

**BOSNA I HERCEGOVINA:
IZMEĐU PAKETA MJERA ZA EU-INTEGRACIJU I
IZLAZNE STRATEGIJE MEĐUNARODNE ZAJEDNICE**

**BOSNIA AND HERZEGOVINA:
BETWEEN EU-INTEGRATION TOOLBOX AND
INTERNATIONAL COMMUNITY'S EXIT STRATEGY**



**BOSNA I HERCEGOVINA: IZMEĐU PAKETA MJERA ZA EU-INTEGRACIJU
I IZLAZNE STRATEGIJE MEĐUNARODNE ZAJEDNICE**

u saradnji sa



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Sarajevo, 2010.

SADRŽAJ

STR.

- 5** **Uvod**
Mirela Grünther-Dečević i Haris Abaspahić
- 7** **Kurt Bassuener**
Međunarodna zajednica u Bosni i Hercegovini – eksperiment bez strategije
- 17** **Denisa Sarajlić Maglić**
Mogu li elite u BiH voditi državu?
- 25** **Dennis Gratz**
Nedovršena Bosna i Hercegovina i kapacitet državnih institucija
- 29** **Bodo Weber**
Aktuelna politička kriza u BiH i nevidljiva društvena strana bh realnosti
- 35** **Zaključci**
- 39** **Bosnia and Herzegovina: Between EU-integration toolbox
and international community's exit strategy**

UVOD

U okviru inicijative **EUROAD**, koju su u 2010. godini zajednički pokrenuli Centar za politike i upravljanje (CPU) i Fondacija Heinrich Böll, Ured za Bosnu i Hercegovinu, krajem augusta 2010. u Sarajevu je održan okrugli sto pod nazivom *Bosna i Hercegovina: između paketa mjera za EU-integraciju i izlazne strategije međunarodne zajednice*. **EUROAD** je inicijativa koja želi intenzivirati konstruktivnu debatu o bržem i efikasnijem procesu evropskih integracija za Bosnu i Hercegovinu.

U ovoj publikaciji predstavljene su analize nekoliko substancijalnih političkih tema u Bosni i Hercegovini, koje su predstavljene na okruglom stolu, s ciljem da potaknu dijalog između međunarodnih kreatora politike i bosanskohercegovačkih političkih analitičara i predstavnika *think tank* organizacija koje žele doprinijeti prevazilaženju političke krize u kojoj se Bosna i Hercegovina nalazi. Povod za razgovor na okruglom stolu kao i izdavanje ove publikacije bila je upravo politička kriza u koju je Bosna i Hercegovina dovedena, a koja se može ocijeniti najozbiljnijom i najdužom krizom od kraja rata. Ova kriza je obilježena etničkim konfrontacijama i skoro potpunim zaustavljanjem (pa čak i nazadovanjem) reformi i procesa evropskih integracija, kao i novim prijetnjama o podjeli zemlje. No, u ovakvoj situaciji međunarodna zajednica pod vodstvom Evropske unije teži okončanju svojih postojećih uloga u implementaciji mira, OHR-a i EUFOR-a znajući da su ove misije bile od suštinskog značaja za razvoj zemlje nakon potpisivanja Dejtonskog sporazuma.

Cilj je bio postaviti pitanja koliko je značajna EU-perspektiva za održivi politički proces, pitanja procjene demokratskog razvoja Bosne i Hercegovine, te dati osvrt na učinkovitosti sadašnjeg međunarodnog angažmana u Bosni i Hercegovini i pogled na perspektive za alternativne mehanizme sa stajališta sveobuhvatnog razvoja.

U publikaciji su predstavljene analize analitičara, politologa i pravnika, koji kontinuirano i angažirano prate društveno-politička kretanja u Bosni i Hercegovini. Stoga se i ovom prilikom srdačno zahvaljujemo za aktivno učešće u ovoj debati autorima: Denisi Sarajlić Maglić (Vanjskopolitička inicijativa BiH), Bodi Weberu i Kurtu Bassueneru (Democratization Policy Council), kao i Dennisu Gratzu (Centar za politike i upravljanje).

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Mirela Grünther-Dečević
Fondacija Heinrich Böll

MEĐUNARODNA ZAJEDNICA U BOSNI I HERCEGOVINI – EKSPERIMENT BEZ STRATEGIJE

Kurt Bassuener

Dejtonska Bosna i Hercegovina oduvijek je bila međunarodni eksperiment. Ali, taj eksperiment – zapravo serija *ad hoc* eksperimenata – od samog početka nije bio planiran. I dalje je bez strategije, a jedina tema koja ga objedinjuje je da zemlja ne postane pitanje koje dijeli međunarodnu zajednicu. Jedan kratki pregled posljednjih petnaest godina međunarodnog angažmana u provedbi mira i izgradnji države u BiH neophodan je da bi se shvatila dilema u kojoj se zemlja trenutno nalazi.

U periodu neposredno nakon Dayton (1996. – 1997.), naglasak međunarodne zajednice bio je na najosnovnijim zadacima mirovnog sporazuma: razdvajanju zaraćenih strana i sprečavanju obnove neprijateljstva. To su, po Aneksu I Dejtonskog sporazuma, osiguravale značajne NATO Snage za provedbu mira (IFOR), od 60.000 ljudi. Civilni Visoki predstavnik, kao predstavnik međunarodnog Vijeća za implementaciju mira (PIC), koje nadzire Dejtonski sporazum, trebao je koordinirati djelovanje širokog spektra međunarodnih civilnih aktera uključenih u provedbu mira, uključujući rad na fizičkoj rekonstrukciji.¹ Rad na tome bio je opterećen nevjerojatno kratkim rokovima. Kada je u decembru 1995. američki predsjednik Bill Clinton najavio slanje američkih snaga (otprilike jedne trećine ukupnih snaga), obavezao se da će ih povući u roku od jedne godine. Naložio je i da se gubici izbjegavaju po svaku cijenu.² Izbori za strukture navedene u mirovnom dogovoru – slaba zajednička država i dva paradržavna “entiteta”, Republika Srpska (RS) i Federacija BiH (FBiH) – održani su u septembru 1996. (pod vodstvom Organizacije za sigurnost i saradnju u Evropi – OSCE), i time je zacementirana pozicija ratnih elita na vlasti. Drugi elementi mirovnog sporazuma, kao što su promocija povratka izbjeglica, hapšenje ratnih zločinaca, osiguravanje osnovne slobode kretanja, ostavljeni su po strani.

Brzo je postalo jasno da se bez drugačijeg pristupa čak i najosnovniji elementi civilne implementacije mira ne mogu provesti u tako kratkom vremenu. Entiteti, a naročito RS, pokazali su potpuni prezir prema minimalističkoj državi BiH, a za RS je u to vrijeme Dayton bio nepoželjna riječ. Nakon dvije godine i vrlo malo napretka, sve više frustrirano Vijeće za provedbu mira se u decembru 1997. dogovorilo da bi, u skladu sa tim što mu Dejtonski sporazum daje status najvišeg nivoa nadzora nad poštivanjem mirovnog sporazuma na terenu, visoki predstavnik trebao biti u stanju da može da donosi konačne odluke. To bi omogućilo nametanje zakona potrebnih za ispunjenje dejtonskih obaveza, ukidanje zakona koji krše te obaveze, te razrješenje ili čak uklanjanje iz javnog života onih javnih ličnosti koje krše Dayton. To je postalo poznato pod nazivom “bonska ovlaštenja”.³

Jedan za drugim, visoki predstavnici su sve više koristili bonska ovlaštenja da bi osigurali da bh. političari ispunjavaju dejtonske obaveze, od najvišeg do ponekad najtrivijalnijeg nivoa. Sloboda kretanja, jedinstvena valuta i jedinstvena kontrola državne granice pojavile su se dvije godine

¹ Mada je termin “međunarodna zajednica” uslovljen situacijom i neupitno neprecizan, u svrhu diskusije o BiH uglavnom se odnosi na članove Upravnog odbora Vijeća za provedbu mira, naročito Sjedinjene države i EU (kao institucije i članove).

² Razgovor autora sa bivšim visokim oficijom američke vojske, Washington, 2002.

³ Jedinствену анализу коришћења бонских овлашћења види код: Bart M.J. Szweczyk, “The EU in Bosnia and Herzegovina: powers, decisions and legitimacy”, ISS Occasional Paper 83, mart 2010, <http://www.iss.europa.eu/uploads/media/OccasionalPaper83.pdf>

nakon što su prvi put upotrijebljena bonska ovlaštenja, isto kao i prisilno hapšenje optuženika za ratne zločine.⁴ Termin “vlasništvo” – da lokalni lideri i građani preuzmu odgovornost za vođenje države i reforme – u međunarodni vokabular ulazi upravo u tom periodu.

Tek 2000. se počinje uobličavati strateški osmišljeniji pristup izgradnji države. Regionalno okruženje pomoglo je u poticanju tih promjena, jer su i susjedi, barem izvjesno vrijeme, manje djelovali kao faktor destabilizacije.⁵ Crna Gora se odvojila od “Savezne Republike Jugoslavije”, koja je bila pod srpskom kontrolom, a rat na Kosovu 1998 – 1999. doveo je Srbiju u direktni sukob s NATO-om i sve veću izolaciju Beograda. Krajem 1999. umro je autoritativni hrvatski nacionalistički lider Franjo Tuđman, što je omogućilo demokratsku tranziciju. Krajem 2000., srpski autokratski lider Slobodan Milošević svrgnut je s vlasti, nakon pokušaja izborne krađe za koje je mislio da ih je na prevaru već dobio. Zapad je u julu 1999. po prvi put, kroz Pakt stabilnosti za jugoistočnu Evropu, artikulirao da BiH i njeni susjedi na zapadnom Balkanu imaju priliku da rade na integraciji u EU i NATO, što je za sve osim Srbije u to vrijeme bio eksplicitan cilj.

Mada tokom 1998. i 1999. jeste bilo opipljivog napretka, nema sumnje da je Dejtonski sporazum bio daleko od provedenog. Država je još uvijek imala dvije vojske i najmanje dvije obavještajne službe. Veliki broj izbjeglica i raseljenih lica nisu mogli ni da traže zakonski povrat svojih domova, a kamoli da se fizički u njih vrate.⁶ Državne institucije još uvijek su bile samo ljuštura, a entiteti – naročito RS – djelovali su kao nezavisne države na čekanju, a ne kao komponente države. U to vrijeme je izgradnja države postala svjesni cilj šire međunarodne zajednice, naročito SAD-a i EU. Od tog trenutka nadalje, Dayton se često spominje kao temelj na kojem se gradi – “pod, a ne strop”, a euroatlantske integracije postale su cilj iza puke provedbe Daytonu.

Da bi se ostvario konačni cilj članstva u EU i NATO, državne strukture BiH morale su se i povećavati i konsolidirati. Ponekad su to omogućavale domaće ustanove, kao što je to Ustavni sud BiH uradio svojom presudom iz 2000. godine, da su građani iz sva tri “konstitutivna naroda” (Bošnjaci, Hrvati i Srbi) konstitutivni u cijeloj državi, a ne samo u “svom” entitetu. Posljedični efekat te odluke bio je ogroman, a zajedno sa izraženijim naporima da se hapse ratni zločinci i agresivnijom upotrebom bonskih ovlaštenja, pomogao je uklanjanju nekih od institucionalnih prepreka povratku izbjeglica i raseljenih lica u entitete (recimo, u Prijedor i Drvar). Da bi se ostvarilo obećanje dato tom odlukom, Visoki predstavnik morao je vršiti pritiske – etničke političke elite nisu imale nikakvog interesa u mijenjanju rezultata svojih ratnih projekata. Tokom mandata Wolfganga Petritscha na mjestu Visokog predstavnika (1999 – 2002.), naročito nakon izbora 2000., međunarodna zajednica je sve više vjerovala da bh. politički lideri mogu biti “partneri” u reformi. Ipak je iznova koristio bonska ovlaštenja, da bi zaštitio osnovne postavke Dejtonskog sporazuma.

Inicijalna očekivanja njegovog nasljednika, lorda Paddyja Ashdowna (2002 – 2006.), bila su da će svoj ambiciozni plan revolucije odozgo ostvarivati u partnerstvu sa bh. strukturama moći. Mada su se ti partneri promijenili nakon izbora 2002., osnovna premisa ostala je ista: ako gradite, oni će prihvatiti.

⁴ Prva takva hapšenja bila su u julu 1997. u britanskom sektoru Sjever (okolina Banjaluke), samo dva mjeseca nakon što je britanski premijer Tony Blair stupio na dužnost.

⁵ Srbijanska politika pod predsjednikom, a kasnije premijerom Vojislavom Koštunicom nije bila od koristi u BiH, jer je njegova preferencija bila da kontaktira direktno s Banja Lukom. Takav stav bio je u oštroj suprotnosti s politikom hrvatskog predsjednika Stipe Mesića, koji je aktivno podržavao suverenitet države BiH.

⁶ Prvi korak u omogućavanju povratka izbjeglica bio je proces provedbe imovinskih zakona, koji je građanima omogućio da uđu u posjed svojih domova, da se vrate ili da njima raspoložu kako žele. Uz zakonski povrat, bilo je i drugih prepreka – fizička nesigurnost, nepostojanje ekonomskih uslova, itd. – koji su i dalje bili prisutni.

I novoizabrana vlast je prihvaćena kao partner u reformi. Korištene su novonastale mogućnosti za napredak u reformi odbrane i sigurnosti, što je dovelo do stvaranja novih institucija, poput državne obavještajne agencije (OSA) i ujedinjenog Ministarstva odbrane. Visoki predstavnik dobio je i drugu titulu: Specijalni predstavnik EU u BiH. Mada je u Ashdownovo vrijeme simbolika EU postajala sve vidljivija, nikakve sumnje nije bilo po pitanju koja uloga ima veću težinu. Uloge su se, zapravo, stopile.

Suprotno uobičajenom revizionističkom mitu, većina “glavnih” reformi nije nametnuta, ali bonska ovlaštenja jesu bila neophodna za pokretanje reformskog programa, naročito zato što je političkim elitama svih vrsta mogućnost da budu uklonjeni s političke funkcije – ili čak da dobiju zabranu javnog rada – bila zastrašujuća. U brojnim drugim pitanjima se moglo vidjeti da ne poštuju Dayton. Kroz strategiju i povoljnu međunarodnu situaciju (koju su on i njegov tim predano radili i održavali), Ashdown je bio u stanju da dobije i zadrži podršku Vijeća za provedbu mira za svoj program, i to tako što je, u suštini, politiku Vijeća formulirao u svom uredu.

Uprkos nekim značajnim pitanjima koja su ostala nedovršena (naročito reforma policijskih struktura u skladu sa tri principa EU,⁷ kao uslov za Sporazum o stabilizaciji i pridruživanju s EU), te određenom broju reformi koje su planirane ali neizvršene, međunarodni stav krajem 2005. bio je da je BiH napredovala do tačke kada su reforme postale nepovratne, te da je kretanje zemlje ka euroatlantskim tokovima samo pitanje vremena i brzine. Dodatna korist takvog stava bila je da su međunarodni akteri mogli smanjiti svoju izvršnu funkciju u zemlji, konkretno u OHR-u i EUFOR-u (koji je u decembru 2004. preuzeo dužnost od NATO-ovog SFOR-a i nastavio raditi kao garant “sigurnog okruženja” u skladu sa rezolucijom Vijeća sigurnosti Ujedinjenih nacija donesenom na osnovu Poglavlja 7).

Ovakav stav međunarodne zajednice jeste bio izuzetno široko rasprostranjen, ali se kasnije pokazao pogrešnim. Stvarni uspjesi u izgradnji institucija bili su daleko od potpunih, što ih je činilo podložnim redukciji političke volje u BiH da se i završe. Poticaji u političkom sistemu su ostali isti, te kada je pritisak da se nastavi s reformama smanjen ili potpuno nestao (kao što je nestalo straha od mogućnosti da Visoki predstavnik nekog ukloni s funkcije), većina tih institucija ostala je bez sadržaja, ili barem ispod planiranog kapaciteta da ostvari reformu. Bez politički osnažene podrške javnosti da se razvijaju, reformirane ili nove institucije počele su venuti.

To ne znači da je, kako su izjavljivali kritičari poput britanskog profesora Davida Chandlera iz Evropske inicijative za stabilnost (ESI),⁸ rad na izgradnji države bio jedan preambiciozni pokušaj osuđen na propast jer nije bilo “vlasništva”: situacija je, zapravo, bila suprotna. Prikriveni interesi političkih elita (detaljno objašnjeni i dekonstruirani u daljem tekstu) zaštićeni su dejtonskim ustavom i poticajima izbornih propisa. Bez kontinuiranog pritiska, političari nisu htjeli nastaviti raditi protiv svojih interesa i interesa svojih glasačkih tijela - što je spoj političkog, poslovnog i kriminalnog. Da reforme postanu organske i istinski trajne, političari bi morali biti prisiljeni da rade u skladu sa strukturom koja insistira na transparentnosti i odgovornosti. Uprkos rezultatima decenije izgradnje hardvera za strukturu države, dejtonski softver ostao je isti.⁹

⁷ To su: a) kontola propisa o policiji i budžet na državnom nivou, b) osiguravanje da policijske strukture ne budu predmet političkog miješanja i c) policijske regije u skladu sa operativnim, a ne političkim kriterijima. Za ovaj posljednji uslov se generalno smatralo da je usmjeren ka uspostavi policijskih regija koje idu preko entitetske granice. Vidi: Daniel Lindvall, *The Limits of the European Vision in Bosnia and Herzegovina – An Analysis of the Police Reform Negotiations*, Stockholm Studies in Sociology New Series 40, Univerzitetu Stockholmu, 2009.

⁸ Sinopsis njegove knjige *Bosnia: Faking Democracy after Dayton* iz 1999. vidi na: http://www.davidchandler.org/books/books_bosnia.html. Vidi i vrlo utjecajan tekst Geralda Knausa i Marcusa Coxa iz 2003. u *Journal of Democracy*: “*Travails of the European Raj*”, u formatu PDF na: <http://www.britishcouncil.org/brussels-democraticpapers-travails-of-the-european-raj.pdf>

⁹ Osnovna promjena ka odgovornosti vlasti desila se na općinskom nivou, kroz direktne izbore načelnika, koji su krenuli 2004.

2006: prelazak na kretanje unazad

Spoj nekoliko odluka i događaja tokom 2006. godine označio je prelazak BiH na kretanje unazad, i to ubrzano. Početkom 2006. na mjesto Visokog predstavnika i Specijalnog predstavnika Evropske unije imenovan je Christian Schwarz-Schilling, koji je bio uvjeren da je potrebna samo "bliska saradnja" kojom će se od OHR-a preći na rad pod dominacijom EU. U pozdravnom obraćanju građanima BiH, Schwarz-Schilling je najavio da će se "izmaći" iz aktivne uloge i bomska ovlaštenja koristiti samo da osigura javnu sigurnost i saradnju sa Tribunalom u Hagu. Otprilike u isto vrijeme, lider Saveza nezavisnih socijaldemokrata Milorad Dodik uspio je u Republici Srpskoj oformiti koaliciju na vlasti i u februaru 2006. postaje premijer RS. Nastojanja da se reformira policija, koja su bila predmet još političkog i tehničkog natezanja, potpuno su zamrla. Isto se ubrzo desilo i sa drugim pokušajima da se radi na izgradnji države.

Nakon što je politički proces prešao sa visokog radnog nivoa na nivo lidera političkih stranaka i nakon povratka Harisa Silajdžića na političku scenu, staju i kontinuirani naponi nevladinih aktera iz SAD-a da se među vodećim bh. političkim elitama postigne saglasnost o ustavnim promjenama potrebnim za evropske integracije. Taj pokušaj, kojem se početkom 2006. priključio i State Department, završio se propašću tzv. "aprilskog paketa",¹⁰ i to zbog samo dva glasa u Predstavničkom domu BiH. Premijer RS Milorad Dodik navodno je želio da dođe na mjesto predsjedavajućeg Vijeća ministara, ali mu je to postalo manje privlačno nakon neuspjeha i loših odnosa koji su uslijedili. Uz uspjeh crnogorskog referenduma za nezavisnost održanog narednog mjeseca, Dodik počinje povremeno iznositi svoje ideje o referendumu, sa aluzijama na nezavisnost RS. Time se stvara uvertira za izuzetno konfliktnu kampanju, obilježenu nacionalističkim temama, sa žestinom za koju su mnogi mislili da je zauvijek nestala. Dodikova dominacija u RS biće zapečaćena na izborima, na kojima je Savez nezavisnih socijaldemokrata (SNSD) uspio da osvoji apsolutnu većinu. Bez bilo kakve sumnje, Dodik je postao najmoćniji čovjek u BiH.

Bez obzira na usporavanje svih reformi i na to što se izborna kampanja pokazala značajno ružnijom od prethodne, sredinom 2006. Vijeće za provedbu mira odlučilo je da će se OHR zatvoriti za godinu dana. Nekoliko mjeseci kasnije, krajem 2006., nakon što se situacija značajno pogoršala, vlade EU su izjavile da se situacija toliko vidno poboljšala da će se snage na terenu smanjiti sa 7 na nekih 2 hiljade, uz zatvaranje terenskih baza i preseljenje svih manevarskih jedinica u Butmir. Ali, dok je zvanična verzija možda zvučala uvjerljivo u evropskim metropolama i u Briselu, na terenu nije nikog uspjela zavarati. Prava istina je bila da su britanske, holandske i druge snage NATO-a bile potrebne u sve krvavijim borbama u Afganistanu.¹¹

2007 – 2010: pad međunarodnog kredibiliteta

Zatvaranje OHR-a je odgođeno, ali nije uslijedila nikakva promjena u pristupu. Nasljednik Schwarz-Schillinga, slovački diplomata Miroslav Lajčák, stigao je sredinom 2007., uz velike nade koje su iskazivali barem neki analitičari, na osnovu njegove mladosti i poznavanja jezika.¹² Brzo se pokazalo da su te nade neosnovane. Pokušaji da se provede reforma policije potpuno su stali, a prelazak na osnovne postavke Daytonu doveo je do nametanja određenih izmjena u pogledu kvoruma u Vijeću ministara, tako da više nije bilo tako lako blokirati rad vlade bez

¹⁰ Tzv. "aprilski paket" ustavnih reformi pokrenut je 2005., kao nevladina inicijativa Američkog instituta za mir (USIP) i Projekta Dejtonskih mirovni sporazum, sa ciljem da se Ustav BiH uskladi sa preporukama Venecijanske komisije Vijeća Evrope i omogućí proces evropskih integracija BiH (vidi [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp)). Proces je podrazumijevao pregovore sa osam političkih stranaka.

¹¹ Autor je u to vrijeme, u periodu 2006/7., često u krugovima međunarodne zajednice čuo takva obrazloženja

¹² Kurt Bassuener, "Waiting for Superman", *Transitions Online*, 25.5.2007. Dostupno na: <http://democratizationpolicy.org> (i na pretplatničkom portalu TOL, uz pristupnu šifru: <http://www.tol.org/client/article/18798-waiting-for-superman.html>)

ikakve odgovornosti. Suočen sa Dodikovim povlačenjem iz državnih institucija, Brisel je Lajčaku dao nalog da na tome više ne insistira, jer im je status Kosova postao najznačajnije pitanje u regiji. Te frikcije su itekako uznemirile građane, a mnoge upozorile na to da su poznata dejtonska “pravila” pod suspenzijom. Lajčak je otišao tako daleko u odnosu na svoje ranije aktivnosti da je pregovarao s Banja Lukom (tj. vodio razgovore o tzv. “autentičnom tumačenju” sopstvenog naloga), da je od Dodika napravio neospornog pobjednika u borbi sa međunarodnim visokim predstavnikom. U pokušaju da promijeni temu i “povrati poticaj” usporenom procesu evropskih integracija, EU je potkopala sopstveni uslov, reformu policije, i krajem te godine s Bosnom i Hercegovinom parafirala Sporazum o stabilizaciji i pridruživanju. Ova epizoda je jasnije nego ikada ilustrirala frikciju koja postoji između imperativa provedbe Daytonu i evropskih integracija. Pokazala je na najgori način nedostatak riješenosti međunarodne zajednice i ovisnost o ekspeditivnosti.

