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"My" Lessons Learnt in Bosnia and Herzegovina

Art of interference is to find a balance between reverse ownership and dependency. One might even go as far as to apply this paradox to Dayton itself, in particular when speaking about the Constitution

By Wolfgang Petritsch

Experienced in Cold War "neutrality" between the warring factions, the UN-Mission in former Yugoslavia was given a far too weak and insufficient mandate to follow through on its task properly. In view of the insufficient strength of some UN-Missions today - in Africa but also elsewhere - it seems to me that we still have not learned our Bosnia-lesson in this respect. It is my view that Bosnia and Herzegovina offers a unique opportunity to investigate foreign intervention and the changing patterns of such interventions. (...)

The "humanitarian" intervention in Bosnia-Herzegovina needs to be put into the much wider paradigm of Euro-Atlantic collective security. (...)

Whereas the immediate objective of the intervention in the summer of 1995 was humanitarian, the rationale behind Dayton was much broader: to rebuild a collapsed state and society based on democratic principles... a task never undertaken in history before.

The Constitution of this resurrected sovereign state of BiH undertook nothing less than to square the circle between the collective rights of the three constituent peoples and Western standards of individual rights and responsibilities on the other hand.

In this concept, basic human rights were to be reinstated via the "right to return" and "property repossession", thus trying to reverse "ethnic cleansing". (...)

Ever since, the main challenges for both international and local stakeholders in post-war Bosnia have been to secure peace and stability, to consolidate a central authority and government, and to create a framework of "controlled democracy" in which a multiple transition - from a post-conflict and socialist system to a modern pluralistic EU member state and civil society - takes place.

Let me now go into some details, and I would like to start by sharing with you a few thoughts on state-building, which I see as one of the key aspects in the analysis of intervention in BiH.

I'd like to start with the good news. Thanks to the significant success of some pivotal sectoral reforms, it is safe to say that state and capacity building in post-conflict Bosnia has worked. (...)

The list of accomplishments of the state-building mosaic is long. It includes symbolic elements such as common car licence plates, ID-cards and passports, a national anthem, but also some of the most fundamental structural and functional services of any modern state including a state border service, state-level defence and intelligence structures, an independent and functioning judiciary, to name but a few. And it comprises - and this is highly significant for the fiscal architecture and sustainability of a state - a state-level customs and indirect taxation system which - through direct revenues for the state of BiH - has breathed life into the body created at Dayton.

Now, the bad news - and it is, in my view, two-fold.

First, there is not too little "state", but frankly too much "state" in BiH - in terms of layers of governance as well as in regard to "over-bureaucratization". (...)

Secondly, there is a phenomenon that I would call "reverse ownership," which I sometimes observe. And what do I mean with that? (...)

When I was High Representative I wanted to move this country away from a situation where it seemed that fundamental ideas were being simply imposed on this state and its citizens.

Problems and solutions alike were being identified mostly by foreigners only, and sometimes too many laws and regulations were being written by international experts.

At the same time, there was a need to create an atmosphere in which domestic stakeholders increasingly took responsibility for domestic affairs. And these were the basic ingredients of my concept

of Bosnian ownership. Well, even the notion of ownership itself has been misunderstood and misinterpreted at times. In fact, I am not so sure if people know what they mean when referring to ownership even today.

Nevertheless, I am extremely pleased to see that the new High Representative Dr. Schwarz-Schilling is very serious about it, and that he has embarked on the concept in a determined and serious fashion. He has put it high on his agenda, and he has begun to "enforce ownership, mainly by a policy of non interference in day-to-day business. This is very positive, as far as ownership in its traditional sense is concerned.

When I speak about "reverse ownership" in the state - and institution building contexts, however, I mean situations in which something has gone wrong and the blame goes to domestic players even though the original "perpetrator" was the international community.

Let's say the International Community set up an institution, or decreed a law, or interfered in a particular policy area, for very good reasons, well justified in the state-building framework, and presumably even unanimously, which as you know has not always been the case.

So years later, a specific problem arises as a result of such previous intervention, and we - the International Community - say to the domestic stakeholders: "This is now your problem, you go and deal with it." (...)

This in my view is "reverse ownership" - and it is not a good result of our intervention.

Now reverse ownership has an equally paradoxical sibling - the "dependency syndrome" which occurs whenever it is just convenient for the domestic stakeholders to turn to the International Community if the solution of a problem is politically inconvenient. Unfortunately, there are likely to be more problems involving the "dependency" phenomenon, than "reverse ownership".

So the lesson learnt from these examples is that the art of interference is to find a

balance between reverse ownership and dependency.

One might even go as far as to apply this paradox to Dayton itself, in particular when speaking about Annex IV of Dayton - the Constitution. (...)

