

Dilemmas of Nation-Building and Citizenship in Post-Dayton Bosnia

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Abstract *The Dayton Peace Accord¹ signed in Paris on 14 December 1995 aimed to forge a unified state of Bosnia and Herzegovina and a common identity based on liberal democratic values. However, ethnic fragmentation and cantonization, resort to administrative fiat, and constitutional ambiguities in the definition of citizenship have prevented the establishment of an authentic democratic and multiethnic state. Some progress has been made in opening state institutions to non-members of the major national groups, and in countering ethnic biases in educational curricula. But a culture of political dependency on the international community has emerged. The flow of potential returnees is now almost over, and some returnees have sold their homes and moved to areas in which they are part of the majority group. The International Community's efforts to emphasize integrative citizenship have thus far failed to stop national homogenization in the country.*

Keywords: Bosnia and Herzegovina; Dayton Peace Accord; nationalism; citizenship; state and nation-building; International Community; Kymlicka, Will.

This paper argues that Bosnian political space remains a work in progress, a patchwork of competing ideologies and practices in which the liberal model of ethnic pluralism and democratic citizenship is but one among the many being tried. An introductory section analyses the concept of citizenship and its relation with national identity. This forms the basis for a discussion of the practical consequences of the interaction of the International Community's (IC's) model of nation- and state-building in Bosnia and Herzegovina (hereafter Bosnia) with local projects of national homogenization. Concluding remarks address prospects for the emergence of a common Bosnian citizenship and identity.

Citizenship, the State and National Identity

At the heart of the conventional liberal approach to citizenship is a conceptual separation between citizenship (belonging to political community) and national identity (inclusion in a cultural community).² Such an understanding implies that citizenship and national identity are not coterminous and that the links between the two are historically coincidental rather than innate. This conceptualization further allows a nation-state to be perceived in culturally neutral terms. All cultural claims can be reasonably satisfied within such a state by

interpreting them primarily as civil, social or political rights. In other words, the national make-up of the state is irrelevant for the full enjoyment of citizenship rights, as long as such a state acts in a democratic fashion.³ But what are the political consequences of such an understanding of citizenship, and what types of questions does it ignore?

The leading proponent of the liberal democratic interpretation of citizenship is T.H. Marshall. He identifies citizenship as ‘full membership of a community’ by which he means an equal access to civil, political and social rights. Although Marshall traces the origins of these rights back to various stages of the class struggle in England, his tripartite division has become widely accepted in the literature. Civil rights that arose in the eighteenth century guarantee individual freedoms; political rights established in the nineteenth century give individuals the opportunity to participate in political life; and social rights established by the mid-twentieth century welfare state guarantee public education, health care, unemployment insurance, etc.⁴

The citizenship-as-rights model thus gives the impression that rights have expanded linearly in the past two centuries. According to this approach, democratic citizenship does not depend on peoples’ national identities, but rather requires the socialization of all citizens into a common political culture buttressed by a robust constitutional framework and a democratic legal system. Constitutional patriotism and democratic citizenship are two sides of the same coin, and aim at two interrelated goals: social unity, and the protection of individual rights.

However, although it sees (class) conflict as a prime driver of citizenship rights, Marshall’s theory is usually perceived as one of ‘passive’ or ‘private’ citizenship, because of what Kymlicka and Norman call ‘its emphasis on passive entitlements and the absence of any obligation to participate in public life’.⁵ Nor does Marshall’s theory consider the possibility that identity conflicts (ethnic, religious, cultural) might be as important as class struggle for an understanding the evolution of citizenship rights. Quite the contrary, the implicit

assumption of Marshall's model is that as long as the state acts in a neutral way, cultural differences do not represent any problem within this concept of citizenship. And, indeed, this is the case as long as a nation-state consists of a culturally homogenized population.

In reality, however, the underlying objective of citizenship policy throughout the world for the past two hundred years had been exactly what conventional liberal theories have taken for granted – a homogenized population. Ethnic, cultural or political homogenization could be achieved through territorial-political integration (the so-called French model), through an emphasis on the ethno-cultural traits of the population (the German model), or, most often, a combination of the two.⁶ In all cases, however, the fusion between citizenship practices and nation-building implies that modern citizenship cannot be understood solely in terms of rights and obligations, but must also include a 'sense of tradition, community and identity'.⁷ Thus, from a historical perspective, it would be more appropriate to use the term 'national citizenship' rather than mere 'citizenship'.