U februaru 2008. Upravni odbor Vijeća za provedbu mira odlučio je da odustane od pristupa zasnovanog na ostvarenim uspjesima i usvojio tzv. pet ciljeva i dva uslova (5+2) potrebnih da se OHR zatvori i pređe na ono što se sada počelo nazivati “osnaženi Specijalni predstavnik EU”.¹³ Ti uslovi izvedeni su iz OHR-ovog starog “Plana izvršenja misije”, zasnovanog na postojećim obavezama, a smatralo se da se mogu ostvariti do kraja 2008. – barem su tako predstavljeni nekim članovima Upravnog odbora koji su iskazali oklijevanje.¹⁴ Briselske institucije, naročito šef za vanjske odnose Javier Solana, navodno su otvoreno bili protiv plana 5+2, jer bi smanjio “manevarski prostor” EU i dodatno osporio “tranziciju”.¹⁵ Međutim, najveći dio sadržaja tog plana u suštini je otpisan kao nešto što su ciljevi na kojima se može raditi kroz normalni proces integracije u EU. Neki ciljevi su navodno predloženi, ali nisu uključeni ni u ciljeve ni u uslove: ustavna reforma, potpuna provedba Aneksa 7 Dejtonskog sporazuma (povratak izbjeglica) i izvršenje presude Ustavnog suda BiH o konstitutivnosti naroda.

Lajčakova prilika za djelovanje uništena je konfrontacijom sa Dodikom u zimu 2007. Većina naredne godine otišla je na nastojanja da se u javnosti promovira evropska perspektiva BiH, koja je, kako se ubrzo vidjelo, manje bila usmjerena na to da uvjeri sumnjičavu javnost u BiH, a više da pokaže prisustvo i relevantnost Specijalnog predstavnika EU. Nedostatak napretka u ostvarenju plana 5+2 tokom 2008. produbio je očajničko nastojanje međunarodne zajednice da ima barem nešto što djeluje kao napredak. Neposredno prije sastanka ministara vanjskih poslova članica EU, a manje od dvije sedmice prije sastanka Upravnog odbora Vijeća za provedbu mira, lideri najveće bošnjačke, srpske i hrvatske stranke sastali su se u Prudu, jednom selu u Posavini, i izjavili da su se dogovorili o ostvarenju plana 5+2, ali i o popisu. Neki posmatrači bili su skeptični, ali većina međunarodne zajednice očajnički je željela da vjeruje da se radi o pravom domaćem rješenju, te nije insistirala na tome da još uvijek nema strategije. Prud, koji je - u najboljoj varijanti – bio dogovor da se pravi dogovor, ostvario je isplativost koju su učesnici očekivali, jer im je sastanak Vijeća za implementaciju mira odao priznanje i tako odgodio potencijalno jaču međunarodnu aktivnost. Kada je došlo vrijeme da se dogovara oko okvirnih detalja, postalo je jasno da u tumačenju postoje značajni raskoli. U januaru 2009. se pojavljuju medijski izvještaji da su se na kasnijem sastanku u Banja Luci, Dodik, lider SDA Sulejman Tihić i lider HDZ-a Dragan Čović navodno dogovorili oko teritorijalnog uređenja koje bi imalo četiri teritorijalne jedinice – od kojih bi jedna bila sadašnja RS.¹⁶ Tihić i Čović su tvrdili da takav dogovor nije sklopljen – Tihić je predlagao četiri ekonomske

¹³ To je podrazumijevalo nekoliko elemenata OHR-ovog Plana izvršenja misije u područjima državne i vojne imovine, vladavine zakona, fiskalne održivosti i Distrikta Brčko, kao i potpisivanje Sporazuma o stabilizaciji i pridruživanju sa EU, te ocjenu Vijeća za provedbu mira da je situacija dovoljno stabilna. Sve je navedeno na http://www.ohr.int/pic/default.asp?content_id=41352 – vidi DPC-ovu ocjenu nakon sjednice Vijeća 27.2.2008. na <http://democratizationpolicy.org>

¹⁴ DPC-ov razgovor sa međunarodnim zvaničnicima, 2008.

¹⁵ *Ibid.*

¹⁶ <http://www.seebiz.eu/en/politics/bih-leaders-agree-territorial-changes-in-prud,36046.html>

regije, a Čović hrvatski treći entitet (bez geografskog preciziranja). Dodik je javno insistirao da je teritorijalna reorganizacija prihvatljiva, sve dok se odnosi samo na Federaciju i ne dotiče se Republike Srpske. Burna reakcija brojnih Bošnjaka i Hrvata definitivno je okončala ono što su međunarodni zagovarači optimistično nazivali “prudskim procesom”.¹⁷

Lajčák je u januaru 2009. iznenada najavio da će prihvatiti mjesto ministra vanjskih poslova Slovačke, ali da će ostati na mjestu Visokog predstavnika dok Vijeće za provedbu mira ne imenuje njegovog nasljednika (čime je spriječio Prvog zamjenika Raffija Gregorijana da bude vršilac dužnosti dok nasljednik ne stigne). Za Visokog predstavnika nema formalnog procesa odabira, ali ima za Specijalnog predstavnika EU, i proces je potrajao, uz ne naročito dobro sakrivene frikcije između Brisela, Vašingtona i Moskve. Sadašnji Visoki predstavnik/Specijalni predstavnik EU, austrijski diplomata Valentin Inzko, na dužnost je stupio u martu 2009.

U maju je RS zaoštrila situaciju time što je u svom zakonodavnom tijelu usvojila zakon koji osporava autoritet Visokog predstavnika da provodi Dayton i prednost Ustavnog suda BiH. Trebalo je više od mjesec dana da se okupi koalicija nevoljkih koji su podržali Visokog predstavnika u poništenju takvog zaključka.

Istog tog mjeseca, američki potpredsjednik Joe Biden posjetio je BiH kao prvu od tri stanice na svojoj balkanskoj turneji. U govoru koji je održao pred Parlamentarnom skupštinom BiH bio je vrlo kritičan prema političarima i jasno je naveo nadležnosti koje država mora da ima, uključujući “autoritet da pregovara sa Evropskom unijom i drugim državama i provodi svoje obaveze”.¹⁸ Posjeta je pozdravljena kao optimističan znak ponovnog američkog angažiranja u BiH. Ali, nakon toga nije uslijedilo ništa iz State Department-a, pa je nazadovanje iz smjera EU i SAD-a krenulo gotovo odmah. Povjerenik EU za vanjsku politiku Javier Solana pridružio se Bidenu, ali su njihove pojedinačne poruke bile u bitno različitom tonu, jer je Solana, zapravo, tvrdio da BiH ide pravim putem. U samo nekoliko dana, sve je bilo po starom. Ali, ono o čemu je govorio novi predsjedavajući EU, sada iz Švedske, i ono o čemu su govorile i druge institucije i SAD, počelo je zvučati sve sličnije u pogledu prave međunarodne uloge u BiH.¹⁹

Visoki predstavnik i supervizor za Brčko su u septembru donijeli odluku kojom se osigurava da se državna elektrodistribucija neće raspasti, kao i redovno snabdijevanje Brčkog strujom. Premijer RS Milorad Dodik se brzo suprotstavio tim naložima, tvrdeći da nametnute odluke više ne važe.

“Butmirski proces”

Predsjedavajući EU i SAD su 2.10.2009. najavile zajedničku inicijativu da će pokušati postići sporazum sa bh. političarima, kojim bi riješili ciljeve i uslove plana 5+2 i uveli u BiH strukturalne promjene kojima bi zemlja krenula naprijed ka EU i NATO-u. Švedski ministar vanjskih poslova Carl Bildt i američki zamjenik ministra vanjskih poslova James Steinberg naredne sedmice su došli u bazu EU/NATO snaga u Butmiru pored Sarajeva, da bi se sastali sa bh. stranačkim liderima. Dojam koji su htjeli ostaviti je da su EU i SAD potpuno ujedinjeni. Ali, razlike između SAD-a i EU su bh. učesnicima bile jasne od samog početka. Sjedinjene Države su diskretno razmatrale potencijal za ustavne promjene. Za Bildta i institucije EU, cilj je bio popuniti preostale rubrike

¹⁷ Mada neki Prudu jesu odavali priznaje za usvajanje ustavnog amandmana o statusu Distrikta Brčko, pregovori o tom amandmanu nakon inicijalnog okvirnog političkog dogovora iz novembra 2008., da bi se ostvario željeni rezultat (koji je dio plana 5+2) tražili su snažan angažman Američke ambasade i Supervizora za Brčko.

¹⁸ http://sarajevo.usembassy.gov/speech_20090519.html

¹⁹ Ian Traynor, “The US is talking tough on the Balkans, and the Europeans don’t like it”, *The Guardian*, 21.5.2009 <http://www.guardian.co.uk/world/2009/may/21/bosnia-and-hercegovina-eu>

potrebne da se zatvori OHR i izvrši “tranzicija”. U takvoj situaciji, Visoki predstavnik bio je, u svjetlu svoje funkcije Specijalnog predstavnika EU, pozvan samo kao posmatrač. Umanjenje njegove funkcije bilo je namjerno, isto kao i spajanje konkurentnih imperativa. Inicijalno je sastanak zamišljen kao kratki dogovor po sistemu uzmi ili ostavi, ali su se planovi na samom početku reducirali u korist malo dužeg procesa. Bez obzira na pokušaje da se nakon prvog sastanka radi na vrlo visokom nivou, kao i na Bildtovu i Steinbergovu drugu posjetu 20. i 21. oktobra, ništa se nije postiglo. Odnosno, ništa pozitivno se nije postiglo – svi su ishodi bili negativni. Milorad Dodik, siguran da je međunarodna zajednica dezorganizirana, pogoršao je situaciju time što je nakon drugog sastanka u Butmiru počeo spominjati referendum i mogućnost “mirnog razlaza” države. Narednog mjeseca je na sastanku Upravnog odbora Vijeća za provedbu mira izjavio da mu je Bildt rekao da bi bila dovoljna bilo kakva, pa čak i minorna ustavna promjena.²⁰ I Rusija i Turska su bile isključene iz procesa i potrudile su se da se njihovo nezadovoljstvo osjeti. Ured Visokog predstavnika dodatno je oslabljen, a sam Visoki predstavnik dobio je uputstvo da izbjegne radnje koje bi mogle ugroziti proces. Najštetnije od svega je što su se Sjedinjene Države na vrlo visokom nivou zalagale za strategiju s kojom se nisu u potpunosti slagale, a čiji je jedan od osnovnih elemenata da se OHR (a indirektno i sva izvršna moć međunarodne zajednice u BiH) mora okončati, da bi BiH mogla krenuti ka kandidaturi za članstvo u EU.

U decembru je američko ulaganje u kontraproductivni butmirski proces dalo svoj najgorči rezultat. Međunarodno osoblje na izvršnim funkcijama (sudije i tužioci) bili su od integralnog značaja za rad vijeća za ratne zločine, organizirani kriminal i korupciju Suda BiH i Ureda državnog tužioca, a ugovori su im isticali naredni mjesec. Najviši bh. zvaničnici i sam Sud rekli su međunarodnoj zajednici da je neophodno da im se angažman produži. O tom pitanju se dugo razgovaralo, ali neodlučnost je dominirala uzaludnim pokušajima bh. zvaničnika da se taj angažman produži. Većina članova Upravnog odbora Vijeća za implementaciju mira u septembru je podržavala produžetak angažmana međunarodnog osoblja u oba vijeća, ali je odluka odgođena do iza 1. oktobra, što je bio rok za usvajanje zakona u BiH kojim bi se to riješilo. 1. oktobra je najavljena butmirska inicijativa, čime su se aktivnosti međunarodne zajednice stavile na čekanje.²¹ Premijer RS Milorad Dodik, koji je bio pod istragom Ureda tužioca, suprotstavio se bilo kakvom produžetku. Do decembra se saglasnost urušila, tako da je sada samo Turska zagovarala produžetak za sve, zajedno sa Kanadom (pismeno – jer su ranije zatvorili ambasadu u Sarajevu). Na kraju su samo oni koji su u odjelu za ratne zločine dobili produžetak na tri godine. Stav SAD-a bio je jasan – da je SAD zadržala politiku koju je zagovarala prije butmirskog procesa, koalicija svih zapadnih članica Vijeća za provedbu mira bila bi moguća, bez obzira na napor koji bi to tražilo. Poruka koja se time poslala Bosni i Hercegovini bila je jasna - SAD više ne želi da bude lider Vijeća za provedbu mira.

Tokom 2010. se primjećuju određeni pomaci ka predbutmirskim stavovima, u smislu čvršćeg stava SAD-a (zajedo sa Velikom Britanijom i Turskom) u pogledu tumačenja onog što bi predstavljalo ostvarenje plana 5+2. Rusija je u dosta stvari stala uz RS, uključujući i evidentnu podršku dozvoli RS da održi referendum.²² Uprkos nadama na mnogim mjestima da će usvajanje Lisabonskog ugovora i dolazak Catherine Ashton kao znatno osnaženog povjerenika EU za vanjske poslove u Evropsku uniju unijeti veću političku koherentnost, to se nije desilo. Nakon što su Sjedinjene Države očito odlučile da u pogledu BiH slijede vodstvo EU, a da EU ništa ne vodi, kritična masa u Upravnom odboru Vijeća za provedbu mira samu je sebe učinila nedjelotvornom. To je produbilo osjećaj koji je postojao i prije Butmira, da nema nikakvih pravila. Takva atmosfera

²⁰ DPC-ovi razgovori sa učesnicima sjednice Vijeća za provedbu mira, novembar 2009.

²¹ DPC-ovi razgovori sa učesnicima sjednice Upravnog odbora Vijeća za provedbu mira, decembar 2009. i maj 2010.

²² <http://www.sarajevo-x.com/bih/politika/clanak/100109075>

omogućila je izuzetno konfliktnu atmosferu pred izbore, za koju se znalo da će se pogoršati u septembru, kada je formalno otvorena predizborna kampanja.

U ovom trenutku, EU provodi strategiju komunikacija, kojom želi uvjeriti stanovništvo u BiH u koristi od integracije u EU. Ali, koristi od takve operacije dosta su oslabljene, jer EU nije upotrijebila jedno od svojih najjačih oružja – nije u eurima i centima iskazala koliko politika rada BiH jeste – ili nije – ostvarila potencijalnu korist od procesa integracija u sadašnjem vremenu. Da se tako radilo, glasači bi shvatili smisao tog potencijala, a EU bi gradila kredibilitet u javnosti. Hladno izlaganje činjenica u različitim sektorima malo bi stranaka i političara ostavilo netaknutim. Ono što se trenutno radi je da se građanima pristupa bezbojnim istrošenim frazama, koje ljudi jednostavno ne žele da čuju.

EU: Ne treba nam plan – imamo mi svoju čarobnu formulu

Evropska unija imala je na raspolaganju godine i godine da artikulira integriranu i izvodivu strategiju za BiH, ali se do danas ništa takvo nije pojavilo. Međutim, neke osnovne teme konzistentno su prisutne.

Kao prvo, EU (uključujući i briselske institucije i većinu država članica) čvrsto se drži ubjeđenja da ma o čemu se radilo, proces širenja EU sadrži sve odgovore. Bez stvarnog napretka u usvajanju normi EU, jedini način da se održi fasada je da se spusti granica, ili da se jednostavno proglasi napredovanje, uz nadu da će se time stvoriti pogodnija klima. Ideja da će napredovanje susjeda, Hrvatske i Srbije, u pravcu članstva potaći reforme u BiH samo je još jedna manifestacija te doktrinarne izvjesnosti, koja pokazuje duboko nerazumijevanje unutrašnjih političkih poticaja i dinamike u BiH. EU i dalje očekuje partnerstvo sa izabranim političkim liderima u BiH, što je čini nemoćnom kada ti lideri odluče da ne postupaju u skladu sa zahtjevima širenja EU, u korist sopstvenih prikrivenih interesa. Ključni hendikep za EU u radu s BiH je to što se ne hvata u koštac sa fundamentalno različitim poticajima na osnovu kojih bh. političari djeluju unutar dejtonskog sistema.

Vezana za ovo je i fiksiranost na “tranziciju” – koja se može reducirati samo na zatvaranje OHR-a. EU i dalje nema nikakav koherentan plan kako da riješi pitanje međunarodne uloge u provedbi mira koju Dayton propisuje i u civilnim i u vojnim aspektima. Dominantna ideja kod članica EU je da to više nije potrebno, ali nije potkrijepljena nikakvom analizom BiH bez toga. Zapravo se takve ideje, po svemu sudeći, temelje na shvatanju da čim je EU proglasila BiH dovoljno dobrom da potpiše Sporazum o stabilizaciji i pridruživanju po definiciji mora biti stabilna.²³ Otvoreno izneseni stav da se OHR *mora* zatvoriti da bi BiH krenula ka EU ne samo da je zasnovan na zakonskim uslovima, već je po svojoj prirodi politički, a u stvarnosti i neproduktivan.

Jedan dokument o planovima EU koji su autori imali priliku da vide ukazuje na skoro teološko vjerovanje u transformativnu snagu EU. “Nakon oktobarskih izbora ćemo morati ponovo stvarati povoljnu klimu u BiH. Jedina održiva budućnost za BiH je u Evropskoj uniji, a najbolji način da se ostvare promjene je kroz proces pristupanja. Do tog cilja ćemo lakše doći uz jače prisustvo EU. To bi bilo u skladu sa Lisabonskim ugovorom”.²⁴ Taj dokument od četiri stranice dalje razrađuje jedan oblik prisustva EU – kombinacija Delegacije EU (u ovom trenutku je to osoblje Komisije) i Specijalni predstavnik Evropske unije – u BiH nakon izbora, uz alarmantno odsustvo bilo kakve ideje o tome šta bi ta misija EU zapravo htjela da radi. Sam dokument povezuje prisustvo sa djelotvornošću, a medijsku vidljivost sa političkim kredibilitetom. U smislu

²³ Diplomata iz jedne države članice EU je autoru to opisao upravo tim riječima, 2009.

²⁴ *Next Steps in Bosnia and Herzegovina: Through stronger EU presence to reinforced EU policy*, EC DG ELARG + Sec, 15.7.2010.

strateških instrumenata, dokument predlaže da šef Delegacije EU predlaže Komisiji i/ili Vijeću ukidanje fondova Predpristupnih instrumenata (IPA), zabrane viza i zamrzavanje imovine za nepoštivanje ili kršenje Daytonu.²⁵ Ali, sposobnost da se *preporuče* takve radnje bez sposobnosti da se o njima *odluči* i nije stvarna moć – a ni neka nova. Dokument kaže i da političke ličnosti “koje osporavaju ili potkopavaju temelje države” mogu i da ne budu pozvane na međunarodne skupove na najvišem nivou. Treba primijetiti da ovo nije isto kao da se kaže da se zvaničnici EU *uopće* neće s njima sastati, tako da ne ukazuje na pravi karantin. Kako je ranije rečeno, ovakvo prisustvo i ne zaslužuje da se nazove “osnaženim”.

Ukratko, plan EU da preuzme međunarodno vodstvo u BiH izuzetno je slab, naročito s obzirom na to da se pet godina razgovara o ideji “tranzicije”. I dalje nema nikakve međunarodne strategije, ili barem iskrene analize situacije ili artikulacije konkretnih cijeva na kojima bi se takva situacija temeljila. Željeni politički ishod je jednostavno da BiH ne predstavlja veći problem nego što stvarno jeste. Zvanična analiza situacije u Briselu, Washingtonu, Berlinu i većini drugih glavnih gradova članica Vijeća za provedbu mira, utemeljena je na tom strateškom cilju. Takav pristup bude uspješan rijetko, gotovo nikad.

Kurt Bassuener je suosnivač i viši saradnik u Vijeću za politiku demokratizacije (DPC). DPC je globalna inicijativa za izgradnju odgovornosti u promociji demokratizacije (<http://democratizationpolicy.org>), i autor i koautor brojnih analiza međunarodne politike u i prema Bosni i Hercegovini. U periodu 2005/06. radio je u OHR-u kao strateški analitičar. Živi i radi u Sarajevu.

²⁵ *Ibid.*

MOGU LI ELITE U BIH VODITI DRŽAVU?

Denisa Sarajlić-Maglić

Političke elite u BiH značajno utječu na samoodrživost i funkcionalnost države; složeni sistem odlučivanja u BiH je sistematski ovisan o političkoj volji. Takav mehanizam odlučivanja osmišljen je kako bi spriječio da bilo koja grupa donosi odluke na uštrb drugih, tako da njegovo funkcioniranje zavisi od dobre volje i mogućnosti nalaženja kompromisa s drugima. Političke elite, naročito u periodu nakon 2006. godine, iskoristile su ovaj sistem tako što su monopolizirale i zaposjele politički prostor do te mjere da nisu ostavile dovoljno prostora za značajniju ulogu drugih, nezavisnih aktera. Kao takav, politički prostor u BiH zasićen je interesima političkih elita, kojima je najčešće podređen i javni interes. Rezultat toga je pretjerana politizacija većine pitanja od javnog interesa, čak i onih koja su po prirodi sasvim pragmatična. Termin “političke elite” je sam po sebi neodređen, ali u slučaju BiH uključuje, između ostalih, i vrlo rezistentnu mrežu neformalnih aktera čiji je utjecaj na politička dešavanja jači od utjecaja bilo koje formalne institucionalne mreže.

Sve ovo doprinosi stvaranju države u kojoj demokratska pravila igre još nisu zaživjela. U tom smislu, njena održivost će zavisiti od promjene takvih pravila igre i stvaranja sistema koji neće toliko zavisiti ni od volje elita, ni od međunarodnih intervencija. Međutim, sama strategija međunarodne zajednice u proteklih 15 godina samo je doprinijela jačanju ovih odnosa. Najblaže rečeno, međunarodna zajednica nije učinila dovoljno da uspostavi strukture koje će nakon prestanka njene izvršne uloge osigurati samoodrživost BiH.

Demokratija “pretrpana elitama”

Jedna od osnovnih prepreka dugoročnoj funkcionalnosti države Bosne i Hercegovine proizlazi iz činjenice da je BiH demokratija koja je “pretrpana elitama”¹. Prva karakteristika takve demokratije je monopolizacija političkog procesa od strane političkih elita. Prema Larryju Diamondu, američkom teoretičaru demokratije, u demokratiji koja je “pretrpana elitama” političke stranke monopoliziraju politički proces i ovladavaju državnim i organizacijskim životom u toj mjeri da “interesne skupine i druge političke institucije lišavaju njihove autonomije”. Tri takve karakteristike su vidljive u “elitama zasićenoj” BiH:

Prvo, u postojećem sistemu postoji duboki i nepremostivi jaz između političkog i građanskog društva. Političke elite u BiH postavljaju se kao zaštitnici političkog procesa. Umjesto da preuzmu ulogu “provodnika” javnih interesa od građana prema državi, političke elite djeluju kao ‘izolatori’ između države i građana. Političke elite stoga ne priznaju postojanje drugih nezavisnih aktera u političkom životu, uključujući građansko društvo, pravosuđe i medije, niti odobravaju njihovo nezavisno djelovanje. Ovakva monopolizacija političkog prostora očigledna je u gotovo svakom aspektu javnog života, a za primjer se može uzeti ustavna reforma. U slučaju pregovora o reformi ustava u Butmiru, mediji i građansko društvo ne samo da su bili isključeni iz cijelog procesa, već je proces svjesno postavljen tako da spriječi sve koji su izvan veoma ograničenog

¹ *elite-packed democracy*, Diamond, Larry, *Developing Democracy: Toward Consolidation*, (Baltimore, Md: Johns Hopkins University Press, 1999).

kruga stranačkih lidera i njihovih pregovaračkih timova da dođe i do najosnovnijih informacija o tome šta se dešavalo unutar kasarne. Na taj način su neki stranački lideri mogli manipulirati informacijama o sadržaju prijedloga koji su se našli na stolu, jer su strateški i selektivno propuštali samo djeliće informacija.

Drugo, demokratija u BiH može se smatrati “zasićenom elitama” i u smislu pretjerane zasićenosti društvenog i javnog života mišljenjima i interesima nekolicine elita. Absorbirajući u potpunosti kisik u političkom prostoru, političke elite su u poziciji da oblikuju javne percepcije, javno mnijenje i javni diskurs. Ova pojava postaje sve vidljivija otkako medijski tajkuni postaju političari, a određeni političari postaju formalni ili neformalni vlasnici nekih medija. To povećava i kapacitet određenih političkih elita da još više politiziraju sva pitanja bila ona ekonomska, društvena, tehnička, birokratska, kulturološka, infrastrukturna, sportska, itd. Čak i najpragmatičniji i najpraktičniji projekti poput izgradnje Koridora Vc², koja bi u bilo kojoj drugoj zemlji bila katalizator konsenzusa na državnom nivou, postaju predmetom etničke polarizacije. U ovom slučaju, slika koju su nacionalističke stranke u stanju predstaviti široj javnosti je da će izvjesne trase Koridora Vc ugroziti nacionalno naslijeđe ove ili one etničke skupine, dok se pravi razlozi iza ovih dilema zapravo vrte oko toga koja etnička elita posjeduje više zemljišta duž koje trase.

