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### The EU and Southeastern Europe: the rise of post-liberal governance

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# The EU and Southeastern Europe: the rise of post-liberal governance

DAVID CHANDLER

**ABSTRACT** *This article suggests that EU governance in Southeastern Europe reproduces a discourse in which the failures and problems which have emerged, especially in relation to the pace of integration and the sustainability of peace in candidate member states such as Bosnia-Herzegovina, have merely reinforced the EU's external governance agenda. On the one hand, the limitations of reform have reinforced the EU's projection of its power as a civilising mission into what is perceived to be a dangerous vacuum in the region. On the other hand, through the discourse of post-liberal governance, the EU seeks to avoid the direct political responsibilities associated with this power. Rather than legitimise policy making on the basis of representative legitimacy, post-liberal frameworks of governance problematise autonomy and self-government, inverting the liberal paradigm through establishing administrative and regulatory frameworks as prior to democratic choices. This process tends to distance policy making from representative accountability, weakening the legitimacy of governing institutions in Southeastern European states which have international legal sovereignty but lack genuine mechanisms for politically integrating society.*

The EU's discourse of governance enables it to exercise a regulatory power over the candidate member states of Southeastern Europe<sup>1</sup> while evading any reflection on the EU's own management processes, which are depoliticised in the framing of the technocratic or administrative conditions of enlargement. In this way responsibility for the integration process and any problems which might arise are seen to have their roots in the institutional frameworks (both formal and informal) which are held to reproduce non-rational, non-liberal, or politically 'immature' outcomes in the autonomous political processes of Southeastern European elites and their interaction with their societies.<sup>2</sup> The discourse of governance reinterprets the limits to the EU's external attempts at social and political engineering of its 'near abroad' as indications that the EU should try harder and be more 'hands on' in its assistance to external support for institutional change, often referred to as state building.<sup>3</sup> In this discourse the problem is the autonomy or the sovereignty of candidate states, rather than their lack of independence to make and implement their own policies.

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The post-liberal discourse of governance is very different from the modern liberal discourse of government. While government presupposes a liberal rights-based framing of political legitimacy in terms of autonomy and self-determining state authority, the discourse of governance focuses on technical and administrative capacity, or the way of rule, rather than the representative legitimacy of policy making or its derivational authority.<sup>4</sup> This shift is vital to understanding the discursive framework in which the EU can export good governance and claim a legitimate authority to judge the capacities of new member and of candidate states in Southeastern Europe. The discourse of governance is, in this respect, one in which the external engagement of the EU is seen as a prerequisite for policy progress rather than as an exception to the norm in need of special justification, and one where the legitimacy of this intervention, and of the policy prescriptions attached to it, is judged in technical or administrative terms rather than liberal democratic ones.

The governance discourse critiques sovereignty, not on the basis of a liberal discourse of external intervention, undermining formal political and legal equality, but on the basis of the need for external expertise to develop and build capacity in the institutions of rule. In the terminology of influential policy analysts Claire Lockhart and Ashraf Ghani this external governance assistance does not undermine sovereignty, rather it supports it through overcoming the ‘sovereignty gap’: the technical and administrative weaknesses of Southeastern European new members and candidate states.<sup>5</sup> The European Union has become the exporter of governance *par excellence* through the enlargement process, in which candidate states have been member-state built.<sup>6</sup>

The EU has been keen to promote itself as a policy leader in the field of governance and this has been taken up supportively by academic commentators, keen to emphasise that the EU is unique as a policy actor, exercising ‘soft power’, ‘normative power’, or building a ‘voluntary empire’.<sup>7</sup> In this way the EU’s exercise of power and influence is contrasted positively to the ‘neocolonial’ or ‘hard power’ approaches of the USA or of the individual member states. This article seeks to problematise some of these assumptions about the EU’s governance discourse on Southeastern Europe and suggests that the technocratic and administrative legitimisation of external intervention is not beyond criticism in both normative and practical policy terms.

The article briefly reviews the EU’s governance framework, both in terms of the institutionalist paradigm and the mechanisms of implementation in Southeastern Europe, operationalised through the rubric of member-state building, and traces their development since 1999, particularly in relation to the Stabilisation and Association process. It seeks to highlight briefly how the EU has denied its power in the very processes of exercising it, through:

- presenting its diktat in the language of ‘partnership’ and country ‘ownership’;
- internationalising the mechanisms of its domination by engaging a multitude of external states and international organisations;

- internationalising or Europeanising the candidate states' core institutions of governance; and
- engaging with and attempting to create a policy-advocating 'civil society'.

It concludes by considering some of the limitations to the post-liberal governance discourse of member-state building.

### **The institutionalist paradigm**

The West European states, collectively operating as the EU, could not avoid being the determining influence in the political and economic affairs of Southeastern Europe with the end of the Cold War. The problem that the EU faced was how to manage this position of power and influence. According to the report of the International Commission on the Balkans, chaired by former Italian prime minister Giuliano Amato, *The Balkans in Europe's Future*:

If the EU does not devise a bold strategy for accession that could encompass all Balkan countries as new members within the next decade, then it will become mired instead as a neo-colonial power in places like Kosovo, Bosnia and even Macedonia. Such an anachronism would be hard to manage and would be in contradiction with the very nature of the European Union. The real choice the EU is facing in the Balkans is: Enlargement or Empire.<sup>8</sup>

This quotation sharply sums up the dilemma facing the EU, which appeared to face two unpalatable options: either to leave the Southeastern European states to manage their own affairs and problems or to take on an increasingly formalised responsibility of managing them themselves. The response of the EU has been to develop a 'Third Way', a method of intervention and regulation, but one that does not formally undermine the sovereignty and legal independence of Southeastern European states. This third way approach is that of the post-liberal discourse of governance: external regulation without formal responsibility for governing and policy making in the region. In this way the governance discourse of enlargement has enabled discussion of EU engagement to be framed outside the traditional understandings of sovereignty-based international relations: either respecting sovereign autonomy or coercively intervening to undermine sovereignty in the establishment of protectorate relations.

