

Chapter Fifteen

Glass Ceilings and Constitutional Barriers: Challenges to Effective Political Participation by Women and Others in Bosnia and Herzegovina

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The participants in the November 2013 “Mediterranean Women in Leadership and Civil Society Conference” organized in Sarajevo did not have an inkling of the social protests that would hit Bosnia and Herzegovina (BiH) in early 2014. While a number of the BiH participants spoke openly and eloquently of the social, political and economic problems facing the country, the situation has in fact been deteriorating for years, with observers often asking how much worse the environment could get before something broke.² Some observers think that the events of February and the still unfolding aftermath could signal that breaking point; others see it as the latest in a line of short-lived bursts of civic activism that then recede with little substantial reform to show as a success; still others fret that the activity seems to be mostly limited to the Federation (and Brcko) leaving the RS relatively calm, suggesting once again the divided nature of the state.

At the time of this writing,³ it is too soon to see how the situation could develop, which civic actions will flourish or disintegrate, or how decision-makers (BiH and international) might adjust their own

¹The author would like to thank Lana Ackar, Kurt Bassuener, Helene Mastowski and Roska Vrgova for comments and suggestions. All opinions and any errors are those of the author alone.

²For background, see for example: “EU Policies Boomerang: Bosnia and Herzegovina’s Social Unrest,” by Kurt Bassuener and Bodo Weber. *Democratization Policy Council Policy Note*, February 14, 2014, available at <http://democratizationpolicy.org/eu-policies-boomerang-bosnia-and-herzegovina-s-social-unrest>; “Elite Driven Reform Will Not Save Bosnia,” by Valery Perry, *Balkan Insight*, February 11, 2014, available at <http://www.balkaninsight.com/en/article/elite-driven-reform-will-not-save-bosnia>; “Bosnia Needs the Right Strategy for Change,” by Raluca Raduta, *Balkan Insight*, February 25, 2014, available at <http://www.balkaninsight.com/en/article/bosnia-needs-the-right-strategy-for-change>.

³This document was drafted in mid-March 2014.

policies towards BiH in the wake of the visible and widespread manifestations of dissatisfaction. However, the unfolding situation does again provide an opportunity to highlight the core dysfunction of the post-war BiH system, and the Potemkin nature of its democracy.

In remarks made at the conference, this author noted that many of the structural, social and political obstacles minimizing and marginalizing women as full and leading actors in BiH are related to the core nature of the post-war, post-Dayton state. It is not difficult to understand why a country built upon a structure negotiated among the leaders of the formerly warring parties, with no women at the negotiating table, no civic approval or even discussion, and no subsequent parliamentary adoption, would be minimally friendly to, or welcoming for, women. In fact, as ultimately shown by the Sejdic-Finci case, the Dayton system which enshrined ethno-national principles at the core of the post-war state is at heart reactionary, putting presumed group interests above individual interests, ethnic prerogatives over civic prerogatives, and, as we have seen, political party concerns over citizen concerns.

This short contribution summarizes some of the issues that shape and constrain women's engagement in political and civic life, and which more broadly affect full citizen involvement. A brief review of post-war gender promotion efforts is followed by some highlights on civic activity in BiH generally. This is followed by a short review of top-down and bottom-up constitutional reform efforts. The concluding thoughts reflect on whether the system as it stands today is structurally capable of sustaining accountable, representative government for all citizens, including women and other oft-marginalized citizens (national minorities, demographic minorities, etc.) Can any set of laws or constitutional provisions overcome basic deficiencies in the rule of law and good governance? Can an electoral system built along ethnically gerrymandered election units encourage real accountability between the governing and the governed? Can political parties with little demonstrated internal democratic practice evolve in order to more effectively respond to the practical concerns of citizens? Thorough examination of each issue noted is impossible in the scope of this piece, but noted examples are indicative.

The evidence at hand is worrying, and it is fair to wonder how long BiH can muddle along, a frozen conflict characterized by existing and

potential segment states, often characterized more as an oligarchy than a democracy.⁴ However, if there is the will to re-examine the internal and external incentives for political reform vs. political stagnation or regression, then it would be possible to reimagine a structure that could provide for a more hopeful future.