S druge strane, mnogi stvarni strateški prioriteti u BiH i dalje su određeni međunarodnom agendom. Ti prioriteti proizlaze ili iz ranije preuzetih obaveza, kao što su obaveze u oblasti poštivanja ljudskih prava preuzete članstvom u Vijeću Evrope i ratifikacijom određenih međunarodnih konvencija, koje će doći do izražaja u slučaju implementacije presude u predmetu Sejdić/Finci, kao i iz uslova preuzetih potpisivanjem SSP-u i daljim integracijama u EU. Uslijed politizacije ovih pitanja i nepostojanja zajedničke vizije o tome kako i zašto graditi državu, vladajuće stranke u BiH ulaze u pregovore gdje se njihovi stavovi polariziraju do te mjere da im može biti potrebno pet ili više godina da nađu kompromis. Pošto su takvi kompromisi obično najmanji zajednički imenitelji, njima se mogu postići samo kratkoročni učinci bez da imaju značajnog odraza na funkcioniranje države. U najboljem slučaju, pravna rješenja proistekla iz takvih kompromisa je teško ili nemoguće implementirati, kao što je to bio slučaj sa reformom policije, a ona u isti mah troše mnogo vremena, napora i političkog kapitala. Sve ovo stvara političke krize koje su u nekoliko navrata u protekle četiri godine blokirale rad vlasti i po nekoliko mjeseci.

Jedno vrijeme je proces ispunjavanja uslova za liberalizaciju viznog režima smatran izuzetkom od ovog pravila, a određeni predstavnici međunarodne zajednice i dalje koriste ovaj primjer kao “dokaz” da političke elite mogu naći kompromis pod uslovom da postoji dovoljno političke volje i pritiska javnosti. Ali ako pobliže razmotrimo ispunjavanje pojedinačnih uslova za liberalizaciju viznog režima, vidimo da je gotovo svako pitanje ipak bilo politizirano i na kraju riješeno pravljenjem ustupaka pod pritiskom međunarodne zajednice (a ne javnosti kako to neki predstavljaju) ili popustljivošću Evropske komisije, kao u slučaju Krivičnog zakona BiH i Zakona protiv diskriminacije. Jedini stvarni izuzeci bili su oni uslovi čije ispunjenje nije zahtijevalo bilo kakvu zakonodavnu aktivnost, već samo uvođenje dobrih tehničkih rješenja (npr. uslovi iz Bloka I o sigurnosti dokumenata).

Treća specifičnost “političkih elita” u BiH je fluidnost samog termina. Termin ‘političke elite’ u kontekstu demokratije u BiH ne može se koristiti u širem akademskom smislu, niti je u potpunosti ispravna njegova upotreba u uskom pogrdnom smislu (privilegirana društvena krema). Ovaj termin se ne uklapa u akademske definicije, jer u slučaju BiH ovaj termin uključuje veoma utjecajne pojedince koji ne pripadaju političkim elitama u formalnom smislu. Također, postoje pojedinci koji formalno

² Koridor Vc, poznat i kao evropska trasa E73, je planirani autoput od 710km koji bi povezo Budimpeštu u Mađarskoj sa lukom Ploče u Hrvatskoj, a prolazio bi kroz Bosnu i Hercegovinu. Trasa u BiH bi počela u Bosanskom Brodu i prolazila kroz Zenicu, Sarajevo i Mostar.

spadaju u kategoriju elita, ali imaju veoma malo stvarnog političkog utjecaja. Nažalost, mnogi od ovih potonjih su zakonodavci na raznim nivoima vlasti koji osim mogućnosti da glasaju za donošenje zakona, u stvarnosti imaju veoma malo političkog utjecaja izvan zgrade parlamenta. Međutim, prva grupa čini značajnu karakteristiku i specifičnost političkog života u BiH. To je mreža pojedinaca koji nisu dio formalnog političkog života, već su zapravo izmješteni u nekim neformalnim, ali utjecajnim, ne-institucionalnim političkim krugovima. Pored onih koji formalno i očekivano tu spadaju, ovu grupu “neformalnih” političkih elita čine i poslovni ljudi (ponekad sumnjive prošlosti, čiji poslovi uveliko zavise od podrške određenih političkih elita), članovi akademske zajednice koji podržavaju određene ideološke projekte, vjerski lideri, vlasnici medija i novinari, propali političari, pripadnici kriminalnog miljea ili čak institucionalno dobro “ugrađeni” kriminalci.

Funkcionirajuća nefunkcionalna država

Gore navedene karakteristike političkih elita u BiH stvaraju niz problema za njenu funkcionalnost i samoodrživost.

Privatizacija političkog utjecaja kao princip donošenja odluka izmješta sam sistem odlučivanja izvan formalnih institucija što, između ostalog, sprječava međunarodnu zajednicu da vrši bilo kakav učinkovit utjecaj, te umanjuje utjecaj građanskog društva prema državi u korist neformalnih/privatnih utjecaja. Zbog toga prava adresa za donošenje odluka o ključnim reformama često nisu članovi parlamenta već njihovi stranački šefovi ili čak pojedinci koji formalno nisu čak ni članovi njihovih političkih stranaka. Kao ilustraciju navodimo primjer u kojem je tokom pregovora o reformi policije, reis Mustafa ef. Cerić organizirao okupljanje političkih lidera i određenih pojedinaca koji spadaju u kategoriju ‘neformalnih’ političkih elita kako bi utjecao na ishod tih pregovora. Njege i druge vjerske lidere također je redovno konsultirala i međunarodna zajednica tokom prethodnih napora vezanih za reformu Ustava.

Ova pojava se može dakle okarakterisati kao stvaranje političko-etničko-ekonomsko-vjersko-finansijske mreže koja je jača od bilo koje formalne institucionalne strukture u BiH, kao i od mreže civilnog društva. Mističnost ovih odnosa služi da zakloni stvarne izvore utjecaja. Time je povećana i otpornost političkih elita na pritiske međunarodne zajednice i građanskog društva. Činjenica da se izvori političkog utjecaja nalaze izvan formalnih demokratskih struktura dijelom umanjuje i odgovornost demokratski izabраних zvaničnika. To ima dvojake učinke. Stvara se konfuzija o linijama odgovornosti (ko kome odgovara), što podriva sam koncept odgovornosti prema društvu. U isto vrijeme su očekivanja javnosti veoma niska, jer su itekako svjesni da se centri moći nalaze negdje drugo, pa i ne *očekuju* da formalne elite budu odgovorne, niti ih pozivaju na odgovornost. Javnost, zapravo, u izvjesnoj mjeri *očekuje* od elita da zloupotrebljavaju svoje ovlasti – ovo je vidljivo iz poznate i stalno ponavljane fraze koja se redovno čuje prije izbora: “Glasaću za iste, jer su se oni već dovoljno nakrali, neki novi bi morali početi krasti ispočetka.” Dugoročno tako porazna očekivanja od principa odgovornosti mogu nanijeti veliku štetu njegovoj održivosti. U ovakvom političkom terenu vladaju nedemokratska pravila igre, a javnost nema mogućnost da jasno izrazi svoje stavove u prostoru gdje obični ljudi zapravo ne igraju značajnu ulogu što se manifestuje lošim izlaskom na izborima i samoobespravljenju.

Tako niska očekivanja od demokratije stvaraju političku klimu u kojoj svako djelovanje, bez obzira koliko nedemokratsko, postaje društveno prihvatljivo. Pošto su te strukture zauzele u određenoj mjeri i medije, stvarne javne skrutinizacije gotovo i da nema, a nezadovoljstvo prema političkom sistemu se ne pretače u javnu akciju već u javnu apatiju i rezignaciju što onda dodatno smanjuje očekivanja javnosti. Svaka kritika političkih elita smatra se hrabrom do mjere neracionalnosti ili jednostavno naivnosti. Ovo je između ostalog i rezultat nedostatka volje

međunarodne zajednice da društveno sankcionira ili oštrije reaguje na teška kršenja demokratskih pravila i procesa u protekle četiri godine (2006-2010.). Nepostojanje društvenih i međunarodnih sankcija ukorijenilo je vjerovanje u javnosti da su elite nedodirljive. Što je još gore, proglasivši “nedodirljive” elite svojim “partnerima”, EU stvara dojam da opravdava takav njihov status i prilagođava se njihovim pravilima igre. Ovo je očito iz niza primjera kao što su beskrajne istrage protiv premijera RS Milorada Dodika koje nikad nisu dovele do podizanja opuznice, te iz pravne sage protiv predsjednika HDZ-a i bivšeg ministra finansija FBiH Dragana Čovića, zatim iz odbacivanja optužbi protiv ministra energetike i rudarstva FBiH Vahida Heće i bivšeg premijera FBiH Nedžada Brankovića, kao i iz same činjenice da niko iz političkih elita nikad nije osuđen uprkos brojnim optužbama i izvještajima policije, pravosuđa, medija i javnih revizora. Iako je Vlada RS u nekoliko navrata pokušala privatizirati velika državna preduzeća bez objavljivanja javnih tendera, niz istraga pokrenutih zbog toga nije rezultiralo pravnim posljedicama. U FBiH su poslanici u Parlamentu u više navrata odlagali usvajanje budžeta iako znaju da je kašnjenje u njegovom usvajanju dovoljan razlog da predsjednica FBiH Borjana Krišto raspusti Parlament. Međutim, oni su takođe svjesni da se nešto tako nikad ranije nije desilo.

Istovremeno, pojedinci koji otvoreno kritikuju nelegalne prakse političkih elita bili su na meti prijetnji (poput voditelja emisije “60 minuta” na FTV-u Bakira Hadžiomerovića), javno su diskreditovani (poput bivše ministricke finansija RS Svetlane Cenić i osoblja organizacije Transparency International) ili su jednostavno smijenjeni (poput zamjenika direktora SIPA-e Dragana Lukača).

Društvo “zasićeno elitama” kao takvo ne predstavlja plodno tlo za jačanje utjecaja civilnog društva. Slabosti civilnog društva BiH obično se pripisuju činjenici da ono ne posjeduje adekvatne kapacitete ili da nije dovoljno motivirano da zagovara promjene. Međutim, ogromni kapacitet političkih elita da ignorišu ili se odupiru pritisku javnosti je bitan faktor koji utječe na slabljenje utjecaja civilnog društva. Neracionalno bi bilo očekivati da će političke elite, koje su u potpunosti prisvojile i zaposjele politički prostor, vidjeti ikakvu prednost u uključivanju civilnog društva u političke procese. Samo uključivanje civilnog društva u projekte poput ustavne reforme uvelo bi više transparentnosti u sam proces i smanjilo prostor za manipuliranje javnošću. To bi otežalo učvršćivanje određenih političkih stavova, jer bi javnost bila u boljoj poziciji da donosi političke sudove na osnovu raspoloživih informacija.

Gore opisani fenomeni stvaraju više problema za održivost demokratije u BiH nego drugdje zato što složeni sistem donošenja odluka u BiH sistematski zavisi od volje političkih elita, kao što je ranije opisano. Sistem raspodjele vlasti osmišljen je tako da funkcioniра samo ako postoji dovoljno političke volje po osnovu svake od sljedeće tri dimenzije – stranačkoj, etničkoj i entitetskoj. Nepostojanje političkog konsenzusa po osnovu bilo koje od ove tri dimenzije može blokirati cijeli sistem odlučivanja. Takav sistem ne motivira političke lidere da učestvuju u političkom životu na smislen način. Sistem im zapravo omogućava da jedni drugima potkopavaju određene projekte, što je onda podstrek za samostalno djelovanje određenih elita. Državne institucije u tome jednostavno nemaju adekvatne ovlasti niti autonomiju da primoraju političke elite da na odgovoran način učestvuju u procesima odlučivanja, niti da ih u suprotnom sankcioniraju.

Zabrinuta međunarodna zajednica

Iz gore navedenih primjera može se izvući zaključak da oslanjanje međunarodne zajednice isključivo na moć utjecaja nije proizvelo samoodrživu stabilizaciju i konsolidaciju demokratije u BiH. Ono možda i jeste proizvelo izvjesne kratkoročne rezultate, ali za dugoročnu održivost BiH potrebno je stvoriti sadržajnu institucionalnu povezanost države sa njenim međunarodnim okruženjem.

Akadska literatura povezanost opisuje u smislu “gustoće veza”³ (ekonomskih, političkih, diplomatskih, društvenih i organizacijskih) i “prekograničnih tokova” (trgovine i investicija, ljudi, komunikacija). Imajući to u vidu, može se reći da su dvije ključne politike EU bile naročito štetne za ovaj aspekt demokratizacije političkih elita: vizni režim i nedosljedne politike uslovljavanja.

EU se u prevelikoj mjeri oslonila na instrumente pozitivnog i negativnog uslovljavanja kod insistiranja na određenim politikama. Kako se vidi iz primjera reforme policije kao uslova za potpisivanje SSP-a, EU je sama kompromitovala svoje principe i vrijednosti zarad brzog rješenja i kratkoročne političke dobiti u slučajevima gdje je brži napredak u integracijama služio drugim interesima. Na primjer, popuštanjem u slučaju reforme policije EU je željela izbjeći da otvori još jedan front dok pokušava naći način da smiri situaciju u Srbiji usljed očekivanog proglašenja nezavisnosti Kosova. Pri tome se nije vodilo računa da će iskustvo policijske reforme u BiH oslabiti kredibilitet političkog uslovljavanja od strane EU i dovesti u pitanje primjenu i dosljednost uslovljavanja kao instrumenta buduće podrške konsolidaciji države. EU je također loše procijenila prioritete i interese elita, oslanjajući se na pretpostavljene sličnosti iz iskustva u drugim zemljama. Problem je bio u tome što za političke elite u BiH koristi od pristajanja na uslove EU nisu bile veće od cijene pravljenja kompromisa. EU je uzimala zdravo za gotovo da je stvarni interes elita da izgrade državu, čime je ostavila utisak da je nesvjesna činjenice da je održavanje *statusa quo* zapravo jedini interes onih čiji je cilj bio ostanak na vlasti. S obzirom na tako poljuljani kredibilitet instrumenta uslovljavanja, postavlja se pitanje da li će EU biti u stanju garantovati političku stabilnost u BiH nakon zatvaranja OHR-a, imajući u vidu da je uslovljavanje jedino sredstvo koje EU planira upotrijebiti.

S druge strane, vizni režim je ograničio zahtjeve javnosti za kvalitetnijom i boljom demokratijom. Da je putovanje bilo omogućeno ranije u procesu izgradnje države, zahtjevi javnosti za demokratijom i ekonomijom u stilu EU možda bi dobila na težini prije nego su se u sistem tako čvrsto ukorijenile podjele. Kako se vidi iz primjera iz drugih država, i kako navode Levitsky i Way, tzv. “povezanost” sa međunarodnim okruženjem podiže cijenu zloupotrebe demokratskih pravila jer povećava njihov odjek u međunarodnim krugovima i vjerovatnoću da će ti krugovi reagovati na te zloupotrebe, i time dati podršku opoziciji i civilnom društvu. Umjesto toga, održavanje restriktivnog viznog režima samo je povećalo apetite za podjelama među ljudima koji su se osjećali zarobljenim u uskom prostoru unutar kojeg im je bilo dozvoljeno putovati. Odnosno, to ih je učinilo podložnijim utjecaju međusobnih optužbi političkih elita, kojima je cijelo to vrijeme bilo omogućeno da putuju po Evropi. Vizna politika je tako proizvela efekte suprotne od “povezanosti”; vizni režim je prekinuo i ono malo pripadnosti koju su ljudi u BiH osjećali prema Evropi i na užrb toga osnažilo njihovu vjeru u nacionalizam. Stoga se može zaključiti da je EU bila neuspješna u onom što najviše želi biti: “meka sila” (soft power).

Sukob vizija

Uprkos 15-godišnjem snažnom međunarodnom prisustvu u BiH nakon Dayton, država je ipak međunarodno izolovana politička cjelina u smislu veoma slabe formalne integracije u šire međunarodno okruženje, kao i u međunarodne strukture poput EU i NATO saveza. Očit je nesrazmjer između utjecaja koji međunarodna zajednica nastoji vršiti na terenu i stvarnog nivoa međunarodnog interesa za dešavanja u BiH izvan njenih granica. Rezultat toga je nedostatak postojanog, dosljednog i trajnog kritičkog praćenja političkih dešavanja u BiH od strane šireg međunarodnog normativnog okruženja.

Sa ove distance može se reći da je prvobitni period međunarodne intervencije u BiH bio uspješan utoliko što je obustavio krvoproliće, uspostavio mir i obnovio neke funkcije države (1995-1999., Bildt/Westendorp). U tom je periodu međunarodna zajednica počela osmišljavati samoodrživost

³ Levitsky S., Way L. ‘Linkage vs. Leverage’

zemlje kroz učešće njenih elita. Uvođenje “bonskih ovlasti” u decembru 1997. je tako imalo za cilj uvođenje okruženja gdje bi međunarodna zajednica mogla identifikovati partnere predane Mirovnom sporazumu i spremne preuzeti “kormilo” reformi. Smjena nekih zvaničnika koji nisu smatrani dovoljno opredijeljenim za Mirovni sporazum i prioritete izgradnje države stvorilo je iluziju da su svi drugi predani reformskom procesu. Dominantna međunarodna pretpostavka je bila da je one koji nisu smijenjeni sa političkih položaja moguće preobratiti.

Međutim, ova strategija samo je učvrstila i dala legitimitet već postojećim elitama, pretežno naslijeđenim iz rata. Zaostavština tih elita ugrađena je u sistem kroz održavanje preuranjenih izbora 1996., koji su onda proglašeni demokratskim. Gledajući iz današnje perspektive, čini se licemjerno što međunarodna zajednica danas vidi rješenje za prosperitetnu budućnost BiH u nekoj vrsti smjene generacija, a sama je doprinijela tako čvrstom ukorjenjivanju ratnih političkih elita u politički sistem. Time je osiguran legitimitet politikama iz rata, koje su u potpunosti zauzele politički eter ne ostavljajući dovoljno prostora za nove i svježije političke snage.

Međutim, postoji još jedan vjerovatno štetniji učinak te politike. U prvih deset godina nakon potpisivanja Daytonskog sporazuma, međunarodna zajednica zanemarila je činjenicu da kontinuitet ratnih politika kroz prisustvo nacionalističkih političkih elita zapravo omogućava opstanak dvije oprečne vizije BiH – viziju BiH kao podijeljene države i viziju jedinstvene države. Dejtonski sporazum nije ni potvrdio ni porekao nijednu od ove dvije vizije. A nije ponudio ni treću opciju. Umjesto toga, obje vizije su gurnute pod tepih pod pretpostavkom da će interes za njih oslabiti kako se budu gradile institucije države pod međunarodnim nadzorom i sponorstvom.

Petnaest godina kasnije, te dvije vizije su izašle ispod tepiha otvoreno se sukobljavajući. Pitanje je kakav će oblik ovaj sukob vizija poprimiti kako se bude dalje razvijao i da li su državne strukture dovoljno opremljene da prežive taj sukob. Mandati posljednja tri Visoka predstavnika daju određenu sliku o tome kako bi stvari funkcionirale kada bi političke elite u BiH bile puštene same sebi.

Elite koje su bile na vlasti u protekle četiri godine su pravile strateške kalkulacije kako bi podrivale međunarodnu zajednicu, te manipulisale i upravljale njenim reakcijama. Na taj način su postigli psihološku prednost, jer su izostankom intervencije međunarodne zajednice dobili prešutno priznanje da su demokratski lideri uprkos činjenici da nisu poštivali osnovna demokratska pravila igre. S druge strane, pored izostanka agresivnije, dosljednije i strateške primjene bonskih ovlasti, OHR i EU nisu čak osuđivali ni pojedinačne slučajeve nedemokratskog ponašanja i pokušaje podriivanja kredibiliteta države. S obzirom na prijeteći “sukob vizija” i otvorene prijetnje referendumom o otcjepljenju RS-a (i povlačenje paralele sa statusom Kosova) dalji izostanak intervencije će značiti prešutni pristanak, pa čak i poticaj tim političkim snagama da pojačaju svoje napore na podriivanju države. Nažalost, iako se prijetnje čine sve ozbiljnijim i iako još uvijek postoji međunarodni mandat za intervenciju, u evropskim prijestolnicama se sve više tvrdi da je međunarodna intervencija politički nekorektna.

Izmorena, ali ne i dotučena

Međunarodna zajednica hroničnu nezrelost političkih elita da donose nezavisne odluke uzima zdravo za gotovo, dok reformski procesi postaju komplikovani, zahtjevni i zamorni za međunarodnu zajednicu.

U kontekstu evidentnog zamora međunarodne zajednice u BiH, postavlja se pitanje da li su elite u BiH sposobne same voditi državu? Međutim, ovo je lažna dilema. Kako pokazuje iskustvo iz

protekle četiri godine, nedemokratska pravila igre su se rasprostranila čak i uz snažno prisustvo OHR-a. S druge strane, prisustvo i utjecaj međunarodne zajednice u BiH ne svodi se samo na prisustvo OHR-a. Ono je evidentno i kroz mnoštvo bilateralnih i multilateralnih odnosa, tako da se političke elite nikad ne moraju osjećati usamljene.

Stoga pitanje više nije kada i da li će se OHR zatvoriti, već šta se mora desiti prije njegovog zatvaranja. S obzirom na pogoršanje političke situacije u BiH od 2006. godine, posebno od intenziviranja priče oko referenduma o nezavisnosti RS-a, neki međunarodni predstavnici sve manje spominju zatvaranje OHR-a. Diskusije se sada polako kreću ka pronalazenju načina da se OHR zadrži bar dok prijetnje po integritet države ne prestanu biti stvarne. U središtu tih diskusija je sve više shvatanje da se sam međunarodni mandat mora održati sve dok postoji potreba da se očuva pravo na intervenciju u najgorem slučaju, jer ako bi se jednom odrekli pravne osnove za intervenciju, teško bi je bilo ponovo obezbijediti. Međunarodne intervencije u drugim zemljama su stekle lošu sliku u zadnje vrijeme, a Rusija koja otvoreno podržava vodstvo RS-a bi se vjerovatno protivila mandatu za intervenciju u Vijeću sigurnosti UN-a ako bi ikada do toga došlo. S druge strane, EU se još uvijek bori sa nedorečenostima implementacije Lisabonskog sporazuma na terenu i iz njihove perspektive istovremeno zatvaranje OHR i transformacija delegacije EU je stvar praktičnosti.

Nedosljednost međunarodne zajednice kod definisanja prirode samog problema i stvarne potrebe da se donesu trajna rješenja ukazuje na nužnost da se još više insistira na odlaganju velikih odluka dok OHR ne bude u boljoj situaciji da se preobrazi u jedinstveno prisustvo EU. U tom slučaju, ne radi se više o osmišljavanju transformacije OHR-a, već o transformaciji prisustva EU u BiH kako bi ona mogla preuzeti odgovornosti i obaveze OHR-a. To bi bio pristup koji je suprotan od onoga što je trenutno u planu. Bez prilagođavanja odgovornosti, kapaciteta i instrumenata institucija EU ulogama koje je igrao OHR, taj proces neće biti “tranzicija” već jednostavno zatvaranje OHR-a i stvaranje cijele nove strukture, samo smještene u drugoj zgradi.

Umjesto toga, tranzicija od OHR-a do EUSR-a trebala bi se ticati stvaranja struktura i sredstava unutar misije EU koje bi mogle odgovoriti na prijetnje integritetu BiH. Standardni “paket alata” koje koristi EU jednostavno nije dovoljan za to. BiH nije klasično tranzicijsko društvo s kakvim se EU ranije susretala u centralnoj i istočnoj Evropi – BiH je post-konfliktno podijeljeno društvo koje zahtijeva adekvatne politike i instrumente. Posebna misija EU morala bi biti u stanju suočiti se i odgovoriti na političku kulturu koja se temelji na etničko-stranačkom politikantstvu, konfrontacijskom diskursu, blokiranju reformi, zapaljivoj retorici i stalnoj političkoj krizi. Stav da je BiH suviše složena, nefunkcionalna, sa skupim i neracionalnim strukturama je možda ispravan, ali to je opažanje, a ne politika. Osim toga, diskusija o prelasku sa OHR-a na EU mora se voditi činjenicama o nivou političke volje koju je međunarodna zajednica spremna uložiti u tu svrhu. To će, međutim, zavisiti prvenstveno od definicije šta je željeni strateški ishod – je li krajnji cilj stabilnost države nakon što se ukine formalno pravo međunarodne zajednice da interveniše, ili je cilj jednostavno da se EU (i međunarodna zajednica) na taj način postepeno oslobode odgovornosti za budućnost BiH?

