

Contents

Acknowledgments	7
List of Acronyms	9
<i>Wolfgang Petritsch</i> Preface	11
<i>Christophe Solioz/T.K. Vogel</i> Introduction	15
Has Dayton Failed?	
<i>John B. Allcock</i> Come Back, Dayton: All Is Forgiven!	25
<i>Srđan Dizdarević</i> The Unfinished State?	37
<i>Manfred Nowak</i> Has Dayton Failed?	45
Constitutional Issues	
<i>Jakob Finci</i> The Federal Republic of Bosnia and Herzegovina	61
<i>Peter Neussl</i> The Constituent Peoples Decision of the Constitutional Court and the Sarajevo-Mrakovica Agreement – A “Milestone Product” of the Dayton Concept?	65
<i>Florian Bieber</i> Towards Better Governance with More Complexity?	74
<i>Zija Dizdarević</i> Conflicted Constitution: The International Responsibility in Shaping the Democratic Framework	88

Economic Development

<i>Rajko Tomaš</i> Efficiency Constraints on the Economy	99
<i>Josef Pöschl</i> Trade-Offs and Ways Out	120
<i>Božidar Matić</i> The Need for a Research and Development Policy	137

Culture and Education

<i>Nikola Kovač</i> Culture in Multinational Communities; or, How to Live with Differences	157
<i>Jasmina Husanović-Pehar</i> New Politics and the Sphere of Cultural Production	161
<i>Jelena Gajević</i> The Role of Culture and Education in the Creation of (Cultural) Identity	174
<i>Adila Pasalić-Kreso</i> The Virus of Division: Its Permutations and Persistence in the Education Sector	185

Conclusion

<i>Tihomir Loza</i> Unlocking the Future	205
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Contributors

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This book presents the proceedings of the first seminar organised by the Association in Sarajevo on 5-6 May 2004. The seminar was attended by around sixty Association members, mostly scholars, diplomats, and civil society representatives from Bosnia and abroad, all of whom deserve our gratitude.

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An important part of the Association's mission is the exchange of ideas across political and language boundaries. The task of the translators was therefore of special importance in this project. Marina Alagić-Bowder, Nina Karadinovic, and Saba Risaluddin took up the challenge with professionalism and a remarkable understanding for the different styles of argument used in the Bosnian and English languages. (Nikola Kovač's paper was translated from the French original by the translation service of the Council of Europe.) Alex Potter proofread the manuscript.

We take this opportunity to thank them all.

Geneva and Sarajevo, 26 August 2004
Christophe Solioz, Executive Director
T.K. Vogel, Deputy Director

Preface

It is nearly ten years since the Dayton peace accords brought an end to the war in Bosnia, yet public opinion – both domestic and foreign – about the merits of international assistance to this war-torn country is still very much divided. “Has Dayton failed?” is a question that is often asked and usually receives a variety of replies ranging from a pessimistic “yes” to a convinced “no”.

Obviously, it is first and foremost for the citizens of Bosnia to determine whether this largest-ever international intervention based on humanitarian grounds has indeed failed or succeeded. It is for the returnees to Kozarac, Drvar, or Bijeljina to determine, or the citizens of the many other communities ravaged by war; for those who have rebuilt their lives and recovered their property; and of course also for those who have been unable to return to their original homes.

The international community, on the other hand, will have to ask itself whether Dayton was the best possible deal under the circumstances. What are the lessons that can be drawn, what can we learn for future similar endeavours?

It is incontestable that Dayton ended the war, but it was already clear back then that the accords must not be considered a blueprint for a viable state. This fact, however, does not in any way diminish the historic achievement of bringing peace to Bosnia.

Whether the glass is considered half full or half empty is to a large extent an academic discussion. It is ultimately irrelevant whether Tim Judah is right in stating that “Bosnia has changed beyond recognition” or those academic critics – including some of the contributions to this volume – who argue the opposite position. The fact is that ten years after the killing and ethnic cleansing was stopped from outside, life in Bosnia – though still extraordinarily burdensome for too many – is slowly but steadily inching towards normalisation. While Bosnia’s problems are still primarily problems of development rather than of straightforward transition, more and more of the pressing issues are the same as those in neighbouring states: unemployment, corruption, organised crime, a lack of prospects for the young. In short, the real transformation to a viable and democratic European country is still very much an unfinished business – but progress is ongoing.

