

Forschungsstelle Osteuropa an der Universität Bremen

Research Centre for East European Studies at the University of Bremen

Changing Europe Summer School II

“Crises and Conflicts in Eastern European States and Societies: Stumbling Blocks or Stepping Stones for Democratisation?”

Warsaw, 2 – 8 September 2007

sponsored by the Volkswagen Foundation

www.changing-europe.org

Maja Nenadović:

The Impact of Semi-sovereignty on Bosnia and Herzegovina's Democratisation Process

About the author:

Maja Nenadović holds two master's degrees, from Central European University in Budapest, Hungary (in political science and post-communist transitions) and from Leiden University, the Netherlands (in international relations and diplomacy). Having worked in Bosnia and Herzegovina (in both the international organisation and civil society sectors), she is highly familiar with internal democratisation processes in this country as well as their external dimension. Currently, she is conducting PhD research at the University of Amsterdam on political party assistance in Bosnia and Herzegovina and Kosovo, within the wider framework of democracy promotion.

Email: M.Nenadovic@uva.nl

©

Publikationsreferat / Publications Dept.

Forschungsstelle Osteuropa an der Universität Bremen

Research Centre for East European Studies at the University of Bremen

Klagenfurter Straße 3

28359 Bremen

Germany

e-mail: fsopr@uni-bremen.de

Language editing: Hilary Abuhove and Christopher Gilley

Abstract

This study analyses the political system in Bosnia and Herzegovina, focusing on the impact of the international community's administration on internal democratisation processes. Several arguments are advanced throughout the text: first, that great care should be exercised in applying labels and conceptual frameworks to BiH's political system, because the use of inappropriate ones will result in incomplete or misleading conclusions. Second, that by virtue of the nature and quality of its presence in the country, the international administration has weakened BiH's political system and its capacity for effective and sovereign governance. Third, that this negative influence has had a direct impact on internal democratisation processes and the consolidation of democracy in this post-conflict, internationally administered country. The analysis of the interaction between the international community and local political elites as well as the study of the international administration's interference with domestic political processes and decision-making supports the conclusion that democratisation in Bosnia-Herzegovina has been initiated and led by external rather than local actors; that democratisation has been stalled and hampered by this fact; and that the process may in fact only truly begin once the international community's governance over this area comes to an end.

Introduction

Much has been written about Bosnia and Herzegovina (hereafter: BiH) and its post-war transition and reconstruction process in the twelve years following the signing of the Dayton Peace Accords, and little of it has had an optimistic tone. Regardless of whether it was an analysis of external involvement and the international community activities in the area, or studies on the internal processes of democratisation, transition and post-conflict rehabilitation, the journalists, academics and analysts all share a critical view of the country's post-Dayton past and a relatively bleak outlook on its future.¹

Despite the fact that attention has been paid to the analysis of BiH constitutional and political arrangements, as well as to the activities of the Office of the High Representative (hereafter: OHR)², academia has not devoted much study to the *interaction* between the external actors and domestic political processes and the ensuing effects of that interaction. Most of the articles on the topic have come from journalists and think tanks rather than political scientists.³ This study makes a modest attempt to bridge this gap by analysing the BiH political system with a focus on the impact of the international community's administration on internal democratisation processes. In this text, several arguments will be advanced: first, that great care should be exercised in applying labels and conceptual frameworks to the BiH political system, because the use of inappropriate ones will result in incomplete or misleading conclusions. Second, that by virtue of the nature and quality of its presence in the country, the international administration has weakened BiH's political system and its capacity for effective and sovereign governance. Third, that this negative influence has had a direct impact on internal democratisation processes and the consolidation of democracy in this post-conflict, internationally administered country.

