

The Nature and Dynamics of Contemporary Nationalism: Reshaping a  
Modern and Multinational BiH State

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## **Abstract**

This thesis examines the unstable nature and dynamic impact of contemporary nationalism on the arduous process of reconstituting a modern multinational state. The basic research question concerns the relationship between nationalism and multinational democracy, or more specifically how nationalist forces may facilitate or impede the intricate process of political transition, democratic transformation and stabilization of the newly formed Bosnia and Herzegovina as a state.

The findings indicate that nationalism and exclusive ethno-nationalist politics create serious inter-group security challenges and significantly hinder the process democratization, state-building and political transformation. The main obstacle to a coherent political system is based on the fact that nationalism causes an unconstrained reconfiguration of political space. This is apparent in BiH where exclusive nationalist politics continue to dominate the domestic and inter-national political agenda, thus limiting the capacity for political reforms, security and stability. As nationalism is a grave security threat to multinational states, there is a pressing need to manage nationalism with confidence building mechanisms that strengthen the state's capacity to ensure enduring security and stability.

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## CHAPTER ONE

### Containing Nationalism

Nationalism is the most dynamic and potent political force shaping and reshaping the modern world. It is a profound and potentially malignant expression of human and political identities. As a modern and multifaceted political phenomenon, nationalism is more than an ideology, a sentiment or a political principle, which holds that the political (state) and the national unit (nation) should be congruent.<sup>1</sup> Nationalism is rather a highly dynamic and explosive political movement that respects no political boundaries, people or tradition and can solely determine the existence and fate of any people, nation or state. Although at times positive and unifying, nationalism is an extremely disruptive political force and thus a fundamental problem in the study of modern political life, nation-states, and international relations. Nevertheless, because it has repeatedly reappeared, only to reveal many new and various faces, nationalism has over the years challenged numerous academics, intellectuals, and social scientists to define explicitly, study comprehensively, as well as understand fully its nature and dynamic impact.

The study of nationalism, with its permeable boundaries, spans over several scholarly fields<sup>2</sup> and because of its multiple faces and forms,<sup>3</sup> continues to pose severe theoretical and practical problems. The main problem concerns the contested definitions of nationalism and its core components; namely the difference between state and nation.

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<sup>1</sup> Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983).

<sup>2</sup>The study of nationalism overlaps with the study of social and economic history, philosophy, modernization, modern political ideologies, sociology, political science and social anthropology. Yet this phenomenon remains to a large extent alien and incomprehensible to those who are not possessed by it.

<sup>3</sup> In John Hutchinson and Anthony Smith's view, nationalism takes so many new and different forms – religious, conservative, liberal, fascist, communist, cultural, political, protectionist, integrationist, separatist, irredentist, diaspora, pan – that the most that a theorist can do is to study a few aspects or examples of nationalism. John Hutchinson, Anthony D. Smith, *Nationalism* (Oxford: Oxford University Press, 1994), 3.

What makes study even more complex and difficult are the contextual and protean nature of nationalism, since it tends to be very responsive to circumstances and can quickly adopt many different forms. Thus, the purpose of this chapter is to examine and assess the dynamic force and unstable nature of contemporary nationalism, as a highly disruptive and explosive political movement, that is inextricably linked to the instability and insecurity of the newly formed Southeast European state(s) Bosnia and Herzegovina (BiH).

Unadorned nationalism is the central problem in many of the post communist/socialist multinational countries of Europe, and BiH in particular. Nationalism and nationalist forces in the process of the political change, transition, and reconstitution of a modern Bosnian state on the ruins of East European communism stand as a major obstacle and a serious threat to the country's successful political transformation, democratic consolidation and modern day state building. In fact, if this dynamic and powerful political force is left uncontained or uncontrolled it will inevitably impede and prevent the reconstruction of a modern and multiethnic BiH state with a collective Bosnian identity. Furthermore, it will hinder the process leading this new polity toward future stability and eventual European integration.

### **The Concept**

For practical purposes, nationalism may be defined and observed primarily in terms of the politicization of human identities. Specifically, nationalism is an explicit and explosive political movement aimed to realize the interests of the particular nation (seeking power, legitimacy, self-government, self-determination) at the expense of its

enemies. In other words, it is a goal-oriented and ideologically<sup>4</sup> stimulated movement that serves (acts and speaks) on behalf of the nation.

A nation exists only when an active and fairly numerous section of its membership are consciously convinced that it exists.<sup>5</sup> In a particular nation, the individual members give their primary loyalty to their national or rather their ethnic community (those with common characteristics), and interests of the nation then come before and supersede all other interests within the state.<sup>6</sup> In most cases, these types of national communities share the common aspiration and desire to obtain or maintain their own independent nation state. As such, nationalism is a real and an exceptionally dynamic political movement rather than simply being perceived as an imagined political community or a principle of political legitimacy.

The debates over nationalism are often based and revolve around a few fundamental assumptions, key components and disputed definitions of both “the nation” and nationalism. According to Anthony D. Smith, the main theoretical approaches or paradigms, which have fueled major political, historic and sociological debates, are the modernist, perennialist, primordialist, and ethno-symbolist<sup>7</sup> paradigms. Each of these

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<sup>4</sup> Nationalist movements cannot be divorced from the ideology of nationalism. According to A.D. Smith, the ideology of nationalism serves to give force and direction to both symbols and movements. The goals of the sociopolitical movement are defined not by the activities or the personnel of the movement, but by the basic ideals and tenets of the ideology. So the ideology must supply us with an initial working definition of the term nationalism, for its contents are defined by ideologies which place the nation at the centre of their concerns and purposes, and which separate it from other, adjacent ideologies. Anthony D. Smith, *Nationalism* (Cambridge: Polity Press, 2001).

<sup>5</sup> A similar definition, which to a great extent influenced this one, was put forward by Hugh Seton-Watson at a lecture delivered at the Ninth George Judah Cohen Memorial Lecture. Seton-Watson, *Nationalism: Old and New* (Sydney: Sydney University Press, September 14, 1964), 5.

<sup>6</sup> In the case of extreme nationalism, which is the most dangerous and most explosive, the interests of a nation come before all individuals within the state, before the interests of all other communities beyond its borders and before all considerations of morality and religion. *Ibid.*, 5.

<sup>7</sup> Ethno-symbolist is the last of the major paradigms in the field, and a possible fifth paradigm is the “post-modernist” approach. However, postmodernist approach, Smith argues, remains too fragmented and unclear to merit the designation as a paradigm. This is primarily because postmodernism is not

four main paradigms and their adherents provide their own explanations on the fundamental origins, history, formation, and impact of nationalism.

Ernest Gellner, advocate of the modernist paradigm, treats nations and nationalism as a creation, or a sociologically necessary phenomenon of the modern, industrial epoch, emerging in the transition to modernization. In particular, Gellner argues, nations are not only recent, dating from the period of the French Revolution or a bit earlier, they are also novel. Nations and nationalism are products of “modernity” and the whole nexus of processes that went into the making of the West over the last four centuries, including capitalism, industrialism, urbanization, the bureaucratic state and secularization.<sup>8</sup>

At the same time, proponents of the perennialist paradigm, such as John Armstrong and Hugh Seton-Watson, argue that even if nationalist ideology is recent, nations still have pre-modern roots.<sup>9</sup> More precisely, particular nations according to perennialist claims, have always existed, and since they are recurrent and change with time many nations have existed from time immemorial.<sup>10</sup> Perennialism was encouraged

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dependant on reason or logic, and does not seek to uncover an independent objective reality, but rather it simply seeks to transform the foundations of knowledge (theory). Smith, *Nationalism*, 2001. For more on postmodernism see works by Richard Ashley, who is engaged in a project of disciplinary “deconstruction,” exposing the strategies by which particular discourses of power/knowledge in the field construct oppositional conceptual hierarchies and allegedly repress dissent.

<sup>8</sup> But it is not only nationalism that is modern. So are the nations, national states, national identities and the whole international community. All these, for the modernist, are not just chronologically recent, they are also qualitatively novel. The French Revolution inaugurated not just a new ideology, but a new form of human community, a new kind of collective identity, a new type of polity and, in the end, a new kind of inter state order. Anthony D. Smith, “Memory and Modernity: Reflections on Ernest Gellner’s Theory of Nationalism,” *Nations and Nationalism*, 2 (November 1996): 371.

<sup>9</sup> In his book *Nations before Nationalism* Armstrong considers the question of the pre-modern roots of nation. In short, he suggests that one can trace the rise of nations to both religious and secular sources. More explicitly, however, both the Greek polis and Roman patria provided a template for the territorialization of identity. John Armstrong, *Nations Before Nationalism* (Chapel Hill: University of North Carolina Press, 1982).

<sup>10</sup> Similarly Hugh Seton Watson, in his lecture “Nationalism Old and New” claimed that we could in fact distinguish the “old, continuous nations” from later examples that were deliberately created; the

by the idea of social evolution, with its emphasis upon gradualism, stages of progress and social and cultural culmination. However, this paradigm should not be confused with a naturalistic conception of the nation, which is the basis of latter day “primordialism.” All that is necessary for perennialism is the belief, founded on some empirical observation that nations or at least some nations, have existed for a long time.<sup>11</sup>

Although the perennialist paradigm is peculiar to most historians, the primordialist paradigm, on the other hand, tends to be the preserve of social scientists and organic nationalists. Taking their cue from the works of Edward Shils and Clifford Geertz<sup>12</sup> on the importance of more objective or “primordial” ties based on language, religion, race, ethnicity, and territory, proponents claim that nations and ethnic communities are the natural units of history and integral elements of human experience.<sup>13</sup> Primordialists view nationalism as predating modernity, or more specifically the democratization of politics and industrialization in Western Europe between 1780 and 1850.<sup>14</sup>

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former included France, England, Scotland and their longevity lent historical substance to the population’s sense of immemorial nationhood. Seton-Watson, *Nationalism Old and New*, 1964.

<sup>11</sup> Perennialism comes in two main forms. The first, and more common type is “continuous perennialism.” All that is asserted here is that particular nations have a long, continuous history, and can trace their origins back to the Middle Ages, or more rarely antiquity. Here the emphasis falls on continuity. The other form is “recurrent perennialism.” The emphasis here is that a nation in general is perennial and ubiquitous, because it reappears in every period of history and can be found in every part of the globe. Smith, *Nationalism*, 35-50.

<sup>12</sup> In his anthropological work *The Interpretation of Cultures*, Clifford Geertz discusses the role and importance of the ethnographer. Broadly speaking, the ethnographer’s aim is to observe, record, and analyze a culture. More specifically, he or she must interpret signs to gain their meaning within the culture itself. Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973).

<sup>13</sup> Actually, the primordialists are making two separable claims. They are arguing that nations and nationalism are perennial, and that they are natural. Of course, acceptance of the latter proposition entails acceptance of the former; but not vice versa. Anthony Smith, *The Ethnic Origins of Nations* (Oxford: Blackwell Publishers, 1999), 12.

<sup>14</sup> While it might be recognized that the full force of nationalist feelings were released under conditions of modernity, nationalism itself can be found centuries earlier. Christopher Dandeker, *Introduction to Nationalism and Violence*, ed. (New Brunswick: Transaction Publishers, 1998).

The primordialist approach to nationalism is illustrated in the works of both Walker Connor and Anthony D. Smith. However, Smith oscillates between the primordialist and more socio-historical or cultural analysis, encouraged by the ethno-symbolic paradigm. The difference between the historical ethno-symbolism and the previous three paradigms of nationalism is its particular focus on the subjective elements in the persistence of ethnies, the formation of nations and the impact of nationalism. Distinct from perennialists, this paradigm gives more weight to elements of memory, value, sentiment, myth, and symbols, but does not entirely exclude the objective factors from its overall analysis. What is troubling with this approach is that a mix of reductionist ideas with macro history and socio-cultural elements have evolved no theory, and is thus unlikely to be conducive to a clear discussion of nationalism.

Considering each of the four distinct approaches and their theoretical limitations<sup>15</sup> in explaining nationalism as a phenomenon, there is very little agreement among scholars and conceptual clarity amongst the competing paradigms. In fact, the debates concerning nationalism can sometimes be rendered incoherent and confusing because of the mutual incomprehension arising from the use of different analytical concepts, definitions and languages. Regardless, the most prominent, on-going debate and most radical disagreements over the definition of nationalism remain between the adherents of the modernist and primordialist paradigms.

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<sup>15</sup> For example, modernists have been strong on theory, but rather weak on history, whereas perennialists have been rather strong on history, but weak on theory. Primordialism, according to Smith, either has a flawed theory or none, and little or no history, being reductionist (sociobiology) or largely speculative ahistorical (cultural primordialism). As for ethno-symbolists, they are concerned with macro-history and its socio-cultural elements, but they have evolved no theory, but rather only approaches. Smith, *Nationalism*, 61.

According to Ernest Gellner, in his renowned work *Nations and Nationalism*, nationalism is a “primarily a political principle, which holds that the political and the national unit should be congruent.”<sup>16</sup> In fact, Gellner argues that nationalism as a sentiment or as a movement can best be defined in terms of this principle. Nationalist sentiment, he claims, is the feeling of anger aroused by the violation of the principle, or the feeling of satisfaction aroused by its fulfillment.<sup>17</sup> A nationalist movement is one motivated by a sentiment of this kind. In essence, Gellner argues that nationalism is a theory of political legitimacy, which requires that ethnic boundaries should not cut across political ones, and in particular, that ethnic boundaries within a given state should not separate the power holders from the rest.<sup>18</sup>

In contrast, Smith in *Ethnic Origins of Nations*, expands the debate on nationalism and challenges the assumption that nations and nationalism are entirely modern. In particular, he asserts that nations are much older cultural groups, which he calls ethnies<sup>19</sup> or ethnic communities. More importantly, Smith argues that nationalism is a political ideology of solidarity that has continually reappeared in new guises and won out in competition with other ideologies. In fact, it has been one of the most influential of the various doctrinal constellations that have vied for people’s loyalties since the revolution in European philosophy.<sup>20</sup> In other words, nationalism as an ideological movement

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<sup>16</sup> Gellner, *Nations and Nationalism*, 1.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ethnies, according to Smith are based on shared beliefs and commitment. They have shared memories and continuity, engage in joint actions, and are usually connected to a particular territory, even if they do not occupy it. More specifically, the concept can be defined as “a named human community connected to a homeland, possessing common myths of ancestry, shared memories, one or more elements of shared culture, and a measure of solidarity, at least among the elites. Smith, *Nationalism*, 12-13.

<sup>20</sup> The precise date of nationalism’s genesis is a matter of dispute; Kohn tends to favour 1642, Acton the 1772 Partition of Poland, Kedourie 1806, the date Fichte’s famous Address to the German Nation in Berlin. Most, however, opt out for 1789 based on the fact that the Revolution served merely to

draws on the pre-existing histories (structure and culture) of a group and attempts to shape this history into a sense of common identities.

Despite its protean local variation, Smith maintains that nationalism has appeared or at least continues to reappear as a consistent set of demands and beliefs with regard to political and social arrangements. The basic propositions of nationalism, according to Smith, are few but far-reaching, and they can be summarized as follows: the world/humanity is divided into nations, each with its own character, history and destiny; the nation is the sole source of political power; loyalty to the nation overrides all other loyalties; to be free, every individual must belong or identify with a nation; and every nation requires full self-expression and autonomy.<sup>21</sup> This “core doctrine” forms the basic framework of the nationalist vision as it encompasses not only the political domain, but also those of society and culture as well. Accordingly, this doctrine shapes the rationale and impetus for nationalist activity, as well as symbols and institutions that express the idea of the nation.<sup>22</sup> Nationalism, Smith argues, can therefore be treated as a distinct ideological variety of a social and political movement,<sup>23</sup> with a definite “directional tendency,” and a recognizable profile and thrust.<sup>24</sup>

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bring together the elements of the nationalist idea, which were brewing up throughout the previous two centuries. Anthony D. Smith, *Theories of Nationalism* (London: Duckworth, 1971), 27-30.

<sup>21</sup> Elie Kedourie, *Nationalism* (London: Hutchinson, 1960), 1. See also Anthony Smith, *National Identity* (Hammondsworth: Penguin 1991), 74. These propositions embody the common elements in the views of the founding fathers’ of nationalism Rousseau, Herder, Zimmerman, Burke, Jefferson, Fichte and Mazzini as well as their contemporary followers. However, it is also important to note that not all nationalists and national movements have acted in consonance with the ideals inherent in this doctrine. Nationalists have often conducted themselves in such a way as to deny the basic idea, expressed in the first proposition, of a world of nations, suppressing the self-expression, autonomy and even character of other nations when it suited their interests, or the alleged interests of their own nation. Smith, *Nationalism*, 22.

<sup>22</sup> *Ibid.*

<sup>23</sup> A sense of nationalism can inhabit and be produced from whatever dominant ideology exists in a given place. Smith, *Theories of Nationalism*, 3.

<sup>24</sup> *Ibid.*, 6.

### **Key Components: State and Nation**

While both Gellner and Smith's definitions of nationalism are distinctive and diverge based on their specific approach of the phenomenon, they also tend to overlap and emphasize some primary characteristics. They both outline and rely on the crucial concepts of the state and nation. These two components serve to explain how nationalism emerges, grows and develops, as well as how it gains momentum as a dominant political movement. Although some scholars of nationalism are concerned with the strongly contested meanings of these key components, modern studies emphasize the overriding concern with politics of the national state in relation to the development of nations and nationalist political movements.

Yale Ferguson and Richard Mansbach caution that "the state" as a concept has a number of value laden meanings that make it almost useless as an analytical tool and a building block for theory.<sup>25</sup> Nevertheless, it is essential to recognize that the state is a central concept in both political and social theory, and is the key to defining and understanding the nature of nationalism. The state, far from being the only troublesome concept in the field of international relations, is drenched with various normative connotations. Efforts to define the state have inevitably combined views of what it is with what it ought to be; views conditioned by context-bound issues of practical political significance.<sup>26</sup>

In essence, Ferguson and Mansbach argue, the major problem when looking at the state is in deciding what it is exactly.<sup>27</sup> The question is whether "the state" is defined and

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<sup>25</sup> Yale H. Ferguson and Richard W. Mansbach, *The State, Conceptual Chaos, and the Future of International Relations* (Boulder and London: Lynne Rienner Publishers, 1989).

<sup>26</sup> *Ibid.*, 3-4.

<sup>27</sup> *Ibid.*

identified as a Hegelian symbol of collectivist identity, the highest realization of self, or a “nation,” connoting ethnic identity. Perhaps the state refers to a “government,” that is the political institutions, or a legal system, or an “agency” possessing the monopoly of legitimate force.<sup>28</sup> Furthermore, the state can also refer to a “country” with both territorial and perhaps some ethnic overtones, or even some combination of all these things and more. Clearly, there are many ways to perceive and define the state. However, as Ferguson and Mansbach assert, at best, the state can be defined as “government” that is the primary symbol of identity and one that competes with other symbols of identity for the loyalties of citizens.<sup>29</sup> In other words, the state is simply one of many “polities” that competes for human loyalties and that form authority patterns.<sup>30</sup>

The state as government and a symbol of identity has both normative and legal dimensions.<sup>31</sup> This is where politicians and bureaucrats claim a monopoly on the legitimate exercise of coercion (violence) and other sovereign<sup>32</sup> powers within state

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<sup>28</sup> In setting out a simple definition it would be easy to apply Max Weber’s definition of the state “as that agency within society which possesses the monopoly of legitimate violence.” According to this simple definition, violence may be applied only by the central political authority, and those whom it delegates this right. Among the various sanctions of the maintenance of order, the ultimate force may be applied only by one special, clearly identified, and well centralized, disciplined agency within society. That agency or group of agencies is the state. However, this definition, and Gellner also argues, is not very satisfactory. Gellner, *Nations and Nationalism*, 3.

<sup>29</sup> Yale H. Ferguson and Richard W. Mansbach, “Between Celebration and Despair: Constructive Suggestions for Future international Relations Theory.” *In International Studies Quarterly* 35 (December 1991): 363-386.

<sup>30</sup> *Ibid.* In addition to this argument, Walker Connor points to the fact that one of the most fundamental errors involved in scholarly approaches to nationalism has been a tendency to equate nationalism with a feeling of loyalty to the state rather than with the loyalty to the nation. This confusion has led scholars to assume that the relationship of nationalism to state-integration is functional and supportive rather than dysfunctional and defeatist. Walker Connor, “A Nation is a Nation, Is a State, Is an Ethnic Group, Is a...” *Ethnic and Racial Studies* 1 (October 1978): 377-397.

<sup>31</sup> Ferguson and Mansbach, “Between Celebration and Despair,” 370. But as previously mentioned, this is not sufficient or rather a too simplistic definition of the state, because it does not tell us anything about the individual or group behaviour and their loyalties to the state.

<sup>32</sup> Jean Bodin is usually credited with having articulated the notion of sovereignty. In his *Six livres de la republique*, he defines sovereignty as the absolute and perpetual power of a commonwealth/the state. Bodin, *On Sovereignty*, ed. Julian H. Franklin, (Cambridge: Cambridge University Press, 1992). From the vantage point of the global system, state sovereignty, according to John Ruggie, signifies a form of

boundaries. They attempt to establish and maintain social order and an effective legal system, which among other things assures security, justice and stable property rights. Since states are also responsible for providing some collective goods, such as defence, education and infrastructure, it follows that they must also have the capacity to extract revenue (tax) necessary to defray these costs. In short, government institutions and politicians act in the name of the state assuring that all their policies embody the national interest, whatever this may be.

Ever since the early 1980s, a number of contemporary theories of nationalism have stressed the role of the modern state, and more generally, politics in the formation of nations and the development of nationalism. Explicitly, some modernists compellingly argue that the study of nationalism is essentially about the modern state, its political causes, struggle for power and its consequences.<sup>33</sup> This is as true of John Breuilly, as it is of Anthony Giddens's and Michael Mann's interpretations of nationalism, who point out that the focus on the nation as being coterminous with the state demands a predominantly political explanation.<sup>34</sup>

John Breuilly proposed his elaborate modernist political model in *Nationalism and the State*. Nationalism, for Breuilly, is best seen as a modern and purely political movement. In other words, nationalism, as a form of politics, is essentially about power,

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legitimation that pertains to a system of relations based on possessive individualist states. John Ruggie, "Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis," *World Politics* 35 2 (January 1983):261-85.

<sup>33</sup> This hybrid definition on the study of nationalism comes from a cross-reference of John Breuilly's and Michel Hechter's works. Other modern theorists that share Breuilly's view that nations and nationalism have primarily developed in response to the modern state include Michael Mann, "A Political Theory of Nationalism and its Excesses," in S. Perival *Notions of Nationalism* ed. (Budapest: Central European University Press, 1995), as well as Anthony Giddens's interpretation of nationalism.

<sup>34</sup> Michael Mann, "A Political Theory of Nationalism and Its Excesses," 48.

which in the modern world is primarily about control of the state.<sup>35</sup> In fact, nationalism can be seen as an argument for seizing and retaining that control. Its importance lies in its ability to offer a common platform for various elites and sub-elites through mobilization, the coordination of diverse interests and the legitimation of the elite groups' goals. Nationalist movements serve as instruments for achieving political aims or goals and as such they pose a credible challenge to the existing state. In most cases, they essentially aim to either unify the state or to renew it, or, most commonly, to oppose an existing state.<sup>36</sup>

To be precise, Breuille argues that a nationalist argument is a political doctrine built upon three basic assertions. First, there exists a nation with an explicit and peculiar character. Second, the interests and values of a nation take priority over all other interests and values. Third, the nation must be as independent as possible. This usually requires the attainment of at least political sovereignty.<sup>37</sup> In essence, Breuille argues that this "core doctrine" differs from that advanced by Smith (above) mainly by eliminating all propositions involving explicit generalizations beyond the particular nation to which the nationalist appeals. According to these assertions, a nationalist argument can therefore possess a wide appeal only when modern conditions have created a sense of alienation and frustration among many educated people, who then look to doctrines that promise a reintegration of state and society.<sup>38</sup>

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<sup>35</sup> John Breuille, *Nationalism and the State* (Manchester: Manchester University Press, 1983), 2. More specifically, power can be conceived as a combination of persuasive influences and coercive force capable of being used for positive as well as negative purposes, and thus it is a variable of major importance. James Dougherty and Robert Pfaltzgraff Jr., *Contending Theories of International Relations: A Comprehensive Survey*, 5th Edition (Toronto: Addison Welsley Longman, 2001).

<sup>36</sup> Smith, *Nationalism*, 75.

<sup>37</sup> Breuille *Nationalism and the State*, 2

<sup>38</sup> Smith, *Nationalism*, 75.

Contrary to Gellner's argument,<sup>39</sup> where nationalist ideology is considered largely erroneous and irrelevant,<sup>40</sup> Breuille conditionally accepts Smith's claims on the importance of nationalism as an ideology, but makes it only secondary to politics.<sup>41</sup> Specifically, he argues that nationalist ideology matters not so much because it directly motivates most supporters of a nationalist movement, but rather because it provides a conceptual map that enables people to relate their particular material and moral interests to a broader terrain of action.<sup>42</sup> In other words, it arises out of the necessity to ensure a sense of complex social and political arrangements. Nationalist ideology then, as a response to modernity, when deployed in symbolic and ceremonial forms can have a very real power of attraction. However, Breuille also notes, "ideology is not a logical mode of thought and history is not necessarily logic."<sup>43</sup> This implies that one must take nationalist doctrine seriously, but one cannot make it the basis for classifying and explaining nationalist movements. Rather than ideology, Breuille asserts it is the political relations and institutions of the state that shape the goals of nationalism.

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<sup>39</sup> For Gellner, nationalism is the cultural form taken by industrialism. *Nations and Nationalism* (Ithaca: Cornell University Press, 1983) Gellner argues that nations are created by nationalism, which in turn is the cultural form assumed by modernity, that is, modern industrialism. Nationalism in his theory becomes a necessary cultural form, a "high culture." It has no active or direct power, and makes no separate contribution; it simply mediates industrialism through the prism of culture. This, according to Smith, suggests that it does not really matter which form or what intensity nationalism has. Gellner's theory cannot tell as to why nationalism is more benign in some nations and states, more virulent in others, why it creates some nations and destroys the others, why some people encounter religious nationalisms, revolutionary ones, and time and time again racist or destructive nationalisms. Smith, *Nationalism*, 66-7.

<sup>40</sup> Generally speaking, Gellner argues that nationalist ideology suffers from the pervasive false consciousness, its myths invert reality. It preaches and defends cultural diversity, when in fact it imposes homogeneity both inside and, to a lesser degree, between political units. Its self image and its true nature are inversely related, with an ironic neatness seldom equaled even by other successful ideologies. Gellner, *Nations and Nationalism*, 124.

<sup>41</sup> In his remarks to part one of his book, Breuille states, "This is not to say that politics is more important than social interests and ideology in any or indeed all particular cases. It is only to argue that the search for the common features underlying all nationalist movements should focus upon political context." *Nationalism and the State*, 72.

<sup>42</sup> *Ibid.*, 13.

<sup>43</sup> *Ibid.*, Nationalist ideology can only work when it appears to be appropriate to the political situation and relevant, in terms of their given situation and concerns, to those who support such ideas.

Considering that nationalism is predominantly concerned with the control of the state, this can prove to be extremely problematic in cases where two or more dominant groups or nations exist and compete for political power. As the case study of BiH will later illustrate, nationalism presents the most intricate challenge to the modern state. This is not because nationalism refers to aspirations of political and territorial sovereignty, or a degree of it within a given territory, but because nationalist movements cannot be limited to the actions or policies of one particular national group within the state.

In his analysis of the state in relation to nationalism and formation of the nation, Gellner observes that not all societies are in fact state-endowed and thus sovereign nation-states. According to him, nationalisms have generally exploded violently against the distribution of political power and the nature of political boundaries, but rarely if ever have they had occasion to fulminate in the absence of power and boundaries altogether.<sup>44</sup> In particular, the circumstances in which nationalism has generally arisen have not normally been those in which the state itself was lacking or when its reality was in any serious doubt. In most cases, it is actually the state's physical boundaries, the distribution of power in government, and perhaps elite control of resources, which were most problematic and often contested. Thus, the existence of politically centralized governance unit such as state is a necessary desire for, although by no means the only sufficient condition of, nationalism.

This in turn raises a number of important questions, since one may hastily conjecture that the problem of nationalism does not arise for stateless societies.<sup>45</sup> If there is no state, are there any actual boundaries or limits to the nation? Do stateless societies

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<sup>44</sup> Gellner, *Nations and Nationalism*, 4.

<sup>45</sup> *Ibid.*

that want to become recognized nations require certain components such as self-awareness and aspirations in order to become a political state? Since nations are not (necessarily) states but may become states, does this imply that nations must or ought to become independent states? Does this mean that only statehood validates nationhood? It is precisely because of these questions that at this point it is necessary to return to, examine and reassess the original definition of the nation as a central component of nationalism, posing profound dangers and serious security concerns.

As already posited in the original definition, a nation exists only when an active and fairly numerous section of its membership are convinced that it exists. Most theorists agree that the subjective rather than objective conviction in defining the nation is the decisive factor, whereas both are in fact crucial and necessary. In addition, there is also a well-established distinction between nations, states, and ethnic groups. Clearly, these three concepts are very closely interrelated, because any ethnic or social group has the potential to become nationally conscious and mobilized. At the same time, many nations aspire to be politically self-governing (have their own nation-state), and states like to characterize their body politic as being a “nation” for this implies that they have a common political identity.<sup>46</sup>

One way to conceive of a nation is to think of it as something fundamentally subjective, socially constructed out of cultural artifacts and ethnic sentiments, and existing purely in the mind of the subject. A “nation,” defined by Benedict Anderson is

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<sup>46</sup> Margaret Moore, *Ethics of Nationalism* (Oxford: Oxford University Press, 2000). The distinction between nations and ethnic groups is recognized even by those who argue that many nations have ethnic groups at their core - that they were founded around one particular ethnic group - and that many ethnic groups have the potential to become nations. Also, see Anthony Smith "The Ethnic Origins of Nations" Oxford: Basil Blackwell, 1983 9-18. Smith distinguishes nations from ethnic groups even while acknowledging that many nations have an ethnic core.

an “imagined political community” that is inherently limited and sovereign.<sup>47</sup> It is imagined because members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them. The nation is imagined as limited because even the largest of them has finite, if elastic boundaries, beyond which lay other nations. In fact, no nation imagines itself coterminous with mankind. The nation is imagined as sovereign, because all nations dream of being free and having their own sovereign nation-state. At the same time, Anderson argues, that throughout history both nation and national identity have been broadly shaped by the vernacular reading communities, which were created through print capitalism.<sup>48</sup>

Although the subjective component is a necessary condition for shared nationality, there is also an objective element which completes the definition of a nation. The objective component reveals a great deal about the real characteristics of each individual nation. Elements such as various group ties, shared language, religion, law, culture and public life help members of a given territory identify with one another and recognize each other as belonging to the same nation. In other words, if a nation is to have meaning, it is crucial to consider subjective, inter-subjective<sup>49</sup> and objective<sup>50</sup>

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<sup>47</sup> Benedict Anderson. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, revised ed. (London and New York: Verso, 1991).

<sup>48</sup> According to Anderson, capitalism is important because the expansion of the book market contributed to the revolutionary vernacularisation of languages. As a result, printed languages laid the foundation for national consciousness by creating unified fields of exchange and communication. In combination, “print capitalism created the possibility of nationalism by providing a space for the representation of new conceptions of time and space. It is also promoted the construction of print languages by standardizing various local vernaculars into common written forms.” Ibid.

<sup>49</sup> For Weber, the source of nationhood is not to be found in the objective differentiae of language and religious practice that might happen to separate the members of two different groups, but in the inter-subjective awareness that the salient inter-groups difference, whatever they may be, are sufficient to demarcate two nations. Max Weber, *Economy and Society*, eds. Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978 (originally published 1922)).

<sup>50</sup> Eric Hobsbawm, in his *Nations and Nationalism Since 1780* notes, that attempts to examine and establish objective criteria for nationhood, or to explain why certain groups have become nations while others have not have been based on multiple objective criteria. Hobsbawm asserts, Stalin’s definition that

characteristics, which include common territory, language, some form of organized structure and economic life. Coupled with subjective conditions, beliefs and inter-subjective awareness, the objective components lead to the construction of a more appropriate definition of a nation and a better understanding of nationalism.

To take it one step further, while each nation is a group of people that has a distinct identity, or what primordialists would like to call an ethnic core, it is important to point out some obvious distinctions between nations and ethnic groups. In general, ethnic groups, like nations, are social groups characterized by myths of common descent, culture, mutual recognition, and complex rituals regarding their boundary maintenance, but they are not co-extensive with nations because they lack the political self-consciousness that is usually associated with national communities.<sup>51</sup> As such, an ethnic group with political aspirations may be readily discerned and defined by an outside observer, but until the members themselves believe and are aware of the group's uniqueness, it is merely an ethnic group and not a nation. Ethnic groups can therefore be seen as "pre-national peoples" or as potential nations, but not as nations per se.<sup>52</sup>

What is truly distinctive about nations is the way in which they frame their aspirations or understand themselves in terms of a certain kind of social solidarity or national consciousness. More than other kinds of large solidarity groups, nations have an elaborated sense of collective history and identity. They all have some socially sanctioned story of the people, as revealed in oral or musical traditions, history textbooks,

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"a nation is a historically evolved, stable community of language, territory, economic life and psychological make up manifested in a community of culture," (Joseph Stalin, *Marxism and the National and Colonial Question*, pg.8) is probably the best known among these objective criteria, but by no means the only one. Eric J. Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1990), 5.

<sup>51</sup> Moore, *The Ethics of Nationalism*, 6.

<sup>52</sup> Walker Connor, *Ethnonationalism: The Quest for Understanding* (Princeton: Princeton University Press, 1994), 100-103.

and other publicly available sources.<sup>53</sup> Their collective identity involves rhetoric about indivisibility, sovereignty or an aspiration to sovereignty, political legitimacy, common language, common culture, descent and special relations to a certain territory or putative homeland. This is a common pattern of the kind of claim that is indicative of the collective identity that is commonly referred to as nationhood.<sup>54</sup>

However, having a nation according to Gellner, is not an inherent attribute of humanity, but it has over time come to appear as such. Nations, Gellner argues, like states are a contingency, and not a universal necessity. Neither nations nor states exist at all times and in all circumstances. Moreover, nations and states are not the same contingency.<sup>55</sup> But, nationalism, according to Gellner, holds that the two were destined for each other; that either one without the other is incomplete, and constitutes a tragedy.<sup>56</sup> Before they could become intended for each other, however, each of them had to emerge, and their emergence was independent and contingent.<sup>57</sup>

The state has certainly emerged without the help of the nation, while some nations have certainly emerged without the consent of their own state. Nevertheless, Gellner asserts, it is debatable whether the normative idea of the nation in its modern sense, did not presuppose the prior existence of the state. It is thus important to recognize that the emergence of the “nation” is inextricably and intimately linked to the rise of the modern

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<sup>53</sup> Michael Hechter, *Containing Nationalism* (Oxford: Oxford Press, 2000).

<sup>54</sup> Calhoun, Craig, *Nationalism* (Minneapolis: University of Minnesota Press, 1997).

<sup>55</sup> Gellner, *Nations and Nationalism*, 6.

