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Democratic Civil Military Relations in Bosnia and Herzegovina: A New Paradigm for Protectorates?

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Democratic Civil-Military Relations in Bosnia and Herzegovina:
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Key Points

*   This article applies Cottey et al's thesis of first and second generation civil-military relations to the protectorate of Bosnia-Herzegovina.

*   It argues that in the case of Bosnia-Herzegovina this agenda does not occur in a loosely overlapping fashion with the initiation of the first generation agenda providing the basis upon which the second-generation agenda can be implemented. Rather, the reverse occurs – the second generation capacity building agenda allows for the construction of state level institutions in the defence and security sphere – not least a functioning Ministry of Defence – which is the hallmark of the first generation macro-institutional structural reform agenda.

*   This approach may well prove to be appropriate for other protectorates.

*   It is of rising strategic significance in an age of pre-emptive action against failed and rogue states, regime change and democratization.

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Introduction

This article, focusing on Bosnia-Herzegovina (BiH), will assess efforts to establish democratic civil-military relations within this international protectorate. The protectorate, created in 1996 when a NATO-led Implementation Force (IFOR) mission – then Stabilization Force (SFOR) – assumed responsibility for maintaining security. This action was in accordance with the Dayton Peace Accords of December 1995, which ended five years of ethnic warfare. The administration of BiH is in the hands of the Office of the High Representative (OHR), currently Lord Ashdown. The OHR reports to a steering Committee of the Peace Implementation Council (PIC), which consists of representatives from the key countries and organizations in the International Community (UN, US, EU, OSCE) involved in implementing the Dayton Peace Agreement. The International Community (IC) has committed itself to consolidating peace in BiH, with the (armed forces) AFBiH restructured and realigned and under state-level democratic civilian command and control through a functioning state level Ministry of Defence. These reforms were prerequisites for BiH to enter the Euro-Atlantic security community – for it to be 'firmly on the road towards EU membership' and to receive a conditional invitation to join NATO's Partnership for Peace (PfP) at the June 2004 NATO Istanbul Summit.[1] On 12 July 2004, the European Council issued its decision to replace the NATO mission with a European Union-led peacekeeping force by 1 January 2005. The European Union force (EUFOR) works in unison with the High Commissioner, the European Union Police Mission, the European Union Monitoring Mission and the European Commission's assistance programmes to support the stabilization and association process and the Office of the High Representative's own mission implementation plan.[2]

A protectorate nominally retains its sovereignty and its territory remains distinct from that of the protector. The protector is usually a multinational organization, the UN or a group of lead states, which creates a 'transitional political authority', 'interim international administration', or 'complex peace operation'. Within this transitional administration, national and international policy makers formulate policy and the exercise of policy depends on the cooperation and coordination of military, political, administration and NGOs. The ultimate objective is to restore order, the rule of law and full self-rule by the local population.[3] Interim authorities have been created under UN auspices in the Balkans (Kosovo) and SE Asia (East Timor) in the 1990s - the United Nations Mission of Support to East Timor (UNMISET),[4] and by the US military in Haiti.[5] Other international protectorates have been established by coalitions of regional and external powers, and in the 21st century two new interim administrations have been created in Afghanistan and Iraq.[6] This article explores the interrelationships between security policy capacity,

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institutional development and civil-military relations within the protectorate of BiH.[7]

How might BiH attempt to institute democratic civil control over its military? Although there is a growing literature on the nature of protectorates and interim international authorities and much theoretical discussion grounded in case studies on democratic civil-military relations (CMR), there is very little in the literature that attempts to apply democratic CMR theory to these entities.

This article identifies the Cottey, Edmonds and Forster analysis as an exception, as they include BiH within their comparative study of civil-military relations in twelve post-communist states in Central and Eastern Europe (CEE).[8] They provide an empirical case study, which examines how BiH attempts to overcome the challenges and obstacles to the evolution of the Standing Committee on Military Matters (SCMM) into a fully-fledged MoD – the necessary precondition for PfP membership. By contrast, our analysis argues that BiH does not fit into the categories of analysis proposed by Cottey et al and so advances a new argument. This article suggests that because of the very nature of the protectorate, governance through the establishment of an international supervisory administration, the protectorate is obliged to achieve the important first generation agenda initially through the enactment of the second generation agenda. It must create functioning state-level institutions by first developing institutional capacity. In other words, in BiH the sequence of development towards democratic civil-military relations is the inverse of what the Cottey et al thesis suggests. In the conclusion such an approach to the establishment of democratic civil-military relations may well prove to be appropriate for other protectorates, and should this hypothesis be substantiated by other case studies then it is possible to build on the Cottey et al thesis and develop a new theory of democratic civil-military relations that best explains the process in protectorates.

Democratic Civil-Military Relations in Post-Communist Space

Although the inevitability of the power of 'democratic universalism' to promote democratic states globally is contested,[9] there is at least a general consensus amongst analysts and policy-makers that once democratization is successfully undertaken, 'democratic states do not fight wars against each other'.[10] Why is it argued that democratic states are more prone than non-democratic states to peaceful behaviour? Democratic states shared the same norms and values and as a result enjoyed the efficiency of inter-democratic bargaining and conflict resolution. It is also argued that democratic states choose their wars more wisely than non-democratic states, have larger economies, form stronger alliances, and make better and more consensual decisions. When they do go to war they have higher levels of public support and can count on greater support from their militaries. The accountability and transparency within democratic states, particularly in their oversight of the military, reduces corruption in the Defence sector and increases the legitimacy and the efficiency of the military. Moreover, after 9/11 it was increasingly obvious that the best safeguard against the tyrant-terrorist-terrible weapons (WMD) nexus was the co-operative foreign policy formation and transparency, accountability and oversight that such democratic security building afforded.