The first post-war years were dominated by international efforts to secure the mere survival of the devastated country through humanitarian assistance, refugee return, and the reconstruction of basic infrastructure. The international military presence was the dominant factor on the ground. In the course of 1997, the international community’s focus expanded to include broader

issues of human security, freedom of movement, and basic aspects of governance. Frequent elections, instead of creating “instant democracy” as envisaged by the architects of Dayton, reproduced ethno-nationalist political patterns on virtually all of the too many levels of government. Changes, although happening, came to Bosnia too slowly.

The introduction of the so-called “Bonn Powers” in December 1997 shifted the equation of the international presence in favour of the civilian implementation efforts and brought Bosnia closer to a protectorate-like status. While some criticise the inherent contradiction between democracy-building and the High Representative’s role as an “enlightened despot”, others see the practical necessity to move things faster and more decisively towards consolidation, viability, and self-sufficiency. Eight years after their introduction, the jury is still out on the “Bonn Powers”.

The death of President Franjo Tuđman of Croatia and the deposition of his Yugoslav counterpart Slobodan Milošević – the two main culprits in Bosnia’s tragedy – had a positive impact on the political environment in the region. Refugees and the internally displaced began to return en masse into previously off-limits areas of the country. Human Rights Watch in its 2000 report termed this development a “breakthrough”.

The success of Bosnia’s heterogeneous “Alliance for Change” in the 2000 elections, along with a strong emphasis by the international administration on local ownership – or *samoodgovornost* – brought about a decisive paradigm shift. Clear indications of the considerable progress achieved are the economic reforms that were expressly endorsed by the Brussels PIC Ministerial of May 2000; the systematic strengthening of state-level institutions, including the expansion of the state government, the imposition of the State Border Service, the single passport and ID card, central registration, etc.; and finally the 2002 constitutional changes embodied in the “Mrakovica-Sarajevo Agreement”. With the subsequent accession to the Council of Europe and the initiation of the EU Road Map, Bosnia in 2002 seemed firmly – though not yet irreversibly – on its way “from Dayton to Europe”.

Recent successes in institution-building, such as the establishment of a state-level defence ministry and a state-level intelligence service and the robust continuation of judicial reform, including the establishment of the state court, should not distract from the fact that much remains to be done. The implementation of new legislation clearly lags behind its adoption. There is widespread agreement that economic take-off – “jobs” in the parlance of the present international administration – is still elusive and must regain centre stage. That, however, needs to be urgently accompanied by renewed efforts to re-make the country’s constitutional structure. With the help of the international community – in what is arguably its most crucial task before the completion of the hand-over – Bosnia has to transform itself into a pragmatic and affordable political model. To lock in the Dayton acquis (that is, the positive achievements of the GFAP), to rid the system of its many dysfunctional fea-

tures (especially its countless levels of government), and to resolutely move closer to the EU model of governance – these are the key elements that ought to dominate the agenda for 2005. By then, one can hopefully assume that Bosnia will be in the midst of negotiating the Stabilisation and Association Agreement (SAA) with Brussels and will have joined the Partnership for Peace (PfP). The fact that the new European Commission has transferred responsibility for Bosnia from its External Relations Directorate to the Directorate for Enlargement is a clear indication that Brussels has upgraded its Western Balkans dossier.

For Bosnia to actually negotiate and eventually sign the SAA, a bare minimum of functional and operational state institutions needs to be in place. The country thus needs to continue to improve its local executive capacity.

Moreover: The absence of a “Bosnian identity”, this necessary sense of common purpose and civic responsibility – most difficult to achieve after this “uncivil war” – has not just prevented the country from joining the PfP at the June 2004 NATO summit in Istanbul. It is also hampering the pressing continuation of constitutional reform. State-building in Bosnia will ultimately fail unless a much leaner and more efficient system of governance is established. This, however, cannot be imposed from above – or indeed outside. What is needed is a civil society-inspired grass roots-movement, a broad domestic coalition of the likeminded – the stakeholders of Bosnia’s future – who genuinely strive for a place in modern Europe.

