

**Post-Conflict Democratization and Depoliticizing of Conflicting
Identities: Constitutional Transformation in Bosnia and Herzegovina**

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Introduction

The post-Cold War period has been characterized by much uncertainty, multiple cases of communal wars, destroyed societies, and destabilized regions. If the agents of the international community intervene in a conflict, the society in question will inevitably sign a peace agreement that will demand a democratic form of governance. Democracy in itself is not an unattractive concept and objective; however, the model of older and functioning democracies cannot be, and has not been, transplanted to post-conflict societies in a manner which warranted efficient and effective governance. Therefore, democracy has not reached the successes that its international sponsors hoped it would in resolving and managing disputants' conflicts.

One of the principal problems with the current democratizing projects is that they politicize, and by extension legitimize, wartime identities and legacies. The population is also detached from the political processes and unaware of their responsibility and ability to participate. More context-appropriate democratic solutions are needed in post-conflict societies which entails a careful assessment of opportunities and obstacles on the ground. This will generate solutions which will take time to implement, but which will in turn provide for sustainable and stable solutions.

In situations of identity-based conflicts and their post-conflict transformation, what ought to occur is the depoliticizing of conflicting identities because those should not be enshrined legally as a sole political reality. The depoliticizing of conflicting identities, and consequently transformation of conflict, will take place through the

societal re-conceptualizing of political identity and broadening of the concept of power through redefining the cultural and political discourse. In order to demonstrate the feasibility of depoliticizing group identities, the study utilizes the case of Bosnia and Herzegovina. I propose for Bosnia to undertake the re-making of its constitution as an initial step toward depoliticizing wartime identities. The recommendation of this study is for the population to be actively engaged in constitutional change through popular participation which will take place in a two stage process, civic education and popular consultation.

Bosnia is an appropriate example for demonstrating the possibility as well as the necessity of concrete political changes. The country has been politically and economically stagnant, and on somewhat of a downturn, since the ratifying of the Peace Agreement in 1996. Furthermore, the Bosnian constitutional document is in violation of several international treaties to which Bosnia is a party. As the Balkan region moves forward toward European Union integration, Bosnia remains without such prospects, leaving the country and its people on the lower end of a widening political and economic gap. Constitutional changes will instigate the momentum necessary to signal to the domestic and international actors that Bosnia is on a path of genuine conflict transformation.

First, this study discusses in greater detail why post-conflict democratizing projects have not worked thus far in the situations of protracted social conflicts. Second, I offer a theoretical framework which guides this study and which elaborates on transformation of identity, power, and political and cultural discourses. Third, I discuss the obstacles to democracy in Bosnia and why the Constitution is in fact an illegal

document. Fourth, I engage in an analysis of constitutional re-making in Bosnia and how the process of depoliticizing identities and transformation of power will take place through popular participation. It has been ten years since the end of war in Bosnia and it is time for the country to engage in producing internally viable and sustainable solutions for its future.

Critique of Post-Conflict Democratization: Why Doesn't It Work?

In the attempts to solve much of post-Cold War inter-group conflicts imposition of democratic governance comes as the interveners' standard tool of practice. The concept of democracy can encompass a multitude of expressions while still maintaining basic pillars of popular participation, transparency, accountability and legitimacy. However, the problem with democracy in post-conflict settings to date is that the process of democratization legitimizes and solidifies conflicting tensions among the various groups, which in turn lends itself to a malfunctioning political system. The paradigm of liberal democratic polity in peace-building has not proven to be a particularly effective model; in fact, it often has destabilizing effects in war torn states.¹ One of the reasons behind this ineffectiveness, according to Roland Paris, is that democracy is inherently competitive, and post-conflict societies are often institutionally and culturally not equipped to manage such political and social competition.² By and large, in a post-conflict context, the politicizing of group identities through the processes of democratization inhibits and contradicts the intended productivity of the democratic decision-making processes, because the primary objective of the "elected" officials becomes protection of their political identities and ambitions not necessarily the progress and prosperity of the state and its citizenry.

Nonetheless, the same democratic models persist in the construction and execution of various conflict resolution schemes and peace agreements in the cases of

¹ Roland Paris, "Peacebuilding and the Limits of Liberal Internationalism," *International Security* 22, no. 2 (1997): 56.

² Paris, 57.

protracted conflicts. One of the primary reasons for this persistence is, as Timothy Sisk notes, that “What drives analysts to consider democratic practices in situations of deep ethnic conflict is the belief that there are no viable alternatives to democracy as a system of just and stable conflict management.”³ The reality is that liberal democracy is the most popular choice in designing political systems and it enjoys almost unchallenged hegemony. This study does not defy that democracy should be used as a tool of conflict resolution; instead, what I propose is that democratization models and processes ought to be revisited and revised so that they are more applicable to the situations on the ground. Democracy in itself is not a problem because, if executed properly, it can empower citizens, overcome politics of exclusion and promote good governance. However, democracy “can also become the tool of powerful economic interests, reinforce societal inequalities, penalize minorities, awaken dormant conflicts, and fail in practice to broaden popular participation in government.”⁴ Broadly speaking, the core problem is that the process of transition into democracy can prompt undesirable side effects.⁵

Particularly, in post-conflict societies democratizing projects often fail because the formal frameworks used during the process of implementation encounter fragile foundations on the local scene. One of the principal problems is in the lack of proper assessments of opportunities and obstacles on the ground and subsequent planning and implementation of models. An additional problem is that practitioners designated with a task of promoting and implementing democracy in transitioning societies often project a

³ Timothy Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Washington, DC: United States Institute of Peace, 1996), 29.

⁴ Sunil Bastian and Robin Luckham, “Can Democracy Be Designed?,” in *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-torn Societies*, eds. Sunil Bastian and Robin Luckham (London: Zed Books Ltd, 2003), 1.

⁵ Marina Ottaway, “Democratization in Collapsed States,” in *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, ed. William Zartman (Boulder: Lynne Rienner Publishers, 1995), 236.

perspective and expectations of an established democracy in their own societies. As a result, “They compare the major sociopolitical institutions of the transitional country with those of their own society, identifying the main discrepancies. They then propose projects to bring the various institutions into line with the model. They focus, in other words, on endpoints rather than process.”⁶ Put differently, the democratizing practitioners do not adapt democracy to a given situation; instead, they come with a pre-configured model of democracy and impose it on a society.

There is a need for context-specific democratic models that correspond more accurately with the realities on the ground of post-conflict societies. Thomas Carothers rightfully points out that in democratization assistance there has often been a disconnect of aid from the local context.⁷ The fact is that democratizing projects do not have to consist of a single set of solutions. There is not a one-size-fits-all democratic solution for all transitioning societies. To that end, democratic governance and its success are highly contextual. Robin Luckham, Anne Marie Goetz and Mary Kaldor note that “in a politically and culturally diverse world, in which globalization recreates social differences as fast as it breaks them down, there is not, and probably cannot be, universal agreement on the goals of democratic politics nor on the institutions which can best express them.”⁸ Moreover, Dankwart Rustow points out rightfully that “a country is likely to attain democracy not by copying the constitutional laws or parliamentary practices of some previous democracy, but rather by honestly facing up to its particular

⁶ Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington DC: Carnegie Endowment for International Peace, 1999), 92.

⁷ Carothers, 101.

⁸ Robin Luckham, Anne Marie Goetz and Mary Kaldor, “Democratic Institutions and Democratic Politics,” in *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-torn Societies*, eds. Sunil Bastian and Robin Luckham (London: Zed Books Ltd, 2003), 21.

conflicts and by devising or adapting effective procedures for their accommodation.”⁹

There are many ways of democratic practice which can produce similar effects, a functioning state and a responsible citizenry. The form democracy will take is dependent on the societies’ socioeconomic conditions and history of political practice and state structures.¹⁰ Therefore, the focus ought to shift more toward what actions are needed on the behalf of local and international actors in post-conflict societies to make the process of transition more conducive to the local scene and more promising of a functional democratic government in the future. What makes for a sound solution is for these conflict-stricken societies to adapt to democracy gradually, engaging in a process of transition whereby they devise institutions and political culture conducive to that particular society and to their particular context.

The end goal is clear; it is the achievement of a stable and functional democracy. However, the process by which that is achieved ought to take a form conducive to the context in question with respect to international legal norms. It is not only that the end goal of functioning democratic institutions should be the focus, but also the very process of transition needs to be carefully designed. In general, there seems to be a disconnect between the possibilities on the ground for democratization and the immediate expectations of the international community. As Donald Horowitz points out, in general, there is a lack of “imagination in adapting democratic institutions to the predicament of severely divided societies. But if interest in the problem is driven by events, the methodology is not, for much of the literature thus far often displays a thorough-going

⁹ Dankwart Rustow, “Transitions to Democracy: Toward a Dynamic Model,” *Comparative Politics* 2, no. 3 (1970): 354.

¹⁰ Philippe Schmitter and Terry Lynn Karl, “What Democracy Is ... And Is Not,” in *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner (Baltimore: The Johns Hopkins University Press, 1993), 40.

ignorance of the complexities of ethnic interactions.”¹¹ The key to making democratizing methodology successful in divided, post-conflict societies lies in a careful analysis of the situation in question; that means ascertaining where the opportunities for partnership with the locals exist in the society, and what are the major obstacles. Therefore, both the international community and the local population of the societies in question need to work together on ensuring that the process is tailored to the particular situation on the ground. Additionally, it is important to acknowledge the fact that democratization is a transitional period, and as such, may require adjustments and changes to the process in order to reach a form of democracy that best functions in a particular society.

Informing oneself thoroughly about the society in question is crucial because the historical facts and the realities on the ground will indicate what are the immediate and future possibilities for a sustainable peace. The information required is the history of the society, the dynamics and causes of the conflict, and nature of group interactions. Projecting Western models of governance is not the most efficient means of achieving democracy in post-conflict societies. The agents of the international community need to carefully assess what shape the mode of transition needs to take in order for democratization to be declared as success. It is crucial to design a mode of transition conducive to a particular situation at hand. Put differently, democratization has to resonate with the local population if they are to ever embrace democracy and practice it successfully.

¹¹ Donald L. Horowitz, “Self-Determination: Politics, Philosophy and Law,” *Nomos* 39 (1997): 443.

Theoretical Framework: Transformation of Identity, Power, and Political and Cultural Discourses

In societies inflicted by a communal conflict one of the dominant causes of violence is rooted in identity struggles. Often, identity conflicts are justified and propagated by nationalistic, religious or, generally speaking, communally politicized ideologies. The evidence of destabilizing effects engendered by identity-based conflicts is abundant globally. Some of this instability arose in multiple regions of the world in the last decade and a half as a result of various groups' pursuit of nationalist ideologies. Amitai Etzioni writes that "People imbued with nationalism believe that their independence, ability to control their fate as a collective, and cultural distinctiveness and self-determination are all dependent on their nation."¹² Consequently, this "view makes birth-based identity the cornerstone of political community and produces a state with ethnic characteristics and minority exclusion."¹³ It is evident that nationalism is problematic and causes instability because the ideology, regardless of the group pursuing it, generally emphasizes difference and operates on the basis of the inclusion of members and exclusion of others. In fact, as Asbjorn Eide elaborates, "one of the most serious contemporary threats both to a peaceful evolution of the international order and to the advancement of human rights protection is the ideology of ethno-nationalism, in its expansionist, exclusivist and secessionist modes, and that this ideology constitutes a retrogressive development which needs to be counteracted."¹⁴ Identity, once it becomes

¹² Amitai Etzioni, "On Nationalism," *Internationale Politik und Gesellschaft/International Politics and Society* 2 (2001): 144.

¹³ Horowitz, 438.

¹⁴ Asbjorn Eide, "In Search of Constructive Alternatives to Secession," in *Modern Law of Self-Determination*, ed. Christian Tomuschat (Dordrecht: Martinus Nijhoff Publishers, 1993), 140.

problematic, and consequently that is when it becomes noticed, tends to provide a basis for conflicts and generate destabilizing effects in the societies and regions in question.

The fact remains that states today are overwhelmingly heterogeneous in their composition; their citizenry is comprised of many groups of different religious, cultural, linguistic and social traditions. It is not a viable solution for these various groups to operate on exclusionist politics, engage in conflicts and perhaps even form a series of small states. According to Adeno Addis, “The consequence of political divorce as a solution to multiplicity would be the proliferation of new mini-states that could be only barely economically viable and would be politically vulnerable. This can hardly be conducive to either political peace or economic progress, especially when the world is inhabited by as many distinct ethnic groups and cultures as it is.”¹⁵ The economic and political viability of states, new or old, is crucial for global stability and prosperity; the international community is in a need of competent state partners, not necessarily a series of states which are dependent on the international community for their survival. By the same token, nationalism is a prominent force in the world today and it would not be a constructive solution to denounce it and repudiate its importance.¹⁶ The solution lies in the process of working with identity politics and nationalism in a constructive and sustainable manner. This, to an extent, means finding democratic solutions which do not legitimize the legacies and identities of conflicts from which the societies emerge.

¹⁵ Adeno Addis, “On Human Diversity and the Limits of Toleration,” in *Ethnicity and Group Rights*, eds. Ian Shapiro and Will Kymlicka (New York: New York University Press, 1997), 114.

¹⁶ Alfred Cobban, *The Nation State and National Self-Determination* (New York: Thomas T. Crowell Company, 1969), 18.

The reality is that identity politics is part of modern politics.¹⁷ However, when the politicizing of identity enters the political arena of post-conflict societies, such pursuits infringe upon democracy-building. The premise of this study is not to disregard the importance of identity in post-conflict political settings, but to propose alternatives to constricting and unrealistic democratizing models imposed thus far. Democratizing projects cannot ignore various group identities; however, they should not be treated as fixed realities either. Identity becomes problematic and politicized when groups deal with each other, their access to the political power structure, and claims to their rights. Such identity claims in politics are most challenging in multi-communal or multicultural societies emerging from violent conflicts. Jeremy Waldron writes that multicultural societies

will be trying to set up practices and rules to govern relations between the sexes, the rearing of children, the organization of an economy, the transmission of knowledge, the punishment of offences, etc. When it arrives at and tries to implement a set of solutions to these problems, those solutions will implicitly contradict some of the solutions arrived at as a part of the heritage of the [other] cultures that make up the fabric of the larger society's multiculturalism.¹⁸

Therefore, characteristics and issues that define group identity play a role in the design of political structures, which presents itself as a greater challenge in post-conflict, fragmented societies. In fact, as Mark Warren notes, identity comes to the forefront of the political scene, i.e. becomes politicized, when it becomes problematic. He further elaborates by stating that politics “brings with it an awareness of separateness: from the perspective of self-identity, one becomes political just when one discovers a divergence

¹⁷ Craig Calhoun, “Social Theory and the Politics of Identity,” in *Social Theory and the Politics of Identity*, ed. Craig Calhoun (Cambridge: Blackwell Publishers, 1994), 23.

¹⁸ Jeremy Waldron, “Cultural Identity and Civic Responsibility,” in *Citizenship in Diverse Societies*, eds. Will Kymlicka and Wayne Norman (Oxford: Oxford University Press, 2000), 161.

between one's own judgments and those of others."¹⁹ When such a realization of a divergence occurs, the perception of a threat to one's own identity and judgments arises. This means that a political identity is "distinguished from other kinds by the disruption of certainties normally taken for granted, by the raising to consciousness of a threatened identity ... it is a particular kind of reflexive attitude that one takes toward one's constitutive identities."²⁰ In a post-conflict situation, identity is problematized because it is perceived as threatened, therefore, politicizing it provides the groups a sense of security and continuity.