<sup>56</sup> According to Andre Lieblich, there is a nexus that has been created over time between nation and the state. More specifically, he claims that the nexus is the outcome of a very particular conjecture of nineteenth and early twentieth century national movements of emancipation with a general and overriding interest in international peace and order on the part of the existing states. Andre Lieblich, “Must Nations Become States,” *Nationalities Papers* 31 4 (December, 2003).

<sup>57</sup> Gellner, *Nations and Nationalism*, 6.

territorial “state.” Consequently, the definition of nationalism in large part rests on these two crucial yet clearly distinct concepts.

Nationalism as ideology, by definition then implies that within the existing state-centric system there are many nations, a limited number of recognized states, a few “nation-states,”<sup>58</sup> and an enormous number of “potential nations.”<sup>59</sup> At the turn of the twenty first century the world is composed of 192 independent states,<sup>60</sup> most of which (90 percent) are poly-ethnic and contain more than one nation or prospective nations. Meanwhile, it is apparent that there are a large number of stateless nations around the world, such as Kurds, Palestinians, and Bosnian Serbs that do not have their own independent states, although many of their members continuously aspire to this. Nevertheless, Gellner argues, our planet contains only enough room for a certain number of independent and autonomous political units. Thus, considering that the existing number of potential nations is exceedingly much larger than the number of possible or viable states, it is obvious that not all nationalisms can be satisfied, at any rate at the same time. Therefore, the satisfaction of some nations and nationalism spells the frustration of others.

In short, it is clear that the dynamic nature of nationalism suggests that dividing the world into nations and nation-states is normatively a good thing. According to the

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<sup>58</sup> The very coining of this hyphenate “nation-state” illustrates an appreciation of the vital differences between nation and state. This term was designed to describe a territorial-political unit (a state) whose borders coincide or nearly coincide with the territorial distribution of a national group. More concisely, it describes a situation in which a nation already has its own state. At the turn of the twenty first century, there are in fact only a few states where the territorial boundaries of the state are coterminous with one group or nation. Unfortunately, however, nation-state today has come to be applied inappropriately and indiscriminately to all states. Connor, *Ethnonationalism*, ch. 4 passim.

<sup>59</sup> For an original survey of entities considered to be states, nation-states or potential nations please see Appendix A.

<sup>60</sup> US Department of State: Independent States in the World. Web site. Available from <http://www.state.gov/s/inr/states/> Accessed 7 February, 2005.

disintegrative logic of the national idea, nationalism logically encourages the disintegration of nation-states; as nationalist groups within the existing sovereign nation-states seek to achieve their own sovereign state to protect their own idea of a nation.<sup>61</sup> Moreover, much like Woodrow Wilson's dream vision presented in his famous Fourteen Points, it is believed to be the right and just that each nation should be the master of its own destiny, that it should rule itself, and occupy its own national territory. Based on this principle, the logic of nationalism places every existing independent/sovereign state in which nation and state do not exactly coincide at some considerable peril and serious risk of war.

As most nations use force to break apart from existing states, nationalism, however, is not at all something to be celebrated. The fragmentation of states and the divorce of nations frequently lead to conflict, displacement of people, violence, suffering and civil war. This is evident from the major wave of nationalism and ethno-national conflicts, which accompanied the end of Cold War. The separation of nations inevitably involves the disruption of the lives of large numbers of people and contributes to a great deal of insecurity. Various nationalist projects around the globe have often developed from a series of nationalist struggles, some merely for the recognition or enhanced autonomy, others for political dominance, and most often for complete political and territorial separation by all available means. As a result, in cases where nationalist aspirations have been persistently suppressed or unsatisfied, nationalist movements have only too often exploded into extremely violent conflicts and or resulted in full scale wars, as it did occur in BiH during the 1990s.

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<sup>61</sup> Kim R. Nossal, *The Patterns of World Politics* (Scarborough: Prentice Hall, 1998), 345.

It follows, according to the nationalist principle, that if state and nation are to be congruent, a territorial-political unit needs to be “cleansed,”<sup>62</sup> culturally homogenous<sup>63</sup> or ethnically purified. This is possible only if one group simply kills, expels, or assimilates all other non-nationals.<sup>64</sup> However, the willingness of any group or nation to suffer such fate at the expense of some larger group may and often makes the peaceful implementation of the nationalist principle extremely difficult, highly disruptive and almost impossible without turning violent. Furthermore, in cases where the national movements are left unsatisfied and uncontained, they generally tend to continue to grow, transform, and intensify, thus only creating a more dynamic, dangerous and potent political movements.

### **Types of Nationalism and National Movements**

It is widely appreciated that because of nationalism’s protean and transformative nature every nationalist movement and struggle takes different forms at different time around the world. Nonetheless one distinct or characteristic feature of nationalism is that it tends to be very responsive to various circumstances and can take on many impetuous and in most cases malign forms. It is thus imperative to seek and differentiate between a few<sup>65</sup> various types of national movements that are directly linked to insecurity and

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<sup>62</sup> Cleanliness is usually necessary if one is to make an unambiguous claim for self-determination. Ibid.

<sup>63</sup> Cultural homogeneity, Gellner argues, is an essential concomitant of industrial society. It is not the case, as Elie Kedourie claims, that nationalism imposes homogeneity; it is rather that a homogeneity imposed by objective, inescapable imperative eventually appears on the surface in the form of nationalism. Gellner, *Nations and Nationalism*, 39. Although cultural homogeneity can be achieved by inclusive strategies and policies designed to assimilate culturally distinctive individuals to the dominant culture, exclusive strategies in forms of ethnic cleansing and genocide have been a regular part of simple and unadorned nationalist campaigns.

<sup>64</sup> Ibid., 2.

<sup>65</sup> It is at this point only necessary to identify a few dominant and most manifested forms of nationalism. Nevertheless, one can easily differentiate between at least fifteen different types of nationalism ranging from ethnic, civic, cultural, religious, conservative, liberal, fascist, political, protectionist, integrationist, separatist, irredentist, peripheral, diaspora, pan-nation, territorial, and many others.

instability, especially in the newly independent and newly democratizing (transitional) states, such as Bosnia and Herzegovina. In fact, regardless of the type or form of nationalism, if this highly disruptive political force is left uncontained it will inescapably impede and destroy the intricate process of political transformation, democratization, and re-building of a modern multiethnic state.

Michael Hechter, in his renowned book *Containing Nationalism*, tries to piece together the nationalist puzzle and understand the dynamics of nationalism. In particular, a lot of effort has been made to create various typologies of nationalism, which aim to capture some of the most relevant distinctions.<sup>66</sup> Probably the most popular distinction is between Western and Eastern types of nationalism put forth by Hans Kohn<sup>67</sup> in 1944, but many other distinctions, such as that between civic and ethnic nationalism have also been advanced.<sup>68</sup> Most of the attempts, according to Hechter, distinguish the tolerant, culturally inclusive nationalism characteristic of the Western Europe from the culturally exclusive or rather ethnic type of nationalism often found in Eastern Europe.<sup>69</sup> However, many of the existing or dominant typologies of nationalism rest in large part on rather thinly disguised or weak normative criteria; they merely distinguish between good nationalism and malign ones. In order to explain the erratic and unstable nature of

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<sup>66</sup> Hechter, *Containing Nationalism*, 6.

<sup>67</sup> Hans Kohn, *The Idea of Nationalism* (New York: Macmillan, 1944).

<sup>68</sup> Hechter, *Containing Nationalism*, 6. At the same time, Liah Greenfeld in her book entitled "Nationalism: Five Roads to Modernity," analyzed three different types of nationalism, how they developed and acquired their specific forms. The first type, she identified is the individualistic and civic type, which she argues originated in England and the United States. The second type is the collectivist and civic nationalism (often contradicting) but nonetheless over time transformed, which took place in France. The third and final type she identified is the collectivist and ethnic types of nationalism, which originated in Russia and Germany. Liah Greenfeld, *Nationalism: Five Roads to Modernity* (Cambridge and London: Harvard University Press, 1992).

<sup>69</sup> Hechter, *Containing Nationalism*, 15.

nationalism in its various forms, Hechter asserts that it is better to seek a typology that is derived from analytical consideration.

Bearing in mind, that nationalism as a political movement is an attempt of nationally distinct people to attain political self-determination and thus render the boundaries of the nation congruent with those of its state, Hector argues that a simple analytical typology of nationalism flows directly out of this definition. More specifically, the four most prevalent and distinct types of national movements are state-building, peripheral, irredentist and unification nationalisms. Each of the four has distinct characteristics and emanate under specific conditions. Furthermore, Hechter also asserts, that this analytical typology helps account for the normative differences between various types of nationalism.<sup>70</sup>

First, state-building nationalism, according to Hechter is the type of nationalism that is embodied in the attempt by state (leaders) to assimilate or incorporate culturally distinctive territories in a given state.<sup>71</sup> It is the result of the conscious efforts of central rulers to transform a multinational state into a culturally homogeneous one. Since the rationale for state-building nationalism is to legitimize new order and to secure borders from real or potential rivals this kind of nationalism tends to be culturally inclusive. Most often, this is achieved by enacting inclusive policies designed to either culturally assimilate distinctive individuals to the dominant culture or to promote the conception of a multinational polity.<sup>72</sup>

Nevertheless, much less moderate or rather exclusivist means of achieving culturally homogeneity have been resorted to in recent history. In the case of former

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<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid., 62.

Yugoslavia, during the early 1990's there was an attempt by the central rulers and Yugoslav army to assimilate and forcefully incorporate a few nationally distinct regions of Bosnia by expelling and exterminating all non-Serbs and culturally alien populations. However, considering that the purpose of state-building nationalism is to legitimize new order in a newly formed state, exclusive strategies prove to be extremely counterproductive, disruptive and tend to fuel other forms of nationalism.<sup>73</sup>

The second is peripheral nationalism, which takes place when a culturally or nationally distinctive group resists incorporation into an expanding state or attempts to secede and set up its own government (as was the case of Republika Srpska within BiH).<sup>74</sup> Wherever there is sufficient cultural homogeneity to foster territorial solidarity, Hechter argues, peripheral nationalism often follows suit. In particular, the demand for peripheral nationalism emerges when a more direct rule of the state is attempted but it fails either to accommodate or assimilate the culturally or rather nationally distinct local group. Due to nationalisms transformative nature, however, this type of nationalism co-varies across different regions and countries with factors that facilitate collective action, such as political openings (from liberalization to state collapse) and preexisting social organizations. Whatever the case may be, one clearly distinguishing characteristic of peripheral nationalism is the recurrent demand for secession.<sup>75</sup>

Irredentist nationalism, according to Hechter the least prevalent type, occurs with the attempt to extend the existing boundaries of a state by incorporating territories of an

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<sup>73</sup> Ibid., 63.

<sup>74</sup> Ibid., 17.

<sup>75</sup> Secession can be defined as the formal withdrawal from a central political authority by a member unit on the basis of claim to independent sovereign status. Hechter, *Containing Nationalism*, 78

adjacent state occupied principally by co-nationals.<sup>76</sup> In other words, according to Naomi Chazan an expert on irredentist movements, this type of nationalism refers to any state effort to unite national segments of a population in adjacent countries within a common polity.<sup>77</sup> In essence, irredentism involves subtracting the territory and a minority group from one state and adding it to another. Considering the obvious difficulties with this process, irredentist national movements most often are initiated by states interested in annexing territories having a large proportion of their co-nationals.<sup>78</sup>

Successful irredentist movements require not only that the adjacent country consent to forego a given territory, but also the consent of the population within the putative beneficiary state as well. In particular, Hechter notes that if host states are extremely reluctant to part with their territory, potential beneficiary states may also be leery to accept new territories.<sup>79</sup> During the massive military campaigns in the former Yugoslavia throughout the early 1990s, both Serbia and Serb nationalists often invoked this form of nationalism in order to expand territorially and later justify their efforts to unite all Serbs beyond Serbia's recognized borders.

Finally, unification nationalism bears the principle design of state-building nationalism.<sup>80</sup> Whereas the latter seeks to create cultural homogeneity within the borders of an existing multinational state, the former involves the merger of politically divided sovereign territories into one big or overarching unit. This type of nationalism arises in small territories subjected to the geopolitical threat represented by the emergence of

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<sup>76</sup> Ibid.,17.

<sup>77</sup> Naomi Chazan. "Approaches to the Study of Irredentism," in *Irredentism and International Politics*, ed. (Boulder, Colorado: Lynne Rienner, 1991).

<sup>78</sup> Hechter, *Containing Nationalism*, 84.

<sup>79</sup> Ibid.

<sup>80</sup> The term "unification nationalism" Hechter originally borrows from John Breuilly's *Nationalism and the State*, Ch 4. 1983

direct rule states. Specifically, Hechter argues, the effort to render cultural and state boundaries congruent requires the establishment of a new state encompassing the members of the nation. In comparison to the state building nationalism, which seeks to create cultural homogeneity within the borders of an existing multinational state, unification nationalism aims to create a new or a more modern state that eliminates and supersedes the existing political boundaries between small sovereign units found in a relatively culturally homogenous territory.<sup>81</sup> One contemporary example of unification nationalism is the attempt to build a European Union.

Considering that nationalism tends to be very responsive to various circumstances and conditions it is obvious that national movements appear in many various forms. The main difference among these multiple types of nationalism relate to the disparity in content of nationalist ideals and also whether the nationalist movements are culturally inclusive or culturally exclusive. In addition, notable differences such as the citizenship policies of states and the timing of particular nationalist movements also offer significant insight on the dynamic and unstable nature of nationalism.<sup>82</sup> However, despite the direction, profile and thrust of a particular national movement, highly disruptive and destabilizing effect of contemporary nationalism still remains highly problematic.

#### *Common Elements and Combustible Ingredients*

Aside from their distinct faces and various differences, these four types of nationalism have at least three elements in common. First, they are enacted in the name

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<sup>81</sup> Even though, unification nationalism aims to create an overarching state encompassing a number of sovereign units in a culturally homogenous territory, Hechter acknowledges that the concept of cultural homogeneity is itself vague and that the simple adjective “cultural” entails more than language. To further explain what causes these sovereign units to undertake unification nationalism (collective action that results in the loss of small countries individual sovereignty) – the answer is - in most cases they are likely to do so when they perceive a threat to their rule. Hechter, *Containing Nationalism*, 85.

<sup>82</sup> *Ibid.*, 93.

of a politically self-conscious nation. Second, they engender a demand for national sovereignty.<sup>83</sup> Third, under certain conditions (especially at times of political opening, political transition and or democratization) all nationalist movements are extremely dangerous, given that they are all prone to rapidly transform and take on impulsive and extremely malign forms.

According to Stephen Van Evera, there are four primary attributes that determine whether a nationalist movement has the potential to escalate and transform into a violent movement.<sup>84</sup> The first one relates to the movement's political status and whether the statehood is attained or unattained. Second is the movement's stance towards national diaspora.<sup>85</sup> The third attribute concerns the political movements' stance toward other nations. The determining factor here is whether the movement respects or denies other nationalities' rights and especially minority rights to national independence. The final factor that determines if the movement has the potential to produce violence is the movement's treatment of its own minorities, whether they are respected or abused?<sup>86</sup>

In essence, these four attributes<sup>87</sup> can be used to determine the level of danger posed by any given form of nationalism. In cases where all four of these attributes are

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<sup>83</sup> Ibid., 94.

<sup>84</sup> Stephen Van Evera, "Hypotheses on Nationalism and War," in *Nationalism and Ethnic Conflict*, eds. Michael Brown, Sean M. Lynn-Jones, and Steven E. Miller, revised ed. (Cambridge, Massachusetts: MIT Press, 1995), 31.

<sup>85</sup> Where the movement has a national state, some members of the nation may still be dispersed or entrapped beyond the state's borders. The question in this case becomes whether the nation will accept continued separation from its diaspora or whether it will seek reunification by immigration or by territorial expansion? Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> The first three attributes (is statehood attained? attitude toward diaspora? attitude toward other independent nationalities?) define the scope of a nationalist movement's claims against others. Conversely, the fourth attribute (policy toward minorities?) helps determine the scope of others' claims against the movement. Ibid., 35.

benign,<sup>88</sup> nationalism poses little or no danger to state security and the modern state-building process. In fact, this form of nationalism may even strengthen the political transition and democratization process. In contrast, if any of the four of the aforementioned attributes are malignant, nationalism is bound to collide and come into conflict with other national movements.

However, the bigger question that remains unexamined is what are the conditions or causes that fuel nationalism to take on these destructive, malign and extremely volatile forms. Although the specific causes and conditions, particularly those pertaining to Bosnia and Herzegovina, will be examined in greater detail in chapter two, it is nevertheless important to note that these can generally be grouped into three broad categories. Namely, they include structural factors, political-environmental conditions, and perceptual causes, all of which can thrust nationalism to take on impulsive and extremely malign forms.<sup>89</sup>

Structural conditions arise from the geographic, demographic, and military arrangement of a nation's people. Determining the risk of malignant nationalism is influenced by the balance of power and will between stateless nationalism and the central state that holds them captive; by the degree and pattern of regional ethnic intermingling; by the defensibility and legitimacy of the borders of new nation states; and by the correspondence of these borders with the actual ethnic boundaries. Political-environmental conditions, which arise from the past or present conduct of a people's neighbors, also can contribute to harmful effects. The greater the crimes committed by

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<sup>88</sup> Van Evera argues that a nationalism is benign if it has achieved statehood; has limited unity goals or adopts immigrationist strategy for ingathering its diaspora; posits no claims to rule other nationalities living beyond its national territory; and respects the rights of minorities found in this territory. Van Evera, "Hypotheses on Nationalism and War," 35.

<sup>89</sup> Van Evera, "Hypotheses on Nationalism and War," 36.

various nationalities toward one another, the greater the chance that any future movements will take on malignant forms. In addition to the first two conditions, perceptual causes arise from the nationalist movements' self image and its images of others to incite further malignant and volatile forms of nationalism. This happens where nations embrace self-justifying historical myths or adopt distorted pictures of their own and other's conduct and character that exaggerate the legitimacy of their own cause. According to Van Evera, if carried to extreme "myths and distortions can transform nationalism from symmetrical to asymmetrical – from a purely self-liberating enterprise into a hegemonistic enterprise."<sup>90</sup>

Together, these three broad conditions describe the underlying factors that cause nationalism to undertake many extremely explosive and highly destructive political forms, which ultimately respect no boundaries and can solely determine the fate of any people, nation or state. More importantly, recent memories of ethnic cleansing, genocide and war committed in the name of a nation and national self-determination raise much more intricate questions, such as whether this powerful beast called nationalism can ever be contained.

### **Can Nationalism be Contained?**

Whether or not nationalism, the most powerful and destructive political force in the modern world, can be contained or simply neutralized has been a central question in the study of this dynamic phenomenon. Many prominent scholars, states and international groups have committed significant efforts as well as resources in order to conduct studies analyzing the possible solutions and prescriptions necessary to contain

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<sup>90</sup> In the past myth-poisoned nationalism has been referred to as "hypernationalism." However, Van Evera notes that this is an artificially generated term magnified by chauvinist myths. Conflicts arising from hypernationalism thus derive from the beliefs of nations, not from their circumstances. Ibid. , 47.

dark, destructive nationalism. However, aside from some divided expert opinions, there have been a few studies that have offered both constructive approaches and policy prescriptions to deal effectively with this highly dangerous and destructive phenomenon.<sup>91</sup> These approaches include various options ranging from decreasing the demand for national sovereignty, increasing the cost of collective action, to designing institutional arrangements that are both accountable and responsive to every national group within the multinational state.

The first and most important point in every study on nationalism is containing it requires its understanding.<sup>92</sup> According to Gellner, the difficulty in understanding nationalism is the virtually inverse relationship between the self-image and self-presentation of nationalism and actual reality. While, most social phenomena may have only a touch of false consciousness, nationalism is unusual in that its self-presentation is actually inverse of the true reality. What makes matters even worse is that some of the explanations put forward by adherents of the four paradigms, only exacerbate the problems and obscure the existing debates, instead of offering solution breaks. Therefore, in order to understand the dynamic nature of nationalism it is necessary to look beyond underlying assumptions, existing paradigms and the essential components, such as state and nation. Crucial to understanding the nature of nationalism and its transformative elements ultimately requires examination of the underlying causes, which help explain how nationalism re-emerges, grows and gains momentum as a modern day political phenomenon.

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<sup>91</sup> For an in depth analysis and practical policy initiatives on containing nationalism and managing ethnic conflicts please see “Containing Fear: The Origins and Management of Ethnic Conflict” by David A. Lake and Donald Rothchild, *International Security* 21 2 (Fall 1996): 41-75.

<sup>92</sup> Gellner, “Nationalism and the Development of European Societies,” in *The Future of the Nation-State in Europe*, ed, Sverker Gustavsson and Leif Lewin (London: Routledge, 1996), 19.

In addition, various approaches and measures essential to deal effectively with nationalism would considerably improve if the conditions and causes responsible for its development and transformation were better understood. This would include analyzing the conditions governing the salience of national identity and the impetus for national groups to demand national self-determination. Short of granting nationalists their wish of self-determination, Michael Hechter argues, nationalism can essentially be mitigated by intervening in three general processes.<sup>93</sup>

The first method to containing nationalism is intervening during nation-formation. As nations are the basis of nationalism, Hechter asserts that anything that decreases their salience must unavoidably reduce its scope. One means of containing nationalism, therefore, is by enacting measures that erode the social base of nations. This, however, requires an appreciation of the underlying mechanisms responsible for group formation, group solidarity, and the development of national identity.<sup>94</sup>

Second, containing nationalism relates to reducing the demand for sovereignty. There are some nations that do not crave their own state apparatus and thus they pose no threat to peace, stability or social order. Most nationalist movements, however, rest on the demand for national self-determination and national sovereignty. In general, Hechter claims, specific factors and conditions that lower the demand for sovereignty include the establishment of indirect rule and state institutions that are directly responsive to the distinctive values of various national groups. More specifically, institutional arrangements such as consociationalism, cantonalism, and federation have all been proposed as potential solutions to nationalist conflict, but none of these necessarily

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<sup>93</sup> Hechter, *Containing Nationalism*, 18.

<sup>94</sup> Ibid. Mechanisms responsible for nation's formation and identity include both subjective and objective characteristics as discussed on page 16-19 of this paper.

ensures this. According to Hechter, this can only be done by institutions providing decentralized decision making within multinational states.<sup>95</sup>

A third means of containing this dynamic political phenomenon, Hechter claims, is by significantly raising the costs of collective action.<sup>96</sup> This particular strategy is based on the premise that the demand for sovereignty will not be very compelling if members of national groups face high costs of collective action. Clearly, the cost of collective action is at a maximum in repressive regimes. Regimes that limit freedom of assembly and tightly regulate the activities of voluntary associations can keep almost any kind of collective action at bay, given sufficient enforcement capacity.<sup>97</sup> In fact, despite their own shortcoming, repressive governments in both Soviet Union and Yugoslavia did manage to succeed in containing nationalist conflict for well over 40 years. These costs of collective action, however, tend to vary across time and between societies. They are largely determined by the state of available communications technology, the society's political institutions, and by the nature of the geopolitical environment.<sup>98</sup> Conditions that increase the cost of collective action may not necessarily prove to be effective means to contain the disruptive consequences of nationalist movements. This is particularly evident and interesting in the case of Bosnia and Herzegovina.

What makes the newly independent multinational states predisposed to the growth of nationalism and violent conflict is also related to weak institutional and political systems undergoing significant power shifts. This is especially the case when institutional changes offer new opportunities for political entrepreneurs to build

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<sup>95</sup> Ibid., 32.

<sup>96</sup> Ibid., 19.

<sup>97</sup> Hechter, *Containing Nationalism*, 134-5.

<sup>98</sup> Ibid.

constituencies, and therefore make all kinds of collective action more likely.<sup>99</sup> In addition, political systems that lack internal incentives, such as effective electoral systems, also affect the nature of political parties and inter-group conflict in multinational societies. As such, considering that most newly formed states tend to be institutionally weak, have little tradition of tolerance and respect for small minority groups, there is a great chance that minority groups and diasporas will face subsequent abuse. As a result, this may cause anger and national sentiments to intensify and escalate, thus producing diaspora-annexing or minorities calling for national homelands to incorporate them by force. This creates even larger problems, especially when it comes to formal state borders, which correspond poorly with the national and ethnic boundaries. One prime example of this is Bosnia, where even after the uneasy Dayton Accord was signed (Chapter 3), ethnic and national intermingling across actual state borders repeatedly caused severe population displacement problems and raised new security concerns.

In the end, considering that dynamic and protean nationalism will not cease to exist at any time soon, it is at best only questionable which one, if any of the above means of containing it will actually prove successful. Since the character and consequences of modern day nationalism remain unpredictable and highly volatile, it is essential to keep exploring new trajectories and ways to neutralize, or at least channel nationalist movements in more benign directions.

More specifically, particular policy prescriptions that would prove to be effective may include sharing of western ideas and experiences on building democratic institutions, assisting the development of political and legal structures that protect the rights and

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<sup>99</sup> Ted Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts* (Washington: US Institute of Peace Press, 1993).

freedoms of all minorities, and promoting the growth of open market institutions in order to strengthen the economy. Pursuing these capacity-building policies, protecting minority groups and accommodating various interests within a multinational state, could effectively dampen the security risks and dangers posed by explosive national movements. However, should any serious disagreements or dynamic national movements reemerge, immediate international assistance through political negotiation and mediation should take place directly, in order to prevent outbreak of any violent conflict.

In short, nationalism is certainly a complex and dynamic phenomenon that has been inextricably linked to destructive consequences, instability and the outbreak of extremely violent conflicts across political boundaries. Its dynamics and nature remain volatile and highly dangerous. As a result, it has forced scholars to adopt various approaches and methodology when studying its unique causes and origins in order to better define and develop comprehensive theories of nationalism at various levels. There are no easy ways to address multiple causes and factors that contribute to the growth and spread of this highly potent political movement. Nevertheless, all nations and states within the international system continue to deal with nationalism and nationalist challenges that stand in their way of prosperity, state security and stability. Nationalism, as a highly disruptive political force posing significant security threats continuously proves to be one such difficult challenge, yet it still remains greatly unresolved. As a result, much remains to be said and understood about the nature of this beast, especially in relation to the process leading newly democratizing/modern states, such as Bosnia and Herzegovina, on its road to future European integration.

## CHAPTER TWO

### **Bosnia and Herzegovina: State of Uncertainty or Polity in the Making**

Characterized by contemporary academics as ‘a polity on the brink,’ by western historians as ‘one misunderstood society,’ by its critics as ‘denial of a state/denial of a nation,’ and regarded by its statesmen as ‘on the road to a modern state,’ Bosnia and Herzegovina as an independent state is facing many intricate, systematic obstacles in the process of state-building. Contemporary Bosnia and Herzegovina (BiH), more than its turbulent past and geopolitical struggle for power amongst its neighbours, has been shaped by the dynamic impact of nationalism and diverging nationalist aims of its constitutive people. This extremely dangerous, highly potent and resurgent political force, responsible for a brutal war and human atrocities unknown to the world since WW II, is also now creating profound impediments and causing serious concerns about the future security, stability and viability of a modern BiH state.

Even with the international community overseeing the transitional process, the unstable conditions and political situation in BiH predisposes the country to adversity and another nationalist disaster. As such, BiH a modern polity in the making, faces great political uncertainty as it remains deeply torn between nationalist forces. The precarious situation also makes the reconstruction task for the state builders and democratizers a difficult and a daunting task. As a result, the complexity of BiH serves as a sterling example of the need to contain the destructive force of nationalism and control the dynamics of social solidarity and fragmentation.

This chapter, in particular, draws from the theoretical debate on nationalism in chapter one, while it deals with more practical challenges of modern state (and nation)

building in the Bosnian context. More importantly, contrary to most practical studies of BiH at various levels, the main focus here is to examine the internal dynamics between nationalist forces/ideologies at work and their impact in shaping the newly emerging and independent BiH state. By exposing the multiple structural challenges and persistent nationalist barriers to state institutions and reforms, this chapter addresses important questions about the stability and viability of the new complex state created by the Dayton Peace Agreement (DPA) at the end of 1995. More explicitly, it evaluates the existing institutional (state) structures designed by the DPA and their ability to accommodate the disparate preferences of estranged people, ensure peace/stability and transform BiH into a modern and unified democratic state.

To address the current conditions and assess the unstable political situation in BiH, the first part of the chapter provides a historical and constitutional overview of BiH's existence, without which the contemporary state cannot be fully understood. The second part analyzes the existing conditions and unfavorable political environment, which makes the state predisposed to the spread of destructive (malign) forms of nationalism and violent conflict. As a result, powerful nationalist forces and extremist political parties have re-emerged in BiH and continue to challenge, dominate, deform, and impede the state building process intended to lead BiH towards a stable and modern country.

In particular, while there are no easy means to eliminate nationalist sentiments and firmly entrenched ethno-nationalist parties it is nevertheless crucial to explore concrete policy recommendations, which promote more effective institutions and consensus building. The key here is to strengthen the overarching BiH state structures

while mitigating the various and diverging national interests. Ensuring progressive reform, eliminating corruption and securing effective state level institutions is the key to achieving political stability and security in a multinational country such as BiH.

## 2.1 Contemporary BiH State



Source: [http://www.lib.utexas.edu/maps/europe/bosnia\\_rel\\_2002.jpg](http://www.lib.utexas.edu/maps/europe/bosnia_rel_2002.jpg)

### **Origins of Bosnia and Herzegovina**

Contemporary BiH cannot be understood without some comprehension of the impact that the early history has had on the dynamics of the present day state. Geopolitics, historical happenstance and brutal realpolitik have all shaped BiH from its early origins to its modern existence.<sup>100</sup> This is a place where empires, religions and great powers of European history have overlapped and collided to control this small but prized territory. As a result, BiH has not had an independent existence since the brief interregnum of independence (Bosnian state) in the late medieval era 1180-1463. Following this short period and until the last decade of the twentieth century, BiH has always been a part or subject of some larger entity: the Roman Empire, the Byzantine, the Ottoman Empire; Austria-Hungary, the Serbs; the Croats, Yugoslavia, and most recently the international community as a protectorate.

Two significant points, in particular, are crucial to understanding BiH history. The first is the arrival of the Slavs in the Balkans, which is the natural starting point for any historical analysis of Bosnia.<sup>101</sup> The original ancestors of Serbs, Croats, Bosniaks (Muslims), and others, Slavs entered the Balkans in about the sixth century (620 AD), and at that time they were not differentiated into various ethnic groups. History had yet to sunder their connections or to create national divisions among them. It was only in the nineteenth century, with the introduction of nationalism, that terms such as “Serb” or “Croat” would begin to take on greater significance. Despite this, historical evidence

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<sup>100</sup> Francine Friedman, *Bosnia and Herzegovina: A polity on the brink*. (London and New York: Routledge 2004) 5.

<sup>101</sup> Noel Malcom, *Bosnia: A Short History* (London: Papermac-Macmillan, 1994), 6.

points out that South Slavs who settled on the Balkan Peninsula originated from the same general area of the world and thus were not mutually exclusive or alien to each other.<sup>102</sup>

The second important point is that BiH's geographical and geopolitical position has had an immense influence on its historical and socio-political development. This territory has been at the crosshairs of history since its first habitation.<sup>103</sup> Bosnia has been fought over by competing empires and invaders spouting opposing ideologies and divergent aims. From Roman, Byzantine and later Ottoman Empires, as well as repeated invasions by Goths, Asiatic Huns and Avars, Bosnia experienced a succession of conquests and shifting allegiances.<sup>104</sup> However, its forbidding and rugged mountainous terrain made it impenetrable to some would be conquerors and religious proselytizers, thus marking it as a transitional area.<sup>105</sup>

Robert Donia and John Fine, in *Bosnia and Herzegovina: A Tradition Betrayed*, note that Christianity was introduced into the Balkan Peninsula by the Roman missionaries at the beginning of the seventh century.<sup>106</sup> It was not until the ninth century, however, that these Roman missionaries would succeed in converting the indigenous inhabitants of what today is called Croatia. At approximately the same time, missionaries from Byzantium (Constantinople), such as Cyril and Methodius, successfully preached

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<sup>102</sup> The best modern survey of the archeological, historical and linguistic evidence is presented by John Wilkes, *The Illyrians* (Oxford: Blackwell, 1992).

<sup>103</sup> According to historical evidence, this small area, even from Roman times and prior to the settlement of South Slavs, was an economically active region and an important continental gateway, which made it into a geopolitically prized region. Friedman, 6.

<sup>104</sup> Bosnia experienced a succession of external rulers from the middle of the tenth through the later twelfth centuries. Byzantium, Charlamagne's Franks, Croatia, Montenegro, Serbia and Hungary, all briefly conquered parts of Bosnia but left little impression on the local populace. Malcom, 11.

<sup>105</sup> A rugged and almost impenetrable mass of land, BiH stands between two of the main routes through which waves of invading populations entered western Balkans: the Dalmatian coastal strip, and the lowland thoroughfare which led from Belgrade down through Serbia to Macedonia and Bulgaria. As such, a continental gateway between East and West, BiH became a transitional area of many armies, invaders, raiders and various tribes. *Ibid.* 1-12. See also, Friedman, 6-7.

<sup>106</sup> Robert J. Donia, John V.A Fine, Jr., *Bosnia and Herzegovina: A Tradition Betrayed* (New York: Columbia University Press, 1994)

their gospel to the people of what today makes up Serbia and Montenegro.<sup>107</sup> However, because of Bosnia's mountainous terrain and poor communication in impenetrable areas, it is unlikely that either of the religions were able to supplant totally the pagan religious practices in Bosnia's remote areas.<sup>108</sup>

Medieval Bosnian history indicates that Bosnians established their own Church in schism with the Rome, as it reflected in practices of imperfect missionary work in remoter parts. Some Serbian scholars go so far to argue that this Bosnian Church was dualist or neo-Manichees, and the predecessors of today's Bosnian Muslims were the members of a heretical group known as Bogomils.<sup>109</sup> However, domestic sources and religious artifacts such as the medieval tombstones "stećci" do not indicate this.<sup>110</sup> Despite Catholic and Orthodox domination throughout the country, the Bosnian Church with its chiefly rural monasteries and imperfect religious practices continued to be tolerated.

The end of eleventh century marks a turning point in the history of Bosnia and the western Balkans. In 1102 Hungary extended its rule over Bosnia and established the person of a "ban" or governor to rule this territory. The ban's authority, however,

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<sup>107</sup> Ibid. , 17.

<sup>108</sup> Although the Bosnian region lay between the two major areas of missionary work and likely produced many devoted Catholics and Orthodox followers, Bosnia's faith was probably not firmly linked with either Rome or Constantinople. No faith had a strong organization to bind its flock to the Church, either through faith/beliefs or a sense of community. Ibid. , 37.

<sup>109</sup> Sima Ćirković, *Istorija srednjekovne Bosne* (Beograd: Srpska književna zadruga, 1964) Bogomils was a Bulgarian heretical movement, founded in the tenth century by a priest called 'Bogomil' (beloved by god), which spread in subsequent centuries into Constantinople and other areas of the Balkans. It preached a Manichean 'dualist' theology, according to which Satan had a power of almost equal to that of God; the visible world was Satan's creation, and men could free themselves from the taint of material world only by following an ascetic way of life, renouncing meat, wine and sexual intercourse. Rejected were various ceremonies using material substances, use of church buildings, entire organizational structure of the church, especially its wealthy monasteries, and the Cross became a hated symbol. Malcom, 27.

