosnia was unable to meet deadlines on many of the EU conditions. For example, the Croats used the vital interest mechanism to prevent the passage of public broadcasting reform, thus it failed to make the deadline by 2011. Bosnians absorb public broadcasting along ethnic lines,¹⁸⁵ making efforts by the internationals to impose a nationwide broadcaster challenging. By consociational theory this is an intentional design, and should not be easy to strip minorities of autonomous rights. But since the Madrid Peace Implementation Council in 1998 gave entities the

¹⁸⁴ Eralp, *Politics of the European Union*, 66.

¹⁸⁵ Daniel Lindvall, “Imposed Reform Facing Its Ultimate Test,” *Balkan Insight*, February 5, 2006, <http://www.balkaninsight.com/en/article/imposed-reform-facing-its-ultimatetest>.

reigns of public broadcasting, the Croats have a claim against external imposition. Calls for an independent Croat TV station continue today.¹⁸⁶

The logic of the Bosnian elite is understandable, they do not see EU membership as a realistic goal in their electoral lifespan of two or four years so they are not willing to commit. But, the elite are compelled to rehearse an interest in EU integration because it unlocks funds. Therefore, the EU conditionality principle works in reverse; instead of acting as a current of consensus, EU membership provokes social and political cleavages. This is done the following way: The elite are delivered a plethora of laws, 80,000 to be exact, in which they must find consensus on without any exceptions in order to join the European Union. This burdens the consociational structure with an exceptional task; one that Lijphart certainly did not have in mind when formulating the political theory. Instead of developing compromises, the Bosnians are left scrambling over with the option to accept or reject EU conditions. External forces, which have imbedded themselves into the Bosnian structure through Dayton, have not offered alternative policy options. The ‘Alliance for Change’ (2000-2002) illustrated that even securing membership in the Council of Europe was not sufficient to win popularity in the highly fragmented society of Bosnia. Therefore, the process of EU accession is not politically beneficial to the elite apart from the occasional funding for the process.

A deal struck in Mostar on police reform in late 2007 exemplifies the elite issuing a gesture of goodwill to appease the OHR. During and immediately after the war, police forces were divided along ethnic lines and operated only within the territory controlled by

¹⁸⁶ Igor Spaic, “Bosniaks Likely to Resist Bosnian Croat Call For Own TV,” *Balkan Insight*, February 27, 2017, <http://www.balkaninsight.com/en/article/bosniaks-resists-bosnian-croat-call-for-own-tv-02-27-2017>.

their group.¹⁸⁷ While Dayton merged the Croat and Bosniak forces, Republika Srpska stubbornly refused. The EU Police Mission (EUPM) has been the chief international advisory institution for the Bosnian elite on the matter since 2003. The EUPM was informed, by the Council of Europe, to “establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice.”¹⁸⁸ Thus, the 2007 deal decided in Mostar was important for their purpose. Implementation of the deal struck was tasked to the EUPM shortly after the deal, but they made dismal progress. This is chiefly because the deal silently died with the advent of local elections in 2008 and the return of local elite to their centrifugal tendencies. While this is to be expected in a consociational incentive framework, the continual failure of the cleavages to return to the center *after* elections represents a defunct consociational arrangement. A study published in 2014 in the *International Journal of Security & Development* found that the efforts of the EU and UN in police reform are, “unfinished business,” after 17 years of efforts.¹⁸⁹ Despite annual negotiations and declarations, there is still no real change in sight. A statement from the OHR cements the reality of the Bosnian elite’s theatrics when it comes to EU conditions:

The political leadership divides the country into three parts – let us face it. They have absolute control over the political process, appointments, economic life, and other things. The philosophy is: I don't touch you – you do not touch me. Obviously, any process of European integration would limit the freedom in dealing with their part of BiH. So they are not really interested, that is clear.¹⁹⁰

¹⁸⁷ Amelia Padurariu, “The Implementation of Police Reform in Bosnia and Herzegovina: Analysing UN and EU Efforts,” *Stability: International Journal of Security and Development* 3, no. 1 (January 2014): 1-18.

¹⁸⁸ Padurariu, “The Implementation of Police Reform.”