Denisa Sarajlić-Maglič je osnivač i trenutno direktorica Vanjsko-političke inicijative BiH (FPI BH). Ranije je radila kao politički direktor u GAP projektu za Bosnu i Hercegovinu, koji su finansirali USAID, Sida i EKN. Tokom proteklih petnaest godina, Denisa Sarajlić-Maglič je radila sa brojnim međunarodnim organizacijama, uključujući i UK DFID, IFES, NDI i OSCE.

NEDOVRŠENA BOSNA I HERCEGOVINA I KAPACITET DRŽAVNIH INSTITUCIJA

Dr. Dennis Gratz

Petnaest godina nakon potpisivanja Daytonskog sporazuma, Bosna i Hercegovina je nefunkcionalan administrativni kompleks čiji osnovni elementi i strukture reflektiraju s jedne strane neosporivost pravnog kontinuiteta Republike Bosne i Hercegovine, međunarodno priznate države koja svoju suverenost zasniva na izraženoj volji građana (putem referenduma), te s druge strane okolnosti pod kojima je rat okončan. Tako je mirovnim sporazumom potpisanim u Daytonu Republika Bosna i Hercegovina transformirana u višeslojnu decentraliziranu zajednicu koja legalitet modificiranih (ratnih) i novostvorenih institucija na četiri nivoa vlasti crpi iz tzv. konstitutivnosti najvećih etničkih skupina koje žive u njoj. Proizvod „međunarodnog dizajna“¹, Bosna i Hercegovina je postala jedinstven državopolitički fenomen u kojem su, kako Asim Mujkić pravilno dijagnosticira, „suprotstavljena dva politička aranžmana – *etnopolitički*, koji počiva na institucionalizaciji etničkih razlika, i *liberalno-demokratski*, koji počiva na institucionalizaciji apstraktne jednakosti stanovnika – građana dijela Bosne i Hercegovine koji se službeno zove Brčko Distrikt BiH.“² Pojednostavljeno rečeno, Bosna i Hercegovina je postala nefunkcionalna državna tvorevina jer je neuspješno pokušala kombinirati institucionalne okvire građanske pravne države (demokratije) i etnoklerikalne „države moći“ (etnokratije), a da su polazne postavke za ovaj anahroni konstrukt bili, prije svega, pogubni rezultati rata – etničko čišćenje i genocid.³

Upravo je inicijalno ustavotvorno uređenje, izgrađeno na institucionalnim okvirima koji su postojali unutar bivše SFRJ, a koji su svoje utemeljenje tražili u ideološkim tekovinama ZAVNOBiH-a, zamijenjeno Daytonskim mirovnim sporazumom. Bosna i Hercegovina je dobila novi ustav (Aneks 4), koji ne samo da je omogućen stranom intervencijom, već je i činio *integralni* dio mirovnog sporazuma, a sve u svrhu uspostavljanja mira tj. „zadovoljavanja“ interesa sukobljenih strana.⁴ Ovakvo polazište reizgradnje državnih struktura Bosne i Hercegovine je uveliko uticalo na funkcionalnost i razvoj njezinih institucija. Podjele, nepovjerenje i međusobne netrpeljivosti proizašle iz rata prevladale su na uštrb funkcionalnosti i opstojnosti. Jedna od katastrofalnih pogrešaka međunarodne zajednice na samom početku bila je da etničku homogenizaciju Bosne i Hercegovine (kao jedan od glavnih *ciljeva* rata) prihvati kao osnov za uspostavljanje novog državnog poretka. Ratom proizvedena demografska izobličenost je time ostala duboko usađeni element Daytonu koji se, i pored velikih napora poduzetih u poslijeratnom periodu, više nije mogao revidirati.

Ambiciozno zamišljen koncept države Bosne i Hercegovine predvidio je uspostavljanje dva *entiteta* (kondominium Distrikta Brčko nastao je poslije Daytonu (1999) kao rezultat arbitraže), pri čemu je u većem od entiteta zacementirano federalno administrativno uređenje u obliku kantona ili županija (njih deset), što je, u ovom slučaju, bio nusproizvod *okončanja* sukoba i uspostavljanja vojne saradnje između Hrvata i Bošnjaka u BiH iz 1994. godine (Washingtonski

¹ „Bosnia is a state by international design and of international design.“ Bose, Sumatra. „*Bosnia after Dayton. Nationalist Partition and International Intervention*“, London: Hurst & Company, 2002, str. 60.

² Mujkić, Asim. „*Polazišta institucionalnog dizajna u Bosni i Hercegovini i političke elite – komparativna analiza Brčko distrikt BiH i ostatak BiH / dodir demijurga*“, u Čurak, Nerzuk, Đorđe Čekrljija, Edin Sarajlić i Sead Turčalo. „*Politička elita u Bosni i Hercegovini i Evropska Unija*“, Sarajevo: Heinrich Böll Stiftung, 2009, str. 153.

³ Član I/2 Aneksa 4 i organizacioni dio Aneksa 4, tj. zadnji dio Preambule u vezi sa IV dijelom.

⁴ Tvorci Daytonu su, pored prioriteta prestanka ratnih dejstava, potpisivanjem sporazuma htjeli postići još pet osnovnih ciljeva: slobodu kretanja, slobodu medija, povratku izbjeglica, hapšenje ratnih zločinaca, i, u okviru toga, saradnju sa Haškim tribunalom. „Realizacija većine ovih ciljeva u praksi veoma zaostaje za potrebama BiH kao države.“ Vidi dalje Imamović, Mustafa. „*Osnove upravno-političkog razvika i državnopravnog položaja Bosne i Hercegovine*“, Sarajevo: Pravni Fakultet Univerziteta u Sarajevu, 2006, str. 195.

sporazum).

Uvođenje konsocijacijskog modela upravljanja je dodatno zakompliciralo ovaj, u svakom pogledu vještački „složenac“.⁵ Upravo je načelo konsocijacije prihvaćeno kao elementarni *modus operandi* i primjenjivano kako bi se održao postulat jednakosti i konstitutivnosti.⁶ Pritom nisu uloženi nikakvi napor da se dotad funkcionirajući institucionalni okviri *neutraliziraju*, jer je izvorna svrha bila postići neku vrstu sporazuma. Tako je napravljeno plodno tlo za „gomilanje“ institucija i pretvaranje Bosne i Hercegovine u administrativno čudovište bez ikakvog svrshodnog uporišta.⁷

Do ovakvog zaključka je veoma brzo došla i međunarodna zajednica, pokretač svih inicijativa i reformi od 1995. na ovamo. Veoma rano je uočeno da dejtonska Bosna i Hercegovina mora ići u slojevite i intenzivne reforme (makar one bile i minijaturne, ali je pravilno zaključeno da je od sadržaja promjena puno važnija bila učestalost inicijativa i njihovo efektivno promoviranje i zagovaranje), prije svega iz razloga što je pravno i teritorijalno rastakanje BiH po tzv. etničkim principima (što bi, kako ističe Kasim Begić, svakako bio manji problem da je demografska struktura bila drugačija u vremenu prije agresije i da su u višestoljetnom iskustvu BiH teritorije imale etnički *predznak*)⁸ prijetilo samoj dezintegraciji države. Naime, važno je istaći da je kod metodološkog pristupa kreiranju Daytonu uzeta u obzir kao temeljna činjenica da je Bosna i Hercegovina međunarodno priznata država i članica UN, „što pretpostavlja potvrđivanje njenog višestoljetnog državnog identiteta i vrednota multietničke zajednice“ te da mirovno rješenje mora biti na tragu očuvanju teritorijalnog integriteta i suvereniteta BiH, a ne njezine podjele.⁹

Među svim procesima reformi kroz koje je Bosna i Hercegovina prošla u posljednjih 15 godina, najveća važnost pridata je paketu reformi iz 2000-2005. koje su išle ka osnaživanju države i općinskog nivoa (za što su razlozi bili i ekonomsko-društvene prirode, a ne samo političke), što je za sobom neminovno povlačilo oslabljivanje entiteta i kantona, tj. „srednjih“ struktura vlasti. I dok je država BiH izvornim Daytonskim ustavom imala isključivu nadležnost nad vanjskom i vanjsko-trgovinskom politikom, carinskom i monetarnom politikom, te politikom reguliranja pitanja imigracije, izbjeglica i azila, kao i kontrole vazdušnog prometa, u procesu „defragmentiranja“ – uglavnom pod pokroviteljstvom ili direktnim uplitanjem predstavnika međunarodne zajednice u BiH (Ured Visokog predstavnika – OHR) – Bosni i Hercegovini je „vraćena“ nadležnost nad odbranom zemlje (2005.), vođenjem civilnih poslova (broj institucija države BiH se sa nekoliko u 1995. godini popeo na više od 50 u 2010.) kao i na ubiranjima indirektnih poreza (2006.). U istom procesu je izbornu uspostavljanje Suda Bosne i Hercegovine (2002.), Visokog sudskog i tužilačkog vijeća (2002.), a doneseni su i kompleti zakona koji, između ostalog, uređuju jedinstvenu krivičnopravnu i porodičnopravnu materiju u BiH, kao i zakoni kojima se uspostavljaju obavještajne i sigurnosne agencije na državnom nivou. Pored ovih korekcija, inicirana je, s djelimičnim uspjehom, i reforma pravosuđa, te reforma javne uprave, da bi 2007. godine i visokoškolsko obrazovanje dijelom stavljeno u nadležnost države BiH (osnovnoškolsko i srednješkolsko obrazovanje su, nažalost, još uvijek „ukovani“ na nivo kantona tj. entiteta). Proces reforme policijskih snaga, kao i uspostavljanje Vrhovnog suda BiH, su zadaće koje se tek još imaju realizirati.

U ovom procesu reorganizacije države i osnaživanja kapaciteta njezinih institucija simptomatična su dva razvoja: jedan je premještanje težišta iniciranja i rukovođenja reformi sa međunarodne

⁵ Bose navodi: „Two of the four classic features of a ‘consociational’ or group-based power-sharing system are evident in the legislature of the Bosnian state: allocation of seats in a way that takes account of group membership, including a strict parity formula in the House of Peoples, and veto rights for representatives of national segments. The Bosnian state’s principal executive organ, the Presidency, includes these two features as well as a third defining element of consociation: central decisionmaking by grand coalition between representatives of the segments.“ Bose, str. 65.

⁶ Bose, str. 80-81.

⁷ Čak štoviše, prihvaćanjem paradržavnih elemenata „entiteta“ usadeno je sjeme razdora i nestabilnosti države BiH, koje svoje pogubno dejstvo pokazuje sve do današnjeg dana.

⁸ Begić, Kasim. „Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma“, Sarajevo: Bosanska knjiga, 1997, str. 236.

⁹ Ibid., str. 236.

zajednice (OHR) na domaće političke lidere, a drugi je zaustavljanje i poništavanje procesa reformi nakon općih izbora 2006. godine. Može se reći da su se ova dva procesa razvijala istovremeno. Što je pritisak međunarodne zajednice (posebno Sjedinjenih Država koje su odlučile prepustiti vodstvo Evropi) na nastavak procesa reformi slabio, to su napori blokiranja istih, pa i njihovo revidiranje, prije svega u Republici Srpskoj, dobijali na konturi.

Nesporno je da se u kontekstu osnaživanja kapaciteta države kao elementarna prepreka pojavljuje višestruka paralelnost institucija moći, što je, u slučaju Bosne i Hercegovine, samo refleksija autoritarnog karaktera njezinog decentraliziranog poretka.¹⁰ Prema Weberu, ovaj fenomen „omogućuje opstanak političkih elita kroz sprečavanje demokratizacije političkog sistema, čime političke elite (p)ostaju glavni generator društvene krize i blokade reformskih, modernizacijskih procesa.“¹¹ Predugo je vladalo mišljenje da su institucije BiH nefunkcionalne jer su kao takve uspostavljene „izvana“, nasuprot težnjama „iznutra“. Podijeljene nadležnosti s entitetima i državom proizvele su – umjesto saradnje i koordiniranja – institucionalno fragmentiranje i rasap, što je značajne dijelove Federacije BiH učinilo redundantnim. Osim formalnog predstavničkog karaktera, funkcija Predsjednika Federacije BiH je posve izgubila svoju svrhu. Štoviše, postala je sama sebi svrha, „štiteći“ si prostor koji je nivo Federacije BiH „zakupio“ u Daytonu.

U stvarnosti se problem kapaciteta i funkcionalnosti institucija Bosne i Hercegovine očituje u sljedećim segmentima:

- *konstitucionalno* u državi BiH vlada supermacija međunarodnih normi, odluka i uputa nad državnim zakonodavstvom;
- *administrativno* je BiH podijeljena na entitete i kantone koji raskrštavaju sa hiljadugodišnjom tradicijom vjersko-nacionalnog koegzistiranja i mutiraju u pravcu multietničko-nacionalističke konkurencije;
- u *sistemsom* smislu politički i administrativni kompleksi entiteta su para-državnog karaktera, što na primjer čini neophodnim postojanje dva ustavna suda;
- *konceptualno* je njegovana kontradiktorna percepcija da međunarodna zajednica pokušava ojačati centralne institucije, dok ih etničke skupine u zemlji žele oslabiti;
- *ekonomski* je u Bosni i Hercegovini umjesto tržišno stimulirajućeg privatnog vlasništva kreiran prostor za manipulativne procese privatizacije;
- *idejno* je Bosna i Hercegovina iz potencijalno progresivne reprezentativne demokratije, čija je nezavisnost osporavana (a to je i jedan od razloga zašto je vođen rat), mutirala u „kvazi-protektorat“ međunarodne zajednice, što otvara pitanje nadležnosti nad tim protektoratom.¹²

Na kraju je neophodno ukazati na neka moguća rješenja redizajna ustavnopravnog poretka Bosne i Hercegovine, koji bi implicirao i redizajn postojećeg institucionalnog okvira.

Asim Mujkić smatra da su, pored *status quo*a, moguće opcije *etnopolitičko ujednačavanje cijele BiH* tj. „preustroj Bosne i Hercegovine kao (kon)federacije triju etnički ustanovljenih entiteta, koji bi podrazumijevao i etnički preustroj Distrikta Brčko“, te *liberalno-demokratsko ujednačavanje cijele BiH* tj. preustroj Bosne i Hercegovine na principu pravičnosti za sve građane BiH, po modelu Distrikta Brčko.¹³ Edin Šarčević, pak, smatra da je neophodan „novi ustavni ugovor“, koji bi se rukovodio „jednostavnim motom: etnička pripadnost ne može biti izvor općih prava pojedinaca, etnički identiteti se ne smiju ustavom zaštititi kao zajednica koja se uspostavlja kao

¹⁰ Vidi opservacije Bode Webera o decentraliziranom političkom sistemu postdejtonske BiH u: Weber, Bodo. „Političke elite i politička kultura u BiH i izazovi evropskih integracija“, u zborniku radova „Bosna i Hercegovina i proturječnosti procesa EU integracija“, Sarajevo: Heinrich Böll Stiftung, 2008, str. 22-23.

¹¹ Ibid., str. 23.

¹² Oschlies, Wolf. „Das politische System Bosnien-Herzegowina“, u Ismayr, Wolfgang. „Die politischen Systeme Osteuropas“, 2. Auflage, Opladen: Leske+Budrich, 2004, str.764-765.

¹³ Mujkić, str. 167.

„država“ na štetu drugih „država“.¹⁴ Po mom mišljenju ovo je moguće ostvariti jedino putem stalnog jačanja centralnih institucija, jer jedino one mogu garantirati zadovoljavajući nivo zaštite pojedinaca—ne zbog njihove vjerske ili etničke pripadnosti—već zato što su građani Bosne i Hercegovine. Nažalost, zbog sistematske proizvodnje straha od dominacije jednog kolektiva nad drugim, ovo rješenje trenutno nije valjana opcija.

Ova rješenja pretpostavljaju sprovedbu sržinske, sveobuhvatne reforme ustavopravnog poretka BiH (koje, kao takve, reaktiviraju opciju izbijanja nasilja, jer praktično anuliraju Daytonski mirovni sporazum). Ali možda je pravi pristup u *reafirmaciji* postojećih institucija vlasti, inicirane velikim brojem segmentarnih reformi uz jaku i otvorenu potporu međunarodne zajednice, gdje bi jedini kriterij izbora bila njihova učinkovitost. Reforma lokalne samouprave je jedan od načina „unapređenja“ postojećih institucionalnih struktura, čime bi se prouzrokovala njihova transformacija u funkcionalne sisteme upravljanja ili, alternativno, samoukidanje. Pravi pristup, dakle, bi trebao ići ka *dovršavanju* države, pri čemu bi se fokus stavio na pojačanje funkcionalnosti njezinih institucija u kontekstu približavanja Evropskoj uniji, a ne zagovaranja „prekopavanja“ države i ustavnopravnog poretka koji bi podijelio zemlju (opet, po etničkim kriterijama) tj. izazivao tenzije sa dalekosežnim posljedicama. Preduvjet za uspješnost ovakvog *umjerenog* pristupa reformama je intenzivan angažman međunarodne zajednice, prije svega SAD-a, sa jasno postavljenim ciljevima i *road map*-om njihove realizacije, za što bi se vezali konkretni ustupci na putu ka evropskim integracijama, počevši, primjerice, sa liberalizacijom viznog režima. S ovim projektom bi se moralo krenuti najkasnije poslije općih izbora u oktobru 2010. godine.

No, ovo je samo najučinkovitiji način. Bojazan je osnovana da ukoliko se proces *dovršavanja* države ne okonča u doglednom vremenu, potreba za restrukturiranjem institucionalnog okvira Bosne i Hercegovine će se pretvoriti u izuzetno bolnu neminovnost, svršen čin. Državi će, u slučaju da ostane u fazi akutne paralize, zaprijetiti raspad; alternativna njezinom opstanku je brutalna (samo)izolacija i furiozna ekonomska propast. I, u najgorem slučaju – povratak u stanje bezvlašća, nesigurnosti, i rata.

Dr. Dennis Gratz je član Centra za politike i upravljanje (CPU) iz Sarajeva. Magistrirao je ljudska prava i demokratiju pri Centru za postdiplomske interdisciplinarnе studije Univerziteta u Sarajevu, a svoju doktorsku tezu je branio na Univerzitetu u Hamburgu, na temu sistematske eliminacije viših slojeva civilnog stanovništva za vrijeme rata u BiH (teorija elitocida). Objavio je više naučnih studija i eseja na temu ratnih zločina, ustavnopravne problematike, zaštite i implementacije ljudskih prava i sloboda, te je kao izlagač i panelista učestvovao na više međunarodnih i domaćih naučnih konferencija i panela.

¹⁴ Šarčević dalje objašnjava: „Ovaj cilj će se lako ostvariti ustavom koji će zabraniti zaštitu kolektivnih na račun individualnih prava. Izvedeno na nivou pravila: ustav mora zajamčiti potpunu zaštitu pojedinaca u formi individualnih prava i time postaviti apsolutnu granicu kolektivnim pravima: kolektivna prava se štite sekundarno, samo u područjima koja nisu pokrivena individualnim pravima. Sve ostalo je nadgradnja ovog pravila: novih sistema kompetencija, prvenstveno zakonodavnih, prirodniija teritorijalna organizacija, efikasna, etički neutralna upravna struktura, usklađivanje državnopravnog principa sa demokratijom, a jednog i drugog sa kolektivnim pravima „konstitutivnih naroda“ neće biti teško riješiti kada bude postojao nedodirljiv krug individualnih prava koja se ne mogu obesnažiti pozivom na kolektivna prava.“ Šarčević, str. 38-39.

AKTUELNA POLITIČKA KRIZA U BIH I NEVIDLJIVA DRUŠTVENA STRANA BH. REALNOSTI

Bodo Weber

U Bosni i Hercegovini (BiH), stalna politička kriza pogoršala se od 2009. godine. Pojačana politika etničko-nacionalističkog sukobljavanja prati loš rad institucija države i skoro potpuni zastoj u EU integracijama i pratećim procesima reformi. Javni strah od nesigurnosti i obnove etničkog nasilja podgrijevaju prijetnje o secesiji koje dolaze iz Republike Srpske (RS) i od najmoćnijeg političara u BiH, Premijera RS Milorada Dodika, koje podrivaju integritet države.

Ovaj zabrinjavajući slijed događaja je kod nekih predstavnika međunarodne zajednice potvrdio dojam da se malo šta u bh. društvu promijenilo od kraja rata 1995.; da i danas zemlju još uvijek u osnovi vode dominantna etno-nacionalistička ubjeđenja građana sve tri etničke skupine jednako kao što je to bio slučaj tokom i neposredno nakon rata. Sve veći broj analitičara i komentatora na Zapadu već govori o promjeni politike koja bi podrazumijevala "realnije" shvatanje situacije na terenu u BiH.

Tako je, na primjer, analitičar vanjske politike SAD-a Ted Galen Carpenter iz konzervativnog Cato instituta na svom blogu nedavno rekao da "Bosna nije ništa bliže održivoj državi nego što je to bila 1995." i zatražio od administracije SAD-a da prizna "očiti neuspjeh izgradnje države u Bosni".¹ U svojoj kolumni iz novembra 2009. Matthew Parish ide čak i dalje. Ukazujući na navodnu "kolektivnu paranoju... strahove od dominacije i progona [koji] vijekovima vode politiku na Zapadnom Balkanu..." zaključuje da "nezavisnost Republike Srpske sve više izgleda neizbježnom" i zahtijeva od međunarodne zajednice "da umjerenom rukom nadzire neizbježni postepeni raspad Bosne".²

Međunarodna zajednica u BiH usprotivila se slici nacionalističkih, anti-demokratski nastrojenih građana kroz niz javnih kampanja u godinama kada je pokušala motivirati građane BiH da svoje političke elite pozovu na odgovornost ili da aktivno učestvuju u procesima reforme. Suprotno viđenje koje se pritom primjenjivalo prikazivalo je bh. građane kao demokratski nastrojene pojedince liberalnih nazora.

Zbog rezultata poslijeratnih izbora u BiH teško je održati tezu o liberalnosti građana. S druge strane, opstanak esencijalističkog tumačenja etničkog nacionalizma i etničkih sukoba koje se svodi na dobro poznati mit "drevnih etničkih mržnji" nije zabrinjavajući samo zbog svoje izdržljivosti uprkos tome što ga se činjenicama može pobiti. Njegov povratak u međunarodne debate o aktuelnoj političkoj krizi u BiH je potencijalno opasan ako se sjetimo kako je priča o "drevnim etničkim mržnjama" poslužila Zapadnim političarima s početka balkanskih ratova iz 1990-ih kao dobrodošlo sredstvo da legitimiziraju svoju pasivnost i maskiraju nedostatak političke volje.

¹ Ted Galen Carpenter, "Learning from our mistakes: Nation-building follies and Afghanistan" Cato @Liberty Blog Posts, 10. 7. 2010, <http://www.cato-at-liberty.org/learning-from-our-mistakes-nation-building-follies-and-afghanistan/>.

² Matthew Parish, „Republika Srpska: After independence,“ Balkan Insight, 19. 11. 2009, <http://www.balkaninsight.com/en/main/comment/23797/>.

Ipak, oba ova pojednostavljena narativa ukazuju na ozbiljni nedostatak međunarodne politike u poslijeratnoj BiH: nespremnost da se razumije društvena strana političke stvarnosti u BiH i da se ophodi sa stvarnim, a ne fiktivnim građanima. Da se međunarodna zajednica ozbiljno pozabavila pitanjem uloge bh. društva u etničkoj transformaciji iz protekle dvije decenije otkrila bi da iako prosječan bh. građanin ne odgovara zamišljenom liberalnom idealu postoji puno više potencijala za uspostavljanje istinski demokratskog društvenopolitičkog okruženja nego se pretpostavlja.

Bh. građanin kao akter u etnizaciji društva

Bh. građanin ni u kom slučaju nije samo žrtva etnizacije koja je iz temelja izmijenila njegovo društvo u proteklih 20 godina. On je veoma aktivan, premda nesretan učesnik.