The Political Glass Ceiling: Women in Post-Dayton BiH Politics

Women in post-Dayton BiH have been negatively affected by both the post-war transition, as well as the post-Cold War economic transition. Bosnia's history in terms of voting rights for women falls in between New Zealand first granting women the franchise in 1893, and Switzerland's near complete suffrage granted in 1971 (with one canton holding out until 1990). Women in Bosnia and Herzegovina gained the right to vote in 1945, and a quota system in Yugoslavia ensured that 30 percent of the delegates of regional and federal governments were women.⁵ Over the next several decades, this led to more representation; in 1986, women made up 24.1 percent of the Assembly of the Republic of BiH, and 17.3 percent of municipal assembly mandates.⁶ However, unlike the republics of Croatia and Serbia, Bosnia never experienced a feminist movement, and some point out that these numbers reflected *class*-consciousness rather than *gender*-consciousness, as gains for women were "understood only as a part of the emancipation of the working class, and most of the economic and social rights of women were connected to their status as workers."⁷

⁴Perry, Valery. "A 'Segment State' Vision of the Future of Bosnia and Herzegovina?" *Transconflict*. February 10, 2014, available at <http://www.transconflict.com/2014/02/segment-state-vision-future-bosnia-herzegovina-102/>

⁵Lithander, Anna (ed.). *Engendering the Peace Process: A Gender Approach to Dayton—and Beyond*. The Kvinna till Kvinna Foundation, 2000, p. 17, available at <http://kvinnatillkvinna.se/en/files/qbank/55b37c5c270e5d84c793e486d798c01d.pdf>

⁶*Women's Representation in Elections in Bosnia and Herzegovina: A Statistical Overview, 1986, 1990, 1996, 1997*. OSCE Democratization Branch, Political Party Development Program, January 1998. As cited in "A National NGO Report on Women's Human Rights in Bosnia and Herzegovina," International Human Rights Law Group BiH Project, May 1999, p. 181.

⁷Lithander, p. 17.

While the Dayton Agreement was the first major peace agreement adopted after the September 1995 World Conference on Women held in Beijing, the November Dayton negotiations definitely reflected the old way of doing business, and was at best gender neutral.⁸ Perhaps because of the inherent dominant *realpolitik* of the constitutional development process and the constitution itself, or perhaps in a subsequent attempt to try to mitigate the results of the framework put into place at Dayton, there have been repeated—often remedial—efforts by external actors (donors, international organizations, etc.) to support and promote increased involvement by women in political life. For example, in 1998 the OSCE’s Provisional Election Commission’s *Rules and Regulations* required that at least 30 percent of candidates be women.⁹ While admittedly just a first step, there were two key criticisms of this quota system approach. First, it applied only to the candidate list, and not to the number of women to actually *receive* mandates. Second, it would apply only to legislative positions, and not to executive positions.

In addition to attempts at structural reforms to increase gender balance in politics, institutional approaches were introduced. Gender Centers (one in the Federation and one in the RS) were established in the spring of 2000, with a mandate to monitor and encourage gender awareness and representation.¹⁰ On March 5, 2003, the *Act on Gender Equality in Bosnia and Herzegovina* was adopted by the BiH parliament, with the stated aim of improving “equality between women and men, to ensure equal participation of women in all spheres of life and to prevent discrimination on the basis of sex.”¹¹ Amendments were later made in 2009, including amendments providing for a minimum of 40 percent of the “under-represented gender,” in line with Council of Europe recommendations.¹² Also in 2009, the country adopted an

⁸See Lithander for a thorough analysis of this issue.

⁹The OSCE was the primary international organization responsible for elections in BiH. The October 2002 elections were the first to be organized and administered completely by the BiH authorities.

¹⁰As noted in the Regulation on the Establishment of the Gender Center of the Federation of BiH, and the Regulation on the Establishment of the Gender Center of the RS, December 2000.

¹¹The Act on Gender Equality in Bosnia and Herzegovina, Article 1.

