Chapter 13

Bosnia: SSR under International Tutelage

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The experience of recent armed conflict and the existence of ethnically based, parallel security institutions have made the tasks of reforming the security sector in Bosnia and Herzegovina (Bosnia) particularly complex. The transformation of Bosnia's security sector has been further complicated by the plethora of international actors involved in the process, and by the absence of domestic consensus on both the need for and the direction of security sector reform (SSR).

However, despite the complexity of the task, SSR has recently produced some notable results, particularly in the sphere of defence. The focus of SSR has now moved to police restructuring, and at the time of writing these reforms have entered a decisive phase.

For those who have followed SSR in post-Dayton Bosnia, it has been clear that the reform process has been driven predominantly by international actors. From the Dayton Peace Accords' initial guidance on the security sector to the most recent police restructuring proposals, international actors have designed and directed SSR. This externally driven process has managed to move the SSR agenda forward but a lack of local ownership raises concerns regarding the legitimacy and sustainability of reforms.

Experience with SSR in various post-conflict states demonstrates the importance of local ownership – where local actors participate in reform programmes with a view to continuing them on their own without the presence of international actors.¹ In the case of SSR in Bosnia, however, participation of local actors in the reform process has been limited, and so far included only domestic political elites. The SSR process has also been characterised by intense pressure from international actors such as The Office of the High Representative (OHR), the OSCE, the EU and NATO, who have used their institutional leverage, including their powers as donors, to push the reform agenda forward. Given these two dominant features, it is not surprising that SSR in Bosnia is not yet truly “locally owned”.

There are indeed different views on what local ownership means in practice – from the minimalist model of simple local support for any externally generated initiative at one end of the spectrum, to locally designed, financed and fully implemented reforms at the opposite end. SSR in Bosnia has more or less so far leant towards the minimalist policy by which locals were expected to support and eventually take ownership over an externally defined reform programme. However, in the current political setting this approach has clear limitations. It is perhaps time to think of the SSR ownership issue in Bosnia in more ambitious terms, which would involve a more inclusive reform process enabling other stakeholders, rather than just international actors and/or domestic political elites, to shape reform outcomes. Widening the circle of relevant actors allowed to participate in SSR discussions and decisions would not only lead to a genuinely locally owned SSR process, but could also generate more sustainable solutions and provide greater legitimacy to SSR in Bosnia. The question of legitimacy appears to be particularly important as SSR is wrapped up in a wider state-building process, and until the key issue of legitimacy is appropriately addressed, local ownership will remain elusive.

The following sections address these issues in more detail. The first section looks at challenges of SSR in Bosnia and progress made in addressing these challenges, followed by a brief overview of the current situation. The main characteristics of an externally driven SSR, local views on the ownership issue and on the Dayton legacy are then discussed. Finally, the chapter assesses the implications of the broader state-building process for the sustainability of SSR in Bosnia.

Progress and Challenges

The starting point for SSR in Bosnia was the Dayton Peace Accords (DPA), signed by the parties to the Bosnian conflict under intense pressure by the US and the Contact Group – an informal grouping of the US, Russia, Great Britain, France, Germany and Italy – in November 1995. In terms of specific SSR tasks, the DPA provided some initial guidance. For instance, it addressed the issues of weapons holdings, oversight provisions, police reform and, to a lesser degree, military reform. Despite its wide ranging nature, however, the agreement was virtually silent on judicial, customs and border services, and on the sensitive but critical issue of reforms to intelligence agencies. It was also silent on the numerous challenges posed by small arms and light weapons proliferation and the demobilisation of

thousands of former combatants.²

One of the most sensitive issues on Bosnia's post-Dayton SSR agenda has undoubtedly been military reform. The DPA conceived of military reform in terms of a balance of power between the two entities, and specified confidence-building measures such as arms reductions to stabilise the region, removal of all foreign forces (except those specifically sponsored by the international community), and the establishment of a multinational military component to implement the military aspects of the DPA.³

From the outset, military reform had to address a number of difficult issues, including: the existence of separate militaries organised and commanded at the entity level and the related lack of adequate command and control at the state level; an unjustifiably large number of soldiers and reserves and excessive amounts of heavy, light and small weapons in their possession; high levels of military expenditure, and insufficient parliamentary control of the armed forces.⁴

Since Dayton there have been several attempts at defence downsizing and modernisation. It was estimated that at war's end, the armed forces in Bosnia totalled over 400,000 soldiers, of which approximately 264,500 belonged to the Army of the Federation of Bosnia and Herzegovina and around 154,500 to the Army of Republika Srpska.⁵ The demobilisation of the armed forces (and the police) started immediately after the Dayton Accords were signed and an estimated 370,000 former combatants were demobilised over a five-year period.