Moderni etnički nacionalizam nije sistem koji zavisi od ubjeđenja. Gledan iz perspektive uključenog pojedinca, to je konformističko ponašanje izražavanja pripadnosti određenoj društvenoj skupini, odnosno etničkom “kolektivu”. Ovo kolektivističko svrstavanje nije nešto što proističe iz vjerovanja u sadržaj etno-nacionalističke “ideologije”. Umjesto toga, ideološki sadržaj služi društvenoj funkciji odnošenja prema društvenoj stvarnošću na konformistički način, što zapravo znači bijeg od suočavanja sa neprijatnom stranom društvene stvarnosti.

Etnička transformacija bosanskog društva je, kao i u susjednim zemljama, zasnovana na ideji “etničke zajednice” iz 19. vijeka kao homogenog kolektivnog društva utemeljenog na prirodnoj solidarnosti njegovih članova. Projekat etnizacije sebe je predstavio kao nešto što može osloboditi članove zajednice od života pod komunističkom diktaturom gdje je njihovo prirodno izražavanje nacionalnih osjećaja bilo potisnuto.

Međutim, stvarnost etničke transformacije znatno se razlikovala od njenog ideološkog samopredstavljanja. Socijalističko jugoslovensko društvo koje je transformirano nasilnom etnizacijom nije bilo određeno diktatorskim tlačenjem. To je bilo izuzetno fragmentirano društvo čiju je složenu strukturu bilo teško objasniti Zapadnim naučnim kategorijama klase, jer se njegova struktura nije mogla jasno pripisati statusnim kriterijima (ekonomskim, obrazovnim, društvenim ugledom, itd.) Tradicionalne društvene veze uglavnom su nestale uslijed nagle poslijeratne modernizacije. Sistem je dozvoljavao jače procese individualizacije nego je to bio slučaj u drugim društvima real-socijalizma. Relativno “liberalan” karakter jugoslovenskog socijalizma omogućio je pojavu individualnih interesa i potreba koje se više nisu mogle podvesti pod tradicionalne grupne interese (interese porodice, zajednice). Ipak, ti interesi bili su ograničeni u svom izrazu i ekonomski i politički zbog postojanja autoritarnog režima, izostanka slobode političkog/javnog izražavanja i vladavine prava. Društvena sredstva zalaganja za individualne interese i potrebe stoga nije legitimizirala ni zvanična ideologija, nisu bila zaštićena formalnim pravilima niti su ih ta pravila ograničavala.

Specifičan tip autoritarne ličnosti razvio se tokom vremena koje je obilježen gubitkom poštovanja prema autoritetima, ali koje je još uvijek u osnovi ostalo autoritarno. Procesi individualizacije su istovremeno u određenom smislu bili mnogo više materijalistički opredijeljeni nego u zapadnim kapitalističkim društvima. U procesu zadovoljavanja materijalističkih interesa u institucionalno ograničenom okruženju, državne institucije su podrivane neformalnim djelovanjem, razvojem neformalnih mreža i sve češćim kolektivnim kršenjem pravila, propisa i zakona. Neformalno djelovanje “građana” u odnosu na državne institucije izvana išlo je u prilog para-institucionalnom djelovanju elita unutar ovih institucija u cilju zadovoljenja svojih pojedinačnih i/ili grupnih interesa, što je stvorilo specifičan odnos između socijalističkih elita i stanovništva. Tako je društvo ideološki utemeljeno na kolektivnom zajedništvu, na pojmu “radnog naroda”, zapravo

postalo duboko atomizirano i antagonizirano.

Etnička transformacija bh. društva iz 1990-ih nasilno je promijenila društvenu demografsku sliku, bila je to transformacija koju je promovisalo i koja je stvorila sliku etnički homogenog društva zasnovanog na prirodnoj solidarnosti. Ipak, ispod etno-nacionalističke površine novo društvo je zapravo postalo (ili radije *ostalo*) izuzetno antagonizirano i licemjerno. Da bi ostvarili aktivno učešće pojedinaca iz društva u brutalnoj etničkoj transformaciji, etničke elite morale su se povezati sa ličnošću socijalističkog čovjeka i sa postojećim odnosom između elita i “građana” obilježenim spremnošću pojedinaca da javno izražavaju poštovanje prema autoritetima dok im je omogućeno da na neformalan podzeman način zadovolje svoje individualne (materijalne) interese. Ovo objašnjava i spajanje snaga državne bezbjednosti sa para-državnim militantnim grupama u nasilnom procesu entizacije. Također objašnjava i visok nivo sistemske korupcije i organiziranog kriminala, kao i dramatično i oštro društveno raslojavanje svojstveno stvarnosti države i društva u Bosni i Hercegovini i susjednim državama već skoro dvije decenije.

Zatočeni u poslijeratnom sistemu

Društveni pojedinac se nakon ove ratne transformacije bh. društva našao u izuzetno ambivalentnom položaju: On/ona je učestvovao/la (bar neizravno) u procesima etničke transformacije nad kojima nije imao/la kontrole, a koji su sa sobom donijeli nasilje i masovne ratne zločine. Iz perspektive prvobitne motivacije tog pojedinca rezultati su bili posve negativni: društvena stvarnost s kraja 1980-ih s kojom se nije željelo suočiti – sveukupna kriza države, privrede i društva – katastrofalno se izmijenila, a društvenoekonomsko razaranje značajno je ograničilo mogućnost zadovoljavanja pojedinačnih materijalističkih interesa.

Ovo paradoksalno (samo-)pozicioniranje bh. “građanina” na kraju rata i svijest koja se iz njega rodila mogli su biti dobar osnov za poslijeratno uspostavljanje normalnih društvenih odnosa i za demokratsku transformaciju države i društva. Ipak, uprkos promjenama od 1995., čini se da bh. društvo i njegovi pojedinačni članovi ostaju zatočeni u toj paradoksalnoj i izrazito kontradiktornoj situaciji. Pojedinci aktivno učestvuju u održavanju etničkog nacionalizma kao dominantnog društvenog faktora, a u isto vrijeme su svjesni katastrofalne društvenoekonomske stvarnosti u svojoj zemlji.

Postoji niz razloga zašto bh. građani nisu uspjeli izbjeći ovu regresivnu društvenu dinamiku. Prvo, dejtonska država sa institucionalizacijom sukobljenih mitskih narativa (mono-etničkog i multi-etničkog) i dalje čini institucionalnu platformu za kolektivni bijeg građana i elita od društvene i ekonomske stvarnosti u zemlji. Drugo, kompleksna institucionalna postavka BiH kao države sa svojim visokim stepenom institucionalizacije etniciteta i preklapajućim nivoima institucija i vlasti omogućuje nastavak kolektivnog podrivanja državnih (i svih drugih društvenih) institucija legitimiziranih etnicitetom – od strane elita unutar institucija i od strane građana izvan institucija – kao dominantnog aspekta koji oblikuje društvenopolitičku stvarnost. Treće, pristup međunarodne zajednice bh. stanovništvu kao ili nacionalistički ili liberalno nastrojenim građanima dala im je podršku da ostanu u svojoj nezadovoljavajućoj društvenoj ulozi.

Potencijal za drugačiju stvarnost

Nije iznenađujuće što se zamisao da se “ništa nije promijenilo od kraja rata” vratila u debate o međunarodnoj politici prema Bosni i Hercegovini u vrijeme kada su domaće političke elite, prvenstveno one u RS-u, iskoristile opadanje međunarodne pažnje prema zemlji da ojačaju politiku etničke društvene homogenizacije i političkog sukobljavanja.

Ipak, ispod površine aktualnih političkih kriza i nacionalističkih sukoba među etničkim političkim elitama naziru se brojne “male” priče i događaji koji ukazuju na drugačiju društvenu stvarnost u današnjoj BiH. Događaji koji pokazuju da bh. građani nisu ni liberalno nastrojeni građani (još uvijek) niti su tvrdokorno nacionalistički opredijeljeni, već su zapravo pojedinci zatočeni u borbi za normalan život:

- U kolumnama komentatora iz zapadne i istočne Hercegovine na alternativnim internet portalima i u komentarima čitalaca nalaze se opisi društvenopolitičke stvarnosti koji se znatno razlikuju od uobičajene percepcije da su ove regije poprišta ekstremnog nacionalizma i etničke homogenosti. Diskusije o kriminalizaciji ekonomske i političke sfere i korjenitom razaranju društvenih vrijednosti³ sasvim su suprotne pričama elita o tradicionalnim vrijednostima i prirodnoj solidarnosti.
- U opštini Prijedor u RS-u, u proljeće ove godine lokalni članovi vladajuće stranke i članovi omladinske organizacije Pravoslavne crkve uložili su velike napore lobiranja među lokalnom omladinom i njihovim organizacijama kako bi uspostavili kontrolu nad Omladinskom savezom, krovnom opštinskom organizacijom koja dobija sredstva od opštinske vlade i šalje predstavnika u opštinsko vijeće. Stranka i crkva su Omladinski savez smatrali suviše nezavisnim. Njihovi naponi su doživjeli potpuni neuspjeh i kod urbanih i kod mladih iz ruralnih predgrađa koji su tradicionalno okrenuti nacionalističkim strankama i čak doveli do toga da mladi ljudi iz urbanog i ruralnog dijela opštine stanu na istu stranu iako obično nemaju mnogo toga zajedničkog. Među tim grupama je čak bila i jedna iz Omarske, ruralnog predgrađa poznatog po ratnom zatvoreničkom logoru i masovnim ratnim zločinima čiji žitelji i dan danas ustrajavaju u tvrdnji da takav logor nikad nije postojao u njihovom kraju.
- Premijera Dodika većina međunarodne zajednice izgleda smatra nepobjedivim i neupitnim. Vlada RS sve više osporava državu BiH i njene institucije uspostavljene uglavnom putem međunarodnih intervencija, a najviše Sud BiH. Međutim, reprezentativna anketa UNDP-a iz 2010. nalazi da je velika većina svih građana BiH za uspostavljanje državnog Vrhovnog suda uključujući i dvije trećine ispitanika iz RS-a.⁴ Ova činjenica, uz podatke koji pokazuju nizak nivo povjerenja u nezavisnost pravosuđa u zemlji, jasno pokazuje da su građani snažno zainteresirani za uspostavljanje vladavine prava kao zaštite koja neće biti ni neutralizirana ni podvedena pod “etničke interese”. Velika je razlika između onoga što se konvencionalno očekuje da će žitelji RS-a podržati i onoga što je u stvarnosti moguće.
- Razvoj lokalne samouprave u BiH u protekloj deceniji je od velikog značaja. Čini se da je opštinski nivo jedini nivo vlasti na kojem se mogu odraziti racionalni interesi građana. Razni primjeri uspješnih reformi opštinskih uprava, primjeri među-entitetske saradnje između opština kako bi se poboljšale lokalne usluge i što nije najmanje važno, uvođenje direktnog biranja načelnika pokazuju da građani žele pobjeći iz post-dejtonske klopke i da su spremni javno izraziti svoje interese i aktivno učestvovati u javnim poslovima.

Za kakav god pristup se međunarodna zajednica odluči u suočavanju sa trajnom političkom krizom i po pitanju svog budućeg angažmana u BiH, ključno je da razumije društvenu stranu

³ Vidi: http://www.poskok.info/index.php?option=com_content&view=article&id=21232:hercegovci-na-brazilskom-mesu&catid=133:old-school-new-rules&Itemid=175.

http://banjalukain.com/kolumne/kako_je_oplja---c-kana_hercegovaa---c-ka_privreda-quest.

⁴ UNDP BiH, *Suočavanje s prošlošću i pristup pravdi iz perspektive javnosti*, Sarajevo 2010 str.34-35.

stvarnosti u BiH. To bi trebalo podrazumijevati da građani budu uključeni u njene planove na način koji istovremeno uzima u obzir ogromni potencijal građana za demokratsku transformaciju i stabilizaciju društvenopolitičkog okruženja i kontradiktorne sklonosti stanovništva.

Kako bi pomogli borbi građana za vladavinu prava i ohrabрили stanovništvo BiH da savjesno poštuje postojeća pravila i norme (i traži bolja), od presudnog je značaja da međunarodni akteri jasno pokažu da stoje iza toga i poštuju pravila i da će se držati sopstvenih pravila i izjava. Kakva god da je stvarna moć ponuda Evropske unije u smislu procesa integracije, poštivanje sopstvenih pravila i uslova, a ne njihovo kompromitiranje kako bi se lažirao napredak kao u slučaju reforme policije i SSP-a, daleko su učinkovitiji od bilo koje PR kampanje za odgovornost političara i borbu protiv korupcije.

Bodo Weber je nezavisni politički analitičar za područje Balkana i međunarodnu politiku i viši saradnik u Vijeću za politiku demokratizacije (DPC). Magistrirao je političke nauke i historiju Istočne Evrope na Univerzitetu Johann-Wolfgang-Goethe. Autor je brojnih članaka i analiza balkanskog društva i država od 90-tih godina.

ZAKLJUČCI

NAPOMENA: Slijedeći zaključci proizašli su i iz segmenata ovog rada, čiji su nacrti činili platforme za prezentacije 31. avgusta i iz diskusija koje su uslijedile.

- Politički sistem BiH, iako formalno demokratski, ne funkcioniše u skladu sa demokratskim poticajima. Dejtonski sistem raspodjele moći oslanja se na političku volju elita. Ugrađeni preduslov za učinkovit konsenzus ohrabruje političke elite da blokiraju politički sistem kako bi održale svoju slobodu manevrisanja, svoju moć i kako bi izbjegle odgovornost. Stoga, uprkos onome što tvrde, vladajuće elite zapravo ne žele preduzeti nužne korake demokratskih reformi ka funkcionalnosti države (i shodno tome, EU integraciji).
- Političke elite (stranačko-ekonomsko-kriminalne mreže) dominiraju državom i monopoliziraju političke procese, otimaju državne institucije kako bi ih koristile kao platforme za neformalno djelovanje. Ova privatizacija političkog utjecaja izmješta političku moć iz institucija, stvara nesklad između zvanične i stvarne političke moći i sprječava odgovornost. Ova dinamika onemogućava interesnim skupinama, medijima i građanskom društvu da igraju aktivnu i nezavisnu ulogu kontrole moći u političkom procesu. Vlast većinu takvih grupa prisvoji.
- Struktura i poticaji dejtonskog sistema omogućuju političkim elitama da siju naklonost ili strah uz malo do nimalo odgovornosti, što omogućuje podređivanje društvenih pitanja etničkim ili njihov preobražaj u linije etničke polarizacije. Iz perspektive elita, dejtonska BiH je funkcionirajuća nefunkcionalna država – možda je nefunkcionalna po pitanju upravljanja i usluga građanima, ali za njih sasvim dobro funkcioniše.
- Položaj bh. građana u ovakvom političkom sistemu paradoksalan je i tragičan. Oni igraju aktivnu ulogu u etnizaciji društva, zajedno sa elitama učestvuju u podrivanju zvaničnih institucija i održavanju sistemske korupcije. Oni čine sastavni dio sistema koji podriva njihove interese. Međutim, građani su u isto vrijeme izuzetno nezadovoljni društvom, ekonomskom i političkom stvarnosti u svojoj zemlji.
- Ovaj “podzemni bijes” građana sprječava logiku sistema koja im ne omogućava da preuzmu aktivnu političku ulogu za promjene. Umjesto toga, građani ostaju “zatočeni” u pasivnosti i nezadovoljstvu iako se čini da je među njima široko rasprostranjeno shvatanje prirode problema.
- Međunarodna zajednica nikad nije imala strategiju prema Bosni i Hercegovini, a od potpisivanja Dejtonskog sporazuma njen angažman je nedosljedan. Vječito se govori o “izlaznoj strategiji” ali do sada nije bilo jednakog napora da se pokrene dinamika koja bi dovela do sistema sposobnog za održivo, funkcionalno samo-upravljanje i samo-reformiranje.
- Iako se čini da mnogi međunarodni akteri shvataju kako ne postoji jednostavno rješenje za nefunkcionalnu državnu strukturu BiH, svi skorašnji napori međunarodne zajednice da se okonča aktuelna politička kriza i blokirano reformi (Butmir, i sl.) šalju upravo suprotan signal – da međunarodna zajednica očajnički traži način da se oslobodi svojih izvršnih mandata i odgovornosti koje iz njih proizlaze.

- Dejtonski instrumenti (Anex 10, OHR sa svojim “bonskim ovlastima” i Anex 1A, EUFOR prema mandatu Vijeća sigurnosti u skladu sa Poglavljem VII Povelje UN-a) atrofirali su od 2006. zbog nekorištenja. Prijedlog da se oni u potpunosti ukinu bez temeljnih promjena sistema koji od njih zavisi učinili su međunarodnu zajednicu, a posebno EU primarnim generatorom aktuelne političke krize u BiH.
- Uprkos dokazima iz protekle četiri godine u kojima je EU imala dominantnu ulogu u međunarodnom angažmanu u BiH, EU i dalje pretpostavlja da su poticaji (“mrkve na štapu”) koji su dosad pomogli uspješnom procesu proširenja dovoljni da pokrenu dinamiku reformi—ili tako što će primorati elite da se odreknu svojih prednosti ili tako što će motivirati građane da dovoljno snažno pritisnu elite da im se povinuju. Razlog iza ove nespremnosti da se suoči sa stvarnošću je jasan. Suočavanje sa političkom stvarnosti u BiH zahtijeva promjenu politike ka jačem i dužem angažmanu uz odstupanje od briselske filozofije “meke sile”.
- Zbog toga je zamisao “tranzicije” od izvršnog OHR-a ka jačem prisustvu EU i dalje jednako nebulozna kao i prije pet godina. Umjesto da se suoči sa ključnim strateškim izazovima u izradi svog pristupa, EU je nehotice dopustila povratak na politiku etničkog sukobljavanja i slabljenja upravo onih državnih institucija koje su potrebne za integraciju. Nije našla valjan odgovor na prijetnje političkoj stabilnosti i integritetu BiH koje su se u međuvremenu pojavile, a posebno ne na one koje potiču od Vlade RS.
- Političke elite u BiH nisu se usaglasile oko mjera da se ispune ili bar prividno postignu ciljevi i uslovi iz paketa “5+2” za zatvaranje OHR-a.
- “Ustavne reforme” prošle su sličan proces obesmišljavanja. Njihova konotacija se sada svodi na ispunjavanje zahtjeva koji proističu iz presude Evropskog suda za ljudska prava iz decembra 2009. čime bi se unaprijedilo poštivanje ljudskih prava građana, ali se ništa ne bi postiglo na unapređenju funkcionalnosti vlade.

**BOSNIA AND HERZEGOVINA: BETWEEN EU-INTEGRATION TOOLBOX
AND INTERNATIONAL COMMUNITY'S EXIT STRATEGY**

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Sarajevo, 2010.

CONTENT

43 Preface

Mirela Grünther-Dečević and Haris Abaspahić

45 Kurt Bassuener

The International Community in Bosnia and Herzegovina – Experiment without a Strategy

55 Denisa Sarajlić Maglić

Can BiH elites run the state?

63 Dennis Gratz

Incomplete Bosnia and Herzegovina and the Capacity of State Institutions

69 Bodo Weber

The current political crisis in Bosnia and Herzegovina and the invisible social side of BiH's reality

75 Conclusions

PREFACE

At the end of August 2010, the **EUROAD** initiative, which was jointly launched by the Centre for Policy and Governance (CPU) and the Heinrich Böll Foundation Office in Bosnia and Herzegovina in 2010, hosted a round table in Sarajevo titled *Bosnia and Herzegovina: Between EU-integration toolbox and international community's exit strategy*. **EUROAD** is an initiative that seeks to intensify constructive debate on a more rapid and more efficient EU integration process for Bosnia and Herzegovina.

This publication comprises analyses of a number of substantial political topics in Bosnia and Herzegovina presented at the round table with the aim of initiating dialogue between international policy makers and Bosnian-Herzegovinian political analysts and think tank representatives that wish to contribute to overcoming the current political crisis in Bosnia and Herzegovina. The round-table discussion and this publication constitute a response to the political crisis that has beset Bosnia and Herzegovina and that can be described as the most serious and protracted crisis since the end of the war. It is marked by ethnic confrontations and an almost complete standstill (in some cases even a reversal) of reforms and EU integration processes, as well as new threats to divide the country. However, despite the seriousness of the situation, the international community led by the European Union is looking to terminate its current roles in peace implementation, the OHR and EUFOR, knowing that these missions were of crucial importance for the development of the country following the Dayton Agreement.

Our aim was to examine the importance of an EU perspective for sustainable political processes, to assess democratic development in Bosnia and Herzegovina, and to review the effectiveness of the present international involvement in Bosnia and Herzegovina with a view to possible alternative mechanisms in terms of comprehensive development.

This publication contains analyses by analysts, political science scholars and legal experts who continuously and actively follow the socio-political developments in Bosnia and Herzegovina. We would like to use this opportunity to express our sincere gratitude to the following authors for their active participation in the debate: Denisa Sarajlić Maglić (Foreign Policy Initiative BiH), Bodo Weber and Kurt Bassuener (Democratization Policy Council), and Dennis Gratz (Centre for Policy and Governance).

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The International Community in Bosnia and Herzegovina – Experiment without a Strategy

by Kurt Bassuener

Dayton Bosnia and Herzegovina has always been an international experiment. Yet this experiment – actually a series of *ad hoc* experiments – was not planned from the outset. It remains without a strategy, and its only unifying theme has been to keep the country from again being an internationally divisive issue. A brief review of the past fifteen years of international engagement in Bosnia's peace implementation and state-building is necessary to understand the country's current dilemma.

In the immediate post-Dayton period (1996-7), the international emphasis was on the most basic tasks of the peace agreement: separation of belligerent forces and prevention of renewed hostilities. The massive 60,000-strong NATO Implementation Force (IFOR) ensured this under Annex 1A of Dayton. A civilian High Representative, representing the international Peace Implementation Council (PIC), overseeing the Dayton agreement, was to coordinate a broad array of international civilian actors involved in peace implementation, including physical reconstruction efforts.¹ This effort was hamstrung by an incredibly short timeline. When US President Bill Clinton announced the deployment of American troops (roughly one-third of the force) in December 1995, he committed to withdrawing them within one year. He also ordered that casualties should be avoided at all costs.² Elections for the structures enumerated in the peace deal – a weak common state and two para-state “entities,” the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH) were held in September 1996 (conducted by the Organization for Security and Cooperation in Europe – the OSCE), locking the wartime power elites in place. Other elements of the peace agreement – promoting refugee return, arresting indicted war criminals, ensuring basic freedom of movement – were put on the back burner.

Yet it soon became clear that even the most elementary aspects of civilian peace implementation could not be implemented in such a short span of time and without a different approach. The entities, particularly the RS, showed abject disdain for the minimalist state of Bosnia; Dayton was a dirty word in the RS at the time. After two years of very little progress, the increasingly frustrated PIC agreed in December 1997 that its High Representative should, pursuant to Dayton's making the role the final authority in-theater for overseeing adherence to the peace agreement, be able to be an actor of last resort. This would allow the imposition of laws required for Dayton obligations to be met, the abolition of laws violating those obligations, and removal or even banning from public office figures who violated Dayton. These became known as the “Bonn Powers.”³

The Bonn Powers were used increasingly by successive High Representatives to ensure that Dayton's obligations were met by Bosnia's politicians, from the highest to sometimes the most mundane levels. Freedom of movement, currency union, and unified state border control came

¹ While the term “international community” is inherently imprecise and situational, for the purposes of discussing Bosnia, this mainly refers to the PIC Steering Board members – and particularly the US and EU (institutions and members).

² Author exchange with former senior US Army officer, Washington 2002.

³ For a unique analysis of the use of the Bonn Powers, See Bart M.J. Szewczyk, “The EU in Bosnia and Herzegovina: powers, decisions and legitimacy”, ISS Occasional Paper 83, March 2010, <http://www.iss.europa.eu/uploads/media/OccasionalPaper83.pdf>

within two years of the Bonn Powers' first application, as did the forcible arrest of war crimes indictees.⁴ The term "ownership" – that local leaders and citizens should take responsibility for running the state and for reforms – first entered the international vocabulary in this period.

Yet only in 2000 did a more strategic state-building effort begin to take shape. The regional environment helped facilitate this evolution, as neighbors became less destabilizing, at least for a time.⁵ Montenegro had broken free of the Serbian-controlled "Federal Republic of Yugoslavia," the 1998-1999 war in Kosovo brought Serbia into direct conflict with NATO and increased Belgrade's isolation, Croatian authoritarian nationalist leader Franjo Tudjman died in late 1999, allowing for a democratic transition, and in late 2000, Serbian autocrat Slobodan Milošević was ousted following an attempt to steal an election he thought he had wired. In July 1999, the West first articulated with the Stability Pact for Southeastern Europe that Bosnia and its neighbors in the Western Balkans had the opportunity to pursue integration into the EU and NATO, an avowed goal for all but Serbia at that time.