¹²Council of Europe Committee of Ministers. “Recommendation Rec (2003)3 of the Committee of Ministers to member states on the balanced participation of women and men in public decision making.” Adopted on March 12, 2003, available at <https://wcd.coe.int/View-Doc.jsp?id=2229>.

anti-discrimination law. However, implementation has been dismal and economic and political marginalization continue, as shown in a survey of the situation in 2012–2013 noting 9 female representatives in the BiH House of Representatives, out of 42 (21.4 percent); 2 female delegates in the BiH House of Peoples out of 15 (13.3 percent),¹³ and *zero* female Ministers (out of 9) in the state-level government, still at the time of this writing. It is clear that neither structural incentives nor cultural encouragement are resulting in more women in state-level government.¹⁴

The Civic Glass Ceiling: Post-Dayton Civil Society

A few words on post-BiH civil society can be useful to provide context on the potential for citizens—and women in particular—to engage in public life and impact political decisions and change in between elections. Post-war civil society development efforts in BiH have been extensive, beginning with immediate post-war humanitarian relief, and then expanding to include human rights initiatives, service delivery, advocacy efforts, reconciliation projects, educational ventures and more. While bringing ideas, opportunities and much needed cash infusions, however, one can argue that the scale of attention and money spent on such efforts resulted in a distorted environment or dependency trap.¹⁵ Critics point out the often unintended effects of external initiatives and engagement: the emergence of civil society as service delivery; questionable domestic legitimacy; the focus on a project-based approach to civic action and subsequent competition among NGOs for funding; a focus on short-term international “trends” in at the expense of potentially

¹³Miftari, Edita. “Economic and Social Rights of Women in Bosnia and Herzegovina,” *Sarajevo Open Center Human Rights Papers 1*, p. 2 (no date).

¹⁴*Analysis of Political and Public Participation of Women in the Republic of Srpska with Respect to the Application of Binding National and International Gender Equality Standards*. Republika Srpska Gender Center. June 2010. Available at <http://www.vladars.net/sr-SP-Cyrl/Vlada/centri/gendercentarrs/media/vijesti/Documents/Analysis-of-Political-and-Public-Participation-of-Women-in-the-RS.pdf>.

¹⁵Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve*. Washington, DC: Carnegie Endowment for International Peace, 1999; Marina Ottaway and Thomas Carothers (eds.), *Funding Virtue: Civil Society Aid and Democracy Promotion*. Washington, DC: Carnegie Endowment for International Peace, 2000.

more relevant long-term local needs; and a focus on the urban-elites at the expense of more remote communities.¹⁶

While fair criticisms, NGOs *have* been able to make an impact, particularly at the micro-level.¹⁷ Civic activities offer communities in particular opportunities for engagement that would otherwise not exist. However, in terms of targeted successes at the macro- or systemic level, big victories have been relatively few.¹⁸

Why have NGOs advocating for political reform been unable to make more of an impact? Organizational, technical and financial deficiencies play a role. However, so does the broader operating system in which civil society operates. A description of this environment written in 2001 still rings true in 2014: “The lack of transparency and accountability and the dearth of the rule of law and good governance

¹⁶See for example: Sebastian, Sofia. “Assessing Democracy Assistance: Bosnia,” *FRIDE Project Report*, May 2012; Belloni, Robert. “Civil Society and Peacebuilding in Bosnia and Herzegovina.” *Journal of Peace Research*. 38:2, March 2001, p. 178 (163–180); *Civil Society: Lost in Translation? Donors’ Strategies and Practices in Civil Society Development in the Balkans*. Balkan Civil Society Development Network, Balkan Civic Practices #8, January 2012; *Civil Society in Bosnia and Herzegovina: Seeking the Way Forward*. United Nations Volunteer Program, 2011; Bieber, Florian. “Aid Dependency in Bosnian Politics and Civil Society: Failures and Successes of Post-War Peacebuilding in Bosnia-Herzegovina.” *Croatian International Relations Review*. January–June 2002, pp. 25–29; Reich, Hannah. “Local Ownership? in Conflict Transformation Projects: Partnership, Participation or Patronage?” *Berghof Occasional Paper* No. 27, September 2006, p. 7, available at <http://www.berghof-conflictresearch.org/documents/publications/boc27e.pdf>; *United States Agency for International Development, NGO Sustainability Index for Central and Eastern Europe and Eurasia* 74 (13th Ed. 2009), available at http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/; Catherine Barnes et al, *Civil Society Assessment in Bosnia and Herzegovina* ii (2004), available at pdf.usaid.gov/pdf_docs/PNACY559.pdf.