Notwithstanding past efforts at nation-building, most nation-states remain culturally and ethnically diverse societies. This has led several contemporary writers to question whether Marshall's and similar concepts of citizenship as rights can fully satisfy the citizenship needs of minorities in contemporary multicultural and multinational states. Rainer Baubock, for example, emphatically states that 'it is morally wrong and politically naïve to think that appealing to a shared civic identity is sufficient to integrate marginalized groups whose grievances have been brushed aside'.⁸ Baubock suggests that, for normative concepts of citizenship to be realistic, they need to reconcile social and political pluralism with the 'persistence and salience of internal cultural distinctions' in contemporary societies.

But what are the challenges of perceiving cultural claims as a legitimate part of the citizenship-as-rights model? George Schopflin claims that any type of identity politics 'axiomatically creates boundaries' and others 'against whom we define our "we-ness"'.⁹

From this perspective, cultural pluralism – or, in Schopflin’s terms, multi-ethnicity – is unavoidably linked to conflict, so that nation-building/citizenship projects that incorporate identity claims require techniques for dealing with inter-ethnic conflict. Table 1 shows how these techniques can be viewed in two dimensions, according to whether they favour liberal or illiberal means of regulating ethnic diversity, and whether their ultimate aim is to eliminate or manage ethnic/cultural difference.

Table 1 here

Table 1 may remind the reader of the wide variety of techniques that have been tried in Bosnia over the past fifteen years. Some of these techniques could not have been more illiberal (genocide, ethnic cleansing, hegemonic control, forced assimilation). On the other side, the apparently liberal character of other techniques for managing ethno-cultural differences requires certain conceptual clarifications, before they can be examined in the case of Bosnia. In what follows, I will rely on Will Kymlicka’s influential account of liberal multicultural citizenship and ethno-cultural justice. Kymlicka’s approach is especially useful for analysing cases such as Bosnia in which the IC justifies its presence by reference to normative standards of justice usually presented in the language of liberal pluralism.

Kymlicka makes the essential connection between nation-building projects and citizenship practices, and identifies conditions for assessing the legitimacy of various methods for managing differences. Rather than accepting the French model of civic nationalism as liberal because of its supposed basis in individual political rights, he maintains that such majoritarian nation-building is legitimate only when:

- no groups or permanent residents are permanently excluded from the national membership;
- socio-cultural integration is understood in a ‘thin’ sense (as institutional and linguistic integration) rather than as adoption of majority customs, religious beliefs and

lifestyles; and

- national minorities are allowed to engage in their own nation-building as long as their societal cultures do not undermine 'thin' (institutional and linguistic) integration.¹⁰

Moreover, in discussing contemporary nation-building in East Central Europe, Kymlicka offers some further criteria to distinguish liberal and illiberal forms of integrative citizenship, including:

- the degree of coercion used to promote national identity;
- inclusive vs. exclusive definitions of the national community;
- thin vs. thick conceptions of national identity;
- loyalty vs. disloyalty of one's own nation (that is, whether the nation is treated as a supreme value or not);

- (lack of) tolerance of dual nationality; and
- the extent to which public space can be shared between majority and minority nations.¹¹

Many of these factors are not easily quantifiable, as Kymlicka readily admits. Thus real-world citizenship concepts are not clearly divided into those favouring liberal (civic) and illiberal (ethnic) identities. Rather, in Kymlicka's words, 'nationalist movements will tend to be more liberal on some scales, and less liberal on others'.¹² In my view, the same standards should be used when evaluating the policies of the IC. While these policies are often automatically perceived as liberal, in fact their impact can range from liberal to illiberal, as will be shown in the case of Bosnia.