A number of initiatives that followed the initial post-Dayton downsizing further reduced the number of professional soldiers, conscripts and reserves. The most comprehensive reforms began with the establishment of the Defence Reform Commission in 2003. In July 2006, the state Presidency adopted a decision that the Armed Forces should be fully professional, with no conscripts and no passive reserve, with the total size of 10,000 military professionals, 5,000 active reservists and 1,000 civilians employed mainly in the Ministry of Defence.⁶ No further military reduction is expected, at least not in the foreseeable future.

Another, and as it turned out, particularly intractable challenge to defence reform was the existence of separate military forces organised and commanded at the entity level. This specific challenge was the legacy of the DPA, which created two autonomous entities in the country – the (Bosniak-Croat) Federation of Bosnia and Herzegovina and Republika Srpska – leaving each entity responsible for its own defence and armed forces.⁷ Additional complexity stemmed from the fact that, in practice, the country had three armed forces. Although the new Federation army was designed as

a single force, it was effectively divided into the Army of the Federation of Bosnia and Herzegovina, and the Croat Defence Council.

The fragmentation of the state's defence prevented Bosnia from developing armed forces commensurate with its actual security needs. Despite the early reforms that created a quasi state-level chain of command and control, actual power remained with the entities whose constitutions and laws defined their defence responsibilities in detail. The result was two, even three distinct and parallel chains of command and levels of authority, creating conflicting command and control arrangements extending from both state and entity levels.

However, since Bosnia declared its willingness to join NATO's Partnership for Peace (PfP), the lack of state-level command and control over the armed forces, and the independent authority of the entities to control and command military forces, presented a major impediment for integration into Euro-Atlantic security structures. Efforts to tackle these problems started in earnest in May 2003 with the above mentioned establishment of the Defence Reform Commission. James R. Locher III, former US Assistant Secretary of Defence, chaired the commission which included both international and local commissioners. Its mandate was to draft or amend the legislation required to reform Bosnian defence structures in accordance with Euro-Atlantic norms. The commission immediately identified the reform of the command and control structure as a key issue. NATO had specifically linked the creation of a unified state-level defence organisation, with command and control responsibilities, with Bosnia and Herzegovina developing closer ties to NATO, including eventual PfP membership.⁸

As a result, significant reforms were pushed through towards the establishment of a unified armed forces command in 2003-2004, including the High Representative's decision to abolish Republika Srpska's Supreme Defence Council. The Defence Reform Commission endorsed PfP and NATO membership as goals to guide reform.⁹ A new Law on Defence was adopted in December 2003. Its enactment and supporting legislative action at state and entity levels eventually enabled the formation of a single state-level defence establishment, with a clear chain of command emanating from the state down to the entities, reinforcing the supremacy of the state for defence matters. Entity armies were made part of a single military establishment – the Armed Forces of Bosnia and Herzegovina – commanded by a single operational chain of command.¹⁰ The Bosnian Parliament created a Joint Commission on Security and Defence to oversee these new state-level institutions, officials and procedures. The Law on Defence also ensured that state-level institutions, including the Presidency of Bosnia and Herzegovina,

were able to carry out fully their responsibility for protecting Bosnia's sovereignty and territorial integrity.

Another landmark in defence reform was reached in July 2006 when the state presidency, after much political wrangling and discussion of relative national representation in the Armed Forces of Bosnia and Herzegovina, finally adopted a decision on their size and structure that allowed for the development of an integrated force. As a result, the country now has just one defence minister, one chief of staff, one chain of command and one army.