<sup>110</sup> Domestic sources and artifacts show that unlike Bogomils, the Bosnian Church accepted an omnipotent God, the Trinity, church buildings, the cross, the cult of saints, religious art and part of the Old Testament. Donia and Fine, 23.

became more and more independent as the twelfth century progressed, to a point where Bosnia in 1180 became virtually free of Hungarian control. Since it was no longer ruled by the Byzantine Emperor Comnenus, Hungarian monarch, Croatia or Serbia, none of which had ruled Bosnia long enough to establish any serious claims, Bosnia was able to stand as an independent state. Kinnamos, a late twelfth century historian, in his reports stated that Bosnia was separate and distinct from Serbia; “Bosnia does not obey the grand župan of Serbs.”<sup>111</sup>

Bosnia’s independence was solidified during the high middle ages (1180-1463). Under three powerful rulers, namely Ban Kulin (1180-1204), Ban Stephan Kotromanic (1322-53), and King Stephen Tvrtko (1353-91), Bosnia expanded to include the principality of Hum, today known as Hercegovina.<sup>112</sup> At various times in between the reigns of these three rulers, BiH was divided, either officially or de facto as a result of the frequent contests for power between local noble families. Nevertheless, during second part of Tvrtko’s reign, BiH expanded southward toward the Adriatic Sea and became a very powerful state within the region, taking advantage of Hungarian and Serbian weakness in the face of Ottoman onslaughts.

Despite all the anthropological and historical evidence, Noel Malcom in *Bosnia: A Short History*, notes that the very existence of Bosnia as a historical entity and independent state has still been denied by some writers, who have confidently asserted that “Bosnia has never been a state.”<sup>113</sup> Donia and Fine’s findings, however, confirm that

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<sup>111</sup> John Cinnamus, *Ioannis Cinnami Epitome rerum ab Ioanne et Alexio/Manuelo Comnenis gestarum*, ed. A. Meinecke, CSHB, (Bonn 1836); English trans. C. M. Brand, Deeds of John and Manuel Comnenus. (New York 1976) bk. 3, ch. 7, 104. Cinnamus clearly recognized that Bosnians were indeed a neighbouring people with their own customs, distinct way of life and government.

<sup>112</sup> Malcom, 13.

<sup>113</sup> Malcom, introduction to *Bosnia: A Short History*.

Bosnia has enjoyed its own medieval state and was a separate and legally defined provincial entity, during the high middle ages and its subsequent four hundred years under Ottoman rule.

*From Ottoman to the Modern Era*

Since its early medieval origins the Bosnian state has enjoyed considerable periods of autonomy. In 1463 when Bosnia fell to the Ottoman Empire,<sup>114</sup> it was only loosely incorporated into the imperial structure. Bosnia's borders remained relatively stable as a province of the Ottoman Empire, even though the imperial structure exerted major influence on development of Bosnia in general. Besides the new socioeconomic, military and administrative systems, one of the key factors was introduction of a third religion, Islam, into the Bosnian mix of Catholicism and Orthodoxy. Within the Ottoman Empire, religion, not national identity, was the most important personal defining feature.<sup>115</sup>

While the Turks did not force religious conversion, only Muslims could own property, vote, or participate in the government.<sup>116</sup> All non-Muslims had to pay a tax on their work. However, the Christian and all other populations were permitted a measure of self-government through the "millet system."<sup>117</sup> They could practice their own religion and justice, as well as exercise their own will in many community affairs. These

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<sup>114</sup> The Turkish Army conquered the kingdom of Bosnia in 1463, when Sultan Mehmed the Conqueror captured the Castle of Babovac and ended the Kotromanjic Dynasty. Thierry Domin, *Brief History of Bosnia and Herzegovina: The Era of the Ottoman Empire* (SFOR Informer#117, July 11, 2001). Available from <http://bh-nato-mission.org/> Accessed November 29, 2005.

<sup>115</sup> Friedman, 8

<sup>116</sup> Domin, Ch 3: Changes in the society, passim.

<sup>117</sup> The millet system was a non-territorial form of indirect rule that was designed to cope with the Ottoman Empire's cultural diversity. It allowed the subject peoples governance over their cultural practices and local administration. Millets kept the records of birth, death, marriage, and wills, and were also responsible for education. In addition, they also had the right to levy taxes on their members and adjudicated disputes between them. Hecther, *Containing Nationalism*, 72.

measures were taken by the Ottoman rulers mainly to avoid peasant revolts or rebellions. More importantly, it was during this time that many Bosnians converted to Islam, and became known as Bosniacs (Bosnian Muslims).

The Ottoman Empire also brought numerous other changes to Bosnian society. New urban centers of the Islamic-Oriental type were developed, and the economy was changed by the introduction of a feudal estate-landowner system. The Ottoman Turks established administrative military districts called “sandjaks.”<sup>118</sup> From 1580 the region of Bosnia became ruled through the administration of pashadom; a decision that recognized the Bosnian entity, including all of modern Bosnia and Herzegovina.<sup>119</sup> After the sixteen year Hapsburg-Ottoman War (1683-1699) Bosnia became the most western province of the Ottoman Empire, and the Karlowitz Treaty (1699) confirmed the historical borders of Bosnia on the north, west and south, and the Ottoman Empire ruled BiH until 1878.

With decline of the Ottoman power in the late eighteenth century, the Bosniacs rebelled against a set of Ottoman agricultural, military and socioeconomic reforms. These rebellions rapidly became infused with nationalist fervor in the early nineteenth century and as a result BiH demanded more autonomous status. In response, during the 1830's, political reforms undertaken by the Ottoman Empire extended Bosnia's provincial autonomy even further.<sup>120</sup> In 1877 Russians successfully waged war against the Ottomans along the Danube, which allowed Russia to gain greater influence in the Balkans. At this time, west European powers began to fear both the destabilizing effect

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<sup>118</sup> Domin, Ch 3: Changes in the society.

<sup>119</sup> Ibid.

<sup>120</sup> Ottoman response to numerous Bosniac rebellions, such as the movement of Husein Beg Gradašević “Zmaj od Bosne” in 1831-2 finally defined the extent of Bosnian autonomy within the Ottoman Empire. Ibid.

of the sudden destruction of the Ottoman Empire and concomitant growth of Russian influence in the Balkan region.<sup>121</sup> At the Congress of Berlin in 1878, the Great Powers decreed that European stability would be maintained by the slow and managed dismantling of the Ottoman Empire. The Berlin Congress gave a mandate to Austria-Hungary to occupy BiH, thereby disregarding the desires of the indigenous population.<sup>122</sup>

BiH was essentially given to Austria-Hungary to ease its access to the Adriatic Sea and to slow down aggressive Serbian expansion within the Balkans. After being met by a great deal of Bosniac resistance in July 1878 the Austro-Hungarian Empire established its authority in Bosnia, leaving the country as “Corpus Separatum” within its historical borders.<sup>123</sup> BiH was granted substantial autonomy and belonged neither to Austria nor to Hungary. More importantly, Austria’s subsequent annexation of Bosnia, which occurred in 1908, prevented both Serbia and the Ottoman Empire from claiming this autonomous province.

During the years of Austro-Hungarian power, BiH experienced important changes in a political, economic and cultural sense.<sup>124</sup> BiH established its Parliament to include the representation of all its nations. The county experienced significant economic growth in commercial banking, forestry and mining industries. In addition, new agricultural systems and military service requirements were introduced.<sup>125</sup> It was also approximately at this time that Croatian intellectuals first came up with an idea for an independent state

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<sup>121</sup> Friedman, 10.

<sup>122</sup> Ibid. Due to capricious portioning of certain Sandzaks and communities, such as Novi Pazar, first to Turkey and only later to Serbia, this move separated a part of the Bosnian population from its homeland. Furthermore, partitioning also kept Montenegro and Serbia apart while cutting off Serbia’s natural economic routes.

<sup>123</sup> Domin, Chapter 4: The Austro-Hungarian Era in Bosnia.

<sup>124</sup> Ibid.

<sup>125</sup> Friedman notes that when a military law requiring Muslim service in the Hapsburg army was issued, many Muslims emigrated from Bosnia to Turkey, although some also had economic reasons to leave. Friedman, 11.

for all south Slavs or “Yugo-Slavia.” In short, while historians generally agree that Hapsburg rule was a fairly prosperous time for Bosnia, Austro-Hungarian policies sowed the seeds of rivalries that would eventually flourish in the last decade of the twentieth century.

Francine Friedman argues that in attempting to augment their influence within BiH, the (Austro-Hungarian) bureaucrats played off the Serbs, Croats, and Muslims against each other.”<sup>126</sup> Concerned that nationalistic pressures from surrounding lands (Serbia and Croatia) would quickly infect its Bosnian territories, she notes that “the Hapsburg administration was determined to make Bosnia invulnerable.”<sup>127</sup> A policy of “Bošnjanstvo” (Bosnianism) or one indigenous Bosnian population, was officially promoted to prevent or rather protect the local population against the scourge of nationalism. The Bosnian Muslim population, considered to be simply a religious community and lacking national awareness, were the first targets of this particular policy. According to Friedman, it was believed that if the Bosnian Muslims accepted Bosnian self-identification, their Bosnian Serb and Croat neighbors might also identify themselves by their Bosnian locality rather than by ethnic claims such as were being encouraged by external Serb and Croat nationalist activists.<sup>128</sup>

The policy of “Bošnjastvo,” however was not actively accepted by Bosnian Serbs, Croats or Muslims.<sup>129</sup> The implementation strategy of the Hapsburg administrators caused a backlash of all sorts. Nationalism soon became a powerful force among the minorities within Austria-Hungary, particularly pursued by independent Serbia, which

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<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Friedman, 11.

claimed to speak for Austria-Hungary's population, and to a lesser extent, by Croat nationalists.<sup>130</sup> However, nationalism began to infect the previously anational Bosnian Muslims, although not to the degree experienced by the Serbs and Croats.

The Bosnian Muslims attempted to protect their religious privileges within the Austro-Hungarian Empire by coalescing communally.<sup>131</sup> This closer union in turn created a greater sense of communal self identification and a concomitant differentiation of themselves from the Ottoman Turks. Prior to the outbreak of WWI, Hapsburg annexation of Bosnia in 1908, further stimulated the political consciousness of Serbs, Croats and Muslims, all of whom were to some extent excluded from full participation in the political life of the empire. This distinct national self-awareness among Bosniacs would only eventually grow and develop in the late twentieth century into a nationalism to counter the aggressive nationalisms of the neighboring Serbs and Croats.

Following the assassination of Austrian Archduke Franz Ferdinand (1914) and ensuing outbreak of WWI, BiH and its population were drawn into conflicts for control and possession as part of Yugoslavia. This occurred mainly due to BiH's geographical and geopolitical position rather than any ethnic orientation of its population. Having lost the WWI, the Hapsburg and Ottoman Empires dissolved into a number of small, mutually hostile units, the genesis of the term "Balkanization."<sup>132</sup>

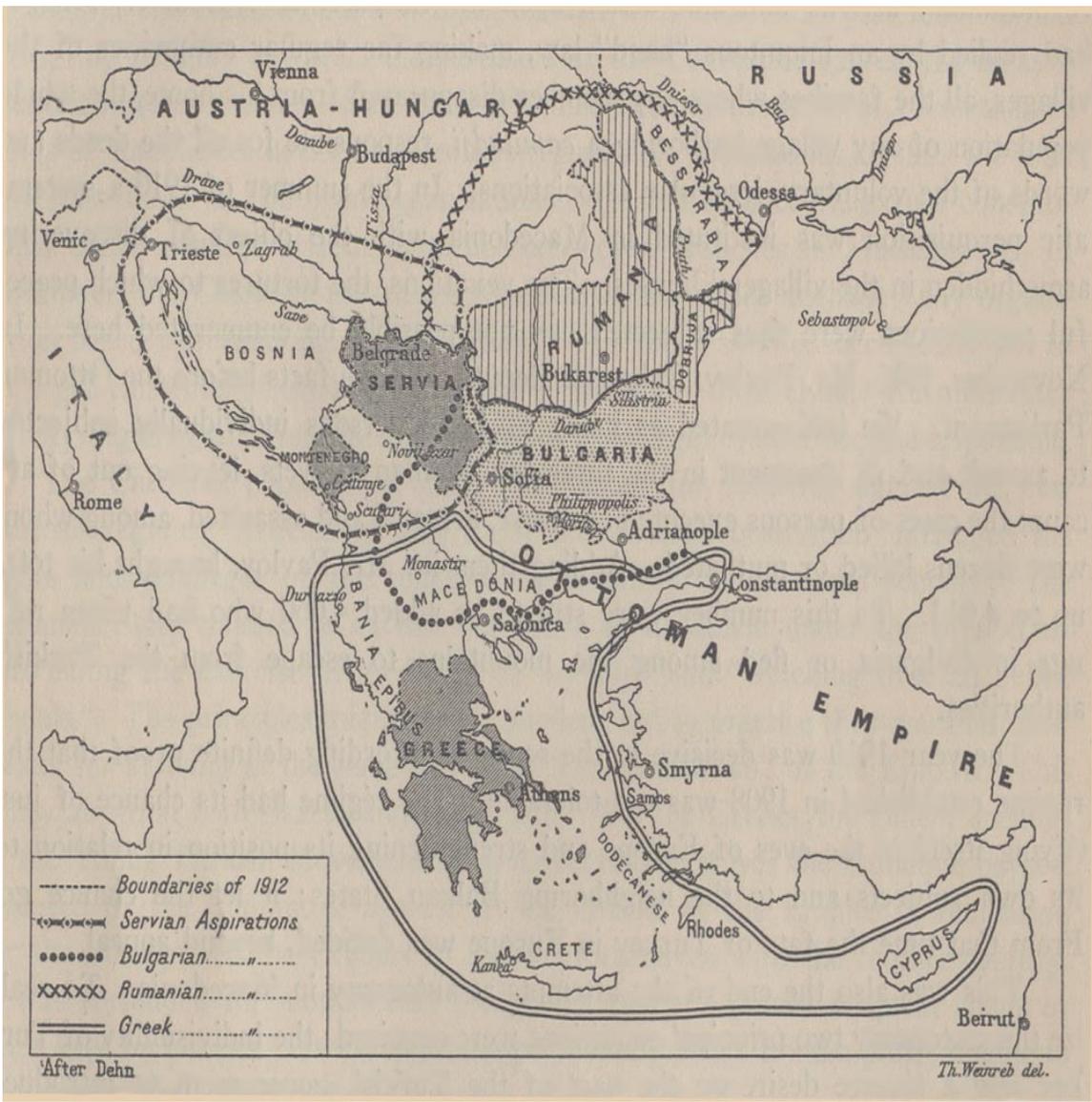
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<sup>130</sup> Ibid.

<sup>131</sup> This was a sign that Bosnian Muslims were becoming politically conscious and politically organized as Bosniaks, rather than just a religious group.

<sup>132</sup> Balkanization is a geopolitical term originally used to describe the process of fragmentation or division of a region into smaller regions that are often hostile or non-cooperative with each other. The first Balkanization was embodied in the Balkan Wars on 1912, and the term was reaffirmed in the subsequent Yugoslav wars.

### 2.2 Balkan Aspirations Prior to WW I 1914: Reconfiguration of the South-East Europe



Source: [http://www.lib.utexas.edu/maps/historical/history\\_balkans.html](http://www.lib.utexas.edu/maps/historical/history_balkans.html)

As a result, initially proposed in the 1917 Corfu Declaration, the great European powers at the Paris Peace Conference in 1919, citing the Wilsonian ideal of the right of “self-determination,”<sup>133</sup> allowed the creation of a multinational kingdom of the Serbs, Croats and Slovenes from the various pieces of the decomposed empires.<sup>134</sup> It was held that this new entity, The Kingdom of Serbs, Croats and Slovenes, latter known as Yugoslavia,<sup>135</sup> would act as a barrier and counterbalance to a revived Germany, Italy and Russia. However, Margaret Macmillan points out “this was an uneasy marriage, among peoples who had been divided by years of history, religion, cultural influences and war.”<sup>136</sup>

Although BiH sought to preserve its historical boundaries and degree of autonomy within Yugoslavia, the borders drawn through the Balkan region left in their wake a great deal of unhappy minorities and resentful neighbors. BiH was geopolitically and ethnically at the heart of the new Yugoslavia. (Map 2.3) A microcosm of the Yugoslav state it was comprised of different cultures, peoples, religions and traditions. The new Yugoslav state meanwhile took in Montenegro, Slovenia and BiH from Austria, Croatia and part of Banat from Hungary, and pieces of Albania and Bulgaria. This redrawing of borders involved not only the land and fate of its inhabitants, but more importantly it determined the new web of alliances.

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<sup>133</sup> Wilson had mentioned the Balkans in the fourteen Points, indirectly when he talked about the “freest opportunity of autonomous self-development” of the peoples of Austria-Hungary, and more directly when he said Rumania, Serbia and Montenegro should be set on their feet again. Margaret Macmillan, *Paris 1919* (New York: Random House, 2001), 122.

<sup>134</sup> Ibid.

<sup>135</sup> On December 1, 1918, Prince Alexander of Serbia proclaimed the Kingdom of Serbs, Croats and Slovenes. However, from its inception, the name itself was a problem. Non-Serbs proffered Yugoslavia because it implied a union of equals. Serbs, nevertheless, always wanted a name that enshrined the central importance of Serbia. Ibid., 117.

<sup>136</sup> Ibid., 117.

### 2.3 Yugoslavia from Creation (1918) to Disintegration (1991)



Source: [http://www.lib.utexas.edu/maps/europe/fm\\_yugoslavia\\_pol96.jpg](http://www.lib.utexas.edu/maps/europe/fm_yugoslavia_pol96.jpg)

Within Yugoslavia, diverse people who had little in common except their language never really agreed on a common interpretation of what the country meant. The politicians from Croatia, Montenegro, Serbia and Slovenia all had different ideas about the structure of the newly formed Yugoslavia in post-war WW I Europe. In fact, their attitudes reflected their different historical legacies and cultural differences. While Croats and Slovenes wanted a federal state that would unite all South Slavs on the basis

of equality, the Serbs insisted on centralism and unitarianism.<sup>137</sup> Meanwhile, the interwar Yugoslav Committee and the Bosnian Muslims proposed a basically centralized administration with some decentralization and regional autonomy.<sup>138</sup> Needless to say, none of the nationalists were appeased. Internal partitioning of BiH among Serbs and Croats between WWI and WW II were met with widespread protests among the Bosnian Muslims and demands for greater autonomy. The redrawing of internal boundaries did not really solve the territorial questions bedeviling interwar Yugoslavia.

During the Second World War, Yugoslavia experienced heavy losses and penalties, when its Italian and Austrian neighbours, with much help from Germany, seized back the land it had won at the Paris Peace conference. Hitler invaded Yugoslavia on April 6 1941. Eleven days later, Yugoslavia surrendered unconditionally. In turn, Yugoslavia was divided among the axis conquerors. Italy occupied Kosovo, Montenegro and Dalmatia. Germany, Hungary, and Italy divided Slovenia. Serbia became a German protectorate, and Bulgaria controlled Macedonia. Croatia came under an indigenous fascist government as the Independent state of Croatia. By July 1941, BiH was completely absorbed into the fascist state of Croatia.<sup>139</sup>

The most commonly accepted interpretation of Yugoslavia's wartime experience is that the WWII was fought on at least three different levels. The first was the anti-

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<sup>137</sup> Both Macmillan and Friedman note that for Serbs the Kingdom of Yugoslavia was simply the realization of their dreams of Greater Serbia, into which all Serbs, including those living in Croatia and Bosnia would be gathered. Matters were not helped by the conviction of many Serbians that they had simply increased Serbian territory rather than formed a new country. Serb domination through their royal dynasty, military and bureaucracy in a unitary state seemed only just.

<sup>138</sup> Friedman, 14. Bosnian Muslim aspirations, since it was not yet a fully realized nation, were not given a great consideration by the early thinkers of the Yugoslav idea. While most of the parties envisioned some kind of Bosnian autonomy, the Bosnian Muslim elites insisted that BiH be given full territorial integrity, at minimum, keeping at least Muslim inhabited areas under a single administration.

<sup>139</sup> The "Nezavisna drzava Hrvatska" (Independent Croat state) was a potent blend of old German and Croatian fascism, the consequence of which was a steady stream of atrocities. "Ustase," an ultranationalistic Croatian paramilitary and "Cetniks," nationalistic Serbian guerilla units clashed frequently and violently. Ibid. 19

fascist struggle. The second was the inter-ethnic civil war between Croats and Jews, Roma (Gypsies) and Serbs, and then Serbs against fascist supporting Muslims and Croats. The third was the battle between the previous Yugoslav royalists and the communist dominated Partisans for the right to determine the structure of post-war Yugoslavia.

BiH was the centre of Yugoslavia geopolitically, and also the centre of Tito's Partisan-led national liberation war during most of the WW II. Many of the most important battles occurred in Bosnia, and the Partisan command and two corps of the Bosnian multinational force resided in Bosnia for most of the war. Furthermore, significant political events occurred in BiH, particularly the meetings of the "Antifašističko V(ij)eće Narodnog Oslobođenja Jugoslavije" (Anti-fascist Council for the National Liberation of Yugoslavia) better known as AVNOJ. In fact, AVNOJ proclaimed new Yugoslavia on 29 November 1943.

The Socialist Federal Republic of Yugoslavia (SFRY), dominated by the Communist Party of Yugoslavia, recognized a multiethnic BiH as a republic at the centre of a unified Yugoslav state. With no titular nation and a large number of Serbs, Croats and Muslims scattered throughout BiH, the republic was truly multinational.<sup>140</sup> Tito's motto of "Bratstvo i Jedinstvo" (Brotherhood and Unity) was meant to stimulate the cohesiveness in the new republics of Yugoslavia and perhaps even negate the previous separate histories of the various Yugoslav people. In essence, this was an attempt to bind the South Slavs together in nation-state under Tito's communist ideology and regime. However, gradual decentralization of Yugoslavia's political and economic spheres,

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<sup>140</sup> It was only in 1969 that Bosnian Muslim, originally considered to be only a religious and not a national unit, were officially recognized as a separate ethnic group, and they had been permitted to practice their religions freely. Friedman, 25.

nationalist self-interest among Serb and Croat elites, and lack of popular consensus on the state structure would by the end of the century erupt into inter-ethnic tensions and lead to dissolution of the SFRY as a country.

Following the dissolution of Yugoslavia in the last decade of twentieth century, both irredentist Serbia and Croatia tried to lay claims to parts of BiH on ethnic grounds. At various times when these neighbors were independent states or were provinces in the larger enterprises, they held only bits and pieces of BiH, and those only briefly. More precisely, except for the three years during WW II, these brief interludes occurred over 500 years ago. Neither Serbia nor Croatia has had any serious historical claims to contemporary BiH. In fact, BiH as shown throughout history has been a coherent and autonomous entity for centuries, and despite numerous statements to the contrary, there is nothing artificial about BiH's existence as a sovereign and independent state today.

### **Misunderstood Polity**

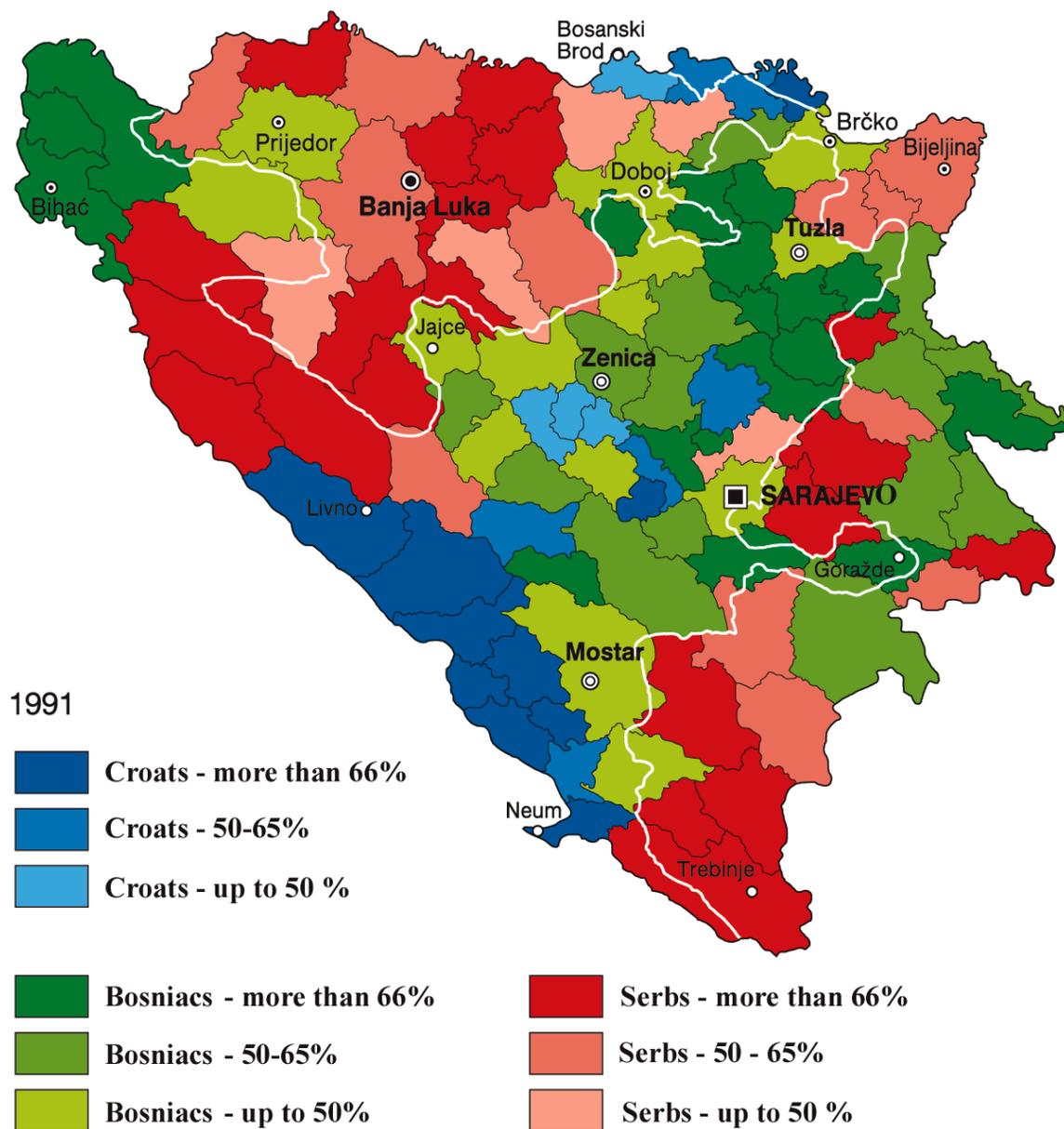
Today, many people around the world believe that BiH is a young state, created by the Dayton Peace Agreement (DPA) or more specifically the General Framework Agreement for Peace (GFAP) at the end of 1995. However, BiH is a country with long and distinguished political and cultural history.<sup>141</sup> Its past is deeply rooted in diversity, and a tradition of tolerance and coexistence. (Map 2.4) However, the very diversity of BiH has made it a prime target of destructive nationalism (nationalist projects) and ethno-nationalist political leaders who aimed to solidify their position in power after the

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<sup>141</sup> These facts alone would be sufficient reasons for studying the history of BiH as an object of unique interest in its own right. However, paradoxically, the history of Bosnia in itself does not explain the origins the most recent war, which engulfed this country in 1992. The war could not have happened if Bosnia had not been the peculiar thing that it was, which made it the object of special ambitions and interests. Malcom, introduction to *Bosnia: A Short History*.

## 2.4 BiH's Multiethnic Composition and Diversity of Settlement Prior to 1991

### Ethnic composition before the war in BiH (1991)



Source: Office of the High Representative. Available from [www.ohr.int](http://www.ohr.int)

dissolution of Yugoslavia.<sup>142</sup> This resulted in a horrible war “against Bosnia”<sup>143</sup> between 1992 and 1995, which was carefully orchestrated and executed by nationalist politicians and vicious extremists intending to destroy and divide systematically the county.<sup>144</sup> Although the brutal war ended in 1995, a decade later, the post-Dayton situation and the future of BiH remains precarious and uncertain.

Throughout the world, and not only western society, the popular image of BiH is associated with the history of ethnic hatred, violence between ethno-religious groups and war. In fact, many of these images have been repeatedly reinforced by chauvinist myths and nationalist propaganda spread by demagogues and the irredentist agendas of the neighbouring Serbia and Croatia. However, according to two of the most dominant historians of BiH, Robert J. Donia and John V.A. Fine, “nowhere – in its medieval, Ottoman and modern existence - do we find evidence of the alleged centuries of ethnic hatred (whether religious or ethnic) among various Bosnian groups that has supposedly permeated history.”<sup>145</sup> BiH’s culture and distinctiveness, defined by such virtues as tolerance, mutual understanding and pluralism, has continued throughout centuries and is

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<sup>142</sup> A similar argument was put forward by Francine Friedman in *Bosnia and Herzegovina: A polity on the brink*. (London and New York: Routledge 2004).

<sup>143</sup> Was Bosnia’s conflict a civil war or an aggression? Sumantra Bose acknowledges that academic and popular literature on the war in Bosnia is deeply divided even on this basic issue: was it primarily a case of internecine bloodletting among Bosnians, or was it an avoidable war caused primarily by the aggression of Serbia-Montenegro and secondarily by Croatia, against Bosnia and the failure of the west to confront the aggressors in good time? Bose goes into detail to explain the complexity of this debate because this intersects with other debates on the past, present and future direction of BiH. Sumantra Bose, *Bosnia after Dayton: Nationalist Partition and International Intervention* (Oxford: Oxford University Press, 2002).

<sup>144</sup> It is beyond the scope of this paper to discuss in detail the roots and proximate causes of the war. The key here is to provide the short history and emphasize the role of the nationalist forces prior to outbreak of the war. For a detailed account on nationalist tensions and wildfire of nationalism in the former Yugoslavia, see Sabrina P. Rampet, *Nationalism and Federalism in Yugoslavia 1962-1991* 2<sup>nd</sup> Edition. (Bloomington: Indiana University Press 1992). In addition, Friedman in *Bosnia and Herzegovina*, also provides a through account.

<sup>145</sup> Robert J. Donia, John V.A Fine, Jr., *Bosnia and Herzegovina: A Tradition Betrayed* (New York: Columbia University Press, 1994), 10.

shared by members of all three national groups (Bosnian Croats, Bosnian Serbs and Bosnian Muslims (Bosniacs)).<sup>146</sup> As such, rather than continuously being plagued with negative imagery of its most recent past, BiH is a misunderstood society with its “tolerant tradition betrayed” by nationalist fanaticism and irredentist nationalism.

Interestingly enough, BiH existence as a state has been redefined by the brutal war and a controversial peace agreement reached on 21 November 1995 in Dayton, Ohio, USA. In the words of Richard Holbrooke, one of the chief architects of the peace agreement “Dayton was a good agreement: it ended the war and established a single, multiethnic country.”<sup>147</sup> However, DPA as a document went beyond a traditional peace treaty. The DPA confirmed the existence of a sovereign BiH state with internationally recognized borders,<sup>148</sup> formally recognized the de facto division of the country into two ethnic entities, and most importantly it created a highly decentralized political framework (state) on the ruins and rivalries of a bitter war.

The DPA created a new and mainly partitioned BiH state, complete with elaborate constitutional structures, electoral provisions and human rights guarantees, to provide for reorganization of post-war BiH. The DPA comprises eleven annexes covering the

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<sup>146</sup> Since World War II, 30-40 percent of urban marriages in Bosnia have been mixed. These urban cultured Europeans, representing the popular view in Bosnia, never wanted partitions or ethnic cantons; the goal of many, if not most of them, even should it now be an unrealistic one, is still a restored united BiH populated by people of all ethnic and religious backgrounds. Moreover, it is important to note that the three so called ethnic groups of Bosnia all speak the same language and have a shared historical past. The only difference among them is their different religious backgrounds. Furthermore, it is interesting to note that after fifty years of very secular and secularizing Yugoslav state, few modern-day Bosnians are deeply religious. *Ibid.*, 9.

<sup>147</sup> In addition to this statement, Holbrooke acknowledges that countless peace agreements have survived only in history books as case studies in failed expectations. Therefore he adds that “the results of the international effort to implement Dayton would determine its true place in history. Richard Holbrooke, *To End a War* (New York: Random House, 1998), 335.

<sup>148</sup> Following a disputed referendum on independence held in March 1992, a month later on 6 April 1992, the European Community recognized BiH as an independent state. Although there had been brief moments of quasi autonomy or semi-independence during the previous two centuries – in 1831, 1878, and 1918 – properly speaking this was BiH’s first appearance as an independent state since 1463. Malcom. *Bosnia*, 1994

military, political and civilian aspects of the peace settlement. The essential elements of DPA can be summarized as follows: internal partition of BiH territory; separation of the three armies by an overwhelming international force and the creation of an internal balance of forces; the creation of a loose federal structure, allowing the parties maximum regional autonomy but incorporating elements on which a more effective state could develop; formal political equality of the three constituent peoples, backed by a guaranteed representation, and special majorities of veto; elections organized by the international mission as early as possible; the exclusion of persons indicted for war crimes from public office; proclamation of the highest possible international human rights standards, to be applied by institutions under international control; and progressive reintegration through the return of refugees and displaced persons.<sup>149</sup> In short, the DPA provided the specifics of BiH's political system of governance as it outlines various mechanisms necessary to promote democratization, protect human rights, and help reintegration and economic development of the region.

At war's end, the DPA did more than confirm the legal existence and viability of the BiH state. The DPA established a complex state consisting of two largely autonomous entities; the Croat-Bosniac Federation on one side (called the Federation of BiH), and a slightly smaller Bosnian Serb entity called Republika Srpska on the other. (Map 2.5) This was a politically and territorially engineered deal with the Federation of BiH controlling fifty one percent of the territory and Republika Srpska forty nine percent.

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<sup>149</sup> Twelve annexes respectively refer to: military aspects of the peace settlement and regional stabilization, inter-entity boundary lines, elections, Constitution, binding arbitration, human rights, refugees and displaced persons, preservation of national monuments, establishment of public corporations, civilian implementation of peace settlement, and international police task force (IPTF). Office of the High Representative (OHR), Dayton Peace Agreement. Available from, [http://www.ohr.int/dpa/default.asp?content\\_id=380](http://www.ohr.int/dpa/default.asp?content_id=380) Accessed on Dec 5 2005.

## 2.5 Internal Partition of Bosnia and Herzegovina under the 1995 DPA

Bosnia and Herzegovina under the Dayton Peace Agreement  
and the front lines at the end of 1995



Source: Office of the High Representative. Available from [www.ohr.int](http://www.ohr.int)

Furthermore, the DPA started a process of political liberalization<sup>150</sup> in a society whose population was and to this day continues to be deeply divided and polarized even on the most basic of issues.