However, before going into the crux of the matter, an important parameter needs defining: what does 'international community' (IC) mean in relation to BiH? 'International Community' is a complex term: there

1 The most influential literature on post-Dayton Bosnia-Herzegovina are the writings of Chandler, David: *Faking Democracy After Dayton*. (1999); Chander, David (ed.): *Peace Without Politics? Ten Years of International State-Building in Bosnia* (2006); Knaus, Gerald / Martin, Felix: *Travails of the European Raj*, in: *Journal of Democracy*, 2003 (vol.14), No.3.; reports by ICG and ESI think tanks, listed in note 3.

2 Information taken from the official website www.ohr.int: "Office of the High Representative (OHR) is an *ad hoc* international institution responsible for overseeing implementation of civilian aspects of the accord ending the war in Bosnia and Herzegovina. The position of High Representative was created under the General Framework Agreement for Peace in Bosnia and Herzegovina, usually referred to as the Dayton Peace Agreement...signed in Paris on 14 December 1995."

3 The following organisations and think tanks have established themselves as authoritative sources on current affairs and developments in Bosnia and Herzegovina and its international administration: International Crisis Group – ICG (www.crisisweb.org), European Stability Initiative – ESI (www.esiweb.org), Transitions Online – TOL (www.tol.cz) and Balkan Investigative Reporting Network – BIRN (www.birn.eu.com).

does not seem to be much controversy in the international/Western domain, but in BiH it comes laden with meanings, few of which are imbued with positive connotations. In most of these, the IC is associated with the interruptive and overriding powers deployed by its various administrative institutions to enforce their own decisions and governance ideas, a process in which local/national legislation and decision-makers are bypassed (or, in extreme cases, removed from public office). Normative elements aside, the term 'international community' will be used here as a synonym for international administration organisations. Chief among these are the OHR and OSCE, since both of these were given clear mandates under the Dayton Peace Accords (hereafter: DPA), to take part and oversee – that is, interfere and intervene – in domestic governance processes.⁴ Included in this definition are both the Peace Implementation Council (PIC) and its Steering Board, whose role is to provide 'political guidance' to the High Representative.⁵ This is a minimalist definition, since it excludes various other international organisations and agencies that are operating in the country (NGOs, military, other inter-governmental organisations) but not directly vested with the power to intervene in domestic affairs.

The first part of this study describes the key constitutional provisions and the political and institutional arrangement of the country. The next section will look at some of the key examples of the IC's interference in domestic political processes, followed by an analysis of how these have impacted the national political arena. Moving away from the micro-view of the political processes, attention will be given to the overall impact of IC presence on the democratisation and consolidation of democracy in BiH. Finally, the concluding section will summarise the arguments and propose possible future steps to ease the tense relationship between local political actors and the international community still 'administering' the country.

The political system of post-Dayton Bosnia and Herzegovina

Before the analysis can go forward, one first needs to determine what is meant by 'political system.' In this study, it is defined as the set of and interplay between governance institutions, interest groups (most notably: political parties) and the legal framework regulating their functioning. Due to space constraints, only the formal elements of political systems will be considered here. Figure 1 in the appendix illustrates the complexity of the institutional political setup borne of the Dayton Peace Accords. It should also be noted that the Constitution provided in Annex IV of the DPA is not the only one in the country: both entities have their own constitutions. Furthermore, the aforementioned figure is in fact incomplete; it does not take into account a small area in the north of the country, Brcko, which was granted the status of an independent district outside of both entities' jurisdiction and placed directly under state-level governance (with an independent budget and governance structures). Also, the four-tier local governance levels are effectively superseded by the international community, since the OHR has been given the mandate to draft and impose legislation as well as to remove public officials obstructing the implementation of the DPA provisions.

Domestic political elites are in fact largely responsible for this boom in governance institutions in the post-Dayton period: there are eyewitness accounts of political party representatives at the Dayton negotiations explicitly demanding that more institutions be included in the Annex IV (Constitution) list of state and entity administrative bodies, so as to ensure sufficient jobs for their members.⁶ In retrospect, various analysts as well as policy and major decision-makers present at the negotiations and signing of the Dayton Accords now agree on one thing: the peace agreement was good – at the time – for ending the bloodiest war on European soil since World War II. However, its benefits only went so far: Dayton's provisions served to entrench the complex bureaucratic administrative structure and territorial divisions, and thus did little to encourage the country's transition to a functioning democratic state.