In November 2006 NATO invited Bosnia to join the alliance's Partnership for Peace. That act signified fulfilment of one of the main defence reform benchmarks. There are still a number of outstanding issues, such as the full implementation of the defence and armed forces structure and the transfer from the Entities to the State of all property needed for defence purposes. Generally, however, defence reform has been regarded as a significant success, with Bosnia's acceptance into the Partnership for Peace heralded as 'a milestone on Bosnia and Herzegovina's road to Euro-Atlantic integration'.¹¹

While the focus on the military is understandable in a country emerging from armed conflict, Bosnia's own experience has provided one of the clearest illustrations that the military is only one component of security, and that other security institutions such as the police, judiciary, customs and border services are even more vital for the security of individuals and society during peacetime.¹² Considerable progress has been made in most of these areas as well.

Intelligence reform proved an even more difficult challenge than defence reform. These highly politicised services were thought to spy not just on other entities, but also on international actors present in the country, including international peacekeeping troops and researchers from the International Criminal Tribunal for the former Yugoslavia (ICTY). In fact, the Republika Srpska government was forced to close a military intelligence office in April 2003 after it had been caught spying.¹³ The services were also linked with a broad range of criminal activities, including helping indicted war criminals such as Radovan Karadzic evade arrest.

Recently, however, pressure for reform in this field has increased due to international concerns regarding terrorism and organised crime. The EU made intelligence reform a key condition, along with tax system reforms and cooperation with the ICTY, for opening negotiations on a Stabilisation and Association Agreement (SAA), seen as an important step towards full EU membership.

During Paddy Ashdown's tenure as High Representative, an Expert Commission for Intelligence Reform was set up following a number of scandals involving parallel Bosnian security structures.¹⁴ Although a politically sensitive project, the work on physical and organisational unification of the two former entity intelligence services made progress and, after a comprehensive overhaul of the country's intelligence agencies, a new single Intelligence and Security Agency was approved by the Bosnian parliament and became operational in 2004. The agency now collects information on threats to Bosnia's security both within and outside the country and is obliged to forward information about war crimes suspects to the ICTY. In his latest report to the UN Security Council, the current High Representative Miroslav Lajčák noted:

The BiH Intelligence-Security Agency (OSA) continued to develop its operations in the fields of organised crime, counter-terrorism and war crimes. Cooperation with law enforcement agencies remains satisfactory, but the obvious inefficiencies of the country's policing and judicial systems limit the impact of these efforts.¹⁵

Border control agencies have been reformed as well. Shortly after the Dayton accord was signed, the United States Agency for International Development (USAID) established a customs training team to teach standard law enforcement techniques to Bosnia's customs officers.¹⁶ In 2000 the international community established for the first time a single and uniform customs territory in Bosnia. The formation of a State Border Service (SBS) the same year ended a long standing feud between Bosnia's two entities and marked significant progress in the management of Bosnia's international borders. With the adoption of a new state border service law in 2004, the SBS now possesses the capacity to control the international borders of Bosnia and Herzegovina, and is effectively contributing to the rule of law through surveillance and control of the borders and the detection, prevention and investigation of cross-border crime.

Judicial and legal reform efforts in Bosnia have been halting and painstaking. They have included legal education, strengthening of bar associations, law school development, and only recently serious judicial and legal reform measures. Judicial reforms, in particular, have been exceedingly slow, but more recently produced some notable results such as:

- Bosnia's criminal codes and criminal procedure codes are now compatible with the European Convention for Human Rights

- A High Judicial and Prosecutorial Council has been established
- The State Court is up and running, and has already shown that it is capable of trying once high-ranking and still influential politicians
- The State Investigation and Protection Agency, a police force under the jurisdiction of the state court, is up and running¹⁷

Another important development in the judicial area was the establishment of the War Crimes Chamber within the Court of Bosnia and Herzegovina in 2004. This ensured the effective and independent prosecution of individuals accused of war crimes and organised crime through Bosnia's own judicial system.

Current Situation

Current SSR efforts in Bosnia are focused on police reform, an issue that has dominated Bosnia's political life for some time.

There is no doubt that Bosnia's police forces are in need of reform. Under the current system, the police forces work according to an outdated policing philosophy with a discredited management style.¹⁸ They have no clear strategies for modernisation; their equipment and systems are outdated; and they have too many under-trained police officers. Effective crime fighting is hampered by the many uncoordinated levels of policing and the absence of cooperation mechanisms.¹⁹ Police powers are highly decentralised, with each of the ten Federation cantons having an interior ministry, while central state authorities are responsible for international and inter-entity policing only. The extreme fragmentation and lack of cooperation impede effective policing of organised crime and trafficking.

