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BORROWED SOVEREIGNTY AND ITS INSTITUTIONAL EFFECTS IN DEEPLY DIVIDED SOCIETIES

Case Study of Bosnia and Herzegovina and Kosovo

Abstract

The main goal of this paper is to evaluate international community approaches towards resolving institutional problems in deeply divided societies that have experienced the trauma of civil war in their recent past. International actors decided to "borrow sovereignty" to these countries through different international interventions. With temporal distance, we can now conclude that the cases of Bosnia and Herzegovina and Kosovo are proof that similar intervention arrangements can have completely different outcomes. The main problem in the case of Bosnia and Herzegovina (BiH) is that the Office of High Representative (OHR) has transformed a "permanent peace process" into a "permanent Berlin Congress." In comparison to Kosovo, the different outcomes in the two cases are the result of two different paradigms of foreign intervention: one is a "parasitic paradigm" (BIH), in which external actors perpetuate an extraordinary state without stability and democratisation; the second is a "decomposing paradigm" (Kosovo), in which the same actors slowly weaken their positions by transferring powers to domestic institutions.

GELIEHENE SOUVERÄNITÄT UND IHRE INSTITUTIONELLEN AUSWIRKUNGEN IN TIEF GESPALTENEN GESELLSCHAFTEN

Fallstudie zu Bosnien und Herzegowina und Kosovo

Zusammenfassung

Das Hauptziel dieses Beitrags ist es, die Ansätze der internationalen Gemeinschaft zur Lösung institutioneller Probleme in tief gespaltenen Gesellschaften zu bewerten, die in ihrer jüngsten Vergangenheit das Trauma eines Bürgerkriegs erlebt haben. Internationale Akteure haben beschlossen, diesen Ländern durch verschiedene internationale Interventionen „Souveränität zu verleihen". Mit dem zeitlichen Abstand können wir nun feststellen, dass die Fälle Bosnien und Herzegowina und Kosovo ein Beweis dafür sind, dass ähnliche Interventionsmaßnahmen zu völlig unterschiedlichen Ergebnissen führen können. Das Hauptproblem im Fall von Bosnien und Herzegowina (BiH) besteht darin, dass das Büro des Hohen Repräsentanten (OHR) den „permanenten Friedensprozess" in einen „permanenten Berliner Kongress" verwandelt hat. Im Vergleich zum Kosovo sind die unterschiedlichen Ergebnisse in den beiden Fällen das Resultat zweier verschiedener Paradigmen ausländischer Intervention: Das eine ist ein „parasitäres Paradigma" (BiH), bei dem externe Akteure einen ungewöhnlichen Staat ohne Stabilität und Demokratisierung aufrechterhalten; das andere ist ein „zergliederndes Paradigma" (Kosovo), bei dem dieselben Akteure ihre Positionen langsam schwächen, indem sie Befugnisse an inländische Institutionen übertragen.

Schlüsselwörter: Staatsaufbau; Ausländische Interventionsagenturen; Post-Konflikt-Gesellschaften; Paternalistische Stellvertreterregierung

Introduction

Societies that have suffered the traumatic experience of war in their recent histories have often remained "imprisoned" in their own divisions. The creation of a political framework, which would enable the peaceful overcoming of initial barriers to establishing a shared sovereignty, cannot provide all the possible solutions to the problems that emerge during the development of a political system. The actors in the international community, who provide constitutional-legal variants of political solutions for transitional periods, have never completely created self-sustainable systems. In different systems, we may find various forms of external, institutional "safeguards,"

whose initial purpose is to maintain a state of peace and to direct the course of transition. In this context, some forms of divided sovereignty, or even a protectorate, seem to be in the interest of the domestic society. (O'Hagan 2007, p. 29) Every form of international engagement entails a certain dose of "custodial super-nationality," (Rodin 1996, p. 153.) which implies that the domestic actors neither possess sufficient knowledge nor the political determination to create an efficient democratic system.

The focus of this paper is an analysis of two post-conflict interventions of the international community in Bosnia and Herzegovina and Kosovo. There are multiple reasons that justify the comparison of the two. They were both constituent parts of the same country, and therefore, they share a lack of democratic tradition. They both experienced ethnic wars and are characterised by interethnic division, which is reflected through the lack of minimal consensus on statehood. Yet, they still share strategic goals which are reflected in their aspirations to accede to Euro-Atlantic integrations. Post-conflict reconstruction of both states has been led by international actors, and therefore, a comparison of the two may provide some clear answers as to why their engagement in Kosovo is on the decline, and Kosovo's domestic institutions' functionality is increasing, while BIH is still a non-functional state, and international actors are still ever-present in it.

The comparison will be conducted on the basis of two variables: the legal basis and legitimisation of the interventions, and the final outcome of the interventions with respect to the scope of their current involvement. The first variable is derived from the legal documents which legitimise the involvement of international subjects in the domestic political system, while the other variable is derived from the analysis of their current involvement and powers. The paper will not analyse specific actions or decisions of the international actors as our goal is not to evaluate their actions but to analyse the grounds of legitimacy on which these actions were based. Specific actions will serve as examples to demonstrate the existence of two opposite post-conflict reconstruction paradigms. For the purpose of this paper, Stef Jansen's term, Foreign Intervention Agencies (FIA), will be used to designate the broad spectrum of different international actors and institutions, which were conceived as contemporary tools to overcome a critical historical moment – to end the war and establish a sustainable society and functional state. (Jansen 2006, p. 196) Finally, we must emphasise that the experiences of BIH and Kosovo are not inferring a universal analytic model which could be equally applicable to all international interventions, but rather a simple

matrix based on input and output that can evaluate the expediency and legitimacy of post-conflict reconstruction of nationally divided societies.