Adherents of 'democratic peace theory' predicted that democratization would reduce tensions and cleavages within and between states, as all undertook a gradual strategic re-orientation westwards and reintegrated into a globalized economy. Much has been written on the process of how states democratize, with a two-phase

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model generally applied. First states abolish old political and economic models and institutions and then create a new legal-constitutional framework within which democratic institutions can flourish. This transition democratization phase is then consolidated, a process marked by the elite's and then public's assimilation of democratic practice. 'Transitology' studies account for the important role of civil-society in democratizing the state, but to a lesser extent integrate the democratic security building into such models. Although there are theories of democratic civil-military control of the armed forces, few of them are derived from empirical case studies within post-communist space.[11]

One excellent study written by Andrew Cottey, Timothy Edmunds and Anthony Forster provides a comparative analysis and typology to chart the results of democratization efforts within the civil-military sphere of CEE states. These analysts argue that states that have been successful in democratic security building have pursued a two-stage reform process, in which each stage was characterized by a core democratic civil-military reform agenda. States that have overthrown authoritarian regimes and are beginning the process of democratic security building tackle the first generation agenda within the civil-military sphere. This agenda encompasses macro-level institutional restructuring and creating a framework and regulations that delineate competencies and responsibilities. This in turn allows democratic legitimacy, transparency and accountability. This agenda is achieved by ending constitutional links between the military and Communist Party, disbanding Party cells in the military and establishing new chains of command for armed forces. Cottey et al argue that the first generation institutional reform and restructuring agenda is characterized by rapid progress (particularly when compared to the pace of the second generation agenda), and attribute this to a number of factors. During the communist era, civilian control (if not democratic civilian control) did exist and military intervention in domestic politics was generally not the norm. Furthermore, in the post-communist era the state elites and populations generally supported the drive for democratization.

The second-generation agenda is characterized not so much by the establishment of structural and institutional reform, but by the development of state capacity building and bureaucratic and administrative modernization within the structures and institutions created during the first generation phase. The second-generation agenda fosters democratic culture, democratic behaviour and the exercise of effective democratic governance of the Defence and security sector. Achieving democratic control of Defence policy is accomplished by focusing on planning and implementation structures, systems for parliamentary oversight of CMR and Defence policy and engaging civil society in oversight and accountability. This complex agenda contains greater obstacles and challenges; *inter alia*, there is little detailed information available to ensure a strong analysis of policy choices: the Defence bureaucracy has limited experience, is politicized and poorly paid; parliaments and relevant committees lack interest and expertise to exercise this control and may themselves lack democratic legitimacy; and there is little, if any, tradition of civil society exercising oversight of Defence policy.

Whilst there is some overlap between the two generational agendas, essentially the first generation agenda provides a foundation platform and basis upon which a second-generation agenda can be implemented. Within a group of 12 post-communist states, Cottey et al compare progress of states according to this generational model and place them within a typology of four progressive groups. The first group of eleven states includes Bulgaria, Estonia, Czech Republic and Hungary. These states have largely addressed the first generation agenda, but still

face some problems in implementing the second-generation agenda. The second group of two states (Russia and Ukraine) must still resolve some first generation problems, although some democratization of civil-military relations has taken place. For the third group of seven states, including the State Union of Serbia-Montenegro, Turkmenistan and Belarus, first (and second) generation democratization of civil-military relations has not occurred. In the fourth group, which has seven members, including Armenia, Georgia, BiH and Tajikistan, it is argued that the first and second-generation reform agenda had been initiated but stalled because of the weakness of the state.

For the remainder of the article, let us now focus on BiH and consider the following questions:

- How can democratic civilian control of the armed forces best be advanced in BiH?
- Does the lack of sovereignty preclude entity authorities from addressing the first generation agenda in which state institutions are developed, or does the creation of these institutions constitute an important prerequisite for regaining independent statehood?
- Might the linear sequence suggested by Cottey et al be reversed? Could developing state capacity pave the way for creating pan-entity institutions and a stable state that could survive without foreign assistance, direction and control?

To this end, section three will examine the challenges of post-conflict rehabilitation, which has resulted in a divided state, uneven power distribution and competition within BiH. Section four will assess the consequences of these divisions and their impact upon the process of Defence and security sector reform in BiH. This section demonstrates the extent to which the Standing Committee on Military Matters attempts to implement the capacity-strengthening second-generation agenda in order to create the macro-level institutional framework. Finally, the conclusion will address implications of this empirical case study on Cottey et al's thesis.

BiH: The challenges of post-conflict rehabilitation in a protectorate

As the wars of succession began, ethnic groups within BiH attempted to homogenize ethnic territories through population displacement or by switching ethnic allegiances. For Bosnian Croats and Bosnian Serbs, this displacement was a necessary precondition that enabled secession from BiH to join Croatia and Serbia respectively. Bosnian Muslim elites wanted to preserve the unity of the state, a move opponents understood as an attempt to create a unitary, Muslim-dominated BiH. As the war progressed, three mutually antagonistic administrations rooted in the dominant nationalist parties emerged, as the protection of ethnic interests took precedence over efficiency and accountability, and forces of fragmentation threatened the state.

