The Bosnian Protectorate and the Implications for Kosovo

The international Contact Group proposals for the future of Kosovo, put forward at the Paris/Rambouillet talks, in February 1999—advocating an international Implementations Mission in Kosovo—were based on the provisions of the Dayton Peace Agreement of November 1995, which ended the Bosnian conflict. If NATO gets its way, these plans are likely to be re-proposed. Dayton instituted the division of powers between military implementation of the peace agreement, under NATO authority, and civilian implementation, under an international High Representative, including election and media control under the Organisation for Security and Co-operation in Europe (OSCE). Where Dayton specified a one-year transitional remit for the civilian powers of the High Representative and the OSCE, the plans for Kosovo, ostensibly for three years, were open-ended. The shift at Rambouillet from limited powers of transitional administration to an international protectorate reflected the powerful dynamic extending international involvement in the Balkans. While international armies of monitors, peacekeepers and administrators appear to be ever more necessary for Balkan stability, there is less and less of a role for the people of the region in deciding their own futures.

This article draws on the experience of the last three-and-a-half years implementation of the Dayton Agreement in Bosnia. The purpose is, firstly, to highlight the extent of international powers under the new peace agreements in the region and, secondly, to assess whether this restriction of democracy has in fact created better conditions for community reconciliation and long-term stability.

Extending the Mandates

Like Rambouillet, Dayton was an externally imposed agreement portrayed by the international Contact Group members, who designed it, as a step forward in sovereignty and autonomy. US Secretary of State Warren Christopher noted: 'Now the Bosnian people will have their own democratic say. This is a worthy goal in
and of itself, because the only peace that can last in Bosnia is the peace that the people of the country freely chose.'

According to the Dayton Agreement, there was to be a year of internationally supervised transition, during which there would be elections and the establishment of two types of joint institutions: the political institutions of the new state, which were to be elected and directly accountable to the people; and the economic, judicial and human rights institutions, which were to be supervised through the appointment of representatives from international institutions for five or six years. This year of transition to, at least partial, self-governing democracy was due to end with the election of state and entity bodies in September 1996, symbolizing ‘the democratic birth of the country’. Although these bodies were elected under internationally supervised and ratified elections, the transitional international administration was prolonged for a further two-year ‘consolidation period’ and then, in December 1997, extended indefinitely. The extension of the time limits for international withdrawal and the creation of new mandates for NATO, the United Nations (UN), and the OSCE since Dayton have been justified by growing reference to the ‘spirit’ rather than the letter of the Agreement.

The international community has been free to redefine its mandates in Bosnia because the Dayton Agreement, like its successor at Rambouillet, only bound the Balkan parties to it, not the international organizations who have given themselves the responsibility for implementing it. Ad hoc international forums such as the international Contact Group of the powers most concerned with Balkan issues (the US, Britain, Germany, France, Italy and Russia), and the Peace Implementation Council (PIC, formerly the International Conference on the Former Yugoslavia) meet to decide policy and then call on international institutions such as the UN, NATO, OSCE, European Union (EU), IMF and World Bank to draw up their own plans. None of these ad hoc forums or international institutions are party to or bound by any clauses of the Bosnia or Kosovo agreements.

The lack of constraints on international institutions extending their mandates and powers is revealed by the fact that every international forum on Bosnian policy-making has further extended the network of ad hoc international regulation. The NATO mandate in Bosnia under IFOR (implementation force), due to expire in December 1996, was

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extended for a further eighteen months under SFOR (stabilization force) and then further extended a year later, this time indefinitely. On similar time-scales, the UN, OSCE and Office of the High Representative (OHR) mandates in Bosnia were temporarily and then indefinitely extended. The powers of these institutions were also expanded, giving them a unique scope of authority. Acknowledging the lack of military threat to NATO forces, the new mandate further emphasized the humanitarian, economic and policing roles. The OSCE’s mandate to regulate elections extended from the organization of the election process itself to include novel powers to install post-election administrations and to stipulate the allocation of governing responsibilities, in effect, ratifying elections on the basis of the actions of elected representatives once in post. Along with the official international institutions involved in regulating Bosnia there are also around two hundred international non-governmental organizations involved, on both an official and unofficial basis, in civilian policy implementation. As the Times columnist Simon Jenkins notes, the small Bosnian state has become ‘the world capital of interventionism’.