In sum, citizenship concepts can be divided into three categories: citizens as subjects (a neglected idea in the contemporary literature but one that remains the foundation of the citizenship edifice), citizens as right-holders, and citizens as (co)nationals (see Table 2). The very fact of cultural diversity restricts the ability of abstract models – including the now-

favoured right-holder model – to fit all cases. Rather, different responses to so-called identity questions have led to the emergence of different nation-building models: nation-state, multicultural nation-state, multination state and multicultural multination state. Each state has a different combination of liberal/illiberal nation-building policies, and the tensions between citizenship and diversity could only be explored through careful examination of context-specific cases. The example of Bosnia and Herzegovina is particularly useful as it offers an insight into the possible consequences of efforts to resolve these tensions by ‘imposing’ liberal solutions.

Table 2 here

Bosnia: Between Ethnic Divisions and Integrative Citizenship

In his work on peace-building missions in the 1990s, Roland Paris argues that the Western principles of liberalism served as a template that guided the actions of the IC. In the political realm, this meant the international imposition of democratization (promotion of regular elections, imposition of constitutional limits on governmental powers, and respect for basic civil and political rights). In the economic realm, liberalization was equated with marketization (stabilization and economic restructuring according to free market principles).¹³ The rationale was straightforward. First, democratization should achieve, in Paris’s phrase, ‘replacing the breaking of heads with the counting of heads’. And, second, marketization would raise the standard of living so as to reduce social tensions after the conflict.

The Dayton Accord follows this model very closely. The Preamble of the Bosnian Constitution (Annex 4 of the Dayton Accord) emphasizes that ‘democratic governmental institutions and fair procedures best produce peaceful relations within a pluralist society’. These principles are further elaborated in the main body of the document, in which Bosnia is defined as a democratic state that shall operate under the rule of law and with free and regular

elections.¹⁴ The Accord also confirms that the Bosnian state should be based on the protection of private property and the promotion of a market economy.

But it would be a mistake to assume that the Accord is solely founded on these abstract principles of political democratization and economic liberalization/marketization. The consensus reached in Dayton emphasized that conventional pillars of democratic governance (market economy, regular free and fair elections, the rule of law and respect for human rights) should be fine-tuned to manage ethnic and cultural diversity in conflict-torn Bosnia. In other words, the Bosnian constitutional and institutional structure was organized to achieve two interrelated goals: developing a politically and economically stable liberal-democratic state, and integrating ethnicity as an unavoidable political ingredient of post-conflict Bosnian society. So, in addition to the already mentioned liberal principles, the Dayton settlement is based on the following elements:

- federalization and internal partition of Bosnian territory;
- the formal recognition that the Bosnian state belongs to three constitutive peoples on the principle of political equality (Serbs, Croats and Bosniacs);
- the implementation of the highest possible international human rights standards (Annex 6 of the Dayton Accord);¹⁵ and
- the right to return of refugees and internally displaced persons to their homes (Annex 7 of the Dayton Accord).¹⁶

Political democratization, economic liberalization, and the formal recognition of the multinational character of the Bosnian state thus represent the three pillars upon which the IC erected the constitutional and institutional structure of the Dayton Bosnia. Moreover, the Constitution of Bosnia and Herzegovina is the result of a particular IC view of the main causes of the Bosnian civil war: failures of economic and political reforms in the early post-communist years, ethnic cleansing, conflict between different nationalist parties, external

interferences (Serbia and Croatia) and gross violation of human rights. Accordingly, the Dayton Constitution provides a list of ‘solutions’ to these ‘causes’ of the war. The principle of the inviolability of the Bosnian territory is a direct response to the threats of a Greater Serbia and Greater Croatia. Federalization of the country is a means of addressing the multinational character of the state. The right of return and human rights protection is envisioned as a means of remedying ethnic cleansing; and, finally, the rule of law, free elections and a market economy are responses to the failed economic and political reforms of the previous Bosnian political regime during its communist years in a former Yugoslavia.

These principles also roughly correspond to the concepts or facets of citizenship already discussed in the first section of this essay – citizens as subjects, right holders and co-nationals. In fact, there is a direct link between the two. Any success or failure in the realm of economic, social and political reforms will directly affect the civil, political and social rights of Bosnian citizens. Also, acceptance or rejection of the genuinely multinational character of the Bosnian state by its communities and their political entrepreneurs will directly affect the extent to which Bosnian citizens recognize each other as co-nationals on terms of political equality and enjoying cultural diversity. The remaining part of the paper is dedicated to the analysis of these interactions between nation-building and citizenship.