The discourse of governance asserts that it is supportive of autonomy and sovereignty but as a policy aim or policy goal to be achieved in the future.<sup>9</sup> This framework enables interventionist practices and conditionalities to be posed as capacity building in the Southeastern candidate states rather than as impositions denying or undermining their sovereignty. The policy practices bound up with the discourse of governance are those of state building.<sup>10</sup> Whereas traditional liberal discourses presupposed sovereignty and political autonomy as the condition of statehood, the governance discourse sees statehood as separate from sovereignty (seen as the capacity for good governance). The institutionalist approach of governance understands the

problems at economic, social and political levels as a product of poor institutional frameworks, which have been unable to constrain actors' pursuit of self-interest in irrational or destabilising ways. This discourse operates at the formal levels of state institutions and the informal level of civil society.

*The formal level of state institutions*

Institutionalist approaches to governance are legitimised on the basis that the autonomy of state-level political processes is potentially dangerous and destabilising. The starting assumption with regard to member-state building in Southeastern Europe was that external engagement was necessary for both the interests of the European Union and for the citizens of Southeastern European states themselves. The European Commission asserted that:

The lack of effective and accountable state institutions hampers the ability of each country to co-operate with its neighbours and to move towards the goal of closer integration with the EU. Without a solid institutional framework for the exercise of public power, free and fair elections will not lead to representative or accountable government. Without strong institutions to implement the rule of law, there is little prospect that states will either provide effective protection of human and minority rights or tackle international crime and corruption.<sup>11</sup>

The problems identified in the governance sphere were not with the formal mechanisms of democratic government or the electoral accountability of government representatives but were concerns that went beyond procedural questions of 'free and fair elections' to the administrative practices and policy choices of governments and the attitude, culture and participation levels of their citizens. Where the traditional liberal agenda focused on processes rather than outcomes, and free and fair elections were seen to be the main indicator of representative and accountable government, under the post-liberal framing of governance institution building was now held to be the key to democratic development. According to the Commission, strengthening state institutions was vital for 'assuring the region's future, being as relevant to human rights and social inclusion as it is to economic development and democratisation'.<sup>12</sup>

The EU's approach to institutional governance reform has been described as implying no less than the 'reforming and reinventing [of] the state in Southeastern Europe'.<sup>13</sup> As the European Stability Initiative observed:

A new consensus is emerging among both regional and international actors that the most fundamental obstacle to the advance of democracy and security in South Eastern Europe is the lack of effective and accountable state institutions. Strengthening domestic institutions is increasingly viewed as the key priority across the diverse sectors of international assistance, as relevant to human rights and social inclusion as it is to economic development and democratisation.<sup>14</sup>

The international institutions, involved in stabilising and integrating the Southeastern European states within European structures,<sup>15</sup> have

consistently viewed the governance agenda as their central concern in the region. Today the argument is still often repeated that many states in the region lack sufficient capacity and suffer from historical ‘path dependencies’ which have undermined the relations between states and their societies.<sup>16</sup> One typical expression of this framing was that of Valentin Inzko, the Austrian official serving as the EU’s High Representative in Bosnia when, in August 2009, he put the lack of political progress down to the fact that he felt that Bosnia suffered ‘from a “dependency syndrome” that dates back centuries, to when it was part of the Ottoman Empire’.<sup>17</sup>

*The informal level of civil society*

In the discourse of governance the concept of civil society is used quite differently from the conceptualisation in traditional political discourses of liberal modernity. Whereas, for traditional conceptions of civil society, the autonomy of civil society as a sphere of association and citizenship was seen as a positive factor, for the EU, civil society is seen as problematic and in need of external intervention and regulation. Civil society highlights the problematic nature of autonomy, understood as irreducible differences which risk conflict if they are not regulated via the correct institutional mechanisms. In the distinctive use of difference in this context of external engagement the concept of civil society is used in ways which reflect and draw upon pre-modern concepts problematising and essentialising difference, especially the pre-existing discourses of race and culture.

Regarding civil society the European Commission was even more forthright in its condemnation of the aspiring Southeastern European members involved in the Stabilisation and Association process:

None of the countries can yet claim to have the level of vibrant and critical media and civil society that is necessary to safeguard democratic advances. For example, public and media access to information, public participation in policy debate and accountability of government and its agencies are aspects of civil society which are still largely undeveloped in all five of the countries.<sup>18</sup>

In this case the potential accession states from the region could apparently not even make a ‘claim’ that they could safeguard ‘democracy’ in their states without external assistance in the form of civil society capacity building. In fact, the Commission was clearly concerned as much by society in the region as by government, arguing that the aim of its new programmatic development was necessarily broad in order ‘to entrench a culture ... which makes forward momentum towards the EU irreversible’.<sup>19</sup>

The way in which civil society relates to earlier framings of race and especially of cultural distinctions can be seen in the understanding of the problems of ethnic or regional divisions within Southeastern European societies. Here civil society is seen as weak or problematic and as undermining external attempts to reform and improve governance. Education is often highlighted as especially important in terms of transforming societal informal institutional structures. For example, Claude Kiffer, who runs the

Organisation for Security and Co-operation in Europe (OSCE) education department in Bosnia, suggests that ‘the absence of genuine education reform designed to bring future citizens together undermines all other reforms so far ... The system is producing three sets of citizens who do not know anything about the others and have no intercultural skills.’<sup>20</sup> David Skinner of Save the Children further argues that education systems are problematic in the region as they apparently fail to ‘produce citizens with critical thinking skills’.<sup>21</sup>

The good governance agenda, with its institutionalist emphasis on state-level institution building and civil society development, became established in the 1990s, reflecting the regulatory power which the EU had over the region, enabling external institutions to take an active interest in questions which were previously seen to be ones of domestic political responsibility. This transformation in relations of power and influence is a crucial determinant for the governance discourse and in explaining the post-liberal interventionist thrust of external policy making. The Commission argued that its focus on building the capacity of state institutions and civil society development reflected not only the importance of this question and the clear needs it had identified, ‘but also the comparative advantage of the European Community in providing *real added value* in this area’.<sup>22</sup> It would appear that the Southeastern European states were fortunate in that their wealthy neighbours to the West had not only identified their central problems but also happened to have the solutions to them already at hand.