¹⁸⁹ Padurariu, “The Implementation of Police Reform.”

¹⁹⁰ Merdzanovic, *Democracy By Decree*, 344.

In the meantime, the Bosnian elite will resort to ethno-nationalist rhetoric to remain in office while EU conditions backlog meaningful accommodation. As long as the elite make occasional gestures of progress toward the EU conditions, they will secure EU financial assistance. This is only rational. All in all, the external pressure of the EU ironically causes ethno-nationalism to become a more rationale choice for the Bosnian elite to maintain political viability.

5.2 OHR Double-Hatting

Chapter 3 focused on the scapegoat-dependency cycle that infects the relationship between the OHR and Bosnian polity within the consociational logic. This section will pick up in 2008 where that chapter left off. HR Christian Schwarz-Shilling issued the demise of the Bonn Powers in 2006 when he refused to step in in the wake of April package failure. While the scapegoat-dependency cycle left long lasting consequences on the consociational system, the OHR pivoted to a European strategy after the Bonn powers. The OHR would absorb the role as EU Special Representative, despite this being incongruous with the OHR mandate prescribed by Dayton. This “double hatting” has perpetuated the European imposition of predetermined consensus points (i.e. – deciding beforehand what the politicians must agree on) because it made fundamental state building equivalent to EU integration. This is another form of imposition.

Miroslav Lajcak became the High Representative (2007-2009) after the lame duck period of Schwarz-Shilling. After the failure of the internationally supported 2006 April Package, the political elite who supported the deal felt betrayed. Serbs used the failure as

an excuse to attack centralized state-power.¹⁹¹ However, centralizing state authority was the overriding agenda of the European Union and the purpose of the 2006 April package. This fueled the showdown of the Serbs and OHR Bonn Powers in 2007, which I described as a successful *mutiny* in Chapter 3. This signaled the last breath of the Bonn Power era, and a transition of the OHR to a European integrationist strategy. Lajcak recognized this transitioning role of the OHR, “As a result of this August 2007, I started very actively promoting the European idea.”¹⁹²

Miroslav Lajcak’s first priority as the High Representative was to convince the European Union to sign the Stabilization and Association Agreement (SAA) on behalf of Bosnia.¹⁹³ Nonetheless, Bosnia needed to meet the nonnegotiable conditions of the SAA, including the polarizing issue of police reform, in order to continue the European process. With the Bonn Powers dead in the water, Lajcak chose to embody the prospect of EU integration to induce cooperation on the police issue, promising the Bosnian politicians he could convince the European Commission to speed up the process in return for consensus on a deal. He went so far as to promote the signing of the SAA as integral for Bosnian accession to the EU club (which there was popular support for among Serbs).¹⁹⁴ He gathered the political elite of Bosnia, including the mutinous Serbs, in Mostar for a conference in late 2007. The major parties finally chalked up a solution to the police reform issue, or rather accepted Lajcak’s imposition with the incentive of the SAA signature by the EU, “Lajcak warned the politicians it was their last chance if they were

¹⁹¹ Merdzanovic, *Democracy By Decree*, 332.

¹⁹² Merdzanovic, *Democracy By Decree*, 338.

¹⁹³ Eralp, *Politics of the European Union*, 47.

¹⁹⁴ Eralp, *Politics of the European Union*, 48.

sincere about EU membership.”¹⁹⁵ In good faith, on December 4th, 2007, the Europeans initialed the SAA, but this marked a hallow victory for the internationals. HR Lajcak managed to turn the situation around, but realized in the process how limited the OHR’s state building capacities were without strong Bonn powers.