The danger of politicizing group identities in a post-conflict society is that it creates further cleavages and inhibits democratic governance, and in general, has destabilizing effects. Luckham, Goetz and Kaldor write that "Political contestation organized around non-negotiable identity claims poses severe difficulties for democracy. And by helping politicize these claims, democracy can contribute to political polarization and ultimately violence."²¹ Additionally, Geoffrey Pridham concurs, "failure to resolve any national identity difficulties will almost certainly act as an inhibiting force of democratization."²² Therefore, there is a need for a process toward a political climate on the ground in post-conflict societies in which political identity is not rooted in the legacies of the war. The problem of politicized identities is severe and inhibiting to post-conflict democratic progress and the depoliticizing of group identities in democratization processes is an urgent necessity.

¹⁹ Mark Warren, "What Should We Expect from More Democracy?: Radically Democratic Responses to Politics," *Political Theory* 24, no. 2 (1996): 257.

²⁰ Warren, 253.

²¹ Luckham, Goetz and Kaldor, 38.

²² Geoffrey Pridham, *The Dynamics of Democratization* (London: Continuum, 2000), 257.

As stated above, the problem in post-conflict democratization is that democracy models applied thus far have politicized, legitimized and empowered wartime identities. This does not lend itself to a transformation of conflict, per se, rather a transformation of the context in which conflict continues. In post-conflict cases, the democratic context allows for conflict and competition through elections, holding of governmental posts and decision making processes; however, these arrangements do not lead to progress, but politically ineffective and stagnant situations. Warren insightfully points out that liberal democratic theories and practices treat politicized identities as “ontological characterizations” which leaves individuals unable to conceptualize and engage in the transformation of identities and ways in which all are connected.²³ Furthermore, these models and methods alienate the public from political participation because the political sphere and democracy are perceived to generate benefits for the political elite that emerged from the war. The political and democratic processes are not perceived by the citizenry to be a realistic opportunity for empowerment and change.

In search of sustainable solutions, I propose in this study, the formation of new democratizing processes which broaden the conceptions of post-conflict ontological characterizations. Theoretically, this means that in a post-conflict setting there is a need for re-conceptualized and broader definitions for conceptions of power and identity in a political context. Generally speaking, transformation of conflict and depoliticizing of conflicting identities ought to take place in order for democratic processes to function effectively. A.B. Fetherston writes that the success, or lack there of, of post-conflict reconstruction continues to be confined to the “boundaries of the discourse of

²³ Warren, 256.

international relations and ... conflict management.”²⁴ She further elaborates that “our management and resolution efforts, if unproblemitized, work to continue, rather than challenge, these same institutions.”²⁵ This is because peace operations fail to create “opportunities for emancipatory social transformation,” then such operations become “another aspect of a system which only seeks stability within the confines of that system, a system which already made the war possible.”²⁶ Put differently, democratization as practiced in post-conflict contexts, assumes that given identities are ontological realities that are unable to be transformed and changed, therefore, any practice of democracy has to work within that given framework. There is also a misconception that such an arrangement provides genuine security and stability.

In order for post-conflict democratization to be successful in the long run, the depoliticizing process ought to consist of the following: broadening of individuals’ and groups’ concepts of identities, and re-conceptualizing the understanding of power which entails transforming and redefining the cultural and political discourses. These processes will have the effect of changing ontological realities on the ground and bringing about the realization that politicized wartime legacies and identities are not a necessary and fixed political reality.

Broadening the Concept of Identity

There are multiple complex aspects of identity formation, and of broadening concepts of identity. In terms of catering best to individual processes of identity

²⁴ A.B. Fetherston, “Peacekeeping, Conflict Resolution and Peacebuilding: A Reconsideration of Theoretical Frameworks,” *International Peacekeeping* 7, no 1. (2000): 194.

²⁵ Fetherston, 196.

²⁶ Fetherston, 196.

formation, three concepts are crucial as discussed by Graumann: availability, accessibility and communication. In the process of identity formation, the availability of identities whether they would be cultural, political or other, in a given state context is important. This does not entail enforcing limited choices on individuals by solely imposing on them a civic identity and denying others, or vice versa. Political identity is important but it ought to be available in a way that opens a space for equality and empowerment for all citizens. Consequently, in this broader understanding of identity cultural, religious or other collective identities should not be available in such a way that one is dominant and politically powerful, while others oppressed.

Another crucial component of identity formation is accessibility because it caters to the natural processes of individual identity construction. Put differently, individuals have multiple identities and loyalties, some that are encouraged and some that are stifled in various contexts. Carl Graumann writes that multiplicity of identity by reference to groups and persons in our social environment is made possible by accessibility to different segments of society.²⁷ He further notes that “Multiple identities correspond closely with multiple realities.”²⁸ Therefore, one way of encouraging and fostering multiple identifications in individuals is to create a space and means of interaction outside of their immediate community, i.e. make identities accessible.

It is important to note here, that individuals have multiple loyalties that they yield to multiple groups with which they identify on a personal, cultural, professional, political and any other level. Michael Freeman argues that individuals “typically have multiple identities relating to family, friends, local communities, religious affiliations, occupation,

²⁷ Carl F. Graumann “On multiple identities,” *International Social Science Journal* Vol. 35, no. 2 (1983): 315.

²⁸ Graumann, 319.

nation, state and political commitments, among others.”²⁹ Understandably, one’s identification with one’s nation, cultural group, or people can be one’s strongest affiliation, but it would be presumptuous to think that all members of that group speak with the same voice and that certain individuals do not feel constrained by the limitations imposed on them by that membership and what is, as a result, expected of them in terms of their behavior and other affiliations. In fact, an undisputable connection cannot be made between prosperity of the group and well-being of the individual; not all members of the group may feel the same level of identification with the collective.³⁰ Brian Slattery concurs, “The human need for community can never be fully satisfied by a single, all-encompassing group, no matter how rich or pervasive its culture. Indeed, such a group would stifle the deep-seated need for a broad and varied range of communal bonds that overlap and intersect, jostling among themselves for our allegiance. In a word, community demands communities.”³¹ Availability and accessibility components of the identity formation process best address the complex needs of individuals and their multiple affiliations. By the same token, addressing the need for multiple identities within an individual opens up a greater opportunity for broadening the concepts of identity.

In addition to availability and accessibility in the identity formation process, communication is the third crucial component as identified by Graumann. Part of making a process of embracing one’s larger social context outside of one’s immediate cultural group a success is communication. Therefore, accessibility is not enough if individuals

²⁹ Michael Freeman, “National Self-Determination: Peace and Human Rights,” *Peace Review* 10, no.2 (1998): 163.

³⁰ Avishai Margalit and Joseph Raz, “National Self-Determination,” *The Journal of Philosophy* 87, no.9 (1990): 444.

³¹ Brian Slattery, “The Paradoxes of National Self-Determination,” *Osgoode Hall Law Journal* 32, no.4 (1994): 733.

will not take advantage of it and communication plays an important role because “if individuals and groups avoid communication they tend to overlook the others’ individual or group perspective.”³² Inevitably, the third piece of the process involves a consideration of language. Graumann notes that the “process of category formation as well as all identifications significantly facilitated and enriched by the acquisition of language.”³³ It is the name of something or someone that tells us where it belongs.³⁴ Graumann writes, “We cannot grow up intellectually without learning how to categorize our environment (and ourselves), and we cannot categorize without identifying common properties which, at the same time, discriminate between whatever belongs and what does not belong.”³⁵ Therefore, the process of identification inevitably entails cognitive tendencies to categorize elements of society, depending on the level of sameness or differentiation experienced by an individual. This process of categorization and identification is assisted by communication which helps facilitate the formation of identity.

Furthermore, it is also true that identification with a group is variable and malleable for an individual. In fact, as Alfred Cobban points out, “Voluntary change of nationality by individuals is common. In addition, whole communities are capable of diverting their national allegiance.”³⁶ He further adds, “The truth is that while loyalty to the community in which for the time being are enshrined the highest aspirations of social organization is a perennial quality in human nature, the object of that loyalty has varied widely from age to age.”³⁷ Identity is a fluid concept that not ought to be constrained by

³² Graumann, 320.

³³ Graumann, 310.

³⁴ Graumann, 310.

³⁵ Graumann, 311.

³⁶ Cobban, 126.

³⁷ Cobban, 37.

neither the legal mechanisms of the state, or individual's primary choice of a collective.

Loyalties and identifications change in an individual's lifetime.

When considering identity formation and re-conceptualizing the understanding of identity, it is important to note that just as historical processes are dynamic, so are identities. Identity is not fixed, it is context specific. To that end, Yael Tamir makes a significant observation that there is "nothing natural about nations ... they are creations of human will."³⁸ Identity formation is contingent upon what individuals' needs are in a particular time and context. Therefore, fixed, objective criteria cannot be said to exist that can be applied to defining a nation or a people. Tamir further elaborates that

No set of objective facts could be defined as necessary and sufficient for the creation of a nation. Attempts to single out objective features – common history, collective destiny, language, culture, religion, territory, climate, race, ethnicity – have failed, though all have been mentioned as characteristics of a nation. Although no nation will all of them, all nations require a "sufficient number" of these characteristics in order to exist. There is only one subjective fact necessary for the existence of a nation – a national consciousness.³⁹

Therefore, members of the group need to be conscious of "themselves *as* members of a community, and wish to maintain the identity of their community."⁴⁰ It appears as though the key in preserving group identity is the subjective criterion of a national consciousness. Its expression varies depending on the group's objective identifying criteria as well as their needs and aspirations. Therefore, what entails preserving group identity is the subjective criteria of individual members' perception of their collective identity on the basis of 'objective' criteria such as culture, religion, language and so on. Regardless if the criteria for group survival are subjective or objective, individuals

³⁸ Yael Tamir, "The Right to National Self-Determination," *Social Research* 58, no.3 (1991): 575.

³⁹ Tamir, 574.

⁴⁰ Cobban, 107.

organizing themselves in collectives is a reality, and group needs ought to be accommodated within states, in particular in post-conflict states, in ways that secure the identity of group members.

Re-conceptualizing Power: Changing the Political and Cultural Discourse

Post-conflict identity formation or re-formation needs to be carefully “engineered” not to perpetuate identity conflicts. Realistically speaking, there are obstacles to the transformation of understanding of both identity and power because particular ways of thinking about conflict and conflict resolution have been normalized, which makes it difficult for alternative ways of thinking geared toward societal transformation of the post-conflict zones to enter the market of ideas.⁴¹ In addition to broadening concepts of identity, what is needed are alternatives and better understanding of power on the ground as well as opportunities for the transformation of those concepts of power. Fetherston writes that “Understanding of power is linked tightly to a critical discursive analysis and, therefore, to greater understanding of how the institutions, structures and relationships of different social spaces are infused with particular normative practices.”⁴² Elaborating on this, Fetherston relies on Foucault’s notions of power and argues that those open a space “to consider the extent to which State ‘power’ is dependent on the normalizing and disciplining practices.”⁴³ The author argues that “Foucault’s rejection of power as merely domination, and his contention that power is diffuse and, in some sense, *within our grasp*, opens space for transformations.”⁴⁴ Thus, as

⁴¹ Fetherston, 198.

⁴² Fetherston, 207.

⁴³ Ibid.

⁴⁴ Fetherston, 208.

Fetherston notes, “Using the Foucauldian analysis of productive power it becomes possible to consider conflict resolution as part of an apparatus of power which attempts to discipline and normalize.”⁴⁵ The core of this study advocates that democracy in post-conflict societies ought to rely on broader notions of power and be conveyed to the population in a way that helps them conceptualize that power and responsibility are within their grasp. Fetherston’s discussion rejects the notion of political power as domination, removes it solely from the grasp of the political elite and dispenses it more broadly. This contention is crucial to this study which seeks to transform the power of the post-conflict political elite and disperse it among the population.

Transformation and broadening of the concept of power entails transformation of the political and cultural discourse. Post-conflict or not, the fact is, as Tamir notes, “today, there are hardly any states that are nationally homogeneous but, surprisingly, our political discourse has not adapted itself to these developments.”⁴⁶ It follows then that “Most people will have to find political techniques to enable [them] to live together within existing states, unless they are prepared to do so much ethnic cleansing.”⁴⁷ This calls for a transformation which will enable people to identify themselves in a cultural and political sense in ways that will not have devastating consequences.⁴⁸ Therefore, the aim of the transformation is “to accommodate the legitimate claims of peoples ... by creating adequate political structures, giving them a say over what are essentially their own matters, without destroying the overarching institutions of the government.”⁴⁹ Part

⁴⁵ Fetherston, 200-201.

⁴⁶ Tamir, 571.

⁴⁷ Horowitz, 453.

⁴⁸ Christian Tomuschat, “Self-Determination in a Post-Colonial World” in *Modern Law of Self-Determination*, ed. Christian Tomuschat (Dordrecht: Martinus Nijhoff Publishers, 1993), 16.

⁴⁹ Tomuschat, 17.

of the transformation process entails determining what group claims are political, what are cultural, and what types of political and societal arrangements would be required to secure groups' identities. This is a process of transformation of cultural and political discourses, and consequently, redefining of the concept of power.

Therefore, two parallel processes need to take place as part of discursive transformation and in order for individuals to perceive their identity(ies) to be properly protected by state mechanisms. One process is the transformation of the cultural discourse in separation from the political discourse. Naturally, it is to be expected that this will be a difficult task. Brian Singer notes that "for as long as the nation's existence appears dependent on (however intangible) a sovereign will, it remains difficult to speak of a separation of the national society from the political nation. Such a separation is much more easily accomplished in the terms of cultural discourse ... As such, political divisions do not immediately threaten the nation's 'ontological' security."⁵⁰ Warren also speaks of difficulty related to depoliticizing group identities. Warren writes that "For democracy to have its transformative effects on the self may require that individuals have securities and connections that cannot themselves be gained in politicized contexts."⁵¹ To that effect, these securities can be gained in the process of redefining group identity in terms of their cultural discourse and thereby redefining their ontological characterizations. For example, Singer suggests transforming a cultural discourse as a way of depoliticizing identity which entails "a supplement of a cultural discourse [that] allows the nation to be depoliticized. Such depoliticization implies not just the separation

⁵⁰ Brian Singer, "Cultural versus Contractual Nations: Rethinking Their Opposition," *History and Theory* 35, no.3 (1996): 330.

⁵¹ Warren, 258.

of polity and society, but a transformation of how the term society is to be understood.”⁵²

Therefore, what needs to take place in the society is the redefining of cultural and political discourses toward making group identity, culturally based and centered on their cultural ontology.

This entails that there ought to be institutions governing cultural and religious life that are to be quite separate from political matters and political representation. Control over cultural matters and institutions is important for a collective because on a certain level it gives groups control over preservation and prosperity of their culture and traditions. The element of control is significant so that individuals may not feel as though their collective existence is threatened and solely in state control. Dietrich Murswiek concurs that it is important “to provide every people with the possibility to live under those political, social and cultural conditions that correspond best with its characteristic singularity, and above all to protect and develop its own identity.”⁵³ Thus, it is important for individuals to be able to claim their group identity on the basis of culture, religion, language and so on, and for those to be legally protected. In fact, part of the depoliticizing of group identities entails that different groups within a state have a right to control certain cultural and religious matters of concern to them and they ought to be granted a right by the state to have a certain degree of autonomy over such matters. Cobban rightfully notes that the “cultural life of society should normally be outside the sphere of political sovereignty.”⁵⁴ However, cultural autonomy must be such that it does not alienate and endanger other groups whether it is through its ideology or acts. In

⁵² Singer, 330.

⁵³ Dietrich Murswiek “The Issue of a Right of Secession – Reconsidered” in *Modern Law of Self-Determination*, ed. Christian Tomuschat (Dordrecht: Martinus Nijhoff Publishers, 1993), 38.

⁵⁴ Cobban, 141.

general, groups and individuals need to maintain a certain level of control over certain aspects of their identity and the transformation process, in order for it to be as non-threatening to their existence as possible. In legal terms this ultimately means that whatever protections are required by groups and granted by a state, are granted to all groups equally not permitting any one to dominate the political scene.