### Co-production of sovereignty

In the governance agenda sovereignty is no longer understood as something that inheres to state institutions *per se*, but rather as a variable quality or capacity for good governance. For those tasked with building the ‘sovereignty’ or the governance capacity of other states, the traditional liberal discourse, which assumed sovereign autonomy to be a positive quality, has little purchase. Stephen Krasner, Robert Keohane, Ashraf Ghani and Clare Lockhart and other observers have commented positively on the EU’s approach to the ‘co-production’ of the sovereignty of Southeastern European states, or the EU model of ‘shared sovereignty’ or ‘conditional sovereignty’.<sup>23</sup> This post-liberal framing of sovereign rights and legitimacy has been shaped by the governance discourse of ‘partnership’ and ‘country ownership’. Such concepts have been central to the Stabilisation and Association Process (SAP) which was launched in May 1999 to cover Albania, Bosnia-Herzegovina, Croatia, Macedonia, Serbia and Montenegro.

The SAP is the cornerstone of the EU policy of exporting its governance agenda through ‘anchoring the region permanently to the development of the EU itself’.<sup>24</sup> This ‘anchoring’ is seen as crucial to the encouragement of reforms in the governance sphere, relating to the rule of law and democratic and stable institutions. The legitimacy of the EU’s relationship of regulation is based on two grounds: the recognition by Southeastern European elites of the need to reform to meet the governance prescriptions of the EU; and the

EU's offer to provide financial assistance, with the promise of EU membership at some point in the future. The policy of aid in return for the EU's regulatory control over the reform process was underpinned by the CARDS (Community Assistance for Reconstruction, Development and Stabilisation) assistance programme providing €4.65 billion over 2000–06. In 2007 this process was streamlined as the Pre-Accession Assistance Programme (available to candidate countries and potential candidates in the region) with €11.5 billion available from 2007 to 2013.<sup>25</sup> The legitimacy of this buying of external influence is bolstered by the promise of EU integration, ie 'on a credible prospect of membership once the relevant conditions have been met'.<sup>26</sup>

In 2000 the EU Zagreb Summit endorsed the SAP objectives and conditions, namely the prospect of accession on the basis of the Treaty on European Union and the 1993 Copenhagen criteria, the CARDS assistance programme, and the countries' undertaking to abide by the EU's conditionality and to participate fully in the SAP process. Ahead of the EU–Western Balkan summit in Thessaloniki in 2003 the General Affairs and External Relations Council adopted the Thessaloniki agenda for moving towards European integration, strengthening the SAP by introducing new instruments to support reform and integration efforts, including European Partnerships, this time including Kosovo, as governed under the auspices of UN Security Council Resolution 1244, within its remit.<sup>27</sup> The European Council argued that, for the Southeastern European states, the process of formulating the SAP contract would be 'both pedagogical and political'.<sup>28</sup> The 'pedagogical' aspect of the process highlights the relationship of subordination involved. As the EU reported, this process: 'has proved an effective means of focusing authorities' minds on essential reforms and of engaging with them *in a sustained way to secure implementation*'.<sup>29</sup>

The European Commission emphasised that there is 'a close *partnership* with SAP countries'.<sup>30</sup> This partnership was held to start by involving countries closely in the programming, including discussions on CARDS and Pre-Accession Assistance strategies; countries would also be involved in ongoing dialogue on developing annual action plans. The European Commission strongly emphasised the importance of country 'ownership':

This partnership helps promote each country's sense of *ownership* over Community assistance that is crucial if it is to have the desired impact on the ground. This national commitment is all the more important for . . . institution building, which require the countries to undertake reforms if the assistance is to be effective.<sup>31</sup>

Country ownership is clearly central to the EU SAP. However, it is clear that the promotion of 'ownership' was being pushed by the EU itself and does not involve any real equality of input over policy guidelines. While the formal regulatory mechanisms emphasise 'partnership' and 'country ownership', at the informal level real ownership is exercised by the European Commission, which guides donor co-ordination and works closely with the major international institutional actors, such as the World Bank.<sup>32</sup> For example, once the Stabilisation and Association Agreements (SAAs) were signed the

relationship of regulation became fully institutionalised (the SAAs are legally binding international agreements).<sup>33</sup>

The first SAA agreement was signed with Macedonia in April 2001 and entered into force in 2004. The second, with Croatia, was signed in October 2001 and entered into force in 2005. Albania signed up to the formal process of negotiating the SAA in 2003 and Serbia and Montenegro and Bosnia-Herzegovina in November 2005. The agreements were ‘the principal means to begin to prepare themselves for the demands that the perspective of accession to the EU naturally entails’.<sup>34</sup> These demands were determined by the EU and considered to be so onerous that the Southeastern European states would need the additional encouragement of conditionality:

The Stabilisation and Association Agreements, then, are posited on respect for the conditionality of the Stabilisation and Association process agreed by the Council. But they also bring with them a dynamic means of operationalising that conditionality and give the EU the leverage necessary to get the countries to adopt genuine reforms with a view to achieving the immediate objectives of the agreements. The mechanisms of the Agreements themselves will enable the EU to prioritise reforms, shape them according to EU models, to address and solve problems, and to monitor implementation.<sup>35</sup>

The EU attains the necessary ‘leverage’ over states in the region through conditionality at three levels—the SAP, programme and project levels. At the SAP level, lack of progress in the reforms advocated by the EU in the economic, political and social spheres can lead to financial assistance being frozen or ‘granted through other means’.<sup>36</sup> If the EU chooses, it can invoke ‘programme conditionality’, threatening to close certain aid programmes if the country concerned fails to satisfy the external administrators with regard to ‘specific reform targets or adoption of sectoral policies’.<sup>37</sup> ‘Project level conditionality’ can apply to ensure that the candidate state meets ‘specific conditions’ judged to be related to the project’s success.