The High-Handed Representative

The institution whose powers have extended the most since the Dayton Agreement was signed has been the OHR—the office of the international community’s High Representative, or Chief of the Implementation Mission, in Rambouillet terminology. Under the Dayton provisions, it was envisaged that the role of the High Representative would end once new institutions of government were elected in September 1996. After the elections, the OHR was given the authority to draw up two twelve-month ‘action plans’ for the government of the new state. These plans were to be approved by the PIC, not the Bosnian government. In implementing these plans, the international community initially gave lip-service to the democratic mandate of Bosnian politicians, stating that the High Representative could make recommendations to the government and, in case of dispute, make these recommendations public. Six months later, the PIC gave the High Representative the power to set deadlines for compliance with his recommended measures, with the power to impose restrictions on travel abroad for obstructive Bosnian representatives and to impose economic sanctions at a local or regional level in the case of non-compliance. At the same time, he was given the authority to curtail or suspend any media network or programmes which were held to contravene ‘either the spirit or the letter’ of Dayton.

In December 1997, the High Representative’s powers were extended to deciding the time, location and chairmanship of government meetings, enacting measures which had not been accepted by Bosnian authorities, and dismissing non-compliant elected officials at every level of government. The High Representative himself demonstrated the flexibility of international institutional powers over Bosnia, claiming that ‘You do not [have] power handed to you on a platter. You just seize it, if you use this power well, no one will contest it. I have already achieved this’. The absence of obstacles to the extension of international regulation means that the High Representative has more autocratic control than even the colonial administrators of the past: ‘if you read Dayton carefully . . . [it] gives me the possibility to interpret my own authorities and powers’. Today, the OHR has headquarters both in Brussels and Sarajevo, one for developing policy with other international bodies and the other for implementing policy on the ground. The Sarajevo office, nicknamed ‘The Presidency’, is staffed by over two hundred international policy-makers, with units responsible for elections, economic reconstruction, humanitarian issues, legal affairs, media issues, refugee return and political affairs.

Far from facilitating autonomy, the transformation of the Dayton mandates has led to the creation of a US-run international protectorate in Bosnia. President Clinton, the Department of Defense and the Joint Chiefs of Staff have, in practice, established the framework of international engagement in the Bosnian state and the UN, OSCE, EU, World Bank, IMF and other international bodies have run their own empire-building projects within this. Compared with the vast international bureaucratic-military machine of around 50,000 international troops and administrators, the elected institutions have little capacity for policy-making or implementation.

Assessments

There is little evidence that international policy is effective in cohering the new Bosnian state and overcoming the divisions of the war. Instead of strengthening the central institutions of the new state, and facilitating compromise and negotiation, the international administration has removed policy-making capacity from Bosnian institutions. This has weakened the state and entity institutions which seek to unite society and, at the same time, has reinforced ethnic identification.

The constantly expanding role of the multitude of international organizations has inevitably restricted the capacity of Bosnian people to discuss, develop and decide on vital questions of concern. At state level, the Bosnian Muslim, Croat and Serb representatives can discuss international policy proposals under the guidance of the OHR, but, at most, can make minor amendments or delay the implementation of externally prepared rules and regulations. Even this limited accountability has been diminished by the High Representative, who has viewed democratic consensus-building in Bosnian state bodies such as the tripartite Presidency, Council of Ministers and State Parliament as an unnecessary delay to imposing international policy. Compared to the swift signature of the chief administrator’s pen, the working out of democratic accountability through the joint institutions was seen as ‘painfully cumbersome and ineffective’.

At the Bonn PIC summit in December 1997, the ‘cumbersome’ need for elected Bosnian representatives to assent to international edicts was removed and the High Representative was empowered both to dismiss elected representatives who obstructed policy and to impose legislation directly. The international community thereby assumed complete legislative and executive power over the formally independent state.