The second of the two parallel depoliticizing processes entails politicizing the citizenship or civic identity which should be conducted in a way that will not threaten groups' cultural existence. In this process, separation will take place between the issues that ought to be politicized, common to all citizens, and issues of cultural expression that should not be part of the political realm. The purpose of this transformation is not for political identity to stand in for other identities, but for it to alter the importance in which one holds them.⁵⁵ To that end, overarching state political and legal structures ought to provide sufficient protection of identities of all groups encircled by its borders. Security and assurances are important because

most conflicts between 'peoples' stem fundamentally not from differences in origin or race, but rather from a 'people's' fear of a diminution because of another 'people' – or loss of control to another 'people' – of its language, values, way of life, livelihood or institutions, i.e., a reduction or loss of control over some or all of the components of its distinct culture. Once this fear is removed by granting a 'people' sufficient sovereignty or self-rule to control its own cultural components, the discord disappears.⁵⁶

Put differently, state legal structure can ensure the equality of all groups and minimize fears of any one being dominated by another. In addition, the political process ought to be of concern to the entire citizenry, therefore, the political process and participation are not

⁵⁵ Warren, 253.

⁵⁶ Daniel K. Donnelly, "States and Substates in a Free World: a Proposed General Theory of National Self-Determination," *Nationalism and Ethnic Politics* 2, no.2 (1996): 288.

contingent on group membership. What is of political concern is of concern to all citizens. Across the board, there are issues of concern to all people in a state irrespective of their collective claims. To this effect, this study makes an argument for depoliticizing of group identities and politicizing of issues common to all citizens, i.e. politicizing of the civic identity.

Generally speaking, for the genesis of democracy, national unity is indispensable.⁵⁷ Civic unity is important because the primary danger of post-conflict democratization is that “Ethnic nations take the reproduction of a particular ethnonational culture and identity as one of their most important goals.”⁵⁸ On the other hand, civic nations are a more viable option because they “are ‘neutral’ with respect to the ethnocultural identities of their citizens, and define national membership purely in terms of adherence to certain principles of democracy and justice.”⁵⁹ The definition of one’s identity as cultural, political or both has crucial consequences on the effect of one’s political participation. This study does not suggest doing away with cultural identities but it does suggest redefining them away from the political context. However, so long as the nation or group identity is presented in strictly political terms the definition of citizenship remains problematic.

The concept of societal and national unity under the umbrella of common, civic, national identity is crucial to the successful functioning of democratic institutions. Luckham, Goetz and Kaldor write that “democratic institutions are underpinned by common citizenship, in which the rights and freedoms of all citizens are equally protected

⁵⁷ Rustow, 361.

⁵⁸ Will Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (Oxford: Oxford University Press, 2001), 24.

⁵⁹ Kymlicka, 24.

under the law.”⁶⁰ Consequently, the way the state and an individual define citizenship defines what politically matters and what is responsible civic participation. Will

Kymlicka and Wayne Norman write that,

At the individual level talk of person’s ‘citizenship’ can refer to three distinct ideas or phenomena: (a) her *status* as a legal citizen, defined largely by a panoply of civil, political, and social rights as well as relatively small number of duties (e.g. to obey the law, pay taxes, perform military service); (b) her *identity* as a member of one or more political communities, an identity that is often contrasted with her other more particular identities based on class, race, ethnicity, religion, gender, profession, sexual preference, etc.; or (c) her *activity* or *civic virtue*.⁶¹

Therefore, the way identity and communal membership is construed on an individual level determines what becomes politicized in a society. The fourth aspect of citizenship, according to Kymlicka and Norman, “is an ideal or goal of citizenship that applies, not at the individual level, but at the level of the political community as a whole: it is (d) the ideal of *social cohesion*, which may include concerns about social stability, political unity, and civil peace.”⁶² The authors note that for the individuals in a given society “The form of citizenship identity they have will have an impact on their motivations to participate virtuously in civic and political activities available to them.”⁶³ Jeremy Waldron concurs that identity “affects the way people perform their duty and civic participation; and it affects their conception of what it is to perform that duty responsibly.”⁶⁴ What social cohesion or unity requires are the shared principles and a sense of shared civic membership, as well as acceptance of multiple cultural identities so

⁶⁰ Luckham, Goetz and Kaldor, 18.

⁶¹ Will Kymlicka and Wayne Norman, “Citizenship in Culturally Diverse Societies: Issues, Contexts, Concepts,” in *Citizenship in Diverse Societies*, eds. Will Kymlicka and Wayne Norman (Oxford: Oxford University Press, 2000), 30-31.

⁶² Kymlicka and Norman, “Citizenship in Culturally Diverse Societies: Issues, Contexts, Concepts,” 31.

⁶³ *Ibid.*

⁶⁴ Waldron, 156.

long as the common, civic one is politicized. To that effect, Will Kymlicka rightfully notes that “Citizens must have a sense of belonging to the same community, and a shared desire to continue to live together. Social unity, in short, requires that citizens identify with their fellow citizens, and view them as ‘one of us’.”⁶⁵ In post-conflict societies one of the greater challenges “is how to constitute diverse cultural communities into a single political community based on broad consent and inclusive notions of common citizenship.”⁶⁶ I advocate the possibility of politicizing a common, national civic identity which entails politicizing issues of concern to all citizens, while at the same time individuals can accept and respect varying cultural and communal loyalties and expressions. There needs to be a clear separation of what we politicize and what we ought not, and cultural expression is not one of the concepts that ought to be politicized, because that would lend itself to irreconcilable political conflict. There are needs and issues that a state should address and fulfill when it comes to all of its citizens irrespective of their group identity.

⁶⁵ Kymlicka, 311.

⁶⁶ Luckham, Goetz and Kaldor, 42.

Bosnia and the Obstacles to Democratization

In order to demonstrate the possibility for depoliticizing of identities and broadening of the notions of power in post-conflict societies, this study utilizes the case of Bosnia and Herzegovina. This section offers a brief historical overview, but it mostly focuses on the Constitution of Bosnia as the key impediment to democratization as well as the key target for change and depoliticizing of conflicting identities.

The prime example of the unstable effects of the violently executed nationalistic projects is the case of the dissolution of the former Yugoslavia in the 1990s. There were four wars fought on the territory of Yugoslavia, when three republics declared their desire for independence and one autonomous province sought to return its autonomous rights. The most violent and prolonged conflict was in Bosnia and Herzegovina.⁶⁷ The war in Bosnia started in early 1992, instigated by Serbian extremist leaders who perceived the Serbian people's existence in Bosnia to be in danger after the republic sought and obtained its independence in April of 1992. What ensued was a violent conflict which lasted for four years, leaving thousands of people displaced, dead, tortured, and exiled. The primary target of communal cleansing was the non-Serb population in Bosnia. The war ended with the signing of the Dayton Peace Agreement, which codified the process of communal cleansing and gave a "democratic" governmental forum for nationalists to perpetuate their differences. Additionally, the Agreement awarded 49% of the territory to Serbs, the entity of Republika Srpska, and 51% to the rest of the population, referred to as Bosniacs and Croats, and entitled the entity the Federation of Bosnia and Herzegovina.

⁶⁷ Bosnia or BiH from hereon.

The extremist Serbs' strategy was successful in part, and, as a result, today people inhabit relatively communally homogeneous areas in Bosnia.

In Bosnia today, identity claims and alleged stark differences between three constituent peoples revolve primarily around religion and language. The three peoples are Bosniacs, Serbs and Croats. Before the war primary division among the population was between Bosnians and Herzegovinians. Bosniacs is a term that has been adopted in the 1990s by the international community and people in Bosnia to assign a nationalistic title to the Muslims in the country. There was a need to be able to refer to all three peoples as nations; and to claim that Muslim identity is a national identity was not feasible, therefore, the label Bosniac was adopted. Bosniacs, that is Muslims, speak Bosnian, and teach Bosnian curriculum in schools; Islam is an elective subject in public schools. Croats are Catholics, they speak Croatian and teach Croatia's curriculum in schools where there is a Croatian majority of children. Lastly, Serbs are Orthodox Christians, they speak Serbian and write in Cyrillic, and teach Serbia's curriculum in their schools. Interestingly, Bosnian, Croatian and Serbian are virtually the same language. The differences between them are best explained as differences between British, American and Australian English. More importantly, language differences were intensified in the war and in its aftermath. Before the war the population of Bosnia spoke what was known as Serbo-Croatian and the differences were in dialects associated with different regions in Bosnia. During and after the war, Serbs and Croats in Bosnia sought outside influences from Croatia and Serbia to further differentiate themselves and they adopted their respective languages and curricula, which further intensified the differences between the three groups. In particular, this is problematic in the educational system in Bosnia today

because Croatian and Serbian curricula, especially when teaching history, represent the formation and cultivation of identities in the homeland through a one-dimensional lens, either Croatian or Serbian, often times incorrectly applying terminology of today to historical periods in which such terms do not apply.

Today, the primary obstacle to the progress of the Bosnian state is the Constitution or Annex 4 of the Dayton Peace Agreement.⁶⁸ The legal backbone of the State proscribes division and gives way to claims of nationalism in a manner which is detrimental to the Bosnian state. In the preamble, the Constitution claims it is “*Committed to the sovereignty, territorial integrity, and political independence of Bosnia and Herzegovina in accordance with international law.*”⁶⁹ However, the actors addressed and decision making processes outlined in the remainder of the constitutional text prescribe division of the state, and, in general, present the decision makers with an impossible decision making process, rendering the entire system ineffective. According to the Council of Europe Venice Commission, “the present constitutional arrangements in Bosnia and Herzegovina are neither rational nor efficient and not even sustainable.”⁷⁰ Furthermore, the Commission concluded that “in the BiH Constitution, there are many provisions ensuring the protection of the interests of the constituent peoples, inter alia: the vital interest veto in the Parliamentary Assembly, the two chamber system and the collective Presidency on an ethnic basis. The combined effect of these provisions makes effective

⁶⁸ The text of the *Bosnian Constitution* (accessed November 11, 2004); available from http://www.ohr.int/dpa/default.asp?content_id=372.

⁶⁹ The text of the *Bosnian Constitution* (accessed November 11, 2004); available from http://www.ohr.int/dpa/default.asp?content_id=372.

⁷⁰ *Going Beyond Dayton – Council of Europe Venice Commission’s opinion on Bosnia and Herzegovina constitution* (accessed April, 17, 2005); available from [http://press.coe.int/cp/2005/128a\(2005\).htm](http://press.coe.int/cp/2005/128a(2005).htm).

government extremely difficult, if not impossible.”⁷¹ Namely, the Constitution in designating the make-up of the governmental structure permits only Bosniacs⁷², Croats and Serbs to hold political office, whether it is the executive, legislative or judicial branch of the federal government. To make matters more complicated, the Federation is split into ten cantons which are more or less communally homogeneous and which also have parliaments. For example, Bosnia has thirteen Ministries of Education, ten for each canton, one for the Federation, one for Republika Srpska and one for the District of Brcko.⁷³ This example, in small part, demonstrates the political and governmental reality of Bosnia and testifies to its overwhelming complexity.

Overall, political ambitions of individuals have to coincide with their identification with one of the three constituent peoples if they want to run for a governmental post. Such a provision is written in the Constitution and it indicates that only members of the three constituent peoples have a right to be state decision makers. For example, Article IV of the Constitution outlines the composition and decision making processes for the Parliamentary Assembly and states the following:

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

1. The House of Peoples shall comprise 15 Delegates, two-thirds from the Federation (including five Croats and five Bosniacs) and one-third from the Republika Srpska (five Serbs).
 - a. The designated Croat and Bosniac Delegates from the Federation shall be selected, respectively, by the Croat and Bosniac Delegates to the

⁷¹ European Commission for Democracy through Law, Venice Commission, *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative* (accessed on April 17, 2005); available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).

⁷² Bosniac is a term used to assign a national label to Muslims in Bosnia.

⁷³ Brcko is a town in northern Bosnia that is a corridor of territory which splits Republika Srpska and it entrusted to international arbitration.

House of Peoples of the Federation. Delegates from the Republika Srpska shall be selected by the National Assembly of the Republika Srpska ...

2. The House of Representatives shall comprise 42 Members, two-thirds elected from the territory of the Federation, one-third from the territory of the Republika Srpska ...⁷⁴

The same principle of constituent group identity applies in running for presidency.

Article V of the Constitution states that “The Presidency of Bosnia and Herzegovina shall consist of three Members: one Bosniac and one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska.”⁷⁵ Furthermore, the judicial branch reflects the same trend. Article VI.1.a of the Constitution reads “The Constitutional Court of Bosnia and Herzegovina shall have nine members. Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency.”⁷⁶ The right to hold political office on a state level is irrespective of state citizenship according to the Constitution, the main stipulation is membership and identification with one of the three constituent peoples. The findings of the Venice Commission concurs, “the interests of persons not belonging to the three constituent peoples risk being neglected or people are forced to artificially identify with one of the three peoples although they may for example be of mixed origin or belong to a different category.”⁷⁷ This condition completely disregards,

⁷⁴ The text of the *Bosnian Constitution* (accessed November 11, 2004); available from http://www.ohr.int/dpa/default.asp?content_id=372.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ European Commission for Democracy through Law, Venice Commission, *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative* (accessed on April 17, 2005); available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).

politically and legally, all those citizens of Bosnia, however large or small in number, who are incapable or unwilling to identify with one of the three groups; thus, their right and ability to run, be elected or appointed to a political post legally does not exist in Bosnia.

The problem, however, is the way the Bosnian Constitution, as it stands today, puts the state of Bosnia in violation of the International Covenant on Civil and Political Rights which Bosnia ratified. Article 25 of the Covenant states:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c) To have access, on general terms of equality, to public service in his country.⁷⁸

Furthermore, Article 2.2 states “Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”⁷⁹ The first part of Article 25, paragraph (a), obliges the state to grant a right to each citizen to directly take part in the conduct of public affairs. Furthermore, Article 25 (b) grants a right and opportunity to

⁷⁸ *International Covenant on Civil and Political Rights* (accessed November 11, 2004); available from http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.

⁷⁹ *Ibid.*

every citizen of a state party to the Covenant to not only vote but to be elected to a governmental position. In Bosnia, not every citizen has the right to be elected but only those identifying openly with one of the three constituent groups of people. Lastly, 25(c) grants the right of equality of access to public service to each citizen. It is evident that Bosnia is in a violation of Article 25 of the International Covenant on Civil and Political Rights. The Council of Europe Venice Commission concurs that certain constitutional provisions are “incompatible with the equal right to vote and to stand for election under Article 25 of the ICCPR or with the equality under the law guaranteed to members of minorities under Article 4 of the Framework Convention for the Protection of National Minorities to formally exclude members of minorities from a public office.”⁸⁰

The manner in which the full extent of political participation is outlined in the Constitution and exercised in Bosnia is more than incompatible with the ICCPR, it violates this international norm because the right to be elected and have access to public service is blatantly denied by the Constitution to all those who are not subscribing to one of the three group identities. According to Article 2.2 of the Covenant, Bosnia is obliged under this international norm to extend these rights to all its citizens and adopt laws and take measures that grant the rights outlined in the Covenant. Additionally, Article II.4 of the Constitution on the Human Rights and Fundamental Freedoms states that rights and freedoms represented in international agreements listed in Annex I of the Constitution, among which is the International Covenant on Civil and Political Rights, “shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social

⁸⁰ European Commission for Democracy through Law, Venice Commission, *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative* (accessed on April 17, 2005); available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).

origin, association with a national minority, property, birth or other status.”⁸¹

Additionally, as the Venice Commission concluded, certain constitutional text pertaining to the elections and the composition of the federal government is in violation of Article 14 entitled Prohibition of Discrimination of the European Convention on Human Rights which states, “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”⁸² It is evident that the Constitutional language must change in Bosnia. This will require revising the requirements of the state government composition and decision making processes, which will be a difficult task, however, not impossible.