But to achieve this, a new generation of responsible leaders needs to come to the fore. The leadership issue, at the core of any governance discourse, is of particular sensitivity in this multiethnic country. Voter apathy, a generalised passivity, and the tendency of elites to defer to the international community wherever opportune, all need to be decisively replaced by local initiatives. Europe, in turn, must offer genuine partnership. Let us make the “European perspective” real and commit to a long-term relationship, based on mutual rights and obligations alike. To be sure, Europe is the most convincing “pull factor” for accepting and actively supporting change. Yet, the massive obstacles that prevent Bosnia – in so many ways a “special case” – from swift normalisation cannot be overcome easily. Perseverance and a longer-term perspective are thus essential.

This reminds me of an episode involving Lakhdar Brahimi and Colin Powell. When the Secretary of State expressed impatience about the process of reconstruction in Afghanistan – “The message is speed, speed, speed” – Mr Brahimi’s response was, “it has to be slow, slow, slow”. Now, Bosnia is not Afghanistan. Time is an important factor in achieving the ultimate objective. In the case of Bosnia, the objective is to embark on an irreversible course of Euro-Atlantic integration.

What really matters, therefore, is the process. Many interim steps and painful measures are indeed still necessary for the eventual realisation of a stable Bosnia that has found its place in the world. These steps and measures need

to be defined and structured in such a way that their significance in the overall normalisation process is understood and appreciated. Nevertheless, in spite of the realisation that there are no quick and easy solutions in post-conflict state-building, in Bosnia time is of the essence.

For Bosnia and the international community, the year 2005 will not just offer an opportunity to take stock. 2005 is also the year of Kosovo and of the Union of Serbia and Montenegro. It is to be expected that the Kosovo issue will preoccupy the European agenda in the Balkans. It will therefore be even more important for Bosnia and the friends of Bosnia to vigorously pursue the road to Europe. The Association Bosnia and Herzegovina 2005 offers itself as a platform and support structure for local initiatives that take the call for *samoodgovornost* to heart.

In the end it will be those local stakeholders, the citizens of Bosnia and Herzegovina, who will determine when the proverbial glass is full indeed. They deserve our full support.

Geneva, 7 September 2004

Introduction

The year 2005 will mark the tenth anniversary of the General Framework Agreement for Peace in Bosnia and Herzegovina, the “Dayton accords” and, in consequence, the peacemaking mission that has overseen key aspects of the country’s development in the meantime. The Bosnia¹ mission – which is both longer and deeper than other peacemaking projects have been – provides an example that is of crucial importance for similar undertakings elsewhere.

This book is the result of a new initiative to redefine the parameters of international involvement in the reconstruction of Bosnia. The institutional underpinnings for that endeavour were created with the establishment of the Association Bosnia and Herzegovina 2005.

The Association was started on the basis of an appeal issued on 17 September 2003 that invited stakeholders to a joint venture facilitating a diversity of understandings of the issue of state-building in Bosnia.² The main aim of the Association is to provide policy-relevant analysis and intellectual guidance in support of the longer-term development of the country. It hopes to achieve this by gathering a number of recognised international and Bosnian experts, as well as emerging voices from within the country, in the framework of an internally-driven project focusing on ownership-oriented strategies. In this way, the Association intends to act as a catalyst for effective, pragmatic ideas to emerge and gain influence at a time when the country is in urgent need of a vision to achieve full, sovereign statehood.

The Association’s goals were articulated in light of the contrast between an international rhetoric of capacity-building and a reality of capacity confiscation – a contrast much commented on by writers such as Michael Ignatieff.³ By focusing on ownership-enhancing strategies in the full implementation of the Dayton provisions, the Association hopes to provide a vision for the country, that is, a longer-term strategy for effective political, social, and economic development within the considerable space provided by Dayton. This would include a focused debate on the country’s constitution, as well as a frank assessment of the strategies to implement the inevitable transfer of authority from external actors to domestic authorities. This can only happen through a forward-looking analytical approach that deals resolutely and pragmatically with the conditions needed for the success of international sup-

1 Throughout this book, the name Bosnia will refer to the whole of Bosnia and Herzegovina; see below.

2 The appeal was signed by Christophe Solioz (Geneva), Srđan Dizdarević (Sarajevo), Žarko Papić (Sarajevo), Jakob Finci (Sarajevo), Vehid Šehić (Tuzla), Miodrag Živanović (Banja Luka), T. K. Vogel (New York), and Svebor Dizdarević (Lyon). This appeal is available, together with other Association documents, at <http://www.bosnia2005.org>.