The SAP is a contractual relationship. But a contract made between two unequal parties, with only one party being the judge of whether the conditions of the contract are met and in a position to coerce the other. From the EU perspective, the political strategy towards the region ‘relies on a realistic expectation that the contract it enters into with individual countries will be fulfilled satisfactorily’.<sup>38</sup> The contracts commit the Southeastern European states to a relationship of subordination to EU mechanisms. They establish formal mechanisms and agreed benchmarks which enable the EU to work with each country towards meeting the required standards and focus attention on key areas of EU governance concern.<sup>39</sup>

CARDS programmes of assistance, the major external aid associated with the SAP, focused clearly on EU-defined priorities. The first priority institution-building area in terms of overall CARDS support is:

Familiarisation of the *acquis communautaire* as countries start to move their legislation—especially on areas covered under the SAA—more into line with the

approaches used inside the EU. This will focus on core *acquis* issues relating to the internal market.<sup>40</sup>

This is followed by civil service reform to develop ‘administrative procedures in conformity with EU standards’, fiscal and financial management reforms, trade and customs regulation and reform of the legal and administrative framework of justice and home affairs.<sup>41</sup>

The European Commission’s desire to impose a pre-established governance agenda of institutional reform seems to assume that there is a ‘one size fits all’ method of strengthening Southeastern European government institutions as it enforces its ‘leverage’ over the region through a number of similar mechanisms of conditionality with the emphasis upon EU managerial control and ‘co-ordination’ of external directives, together leaving little doubt that the SAP process is far from one of ‘partnership’. Yet the ‘partnership’ element has been central to keeping the EU’s options open with regard to the membership process. As Christopher Bickerton notes, partnership does not just conceal the power inequalities involved in the process of integration, preventing candidate states from negotiating the transitional measures adopted by existing members. It also helps to mitigate tensions and uncertainties of existing member states about enlargement by creating a flexible framework in which the vicissitudes of internal EU institutional wrangling can be played out as problems with the pace of capacity building and ownership in the applicant states.<sup>42</sup>

The process of relationship management with the candidate countries in the region has been much more interventionist and regulatory than the enlargement process that involved the states of Central Eastern Europe. Allegedly the Southeastern European states are too weak to be left to their own devices in meeting the conditions of the accession process. The more ‘hands-on’ approach of the SAP is held to be essential for the EU to replicate the success of the enlargement process in earlier rounds. Here, where states are weaker, state building is part of the enlargement process itself. For the process of state building the EU needs to have much more leverage than in relation to the Central Eastern European states. From the perspective of the EU administration the reforms being insisted upon are in Southeastern European states’ own interests; they are held to be legitimate policy goals in their own right and so cannot be left to publics to decide upon. In these circumstances EU conditionalities operate as a process of relationship management rather than merely establishing the end goals of membership of the EU club.

The centrality of conditionality in the Stabilisation and Association process in Southeastern Europe is rarely fully drawn out. There is an assumption that conditionality is explicitly projecting the EU’s norms and values in a way which promotes democracy and strengthens state institutions. In fact, the reality is very different. Accession states have formally decided to accede to the EU and, in this respect, their decision is a voluntary and autonomous one. However, the decision to sign up to the Stabilisation and Association process blurs the clarity of the relationship between the EU

and aspirant states. This is because the accession states are signing up to a process where the conditionality is an ongoing one. The democratic and voluntary aspect of the process, in effect, ends with the signing of the agreement as the ongoing steps and conditions are managed by bypassing the democratic political process. From the position of the EU the candidate countries only need to make one democratic decision, which is to subordinate themselves to the accession process. The process of aligning policy with the needs of the EU *acquis* then allows little room for democratic consideration as the policy process becomes an external one, where the external advisers state why policy reforms need to be made and when they need to be achieved, leaving the specific content up to local authorities, albeit with external advice and support.

It is important to realise that the incremental use of conditionalities is not some technical process, it is entirely political. When the EU is considering which ‘benchmarks’ are important or what level of reforms are necessary for the next stage, a large number of factors come into play, including ‘enlargement fatigue’, which tends to add further conditions to satisfy member states which are more hostile to enlargement; broader policy concerns with security or crime and corruption; and specific views with regard to the perceived needs of state building in particular aspirant states. Incrementalised conditions are designed to ensure that the process of EU relationship management continues: this blurs the clarity of goals with a focus on the means. In other words, the process of external state building takes centre stage.

### **Governance not government**

In many ways the relationship of inequality between elected representatives in the region and the external regulatory bodies, such as the EU, is highlighted in the international regulation of Bosnia and Kosovo. Bosnia and Kosovo, rather than standing out as exceptions because of the restrictions on local sovereignty and self-government—thereby institutionalising a relationship of inequality and external domination—in fact indicate with greater clarity the problems of post-liberal governance, at the levels of institutional reform and civil society intervention, in the context of an unequal ‘partnership’. In both Bosnia (under the administrative regulation of the international Office of the High Representative) and Kosovo (where the highest civilian power is the International Civilian Representative)—both these positions being ‘double-hatted’ with the position of EU Special Representative (EUSR)—there are elected governments at local, regional and state levels. In both cases the international administration is held to be part of a contractual process moving towards ‘ownership’, self-government and integration into European structures.<sup>43</sup>