Dayton divided the Bosnian state into two entities, the Muslim-Croat Federation, with 51 per cent of the territory, and the Serb entity, Republika Srpska (RS), with 49 per cent. There was little autonomy for elected representatives at either entity level. In the Federation, policy has been devised by the OHR in close co-operation with US state officials. The ad hoc Federation Forum co-chaired by the Principal Deputy High Representative and US Assistant Secretary of State met on a monthly basis with Muslim and Croat representatives, to present international proposals, and Special Groups were set up on a similar ad hoc basis to circumvent elected forums and develop policy in different areas. The lack of support among both sides for imposed Federation policies was dismissed by the Senior Deputy High Representative: ‘I don’t care. I am simply not interested in who does not want the Federation:

this is a concept that we will implement . . . We dictate what will
be done.”

In Republika Srpska, the international regulation of policy-making
was even more disputed. The seat of government was moved
from Pale to Banja Luka and IMF and OHR economic packages
prevented the RS régime from raising finances independently
of the international community. In July 1997, the international
community supported the dissolution of the RS Parliamentary
Assembly and overruled the RS constitutional court to force new
elections and then organized the selection of a governing coalition
which excluded the largest party, the SDS (Serb Democratic Party). In
March 1999, before the NATO military campaign over Kosovo, the
High Representative took international interference in entity politics
further by dismissing the newly elected RS President, Nikola
Poplasen.

Consensus Versus Consent

At city and local levels, the international community has similarly
had a free hand to overrule elected representatives and impose policy
under the rubric of multi-ethnic governance. The divided city of
Mostar provides a good example of how this works in practice: seats
are allocated in advance on the basis of ethnicity and then, under
international guidance, ‘consensus’ politics are enforced against the
Croat representatives from West Mostar and Muslim representatives
from East Mostar. International regulation marginalizes Mostari
voters and removes any local accountability for policy-making. In the
disputed region of Brcko, under a Supervisory Order on Multi-Ethnic
Administration, an international administrator regulates the
composition of the consultative assembly and issues binding
regulations. As the Washington Post described, his ‘kingly powers’
extend ‘right down to determining who will live in which house, the
list of required attendees at meetings of the local police chiefs, the
ethnic composition of the local municipal council and the pace at
which privatization will proceed’.

At municipal level, the powers of the international community have
also grown since Dayton. In the first two years of international
administration, international pressure at this level was limited to the
threat of withdrawing reconstruction aid. At the end of 1997, the
international community developed two new lines of approach.
Firstly, using the post-Bonn powers, the High Representative began
to dismiss local mayors who were seen as obstructive. Secondly,
following the extension of the OSCE’s powers for the municipal

14 E. Suljagic, ‘Interview with Senior Deputy High Representative Hanns Schumacher’,
29 May 1998].
elections of September 1997, the international community disregarded election results to impose power-sharing administrations and, in some cases, suspended local assemblies, replacing them with executive boards run by international appointees.  

Dayton promised the decentralization of political power and creation of multi-ethnic administrations in Bosnia in order to cohere state institutions and provide security to ethnic minorities and safeguard their autonomy. The Rambouillet Agreement similarly emphasizes decentralization, protection for national communities and powers for local communal authorities. However, the experience of Dayton suggests that the outcome of this framework will belie any good intentions that lie behind it.

Protection of minorities, promised to the three constituent peoples under Dayton, has not been delivered under the international administration. At state, entity, city and municipal levels, a clear pattern has emerged where elected majorities have been given little control over policy-making. However, this power has not been decentralized to give minority groups security and a stake in government but, rather, transferred to the international institutions and re-centralized in the hands of the High Representative. Today, the international community regulates Bosnian life, all the way down to the minutiae of local community service provision, employment practices, school admissions and sports. Multi-ethnic administrations exist on paper, but the fact that the consensus attained in these fora is an imposed one, not one autonomously negotiated, is important. Compliance with international edicts imposed by the threat of dismissals or economic sanctions does little to give either majorities or minorities a stake in the process, nor to encourage the emergence of a negotiated accountable solution that could be viable in the long term.