1. Theoretical background of the analysis

The post-Cold War context has both increased the relevancy of international interventionism and also altered it significantly. (see Luckman 2005, p. 17) The scope of interventions has varied from military actions, diplomatic efforts to stop conflict and establish peace, all the way to the post-Cold War type of reconstruction. Yosef Jabareen classifies the entire scope of the above-listed actions into the single generic category of exogenous interventions, (Jabareen 2013, p. 113) of which external post-conflict interventions, (Bojicic-Dzelilovic, Kostovicova and Rampton 2014, p. 275) which are the focus of our analysis, are a constituent part. Political theory has not kept pace with the turbulence of post-Cold War interventionism, and Jabareen argues that the period is characterised by a lack of comprehensive theory of post-conflict reconstruction and by the ambiguity of the term post-conflict, which is "used casually in many completely different state contexts and political conditions." (Jabareen 2013, p. 108) Nevertheless, for the purpose of the analysis, we will focus on deeply divided societies that have recently experienced internal conflict, and for the theoretical basis, we will use the terms and theses derived from studies on peace building and state-building processes. These terms are post-conflict reconstruction or recovery (see Barakat and Zyck[, pp. 1069-1086]) of societies destroyed by wars. "Post-conflict reconstruction is undertaken by outsiders to rebuild collapsed states, and aim 'to establish comprehensive and lasting structures to rationalize competition within society by establishing a legitimate and accountable state.'" (Jabareen 2013, pp. 112-113) The role and legitimacy of the actions undertaken by international actors (FIA) in post-conflict reconstruction are the subject of our analysis. We are not addressing military or any other form of intervention during the armed conflicts themselves; we are solely interested in the post-conflict involvement of FIA.

Alina Rocha Menochal demonstrates that the dominant approach in political theory of the 1990s was a peace building concept derived from the idea of liberal peace. (see Tschirigi[2004, p. 5])

> "The emphasis of this "liberal peace building" model was on holding a successful post-conflict election as fast as possible (usually within a year or two of the signing of a peace agreement) and on laying the foundations of a

market-oriented economy, with the assumption or expectation that these pro-
visions would prove sufficient in themselves to enable host societies to embark
on a road towards lasting peace." (Rocha Menochal, 2011, p. 1717)

The actions in question were civil missions, through which FIA tried to
overcome the period of post-conflict recovery and help domestic actors to
establish peace. They were characterised by a high degree of legitimacy as
war-torn societies were unable to maintain peace on their own. It became
evident later that these peace building interventions had many deficiencies
which hindered them from achieving their goals. Necla Tschirgi argues,
"Yet, the picture of international peace building strategies pursued through-
out the 1990s is one of ad hoc, piecemeal, and fragmented responses by a
multitude of actors without an overall political framework or an institu-
tional base." (Tschirigi 2004, p. 5) This resulted in the creation of anomalies
within the domestic system and drastically reduced the chances of establish-
ing a functional state and permanent peace. In the late 1990s, the concept
was broadened with the goal of increasing state efficiency, and so it became
a state building concept. Rochal Menochal defines it as follows: "In its sim-
plest formulation state building refers to the set of actions undertaken by
national and/or international actors to establish, reform and strengthen
state institutions where these have been seriously eroded or are missing."
(Rocha Menochal, p. 2011, p. 1719) Since then, the focus has shifted more towards
fragile states and less towards the possibility of renewed conflicts, because
the former are a constant source of threat to international order which has
been reduced to the "usual formula of liberal democracy, good governance,
and economic liberalisation." (Luckham 2005, p. 33)

There are various perceptions of the state building process, and they are
usually differentiated by successive phases. (see de Zeuuw 2001, pp. 19-24)
The basic function has been reduced to the establishment of functional insti-
tutions while democratisation is conducted sporadically or as the last phase.
This is a weak spot of nationally divided societies in which military conflict
turned into political conflict without the establishment of a statehood base
and mutual trust. All phases become futile without a basic agreement on liv-
ing together in a common state. A state building process is always supported
by international actions and guarantees and has to be "the expression of a
common understanding, usually forged among elites, about how political
power is to be organised and exercised, and about how the nature of the
relationship between state and society is to be articulated." (Rocha Meno-
chal, p. 2011, 1721) Therefore, Luckham emphasises the importance of creating

a power-sharing constitutional framework which will turn the conflicted sides into political actors. (Luckham 2005, p. 36) This implies a refusal to blindly follow the enforcement of a liberal peace model, acceptance of the specificities of a local situation, and acceptance of some sort of hybridisation of the political order. (Aguirre and van der Borgh 2010) If local specificities are neglected, divided societies often become "an experiment of social engineering controlled by actors outside." (de Zeuuw 2001, p. 27) Such situations can lead to the establishment of "paternalist proxy governance" (Bojicic-Dzelilovic, Kostovicova and Rampton 2014, p. 8) in which FIA impose decisions without consideration of domestic actors. Paternalist proxy governance strays further away from the initial intentions: ending conflicts, establishing peace, and establishing a stable democratic state. These forms of exogenous interventions are characterised by two crucial issues: relations towards domestic actors and the problem of sovereignty.

The original concept of state building envisages FIA as experts, who will empower domestic institutions and actors until they have reached a level of self-sustainability. However, more often than not, they consider domestic actors as inadequate or incompetent to even manage reform processes, let alone to independently govern the state. If "handing over the reins of authority to appropriate civilian institutions or indigenous officials, and redeploying forces as quickly as possible" (Jabareen 2013, p. 115) is a priority of every exogenous intervention, then it is clear that many of them have largely exceeded their mandates. In these cases, the domestic actors become dependent on external intervention, (Shinoda 2018, p. 30) and in some cases, the political system becomes paralysed without FIA actions. Therefore, many have started to observe the state building process from a bottom-up perspective, in which domestic actors are not just passive recipients of a prearranged process. The legitimacy of the interventions is observed on the basis of the domestic actors' perception. (see Spitka 2016, p. 38.) Local specificities are appreciated on a theoretical level, which can be observed as a local turn. (Daho, Duclos and Jouhanneau 2019, p. 250) Sonja Grimm and Brigitte Weiffen mention a gatekeeper elite, (see Grimm and Weiffen 2018, p. 262) relevant domestic actors who are able to create connections or block FIA's influence. This change of view on exogenous interventions can be summed up by the thesis that external actors "cannot substitute for or replace political behaviours derived from needs, experiences, histories and evolutions quite different from those from which Western democracy

is derived." (Aguirre and van der Borgh 2010) Political theory has become aware of this fact.