In Bosnia the EU is in the process of winding down the executive powers of the High Representative and the key question is how conditionality can be used to provide the leverage previously provided by the threats of dismissals and direct imposition by the Office of the High Representative.<sup>44</sup> The SAP is

seen to be contractually tying-in and committing politicians to work on the EU road. Conditionality is not about final membership conditions, which are open-ended because of uncertainty over enlargement criteria—which depend on a number of political considerations, not some abstract set of technical or administrative factors. Conditionality is a process of relationship management which aims at incremental progress to ensure that reforms happen without stand-offs between politicians and EU administrators. The conditionality of the SAP is seen to be about the day-to-day management of the accession and reform process, with the EU officials wary of conflict if they ask for ‘too much too soon’. This delicate process of reform management transforms the political centre from the domestic sphere to the international one. The EU is not just deciding upon its own standards for new members; the EU policy engagement in the states of the region and the EU Special Representatives (EUSR) are important political factors in the societies which they seek to manage, attempting to make delicate political decisions on how to move the reform process forwards.

Here the distinction between ‘hard’ and ‘soft’ powers in the context of the EU’s relationship with Southeastern European states is not of fundamental importance. Once tied into the SAP, the alleged ‘pull of Brussels’ (EU conditionality) is no different from, for example, the ‘push from Bonn’ (the executive powers of the Office of the High Representative). The EUSR does not need to use executive powers once the policy process is institutionalised and incremental conditionality is used to oversee the policy process, setting the timetable for reforms and the policy content. While the fact that Bosnian politicians themselves vote for the requirements of EU accession is vital for the EU’s own credibility, the fact that policy is presented to the legislature as a *fait accompli* makes the policy process little different when viewed from the domestic perspective.<sup>45</sup> Whether the policy is brought with the ‘hard’ threat of dismissals or with the ‘soft’ threat of funding withdrawals and the stalling of the accession process, there is still little opportunity for political parties to debate upon policy alternatives. The external framework of policy making means that political parties negotiate with the international administrator behind closed doors rather than with each other in public.<sup>46</sup>

This process of political management under the auspices of the SAP, or the ‘soft power’ pull of Brussels, results in not just an externally driven political process but in one that is openly manipulative. Rather than clarifying what EU membership will involve, the pressure is for elites to evade open or public discussion and instead to attempt to buy social acquiescence. The strategic use of conditionalities also means that the EU openly seeks to turn political issues into technical ones in order to massage and facilitate the reform process.<sup>47</sup> This was clear in Bosnia when police reform was billed as a technical necessity and conditional for signing the SAA, at a time when there was no agreed EU framework for centralised policing.<sup>48</sup> This was an attempt to reshape the Dayton framework and weaken the powers of the Bosnian Serb entity but framed as a technical necessity. This instrumental and manipulative use of conditionality can also be seen in ongoing discussions to use human rights requirements to reform the tri-partite voting for the

Bosnian presidency. Rather than openly state policy goals, which would be controversial, the dynamic is to push controversial reforms under the guise of technical or administrative necessity. The political shaping of Western Balkan society by external managers tends to degrade the entire political process, highlighted by the hollowing out of the opportunities for domestic debate and engagement, encouraging the collaboration of political elites and external administrators against the wishes and aspirations of citizens of West Balkan states.

It is in this context that the post-liberal conception of the role of civil society becomes important. The EU argues that it is more democratic than elected representatives and has shared interests with the citizens of South-eastern European states. For example, opinion polls in Bosnia show that the overwhelming majority of the population support joining the EU; this is the case for each of the three main ethnic constituencies.<sup>49</sup> For the EU its interests are therefore the same as those of the Balkan peoples: there is a mutual interest in a better future of peace, stability and prosperity. The claim is that the EU is therefore not forcing anything on anyone.

However, the passive opinion poll support for the EU is not reflected in major political party positions. The national question still plays a defining role for many Southeastern European states for fairly obvious reasons. Rather than take on board the realities of the region, EU officials argue that the EU needs to ‘help bridge the gap’ between political elites and the people. This ‘gap-bridging’ is held to be the task of civil society. Civil society groups are funded and encouraged to talk about single issues which the EU is keen to promote—from the importance of small and medium enterprises to issues of jobs, crime, corruption and healthcare. The EU argues that its missions and Special Representatives listen to the people and civil society, while the elected politicians do not.

This ‘democratic’ discourse, which portrays the EU as the genuine representative of the people against their illegitimate or immature politicians, fits well with the allegations that politicians do not have the citizens’ public interests at heart and therefore must be motivated by private concerns of greed and self-interest. It also tends to discount the votes expressed in elections as being the product of elite manipulation or electoral immaturity. The process of conditionality around an external agenda is then seen to be thwarted or blocked by the processes of domestic representation (much as the Irish electorate were seen to be irrationally blocking the Lisbon treaty, implying that the votes of the public should count for less than the consensus of international experts).

This elitist discourse then results in a manipulative view of conditionality, where political decision making seeks to evade public accountability. In Bosnia EU experts and political elites talk about a ‘window of opportunity’ for reforms; this window is alleged to be after the last municipal elections in October 2008 and before the next state-level elections in 2010. A process of manipulation develops where politics is actively excluded from the public sphere and decision making is a matter of elite negotiation with Brussels. In short, the EU is reproducing itself in Southeastern Europe. EU member-state

building in the region is a clear example of the limitations of the post-liberal governance discourse. Where states have a tenuous relationship to their societies, the relationship management of the EU sucks the political life from societies, institutionalising existing political divisions between ethnic or national groups by undermining the need for public negotiation and compromise between domestic elites.

The externally driven nature of the policy process means that political elites seek to lobby external EU actors rather than engage in domestic constituency building. Even more problematically, the fact that it is in political elites' and EU officials' interests to keep the process of relationship management going means that local political elites are increasingly drawn away from engaging with their citizens (in a similar way to political elites in member states). Rather than exporting democracy and legitimising new state structures, the process of EU member-state building in Southeastern Europe is leading to a political situation in which the voters and the processes of electoral representation are seen to be barriers to reform rather than crucial to it.