But that was the moment when you realized that it was actually the European perspective that is more powerful than the Bonn powers...And it was very clear from that moment that you cannot be using Bonn powers to change the political life, because the Serbs would say ‘no’ – and you would have no authority to impose, to enforce your decision. Therefore I said: formally you keep supporting the Bonn powers, but deep down you understand that you are a paper tiger.¹⁹⁶

- Miroslav Lajcak, High Representative (2007-2009)

This example demonstrates that the OHR and internationals were aware they of loosing the leviathan role previously championed during the years of Petritsch and Ashdown. Lajcak was quick to camouflage the OHR in the costume of European integration. Within this role, the OHR added itself to the list of international institutions that the Bosnian elite could offer occasional gestures of goodwill to gain funding. But the OHR stepping into this role is more potent than the rest due to its historically important function of preserving Dayton. Recall that the OHR writes today that is tasked with: “working towards the point where Bosnia and Herzegovina is able to take full responsibility for its own affairs.”¹⁹⁷ Under this aim the OHR has facilitated refugee resettlement and toppled secession claims. But, in the same paragraph, the OHR writes that it will “ensure that Bosnia and Herzegovina evolves into a peaceful and viable

¹⁹⁵ Eralp, *Politics of the European Union*, 70.

¹⁹⁶ Merdzanovic, *Democracy By Decree*, 338.

¹⁹⁷ “General Information,” Office of High Representative.

democracy on course for integration in Euro-Atlantic institutions.” This is evidence of the irreconcilable agendas of the OHR written on its very website.

As of May 2018, the current head of the OHR, Valentin Inzko, was appointed the post back in 2009 making him the longest serving HR. Coming from a long career in diplomacy, he served as the Austrian ambassador to Yugoslavia (1982-1986), headed the OSCE mission in Sandzak in 1992, and acted as the first resident ambassador in Bosnia-Herzegovina after the war (1996-1999). Inzko did not deviate from the agenda of his predecessor, Lajcak, in that he highlighted the 5+2 agenda, closure of the OHR, and the European future of Bosnia in his first address as High Representative. Inzko did not attempt to reverse the death of the Bonn powers ushered under Lajcak and Schwarzschild, and also elected to embody EU integration. In fact, the Europeans officially placed their faith in Inzko. The EU-US Summit held in at the Butmir Camp Airbase outside Sarajevo in December 2009 formally requested HR Inzko to solely act as the EU Special Representative. Besides, this entailed excluding OHR experts from constitutional reform deliberations that occurred at the summit, hinting that being the Dayton watchdog was no longer the OHR’s jurisdiction. Instead, HR Inzko had been asked by his chief patrons (EU and the US) to act as the figurehead of EU integration.

The OHR was unsuitable for a EU role because it conflicts with Dayton. Therefore, this mission for the OHR became “too contradictory to uphold.”¹⁹⁸ If the OHR compelled cooperation, was it as an international representative creating a sustainable state in the context of Dayton? Or, was it as a representative of the European Union explaining reform is necessary for European integration? Since self-sufficiency and EU

¹⁹⁸ Merdžanović, *Democracy By Decree*, 346.

integration are not one in the same, HR Inzko had adopted a contradictory mandate. The 5+2 agenda was a state-building measure that the OHR dubbed as a European project to earn the frail support of the Bosnian elite. However, the support never arrived.

Consequently, in September 2011, the EU stripped the OHR of double hatting, opting to name Peter Sorensen EU Special Representative in a separate institution. In conclusion, after almost a decade and counting, the tenure of HR Inzko has witnessed the OHR playing a submissive role in Bosnian civilian affairs.

While the OHR is unsuitable for inducing EU cooperation, state capture is the underlying reason why these issues are unable to find genuine multi-ethnic consensus. Key findings of a report analyzing EU affects on police reform¹⁹⁹ support that the source of the insurmountable problem with that of police reform has been the local “political level.” The elite networks of state capture, including budget allocation and appointments, have caused the police to remain stagnated in a post-conflict fragmentation. Due to the role of the EU in trying to combat state capture, this issue demands to be the centerpiece of the next section.

5.3 Elite State Capture

This section will highlight claims that ‘state capture’ has been the thorn in the side of consociational logic. State capture is a term coined in 2000 by World Bank examining the transformation process in the context of the post-socialist societies of Eastern Europe

¹⁹⁹ Padurariu, “The Implementation of Police Reform.”

and the former Soviet Union.²⁰⁰ Originally, state capture referred to a group of oligarchs that take control of public institutions, politicians, and the media to advance their own enterprises. In the context of Bosnia, the ethno-nationalist political elite replaces this oligarchy, especially since 2005 when the internationals handed control of public administration back to them.²⁰¹ Under this pretext, the Bosnian elites have concentrated their influence over government institutions, thus capturing the state and making themselves electorally untouchable. In my interview with the OHR on January 10, 2018, I was told that the upcoming elections are, for the large part, already decided. More importantly, I was told that this was not atypical for Bosnia. Due to the state capture of the system, the positive incentive structure laid forth by Dayton is unable to operate.