Bosnia's policing also suffers from continuing political interference and control over police structures and appointments, and little democratic accountability. The police are poorly paid, perceived as corrupt and not trusted by the public to enforce the law fairly. Frequent scandals suggest the widespread collusion of state and political authorities, including police, border guards and customs officials, in organised crime.

In July 2004, OHR launched a comprehensive policing reform initiative which started with the establishment of a Police Restructuring Commission, which was given a mandate to propose 'a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers'.²⁰ The commission's final report, published in December 2004, recommends that policing,

including legislative and budgetary authority, should be an exclusive competence of the state.²¹

The report set out a model for police reform based on three principles endorsed by the European Commission, namely budgetary and legislative authority for policing lodged at state level; policing operations free of all political influence; and policing districts based on operational and technical criteria.²²

After some promising initial development in 2005, police reform entered a difficult phase in 2006-2007, during which little progress was made. In April 2007 the government of Republika Srpska called for a new process, as well as a referendum on a future model. Subsequent political discussions yielded no significant agreement. When he became High Representative in July 2007, Lajčák made police reform a top priority, and facilitated discussion between the parties.

In October 2007, governing party leaders signed the Mostar Declaration, setting out their desire to see police reform in line with the three EU principles and intention to take this and other issues forward. After much political wrangling and unsuccessful negotiations, a compromise proposal was eventually put forward by the two strongest political parties, SNSD (the main Bosnian Serb party) and SBiH (currently the strongest Bosniak party). The proposal envisaged setting up seven new state-level police coordination bodies, without immediately affecting the autonomy of the entity forces.

Finally, in mid-April 2008, the Bosnian Parliament adopted police reform laws which incorporated the SNSD/SBiH proposal. The bills stipulate that the new police bodies will assume authority over the separate police forces a year after the completion of constitutional reforms, although no date has been set for the start of the constitutional reform process.

Adoption of the long disputed police reforms was hailed by OHR as ‘a breakthrough for BiH on the road to Europe’.²³ Some local actors, however, were less enthusiastic about it, particularly the parties such as the SDA, formerly the dominant Bosniak party, and the social democratic SDP. For instance, SDP leader Zlatko Lagumdžija was unhappy with the decision to leave the unification of police force out of the adopted laws, calling it ‘the end of reforms’ that would result in “cementing” the existing state of policing in the country’.²⁴

Despite the adoption of new laws, police reform remains very much a work in progress. The laws did establish a number of coordinating and supervising bodies in line with EU requirements but left the authority of those central bodies over local police forces to be defined only after the completion of constitutional reforms. When this will happen is hard to

foresee. The compromise solution adopted by parliament established seven bodies that would coordinate police work and integrate some areas, like education or forensics, but did not foresee the full merger of the two existing police forces. All in all, laws have been passed but police reform remains far from being completed.

In sum, SSR in Bosnia has undoubtedly produced some notable results. What is also without doubt is that the international community has been the driving force behind the reforms. All the key reforms have predominantly been designed and directed by international actors. Local actors have been unenthusiastic about the reform process, and have participated only after persistent pressure from the international community.

The creation of a single, central defence establishment, for instance, was agreed under intense international pressure. OHR pushed relentlessly on this issue, and ultimately succeeded in achieving many of its objectives, including the elimination of entity competencies, the transfer of all defence responsibilities and personnel to the state, and abolition of conscription. Some local actors, especially the Bosnian Serb leadership, tried hard to prevent the unification of armed forces yet were eventually forced to relent.

Police reforms have followed a similar pattern, although local actors have been more actively engaged in this process (although not necessarily in the most productive ways). OHR was again the most proactive and efficient participant in the process; despite frequent obstructions by local politicians and several missed deadlines, OHR eventually managed to push the process towards the adoption of a set of new laws on police restructuring, albeit with some significant amendments.

Conditionality has played a crucial part in the reform process. International actors have pragmatically wielded sticks and carrots in order to push key reforms through. In the case of defence reforms, the prospects of Partnership for Peace and eventual NATO membership were used as the main incentive. For police reforms, the promise of an SAA with the EU acted as the chief inducement. During the police reform negotiations, for instance, local actors were constantly reminded that without an agreement on police restructuring based on the three EU principles, there would be no SAA, and Bosnia's EU future would be in jeopardy.