"One of the most controversial aspects of international intervention has been the erosion of national sovereignty." (Luckham 2005, p. 18) If we accept the thesis that every post-conflict state suffers from some sort of sovereignty gap between *de facto* and *de iure* sovereignty, then there is no doubt that FIA fill part of that gap. Problems of dual legitimacy start emerging; international legitimacy is derived from the operations of external actors and their assumption of the prerogatives of a sovereign state. This is linked to the legal and normative bases of their deployment. FIA are not held accountable to the citizens or institutions of the state within which they act, but to the supranational political constellation from which their legitimacy is derived. Through some of their decisions, FIA directly neglect sovereignty by taking a paternalist proxy governance position and implement their decisions under the threat of international sanctions. The democratic legitimacy of such decisions is not questioned; they are usually justified as a response to a threat to civil rights, or to a lack of stability of state institutions. "Hence state sovereignty needs to be supplemented by a more robust and genuinely equitable multilateralism, based on common norms and principles accepted by all the major international actors." (Luckham 2005, p. 18) This "sovereignty borrowing" is, in principle, temporary; it serves to protect the citizens and the international order.

In succeeding chapters, we will compare two international intervention setups in the Western Balkans – in Bosnia and Herzegovina and Kosovo. A key question is why the international interventions resulted in completely different outcomes in a similar geographical and political context. The answer lies in their diametrically opposite approaches, the different goals they tried to achieve, but also in the self-perception of FIA, and their vision of their roles in the respective political systems.

2. Bosnia and Herzegovina – the parasitic paradigm

Bosnia and Herzegovina is an example of a state that has remained imprisoned by its own political system, which was envisioned as a temporary framework for the restitution of peace. In BIH, we can divide exogenous intervention into two phases: the first was the diplomatic and military pressure to end the war, and the second was the state-building process which is

still ongoing to this day. Immediately after the peace agreement, FIA started the state-building process by establishing a peace regime through "humble consociationalism" (Barakat and Zyck, p. 1075) After the passage of time it became clear that "consociation regimes are not stable and can only survive with the help of an outer force." (Vlaisavljević 2009, p. 14) For instance, John Gray considers BIH and Kosovo to be international protectorates, and he does so without any hesitation; (see Vlaisavljević 2009, p. 14) Matthew Parish and Francine Friedman concur with Gray. (see Parish 2007, pp. 11-23; Friedman 2004) Similarly, many foreign political scientists do not even consider BIH to have modern political sovereignty, but talk about it as an "improvised," (see Jeffrey 2013) "non-sovereign," "non-wholesome," "segmented," "weak" state, or even more radically as a "semi-protectorate." (see Kasapović 2005, pp. 13-14) Marcus Cox detects a crucial problem: "international organisations in Bosnia need to think strategically about how to move from an international protectorate to an effective state." (Cox 2001, p. 19) BIH is a deeply divided society, (Kasapović 2005, pp. 13-14) whose political system has just replicated social division and cemented it as a political constant. The initial intention was to turn belligerents into political partners, who would, in a complex consociation system, be obliged to cooperate, but with certain mechanisms in place to protect the vital national interests of all the constituent nations. The constitutional framework was considered temporary, i.e., transitional, which could be adjusted to the new conditions of a more democratic transition. Every constitutional amendment process would require consensus among the political representatives of the three constituent nations, and therefore, any external changes would be considered violations of the peace agreement because the Constitution of BIH is Annex 4 of the agreement.

Important institutional segments of the political system were under the direct influence of different international institutions in the early post-war phase.[1] Some important institutions were filled with foreigners under the mandate of international institutions. For example, three of the nine judges

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[1]   Without going into any details, we will just briefly name the most important international organisations operating in BIH and which stand out due to their importance. UN - mission established in 1995, which had both a civil and police component (IPTF). The police component of this mission was replaced by the European Police Mission in BIH (EUPM) in 2002 in accordance with Annex 11 of Dayton Agreement. OESS – mission established in 1995, significant in the electoral process because it organised and implemented elections until 2001. Council of Europe – office established in 1996 which primarily deals with protection and advancement of human rights and enhancement of

of the Constitutional Court are foreign citizens appointed by the European Court for Human Rights; the governor of the Central Bank was a foreigner appointed by the IMF; and the ombudsman was appointed by the OSCE. (Kasapović 2005, pp. 15) Foreign organisations also performed certain functions of the political system; for example, the OSCE organised the first post-war elections. The most significant of the FIA is the High Representative and the Office of the High Representative (OHR), whose mandate is determined by the United Nations Security Council. The institution of the High Representative (OHR) is neither inscribed nor encoded in the Constitutional framework of BIH. This institution was established in Annex 10 of the Peace Agreement, which exhaustively lists all the competences of the High Representative in BIH. Cox underscores that "Under the Dayton Agreement, the mandate of the High Representative is very limited, with no direct authority over either civilian or military actors in the international mission, and no authority within the domestic constitutional sphere." (Cox 2001, p. 12) By no means does Annex 10 mention the High Representative as the supreme interpreter of the constitution, nor does it grant him the authority to interfere in executive, legislative or judicial power, nor does it allow him to interfere in personal politics in the form of suspensions of politicians or institutional decisions. He is only mentioned in the second addendum of Annex 4 as the president of the Joint Interim Commission "with a mandate to discuss practical questions regarding the implementation of the Constitution of BIH and of the General Framework Agreement and its Annexes, and to make recommendations and proposals." (Tadić 2013, p. 14)

Therefore, this institution was constituted as a pure political organ without a firm and clear connection to the political system because the original idea was that the OHR would become a coordinator and facilitator of peace processes that concerned the civilian aspects of the Dayton Agreement, nothing more. Over the course of time, the OHR developed into the ultimate interpreter of the Dayton Constitution, and via its own actions, became *de facto* sovereign. The legal foundation for this development did not occur within the legal system of BIH but outside it. The turning point came at the Peace Implementation Council (PIC) conference in Bonn in 1997, where, by an expression of the political will of the international community, the OHR received the so-called Bonn Powers (see Franić 2013, pp. 47-52.; Banning 2014, pp. 259-302) which enabled them to self-determine their

democracy levels in BIH. EU – present in military (EUFOR), police (EUPM) and civil aspect (Special representative) in BIH.

own authority regardless of internal institutions. Former High Representative Carlos Westendorp stated this explicitly: "I have the authority to interpret my own authority." (Pehar 2012, p. 8) They did not amend Annex 10; they just granted more power to the OHR by a resolution, which was a pure act of political will that distorted the entire political system. The Bonn Powers were created as a very flimsy structure of a different kind of institution that depended on self-perception and the interpretation of potential acts in a political system. "Therefore the OHR cannot rely on the so-called 'Bonn Powers' as a basis of the acts discussed. As a matter of fact, they actually do not qualify as a legal power. Their existence is a powerful, but delusive legal fiction." (Banning 2014, p. 302)