¹⁷See for example: Belloni, Robert. *Statebuilding and International Intervention in Bosnia*. London: Routledge, 2007, pp. 118–121; Sejfića, Ismet. “From the ‘Civil Sector’ to ‘Civil Society? Progress and Prospects,” in Fischer, Marina (ed.) *Peacebuilding and Civil Society in Bosnia Herzegovina: Ten Years After Dayton*. Munster: Lit Verlag, 2006, pp. 125–140, available at http://www.berghof-conflictresearch.org/documents/publications/daytone_sejfića_civilsoc.pdf.

¹⁸An advocacy effort for the direct election of mayors is often noted as an example of a significant success. However, some critics will point out that Center for Civic Initiatives (CCI) had much more practical and political support from the U.S. government and other international actors in this endeavor than is usual, which greatly increased the chances for success. See *Civil Society Assessment In Bosnia and Herzegovina*, prepared for the U.S. Agency for International Development, June 25, 2004; “Bosnia and Herzegovina Municipal Elections.” *OSCE/ODIHR Election Observation Mission Report*, October 2, 2004, available at <http://www.osce.org/odihr/elections/bih/41178>.

make public scrutiny a chimera. Bosnian civil society has neither the leverage nor the potential resources to perform the task handed over by the international community.”¹⁹ The author goes on: “By fostering community isolation, mobilization and a general feeling of insecurity, ethnic elites legitimize each other and maintain a tight grip on their constituencies. At the same time, internal dissent, as expressed by those who question the existing social order by promoting and defending the possibility of a multi-ethnic polity, is often repressed and marginalized.”²⁰ Others have written on the difference between civic activism in the RS vs. in the Federation, pointing out the impact of the more centralized and nationalized state on the quality of civic activism in the RS.²¹ A World Bank report on the role of civil society in peace-building notes that, “Conflict is generally driven by macro-level factors,”²² and “The assumption that many local peace initiatives will automatically influence peace building at the macro level has been proved wrong.”²³

The Constitutional Glass Ceiling: Women and Constitutional Reform Efforts

All state-level constitutional reform efforts to date have failed.²⁴ There have been three main elite-driven efforts that unfolded from 2005 to 2009: the April Package, the Prud Process, and the Butmir talks. Later, negotiations aimed at constitutional reform to address the so-called Sejdic-Finci issue dominated constitutional reform discus-

¹⁹Belloni, Roberto. “Peacebuilding in Bosnia.” *Journal of Peace Research*, vol. 28, no. 2, March 2001, p. 172.

²⁰Belloni. “Peacebuilding in Bosnia.” p. 173.

²¹Touquet, Heleen. “The Republika Srpska as a Strong Nationalizing State and the Consequences for Postethnic Activism.” *Nationalities Papers*. Vol. 40, No. 2, March 2012, pp. 203–220.

²²*Civil Society and Peacebuilding: Potential, Limitations and Critical Factors*. World Bank Social Development Department, Report No. 36445-GLB, December 20, 2006, p. 23.

²³*Civil Society and Peacebuilding: Potential, Limitations and Critical Factors*. World Bank Social Development Department, Report No. 36445-GLB, December 20, 2006, p. 25.

²⁴Only one amendment has been made, following the Prud Process; this clarified the status of the District of Brcko and its access to the BiH Constitutional Court. See <http://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001-Constitutions/BH/BH-Amendment-I-to-BH-Constitution-25-09.pdf>.

sions since a 2009 decision by the European Court of Human Rights; as of this writing both BiH and international actors appear to have given up this effort.²⁵ All were focused on certain key political party leaders, with varying levels of international support and engagement, and with little to no civic involvement. Thus, they were limited to the country's male political leaders, with women again absent from the process.

A number of civil society efforts have also failed to gain traction; however, they did demonstrate a more participatory process. Three packages of reform proposals largely in line with recommendations of the Venice Commission were drafted. One was developed by the Alumni Center for Inter-disciplinary and Post-graduate Studies (ACIPS),²⁶ a second by the Young Lawyers Association, later renamed the Law Institute (LI),²⁷ and a third by *Forum Gradjana Tuzla* (Forum of Citizens of Tuzla).²⁸ In addition, an "expert group" tasked to consider reform of the Federation's constitution, heavily supported by the U.S. Embassy, delivered a set of 181 recommendations in spring 2013, and drafted these into a new constitution in autumn 2013.²⁹ Each of these bottom-up efforts to develop packages of reform were more inclusive than the noted top-down efforts, engaging women in consultations and drafting, and reflecting much broader civic consultation.