Since the beginning of 1996, the so-called Dayton BiH has been the site of rapid transformation (democratization) and internationally sponsored political engineering on a remarkable scale. Tens of thousands of military and civilian staff deployed by a consortium of international organizations have been engaged in the arduous mission of transforming this fractured society into an economically and politically viable state.<sup>151</sup> The goal of this massive international effort was to create the foundations for stability and lasting peace by supplanting “militant ethnic nationalism with pluralism and economic liberalism.”<sup>152</sup> However, the democratization process in BiH has had quite “the opposite effect,” by reinforcing the societal schism that fueled fighting in the first place.<sup>153</sup>

Despite the unstable post-conflict political environment in BiH, the international political engineers and sponsors of the DPA failed to see that immediate political liberalization had the potential to create highly destabilizing effects. With the absence of functioning state institutions and with significant external pressure<sup>154</sup> to transform rapidly

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<sup>150</sup> It is difficult to imagine how the BiH political parties could peacefully manage their inter-communal disputes in the absence of a functioning set of pan-national political institutions. Roland Paris, *At War's End: Building Peace After Civil Conflict* (New York: Cambridge University Press, 2004).

<sup>151</sup> Among the most notable international organizations present in BiH are: Office of the High Representative (OHR), Organization for Security and Cooperation in Europe (OSCE), United Nations Mission in Bosnia and Herzegovina (UNMIBH), United Nations High Commissioner for Refugees in Bosnia and Herzegovina (UNHCR), World Bank, International Monetary Fund (IMF), NATO, European Union Force in BiH (EUFOR), and many others. Bose, *Bosnia After Dayton*, 3.

<sup>152</sup> Bosnia was not just to be rebuilt; it was to be re-created--transformed into a stable, prosperous democratic society. Peter W. Singer. “Bosnia 2000: Phoenix or Flames?” *World Policy Journal* 17 (March 2000): 31-37.

<sup>153</sup> Paris, *At War's End*, 104.

<sup>154</sup> Under considerable pressure from the United States, the OSCE certified that conditions for effective elections existed in Bosnia, despite the warnings of many observers that elections held so soon

BiH into a democratic society, the international officials disregarded repeated warnings that immediate “free and fair” elections could actually impede, rather than facilitate the consolidation of peace and stability. Regardless, international DPA sponsors insisted that holding democratic elections in September of 1996 would serve to facilitate greater cooperation among the formerly warring parties.<sup>155</sup> However, as Richard Holbrooke later pointed out, the results of the national elections simply ended up reinforcing the power of nationalist politicians and separatists who started the war.<sup>156</sup>

The outcome of the national elections clearly did not ensure the desired effect of reconstituting national institutions and promoting greater cooperation among BiH’s formerly warring parties. In contrast, BiH’s September 1996 national elections served to consolidate and legitimize the political power of those nationalist leaders who were least willing to implement the provisions of the DPA. In short, the democratic elections paradoxically reaffirmed “the ethnic fault lines” and filled the new state institutions with nationalist individuals who were openly opposed to cooperating with their ethnic adversaries. As a result, contemporary BiH is today (a decade later) being governed by the very same nationalists and nationalist political parties that worked to systematically destroy and divide BiH.

In an attempt to shed light on the post-conflict situation and reconstruction in war shattered states such as BiH, Roland Paris describes how transforming war-torn countries into liberal democracies can backfire. In essence, Paris contends that the rapid

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after the cessation of hostilities would merely consolidate the power of extremist nationalists who had a vested interest in resisting the reconciliation of Bosnia’s ethnic communities. Ibid.

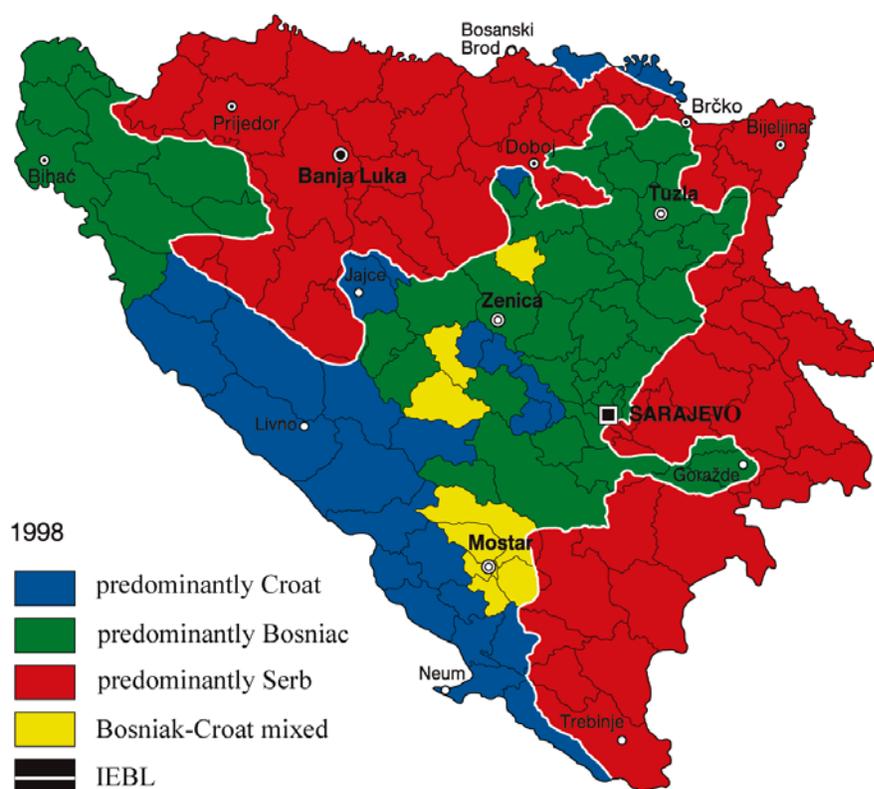
<sup>155</sup> These elections were intended to begin the process of knitting back together the country’s physically and ethnically separated communities – specifically, by reconstituting Bosnia’s national political institutions with representation from all three communities. Ibid., 101.

<sup>156</sup> Holbrooke, *To End a War*, 344.

introduction of democracy in the absence of effective institutions can increase rather than decrease the danger of renewed fighting. To illustrate ethnic division (Map 2.6) and continuum of risk, he draws on the unstable political situation and rapid democratization process in BiH as a case in point.

## 2.6 BiH's Multinational Diversity and Settlement Following the DPA

Ethnic composition in 1998



Source: Office of the High Representative. Available from [www.ohr.int](http://www.ohr.int)

With the power of the most belligerent nationalist political parties<sup>157</sup> reaffirmed by the September 1996 elections, the prospects of establishing a viable state level government in BiH were greatly diminished. In particular, Paris notes that many of the newly elected Bosniac, Croat and Serb leaders, were reluctant to participate in the very national institutions to which they had been elected. For example, the BiH parliament was scheduled to hold its first meeting in October, but it did not actually convene until January 1997 because Srpska Demokratska Stranka (SDS) representatives refused to swear allegiance to a united BiH. Furthermore, members of the new BiH Central Bank under the Constitution (Article VII, Annex 4) were appointed, but they disagreed on the bank's role and were unable to conduct official business.<sup>158</sup> In addition, Bosnian Serb and Croat leaders refused to appoint members to the new Constitutional Court, which was to be set up under Article VI of Annex 4.<sup>159</sup> In fact, multiple stonewalling delayed efforts to endow the new council of ministers effective authority to make the new state level government functional and efficient.

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<sup>157</sup> Within each of the three ethnic communities accordingly: the Muslim Party of Democratic Action (SDA), the Croatian Democratic Union (HDZ), and the Serbian Democratic Party (SDS) swept the legislative elections at both the national and the entity level. Similarly, in elections to the tripartite Bosnian presidency, voters in each ethnic group elected the respective leaders of these parties by overwhelming margins. Paris, *At War's End*, 101.

<sup>158</sup> Annex 4. Constitution of BiH, Article VII, section 2, states. The first Governing Board of the Central Bank shall consist of a Governor appointed by the International Monetary Fund, after consultation with the Presidency, and three members appointed by the Presidency, two from the Federation (one Bosniac, one Croat, who shall share one vote) and one from the Republika Srpska, all of whom shall serve a six-year term. The Governor, who shall not be a citizen of Bosnia and Herzegovina or any neighboring state, may cast tie-breaking votes on the Governing Board. See Appendix C.

<sup>159</sup> Article VI, under the BiH Constitution states: The Constitutional Court of BiH shall have nine members. Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency. *Ibid.*

Even within the Bosniac-Croat Federation,<sup>160</sup> Paris explains, Bosnian Croats attempted to retain their separate institutions, rather than merge them into the new central state government.<sup>161</sup> The main Bosnian Croat political party (HDZ) apparently had “no intention of abandoning what it considered to be its national rights to territorial sovereignty and economic assets” within the areas of the Federation that they controlled.<sup>162</sup> However, the institutional and functional challenges to the newly created state level government did not end just there.

To make matters worse, political leaders of all three ethnic groups obstructed the return of minority refugees and displaced persons to their homes. According to the European Union Ministry for Human Rights (EUMHR), the only refugee returns that took place following the elections consisted mainly of people going back to areas controlled by their own ethnic group “because returns across ethnic lines proved nearly impossible.”<sup>163</sup> Many factors hindered the repatriation process, including fear of violent attacks, poor employment prospects, and lack of sustainable housing. In fact, Massimo Diana, a program manager for EUMHR Project SUTRA, asserts that it was the lack of institutional capacity and political will of the nationalist political leaders that were seen as the main obstacles responsible for improving refugee returns.<sup>164</sup> This situation was exacerbated by politicians failing to provide adequate security to returnees, by

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<sup>160</sup> The Federation is one of the two formal entities recognized by the Dayton Peace Accords. More precisely, the federation was created by the *The Washington Agreement: Confederation Agreement Between The Bosnian Government and Bosnian Croats*, Washington, DC March 1 1994. Available from [http://www.usip.org/library/pa/bosnia/washagree\\_03011994.html](http://www.usip.org/library/pa/bosnia/washagree_03011994.html) Accessed May 2, 2005.

<sup>161</sup> Paris, *At War's End*, 101.

<sup>162</sup> Ibid.

<sup>163</sup> Massimo Diana. European Union Ministry for Human Rights (project SUTRA) “Trajan Prenos Odgovornosti za Povratak na Nadležne Institucije: Povratak izbjeglica i raseljenih osoba putem pojačanog ucesca domacih organa.” RDA Conference paper (Tuzla, BiH January 2003).

<sup>164</sup> Ibid.

maintaining discriminatory property laws, and by transferring minority owned housing to the members of their own political party and ethnic group.<sup>165</sup>

Furthermore, all three nationalist parties resisted international efforts to track down and arrest persons indicted as war criminals by the International Criminal Tribunal for the Former Yugoslavia (ICTY), despite pledges to cooperate in these efforts. According to Francine Friedman, the lack of trust among the three major ethno-national groups was particularly obvious with regard to the lack of cooperation with the ICTY Tribunal. In 1998 all three national groups ranked the arrest of war crimes indictees very low on their list of urgent issues.<sup>166</sup>

During the first few postwar years, neither the responsible government nor international forces (IFOR) on the ground actively brought suspects into ICTY custody.<sup>167</sup> In fact, many of the most notorious war criminals lived openly and continued to exert influence on BiH political life.<sup>168</sup> As a result, the real cooperation between the dominant nationalist parties at state level can be characterized as slight and grudging, while progress on the ground, in terms of the building effective state institutions, returns of refugees, and the arrests of indicted war criminals has been very slow and minimal.

In 2000, almost five years after the DPA agreement, Peter W. Singer notes that despite major political challenges much has been accomplished in this semi-protectorate of the international community.<sup>169</sup> Coordinated by the international Office of the High

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<sup>165</sup> Ibid., Conference: Question and Answer period.

<sup>166</sup> Friedman, 77. These findings are based on the poll taken by the United States Information Agency (USIA) presented Charles G. Boyd, "Making Bosnia Work," *Foreign Affairs* 77 (Jan-Feb 1998), 46.

<sup>167</sup> Ibid.

<sup>168</sup> Gradually, however, the state authorities under significant international pressure became more active in apprehending indicted war criminals, although the two most notorious, Radovan Karadzic and Ratko Mladic, still remain at large, even at the time of this writing. Ibid.

<sup>169</sup> Peter W. Singer, "Bosnia 2000: Phoenix or Flames?" 31-37, *passim*.

Representative (OHR),<sup>170</sup> state institutions at all levels have been created from a tripartite presidency and joint parliament, all the way down to local civic councils. A new national currency, a new flag, and even a Bosnian state seal and anthem are in place. Economic reports and preliminary data indicate that based on robust industrial output economic growth is steady in both entities (Federation and Republika Srpska) and that there is a strong rise in BiH's exports.<sup>171</sup> The annual real GDP growth was estimated at five percent and it is expected to remain mostly steady.<sup>172</sup> In addition, several internationally monitored<sup>173</sup> elections have been successfully held. However, despite all the progress made so far, BiH is not yet set on the path to political stability and prosperity.

Upon closer assessment, the reality of political life in BiH today reveals that while much has changed, a great deal still remains the same. While the DPA and Annex 4 of the GAFP<sup>174</sup> provide a degree of pluralism by instituting a new decentralized political framework (government), the state remains divided between representatives of the three

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<sup>170</sup> Office of the High Representative (OHR) in BiH, was created in 1995 immediately after the Dayton Peace Agreement to oversee the civilian implementation of this agreement. The mandate of the High Representative is set out in Annex 10 of the DPA. The OHR represents the Peace Implementation Council (PIC), a group of 55 countries and international organizations that sponsor and direct the peace implementation process, on behalf of the international community. The High Representative is also now the European Union's Special Representative.

<sup>171</sup> The Economist Intelligence Unit. "Bosnia and Herzegovina: Country outlook." EIU Views Wire. (New York: Mar 1, 2005) Available from [www.eiu.com](http://www.eiu.com) Accessed Mar 5, 2005.

<sup>172</sup> The Economist Intelligence Unit "Bosnia and Herzegovina: Economic Structure." EIU ViewsWire. (New York: Apr 6, 2005).

<sup>173</sup> On the basis of their experience with the 1996 national elections, international sponsors and peace-builders this time around intervened in various 1997 and 1998 elections by supporting candidates who preached moderation but lacked sufficient popular support to gain power through the democratic process alone. Paris, *At War's End*, 105.

<sup>174</sup> Annex 4 called for the establishment of central government institutions: a Presidency, Council of Ministers, Parliamentary Assembly, Constitutional Court, Central Bank, and Standing Committee on Military Matters. In fact, the enumerated powers for the central government created by the DPA are very limited. They include foreign policy, foreign trade, customs, monetary policy, finances of the institutions, and external debt, immigration, refugee, ad asylum policy and regulation, international and inter-entity criminal law enforcement, establishment and operation of national and international communications facilities, regulation of inter-entity transportation and air traffic control. Constitution available from <http://www.ohr.int/ohr-dept/legal/const/> Accessed May 5, 2005.

ethno-national groups who reside in two self-ruling entities.<sup>175</sup> More importantly, this division hides the fact that in each ethnic community, the ruling political parties have not changed but simply adopted the same adversarial roles and style of governance that was common prior to the outbreak of the 1992 war. As the former Prime Minister of BiH Haris Silajdzic asserts, “the internal organization of BiH, with two entities, which were essentially created by war, ethnic cleansing and destructive force, represents a lasting inspiration to those nationalist political forces whose options are based on national hatred and the formation of ethnically exclusive states.”<sup>176</sup> Although the words and phrases of governance are now different (in three official languages Bosnian, Croatian, and Serbian), the nature of an antagonistic and corrupt political system remains, permeating the process by which political and economic power, and even basic goods and services are allocated.<sup>177</sup>

As a result, the political scene in BiH as well the future of the state remains unstable and very much uncertain. A veiled nationalist structure of domestic control hinders international as well as internal efforts at promoting cooperation and reform at various levels.<sup>178</sup> One's position in the ethnically dominant party based political system still affects everything from job advancement to where one is able to live. To illustrate, Peter Singer confirms that intra-ethnic discrimination is creating much of the holdup in permitting the return of refugees. To this day, Singer notes how the primarily Bosniac ruling party, the Party for Democratic Action (SDA), distributes apartments as political

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<sup>175</sup> The two Entities each have their own army, police force, energy and telecommunications systems, and defence ministries, as well as separate educational, healthcare and pension systems. Friedman, *Bosnia and Herzegovina*, 63.

<sup>176</sup> Translated from the original. Haris Silajdzic, *Na Putu Ka Modernoj Drzavi* (Sarajevo: Vijece Kongresa Bosnjackih Intelektualaca, 2000).

<sup>177</sup> Singer, *Bosnia 2000*, 36.

<sup>178</sup> *Ibid.*

rewards to loyal members to the exclusion of disenfranchised Bosniac refugees. The result is that rule of the party comes before rule of law.<sup>179</sup>

In addition, informal political networks penetrate all spheres of activity that include the economy, education, housing, the judiciary and the highest government executive levels. People and businesses that are not tied into these networks find themselves thwarted at every turn, while those that are connected can operate almost without restrictions. Significant patronage appointments, promotions, dismissals, and privileges all run through the prerogative of the political party, meaning little separation of the public and private sectors. As such, BiH faces some serious and complex challenges in the near future and in the process of democratization. As an independent country, BiH risks becoming a dysfunctional state where the true power brokers are extremists and nationalist elites governing at the top of a corrupt political system.

### **Nationalist Challenges and Opportunities**

Nationalism and nationalist political parties are the most powerful and intoxicating political forces that continue to dominate life in BiH. Consequently, they create some serious impediments to the BiH's democratization process. The course of BiH's political change and transformation into a modern state with capable and effective government institutions has been challenged at every step of the way. Nevertheless, every challenge and difficulty can be seen as an opportunity to transcend these impediments in order to achieve the ultimate goal of stability, security and a path to prosperity (EU). Today, the need for intricate state/constitutional reforms (institutional restructuring) and corruption inherent in BiH's body politic remain the primary challenges to stability and full achievement of the original plans set out in the DPA.

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<sup>179</sup> Ibid.

This is not to say that nationalism is no longer of intense and primary concern, but conceptualizing BiH's problems only in ethnic or nationalist terms overshadows the pressing task of establishing stable political structures and enforcing the rule of law. After almost ten years of international protection, BiH has still not resolved a number of major political issues. These pressing issues comprise fragmented state institutions, corruption of a political system dominated by ethnically controlled political parties, and the lack of independent police and non-partisan judicial systems. In fact, an overall lack of good governance has stunted both the political and judicial process and created a grave situation of uncertainty. Further exacerbated by poor economic conditions this situation has also led to a deepening division in the population of BiH and a growing sense of mistrust in the political system. As a result, to overcome these obstacles and bring the country together it is essential to focus on constructing a framework of effective state institutions, eliminating corruption through legal reform and enhancing cross party consensus building.

Ten years after the end of war and signing of the DPA it is apparent that BiH as a polity is still not politically unified. According to Francine Friedman, "mono-ethnic domination in various areas of the country still passes for a political framework."<sup>180</sup> In a contemporary BiH there is little room for anyone who does not follow a national agenda, as most politicians seem to consider BiH politics a zero sum game.<sup>181</sup> Where a gain (or loss) for one national group is an equivalent loss (or gain) for the other national group over issues such as land, influence, power and essentially control of the state. Should people of one national group succeed in returning and regaining their former property the

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<sup>180</sup> Friedman, *Bosnia and Herzegovina*, 84.

<sup>181</sup> Ibid.

other competing groups consider their own power as compromised. This has been a major reason for the reluctance to permit returnees of an ethnic group into areas dominated currently by another ethnic group.<sup>182</sup> As such, a decade after the DPA there appears to be very little room for compromise between competing national groups. In most cases, anyone within the ethnic group preaching pragmatism or reconciliation is considered a traitor to his/her own people.<sup>183</sup>

Most importantly, pluralism and political liberalism in postwar BiH is consistently being undercut by the endemic corruption of the political and economic systems. As Peter Singer points out, “for a country in transition this is doubly dangerous; besides wasting and diverting valuable resources, corruption undermines the legitimacy of the government, fosters organized crime and erodes the foundations of civil society.”<sup>184</sup> Nationalist political parties and corrupt politicians receive funding from many sources including smuggling, fictional businesses, diversion of customs revenue and other criminal activities. The same political parties control and manipulate key firms and businesses, including state resources and public utilities for their own personal and partisan interests. As a result, this type of activity only supports the relationship between organized crime and political system, and harms the prospects for economic reform and foreign investment. Meanwhile, corrupt politicians along with their ethnically defined

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<sup>182</sup> Ibid.

<sup>183</sup> Many Bosnians of all nationalities will state openly that they can stop hating, but that they will neither forgive nor forget what happened during the brutal 1992-1995 war. In addition, many people, primarily those outside urban communities also add that they wish to be left alone with their own ethnic group. This is predominantly because various members of all communities (primarily those in Republika Srpska) still fear first and foremost for the survival of their ethnic/national identity and place group interests above all else. James Lyon, “*Bosnia and Herzegovina: An Impossible Reconciliation?*” Available from [www.unesco.org/courier/1999\\_12/uk/dossier/txt09.htm](http://www.unesco.org/courier/1999_12/uk/dossier/txt09.htm) Accessed May 5, 2005.

<sup>184</sup> Singer, *Bosnia 2000*, 37.

political parties still control decision-making within the administrative, judicial, and economic organs of BiH.

In addition, primary impediments to successful implementation of the DPA and state level reforms (political/constitutional, judicial, police) continue to be fragmented. Most worrisome appears to be lack of capacity to deal with the continuation of wartime networks specializing in illegal trafficking, bank fraud, extortion and bribery, tax evasion, trafficking of stolen cars, and most recently narcotics. Even international officials working in BiH have acknowledged that a “complex web of interrelationships exists between organized criminals and government officials.”<sup>185</sup> For example, public funds and international assistance, instead of being used for reconstruction and repair of vital public services, often disappear without a trace in money laundering schemes and frivolities.<sup>186</sup> Corrupt elites appear to cooperate in the best tradition of cross cutting cleavages across national groups to maintain their own respective power positions. As a result, systemic corruption has become a prevalent and an accepted part of the system. This is disastrous for any effective institution building and enduring progressive reform.

Systemic corruption and fraud in the financial and political community also steers foreign investment away from BiH, impoverishing an already poor country. The BiH state is dependent upon its two newly created Entities (Federation and Republika Srpska) for its finances, as each Entity controls all the taxes and duties collected on its own territory. However, Friedman emphasizes that Entity businesses are associated with, and largely held under criminal control, primarily because the criminal arena is the only place where inter-ethnic business is done freely. Thus, transforming the financial formula of

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<sup>185</sup> Friedman, *Bosnia and Herzegovina*, 85.

<sup>186</sup> Singer, *Bosnia 2000*, 33.

the political system and underlying power structure of BiH is critical to ensure any lasting reform.<sup>187</sup> The international community has taken on this task and has made some headway, but the corrupt and ethnically driven political system vigorously resists this transformation.

Some opponents of a unified BiH are quick to point out that efforts at reform are hindered in certain respects by the internationally imposed DPA. A report issued by the International Commission on the Balkans declared, “with respect to BiH, [that] the constitutional architecture is dysfunctional. What is important is the need to drive forward and facilitate a reform of the BiH constitutional system.”<sup>188</sup> Critics have suggested that the DPA itself obstructs the peace it sought to impose because it instituted a system based on group rights and ethnic representation. In fact, ethno-political separation is intrinsic in the DPA, as it emphasizes the importance of national leaders and problem solving only according to ethno-national interests. As a result, this does not strengthen cooperation among divergent national groups, nor creates a non-nation based civil society. Instead the current system legitimizes separate development and prevents multi-ethnic cooperation.<sup>189</sup>

While encouraging the restoration of the multinational character of BiH, the BiH Constitution, set up by the DPA specifically recognizes the existence of constituent ethnic groups and accordingly gives them constitutional standing. As such, it is not surprising that central government powers are held hostage by the constituent ethnic

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<sup>187</sup> Both Singer and Friedman make a strong case for transforming the political system and underlying power structures so as to ensure lasting reform in BiH. Singer, *Bosnia 2000*, passim.

<sup>188</sup> International Commission on the Balkans. (April, 12, 2005), 23. Available from <http://www.cls-sofia.org/projects/Report.pdf> Accessed May 6, 2005.

<sup>189</sup> Friedman, *Bosnia and Herzegovina*, 86.

groups, which can veto or delay federal initiatives.<sup>190</sup> Positions of influence are inevitably based upon ethnic membership, which means that governmental and parliamentary representatives, representing their own ethnic groups, administer and manage all decision making processes. Policies like this, until recently, eliminate the emergence and participation of non-nationalists in politics, even though the original goal of these policies was to marginalize the nationalists so that their political base would disappear. Until relatively recently the post war elections results reflect the DPA bias toward the nationalists.<sup>191</sup>

Despite all the numerous challenges facing BiH, the Feasibility Study, presented by the European Commission to the EU Council on BiH's progress within Stabilization and Association Progress (SAP) process, indicates that BiH has made considerable progress in stabilization since the war ended in 1995.<sup>192</sup> Democratic systems have begun to function in BiH; internationally monitored and approved elections have been held at various levels throughout the country; the rule of law has been gradually re-established; freedom of movement is guaranteed; a good number of refugees and displaced people are slowly returning to the country (if not their own homes); there is freedom of expression and peaceful assembly, and BiH infrastructure is being repaired. Steps have also been

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<sup>190</sup> According to the *BiH Constitution*, which provided for a tripartite presidency, the co-presidents are to adopt all Presidency decisions by consensus, although the legal requirement for measures to pass was only two affirmative votes, not three. *Article V, Section 2 (c)*. However, in order to prevent two members of the presidency from ganging up on the third, the constitution also permitted each co-president to exercise a veto over specific decisions that were deemed to be "destructive of a vital interest of the Entity." *Ibid.* Section 2 (d). These arrangements, it was hoped would encourage the BiH presidency to devise policies that balanced the interests of the country's constituent communities. Paris, *At War's End*, 192.

<sup>191</sup> Friedman, *Bosnia and Herzegovina*, 87.

<sup>192</sup> Feasibility Study Report presented by the European Commission to the European Union Council, *Report From the Commission to the Council: on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union* (Brussels, November 18, 2003) Available from <http://www.delbih.cec.eu.int/en/whatsnew/report-692.pdf> Accessed on May 5, 2005.

taken to strengthen the independence of the judiciary. Most importantly, the country is generally peaceful and there has been no resurgence of war.<sup>193</sup>

The regularization of free and fair elections with political parties based on interest rather than national group would assist in the deepening of democracy by forming the effective institutions that would share power.<sup>194</sup> However, the insistence of the international community backed by heavy pressure from the US on proceeding with rapid transformation, political liberalization and quick elections revealed an unfortunate effect or rather emphasis on the forms of democracy at the expense of its substance.<sup>195</sup> The argument that quick elections would create mechanisms to facilitate cooperation among BiH's ethnic groups and jump-start common state institutions simply failed, when the results simply reaffirmed the ethnic fault lines that essentially tore the country apart. In fact, this situation seems to have demonstrated an unfortunate propensity to use elections as a convenient means of declaring the international community's involvement. Western diplomats, either cynical or naïve, have forgotten that until "conditions are propitious for a successful vote" meaning that "a vote that not only is conducted in a free and fair manner, but also furthers the development of stable democracy and diminishes the risk of renewed violence,"<sup>196</sup> elections can in fact be as divisive as they are unifying.<sup>197</sup>

At the same time, many critics of international policy and DPA argue that the international community in BiH has so far largely failed in its goal of encouraging local

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<sup>193</sup> Ibid, Section 1.1, 6 passim.

<sup>194</sup> Friedman, *Bosnia and Herzegovina*, 88.

<sup>195</sup> Ibid., The September 1996 national election results in BiH suggest that the goal of democratization was sacrificed for expediency and outward appearance of international success.

<sup>196</sup> Paris, *At War's End*, 189.

<sup>197</sup> In general, the most recent elections results at municipal and cantonal levels have seen erosion in support for the three dominant nationalist parties in favour of more moderate coalitions; however, nationalists remain very strong particularly in Republika Srpska and Croat dominated regions of Herzegovina. Friedman, *Bosnia and Herzegovina*, 88.

nationalist leaders to accept “reform ownership.” The slow and grudging reform progress that has taken place so far is seen as a result of lack of political will. Various EU Commission reports point out that many fundamental reforms still need to be undertaken. As Francine Friedman asserts, one key structural problem in BiH is the persistence of the “nomenklatura system,”<sup>198</sup> which persists because of the lack of strong, active popular support for change. An additional challenge is creating new democratic structures to replace the old ones.

The complexity of the existing DPA itself may also hinder BiH’s performance, given the weakness of central authorities and the way that the country is organized on the basis of ethnicity. However, regardless of the arguments for and against DPA, Article X of the BiH Constitution clearly provides the formula and possibility of amending the constitution.<sup>199</sup> More moderate (non-nationalist) proponents argue that BiH has already begun to address these issues through the “constituent peoples” amendment and through reform of indirect taxation and defence restructuring. These reforms suggest that incremental, issue based reform may be a way to progress. At any rate, the DPA and BiH constitution is not an insuperable obstacle to reform on the road to a modern state with the goal of eventual EU integration.<sup>200</sup>

In addition, critics point out that within the BiH state government there is a poor and insufficient record of adopting and advancing legislation of parliamentary procedures. This sometimes reflects a lack of political will and diverging national

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<sup>198</sup> The nationalist parties created their own nomenklatura, controlling appointments and privileges across all positions of influence, including in the legislature and judiciary. *Ibid.*, 89.

<sup>199</sup> GFA Annex 4, Article X: Amendment Procedure. This Constitution may be amended by a decision of the Parliamentary Assembly, including a two-thirds majority of those present and voting in the House of Representatives. See Appendix C.

<sup>200</sup> EU, *Report from the Commission to the Council*, 6.

interests, but also structural weakness such as under-developed legislative drafting abilities and support structures that are not yet fully functional.<sup>201</sup> In fact, the EU Feasibility Study emphasizes that the Council of Ministers has consistently failed to produce an annual work program by the beginning of the calendar year as required. In addition, new ministries created by the Law on the Council of Ministers remain undeveloped. In remedying these and other political shortcomings, at least two factors will be decisive: improved institutional capacity and political will. To counter this criticism, Friedman notes that Western legal bodies like the American Bar Association have been working with legislators to draft laws on such issues as investment and privatization, which may be the key to economic development in BiH.<sup>202</sup> Only when a stable legal and political framework is firmly established and adhered to can BiH begin to function on its own as a self-sustaining state.<sup>203</sup>

### **Conclusion**

Since its early origins BiH has been shaped by geopolitical struggle for control, power and possession of territory amongst its neighbours. Its autonomous status, independent existence, and security have all been wrought by historical events, brutal realpolitik and dominant ideologies. Following the disintegration of Yugoslavia along ethno-national lines, the creation or reconstitution of a new BiH state is relentlessly faced with the dynamic impact of nationalism. In fact, resurgent nationalism is creating

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<sup>201</sup> Ibid., 8.

<sup>202</sup> Friedman, 89.

<sup>203</sup> This is actually one of the SAP prerequisites for self-sustaining, BiH driven reform. Friedman, *Bosnia and Herzegovina*, 89. Other priorities include reforming the police structure, cooperating with the ICTY in arresting and handing over war criminals, ensuring effective judiciary, tackling organized crime, creating a effective public service by reforming public administration, ensuring more effective governance, and among others implementing a number of economic policies that will create single economic BiH space.

profound impediments and causing serious concerns about the future security, stability and viability of a modern and multinational BiH state.

The process of democratization and state reform following the 1995 DPA has proven to be a difficult one. Ten years after the end of war, BiH is still subject to unstable conditions and complex nationalist challenges of its constitutive peoples. The destructive nationalism and malignant nationalist political forces, poised to tear the country apart, continue to dominate every facet of political life in BiH. Instead of working together towards building a modern and multinational democratic state, the three dominant national groups, persistently challenge the legitimacy of the state, its common institutions and ability to function (cooperate) together as a single coherent unit. In fact, the need to transcend exclusive nationalist politics, corruption and fragmented state institutions is fundamental in the process of transformation and state building. More specifically, until major political parties draw support from all sectors of society, from Bosnian Croats, Serbs and Bosniacs, on issue based considerations rather than nationalist interests and membership, BiH will remain predisposed to uncertainty, adversity and possibly another nationalist conflict.

Both the international actors concerned with the future of BiH as well as the BiH citizens would do well to draw lessons from the experience of BiH's neighbors in Eastern Europe who have successfully made the transition from the Communist era. Cooperation within the EU Stability and Association Agreement (SAA), with its regional cooperation on democratic governance and economic reform, provides a mechanism for BiH to follow more closely the path that Hungary, Czech Republic, and Poland have taken. Greater attention must be given to greater reforms, the establishment of pluralism and

accountability, both in the political system and in the economy, and at the state and local levels. Moderate and inclusive political parties must be supported and the monopoly on power by the dominant nationalist elites must be broken. International actors should therefore ultimately focus on leaving behind in BiH a self-sustaining legacy of effective institutions that serve the public interest and reinforce good governance.

In closing, the DPA clearly spells out a number of requirements, and key principles, not only necessary “to end a war,” but also to establish a modern and functional multinational democracy. In order to ensure peace, stability and security in this newly transformed polity, BiH constituent peoples and its citizens need to look beyond DPA so they can decide what kind of life and what kind of future (state) they really want. The key question and debate over the last ten years has been “What do Bosnians-Herzegovinans really want?” It is now up to all BiH citizens, regardless of their national identities, religious beliefs, or ethno-national belonging to decide on the course of action they want to pursue.

## CHAPTER THREE

### Reconstructing a Multinational State

Since the Dayton Peace Accords in 1995, BiH has undergone, and is still enduring a difficult democratic transition and transformation experience on many counts. Despite continuously being challenged by exclusive nationalism and divergent political aims of its constitutive peoples, this newly reconstructed or rather politically re-engineered plural society is a modern state in the making. More explicitly, this chapter demonstrates that BiH is a site where past ethno-national differences have shown to be among the most powerful and intractable. However, today this is where a new and more contemporary type of political state, “multinational democracy,” is now emerging.

Central to the emergence and reconciliation of a multinational democratic state within a deeply diverse political community are the questions of unity (cohesion and coherence), institutional forms of accommodation, and stability. The need for unity and the creation of a coherent political system in a newly formed multinational state comes from the conditions of legitimacy, essential for any democratic society.<sup>204</sup> The key to building a coherent, effective and functioning multinational state lies in determining a set of institutional and political structures which are inherently “ethnic or national,” but preclude the growth of exclusive and divisive politics. Therefore, the main task of this work is to investigate the political structure and governing of the newly formed multinational democratic state, such as BiH.

One of the most persistent obstacles to constructing a single, coherent, and unified multinational state is nationalism. Nationalism is the most potent political force shaping

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<sup>204</sup> Charles Taylor. *Foreword to Multinational Democracies*, eds. Alain-G. Gagnon and James Tully (Cambridge: Cambridge University Press, 2001).

the modern world and it is widely held to be a major competitor to democracy. In fact, many analysts consider it to be fundamentally anti-democratic. However, nationalism and democracy may not be two separate things, and nationalism may be an essential component to create a more complex entity called multinational democracy. In essence, building multinational democracy requires that BiH's institutional engineers discard the hope of "solving" nationalism. Instead, overcoming nationalism requires accepting nationalism and working to create the conditions to exploit its positive elements and overcome its negative aspects within a political system.<sup>205</sup>

To address the questions of multinational democracy, this chapter is divided into three parts. First, it lays down a definition of a multinational democracy, and analyzes the relationship between nationalism and democracy. Second, it assesses two strategies of political engineering, as means of accommodating diverse national groups. Third, it analyzes the structure of the new BiH constitutional framework and argues that the emergence of a unified multinational state requires that its institutional framework and policies must be conducive to multiethnic inclusiveness, political incentives and counterbalances to exclusive ethno-nationalist sentiments.