The historical financial context is necessary to understand how the Bosnian elite came to capture the state today. As NATO bombs fell across the Western Balkans in the 1990's and American troops set foot on former socialist Yugoslav soil, the Western media portrayed a heroic intervention to end ethnic hatred. But, behind the scenes, the Western financial system had brought Yugoslavia to its knees. The Dayton Peace Agreement, which instituted a peace deal for the Bosnian war as well as a constitutional framework for the infant state, included the stipulation that the International Monetary Fund (IMF) would select the first leader of the Bosnian Central Bank that "shall not be a citizen of Bosnia and Herzegovina or a neighboring State."²⁰² Bosnia was unable to create its own currency to spur investment, nor "permitted to mobilize its internal

²⁰⁰ Bodo Weber, "BiH's Un-reformable Public Administration – an Instrument of State Capture, Perspectives, *Political Analyses and Commentary*, September 2017, 10-14, https://ba.boell.org/sites/default/files/perspectives_-_09-2017_-_web.pdf.

²⁰¹ Weber, "BiH Un-reformable Public."

²⁰² *Dayton*, annex IV, art VII.

resources.”²⁰³ The effect of this measure is a complete inability of Bosnia to self-finance its own reconstruction after the war. The European Bank of Reconstruction and Development oversaw public sector restructuring, which means the sell-off of state and socially owned assets. The EBRD welcomed foreign direct investment (FDI), claiming to be transitioning Bosnia from a socialist economy to a market economy, but rather was selling cornerstone industrial enterprises of the state to foreign hands at rock-bottom prices. Local banks were unable to develop, resulting in the contemporary environment of predatory banks. For instance, the recent Bobar Banka collapse in the Republika Srpska is a vibrant example.²⁰⁴ Also, since Bosnia allocated Yugoslavia’s debt, much of the financial assistance simply went back into the pockets of foreign creditors, not the Bosnians themselves. “Debt piles up, and little new money goes for rebuilding Bosnia’s war torn economy.”²⁰⁵ While quoting Professor Chossudovsky, a published conspiracy author, and considering an enhanced filter of validation for his accusations, his words still illuminate a truth more discretely acknowledged by the Bretton Woods financial institutions.

In 1994, the wartime authorities passed a law converting social property into state-owned. This is why the post-war privatization took place at entity level and was largely based on buying shares with certificates. As this was an entity matter and the Dayton agreement defines the FBiH as the Bosniak and Croat entity and the RS as the Serb entity, the process facilitated the privatization of some 10

²⁰³ Michel Chossudovsky, “Dismantling Former Yugoslavia: Recolonising Bosnia,” *Economic and Political Weekly* 31, no. 9 (1996): 522, <http://www.jstor.org/stable/4403857>.

²⁰⁴ Dragan Maksimovic, “Ko će Vraćati Dugove BiH?” DW, February 8, 2017, <http://www.dw.com/bs/ko-će-vraćati-dugove-bih/a-37452148>.

²⁰⁵ Chossudovsky, “Dismantling Former Yugoslavia,” 523.

billion KM worth of property without any inflow of fresh capital. Even worse, it effectively legalized the principle of ethnic privatization.²⁰⁶

-Centre for Developing Area Studies, McGill University and the World Bank

As this example from the World Bank demonstrates, the claims of Chossudovsky are not far-fetched. The privatization of socially owned assets is more accurately described as the plundering of the wartime parties SDA, SDS, and HDZ. The Bosnian elite were able to make out with astronomical deals, and recall, this was the very elite culpable for the nationalism of the war.