Moreover, the process by which the Constitution was created was as part of the peace negotiations in Dayton, Ohio. The actors who participated in its creation were then president of Bosnia, Alija Izetbegovic, the chosen representative for Croats in Bosnia, then Croatian president, Franjo Tudjman, and the chosen Serb representative, then president of Yugoslavia, Slobodan Milosevic. These three actors put their stamps of approval on a document which was actually drafted by American legal advisors. It is clear that the Dayton Constitution did not enlist public participation or consultation. There was not a process which involved the population in Bosnia, and understandably so, because at that time, logistically, that would have been almost impossible to do considering the country just emerged from war. However, an important lesson learned

⁸¹ The text of the *Bosnian Constitution* (accessed November 11, 2004); available from http://www.ohr.int/dpa/default.asp?content_id=372.

⁸² *European Convention on Human Rights* (accessed on April 17, 2005); available from <http://www.echr.coe.int/Convention/webConvenENG.pdf>.

here, and one that ought to be applied in the future, is that peace settlements and negotiations ought to be one of the first phases of solving a conflict, whereas constitution making ought to fall in one of the later phases when the population can be involved in the process. Jamal Benomar concurs that “It is generally best to keep peace talks and constitutional deliberations separate ... constitutions should be less about war-ending and more about the broader, future-oriented work of peacebuilding.”⁸³ He further notes that the process of constitution-making ought to focus on long-term goals of establishing protection of human rights, stable state institutions and a viable state in general; consequently, faulty constitution making processes, such as one that takes place for example as part of peace talks, can harm prospects of a successful democracy.⁸⁴ In fact, democracy has been severely hindered in Bosnia due to the process which generated the Bosnian Constitution.

In practice, the population continues to vote for nationalistic leaders, and this is, in part, due to the availability factor of candidates, and, in part, due to people’s fears for their identities and their (mis)perception that their rights would be best protected if they elect their nationalistic leaders. Because of the limitations the Constitution places on potential candidates the availability of those running for office is constricted to identifying with one of the three constituent peoples. It would be difficult to decipher whether a mere lack of non-nationalistic candidates is why the population votes the way it does; or they do so because they perceive to be best protected if they vote along identity lines. Nonetheless, the lack of alternative candidates is a significant impediment

⁸³ Jamal Benomar, “Constitution Making After Conflict: Lessons for Iraq,” *Journal of Democracy* 15, no.2 (2004): 82-3.

⁸⁴ Benomar, 82.

in Bosnia today especially because it is a result of a legal structure that is in violation of an international norm.

Thus far in Bosnia this social experiment of voting along nationalistic lines has repeatedly proven to be politically stagnant. The political leaders are successful in advancing their own personal agendas for political might and financial wealth, while the country is in devastating economic, social and political condition. The members of each of the constituent peoples, and others, seemed to have elected to exercise their political rights in such a way that is detrimental to their individual and, by extension, their group existence as well. Electing nationalistic leaders has not rendered individual or group prosperity for people in Bosnia. Assuming that there may be a contingent desiring to vote for someone not based on their identification with one group or another, that contingent does not have that option today. There is a need for redefined notions of identity and power in Bosnia which will not permit the political elite to exploit the fear and perceived lack of option which their constituencies face. Furthermore, redefined notions of identity and power and their new legal codification will be in accordance to an international norm that Bosnia currently violates. There are multiple obstacles hindering Bosnia's progress and certain ways to remedy that will be explored in the section that follows.

Constitutional Re-making in Bosnia: Depoliticizing Conflicting Identities and Transformation of Political Power

Democracy cannot be reduced solely to institutions and formal procedures; it is also a way of life for individual citizens.⁸⁵ In fact, the focus on the citizenry as the locus of post-conflict democratic transformation is the guiding premise of this study. I argue that the sustainability of proper democratic governance ultimately lies with the population, and not necessarily with their political elite, as the necessary transformation ought to happen on a societal level which will inevitably reflect on the institutional level. In post-Dayton Bosnia, the only type of politics legally permitted by the Constitution is group identity-based. In addition to this arrangement being illegal, the only contingent that draws empowerment from it is the political elite. The population is largely removed from understanding and participating in political processes. Therefore, I argue that it is crucial for the population in Bosnia, and in any post-conflict setting, to be empowered and to embrace broader understandings of power and identity. The process of transformation of power and political identity in Bosnia will entail transformation of current political norms and culture. However, democratization, in itself, is a “project of norm creation and cultural change.”⁸⁶ Democratization, as well as the transformation process in Bosnia, is about redefining relationships, i.e. redefining the way different groups relate to one another, and to the state.

⁸⁵ Mary Kaldor and Ivan Vjevoda, “Democratization in Central and Eastern European Countries,” *International Affairs* 73, no. 1 (1997): 66.

⁸⁶ Luckham, Goetz and Kaldor, 51.

Democracy depends on qualities and attitudes of its citizens.⁸⁷ It is the population that makes the governance of democracies and this is evident in “their sense of identity and how they view potentially competing forms of national, regional, ethnic, or religious identities [and] their ability to tolerate and work together with others who are different from themselves.”⁸⁸ To that end, Dankwart Rustow writes that:

politics consists not only of competition for office. It is, above all, a process for resolving conflicts within human groups – whether these arise from the clash of interests or from uncertainty about the future. A new political regime is a novel prescription for taking joint chances on the unknown. With its basic practice of multilateral debate, democracy in particular involves a process of trial and error, a joint learning experience. The first grand compromise that establishes democracy, if it proves at all viable, is in itself a proof of efficacy of the principle of conciliation and accommodation.⁸⁹

Put differently, the process of democratization entails a change of a societal culture and embracing of new behavioral and political concepts and norms. The establishment of democracy involves development and enforcement of codes of behavior affecting all segments of a society.⁹⁰ In a post-conflict setting such as Bosnia, where depoliticizing group identities is a goal of transformation, democratization at this stage entails the redefining of political and cultural discourses and identities. Overall, it is the population that makes the governance of democracies, and it is essential to resolve any group identity differences that could potentially lead to a violent conflict again. Additionally, the key to this transformation is that the populace actively engages in the transformation and adaptation of democratic processes. It is crucial that the population in Bosnia is no

⁸⁷ Will Kymlicka and Wayne Norman, “Return of the Citizen: A Survey of Recent Work on Citizenship Theory,” *Ethics* 104, no. 2 (1994): 352.

⁸⁸ Kymlicka and Norman, 353.

⁸⁹ Rustow, 358.

⁹⁰ Samuel Barnes, “The Contribution of Democracy to Rebuilding Postconflict Societies,” *The American Journal of International Law* 95, no. 1 (2001): 92.

longer a passive recipient of democracy the way it is delivered by international practitioners but an active participant. Democracy is a relatively novel concept to the citizens of Bosnia, thus, they are taking chances on the unknown. The process of transformation and further democratization will be the one of trial and error, but most importantly it will be a joint learning experience.

In a post-conflict context, the development of a new political system and political culture is a particularly delicate matter because the society is already faced by an abundance of additional problems. Overall, what is needed is a restoration of state authority and legitimate power as well as responsible political participation in order to overcome security concerns.⁹¹ Bosnia, today, presents a significant challenge to democratization and establishment of a functioning democracy. State government is ineffective, and the country is essentially governed by the High Representative who is in charge of overseeing the civilian implementation of the Dayton Peace Agreement. The population is detached from the political processes and significantly divided along identity lines. Moreover, security concerns are at large. What is in place in Bosnia today is not a sustainable and peaceful solution to the conflict in the 1990s.

However, there are still opportunities and possibilities for democracy to be assisted in Bosnia with more promising results. The first step and a necessary change to undertake is re-writing the constitutional document. According to the ESI report of early 2004, “The era of constitutional design in Bosnia was hammered out between wartime leaders and foreign diplomats is now well and truly past. From now on, any constitutional change will need to be agreed by Bosnia’s elected leaders, on behalf of their

⁹¹ Michael Doyle and Nicholas Sambanis, “International Peacekeeping: A Theoretical and Quantitative Analysis,” *The American Political Science Review* 94, no. 4 (2000): 780.

constituencies. That means it will be a political process, based upon negotiations and compromise.”⁹² While I agree that this time constitution making in Bosnia has to be an internal process, I disagree that it ought to be done by the current political elite, simply because constitutional revisions according to the recommendations of this study would entail that the current political elite will vote themselves out of their jobs, and, therefore, access to power. This is highly unlikely to happen, therefore, the population is the best critical mass which has the authority to make such decisions. Realistically, the situation in the country is difficult and it will be a challenge to re-write the Constitution.

There are obstacles on the ground that will have to be dealt with by all those involved in the process of transformation. For example, the current power structure and the political elite will likely be an obstacle, because the Constitution, as it stands today, caters to the nationalistic leaders and provides a forum for their personal, nationalistic, political aspirations. The state power structure, legally, is open only to those who identify with one of the three constituent peoples, thus, the Constitution codifies division and politics along nationalistic lines. In order to have access to power in Bosnia one first has to declare oneself Bosniac, Croat or Serb. Thus far, nationalistic candidates have been successful in appealing to people’s fears and perceptions that their well-being is dependent on their group identity. People have continued to vote along nationalistic lines in part because of their fears and (mis)perceptions, but also in part because of the lack of available alternatives. Today, Bosnia is not in an enviable economic or political shape, therefore, individuals’ or groups’ well being has not improved because their nationalistic leaders are in power.

⁹² European Stability Initiative, *Making Federalism Work – A Radical Proposal for Practical Reform*, January 8, 2004 (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_48.pdf.

An additional obstacle is that the people in Bosnia do not know democracy, or know little about it. In fact, governance and politics, a two-way process which entails responsible citizen participation, is an unknown concept in Bosnia. However, this is understandable for two reasons in particular. First, there was not a legacy of democracy before the war; Bosnia was part of a communist state which was ruled by one man for forty years. For the most part, current generations in Bosnia have lived under Yugoslav rule for some decades of their lives and are familiar with those legal and political processes. By the same token, democracy is equally unfamiliar to a Serb, as it is to a Bosniac and a Croat. Second, the country has emerged from a horrendous war not even a decade ago, and there are still grievances, mistrust and divisive tendencies among the people. The challenges and obstacles are significant but not impossible to overcome.

Bosnia is a prime example of a post-conflict society where democracy has not taken off the way its international sponsors had hoped. All is not in vain, there are future steps the international community, in partnership with the locals, can take to assist Bosnia in transforming the effects of the war and forming a more viable and functioning democratic state. In particular, as this study argues, the area in need of urgent assistance in Bosnia is constitutional reform, because the constitutional text legitimizes and politicizes war-time identities and legacies. It is also a main impediment to democratic progress and an illegal document. Bosnia will need assistance from the international community in redefining state structures and political identities. Where international efforts and resources need to be directed is toward the following:

- Engaging the local population in a meaningful way which will entail civic education geared toward the process of constitutional changes.

- Engaging them in a dialogue and a consultation process in order to express what they think their constitution ought to address.

The democratizing sponsors and practitioners will play a crucial role in providing necessary resources and expertise. This is ultimately the process of assisting the Bosnian population in learning how to live in a democracy and be active, responsible citizens. The public ought to be educated about democratic governance and participation; but, more specifically, the part of the education and consultation focus ought to be geared toward constitution making. The population will, therefore, learn as they practice; they will learn about meaningful and responsible democratic participation, not solely by a team of experts telling them how it is done, but by practicing. An overarching objective of this process is for the population to re-conceptualize their notions of what constitutes a political identity and to broaden the space of political power. Put differently, during this process the population will empower themselves politically in an actual, not solely nominal, way.

Overall, constitutional changes are crucial to the survival of the Bosnian state. The year 2005 marks the tenth anniversary of the Dayton Peace Agreement. International interest and resources have been moving away from Bosnia and the ten year mark is also, ceremoniously, to mark a type of handover to the citizens. Furthermore, there are elections coming up in 2006 which, if conducted under the current constitutional document, will generate more of the same detrimental results. Actually, democratic Bosnia is inevitable; the international community has invested abundant resources in democratization and peace-building in Bosnia. The malfunctioning of the state is no longer acceptable, domestically or internationally. In addition, the international

community has stipulated democracy as one of the conditions for progress and a necessary standard for membership into the European Union and, ultimately, NATO. If Bosnia is to be taken seriously by the European Union, it will have to demonstrate an ability to engage in a domestic debate regarding constitutional changes which would consequently demonstrate maturity of the country, internally and externally.⁹³ The Venice Commission concurs that the present constitution cannot lead Bosnia toward European integration. Therefore, they recommended among other institutional changes, that the ethnic vetoes in decision-making at all levels of government must be reduced.⁹⁴ Internally, “There is a powerful wish for the country to participate in European integration with the final aim of becoming a member of the EU.”⁹⁵ Overall, the conclusion of the Commission is that the time “is ripe to start a process of reconsideration of the present constitutional arrangements”⁹⁶ in Bosnia.

One of the primary impediments to progress is the Bosnian Constitution. This is an excellent place to start with engaging the population on a scale that has not been done before in Bosnia. Therefore, what I propose is that democratizing sponsors and practitioners ought to provide the assistance to the population educating them about democracy and constitution making in ways that resonate with them, and, subsequently, engage them in popular consultation. In general, as Louis Aucoin notes, “Direct participation of the population was found to be more successful when it was conducted in

⁹³ European Stability Initiative, *Making Federalism Work – A Radical Proposal for Practical Reform*, January 8, 2004 (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_48.pdf.

⁹⁴ *Going Beyond Dayton – Council of Europe Venice Commission’s opinion on Bosnia and Herzegovina constitution* (accessed April, 17, 2005); available from [http://press.coe.int/cp/2005/128a\(2005\).htm](http://press.coe.int/cp/2005/128a(2005).htm).

⁹⁵ European Commission for Democracy through Law, Venice Commission, *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative* (accessed on April 17, 2005); available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).

⁹⁶ *Ibid.*

two separate phases—one devoted to the civic education of the population and the other devoted to popular consultation.”⁹⁷ The civic education phase in Bosnia ought to provide information, guidelines and rules about the possible substantive matter of the constitution which is in accordance with international norms. The consultation phase is intended to engender dialogue among the participants about what they would like to see reflected in the constitution and directing their consultation to the chosen body that will fuse it into a coherent constitutional text.

Bosnia needs a new constitution not only because the current document is a violation of international law, and a hindrance to the progress of the state, but also because the people did not participate in the Dayton constitution-making process. The population is entitled to be reflected in the state constitution. Therefore, Bosnian citizenry needs to become involved in the constitutional re-writing process, but, more broadly speaking, the citizenry needs to become increasingly involved in the process of active participation, thus taking their civic democratic duty seriously. The public ought to get involved in re-writing of the Bosnian constitution in a way that is viable, functional and meaningful for them. This way, the population will learn about democracy while actively participating in it, i.e. they will learn as they practice. The local participants will be summoned, with international assistance, to learn about constitutional reform while at the same time engaging in democratic processes of dialogue, openness and transparency. The exemplar of a successful constitution-making process which involved public participation is South Africa. Why did South Africa succeed? Timothy Sisk writes that “A common destiny, economic interdependence, high-quality leadership, and external

⁹⁷ Louis Aucoin, “Constitution-making, Peace Building, and National Reconciliation,” *Draft of a Special Report for the United States Institute of Peace*, 1.

pressures continue to explain South Africa's trajectory toward inclusive, nonracial democracy and sober, pragmatic management of this multiethnic society.”⁹⁸ Initially, a high quality of leadership in a prominent coordinating role will have to come from the international community to get the process started in Bosnia, and gradually it will be transferred onto the local population. Bosnia “does not need a new Dayton, but a framework that will permit genuine constitutional debate. The EU negotiation process can be this framework and the EU negotiator can play the role of honest broker in the constitutional negotiations.”⁹⁹ As Benomar points out assistance from the international experts and lessons learned outside of the country in question are highly needed.¹⁰⁰ Moreover, the international community’s involvement in the process is most effective when the international actors stay politically neutral, and serve as a resource and support.¹⁰¹

Therefore, the initial role of the international sponsors and practitioners is to provide the financial resources necessary and the expert trainers and educators. Overall, the role of the international community to play in the process of constitutional re-writing in Bosnia is that of a coordinator. More specifically, the international community’s suggested responsibilities are as follows, they will:

- Engender the process and engage the population in learning about democracy, participation, their responsibilities and expectations.
- Identify local partners and participants.