Many authors argue that the very idea of a federal Bosnia rewards the nationalist parties for their territorial feuds and ethnic cleansing policies. Key provisions of the Dayton Accord lend credence to this view. The formerly unified multiethnic Bosnia emerged as a state split between two entities: Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH). The Bosniac and Croat part of Bosnia was further divided into cantons with clearly defined ethnic majorities.¹⁷ Population trends support the impression of fragmentation. The national structure of population in 1991 in what is now RS was 55% Serb, 28% Bosniac, 9% Croat, 5% Yugoslav, and 3% other; the figures for the FBiH were 52%

Bosniac, 22% Croat, 18% Serb, 6% Yugoslav, and 3% other.¹⁸ By 1997, the Bosnian Serb majority in RS increased to an estimated 97%, while the proportion of Bosniacs in the Federation increased to 73%.¹⁹ So, only two years after the Dayton Accord, Bosnia emerged as a state territorially fragmented according to the principle of ethnic homogenization, with a heavy legacy of ethnic cleansing.

Justifying ethnic cleansing, however, was certainly not the intention of the International Community. Quite the contrary, the Dayton agreement is based on a concept of territorial federalism under which the citizens of each federal unit should enjoy their citizenship rights across the entire country.²⁰ Its ultimate objective was to recreate multiethnic Bosnia through the right of return for refugees and internally displaced persons, and both this right and international human rights standards were upheld in the Bosnian Constitution.

Dissatisfied with the first two years of Dayton Bosnia, the IC then changed its attitude of relative non-interference in Bosnian affairs. At the Peace Implementation Council (PIC, an organization in charge of implementing the Dayton Accord) meeting in December 1997, Bosnia was effectively defined as a weak (so-called failed) state. This allowed the PIC to legitimize the UN High Representative's request to use his administrative powers and impose a solution to any disagreement between Bosnian local parties. These so-called Bonn powers ranged from imposing constitutional principles, laws and regulations to dismissing elected politicians and state officials from their posts.²¹ Hence, as of 1997, the IC became much more engaged in the process of state and nation-building in Bosnia. Two areas of particular international concern were directly linked to the issues of citizenship: 1. the lack of unified standards between the Federal Constitution and the constitutions of the Bosnian entities, and 2. the question of the sluggish return of refugees and internally displaced persons to their homes. In what follows, these two questions will be discussed in a greater detail.

From the outset of Dayton Bosnia, citizenship standards were differently interpreted at the state and regional levels. While the Federal Constitution recognized the constitutive status for all major nations in Bosnia (the Serbs, the Croats, and the Bosniacs), both RS and FBiH arrangements discriminated between them. In RS, Serbs enjoyed full citizenship, while Bosniacs and Croats were relegated to a second-class status. Similarly, Bosniac and Croat communities were perceived as nations in ‘their’ part of Bosnia, while Serbs were reduced to national minority status. In June 2000, after five years of squabbling between the IC and Bosnian local officials, the Constitutional Court of Bosnia and Herzegovina finally concluded that the principle of constitutional peoples:

prohibits any special privilege for one or two of these peoples [Bosniacs, Croats, and Serbs], any domination in governmental structures or any ethnic homogenization through segregation based on territorial separation. ... [Also that] despite the territorial delimitation of Bosnia and Herzegovina by the establishment of the two Entities, this territorial delimitation cannot serve as a constitutional legitimation for ethnic domination, national homogenization or a right to uphold the effects of ethnic cleansing.²²

The problem of equal citizenship was not resolved by the Court’s decision, however. It took another two years for the constitutions of the Entities to be harmonized with it, and this only occurred when the then High Representative, Wolfgang Petritsch, invoked his prerogatives as the highest administrative authority in Bosnia and imposed amendments to the constitutions of both entities on 19 April 2002. At the time, the decision was hailed as a decisive step towards brighter future of Bosnia. An increasing number of local and international scholars, however, argue that the IC’s imposition of the ‘rule of law’ in the country has effectively blocked the emergence of much-needed domestic political debate on the flaws of the Dayton Agreement.²³