International actors have been well placed to play the conditionality card in Bosnia. The prospect of integration into both NATO and the European Union and the provision of significant levels of financial and technical assistance to fulfil the conditions to do so, have indeed provided powerful positive inducements for the country to reform its security system. In the Office of the High Representative, on the other hand, the international

community has also possessed the political instrument to support these positive incentives with the power to take decisions even, should it be needed, over the objections of Bosnia's "local owners".

Externally Driven SSR and Local Ownership

The short history of SSR in Bosnia points to a widespread perception among international actors that in order to move ahead with and lay the foundations for SSR, it has been sometimes necessary and/or convenient to bypass the local owners.

In Bosnia, the international community used the conclusion of a ceasefire agreement – the Dayton Peace Accords – to introduce SSR as a priority area for follow-up. The agreement provided the structural and institutional framework for the reconstruction and reorganisation of post-war Bosnia and, importantly, formed the basis upon which a string of international organisations – the UN, EU, OSCE, Council of Europe, Contact Group and the international financial institutions – established long-term regulation and oversight of political and civil affairs in Bosnia. The activities of these bodies, crucially, were premised upon the establishment of a more immediate civil order by a NATO-led peacekeeping force. The upshot was the creation of virtually an international protectorate subsumed within the system of international security governance and dependent for its status on NATO's continued commitment.²⁵ This point of departure has critically defined the character of SSR in Bosnia.

As Marcus Cox of the European Stability Initiative has argued, the Bosnian experience shows that complex peace missions involve divergent goals which are not easily pursued simultaneously and may come into conflict:

The presence of a large-scale international mission by no means necessarily contributes to strengthening domestic institutions or constitutional order. At the security level, keeping the peace may best be achieved by creating a balance of armed forces and tolerating ethnic separation, making it difficult to build common institutions. The efficient distribution of humanitarian and reconstruction aid may require co-operating with local warlords and extra-constitutional parallel structures, strengthening their political position. Attempts to exclude the protagonists of the war from a role in the post-war political environment may be difficult to square with building democracy.²⁶

In this context, continues Cox, substantive goals may be more efficiently carried out through direct international authority, rather than waiting for local institutions to develop to the point where they can formulate and implement their own policies. In the case of SSR in post-conflict Bosnia, particularly during the early years of military stabilisation and reconstruction, the conditions were simply not conducive to a more democratic, locally owned process. It is therefore unsurprising that the international community opted for an intrusive approach that favoured efficacy over democracy. However, as SSR ultimately concerns the ability of national authorities to govern the security dimension effectively, the question of local ownership was bound to be raised at some point.

In the year 2000 the Peace Implementation Council decided to concentrate international efforts on building the core structures required for Bosnia to function as an integral and independent state. Consequently, the main international actors such as OHR started to focus on a state-building process which was at the time hailed by some analysts as ‘a constructive and forward looking interpretation of the concept of “ownership”’.²⁷ Building effective, self-sustaining institutions at state level was seen as a necessary precondition for full local ownership.

SSR was considered an integral part of this state-building process. Since this shift in international priorities, the general approach of international actors to SSR in Bosnia has been aimed at strengthening state-level institutions and eliminating parallel, ethnically-based security institutions. As a consequence, considerable effort has been invested in the process of unifying the country’s armies, and the Armed Forces of Bosnia and Herzegovina now appear to be firmly established as a single force. Establishing a similar single structure of policing with competency vested at the state level is currently the top SSR priority.

Paradoxically, however, the process which is ultimately aimed at creating conditions for local ownership has significantly inhibited the influence of domestic actors. Intrusive international actions via OHR and its Bonn Powers have engineered some significant structural changes but the domestic political process has largely been sidestepped.

To be fair, the international community has tried to address this problem, albeit in a somewhat inconsistent manner. The way recent police reforms have been dealt with may illustrate the point.