Yet while there was tangible progress in 1998-9, there was no doubt that the Dayton Accords were far from implemented. The state still had two armies and at least two intelligence services. Large numbers of refugees and displaced persons had been unable to even reclaim legal control of their homes, much less physically return to them.⁶ State institutions were still a hollow shell, and the entities – particularly the RS – operated as independent states in-waiting, rather than as components of a state. It was at this time that state-building became a conscious goal of the broader international community, the US and EU in particular. From this point forward, Dayton was often referred to as a foundation upon which to build – "a floor, not a ceiling," and Euro-Atlantic integration became a further goal beyond mere Dayton implementation.

To achieve the goals of eventual membership in the EU and NATO, Bosnia's state structures had to go through much augmentation and consolidation. Sometimes, this was facilitated by domestic institutions, as with the BiH Constitutional Court's ruling in 2000 that citizens belonging to all three "constituent peoples" (Bosniaks, Croats, and Serbs) were constituent throughout the state, not just in "their" entity. The ripple effect of this was great, and – along with more assertive efforts on war crimes arrests and aggressive use of the Bonn Powers – helped dislodge some of the institutional impediments to refugee/IDP return in the entities (for example, in Prijedor and Drvar). To realize the promise of the ruling, the High Representative had to apply pressure – ethnic political elites had no interest in undoing the results of their wartime projects. During Wolfgang Petritsch's term as High Representative (1999-2002), especially following the 2000 elections, there was increasing belief among the international community that Bosnia's political leaders could be "partners" in reform. Yet he employed the Bonn Powers to repeatedly defend the tenets of the Dayton Agreement.

The initial expectation of his successor, Lord Paddy Ashdown (serving 2002-2006), was that his ambitious revolution from above agenda could be pursued in partnership with the Bosnian powers-that-be. And while those partners changed with the 2002 election, the underlying premise remained consistent: if you build it, they will embrace it.

⁴ The first such arrests were in July 1997, in the British sector, MND North (centered around Banja Luka). This was just two months after British Prime Minister Tony Blair took office.

⁵ Serbian policy under President, and later Prime Minister, Vojislav Koštunica, was unhelpful on Bosnia, with his preference for dealings directly with Banja Luka. This stood in marked contrast to the policy espoused by Croatian President Stipe Mesić, which actively supported BiH state sovereignty.

⁶ The first step to facilitating refugee return was the Property Law Implementation Process, which allowed citizens to regain control of their homes, and return to them or dispose of them at will. Aside from legal control, there were other impediments – fears of physical safety, lack of economic opportunity, etc – which remained.

The incoming government was also dealt with as a reform partner. Contingent opportunities to press forward on defense and security sector reform were exploited, leading to new institutions like a state intelligence service (OSA) and a unified Ministry of Defense. The High Representative also became “double-hatted” as the EU Special Representative in Bosnia. While EU symbolism became increasingly visible under Ashdown, there was no question which role carried real weight. In effect, the roles were conflated.

Contrary to popular revisionist myth, the overwhelming majority of “big ticket” reforms were not imposed, but the Bonn Powers were nonetheless essential in driving the reform agenda forward, particularly since political elites of all stripes found the prospect of being removed from office – or even banned – intimidating. There were numerous other issues on which they could be found non-compliant with Dayton. Ashdown was able to, through strategy and a more favorable international constellation (which he and his team worked to build and maintain), assemble and sustain PIC support for his agenda, essentially devising the PIC policy in his office.

Despite some important unfinished business (most notably reform of police structures in line with three EU principles⁷, a requirement for the Stabilization and Association Agreement with the EU) and a wide array of reforms on the books but not yet implemented, by late 2005 the dominant international view was that Bosnia had progressed to the point that its reforms were irreversible, and that the country's forward march toward the Euro-Atlantic mainstream was only a question of time and speed. This view had the added benefit of allowing international actors to reduce their executive role in the country, manifest in OHR and EUFOR (which succeeded NATO's SFOR in December 2004 as the guarantor of a “safe and secure environment” under a UN Security Council Chapter 7 resolution).

While the international conventional wisdom of the time was widely shared, it has subsequently been proven flawed. The real gains in terms of institution-building were far from complete, and thus vulnerable to a reduction in Bosnian political will to see them through. Since the incentives in the political system remained the same, once pressure to reform was reduced or removed outright (as with the fear of being dismissed from office by the High Representative), most of these institutions remained hollow, or at best under their projected capacity to perform. Reformed or new institutions, absent a politically empowered popular constituency for their development, withered.

This is not to say, as critics such as British academic David Chandler and the European Stability Initiative have opined,⁸ that the state-building effort was a doomed overreach because there was no “ownership;” quite the opposite. The vested interests of the political elites (a term explained a deconstructed in greater detail further herein) are protected by the Dayton constitution and the election law's incentives. Absent sustained pressure, politicians would not continue to act against the interests of themselves and their real constituencies – a political/business/criminal nexus. For reforms to become organic and truly durable, politicians had to be forced to operate according to an incentive structure that forced transparency and accountability. Despite all the construction of state hardware over a decade, the Dayton software remained unchanged.⁹

⁷ These were a) control of policing legislation and budgeting at the state level, b) ensuring policing structures were not subject to political interference and c) policing regions that conformed to operational – not political criteria. The last condition was widely seen to be aimed at cross-entity policing districts. See Daniel Lindvall, *The Limits of the European Vision in Bosnia and Herzegovina – An Analysis of the Police Reform Negotiations*, Stockholm Studies in Sociology New Series 40, University of Stockholm, 2009.

⁸ See http://www.davidchandler.org/books/books_bosnia.html for a synopsis of his 1999 book *Bosnia: Faking Democracy after Dayton*. See also Gerald Knaus and Marcus Cox's influential 2003 article in the *Journal of Democracy* “Travails of the European Raj,” in PDF format at <http://www.britishcouncil.org/brussels-democraticpapers-travails-of-the-european-raj.pdf>

⁹ The main shift toward governance accountability came at the municipal level, with the direct election of mayors beginning in 2004.

2006: Shift into Reverse

In 2006, a confluence of a number of decisions and events ensured that Bosnia shifted into reverse, with increasing acceleration. Convinced that only a “closer” under whom to transition from OHR to a EU-dominated presence was required, Christian Schwarz-Schilling was appointed as High Representative and EUSR at the beginning of 2006. In his arrival address to BiH citizens, Schwarz-Schilling announced he would be “step back” from an activist role, and would only employ his Bonn Powers to ensure ICTY compliance and public security. At roughly the same time, Union of Independent Social Democrats leader Milorad Dodik was able to assemble a governing coalition in the RS and became RS Prime Minister in February 2006. The police reform effort, subject to a great deal more political and technical wrangling, went dead in the water. Other ongoing state-building efforts followed suit.

An ongoing effort initiated by nongovernmental actors from the US to attain agreement among Bosnia's main political parties for constitutional changes needed for European integration also stalled-out at this point, following the processes shift from the senior working level to party leaders and Haris Silajdžić's return to the political fray. This effort, by early 2006, adopted by the US State Department, ended in the failure of the so-called “April package”¹⁰ by two votes in the BiH House of Representatives. RS Prime Minister Milorad Dodik had reportedly set his sights on the Chairmanship of the BiH Council of Ministers, but the prospect became less appealing following the failure and the bad blood that ensued. With Montenegro's successful independence referendum the following month, the concept of a vague referendum was touted by Dodik, who alluded to RS independence. This set the tone for an exceedingly contentious campaign, with nationalist themes having a salience that many thought had been banished for good. Dodik's dominance in the RS was sealed at the election, at which his Independent Social Democrats (SNSD) were able to assemble an absolute majority. Without any doubt, Dodik emerged as the most powerful man in BiH.

Despite an election campaign that was already proving considerably uglier than the last and the stalling of progress on most reforms, the PIC decided in mid-2006 that the OHR would be closed within one year. Some months later, when the situation was considerably worse, EU governments stated at the end of 2006 that the situation had improved so markedly that the force could be drawn-down from roughly 7,000 to 2,000 troops, with the closure of forward operational bases and all maneuver units to be based at Camp Butmir in Sarajevo. But while the official version may have been compelling in national capitals and Brussels, it fooled no-one on the ground. The truth was that British, Dutch, and other NATO forces were needed for the increasingly bloody combat in southern Afghanistan.¹¹

2007-2010 – Collapse of International Credibility

The closure of OHR was postponed, but no change of approach attended it. Schwarz-Schilling's successor as HR/EUSR, Slovak diplomat Miroslav Lajčák, arrived in mid-2007 to high hopes, shared at the time by at least some of the authors, due to his youth and language ability.¹² These hopes soon proved misplaced. Attempts to achieve police reform ground to a halt, and a shift to Dayton fundamentals led to an imposition of some changes regarding the quorum

¹⁰ The “April package” of constitutional reforms was initiated in 2005 as a non-governmental effort undertaken by the US Institute of Peace and the Dayton Peace Accords Project to bring the Bosnian constitution into conformity with the recommendations of the Council of Europe's Venice Commission and allow for BiH's European integration (see [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp)). The process involved negotiations with eight political parties.

¹¹ The author frequently heard this reasoning in international community circles at the time in 2006-7.

¹² Kurt Bassuener, “Waiting for Superman,” *Transitions Online*, May 25, 2007. Available at <http://democratizationpolicy.org> (and at TOL's premium section with password at <http://www.tol.org/client/article/18798-waiting-for-superman.html>)

for the Council of Ministers, so the government's work could not be as easily halted without responsibility. When confronted by Dodik with a withdrawal from state institutions, however, Brussels instructed Lajčák not to pursue the fight further, since Kosovo's status question was their primary regional concern. The friction alarmed citizens to a great degree, and alerted many to the fact that the familiar Dayton "rules" were in abeyance. Lajčák went so far as to effectively reverse his earlier action by negotiating with Banja Luka (discussing a so-called "authentic interpretation" of his own order), making Dodik the undisputed victor in a fight with the international High Representative. In attempt to change the subject and "restore momentum" to the stalled EU integration process, the EU gutted its own conditionality on police reform and initialed a Stabilization and Association Agreement with Bosnia and Herzegovina at the end of the year. The episode illustrated more clearly than ever the friction between the imperatives of Dayton implementation and European integration. It also showed international irresolution and addiction to expediency in the starkest terms.

In February 2008, the PIC Steering Board decided to shift to a benchmark-driven approach, and adopted the so-called five objectives and two conditions (5+2) required to close OHR and transition to what was now being billed as a "reinforced EUSR."¹³ These requirements were derived from the long-standing OHR "Mission Implementation Plan," were based on existing obligations, and were thought to be achievable by the end of 2008 – at least that was the way they were sold to some reluctant PIC SB members.¹⁴ Brussels institutions, particularly EU foreign policy chief Javier Solana, was reportedly very much against the 5+2, as it would reduce the EU's "room to maneuver" and further delay "transition."¹⁵ But most of the MIP's contents were essentially written-off as targets that could be pursued through the normal EU integration process. A number of goals were reportedly proposed and not included in the objectives and conditions, including constitutional reform, full implementation of Annex 7 of the Dayton Accords (on refugee return), and implementation of the Constitutional Court's constituent peoples ruling.

Lajčák's own momentum was broken by the winter 2007 confrontation with Dodik. Most of the following year was consumed with an outreach effort on Bosnia's EU perspective, which slowly became apparent was more attuned to demonstrating EUSR visibility and relevance in Brussels than convincing its ostensible Bosnian audience. The lack of progress in 2008 on 5+2 deepened international desperation for anything that portended forward movement. Just before EU foreign ministers were to meet, and less than two weeks prior to a meeting of the PIC Steering Board, the leaders of the largest Bosniak, Serb and Croat parties met in Prud, a village in Posavina and stated that they had come to an agreement on how to complete the 5+2, but also a statewide census. Some observers were skeptical, but the majority of the international community desperately wanted to believe that this was a homegrown solution, and would let them off the hook for still not having a strategy. Prud, which was – at best – a deal to make a deal, had the desired payoff for its participants of taking the heat off at the PIC meeting and forestalling the potential of stronger international action. When it came time to begin to agree on the details of the framework deals, it became clear that there were wide chasms in interpretation. In January 2009, media reports emerged that at a subsequent meeting in Banja Luka, Dodik, SDA leader Sulejman Tihić and HDZ leader Dragan Čović supposedly agreed to a territorial arrangement that would have had four territorial units – one of which would be the current RS.¹⁶ Tihić and Čović claimed they had not arrived at such a deal – the former proposed four economic regions, and the latter a

¹³ These included selected elements of OHR's Mission Implementation Plan in the areas of state and defense property, rule of law, fiscal sustainability, and Brčko District, as well as the signature of a Stabilization and Association Agreement with the EU and an assessment by the PIC that the situation is sufficiently stable. They are listed at http://www.ohr.int/pic/default.asp?content_id=41352 – see DPC's Post-PIC Assessment February 27, 2008 at <http://democratizationpolicy.org>

¹⁴ DPC conversations with international officials, 2008.

¹⁵ Ibid.

¹⁶ <http://www.seebiz.eu/en/politics/bih-leaders-agree-territorial-changes-in-prud,36046.html>

Croat third entity (though without geographic specificity). Dodik insisted publicly that territorial realignment was fine, so long as it only involved the Federation and left the RS intact. The vehement reaction among many Bosniaks and Croats put paid to what was then optimistically billed “the Prud process” by its international cheerleaders.¹⁷

In January 2009, Lajčák abruptly announced he would be taking up the position of Slovak Foreign Minister, while remaining High Representative until the PIC could select a successor (and thus preventing the Principal Deputy High Representative, Raffi Gregorian, from serving as acting High Representative until a successor was in-theater). The succession – there is no formal selection procedure for High Representative, but there is for EUSR – took some time, and was attended by ill-concealed friction between Brussels, Washington, and Moscow. The current HR/EUSR, Austrian diplomat Valentin Inzko, took up the role in March 2009.

In May, the RS upped the ante by passing in its legislature conclusions which challenged the High Representative’s authority to enforce Dayton and the BiH Constitutional Court’s primacy. It took over a month to assemble a coalition of the less-than-willing to support the High Representative’s annulment of the conclusions.

Yet in the same month, US Vice President Joe Biden visited Bosnia as his first stop on a three-stop Balkan tour. His speech before the BiH Parliamentary Assembly took politicians to task, and spelled-out baseline competences the state had to possess, including “authority to negotiate with the EU and other states and implement its obligations.”¹⁸ The visit was heralded as a hopeful sign of American re-engagement on Bosnia. But there was no follow-through from the State Department, and the pushback from the EU and the RS began almost immediately. EU foreign policy chief Javier Solana joined Biden, but their individual messages struck quite different notes, with Solana claiming Bosnia was actually on the right track. Within days, it was back to business as usual. But the talking points of the incoming EU Presidency, held by Sweden, the EU institutions, and the RS began to have many parallels in terms of the proper international role in Bosnia.¹⁹

In September, the High Representative and Brčko District Supervisor made decisions to ensure that the state electricity transmission utility did not collapse and to ensure Brčko’s electricity supply. RS Prime Minister Dodik quickly repudiated both orders, stating impositions were no longer valid.

The “Butmir Process”

On October 2, 2009, the EU Presidency and the US announced a joint initiative to attempt to get agreement from Bosnia’s political leaders so as to resolve the 5+2 objectives and conditions and make structural changes to Bosnia to allow forward movement toward the EU and NATO. Swedish Foreign Minister Carl Bildt and US Deputy Secretary of State James Steinberg came to the EU/NATO military base at Butmir, outside Sarajevo, the following week for meetings with Bosnia’s political party leaders. The spin was that the EU and US were totally together. But from the outset, divisions between the US and EU were clear to the Bosnian participants. The US had been engaged in quiet efforts to assess the potential for constitutional changes. For Bildt and the EU institutions, the goal was to tick the remaining boxes so as to be able to close OHR and

¹⁷ While some gave credit to Prud for delivering a constitutional amendment on the status of Brčko District, the negotiation of the amendment following the initial political framework deal in November 2008 required the strong engagement of the US Embassy and the Brčko Supervisor/PDHR to attain the desired result (which is part of the 5+2).

¹⁸ http://sarajevo.usembassy.gov/speech_20090519.html

¹⁹ Ian Traynor, “The US is talking tough on the Balkans, and the Europeans don’t like it,” *The Guardian*, May 21, 2009 <http://www.guardian.co.uk/world/2009/may/21/bosnia-and-herzegovina-eu>

“transition.” To this end, the High Representative was only invited as a spectator in his capacity as EUSR. The diminution of the office was by design. So the effort was a marriage of competing imperatives. Initially devised to be a one-shot take-it-or-leave-it deal, the sights were lowered from the outset in favor of an ongoing process. Despite senior working-level efforts following the first meeting and a second visit by Bildt and Steinberg on October 20-21, nothing was achieved. Or rather, nothing positive was achieved – the outcomes were all negative. Milorad Dodik, confident in international disorganization, continued to up the ante, mooted a referendum and raising the prospect of “peaceful dissolution” of the state in the second Butmir sitting. He stated to the PIC SB the following month that Bildt had told him that any constitutional change, however minor, would suffice.²⁰ Russia and Turkey were both excluded from the process, and made their displeasure felt. The High Representative’s office had been further diminished, and he had been instructed to avoid actions that might derail the process. Most damaging of all, the US now had invested at a senior level in a policy with which it didn’t completely agree, one fundamental tenet of which is that the OHR (and by implication all international executive power in Bosnia) must close so Bosnia can move forward to EU candidacy.

In December, the American investment in the counterproductive Butmir process delivered its bitterest fruit. International personnel in executive capacities (judges and prosecutors) were integral to the work of the Court of BiH’s and the Prosecutor’s Office of BiH’s special chambers for war crimes and organized crime and corruption; their contracts expired that month. The most senior Bosnian officials at the Court told the international community they deemed their extension essential. The issue was long-standing, but indecision reigned while vain efforts to get Bosnia’s officials to extend their mandates were pursued. A majority of PIC Steering Board members supported the extension of personnel in both chambers in September, but a decision was postponed until after October 1, which had been the deadline for Bosnian legislation on the issue. On October 1, the Butmir initiative was announced, putting international action on hold.²¹ RS Prime Minister Milorad Dodik, under investigation by the Prosecutor’s Office, opposed any extensions. By December, that consensus had crumbled, leaving only Turkey to vocally advocate full extension, along with Canada (in written form – since its Embassy in Sarajevo had closed). In the end, only war crimes personnel were extended for three years in their executive capacities. The US position was decisive – had the US maintained its pre-Butmir policy, a coalition of all Western members of the PIC was possible, albeit with effort. The message this sent within Bosnia was clear – the US is no longer willing to lead within the PIC.

2010 has seen some drift back toward the pre-Butmir alignments, in terms of greater US firmness (with the UK and Turkey) on interpretation of what constitutes 5+2 completion. Russia has openly sided with the RS at a number of junctures, including apparent support of allowing an RS referendum.²² Despite high hopes in many quarters that the adoption of the Lisbon Treaty and the arrival of Catherine Ashton as the strengthened EU foreign policy chief would bring greater policy coherence in the EU, this has not been the case. Since the US has apparently decided to follow the EU’s lead Bosnia, and the EU is not leading, a critical mass of the PIC SB has rendered itself ineffectual. This has deepened the sense, already existing prior to Butmir, that there are no rules. This atmosphere has enabled a particularly divisive pre-election atmosphere, guaranteed to worsen through September, when the election campaign is formally launched.

Presently, the EU is pursuing a communications strategy aimed at conveying to the BiH population the benefits of EU integration. But the effort is severely underpowered, since it has refrained from employing some of the Union’s most potent ammunition – spelling-out in Euros and cents

²⁰ DPC interviews with PIC attendees, November 2009.

²¹ DPC discussions with PIC SB attendees, December 2009 and May 2010.

²² <http://www.sarajevo-x.com/bih/politika/clanak/100109075>

how the policies of Bosnia's governments have delivered – or not – the potential benefits of the integration process in the present tense. Were this course pursued, voters would appreciate the potential in a meaningful way, and the EU would build popular credibility. A cold expose of the facts across the full spectrum of sectors would leave few politicians or parties unscathed. The current effort approaches citizens with bland platitudes that they understandably block-out.

EU: We don't need a plan - we have our magic formula

The EU has had years to devise an integrated, workable strategy for Bosnia, yet to date none emerged. But some basic themes remain consistent.

First, the EU (including both Brussels institutions and most member states) hews to its conviction that whatever the issues at play, the EU's enlargement process holds the answers. Absent real progress in the adoption of EU norms, the only way to maintain this façade is to lower the bar, or even simply declare progress, in the hope of generating momentum. The idea that the forward movement of neighbors like Croatia and Serbia toward membership will impel reforms in Bosnia is another manifestation of this doctrinal certainty, and betrays a deep misunderstanding of BiH's internal political incentives and dynamics. The expectation of partnership with Bosnia's elected political leaders remains the EU approach, leaving it impotent when those leaders decide not to act in accord with the EU's enlargement requirements in favor of their own vested interests. Failure to grapple with the fundamentally different incentives BiH politicians operate under within the Dayton system constitutes the crucial policy handicap for the EU in dealing with Bosnia.

Related to this first point is the fixation on “transition” – which can be reduced solely to the closure of OHR. There remains no coherent planning on the part of the EU to how it could handle the international peace enforcement role necessitated by Dayton, in both its civilian and military aspects. The prevailing idea among EU members is that these are no longer needed, but this has not been backed-up by assessments of Bosnia on its own terms. Rather, these are apparently based on the idea that once the EU has declared Bosnia is worthy of an SAA, it must be stable by definition.²³ The stated policy that OHR *must* close for Bosnia to move forward toward the EU is based not on any legal requirement, but is political in nature, and actually counterproductive.

An EU planning document seen by the authors conveys this near-theological faith in the transformative power of the EU. “After the elections in October, we will need to recreate momentum for change in Bosnia and Herzegovina (BiH). The only sustainable future for BiH is in the European Union and the best way to achieve change will be through the accession process. A stronger EU presence would help us get there. This would be in line with the Lisbon Treaty.”²⁴ The four-page document goes on to outline a single EU presence – a combined EU Delegation (presently Commission personnel) and EUSR – in Bosnia and Herzegovina to follow the elections, coupled with alarming vacuity on what that EU mission would actually aim to do. The document conflates presence with effectiveness, and media visibility with political credibility. In terms of policy instruments, the paper proposes that the head of EU Delegation could recommend to the Commission and/or Council the curtailment of Instruments for Pre-Accession (IPA) funding, visa bans and asset freezes for non-compliance with or violation of Dayton.²⁵ Yet the ability to *recommend* such actions, without the ability to *decide* on them, is hardly real power – or even new. The document also states that political figures “who challenge or undermine the

²³ An EU member state diplomat described this is precisely these terms to the author, 2009.

²⁴ *Next Steps in Bosnia and Herzegovina: Through stronger EU presence to reinforced EU policy*, EC DG ELARG + Sec, July 15, 2010.

²⁵ *Ibid.*

fundamentals of the state” could additionally not be invited to high-level international meetings. Note that this is *not* the same as saying that EU officials will not meet them *at all*, and so falls far short of a real quarantine. As outlined, this presence hardly deserves the label “reinforced.”

In sum, the EU’s planning to take the international reins in Bosnia is remarkably thin, especially given the five years the idea of “transition” has been discussed. There remains no international strategy, or even an honest situational assessment or articulation of concrete goals from which such a strategy could be built. The desired policy outcome is simply for Bosnia not to pose a larger problem than it already does. The official analysis of the situation in the Brussels, Washington, Berlin and most other PIC capitals is built around that policy goal. Such approaches rarely if ever succeed.

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Can BiH elites run the state?

by Denisa Sarajlic-Maglic

The political elites in BiH determine the self-sustainability and functionality of the state; the complex decision-making system in BiH is systematically dependent on political will. This power-sharing mechanism is designed to prevent any single group from making decisions on their own, which is why its operation depends on good will and compromise with others. Political elites, particularly since 2006, have taken advantage of this system by monopolising and absorbing the political space to the extent that there is little room left for other independent actors to play substantive role. As such, the political space in BiH is saturated with the interests of political elites, and the public interest is, at best, subordinated to it. This result is the excessive politicisation of most issues of government activity, even if most pragmatic in nature. The term “political elites” itself is rather elusive, and in the case of BiH must include a resilient web of informal actors, whose influence on political affairs is stronger than any formal institutional network in BiH.