There have also been efforts among some women to draft constitutional reforms with an explicit focus on gender. In winter 2012, 13 women's NGOs working with a Swedish women's initiative (*Kvinna till Kvinna*) began to seek ways to involve women in developing constitutional reform proposals. Another women's initiative organized by the TPO Foundation had a similar objective.³⁰ The two networks

²⁵The Sejdic-Finci case refers to a judgment from the European Court of Human Rights that found that the BiH Constitution's limitation of participation in the three-person presidency to a Bosniak and Croat (from the Federation) and a Serb (from the RS), and similar provisions in the House of Peoples, is discriminatory to those who do not identify as one of these three peoples.

²⁶See Alumni Association of the Centre for Interdisciplinary Postgraduate Studies (ACIPS), <http://www.acips.ba/eng/>.

²⁷See Law Institute of Bosnia and Herzegovina, <http://www.lawinstitute.ba/>.

²⁸See Forum Gradana Tuzla (FGT), www.forumtz.com.

²⁹Available at <http://ustavnareformafbih.blogspot.com/>.

³⁰Transkulturalna Psihosocijalna Obrazovna Fondacija.

launched a platform and set of amendments for “gender sensitive” reform, which also addressed broader political reform needs.³¹ In some initial discussions with members of the Parliament on the proposals it is interesting to point out the surprise or chagrin of some MPs to see that their proposals were not limited to “women’s issues” but addressed the need for broader political reforms as well. This again shows the tendency to ghettoize women in political life.

Breaking through the Ceiling?

This essay will close with a review of some specific challenges women face in order to break through as full participants in BiH public life. This will then be followed by broader challenges in the political system that affect *all* reform-minded activists. Taken together, while one may argue that women can be a catalyzing factor to change the broader political environment, one can also see the challenges to women’s engagement that exist within the status quo.

Three specific challenges to women—out of many—are discussed first.

First, BiH did not experience a feminist movement before the war as did other parts of the former Yugoslavia (such movements were present in Belgrade and Zagreb, for example). When one adds the less developed nature of the economy even before the war; the impact of the war and the particular nature of sexual violence as a wartime tactic; and the rise of nationalist political often combined with the rise of religious/clerical political and social power bases— the position of a genuine movement for equality seems daunting. In this sense, feminist movement faces many of the same combination of political/social/clerical pressures as the LGBT movement.³² A lot of change *has* happened, but there is still a long way to go.

³¹The reform proposal is available at <http://tpo.ba/inicijativa/dokumenti/P-Ust-proCol-Final-Web-.pdf>. A previous gender sensitive reform effort, limited to gender issues, was prepared in 2008 with the support of UNIFEM.

³²See Miftari, Edita. “Economic and Social Rights of Women in Bosnia and Herzegovina,” *Sarajevo Open Center Human Rights Papers 1* (no date).

Second, it was noted above that post-war international and domestic humanitarian and development efforts in BiH have assisted in the establishment of many NGOs being run by and for women. Many of these provide critical support and services related to women's health issues, domestic violence and economic support for rural women in particularly marginalized positions. Many of these have also managed to secure important legislative victories on some targeted women's issues. However, there remains the risk of being stuck in a "pink ghetto," with women expected to address a narrow set of "women and children only" issues, while men continue to dominate the broader talks on issues like constitutional reform, privatization, security, and EU integration. It is this author's opinion that this is a long-term challenge not unrelated to the broader need for bigger democratizing reforms in the political and possible electoral systems.

On a third related note, women face the challenge of seeking ways to engage on the "toughest" political challenges while not risking the gains that they have made. On the one hand it is a positive step for services such as the provision of safe houses for battered women to have transitioned (in part or in full) from international funding to line items in relevant domestic budgets. However, this also then presents the risk of the group being held hostage by threats to such funding if they step over any red lines; one can understand the hesitance of certain women's groups, particularly in the more repressive RS, to engage in reform politics if they fear losing funds needed for critical women's health services.