4 For extensive information on these mandates, please refer to the OHR's official website at www.ohr.int and the OSCE Mission in Bosnia-Herzegovina's official site at www.oscebih.org.

5 For more information, please consult: www.ohr.int/pic/archive.asp?sa=on. (Accessed May 02, 2007)

6 Author's interview with a former U.S. government official present in Dayton during the negotiation of the peace agreement, April 12, 2007, Washington D.C., USA.

The emergence of the ethnicity-based context-specific variant of a multi-party system (which could also be defined as a 'mutated dominant three-party system', based on the territorial division in BiH) and its subsequent consolidation was not something that the international community had designed, desired or anticipated back in early 1996, when it launched the major reconstruction effort, or when it put the democratic transition process into motion by scheduling the first elections for the end of that year. Nevertheless, such a system arose in the context of those premature elections.⁷ A decade later, parties are still predominantly defined by the ethnic group they represent, with the notable exception of the Social Democratic Party (SDP), which managed to gain considerable support in the 2006 elections running on a multi-ethnic platform. Finally, the legislation governing the formation of political parties and the electoral law was created through the leadership and initiative of the IC, rather than of domestic political elites. Similarly, the OSCE was granted the mandate to refuse 'inadequate' politicians from running in elections, whilst the OHR has generously used its mandate to remove public officials from office.

The bulk of analyses of the BiH political system look at the post-conflict BiH through the prism of a consociational conceptual framework.⁸ Most often associated with Arend Lijphart, the theory of consociationalism emerged as a popular democratic constitutional 'cure' for political organisation ailments of deeply divided societies.⁹ Lijphart believed that the only way to guarantee democratic development in such societies was to introduce a specific form of power-sharing into the political system.¹⁰ The presence of some consociational elements in the BiH constitutional setup is undeniable, but the applicability of the overall framework is neither feasible nor conducive to shedding more light on the BiH political system, and does not contribute to the understanding of the interplay between the different actors involved. As a means for elucidating the BiH political system, consociationalism is too narrow a conceptual lens; it casts BiH as a poor or dysfunctional consociational democracy, whereas a broader approach might allow for different interpretations.

Two elements are inconsistent with the tenets of consociationalism: first, the main prerequisite for a functional consociational democracy is missing in BiH – namely, elite co-operation. Secondly, the consociationalism that was implemented in the post-Dayton period was not spontaneous or voluntary in terms of elite co-operation – it was something imposed on BiH, mediated and overseen by the international community. The only persistent elements in this unique country's political system are its transitional nature and temporariness: the post-Dayton arrangement of the country was supposed to be short term, pending constitutional reform (negotiations on reform failed in 2006, and efforts to restart the process have not been successful at the time of this writing). The international administration's presence, which was scheduled to end in July of 2007 but was extended in February of same year by another twelve months, was also meant to be short-lived. Therefore, though consociational elements are present in the BiH political system, they are by no means its defining characteristics. The system's ultimate form will be determined upon the successful implementation of constitutional reforms. Until that time, however, the BiH political system should be analysed for what it is: a system awaiting reform, and an internationally governed and domestically

7 The legacy of the conflict is an undisputable leading cause in the resulting political party system. The early elections, however, also played a role in the consolidation of that ethnic-party system.