3 See Michael Ignatieff, *Empire Lite* (London: Vintage 2003).

port policies and with the challenges the state of Bosnia will face in the future.

The Association aims to stimulate a dialogue among the various stakeholders. To that end, the present book is published both in Baden-Baden and Sarajevo and will be used in a series of public debates across the country in the second half of 2004 and throughout 2005. The results of these discussions and the analytical efforts of the Association's network will lead up to a major international conference on state-building in Bosnia, to be held in Geneva on 20-21 October 2005.

This book presents the proceedings of the first seminar organised by the Association in Sarajevo on 5-6 May 2004. The seminar was attended by around sixty members, mostly scholars, diplomats, and civil-society representatives from Bosnia and abroad. The seminar's three broad issue areas corresponded to the three OSCE dimensions and the working tables of the Stability Pact: the human dimension (including panels on effective governance, constitutional issues/rule of law, and culture and education), the economic dimension, and the politico-military dimension. Some presenters agreed to expand their contributions into full papers, which are at the core of this book.

The current selection of essays is the result of a careful consideration of submitted drafts and not of any balancing based on regional or ethnic background. We have not tried to present positions – for example, the nationalist viewpoint – that are outside the broad directions of the Association's work. All authors agree that reform across the issue areas discussed in the book is pressing; while some may advocate more radical measures than others, they also agree that the best must not become the enemy of the good, that the necessity of constitutional reform – slow as it inevitably is, in Bosnia as elsewhere – must not prevent the implementation of measures that can be effected immediately, for example in the field of administrative reform.

The submitted essays fell into four broad issue areas: those that considered the overall success or failure of the Dayton settlement in creating a self-sustaining state out of a fragmented and traumatised country (very often, these included a strong constitutional dimension); those that studied the constitutional settlement and whether the process of amending the existing constitutions was promising; those analysing the importance of economic development for effective state-building; and those focusing on culture and education. This is the rough division we have used in presenting the final chapters to the reader.

Has Dayton failed?

This debate revolves around various views of the main aim of the GFAP. Insofar as stopping the war was its key objective, the GFAP has succeeded with remarkably little disruption and a rather small deployment of foreign

troops. Though in good part for reasons that lie outside the remit of the GFAP or the policies of the international state builders sent to implement it – most critically, the regime changes in Zagreb and Belgrade – Bosnia today is secure in its uneasy peace and a resumption of hostilities on any significant scale is extremely unlikely. How massive an achievement this is may have been obvious ten years ago, but is all too easily forgotten today.

However, insofar as the GFAP aimed to create a cohesive state with effective government, it has abjectly failed. While gradual improvements have been made since the war ended – and they are in fact too numerous to list here – they are insufficient on their own to sustain an exceedingly complex and unwieldy system of governance, made more unwieldy still by the principle of group representation described in some of these chapters.

John B. Allcock reminds us in his contribution that it is this balance – between stopping the war and building a functioning state – that we need to consider when assessing the “success” or “failure” of the GFAP, and also that many of its supposed shortcomings are in fact the continuation of policies and attitudes that were in evidence even before the war.

Srdan Dizdarević criticises the GFAP and its implementation from a human-rights perspective, focusing on the role of the international community while also acknowledging that the local authorities bear the primary responsibility for the country’s situation. Human rights remain a serious concern, and the work of the Truth and Reconciliation Commission should be given more space and support. A constitutional dialogue and the development of a vision for the country are other key issues discussed.

Manfred Nowak’s chapter questions whether the GFAP is the most appropriate framework for sustainable peace and development. His critical review of the GFAP’s achievements concludes that many tasks, especially the reversal of “ethnic cleansing”, have not been satisfactorily achieved and that the institutions needed for their implementation are too weak or have even been abolished. The international community should ensure a fully democratic constitution for Bosnia before leaving the country for good.

