

The Republika Srpska Debate in Bosnia and Herzegovina: A Premonition of Successful Power-Sharing or a Blueprint for Secession?

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Introduction

In light of the unilateral declaration of independence of Kosovo, a joke has resurfaced in recent weeks about the accession of the countries of the former Yugoslavia into the European Union. As the country disintegrated into five, then six, and now seven smaller states, each with its eyes set on future EU membership, the incentive for even more dissolution is clear: an independent Republika Srpska, Vojvodina, Istria, Herceg-Bosna, Posavina, and more would allow Tito's former homeland to ultimately wield significant power within the EU, even voting as a bloc to shift policy in its favor. As this process of subtle domination continued, the "original" EU members, already discomfited by talk of "ever closer union" and the feared invasion of Polish plumbers (or worse, Bosnian bakers!), increasingly withdraw from certain aspects of the Union, ultimately leaving a new "core" membership of.....the former Yugoslavia.

This is funny because it contains an element of truth. The former Yugoslavia represents everything that is dangerous about the often contradictory notions of state sovereignty and the self-determination of peoples. While Kosovo has been in the headlines for years in this regard, however, an even more interesting, and disturbing case, is that of the Republika Srpska (RS). For the past several years, Bosnia and Herzegovina (BiH) has been embroiled in an acute political crisis, the core issue of which is the extent to which the RS may act as an autonomous entity (virtually) free of state-level control and interference- and in turn what this means in practice to the non-Serbs living on its territory. This debate is in essence one based on contradictory interpretations of both the war and the compromise Dayton Peace Agreement that ended it, and it reflects BiH's post-war crisis of "stateness."²

Whose Dayton?

At the time of this writing, the post-war peace-and state-building processes in BiH are at a tenuous crossroads. After initial and tentative successes in statebuilding (e.g., in terms of progress in the areas of rule of law, property law, intelligence, defense, indirect taxation and education), since 2005 there has been a steady retreat in the international community's state-strengthening efforts, and a simultaneous lack of such reform efforts by domestic actors. The premature disengagement of the international community before the irreversible establishment of the reform agenda in the BiH political arena led to political inertia that culminated most disturbingly in the failure of constitutional reform in April 2006, and police reform in late summer 2007. The High Representative's response to the latter - imposing changes to decision-making procedures in the state-level government and parliament - was effectively overturned by the RS, thereby revealing that those forces supporting a stronger and more functional state, including the international community, had less strength, will and resolve than those content with the dysfunctional and ethnically discriminatory status quo.

¹ All opinions and recommendations included in this summary are the author's alone.

² Fukuyama, Francis. " 'Stateness' First." *Journal of Democracy* 16.1 (2005): 84-8.

Broadly speaking, there are two ideological camps in post-Dayton BiH. Post-war idealists, consisting of (to varying extents) the international community (IC) and moderate, anti-nationalist BiH citizens, together with Bosniak and some Croat politicians and parties, seek a system of stronger and enhanced state institutions (though perhaps for different reasons) at the expense of the entity-based system.³ They seek a liberal interpretation of the Dayton Accords and the BiH Constitution within, and share a sense that a failure to create a functional and strengthened state is tantamount to legitimizing ethnic cleansing. The parameters of Dayton, in addition to ending the war, are viewed as a starting point for the reconstruction and consolidation of the state; Dayton is seen as the floor and not the ceiling.

Political realists, including the Bosnian Serb leadership and their constituency, Russia, and to an increasing extent the European Union and critics of the international experiment in post-Dayton BiH, interpret the Dayton Constitution as a framework for a highly devolved state in which the center holds the absolute minimum competencies. The war is framed in an “all sides were guilty” lens, and the post-war demographic and geographic realities simply accepted. In this view, the RS is a region that gained its legitimacy through Dayton, and should therefore be viewed as any other regional political unit, such as Flanders or Catalonia.

Which Precedent is Dangerous?