### **Multinational Democracy**

Newly independent multinational democracies, nominally BiH, are increasingly the site of two opposite and competing tendencies. First, they require unity and homogeneity in order to function as single, coherent and efficient political units (states). Second, these states are multinational/multiethnic polities inhabited by diverse and

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<sup>205</sup> A similar type of argument was put forward by Florian Bieber in his article on "The Challenge of Democracy in Divided Societies: Lessons from Bosnia – Challenges for Kosovo," in Dzermal Sokolovic and Florian Bieber, eds. *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina* (Aldershot: Ashgate Publishing Ltd. 2001).

estranged people who are increasingly demanding that their national differences be recognized. BiH in particular, remains deeply troubled in overcoming exclusive nationalism and diverging nationalist aims amongst constituent peoples,<sup>206</sup> which makes it deeply divided, unstable and largely disjointed.<sup>207</sup> As a result, there is an increasing need for unity, cohesiveness, and the construction of a stable and inclusive multinational democracy.

Multinational democracy like any political phenomenon is complicated.<sup>208</sup> Regardless, a multinational democracy may be defined and observed as a distinct political community made up of at least two demographically significant ethnic or national groups. It contains four unique characteristics.<sup>209</sup> First, in contrast to single nation democracies (which are often presumed to be the norm), they are constitutional associations that contain a diversity of nations or peoples.<sup>210</sup> Second, the citizens and

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<sup>206</sup>It is the fanaticism of extremists and nationalists that insist that states must be based on ethnicity and that pluralism is artificial and unworkable. In fact, BiH's most immediate neighbors, and their local surrogates, have been doing their best to make facts fit their theory through demagoguery, hate mongering, and violence. However, BiH, for centuries a pluralistic, multinational, multi-religious society, has shown, especially in recent times that pluralism can successfully exist even in Balkan context. Robert, Donia and John Fine Jr., *Bosnia and Herzegovina: A Tradition Betrayed* (New York: Columbia University Press, 1994), 8.

<sup>207</sup> The deep social divisions and political differences within plural societies are mainly held responsible for instability and breakdown in most democracies. Arend Lijphart, *Democracy in Plural Societies* (New Haven and London: Yale University Press, 1977)

<sup>208</sup> In a recently renowned book *Multinational Democracies*, James Tully asserts that there is not one set of properties that uniquely defines multinational democracy, but rather as with most complex political phenomena, there exists a complicated network of overlapping characteristics. The classical liberal view of a well ordered society presented by John Rawls in his 1996 work *Political Liberalism* advances that a multinational society, like all free and democratic societies, is essentially a fair system of social, political and economic cooperation in the broad sense. It is the aggregation of publicly recognized democratic practices in which people acquire, exercise, question and modify their identities as national and multinational citizens. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 15-34.

<sup>209</sup> James Tully, *Introduction to Multinational Democracies*, eds. Alain Gagnon and James Tully (Cambridge: Cambridge University Press, 2001), 2.

<sup>210</sup> According to Michael Keating in his article entitled "So Many Nations, So Few States" he argues that "if one puts aside the idea of a uniform single nation state as the norm, an intellectual construction, then a reading of history and practices based on multinational accommodation is possible." Only in that case can one look at ways in which changing conceptions of the state and political order could help reconcile state and nation in the present era. Michael Keating, in *Multinational Democracies*, 40.

their representatives simultaneously participate in the political institutions of their self-governing nations and the larger, self governing multinational state.<sup>211</sup> Third, the nations and the composite multinational state are effectively constitutional democracies.<sup>212</sup> The legitimacy of both the nations and the multinational state rests on adherence to the legal and political values, principles and rights of constitutional democracy and international agreements.<sup>213</sup> Finally, multinational democracies are also multicultural.<sup>214</sup> Accordingly, both the nations and the multinational state are composed of individuals and cultural, linguistic, religious and ethnic minorities who struggle for and against distinctive forms of national recognition and accommodation. In short, multinational democracies are not traditional, single-nation democracies with internal, sub-national minorities seeking group rights within, but rather they are societies composed of two or more, often overlapping nations that are more or less equal in status.

Multinational democracy as a distinct and new form of the state may be difficult to grasp. This is mainly because multinational states often emerge out of “cocoon”<sup>215</sup> of societies in which the majority tends to understand itself as a single-nation democracy, or

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<sup>211</sup> Ibid. In the introduction, James Tully points out that multinational democracies are not confederations of independent nation-states, plural societies of separate peoples or multinational empires. Most newly formed multinational democracies such as Bosnia, Kosovo, Macedonia, and others, tend to exhibit federal, confederal and consociational features in their structures. The jurisdictions, modes of participation and representation, as well as the national and multinational identities of citizens overlap a great deal and are subject to negotiation. Tully, *Multinational Democracies*, 3.

<sup>212</sup> Bosnia and Herzegovina, as a multinational democratic state, has been formed or re-constituted on the basis of The Dayton Peace Agreement (1995) also known as The General Framework Agreement, which under Annex 4 lays out the formal Constitution of the country. Available from <http://www.ohr.int/ohr-dept/legal/const/> Accessed June 25, 2005.

<sup>213</sup> Tully, *Introduction to Multinational Democracies*, 3.

<sup>214</sup> According to Tully, the nations and the multinational associations develop procedures and institutions for the democratic discussion and reconciliation of these forms of diversity with the unity of their respective associations, in addition to the procedures and institutions for the reconciliation of their multinational diversity. The struggles over minority and multinational diversity tend to overlap, compete, and undergo democratic negotiation as well. Ibid., 4.

<sup>215</sup> Cocoon societies may be defined as those societies that are closed off to the outside world, viewing themselves as a single and unified nation, while failing or rather refusing to recognize multiple minorities within their own borders.

equate democracy with single nationhood, even when this is historically inaccurate. Multinational democracy as a recent phenomenon appears to run against the prevailing norms of legitimacy for a single-nation democracy and it is condemned as unreasonable or abnormal by both the defenders of the status quo and the proponents of secession. A legitimate multinational democracy thus runs against<sup>216</sup> the norms of single nationhood principle, not the norms of constitutional democracy, which are only contingently related to the old ideal of a single-nation polity.<sup>217</sup>

The crucial and defining feature of stable multinational democracies is that they are free and democratic. This implies is that the members of the multinational society not only act democratically within the rules and procedures of cooperation, but they also impose the rules on themselves and alter the rules and procedures democratically.<sup>218</sup> In short, democracy ensures a system of rules legitimated by the will of the people, and it is generally presumed that the people will generally choose what seems to be in their best interest. The one problem is that in most newly formed multiethnic and nationally diverse states there are multiple reasons why democratization and democracies may fail.<sup>219</sup>

Donald L. Horowitz cautions that “democracy (in multinational states) is essentially about inclusion and exclusion, about access to power, about the privileges that

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<sup>216</sup> For example, Canada is often referred to a single nation; however, it is widely held and officially recognized that there are at least three dominant nations with hundreds of ethnic minorities.

<sup>217</sup> Tully, *Introduction to Multinational Democracies*. 3 In this case, and contrary to Gellner’s principle, the state and nation are not fully congruent due to existence of various nations within one single state.

<sup>218</sup> James Tully convincingly argues that the primary question in multinational states is not recognition, identity or difference, but rather freedom. More specifically, he refers to the freedom of the members of an open society to change the constitutional rules of mutual recognition and association from time to time as their identities change. This is an aspect of the freedom of self-determination of peoples, one of the most important principles of modern politics. *Ibid.*, 5.

<sup>219</sup> Among the most notable reasons why democracy and democratization may fail include, lack of consensus or united political opinion, lack of political culture, resistance of entrenched civilian or military elites, absence of conducive social or cultural conditions, and inaptly designed state institutions.

go with inclusion and the penalties that accompany exclusion.”<sup>220</sup> Specifically, Horowitz asserts that in severely divided societies, ethnic and national identity provides clear lines to determine who will be included and who will be excluded.<sup>221</sup> Since these lines appear unalterable, being in and being out may quickly come to look permanent. As a result, in ethnic and nationalist politics, inclusion may affect the distribution of important material and nonmaterial goods, including the prestige of the various ethnic or national groups and the identity of the state as belonging more to one group than another. In addition, in deeply divided societies such as in BiH, there is a tendency to conflate inclusion in the government with inclusion in the community and exclusion from government with exclusion from the community.<sup>222</sup>

Nationalism is often held as the major obstacle to democracy and democratization in newly formed multinational states. Nationalism, an extremely dynamic and protean political force, has largely been seen by its academic analysts with suspicion and usually with dislike and even disgust.<sup>223</sup> Often referred to simply as “ideology with strong emotional appeals,” nationalism is a potent political movement that tends to take on a pronounced ethnocentric bias. It most commonly does this by asserting the superiority of one nation or group’s culture, language, and religion and excludes all other alien elements in order to strengthen the solidarity of its own ethno-national community. Operating on the axiom that a perceived domestic or foreign threat unites a community, Janusz Bugajski notes, aggressive nationalist leaders often promote discrimination

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<sup>220</sup> Donald L. Horowitz, “Democracy in Divided Societies,” in *Nationalism, Ethnic Conflict and Democracy*, eds. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press 1994), 35.

<sup>221</sup> Ibid.

<sup>222</sup> Ibid., 35.

<sup>223</sup> Bieber, *The Challenges of Democracy in Divided Societies*, 112.

against other national groups within the state and endorse hostility toward neighboring states.<sup>224</sup> As a result, chauvinistic or exclusive nationalism is likely to be manifested among groups that live with larger and potentially more threatening minorities, especially where there are deep rooted historical grievances and seemingly irreconcilable cultural or religious differences.<sup>225</sup>

While most analysts consider nationalism to be fundamentally anti-democratic, destructive and highly destabilizing, recent East European experience and scholarly research raise some important questions about the relationship between nationalism and democracy. Ghia Nodia argues that viewing nationalism and democracy as a contradictory or “mutually hostile” phenomena distorts an understanding of what is happening in the post communist countries.<sup>226</sup> Nodia suggests that these two are not separate but rather interdependent forces. By positing that “nationalism is a component of the more complex entity called liberal democracy,” he proposes that the idea of nationalism is impossible without an idea of democracy, and that democracy never exists without nationalism. More explicitly, he asserts, the two are joined in sort of complicated marriage, unable to live without each other, but coexisting in an almost permanent state of tension.<sup>227</sup>

The reason why nationalism and democracy are interdependent is related to their historical and ideological origins in the French Revolution. Both are associated with

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<sup>224</sup> Janusz Bugajski, “The Fate of Minorities in Eastern Europe,” in *Nationalism, Ethnic Conflict and Democracy*, eds. Larry Diamond and Marc F. Plattner. (Baltimore: Johns Hopkins University Press 1994), 103.

<sup>225</sup> This is particularly evident from the case study of Bosnia and Herzegovina. At its worst, nationalism inspires political ferment, xenophobia, ethnic conflict, and most egregious acts of violence. Ibid.

<sup>226</sup> Ghia Nodia “Nationalism and Democracy,” in *Nationalism, Ethnic Conflict and Democracy* eds. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press 1994), 3-4.

<sup>227</sup> Ibid.

popular sovereignty and participation based on rights, beliefs, expectations and interests. In short, both are essentially rooted in the idea that all political authority stems from the people.<sup>228</sup>

There is however one crucial difference between these two concepts. Democracy is a system of rules whose legitimacy relies on explicitly defined political principles about participation, inclusion and political equality, in order to achieve a just rule. Nationalism, bases its legitimacy on the principle, of the rule of the people who constitute a nation. Although they both vest political legitimacy in “the people,” the main challenge and permanent source of tension between the two is based on the fact that democracy presupposes the existence of a political unit (state), whilst the unit is usually a nation-state which came into existence as a result of national self-determination of one politically determined nation. Nevertheless, most states include minorities within their territories. Consequently, the democratization process in the newly independent multinational democracies faces a clash between two overlapping, but really different processes. On one hand, there is a process of culturally preoccupied nation-building, and on the other administratively and politically oriented state-building.

Democratic politics are thus inherently “national,” including the cases where nation and state do not perfectly overlap, and particularly in the countries of Southeastern Europe.<sup>229</sup> Nationalism plays a complex yet a crucial role in the diffusion of democracy. Its function in the intricate democratization process depends upon the extent to which it

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<sup>228</sup> The most obvious manifestation of the link between people (nation) and political power is Article 3 of the French Revolution’s Declaration of the Rights of Man and Citizen, which states “The principle of sovereignty resides essentially in the Nation. No body, no individual can exercise any authority which does not explicitly emanate from it.” Harris, 46.

<sup>229</sup> While national rights as collective rights challenge the democratic rights of the individual, both are closely intertwined and inseparable. Bieber, “The Challenges of Democracy in Divided Societies,” 113.

can contribute towards democratic state-building. This entails shifting emphasis from cultural and ethnic affiliation to the unity of the political community. However, the problems connected with nationalism are inherent components of the general problem of democratic transition.<sup>230</sup>

In most post communist and newly democratizing multinational states, lack of coherent political structures and extremely weak civil society have left behind a large number of atomized individuals searching frantically for a common principle on which to base their new lives together.<sup>231</sup> In this situation, nationalism comes to the fore as the major, if not only principle capable of holding people in a society together. This is not to say that no other social forces and ideologies exist, such as religion, community bonds, or western liberalism. However, at times when people's collective identities and loyalties are tested, due to the primordial ties that bind people together, everything seems to be blended with, or defines itself in relation to nationalism.

In newly formed democratic states nationalism may prove to be a constructive and cohesive force.<sup>232</sup> Rather than always being considered dark and destructive, nationalism is also inclusive and motivating. Nationalism can help a group (ethnic group) assert its cultural identity, (re)gain its national sovereignty, or limit the influence of unwelcome outside powers in domestic affairs. Nationalism furthermore can instill a sense of patriotism, community loyalty, and cultural pride. During difficult periods of significant

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<sup>230</sup> In his work, Nodia notes that the liberal dilemma between endorsing democracy and/or nationalism, which is vividly expressed in the works of great nineteenth-century liberals like John Stuart Mill and Lord Acton. John Stuart Mill, *Considerations on Representative Government* (New York: Liberal Arts Press, 1958 (Original in 1861), 230-233. and Lord Acton, *Essays on Freedom and Power* (Boston: Beacon Press, 1948), 86.

<sup>231</sup> Nodia, 18.

<sup>232</sup> Nationalist regime in a new state is concerned with the maintenance of order and the promotion of development. Much of this takes the form of practical politics where the notion of national loyalty is an underlying concern rather than an ideological concern. John Breuilly, *Nationalism and the State*, 2<sup>nd</sup> Ed. (Manchester: Manchester University Press, 1993), Chapter 13.

political change, shared ethnicity or national identity along with all its mythic, ritualistic and symbolic ingredients can provide an important anchor of continuity and stability.<sup>233</sup> Nationalism can thus be a unifying and integrating force that can aid in maintenance of order, promotion of development and state-building, by serving as the primary focus for loyalty.

BiH is a newly formed democratic state made up of diverse peoples that share a history of coexistence and multiculturalism. Friedman notes that BiH's multiethnic composition of settlement resembles the rest of Central and Eastern Europe in that wars, migrations, and other major movements have separated national groups often into smaller enclaves surrounded by and surrounding other national groups.<sup>234</sup> BiH's unique situation is reflected in the fact that three major religions have existed side by side for centuries. It is only in the nineteenth century, with the spread of nationalism during the Austrian rule, that the Orthodox, Catholic, and Islamic religions each came to be identified with a certain national group(s) within Yugoslavia.<sup>235</sup> Despite this fact, BiH as a multinational state with unique Bosnian's identity has its roots going back centuries to the medieval history.<sup>236</sup>

In contrast to the assorted claims of Serb and Croat nationalists that BiH is an artificial and nonviable entity, the historical record demonstrates that Bosnia has shown

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<sup>233</sup> Bugajski, "The Fate of Minorities in Eastern Europe," 102.

<sup>234</sup> Francine Friedman, *Bosnia and Herzegovina: A polity on the brink* (London and York: Routledge, 2004), 121.

<sup>235</sup> With the rapid spread of the nationalist thought and nationalist demagogues, nationalism gradually but increasingly found a responsive audience. If one was Catholic, it was assumed that one was of Croat nationality; and if one was Orthodox, then one was Serb. However, in terms of the actual origins of these Bosnian Catholics and Orthodox, this conclusion can be considered nonsense. The population of BiH has over time come to be greatly mixed as a result of the various migrations and multiple religious conversions. Thus it is not at all possible to determine with any accuracy, for example, if a modern Orthodox Christian was descended from a medieval Orthodox believer, a medieval Catholic, or a Bosnian Churchman. Donia and Fine, *Bosnia and Herzegovina: A Tradition Betrayed*, 72.

<sup>236</sup> *Ibid.*, 71.

more durability than any other territorial state or unit assembled by Serbs or Croats.<sup>237</sup> BiH is (and has been) a coherent entity, with a distinct multicultural identity that has continued in many ways throughout the centuries and is shared by members of all three national groups. More recently, after fifty years of the very secular and secularizing Yugoslav state, few modern-day BiH citizens are deeply religious. Moreover, despite minor differences, the three constituent nations of BiH (Bosniaks, Croats and Serbs) all speak the same language (previously known as Serbo-Croatian) and they also have a shared historical past.<sup>238</sup> In spite of these centripetal factors, numerous issues within a newly reconstructed BiH state provoke inter-group hostility and may derail the progress of democratization and democratic reform.<sup>239</sup>

Weak institutional and political systems undergoing democratic transition and transformation make this newly independent multinational state predisposed to the resurgence of exclusive nationalism and violent conflict. Significant institutional and structural changes offer new opportunities for political entrepreneurs (nationalists) to build constituencies, and therefore make all kinds of collective action more likely.<sup>240</sup> In addition, political structures that lack internal incentives, such as coherent and effective political institutions and electoral system, also affect the nature of political parties and inter-group cooperation in multinational societies. As such, considering that most newly democratizing states tend to be institutionally weak, have little tradition of tolerance and respect for minority groups, there is a great chance that minority and in some cases rival

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<sup>237</sup> In chapter two, historical evidence supports the fact that BiH, as a state or administrative unit, has had consistency in its approximate borders from the thirteenth century to its present. *Ibid.*, 72.

<sup>238</sup> *Ibid.*, 9.

<sup>239</sup> As already state above some of these include lack of consensus or united political opinion, lack of political culture, resistance of entrenched civilian or military elites, absence of conducive social or cultural conditions, and inaptly designed state institutions.

<sup>240</sup> Ted Gurr, *Minorities at Risk: A Global View of Ethnopolitical Conflicts* (Washington: US Institute of Peace Press, 1993)

national groups will face subsequent abuse. In an endeavor to prevent the spread of divisive nationalist politics, it is essential to develop and implement an effective/democratic political system with political tools, strategies and incentives structures, designed to accommodate democratic needs of various groups within a deeply diverse multinational state, such as BiH.

### **Political Systems for Multinational Democracies**

To construct and maintain a stable democratic government in a deeply diverse society is considered to be extremely difficult, but not impossible.<sup>241</sup> Most academics of democratic regimes and ethnic conflict point out the obvious dangers and problems with simple majoritarian democracy in divided societies. The rejection of majoritarian democracy does not mean a rejection of democratic values. The advocates of coalescent democracy,<sup>242</sup> such as Arend Lijphart and Donald L. Horowitz, support the prospects for “political engineering” to mitigate conflicts in deeply divided multinational societies. The rules of the political game can be structured to institutionalize moderation on divisive ethnic themes, to contain the destructive tendencies, and to preempt the centrifugal forces created by ethno-national politics.

Appropriate state institutions and practices can help steer the political system in the direction of reduced conflict, better accommodation/cooperation and greater governmental accountability. The assumption is that choices over the basic rules of the

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<sup>241</sup> With structural prevention and carefully designed/implemented strategies to build inter-communal confidence, overcome deeply held mistrust, and restructure common state institutions that discriminate against certain ethnic, national or minority groups, this is not impossible. Democratization, which performs all these tasks, is thus a crucial element of structural prevention. David A. Hamburg, Carnegie Commission on Preventing Deadly Conflict. *Foreword to Power Sharing and International Mediation on Ethnic Conflicts*, Timothy D. Sisk (New York: US Institute of Peace, 2002).

<sup>242</sup> “Coalescent” decision making is argued to be a better prescription for the ills that plague deeply divided societies than the adversarial pattern associated with majoritarian democracy. Timothy D. Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 34.

game affect its outcomes. To elucidate this point, Horowitz writes; “where there is some determination to play by the rules, the rules can restructure the system so that the game itself changes.”<sup>243</sup> The essence of coalescent democracy is not to do away with democratic competition, but to contain it within acceptable boundaries so that differences of opinion along ethno-national lines do not inevitably lead to inter-group violence.<sup>244</sup>

According to Horowitz, the central question of political engineering relates to which kinds of institutions and practices create an incentive structure for ethnic groups to mediate their differences through the legitimate institutions of a common democratic state. Alternatively, how can the incentive system be structured to reward and reinforce political leaders who moderate on divisive ethnic themes and persuade citizens to support moderation, bargaining and reciprocity among ethnic groups?

There are two distinct approaches to constructing democracy and conflict ameliorating political institutions in deeply divided multinational societies. The first is the consociational approach. Second is a more integrative approach. The former is a group building-block approach that relies on accommodation by ethnic group leaders at the center and a high degree of group autonomy. The latter integrative approach seeks to create incentives for moderation by political leaders relative to divisive ethnic themes and to enhance minority influence in majority decision making. Both of these approaches contain essential elements that lead to accommodation of diverse national groups and their interests, contribute to enduring process of democratization and democratic reform, and most importantly ensure legitimacy and institutional stability in a newly formed

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<sup>243</sup> Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley and Los Angeles: University of California Press, 1985), 601.

<sup>244</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 33.

multinational state. A particular political system may fruitfully incorporate aspects of both approaches simultaneously for more effective governance.<sup>245</sup>

### *The Consociational Approach*

Consociationalism, originally coined by Lijphart, relies on elite cooperation as the principal characteristic of successful conflict management in deeply divided societies.<sup>246</sup>

In general, consociationalists argue that even if there are deep communal differences, overarching integrative elite cooperation and joint problem solving is a necessary and sufficient condition to alleviate conflict. As part of the consociational approach, elites directly represent various societal segments and act to forge political ties at the center. The role of the leaders to persuade their constituents to act peaceably at times is therefore crucial, and the conciliatory attitudes must be both broad and deep.<sup>247</sup>

According to Lijphart, consociational democracy relies upon four basic principles; a broad based or “grand coalition” executive of all ethnic groups; a minority or mutual veto in decision making; ethnic proportionality in the allocation of civil service positions and public funds; and finally a high degree of group autonomy.<sup>248</sup> Lijphart argues that the institutions that give life to these principles must be specially adapted to the society they are to serve, and they cannot be implemented and expected to work singularly. In addition, Lijphart also identifies a number of conditions favorable to the successful operation of consociational democracy: popular deference to elites, a multiple balance of

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<sup>245</sup> According to Timothy D. Sisk, what unites these consociational and integrative approaches is the belief in coalescent democracy as an alternative to the adverse effects of majoritarian practices. *Ibid.*, 34.

<sup>246</sup> Arend Lijphart’s 1977 book entitled *Democracy in Plural Societies* is a groundbreaking work on consociational democracy. Other landmark works in this particular school include Daalder H. “On the building of consociational nations: the cases of Netherlands and Switzerland,” *International Social Science Journal*, 23 (1971), and McRae K. D., *Consociational democracy: political accommodation in segmented societies* (Toronto: McClelland & Stewart, 1974).

<sup>247</sup> In this sense the consociational approach is in essence top down, however, Lijphart consistently asserts that consociation is the only viable option for deeply divided societies.

<sup>248</sup> Lijphart, *Democracy in Plural Societies*, 25.

power, small size of the country involved, overarching loyalties, segmental isolation, prior traditions of elite accommodation and the presence of cross cutting cleavages.<sup>249</sup>

This is the case in many of the consociational democracies such as Belgium, the Netherlands, Switzerland, which are considered to be successful experiences. At the same time, advocates of consociationalism find the notion of nation building, or integrative approaches, a dubious proposition, often citing the salience and rigidity of ethnic identity. To create a sense of common destiny when there is none entails both the breakdown of group loyalties and the creation of new ones. This, according to Timothy Sisk, is a Herculean task unlikely to be achieved in most instances.<sup>250</sup>

Consociationalism, of course, is not without its critics or shortcomings. There are three general drawbacks to the consociational approach. First it relies upon elite accommodation, which may chose to bolster their own positions vis-à-vis other groups rather than use their leadership to reduce the conflict. Second it reifies ethnic identity, such that it legitimizes ethnicity and freezes ethnic boundaries. Third it tends toward antidemocratic and inefficient decision making, because as the “ultimate form of elite control” it reduces the accountability of political leaders to their communities. On top of these three criticisms, consociationalism generally relies too much on constraints to limit conflict rather than offer political incentives for moderation. In short, the critics of the consociational model assert that this model essentially serves to maintain, legitimize, and strengthen segmental claims against the state, thus reinforcing elite manipulation and entrenching ethnicity in the political system.<sup>251</sup>

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<sup>249</sup> Ibid., 54.

<sup>250</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 36.

<sup>251</sup> By freezing group boundaries in the political system, for example, through statutory reservation of offices for specific group representatives, a consociational power sharing system is said to be an un-

*The Integrative Approach*

In contrast to the consociational model, Horowitz in his book *Ethnic Groups in Conflict* offers a more integrative approach to constructing democracy based on political incentives. Explicitly, he proposes a typology of five mechanisms aimed at reducing ethnic conflict in deeply diverse societies. These five are dispersions of power, often territorial, which “proliferate points of power so as to take the heat off of a single focal point”; devolution of power and reservation of offices on an ethnic basis in an effort to foster intra-ethnic competition at the local level;<sup>252</sup> inducements and incentives for interethnic cooperation, such as electoral laws that effectively promote pre-election electoral coalitions through vote pooling; policies that encourage alignments based on interests other than ethnicity;<sup>253</sup> and finally reducing disparities between groups through the managed distribution of resources.<sup>254</sup>

Horowitz’s prescription for conflict-regulating institutions in divided societies is principled on devolution of power and promoting political incentives to compromise. Although clearly distinguishable from the centralizing power of consociational model, Horowitz’s suggestions overlap with those of Lijphart in certain respects. For example, they both advocate federalism and assert the importance of proportionality and ethnic balance. However, Horowitz, who is a persistent critic of the constraining consociational

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dynamic model for conflict management. Brian Barry, “Review Article: Political Accommodation and Consociational Democracy,” *British Journal of Political Science*, 5 (October 1975): 477-505. In addition, critics also point out that consociational institutions are arguably antidemocratic because they can stifle vigorous opposition politics.

<sup>252</sup> Intra-ethnic conflict is usually (though not always) less dangerous and violent than interethnic conflict. And if intra-ethnic conflict becomes more salient, this may reduce the energy available for conflict with other groups. Horowitz, *Ethnic Groups in Conflict*, 598.

<sup>253</sup> In other words, it is necessary to enact policies that encourage alternative social alignments, such as social class or territory, by placing political emphasis on crosscutting issues. It is this idea of incentives to compromise and to dilute the exclusivity of nationalist appeals that distinguishes Horowitz’s approach. *Ibid.*

<sup>254</sup> *Ibid.*, 597-600.

model,<sup>255</sup> advances a more constructive incentive based approach for two important reasons.

First, the key to any successful democratic political system in divided societies is to provide demonstrable incentives for politicians to appeal beyond their own communal segments for support.<sup>256</sup> Politicians are held to be rational electoral actors, so if anything is to induce them to play by conflict-limiting rules, it lies in the electoral structures in which they find themselves.<sup>257</sup> The aim here is to engineer a “centripetal spin” to the political system by providing electoral incentives for broad-based moderation by political leaders and disincentives for extremist outbidding.<sup>258</sup> When politicians are rewarded electorally for moderation, they are likely to temper their rhetoric and their political actions.<sup>259</sup> In fact, the political system can be engineered to encourage essential inter-group cooperation as a prerequisite for electoral success. As a result, Horowitz contends that incentives are better than consociational constraints because they offer reasons for politicians and divided groups to behave moderately, rather than obstacles aimed at preventing them from pursuing hegemonic aims or aspirations.<sup>260</sup>

The second key aspect is fostering a constituency based on moderation rather than reliance on political leaders as the engine of moderation.<sup>261</sup> The main goal here is to design the electoral system so that leaders must appeal to underlying moderate sentiments

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<sup>255</sup> First, is the problem of elite initiated efforts to contain conflict and inadequate specification of policy consequences. Second major problem with consociational model is that consociational institutions rely on constraints against immoderate politics, such as the mutual or minority veto, versus providing incentives for moderation. Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991), 154-160.

<sup>256</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 41.

<sup>257</sup> Electoral system is by far the most important aspect of political system. Horowitz, *A Democratic South Africa?*, 141.

<sup>258</sup> Horowitz, *Ethnic Groups in Conflict*, 601-652.

<sup>259</sup> If the leaders are more temperate than those they lead, they will seek ways of putting a brake on ethnic conflict. *Ibid.*, 386.

<sup>260</sup> *Ibid.*, 154.

<sup>261</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*. 41.

in the electorate and reject the widespread forces of extremism to win elections. This can be achieved by encouraging the formation of moderate multiethnic coalitions that are more inclusive, offer fluidity and multipolar balance. Political leaders and office seekers, by appealing to the most moderate sentiments of the electorate in their constituency, maximize moderation at both the elite and the popular level. Looking for the basis of consent at the constituency level allows politicians to make the kinds of compromises they must make at the centre if the divided society is to be stable and truly democratic.

The electoral system is the means to constituency based moderation.<sup>262</sup> The incentive to compromise in the political system, and not merely the incentive to coalesce, is the essential component to group accommodation.<sup>263</sup> Thus to safeguard minority interests, according to Horowitz, the system should make the votes of minority members count. Minorities should have more than just representation; they should also have influence. There are essentially three types of institutions and practices, which are argued to have (or can bring about) these effects.<sup>264</sup> These three include federalism, vote pooling and the presidential system.

Federalism is one way of managing or accommodating diversity.<sup>265</sup> It occupies a middle ground on a continuum running from separation or independence for each group at one pole, and complete assimilation or submergence of difference at the other. Moreover, federalism seeks to maintain the unity of the larger state, while giving recognition and empowerment to minorities. It is predicated both on devolving

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<sup>262</sup> Horowitz, *A Democratic South Africa?* 163.

<sup>263</sup> *Ibid.*, 171.

<sup>264</sup> In essence, political institutions should encourage or induce integration across communal divides.

<sup>265</sup> Richard Simeon and Daniel Patrick Conway, "Federalism and the management of conflict in multinational societies," in *Multinational Democracies*, 338.

autonomy to the minorities and on recognizing and protecting them in the larger society and polity. Multinational federal states are, as Juan Linz puts it, “an effort to hold together within the state those who are thought to be separate nations, and who therefore find a unitary state unacceptable.”<sup>266</sup>

Vote pooling is another practice that can induce moderation and integration across communal lines. To Horowitz, divided societies need electoral systems that fragment support of one or more ethnic groups, especially ethnic majorities; induce interethnic bargaining; encourage formation of multiethnic coalitions; and produce fluidity, multi-polar balance, and proportional outcomes.<sup>267</sup> Three types of electoral systems that can achieve these aims include: a subsequent-preference voting system, mixed lists with common voters roll, and single member districts in multiethnic constituencies.<sup>268</sup> The logic behind these electoral systems which allow for vote pooling is based on the fact that to win, politicians must seek to obtain second or third preference votes of those who would not ordinarily vote for them. However, to gain second or third preference votes, leaders must compromise and behave moderately to other communal groups. In response to the incentive structure of the electoral system, most moderate politicians will compete with one another to define and occupy political centre.<sup>269</sup> Ultimately, centripetal forces will override centrifugal ones, and as a result of agreements between parties the basis would be laid for interethnic policy compromise.

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<sup>266</sup> Juan Linz, “Democracy, Multinationalism and Federalism,” paper presented at the International Political Science Association Conference, Seoul, (August 1997).

<sup>267</sup> Horowitz, *A Democratic South Africa?* 163.

<sup>268</sup> Ibid. 172-173.

<sup>269</sup> Sisk, 43. The critical difference between the consociational approach to the electoral systems and Horowitz’s is the formation of electoral coalitions by constituents as they specify their second or third preferences beyond their narrow group interests.

A presidential system of government, Horowitz argues, can also moderate tensions and reinforce the centripetal effect in a deeply divided society. A separately elected president(s) can perform two useful, if not vital, functions. The first is to make inter-group power sharing more likely by making it impossible for a single ethnic group to capture the state permanently by merely capturing a majority in parliament. The second is to provide another important arena for inter-group conciliation deriving from an electoral formula based on vote pooling.<sup>270</sup> In other words, a strong, statesmanlike, moderate president can serve as a unifying, state-building role, while his executive office acts as a centre for policy innovation. A strong executive would thus be able to foster incentives to compromise, push legislation on tough issues, and provide sufficient capacity to effect social change.

Horowitz's broad integrative approach to ethnic conflict management and constructing (democracy) electoral systems based on political incentives has also encountered some criticism. In particular, there are four interrelated concerns: first, there is a lack of empirical examples of the system at work; second, it is questionable that politicians will respond to the incentive system for moderation if it exists; third, voters must be willing to vote for parties not based in their own group; and fourth, the electoral systems are essentially majoritarian. Similar to the various criticisms of consociationalism, these concerns go beyond conflict-regulating mechanisms and are rooted in basic beliefs about the fluidity and malleability of ethnic identity and representation.<sup>271</sup>

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<sup>270</sup> Horowitz, *A Democratic South Africa?* 205.

<sup>271</sup> Sisk. 44.

At the heart of the difference between the consociational and integrative approaches are the nature and formation of multiethnic coalitions. In the consociational approach, the coalitions are formed after an election by elites who realize that exclusive decision making will eventually make society ungovernable or who are compelled to do so by prior constitutional arrangements. In an integrative system approach, coalitions are formed prior to an election. This is done either as part of the pre-election multiethnic alliance and coalition making (result of vote pooling) or by a party with a broad multiethnic candidate slate.<sup>272</sup> In either case, however, political coalitions, based on compromise and commitments, are the centerpiece of accommodative arrangements.

Regardless of the type of political engineering chosen, to foster democracy, neither approach on its own can be said to be the best. Rather the two approaches should be seen in contingent terms based on the particular circumstance and in terms of a spectrum of effective policy options. Essentially, when dealing with a number of distinctly different nations within a newly-reconstructed state, such as BiH, the main challenge is not only to preclude exclusive or divisive politics, but also to develop a system of conflict regulating institutions and practices. To elucidate this point, Timothy Sisk writes; “Successful conflict regulating practices involve establishing a stable set of formula or informal rules and institutions that encourage political leaders and groups in conflict to behave moderately toward one another.”<sup>273</sup> Only when groups in a multinational state commit to a common set of rules and institutions, the structure of those institutions can make a difference in containing conflict and provide a sense of cohesiveness and unity.