The political agenda was littered with issues that could undermine stability and increase the likelihood of fragmentation. During the conflict phase, the armed forces could use mercenaries, gangs, and para-militaries as a scapegoat for their actions and clear the conscience of ordinary people. Embedded violence – direct, structural and cultural – reinforced post-war inertia and powerlessness and prolonged ethnic segregation, fear of travel, and stereotyping of ' the other'.[12] Was this an ethnic war based on the desire for ethnic separatism and 'ancient hatreds' or a war driven by politics and economics in which the ethnic card was played? Were the para-militaries war criminals or war heroes? Different societies in BiH

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have different interpretations of their roles and not even within the three societies is there a consensus.[13]   In addition, visible and rampant organized crime and corruption created instability, which benefited quasi-patriotic politicians, para-military and mafia groups sabotaging a stable and inclusive peace and promoting economic stagnation and rivalry. As the Chairman of the BiH Council of Ministers, Adnan Terzic, stated: 'There is undoubtedly a link between people suspected of war crimes and leaders of organized crime.'[14]

Michael Humphrey, the Head of the European Commission Delegation to BiH, has noted that the main obstacles to BiH's integration into Europe include: weak political environment, an obstructionist and weak economy, human rights problems and lack of rule of law.[15]   Let us first examine the nature of the weakness of the state. BiH is a weak state in which the chance for institution-based rule is very difficult to build and sustain, not least because the population has 'little or no attachment to the idea of [BiH] as a legitimate state'.[16]   This has potentially important implications for civil-military relations in BiH: if citizens have little attachment to the state then this extends to oversight and control over the armed forces; weak levels of loyalty are likely to characterize the relationship between society and the armed forces. In reality, the 'state' is a confederation of two separate entities. Each has its own respective constitutional president that acts as president and not as governor or provincial leader; armed forces, nominally responsible to a politically impotent and financially under-resourced central government; and separate political, legislative and judicial authority. Power resides in the separate entities. One entity is called Republic of Srpska (VRS), which controls 49% of BiH territory; the other is the Federation (VF) with 51% of territory in 10 cantons. The VF can be further subdivided into two groups, a Bosniak Muslim majority and a Croatian minority. This systemic weakness is reflected in per capita incomes, the size of the state budget and the paucity of direct foreign investment.[17]

Secondly, a state such as BiH, which is fragmented into different societies, economic interests and political factions, finds that any effort to forge a consensus on the future strategic orientation of the state is undermined. Distrust between these three groups within the two entities ensures that all look to different external sources of stability. The Bosniaks rely on the United States and NATO to preserve their survival as one of the few Muslim societies in Europe; the Serbians in the VRS rely on 'big brother' in Belgrade for assistance and support; and the Croatian minority relies on Zagreb and Croatia.[18]   The Bosnian Muslim majority in Sarajevo argues that VRS should be abolished, whereas Western Herzegovina would prefer not to abolish VRS but rather to create a third, Croat, entity. This absence of strategic consensus partially reflects the fact that neither Yugoslavia nor Croatia acted to secure a peaceful resolution to the war in BiH nor did they support a stable peace following the Dayton Accords.

Thirdly, although the Dayton Accords ended the conflict they also generated sources of insecurity. The Accords' 'tight and inflexible deadline' enabled BiH nationalist leaders to win elections and resist cooperating with international officials to implement key components of the settlement. Adversarial relationships resulted from the insularity of each of the three entities. In 1996 the multi-party elections extreme nationalists consolidated their power. The pan-Bosnian parliament did not convene until 1997, because Serb representatives would not swear allegiance to a united BiH.   The Dayton system froze the conflict in place, rather than ameliorated sharply held differences.   It has sustained an over-bureaucratized state, with 13 prime ministers, 180 ministers and 760 legislators.[19]

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The basic contradiction at the heart of BiH security politics, between the desire to build democratic institutions and necessity of doing so from above, resulted in the December 1997 Bonn meeting of the Peace Implementation Council. The 'Bonn Powers' were established at this meeting, when the High Representative (now called EU Special envoy to BiH) won the right to 'impose laws in the absence of a willingness of local governing parties to adopt them and to dismiss from office public officials'. With the 'Bonn Powers' the High Representative had the authority to dismiss recalcitrant officials, restructure constitutional commissions, impose economic legislation, create a neutral and non-ethnic licence plate, adopt currency, and establish an Independent Judicial Commission. But as the High Representative acquired more authority to make binding decisions, the democratic accountability and legitimacy *vis-à-vis* the local populations of the protectorate weakened; tensions emerged between the *assisting* and *directing* roles.[20]

Fourthly, each entity perceives the state as a source of exclusive security. Each national project centred on the rejection of the claims of the other two ethnic entities. The nationalist strategy manipulated the perceived threat posed by other ethnic groups and the fragility of relations between the entities to maintain the allegiance of the respective ethnic groups to political parties. In VRS for example, the only source of political legitimacy that Serb politicians can claim is the necessity for ensuring independence and sovereignty from Muslims and Croat forces. This dynamic allows each entity to maintain firm control over the economic and political life of its constituents. The main Croat and Bozniak political parties have even formed an informal partnership (despite being ostensible enemies), in order to support one another's firm grip over their respective ethnic groups and to entrench the power of entity parliaments at the expense of central government.[21]

To implement unpopular but necessary measures local politicians rely on the intervention of the High Representative. In spite of their positions as part of government, this allows them to maintain a degree of opposition as well as their ethno-nationalist goals without finding a common ground with other ethnic groups. According to Wolfgang Petritsch the 'zero sum' mentality of nationalist leaders has resulted in:

> 'Compromise, instead of being understood as a natural part of political life, is instead viewed as weakness. It means that among the Serbs and Croats there is little or no attachment to the idea of Bosnia and Herzegovina as a legitimate state that can and will defend their interests. It means that economic power is controlled by the remnants of command economy bureaucrats, now disguised as nationalist leaders. And it means that apartments, jobs and access to political life are not based on merit, but on ethnic loyalty.'[22]

These leaders subverted the presence of the international authority to advance their own divisive agenda. This, in turn, consolidated dependence on international assistance, inactivity, and political and administrative paralysis.