⁹⁸ Timothy D. Sisk, “Negotiating Democracy in South Africa: Conclusions of Constitution-Making as Conflict Management,” Prepared for *United States Institute of Peace Rule of Law Program* (2004): 22.

⁹⁹ International Commission on the Balkans, *The Balkans in Europe’s Future* (accessed April 17, 1005); available from <http://www.balkan-commission.org/>.

¹⁰⁰ Benomar, 90.

¹⁰¹ Aucoin, 2.

- Organize civic education sessions for the locals through the identified civil society elements.
- Train the trainers among the locals to expand the civic education capacity in order to increase the reach, expedite the process and lessen the cost of it.
- Subsequent to the civic education phase, engage the citizenry in a dialogue and a consultation to get their feedback on what they want their constitution to reflect.

Additionally, something important to be mindful of is that this is a process. Thus far US aid providers for democracy assistance “tend to emphasize endpoints at the expense of process.”¹⁰² To that end, Vivien Hart concurs, “‘New constitutionalism’ sees a process not an event, focuses on groups and identities as well as individuals and rights, on participation as well as rule.”¹⁰³ It is important to have an objective in mind, such as a new constitution; however, engagement and participation do not end with the adopting of a new constitution; on the contrary, the process of democratic participation continues and evolves. In general, it will take time until democracy starts resonating with the population in a meaningful way.

This will also be the beginnings of developing a culture of responsible political participation which directly affects political stability. Political participation is significant for the successful practice of democracy, which is also indicative of the value citizens place on participation, tolerance and compromise.¹⁰⁴ Mass attitudes matter greatly “to the achievement of democratic consolidation ... [Thus] Consolidation requires not only new-

¹⁰² Carothers, 161.

¹⁰³ Vivien Hart, “Constitution Making and the Transformation of Conflict,” *Peace and Change* 26, no.2 (2001): 169.

¹⁰⁴ Larry Diamond, “The Paradoxes of Democracy,” in *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner (Baltimore: Johns Hopkins University Press, 1993), 104.

regime legitimation but the inculcation of democratic values at both elite and mass-levels.”¹⁰⁵ Therefore, effective governance and responsible civic participation are the two processes highly dependent on one another. Education and civil society establishments teach the citizenry the tools of empowerment and ability to influence political effectiveness. These processes are intrinsically connected.

There ought to be an uncompromising, ideological baseline that circumvents the constitution re-writing process in Bosnia, which both identifies the goals of the process as well as the basic rules, and it consists of several components. First, the process of constitution re-writing entails working toward a common vision of what a state of Bosnia ought to be like. A fixed factor under international legal protections is that Bosnia’s sovereignty and territorial integrity will be respected. Secessionist movements will not be tolerated or permitted. Second, the participants need to be reminded that, in fact, all citizens of Bosnia share a common, civic identity; this is seemingly an obvious statement but also an ideologically necessary one, as it is often the neglected fact because in Bosnia people primarily adhere to their constituent group identities. A Bosnian state is the inevitable condition; therefore, it is important for its citizens to feel connected to the state and their collective future. The way in which citizens will feel connected to the state rests with them; that is the purpose of participating in constitutional changes in a way to reflect one’s relationship with one’s state. It is crucial that the population feels connected to the process of transforming the political landscape and ways of governance in Bosnia.

¹⁰⁵ Pridham, 221.

Identifying the Stakeholders, a.k.a. the Participants

Who are the stakeholders in Bosnia that ought to be involved in the constitution-rewriting process? What contingent ought to be in charge of redefining cultural and political discourse? The stakeholder is each and every Bosnian citizen. Generations born and raised in former Yugoslavia have never lived in a democratic state and do not know what the culture and lifestyle of democracy is like. They are also accustomed to entrusting the running of the state to the political elite, and for forty years in Yugoslavia that was one person, Tito. A crucial component the older generations lack is the knowledge that their democratically elected government is accountable to them for their actions. These generations need to be educated about democracy through a process parallel with the rest of their daily activities; engaging them will be more of a challenge than the younger generations. The younger generations are those that grew up or were born during and after the war, and they continue to exist in a malfunctioning democratic state. Civic and democratic education ought to be part of their existence from the very early days of their education. Proper and responsible democratic participation and processes ought to become deeply ingrained in younger generations' every day lives.

As much as former Yugoslavia did not provide proper guidance for future democratic processes, it did provide a positive economic environment for the population. In comparison with its neighboring and fellow communist states, Yugoslavia was far more economically developed, and, in fact, an object of envy of Romania, Bulgaria, Albania, Poland, and so on. Today, Bosnia as a former republic of a well-standing Yugoslavia is in a shameful position along with its neighbor Serbia and Montenegro.

Other former republics of Yugoslavia such as Slovenia, Croatia and Macedonia are much further ahead in the EU integration scheme.



The new European periphery in 2007?¹⁰⁶

The map above illustrates the shameful situation Bosnia finds itself in today. This is something that the population, the stakeholders in the constitutional change process, ought to take seriously. According to the European Stability Initiative, Romania and Bulgaria are likely to join the EU by 2007 and by that time Macedonia is likely to join membership negotiations.¹⁰⁷ At this rate, Bosnia is perhaps looking to enter the EU membership negotiations in 2013. ESI maintains that “There is a risk that, instead of catching up with the rest of the continent, these countries will fall further behind, and the goal of integration – and the promise of regional stabilisation it offers – will become even

¹⁰⁶ Wilton Park Conference, *Recommendations* (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_56.pdf.

¹⁰⁷ Ibid.

more distant.”¹⁰⁸ In fact, what ESI calls this is the emergence of the West Balkan European Ghetto.

An additional factor for the stakeholders to become aware of is that, according to ESI figures, in 2003 Bosnia had the lowest GDP per capita among the Balkan countries (see table below)¹⁰⁹.

table 1 GDP per capita in EUR

	1999	2000	2001	2002	2003
Bosnia	1234	1359	1475	1556	1611
Albania	953	1174	1484	1521	1709
Serbia-Mont	1950	3106	1581	1874	1949
Macedonia	1709	1921	1887	1981	2041
Bulgaria	1481	1674	1920	2101	2249
Romania	1491	1795	2002	2221	2316
Croatia	4102	4502	4998	5451	5747

Source: WIIW Balkan Observatory

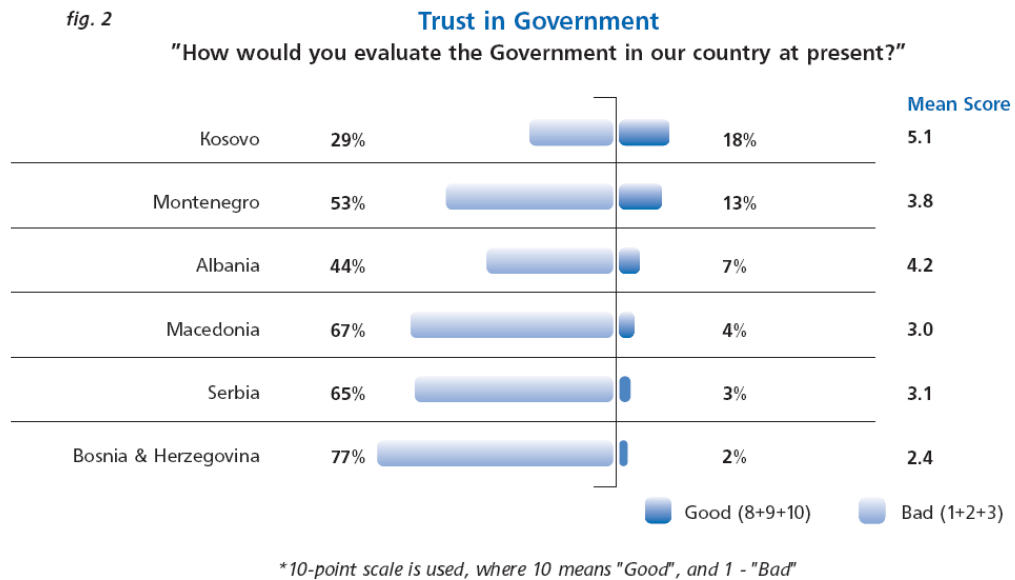
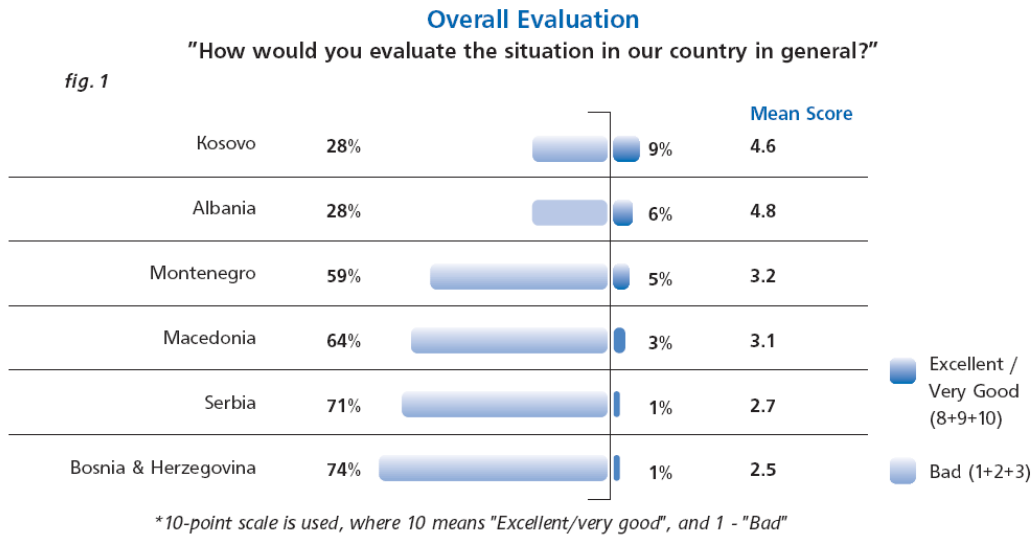
Therefore, changes, and in particular political changes, are a vital necessity in Bosnia because membership to the EU is not to be taken lightly. ESI notes, “As the experience of the last enlargement has shown, being a full candidate already brings many of the benefits that in previous Mediterranean enlargements only came with membership. Most of these benefits are crucial to potential investors: a stable macroeconomic environment, a predictable regulatory environment, an expectation that every year the physical and administrative infrastructure will improve, access to increased assistance.”¹¹⁰ Additionally, many Bosnians feel trapped by and dissatisfied with their

¹⁰⁸ Wilton Park Conference, *Recommendations* (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_56.pdf.

¹⁰⁹ International Commission on the Balkans, *The Balkans in Europe's Future* (accessed April 17, 2005); available from <http://www.balkan-commission.org/>.

¹¹⁰ Wilton Park Conference, *Recommendations* (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_56.pdf.

current constitutional system.¹¹¹ The graphs bellow illustrate general dissatisfaction of the population in Bosnia and its neighboring, stagnant countries with their respective governments and conditions.¹¹²



¹¹¹European Stability Initiative, *Making Federalism Work – A Radical Proposal for Practical Reform*, January 8, 2004 (accessed April 17, 2005); available from http://www.esiweb.org/pdf/esi_document_id_48.pdf.

¹¹²International Commission on the Balkans, *The Balkans in Europe's Future* (accessed April 17, 1005); available from <http://www.balkan-commission.org/>.

General discontent among the stakeholders in Bosnia with their current conditions is present and evident. In fact, “During its visit to BiH the Venice Commission delegation was struck by the degree of interest in constitutional reform. It met with representatives of the major political parties, often at the highest level, with the Constitutional Commissions of the various parliaments, as well as with representatives of the Constitutional Court and civil society.”¹¹³ There is an interest on the ground among the stakeholders to get the process of constitutional change started and they ought to be provided with an opportunity to embark on this vital process.

The writing of the Bosnian Constitution was in the hands of political representatives and was conducted via secret, closed negotiations. On the contrary, in the future, “The public will have to be engaged because the change entails modifying ... a profound sense of what millions of people consider right, believe in and identify with.”¹¹⁴ Only by partaking in the design of the future state institutions through constitution making will the various individuals belonging to different groups be able to ensure that their group identity will not be threatened.¹¹⁵ Louis Aucoin and Michele Brandt put it nicely:

Through the civic education on constitutional issues and national dialogue, a constitution can help address the underlying causes of the conflict in the past, assist citizens to define a national identity and their aspirations as a people and a country for their future. Widespread public participation can lead to citizens deciding the values and principles

¹¹³ European Commission for Democracy through Law, Venice Commission, *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative* (accessed on April 17, 2005); available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).

¹¹⁴ Amitai Etzioni, “On Nationalism,” *Internationale Politik und Gesellschaft/International Politics and Society* 2 (2001): 145.

¹¹⁵ Etzioni, 146.

by which they wish to be governed and the structure of those governmental institutions. It is therefore vital that the process be designed to be as participatory, inclusive and representative as possible. It is only in this way that citizens can feel ownership over their future constitution and work to protect and promote constitutionalism.¹¹⁶

Therefore, it is important that individuals be able to identify their own culture and beliefs in the larger political framework of the state in ways that are understandable and meaningful for them; by the same token, the process of participation will reinforce the individuals as creators and carriers of the process and their future.¹¹⁷ What this means in Bosnia is that regardless of the constituent group one identifies with, or not, the process of participation is to be open to all citizens of or close to the voting age, irrespective of their group affiliations. The purpose of the process is to bring Bosnian citizens together as participants, as stakeholders, to express their values and visions for the future of the Bosnian state. This is intended to be an all inclusive process and the basic criteria for partaking and owning the process is being a citizen of Bosnia.

One additional stakeholder in this process is the international community which ought to provide the necessary assistance in order to generate constitutional changes in Bosnia, which will provide for a more stable and functional state, and, at the same time, make the exit strategy for the international community a realistic possibility. The international community has invested a considerable amount of financial and personnel resources in Bosnia; they have considerable stake in this process and in declaring their work a success. This process of constitution re-making in Bosnia is to consist of two phases, civic education followed by popular consultation.

¹¹⁶ Louis Aucoin and Michele Brandt, "East Timor's Constitutional Passage to Independence," *Constitution-Making, Peace Building and National Reconciliation*. (United States Institution of Peace Press, 2004.), 33.

¹¹⁷ Tamir, 585.

Civic Education through Civil Society

Civic education is a crucial component of successes of democratization projects in post-conflict areas. This is the initial stage of the transformation process and it is primarily intended for the population in Bosnia to acquire the knowledge about democratic practices and concepts, but more importantly, to begin to internalize the knowledge and practice of democracy. Ultimately, this is a process of changing the consciousness of the people away from the historical and present-day constraints, opening up the scope and space of political power, and broadening the notions of political identity. This ought not be a passive type of teaching and receiving of knowledge; this is an active process designed to give the local stakeholders in Bosnia a concrete “project” to work on, such as constitutional reform that will generate concrete results for which they are responsible and which will in turn affect the quality of their lives. The culture of dependency on the international community and political passivity has to end in Bosnia because it is not a viable or productive long-term solution. The funds and the interest of the international community are draining out of Bosnia, so is the potential for a membership to the EU.