Constitutional issues

This section opens with *Jakob Finci*’s proposal for a Federal Republic of Bosnia and Herzegovina. While simply renaming a country will not resolve its problems, it will focus our attention on salient features of present-day Bosnia, as well as on the constitutional reforms that are still necessary – reforms that must be undertaken by the citizens of Bosnia themselves. Specifically, Finci advocates the creation of regions based on criteria other than the ethnic principle.

The recent constitutional amendments described by *Manfred Nowak*, *Peter Neussl* and *Florian Bieber* in this volume are important for three reasons.

Firstly, they were based on a solution (the “Mrakovica-Sarajevo Agreement”) negotiated under international guidance but not tutelage by the key Bosnian parties, who all recognised the necessity of such changes following the Constitutional Court’s ruling on the constituent character of the three main groups throughout Bosnia. That the amendments as such had to be imposed by the OHR does not detract from the fact that this was an important success in a domestic process to initiate change. Secondly, they provide a basis for members of all ethnic groups (or national communities, depending on one’s viewpoint) to become equal citizens regardless of which Entity they reside in. Paradoxically, this was achieved by establishing a highly complex system of ethnic quotas in government and administration, a system that is considerably more complex than originally envisaged by the GFAP. It is hardly a liberal solution, but probably, in the short run, still preferable to the previous situation. Thirdly, the process that brought these amendments into being might yield important tactical and strategic lessons for anyone wishing to initiate future reform steps and is therefore of special relevance to the Association’s goals.

One of the threads that run through this book is the recognition that a continued, though modified, international presence in Bosnia is still needed. These nuanced analyses run counter to fashionable but superficial criticism of the international state-building mission, and specifically the OHR, as “colonial” and undemocratic.⁴ While there is some truth to the accusation, it is equally true that most reform steps achieved to date were due to external pressure, not democratic processes within the country. Most authors share the Association’s view that the real challenge is the pragmatic improvement of the international approach to the Bosnian question, not wholesale criticism of it without any viable alternative.

Zija Dizdarević’s contribution focuses on the necessity of making the present Constitution reflect and align with the country’s past and of removing the present contradictions between the Constitution and the various European conventions it refers to. While it is important to implement the recent constitutional amendments – as well as Resolution 1384 (2004) of the Parliamentary Assembly of the Council of Europe – at the Entity, cantonal, and municipal levels, Dizdarević also demands a process of constitutional reform based on citizens’ rights.

4 The two most prominent examples are David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press 1999) and, more recently, Gerald Knaus/Felix Martin, “Travails of the European Raj: Lessons from Bosnia and Herzegovina”, *Journal of Democracy*, 14:3 (July 2003), pp. 60-74. None of these authors bothers to present a coherent alternative to international supervision and intervention in the domestic political process. It is also remarkable that the debate provoked by the Knaus and Martin piece was almost entirely confined to *international* circles in Bosnia; the views expressed in their article appear to most Bosnians as utterly irrelevant to the questions of daily governance and economic development. See http://www.esiweb.org/docs/showdocument.php?document_ID=48.

Economic development

The role of economic development in state-building is poorly understood. The sequencing of market reform in particular seems to be a key determinant of whether Bosnia's triple transition – from war to peace, from a command to a market economy, and from a one-party state to a liberal democracy – will succeed. Very often, precipitous and badly designed privatisation programmes merely strengthen the power of entrenched elites, party cadres and managers of state-owned companies. *Rajko Tomaš*, addressing the complexity of the current economic situation in a detailed analysis, shows ways to avoid this dilemma without giving up on economic reform. In fact, according to *Tomaš*, economic reform is of the utmost importance if Bosnia is to be stabilised and spared the threat of falling into a vicious circle of poverty.

Josef Pöschl warns against the facile notion that FDI is a cure-all for Bosnia's ills: there are different types of FDI, and the most promising type requires competitive domestic enterprises. His contribution also shows that the ethnic factor, while dominant in present conditions and resulting in poor economic performance, need not inhibit co-operation indefinitely. At the same time, *Pöschl* also suggests that a failure of co-operation will seriously reduce Bosnia's chances of recovery, not least by depriving any constitutional reform of real substance. Unless citizens are truly involved in decision-making and co-operation among them is a reality, constitutional debates will only scratch the surface and fail to resolve the most pressing issues.

