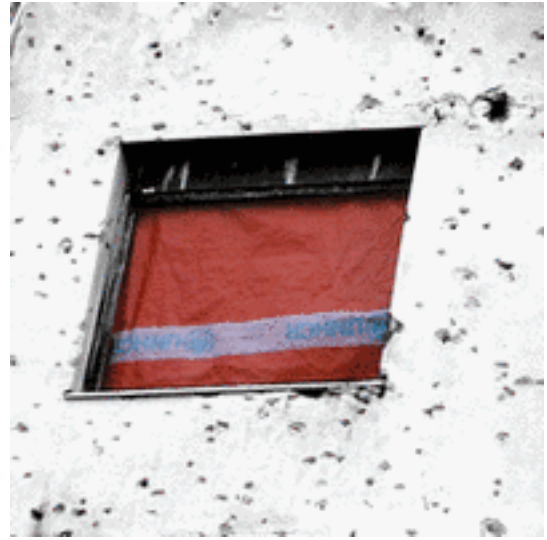


'Good Governance' and the Limits to State-Building in Bosnia

David Chandler | 08 Dec 2009

Recent reports note the stalled nature of progress towards international reform in Bosnia-Herzegovina, with many even making exaggerated claims of the [threat of renewed conflict](#) in the tiny state. Nevertheless, the European Union state-building project in post-conflict Bosnia-Herzegovina has largely been seen as a success, particularly when compared to U.S.-led state-building efforts in Iraq and Afghanistan. Clearly the problems faced in Bosnia have been on a different scale, with a relatively calm security situation. However, on its own terms, international regulation since the end of the conflict has achieved much less than was expected when the international state-building project was implemented following the Dayton Peace Agreement at the end of 1995.



One of the reasons for the relative lack of criticism has been that the EU has managed to present the failures and problems that have emerged, especially in relation to the pace of integration and the sustainability of peace, in ways that have reinforced its claim to have a vital role in the export of an external "good governance" agenda. On the one hand, the limitations of reform have reinforced the EU's projection of its power as a "civilizing mission" into what is perceived to be a dangerous vacuum in the region. On the other hand, through the emphasis on good governance, the EU has sought to avoid the direct political responsibilities associated with this power.

Rather than legitimize its policymaking on the basis of representative legitimacy, the EU's framework of good governance undermines Bosnian autonomy and self-government, by prioritizing administrative and regulative frameworks above democratic choices. The limits to this process are apparent in the tendency to distance policymaking from representative accountability, thereby weakening the legitimacy of governing institutions. As a result, though Bosnia may have international legal sovereignty, it still lacks genuine mechanisms for politically integrating its society.

The policy framework of good 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 good governance focuses on technical and administrative capacity -- the way of rule, rather than the representative legitimacy of policymaking or its derivational authority.

This shift is vital to understanding the methods through which the EU can both export its policy priorities and claim a legitimate authority to judge the capacities of new member and candidate states. The export of good governance presents the EU's external engagement as a *prerequisite* for policy progress, rather than as an *exception* to the norm of sovereignty that requires special justification. It is an

intervention whose legitimacy, and that of the policy prescriptions attached to it, is judged in technical or administrative terms, rather than liberal democratic ones.

The framework of good governance does not critique sovereignty on the basis of an overt discussion of the right to intervene or a responsibility to protect, which would undermine formal political and legal equality. Rather it does so on the basis of the need for external expertise to develop and capacity-build the institutions of rule. In the terminology of influential policy analysts Claire Lockhart and Ashraf Ghani, this external governance assistance does not undermine sovereignty, but rather supports it through overcoming the "sovereignty gap" represented by the technical and administrative weaknesses of states in the region ("Fixing Failed States," Oxford University Press, 2008). Through its enlargement process, in which candidate states have been essentially built by member states, the European Union has become the exporter of good governance par excellence.

The EU has been keen to promote itself as a policy leader in the field of good governance. In this, it has been supported by academic commentators who emphasize that the EU is unique as a policy actor, exercising "soft power" or "normative power," while building a "voluntary empire." Particularly among European commentators, the EU's exercise of power and influence is contrasted positively to the "neocolonial" or "hard power" approaches of the U.S. or of the individual member states. But an examination of the EU's good governance approach to state-building in Bosnia suggests that the technocratic and administrative legitimization of external intervention is not beyond criticism, in both normative and practical policy terms.

Governance not Government

In many ways, the relationship of inequality between elected representatives in the Balkan region and the external regulatory bodies, such as the EU, is highlighted in the international regulation of Bosnia and Kosovo. In both countries, the restrictions on local sovereignty and self-government, which institutionalize a relationship of inequality and external domination, do not stand out as exceptions. Rather, they indicate with greater clarity the problems raised by the export of good governance at the levels of institutional reform and civil society intervention, in the context of an unequal "partnership."

In both Bosnia and Kosovo, there are elected governments at the local, regional and state levels. Meanwhile, the international administration -- in Bosnia, under the Office of the High Representative, and in Kosovo, under the International Civilian Representative -- is "double-hatted" with the position of EU Special Representative (EUSR). 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.

In Bosnia, the EU is in the process of winding down the Bonn executive powers of the High Representative, and the key question is how conditionality can now be used to provide the leverage previously provided by the threats of dismissals and direct imposition by the Office of the High Representative. The EU accession process is seen to be contractual, committing politicians to work toward advancing along the EU road. But conditionality is not about final membership conditions. The latter are open-ended, due to uncertain enlargement criteria that depend not on an abstract set of

technical or administrative factors, but rather on political considerations. Instead, 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.