Hollow Democracy

The institutions of Bosnian government are hollow structures, not designed to operate autonomously. The Bosnian state’s Council of Ministers, with the nominal role of assenting to pre-prepared policy, has few staff or resources and is aptly described by the OHR as ‘effectively, little more than an extended working group’. Muslim, Croat and Serb representatives have all argued for greater ethnic autonomy in policy-making, and have attempted to uphold the

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rights protected in the ‘letter’ of the Dayton Agreement against the ad-hoc reinterpretation of international powers under the ‘spirit of Dayton’. As an advisor to Bosnian President Izetbegovic noted, there is a contradiction between the stated aims of the international protectorate and its consequences: ‘A protectorate solution is not good, because the international community would bring all the decisions which would decrease all the functions of Bosnia-Herzegovina institutions. The High Representative’s mandate is actually, an opposite one, to strengthen the Bosnia-Herzegovina institutions.’

The frailty of Bosnian institutions has perpetuated the fragmentation of political power and reliance on personal and local networks of support which were prevalent during the Bosnian war. Both Susan Woodward and Katherine Verdery provide useful analyses of the impact on Bosnian society of the external undermining of state and entity centres of power and security. The lack of cohering political structures has meant that Bosnian people are forced to rely on more narrow and parochial survival mechanisms, which has meant that ethnicity has maintained its wartime relevance as a political resource.

It would appear that the removal of mechanisms of political accountability has done little to broaden Bosnian people’s political outlook. The removal of sites of accountable political power has, in fact, reinforced general insecurity and atomization which has, in turn, led to the institutionalization of much narrower political relations in the search for individual links to those with influence and power. The narrowing of the political sphere and reliance on individual survival strategies has assumed a generalized pattern across society. The ‘new feudalism’ noted by some commentators and the continued existence of weak para-state structures in Muslim and Croat areas of the Federation are symptomatic of the vacuum of integrative institutional power at state and entity level, rather than some intrinsically disintegrative dynamic.

The dynamic of the Dayton process has been to institutionalize fears and insecurities through high-handed international rule, disempowering Bosnian people and their representatives. With little influence over, or relationship to, the decision-making process, there is concern that entity boundaries or rights to land, employment and housing can easily be brought into question. The extended mandates of the international institutions have undermined the power of the main

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20 *Bosnia and Herzegovina TV News Summary*, 10 November 1997. Office of the High Representative e-mail service.
political parties and their elected representatives, but have not created
the political basis of a unitary Bosnia, except in so far as it is one
artificially imposed by, and dependent upon, the international
community.

The Anti-Democratic Consensus

There has been little regret over the still-birth of democracy in
Bosnia. And there has been even less critical consideration of the
role that over-extended international regulation has had in
institutionalizing ethnic divisions and weakening political
structures. The international institutions running the small state
have argued that international mandates make for better democracy
than the electoral competition of the ballot box. The Chairman-in-
Office of the OSCE has asserted that the ‘political level’ of the Bosnian
voters is ‘not very high’. The OHR, equally, has little time for
democratic accountability, its representatives alleging that ‘Bosnia is
depressed, sick society, ill at ease with even the most basic principles of
democracy’. The High Representative himself has stated that
elected Bosnian representatives are not serving the real interests of
their voters and, therefore, have no right to challenge his rulings.
These views have been supported by international leaders, the then
German Foreign Minister, Klaus Kinkel, openly confirming that the
international community had little hesitation in moving to take
decisions contrary to the will of the Bosnian people.

Perhaps surprisingly, however, the institution with the lowest
opinion of the Bosnian electorate is the Democratisation Branch of
the OSCE Mission in Bosnia. Jasna Malkoc, a Senior Co-ordinator,
argues that Bosnian people are incapable of handling electoral
competition: ‘Political parties are a new appearance. People do not
know how to cope and neither do their leaders . . . People just follow
the flock’. Central to the Branch’s approach is the understanding
that the Bosnian population, ‘damaged’ or traumatized by the war
and the transition from one-party state regulation, are not capable of
acting independently or making choices between ‘right’ and ‘wrong’.
Taking over the language of empowerment from the psycho-social
counselling work being developed in the war, the new focus is on the
capacity of individuals for democracy, as opposed to broader political
processes, thereby ignoring the impact of international regulation in
shaping the political climate. If anything, the Democratisation

1997.
Representative e-mail service.
27 Interview by the author with Jasna Malkoc, OSCE Senior Co-ordinator for
Branch work of community education and empowerment is more invidious to democracy than the enforced international administration because it implicitly assumes that Bosnian people are incapable of rational choice. Once the capacity of Bosnian people as rational political actors is negated, there is no reason, in principle, for international administration to be seen as merely temporary or transitional, nor for democracy to be seen as preferable.  