While countless op-eds have been written about Kosovo independence and concerns over the likely precedent its recognition would set, the potential precedent of the RS is much more concerning, regardless of one’s ideological bent, than are the vulnerable dominoes of its quasi-state counterparts in the Balkans and the former Soviet Union- and for a number of reasons. The RS is not a product of centuries or even generations of population changes; it is not bounded by natural geographical markers; and it does not have any historical basis. It is, quite simply, the construct that remained after the ethnic cleansing and military campaigns of 1992 (and later 1995) purged this territory of non-Serbs, resulting in a boomerang-shaped region that proclaimed itself the Republika Srpska as war swept the country.⁴

For the first time in post-World War II Europe, over the course of just about three years - from 1992 until the signing of Dayton in late 1995 – a completely new territorial construct was born, reified and legitimized. And ironically, over the course of the past decade, and with increased frequency since 2006, there is talk of organizing a “democratic referendum” in the RS on the question of secession. If such a move were conducted and tolerated, it would be proof that an *ad hoc* polity can change the ethno-territorial facts on the ground and then retroactively seek and acquire “democratic” legitimacy.

³ It must be pointed out that Bosniak and Croat politicians and parties in support of the international community’s state-strengthening efforts do not necessarily support these policies in a spirit of goodwill and democratic compromise. Bosniaks would enjoy a plurality in the country, Croats seek a stronger state role in affairs to minimize their status as the smallest constituent people in the country and the de facto junior partner in the Federation of BiH, and together, they could potentially form a coalition to counter initiatives put forth by the Bosnian Serbs. However, there have recently been signs that the Croats could retreat from this state-focused approach in favor of continued fragmentation as the constitutional reform debates continue in a zero-sum trajectory.

⁴ For information on the numbers of human losses during the war, see the Research and Documentation Center web site at www.idc.org.ba.

Does it Matter?

Until the reversals of the past two years, BiH was making progress (albeit non-linear and imperfect) in its state-strengthening enterprise. A constitutional court decision affirmed the equality of all “constituent peoples” (i.e., Bosniaks, Serbs, and Croats) throughout all of the BiH territory. Return has happened, though it cannot come close to reversing the wartime displacement. State structures were established. Fear began to evaporate. Hate speech was increasingly removed from classrooms and textbooks. And citizens throughout the country reveled in their shared disgust of politicians, though continuing to vote for them along ethnic lines. But just as these advances were beginning to take modest root, there was a retreat by the international community, and support for moderate voices was steadily withdrawn, allowing hardliners to regroup. The consequences are continuing to play out.

The implications of the ultimate outcome of post-Dayton BiH’s stateness experiment should not be viewed as regionally limited or specific, for whether or not BiH continues to exist as a functioning, multinational state will send a strong signal to other weak, heterogeneous states. The alternative to successful, effective power-sharing within a democratic state is a system of continually fragmented, ethnically-defined statelets, and an increasing marginalization of social diversity and basic human and minority rights.⁵ Such an unwieldy world order would suit few. It could also have the perverse effect of generating an incentive to “create new facts on the ground” and “clean up the map.”

Future Research Opportunities

There are many avenues ripe for research with the aim of preventing future similar crises of stateness. First, how can democratic transitions, or post-conflict peace-building initiatives, most effectively be supported by the international community? How can the international community shepherd fragile states through transition processes, balancing the inherently conflictual process of open elections with the long-term need to establish good governance and human rights, and how can such efforts be best sequenced?

Second, while the phrase “ethnic conflict” can serve to neatly boil down complex situations into immutable, age-old “us vs. them” disputes, the term merely serves to cloud the real power interests that often fuel and drive a conflict – power struggles for wealth, land, people and influence that quite often override notions of ethnic or tribal commitment and affiliation. The academic and policy communities would do well to better understand the power dynamics that really drive conflicts, and the spoilers who benefit.⁶ Identifying ways to effectively marginalize real or potential spoilers should be a crucial step before institution-building and peace support initiatives can begin; otherwise peacemakers can find themselves asking the arsonist for permission to put out an ongoing fire.

Third, more research is needed on the “dogs that didn’t bark.” Why *don’t* secessionist claims happen in places that are heterogeneous? Why do some multinational or multiethnic states and communities enjoy stability, while others do not? Why does power-sharing work in some cases, and not in others, and is it possible to replicate such strategies in other more restive places? Or do cases like Scotland, Belgium and Quebec – wealthy, developed and

⁵ Consider for example Donald L. Horowitz’s arguments in “The Cracked Foundations of the Right to Secede,” *Journal of Democracy* 14.2 (April 2003): 5-17.