As already mentioned, police reform began in earnest with the establishing of the Police Restructuring Commission in 2004. In its final report later that year, the commission recommended that policing should be an exclusive competence of the state, including legislative and budgetary

authority.²⁸

The negotiations involving political parties that followed the Commission's final report eventually resulted in the creation of a Policing Directorate. Importantly, in these negotiations international actors took a back seat and reduced their role to that of facilitator. Negotiations were undertaken entirely by the leaders of Bosnia's political parties, the fact hailed by OHR as historic. After one successful round of negotiations in April 2005, a delighted Ashdown issued the following statement:

What was achieved was the first stage of what I believe has the potential to become a historic agreement, not just for what was agreed but also for how it was done. This is an agreement whose exclusive label is "Made in BiH", not made by the international community.²⁹

However, this celebration of local ownership proved premature. The work of the Policing Directorate stalled in the lead-up to elections in October 2006, largely because of opposition from Republika Srpska (RS). After the 2006 elections, negotiations entered a new phase, characterised by increasingly radical initiatives on the part of the new RS premier, Milorad Dodik, whose pronouncements on a possible secession referendum in the entity, the revocation of previous transfers of competency to the state and the unacceptability of any police restructuring plan doing away with the RS police marked a newly aggressive assertion of Bosnian Serb interests.

This deterioration of police negotiations in 2006-2007 coincided with Christian Schwarz-Schilling's mandate as High Representative. Incidentally, Schwarz-Schilling made local ownership one of his priorities. Writing in February 2007, the then HR declared:

Today, the time has come for a gradual transition to ownership. Even before taking up my current duties, I was convinced that the powers of my office should only be exercised with moderation and in extreme circumstances. My declared objective was to transfer responsibility to local politicians, whilst offering my good offices as a mediator and advisor. At the time of my appointment as High Representative, this approach also reflected the unanimous views of the international guarantors of the peace agreement. With the end of the Dayton mandate in sight, it was important for the international community to adopt a less interventionist policy.³⁰

Later in the same article, however, Schwarz-Schilling concedes that in order 'to take forward the reform process in the country with the necessary determination' he would recommend 'to the Peace Implementation Council

... to postpone the abolition of the Office of the High Representative, including its special powers, by one year'.³¹

As protracted political discussions on police restructuring yielded no significant agreement, OHR did eventually step in with 'the necessary determination' to take the reform process forward. Schwarz-Schilling's successor, Miroslav Lajčák, took a more assertive approach that went beyond mere facilitation. Lajčák was actively involved in police restructuring, drafting Protocols, imposing deadlines, lobbying intensively, and negotiating directly with selected political leaders. As noted, the police reform laws, albeit with significant amendments, were eventually adopted in April 2008, paving the way for the signing of an SAA.

On the question of local ownership, then, the earlier optimism of those such as Ashdown has of late increasingly been replaced by more conservative assessments. In his speech to the UN Security Council in November 2007, for instance, Lajčák stated: 'Local ownership remains the goal, yet ... this country is not yet ready for self-government... This means that OHR still has a substantial role to play'.³² In February 2008, the Steering Board of The Peace Implementation Council struck a similar note, stating that OHR's role in Bosnia would continue unchanged.³³

Despite some attempts to promote local ownership, therefore, the international community still appears to have little confidence in the ability of local actors to carry out the process unsupervised. Given the current state of affairs, it seems the international community still prefers an externally managed but proficient SSR to a locally owned but uncertain process.

Local Perspectives on Ownership

As the international community continues to drive the process of SSR in Bosnia, questions inevitably arise concerning the legitimacy and sustainability of measures so lacking in genuine local "ownership". There have been suggestions in the past that "ownership" is perhaps not a real issue in Bosnia as many Bosnians 'would sooner have a benevolent despot to push through change than have their own leaders in full control'.³⁴ There have been also those analysts who thought that maybe one could have security sector integration or democratisation in Bosnia, but not both.³⁵ Although not without merits, these views do not fully capture the complexity of local ownership in Bosnia.