### **The post-liberal state**

States that are not designed to be independent political subjects in anything but name are a façade without content. States without political autonomy may have technically sound governance and administrative structures on paper but the atrophied political sphere hinders attempts to reconstruct post-conflict societies and overcome social and political divisions. The states created, which have international legal sovereignty but have ceded policy-making control to external officials in Brussels, lack organic mechanisms of political legitimation as embodiments of a collective expression of the will of their societies. Their relationship of external dependency upon the EU means that the domestic political sphere cannot serve to legitimise the political authorities or reconstruct their societies.

Bosnia is the clearest case of a new type of post-liberal state being built through the EU enlargement process of distancing power and political responsibility. To all intents and purposes Bosnia is a member of the European Union; in fact more than this, Bosnia is the first genuine EU state where sovereignty has in effect been transferred to Brussels. The EU provides its government, the international High Representative is an EU employee and is the EU's Special Representative in Bosnia. This EU administrator has the power to impose legislation directly and to dismiss elected government officials and civil servants. EU policy and 'European Partnership' priorities are imposed directly through the European Directorate for Integration.<sup>50</sup> The EU also runs the police force, taking over from the United Nations at the end of 2002, and the military, taking over from NATO at the end of 2004, and manages Bosnia's negotiations with the World Bank. One look at the Bosnian flag—with the stars of the EU on a yellow and blue background chosen to be in exactly the same colours as used in the EU flag—demonstrates that Bosnia is more EU-orientated than any current member

state.<sup>51</sup> However, the EU has distanced itself from any responsibility for the power it exercises over Bosnia; formally Bosnia is an independent state and member of the United Nations and a long way off meeting the requirements of EU membership.

After 14 years of state building in Bosnia there is now a complete separation between power and accountability.<sup>52</sup> This clearly suits the EU, which is in a position of exercising control over the tiny state without either admitting it into the EU or presenting its policy regime in strict terms of external conditionality. Bosnia is neither an EU member nor does it appear to be a colonial protectorate. Bosnia's formal international legal sovereignty gives the appearance that it is an independent entity, voluntarily engaged in hosting its state-capacity-building guests. Questions of aligning domestic law with the large raft of regulations forming the EU *aquis* appear as ones of domestic politics. There is no international forum in which the contradictions between Bosnian social and economic demands and the external pressures of Brussels' policy prescriptions can be raised.

However, these questions are not ones of domestic politics. The Bosnian state has no independent or autonomous existence outside the EU 'partnership'. There are no independent structures capable of articulating alternative policies. Politicians are subordinate to international institutions through the mechanisms of governance established, which give EU bureaucrats and administrators the final say over policy making. The Bosnian state is an artificial one; but it is not a fictional creation. The Bosnian state plays a central role in the transmission of EU policy priorities in their most intricate detail. The state here is an inversion of the sovereign state central to liberal modernity. Rather than representing a collective political expression of Bosnian interests—expressing self-government and autonomy ('Westphalian sovereignty' in the terminology of state builders)—the Bosnian state is an expression of an externally driven agenda.

The more Bosnia has been the subject of external state building, the less it has taken on the features of the traditional liberal state form. Here the state is a mediating link between the 'inside' of domestic politics and the 'outside' of international relations, but rather than clarifying the distinction it removes the distinction completely. The imposition of an international agenda of capacity building and good governance appears internationally as a domestic question and appears domestically as an external, international matter. Where the liberal paradigm of sovereign autonomy clearly demarcated lines of policy accountability, the post-liberal paradigm of international governance and state building blurs them. In this context domestic politics has no real content. There is very little at stake in the political process. In fact, political responsibility for policy making disappears with the removal of the liberal rights-based framework of political legitimacy.<sup>53</sup>

### Conclusion

For external state builders the subordination of politics to bureaucratic and administrative procedures of good governance is a positive development.

In functional terms they argue that sovereignty, and the political competition for control of state power that comes with it, is a luxury that Southeastern European states often cannot afford. Robert Keohane, for example, argues that many states now negotiating EU ties are ‘troubled societies’ plagued by economic, social and ethnic divisions, which means that elections can be highly problematic ‘winner-take-all’ situations. In these states unconditional sovereign independence is a curse rather than a blessing and conflict can be prevented by enabling ‘external constraints’ on autonomy in exchange for institutional capacity building.<sup>54</sup>

Post-transition and post-conflict states, such as those in Southeastern Europe, stand in desperate need of a state-building project which can engage with and reconstruct society around a shared future-orientated perspective. What they receive from European Union state builders is external regulation, which has, in effect, prevented the building of genuine state institutions that can engage with and represent social interests. These weakened states are an inevitable product of the technical, bureaucratic and administrative approach exported under the paradigm of post-liberal governance.