Reforming Dayton and the Constitution is in my view not only a domestic responsibility. It should be domestically driven, very much so, the reform should be owned by the country's citizens and politicians (and in this order- I insist), but the process should be assisted, even facilitated by those who engineered this complex system in the first place, and that is the international community. I am not a "what-ifer" - history cannot be rewritten.

But looking at the constitutional reform process in 2002 from today's perspective, I would nevertheless come to the conclusion that continued emphasis in implementing the constitutional court's decisions- the so called "CoCo amendments" and treating constitutional reform at entity level as a priority would have created an atmosphere much more conducive to further amending and improving the state-level constitution. This would have affected positively both the political class and citizens.

The IC chose not to pursue constitutional reform as a priority, nor was there any domestic interest or ownership in the issue. After the demise of the "Alliance for Change" - the main stakeholders of a modern and multiethnic BiH - the necessity for continued implementation and continuation of these crucial exercise came to a virtual standstill.

However, the problems were not different in 2002 than they are today. The political conditions- if I may say so - were different with less domestic interest for change. (...)

Nevertheless and despite an opening atmosphere for constitutional reform, the public and some political parties- for various different reasons - remained skeptical.

The constitutional reform package therefore, that after months of international arm-twisting, was agreed by BiH political leaders on 18 March and voted down by parliamentarians on 25 April, appeared to have come to many "out of the blue". It was lacking full domestic ownership.

Having said this, I still remain rather optimistic as far as the future development of constitutional reform in BiH is concerned, because this, too, was a les-

son learnt- not by myself, but by a democratic process which has contributed to stimulating democratic interest and debates.

In other words: La reforme de la constitution en BiH a perdue une bataille, mais elle n'a pas perdu la guerre"- one might conclude.

However, apart from that, the real question - in my view - is not one of constitutional change, of finding the "perfect text" or of simply amending laws.

It is one of "amending minds and hearts" if you so will, and this refers to the issue of "identity-building as the ultimate stage in the state-building process in BiH".

Only once all citizens - and I stress citizens, not peoples, or ethnic groups, or collective bodies, only once all individuals can identify with the state of BiH as a whole and as a reality, then and only then the project of state-building will have succeeded.

A constitution is not the beginning of a democratic process, it is rather its centerpiece. This is a lesson not yet learned!

It is most difficult, seemingly impossible, to prescribe or to decree emotions, affiliations and identities. Obviously, they have to grow from below and come straight from people's hearts and minds. (...)

Going back to Churchill, and assuming that you have digested enough history, I'd like to conclude, by looking forward. As I tried to outline on the basis of the state-building evolution, BiH has moved out of the post-Dayton era and into what I called - already in 2001 - the "Europe phase".

That turning point marks the increasing shift in paradigms, from less push by the Bonn Powers, to more pull by the magnet of Brussels. The driving engine in BiH's Euro-Atlantic "Haj" has been the SAA-process on which BiH has fully embarked.

BiH experts and negotiators have convincingly demonstrated their capability of singing from the same hymn sheet, of being well prepared and coordinated, and of having the institutional capacity to engage in these negotiations. This is an impressive result of state- and capacity building efforts after all!

The Brussels-era also means that the state - and capacity building process will continue, and it will continue to evolve by implicit necessity and not by fiat or decree.

The Europeanization of Bosnian will

thus continue at many ends. On the ground, this means that the OHR and with that, I hope, the Bonn Powers, will cease to exist - most predictably by mid-2007.

The OHR will hand over its remaining monitoring and facilitating functions to a full-fledged EU Special Representative's Office.

The closure of the OHR, the key civilian Dayton institution in BiH, will formally bring back the full internal sovereignty of this country, and it will close a unique chapter in the book of Balkans history.

"Nema problema" -everything is fine, you will say. Perhaps not entirely, but I am an optimist, although through my work in this part of the world over the past decade I have seen not only successes, but also failures.

What justifies this optimism is our overarching European destiny- the European Union itself being an example of both failure and success.

Just as in Western Europe almost sixty years ago cooperation and sectoral reforms have "spilled over" from coal and steel industries to commercial, economic and political concepts, the state- and capacity building project in BiH will dock onto its European ends.

Economic prosperity is not only an end, but a means in the European integration process. When it comes to the region and Bosnia, it is also a perspective that citizens deserve, and for which the political conditions are within reach.

It is not "Yugo-nostalgia" when we call for regional cooperation in particular in the area of the economy between and among the countries in the region. It is much more a realistic opportunity and vehicle both for boosting domestic economies and joining forces - beyond national, or sub-national borders and entities - on a joint European path.

Lastly, this next phase lies in the hands of you the political and intellectual elites and business stakeholders from the region and beyond, more than it does in the hands of the citizens.

It is up to you to demonstrate innovative European leadership and support in order to coach the process of enhanced regional cooperation, and eventual successful EU integration of the whole region.

Concerted proactive action from regional European stakeholders is a precondition to win the hearts and minds in Europe. This is yet another of my lessons and I'm convinced that we all here have our roles in this process.