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<sup>272</sup> Ibid. 45

<sup>273</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 48.

### **Multinational Democracy in BiH**

A decade after signing of the Dayton Peace Agreements, the stability of BiH as a multinational democracy is not necessarily a given. The close linkage between national(ism) and democratic politics has brought a severe conceptual crisis to the institutionalization of democracy in BiH's multinational state. Within this deeply diverse society, formed largely on the consociational model, the political system and institution building requires the recognition of ethno-national diversity without viewing it as the "root of evil" in ethnic conflict. The abuse and instrumentalization (political manipulation) of personal power, absolute political predominance and hatred, instead of ethnic politics per se, are the main causes of inter-group or inter-national conflict. Instead of simply containing or solving nationalism, the emergence of a stable multinational and democratic BiH requires that its institutional framework, public policies and state practices are conducive to multiethnic inclusiveness, counterbalances to exclusive ethno-nationalist politics and creates political incentives for groups to cooperate within a deeply diverse society.

When peace and BiH's federal framework were developed at Dayton, the biggest challenge for political engineers was to find a mechanism that enabled three different nations to agree on living together in one coherent multinational country.<sup>274</sup> It should also be emphasized that minority rights and democracy did not hold a lot of great

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<sup>274</sup> In "The Fractured Soul of the Dayton Peace Agreement," Finnuala Ni Aolain offers a comprehensive legal analysis of the treaty and its implementation since 1995. She argues that despite its flaws, Dayton provides a framework for reintegrating Bosnia-Herzegovina. As such, however, the document should not be perceived as static, but must instead display greater flexibility if long term integration and democracy are to be achieved. Finnuala, Ni Aolain, "The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis," in *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina*, eds. Dzemal Sokolovic and Florian Bieber (Aldershot: Ashgate Publishing, 2001).

importance during the attempts to end the war and construct a functional agreement.<sup>275</sup> Instead, the process of political engineering and institutionalizing a multiethnic society in BiH used three basic political tools to ensure adequate group rights and inter-ethnic accommodation. These three political tools were guarantees of individual rights, ethnic federalism and consociationalism within the constitutional structure. As the price for securing a common state, the DPA along with a new BiH constitution, created an extremely complex state with a loose (decentralized) federal structure.

Although the DPA preserved the continuity of the war-time state, the constitution of BiH contained in the Annex IV spells out that two entities, Federation of BiH and the Republika Srpska (RS), are to be recognized as members of a federal state, the Republic of Bosnia and Herzegovina. This two-tiered federal system has four levels of government in the one half of the country (state, entity, canton, and municipal) and three in the other (RS has no cantons), making for an excess of administrative layers in a country of only four million people. (Map 3.1) Within this new federal and constitutional arrangement, the consociational model of democracy can be detected in almost every aspect of the state.

The new BiH constitutional structure is almost entirely novel. All the institutional layers in BiH, except for municipal government, had to be created from scratch. Although BiH certainly had enjoyed a high degree of autonomy within the former Yugoslavia, very few of its institutions were incorporated into the new BiH state. Moreover, considering that the new BiH constitutional structure was designed entirely by the international community, it is widely regarded by BiH population to be only a Dayton

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<sup>275</sup> Richard Hollbroke, *To End a War* (New York: Random House, 1998) cited by Florian Bieber.

### 3.1 Cantonal Structure of BiH (Bosniac-Croat) Federation

Federation of BiH



Source: Office of the High Representative. Available from [www.ohr.int](http://www.ohr.int)

constitution and not a real BiH constitution.<sup>276</sup> It was not a product of internal political consensus between the leaders and the people. Thus, from the outset, by creating a constitutional structure which was both complex and novel, the DPA presented an institution-building challenge on a daunting scale.

The BiH state is extremely decentralized.<sup>277</sup> (See Appendix B) The central government has a minimum of functions, conducting foreign affairs and trade, setting customs and monetary policy, and regulating inter-entity communications, transport and crime. The state has no revenue collection powers and is dependent on transfers from the entities. Its few executive functions are presided over by a Council of Ministers, rather than a government. So limited is the state's internal authority that, for the first five years after the DPA, it was practically ignored by the entities without any significant political or financial costs.

However, the BiH constitution does provide various hooks on which a more workable federal arrangement could develop. It guarantees the free movement of persons, goods, services and capital throughout the state, which could be achieved only through a degree of central regulation. The foreign affairs power has been used to justify a cautious expansion in the state's role, such as taking responsibility for

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<sup>276</sup> The constitution was negotiated at Dayton and accepted by the "internal parties" concerned in three separate declarations. While not forced upon the parties either, and thus not external to them, the DPA constitution is a document born out of the reality of a compact deal made between an existing, internationally recognized state and insurrection groups wielding de facto control over various parts of the territory of that state.

<sup>277</sup> Decentralization is an ambivalent policy option for accommodating ethnic diversity and promoting democracy. The literature on the subject demonstrates that in some cases it has provided institutional mechanisms capable of balancing contrasting ethnic claims (India) and in others it has failed to do so (Nigeria). Regardless, it has been argued that for a democratic decentralization to work well, three conditions are necessary: an adequate transfer of power to local levels of government, sufficient resources, and functioning accountability mechanism. Vesna, Bojicic-Dzelilovic, "Managing Ethnic Conflicts- Decentralisation in Bosnia- Hercegovina," in Luckham, R. and S. Bastian, eds. *Can Democracy be Designed? The Politics of Institutional Choice in Conflict-torn Societies* (London and New York: Zed Books, 2003).

telecommunications and broadcasting, including media standards. In the European context, where states contemplating accession to the European Union they may take on international commitments to “approximate their laws to the European *acquis communautaire*,” the foreign affairs power may prove extremely important.<sup>278</sup> Given the potential for expansive constitutional interpretation, Ustavni Sud (the Constitutional Court) of BiH itself is a key institution. This particular institution was created with six national and three international judges, so that any one ethnic group with the support of the foreign members could form a majority in favour of strengthening the state.<sup>279</sup>

The role of ethnicity in the constitution is one of the most controversial aspects of the peace settlement. The DPA constitution is not a document of one nation, but a document that recognizes three different constituent nations within its confines.<sup>280</sup> The preamble reads: “Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of BiH hereby determine that the Constitution is as follows.”<sup>281</sup> The implication is that constitutional authority rests on a dual basis of popular sovereignty: the ethnic nation and the civic citizenry. As demanded by all three parties present at Dayton negotiations, ethnicity is treated as a fixed category and institutionalized as the principal basis of representation.

While the Bosniacs are reported to have argued for proportional representation of the ethnic groups, the Croats, as the smallest constituent group, insisted on the political

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<sup>278</sup> The term *acquis* (or sometimes *acquis communautaire*), deriving from French, is used in European Union law to refer to the total body of EU law accumulated so far. During the process of the enlargement of the European Union, the *acquis* was divided into 31 chapters for the purpose of negotiation between the EU and the candidate member states.

<sup>279</sup> For details see Article VI of the BiH Constitution in the Appendix C.

<sup>280</sup> A constituent nation people are equal in status to all other “peoples.” Their rights are not the product of majority charity, but an entitlement on the basis of parity.

<sup>281</sup> ANNEX 4. Constitution of Bosnia and Herzegovina. See Appendix C.

equality of all three peoples, irrespective of population.<sup>282</sup> The concept of “constituent peoples” which is originally undefined in the Constitution was later interpreted by the Constitutional Court as “a principle of collective equality” that “prohibits any special privilege for one or two of these peoples, any domination in government structures or any ethnic homogenization through segregation based on territorial separation.”<sup>283</sup> The Dayton constitution therefore continues the post-Yugoslav tendency toward “constitutional nationalism,” whereby the state is given an explicit ethnic identity, but avoids ranking the ethnic groups into majority. However, when combined with internal partition of the state, this formula simply serves to replicate the majority/minority dichotomy which is apparent at the local level.

Under the constitution, the three constituent peoples are guaranteed representation across all branches of government.<sup>284</sup> (See Appendix B) In the upper chamber of the state Parliament (the House of Peoples), Article IV of the constitution states explicitly that out of fifteen delegates, there must be five Croat and five Bosniac delegates directly elected from the Federation and five Serbs from RS. Similarly, in the state House of Representatives, the representatives shall comprise 42 Members, two-thirds elected from the territory of the Federation, one-third from the territory of the RS.<sup>285</sup> There is a collective presidency of three members, consisting of a Bosniac and Croat directly

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<sup>282</sup> Steven L. Burg and Paul Shoup, *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (New York: Sharpe, 1999): 361.

<sup>283</sup> Constitutional Court of Bosnia and Herzegovina (2000) “Constituent People’s Case.” U5/98, Available from [www.ustavisud.ba](http://www.ustavisud.ba) Accessed Dec 15 2005.

<sup>284</sup> Available from <http://www.ohr.int/ohr-info/charts/images/legislative-and-exec-bodies.gif> Also see Appendix B.

<sup>285</sup> BiH Constitution. Annex 4, Article IV. Suction 2. See Appendix

elected from the Federation and a Serb from RS. Ministerial Posts and the speakers of the parliaments are divided among the ethnic groups on rotating basis.<sup>286</sup>

These constitutional provisions give rise to a number of serious problems. Reserving representation to particular ethnic groups in specified parts of the country assumes that the population is separated physically along ethnic lines.<sup>287</sup> For example, non-Serbs resident in RS may not be elected to the House of Peoples or the presidency, and nor may Serbs or “others” resident in the Federation. Partition is therefore written into the structure of representation and the greater the degree of reintegration over time, the more these provisions will operate in a discriminatory fashion.

A second major problem is that there is no legal definition of the ethnic groups, and no objective criteria could ever be developed to distinguish among them. Electoral laws therefore allow candidates for public office to identify themselves as belonging to a particular ethnic group, and voters may chose in which ethnic list to cast their votes. This is workable only so long as the major political parties are mono-ethnic in nature. Once non-ethnic parties and multiethnic coalitions begin to emerge, they will be able to pick and chose under which ethnic list to field candidates for different positions, causing the system to become incoherent.

The constituent peoples are further protected through special majorities and rights of veto. The constitution provides a safety device on issues perceived to be of vital interests to the constituent peoples.<sup>288</sup> Specifically, the majority of decisions in both

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<sup>286</sup> Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia and Herzegovina, 27 March 2002. Section II. Available from [http://www.ohr.int/ohr-dept/legal/const/default.asp?content\\_id=7274](http://www.ohr.int/ohr-dept/legal/const/default.asp?content_id=7274) Accessed Dec 15 2005.

<sup>287</sup> Marcus Cox, “Building Democracy from the Outside: The Dayton Agreement in Bosnia and Herzegovina,” in *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-Torn Societies*, ed. Sunil Bastian and Robin Luckham (New York: Zed Books, 2003)

<sup>288</sup> BiH Constitution. Annex 4, Article IV. Section 3.e. See Appendix C.

houses of Parliament must include at least one third of the representatives from each entity. In addition, a majority of representatives from any one constituent people may veto a proposed decision as destructive of its vital interests. Although “vital interests” are not explicitly defined in the constitution, they have been set out in a provision of the Agreement on the Implementation of the Constituent Peoples Decision, brought down by the Constitutional Court of BiH.<sup>289</sup>

The Agreement on the Implementation of the Constitutional Court decision outlines that vital interest protection shall be provided through the House of Peoples in the Federation of BiH, and the Council of Peoples in RS.<sup>290</sup> Specifically, the vital national interests of constituent peoples are defined as follows: exercise of the rights of constituent peoples to be adequately represented in legislative, executive and judicial bodies; identity of one constituent people; constitutional amendments; organisation of public authorities; equal rights of constituent peoples in the process of decision-making; education, religion, language, promotion of culture, tradition and cultural heritage; territorial organization; public information system; and other issues treated as of vital national interest if so claimed by two-thirds of one of the caucuses of the constituent peoples in the House of Peoples or Council of Peoples. Moreover, the veto powers on decisions declared to be destructive of vital interests also apply to the presidency and at the Federation level.

Each group is therefore assured of being able to prevent the state from infringing upon its autonomy. Evidently, this political system resembles the consociational model

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<sup>289</sup> Agreement on the Implementation of the Constituent Peoples’ Decision of the Constitutional Court of Bosnia and Herzegovina, 27 March 2002. Section II. Available from [http://www.ohr.int/ohr-dept/legal/const/default.asp?content\\_id=7274](http://www.ohr.int/ohr-dept/legal/const/default.asp?content_id=7274) Accessed Dec 15 2005.

<sup>290</sup> Ibid.

of democracy outlined by Lijphardt, who suggested that proportional representation, rights of veto, and regional autonomy are the key elements of stable government in divided societies. While this certainly could limit sources of tension in a multiethnic society, it nevertheless requires “mutual trust and the rule of applicable laws equally applicable to all groups.”<sup>291</sup> However, one central feature of the consociational model is missing from the DPA. Because the state’s authority is so limited and its institutions are so easily deadlocked, there are no incentives for the political elites of the three ethnic groups to cooperate in the exercise of power. They are more likely to collude in a power sharing arrangements in which the state is carved up into separate public spheres, than to participate in a “grand coalition” at federal level. This makes the DPA strong on protecting the three ethnic groups, but weak on creating the political and institutional ties to bind them together.

The devolved model of government in BiH essentially leaves very little central power to share. While the three member BiH presidency has been known to reach agreements, it is in the main Parliament that the proposed legislation has often been turned down or outright rejected. The key issue has been a difference in approach to the operationalisation of the institutional framework as stipulated in the new constitution. The obstructions have come mainly from the Bosnian Serb and Bosnian Croat nationalist representatives that are opposed to legislation strengthening the role of the central state. The lack of agreement between them complicates the decision-making process, often

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<sup>291</sup> Vojislav Stanovic, “Problems and Options of Institutionalizing Ethnic Relations,” *International Political Science Review* 13 (1992): 364. According to both Florian Bieber and Stanovic – the conditions of mutual trust and the rule of law applicable to all groups are yet to be fulfilled in BiH at present time. However, most recent OSCE and OHR reports indicate that with ongoing democratic reforms, on defence related issues, Partnership for Peace (PfP) and police restructuring process, BiH is well on its way to EU integration and enduring stability. South East European Times, Feature Story “Terzic Says EU Integration Key to BiH Stability.” Office of the High Representative, 22/06/05; Council of Europe, AP, FENA, SEE Security Monitor, Available from [www.setimes.com](http://www.setimes.com) Accessed June 22, 2005.

leading to a paralysis of the central state institutions. This in turn undermines the key prerogatives of the central state to maintain cohesiveness, integrity and unity of the country in the process of democratization.

With this kind of institutional framework, the development of multiethnic political parties that seek to represent several ethnic groups or to place other forms of ethnic cooperation in their programs may be difficult to achieve. Due to the excessive constraints, characteristic of the consociational model, the BiH state institutions must constantly confront the ethnic divide of the country, without recourse to any readily available remedy. At the same time, important elements of constitutional reform and group rights are neglected, rendering the state's democratic development somewhat long and exceedingly difficult.

#### *BiH's Next Steps Forward*

In contrast to the constraining DPA structural framework,<sup>292</sup> BiH's transition from a decentralized and destabilized state to a coherent, unified and multinational democracy lies in the creation of a governance structures that are more responsive and accountable to all constituent and minority groups. Whereas distinctive national values will persist, the responsiveness of the state to these distinctive values can be affected by common institutional arrangements, coherent policies and practices that are flexible and modifiable. Hence, the success in creating a unified BiH state will entail a dynamic

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<sup>292</sup> The original political framework set up by the DPA was signed as a means to bring to an end a brutal war that nearly destroyed BiH. This agreement was held as a triumph of diplomacy over chaos, or a reasoned agreement over crude warfare, yet it is essentially a paradox of both substance and implementation. In short, it as an agreement with inherent limitations but it is the sole framework that guides the new BiH in post-war phase. Fionnuala Ni Ailain, "The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis," in Dzemal Sokolovic and Florian Bieber, eds. *Reconstructing Multiethnic Societies: The Case of Bosnia-Herzegovina* (Aldershot: Ashgate Publishing Ltd. 2001).

system of institutional and political tools to enable reforms and development without endangering the essential balance of rights and interests of diverse national groups.

Considering the institutional framework of BiH has only been in place for a short period of time, there are still a number of changes, reforms and transformations taking place.<sup>293</sup> Even though the existing political structures can set boundaries for change, the transformation of the state often takes the form of slow processes of sedimentation. In particular, BiH's institutional structures change as a result of consultations, mutual learning, problem solving, and conflict resolution among all purposeful actors. As a result, government structures are gradually adapted and transformed as a function of the degree to which they serve.<sup>294</sup>

With growth and development of state institutions, Johan P. Olsen points out that “there are organizing principles creating elements of regularity and stability, consistency, and coordination.”<sup>295</sup> A modern polity such as BiH, is neither a harmonious community unified by shared moral and causal beliefs, nor a collection of free floating, atomistic individuals continuously calculating what is only in their best self-interest. Instead, as an emerging multinational democracy, new BiH is constituted by its basic institutions,

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<sup>293</sup> This is an important caveat urging caution in the interpretation of some of the findings. Another important caveat concerns the fact that the new DPA institutional structure of BiH was not originally the result of endogenous evolutionary process underpinned by a social contract, but was to a certain degree imposed from outside. This in large part reflects the lack of an essential ingredient for the success of consensual multinational democracy, which is an agreement on the political community.

<sup>294</sup> At present, BiH state institutions are only providing the essential administrative duties and services. Due to bureaucratic restructuring, many of the essential functions, such as refugee returns and human rights violations are still being dealt by the international organizations. The main reason for this is that institutions do not adapt instantaneously or efficiently to minor changes in will, reason, power or political circumstances. Consistent adaptation and comprehensive reform require strong organizational capabilities to stabilize attention, mobilize resources and cope with resistance.

<sup>295</sup> Johan P. Olsen, “Europeanization and Nation-State Dynamics,” in *The Future of the Nation-State*, eds. Sverker Gustavsson and Leif Lewin (London: Routledge, 1996): 250.

shared practices and rules embedded in structures of meaning (moral and causal ideas), and resources, which over time are taken as given by large majority.<sup>296</sup>

Institutions simultaneously create order and continuity and provide a dynamic element.<sup>297</sup> The political order is often temporary and imperfect. There is no complete integration and harmony, but rather fairly stable structures and patterns around enduring political discourses, tensions and struggles. Different institutions embody and protect different principles and concerns, and change essentially follows from the interaction and tensions between institutional practices, ordering principles and dynamics. As a result, the new political order in BiH, as a configuration of institutions, thereby comprises socially constructed boundaries for legitimate communities, actors, arguments and resources.<sup>298</sup>

The problems of inclusion and exclusion, however, do not simply disappear when new institutions are being adopted and put into operation. The conceptions of the scope and institutional structure of the political community will inevitably limit the participation of some minority groups in the institutions of the new regime.<sup>299</sup> Thus, one of the ironies of democratic transition and development is that as the future is being planned, the past intrudes with increasing severity. Particularly in ethnic relations, history often leads to exclusive conceptions of community.<sup>300</sup> Therefore, for carefully

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<sup>296</sup> Ibid.

<sup>297</sup> Institutions are not static. Institutions develop, grow, or decay. They are transformed through the mundane processes of interpretation and adaptation. More importantly, they evolve routines for dealing with change, routine responses to events and reform proposals. Ibid.

<sup>298</sup> Ibid.

<sup>299</sup> Horowitz, "Democracy in Divided Societies," 40.

<sup>300</sup> Take the question of who belongs here. The answer usually turns on who is thought to have arrived here first and where "here" actually is. Those who think their ancestors arrived earlier are likely to demand political priority by virtue of indigenoussness over those deemed to be immigrants. Similarly, it is common to demand that a given territory be considered part of one "world," rather than part of another nearby. The implication is that those inhabitants who are identified with the "world" in which the territory

engineered institutional structures of the state that preclude exclusive conceptions of community, it is essential to implement constructive state policies and practices that are conducive to multiethnic inclusiveness and capable of extending group rights.

In constructing effective public policies in multinational democracies, Timothy Sisk writes: “practices that define relationships between ethnic groups and the state are an essential dimension of conflict-regulating practices.”<sup>301</sup> At one end of a spectrum are public policy practices that do not name specific groups or specify group rights or preferences in ethnic terms. On the other are practices that enumerate and recognize special rights or preferences and confer them on distinct ethnic or national groups. Economic policies, the allocation of public funds, education, language policy, the delineation of rights and duties, the formulation of group rights when groups are entrenched, citizenship, and procedures of administering justice are all critical components of accommodation and successful conflict management.<sup>302</sup>

One important conflict regulating practice, often ignored by theorists, is the role of human rights (particularly the careful balancing act of individual and group rights) and the role of the judicial institutions in ethnic conflict mitigation.<sup>303</sup> Protection of human rights as a regulating practice is downplayed mainly because the courts are weak in most developing and newly democratizing states. Legal protections for group rights, multiple official languages, primary language of education, and special religious practices and

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is properly located have priority over those who are not so identified. Horowitz, “Democracy in Divided Societies,” 40.

<sup>301</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*, 64.

<sup>302</sup> Ibid.

<sup>303</sup> The role of an independent judiciary in a society which has experienced and continues to experience violence is paramount. Discharging that obligation is most difficult for judges in states like BiH, which still manifest the ongoing effects of a prolonged conflict and difficult peace. Moreover, the Constitutional Court stands at the judicial apex. The example set by this body will have certain effect on other courts and the response of the watching public. Ni Aolain, “The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis,” 78.

customs, special statutory protection for named groups, and access to broadcast and print media may give groups their comfort that their cultural identity is secure within a multiethnic framework.<sup>304</sup> The self-management of community institutions and associations, via non-territorial self-determination (such as flexible federalism), may be a sufficiently reassuring practice that ethno-national groups will not seek other types of privileges or special representation.<sup>305</sup>

Another critical issue in BiH is the careful balancing of individual and group rights and their adjudication. Courts and judges can reinforce political institutions and electoral practices as a final line of defense against despotic government, or they can serve as powerful weapons for the ethnically exclusive regime. Courts have sometimes shown extraordinary resilience in protecting ethnic minorities in the face of political pressure. Nevertheless, reinforced by the BiH Constitution, the judiciary is responsible for recognizing fundamental rights when interpreting statutory provisions, implementing provisions that conform to principles of fundamental justice and conducting judicial proceedings. Doing so impartially and professionally is pivotal to maintaining and securing confidence in the rule of law and justice itself.

Innovation in judicial processes, such as the use of Ombudsmen (established under Annex VI, Article II of the DPA), can also help to disperse power, protect rights and address grievances.<sup>306</sup> While these quasi-judicial officers are in use in few countries, the practice is innovative and deserves to be considered in protecting rights and seeking new solutions. Nevertheless, even the most novel democratic practices introduced to

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<sup>304</sup> Sisk, *Power Sharing and International Mediation on Ethnic Conflicts*,” 64.

<sup>305</sup> Ibid.

<sup>306</sup> According to Finnuala Ni Aolain, the Office of the Ombudsperson has the potential, given some procedural reforms, to become a tool for responding directly to human rights violations in an immediate and efficient manner. “The Fractured Soul of the Dayton Peace Agreement,” 81.

balance individual and group rights are only effective when they are guided by the publicly recognized rules and implemented in addition to some form of constructive counterbalances to the existing ethno-national sentiments.

Some scholars of nationalism and democracy advance that the best available counterbalance to old and exclusive nationalism is a new and alternative version of the nationalist sentiment. This new version of nationalist sentiment should be inclusive and unifying, with a focus on joining the civilized world as an equal and dignified member.<sup>307</sup>

Nodia strongly suggests that a sense of isolation from the comity of nations can be much more painful than any concrete or formal sanctions.<sup>308</sup> In fact, the civilized world provides adequate (even if imperfect) models not only of flourishing market economies, but of regimes that have struck a real and working balance among the forces of democracy, liberalism, and nationalism. One should not underestimate the power of these examples to help the newly formed multinational democracies of the post communist world.<sup>309</sup>

However, bear in mind that counterbalancing old nationalism with new or alternative version of nationalism will not necessarily, or for that matter effectively, address the persisting challenges nationalism poses to multinational democratic states. Instead, there is a great danger that an alternative version will simply recreate common

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<sup>307</sup> For scholars of nationalism and democracy that champion counterbalances to exclusive nationalism, see for example Nodia, 21. On a similar note, Francine Friedman advocates a move from the blood oriented nationalism to a more civic or civilized form of nationalism. However, neither of these scholars seems to offer a constructive approach or a set of means for taming the “wild beast,” or in other words, moving from exclusive, protean and blood based nationalism everyone is familiar with, to a more civilized, inclusive and unifying form. Perhaps what is necessary in the process of state building is to advocate loyalty to the state rather than reinforcing loyalty to the nation within the state. Nonetheless, this would result in so called patriotism instead of well known nationalism. Friedman, *Bosnia and Herzegovina*, 120.

<sup>308</sup> Nodia, 21.

<sup>309</sup> Ibid.

myths, stories and perpetuate stereotypes that in turn fuel divisive politics and malign forms of nationalism. A more effective strategy for newly reconstructed multinational states such as BiH is to foster new incentive structures (both economic and political) that will expand the playing field, promote mutual benefits and encourage enduring cooperation. This can be done by implementing incentive based cooperative policies and practices that are responsive, tolerant and amenable to the various needs and interests of diverse national groups.

Within a multinational democratic state, cooperation is more than just socially coordinated action. Cooperation is guided by publicly recognized rules and procedures that those cooperating accept and regard as properly regulating their conduct.<sup>310</sup> Cooperation involves the idea of “fair terms of co-operation,” which are essentially the terms every participant may reasonably accept, provided that everyone else accepts them.<sup>311</sup> The fair terms of cooperation apply to the basic structure of society, to its political, economic and social institutions, and they are expressed in the constitutional principles of the society.<sup>312</sup> Accordingly, a demand for recognition as a nation or nations and its mode of institutional accommodation within a multinational society must be compatible with conditions of a fair system of social cooperation, in order to be acceptable.<sup>313</sup>

Today, in the case of BiH and the region as a whole, there are significant democratic forces present that support the cooperative initiatives for the establishment of

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<sup>310</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 16.

<sup>311</sup> *Ibid.*

<sup>312</sup> *Ibid.* 257-8, 269-71

<sup>313</sup> Tully, *Introduction to Multinational Democracies*, 8-9.

peace, stabilization and future integration into the European Union.<sup>314</sup> Chapter two has argued that if reform has in the recent past moved slowly, this has been the result of a failure of political will and lack of reform ownership. However, since the completion of the first EU Feasibility Study in 2003, evidence suggests that a new dynamic is emerging within BiH's body politic. BiH's contribution to the preparation of the EU Feasibility Study itself demonstrates a unity of purpose and will, which has lacked in the previous years. As a result of the most recent progress on defence,<sup>315</sup> police restructuring<sup>316</sup> and economic reforms,<sup>317</sup> on 21 October 2005 the EU Enlargement Commissioner recommended that EU Member States open negotiations on a Stabilisation and Association Agreement with BiH. Subsequently ahead of the 10<sup>th</sup> anniversary of the DPA, the EU Member States gave the European Commission on BiH the green light to start Stabilisation and Association negotiations.<sup>318</sup>

On 22 November 2005, marking the 10<sup>th</sup> anniversary of the DPA in Washington, leading BiH's politicians from Bosniak, Croat and Serb communities signed a Status of Forces and Open Skies Agreements that will enhance the authorities of the central state

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<sup>314</sup> Haris Silajdzic, *Na Putu Ka Modernoj Drzavi* (Sarajevo: Vijece Kongresa Bosnjackih Intelektualaca, 2000). See also *South East European Times*, Feature Story June 29, 2005 "Terzic Says EU Integration Key to BiH Stability." Available from [www.setimes.com](http://www.setimes.com) Accessed June 29, 2005.

<sup>315</sup> On 18 July 2005, a special Povjerenstvo za Reformu Odbrane (Defence Reform Commission, DRC) endorsed a DRC report entitled "AFBiH: A Single Military Force for the 21st Century," thus creating a single army with no entity components. Consequently, on 5 October 2005, BiH's Parliamentary Assembly passed the legislation necessary for the creation of a single and unified BiH army.

<sup>316</sup> On 6 October 2005, Republika Srpska National Assembly adopts police reform in accordance with EC Principles.

<sup>317</sup> BiH has now enacted and is in the process of implementing a swathe of strategic economic reforms that will allow it to take advantage of regional economic opportunities. These reforms include unifying and rationalising the customs service, streamlining the company registration process, establishing commercial courts to speed up business litigation, bringing regulation in the utilities sector up to European standards, and improving corporate governance at public companies. Banking reform, initiated in the late 1990s, has already created a robust financial sector: interest rates are down to around 10 per cent and banks are increasingly willing to lend to small and medium enterprises, generally viewed as the backbone of future economic growth. Lawrence E. Butler "On the Highway to Europe," *Southeast European Times*, 14 December 2005.

<sup>318</sup> Office of the OHR. Key events since Dayton. Available from [http://www.ohr.int/ohr-info/key-events/default.asp?content\\_id=35971](http://www.ohr.int/ohr-info/key-events/default.asp?content_id=35971) Accessed Also see *South East European times*

government and streamline parliament and the office of the presidency. In addition, all three constituent national groups, as well as leaders of the eight main political parties, overwhelmingly support modernizing the constitution, multi-party democracy, market oriented economy, and equal treatment of all under the rule of law.<sup>319</sup> This certainly reflects the essential pre-requisites for constructing a self-sustaining and unified multinational BiH state.

### **Conclusion**

In short, since 1995, Bosnia and Herzegovina has been in the process of political transition and transformation into a modern and multinational democratic state. This reconstituted and politically re-engineered plural state has encountered numerous structural and political challenges from all sides, and these have most frequently been a function of nationalism. In turn, divergent nationalist aims of BiH's constituent peoples have raised questions of cohesion and coherence within the state, the compatibility of nationalism and democracy, institutional forms of accommodation, and stability. As a result, implementation and further development of a political system based on consociational and integrative design elements will prove crucial, if not essential, for the emergence of a moderate political environment in this diverse multinational polity. This chapter has exposed how nationalism, carefully engineered political systems, constitutional and institutional structures, and political incentives all have a fundamental bearing on BiH ability to function as a modern, democratic and multinational state.

In addition, this chapter has also demonstrated that to prevent ethno-national divisions, a political system requires strategies to build coalescent and efficacious state-

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<sup>319</sup> Increasingly, individuals in all three ethnic groups are becoming more concerned with housing, education, job creation, medical care and care for the elderly, even though they still tend to vote for predominantly nationalist parties. Friedman, *Bosnia and Herzegovina*, 124.

institutions, and develop means to address the special democratic needs of plural societies. As multinational democracies are societies composed of two or more nations, there is a continuous need for unity and stability. One way of ensuring lasting stability and a high degree of self-sufficiency within a multinational society is by forming coherent institutional structures, reinforced with progressive policies and practices that clearly define group rights and mutual goals. BiH as a case study of a multinational state in transition has shown that it is certainly capable of emerging as a coherent and unified multinational democracy.

Given the constitutional and institutional limitations of the DPA a written BiH constitution carries enormous symbolic importance in the post-war period. It stands as a commitment to legalism and structure. Installing a constitution is also a signal to BiH society that the rules on political and social behaviour are being regulated and will bear scrutiny. The absorption of that basic creed by a state's citizenry will certainly have a crucial sociological and political impact on their perception of the state and their status within it.<sup>320</sup> As BiH progresses away from the violence, society and the Constitution ought to evolve gradually towards a more coherent political framework premised on multiculturalism and multi-ethnicity.

Despite slow democratic reforms and political weaknesses, BiH today is well on its way to establishing a self-sustaining multinational state. Many elites within the three major nations comprising BiH still grapple with how to pass through the stage of nationalism and emerge on the other side, into the era of democracy, market economy,

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<sup>320</sup> It is important to note that constitutions can be subject to change and evolution. Article X of the BiH Constitution specifically includes provisions for amendment. The procedure requires a decision of the Parliamentary Assembly, with a two-thirds majority of those present in favour of any change. Significant portions of the BiH Constitution should therefore only be viewed as transitory.

enduring cooperation and stability. The classical model followed by Western European states was the amalgamation of territory, the promulgation of a kind of state nationalism, and lately, integration into a supranational body (the EU).<sup>321</sup> Due to the differing political agendas among the leaders of the three major national groups, the complete emergence of unified BiH as a modern multinational state still remains contingent. Based on its present constitutional and political structures, before BiH (people and politicians) can realize their full aspirations of becoming a part of modern and integrated Europe it must work out its internal integration and cohesion problems. Only coherent, functioning and self-sufficient states can successfully negotiate accession agreement with the European Union.

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<sup>321</sup> Ibid., 124.

## CHAPTER FOUR

### **Rethinking Nationalism and Controlling the Fear**

For over two hundred years numerous scholars of international politics have argued about conflict and cooperation between nations. Meanwhile, due to tremendous power of nationalism the international system has experienced significant turbulence, insecurity, and reorganization of political space. From the collapse of the Ottoman and Hapsburg empires, the disintegration of the former communist states, the spread of democracy to the creation of new independent states, nations and nationalism have been the driving forces behind the reconfiguration of the international environment.<sup>322</sup> Localities, states, and sometimes entire regions have often been engulfed in convulsive fits of ethnic and national insecurity, genocide, and violence. Contemporary nationalism is responsible for this turbulence, which by its very nature is a dynamic and an extremely potent political phenomenon. There is an urgent need to address and understand the cruel face of nationalism, in order to control the collective fears for the future.

This thesis has been concerned with the dynamics and unstable nature of contemporary nationalism, as well as the relationship between nationalism and newly formed/democratizing multinational states. It has explored paradigmatic debates and various means to conceptualize, define, explain and restrain this resurgent political phenomenon. Any real characterization, as the case of BiH demonstrates, shows that nationalism is multifaceted, resists simplification, yields to various levels of analysis, and

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<sup>322</sup> Most basically, nations choose between cooperation and conflict, and such decisions underline the entire range of international relations from alliances to war. When, how, and why they choose between them, and with what consequences, thus constitutes the primary foci of the study of international politics. Arthur A. Stein, *Why Nations Cooperate* (Ithaca: Cornell University Press, 1990).

thrives on being Janus faced. Nevertheless, nationalism continues to be a dominant force and a main form of expression for political identities in the modern world.

As a political movement, ideology and principle, nationalism is a crucial component of domestic politics among new and well established states. It is a fundamental force among nations seeking to strengthen their identity and their sovereignty. As such, for both scholars and political decision makers alike, nationalism remains a challenging obstacle that is not declining or going to disappear at any time soon. Rather than simply contain this immortal political beast the key to dealing with this resurgent phenomenon is to manage the collective fears of the future. This is crucial to reconstructing modern states and fostering multinational democracies.

To demonstrate successfully that resurgent nationalism and intense ethno-national conflict is best addressed by controlling the inter-group fears of the future this final chapter is divided into four main sections. The first section briefly re-examines how contemporary nationalism, due to its resurgent (unpredictable) nature, has been both the cause and effect of the reorganization of political space. The second section assesses the strategic interactions between and within ethno-national groups that contribute to the collective fears of insecurity, which in turn polarize multinational societies. The third section describes the most effective means for controlling nationalism and dealing with collective fears of uncertainty. The final section offers an explanation to the consequences and implications of contemporary nationalism. Besides suggesting some practical policy initiatives, this final part concludes by posing some broad questions on how nationalism will impact the future of modern European states in years to come.