This creates a very troubled state, in which democratic rules of the game have not yet taken root. Its sustainability will depend on changing such rules and creating a system that would not be as dependent on the will of the elites, or international intervention. However, the international community's strategies over the past 15 years have only worked to strengthen this arrangement. At a minimum, the international community has not done enough to put in place structures to ensure the state's self-sustainability following the cessation of its executive role.

An “elite-packed” democracy

One of the main challenges to a sustained functionality of the state of Bosnia and Herzegovina stems from the fact that it is an “elite-packed”¹ democracy. The first characteristic of such democracy is the monopolisation of the political process by political elites. According to American democracy scholar Larry Diamond, in an “elite-packed” democracy political parties monopolise the political process and absorb the state and organisational life to the extent that they “rob interest groups and other political institutions of their autonomy.” Three such aspects characterise “elite packed” Bosnia.

First, there is a deep and insurmountable gap between political and civil society in the current setup. The political elites in BiH position themselves as the guardians of the political process. Rather than acting as channels of public interests towards the state, they have instead become the buffers between the state and the wider public (including civil society). The political elites thus do not recognise or allow other autonomous actors in political life like civil society, the judiciary or the media, to act independently. This monopolisation of the political space is evident in almost every aspect of public life, constitutional reform being the recent case in point. In the Butmir negotiations, for example, media and civil society were not only excluded from the process, but the process was designed in a way that actually prevented anyone outside a very closed circle of party leaders and their negotiating teams from acquiring the most basic information about

¹ Diamond, Larry, *Developing Democracy: Toward Consolidation*, (Baltimore, Md: Johns Hopkins University Press, 1999).

what took place inside the military barracks. In this way, different party leaders were able to manipulate the public opinion about different proposals, as they were strategically turning the tap on and off while leaking small pieces of selective information.

Secondly, democracy in BiH can be considered “packed” by elites also in the sense of an excessive saturation of general social and public life with the views and interests of a few elites. By sucking all the oxygen out of the political space, the political elites are able to act as the shapers of public perceptions, their opinions, and the general discourse. This is becoming even more so the case as media tycoons are becoming politicians, and politicians buy the media. This increases the capacity of political elites to further politicise issues, whether they be economic, social, technical, bureaucratic, cultural, infrastructural, sports, etc. Even the most pragmatic and practical projects such as the construction of Corridor Vc², which would in any other country serve as a catalyst of national consensus, becomes a subject of ethnic polarisation. In this particular case, the picture that nationalist parties are able to paint for the wider public is that particular routes of the Corridor would endanger the national heritage of this or that ethnic group, whereas the real reasons behind those dilemmas are about which ethnic elites own more land along which routes.

On the other hand, many real policy priorities in BiH continue to be determined by an international agenda. These priorities stem either from previously undertaken commitments, such as the Council of Europe's requirements for the respect for human rights as will be the case with implementation of the Sejdić/Finci ruling, or from the conditions for future EU integration under the SAA. Due to politicisation of those issues and a lack of common vision on how and why to build the state, BiH governing parties engage in negotiations in which their positions are polarised to the extent that it can take them five or more years to find a compromise. Because such compromises are usually the lowest common denominators, they can only produce short-term effects without generating substantial change in the way the state functions. At best, legal solutions that result from those compromises are hard or impossible to implement, as has been the case with the police reform, while at the same time consuming a lot of time, effort, and political capital. This produces political crises that have on several occasions over the past four years brought governments to a halt for several months.

For a while, the visa liberalization process was thought to be a welcome exception to this rule, and various representatives of international community continue to use this example to “prove” that political elites can find compromise when there is sufficient political will and public pressure. But looking more closely at fulfilment of individual conditions for visa liberalisation, we can see that almost every issue was politicised and was eventually a matter of concessions made under the pressure of international community (rather than the public as some like to present it), or lenience on the part of the European Commission in the cases such as the BiH Criminal Code or Anti-discrimination Law. The only real exceptions were those conditions whose fulfilment did not require any legislative activity, but were purely a matter of putting in place good technical solutions (e.g. Block 1 conditions on document security).

The third peculiarity of “political elites” in BiH is the shapelessness of the term itself. The term “political elites” in the context of BiH democracy cannot be used in the wider academic sense, nor is it totally accurate to use it in the narrow derogatory sense (the privileged cream of the crop). The term fails academic definitions because there are very influential individuals who are not formally considered part of the political elites. There are also those who formally fall into the category of elites, but who exert very little real political influence. Sadly enough, many

² Corridor Vc, also known as European route E73, is a planned 710km highway linking Budapest, Hungary to the Croatian port of Ploče, via Bosnia and Herzegovina. The BiH route is to begin in Bosanski Brod, running through Zenica and Sarajevo, and on to Mostar.

of the latter are legislators at different levels of government, who aside from their ability to cast votes, have little influence outside the parliament building. The former group, on the other hand, constructs an important feature and peculiarity of BiH political life. They are a network of individuals who are not part of formal political life, but are in fact dislocated into some informal, but influential, non-institutional political circles. Aside from the usual formal suspects, this group of 'informal' political elites are businessmen (sometimes of shady background whose businesses very much depend on the backing of some political elites), academics who support some ideological projects, religious leaders, media owners and journalists, failed politicians, freelance criminals or institutionally well-embedded criminals.

A functioning dysfunctional state

The above characteristics of political elites in BiH create a number of problems for the functionality and self-sustainability of the state.

The privatisation of political influences dislocates the decision-making system outside the formal institutions, which hampers the international community efforts to exert any effective influence, and also suppresses the role of civil society in relations with the state in favour of informal/private influences. As a result, the right address for making decision on key reforms would very often not be members of parliament, but their party bosses, or even individuals formally outside political parties. To take but one example, during the police reform negotiations, Reis-Efendi Mustafa Cerić organised a gathering of political leaders and a number of individuals who would fall under the category of "informal" political elites in order to influence the outcome of those negotiations. He and other religious leaders were also regularly consulted by the international community during previous efforts to reform the Constitution.

This creates a political-ethnic-economic-religious-financial web that is stronger than any formal institutional structure in BiH, or civil society network. The opacity of these relationships obscures the real sources of influence. This increases the resistance of political elites to pressures coming from international community or civil society. The fact that sources of political influence lay outside the formal democratic structures, partly takes away the democratically elected officials' responsibility and accountability. The effects of this are twofold. This creates confusion about the lines of accountability, undermining the very concept of being accountable to society. At the same time, the expectations of the public are very low because they are well-aware that the centres of influence lay elsewhere and they don't even *expect* the elites to be responsible or held accountable. In fact, the public to some degree expects the elites to *abuse* their authority – this is evident in the infamous and self-perpetuating phrase always heard at election time "I will vote for the same guys because they have stolen as much as they needed, the new guys would just start stealing all over again." In the long run, such abysmal expectations of accountability from BiH democratic processes is likely to be detrimental to their sustainability. The political playground operates according to undemocratic rules of the game, and the public is disabled from clearly articulating their attitudes in a space where they don't really play a role, thus abetting the voter turnout at elections and self-disempowerment.

Such low expectations of democracy create a political setting in which any action, no matter how undemocratic, can become socially acceptable. Because of media capture by these same structures, real public scrutiny is almost non-existent, and frustrations with political system are not channelled into public action but into public apathy and resignation, which in turn lowers those expectations even further. Any critique of the political elites is considered brave to the point of being irrational, or simply just naive. Among other reasons, this is also a result of the fact

that there has not been any serious attempt by the international community to socially sanction or react more strongly to serious breaches of democratic rules and processes over the past four years (2006-2010). The absence of social or international sanction has entrenched the belief among the public that the elites are untouchable. Worse yet, by proclaiming the “untouchable” elites as their “partners”, the EU appears to approve their status and adjust to their rules of the game. This is evident in the infinite investigations against the RS Prime Minister Milorad Dodik that never resulted in formal charges, the legal saga against the HDZ President and former FBiH Minister of Finance Dragan Čović, dropping charges against the FBiH Minister of Energy and Mining Vahid Hećo and former FBiH Prime Minister Nedžad Branković, and the very fact that none of the political elites have ever been convicted in spite of numerous allegations and reports by the police, judiciary, media and public auditors. The RS government engaged in a series of attempts to privatize large state-owned companies without public tenders; despite several investigations into this practice, there were no consequences. In FBiH, parliamentary deputies have repeatedly delayed the adoption of the budget, although they know that such a delay is sufficient reason for the FBiH President Borjana Krišto to dissolve the parliament. They know that something like that has never happened in the past.

At the same time, those individuals who have been openly engaged in criticism of illegal practices of the political elites have received threats (like FTV “60 Minutes” host Bakir Hadžiomerović), have been publicly discredited (like former RS Minister of Finance Svetlana Cenić and the staff of Transparency International), or have simply been removed from office (like SIPA Assistant Director Dragan Lukač).

As such, an “elite-packed” society does not represent an enabling environment for civil society to exert effective influence. Weaknesses of BiH civil society are usually attributed to the fact that it does not have adequate capacities or sufficient motivation for change. However, the enormous capacity of political elites to ignore or resist public pressure is an even more powerful factor weakening the influence of civil society. It is irrational to believe that political elites, which have completely appropriated and absorbed the political space, see any advantage in including civil society in political processes. Involving civil society in such a project as constitutional reform would introduce more transparency into the process, narrowing the room for public manipulation. In that case, it would be hard to defend certain political positions, because the public would be able to make more informed political judgements themselves.

The above-described phenomena create more problems for sustainability of democracy in BiH than elsewhere, because the complex decision-making system in BiH is systematically dependent on the will of the political elites. The power-sharing system is designed to work only if there is enough political will along three dimensions – the political party dimension, the ethnic dimension, and the entity dimension. Lack of political consensus along any of those dimensions can bring the system to a halt. Such a system cannot sufficiently motivate political leaders to participate in political life in a meaningful way. In fact, it encourages them to obstruct each other's efforts, as that helps them act more autonomously. State institutions simply lack the authority and autonomy to force political elites to seriously participate in their activities, or to sanction them if they don't.

Troubled international community

A lesson learned from the above examples is that reliance solely on leverage has not produced self-sustaining stabilisation and consolidation of democracy in BiH. It may have produced some short term gains, but for long-term sustainability of the state, it was necessary to create more

substantive and institutional linkage with the international environment outside BiH. Academic literature describes linkage as “density of ties”³ (economic, political, diplomatic, social and organisational) and “cross-border flows” (trade and investment, people, communications). Two key policies of the EU can be said to have been detrimental to this aspect of creating more democratic political elites: the visa regime and inconsistent policies of conditionality.

The EU relied on positive and negative conditionality as instruments of policy promotion. But as the police reform and the hasty process of signing the SAA illustrated, the EU compromised its own principles and values for expediency and short-term political gain in cases when faster progress toward integration served its other interests. In this case, the police reform surrender was about avoiding opening up another front while the EU was trying to find solutions for to assuage Serbia due to Kosovo’s upcoming independence. The experience with the police reform weakened the credibility of the EU’s political conditionality in BiH and called into question the application and consistency of conditionality as an instrument to support future efforts to consolidate the state. The EU also gauged the elites’ priorities and interests poorly, relying on assumptions from past practice elsewhere. Rewards promised were not perceived by political elites as greater than the costs of compliance. The EU took it for granted that it was in the interest of elites to build a state, oblivious to the fact that the status quo only worked in their favour, allowing their continued grip on power and other benefits. Given the dubious credibility of conditionality following its practice thus far therefore calls into question whether the EU would be capable of guaranteeing political stability in BiH after the OHR closes down. Conditionality is the only tool the EU foresees employing.

The visa regime, on the other hand, has restricted the public demand for more and better democracy. Had travel been enabled earlier in the process of state-building, public demand for an EU-style democracy and economy may have gained traction before the divisions were so firmly entrenched in the system. As evidence in other countries shows, and as Levitsky and Way point out, linkage raises the cost of abusing democratic rules by increasing their international salience and the likelihood of international response, enhancing the power and prestige of the opposition and civil society. The persistence of a restrictive visa regime, on the other hand, increased the demand and appetites for division among the people who felt entrapped in the narrow space through which they were allowed to travel. Or, rather, it made them more susceptible to blame-gaming by political elites, who, on the other hand, have been allowed to travel throughout. The visas policy thus produced the opposite of linkage; it broke away whatever little connection the people of BiH felt towards Europe and strengthened their belief in nationalism. The EU could thus be said to have failed in what it strives to be most, i.e. a “soft power.”

Clash of visions

Despite 15 years of heavy international presence in Dayton BiH, it is nonetheless an internationally isolated political environment in the sense of a very weak embodiment in the wider international environment, and even international structures such as EU and NATO. A disproportion is evident between the influence which the international community is trying to exert on the ground, and the actual level of international interest for the affairs in BiH outside its borders. The lack of durable, consistent and sustained international scrutiny by a wider international normative environment is the result.

From this distance, it could be claimed that the initial period of international intervention in BiH was successful to a degree that it terminated the bloodshed, established peace and restored some of the functions of the state (1995-1999, Bildt/Westendorp). It was during that period that the international community begun to conceptualise self-sustainability of the state through involvement of its elites. The introduction of the “Bonn Powers” in December 1997 was thus

³ Levitsky S., Way L. ‘Linkage vs. Leverage’

aimed at introducing an environment in which the international community would identify partners committed to the Peace Agreement and willing to take the “helm” of reforms. The removal of some of officials who were considered as not committed enough to the Peace Agreement and the state-building priorities, created an illusion that everyone else was so committed. The dominant assumption was that those who remained in political office could be reformed.

However, this strategy only worked to strengthen and legitimise the elites that were already in place, who were mainly inherited from the war. The legacy of those elites was locked into the system with the elections held in 1996, which were proclaimed democratic. Looking back from toady's vantage point, it appears hypocritical of the international community today to see the solution to Bosnia's prosperous future in a generational change of some kind, because entrenching the political elites of the time so firmly into the political system ensured that the war-time legacies gained legitimacy and expanded to fill the political space, crowding out any new and fresh political forces.

However, there is another, probably more detrimental effect of that policy. For the first ten years since signing the Dayton Agreement, the international community remained oblivious to the fact that the protraction of the war time legacies through nationalist political elites ensured that two contradictory visions of the BiH state remained alive – one of a divided state, and one of a unified state. The Dayton Agreement did not confirm or deny either of those two visions. Nor did it provide a third option. Rather, both visions were frozen under the prevailing assumption that they would lose their buying power while institutions of the state proliferated under international supervision and sponsorship.

Fifteen years on, those two visions have crept up from under the carpet and taken over the political agenda, openly clashing. The question is what shape this clash of visions will take as it intensifies, and whether the state structures are sufficiently equipped to survive that clash. The mandates of the last three High Representatives give us a taste of how things would work if BiH political elites would be left to their own devices.

Over the past four years, the elites in power have been strategically calculating against the efforts of the international community, manipulating and steering their reactions. They have thus gained the psychological advantage, because the lack of intervention by the international community has given them tacit recognition as democratic leaders, even though they do not play according to democratic rules of the game. In addition to the lack of more aggressive, consistent and strategic use of the Bonn Powers, the OHR and EU also failed to at least “spotlight” cases of undemocratic behaviour and attempts to undermine credibility of the state. Given the looming “clash of visions” and open threats of a referendum for secession of the RS (and drawing parallels with the status of Kosovo), further failures to intervene will give a silent agreement and even encourage those political forces to step up their effort to undermine the state. While the threats seem more and more serious, and even though the international mandate for intervention still exists, from the point of view of European capitals, it has become politically incorrect to intervene.

Fatigued, but not yet moribund

The international community has taken the chronic immaturity of the political elites to make independent decisions for granted, so the political processes have become cumbersome and tedious, consequently fatiguing the international community.

In the light of the apparent fatigue by the international community in BiH, the question is whether or not BiH political elites can run the state on their own? This, however, is a false dichotomy. As

the experience of the past four years shows, the undemocratic rules of the game have developed even with the heavy presence of OHR. On the other hand, the international community's presence and influence in BiH politics takes so many shapes bilaterally and multilaterally that the political elites would never have to feel alone.

Thus the question is no longer when and whether OHR closes down, but what needs to happen before it does. Given the deterioration of political situation in BiH since 2006, particularly since the talks of a referendum for the autonomy of RS intensified, some international representatives speak less about closing down the OHR. The discussion among them seems to be slowly diverting to finding ways of keeping OHR at least until such times when the threats to the integrity of the state are no longer real. At the core of those discussions is a growing understanding that the international mandate needs to be maintained as long as there is a need to preserve the right to intervene in worst case scenarios, as it would be hard to secure a new legal basis for intervention if given up once. International interventionism has not fared well lately, and Russia, which openly supports the RS leadership, would likely oppose a mandate for intervention in the UN Security Council, if ever needed. On the other hand, the EU is still grappling with implementing the Lisbon Treaty on the ground and sees it as efficient to close down OHR and transform its delegation in a single breath of air.

This incoherence within the international community about the nature of the problem and a need to create durable solutions points to a need to put even more emphasis on delaying big decisions until such times when OHR could more comfortably transition into unified EU presence. In that case, it is no longer the transformation of OHR which needs to be worked out, but it is rather the EU presence in BiH which needs to be transformed prior to taking over responsibilities from OHR. This is the reverse of the process being planned at the moment. Without accommodating the responsibilities, capacities, and instruments of the EU institutions to some of the roles OHR has performed, the process will not be a "transition", but will simply mean shutting down OHR and creating a whole new structure in a different building (although some of the people will be the same).

Instead, the transition from OHR to EUSR should be about creating structures and tools capable of tackling challenges to the integrity of BiH within the EU mission. The standard "toolbox" of EU policies will simply not do this. BiH is not a classical transitional society of the kind the EU previously faced in Central and Eastern Europe – it is a post-conflict, divided society, which requires the use of tailor-made policies and instruments. A special mission of the EU needs to be able to confront and respond to the political culture that is based on ethnicity-based party politicking, confrontational discourse, reform stalemate, inflammatory rhetoric and perpetual political crisis. The position that BiH is too complex, dysfunctional, with expensive and irrational structures, may be true, but that's an observation and not a policy. In addition, discussion about the transition needs to be led by how much political will the international community is willing to expend. This, however, will depend first and foremost on a definition of a desired policy outcome – whether it is sustainability of the state beyond the point when there is no formal right to intervene from outside, or if the desired outcome is simply to gradually divest the EU (and international community) of responsibility for Bosnia's future.

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INCOMPLETE BOSNIA AND HERZEGOVINA AND THE CAPACITY OF STATE INSTITUTIONS

by Dennis Gratz, PhD

Fifteen years after the signing of the Dayton Agreement, Bosnia and Herzegovina is a dysfunctional administrative complex with main elements and structures that reflect, on the one hand, the disputed legal continuity of the Republic of Bosnia and Herzegovina, an internationally recognised state whose sovereignty is based on the will of its citizens (expressed via referendum), and on the other, the circumstances under which the war was ended. With the Peace Agreement signed in Dayton, the Republic of Bosnia and Herzegovina was transformed into a multilayered decentralized community that bases the legality of its modified (wartime) and newly established institutions at four levels of government on the so-called constitutiveness of its major ethnic groups (though it maintains the international legal personality of the 1992 Republic). Fundamentally a product of “international design,”¹ Bosnia and Herzegovina has become a unique state and political phenomenon that, as Asim Mujkić correctly diagnosed, “juxtaposes two political arrangements – the *ethno-political*, based on the institutionalisation of ethnic differences, and the *liberal-democratic*, based on the institutionalisation of the abstract equality of the inhabitants – citizens of one part of Bosnia and Herzegovina officially called the Brčko District of BiH.”² Simply put, Bosnia and Herzegovina has become a dysfunctional creation of a state because of its failed attempt to combine the institutional frameworks of a civil legal state (a democracy) and an ethno-clerical “power state” (an ethnocracy), with the starting points for this anachronous construct being, above all, the fatal consequences of the war – ethnic cleansing and genocide.³

The initial constitutional organisation built upon the institutional frameworks from within the former SFRY that were based on the ideological achievements of ZAVNOBiH (the National Anti-Fascist Council of the People's Liberation of Bosnia and Herzegovina) was replaced by the Dayton Peace Agreement. Bosnia and Herzegovina received a new constitution (Annex 4) that was not only made possible by foreign intervention, but was an *integral* part of the Peace Agreement, all in the interest of establishing peace, i.e. “satisfying” the interests of the conflicting parties.⁴ This starting point for the reconstruction of state structures in Bosnia and Herzegovina had a tremendous impact on the development and functionality of its institutions. Functionality and sustainability were overpowered by the divisions, distrust and mutual animosity stemming from the war. One of the catastrophic mistakes of the international community, made at the very beginning, was to take the ethnic homogenisation of Bosnia and Herzegovina (one of the main *aims* of the war) as the basis for establishing a new state organisation. The demographic distortion produced by the war thus remained a deeply rooted element of the Dayton Agreement, whose revision has been impossible despite great efforts undertaken in the post-war period (Annex 7).

¹ “Bosnia is a state by international design and of international design.” Bose, Sumantra. *Bosnia after Dayton. Nationalist Partition and International Intervention*. London: Hurst & Company, 2002: 60.

² Mujkić, Asim. “Polazišta institucionalnog dizajna u Bosni i Hercegovini i političke elite – komparativna analiza Brčko distrikt BiH i ostatak BiH / dodir demijurga,” *Politička elita u Bosni i Hercegovini i Evropska Unija*. [“Starting Points of Institutional Design in Bosnia and Herzegovina and Political Elites – A Comparative Analysis of the Brčko District of BiH and the Rest of BiH / The Touch of the Demiurge,” *The Political Elite in Bosnia and Herzegovina and the European Union*] Ed. Nerzuk Ćurak, Đorđe Čekrija, Edin Sarajlić and Sead Turčalo. Sarajevo: Heinrich Böll Stiftung, 2009: 153.

³ Article I/2 of Annex 4 and the organisational part of Annex 4, i.e. the final part of the Preamble related to Part IV.

⁴ Apart from the priority of ending hostilities, the creators of the Dayton Agreement had another five main aims: freedom of movement, freedom of the media, return of refugees, apprehension of war criminals, and the corresponding cooperation with the ICTY. “The realisation of most of these aims in practice is lagging far behind the needs of BiH as a state.” For more, see: Imamović, Mustafa. *Osnove upravno-političkog razvika i državnopravnog položaja Bosne i Hercegovine*. [Introduction to the Administrative-Political Development and State-Legal Position of Bosnia and Herzegovina] Sarajevo: Pravni Fakultet Univerziteta u Sarajevu, 2006: 195.

The ambitious concept of the state of Bosnia and Herzegovina foresaw the establishment of two *entitities* (the condominium of the Brčko District was a post-Dayton development (1999) from the arbitration), where the larger of the two entities was given a federal administrative organisation made up of ten cantons, a side effect of the ceasing of hostilities and the establishment of military cooperation between Croats and Bosniaks in BiH in 1994 (Washington Agreement).

The introduction of the consociational model of governance further complicated this already artificial “compound.”⁵ The principle of consociation was accepted as the elementary *modus operandi*, applied in order to maintain the postulate of equality and constitutiveness.⁶ In addition, no effort was made to *neutralise* the existing functional institutional frameworks since the original purpose was to achieve some sort of agreement. This created a fertile ground for the “accumulation” of institutions and the transformation of Bosnia and Herzegovina into an administrative monstrosity with no real purpose.⁷

This conclusion was soon reached by the international community as well, and it went on to initiate practically all the reforms from 1995 onwards. It was observed early on that the Dayton Bosnia and Herzegovina must undergo thorough and intensive reforms (even miniature ones, but it was correctly concluded that the frequency of initiatives and the effective promotion and advocacy of reforms was more important than the actual changes they imposed), primarily because the legal and territorial disintegration of BiH along so-called ethnic principles (which, as Kasim Begić points out, would certainly be much less of a problem if the demographic structure from before the aggression had been different and if in the centuries-long history of BiH, its territories had had an ethnic *prefix*)⁸ threatened to break apart the state itself. Namely, it should be noted that the methodological approach to drafting the Dayton Agreement took as fundamental the fact that Bosnia and Herzegovina is an internationally recognised state and member of the UN, “which presupposes the confirmation of centuries of state identity and the values of a multiethnic community,” and that a peaceful solution must aim to preserve the territorial integrity and sovereignty of BiH and not to divide it.⁹

Most prominent among all the reform processes Bosnia and Herzegovina underwent in the past fifteen years was given to the 2000-2005 rolling reform effort aimed at strengthening the state and municipal level (the rationale behind it being economic and social and not just political), which necessarily meant weakening the “middle layer” government structures, the entities and cantons. And while the original Dayton Constitution accorded the state of BiH jurisdiction over foreign policy and foreign trade, customs and monetary policy, as well as jurisdiction in policy matters regulating the issues of immigration, refugees and asylum, and the control of its airspace, the process of “defragmentation”—mainly under the auspices or by way of direct intervention by representatives of the international community in BiH (the Office of the High Representative – OHR)—“returned” to Bosnia and Herzegovina jurisdiction over defence (2005), civil affairs (the number of institutions of the state of BiH increased from just a few in 1995 to more than fifty in 2010), and indirect taxation (2006). The same process was also a means to achieve the establishment of the Court of Bosnia and Herzegovina (2002), the High Judicial and Prosecutorial Council (2002), and sets of laws were passed to, among other things, determine a unique framework for matters of criminal law and family law in BiH, as well as laws that established intelligence and security agencies at the state level. Apart from these corrections, and in addition to public administration reform, a reform of the justice system was initiated and

⁵ Bose states: “Two of the four classic features of a ‘consociational’ or group-based power-sharing system are evident in the legislature of the Bosnian state: allocation of seats in a way that takes account of group membership, including a strict parity formula in the House of Peoples, and veto rights for representatives of national segments. The Bosnian state’s principal executive organ, the Presidency, includes these two features as well as a third defining element of consociation: central decision making by grand coalition between representatives of the segments” (65).