Liberal Élitism

This élitist view of the incapacity of Balkan people to cope with democracy has not been challenged by the critics of international engagement in the Balkans. In fact, the most vociferous critics of international policy go further in arguing that there is still too much freedom and autonomy in Bosnia. Ironically, ill-informed liberal critics assert that international institutions have failed to intervene enough to weaken the powers of elected representatives. The Guardian argues: ‘The West’s mistake was to set too much store by holding elections in Bosnia before the conditions were ripe . . . The West allowed Bosnia’s politicians too much power over the last three years [since Dayton].’

Dayton’s critics argue that far too much respect has been given to elected representatives, because the West either has a fatalistic view that there is nothing that can be done about ethnic rivalries or is not willing to commit the resources needed to confront Balkan political élites. While the OSCE and the OHR have an ambiguous attitude towards elections, setting them up as democratic enough to legitimize the governing institutions, but not legitimate enough to allow the dominant parties to challenge the OHR’s right to impose policy, the liberal critics see elections as highly problematic and bad for democracy in Bosnia. In Britain, some of the campaigning liberal press have called for an end to elections and an ‘open-ended occupation’ or a ‘benign colonial regime’.

International proposals for Kosovo at Rambouillet meet these strident interventionist demands. The Kosovar Albanians will receive, as John Pilger notes, ‘only a fake autonomy with far less freedom than they had under the old Yugoslav constitution’. However he errs in thinking that restrictions on democracy favour the Serbs: the Rambouillet accords not only remove Serb and Yugoslav influence over Kosovo but

strike at the heart of Serbian and Yugoslav sovereignty. For example, Appendix B gives NATO personnel ‘free and unrestricted passage and unimpeded access throughout FRY’, ‘NATO is granted the use of airports, roads, rails, and ports without payment of fees, duties, dues, tolls or charges’ and NATO personnel have immunity from prosecution for civil or criminal offences. The inevitable consequence of the Kosovo protectorate and the spread of international regulation in the region will be greater insecurity as both Albanian and Serb wishes are ignored. The errors of Bosnia look set to be repeated and ethnic divisions will be cohered.

Conclusion

Throughout the international engagement with Bosnia, the powers of the international community have expanded with little criticism. This process has continued through the Kosovo crisis. The Guardian boasts that ‘we argued from the start . . . for a land war to capture Kosovo and turn it into an international protectorate’ and its sister paper, The Observer, asserts that ‘the only viable course is to use the Bosnian precedent and establish a NATO protectorate in Kosovo’. This liberal-led consensus has facilitated the denial of democracy under international administration in the Balkans. The historically understood meaning of democracy—legitimacy through popular accountability to the electorate, the demos—has been replaced by a new and opposite meaning: adherence to regulations laid down by external institutions. The idea that Balkan people are ill-suited to democracy and unable to govern themselves has legitimated the growth of international mandates in the region. This dynamic towards Balkan protectorates is reflected in the increase in powers awarded to NATO and the international community under Rambouillet.

This article has attempted to question this consensus and suggest that there is an alternative to the cycle of greater and greater international mandates and the establishment of a new set of protectorates in the Balkans. The one alternative that is never advocated by the interventionists is that of allowing people in the region greater autonomy to develop their own solutions. The international experience of Bosnia suggests that any form of international protectorate will intensify and institutionalize ethnic divisions. The trend towards law-making by international edict makes it impossible for any negotiated compromise to arise between Serbs, Croats and Muslims. In turn, this means that there is little capacity for Bosnian institutions to unify society and overcome divisions. The lesson for Kosovo is that more social autonomy, not less, may be the best path to stability and post-conflict peace-building.