There are indeed those in Bosnia who still believe that there is nothing wrong with externally imposed solutions. Lajčák recently stated that he gets

frequent requests from Bosnian citizens to use his Bonn powers to dismiss officials and impose solutions.³⁶ Support for this type of action is commonly expressed by local actors. For instance, representatives of three major local NGOs have recently stated their full support for the HR should he need to use his Bonn powers to impose police reforms.³⁷ Also recently, the Director of Transparency International in Bosnia welcomed the Peace Implementation Council's decision to extend the OHR mandate and declared that Bosnia is still 'an infantile state' and therefore incapable of self-government.³⁸

However, a significant proportion of Bosnian citizens – especially Bosnian Serbs and their political leadership – has never been particularly happy with coercive and intrusive actions by the international community. From the beginning of the Dayton process, politicians in Republika Srpska (RS) have done everything in their power to curb the international community's reform efforts. In recent times, RS Prime Minister Milorad Dodik has missed no chance to challenge the international community, particularly on police reform; Kosovo's unilateral declaration of independence, accepted by most Western powers, has also not contributed to an atmosphere of cooperation between Bosnian Serbs and the wider international community. Not long ago Dodik warned that OHR imposed solutions would not be tolerated by the RS authorities, and emphasised that Bosnian Serbs would never back down from their stance.³⁹ Dodik may epitomise local opposition to reforms pushed by the international community, but he certainly is not the only local actor to adopt a more assertive approach. Nor is that an exclusive prerogative of Bosnian Serbs.

Among other ethnic communities in Bosnia, there are also politicians who feel that a coercive and intrusive international approach robs them of any agency in the reform process. Recently, for instance, the Croat member of the state Presidency Željko Komšić expressed his frustration with international actors because they often told him 'You just sign the Agreement and all of your other problems will probably be solved in time, in other words, you have to do what Europe tells you to do'.⁴⁰

Sulejman Tihić, the president of the (Bosniak) Party of Democratic Action (SDA), similarly complained that OHR's reaction to his party's refusal to accept a recent police restructuring proposal was completely unacceptable: 'We were presented with an ultimatum', said Tihić, 'We were told – take it or leave it ... That's behaviour we cannot accept'.⁴¹ The SDA did not vote for the proposal that was eventually adopted by parliament.

Susan Woodward once remarked that in post-Dayton Bosnia internal political dynamics are determined more by the confrontation between the

international community and local politicians than by the conflict between Bosnia's three ethnic groups.⁴² It seems that this is still a prominent feature of political life in Bosnia. Combined with the absence of domestic consensus on almost any issue, frequent confrontational situations do not make it easier for the international community to address the issue of ownership. The increasingly assertive and antagonistic stance expressed by domestic actors towards externally driven reforms, however, adds urgency to the broader issue of local ownership.

One may argue that the simple fact that all key reforms have been entirely externally driven would inevitably generate local resistance. While a natural dislike of being told what to do may have played a part, the real reason for resistance lies deeper. SSR, as promoted by the international community, not only threatens the entrenched positions of political elites, but also challenges the constitutional architecture established by the Dayton Accords. This, indeed, goes to the heart of Bosnia's political conundrum and may explain why local politicians have been so reluctant to embrace SSR.

While nearly everyone in Bosnia agrees that constitutional change is necessary if Bosnia is to have functional, affordable and EU-compatible structures of governance, few agree on the nature and scope of reforms. Most Serbs want an explicitly federal state composed of two or three "national-majority" units, though any effort to define the prospective boundaries of such units undermines potential Serb-Croat concord on this point. Bosniaks, on the other hand, continue to favour an integral or "civil" state, the territorial sub-units of which would be merely administrative – and certainly not national or constituent. This is unacceptable to Serbs and Croats because they see it as guaranteeing majority (i.e. Bosniak) rule. These ethnic and political divisions over the basic shape of the post-Dayton Bosnian state now frustrate the normative as well as the practical objectives of SSR. So, as the international community presses on with an SSR agenda that promises to critically modify the constitutional order established by the DPA, local actors react uncompromisingly if and when the direction of the reforms is not in accordance with their political visions.

There is no doubt that the international community is advancing an integration and unification agenda in Bosnia. Accordingly, under the auspices of the international community, many competencies have been transferred from entity to state in recent years, including the Unified Armed Forces and State Intelligence Agency. Further reforms, aimed at building an efficient and effective state, are ongoing.