Božidar Matić finally urges the articulation of a coherent research and development policy to achieve gains in productivity and competitiveness in the long run. His empirical analysis makes clear just how underdeveloped this critical component of longer-term competitiveness is.

It will give pause for thought that the chapters dealing with economic issues are the bleakest of this entire volume: it may well be that the dark picture emerging from various statistics is inescapable precisely because it is based on measurable and incontrovertible facts rather than a political assessment open to all sorts of delusional or wishful thinking.

Culture and education

The war that tore Bosnia apart was in many ways fought over the definition of the nation. In the Bosnian context, with its three dominant religions and associated national communities, two of which felt overwhelming attachment to two competing state-building projects by neighbouring states, this inevitably involved a redefinition of "Bosnian-ness" and the substance of group cultures themselves.

Nikola Kovač's reminder that culture must be a uniting, not a divisive, factor is particularly poignant in this context – and is a powerful indictment of those

forces that appropriate culture to advance their parochial goals with brutal disregard for the common good.

Jasmina Husanović-Pehar, in her discussion of several Bosnian writers, uncovers the potential for a multifaceted but identifiable Bosnian cultural identity. Her paper focuses on the emancipatory potential expressed by a new generation of Bosnian writers and suggests that this may become the source of a new politics, inspiring also the institutional changes the country desperately needs.

In the same vein, *Jelena Gajević* points to the fact that while there is culture in Bosnia, there is no state yet – at least not a state that takes responsibility for creating the conditions for a pluralistic culture and education, including academic research. She also emphasises the role of culture as a force for resistance to exclusivity, an aspect that is of particular salience in contemporary Bosnia.

Transition studies tend primarily to deal with institutional and economic aspects and neglect the educational dimension. *Adila Pašalić-Kreso*'s contribution aims to correct this oversight by tracing the fate of the “virus of division” in education from its pre-war outbreak through its permutations during and after the war. Today, this virus still prevails, and the emancipatory role of education remains but a promise.

“Unlocking Bosnia’s future”

The volume’s conclusion comes from *Tihomir Loza*, who paints a nuanced picture of the overall validity of the Dayton system. Bosnia has failed in its present form, Loza believes, not least because the political will to make the Dayton state work is lacking. What is urgently needed is a process of genuine dialogue among Bosnians about the kind of state they want, in order to develop a consensus on the fundamental issues. This will give true content to the concept of ownership, but it will also create the credibility the current political system and the elites that operate it are lacking.

Terminological issues

Bosnia is a bewildering place – a state that consists of a Federation and a Republic (plus a District), as Jakob Finci points out in his contribution to this volume. We might add that the “Federation of Bosnia and Herzegovina”, of course, is in no way a federation between Bosnia on the one hand and Herzegovina on the other (nor is it to be confused with Finci’s proposal for a “Federal Republic of Bosnia and Herzegovina”). In keeping with widely accepted usage in the English language, we therefore use “Bosnia” (and the adjective “Bosnian”) to refer to the state of Bosnia and Herzegovina, made up of two

Entities as defined in the GFAP: the RS and the Federation.⁵ Exceptions were made in a pragmatic manner, for example when emphasising the State level or a countrywide aspect of its political life with a reference to “Bosnia and Herzegovina”.

Editorial decisions have been made based on style, not politics, and should not be taken as a reflection of particular positions on the issues discussed in these contributions, especially with regard to the names of the Yugoslavia successor states such as Macedonia or Serbia and Montenegro. We have fully respected the authors’ choices whether to refer to the communities in Bosnia as “ethnic groups” or “nations”; imposing uniformity seemed the wrong approach here.

Geneva and Sarajevo, 26 August 2004

5 With regard to post-Yugoslav Bosnia, this usage was adopted in some of the earliest book-length publications: Noel Malcolm, *Bosnia: A Short History* (rev. ed., London: Macmillan 1994) and Robert J. Donia and John V.A. Fine, Jr., *Bosnia and Herzegovina: A Tradition Betrayed* (London: Hurst 1994).