⁶ Bose, 80-81.

⁷ Moreover, the recognition of para-state “entities” planted the seeds of discord and instability in the state of BiH and their fatal effects have been manifest to this very day.

⁸ Begić, Kasim. *Bosna i Hercegovina od Vanceove misije do Daytonskog sporazuma*, [Bosnia and Herzegovina from the Vance Mission to the Dayton Agreement] Sarajevo: Bosanska knjiga, 1997: 236.

⁹ *Ibid.*, 236.

was partially successful, and in 2007 higher education was partially placed under the jurisdiction of the state of BiH (primary and secondary education are, unfortunately, still “chained” to the cantonal and entity levels, respectively). Police reform and the establishment of a Supreme Court of BiH are tasks yet to be tackled.

In this process of re-organising the state and strengthening its institutional capacities, two developments are symptomatic: one is the transfer of the fulcrum for initiating and implementing reforms from the international community (the OHR) to the domestic political leadership, and the other is the stalling and reversal of reform processes following the 2006 general elections. It can be said that these two processes developed simultaneously. As the pressure of the international community (especially the U.S., who decided to let Europe take the lead) to continue the reform processes became weaker, so the efforts to block reforms and even reverse them, primarily in Republika Srpska, became more pronounced.

It is undeniable that the main obstacle to strengthening state capacities is the multitude of parallel institutions of power, which in the case of Bosnia and Herzegovina only reflect the authoritarian nature of its decentralised order.¹⁰ According to Weber, this phenomenon “enables the survival of the political elites through prevention of democratization of the political system, whereby political elites become (or remain, rather) the main generator of the social crisis and blockade of the reformist, modernization processes.”¹¹ For too long, it was believed that BiH institutions were dysfunctional because they were set up as such “from the outside” in opposition to tendencies “from within.” On the contrary, some aspects of the *state-building* process occurred outside the frameworks established by the Dayton Peace Agreement. Competences divided among the entities and the state produced not cooperation and coordination, but institutional fragmentation and disintegration, which made considerable segments of the Federation of BiH redundant.. Apart from its formal representative character, the office of the President of the Federation of BiH has become completely devoid of its purpose. Moreover, it has become its own purpose, “protecting” the area that the level of the Federation of BiH “leased” in Dayton.

In reality, the problem of capacities and of the functionality of BiH institutions is manifested in the following segments:

- *constitutionally*, in the state of BiH, international norms, decisions and instructions have supremacy over state-level legislation;
- *administratively*, BiH is divided into entities and cantons that are making a break from the centuries long tradition of religious and national coexistence and mutating towards multi-ethnic-nationalistic competition;
- in terms of *systems*, the political and administrative complexes of the entities are of a para-state character, which, for instance requires the existence of two constitutional courts;
- *conceptually*, the contradictory perception according to which the international community seeks to strengthen central institutions while ethnic groups in the country seek to weaken them has been fostered;
- *economically*, instead of creating private property for the purpose of market stimulation, Bosnia and Herzegovina has become a place for manipulative privatisation processes;
- in terms of *ideas*, Bosnia and Herzegovina has mutated from a potentially progressing, representative democracy whose independence was disputed (which was one of the reasons why the war was fought) into a “quasi-protectorate” of the international community, which begs the question of who is in charge of this misconception.¹²

¹⁰ See the observations of Bodo Weber on the decentralised political system of post-Dayton BiH in: Weber, Bodo. “Political Elites and Political Culture in BiH and EU Integration Challenges.” *Bosnia and Herzegovina and the Controversies of the EU Integration Process*. Sarajevo: Heinrich Böll Stiftung, 2008: 87.

¹¹ *Ibid.*, p. 23.

¹² Oschlies, Wolf, Das politische System Bosnien-Herzegowina.” *Die politischen Systeme Osteuropas* Ed. Ismayr, Wolfgang. Op-laden: Leske+Budrich, 2004: 764-765.

Finally, it is necessary to point out some possible solutions to redesigning the constitutional and legal order of Bosnia and Herzegovina, which would also imply redesigning the existing institutional framework.

Asim Mujkić believes that, apart from maintaining the *status quo*, the possible options include *ethno-political uniformity of the whole of BiH*, i.e. “reorganising Bosnia and Herzegovina as a (con)federation of three ethnically established entities, which would include ethnically reorganising the Brčko District,” and *liberal-democratic uniformity of the whole of BiH*, i.e. reorganising Bosnia and Herzegovina in line with the principle of fairness for all citizens of BiH based on the Brčko District model.¹³ Edin Šarčević, however, believes that the situation calls for a “new constitutional contract” under the “simple motto: ethnicity may not be the source of general individual rights, ethnic identities should not be protected by the Constitution as a community formed as a ‘state’ to the detriment of other ‘states.’”¹⁴ This, in my opinion, can only be achieved through a continuous strengthening of central institutions, because only these can guarantee a satisfying level of protection of individuals – not because of their religious or ethnic background – but because they are citizens of Bosnia and Herzegovina. Unfortunately, this solution is currently not an option because of a systematically fabricated fear of dominance of one collective over another.

These solutions presuppose conducting core comprehensive reforms of the constitutional and legal order of BiH (and as such reactivate the possibility of hostilities, because they in effect invalidate the Dayton Peace Agreement). But perhaps the right approach lies in *reaffirming* the existing government institutions initiated by a multitude of sector reforms with the strong and open support of the international community, whereby the only standard of selection would be their *efficiency*. Local self-governance reform is one way to “improve” existing institutional structures and would lead to their transformation into functional systems of governance or, alternatively, to their self-termination. The right approach would, therefore, have to lead towards *completing* the state with a focus on strengthening the functionality of its institutions in the context of EU approximation and not towards advocating an “overhaul” of the state and its constitutional and legal order that would divide the country (again along ethnic lines), i.e. cause tensions with far-reaching consequences. The precondition for the success of such a *moderate* approach to reforms is the intensive involvement of the international community, and above all the U.S. There would have to be clearly defined goals and a road map for their achievement, which would lead to concrete results on the road to EU integration, starting, for instance, with visa liberalisation. This project would have to be initiated immediately following the October 2010 general elections.

However, this is merely the most efficient way. There is justified concern that unless the process of *completing* the state is finalised in the foreseeable future, the need to restructure the institutional framework of Bosnia and Herzegovina will turn into an exceptionally painful necessity, a foregone conclusion. If it remains in a state of acute paralysis, the country runs the risk of disintegration; the alternative to its survival is brutal (self-)isolation and rapid economic decline. A worst-case scenario – a return to a state of anarchy, insecurity and war – cannot be excluded.

¹³ Mujkić, 167.

¹⁴ Šarčević goes on to explain: “This goal will be achieved easily by the Constitution which will prohibit the protection of collective rights at the cost of individual rights. Derived at the level of the rules: the Constitution must guarantee the full protection of each individual in the form of individual rights and thereby establish absolute bounds for the collective rights; the protection of collective rights comes secondary, only in those areas which are not covered by individual rights. All the rest would be further elaboration of this rule: a new system of powers, legislative in the first place, a more natural territorial organization, efficient, ethnically neutral administrative structure, harmonization of the constitutional principle with democracy, and of both with collective rights of the „constituent peoples” will not be difficult when there is an untouchable circle of individual rights which cannot be annulled by invoking collective rights” (103-104).

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THE CURRENT POLITICAL CRISIS IN BOSNIA AND HERZEGOVINA AND THE INVISIBLE SOCIAL SIDE OF BIH'S REALITY

by Bodo Weber

In Bosnia-Herzegovina (BiH), a persistent political crisis has escalated since 2009. Amplified politics of ethnic nationalist confrontation goes along with poor performance of state institutions, an almost complete stalemate in EU integration and the accompanying reform processes. Popular fears of insecurity and renewed ethnic violence are further nurtured by secession threats coming out of the Republika Srpska (RS) and from the most powerful politician in Bosnia, RS Prime Minister Milorad Dodik, which undermine the integrity of the state.

Such worrying developments have reinforced an impression among some representatives of the international community that nothing much has changed in the Bosnian society since the end of the war in 1995; that the country is basically driven by dominating ethnic nationalist conviction of the citizens of all three ethnic groups today as much as it has been during the war and its immediate aftermath. A growing number of analysts and commentators have already spoken up in the West demanding a policy shift toward a more "realistic" view of the situation on the ground in Bosnia.

Thus, US foreign policy analyst Ted Galen Carpenter from the conservative Cato Institute in a recent blog states that "Bosnia is no closer to being a viable state than it was in 1995" and asks the US administration to recognize the "evident failure of nation-building in Bosnia.¹ Matthew Parish in an op-ed in November 2009 goes even further. Pointing to an alleged "collective paranoia... fears of dominance and persecution [that] have driven politics in the Western Balkans for centuries..." he concludes that "the independence of the Republika Srpska looks increasingly inevitable" demanding from the international "to preside over Bosnia's inevitable gradual disintegration with a moderating hand."²

The international community in Bosnia has countered the picture of nationalist, antidemocratic oriented citizens in various public relations campaigns over the years in which it tried to motivate Bosnia's citizens to hold their political elites accountable, or to actively participate in reform processes. The counter-perception applied in this is the one of the BiH citizen as a democratic oriented, liberal-minded individual.

Bosnia's election results through the post-war era make the liberal view difficult to support. On the other side the survival of an essentialist reading of ethnic nationalism and of ethnic conflicts that comes down to the well known myth of "ancient ethnic hatreds" is not so disturbing only because of its persistence in spite of being able to disprove by facts. Its return to international debates in the current political crisis in Bosnia is potentially dangerous when one remembers how talk of "ancient ethnic hatred" served as a welcome tool for western policy makers at the beginning of the Balkan wars of the 1990s to legitimize inaction and to conceal a lack of political will.

Yet both simplistic narratives hint at a serious deficiency in international policy in post-war Bosnia: an unwillingness to understand the social side of the Bosnian political reality and engage with real, not imagined, citizens. Had the international community seriously dealt with the

¹ Ted Galen Carpenter, "Learning from our mistakes: Nation-building follies and Afghanistan" Cato @Liberty Blog Posts, 10 July 2010, <http://www.cato-at-liberty.org/learning-from-our-mistakes-nation-building-follies-and-afghanistan/>.

² Matthew Parish, „Republika Srpska: After independence,“ Balkan Insight, 19 November 2009, <http://www.balkaninsight.com/en/main/comment/23797/>.

question of the role of the Bosnian society in the ethnic transformation going on over the last two decades, it would have discovered that while the average Bosnian citizen falls far short of the imagined liberal ideal, there is much greater potential to establish a truly democratic socio-political environment than is recognized.

The Bosnian citizen as actor in the ethnicization of society

The Bosnian-Herzegovinian citizen is by no means a simple victim of the ethnicization that has fundamentally altered his society over the last 20 years. He is a very active, yet unhappy participant.

Modern ethnic nationalism is not a system reliant upon conviction. Viewed from the perspective of the individual engaged, it is a conformist social behavior of expressing one's belonging to a social group, an ethnic "collective." This collectivistic alignment is not an action that follows from the belief into the content of an ethnonationalist "ideology". Its ideological contents rather serve a social function of dealing with social reality in a conformist way by in fact escaping the confrontation with the unpleasant side of social reality.

The ethnic transformation of the Bosnian society, as in the case of its neighboring countries, was based on the 19th century idea of an "ethnic community" as a homogenous, collective society that is based on the natural solidarity of its members. The ethnicization project presented itself as capable of freeing its community members from life under communist dictatorship, in which their natural expression of national feelings was oppressed.

Yet the reality of that ethnic transformation differed heavily from its ideological self-representation. The socialist Yugoslav society that got transformed by violent ethnicization was hardly be determined by dictatorial oppression. It was a highly fragmented society, whose complex structure remained difficult to explain through Western scientific categories of class, because its structure was not clearly attributable to status criteria (economic, educational social prestige etc.). Traditional social bonds had largely disappeared through the rapid postwar modernization. The system allowed for stronger processes of individualization than took place in other real socialist societies. The relatively "liberal" character of the Yugoslav socialism enabled the development of individual interests and need that no longer could be subsumed under traditional group interests (family, community). Yet these interests were limited in expression both economically and politically, through the existence of an authoritarian regime, the absence of freedom of political/public expression, and the lack of the rule of law. The social means to pursue individual interest and needs were thus neither legitimized by the official ideology, nor protected by formal rules, nor restricted by any such rules.

A specific type of authoritarian personality developed over time that was marked by the loss of respect for authorities, but that still remained essentially authoritarian. Individualization processes at the same time were in a sense much more materialistically oriented than in Western capitalist societies. In the process of pursuing materialistic interests in an institutionally limited setting, state institutions were hollowed out by informal action, by the development of informal networks, and by the increasingly collective breaching of rules, regulations and laws. The informal acting of the "citizens" vis-à-vis the state institutions from the outside supplemented the elites' para-institutional acting from within these institutions to pursue their individual and/or group interests that together formed a specific relationship between the socialist elites and the population. Thus, a society ideologically based on collective togetherness, the notion of the "working people" in fact became deeply atomized and antagonized.

The ethnic transformation of the Bosnian society in the 1990s violently changed its social demographics, a transformation that was promoted by and created the image of an ethnic homogenous society based on natural solidarity. Yet below that ethnonationalist surface the new society was in fact one that became (or rather *remained*) highly antagonized and hypocritical.

To reach the active participation of the society's individuals in the brutal ethnic transformation the ethnic elites had to connect to the socialist man's personality and to the existing relationship between the elites and the "citizens" marked by the individuals' readiness to publicly express respect for the authorities while being enabled to pursue individual (material) interests in an informal, underground way. This explains the merger of state security forces and para-state militant groups in the violent ethnicisation processes. It also explains the high level of systemic corruption and organized crime and the both dramatic and sharp social differentiation that mark the reality of state and society in Bosnia-Herzegovina as well as that of its neighboring countries for almost two decades.

Trapped in the post-war system

The social individual came out of this wartime transformation of the Bosnian society in a highly ambivalent position: He/she had actively participated (at least in an indirect way) in ethnic transformation processes that he/she had no control over and that brought along violence and war crimes on a mass scale. The results of that participation viewed from the perspective of the individual's original motivation were totally negative: the social reality of the end of the 1980s one wanted to avoid confrontation with – an overall crisis of state, economy and society- had altered catastrophically, while the socio-economic destruction strongly limited the pursuit of individual materialist interests.

This paradoxical (self-)positioning of the Bosnian "citizen" at the end of the war and the consciousness that arose from it could have been a good basis for a post-war establishment of normal social relations and the democratic transformation of state and society. Yet despite the changes since 1995, it seems Bosnia's society and its individual members have remained trapped in this paradoxical, highly contradictory situation. Individuals actively participate in upholding ethnic nationalism as the dominant social factor, while they are at the same time highly conscious about the disastrous socio-economic reality in their country.

There seem to be a number of reasons why BH citizens weren't able to escape this regressive social dynamic. First, the Dayton state, with its institutionalization of conflicting mythical narratives (mono-ethnic and multi-ethnic) continues to serve as an institutional platform for collective flight of citizens and elites from the social and economic reality of the country. Second, the complex institutional setting of the Bosnian state, with its high level of institutionalization of ethnicity and its overlapping of institutions and layers of governance, enables the continuing collective undermining of state (and all other social) institutions legitimized by ethnicity – by the elites from within the institutions and by the citizens from the outside – as the dominant aspect shaping socio-political reality. Third, the international community's approach to the Bosnian population as either -nationalist believers or liberal-minded citizens has supported them in remaining in their unsatisfying social role.

Potential for a different reality

It is no surprise that a notion of "nothing has changed since the end of the war" has returned to debates on international policy towards Bosnia-Herzegovina in a time when domestic political elites, first and foremost those in the RS, have used diminishing international attention to the country for reinforcing a policy of ethnic social homogenization and political confrontation.

Yet below that surface of the current political crises and nationalist conflicts among the ethnic political elites one can recognize numerous "small" stories and events that hint to a different social reality in today's Bosnia. Events that show that Bosnian citizens are neither liberal minded citizens (yet) nor hardcore nationalist "believers", but individuals trapped in a struggle for a normal life:

- In columns written by commentators from Western and Eastern Herzegovina on alternative internet news platforms and in readers comments, one finds descriptions of the socio-political reality that substantially depart from the common perception of this regions as hotbeds of extreme nationalism and ethnic homogeneity. Discussion of the criminalization of the economic and political sphere and the deep destruction of social values³ are in sharp contrast to the elites' talk of traditional values and natural solidarity.
- In the RS municipality of Prijedor in spring this year, local members of the ruling party and members of the Orthodox Church's youth organization heavily lobbied among the local youth and their organizations to establish control over the Youth Council, the municipality's umbrella organization that receives funds from the municipal government and sends a representative into the municipal assembly. The party and church saw the Youth Council as having become too independent. The effort failed completely, both among urban youth and among youth from rural suburbs that traditionally lean towards nationalist parties, and even led to the alignment of urban and rural youth that normally don't have much in common. Among those groups was even one from the rural suburb of Omarska, known for its wartime detention camp and massive war crimes, whose citizens still insist that no such camp ever existed in their neighborhood.
- Prime Minister Dodik seems to be regarded by most of the international community as invincible and uncontestable. The RS government has consistently escalated its challenges to the Bosnian state and its institutions created largely through international intervention, most prominently the Court of BiH. But a representative UNDP survey conducted in 2010 has found that a large majority of all BH citizens is in favor of the establishment of a state Supreme Court, including two-thirds of those interviewed from the RS.⁴ This fact, along with data showing a very low trust in the independence of the judiciary in the country, clearly demonstrates that citizens have a strong interest in the establishment of the rule of law serving as a protection that is neither neutralized by nor subsumed under "ethnic interests." There is wide variance between what the conventional wisdom believes RS residents will support and what is actually possible.
- The development of local self-governance in Bosnia during the last decade is of major importance. The municipal level seems the only governance level in which citizens' rational interests can be reflected. Various examples of successful reform of municipal administrations, examples of inter-entity cooperation between municipalities to improve local service-delivery, and last but not least the introduction of the direct election of mayors, all demonstrate that citizens strive to escape from the post-Dayton trap and are ready to express their interests publicly and participate actively in public affairs.

Whatever the international community decides about confronting the ongoing political crisis and its future engagement in Bosnia, it will be crucial to understand the social side of BiH's reality. This should mean including citizens into its plans in a way that both recognizes the huge potential for democratic transformation and the stabilization of the socio-political environment that lies with the citizens and take into consideration the contradictory inclinations of the population.

To further the citizens' quest for the rule of law and encourage the BiH population to conscientiously respect existing rules and norms (and push for better ones), it is crucial that the international

³ See: http://www.poskok.info/index.php?option=com_content&view=article&id=21232:hercegovci-na-brazilskom-mesu&catid=133:old-school-new-rules&Itemid=175;

http://banjalukain.com/kolumne/kako_je_oplja---c-kana_hercegovaa---c-ka_privreda--quest.

⁴ UNDP BiH, *Suočavanje s prošlošću i pristup pravdi iz perspektive javnosti*, Sarajevo 2010 pp.34-35.

actors strongly demonstrate that they stand for the respect of rules and that they will stick to their own rules and statements. Whatever the real leverage of the EU's offer to Bosnia with the integration process is, sticking to its own rules and conditions, rather than fudging them to fake progress as with police reform and the SAA, will be far more effective than any PR campaign for politicians' accountability and fighting corruption.

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Conclusions

NOTE: The following are conclusions drawn from both the segments of this paper, the drafts of which were the platforms for the August 31 presentations, and the actual discussion at the event.

- BiH's political system, though formally democratic, does not function according to democratic incentives. The Dayton power-sharing system relies upon the political will of elites. The built-in requirement for effective consensus encourages political elites to obstruct the political system to preserve their freedom of maneuver, power, and to avoid responsibility. Therefore, despite declarations to the contrary, the ruling elites are not interested in undertaking the necessary democratic reform steps needed for state functionality (and therefore EU-integration).
- Political elites (a political party-economic-criminal nexus) dominate the state and monopolize the political process, highjacking state institutions for use as platforms from which to operate informally. This privatization of political influence dislocates political power from the institutions, creating an incongruence between official and actual political power, and preventing accountability. This dynamic prevents interest groups, media, and civil society from playing an active and independent role in the political process as a check on power. Most such groups are co-opted.
- The structure and incentives of the Dayton system allow political elites to wield patronage and fear with little to no responsibility, enabling the subordination of social issues to ethnic ones, or transmuting them into fronts for ethnic polarization. Viewed from the elites' perspective, Dayton Bosnia is a functional dysfunctional state – it may be dysfunctional in terms of governance and service delivery, but it works for them.
- BiH citizens' position in this political system is paradoxical and tragic. They play an active role in the ethnicization of the society, they actively participate with the elites in undermining formal institutions, and in maintaining systemic corruption. They are an integral part of a system that undermines their interests. Yet at the same time, citizens are highly unsatisfied with the social, economic and political reality in their country.
- This “underground anger” of the citizens is impeded by the logic of the system to turn them into taking up an active political role for change. Citizens instead remain “trapped” in passivity and frustration, though it appears there is wide recognition among them of the nature of the problem.
- There has never been an international community strategy toward Bosnia and Herzegovina, and its engagement has been inconsistent since Dayton. Discussion of an “exit strategy” has been perennial, but there has been no corresponding effort to catalyze a dynamic that results in a system capable of sustainable, functioning self-governance and self-reform.
- While there seems to be recognition among many international actors that there is no quick fix to Bosnia's dysfunctional state structure, all recent efforts by the international community to end the current political crisis and reform blockade (Butmir, *et al*) sent precisely the opposite signal – that the international community was in desperate search of a way to divest itself of its executive mandates and the attendant responsibilities.

- The Dayton instruments (the Annex 10 OHR with its “Bonn Powers” and Annex 1A EUFOR under a UN Security Council Chapter 7 mandate) have atrophied since 2006 because of lack of will to use them. The proposition to do away with them altogether without a fundamental change to a system reliant upon them has made the international community, and the EU in particular, a primary generator of the current political crisis in Bosnia.
- Despite the evidence of the past four years, in which the EU has been the dominant player in international engagement in Bosnia, the EU continues to assume that the incentives (“carrots”) that attend its hitherto successful enlargement process are sufficient to generate reform dynamics, by either compelling ruling elites to give up their prerogatives, or motivating citizens to exert pressure sufficient to force the elites to bend. The reason for this unwillingness to contend with reality is clear. Reckoning with the political reality in Bosnia would require a policy turnaround toward strengthened and prolonged engagement, with a deviation from Brussels’ “soft power” orthodoxy.
- As a consequence the concept of “transition” away from an executive OHR and a stronger EU presence remains as nebulous as it was five years ago. Instead of facing the key strategic challenges in the design of its approach, the EU has inadvertently allowed the return of politics of ethnic confrontation and weakening of the very state institutions required for integration. It has not found a convincing answer to challenges for the political stability and integrity of the Bosnian state that have since arisen, especially those coming from the RS Government.
- Political elites in Bosnia have not agreed on measures to fulfill, or at least pretend to meet, the “5+2” objectives and conditions established to close OHR.
- “Constitutional reform” has gone through a similar process of hollowing-out. The connotation of the term has now been reduced to meeting the requirements of the ECHR’s December 2009 ruling, which would improve human rights observance for citizens but do nothing to improve government functionality.



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