Two assumptions were decisive in the reconstruction of the position of the OHR: the first was the idea that the domestic institutions were completely incapable of resolving problems, and the second was that the FIA already had the knowledge and capabilities to solve those problems. This was the moment the international community "borrowed," or more precisely, "usurped" domestic sovereignty and created a paternalistic *Leviathan* that stood outside the system for the beneficiaries of the system. He was given more powerful political "weapons" to put the whole system and disobedient politicians in order without any kind of political accountability to the citizens of BIH, and without any need to consult the legal institution of state. It was a form of "imposed custody." (Said 1999, p. 431)

It became like a balloon that could inflate to unimaginable proportions: former High Representatives even took on the role of moral interpreters of social reality, not just political. For example, Paddy Ashdown removed the Nobel laureate, Ivo Andrić, from school curricula because he had interpreted that some content in Andrić's novel might be disturbing or offensive to Muslims. (Baros 2010) On the other hand, the OHR could be completely passive like they have been in previous mandate. Former High Representative Valentin Inzko did not participate in the election law amendment process, nor did he make any decisions which would help bypass the potential constitutional crisis after the breakdown of that process.[2] Many of the sym-

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[2] Former HR Valentin Inzko made one important exception. In July 2021, he enforced amendments to the Criminal Code which forbid any kind of glorification of war criminals and negation of genocide. This decision resulted with a counteraction of all Serbian parliamentary parties and their refusal to implement the decision in the Republic of Srpska. 'HR's Decision on Enacting the Law on Amendment to the Criminal Code of Bosnia and Herzegovina', OHR, 23 July 2021, http://www.ohr.int/

bolic elements of citizenship were enforced by the OHR: national flag, car plates, paper money, the Statute of the City of Mostar. The fact that High Representatives made decisions which infringed all branches of power is a big issue; their actions intersected and annulled the traditional democratic power division. Knaus and Martin compare this situation with English colonial rule in India in the 19th century. (see Knaus and Martin 2003, p. 62) A significant part of the OHR's decisions was related to the dismissal of democratically elected political actors: the OHR removed them from office without any explanation and without any possibility of due legal process. (Cox 2001, p. 13) Analysts agreed that this was a process to show who was the sheriff in town; Mathew Parish called it a "political scalp." (Parish 2007, p. 14) The OHR became a pre-modern sovereign without any real accountability, just with borrowed sovereignty that was not put into the form of "performative sovereignty." (Pehar 2012, p. 4) The last concept presupposes that the bearer of sovereignty has reflexive legitimacy from the subjects from whom he 'borrowed' sovereignty. Performative sovereignty demands the transformation of a pre-modern sovereign into a democratically conditioned one, who will always compare his actions with feedback from the political nation. If there is no reverse legitimacy, the sovereign is dismissed with no possibility of permanent power usurpation; in short, sovereignty is a two-sided and temporary constellation of political power. Democratic sovereignty depends upon legitimisation by the political community, not by self-perception, or by an external, fictive, political mandate of the international community, or by resolution of the Security Council.

We take the theoretical matrix depicting the essence of the presence, position, and function of the OHR in BIH from Giorgio Agamben. His interpretation of the concept "state of emergency" (see Agamben 2008) allows for a much clearer picture of the situation in BIH. The actor who determines the state of emergency is indeed the real sovereign. The latter will always stand outside the political community over which they exert sovereign power. Their position is above the political system, outside the constitution, and they act through pure political force. Thus, their decisions are not grounded in the parliamentary procedure, nor do they have legitimate validation from society. We can conclude that their decisions are a self-legitimising political force. That is why the statement that the OHR is a subject which "does not decide on state of emergency but is the state of emergency"

hrs-decision-on-enacting-the-law-on-amendment-to-the-criminal-code-of-bosnia-and-herzegovina/, (accessed 7 January 2023).

(Ćurak 2006, p 116) cannot be truer. This means that the sovereign is an actor that exists outside the constitutional framework or medium of law yet has the wide-ranging power of self-interpretative powers to guarantee the political system and also to interpret the constitution in which it is not codified. They became the threshold between political force and law. (Agamben 2008, p. 34) This actually means that without their political presence, the state of emergency would automatically be annulled, and the state would reset to its initial constitutional settings. To simplify, without a perpetual state of emergency, the OHR could not exist. There is no political or judicial instance which has the jurisdiction to question, dispute or annul their decisions, so they just act in the medium of political force, do whatever they want, not according to the exhaustive conditions of their mandate but according to their own estimation of what they are supposed to do. The OHR unified executive, judicial and legislative power and became "the most influential institution in Bosnia and Herzegovina and the only one not formally based on the division of authority." (Bieber 2004, pp. 91-92)

The transition period in BIH demanded a certain mediator, i.e., a temporary sovereign who would, through political force, supplant the lack of institutional capacities for the reform process. However, this has been completely refuted over time; the actions of the OHR did not significantly contribute to the development of statehood, democracy, and the creation of a functioning state apparatus. Moreover, they caused significant setbacks in all segments. One of the most symptomatic examples is Paddy Ashdown's insistence on a centralised police reform even though he had no jurisdiction for this, and the police system is clearly determined through the multi-level government. This issue was imposed as a condition for signing the Stabilisation and Association Agreement between the European Union and BIH. (Parish 2007, p. 19) Ashdown created a political crisis out of nothing and imposed police reform as the top political issue and the main obstacle to Euro-Atlantic integrations. OHR arbitrarily changed the constitutional matter and therefore changed the nature of the political system completely. Wolfgang Petrich arbitrarily added amendments to the Constitution of the Federation of BIH without the approval of parliament or confirmation by citizens through referendum. He presented the change of electoral law as a serious obstacle to BIH's accession to the Council of Europe and to strengthening relations with the EU. (Coles 2007, p. 261) Thus, the OHR connected a completely arbitrary view on the necessity of electoral law changes with processes which were not directly connected to them, and

by doing so, they forced domestic actors to accept the proposed changes. Even more direct interference in the electoral process occurred with the suspension of a decision of Central Electoral Committee (CIK) on March 28, 2010, "with the explanation that his decision should ensure the legal security that the authorities would perform their vital functions in the interim period until the domestic judicial bodies have completed their job." (Martinović 2012, p. 13) At the last general elections, held in October 2022, on election night, High Representative Christian Schmidt intervened in the election law and in the Constitution of the Federation of BIH, supplementing it with new provisions for filling the House of Peoples at the level of the Federation of BIH.[3] This kind of invasive interventionism is what the OHR has become: a catalyst of constitutional/political crisis and their solutions. OHR certainly is not just a keeper of the peace agreement or facilitator, his role is much larger and more significant. The first High Representative in BIH, Carl Bildt, pointed out:

> "Is Bosnia supposed to be a protectorate, where the international community can devise, impose, and implement decisions at will? Or is it a truly sovereign country that should sort out its own problems? In a sense, the office of the international high representative – a post that I was the first to hold after the war – has gone from being part of the solution to part of the problem." (Bildt 2022)

FIA are still present in BIH, including the OHR, without a precise time limitation on their mandate, with powers that were supposed to have been transferred to local authorities and with a limited effort on their part to make the state apparatus functional.

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[3] The merits of these decisions boil down to increasing the number of delegates in the House of Peoples in the clubs of Croats, Serbs and Bosniaks to 23, and Others to 11, with an increase of the majority threshold in each club to 11 votes. In addition to the above, the High Representative changed the procedure for electing the president and vice president of the Federation, as well as the federal government, with the justification that it was about preventing potential blockages to the establishment of a new government. 'Decision Enacting Amendments to the Constitution of the Federation of Bosnia and Herzegovina', OHR, 2 October 2022, http://www.ohr.int/decision-enacting-amendments-to-the-constitution-of-the-federation-of-bosnia-and-herzegovina-3/, (accessed 7 January 2023); 'Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina', OHR, 2 October 2022, http://www.ohr.int/decision-enacting-the-law-on-amendments-to-the-election-law-of-bosnia-and-herzegovina-8/, (accessed 7 January 2023)

3. Kosovo – a decomposing paradigm

Kosovo, just like BIH, experienced war, destruction, and the collapse of public institutions, and was later the object of intervention by the international community in order to establish a framework for further coexistence of the state with an ethnically divided society. Despite FIA assuming responsibility for the state-building process of both states immediately after the end of their respective conflicts, there are, nevertheless, certain differences in the way the situations in these post-conflict states were managed. In this section, we will briefly present the main features of FIA activities in Kosovo, and then we will be able to compare the situation in Kosovo to the situation in BIH, and to answer the main question: which concept was more successful and/or justified? To be perfectly clear, "the strategy adopted in each case by the international community was substantially the same. This model involved installing international officials with executive authorities over the territories, whose decisions purported to have the force of law." (Parish 2010, p. 1) Bearing this in mind, we will point out some of the differences between the two cases of state-building.

Like BIH, Kosovo also had two phases of exogenous intervention: the first was military and diplomatic, and after that, the international community started the invasive state-building process. Unlike the situation in Bosnia and Herzegovina, the agreement for Kosovo was relatively clear and explicit from the beginning. UN Security Council Resolution 1244, adopted on June 10, 1999, was meant to provide a framework for the resolution of the conflict in Kosovo. According to the document, an acceptable solution for Kosovo was to be achieved in several ways. First, the Security Council authorised the Secretary-General through the Resolution "to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo," and to "provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo." (*Security Council Resolution 1244*, 1999) This resolution authorised the deployment of an international civilian and military presence with executive powers over the territories. Furthermore, the Resolution stated that the international civilian presence would facilitate the political process to determine the future status of Kosovo.

It seems that the Resolution ensured a sufficient legal and political framework for taking over institutional functions in Kosovo. In the Regulation

from June 1999, Special Representative of the Secretary-General "outlines that the authority vested in UNMIK[4] by means of Resolution 1244 comprises all legislative and executive power, as well as the authority to administer the judiciary." (Friedrich 2005, p. 238) It is important to note that the Resolution implied that UNMIK would gradually transfer powers to the local level. After having facilitated the political process to determine Kosovo's future status, UNMIK was responsible for overseeing the final transfer of authority to the institutions established under the final settlement. (Friedrich 2005, p. 238) In other words, the institutions created for Kosovo were meant to be temporary solutions, whereas the international institutions in BIH seem to be permanent, or at least they appear to be permanent twenty-five years after the end of the war. To clarify further, UNMIK initially was organised into four major pillars: civil administration; judiciary; institution building and elections; and economic development. After independence, the role of UNMIK was significantly reduced. As of June 2008, the UNMIK structure comprised the Democratisation and Institution Building pillar under the auspices of OSCE. (Bislimi 2012, p. 54) Even though only UNMIK had the authority to decide any matters related to Kosovo, FIA seemed to have understood immediately that their mission was next to impossible without the involvement of the local political leadership. For example, UNMIK established a Joint Administrative Council (JAC), which was a government-like body, and the Kosovo Transitional Council (KTC), which was a legislature-like body. Of course, as UNMIK's role started to weaken, the role of the EU increased. The role of UNMIK finally became completely redundant when Kosovo declared its independence and the EU took over major tasks in post-independence Kosovo. (Bislimi 2012, pp. 55-56)

Kosovo's Declaration of Independence, however, pledged that Kosovo would fully implement the Ahtisaary Plan. Thus, UNMIK's existence continued without a new UN Security Council resolution, but its role as an almighty actor expired with Kosovo's Declaration of Independence. The state-building process in Kosovo had entered its final phase. A new international presence, however, was established in post-independence Kosovo: the EU Rule of Law Mission (EULEX) and the International Civilian Office (ICO), headed by the International Civilian Representative/EU Special Representative (EUSR). (Bislimi 2012, p. 59)

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[4]   UNMIK is an abbreviation for 'The United Nations Interim Administration Mission in Kosovo'.