As a result, Bosnian officials lack the incentive and political will to pursue sustainable stability. The subversive and declaratory politics illustrate the difficulty. Their constitutional documents and legal gazettes are confusing, improperly catalogued, too numerous and lengthy, often contradictory, developed for short-term fixes and some experts within the IC consider this a ploy; local officials will try to wait out the ever-growing impatience, donor fatigue, and constant rotation of personnel within the respective international community

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agencies. Then, local officials continue with business as usual and perhaps even return to what many consider an unfinished war. Other analysts have suggested that inaction reflects a culture of ineffective clanism or tribalism. Orders issued within a top-down decision-making hierarchy are never properly executed at the lower levels.[23]

Capacity Building' and the SCMM in 2001-2003

Profound challenges remain to be overcome before pan-Federation institutions act on behalf of one democratic centre of authority that holds the undisputed monopoly of power in a unified state. Clearly, centralizing the command of these two armies and creating an institutional foundation and structure for a state-level Defence ministry is a prerequisite for stabilizing and then consolidating the state, as well as PfP membership. In June 2004 a Defence Minister was appointed. It is instructive therefore to examine the attempts to develop the embryonic structure of the Standing Committee on Military Matters into a fully-fledged Ministry of Defence that could exercise democratic control over the unified armed forces of BiH. This step involves implementing the second-generation 'state capacity' agenda, without which will result in the 'transitional' and 'interim' character of the protectorate set to become long-term and enduring.

How might we characterize military forces and structures in BiH, a country of 4.5 million people? In 2003 BiH had over 19,000 soldiers and 32 generals in its active ranks; its reserve forces total a quarter of a million. Compare the ratio of active soldiers to total population in BiH – 1:21 – with the ratio of 1:200 for the United States, a country with global security interests. Stockpiles of ammunition throughout BiH in 2003 were six times the amount that was expended during the entire war within BiH, from 1991-1996. The militaries of each respective entity remain severely under funded. Recruits were not paid their $8 a month salary; 90% of the VF and 93% of the VRS military budget were spent on personnel costs. As a result, purchasing equipment, providing effective training, maintaining infrastructure and funding research and development are severely neglected. The state-level proto MoD, the SCMM, was an institution shared between the entities that did not warrant Council of Ministry authority and has no command authority over fielded military forces and a minuscule annual budget totaling only $600,000.[24]

When the High Representative established the SCMM in June 1997, it was made responsible for coordinating BiH's armed forces. It provided an active forum for the discussion of military issues and its permanent secretariat was established in July 1999. The challenges facing the SCMM both reflect and are exacerbated by two factors: the weakness of the state government in comparison to the strength the independent entities (which boast their own constitutions, government, budgets and armed forces) and second, the lack of a current legal framework that supports more centralized control. According to the BiH constitution, Defence falls under the jurisdiction of the entities, rather than the presidency. Thus, there are no pan-Federation police or military forces, although the state border service (charged with ensuring the integrity of state borders) was established under international pressure in 2001. A paradox results: the fragmented military, divided between the entities, strengthens the entity elites and decreases the likelihood that the military dominates the political sphere through the militarization of politics.

A BiH Defence Policy emerged in May 2001 when the BiH presidency announced that it would restructure and upgrade the SCMM and its secretariat into an

effective state-level mechanism. To this end the BiH presidency created the post of General Secretary of SCMM Secretariat, and made it responsible for coordinating activities related to military matters. According to the SCMM Terms of Reference actual state level decisions are made by the rotating presidency of the three entities and their respective military advisors – the SCMM has a 'coordinating and advisory role' only (Art. 2). The SCMM 'co-ordinates and controls the implementation of decisions in all areas relating to security and Defence of BiH that require action at state level'. (Art. 3) At the state-level, Defence and security matters are restricted to issues relating to the sovereignty and territorial integrity of BiH, coordinating BiH contributions to external Peace Support Operations, integrating BiH into EU and NATO, and responding to state level emergencies and humanitarian assistance to civil authorities. The SCMM Secretariat is an 'expert, operational and planning body' (Art. 7, 1) that 'co-ordinates and harmonizes' Presidency and SCMM and SCMM Military Commission decisions. (Art. 7, 2) The SCMM Military Commission 'is the military and executive authority in Defence matters at state level' (Art. 8, 1). It 'is responsible to closely co-ordinate and exercise direct control over the activities, as authorized by the SCMM' (Art. 8,1).

The Terms of Reference implied that unless a natural disaster occurred, an external state attacked BiH territory, or the presidency agreed to PfP integration, then the SCMM was redundant – it had no standing army to 'command' and 'co-ordinate'. The state-level bureaucracy suffered from a lowest-common-denominator decision-making system: the executive authority presidency is hamstrung, and state-level quasi-institutions (SCMM, Secretariat, SCMM Commission) had extremely limited and overlapping competence and responsibilities. All these institutions reported to the presidency and co-ordination within and between such bodies were highly problematic. There was no parliamentary Defence committee and no oversight of Defence budgets. How the rotating presidency exercised control over the military is unclear, and military and paramilitary forces remain outside of state-level civilian control. The SCMM was in danger of evolving not into a MoD, but, at best, a rather ineffective presidential advisory body, which in any case would be duplicated by 'presidential advisors').