## Notes

- 1 This article focuses on the pre-accession states, Albania, Bosnia-Herzegovina, Croatia, Macedonia, Serbia, Montenegro and Kosovo.
- 2 For example, see the UK Shadow Foreign Secretary, William Hague’s view of the need to extend the EU’s ‘strong outside pressure’ to overcome the political blockages to reform in Bosnia, in N Morris, ‘Bosnia is back on the brink of ethnic conflict, warns Hague: Shadow Foreign Secretary fears “Europe’s black hole” is slowly falling apart again’, *Independent*, 12 August 2009, at <http://www.independent.co.uk/news/world/europe/bosnia-is-back-on-the-brink-of-ethnic-conflict-warns-hague-1770638.html>, accessed 18 September 2009.
- 3 See D Chandler, *International Statebuilding: The Rise of Post-Liberal Governance*, London: Routledge, 2010.
- 4 European Commission, *European Governance: A White Paper*, Brussels, 25 July 2001, at: [http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001\\_0428en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf), accessed 18 September 2009. For a development of the policy discourse of governance, see, for example, the seminal World Bank papers highlighting the shift towards institutionalist approaches: *Sub-Saharan Africa: From Crisis to Sustainable Growth: A Long-Term Perspective Study*, Washington, DC: World Bank, 1989; *Governance and Development*, Washington, DC: World Bank, 1992; *The State in a Changing World: World Development Report 1997*, New York: Oxford University Press, 1997; and *Assessing Aid: What Works, What Doesn’t, and Why*, New York: Oxford University Press, 1998.
- 5 A Ghani & C Lockhart, *Fixing Failed States: A Framework for Rebuilding a Fractured World*, Oxford: Oxford University Press, 2008.
- 6 See, for example, F Trauner, ‘From membership conditionality to policy conditionality: EU external governance in South Eastern Europe’, *Journal of European Public Policy*, 16(5), 2009, pp 774–790; H Grabbe, *The EU’s Transformative Power: Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke: Palgrave, 2006; and M Leonard, *Why Europe will Run the 21st Century*, London: HarperCollins, 2005.
- 7 See, for example, I Manners, ‘Normative power Europe: a contradiction in terms?’, *Journal of Common Market Studies*, 40(2), 2002, pp 235–258; H Sijursen (ed), ‘Special Issue: What Kind of Power? European Foreign Policy in Perspective’, *Journal of European Public Policy*, 13(6); and R Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century*, London: Atlantic Books, 2003.
- 8 International Commission on the Balkans, *The Balkans in Europe’s Future*, 2005, p 11, at <http://www.cls-sofia.org/en/books/the-balkans-in-europe-s-future-28.html>, accessed 18 September 2009.
- 9 See Michel Foucault’s discussion of the development of institutionalist approaches in the critique of liberal assumptions of the autonomous subject in inter-war Germany, especially the links between the Frankfurt school of critical theory and the Freiburg school of ordo-liberalism, both heavily influenced by the phenomenology of Edmund Husserl. M Foucault, *The Birth of Biopolitics: Lectures at the Collège de France 1978–1979*, Basingstoke: Palgrave Macmillan, 2008, p 120.

- 10 For institutionalist approaches the problem is not the economic and social relations *per se* but the formal and informal institutions of the societies concerned, which are held to prevent or block the market from working optimally. See the theoretical framing developed in DC North and RP Thomas, *The Rise of the Western World: A New Economic History*, Cambridge: Cambridge University Press, 1973; DC North, *Structure and Change in Economic History*, New York: Norton, 1981; and North, *Institutions, Institutional Change and Economic Performance*, Cambridge: Cambridge University Press, 1990.
- 11 European Commission, *Regional Strategy Paper 2002–2006: CARDS Assistance Programme to the Western Balkans*, 2001, p 11, at [http://www.reliefweb.int/library/documents/2001/ec\\_balkans\\_22oct.pdf](http://www.reliefweb.int/library/documents/2001/ec_balkans_22oct.pdf), accessed 18 September 2009.
- 12 *Ibid.* See also H Storey, 'Human rights and the new Europe: experience and experiment', *Political Studies*, 43, 1995, pp 131–151.
- 13 EastWest Institute and European Stability Initiative, 'Democracy, security and the future of the Stability Pact for South Eastern Europe: a framework for debate', 2001, p 18, at [http://www.esiweb.org/pdf/esi\\_document\\_id\\_15.pdf](http://www.esiweb.org/pdf/esi_document_id_15.pdf), accessed 18 September 2009.
- 14 *Ibid.*, p 18.
- 15 The EU's process of governance regulation of Southeastern Europe has involved close integration with a large number of non-EU actors, such as the OSCE, UN agencies and the international financial institutions, and a variety of informal and *ad hoc* institutional experiments, with leading examples being the Contact Group, the EU-led Stability Pact, the Peace Implementation Council (for Bosnia) and the International Steering Group (for Kosovo).
- 16 See, North, *Institutions, Institutional Change and Economic Performance*, pp 93–94.
- 17 C Whitlock, 'Old troubles threaten again in Bosnia: 14 years after war, leaders suggest US should step in to rewrite treaty', *Washington Post*, 23 August 2009, at <http://www.washingtonpost.com/wp-dyn/content/story/2009/08/22/ST2009082202479.html?sid=ST2009082202479>, accessed 18 September 2009.
- 18 European Commission, *Regional Strategy Paper 2002–2006*, pp 10–11.
- 19 European Commission, *The Stabilisation and Association Process for South East Europe: First Annual Report*, COM(2002)163 final, 4 April 2002, p 8, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0163:FIN:EN:PDF>, accessed 18 September 2009.
- 20 A Cerkez-Robinson, 'Bosnia's ethnic divisions are evident in schools', Associated Press, 22 August 2009, at <http://www.google.com/hostednews/ap/article/ALeqM5jtMzf4gX7WCrEY0Zz7aMNZV7uP3gD9A82CJG0>, accessed 18 September 2009.
- 21 *Ibid.*
- 22 European Commission, *Regional Strategy Paper 2002–2006*, p 9, emphasis added.
- 23 R Keohane, 'The ironies of sovereignty: the European Union and the United States', *Journal of Common Market Studies*, 40(4), 2002, pp 743–765; S Krasner, 'The case for shared sovereignty', *Journal of Democracy*, 16(1), 2005, pp 69–83; and Ghani & Lockhart, *Fixing Failed States*.
- 24 European Commission, *The Stabilisation and Association Process and CARDS Assistance 2000 to 2006*, European Commission Paper for the Second Regional Conference for South East Europe, 2001, p 3, at [http://ec.europa.eu/enlargement/archives/seerecon/region/documents/ec/ec\\_sap\\_cards\\_2000–2006.pdf](http://ec.europa.eu/enlargement/archives/seerecon/region/documents/ec/ec_sap_cards_2000–2006.pdf), accessed 18 September 2009.
- 25 European Commission, *Instrument for Pre-accession Assistance (IPA)*, at [http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/instrument-pre-accession\\_en.htm](http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/instrument-pre-accession_en.htm), accessed 18 September 2009.
- 26 European Commission, *The Stabilisation and Association Process and CARDS Assistance 2000 to 2006*, p 3.
- 27 See, for example, European Commission, *Kosovo (under USCR 1244) 2005 Progress Report*, SEC(2005)1423, 9 November 2005, at [http://europa.eu.int/comm/enlargement/report\\_2005/pdf/package/sec\\_1423\\_final\\_en\\_progress\\_report\\_ks.pdf](http://europa.eu.int/comm/enlargement/report_2005/pdf/package/sec_1423_final_en_progress_report_ks.pdf), accessed 18 September 2009.
- 28 European Union, *Review of the Stabilisation and Association Process*, European Union General Affairs Council Report, 11 June 2001, No 9765/01, at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/misc/09765.en1.html](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/09765.en1.html), accessed 18 September 2009.
- 29 *Ibid.*, IIIc, emphasis added.
- 30 European Commission, *The Stabilisation and Association Process and CARDS Assistance 2000 to 2006*, p 7, emphasis in the original.
- 31 *Ibid.*, emphasis in the original.
- 32 *Ibid.*, p 8
- 33 European Commission, *The Stabilisation and Association Process for South East Europe*, p 4.
- 34 European Commission, *The Stabilisation and Association Process and CARDS Assistance 2000 to 2006*, p 3.
- 35 European Union, *Review of the Stabilisation and Association Process*, III.