Education is the beginning of the long process of transformation, and civil society is the most appropriate locus for organizing and executing this process with coordinating assistance from the international presence in Bosnia. Pridham notes succinctly what the general effects of this process will be. He writes that

education is likely to be a long-term influence on civil society for the

simple reason that it tends to promote critical and more independent-minded attitudes ... In general terms, education as well as social inequalities are recognized as having an important impact on the exercise of citizenship, with [education] making people more prone to political participating and to believing in a personal capacity to influence decisions and events.¹¹⁸

Education is a means to prepare the population for their responsibilities as citizens as well as empower them politically. The goal is to have a responsible and informed citizenry emerge from the process, therefore the “basic task of [education] is to prepare each new generation for their responsibilities as citizens.”¹¹⁹ Moreover, as Kymlicka insightfully writes, “Citizenship education is not just a matter of learning the basic facts about the institutions and procedures of political life; it also involves acquiring a range of dispositions, virtues, and loyalties that are intimately bound with the practice of democratic citizenship.”¹²⁰ In the post-conflict setting in Bosnia, education should aid the process of breaking down cultural barriers which encourage conflict. This goes along the lines of Fetherson’s discussion of creating opportunities for emancipatory social transformations away from the confines of the system that made the war possible. Current constitutional text in Bosnia codifies legacies of the war and further serves to empower those that benefit from such a system. Constitutional language only permits the main groups that were identified in the war to obtain political power. This basic human right is not granted to each and every citizen in Bosnia. This is a constrictive type of system in which power is associated with group identity; moreover, power is in the hands of the nationalistic political elite that is successful in appealing to the fears and insecurities still present among the citizenry in Bosnia. Cultural distinctiveness is inevitable in Bosnia,

¹¹⁸ Pridham, 240.

¹¹⁹ Kymlicka, 293.

¹²⁰ Kymlicka, 293.

and in almost every other society in the world, but such distinctiveness is dangerous when politicized and exercised in a way that discriminates, alienates and potentially leads to a violent conflict. This is why education is an important component of the transformative process because education should assist in breaking down cultural barriers which instigate conflict. This is also the beginning of depoliticizing conflicting identities as the population learns more about their international obligations and responsible political participation.

In this initial phase of the process, during civic education, there are several ideological barriers present in the consciousness of the citizenry in Bosnia that will have to be conquered. In terms of the design and execution of the transformation, the international actors ought to be mindful of these barriers. In general, people in Bosnia need to learn about a democratic way of life and what it means to be a responsible citizen and participant in a democracy. Considering the political history of Bosnia, it is understandable that the vast majority of the population does not know what democracy truly is in practice. Additionally, the citizenry needs to learn and internalize that the elected officials are responsible and accountable to them, the public. The days of Tito and the untouchable political elite are in the past. Today, in Bosnia the public has more control over its present and future than their political elite leads them to believe. However, there is still a conundrum because on one hand, democracy is liberating as it increases the freedom of choice regarding one's present and future, something that Bosnian citizens did not have in former Yugoslavia. On the other hand, it is less liberating because it requires effort, in that, democracy requires active, responsible participation, not passive embracing of the political will of the ambitious governing elite.

This is the key ideological component that has to change in the consciousness of people in Bosnia; they need to learn how to actively, responsibly participate in a democracy.

They need to broaden the space of political power. Through the process of civic education the newly acquired knowledge will empower the citizenry with the tools and skills necessary to conduct themselves as citizens of a functioning democratic state.

International assistance is crucial for civic education geared toward constitutional re-writing to take hold in Bosnia, both in terms of financial resources and expertise. In general, the approach in Bosnia will have to differ from those implemented in the past by democratizing sponsors and practitioners. Thus far, international assistance in civic education in transitioning countries was not as successful as the aid providers had hoped. The instant response of aid providers when it comes to civic education is to “set up civic education programs, in the belief that people can fairly rapidly be taught to understand democracy and that once they understand it they will embrace it and this will significantly advance democratization.”¹²¹ According to Carothers, from the past efforts of civic education assistance emerged one clear lesson, “short-term formal instruction on democracy that presents the subject as a set of general principles and processes generally had little effect on participants. Such information is too abstract and usually too removed from the daily lives of most people.”¹²² Therefore, in Bosnia an excellent starting point and a means to reduce abstractness and the negative connotation from the democratic processes in civic education is to gear it toward constitution re-writing. It is the constitutional focus that provides the population a concrete “project” to work on and an end product that they have before them as a goal. Additionally, one of the objectives of

¹²¹ Carothers, 232.

¹²² Carothers, 232.

this process is to make power and political processes accessible to the population, or as Fetherson puts it within the grasp of the people; therefore, the process of civic education itself must be accessible to the population in order for the knowledge to resonate with them and the democratic process to continue to function effectively.

In general, democracy is “delivered” in a way that does not resonate with the people in Bosnia. The population is disillusioned by the process and detached from it, because the language of it has not been adapted to the audience on the ground. Thus far, those that have seized democratic processes and made them work to their own personal advantage have been the politicians. Thus, as Carothers notes, the aid providers are “trying to sell the concept of democracy to many people who are disillusioned with the struggling democratic system they already have.”¹²³ He also states that for citizens of transitional states, the aid from abroad much like their state power structure is well beyond their reach. This is certainly the case in Bosnia, as many citizens feel disillusioned about the political scene in general, and about their ability to influence change, in particular. To that end, “Democracy promoters have a responsibility, still largely unmet, to help governments and citizens of transitional countries understand democracy aid and become more than passive recipients.”¹²⁴ Once again, providing the population of Bosnia an overarching objective to work toward their own constitutional changes, making them, and not solely the politicians, responsible for the process and the outcome will lessen the passivity. This means that the population’s general well being, and a prosperous future, as well as a state that is not in a violation of an international legal norm, is contingent upon each citizen of Bosnia of or nearing the voting age. This

¹²³ Carothers, 233.

¹²⁴ Carothers, 246-7.

will require structuring and expanding civic education programs in a way that communicates the responsibility to the participants. If they are ever to see the international community leave Bosnia, better economic and political conditions, and European Union membership, they will take their role as participants seriously. The successful example of South Africa can be highlighted for the participants as an additional motivating factor. Moreover, broader concepts and spheres of power will not emerge of their own accord. This is something that the population will have to define for themselves, however, with guidance from the international community.

As mentioned earlier, civil society is the locust of this transformation. In general, the process of transition to democracy and the establishment of competent governance are greatly assisted by the development of civil society. In fact, as Grzegorz Ekiert writes, the successful “transition to democracy is likely to occur in situations in which the powers of the state and civil society simultaneously expand.”¹²⁵ In a society emerging from conflict there will inevitably be multiple social groups and political interests. There needs to be an intermediate layer of governance, such as civil society, that separates the individual and the state which is able to resolve conflicts and regulate the behavior of citizens without public coercion. Additionally, as Pridham notes, “Civil society provides the source or basis for means whereby democratic values and attitudes are encouraged as well as for mechanisms through which power is restrained and monitored.”¹²⁶ Overall, civil society contributes to increasing the numbers of more informed and participatory citizenry who are more aware of other social groups, and more civic-minded, in that, they

¹²⁵ Grzegorz Ekiert, “Democratization Processes in East Central Europe: A Theoretical Reconsideration,” *British Journal of Political Science* 21, no. 3 (1991): 311.

¹²⁶ Pridham, 222.

are willing to contribute to the common good.¹²⁷ Logically speaking, in terms of transforming the notions of political power and creating an emancipated and broader political space away from wartime legacies, civil society is the most appropriate locus. This is a societal layer in between the official state government and the population. It is the layer which is accessible to the population and from which the citizenry is not disenfranchised.

Therefore, a way to reach out to the society and engage as much of the population as possible in civic education geared toward constitution making, is through various layers of civil society. Civil society does exist in Bosnia, however, all the potential elements that could fall under that rubric and participate in this process need to be identified as such, and as partners, and they have not been thus far. The definition of civil society needs to expand somewhat in the eyes of the international experts in Bosnia, at least in terms of targeting potential partners in the education/dialogue process of constitution making. In general, identifying and empowering existing civil society establishments is a better solution for Bosnia for the following reasons:

- The cost of empowering existing establishments is less than solely building ones from the ground up;
- The existing establishments will be more familiar to the people and they will resonate with them better which will also aid in removing abstractness from democratization assistance;
- This will save time, expedite the process and increase efficiency.

¹²⁷ Schmitter and Karl, 44.

The idea of labeling establishments as civil society that are not images of what Western notions of civil society are, may be difficult at first for the democratization sponsors and practitioners. However, facts speak for themselves that when Western democratic institutions have been imposed on divided, post-conflict societies they fail to function in such situations as they do in their sponsors' countries. It is not necessary to have the same type of civil society establishments in two different societies in order for their democracies to function so long as those establishments serve a similar purpose of essentially being the buffer zone between the population and the state. Civil society ultimately is the way a society organizes itself without being organized by the state. It is a way for the population to be politically empowered without directly having to participate in the decision making processes of the state government.

The “thickness” of civil society and its success in lessening effects of nationalism “is not measured by the extent of participation in politics or public affairs but by the richness of informal social norms and controls.”¹²⁸ There is a multitude of informal social controls and norms in Bosnia but the problem is that such informal networks have not grown to see themselves yet as democratizing partners, nor have they been identified yet as potential partners by the international agents. Craig Calhoun argues that “If society had such capacity, then ‘the people’ integrated in that society could be better seen as the source of political legitimacy rather than merely the object of the rule.”¹²⁹ The case with Bosnia is that the society nominally has such a capacity, but this capacity has not been recognized by the people themselves as their political legitimacy. This is where civic

¹²⁸ Etzioni, 149.

¹²⁹ Craig Calhoun, “Nationalism and Civil Society: Democracy, Diversity and Self-Determination,” in *Social Theory and the Politics of Identity*, ed. Craig Calhoun (Cambridge: Blackwell Publishers, 1994), 309.

education comes into play because not only will these elements be approached in the process, but they will, through learning and participating in constitutional changes, start recognizing themselves as that layer of society that qualifies as civil society and has political legitimacy. This enforces the premise of this study for broadening the political space and making it more accessible to a greater number of people in Bosnia.

Why is civil society a critical partner of the international community in this process? According to Calhoun, it is because “Civil society is the locus of diverse groups and individuals and more importantly of their contact with each other. ... if constitutions serve as a social contract between the citizens of a nation and their leaders, it is critical that the process be as participatory as possible.”¹³⁰ By extension, civil society provides a means of access to other identities which speaks to the accessibility component of the identity formation process, according to Graumann. Accessibility to other identities is essential in the depoliticizing of conflicting identities and transforming of the cultural and political discourse. Accessibility in Bosnia will mean working outside of the current power structure and involving citizen participation. Carothers rightfully notes that another mistake aid providers make is that they “have often chosen clients or allies with a vested interest in the status quo.”¹³¹ In Bosnia a contingent that is most interested in the status quo is the political elite. The current Constitution is a roadmap for nationalistic agenda in Bosnia as discussed earlier. The importance of constitution making and civic education in the future is to make the citizens involved and empower them to make the changes necessary for their improved future.

¹³⁰ Calhoun, 327.

¹³¹ Carothers, 171.

So far in their civil society assistance, aid providers have paid attention to advocacy NGOs because that is the civil society structure they are familiar with. The NGOs receiving assistance in general were focusing on sociopolitical issues such as election monitoring, civic education, parliamentary transparency, human rights, anticorruption, environment, media and women's rights. Additionally, the aid needs to reach well established social and socioeconomic organizations (churches, labor unions), cultural groups, sports clubs, business associations etc.¹³² In Bosnia an entire array of civil society needs to be targeted, not just such institutions that resonate with the Western sponsors and practitioners. In fact, if aid providers reflect back to the early stages of their own democracies, they would realize that their civil society at the time did not consist of NGOs and advocacy groups per se, but any which informal way people organized themselves. The case is similar in Bosnia, even though the territory has hundreds of years of history, it does not even have a decade of democracy. Therefore, those that ought to be targeted in the civic education process geared toward constitutional changes, are the local NGOs and advocacy groups because some have been established with aid assistance. These establishments are useful in particular for those individuals competent and eager to learn how to be trainers/educators in the civic education process. More importantly, labor unions, sports clubs, cultural clubs, activities clubs, student organizations, apartment building boards, and any rather informal ways that people organize themselves in Bosnia will be the target places for gathering the participants and engaging them in the process. In fact, the primary group are the labor unions because in Yugoslavia, Tito reached out to the workers and empowered them through labor unions, thus, people in Bosnia, especially older generations, already know how to organize themselves in such a way. An

¹³² Carothers, 210.

additional way international agents may be able to reach more of society is through local governments, city, county, etc. The major point about identifying civil society in Bosnia is to target them as partners in this process not as hired help, as one of the objectives is the empowerment of broader segments of society, and making power and politics more accessible and in control of the people.

One way of ensuring partnership with the locals is communicating to them and granting them responsibility in the process of civic education; and there is an even greater responsibility that comes with the process of being essentially a creator of a new constitution and, by extension, a renewed state. Therefore, part of the education process is informing the participants of the rules that ought to be followed according to international legal norms. One crucial component is respect for human rights. Benomar notes that it is crucial to “Make sure the constitution incorporates principles of universal human rights, including the rights to participation and democratic governance.”¹³³ The idea of civic education is “to teach citizens of democratizing countries basic values, knowledge, and skills relating to democracy, with the objective of those citizens understanding how democracy works, embracing democracy as a political ideal, and becoming participatory citizens.”¹³⁴ In addition to being students in the process the participants in Bosnia must see themselves as authors as well, and, as Jurgen Habermas points out, this does not give the participants a prerogative to make any decision they desire. Jurgen Habermas further writes

The legal guarantee to behave as one pleases within the bounds of the law is the core of private, not public, autonomy. Rather, on the basis of this freedom of choice, citizens are accorded autonomy in the sense of a *reasonable* will-formation, even if this autonomy can only

¹³³ Benomar, 90.

¹³⁴ Carothers, 231.

be enjoined ... and not legally required of them. They should bind their wills to just those laws they give themselves after achieving a common will through discourse. Correctly understood, the idea of self-legislation engenders an internal relation between will and reason in such a way that the freedom of everyone—that is, *self-legislation*—depends on the *equal* consideration of the individual freedom of each individual to take a yes/no position—that is, *self-legislation*. Under these conditions, only those laws that lie in the equal interest of each can meet with the reasonable agreement of all.¹³⁵

Put differently, part of civic education is to enlighten the population that democratic processes and the constitution making process are not endeavors in which group interests are to be advocated to the detriment of other groups or the common good. Benomar concurs that “The process should be a principled discussion about the future of the society and the state, and not a round of dickering over narrow interests.”¹³⁶ Therefore, in Bosnia, the participants are engaged in the process as Bosnian citizens, not as Bosniacs, Croats, Serbs or “others.” They are encouraged to bring forth their concerns and areas they would like to address in the constitution during the second phase of the process which is dialogues and consultation.

Consultation: Identifying a Common Vision for the Future

After the process of civic education has taken place what needs to follow is the process of dialogues and consultations in which the participants will express what they want their constitution to address and what type of state legal edifice they would like to have. Understandably, the process of consultation and generating of the constitutional recommendations will operate under the strict guidelines of international norms, one of

¹³⁵ Jurgen Habermas, “Constitutional Democracy: A Paradoxical Union of Contradictory Principles?,” *Political Theory* 29, no.6 (2001): 767-8.