⁶ Stedman, Stephen John . “Spoiler Problems in Peace Processes.” *International Security*, 22.2 (1997): 5-53.

democratic – suggest that the notion of the independent nation-state has been seared into our collective global consciousness?

Lessons to be Learned and Policy Recommendations

A Long-term Strategy of Development and Engagement

While the United States has been eager to reduce its presence in the Balkans to free up resources for other global priorities, this is not the time for a reduction of interest or support. The European Union accession process is not enough to ensure the consolidation of a stable, truly multinational BiH, as membership requirements are overwhelmingly apolitical and technical in substance, are not tailored for a situation like BiH, and do not address the issues of internal ethno-political divides. The U.S. should acknowledge that continued and long-term engagement in the Balkans is useful to its own foreign policy interests for many reasons: the U.S. has invested heavily in the region in terms of effort and resources since Dayton and cannot afford to fail; the U.S. would not benefit from a future failed state in the region; if ultimately successful, lessons learned in the relatively tame theater of BiH in terms of democracy-building and state-strengthening could be applied to other future regions of interest; and continued support can send a signal to other conflict and post-conflict regions that the U.S. takes state-strengthening seriously.

It should do this by remaining engaged politically (through the Peace Implementation Council, regional organizations and its diplomatic presence), through support to project work that combines concrete development with reconciliation (“hearts and minds”) efforts, a U.S. military guarantee through NATO membership and planting a strong foothold in the region in terms of NATO peacekeeping training centers, educational programs, increased investment and BiH-based regional economic initiatives. The U.S. should also support the country’s constitutional reform debates and efforts, with an aim of ensuring a strong and functional state and as much of a civic approach to governance as possible under the Dayton constitution.⁷ Finally, the U.S. should support BiH’s bid for EU membership, but should urge the EU to ensure that such membership is contingent upon confirmation of BiH’s sovereignty, real progress in human rights, substantive reform in areas critical to the efficient functioning of the state and the consolidation of a more moderate political environment, through, among other efforts, constitutional reform.

From the Nation-state to the Civic State

As long as the Westphalian notion of the nation-state retains primacy in thinking and policy, ethnic cleansing and partition (in either order) will continue to be an accepted method of seeking stateness and legitimacy. The policy community must find improved ways of removing the incentive of a disgruntled group to declare oneself a state. This will not be simple, but it could be achieved through a dedicated combination of democracy building, development and adherence to international human rights conventions. Ensuring the devolution of governance/subsidiarity in democratizing countries, though under a framework of state-level/international guiding principles, can meet community and higher level political and social interests. Developing stronger mechanisms for diversity and minority rights

⁷ One interesting option could be the notion of *municipalization*, or the strengthening of the lowest levels of government to better represent local communities and ensure real citizen participation. See “Understanding and Breaking Bosnia and Herzegovina’s Constitutional Deadlock: A New Approach for the European Union and United States. Democratization Policy Council, February 2008, available at www.democratizationpolicy.org.

within a civic state context in regional and global discussions can provide a voice for all people. Further, election systems that promote moderation and prevent/discourage simple voting along ethnic lines should be supported.

In conclusion, it is imperative to highlight to an international community increasingly impatient or bored with the Balkans that in fact much change has been achieved, and that state building efforts – in any region – take time and patience. Premature exit (there is no *real* strategy) can have the consequence of simply ripping out embryonic roots, abandoning moderate voices to illiberal powerbrokers. The lessons to be learned regarding state building, power-sharing and post-war reconstruction in the Balkans would have – if both appreciated and applied – likely foreshadowed many of the challenges the U.S. and others are still facing in Kosovo, Afghanistan, Iraq and beyond. They could also help in development and state-strengthening efforts in regions where war has not yet erupted, though latent political struggles simmer. The question U.S. policymakers must ask is how the effort in BiH can yet succeed, for if a multinational, democratic state cannot be successfully consolidated in Europe's backyard, there is little hope for other such parts of the world. That would be a dim vision of the future, and one marked by separation, segregation and conflict that would ultimately come at a high human cost.