8 The following authors used consociationalism to evaluate BiH political reality in the post-Dayton period: Johannes Heiler, "Institutions, Civil Society and Nationalism in the Context of Democratic Consolidation – Prospects for Democracy in Bosnia and Herzegovina," *Peace, Conflict and Development Studies Journal*, 2002; David Chandler, *Bosnia – Faking Democracy After Dayton*, Pluto Press, 2000; Samuel Issacharoff, "Constitutionalising Democracy in Fractured Societies," *Journal of International Affairs*, 2004; Marc Weller and Stefan Wolf, "Bosnia and Herzegovina Ten Years after Dayton: Lessons for Internationalized State Building," *Ethnopolitics*, 2006; Sumantra Bose, "The Bosnian State a decade after Dayton," *International Peacekeeping*, 2005; Roberto Belloni, "Peacebuilding and Consociational Electoral Engineering in Bosnia and Herzegovina," *International Peacekeeping*, 2004; Sid Noel, *From Power Sharing to Democracy: post-conflict institutions in ethnically divided societies*, McGill-Queen's Press, 2005; Victor D. Bojkov, "Democracy in Bosnia and Herzegovina: Post-1995 Political System and its Functioning," *Southeast European Politics*, 2003; etc.

9 The divisions or different segmental cleavages within these societies could stem from religious, ideological, linguistic, regional, cultural, racial or ethnic factors.

10 Arend Lijphart, "Constitutional Design for Divided Societies," *Journal of Democracy*, Vol.15, No.2, 2004, p. 96

overburdened bureaucracy borne out of a peace agreement that ended a bloody war. The following section looks at the IC's track record in administering Bosnia and Herzegovina over the past twelve years.

The International Community's administration and its impact

Looking back at his five years of experience in Bosnia-Herzegovina, a former high-ranking IC official stated that the biggest problem with the international administration of the area was that no exit strategy plans were made until it was too late to shake up and dismantle the Dayton-set system.¹¹ Indeed, when looking at the decisions made by each of the High Representatives running the international effort in BiH, one can hardly discern a unified strategy between them: in addition to the various professional backgrounds and personalities they brought to the job, they all seemed to harbour unique ideas as to what the role of the OHR was and how best to go about implementing it. The lack of a consistent approach and the relatively high turnover of HRs left the local politicians in a peculiar position: with the arrival of each new HR, these domestic political elites tested their boundaries while the new head of the international administration took his time adjusting to the situation. Local politicians effectively also learned to co-operate with each other smoothly, but only when it came to teaming up against the IC: while the High Representatives all tried to mediate agreements between the different ethnic parties, the latter took turns acting as spoilers to these agreements, all essentially geared towards unifying different institutions (the army, police, etc.). More than a hundred officials have been removed from public office by various High Representatives over the course of the last few years.¹²

The lack of strategy and consistency in the international administration and its dealings with local political elites has created a fertile ground for excuses, finger pointing and shifting of responsibility. Local politicians have found themselves in the convenient position of not having to take ownership or responsibility for the country's progress, democratisation and transition processes, or lack of developments in any of these fields: the IC, as the effective highest level of governance, has constituted too convenient a scapegoat for local political elites not to use when justifying their own inertia in the eyes of the electorate. At times, local politicians removed from power by the OHR have actually been able to rally support, despite the fact that their removal was based upon allegations and investigations of fraud and corruption.¹³

Finally, the intervening nature of the IC's administration of the country and the refusal of local political elites to take over and lead the processes of constitutional reform, democratisation and 'de-Daytonisation' of the country have effectively turned Bosnia-Herzegovina into a semi-sovereign state. The IC, despite its increasing demands that local politicians "meet the ownership challenge"¹⁴ and take the lead in country's transformation, is in fact still deeply mistrustful of the motives of local political elites. The OHR therefore continues to interfere in domestic decision-making processes whenever nationalist rhetoric becomes too heated. The same belief that local political elites are simply not yet ready to take over led the PIC and its Steering Board to extend the OHR's mandate in 2007. The second reason, and arguably the stronger one, has been the apparent lack of local politicians who are willing to put the past behind, assume leadership and steer the reforms towards the country's eventual European integration. A large majority of BiH's elected officials are still 'old school', heavily vested in nationalist rhetoric as a means of rallying support. The sentiment of nationalism is a powerful tool, and a convenient one in the wake of a bloody conflict. What these politicians are failing to recognise, or perhaps choosing to ignore, is that a country that fell apart in a civil war needs positive politics based on unifying, rather than divisive, principles. Though the IC has tried to

11 Author's interview with a former high-ranking official from the international administration of Bosnia-Herzegovina, April 20, Washington D.C., USA.