Flash forward two decades of economic stagnation and unemployment amongst the highest in the world, the Bosnian citizens are the victims of the status quo the financial institutions and elite created. According to a study done by Prism Research²⁰⁷ in consultation with the Office of UN Resident Coordinator in January 2015, 73.1% of 1500 interviewed Bosnians answered that it is more important for BiH to have a good constitutional organization rather than to be a member of the EU. This agreement cuts across cleavages: 78.1% of Bosniaks, 70.8% of Croats, and 68.1% of Serbs agree that constitutional functionality is priority to that of EU integration. Despite this poll lacking an illustration of the various views as to what a constitutional arrangement may be, this survey exemplifies a startling truth. While the internationals spend billions of euros to compel Bosnian reforms to join the EU club, the citizens are more concerned with

²⁰⁶ Merima Zupcevic and Fikret Causevic, "Case Study: Bosnia and Herzegovina." *Centre for Developing Area Studies – McGill University and the World Bank* (September, 2009), <http://web.worldbank.org/archive/website01241/WEB/IMAGES/BOSNIAFI.PDF>.

²⁰⁷ *Public Opinion Poll Results*, Prism Research, United Nations Resident Coordinator's Office in Bosnia and Herzegovina (March 2015), [http://www.undp.org/content/dam/unct/bih/PDFs/Prism Research for UN RCO_Report.pdf](http://www.undp.org/content/dam/unct/bih/PDFs/Prism%20Research%20for%20UN%20RCO_Report.pdf).

reworking the consociational Dayton structure. The Bosnians do not want a EU future as much as they want a constitutional system capable of generating consensus on their own issues.

To this effect, another cross cleavage response of this study is that political elites constitute a far greater problem facing the country than fulfilling EU accession conditions. 88.2% of total respondents believe that the political elites are a problem – 91.2% of Bosniaks, 90.1% of Croats, and 84.1% of Serbs. On the other hand, only 46.3% of total respondents considered the EU integration conditions to be a problem. Thus, the Bosnian citizens are dissatisfied with their political elite, and yet they keep electing them. This is due to the massive state capture the political elite enjoys, virtually ensuring their political immortality. The public's resentment toward corruption is noted in another survey question where respondents, across ethnic cleavages, answered that corruption was more of a significant problem (69.4% for total) than the politicians (47.3%) or the economy (48.3%). The fact corruption tops politicians as the greatest problem in this poll highlights that the citizenry are aware that state capture is the specific reason that the political elite are so disliked in the previous poll.

Ethnicization serves as the means for turning public administrations into the core instrument of the systems of patronage, in two ways: First, it is responsible for the fragmentation of public administration in the highly decentralized Dayton state. Second, the legally prescribed ethnic representation in public administrations limits the development of a merit-based civil service. What's more, it serves as an entry point for the politicization of civil services, especially its leading positions.²⁰⁸

²⁰⁸ Weber, "BiH Un-reformable Public."

This example demonstrates that the consociational arrangement of public administration is the cause of the political elite gobbling up what some estimates put at 80% of the state economy. One in every three jobs in Bosnia fall under the inflated umbrella of public administration.²⁰⁹ Thus, it is clear that the party elite consistently win elections in part because citizens are forced to vote for their economic well being, even if this goes against their beliefs of the sustainability of the state as a whole. This truth is demonstrated in the Prism survey results above. However, consociational theory is not the root of state capture, European financial institutions caused state capture.

The Spokesperson of the European Commission, Maja Kocijancic, said that 2018 is a year of opportunity for the Western Balkan countries along the EU integration path; but, she emphasized, “The EU will not compromise on the accession criteria. Any serious progress is conditional upon effective reforms.”²¹⁰ Thus validating the position of the European structures above Bosnia’s. The Instrument For Pre-Accession Assistance (IPA II) is the program that Bosnia directly benefits from today as a EU member candidate state. In 2017, the European Commission declared that 60,300,000 euros would be afforded to Bosnia, and 5,700,000 of which would be pledged under the title, “EU support to an efficient and responsible public administration.”²¹¹ The goal of this budget along with direct management strategy is to counteract state capture.

²⁰⁹ Pero Zelenika, “Svaki Treći Zaposlenik U BiH Radi U Javnoj Upravi,” *Večernji List*, August 09, 2014, <https://www.vecernji.ba/vijesti/svaki-treci-zaposlenik-u-bih-radi-u-javnoj-upravi-954862>.