¹³⁶ Benomar, 84.

which is the ICCPR that Bosnia currently violates; another is the EHCR. Consultation is the extension of the education process and it is also the process of redefining the cultural and political discourse which will broaden the concepts of political identity and power. This second stage also ought to incorporate as many stakeholders as possible. To that end, Calhoun rightfully notes that “Widespread consultations must be held with women and men, all groups and all ages to decide upon the values, principles, structures of government and rights and responsibilities that will govern their lives and their leaders.”¹³⁷ In Bosnia, the process of consultation will have to be formulated with a key guiding premise which is identifying the common vision for the future of the country. In addition, part of the process is redefining the ways in which people conceptualize their identity and what constitutes political identity. What is to be reflected in the constitutional text as a result of this process ought not to be discriminatory and divisive. This also entails identifying common civic identity which will be a challenge in Bosnia but not a detrimental impediment. An additional task is for the participants to determine what aspects of their collective identity ought to be politicized, i.e. what are cultural versus political matters; put differently, what constitutes political versus cultural discourse. Overall, the consultative process is the stage of the transformation where the participants will formulate their broader and re-conceptualized notions of power and identity. The purpose is to transform the democratic processes into a source of empowerment for the population.

Additionally, consultation will establish a greater legitimacy of state structures granted by all groups which is crucial for decision-making effectiveness and security. During the consultative stage what will take place in Bosnia is transformation of the

¹³⁷ Calhoun, 327.

political and cultural discourses in such a way that will depoliticize conflicting identities without making any of the groups feel threatened. To that end, it is important that certain features of a group find expression in the political sphere¹³⁸ for the purposes of identification with the state as well as realizing the commonalities with other groups and political concerns and issues common to all groups. Participants in Bosnia ought to be able to find understandable and meaningful imprints of their culture in the state ruling institutions which will facilitate participation in public affairs. Tamir further elaborates that “When one can identify one’s own culture in the political framework, when political institutions reflect familiar norms of behavior, traditions, and historical interpretations, one’s conception of oneself as a creator, or at least a carrier, of a valuable set of beliefs, is reinforced.”¹³⁹ Thus, state legal substance has to resonate with the citizenry in order for it to be legitimate, valued and supported.

To that end, part of the consultation process in Bosnia is for the individuals to express what constitutional content and state structure would resonate with them, keeping in mind applicable international legal instruments. The theoretical premise behind the consultative dialogues is to make the political power sphere broader and more accessible to the population in Bosnia, once again referring to Fetherson’s discussion of the necessity to transform the notion of power as domination, toward making it more in the grasp of the citizenry. Alan Branthwaite elaborates that

Institutional ideology is potentially the deepest individual attachment to the State, in which the citizen internalizes the ideology of the country and adopts these principles as just and worthy. This depends on the ideology being assimilated into an individual’s belief structure and not just parroted. The values and beliefs then become fundamental justifications

¹³⁸ Tamir, 583.

¹³⁹ Tamir, 585.

for a way of life.¹⁴⁰

In order for the state mechanisms to be legitimate and resonate with the citizenry, the participants need to convey the ways in which they would be able to identify with these mechanisms through the consultation phase of the process. Benomar concurs that the way to promote legitimacy is “by encouraging popular participation ... Public participation allows citizens to claim the constitution as their own.”¹⁴¹ Another democratic concept of transparency is linked to legitimacy. Transparency reinforces legitimacy and to that end, Hart writes that “The legitimacy of constitutional agreements at the end of the twentieth century depends upon openness in two senses: a process both open-ended and open to participation.”¹⁴² Therefore, the process of constitution making in Bosnia ought to be transparent because “Constitutions produced without transparency and adequate public participation will lack legitimacy.”¹⁴³ The consultation process in Bosnia will be open, in that, the process of dialogues and generating of suggestions will not be conducted in secrecy; but as the participants learn about important aspects of democracy such as transparency they will engage in such a practice themselves. Therefore, participants in Bosnia will know what to expect from their governmental representatives in terms of transparency by applying it themselves in the consultation process of constitution making. The participants need to begin to naturalize transparency as a given and uncompromising factor of democracy, thereby beginning to naturalize democracy itself.

¹⁴⁰ Alan Branthwaite, “The Psychological Basis of Independent Statehood,” in *States in a Changing World: A Contemporary Analysis*, eds. Robert H. Jackson and Alan James (Oxford: Clarendon Press, 1993), 62.

¹⁴¹ Benomar, 88.

¹⁴² Hart, 160.

¹⁴³ Benomar, 89.

Transforming and depoliticizing conflicting identities in Bosnia will not be an easy task, however, not an impossible one. Difficulties and obstacles are likely to be part of the transformation and depoliticizing of group identities and notions of power. Overall, the transformation process ought to happen under the premise of cultivating cultural pluralism and civic identity. However, cultural pluralism should not be perpetuated in a way that favors certain groups over others or in a way that poses a violation of certain international norms. Nor can cultural claim and protection be pursued in a way that is destructive to the state and other groups. Eide concurs, “States must become more permissive by allowing for cultural pluralism, whereby groups can maintain and develop their own identity, to the extent compatible with universal, individual human rights and with the legitimate interests of the State.”¹⁴⁴ He further notes that groups contain a “subjectively felt aspiration or an assertion with far-reaching political significance, with serious threats of discrimination and exclusion.”¹⁴⁵ That is why the author advocates a human rights approach in culturally plural societies which entails “efforts to ensure equality in the common domain with acceptance of diversity in the separate domains (those matters which are of concern only to members of specific religious, linguistic, ethnic or national groups).”¹⁴⁶ To that end, “In all matters of common concern, the principle of equality and nondiscrimination in the enjoyment of human rights must reign supreme.”¹⁴⁷ The task of the transformation

must be one of imagining institutions and vocabularies that will affirm multiplicity while cultivating solidarity, a task that seems to demand reconciling seemingly irreconcilable commitments. A society that

¹⁴⁴ Eide, 140.

¹⁴⁵ Eide, 142.

¹⁴⁶ Eide, 161.

¹⁴⁷ Eide, 162.

acknowledges the fact of pluralism (and its normative desirability) without providing the institutional means through which the ethic of reciprocal empathy, respect, and inclusiveness are cultivated is a society which at best allows minorities to be tolerated as marginal.¹⁴⁸

Therefore, pluralistic solidarity ought to “cultivate and reconcile two important principles that must define every multiethnic and multicultural nation-state: pluralism and solidarity.”¹⁴⁹ Addis argues that pluralistic solidarity depends on the existence of institutions that encourage fair moral compromises. He poses two conditions for such compromises to exist, “First, there is a dialogue process that will link all groups and traditions in a continuous network of communication. Second, the communicative process recognizes and takes into account the existence of political and social inequalities among groups.”¹⁵⁰ Consequently, communication and accessibility to various groups is crucial to individual’s identity formation. However, in terms of communication, institutions are the key because “A genuine sense of shared identity, social integration, in multicultural and multiethnic societies will develop only through a process where [the groups] are linked by institutional dialogue. Shared identity, like justice itself, is defined discursively.”¹⁵¹ This also goes back to the discussion of availability, accessibility and communication in catering to individuals’ identity formation and influencing a positive, unifying, and sustainable way of subjective social processes. Therefore, autonomous cultural institutions and equality of all groups in a state needs to be enshrined by a shared, civic identity.

¹⁴⁸ Addis, 126.

¹⁴⁹ Addis, 126.

¹⁵⁰ Addis, 142.

¹⁵¹ Addis, 128.

In fact, during the consultative process, the participants in Bosnia will have to define for themselves, and constitutionally, their shared, civic identity, their Bosnian citizenship. For some individuals, shared identity comes from common history, language, and perhaps religion. However, in a multinational state shared identity seems to stem from historical achievements, a strong sense of civic political identity which is reinforced in the citizenship education.¹⁵² Bosnia's population naturally still carries grievances from the war, and thus far, they have not had an opportunity to define their shared identity in a meaningful way. However, as Addis rightfully points out, "Without some sense of solidarity among the various communities in a polity, it will be difficult for a political community to sustain itself over a period of time while remaining democratic."¹⁵³ Ironically, the easiest identity to assign to the population in Bosnia is based on their citizenship. However, that identity has to be meaningful to its holders, and today, the most meaningful identities in Bosnia are constituent group identities. Those categorized as others do not have a political or legal option to identify themselves in any meaningful way at all.

An important component of the task is for various groups to feel a common sense of loyalty to the Bosnian state, if the state becomes responsible and provide its citizens with the identity protections they require. Without a sense of unity among the various groups in Bosnia it will be difficult to maintain its territorial integrity and overall peace as well as equality of all groups. In order for the population in Bosnia to even reach that stage, the civic identity itself has to be made available to its citizens. It has to become a legal and political identity enshrined in the state constitution. In Bosnia today, identities

¹⁵² Kymlicka, 187-89.

¹⁵³ Addis, 142.

available to the population are Bosniac, Serb and Croat. Bosnian identity, or any other for that matter, as an available option does not exist in the language, in political practice, in legal documents, and in every day life. How many elements of the society are left out the political processes as a result of this constricting political and legal framework? What of individuals that cannot identify as either of the three due to a completely different heritage or being a product of a mixed marriage? What of those that simply do not want to be placed into one identity only but feel affiliations with other groups or regions in Bosnia? The mere option to identify oneself in a meaningful way as Bosnian, in the way of civic identity, does not exist in BiH. This is exceptionally constricting and disempowering for all individuals who cannot or do not want to fall into one of the three available options. Their right to all aspects of political participation is denied to them by the existing legal structure.

Bosnia must undertake the rewriting of the Constitution in a way that expands identity options for the population, which is consequently the way that will remedy Bosnia's violation of the International Covenant on Civil and Political Rights. Put differently, instead of specifying identities of individuals that can be politically effective in the state as decision makers, the Constitution ought to read "the citizens of Bosnia and Herzegovina" can run for office and have equal access to public service. This change would offer one common identity to all of Bosnia's population, thus, giving individuals more freedom of political participation. This would also allow the inclusion of all those elements of society that were left out of the political processes since 1996. Introducing one identity into the Constitution would not restrict individuals the way the current Constitution does. Ironically, one legalized common, civic identity would open up more

of a space for equality and less discrimination among all of Bosnia's peoples. Availability and codification of Bosnian civic identity would increase accessibility of the political sphere to more individuals and in a more egalitarian way than the case is today.

In addition, it is understandable that a person's identity is characterized in various and, at times, conflicting ways. Identification is recognition of sameness with one and difference with others. Sameness and difference are psychological terms not physical. To that end Graumann notes that "we subjectively posit identity – continuity – where objectively (e.g. in terms of physical science) non-identity – discontinuity – prevails."¹⁵⁴ Put differently, sameness with one's own collective and differentiation from the other will be exaggerated through subjective social processes to the point where the obvious points of sameness with the other will be ignored. For example, in Bosnia more often than not one cannot tell a difference physically, linguistically or otherwise between a Bosniac, Croat or a Serb. There are, in particular, Bosniac women who wear easily identifiable Muslim clothing, in which case one can easily label them. The sameness which is repeatedly ignored among nationalists in Bosnia is the sameness in cuisine, regional dialects, cultural practices, daily living patterns, music etc. In terms of every day behavior in Bosnia there are more similarities than differences between people. However, what are emphasized are the differences which are primarily religious and which have been nationalized so that language and education have been made part of the differentiating factors.

Sameness and differences among us are perceived by us and are a result of the processes of socialization. In a post-conflict scenario our subjective, and leading criteria, has led us to ignore the sameness among members of different groups, and to an extent

¹⁵⁴ Graumann, 310.

this is justified in the immediate aftermath of the conflict if one takes into consideration atrocities committed such as during the conflict in Bosnia. However, as further socialization takes place, as well as state rebuilding and restructuring in Bosnia in particular, it is important to steer the mechanisms of socialization in legal documents, such as a state constitution, toward perceiving the elements of sameness among all people on a state level such as everyone's need for security, economic prosperity, better education, improved healthcare, not just nominal but actually applicable and exercised rule of law, and so on. Regardless of group identity these basic needs, i.e. points of sameness, are common to all people in Bosnia. Just as subjective social processes can work to accentuate differences in Bosnia, alternatively designed and executed subjective social processes can also work to emphasize sameness.

In order to reach the points of commonality between different groups in Bosnia a certain amount of responsibility toward the other will have to be exercised by all participants. Democracy is not a zero-sum game, it takes a certain amount of competition but also accommodation and compromise, as does the process of consultation. Will Kymlicka writes that "if there is a viable way to promote a sense of solidarity and common purpose in a multinational state, it will involve accommodating, rather than subordinating, national identities."¹⁵⁵ One factor that may help facilitate the process and make accommodation a reality is that it needs to be underlined by the respect for guiding international norms. On one hand, this means that the culture of political participation needs to be fostered among all citizens because democracy depends on the qualities and

¹⁵⁵ Will Kymlicka, *Multicultural Citizenship: A Theory of Minority Rights* (Oxford: Clarendon Press, 1995), 189.

attitudes of its citizens.¹⁵⁶ The burden of civic responsibility has at least two aspects; “It means (1) participating in a way that does not improperly diminish the prospects for peace or the prospect that the inhabitants will in fact come to terms and set up necessary frameworks. And it means (2) participating in a way that plays proper attention to the interests, wishes, and opinions of all the inhabitants of the country.”¹⁵⁷ On the other hands, what that means is equality for all, regardless of group identities. Thomas Pogge further points out that the idea of treating all citizens as equals

claims authority not in our private lives, but only where we, as citizens, participate in the design of policies, laws, and social institutions. It does not demand that all persons and groups should be equally important to me, that I should value them equally. It demands only that, in the political domain, I should recognize them as of equal intrinsic importance or value, as having an equal claim to respect and support from society at large.¹⁵⁸

Most importantly the participants need to identify what is of common concern to them all and what needs to be codified in their state constitution, and in such matters the principle of equality applies.¹⁵⁹ In terms of a consultation phase in Bosnia, the participants will have an opportunity to identify common points that ought to be codified in the constitution and the process will entail not only dialogue but also compromise and accommodation.

One of the reasons why one should not be skeptical about the possibility of people in Bosnia finding common ground during the consultation phase is because dialogue is supposed to lead to what Addis calls practical rationality by supplying: “fuller

¹⁵⁶ Will Kymlicka and Wayne Norman, “Return of the Citizen: A Survey of Recent Work on Citizenship Theory,” *Ethics* 104, no. 2 (1994): 352.

¹⁵⁷ Waldron, 155.

¹⁵⁸ Thomas W. Pogge, “Group Rights and Ethnicity,” in *Ethnicity and Group Rights*, eds. Ian Shapiro and Will Kymlicka (New York: New York University Press, 1997), 188-9.

¹⁵⁹ Eide, 162.

information, a degree of impartiality, and critical reflection on and conceptual clarity about the nature and order of the interest that are both common to and divide the various communities.”¹⁶⁰ The process of constitution making in Bosnia is about building significant relationships between citizens across the identity divide as well. The more information the participants have about each other’s interests, and the more aware they are of guiding principles of the process (which they obtained from the education phase), the more likely they are to utilize the shared process to identify common points of interest. As Habermas writes, “The unifying bond thus consists of the *shared* practice to which we have recourse when we endeavor to arrive at a rational understanding of the text of the constitution.”¹⁶¹ Additionally, what is important is “providing a substantive (as distinct from merely procedural) and considerable set of values as well as social bonds that encompass significant relations rather than trivial ones.”¹⁶² Therefore, a successful multinational state and social unity depend on shared political values expressed through the shared process of constitution making.

The significance of the constitution making process, and consultation, in particular, is that the participants engage in a shared process while generating a shared vision for the future and reinforcing their shared, civic identity. Thus, not only are the common identity and future vision major premises in this undertaking but the process is also shared. One way of forming meaningful shared practice is through a meaningful dialogue. In terms of identity formation, dialogue, a.k.a. communication, is the third component which influences identity formation according to Graumann. Furthermore, as Benomar points out, “National dialogue and civic education can address underlying

¹⁶⁰ Addis, 136.