In December 2001 the OHR audited the entity Defence budgets in an effort to increase transparency and accountability and improve parliamentary oversight of the activities of the armed forces of BiH: 'it established the real cost of maintaining the Entity Armed Forces, and showed graphically that the Defence budget proposed for 2002 would pay for only one in every three of the 24,000 full-time soldiers currently under arms in the Federation Army'.[25] There are two armies in BiH: the Federation Army consists of Bosnian Croat and majority Muslim components and has had an integrated command structure since 2001, and the Respublika Srpska army. In 2002 a major demobilization programme was launched in the Federation, 10,000 soldiers left the Federation army, and 3,500 soldiers of the RS army were demobilized in 2003. This programme effectively reduced by 16,000 the total armed forces strength in BiH to 20,000 by December 2002, three years ahead of the plan.[26] However, because the RS army benefited from Belgrade equipment and expertise and received support from its HQ in Belgrade, it was excluded from the internationally-sponsored Train and Equip Programme set up to assist the Federation Army and in May 2002, the Bosnian Serb member of BiH presidency refused to vote in favour of a document on the reorganization of the army at state level. This has further destabilized the reform process because it increases the military capability of the federation army relative to that of the RS.

Paradoxically, in response to a highly publicized scandal, security sector reform has also gained new impetus. In late 2002 US intelligence sources alleged RS sold arms

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to Iraq (through a Bosnian aviation firm, Oraro, based in Bijeljina) in violation of the UN embargo. An OHR investigation in December 2002 largely exonerated the civilian leadership of RS, and instead placed the blame on Bosnian Serb military officials. Mirko Sarovic, the Serbian member of the BiH Presidency, resigned from his post. As a result of this scandal, the Secretary General (SG) of the SCMM introduced 'Five Pledges' on 30 January 2003.[27] The pledges are interesting: they explicitly declared an intention to create democratic civilian oversight over state-level Defence and security sector institutions, and inadvertently revealed deficiencies in even civilian (much less democratic) oversight of the military. The first pledge was 'integration into the European family' which would be achieved by adopting a Security Policy Paper. This would help establish clear State-Level responsibilities, limit the influence of paramilitaries, and fulfil BiH international commitments, such as compliance with UN resolutions and the International Criminal Tribunal for the former Yugoslavia (ICTY). Although BiH became a member of the Council of Europe in April 2002, it has yet to meet some of the conditions attached to membership.

The second pledge was to 'strengthen State-level institutions that exercise civilian command and control over armed forces in BiH'. This would be achieved by 'enabling each member of the BiH Presidency to carry out the role of supreme command authority,' strengthening the SCMM, the SCMM SG and SCMM Secretariat. This pledge tells us much about the virtual status of these quasi-institutions. The support of the IC and in particular SFOR was to prove critical to implementing these pledges.

The third pledge was to 'provide comprehensive and transparent parliamentary oversight over State-level Defence institutions' by 'requesting a Security Policy Committee in the BiH Parliamentary Assembly, adopting a legal framework to ensure oversight, developing full transparency over budgets and enabling the SCMM to represent the BiH in Defence matters'. To this end in accordance with a 2 April 2003 decision of the OHR, US military officials with the support of the International Community (IC) actively undertook measures to subordinate the military to state-level civilian control. International military officials led by the US European Command's Office for Defence Cooperation (ODC) and supported by legal experts from the US Defence Institute of International Legal Studies (DIILS) and SFOR quickly drafted a BiH state Defence law. In May 2003 this was presented to the Bosnian officials, the OSCE and US State Department at the Jahorina conference. The law stipulates the chain of command for BiH armed forces: the Chief of BiH joint general staff is subordinated to the SCMM SG, who in turn is subordinated to the Tri-presidency. The SG of the SCMM has Council of Ministers status, and has oversight authority over all aspects of entity and state-level military organizations. However, this reform was partial as the entity government level retains recruitment and budget authority.[28] This raises the question: where do military loyalties lie – with the state-level officials, who promote and command, or with the entity-level officials, who pay?

The fourth pledge was to create 'a professional, modern and affordable armed forces that is capable of protecting the sovereignty and territorial integrity of BiH'. To achieve this, a legal framework had to be created, and the armed forces needed to be brought into line with the level of available state funding. Past attempts to form state-level cross-entity military capabilities – such as a transport unit - had failed because of an impasse on a compromise over who would command the unit.[29] Such endeavours ought to be continued even if NATO officers command such organizations. BiH soldiers within the unit would gain inter-ethnic exposure, which

should provide a positive experience that will encourage fostering friendships in civilian life as well.

The fifth pledge was to 'restructure Armed Forces to participate in PfP, integrate into wider Euro-Atlantic structures, and engage in PSO [Peace Support Operations]/humanitarian tasks'. This entailed developing NATO-compatible Defence doctrine, securing PfP membership, and creating a humanitarian/disaster relief capability, regional co-operation and high quality training. Deploying small units from BiH on peacekeeping operations might foster better relations between the ethnic groups. Soldiers tend to work better together when placed in a foreign environment and the holding of common exercises between the entity armies could be a step toward a single Army.[30] To this end BiH has deployed and continues to deploy peacekeepers and observers to Eritrea, Congo, and Ethiopia. In this period there were also plans to develop a transport company that could be dispatched to Afghanistan or Iraq in support of UN operations.[31]