Conditionality operates through the careful day-to-day management of the accession and reform process, with EU officials wary of conflict that could result from asking for "too much too soon." This delicate process of reform management transfers the central political arena 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 are important political players 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 Balkan states is not of fundamental importance. Once tied into the accession process, the alleged "pull of Brussels" (EU conditionality) is no different from, for example, the "push from Bonn" (the executive powers of the OHR). The EUSR does not need to use executive powers once the policy process is institutionalized 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* means there is little difference in the two approaches when viewed from the domestic perspective. 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 domestic political parties to debate upon policy alternatives. The external framework of policymaking also means that political parties negotiate with the international administrator behind closed doors, rather than with each other in public.

This process of political management under the auspices of accession, or the "soft power" pull of Brussels, results in not just an externally driven political process, but also in one that is openly manipulative. Rather than clarifying what EU membership will involve, the pressure is for Balkan elites to evade open or public discussion and instead to attempt to buy social acquiescence. The strategic use of conditionality also means that the EU openly seeks to turn political issues into technical ones in order to massage and facilitate the reform process.

This was clear in Bosnia when police reform was billed as a technical necessity and conditional for accession, when there was no agreed-upon EU framework for centralized policing. This was an attempt to reshape the Dayton framework and weaken the powers of the Bosnian-Serb entity, but it was 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 stating policy goals, which would be controversial, the current dynamic pushes controversial reforms under the guise of technical or administrative necessity. The political shaping of

Balkan society by external managers tends to degrade the entire political process, hollowing out the opportunities for domestic debate and engagement, and encouraging the collaboration of political elites and external administrators against the wishes and aspirations of the citizens of these states.

It is in this context that the "good governance" 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 Balkan states. For example, opinion polls in Bosnia show that 85 percent of the population support joining the EU, including over 80 percent of each of the three main ethnic constituencies. For the EU, its interests are clearly the same as the Balkan peoples -- namely, a better future of peace, stability and prosperity. 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 Balkan states, for fairly obvious reasons. Rather than take into account 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, with civil society groups funded and encouraged to talk about single issues that the EU is keen to promote -- from the importance of small- and medium-sized 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.

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This "democratic" discourse, which portrays the EU as the genuine representative of the people against the illegitimate or immature politicians, fits well with 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 manipulation by elites or electoral immaturity. The process of conditionality around an external agenda is then seen to be stymied or blocked by the processes of domestic representation (much as the Irish electorate was 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 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, alleged to have begun after the last municipal elections in October 2008 and running through the next state-level elections in 2010. A process of manipulation has developed whereby 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 through the state-building process in states such as Bosnia.

EU member state-building in the region is a clear example of the limitations of this good governance discourse. In states that have a tenuous relationship to their societies, the EU's relationship-management sucks the political life from those societies, institutionalizing 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 the interests of political elites and EU officials to keep the process of relationship-management going means that local political elites are increasingly drawn away from engaging with their citizens (in ways similar to political elites in member states). Rather than exporting democracy and legitimizing new state structures, the process of EU member state-building is leading to a political process in which the voters and the processes of electoral representation are seen to be barriers to reform, rather than crucial to it.

The Governance 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 cohere post-conflict societies and overcome social and political divisions. The states so created, which have international legal sovereignty but have ceded policymaking 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 legitimize the political authorities or cohere their societies.

Bosnia is the clearest case of a new type of "good governance state" being built through the EU enlargement process of distancing power and political responsibility. For 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 the EU's Special Representative in Bosnia. This EU administrator has the power to directly impose legislation and to dismiss elected government officials and civil servants. EU policy and "European Partnership" priorities are imposed directly through the European Directorate for Integration. The EU also runs the police force (having taken over from the United Nations at the end of 2002) and the military (taken 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 that reproduces the colors of the EU flag -- demonstrates that Bosnia is more EU-orientated than any current member state.

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 from meeting the requirements of EU membership.

After 14 years of state-building in Bosnia, there is now a complete separation between power and accountability. 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. The process of aligning domestic law with the large raft of EU regulations appears to be a matter 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 of the EU "partnership." There are no independent structures capable of articulating alternative policies. Politicians are subordinate to international institutions through the established mechanisms of governance, which give EU bureaucrats and administrators the final say over policymaking. The Bosnian state is an artificial one, but it is not a fictional creation, playing 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, 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 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 good governance agenda blurs them. In this context, domestic politics has no real content, and there is very little at stake in the political process. In fact, political responsibility for policymaking disappears with the removal of the liberal rights-based framework of political legitimacy.

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 it brings with it for control of state power, is a luxury that Balkan states often cannot afford. Leading commentators have argued that many states now negotiating EU ties are "troubled societies," plagued by economic, social and ethnic divisions that could turn elections into highly problematic "winner take all" situations. In these states, according to this argument, 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.

Post-transition and post-conflict states, such as those in the Balkans, stand in desperate need of a state-building project which can engage with and cohere society around a shared future-orientated perspective. Instead, 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 "good governance."

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founding editor of "The Journal of Intervention and Statebuilding" and author or editor of numerous books on the subject, including "Peace without Politics: Ten Years of International Statebuilding in Bosnia" (Routledge, 2005); "Empire in Denial: The Politics of Statebuilding" (Pluto, 2006); and "Statebuilding and Intervention: Policies, Practices and Paradigms" (Routledge, 2009).

Photo: Window covered with UNHCR tape, surrounded by bullet holes in Sarajevo, Bosnia (Photo by flickr user neverending licensed under [Creative Commons Attribution Sharke Alike 2.0 Agreement](#)).