12 For exact figures and text of all the decisions, please consult the www.ohr.int website.

13 To name but one example: after being removed by HR Paddy Ashdown, Croat member of the State Presidency Dragan Covic returned to Mostar, and got himself elected President of the HDZ, the leading Croat ethnic political party.

14 Quoted from the Communique by the PIC Steering Board, released on December 07, 2006. Accessible at: www.ohr.int.

steer the hardcore nationalists away from public offices and electoral spotlights, the ugly truth is that scores of 'new' nationalists are ready to take their places.

The effects of semi-sovereignty on democratisation processes

Democracy emerged as the preferred system of government and the leading ideology in the second half of the twentieth century. The fall of the Berlin Wall opened the Iron Curtain dividing Europe, and major social experiments in democratisation got underway. The breakup of Yugoslavia and the post-conflict international administration have made Bosnia's democratisation rather different from the 'traditional' paths. This section explores aspects of its uniqueness.

Democratisation, in essence, is the process of transitions whose final goal is a functioning democratic state. These transitions are often multiple: from a communist or authoritarian to a democratic system of government, from a centrally planned to a free market economy, and lastly – in BiH's case – from war to peace. The focus of this study is the arguably most important aspect of complex democratisation processes: the democratisation of the political system and governance structures. In 2006, the verdict on the state of BiH in this regard was delivered by local (rather than international) academics and analysts in the Open Society Institute's extensive research project titled "Democracy Assessment in BiH."¹⁵ The project concluded the following about the country's political system and the extent to which it assists the development of democracy:

The multi-party system in BiH is characterised by segmented pluralism...with a relatively large number of political parties and the so called 'Weimar Syndrome' reflected in the fragmentation, dysfunctional operation and inefficiency of democratic forces. ...political parties do not yet have the necessary number of developed, capable, qualified and professional politicians and they do not manage to harmonise their efforts with other players in the political and democratic life in BiH...¹⁶

The findings about the impact of external assistance on domestic change are equally – if not more – defeating: the local specialists conclude in their opening line that,

Ten years after the war, the governance of the country, both in an economical and political sense, is entirely dependent on the external factor.¹⁷

Based on the broader findings of this research, one can conclude that the interplay between the local political elites and the IC has led to a deeper rather than lesser level of dependency between the recipients and donors of democracy assistance. Meanwhile, the political system designed in the process has failed to contribute significantly to the democratisation and the consolidation of democracy in the country.

BiH's progress vis-à-vis its transition to democracy cannot be measured against other nations' in the region due to large contextual differences. One must take into account the anomalous factor of the IC presence that has, through the nature of its mandate, possibly led to the postponement of the country's transition by intensifying the dependency between the external and domestic levels. Grugel warns that both diminished state sovereignty as well as insufficient state capacity may have adverse effects on the process and outcome

15 The democracy assessment was conducted following the International IDEA (Institute for Democracy and Electoral Assistance) methodological framework. More about it can be found at: www.idea.int/publications/sod/democracy_assessment.cfm (accessed February 28, 2006).