Under a reformed system, it was hoped that officers would gradually develop into mature and fair leaders, who may even later seek or influence public office in a positive and constructive manner. Such efforts in societal reform with the military leading the way have proven successful in the past. The military sector can assume an educational function in which young BiH men and women are not only given training in civil-military emergency relief measures but also civic and ethics-based instruction. Liaison officers' exchanges between each respective entity could facilitate integration and enhance confidence-building measures as the ultimate political goal of attaining state level parliamentary authority. Such a system should also assure that eventually budgetary control is exercised over a unified, cross-entity, disciplined army. The demobilization programme has demonstrated that with the support of the IC, local politicians are prepared to overcome internal obstacles to reform, and as such it could well constitute 'the first real evidence that BiH is coming out of intensive care and that the local leadership is starting to face up to the demands that confront normal politicians in normal countries ... So for once in the Balkans, quiet diplomacy, money and the concept of affordability have succeeded.'[32]

Following the publication of the five pledges in January 2003, some substantive process has occurred under the directives of the OHR. In April 2003 the OHR issued a series of decisions that focused on efforts establishing overall civilian control of the military.[33] Lord Ashdown established a Defence Reform Commission (DRC), comprising senior BiH officials and international representatives, which led to efforts to establish a state-level Defence ministry and army command and control structures in BiH in early 2004. This reform effort includes civilian command of the military by the state Presidency; state-level civilian control of BiH armed forces; parliamentary budgetary oversight of the military; a functioning joint (cross-entity) military staff; a legal framework for Defence reform; and a security system that is flexible enough to operate well into the future.[34] James Locher, a former US assistant Defence secretary and the head of the newly created commission, stated: 'Now is the time to pursue bold and creative ideas to provide Bosnia-Herzegovina with a modern, effective and efficient Defence establishment.'[35] On 29 May 2003 the High Representative created an expert commission to reform the intelligence and security services in BiH, with the task to draft proposals to create a single intelligence service for BiH by 1 January 2004. The two secret security services, the Bosnian Croat Agency for National Security and the Muslim State Information Agency, were regarded as highly politicized. Both acted as key guardians of ethnic interests and had been implicated in ethnic cleansing and organized crime. In the

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aftermath of hostilities, they became 'instruments of the political parties and were beyond parliamentary state control'.[36]

For this reason, the establishment of the State Intelligence and Security Agency in July 2004 and the appointment of a minister of Defence at the state level in March 2004 marked progress towards achieving the Five Pledges. The OHR and SFOR had placed BiH leaders under heavy pressure to appoint a state-level Defence minister by 15 February 2004. Although this deadline was missed, by 15 March 2004 Nikola Radovanovic was appointed to the position, the first in the history of the republic. His task was to transform the SCMM into a BiH state-level Ministry of Defence, and to place BiH's two armies under a joint and unified military command subordinated to his ministry.[37] On 14 April 2004, Defence Minister Radovanovic met with the Parliamentary Defence and Security Committees from the BiH Parliamentary Assembly, Federation of BiH Parliament and the RS National Assembly - the first joint meeting of its kind – to brief Parliamentarians on the progress of Defence reform and to discuss the implementation of PfP benchmarks.[38] However, in the words of Lord Ashdown in November 2004: 'Despite remarkable progress on the defence reform front, placing the armed forces under State control and fulfiling almost all the NATO reform benchmarks, Bosnia and Herzegovina failed to meet the benchmarks required for entry into the Partnership for Peace at the Istanbul summit.'[39] In May 2005 the RS government refused to countenance a police reform proposal, which the EU had set as precondition for signing an EU stabilization and association agreement, so reinforcing the picture of a slow and fitful Defence reform process.

A 'Second-First Generation' Problematic in Protectorates

The Cottey et al thesis is very engaging and persuasive. It casts all the states in CEE and FSU into a comprehensive typology that captures their progress (or lack thereof) in achieving democratic civil control of the military, Defence and security sectors. This moves us away from the narrower Huntington focus of civil-military relations, of executive political civilian control over the officer corps, towards a broader, democratic civilian oversight of the extended military, Defence and security sector. This holistic approach is in line with NATO reform of the Membership Action Plan process and is deemed necessary in the context of increased inter-agency cooperation following 9/11.

However, while the comparative framework provides a useful analytical tool, it lacks clarity in some important respects. First, it is not clear whether the first and second-generation reform process is primarily sequential (albeit loosely overlapping) or if both generational agendas are implemented simultaneously. The thesis argues that there is an approximate sequence of reform: a state tackles the first generation then moves on to the second-generation agenda to develop state institutional capacity. To build or restructure institutions along democratic lines is a precondition for developing institutional capacity.

Although this pathway is logical and can be applied to most post-communist states that have attempted to democratize civil-military relations, it is not applicable to BiH. In BiH it is clear that the first generation agenda has not yet been addressed as the necessary prerequisite – by 2003 a unified army had not been created yet, much less a Ministry of Defence and General Staff. Thus BiH cannot begin to implement the first generation agenda. As Cottey et al characterize it, this stage is structural in nature, and includes dividing responsibilities between MoD and

General Staff institutions. How then might both the first and second-generation agendas be considered stalled?

What we find in the case of BiH is that the logic of the Cottey et al thesis is inverted. The BiH presidency and SCMM and the externally-supported interim administration are attempting to achieve the first generation agenda – the development of viable institutions – by pursuing the second generation capacity building agenda. In other words, they promote the capacity of the *de facto* institution in order to establish that institution, rather than creating the institutions and then the capacity. In the case of BiH the hardest task is not the capacity building but the institution building agenda, first generation rather than second generation. This approach is most clearly evident in the substance and purpose of the five pledges: each of the pledges was critical to creating a MoD institution, but each focuses on capacity building as the means to this end. The operational goal to establish state-level institutions that allow for democratic civilian oversight of the Defence and security sectors is served by various factors, including developing security and Defence policy, law reforms and parliamentary oversight, Defence budgets and restructuring, demobilization, compatible armed forces and information operations.