- 36 European Commission, *Regional Strategy Paper 2002–2006*, p 24.
- 37 *Ibid.*, p 25.
- 38 European Commission, *The Stabilisation and Association Process and CARDS Assistance 2000 to 2006*, p 3.
- 39 *Ibid.*
- 40 European Commission, *Regional Strategy Paper 2002–2006*, p 37.
- 41 *Ibid.*, p 38.
- 42 C Bickerton, 'Rebuilding states, deconstructing statebuilding', paper presented at the SAID Workshop, University of Oxford, 28 April 2005, at <http://www.said-workshop.org/Bickerton.paper.doc>, accessed 18 September 2009. See also J Heartfield, 'European Union: a process without a subject', in CJ Bickerton, P Cunliffe & A Gourevitch (eds), *Politics without Sovereignty: A Critique of Contemporary International Relations*, London: UCL Press, 2007, pp 131–149; and H Grabbe, 'Europeanisation goes east: power and uncertainty in the EU accession process', in K Featherstone & CM Radelli (eds), *The Politics of Europeanism*, Oxford: Oxford University Press, 2003.
- 43 See, for example, W van Meurs & S Weiss, *Qualifying (for) Sovereignty: Kosovo's Post-status Status and the Status of EU Conditionality*, Discussion Paper, 6 December 2005, Guetersloh: Bertelsmann Stiftung, 2005; and D Chandler (ed), *Peace without Politics? Ten Years of International Statebuilding in Bosnia*, London: Routledge, 2006.
- 44 'Little chance of Bosnia joining EU by 2014', *B92*, 22 August 2009, at [http://www.b92.net/eng/news/region-article.php?yyyy=2009&mm=08&dd=22&nav\\_id=61301](http://www.b92.net/eng/news/region-article.php?yyyy=2009&mm=08&dd=22&nav_id=61301), accessed 18 September 2009.
- 45 See P Ashdown, 'The European Union and statebuilding in the Western Balkans', *Journal of Intervention and Statebuilding*, 1(1), 2007, pp 107–118.
- 46 D Farrell, 'Democracy promotion, domestic responsibility and the impact of international intervention on the political life of Republika Srpska', unpublished PhD thesis, National University of Ireland, Maynooth, January 2008.
- 47 G Venneri, 'The EU "hands-off" statebuilding: from Bosnia-Herzegovina to Kosovo', paper presented at the International Studies Association's 49th Annual Convention, San Francisco, 26 March 2008.
- 48 See European Stability Initiative, *The Worst in Class: How the International Protectorate Hurts the European Future of Bosnia and Herzegovina*, Berlin: ESI, 2007, at [http://www.esiweb.org/pdf/esi\\_document\\_id\\_98.pdf](http://www.esiweb.org/pdf/esi_document_id_98.pdf), accessed 18 September 2009; and T Muehlmann, 'Police restructuring in Bosnia-Herzegovina: problems of internationally-led security sector reform', *Journal of Intervention and Statebuilding*, 2(1), 2008, pp 1–22.
- 49 See, for example, the Oxford Research International report for the United Nations Development Programme, *The Silent Majority Speaks: Snapshots of Today and Visions of the Future of Bosnia and Herzegovina*, 2007, at <http://www.undp.ba/download.aspx?id=1127>, accessed 12 October 2009.
- 50 See, for example, the 280-page document outlining the timetable for implementing the EU's medium priorities, European Partnership for Bosnia and Herzegovina, *Medium Term Priorities Realisation Programme*, Sarajevo: European Directorate for Integration, nd.
- 51 See further J Poels, 'Bosnia and Herzegovina: a new "neutral" flag', *Flagmaster*, 98, 1998, pp 9–12.
- 52 See Chandler, *Peace without Politics?*
- 53 See Friedrich Ebert Stiftung, *Arithmetic of Irresponsibility—Political Analysis of Bosnian Domestic and Foreign Affairs*, Sarajevo: FES, 2005.
- 54 Keohane, 'The ironies of sovereignty', pp 755–756. See also R Paris, *At War's End: Building Peace after Civil Conflict*, Cambridge: Cambridge University Press, 2004, pp 187–194.

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