There are many more specific challenges. They are not insurmountable. Women activists themselves could more actively seek to ensure that efforts aimed at bringing together "women activists" reach out not only to those women working in or on specific gender issues, but also women who are working for or leading policy groups, or other women who are "mainstreamed." The *Inicijativa F5* effort is one example of this being done; many more are needed.³³ Women could also resist efforts to pigeon-hole themselves in traditional "soft" corners, possibly by themselves making the policy links to broader political dysfunction and the inability of public administration to be able to fulfill their responsibilities in any sector. Women could encourage

³³See <http://www.inf5.info/o-nama/>.

donors to stop drawing such distinct lines between soft women's projects, and bigger political project initiatives. The international community could also raise the profile of women by engaging in a more high profile way with female leaders on *all* issues; this, however, is complicated by the fact that embassies and international organizations tend to prefer to deal with political officials—and particularly in the case of BiH, with political party leaders—where again, no women are present.

Next, women *and* men who are dissatisfied with BiH's current reality face many challenges in determining how to break 18 years of gridlock. Several are highlighted below.

First, there are worrying signs that the BiH political arena could be on a track to become *less* transparent, democratic and accessible rather than more. Since 2006, BiH's state-strengthening and Euro-Atlantic integration processes have not only stalled, but they have in many ways even begun to reverse.³⁴ There have been active efforts among political parties and coalitions to make deals that would very likely limit the quality of (already weak) democracy. For example, in 2012, SDP and SNSD unveiled a package of proposals they sought to push through that would have weakened the conflict of interest law, made the freedom to access information more difficult and weakened a number of aspects of reforms implemented to strengthen judicial independence.³⁵ It also would have returned to closed-list voting in elections—purportedly to ensure greater representation of women, though in practice it is well known that closed lists facilitate tightened party discipline. While the package was not adopted in full, its component parts *have* remained on the radar screen. For example, changes to the law on conflict of interest were made in autumn 2013, and met with many concerns.³⁶ However, more broadly there has been a sense of indulgence among international actors; that the parties were at least

³⁴McMahon, Patrice C. and Jon Western. "The Death of Dayton: How to Stop Bosnia from Falling Apart." *Foreign Affairs*. September–October 2009, pp. 69–83; Chivvis, Christopher. "Back to the Brink in Bosnia?" *Survival: Global Politics and Strategy*. Vol. 52, no. 1, February–March 2010, pp. 97–110.

³⁵"Agreement on Program/Project Cooperation in Legislative and Executive Powers in BiH 2012–2014."

³⁶Jukic, Elvira. "Bosnia's Conflict of Interest Reform' Causes Outrage." *Balkan Insight*. 8 November 2013.

agreeing on *something*, even if the point of agreement was a weakening of the democratic system.

Second, the election system, and the political parties that have managed to thrive therein, has over the course of the past 18 years demonstrated a weak link in terms of ensuring the accountability of political leaders. Particularly at the cantonal, entity and state levels, while there may be consistently poor results in terms of the provision of public services and jobs creation, there have been few if any significant changes in personnel or policy. While there have been shifts among ruling parties (with the introduction of parties like SNSD, HDZ 1990, SBB, etc.), there have been no shifts in terms of the political party platforms as ultimately implemented. This again shows the lack of mechanisms to ensure accountability.

In the 2012 municipal elections, for example, SNSD lost 26 municipalities, and while the SDP picked up three small municipalities, it lost 100,000 votes compared with 2008. However, the leaders of the two parties (Milorad Dodik and Zlatko Lagumdžija, respectively) remained at the heads of their parties. One would expect that significant electoral losses would result in political party changes in personnel or policy or both; this did not happen. This could be attributed to a serious lack of intra-party democracy.³⁷ It could also be attributed to a system in which political accountability matters less than one might assume. The main accountability present is based less on results, and more on corruption fueled patronage, breaking the back of public finances (pensions to privileged groups), and in many cases leading to a corrupt and non-meritocratic public administration.