What is most important to mention, the final provisions of Kosovo's Constitution state that "the provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 shall take precedence over all other legal provisions in Kosovo," (*Constitution of the Republic of Kosovo* 2008, p. 55) and that the Constitution shall be interpreted in compliance with the Proposal. Furthermore, it states that if there are inconsistencies between the provisions of this Constitution, laws or other legal acts of the Republic of Kosovo and the provisions of the said Settlement, the latter shall prevail. (see *Constitution of the Republic of Kosovo*, 2008) Furthermore, the Comprehensive Proposal for the Kosovo Status Settlement clearly stipulates that the International Civilian Representative will be the ultimate supervisory authority over implementation of the Settlement. They are mandated to annul decisions or laws adopted by Kosovo authorities and sanction public officials whose actions they determine to be inconsistent with the Settlement. (*Main provisions of the Comprehensive Proposal for the Kosovo Status Settlement* 2007, p. 8) In other words, the International Civilian Representative was supposed to be the final authority in Kosovo regarding interpretation of the civilian aspects of the said Comprehensive Proposal. No Republic of Kosovo authority was meant to have jurisdiction to review, diminish or otherwise restrict the mandate, powers, and obligations of the International Civilian Representative. (*Constitution of the Republic of Kosovo* 2008, p. 57) But "in practice, the ICO has not officially made use of its powers [...] The lack of law-making powers relegates it to a more reactive role in the legislative field." (Grewe and Riegner 2011, p. 60) And this, alone, is the biggest difference to the OHR and situation in BIH. The authorities of Kosovo subsumed all the powers from FIA and created a functional and self-sustainable state without dependency on FIA presence. They avoided running the risk of FIA becoming "a central pillar of the domestic constitutional structure, unable either to withdraw or to force the central institutions to function independently." (Cox 2001, p. 14) Unfortunately, BIH hasn't.

4. Concluding remarks

Both countries experienced the strong presence of the international community, whose missions Grimm and Weiffen describe as 'heavy footprint' missions. (Grimm and Weiffen 2018, p. 261) The first phase of post-conflict recovery was unimaginable without an external presence as the key

factor for the establishment of the constitutional framework for both countries. State-building processes in these countries were a text-book example of "post-cold war challenges to sovereignty." (Barakat and Zyck, p. 1074) "A key aspect of governance in both Bosnia-Herzegovina and Kosovo is the substantial role of international actors, being able to override decisions of institutions and intervene in the decision-making processes themselves." (Bieber 2004, p. 3) In both countries, "international actors have ensured a continued constitutional role for internationalized institutions under the respective new legal orders." (Grewe and Riegner 2011, p. 38) Furthermore, in both countries, FIA "were designed to be largely insulated from judicial review, which is problematic in terms of the doctrine of separation of powers and rule of law." (Grewe and Riegner 2011, p. 38)

But there are also substantial differences. The first difference is practically political honesty because, unlike the OHR which was conceived as a mediator in BIH, the UNMIK took full control of Kosovo's executive, judiciary and legislative institutions from the beginning. Perhaps, this was a lesson learnt from the poor example set in BIH, where the OHR was redesigned over time without any constitutional grounds for the role that they played. In contrast to Kosovo, the approach initially taken by the international community in BIH did not provide for a similar displacement of the sovereign government of the state. (Friedrich 2005, p. 239) The OHR was supposed to only be the mediator in handling the differences among the Serbian, Bosniak and Croatian political parties. The Security Council Resolution that endorsed the establishment of the OHR limited itself to recalling the "Dayton formulations, and does not define the respective competencies in more detail. Consequently, it was the High Representative himself who – very generously – interpreted his own competencies." (Grewe and Riegner 2011, p. 54) During the process, FIA in Kosovo had a constitutional mandate to create a paternalist proxy governance in order to create a functional state system and to transfer powers to local authorities. FIA in BIH, without a constitutional background, improvised the same process and became a paternalist figure without creating a functional state or transferring their power to local authorities.

The second difference lies in the fact that the international administration in Kosovo was established for an initial period of one year, and it was supposed to continue if the UN decided in favour thereof. And indeed, the UNMIK transferred their political powers to local government, while in BIH, the OHR can seemingly do whatever they want because they do not

have a limited mandate. FIA in Kosovo slowly weakened their position by transferring powers to domestic institutions. The outcome is clear: Kosovo is a much more stable and functional state than BIH and without a dependency on FIA. According to "Nations in transit" reports, (*Nations in transit: table of country scores*, 2018; 2020) Kosovo scored better than BIH twice in a row in a few fields: in the field of national democratic governance, local democratic governance and independent media. Future state-building agents can learn a few important lessons from the mistakes of the OHR: "Be aware of our role as outsiders, with limited mandates and legitimating to interfere; leave room for ownership; keep the partners in the post-conflict society primarily responsible from the onset; avoid any perception of an occupation syndrome on the side of the host country population." (Schmunk 2010, p. 35)

The third difference relates to the fact that in Kosovo, there are no relevant political subjects that would pledge for FIA remaining in their political system. In BIH, there are politicians and intellectuals who claim that the OHR has become an integral part of BIH's political system, and that ending their mandate would cause an even bigger political crisis.[5] Others go so far as to blame the OHR in every political crisis. (see *Bonske ovlasti: Hoće li međunarodna zajednica vratiti povjerenje*, 2019) They appeal for the re-activation of the Bonn Powers and their implementation in overcoming the political crises which emerge like in any other democratic system. The assumption of this thesis was the claim that the OHR had compensated for the lack of minimal consensus on statehood and created certain elements of sovereignty, and influenced the results of political processes through their actions. (see Pejanović 2010; Marković 2011, pp. 51-71; Haverić 2013, pp. 164-171) However, this is a completely skewed and incorrect thesis, because, through their decisions, the OHR is continuously delaying the need for domestic political elites to confront the painful process of reaching consensus and creating a functional political system. The domestic elites have always known that if they could not agree, someone would do it instead of them. (see Blagovčanin 2016) The OHR has assumed a paternal position of *ad hoc* solutions by the completely selective use of their "fictive" jurisdictions without caring for the long-term outcomes of their actions. Given that there is no mechanism of accountability towards the citizens of BIH, it is possible

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[5]   Admittedly, such opinions are often justified due to the occasional expression of separatist tendencies from the Republika Srpska, which without the OHR could lead to a serious disruption of the Dayton order, and potentially threaten the survival of the state.

to conclude that the OHR is one of a key factors for the lack of democracy in BIH. (Baros, 2010)