David Chandler is the most outspoken representative of this school of thought. According to him, the IC's bureaucratic interventions in Bosnian affairs work against the very democratic principle of self-government that the Office of the High Representative is supposed to promote. He argues that persistent international meddling in Bosnian local affairs has developed a special 'culture of dependency' among the local population, where they expect that IC representatives will solve all problems for them. In this view, Bosnian citizens are reduced to subjects (passive recipients of their citizenship rights), and even though they may be equal in their rights, these are given and protected by the IC rather than local institutional arrangements. The IC's paternalistic authoritarianism is thus unintentionally suppressing – even more effectively than the nationalist actions of local ethnic entrepreneurs – local grass-root incentives for more democratic involvement in politics.²⁴

I believe that Chandler is right in drawing our attention to the paradox of the illiberal imposition of democracy on Bosnia. Still, Chandler's 'culture of dependency' argument is not entirely convincing, for he seems to ignore the practical day-to-day problems of the IC involvement in Bosnia and other internationally sponsored post-conflict societies. In an ideal world, it is up to the people democratically to decide their own political institutions. However, the emerging political institutions in post-conflict societies are quite often the result of a compromise between the wishes of the IC and local ethnic 'entrepreneurs' that control the situation on the ground. These leaders proved themselves in war rather than in peace and their political objectives may not necessarily reflect the interests of the IC or their own citizens for more democracy.

Bosnia has been and still is a perfect example of this ambiguity. By 2000, it was obvious to international observers that bad civil society, ethnic entrepreneurship and stalled economic liberalization became the main features of Bosnia's transition to democracy.²⁵ The IC did not have a choice but to beef up its mandate worrying that the entire spirit of Dayton

Accord was endangered. Thus, I argue that the Supreme Court's decision on the equality of the constituent peoples in Bosnia and its imposition by the UN High Representative was in the spirit of the Bosnian Constitution, and thus legitimate in principle. However, the extent to which the IC interventionist policies proved successful remains open to debate. In what follows, I will argue that the court's decision has not been successfully carried through and that the conditions of equality for all Bosnian citizens irrespective of their nationality are still beyond the reach of Bosnian policy makers.

What was missing from the Entities' constitutions was the commitment that the Bosnian state belongs to three constitutive peoples on the principle of political equality. However, already at the level of the Bosnian Constitution, a rather ambiguous phrase had found its way into the Preamble that had the effect of separating citizens from identified national groups: 'Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and citizens of Bosnia and Herzegovina hereby determine that...'.²⁶ As the result of the Court's decision, this seemingly innocuous phrase was introduced into the Entities' constitutions as well.²⁷ It is, however, far from insignificant, because its ultimate purpose is to define the rightful owner(s) of the country. And according to the statement, the rightful owners of Bosnia are, in apparently descending order, members of the constituent nations, others (read, national minorities), and citizens. In this view, despite all the constitutional references to the full recognition of human rights, a 'citizen' emerges in a residual category that is of less significance than the national group to which such a person belongs.

In addition, none of the Bosnian Constitutions (the constitutions of Bosnia, RS and FBiH) nor the recently adopted Law on Protection of Rights of National Minorities explicitly allows for the basic individual right to choose not to be nationally affiliated at all (the so-called liberal right to exit). Hence, in Bosnia, one can be a Serb, Croat, Bosniac, Roma, or a member or any other national group, but one cannot be identified only as a Bosnian citizen.

Rather, one is first a member of the constituent peoples or ‘others’, then a citizen of the entity in which he or she lives (which, at this point, just reinforces ethnic identification), and, finally, a citizen of the Bosnian state as a whole.²⁸ Article 1 of the citizenship law reinforces the primacy of national membership by stating that a person enjoys Bosnian citizenship in virtue of the fact that he or she is a citizen of RS or FBiH, rather than a citizen of Bosnia and Herzegovina.²⁹ In other words, having a national/state citizenship without citizenship of one of the Entities is virtually impossible. In sum, the ambiguous constitutional and legal definitions of citizenship effectively preclude the re-emergence of the nested nationalities in Bosnia that existed before the war when one could be, at the same time, a Serb/Croat/Bosniac, Bosnian and Yugoslav.³⁰