Such electoral patterns are not unrelated to the structure of the country—to its electoral system, which in turn is based on the constitutional structure. There is no election in BiH in which all citizens are voting for the same set of candidates. Even the Presidency is selected

³⁷In 2012 Roska Vrgova prepared an MA thesis at the University of Bologna-University of Sarajevo entitled *Intra-party Democracy in Consociational Democracies: The Cases of Bosnia and Herzegovina and in Macedonia*, that explores these dynamics. Vrgova cites Panebianco (Panebianco, Angelo. *Political Parties: Organization and Power*. Cambridge, England, Cambridge University Press, 1988) and others to explore the Balkan-specific manifestations of the tension between the normal defeat at the ballot box and pressure for party organizational change, and the tendency for parties to desire greater centralized control when they are in office.

on entity-lines; the inherent problems of this have been visible in terms of Croat efforts to ensure that “they get their” preferred Presidency member through some sort of weighting or gerrymandering of the Federation into electoral units or areas.³⁸ However, this focus fails to illuminate the bigger core problems—why can’t a Serb living in the Federation vote for the member elected from the RS? Why—especially when the entities hold so much power in moving the country towards or away from EU integration—don’t Federation residents affected by decisions in Banja Luka have the right to influence this choice?

Electoral systems affect electoral outcomes, in every country, either by directly shaping the rules of the game, or by creating an environment in which voters’ choices and strategies reflect the demonstrated rules. Duverger’s Law is well known. (Simply put, voters in the U.S. who might at heart want to vote for a third party Presidential candidate often decide not to, fearing that such a choice would dilute the outcome in a system that favors two parties.) In the BiH case, Hulsey explains the connections between party fragmentation and the country’s electoral and constitutional structure.³⁹ Mujkic and Hulsey examine the success of nationalist parties in election after election in spite of voter frustration with their performance, as citizens are locked into a structural prisoner’s dilemma.⁴⁰ Further, parties continue to be leader-dominated.⁴¹ In BiH, there is no incentive for parties to seek to campaign for votes beyond their sole ethno-national base; the result is a bias to campaign to the poles, to demonstrate not a record of service but one’s nationalist credentials. (A phenomenon by no means limited to BiH, but very dangerous in a still-divided post-war state.) The list

³⁸For a review of this issue, see “Bosnia’s Gordian Knot: Constitutional Reform,” *International Crisis Group Europe Briefing No. 68*, July 12, 2012, available at <http://www.crisisgroup.org/en/regions/europe/balkans/bosnia-herzegovina/b068-bosnias-gordian-knot-constitutional-reform.aspx>.

³⁹Hulsey, John. “Party Politics in Bosnia and Herzegovina,” in Keil, Soeren and Valery Perry (eds.). *Statebuilding and Democratization in Bosnia and Herzegovina*. Ashgate, 2014 (forthcoming).

⁴⁰Mujkic, Asim and John Hulsey. “Explaining the Success of Nationalist Parties in Bosnia and Herzegovina.” *Politicka Misao*, Vol. 47, no. 2, 2010, pp. 143–158.

⁴¹Mavrikos-Adamou, Tina. “Leader-Dominated Ethnic Parties and Dysfunctional Institutional Design in Bosnia-Herzegovina and Kosovo,” in Keil, Soeren and Valery Perry (eds.). *Statebuilding and Democratization in Bosnia and Herzegovina*. Ashgate, 2014 (forthcoming).

goes on, and these problems will not be solved by returning to closed lists, or by new gender balance quotas. They are inherent to the system, and again reflect the weak state of the country's democratic fabric.

Third, dysfunction and associated corruption are not an unintended byproduct of the status quo, "it is built into the system's DNA."⁴² The Dayton structure builds numerous and overlapping "safeguards" into the state, entity and cantonal levels of government to persuade the warring parties that their groups' interests would also be paramount. This includes an asymmetric mix of ethnic and territorial federalism,⁴³ a vital national interest veto, an entity veto,⁴⁴ and both formal and informal ethnic quotas. The resulting problems are well known, summarized by the Venice Commission and countless policy reviews and reports.⁴⁵ While in theory, any system can work if there is political will to make it work, in practice we have seen that this is impossible; political leaders are making rational choices based on the present rules of the game.

It is understandable to seek to focus on local community problems in an effort to improve life on the ground while bypassing the bigger political straitjackets. The municipal level of governance could potentially provide interesting "laboratories of democracy," in part as they are run by directly elected mayors, so citizens know whether or not their mayor—with a specific name and face—has managed to pick up the trash, install street lights, etc. This approach has been taken by countless donor-funded municipal development programs, by many NGO-driven local community efforts, and has also to date been the focus of plenum discussions. However, over the course of 18 years it has been clear that both a) the success of municipal leaders is to at least a certain extent predicated on bigger political and structural

⁴²The author would like to thank Kurt Bassuener for this observation and quote.