²¹⁰ “Commission Sees 2018 As Balkans’ Year of Opportunity,” *Balkan Insight*, January 3, 2018, <http://www.balkaninsight.com/en/article/commission-sees-2018-as-balkans-year-of-opportunity-01-02-2018-1>.

²¹¹ “Bosnia and Herzegovina - Financial Assistance Under IPA II - European Neighbourhood Policy And Enlargement Negotiations - European Commission,” *European Neighbourhood Policy And Enlargement Negotiations*, December 6, 2012.

To contribute to the development of an efficient, professional, transparent and service oriented public administration that has achieved an increased level of harmonisation amongst the different levels of government and increasingly capable to deal with EU matters.²¹²

This commitment from the EU to this point illustrates that they are focusing their attention on the right issue. However, how can we tell that the millions of euros donated to Bosnia today is truly anti-state capture? Giving more money to political elites, whether foreign or domestic, is an ironic action to combat dishonest public administration. In fact, this creates another cycle of dependency that has been spinning for over two decades: European and Bosnian elite harmoniously offering accolades of goodwill and progress toward their eventual marriage, but the wedding date still not in sight. The European elite benefit from the vital institutions and active status in the Bosnian tragedy, while the Bosnian elite benefit from financial patrons that outweigh any competitors in their economically burdened country. The status quo is sealed by the media's rhetoric of ethnic antagonism. Rather than consociationalism being allowed to take root and generate consensus, it is blamed as the harbinger of division.

5.4 *Sejdic and Finci* Reopens the Croat Question

Furthermore, Mr. Jelavic had an explicit duty to serve the citizens and constituent peoples, in particular the Croat people, of Bosnia and Herzegovina through the legal institutions of the country at all levels. Instead Mr. Jelavic has directly violated the constitutional order of the Federation of Bosnia and Herzegovina and of Bosnia and Herzegovina. This culminated on Saturday 3 March 2001 in

https://ec.europa.eu/neighbourhood-enlargement/instruments/funding-by-country/bosnia-herzegovina_en#.

²¹² "Bosnia and Herzegovina - Financial Assistance Under IPA II."

Mostar with the unconstitutional initiative led by Mr. Ante Jelavic to undermine the constitutional order of the Federation of Bosnia and Herzegovina and Bosnia and Herzegovina and establish an illegal parallel structure.²¹³

High Representative Petritsch issued the most high profile Bonn Power usage at the time by removing Ante Jelavic, the Croat member of the BiH Presidency. Ante Jelavic was the leader of HDZ, the party of traditional Croat nationalism. Ante Jelavic attacked the Dayton system for not protecting the Croat group in allowing for Bosniaks to vote for Croat candidates in the Federation. This, he argued, deceived the Croats from their rightful representation unlike Serbs in a separate entity and Bosniaks who enjoy a large majority in the Federation.

This issue is referred to as the *Croat Question* and has been the focus of Croat policy since Dayton. The Croats campaign there is a hole in the Dayton agreement in the implementation of consociational theory via segmental autonomy. The Croat elites do not espouse an issue with consociational theory itself; rather, they believe their autonomy is not safeguarded like the Serbs and Bosniaks. This is why many Croats believe it is their right to form a third entity.

A third entity, or some other solution giving Croats a territorial framework that guarantees equality, would be the moment when Bosnia and Herzegovina stops being a stepmother to its peoples and becomes a real homeland.²¹⁴

-Igor Basic, Croat activist from Mostar

²¹³Wolfgang Petritsch, "Decision Removing Ante Jelavic from His Position as the Croat Member of the BiH Presidency," Office of the High Representative, March 7, 2001, <http://www.ohr.int/?p=67244>.

²¹⁴Elvira M. Jukic, "Croats Say Own Entity Will Make Bosnia 'Home'," *Balkan Insight*, March 4, 2014, <http://www.balkaninsight.com/en/article/croats-say-own-entity-will-make-bosnia-home>.