The thesis of Cottey et al overlooks the complexities and differences engendered by BiH because their comparative analysis does not adequately account for entities that are protectorates or trusteeships. It does not recognize BiH as such an entity but rather treats BiH as another state within the post-communist world. At present protectorates and trusteeships in post-communist space are found in the Balkans (BiH and Kosovo). Other potential candidates exist in the 'frozen conflicts' in the Black Sea and South Caucasus region (Transdneistria, Abkhazia, and Nagorno-Karabakh), which in the face of Euro-Atlantic enlargement could thaw as OSCE-mandated EU or NATO peacekeepers administer newly created protectorates over the next decade or two. In respect to BiH (and by extension to other divided states), a new fifth category might be added to the existing typology: a category in which the second-generation reform agenda is launched as a means to achieve first generation reforms. The BiH empirical case study thus suggests that the Cottey et al analytical framework needs to be revised if it to be sustained. Although both group four and the new group five states such as BiH have in common a weakness in the state capacity and have not yet experienced the first-generation democratization, there are important differences: in group four states the preconditions for first generation reform are in place – civil institutions exist and state sovereignty is not in dispute. In contrast, in our proposed group five states the preconditions are not in place – civil institutions are not fully elaborated; state sovereignty is questioned; the central government lacks authority; and protectorate authorities have a stake in attempting to democratize the state, including the civil-military sector.

What is the utility of this BiH empirical case study? Firstly, BiH does not conform to the comparative analytical framework developed by Cottey et al. Empirical testing provides us with a means to adapt and refine the 'first and second generation' thesis to render it more robust, sophisticated and comprehensive by adding a fifth analytical category that accounts for entities such as BiH. Secondly, it suggests that if the SCMM can develop into a fully-fledged MoD – and the appointment of a Defence minister on 15 March 2004 is a promising step - then the military and security sector in BiH could become the catalyst that transforms and democratizes the other political, economic and societal security sectors within the protectorate, thus creating a functioning unified state that can then consolidate its democratization project. According to those that adhere to democratization theory, the key determinants in state democratization are the degree of the effectiveness of political and economic security sector reform efforts. They have tended to overlook

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the military security sector, and so this research finding would be notable for highlighting the anomalies of democratization processes within protectorates. Thirdly, while pessimists might argue that BiH constitutes a unique state-building process and will ultimately prove a failure, if successful, BiH could also provide a good template to achieve democratic civil-military reform within protectorates that are under international supervisory administrations. Through 2005 the OHR and the EU have continued to press forward with police and Defence reform within BiH, insisting that a number of competencies be moved from the entity-level governments to the state government in order for the country to be able to move forward with Euro-Atlantic integration. The outcome of international community efforts to democratize civil-military relations in BiH is highly relevant for similar efforts and could possibly be applied to other contentious areas such as in present-day Haiti, Afghanistan and Iraq.

Endnotes

[1]   International Community Plan for BiH Reforms, 7 April 2003.   For a study of Civil-Military Cooperation in BiH, see: Adam B. Siegel, "Civil-military marriage counselling: Can this union be saved?" *Special Warfare*, 15, 4 (December 2002): 28-34.

[2]   'So the political choice facing Europe is clear: either we export stability to the Balkans region or, as we have seen already, the Balkans will export instability to the rest of Europe. It is as simple – and as stark – as that.' Lord Ashdown, 'Broken Communities, Shattered Lives: Winning the Savage War of Peace.' *UNASA News Agency*, June 20, 2003.

[3]   There are many historical examples of failed or defeated states that have subsequently generated strong democratic institutions in part because of the administration, guidance and oversight administered by external military forces. 'Operation BLACKLIST,' in which General McArthur democratized Japan and 'Operation ECLIPSE,' the complete political rebuilding of post-war Germany by Allied Forces are the most famous examples. See: Aminta Arrington, "Cautious Reconciliation: The Change in Societal-Military Relations in Germany and Japan Since the End of the Cold War," *Armed Forces & Society*, 28, 4 (July 2002): 531-554.

[4]   Ralph Wilde, "From Danzig to East Timor and beyond: The role of international territorial administration," *The American Journal of International Law* 95, III (July 2001): 583-606. See also: William Bain, "The Political Theory of Trusteeship and the Twilight of International Inequality," *International Relations,* 17 (1), (2003): 59-77.

[5]   'Operation Uphold Democracy' (1992-1995) represented a successful attempt to instill and maintain democratic rule in Haiti until the U.S. Army disengaged from the island in April 1996.

[6]   Conrad Crane and W. Andrew Terrill, "Reconstructing Iraq: Insight, Challenges, and Missions for Military Forces in a Post-Conflict Scenario," *Strategic Studies Institute*, (February 2003): 8.

[7]   The initial peace-keeping campaign was called 'Operation Joint Endeavour'. It was later changed to 'Operation Joint Guard' and since June 1998 is called 'Operation Joint Forge'.

[8]   Andrew Cottey, Timothy Edmunds, and Anthony Forster. "The Second Generation Problematic: Rethinking Democracy and Civil-Military Relations." *Armed Forces and Society*, 29, 1 (Fall 2002): 31-56.

[9]   For a clear overview of the proposition that 'democratic universalism' will become the system of governance within states globally, see: Larry Diamond, "Universal Democracy?" *Policy Review*, No. 119, (June & July 2003); available from http://www.policyreview.org/jun03/diamond.html. For a proponent of the thesis that the transition paradigm has outlived its usefulness, see: Thomas Carothers, "The End of the Transition Paradigm," *Journal of Democracy*, Vol. 13, No. 1, (2002): 5-21; available from http://www.journalofdemocracy.com/.