⁴³Keil, Soeren, *Multinational Federalism in Bosnia and Herzegovina*. Ashgate, 2013.

⁴⁴See Birgit Bahtic-Kunrath's, "Of Veto Players and Entity-Voting: Institutional Gridlock in the Bosnian Reform Process," for an excellent review of this issue. *Nationalities Papers*. Vol. 39, No. 6, November 2011, pp. 899–923.

⁴⁵Venice Commission (European Commission for Democracy Through Law). *Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative*, , CDL-AD (2005) 004 2, Mar. 11, 2004, available at [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)004-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)004-e.pdf); Foreign Policy Initiative BH (FPI). *Governance Structures in BiH: Capacity, Ownership, EU Integration, Functioning State*, 14 (2007).

forces;⁴⁶ and b) that local political structures are not succeeding in grooming a significant cadre of reform-minded, forward-looking, young mayors that might rise up through the system.⁴⁷ While horizontal linkages among municipalities are important, one cannot deny the currently negative impact of the dysfunctional vertical linkages.

Skeptics will say that constitutional reform is a non-starter; that reform minded people should aim for lower-level changes, for the harmonization of laws in the cantons and entities, and for coordination bodies and mechanisms. However, there is now ample evidence—nearly two decades worth—that there is no political will to make even sub-constitutional solutions work. For example, a Conference of Ministers of Education (modeled after a Swiss mechanism of the same name), is generally inert, as is a Ministry of Civil Affairs (MoCA) unit mandated to ensure (minimal) educational coordination. One need only consider the failure of BiH's authorities to meet the terms required for its young people to qualify for European ERASMUS scholarships as an example of this failure.⁴⁸ The government has been unable to agree on agricultural cooperative mechanisms, leading to the withdrawal of IPARD funds in 2013, and the inability of the country to export dairy products.⁴⁹ The inability of the police to respond to complicated public security threats—as witnessed in both the 2011 U.S. Embassy shooting incident and the February 2014 protests—suggests that existing “coordination” has proven itself to be ineffective.

⁴⁶Municipalities have no legal definition in the state constitution, nor is the concept of local self-governance mentioned. Efforts aimed at improving inter-municipal cooperation for mutual economic benefit are often stymied by high level entity pressure (e.g., consider Herzegovina as a logical economic unit).

⁴⁷Political parties would in fact like to see a return to indirectly elected mayors, as is the practice in neighboring Serbia, for example; so far this has not moved forward.

⁴⁸Jukic, Elvira. “Bosnia Students Protest EU Scholarship Fiasco,” *Balkan Insight*, December 18, 2013, available at <http://www.balkaninsight.com/en/article/bosnian-students-plan-protests-over-eu-scholarships>.

⁴⁹“EU Freezes Funding for Two Agricultural Projects in Bosnia,” *Intellinews*, June 6, 2013, available at <http://www.intellinews.com/bosnia-and-herzegovina-1011/eu-freezes-funding-for-two-agriculture-projects-in-bosnia-7413/>.

Final Thoughts

Many of these issues are likely to be discussed in a variety of fora in 2014. These issues will be on the formal BiH political radar screen, but as it is an election year, and as the political parties have been forming and dissolving coalitions and partners already for months, it is difficult to imagine them offering a new vision of a reform-minded future. The international community will also have these issues in mind. The EU—with Germany in the lead—is pondering options for a post-Sejdic-Finci approach in BiH, though it is too soon to tell whether it will create the incentive structured needed to press recalcitrant local officials to adopt a reform agenda and to make the legal or even constitutional changes needed to ensure progress. The United States is also increasingly aware of the unsatisfactory nature of the status quo, and is re-assessing its options for a new engagement. The results of the May European Parliament elections, and the unfolding Russia-Ukraine saga in Crimea, could also impact international community policy decisions. In terms of civil society, while the plenums are continuing it is unclear whether they will develop the leadership structures needed to evolve into an effective machine capable of effectively and strategically challenging the status quo. It is also uncertain whether the plenum participants will make the link between local demands and higher-level politics. The challenges are many. However, a process driven by citizen frustration and constructive engagement, and supported by a new set of external incentives to pressure politicians to reform, could provide a way out of a political stalemate that has victimized men and women for far too long.