In the 2000 general elections, the Croat Question first came to the limelight as HDZ lost multiple seats to moderate, but still technically Croat, politicians. Since Croats won these seats, the model of Dayton was not violated. However, the HDZ Croat party complained that the result violated Croat autonomy under consociational theory because Bosniaks were a significant portion of the voting base for the more moderate Croats. In the midst of an intense standoff, OSCE ambassador, Robert Barry, stepped in and declared that the election must stand, “The decision does not jeopardize the representation of Croats in the House of Nations. We do not think the HDZ/BH has the exclusive right to represent the interests of Croats.”²¹⁵ This example highlights the international response to the Croat question. Consequently, HR Petritsch was obligated to dismiss HDZ leader Ante Jelavic when he declared the formation of Croat self-rule along the borders of the wartime Croat enclave. This was how the Croat question was born.

In a seemingly unrelated culmination of events (I will later connect them), the European Court for Human Rights (ECHR) in Strousburg, France issued a groundbreaking decision on Bosnia’s consociational structure in 2008. Two Bosnian citizens, Dervo Sejdic and Jakob Finci, lodged complaints with the ECHR in 2006. They were both prominent leaders, for instance Finci served as the Bosnian ambassador to Switzerland. But, Sejdic was of Roma origin and Finci of Jewish descent,²¹⁶ thus, the two are considered members of the ‘others’ minority referred to in the *constituent peoples decision* of 2000. Remember, this decision enacted the grand coalition principle of consociational theory across all levels of Bosnian government. Therefore, since Dayton

²¹⁵ Pat FitzPatrick, “Constitutional Crisis Continues,” *Central Europe Review* (October 29, 2000), <http://www.ce-review.org/00/37/croatianews37.html>.

²¹⁶ Claridge, “Discrimination and Political Participation.”

requires that the BiH House of Peoples and Presidency to be composed solely of an equal share of Bosniaks, Serbs and Croats,²¹⁷ then Roma and Jewish citizens are legally unable of holding this public office. In this case, Sejdic and Finci were bringing a suit against the Bosnian state for discrimination according to international law.

Through a scathing criticism of the Bosnian structure, the verdict of the *Sejdic and Finci versus Bosnia and Herzegovina*²¹⁸ dealt a blow to consociational theory when the international pressure ought to have been its most passionate promoter. The Court found that Bosnia was in breach of Protocol 12 of the European Convention for Human Rights (ECHR), which provides the right to non-discrimination with regard to not allowing citizens who are not Bosniak, Serb, or Croat (constituent peoples) to stand for Presidential election. Furthermore, the Court found a violation with Article 14 of the ECHR, which provides for freedom from discrimination, in conjunction with Article 3 of Protocol 1, which protects free election to the legislative bodies, due to the incapacity of “others” to be eligible to run in elections. The decision evaluates three different proposals for constitutional remedy. Article 22 of the decision recommends that BiH House of Peoples be abolished and the House of Representatives inherit the vital interest veto. Also, Article 22 recommends the collective Presidency should wane its power in favor of the multi-ethnic Council of Ministers. Admittedly, the Court does not signal the end of consociational democracy in these comments. While the Court admits, “the time may still not be ripe for a political system which would be a simple reflection of majority rule,” the Court issued criticism against consociational protections against tyranny of the majority.

²¹⁷ *Dayton*, annex IV, art IV and art V.

²¹⁸ *Sejdic and Finci v. Bosnia and Herzegovina* (European Court of Human Rights December 22, 2009).

The following example illustrates how the European Court views consociational theory as unsustainable in the Bosnian state.

However, sight should not be lost of the ultimate aim of constitutional reform in this area: having in future a single President elected in a manner ensuring that he or she enjoys trust beyond the ethnic group to which he or she belongs.²¹⁹

While the international community applauded the ECHR verdict, and many believed that sweeping reform would occur before the 2010 general elections, the nationalist Bosnian-Croat elite realized the decision could be supremely useful toward their push for greater autonomy. Rather than centralize the country, the Sejdic and Finci case has led to greater fragmentation. In March 2013, leaders of Bosnia's seven biggest parties met in Brussels with Stefano Sannino, Director-General for Enlargement at the European Commission, to find a solution to the vexed issue of the Court decision five years after the fact. They agreed, informally, that the Serb member of the collective presidency would be directly elected while Croat and Bosniak would be chosen indirectly. This is a far cry from the recommendations from the ECHR said Jakob Finci, one of the original plaintiffs of the case, "this agreement doesn't solve question of all citizens but only 'the Croat Question'. The new electoral voting system is just going to guarantee that the Croatian parties will get to elect who they want for their member of the presidency."²²⁰ Essentially, the Croat elite took advantage of a European audience eager to hear propositions for reform. The Serbs are satisfied with Dayton solidifying their

²¹⁹ *Sejdic and Finci v. Bosnia and Herzegovina* (European Court of Human Rights December 22, 2009), Article 29.