Currently, the OHR becomes quite active, often resorting to the use of his Bonn powers and interference in political processes. We can describe this situation as a paternalist proxy governance in the process of cooling. There are still no indications that the OHR will "return" the borrowed sovereignty; unfortunately, we are in danger of a temporary peace process being transformed into a "permanent Berlin Congress." (Garton Ash, 1995) The situation in which the country has a High representative becomes grotesque, especially considering the approved candidate status of the country for EU accession. A logical question asserts itself: if there is no exit strategy for the OHR, what would be their role in future negotiations with the EU? The words of Olli Rehn, a former EU Enlargement Commissioner, are certainly eye-opening: "The OHR cannot take this country to where you want to go next… there is no way a quasi-protectorate can join the EU. Nor will an EU membership application be considered so long as the OHR is around… to avoid any misunderstanding: a country with a High Representative cannot become a candidate country with the EU." (Baros, 2010)

References

- Agamben G. 2006. Homo sacer: suverena moć i goli život. Zagreb: Multimedijalni institute/Arkzin

- Agamben G. 2008. Izvanredno stanje: Homo sacer, II, 1. Zagreb: Deltakont

- Aguirre M. & van der Borgh C. 2010. Building peace, states and hybrids – International operations in post-conflict countries. The Broker, 2 February. Available at: https://www.thebrokeronline.eu/building-peace-states-and-hybrids-d92/ (Accessed: 16 June 2024)

- Banning T. 2014. The 'Bonn Powers' of the High Representative in Bosnia Herzegovina: Tracing a Legal Figment. Goettingen Journal of International Law, 6, No. 2, pp. 259-302.

- Barakat S. & Zyck S.A. 2009. The Evolution of Post-conflict Recovery. Third World Quarterly, 30, No. 6, pp. 1069-1086.

- Baros M. 2010. The High Representative for Bosnia and Herzegovina: A Requiem for Legality. Blog of the European Journal of International Law, 14 December. Available at:http://www.ejiltalk.

org/the-high-representative-for-bosnia-and-herzegovina-a-requiem-for-legality/ (Accessed 16 June 2024)

- Bieber F. 2004. Institutionalizing ethnicity in the Western Balkans: managing change in deeply divided societies. ECMI Working Paper 19. Flensburg, European Centre for Minority Issues. pp. 1-28.

- Bildt C. 2022. Bosnia's Next Crisis. Project Syndicate. 14 January. Available at: https://www.project-syndicate.org/commentary/bosnia-political-crisis-requires-international-restraint-by-carl-bildt-2022-01 (Accessed: 16 June 2024)

- Bislimi F.T. 2012. International Statebuilding in Kosovo: The Shifting Trend in the Level of US – EU Involvement. The Western Balkans Policy Review, 2, No. 2, pp. 48-72.

- Blagovčanin S. 2016. Evropska unija i Bosna i Hercegovina: građenje države kroz proces evropskih integracija. Sarajevo: Friedrich Ebert Stiftung

- Bojicic-Dzelilovic V., Kostovicova D. & Rampton D. 2014. State-building, Nation-building and Reconstruction. In: Kaldor M. & Rangelov I. (eds), The Handbook of Global Security Policy. Malden: Wiley-Blackwell. pp. 265-281.

- Bonske ovlasti: Hoće li međunarodna zajednica vratiti povjerenje. 2019. hamdočamo blog. 17 May. Available at: https://hamdocamo.wordpress.com/2019/05/17/bonske-ovlasti-hoce-li-medunarodna-zajednica-vratiti-povjerenje/ (Accessed: 16 June 2024)

- Coles K. 2007. Ambivalent Builders: Europeanization, the Production of Difference, and Internationals in Bosnia-Herzegovina. In: Bougarel X. Helms E. & Duijuings G. (eds), The New Bosnian Mosaic: Identities, Memories and Moral Claims in a Post-War Society. Hampshire: Ashgate. pp. 255-273.

- Constitution of the Republic of Kosovo. 15 June 2008. Available at: http://www.kryeministri-ks.net/repository/docs/Constitution-1Kosovo.pdf (Accessed: 16 June 2024)

- Cox M. 2001. State Building and Post-Conflict Reconstruction: Lessons from Bosnia. Geneva: Centre for Applied Studies in International Negotiations

- Ćurak N. 2006. Ideološko-političke podjele u stranačkoj areni Bosne i Hercegovine. In: Fink Hafner D. & Pejanović M. (eds) Razvoj

političkog pluralizma u Sloveniji i Bosni i Hercegovini. Sarajevo: Promocult. pp. 105-131.

- Daho G. Duclos N. & Jouhanneau C. 2019. Political Sociology of International Interventions: Peacebuilders and the Ground. Journal of Intervention and Statebuilding, 13, No. 3, pp. 249–262.

- Decision Enacting Amendments to the Constitution of the Federation of Bosnia and Herzegovina, 2022. OHR, 2 October. Available at: http://www.ohr.int/decision-enacting-amendments-to-the-constitution-of-the-federation-of-bosnia-and-herzegovina-3/ (Accessed: 16 June 2024)

- Decision Enacting the Law on Amendments to the Election Law of Bosnia and Herzegovina. 2022. OHR, 2 October. Available at: http://www.ohr.int/decision-enacting-the-law-on-amendments-to-the-election-law-of-bosnia-and-herzegovina-8/ (Accessed: 16 June 2024)

- Franić D. 2013. 'Bonski sustav' u Bosni i Hercegovini. Političke analize, 4, No. 13, pp. 47-52.

- Friedrich J. 2005. UNMIK in Kosovo: Struggling with uncertainty. Max Planck Yearbook of United Nations Law, 1, No. 9, pp. 225- 293.

- Friedman F. 2004. Bosnia and Herzegovina: A polity on the brink. London, New York: Routledge

- Garton Ash T. 1995. Bosnia in Our Future. New York Review of Books, 21 December. Available at: https://www.nybooks.com/articles/1995/12/21/bosnia-in-our-future/ (Accessed: 16 June 2024)

- Goldsworthy V. 1998. Inventing Ruritania: The Imperialism of the Imagination. New Haven/London: Yale University Press

- Grewe C. & Riegner, M. 2011. Internationalized Constitutionalism in Ethnically Divided Societies, Bosnia and Herzegovina and Kosovo Compared. Max Planck Yearbook of United Nations Law, 15, pp. 1- 64.