16 Quote by: Sadikovic, Cazim, Prof. Dr.: Uloga politickih stranaka u funkcioniranju drzave BiH [The Role of Political Parties in BiH State Functioning] (editorial) in *Ljudska Prava [Human Rights Review]*, year 4, vol. 1–2, Sarajevo, 2003, pp. 7–8, in: Kotlo, Rebeka: Democratical Role of the Political Parties: Does the Party System Assist the Working of Democracy? in: *Democracy Assessment in BiH*, Open Society Institute, 2006, pp. 152 – 153

17 Papic, Zarko / Sadikovic, Lada: International Dimensions of Democracy, in: *Democracy Assessment in BiH*, Open Society Institute, 2006, p. 395

of democratisation.¹⁸ Both of these conditions are present in the case of BiH: the state's overly complex bureaucratic apparatus is inefficient and weak in the area of rule of law, whilst the focus of political parties on ethnic issues and the continuing international administration diminish the country's sovereignty.

Concluding remarks

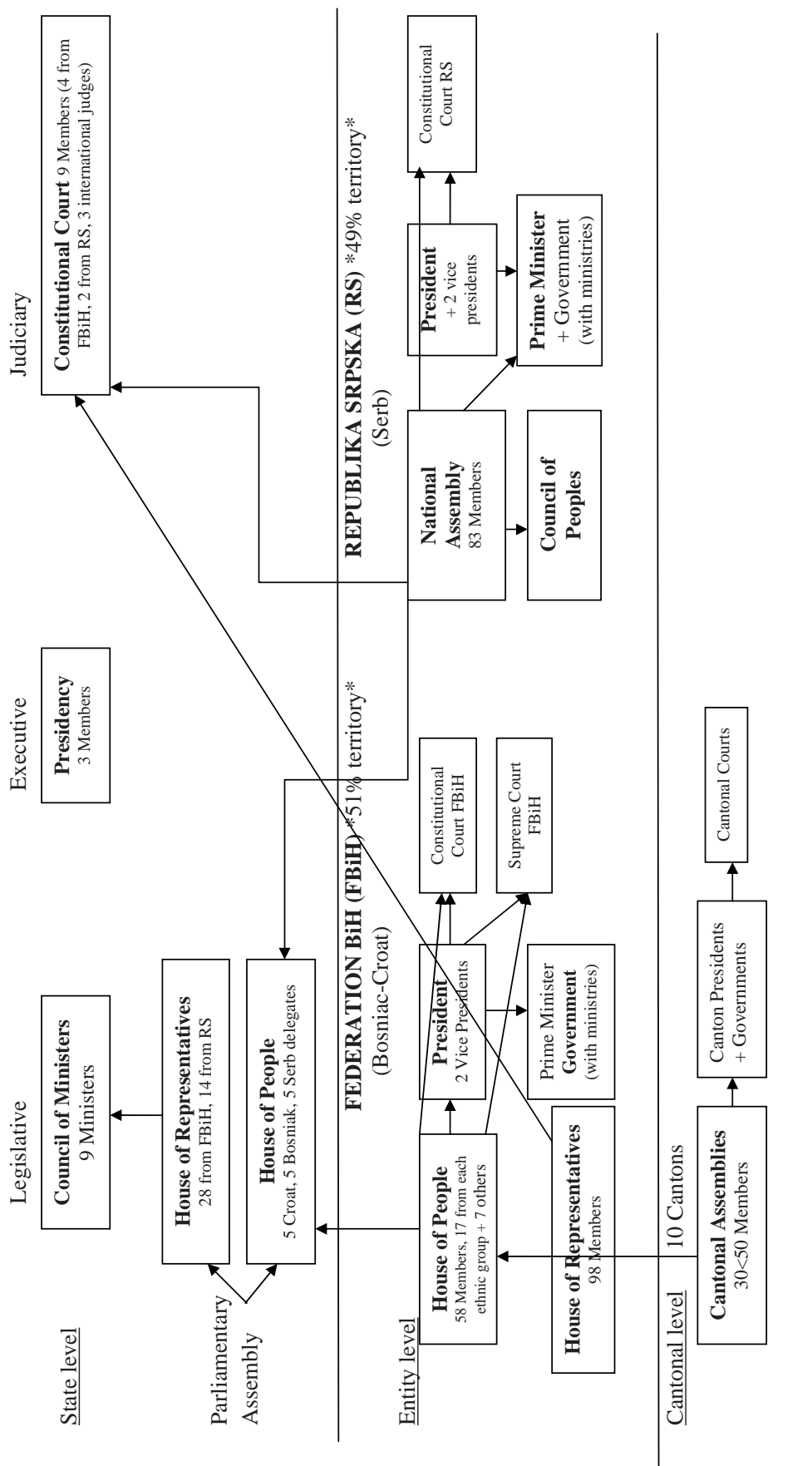
Democratisation in Bosnia-Herzegovina has, from the beginning, been an international project: initiated and led by external rather than local actors, its success has always been dependent upon the local political elites' readiness and willingness to accept the project, claim it as their own, and jump on board as active supporters rather than detractors from the process. The local political elites have yet to pass this test. The fact that the democracy agenda has been set and pushed by the international administrators, rather than by political elites, has in fact stalled the democratisation process. The lack of active participation by local actors has indeed significantly impeded progress.