²²⁰ Kenan Efendic, "Bosnia Solves 'Croat Question' at Sejdic-Finci's Expense," *Balkan Insight*, March 29, 2013, <http://www.balkaninsight.com/en/article/bosnia-solves-croat-question-at-sejdic-finci-s-expense>.

autonomy territorially and Bosniaks possess a majority in the Federation. Only the Croats truly pose to gain from constitutional reform. Thus, Sejdic and Finci has been their way in the door, but addressing the Croat Question is the true motivation.

It seems that they (Bosnian and European elite) talked about preserving the rights of ‘constituent peoples’. This is not a good solution. If we speak about the rights of minorities, then there is no need for more electoral units.²²¹

-Dervo Sejdic, Plaintiff

The founder of the Croat nationalist party HDZ 1990, a party formed in opposition to the mainstream HDZ compliance with the 2006 April package, Bozo Ljubic was present at the 2013 negotiations in Brussels with the rest of the Bosnian political elite. In 2016, Ljubic filed an appeal to the Constitutional Court complaining that the electoral mechanism of sending a delegate of at least one of each constituent people from every canton to the House of Peoples violates the Bosnian Constitution.²²² Ljubic believed the Croats had been cheated from their equal representation, “counties (cantons) with a mainly Bosniak population have always been able to choose at least two-thirds of the Bosniak delegates, at least two-thirds of the Serb delegates, three-quarters of delegates from the ‘Others’ group and at least one-third of the Croatian delegates,” he wrote.²²³ Even more so, Ljubic reasons that the ‘discrimination’ referred to by the European Court of Human Rights in the Sejdic and Finci decision applies to the Croat citizens who are barred from electing Croat officials. Since Bosniaks can vote for Croats

²²¹ Efendic, “Bosnia Solves.”

²²² Srecko Latal, “Bosnian Constitutional Court Decisions Open Pandora's Box,” *Balkan Insight*, July 7, 2017, <http://www.balkaninsight.com/en/article/bosnian-constitutional-court-decisions-open-pandora-s-box-07-07-2017>.

²²³ Eleanor Rose, “Bosnian Court Ruling Lends Weight to Croat Agitation,” *Balkan Insight*, December 15, 2016, <http://www.balkaninsight.com/en/article/bosnian-court-ruling-spells-constitutional-trouble-say-experts-12-14-2016>.

in the Federation BiH, and thereby can outvote the true Croat candidate in favor for a moderate (false) Croat, Ljubic has found a loophole in the Sejdic and Finci logic. The Constitutional Court of Bosnia and Herzegovina partially accepted Ljubic's appeal and gave the parliament six months to remedy the situation. By July 2017, the parliament had failed. The Court struck the current electoral law, leaving the Federation without means to elect its House of Peoples. Without the Federation House of Peoples, the state House of Peoples is unable to be chosen. With the general elections quickly approaching in 2018, the Bosnian government is facing yet another crisis.

This issue is contemporary, but its roots trace back to the beginning of Dayton. Even though Croats comprise of less than 15% of Bosnia's population, they are entitled to segmental autonomy along the lines of consociational theory. Since the Washington peace deal stuck them in the same entity with the Bosniaks due to the conditions of the war, the Croats have consistently complained about autonomous representation. However, even after the victory of SDP Croat Zeljko Komsic in 2006 and 2010 to the BiH president because of votes from Bosniaks, the Croats were unable to lodge destructive complaints. Recall from this chapter, the OHR dismissed Ante Jelavic for attempting to form a Croat entity. The *Sejdic and Finci* verdict has given the Croat nationalist elites the ability to shut down the consociational structure and the stability of the Bosnian state. Through this form of European external pressure, the international community has also undermined consociational theory.

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