- Grimm S. & Weiffen B. 2018. Domestic elites and external actors in post-conflict democratisation: mapping interactions and their impact. Conflict, Security & Development, 18, No. 4, pp. 257–282.

- Haverić T. 2013. Ustav BiH između pravne znanosti i političke moći. In: Džolan M. (ed), Bosna i Hercegovina - europska zemlja bez ustava:

znanstveni, etički i politički izazov. Zagreb/Sarajevo: Synopsis. pp. 164-171.

▪ 'HR's Decision on Enacting the Law on Amendment to the Criminal Code of Bosnia and Herzegovina. 2021. OHR, 23 July. Available at: http://www.ohr.int/hrs-decision-on-enacting-the-law-on-amendment-to-the-criminal-code-of-bosnia-and-herzegovina/ (Accessed: 16 June 2024)

▪ Jabareen Y. 2013. Conceptualizing 'Post-Conflict Reconstruction' and 'Ongoing Conflict Reconstruction' of Failed States. International Journal of Politics Culture and Society, 26, pp. 107-125.

▪ Jansen S. 2006. The Privatization of Home and Hope: Return, Reforms and the Foreign Intervention in Bosnia-Herzegovina. Dialectical Anthropology, 30, No. 3-4, pp. 177-199.

▪ Jeffrey A. 2013. The Improvised State: Sovereignty, Performance and Agency in Dayton Bosnia. Malden, Oxford: Wiley-Blackwell

▪ Kasapović M. 2005. Bosna i Hercegovina: podijeljeno društvo i nestabilna država. Zagreb: Politička kultura

▪ Knaus G. & Martin F. 2003. Lessons from Bosnia and Herzegovina: Travails of the European Raj. Journal of Democracy, 14, No. 3, pp. 60-74.

▪ Luckham R. 2005. The International Community and State Reconstruction in War-Torn Societies. In: Ebnöther A.H. & Fluri P.H. (eds) After Intervention: Public Security Management in Post-Conflict Societies - From Intervention to Sustainable Local Ownership. Vienna: Bureau for Security Policy at the Austrian Ministry of Defence/National Defence Academy Vienna/Geneva Centre for the Democratic Control of Armed Forces. pp. 13-18.

▪ Main provisions of the Comprehensive Proposal for the Kosovo Status Settlement. 2007. United Nation Security Council. 26 March. Available at: https://www.securitycouncilreport.org/atf/cf/%7B-65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kosovo%20S2007%20168.pdf (Accessed: 16 June 2024)

▪ Marković G. 2011. Ustav Bosne i Hercegovine. In: Banović D. & Gavrić S. (eds) Država, politika i društvo u Bosni i Hercegovini: analiza postdejtonskog političkog Sistema. Sarajevo: University Press. pp. 51-71.

- Martinović D. Valentin Inzko – 'Bolesnik s Miljacke'. Političke analize, 3, No. 10, pp. 10-17.

- Mill J.S. 1989. Izabrani politički spisi: drugi svezak. Zagreb: Informator/Fakultet političkih nauka Zagreb

- Nations in transit: table of country scores. 2018. Freedom House. Available at: https://freedomhouse.org/report/nit-2018-table-country-scores (Accessed: 16 June 2024)

- Nations in transit 2020: Dropping the democratic facade. 2020. Freedom House. Available at: https://freedomhouse.org/report/nations-transit/2020/dropping-democratic-facade (Accessed: 16 June 2024)

- O'Hagan J. 2007. Discourses of Civilizational Identity. In: Hall M. & Jackson P. T. (eds) Civilizational Identity: The Production and Reproduction of "Civilizations" in International Relations. New York: Palgrave Macmillan. pp. 15-33.

- Parish M. 2007. The Demise of the Dayton Protectorate. Journal of Intervention and State Building, 1, pp. 11-23.

- Parish M. 2010. Paradigms of State-Building: Comparing Bosnia and Herzegovina and Kosovo. Journal of Eurasian Law, 3, No. 3, pp. 1-33.

- Pehar D. 2012. Bosna i Hercegovina kao veleposlanstvo Visokog predstavnika: republikanska kritika. Političke analize, 3, No. 10, pp. 3-10.

- Pejanović M. 2010. Ogledi o državnosti i političkom razvoju Bosne i Hercegovine. Sarajevo/Zagreb: Šahinpašić

- Rodin D. 1996. Daytonski sporazum: deklaracija političke volje Zapada. Politička misao, 33, No. 4, pp. 150-156.

- Rocha Menochal. A. 2011. State Building for Peace: a new paradigm for international engagement in post-conflict fragile states?. Third World Quarterly, 32, No. 10, pp. 1715–1736.

- Said E. 1999. Orijentalizam: zapadnjačke predodžbe o Orijentu. Sarajevo: Svjetlost

- Schmunk M. 2010. 15 Years of Peace-, State- and Nation-Building: Basic Lessons from the Balkan Lab. In: Felberbauer E. & Jureković P. (eds), 15 Years of Peace Building in the Western Balkans: Lessons Learnt and Current Challenges. Vienna: PfP Consortium of Defence Academics. pp. 17-42.

- Shinoda H. 2018. Peace-building and Statebuilding from the Perspective of the Historical Development of International Society. International Relations of the Asia-Pacific, 18, pp. 25-43.

- Spitka T. 2016. International Intervention, Identity and Conflict Transformation - Bridges and walls between groups. London/New York: Routledge

- Tadić M. 2013. Ustavni položaj Hrvata u Bosni i Hercegovini. Mostar: Matica hrvatska

- Tschirigi N. 2004. Post-Conflict Peacebuilding Revisited: Achievements, Limitations, Challenges. New York: WSP International; International Peace Academy; Peacebuilding Forum

- Security Council Resolution 1244. 1999. United Nation Security Council. 10 June. Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement (Accessed: 16 June 2024)

- Vlaisavljević U. 2009. Nevidljivi zidovi Evrope. In: Mujagić N. (ed) 1989-2009. godine prevrata: početak inkluzije ili ekskluzije? Sarajevo: Heinrich Böll Stiftung. pp. 9-17.

- de Zeuuw J. 2001. Building Peace in War-Torn Societies: From Concept to Strategy. The Hague: Netherlands Institute of International Relations 'Clingendael'