¹⁶¹ Habermas, 775.

¹⁶² Etzioni, 149.

causes of conflict and help citizens to define a national identity and a shared vision for the future.”¹⁶³ In addition, Addis argues that “A genuine sense of shared identity, social integration, in multicultural and multiethnic societies will develop only through a process where [the groups] are linked by institutional dialogue. Shared identity ... is defined discursively.”¹⁶⁴ In the consultative phase, the participants will engage in a dialogue involving various groups in Bosnia with the objective of finding commonalities that can be representative of them all on a state level. This is a process of redefining political identity. This is also a process of separation of polity and society which is something that Singer deems important in the process of depoliticizing identities. To that end, Addis rightfully notes, “a dialogue is likely to make the various groups aware of the things that are common to them.”¹⁶⁵ Therefore, the process itself ought to have unifying effects in Bosnia.

¹⁶³ Benomar, 88.

¹⁶⁴ Addis, 128.

¹⁶⁵ Addis, 135.

Conclusion

Bosnia is in grave need of a new constitution, one that will not place the state in violation of international legal norms, one that will provide protections for all citizens, one that will empower politically the civic identity, and one that will open up the political space to all citizens of Bosnia irrespective of their group affiliation. It is crucial that the population in Bosnia be part of the constitution re-writing process for two principal reasons. One, they did not have an opportunity to partake in the creation of the current Constitution in Dayton. Two, this is an excellent opportunity to bring the citizenry together to work on one vital project in a way that will have unifying effects on the state as a whole. Additionally, the constitutional re-making process will bring about transformed political and economic spaces away from wartime legacies still present. Therefore, what needs to take place in Bosnia first is civic education, and, more specifically, education about constitution making. This ought to take place through recognizable and less recognizable civil society establishments. Then, the population needs to engage in a consultative role and express their common vision of the Bosnian state and what they would like to see addressed in their constitution. The second phase of dialogues and consultation also ought to define the civic identity in a politically meaningful way. In general, the population needs to become empowered by realizing that they have a stake and responsibility in the process of making democracy work in Bosnia, otherwise membership to the EU and progress in general will be indefinitely postponed. The necessary changes need to primarily be an internal endeavor; however, the international agents are there to provide guidance, coordination, resources and expertise.

The task ahead is a difficult one, but one that promises sustainable peace. Depoliticizing group identities in the context of democratization is a way to ensure that the post-transitional democratic governance functions properly. If democracy comes as standard practice in conflict resolution, and is viewed as the best tool for conflict management, then modes of transition need to be revised in the context of identity conflicts. The model depoliticizing conflicting identities focuses on transforming cultural and political discourses with an objective to re-conceptualize and broaden notions of political identity and power, thereby making power and political processes within the grasp of the population.

Bibliography

- Addis, Adeno. "On Human Diversity and the Limits of Toleration." In *Ethnicity and Group Rights*, eds. Ian Shapiro and Will Kymlicka. New York: New York University Press, 1997.
- Aucoin, Louis. "Constitution-making, Peace Building, and National Reconciliation." *Draft of a Special Report for the United States Institute of Peace*.
- Aucoin, Louis and Michele Brandt. "East Timor's Constitutional Passage to Independence." *Constitution-Making, Peace Building and National Reconciliation*. (A United States Institution of Peace Press publication, forthcoming, 2004.)
- Barnes, Samuel. "The Contribution of Democracy to Rebuilding Postconflict Societies." *The American Journal of International Law* 95, no. 1 (2001): 86-101.
- Bastian, Sunsil and Robin Luckham. "Can Democracy Be Designed?," In *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-torn Societies*, eds. Sunsil Bastian and Robin Luckham. London: Zed Books Ltd, 2003.
- Belloni, Roberto. "Civil Society and Peacebuilding in Bosnia and Herzegovina." *Journal of Peace Research* 38, no. 2 (2001): 163-180.
- Benomar, Jamal. "Constitution Making After Conflict: Lessons for Iraq." *Journal of Democracy* 15, no.2 (2004): 81-95.
- Bertsch, Gary. *Nation-Building in Yugoslavia: A Study of Political Integration and Attitudinal Consensus*. Beverly Hills: Sage Publications, 1971.
- Boyce, James. "Aid Conditionality as a Tool for Peacebuilding: Opportunities and Constraints." *Development and Change* 33, no. 5 (2002): 1025-1048.
- Branthwaite, Alan. "The Psychological Basis of Independent Statehood." In *States in a Changing World: A Contemporary Analysis*, eds. Robert H. Jackson and Alan James. Oxford: Clarendon Press, 1993.
- Brinkerhoff, Derick and Benjamin Crosby. *Managing Policy Reform: Concepts and Tools for Decision-Makers in Developing and Transitioning Countries*. Bloomfield: Kumarian Press, 2002.

- Calhoun, Craig. "Nationalism and Civil Society: Democracy, Diversity and Self-Determination." In *Social Theory and the Politics of Identity*, ed. Craig Calhoun. Cambridge: Blackwell Publishers, 1994.
- Calhoun, Craig. "Social Theory and the Politics of Identity." In *Social Theory and the Politics of Identity*, ed. Craig Calhoun. Cambridge: Blackwell Publishers, 1994.
- Carothers, Thomas. *Aiding Democracy Abroad: The Learning Curve*. Washington, DC: Carnegie Endowment for International Peace, 1999.
- Cobban, Alfred. *The Nation State and National Self-Determination*. New York: Thomas T. Crowell Company, 1969.
- Cohen, Leonard. "Whose Bosnia? The Politics of Nation Building." *Current History* 97, (1998): 103-112.
- David, Charles-Philippe. "Alice in Wonderland Meets Frankenstein: Constructivism, Realism and Peacebuilding in Bosnia." *Contemporary Security Policy* 22, no. 1 (2001): 1-30.
- The Dayton Peace Agreement*. Accessed November 25, 2003. Available from http://www.ohr.int/dpa/default.asp?content_id=372.
- Diamond, Larry. "The Paradoxes of Democracy." In *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner. Baltimore: Johns Hopkins University Press, 1993.
- Diamond, Larry and Marc Plattner. "Introduction." In *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner. Baltimore: Johns Hopkins University Press, 1993.
- Donnelly, Daniel K. "States and Substates in a Free World: a Proposed General Theory of National Self-Determination." *Nationalism and Ethnic Politics* 2, no.2 (1996): 286-311.
- Doyle, Michael and Nicholas Sambanis. "International Peacekeeping: A Theoretical and Quantitative Analysis." *The American Political Science Review* 94, no. 4 (2000): 779-801.
- Eide, Asbjorn. "In Search of Constructive Alternatives to Secession." In *Modern Law of Self-Determination*, ed. Christian Tomuschat. Dordrecht: Martinus Nijhoff Publishers, 1993.
- Ekiert, Grzegorz. "Democratization Processes in East Central Europe: A Theoretical Reconsideration." *British Journal of Political Science* 21, no. 3 (1991): 285-313.

- Etzioni, Amitai. "On Nationalism." *Internationale Politik und Gesellschaft/International Politics and Society* 2 (2001): 144-153
- European Commission for Democracy through Law, Venice Commission. *Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative*. Accessed on April 17, 2005. Available from [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.asp](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.asp).
- European Convention on Human Rights*. Accessed on April 17, 2005. Available from <http://www.echr.coe.int/Convention/webConvenENG.pdf>.
- European Stability Initiative. *Making Federalism Work – A Radical Proposal for Practical Reform*, January 8, 2004. Accessed April 17, 2005. Available from http://www.esiweb.org/pdf/esi_document_id_48.pdf.
- Fetherston, A.B. "Peacekeeping, Conflict Resolution and Peacebuilding: A Reconsideration of Theoretical Frameworks." *International Peacekeeping* 7, no 1. (2000): 190-218.
- Freeman, Michael. "National Self-Determination: Peace and Human Rights." *Peace Review* 10, no.2 (1998): 157-163.
- Freeman, Michael. "The right to self-determination in international politics: six theories in search of a policy." *Review of International Studies* 25 (1999): 355-370
- Going Beyond Dayton – Council of Europe Venice Commission's opinion on Bosnia and Herzegovina constitution*. Accessed April, 17, 2005. Available from [http://press.coe.int/cp/2005/128a\(2005\).htm](http://press.coe.int/cp/2005/128a(2005).htm).
- Graumann, Carl F. "On multiple identities." *International Social Science Journal* 35, no.2 (1983): 309.
- Habermas, Jurgen. "Constitutional Democracy: A Paradoxical Union of Contradictory Principles?" *Political Theory* 29, no.6 (2001): 766-781.
- Hart, Vivien, "Constitution Making and the Transformation of Conflict." *Peace and Change* 26, no.2 (2001): 153-176.
- Hartzell, Caroline. "Explaining the Stability of Negotiated Settlements to Intrastate Wars." *The Journal of Conflict Resolution* 43, no. 1 (1999): 3-22.
- Horowitz, Donald L. "Self-Determination: Politics, Philosophy and Law." *Nomos* 39 (1997): 441-463
- Huntington, Samuel. "How Countries Democratize." *Political Science Quarterly* 106, no. 4 (1991-1992): 579-616.

- International Commission on the Balkans. *The Balkans in Europe's Future*. Accessed April 17, 2005. Available from <http://www.balkan-commission.org/>.
- International Covenant on Civil and Political Rights*. Accessed November 12, 2004. Available from http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.
- Kaldor, Mary and Ivan Vjevoda. "Democratization in Central and Eastern European Countries." *International Affairs* 73, no. 1 (1997): 59-82.
- Kaldor, Mary and Robin Luckham. "Global Transformations and New Conflicts." *IDS Bulletin* 32, no. 2 (2001): 48-69.
- Kymlicka, Will. *Multicultural Citizenship: A Theory of Minority Rights*. Oxford: Clarendon Press, 1995.
- Kymlicka, Will. *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*. Oxford: Oxford University Press, 2001.
- Kymlicka, Will and Wayne Norman. "Citizenship in Culturally Diverse Societies: Issues, Contexts, Concepts." In *Citizenship in Diverse Societies*, eds. Will Kymlicka and Wayne Norman. Oxford: Oxford University Press, 2000.
- Kymlicka, Will and Wayne Norman. "Return of the Citizen: A Survey of Recent Work on Citizenship Theory." *Ethics* 104, no. 2 (1994): 352-381.
- Last, David. "Organizing for Effective Peacebuilding." *International Peacekeeping* 7, no.1 (2000): 80-96.
- Lijphart, Arend. "Consociational Democracy." *World Politics* 21, no. 2 (1969): 207-225.
- Lijphart, Arend. "Constitutional Choices for New Democracies." In *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner. Baltimore: Johns Hopkins University Press, 1993.
- Luckham, Robin, Anne Marie Goetz and Mary Kaldor. "Democratic Institutions and Democratic Politics." In *Can Democracy Be Designed? The Politics of Institutional Choice in Conflict-torn Societies*, eds. Sunil Bastian and Robin Luckham. London: Zed Books Ltd, 2003).
- Magas, Branka. "On Bosnianness." *Nations and Nationalism* 9, no.1 (2003): 19-23.
- Margalit, Avishai and Joseph Raz. "National Self-Determination." *The Journal of Philosophy* 87, no.9 (1990): 439-461.
- Moshe, Merav. "Peace building: a conceptual framework." *International Journal of Social Welfare* 10, (2003): 14-26.

- Munck, Gerardo and Carol Skalnik Leff. "Modes of Transition and Democratization: South American and Eastern Europe in Comparative Perspective." *Comparative Politics* 29, no. 3 (1997): 343-362.
- Murswiek, Dietrich. "The Issue of a Right of Secession – Reconsidered." In *Modern Law of Self-Determination*, ed. Christian Tomuschat. Dordrecht: Martinus Nijhoff Publishers, 1993.
- Ottaway, Marina. "Democratization in Collapsed States." In *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, ed. William Zartman. Boulder: Lynne Reinner Publishers, 1995.
- Ottaway, Marina. "Nation Building." *Foreign Policy* 132, (2002): 16-23.
- Ottaway, Marina. "Rebuilding State Institutions in Collapsed States." *Development and Change* 33, no. 5 (2002): 1001-1023.
- Paris, Roland. "Peacebuilding and the Limits of Liberal Internationalism." *International Security* 22, no. 2 (1997): 54-89.
- Pogge, Thomas W. "Group Rights and Ethnicity." In *Ethnicity and Group Rights*, eds. Ian Shapiro and Will Kymlicka. New York: New York University Press, 1997.
- Pridham, Geoffrey. *The Dynamics of Democratization*. London: Continuum, 2000.
- Pugh, Michael. "Postwar Political Economy in Bosnia and Herzegovina: The Spoils of Peace." *Global Governance* 8, (2002): 467-482.
- Pugh, Michael and Margaret Cobble. "Non-Nationalist Voting in Bosnian Municipal Elections: Implications for Democracy and Peacebuilding." *Journal of Peace Research* 38, no. 1 (2002): 27-47.
- Rustow, Dankwart. "Transitions to Democracy: Toward a Dynamic Model." *Comparative Politics* 2, no. 3 (1970): 337-363.
- Schmitter, Phillippe. "Three Neo-Functional Hypotheses about International Integration." *International Organization* 23, no. 1 (1969): 161-166.
- Schmitter, Philippe and Terry Lynn Karl. "What Democracy Is ... And Is Not." In *The Global Resurgence of Democracy*, eds. Larry Diamond and Marc Plattner. Baltimore: The Johns Hopkins University Press, 1993.
- Singer, Brian. "Cultural versus Contractual Nations: Rethinking Their Opposition." *History and Theory* 35, no.3 (1996): 309-337.

- Sisk, Timothy D. "Negotiating Democracy in South Africa: Conclusions of Constitution-Making as Conflict Management." Prepared for *United States Institute of Peace Rule of Law Program* (2004).
- Sisk, Timothy. *Power Sharing and International Mediation in Ethnic Conflicts*. Washington, DC: United States Institute of Peace, 1996.
- Slattery, Brian. "The Paradoxes of National Self-Determination." *Osgoode Hall Law Journal* 32, no.4 (1994): 703-733.
- Staub, Ervin. "Individual and Group Identities in Genocide and Mass Killing." In *Social Identity, Intergroup Conflict, and Conflict Reduction*, eds. Richard Ashmore, Lee Jussim and David Wilder. Oxford: Oxford University Press, 2001.
- Talentino, Andrea Kathryn. "Intervention as Nation-Building: Illusion or Possibility?" *Security Dialogue* 33, no. 1 (2002): 27-43.
- Tamir, Yael. "The Right to National Self-Determination." *Social Research* 58, no.3 (1991): 565.
- The text of the *Bosnian Constitution*. Accessed November 11, 2004. Available from http://www.ohr.int/dpa/default.asp?content_id=372.
- Tomuschat, Christian. "Self-Determination in a Post-Colonial World." In *Modern Law of Self-Determination*, ed. Christian Tomuschat. Dordrecht: Martinus Nijhoff Publishers, 1993.
- Waldron, Jeremy. "Cultural Identity and Civic Responsibility." In *Citizenship in Diverse Societies*, eds. Will Kymlicka and Wayne Norman. Oxford: Oxford University Press, 2000.
- Warren, Mark. "What Should We Expect from More Democracy?: Radically Democratic Responses to Politics." *Political Theory* 24, no. 2 (1996): 241-270.
- Welsh, Helga. "Political Transition Processes in Central and Eastern Europe." *Comparative Politics* 26, no. 4 (1994): 379-394.
- Wilton Park Conference. *Recommendations*. Accessed April 17, 2005. Available from http://www.esiweb.org/pdf/esi_document_id_56.pdf.