However, building state institutions and dismantling parallel, ethnically-based institutions require revisions to the original Dayton

compromise, something that some local actors still refuse to accept. It appears that the international community is attempting to accomplish now what should, in better circumstances, have been attempted at the outset, namely to equip the weak state inherited from Dayton with the attributes of a proper state. This belated effort to build a self-sustaining state in Bosnia is replete with paradox – in order to realise the promise of Dayton, the ceiling must be lifted on what is formally permissible under the Dayton constitution.⁴³

Yet, through special, internationally-chaired commissions, OHR has managed to find the constitutional justifications necessary to redress the balance of power between the state and the entities in the spheres of defence, policing and intelligence. OHR seems to believe that this process of “functional integration” at state level, whereby cooperation on essential state-level matters delivers tangible benefits to Bosnian citizens, will eventually create domestic constituencies in favour of the further development of the state.

However, while this policy of inducing change from outside has been effective in generating new institutional arrangements, it has never been fully endorsed by local actors. Moreover, as the police reform process has demonstrated, this approach has reached its limits. Externally generated and imposed solutions are no longer seen as acceptable and justifiable by domestic actors, and are frequently opposed on the basis of being undemocratic. This is of critical importance to the sustainability of SSR. If not supported locally, imposed SSR decisions could hardly provide long-term solutions or help create a self-sustaining state. They in effect incapacitate local politicians and ultimately undermine efforts to help Bosnia move to local ownership. As SSR is an integral part of building democracy, continuing this practice is in danger of becoming counterproductive, as it undermines democracy and could therefore not lead to an enduring SSR.

Conclusions

SSR in Bosnia confirms that the practice of assertive coercive power by international authority and the idea of sustainable local ownership are inherently difficult to reconcile. The reason why local ownership in Bosnia has been so difficult to achieve, however, lies not only in the continuing external interference in SSR but, above all, in the utter absence of domestic consensus on both the need for and the goals of SSR. This lack of domestic consensus, however, goes well beyond SSR and it is related to the

controversial and contested status of Bosnia's statehood.

The reform of security institutions has been entangled in a wider state-building process whereby the final architecture of the Bosnian state is still being defined. In this context, international actors should see their role as mediating a broad process of constitutional dialogue, with the aim of creating a lasting constitutional structure that ties together the Bosnian state. Effectiveness and sustainability of security sector reforms undertaken so far, as well as the assumption of full local ownership, will ultimately depend on the inclusiveness and success of this process.

At a time when politicians from all sides grapple with the contentious issues of constitutional reform, the international community should adopt a more balanced approach to SSR if it wants to promote self-sustaining solutions. The international community should be careful, firstly, not to antagonise local actors and perpetuate nationalist resistance by threatening those national rights guaranteed by Dayton. Further SSR needs to be motivated by technical criteria and by a desire to provide solutions to real problems, not by unrealistic conceptions of what Bosnia could and should be.

There are those in the international community and among Bosnian political actors who believe that Bosnia should become a unitary state. Whether Bosnia is more likely to prosper as a unitary or a federal state is a question that goes to the heart of the Bosnian constitutional dilemma, and constitutional reforms will undoubtedly address this issue. However, SSR should take into account that, according to its current constitution, Bosnia is a federation. This, it seems, is often overlooked in the integration and unification course of SSR.

Given the importance and political sensitivity of this question, the international community should invest far more effort than it has to date to convince sceptics of the intrinsic value of centralised security institutions in a federal state. Reliance on the Bonn powers and the stick and carrot policy could perhaps move the reform agenda forward, but without active local involvement and acceptance SSR will not be sustainable. Moreover, it would be, to paraphrase a former HR, a dangerous illusion to think that it is possible to build a functional state and foster reconciliation by imposition.⁴⁴

Second, it is perhaps time for the international community to re-think its concept of "ownership as an end" of reforms, and start thinking more in terms of "ownership as a means" to achieve self-sustaining solutions. Surely, good solutions are those which emerge from a political process which mobilises the beneficiaries, identifies the resources and produces decisions acceptable to all stakeholders. In this respect, if the international community

is serious about promoting local ownership then it should stop focusing overly on political elites, and foster a more inclusive reform process. For instance, it is extraordinary, as the European Stability Initiative recently pointed out, that given the large number of commissions and meetings held in recent years a serious public debate on the merits of various police reform proposals has not yet taken place.⁴⁵ Enabling other voices, rather just those of political elites, to influence the reform process would surely be beneficial in the quest to achieve local ownership.

Notes

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