The local political elites and the international community have established a pattern of interaction. One party is trying to push the process of democratisation forward by imposing legislation, removing corrupt politicians from power, and holding the promise of European integration as its main carrot. Its motives are clear: BiH's failure as a state reflects directly on the international community's failure as its administrators. The 'experiment' therefore has to continue running until it starts delivering concrete and definite results in the form of evidence suggesting that the country is indeed assuming responsible control over its own internal management. The activities of the other party – local political elites – are more complex: the three main ethnic groups seem to co-operate best when they team up against the IC. By virtue of not having any (perceived) power, local politicians have gracefully declined to take any blame for the sorry current state of affairs, tending instead to point fingers at the international administration whenever something goes wrong. The relationship between the local political elites and the IC has turned into a tennis game that no one is watching: the people of BiH have grown weary of the lack of results during the past decade, and are understandably disappointed and disillusioned with both its politicians and the IC's inability to truly implement reforms. The only remaining interested spectators seem to be the governments of the Western countries footing the bill of BiH's current expensive bureaucratic apparatus – those sitting in the Peace Implementation Council. Implementing peace has proven to be a pricy project, and one that Western countries are more than eager to bring to a close in the Balkans.

The multiplicity of transitions in BiH hardly simplifies the already complex situation: aside from the 'traditional' ones (war to peace, a centralised to a free market economy, communism to democracy), the country is currently struggling with its arguably most complex transition: from the Dayton-set to a sovereign, democratic, economically viable and institutionally functioning Bosnia and Herzegovina. This last transition also seems to be a precondition for the success of the other three transitions mentioned earlier. With stakes as high as these, it is prudent to keep a close watch on BiH, the OHR and the developments between local political elites in the coming months. Everyone seems to be running on borrowed time at the moment, and the decisions and activities of the next High Representative may be crucial for either easing – or further straining – the relationship between the local political actors and the international community. The key issues to be decided on are the scope and nature of the mandate of what is likely to be the country's last High Representative: it is probable that a sweeping score of reforms will be imposed from above onto domestic political institutions. This eventuality will pose a great challenge for local political elites: it will test their maturity and staying power on a political scene that will be significantly altered once the OHR has been dismantled and transformed into a less intrusive EU representation. One thing is certain: as long as the IC administration continues its presence and domestic political elites waste their time on divisive issues such as ethnicity, semi-sovereignty will continue to hamper Bosnia and Herzegovina's path to democracy.

18 Grugel, Jean: *Democratization: A Critical Introduction*, Palgrave: 2002, pp. 80–83

Figure 1: BiH Constitutional/Administrative Political Setup



Note: Arrows indicated source of nomination of candidates. Where no arrows are indicated, it stands for direct election of the representatives through national/entity/cantonal elections.