## **Nationalism and Reconfiguration of Political Space**

The study of nationalism has long been laden by large and often perplexing paradigmatic debates. As shown in Chapter One, there are at least four dominant theories (modernist, perennialist, primordialist and ethno-symbolist), extensive debates and numerous ways to approach the same problem. The research on nationalism, as a form of political mobilization, is further impeded by the lack of attention paid to it within the discipline of international relations.<sup>323</sup> The main problem for international order continues to be on how to reconcile the principle of state sovereignty and self-determination. Meanwhile, at the time of changing social and political conditions<sup>324</sup> primarily in post-communist states, questions of “nation-state congruence” remain largely unanswered and unresolved. Classical theories of nationalism thus simply no longer adequately account for the ongoing changes within the international system.<sup>325</sup> As such, there is a need to reconsider or rethink the dynamics of nationalism. This is particularly important in the context of recent post-communist nationalist mobilization in East, Central and Southeastern Europe, which is a direct result of the reconfiguration of states on the basis of nationalism in pursuit of self-determination.<sup>326</sup>

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<sup>323</sup> Over its brief history, the IR discipline has been split between idealists and realists, realists and liberals, and most recently, neo-realists and neo-liberal institutionalists, not to mention the various minor sects and other apostasies that have also fractured the field. Ibid.

<sup>324</sup> In addition to the sweeping economic, social and political changes, another serious challenge to these changing states and societies in transition is the synchronization of nation-building, state building and for most international integration. In other words, this process can be summarized as the process of democratization.

<sup>325</sup> Classical theories of nationalism referred to here mainly include the works by Ernest Gellner, Elie Kedourie and Hans Kohn. Each of their respective theories, describing either structural connection between nationalism and the needs of the modern industrial society, ideological determinism and power of ideas, or the popular distinction between Eastern and Western nationalism, have all been challenged (and found to be inadequate) by the most recent turbulent changes and reconfiguration of political space.

<sup>326</sup> According to Erica Harris, self-determination was not invented by the post-communist leaders and not even by Woodrow Wilson, but was an acknowledgement of a certain historical phenomenon bound up with principles of progress and justice. Erica Harris, *Nationalism and Democratisation: Politics of Slovakia and Slovenia* (Burlington, VT: Ashgate Publishing, 2002), 193.

In *Nationalism Reframed*, Rogers Brubaker points out that twice in the past century, Central and Eastern Europe have undergone a massive and concentrated reconfiguration of political space along national lines.<sup>327</sup> In the first phase of this reconfiguration, which actually began in the nineteenth century, the crumbling of the great “traditional” multinational land empires (the Ottoman Empire, the Hapsburg and Romanov empires), left in its wake a broad north-south belt of new states in East Central Europe stretching from the Baltic littoral to the Balkan peninsula.<sup>328</sup> The second phase began with the disintegration of the Soviet Union, Yugoslavia, and Czechoslovakia. Coupled with the emergence of some twenty new independent states the second phase of the reconfiguration resulted in the nationalization of political space on a much vaster scale, extending from Central and Eastern Europe eastwards across the entire breadth of Eurasia.<sup>329</sup> Accordingly, Brubaker asserts that there has developed a dynamic interdependence linking national minorities, nationalizing states, and external national homelands.<sup>330</sup> However, much like the nationalizing settlement that followed the WW I and WW II, the most recent reconfiguration of political space along ostensibly national lines has conspicuously failed to solve the region’s long refractory national question.

The reconfiguration of political space is largely because nationalism often re-emerges as exclusive and expansionistic. National questions are repeatedly put in terms of territorial battles to gain, recover or secure territories in order to protect fellow

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<sup>327</sup> Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996).

<sup>328</sup> *Ibid.*, 55.

<sup>329</sup> *Ibid.*

<sup>330</sup> This triadic nexus, according to Brubaker calls for an analysis of its own right and in fact a reorientation in the study of nationalism. *Ibid.*

nationalists or national treasures.<sup>331</sup> The path for obtaining guarantees of civil and political rights for fellow nationals living beyond the boundaries of the existing nation-state is rejected in favor of resolving national questions through the occupation or annexation of territory. This in most cases leads directly to war, as well as the regime's total control of all spheres of economic, social, and cultural life. In fact, all aspects of a nation's political life are subordinated to the national interest and war, which accounts for the totalitarian nature of exclusive nationalism.<sup>332</sup> Even with the recent reconfiguration of political space following the end of Cold War, nationalist tensions and territorial claims have not been resolved, but only been reframed or restructured in terms of legitimate sovereignty questions.

At present time, similar to the nineteenth century, nationalist ideology still calls for redrawing boundaries, battles for territory, and struggles for national unification.<sup>333</sup> This is one of the main reasons why in chapter two it was argued that war in BiH was not a civil war between three constituent ethnic groups. Instead, the war was a battle by both irredentist Serbia and Croatia to break apart BiH and to declare national unification with their respective co-national diaspora on the territory of BiH. Moreover, considering that nationally homogenous or ethnically "pure" nation-states are the main goals of nationalism, it is therefore clear why brutal "ethnic cleansing" was an integral element of

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<sup>331</sup> Vesna Pestic, "The Cruel Face of Nationalism," in *Nationalism, Ethnic Conflict and Democracy*, ed. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press, 1994), 133.

<sup>332</sup> *Ibid.* 133-134.

<sup>333</sup> The ideology of nationalism is what fuels nationalism as a political movement, because it creates an idea about a particular kind of political community, it provides a set of doctrines to believe in and offers a set of political aims or objectives to be reached. Kim Richard Nossal, *The Patterns of World Politics* (Scarborough: Prentice Hall, 1998).

this particular conflict. The primary aspiration of Serb and Croat nationalist movements was thus to destroy multiethnic life and realize the national ideal.<sup>334</sup>

The enormous amount of force necessary to realize nationally pure states produces authoritarian and hegemonic regimes, which rely on the use of fear (exasperating threats of others) and the circulation of hate propaganda. Such propaganda highlights the dark and irrational side of nationalism, appealing to the primitive emotions and making use of unprecedented attacks on all others. The Balkans and East Central Europe in general offer fertile ground for this kind of propaganda, because some historical animosities exist among the peoples of the region, particularly dating from the two world wars. In fact, many nations, including Serbs, Macedonians, and Kosovo Albanians within the Southeast European countries have felt constant tension and insecurity over their boundaries. Because of various intermingling and mixing of peoples in these countries, efforts to secure guarantees for ethnic minorities or safety from hegemonic and irredentist neighbors pose the threat of territorial pretensions. As a result, it is very easy to reignite deep-seated anxieties and fears that justify “defense” against aggressive or expansive nationalist aspirations, and the need for protection.<sup>335</sup>

The crucial and perhaps the most important reason for the reconfiguration of political space and reemergence of cruel nationalism is the popular fear of radical changes. Fear can stem from any major or radical change within the state, including constitutional amendments, government reform, institutional restructuring, or changes

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<sup>334</sup>Michael Hechter points out that “nationalism rests on the belief – or better yet, the ideal – that individual members of the nation would be better off with self-determination than without it.” Michael Hechter, *Containing Nationalism* (Oxford: Oxford University Press, 2002), 30. In short, Hechter argues that ideals are less stringent than ideologies. Unlike ideologies, which consist of a broad and reasonably coherent set of ideas or shared mental models that specify both the means and ends of political action, ideals imply ends alone.

<sup>335</sup>This defensive posture may be interpreted as offensive threat and in turn create a security dilemma that is prone to preemptive strike. See more below. Petic, 134.

brought about by the introduction of free market system and the opening up to the world economy. In other words, fear of any sudden social, political or economic change provides a good grounding for both fundamentalist and national political movements. Specifically, fear of sudden changes fuels movements, which in the face of uncertainty emphasize old values such as religion, cultural and historical myths, tradition, traditional roles and virtues.<sup>336</sup> As a result, manipulating any of the above elements can quickly raise questions of security and intensify collective fears of the future, especially in newly formed multinational democracies.

### **Internal Dynamics of Nationalism and Strategic Group Interactions**

Contrary to primordialist theory and explanations for ancient ethnic hatreds,<sup>337</sup> the resurgence of nationalism and intensity of conflict in the former Yugoslav society largely reflects the prevailing levels of individual and group insecurity. While this is common in societies deeply divided along identity lines and those in which the fault lines are of political-economic nature, the insecurity is more pronounced in the former than in the latter. The instability and uncertainty of nationalism is further intensified with rapidly changing political and security conditions. Apart from this, however, recent scholarly research on ethnicity and strategic interactions between groups in nationally diverse settings indicates that intense ethno-national conflict is not caused directly by inter-group

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<sup>336</sup> Ibid. One alternative to nationalism is liberalism. Liberalism, on the other hand, unlike nationalism offers only uncertainty and little in the way of identity. It provides a set of formal rules, empty roles, and an unfamiliar civic culture.

<sup>337</sup> Proponents of the ancient hatreds idea seem to suggest that Yugoslavia's multiethnic, multi-religious populations were simply biding their time until the communist overlord that suppressed their ability to live aggressively nationalistic lives passed away, and they could then seek revenge on the "others" among who they had been forced to dwell. Francine Friedman, *Bosnia and Herzegovina: A Polity on the Brink* (London and New York: Routledge 2004), 2.

differences, ancient hatred, and centuries old feuds.<sup>338</sup> Nor are ethnic passions, long bottled up by repressive communist regimes, simply uncorked with the end of the Cold War.<sup>339</sup> Instead, extensive evidence indicates that resurgent nationalism and intense ethno-national conflict is most frequently caused by people's collective fears and anxieties of the future.

In *Containing Fear*, David A. Lake and Donald Rothchild's findings confirm that as groups begin to fear for their safety, dangerous and difficult to resolve strategic dilemmas arise that contain within them the potential for tremendous violence.<sup>340</sup> More specifically, "as information failures, problems of credible commitment, and the security dilemma take hold, various national groups become apprehensive, the state weakens, and conflict becomes more likely."<sup>341</sup> It is within multinational states that ethno-nationalist activists and political entrepreneurs,<sup>342</sup> operating within groups, build upon these inter-group fears of insecurity and polarize society. Ethnocentric sentiments, political and historical memories as well as emotions can also magnify these anxieties, driving

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<sup>338</sup>The research findings have been based on the work conducted by the Institute on Global Conflict and Cooperation (IGCC), in particular the Working Group on the International Spread and Management of Ethnic Conflict. David A. Lake and Donald Rothchild, "Ethnic Fears and Global Engagement: The International Spread and Management of Ethnic Conflict," *Institute on Global Conflict and Cooperation. IGCC Policy Papers* 20 (January 1, 1996).

<sup>339</sup>Scholars generally agree that this single factor explanation cannot account for significant variation in the incidence and intensity of ethnic conflict. Michael E. Brown, *Ethnic Conflict and International Security* (Princeton, NJ: Princeton University Press, 1993), 6.

<sup>340</sup>David A. Lake and Donald Rothchild. "Containing Fear: The Origins and Management of Ethnic Conflict," In *Nationalism and Ethnic Conflict: An International Security Reader*, Revised ed. Michael E. Brown, Owen R. Cote, Jr. Sean M. Lynn-Jones and Steven E. Miller, (Cambridge: The MIT Press, 2001). Similar findings have also been presented by Timur Kuran, "Ethnic Dissimilation and its Global Transmission," and "Stephen M. Saideman, "Is Pandora's Box Half-Empty or half-Full?" in *The International Spread of Ethnic Conflict: Fear Diffusion and Escalation*, ed. David A. Lake and Donald Rothchild, (Princeton: Princeton University Press, 1998).

<sup>341</sup>Ibid., 126.

<sup>342</sup>Political entrepreneurs are individuals who may not share the beliefs of ethno-nationalist extremists but who instead simply seek political office and power. Ethnicity usually provides a key marker for these self-aggrandizing and self-interested politicians. Hence the term political entrepreneur can refer to someone who funds a new political project, group, or a politician while seeking to gain certain political, social and profit benefits for themselves. Ibid.

national groups even further apart. Coupled together, these between group and within group strategic interactions produce a toxic brew of distrust, insecurity, and suspicion that can quickly explode into egregious violence.<sup>343</sup>

At the same time, in many diverse societies, most communities and groups continue to live side by side in relative amity, feeling secure about their future and holding pragmatic perceptions about each other's intentions. With reciprocal or constitutional agreements and functioning state institutions in place that promote cooperative behaviour, it is not unusual to have stable inter-group relations and incentives structures that favour/foster constructive behaviour. These constitutional agreements tend to specify, among other things, the rights and responsibilities, political privileges, access to resources, and dispute resolution mechanisms that channel domestic politics in peaceful directions. This is, however, not the case in newly formed multinational states such as BiH where ambitious and predatory political elites seek power only to mobilize their ethnic or nationalist constituents for aggressive purposes.

At a time of political transition or transformation from communist to a democratic political system, political elites and political entrepreneurs often manipulate ethnocentric nationalism to gain political power and maintain control over the population.<sup>344</sup> They use ethnicity, exaggerate hostility and distort images of others to build their constituencies and increase their political power. Accordingly, when ethnicity and political identity are manipulated or linked with acute social uncertainty, a history of conflict, and fear of what the future might bring, identity emerges as one of the major fault lines along which

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<sup>343</sup> Ibid., 127.

<sup>344</sup> Many old communist leaders who have recently transformed themselves into nationalists have taken this road and at a time when the state is at its weakest they have used national feelings and fears to serve their own ambitions. Power gained in this way is by definition authoritarian. Pestic, 133.

groups and societies fracture.<sup>345</sup> This is what many Balkan scholars including Vesna Pestic claim to be a root cause of uncertainty and ethno-national conflicts; “fear of the future, lived through the past.”<sup>346</sup>

In most multiethnic or multinational states, as shown with the case of BiH, collective fears of the future arise when a state weakens or loses the ability to arbitrate between groups and provide credible guarantees of protection.<sup>347</sup> Under this condition, which Barry Posen refers to as “emerging anarchy,” physical security becomes of paramount concern.<sup>348</sup> When central authority declines, groups become fearful for their survival and, in turn, tend to rely upon their own capabilities. They invest in and prepare for violence, and thereby make actual violence possible.<sup>349</sup> State weakness, whether it arises incrementally out of competition between groups or from nationalist extremists actively seeking to destroy ethnic peace, is a necessary precondition for violent conflict to erupt. More specifically, state weakness helps to explain the explosion of ethnic and nationalist violence that has followed the collapse of communist regimes all over Southeastern Europe and to this day still largely threatens the security of BiH.<sup>350</sup>

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<sup>345</sup> Kathleen Newland, “Ethnic Conflict and Refugees,” in *Ethnic Conflict and International Security*, ed. Michael E. Brown, (Princeton: Princeton University Press, 1993), 161.

<sup>346</sup> Pestic, “Remarks to the IGCC Working group on the International Spread and Management of Ethnic Conflict,” *IGCC Policy Papers*, (October 1, 1994) See also, Haris Siladzic, *Na Putu ka Modernoj Drzavi: On the Road to the Modern State*, (Sarajevo: BiH: Vijece Kongresa, 2000). Also, Jasminko Arnautovic, *Put Dobrote: Way of Humanity* (Tuzla, BiH: Vrelo, 1994), 29.

<sup>347</sup> In BiH this took place immediately after the 1992 referendum on independence took place and subsequent creation of an artificial Serb republic of Republika Srpska, which laid claim to more than 70 percent of BiH’s territory. Raymond. C. Taras and Rajat Ganguly, “When International Actors Engineer Separation: The Breaking up of Yugoslavia.” In *Understanding Ethnic Conflict*, 2<sup>nd</sup> ed. (New York: Longman, 2002), 242.

<sup>348</sup> Barry R. Posen. “The Security Dilemma and Ethnic Conflict,” In *Ethnic Conflict and International Security*, ed. Michael E. Brown (Princeton, NJ: Princeton University Press, 1993), 103-124. See also Jack Snyder, “Nationalism and the Crisis of the Post-Soviet State.” *Ibid.*, 79-101.

<sup>349</sup> Lake and Rothchild, “Containing Fear,” 128.

<sup>350</sup> *Ibid.* The only catch with this precondition is that even though the state may appear strong today, concerns that it may not remain so tomorrow may be sufficient to ignite fears of physical insecurity and a cycle of ethnic violence.

In short, situations of “emerging anarchy,” insecurity and use of violence arise out of the strategic interactions between and within groups. Driven by competition for power and scarce resources, the competing entities or nations often amass more power than they need for their security and thus consequently begin to threaten others. This creates a security dilemma, where those groups that feel threatened will then respond in turn.<sup>351</sup>

As already mentioned there are three strategic dilemmas that may directly contribute to increased instability, insecurity and cause violence to erupt. These three are information failures, problems of credible commitment, and incentives to use force preemptively. For example, information failures are possible whenever two or more ethnic groups compete within the political arena. In multiethnic societies, in particular, states can often communicate and arbitrate successfully between groups and thereby help preclude and resolve information failures. Indeed, communication and arbitration can be understood as two of the primary functions of the state. When effective, states create incentives and a sense of security that allow groups to express their desires and articulate their political aspirations and strategies. However, at times of political transition, as the state weakens, information failures become more acute and there is a growing sense of distrust and insecurity between groups.

More specifically, in newly democratizing multinational states such as BiH, Lake and Rothchild caution that when one group believes that the other group is withholding important information, it may begin to hold back data in anticipation of the failure of

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<sup>351</sup> The security dilemma, first coined by John H. Herz and developed in international relations, is understood to follow axiomatically from anarchy. Under anarchy, states are dependent upon self-help for their security and must therefore maintain and expand their military capabilities. This in turn threatens others, especially the closest or most direct neighbors, who react by maintaining and expanding their own military capabilities, creating a spiral of arms-racing and increased hostility. Posen, “The Security Dilemma and Ethnic Conflict,” 104. See also, James Daugherty and Robert Pfaltzgraff, Jr., *Contending Theories of International Relations: A Comprehensive Survey*, 5th Edition. (Toronto: Addison Welsley Longman, 2001), 64.

formal negotiations.<sup>352</sup> In such situations, various groups within a multinational state may become suspicious of the intentions of others, and may begin to fear the worst. In this way, information failures and even the anticipation of such failures may drive groups to actions that undermine security and the ability of the state to maintain social peace. When this occurs, even previously effective states will begin to unravel. State capabilities are, therefore, at least partly affected by the magnitude of information failure and the beliefs and behaviors of the groups themselves.

Increased fear, insecurity and state weakness also arise out of problems of credible commitment. This occurs usually in situations where various groups within a multiethnic or multinational state cannot credibly commit themselves to uphold mutually beneficial agreements they might reach. In other words, at least one group cannot effectively reassure the other that it will not renege on an agreement and exploit it at some future date. Given that exploitation can be extremely costly, groups may prefer to absorb even high costs of open conflict today to avoid being exploited tomorrow.<sup>353</sup>

In situations of great political uncertainty and the high risk of exploitation, weaker groups, fearful of the future, may resort to the preemptive use of force to secure their position. This unique situation is essentially the core of the security dilemma problem. It rests on both the information failures and problems of credible commitment, as discussed above. However, the incentives to preempt may also arise when offensive military technologies and strategies dominate more defensive postures, and thus the side that

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<sup>352</sup> Lake and Rothchild, "Containing Fear," 133

<sup>353</sup> It is usually the minority or less powerful groups within the state, fearful of future exploitation and violence that determines the viability of any credible commitment. As such, when the balance of power remains stable well crated agreements and contracts enable various groups to avoid conflicts despite their differing policy preferences. *Ibid.*, 135.

attacks first reaps a military advantage.<sup>354</sup> The offense is likely to dominate when there are significant military benefits from surprise and mobility. In such situations, where incentives to use preemptive force are particularly strong, the security dilemma takes hold to create its extremely destructive and devastating effects. In essence, it is out of fear that one group might launch a preemptive attack, that the other group has an incentive to strike first and negotiate later.<sup>355</sup>

Meanwhile, within groups, even under the conditions of actual or potential state weakness and strategic inter-group dilemmas, manipulative political leaders and political entrepreneurs can produce rapid and profound polarization within a multiethnic society.<sup>356</sup> They often do this by magnifying the strategic dilemmas, making blatant communal appeals and outbidding more moderate politicians, thereby mobilizing ethno-nationalist and extremist groups, and intensifying the fear of ethnic others. Political entrepreneurs can also reinforce this process by highlighting and legitimating ethnic associations that raise the currency and political saliency of ethnicity. A variety of “non rational” factors such as emotions, historical or political memories, and myths can further exacerbate the tensions and fear of violent implications of intra-group interactions.<sup>357</sup> In

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<sup>354</sup> Robert Jervis, “Cooperation Under Security Dilemma,” *World Politics*, 30: 2 (January, 1978), 167-213. See also Stephen Van Evera, “Offense, Defense, and the Causes of War,” *International Security*, 22: 4 (Spring 1998). Available from <http://mitpress.mit.edu/catalog/item/default.asp?ttype=6&tid=3376> Accessed 18 October 2005. See also, Posen, “Security Dilemma and Ethnic Conflict.” See also, George H. Quester, *Offense and Defense in the International System* (New York: John Wiley, 1977).

<sup>355</sup> In ethnic relations, as in international relations, when there are significant advantages to preemption, a cycle of violence can seize previously peaceful groups even as they seek nothing more than their own safety. By the same logic, previously satisfied groups can be driven to become aggressors, destroying ethnic harmony in the search of group security. Lake and Rothchild, “Containing Fear,” 138.

<sup>356</sup> Analytically, ethnic activists and political entrepreneurs are as much a product as a producer of ethnic fears and are dependent for their success upon underlying strategic dilemmas. Even though they are not the primary or the sole cause in fomenting ethnic conflict, they do play an important role in exacerbating ethnic tensions and propelling societies along the road to violence. *Ibid.*, 140.

<sup>357</sup> In the case of Former Yugoslavia, political memories and myths have both defined the groups themselves and stimulated acute fears of mutual exploitation. *Ibid.*, 140.

short, at a time of political instability and uncertainty, political leaders and political entrepreneurs both reflect and stimulate group fears for their own particular self-interests.

The very nature of nationalism underlying its political manifestation is its “rootedness” in the psychological attachment to the nation, and thus the capacity to influence group behaviour.<sup>358</sup> In fact, if the events of the last decade can offer an explanation about the behaviour of states and nations in the turmoil of collapsing states and ideological frameworks, in cases of “emerging anarchy,” nationalism is very easily mobilized. In particular, when it comes to emotional commitment, nationalism at this point in history does not seem to have many rivals as a form of collective allegiance. Resurgent nationalism, therefore, is not like any other historical or contemporary political phenomenon since it easily plays into deep psychological attachments and popular fears of groups as well as individuals.

Together, strategic interactions between and within groups can produce unstable environments of distrust and fear in which ethnic tensions and conflicts can grow. It is in fact the collective fear, anxiety of the future and uncertainty that intensifies group insecurities in a deeply diverse or multinational setting. The problem, however, is that each of these aforementioned strategic dilemmas alone is sufficient to ingrain insecurities and lead directly to conflict. Nevertheless, they all typically occur together to create a dangerous syndrome of strategic problems. As a result, these strategic dilemmas merge to produce a vicious cycle of nationalism that threatens to pull multi-ethnic or multinational states apart and launch them into egregious acts of ethnic violence and nationalist conflict.<sup>359</sup>

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<sup>358</sup> Erika Harris, 211.

<sup>359</sup> Lake and Rothchild, “Containing Fear,” 131.

Nationalism is therefore more than a political ideology, sentiment or a political principle, which is aroused when people fear they are losing control over their security and place they claim to belong.<sup>360</sup> Nationalism is rather a highly dynamic political movement that relies on a legitimacy it enjoys by virtue of a psychological attachment to the nation that it claims to serve and protect. As such, it is an accompaniment to great and revolutionary changes, whereby it can speed-up or obstruct political transition and transformation, depending on the nation's aspirations. It is precisely those aspirations that change and alter the security and stability arrangements, depending on the political and social conditions. As a result, nationalism remains an immortal political beast that can be rapidly mobilized by sense of collective fears. However, since nationalism can be easily mobilized, there is also a possibility that it can be reduced and controlled, and this is where a coherent political system and democracy come into play.

### **Managing Nationalism by Controlling Collective Fears**

Nationalism reflects a need to establish effective states that are able to achieve a group's economic and security goals.<sup>361</sup> The most aggressive nationalist movements arise when states' capabilities decline and fail to carry out their essential tasks.<sup>362</sup> In response, the most effective means for managing nationalism and controlling collective fears of the future begin by state governments reassuring the minority and competing national groups of their physical and cultural safety. More specifically, to foster stability,

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<sup>360</sup> Ramsay Cook, *Canada, Québec, and the Uses of Nationalism*, 2nd ed. (Toronto: McClelland and Stewart, 1995), 10.

<sup>361</sup> Snyder, 81.

<sup>362</sup> Because national movements serve as instruments for achieving political goals they pose credible challenges to the existing state. They essentially aim to either renew the state or most commonly to oppose it. For in-depth discussion on nationalist challenge and dangers to the state see chapter two pages 5 through 9. Also see, Hechter, "Containing Nationalism," Snyder, "Nationalism and the Crisis of the Post-Soviet State," or see John Breuilly, *Nationalism and the State* (Manchester: Manchester University Press, 1983).

security and constructive relations, a coherent political structure and functioning state institutions, along with rights and positions of all groups and minorities must be secured.<sup>363</sup> This can be done vis-à-vis confidence building measures, coordination and external influence/intervention, in order to successfully create efficient and legitimate democratic states.

The argument here specifically applies to the newly formed multinational democracies, such as BiH, where a pressing need to strengthen the institutional capacity and to develop a more coherent political system still exists. In retrospect, it is clear that addressing and dealing with nationalism as a central problem in BiH and Southeastern Europe is a crucial undertaking to ensuring lasting security and stability. Managing nationalism and collective fears of the future hinges on implementing confidence building measures and improving effectiveness of BiH as a modern multinational state.

In essence, confidence-building measures seek to reassure ethnic peoples about their future.<sup>364</sup> To overcome inter-group and minority fears, confidence-building measures must be appropriate to the needs of those who really feel vulnerable within the existing state. If handled sensitively and over a certain period, these measures and safeguards may help in defusing the central problems of information sharing and concerns associated with credible commitments. To be precise, there are at least four confidence-building mechanisms for helping groups to deal with perceived insecurity, which fuels nationalism. These four include, but are not limited to, demonstrations of respect, power sharing, democratic elections, regional autonomy and federalism.

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<sup>363</sup> This is something that was not initially done in the case of Bosnia, because the priority at the time was to stop the conflict and genocide and then to ensure territorial partition by designing/engineering a power sharing agreement.

<sup>364</sup> Lake and Rothchild, "Containing Fear," 142.

When considering demonstrations of respect, it is important to point out that the security of various ethnic or national peoples within a multinational state is in large part based on reciprocity of respect. In fact, to help build confidence, each group must view the other constituent groups/nations as honourable and having legitimate interests. The case of BiH in chapters two and three clearly demonstrated how hostile perceptions can quickly polarize and destabilize a newly independent multicultural state. With exaggerated images of others and fears over loss of ethnic identity, there is always a toxic brew of distrust and insecurity, which plays upon inter-group behaviour. In order to build confidence it is imperative that the state government along with local elites take minority resentments and anxieties seriously and address them directly.

Effective means of managing nationalism and reducing inter-group conflict also require an effort by the state to build a coherent political system with representative ruling coalitions. This can be done by carefully engineered consociational or power sharing arrangements.<sup>365</sup> In other words, this is where the state reaches out to include minority group representatives in public affairs, thereby offering various groups and stakeholders an incentive for cooperation. Most often, power-sharing agreements that outline rights and responsibilities of constituent peoples can be worked out as part of the formal state constitution. Although these agreements may take many forms, including various and informal elite arrangements, they all essentially serve as a form of coordination in which an autonomous state and a number of less autonomous ethnic-

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<sup>365</sup> See Chapter three, section II on political systems in multinational democracies. See also, Arend Lijphart, *Democracy in Plural Societies* (New Haven and London: Yale University Press, 1977), Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985), and Timothy D. Sisk, *Power Sharing and International Mediation on Ethnic Conflicts* (New York: US Institute of Peace, 2002).

based interests engage in a process of mutual accommodation in accordance with commonly accepted procedural norms, rules or understandings.<sup>366</sup>

The true nature of democratic politics within a multinational state is based upon mutual accommodation and incentives to compromise.<sup>367</sup> The emphasis here is on “mutual,” which means that the responsibility does not rest exclusively with a majority or one constituent group, but equally with everyone including the minority groups. At the same time, within the multinational state, the aim should be on the establishment of a unified political community with a collective identity attached to the state. Undeniably, the construction of such identity in an ethnically or rather culturally diverse society is not easily achieved. This feat ultimately requires a redefinition of national identity in such a way that certain elements of identity formation become attached to common political co-existence within the state, in order to bridge ethnically and culturally related differences. In other words, the establishment of a coherent political structure and unified community based on democratic values does not necessarily mean a replacement of ethnic identity by some sort of a civic one. Instead the creation of a unified political community with a common identity requires the removal of ethnicity as a conflict generating issue from the top of the domestic political agenda.

Although free democratic elections represent only a brief episode in a larger political process, they can have an enormous influence on inter-group accommodation and collaboration.<sup>368</sup> Where favourable circumstances prevail free and democratic

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<sup>366</sup> Donald Rothchild, “Hegemonial Exchange: An Alternative Model for Managing Conflict in Middle Africa.” In *Ethnicity, Politics, and Development*, ed. Dennis L. Thomson and Dov Ronen (Boulder, CO: Lynne Rienner, 1986), 72.

<sup>367</sup> Harris, 214-215.

<sup>368</sup> See chapter three page 18 on how electoral system can be the answer to constituency based moderation. See also, Lake and Rothchild, “Containing Fear,” 145.

elections can promote stability. This can only take place in situations where the conditions provide for functioning state institutions, agreement on the rules of the political/electoral game, broad citizen participation in the voting process and a promising economic environment.

However, as shown in Chapter Two, in the absence of functioning state institutions and at times of rapid political transformation (democratization and liberalization) the introduction of open elections may backfire, reinforce societal schisms and thus increase rather than decrease the danger of renewed conflict. In other words, in newly formed democratic states, where institutionalized uncertainty provides many players with an incentive to participate, the election process can legitimize even the worst possible outcome.<sup>369</sup> Nevertheless, all groups have a reason to organize and, through institutional accommodation and coalitions with other parties, they are given an opportunity to gain power and to manage their future.

Political and administrative decentralization through regional autonomy and federalism can also play a significant role in managing nationalism and reassuring people of their future. By enabling local, cantonal and regional authorities to exercise a degree of autonomous power, elites at the political center can promote confidence among local leaders. These decentralization measures are often set out as part of the general frameworks agreements and or newly designed constitutions such as the Dayton Peace Agreement (DPA).<sup>370</sup> As part of the effort to ensure confidence and stability,

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<sup>369</sup> When manipulative political leaders and political entrepreneurs outbid their centrist rivals through militant appeals to their ethnic communities, elections can prove very destabilizing, threatening minorities with possibilities of discrimination, exclusion and even victimization. Ibid.

<sup>370</sup> For detailed information on BiH's institutional framework and main mechanisms used to accommodate three different groups as part of the Dayton Peace Agreement please see chapter three. Also see BiH constitution in Appendix C.

decentralizing power provides competing ethnic or national groups with an important incentive for responding positively to the central state government or third party mediator's proposals for settling disputes short of conflict. The 1995 DPA is the primary example of a territorial and political division of power among three constituent nations, and it also serves as a blueprint for constructing a highly complex yet decentralized multinational BiH state. As such, to create a balance between state and society, groups rely on decentralization of power as a means of placing institutional limitations on central authority.<sup>371</sup>

Together, these four main confidence-building measures serve as creative instruments by which states can alleviate or ease the collective fears of groups and uncertainties, and thus consequently manage the reappearance of cruel nationalism. By acknowledging and showing respect for difference and by agreeing to share resources, state positions, and political power with other constituent groups, these measures reduce the perceived security risks and consequently provide incentives for cooperation with all groups within a multinational state. They can also become the solid foundation over time for a shared sense of purpose and common fate within diverse multinational communities. Even some well established democratic states seeking greater accommodation of various groups within their society have implemented these confidence-building measures effectively, and they will probably continue to do so in the future.

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<sup>371</sup> Lake and Rothchild, "Containing Fear," 147.

However, while most studies of BiH have only focused on external intervention and handling of this new state as an international protectorate,<sup>372</sup> the main emphasis here is on the internal dynamics and confidence building mechanisms with coordinated support to ensure the creation of a more effective and efficient state.<sup>373</sup> The main reason for coordinated external support is that confidence building measures do not provide certain or guaranteed security resolutions. The risk of insecurity, uncertainty and the resurgence of nationalism remain because there is always a possibility that certain groups can adopt a threatening, hostile more defensive political or economic stance at any given point in time.<sup>374</sup> In cases where newly formed states are unable to ensure safety of their population or fail to restrain the incentives for renewed conflict, it may be necessary to employ external intervention to “enforce stability”<sup>375</sup> and help safeguard minorities against their worst fears.

Today, unsurprisingly nationalism is still dominant in places where old communist states have collapsed and where unsatisfied populations are consequently demanding the creation of more effective, responsive and secure states. The main problem is that many of these newly formed democracies lack the institutional and

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<sup>372</sup> Studies focusing on the external intervention, international action and handling of the new BiH state include: Sumatra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention*, (London: Hurst, 2002), David Chandler, *Faking Democracy after Dayton*, (London: Pluto 1999), Marcus Cox “Building Democracy from the Outside,” in *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-Torn Societies*, ed. Sunil Bastian and Robin Luckham (New York: Zed Books, 2003) However, it is beyond the scope of this study to go into details about external intervention and international action or lack of thereof in the case of BiH. Instead, what separates this study of BiH from the rest is the primary focus on the internal dynamics and overall impact of nationalism on establishing an effective multinational BiH state.

<sup>373</sup> For various means of constructing an efficient and accommodative state please refer to chapter three on constructing political systems in multinational democracies.

<sup>374</sup> In *Democracy and the Market*, (Cambridge: Cambridge University Press, 1991), 26, Adam Przeworski notes that “if sovereignty resides with people, the people can decide to undermine all guarantees reached by politicians sitting around a negotiating table.”

<sup>375</sup> Stephen Krasner and Daneil Froats point out that states have a long history of intervention in the ethnic (and religious) affairs of others. Stephen Krasner, “The Westphalian Model and Minority-Rights Guarantees in Europe” (with Daniel Froats), in Lake and Rothchild, *Ethnic Fears and Global Engagement*.

political capacity to fulfill popular demands. Namely, the state's existing borders and sovereignty are largely in question, their armies are discordant and remain in disarray, and their economies are unstable as they are undermined by strong black markets. These shortcomings increase the fears and intensify both social and economic insecurity, thus re-igniting nationalist myths and ethno-national sentiments. As a result, the systemic change that produced the transformation of the political, social and economic landscape in Europe after the collapse of communism has been dominated by the wrath of cruel and resurgent nationalism, collective fears and uncertainty of tomorrow.