[10]   The literature concerning democratic peace theory is extensive. See *inter alia*: B. Russet, *Grasping the Democratic Peace: Principles for a Post-Cold War World*, (Princeton, NJ: Princeton University Press, 1993); E.D. Mansfield & J. Snyder, "Democratization and War", *Foreign Affairs*, 74, (1995): 79-97; W.R. Thompson and R.M. Tucker, "A Tale of Two

Democratic Critiques: The Hypothesized Bellicosity of Democratic Dyads and New Democratizing States", *Journal of Conflict Resolution*, 41 (1997): 428-451; E. Gartzke, "Preferences and the Democratic Peace", *International Studies Quarterly*, 44, (2000): 191-212; Edward D. Mansfield & Jack Snyder, "Incomplete Democratization and the Outbreak of Military Disputes", *International Studies Quarterly*, 46, (2002): 529-549.

[11]   Christopher D. Jones and Natalie Mychajlyszyn, "Overview: Civil-Military Relations in Central and Eastern Europe in Former Communist Societies," *Armed Forces & Society*, 28, 4, (July 2002): 531-554.

[12]   Robert M. Kunovich and Randy Hodson, "Ethnic Diversity, Segregation and Inequality: A Structural Model of Ethnic Prejudice in Bosnia and Croatia," *Sociological Quarterly*, 43, II (Spring, 2002): 185-208.

[13]   As one analyst stated: 'Since widespread ethnic displacement was a central objective of the conflict in BiH, the right of refugees to return to their pre-conflict residence is essential to effective peace-building. Return to pre-conflict homes is a recognized right under the General Framework Agreement for Peace in BiH, however, many repatriates find themselves returned to situations of internal displacement.' Gaim Kibreab, "Citizenship rights and repatriation of refugees," *The International Migration Review*, 37, I (Spring, 2003): 24-73.

[14]   Declaration News Agency, Sarajevo, 8 May 2003. David Chandler, "Anti-Corruption Strategies and Democratization in Bosnia-Herzegovina," *Democratization*, 9, II (Summer, 2002): 101-121.

[15]   Delegation of the European Commission to Bosnia and Herzegovina, "Interview, Michael Humphrey, Head of the European Commission Delegation to BiH," *Newsletter of the European Union*, April 2003: 5.

[16]   Barry Buzan, *People, States and Fear* (Boulder, Co., Lynne Rienner Publishers, 1991): 11.

[17]   Michael Pugh, "Post-war political economy in Bosnia and Herzegovina: The spoils of peace," *Global Governance*, 8, IV (Oct-Dec, 2002): 467-482. Per capita income does not exceed $2000 a year in BiH, as compared to $8300 in Croatia, and $2800 for Albania. See: Delegation of the European Commission to Bosnia and Herzegovina, "Newsletter," 6.

[18]   Based on conversations during the BiH Defence Reform Law conference in Jahorina, Bosnia-Herzegovina, 5-9 May 2003.

[19]   These issues have been analyzed in an excellent recent monograph: Richard Kaplan, "A New Trusteeship? The International Administration of War-Torn Territories," *Adelphi Paper*, 341, (February 2002); Christoph Solioz and Svebor Dizdarevic (eds.), *Bosnia-Herzegovina: From Dependence to Sustainability*, (Sarajevo 2002): 'Book Review', in *Croatian International Relations Review*, III, 28/29 (2002): 199-200.

[20]   The first High Representative of BiH noted: 'With powers that would have made a 19th-century viceroy envious, I did not hesitate to use my authority to impose legislation and dismiss domestic officials - Serb, Croat and Bosniac - who attempted to maintain bankrupt nationalist islands, the detritus of a horrifying war. Democracy it wasn't, but then the nationalists weren't using democracy either but rather threats, fear, grenades lobbed in gardens and envelopes of corrupt cash to keep down a traumatized and impoverished population.' Wolfgang Petritsch, "In Bosnia, An 'Entry Strategy,'" *The Washington Post*, (July 2, 2002): A. 5.

[21]   Peter Lippman, "Bosnia and Herzegovina: A state under threat', *The Washington Report on Middle East Affairs*, 22,V (June 2003): 44 & 63-64.

[22]   Wolfgang Petritsch, "Priorities in Bosnia and Herzegovina," *NATO's Nations and Partners for Peace,* I (2000): 96-97.

[23]   Defence Reform Law Conference, 5-9 May 2003.

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[26]   Eric E.L. Guenther, Jr; David B. Thayer; Tyler C. Hathaway, "The visible hand: Armor looks at the changing face of peacekeeping in the Balkans", *Armor,* 112, III (May/June, 2003): 7-13.

[27]   Mr Stjepan Pocrnja, Secretary General of the Standing Committee on Military Matters of BiH, BiH Presentation: Peace Implementation Council, 30 January 2003.

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[28]   Draft BiH Defence Law presented at the Jahorina Conference in May 2003.

[29]   International Community Plan for BiH Reforms, 7 April 2003.

[30]   This view reflects the experience and professional military judgment of Lt. Col Tracy, reinforced by his experience when he served as Military Assistant to the Chief of Staff SFOR in Sarajevo.

[31]   "Standing Military Committee adopts plan for joining PfP," Onasa News Agency web site, Sarajevo, 25 June 2003.

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[33]   Press Releases, OHR, Sarajevo, 2 April, 10 April 2003.

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[36]   "Bosnia High Representative forms experts' commission on Intelligence Service," *SRNA News Agency*, Bijeljina, 29 May 2003.

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Want to Know More ...?

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