### **Conclusion**

Nations and nationalism are fundamental to the study of domestic and international politics at all levels. The primary purpose of nationalism of course is to sort out who should belong to which nation, which homeland, on what basis, and what should happen to those who do not belong. In short, nationalism, as a political movement driven by the national idea or national principle is about social and political (re)organization of political space, and this is the most powerful characteristic (movement) of post communist transitions. As a result of its perseverance and dynamic nature it is irrefutably clear that nationalism is an extremely potent, dangerous and destabilizing political force that will not disappear at any time soon. As such, cruel and renascent nationalism remains a challenging obstacle for academics, scholars of international politics and political decision makers alike.

This chapter has focused on rethinking the dynamic nature, place, and impact of nationalism within the rapidly changing international environment. From the discussion above and particularly in the case of newly formed multinational democracies, namely

BiH, it is obvious that addressing this dynamic and potent political phenomenon is no easy task. However, despite the apparent impact on the modern state, it is essential to at least control nationalism through confidence building mechanisms that preclude instability and control collective fears for the unforeseeable future.

Meanwhile, as multinational BiH and its citizens cope with new challenges on the road to a more integrated Europe there are three general points, which can be made about nationalism and its impact on the political transformation process, better known as the democratization. First, nationalist challenges to democracy stem from ethnic and nationalist politics, which are the result of the (re)assertion of ethnic or national identity in order to readjust or strengthen the position of its group. As such, it is obvious that nationalism will remain a permanent feature in the nation-state political system for the foreseeable future. Second, the classical theories of nationalism no longer adequately account and explain for the disruptive impact of the resurgent nationalism in the new post-communist multinational democracies. The new and most intricate element of contemporary nationalism is the synchronization of nation-building, state-building and international integration all compressed into one major process, which is the democratization process. The third and final point is that the relationship between democracy and nationalism constantly fluctuates between a partnership and a challenge. As much as nationalism can be mobilized, there is a good chance that it can be reduced, and this is where a coherent political system grounded on firm democratic values comes to play the most important role.

In essence, due to its persistence and repeated resurgence over the past century, it is apparent that nationalism fosters formidable new obstacles and opportunities in all

parts of the world. The only problem is that both old and new forms of resurgent nationalism coexist, mutually challenge, and reinforce one another in a complex process, which can determine the existence, fate and future direction of any nation, people or state. How a particular state and ethno-national groups respond to the challenges of nationalism and collective fears of the future will define their character, security, and stability.

What makes the study of nationalism and newly emerging multinational democracies interesting, particularly in the more integrated Europe, is how it is constantly transforming and the ways in which states or groups may come to recast their nationalist aims and strategies over time. Obviously, the growth of the European Union is an important part of these calculations. In fact, at present time European governments are participating in intense debates over the size, shape, and multinational character of the European Union after the forthcoming enlargements. This in turn begs broader theoretical questions: What happens to nationalism when sovereignty becomes shared and the flow of people and ideas accelerates across existing boundaries? Does in fact the traditional face of nationalism defined primarily as “a political principle, which holds that the political and the national unit should be congruent” change substantively?<sup>376</sup> Does the nation-state territorial principle on which so many comparative and international relations theories depend lose their significance? To attend seriously to these questions as well as new and distinctive forms, directions and internal dynamics of nationalism within multinational states will be a key obstacle for the study of nationalism in the years to come. This thesis is offered only as a preliminary step toward meeting that challenge.

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<sup>376</sup> Ernest Gellner, *Nations and Nationalism* (Ithaca, NY: Cornell University Press, 1983).

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## Appendix A

Walker Conner. “Ethnonationalism: The Quest for Understanding.” Chapter two entitled “Nation Building and Nation Destroying” Princeton: Princeton University Press, 1994

“The prime fact about the world is that it is *not* largely composed of nation-states.” A survey of the 132 entities generally considered to be states as of 1971, produced the following breakdown:

1. Only twelve states (9.1 percent) can justifiably be described as homogenous nation states.
2. Twenty five (18.9 percent) contain a nation or potential nation (ethnic group) accounting for more than 90 percent of the state’s total population but also contain an important minority.
3. Another twenty five states (18.9 percent) contain a nation or potential nation accounting between 75 percent and 89 percent of the population.
4. In thirty one states (23.5 percent), the largest ethnic element accounts for 50 percent to 74 percent of the population.
5. In thirty nine states (29.5 percent), the largest nation or potential nation accounts fails to account for even half of the state’s population.

This portrait of ethnic diversity or potential nations becomes more vivid when the number of distinct ethnic groups within states is considered. In some instances, the number of groups within a state runs in the hundreds, and in 53 states (40.2 percent), the population is divided into more than five significant groups. Clearly, then, the problem of ethnic diversity is far too ubiquitous to be ignored by the serious scholar of “nation building,” unless he subscribes to the position that ethnic diversity is not a matter for serious concern.

The 132 units include all entities that were generally considered to be states as of 1 January 1971, with the exception of a few micro units such as Nauru and Western Samoa. However, East and West Germany, North and South Vietnam were treated as single entities in the belief that such treatment would minimize their distorting effects. It should not be assumed that the inclusion of all micro units would substantially alter the statistics in favour of homogeneity. In the case of Nauru, for example, despite a population of only 6500, the largest ethnic element fails to constitute majority.

The membership of the United Nations increased to 179 states in 1991-1992. (Ali Kazancigil “A Perspective view on the European Nation State and Unification” in *The Future of the Nation State in Europe*.)

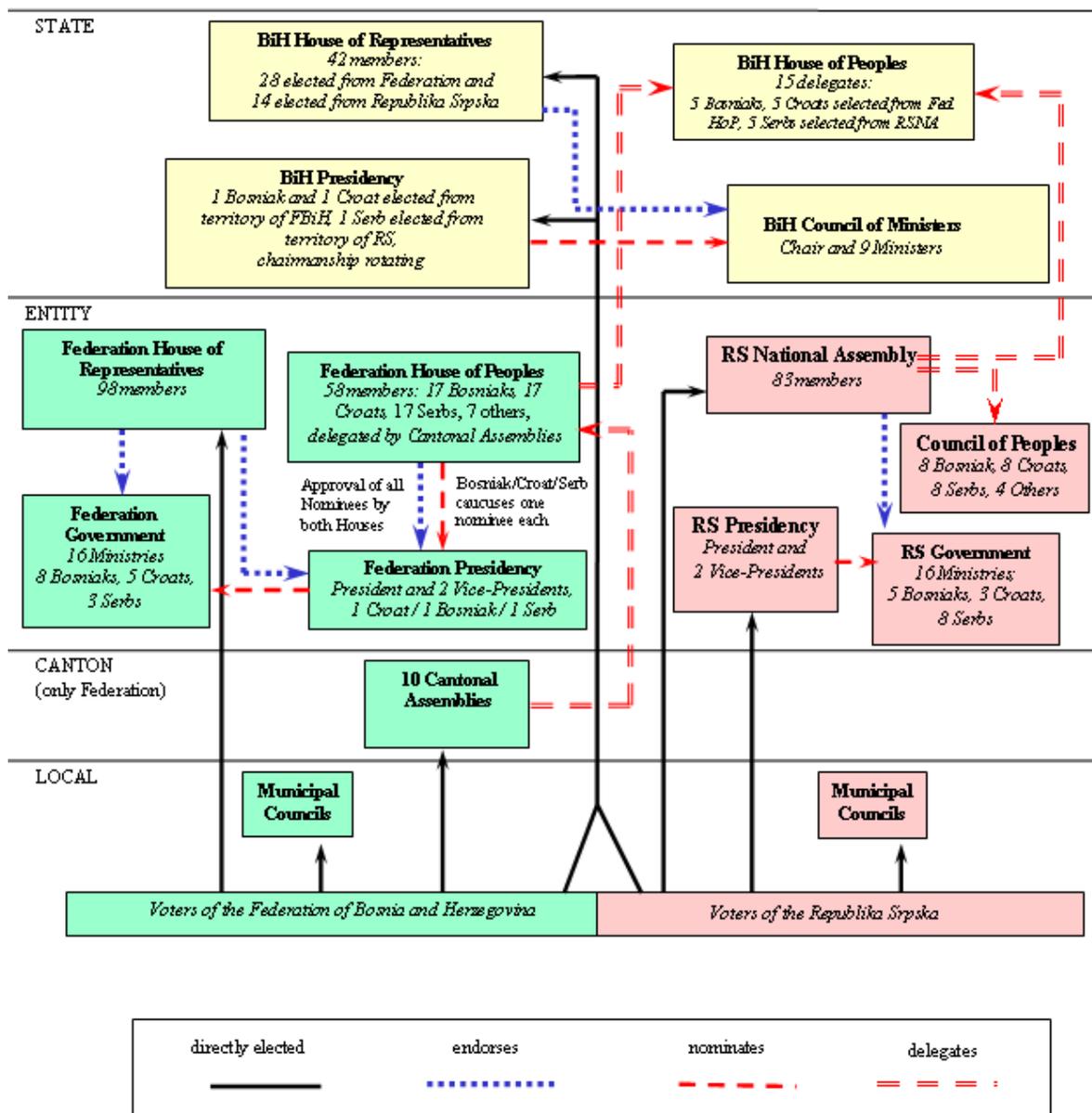
According to the United States of America Department of State Bureau of intelligence and Research, as of November 24 2004 there are 192 independent states<sup>377</sup> in the world, which are also members of the United Nations. <http://www.state.gov/s/inr/rls/4250.htm>

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<sup>377</sup> In this listing, the term "independent state" refers to a people politically organized into a sovereign state with a definite territory recognized as independent by the US.

## Appendix B

### BiH's Legislative and Executive Bodies



Available from: <http://www.ohr.int/ohr-info/charts/images/legislative-and-exec-bodies.gif>

Appendix C

## Office of the High Representative      Dayton Peace Agreement

THURSDAY, DECEMBER 14, 1995

Dayton Peace Agreement

**The General Framework Agreement: Annex 4****ANNEX 4****Constitution of Bosnia and Herzegovina****Preamble**

*Based on respect for human dignity, liberty, and equality,*

*Dedicated to peace, justice, tolerance, and reconciliation,*

*Convinced that democratic governmental institutions and fair procedures best produce peaceful relations within a pluralist society,*

*Desiring to promote the general welfare and economic growth through the protection of private property and the promotion of a market economy,*

*Guided by the Purposes and Principles of the Charter of the United Nations,*

*Committed to the sovereignty, territorial integrity, and political independence of Bosnia and Herzegovina in accordance with international law,*

*Determined to ensure full respect for international humanitarian law,*

*Inspired by the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, as well as other human rights instruments,*

*Recalling the Basic Principles agreed in Geneva on September 8, 1995, and in New York on September 26, 1995,*

Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina hereby determine that the Constitution of Bosnia and Herzegovina is as

follows:

## **Article I: Bosnia and Herzegovina**

1. **Continuation.** The Republic of Bosnia and Herzegovina, the official name of which shall henceforth be "Bosnia and Herzegovina," shall continue its legal existence under international law as a state, with its internal structure modified as provided herein and with its present internationally recognized borders. It shall remain a Member State of the United Nations and may as Bosnia and Herzegovina maintain or apply for membership in organizations within the United Nations system and other international organizations.
2. **Democratic Principles.** Bosnia and Herzegovina shall be a democratic state, which shall operate under the rule of law and with free and democratic elections.
3. **Composition.** Bosnia and Herzegovina shall consist of the two Entities, the Federation of Bosnia and Herzegovina and the Republika Srpska (hereinafter "the Entities").
4. **Movement of Goods, Services, Capital, and Persons.** There shall be freedom of movement throughout Bosnia and Herzegovina. Bosnia and Herzegovina and the Entities shall not impede full freedom of movement of persons, goods, services, and capital throughout Bosnia and Herzegovina. Neither Entity shall establish controls at the boundary between the Entities.
5. **Capital.** The capital of Bosnia and Herzegovina shall be Sarajevo.
6. **Symbols.** Bosnia and Herzegovina shall have such symbols as are decided by its Parliamentary Assembly and approved by the Presidency.
7. **Citizenship.** There shall be a citizenship of Bosnia and Herzegovina, to be regulated by the Parliamentary Assembly, and a citizenship of each Entity, to be regulated by each Entity, provided that:
  - a. All citizens of either Entity are thereby citizens of Bosnia and Herzegovina.
  - b. No person shall be deprived of Bosnia and Herzegovina or Entity citizenship arbitrarily or so as to leave him or her stateless. No person shall be deprived of Bosnia and Herzegovina or Entity citizenship on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
  - c. All persons who were citizens of the Republic of Bosnia and Herzegovina immediately prior to the entry into force of this Constitution are citizens of Bosnia and Herzegovina. The citizenship of persons who were naturalized after April 6, 1992 and before the entry into force of this Constitution will be regulated by the Parliamentary Assembly.
  - d. Citizens of Bosnia and Herzegovina may hold the citizenship of another state, provided that there is a bilateral agreement, approved by the Parliamentary Assembly in accordance with Article IV(4)(d), between Bosnia and Herzegovina and that state governing this matter. Persons with dual citizenship may vote in Bosnia and Herzegovina and the Entities only if Bosnia and Herzegovina is their country of residence.
  - e. A citizen of Bosnia and Herzegovina abroad shall enjoy the protection of Bosnia and Herzegovina. Each Entity may issue passports of Bosnia and Herzegovina to its citizens as regulated by the Parliamentary Assembly. Bosnia and Herzegovina may issue passports to citizens not issued a passport by an Entity. There shall be

a central register of all passports issued by the Entities and by Bosnia and Herzegovina.

## **Article II: Human Rights and Fundamental Freedoms**

1. **Human Rights.** Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms. To that end, there shall be a Human Rights Commission for Bosnia and Herzegovina as provided for in Annex 6 to the General Framework Agreement.
2. **International Standards.** The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.
3. **Enumeration of Rights.** All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 above; these include:
  - a. The right to life.
  - b. The right not to be subjected to torture or to inhuman or degrading treatment or punishment.
  - c. The right not to be held in slavery or servitude or to perform forced or compulsory labor.
  - d. The rights to liberty and security of person.
  - e. The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.
  - f. The right to private and family life, home, and correspondence.
  - g. Freedom of thought, conscience, and religion.
  - h. Freedom of expression.
  - i. Freedom of peaceful assembly and freedom of association with others.
  - j. The right to marry and to found a family.
  - k. The right to property.
  - l. The right to education.
  - m. The right to liberty of movement and residence.
4. **Non-Discrimination.** The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
5. **Refugees and Displaced Persons.** All refugees and displaced persons have the right freely to return to their homes of origin. They have the right, in accordance with Annex 7 to the General Framework Agreement, to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any such property that cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void.
6. **Implementation.** Bosnia and Herzegovina, and all courts, agencies, governmental organs, and instrumentalities operated by or within the Entities, shall apply and conform to the human rights and fundamental freedoms referred to in paragraph 2 above.
7. **International Agreements.** Bosnia and Herzegovina shall remain or become party to

the international agreements listed in Annex I to this Constitution.

8. **Cooperation.** All competent authorities in Bosnia and Herzegovina shall cooperate with and provide unrestricted access to: any international human rights monitoring mechanisms established for Bosnia and Herzegovina; the supervisory bodies established by any of the international agreements listed in Annex I to this Constitution; the International Tribunal for the Former Yugoslavia (and in particular shall comply with orders issued pursuant to Article 29 of the Statute of the Tribunal); and any other organization authorized by the United Nations Security Council with a mandate concerning human rights or humanitarian law.

### **Article III: Responsibilities of and Relations Between the Institutions of Bosnia and Herzegovina and the Entities**

#### **1. Responsibilities of the Institutions of Bosnia and Herzegovina.**

The following matters are the responsibility of the institutions of Bosnia and Herzegovina:

- a. Foreign policy.
- b. Foreign trade policy.
- c. Customs policy.
- d. Monetary policy as provided in Article VII.
- e. Finances of the institutions and for the international obligations of Bosnia and Herzegovina.
- f. Immigration, refugee, and asylum policy and regulation.
- g. International and inter-Entity criminal law enforcement, including relations with Interpol.
- h. Establishment and operation of common and international communications facilities.
- i. Regulation of inter-Entity transportation.
- j. Air traffic control.

#### **2. Responsibilities of the Entities.**

- a. The Entities shall have the right to establish special parallel relationships with neighboring states consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina.
- b. Each Entity shall provide all necessary assistance to the government of Bosnia and Herzegovina in order to enable it to honor the international obligations of Bosnia and Herzegovina, provided that financial obligations incurred by one Entity without the consent of the other prior to the election of the Parliamentary Assembly and Presidency of Bosnia and Herzegovina shall be the responsibility of that Entity, except insofar as the obligation is necessary for continuing the membership of Bosnia and Herzegovina in an international organization.
- c. The Entities shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognized standards and with respect for the internationally recognized human rights and fundamental

freedoms referred to in Article II above, and by taking such other measures as appropriate.

- d. Each Entity may also enter into agreements with states and international organizations with the consent of the Parliamentary Assembly. The Parliamentary Assembly may provide by law that certain types of agreements do not require such consent.

**3. Law and Responsibilities of the Entities and the Institutions.**

- a. All governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities.
- b. The Entities and any subdivisions thereof shall comply fully with this Constitution, which supersedes inconsistent provisions of the law of Bosnia and Herzegovina and of the constitutions and law of the Entities, and with the decisions of the institutions of Bosnia and Herzegovina. The general principles of international law shall be an integral part of the law of Bosnia and Herzegovina and the Entities.

**4. Coordination.**

The Presidency may decide to facilitate inter-Entity coordination on matters not within the responsibilities of Bosnia and Herzegovina as provided in this Constitution, unless an Entity objects in any particular case.

**5. Additional Responsibilities.**

- a. Bosnia and Herzegovina shall assume responsibility for such other matters as are agreed by the Entities; are provided for in Annexes 5 through 8 to the General Framework Agreement; or are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina, in accordance with the division of responsibilities between the institutions of Bosnia and Herzegovina. Additional institutions may be established as necessary to carry out such responsibilities.
- b. Within six months of the entry into force of this Constitution, the Entities shall begin negotiations with a view to including in the responsibilities of the institutions of Bosnia and Herzegovina other matters, including utilization of energy resources and cooperative economic projects.

## **Article IV: Parliamentary Assembly**

The Parliamentary Assembly shall have two chambers: the House of Peoples and the House of Representatives.

1. **House of Peoples.** The House of Peoples shall comprise 15 Delegates, two-thirds from the Federation (including five Croats and five Bosniacs) and one-third from the Republika Srpska (five Serbs).
  - a. The designated Croat and Bosniac Delegates from the Federation shall be selected, respectively, by the Croat and Bosniac Delegates to the House of Peoples of the Federation. Delegates from the Republika Srpska shall be selected by the National Assembly of the Republika Srpska.
  - b. Nine members of the House of Peoples shall comprise a quorum, provided that at

least three Bosniac, three Croat, and three Serb Delegates are present.

2. **House of Representatives.** The House of Representatives shall comprise 42 Members, two-thirds elected from the territory of the Federation, one-third from the territory of the Republika Srpska.
  - a. Members of the House of Representatives shall be directly elected from their Entity in accordance with an election law to be adopted by the Parliamentary Assembly. The first election, however, shall take place in accordance with Annex 3 to the General Framework Agreement.
  - b. A majority of all members elected to the House of Representatives shall comprise a quorum.
3. **Procedures.**
  - a. Each chamber shall be convened in Sarajevo not more than 30 days after its selection or election.
  - b. Each chamber shall by majority vote adopt its internal rules and select from its members one Serb, one Bosniac, and one Croat to serve as its Chair and Deputy Chairs, with the position of Chair rotating among the three persons selected.
  - c. All legislation shall require the approval of both chambers.
  - d. All decisions in both chambers shall be by majority of those present and voting. The Delegates and Members shall make their best efforts to see that the majority includes at least one-third of the votes of Delegates or Members from the territory of each Entity. If a majority vote does not include one-third of the votes of Delegates or Members from the territory of each Entity, the Chair and Deputy Chairs shall meet as a commission and attempt to obtain approval within three days of the vote. If those efforts fail, decisions shall be taken by a majority of those present and voting, provided that the dissenting votes do not include two-thirds or more of the Delegates or Members elected from either Entity.
  - e. A proposed decision of the Parliamentary Assembly may be declared to be destructive of a vital interest of the Bosniac, Croat, or Serb people by a majority of, as appropriate, the Bosniac, Croat, or Serb Delegates selected in accordance with paragraph 1(a) above. Such a proposed decision shall require for approval in the House of Peoples a majority of the Bosniac, of the Croat, and of the Serb Delegates present and voting.
  - f. When a majority of the Bosniac, of the Croat, or of the Serb Delegates objects to the invocation of paragraph (e), the Chair of the House of Peoples shall immediately convene a Joint Commission comprising three Delegates, one each selected by the Bosniac, by the Croat, and by the Serb Delegates, to resolve the issue. If the Commission fails to do so within five days, the matter will be referred to the Constitutional Court, which shall in an expedited process review it for procedural regularity.
  - g. The House of Peoples may be dissolved by the Presidency or by the House itself, provided that the House's decision to dissolve is approved by a majority that includes the majority of Delegates from at least two of the Bosniac, Croat, or Serb peoples. The House of Peoples elected in the first elections after the entry into force of this Constitution may not, however, be dissolved.
  - h. Decisions of the Parliamentary Assembly shall not take effect before publication.
  - i. Both chambers shall publish a complete record of their deliberations and shall,

save in exceptional circumstances in accordance with their rules, deliberate publicly.

- j. Delegates and Members shall not be held criminally or civilly liable for any acts carried out within the scope of their duties in the Parliamentary Assembly.
4. **Powers.** The Parliamentary Assembly shall have responsibility for:
- a. Enacting legislation as necessary to implement decisions of the Presidency or to carry out the responsibilities of the Assembly under this Constitution.
  - b. Deciding upon the sources and amounts of revenues for the operations of the institutions of Bosnia and Herzegovina and international obligations of Bosnia and Herzegovina.
  - c. Approving a budget for the institutions of Bosnia and Herzegovina.
  - d. Deciding whether to consent to the ratification of treaties.
  - e. Such other matters as are necessary to carry out its duties or as are assigned to it by mutual agreement of the Entities.

## **Article V: Presidency**

The Presidency of Bosnia and Herzegovina shall consist of three Members: one Bosniac and one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska.

- 1. **Election and Term.**
  - a. Members of the Presidency shall be directly elected in each Entity (with each voter voting to fill one seat on the Presidency) in accordance with an election law adopted by the Parliamentary Assembly. The first election, however, shall take place in accordance with Annex 3 to the General Framework Agreement. Any vacancy in the Presidency shall be filled from the relevant Entity in accordance with a law to be adopted by the Parliamentary Assembly.
  - b. The term of the Members of the Presidency elected in the first election shall be two years; the term of Members subsequently elected shall be four years. Members shall be eligible to succeed themselves once and shall thereafter be ineligible for four years.
- 2. **Procedures.**
  - a. The Presidency shall determine its own rules of procedure, which shall provide for adequate notice of all meetings of the Presidency.
  - b. The Members of the Presidency shall appoint from their Members a Chair. For the first term of the Presidency, the Chair shall be the Member who received the highest number of votes. Thereafter, the method of selecting the Chair, by rotation or otherwise, shall be determined by the Parliamentary Assembly, subject to Article IV(3).
  - c. The Presidency shall endeavor to adopt all Presidency Decisions (i.e., those concerning matters arising under Article V(3)(a) - (e)) by consensus. Such decisions may, subject to paragraph (d) below, nevertheless be adopted by two Members when all efforts to reach consensus have failed.
  - d. A dissenting Member of the Presidency may declare a Presidency Decision to be destructive of a vital interest of the Entity from the territory from which he was

elected, provided that he does so within three days of its adoption. Such a Decision shall be referred immediately to the National Assembly of the Republika Srpska, if the declaration was made by the Member from that territory; to the Bosniac Delegates of the House of Peoples of the Federation, if the declaration was made by the Bosniac Member; or to the Croat Delegates of that body, if the declaration was made by the Croat Member. If the declaration is confirmed by a two-thirds vote of those persons within ten days of the referral, the challenged Presidency Decision shall not take effect.

3. **Powers.** The Presidency shall have responsibility for:
  - a. Conducting the foreign policy of Bosnia and Herzegovina.
  - b. Appointing ambassadors and other international representatives of Bosnia and Herzegovina, no more than two-thirds of whom may be selected from the territory of the Federation.
  - c. Representing Bosnia and Herzegovina in international and European organizations and institutions and seeking membership in such organizations and institutions of which Bosnia and Herzegovina is not a member.
  - d. Negotiating, denouncing, and, with the consent of the Parliamentary Assembly, ratifying treaties of Bosnia and Herzegovina.
  - e. Executing decisions of the Parliamentary Assembly.
  - f. Proposing, upon the recommendation of the Council of Ministers, an annual budget to the Parliamentary Assembly.
  - g. Reporting as requested, but not less than annually, to the Parliamentary Assembly on expenditures by the Presidency.
  - h. Coordinating as necessary with international and nongovernmental organizations in Bosnia and Herzegovina.
  - i. Performing such other functions as may be necessary to carry out its duties, as may be assigned to it by the Parliamentary Assembly, or as may be agreed by the Entities.
4. **Council of Ministers.** The Presidency shall nominate the Chair of the Council of Ministers, who shall take office upon the approval of the House of Representatives. The Chair shall nominate a Foreign Minister, a Minister for Foreign Trade, and other Ministers as may be appropriate, who shall take office upon the approval of the House of Representatives.
  - a. Together the Chair and the Ministers shall constitute the Council of Ministers, with responsibility for carrying out the policies and decisions of Bosnia and Herzegovina in the fields referred to in Article III(1), (4), and (5) and reporting to the Parliamentary Assembly (including, at least annually, on expenditures by Bosnia and Herzegovina).
  - b. No more than two-thirds of all Ministers may be appointed from the territory of the Federation. The Chair shall also nominate Deputy Ministers (who shall not be of the same constituent people as their Ministers), who shall take office upon the approval of the House of Representatives.
  - c. The Council of Ministers shall resign if at any time there is a vote of no-confidence by the Parliamentary Assembly.
5. **Standing Committee.**
  - a. Each member of the Presidency shall, by virtue of the office, have civilian

command authority over armed forces. Neither Entity shall threaten or use force against the other Entity, and under no circumstances shall any armed forces of either Entity enter into or stay within the territory of the other Entity without the consent of the government of the latter and of the Presidency of Bosnia and Herzegovina. All armed forces in Bosnia and Herzegovina shall operate consistently with the sovereignty and territorial integrity of Bosnia and Herzegovina.

- b. The members of the Presidency shall select a Standing Committee on Military Matters to coordinate the activities of armed forces in Bosnia and Herzegovina. The Members of the Presidency shall be members of the Standing Committee.

## **Article VI: Constitutional Court**

1. **Composition.** The Constitutional Court of Bosnia and Herzegovina shall have nine members.
  - a. Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency.
  - b. Judges shall be distinguished jurists of high moral standing. Any eligible voter so qualified may serve as a judge of the Constitutional Court. The judges selected by the President of the European Court of Human Rights shall not be citizens of Bosnia and Herzegovina or of any neighboring state.
  - c. The term of judges initially appointed shall be five years, unless they resign or are removed for cause by consensus of the other judges. Judges initially appointed shall not be eligible for reappointment. Judges subsequently appointed shall serve until age 70, unless they resign or are removed for cause by consensus of the other judges.
  - d. For appointments made more than five years after the initial appointment of judges, the Parliamentary Assembly may provide by law for a different method of selection of the three judges selected by the President of the European Court of Human Rights.
2. **Procedures.**
  - a. A majority of all members of the Court shall constitute a quorum.
  - b. The Court shall adopt its own rules of court by a majority of all members. It shall hold public proceedings and shall issue reasons for its decisions, which shall be published.
3. **Jurisdiction.** The Constitutional Court shall uphold this Constitution.
  - a. The Constitutional Court shall have exclusive jurisdiction to decide any dispute that arises under this Constitution between the Entities or between Bosnia and Herzegovina and an Entity or Entities, or between institutions of Bosnia and Herzegovina, including but not limited to:
    - Whether an Entity's decision to establish a special parallel relationship with a neighboring state is consistent with this Constitution, including provisions concerning the sovereignty and territorial integrity of Bosnia and Herzegovina.

- Whether any provision of an Entity's constitution or law is consistent with this Constitution.

Disputes may be referred only by a member of the Presidency, by the Chair of the Council of Ministers, by the Chair or a Deputy Chair of either chamber of the Parliamentary Assembly, by one-fourth of the members of either chamber of the Parliamentary Assembly, or by one-fourth of either chamber of a legislature of an Entity.

- b. The Constitutional Court shall also have appellate jurisdiction over issues under this Constitution arising out of a judgment of any other court in Bosnia and Herzegovina.
  - c. The Constitutional Court shall have jurisdiction over issues referred by any court in Bosnia and Herzegovina concerning whether a law, on whose validity its decision depends, is compatible with this Constitution, with the European Convention for Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina; or concerning the existence of or the scope of a general rule of public international law pertinent to the court's decision.
4. **Decisions.** Decisions of the Constitutional Court shall be final and binding.

## **Article VII: Central Bank**

There shall be a Central Bank of Bosnia and Herzegovina, which shall be the sole authority for issuing currency and for monetary policy throughout Bosnia and Herzegovina.

1. The Central Bank's responsibilities will be determined by the Parliamentary Assembly. For the first six years after the entry into force of this Constitution, however, it may not extend credit by creating money, operating in this respect as a currency board; thereafter, the Parliamentary Assembly may give it that authority.
2. The first Governing Board of the Central Bank shall consist of a Governor appointed by the International Monetary Fund, after consultation with the Presidency, and three members appointed by the Presidency, two from the Federation (one Bosniac, one Croat, who shall share one vote) and one from the Republika Srpska, all of whom shall serve a six-year term. The Governor, who shall not be a citizen of Bosnia and Herzegovina or any neighboring state, may cast tie-breaking votes on the Governing Board.
3. Thereafter, the Governing Board of the Central Bank of Bosnia and Herzegovina shall consist of five persons appointed by the Presidency for a term of six years. The Board shall appoint, from among its members, a Governor for a term of six years.

## **Article VIII: Finances**

1. The Parliamentary Assembly shall each year, on the proposal of the Presidency, adopt a budget covering the expenditures required to carry out the responsibilities of institutions of Bosnia and Herzegovina and the international obligations of Bosnia and Herzegovina.

2. If no such budget is adopted in due time, the budget for the previous year shall be used on a provisional basis.
3. The Federation shall provide two-thirds, and the Republika Srpska one-third, of the revenues required by the budget, except insofar as revenues are raised as specified by the Parliamentary Assembly.

### **Article IX: General Provisions**

1. No person who is serving a sentence imposed by the International Tribunal for the Former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any appointive, elective, or other public office in the territory of Bosnia and Herzegovina.
2. Compensation for persons holding office in the institutions of Bosnia and Herzegovina may not be diminished during an officeholder's tenure.
3. Officials appointed to positions in the institutions of Bosnia and Herzegovina shall be generally representative of the peoples of Bosnia and Herzegovina.

### **Article X: Amendment**

1. Amendment Procedure. This Constitution may be amended by a decision of the Parliamentary Assembly, including a two-thirds majority of those present and voting in the House of Representatives.
2. Human Rights and Fundamental Freedoms. No amendment to this Constitution may eliminate or diminish any of the rights and freedoms referred to in Article II of this Constitution or alter the present paragraph.

### **Article XI: Transitional Arrangements**

Transitional arrangements concerning public offices, law, and other matters are set forth in Annex II to this Constitution.

### **Article XII: Entry into Force**

1. This Constitution shall enter into force upon signature of the General Framework Agreement as a constitutional act amending and superseding the Constitution of the Republic of Bosnia and Herzegovina.
2. Within three months from the entry into force of this Constitution, the Entities shall amend their respective constitutions to ensure their conformity with this Constitution in accordance with Article III(3)(b).

### **Annex I: Additional Human Rights Agreements To Be Applied In Bosnia And Herzegovina**

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide
2. 1949 Geneva Conventions I-IV on the Protection of the Victims of War, and the 1977

- Geneva Protocols I-II thereto
3. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto
  4. 1957 Convention on the Nationality of Married Women
  5. 1961 Convention on the Reduction of Statelessness
  6. 1965 International Convention on the Elimination of All Forms of Racial Discrimination
  7. 1966 International Covenant on Civil and Political Rights and the 1966 and 1989 Optional Protocols thereto
  8. 1966 Covenant on Economic, Social and Cultural Rights
  9. 1979 Convention on the Elimination of All Forms of Discrimination against Women
  10. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  11. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
  12. 1989 Convention on the Rights of the Child
  13. 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
  14. 1992 European Charter for Regional or Minority Languages
  15. 1994 Framework Convention for the Protection of National Minorities

## **Annex II: Transitional Arrangements**

### **1. Joint Interim Commission.**

- a. The Parties hereby establish a Joint Interim Commission with a mandate to discuss practical questions related to the implementation of the Constitution of Bosnia and Herzegovina and of the General Framework Agreement and its Annexes, and to make recommendations and proposals.
- b. The Joint Interim Commission shall be composed of four persons from the Federation, three persons from the Republika Srpska, and one representative of Bosnia and Herzegovina.
- c. Meetings of the Commission shall be chaired by the High Representative or his or designee.

### **2. Continuation of Laws.**

All laws, regulations, and judicial rules of procedure in effect within the territory of Bosnia and Herzegovina when the Constitution enters into force shall remain in effect to the extent not inconsistent with the Constitution, until otherwise determined by a competent governmental body of Bosnia and Herzegovina .

### **3. Judicial and Administrative Proceedings.**

All proceedings in courts or administrative agencies functioning within the territory of Bosnia and Herzegovina when the Constitution enters into force shall continue in or be transferred to other courts or agencies in Bosnia and Herzegovina in accordance with any legislation governing the competence of such courts or agencies.

#### 4. **Offices.**

Until superseded by applicable agreement or law, governmental offices, institutions, and other bodies of Bosnia and Herzegovina will operate in accordance with applicable law.

#### 5. **Treaties.**

Any treaty ratified by the Republic of Bosnia and Herzegovina between January 1, 1992 and the entry into force of this Constitution shall be disclosed to Members of the Presidency within 15 days of their assuming office; any such treaty not disclosed shall be denounced. Within six months after the Parliamentary Assembly is first convened, at the request of any member of the Presidency, the Parliamentary Assembly shall consider whether to denounce any other such treaty.

### **Declaration On Behalf Of The Republic Of Bosnia And Herzegovina**

The Republic of Bosnia and Herzegovina approves the Constitution of Bosnia and Herzegovina at Annex 4 to the General Framework Agreement.

For the Republic of Bosnia and Herzegovina

### **Declaration On Behalf Of The Federation Of Bosnia And Herzegovina**

The Federation of Bosnia and Herzegovina, on behalf of its constituent peoples and citizens, approves the Constitution of Bosnia and Herzegovina at Annex 4 to the General Framework Agreement.

For the Federation of Bosnia and Herzegovina

### **Declaration On Behalf Of The Republika Srpska**

The Republika Srpska approves the Constitution of Bosnia and Herzegovina at Annex 4 to the General Framework Agreement.

For the Republika Srpska

**Office of the High Representative**