Another problem with this two-tiered citizenship (for the members of the constituent nations and for the others), is that it constitutionally sanctions an inferior position for members of Bosnian national minorities. This is rather surprising given that the Dayton institutional arrangements are purportedly based on the consociational principle of recognizing and accommodating cultural pluralism. From a theoretical perspective, at least, one could expect that the ultimate objective of Bosnian consociational democracy is to incorporate various minorities into the system by protecting their rights to self-government based on political equality.³¹

However, in the Bosnian case, national minorities were effectively denied one of the basic citizenship rights at the federal level of the state – the right to compete for office. For example, the country’s Constitution does not envision that Bosnian citizens that happen to be members of national minorities could be elected at the state Presidency level, or in the BiH House of Peoples. This derives from the constitutional definition of Bosnia primarily as a country of its constituent nations, rather than of its citizens irrespective of their national identification. The minorities were also politically invisible at the Entities’ level until 2002

when the High Representative imposed the constitutional amendments on their constitutions. Hence, as of 2002, 7 seats out of 58 are reserved for the ‘others’ in the Federation’s House of Peoples, while in the case of RS national minorities are guaranteed 4 seats out of 28 in the Council of Peoples.

Overall, the constitutional set-up is an uneasy compromise between two sets of principles that work in opposite directions. The emphasis on democracy, market reforms and human rights aims to integrate the country. But the constitutionally sanctified exclusivist definition of national community and citizenship serves rather to entrench division. In other words, the role of the Bosnian state and the relationship between its citizens has been conditioned by controversial relations between ethnic majorities and minorities.

The exclusive definition of Bosnian communities is further supported by special policies in areas of language and education that reinforce a ‘thick’ conception of national identity and a lack of trust in the (national) other. Even though the Bosnian population speaks one language, the logic of three constituent peoples requires the official recognition of three languages: Bosnian, Serbian and Croatian. A comical aspect of this policy is that by administrative *fiat* Bosnian citizens were turned into polyglots able to communicate in at least three languages. However, as Florian Bieber has pointed out, there is a less comical tendency towards creating artificial differences between these ‘languages’ with the ultimate aim of further segregation of the three major Bosnian nations.³²

Education is another field overshadowed by the Entities’ segregation policies. So far, every effort over the past decade to harmonize and coordinate curricula has failed. Hence, what currently exists in Bosnia is a tripartite education system – Bosniac, Croatian and Serbian – and within each of these systems, the emphasis is on what separates these groups rather than what might unite them. Lidija Kolouh-Westin, in her analysis of elementary school curricula in FBiH, has found that history textbooks’ central topics are related to

dubious concepts of Bosnian uniqueness, Bosnian patriotism, Serbian and Montenegrin aggression, the fight for national liberation, religious and national identity, and so forth. These collective aspects of national identity play a much more significant role than the values of individualism and human rights.³³ In the cantons under Croat control in FBiH and in Serbian held RS, the situation in education is a mirror image of the Bosniac model with the exception that the choice of the enemy is different. Also, in these latter areas, the textbooks used are quite often direct exports from Serbia or Croatia that pay no attention to Bosnian specificities.

In the light of the aforementioned examples, no wonder that in May 2000 the Office of the High Representative in Bosnia imposed certain guidelines on the Entities' Ministries of Education aimed at more coordinated education policies at the Bosnian level. At least in principle, the Entities' ministries are obliged to eliminate segregation in education and remove any curriculum items offensive to the members of other national groups in Bosnia.³⁴ However, it took a further three years to develop new textbooks for use across Bosnia and thus it is too early to evaluate the success of educational reform in Bosnia.

While thick conceptions of national identity and a lack of tolerance of dual nationality dominate the contemporary Bosnian scene, the final legacy of the Dayton Accord may be something more than ethnic segregation and the consolidation of ethnically homogenized republics. From the perspective of the IC, the ultimate test of integrative nation-building and citizenship in Bosnia is related to the question of the right of return for refugees and internally displaced persons. If they do return to their homes, the demographic picture of Bosnia will change, promoting the emergence of a more integrative Bosnian state and citizenship. But is this scenario realistic?

The IC's policies towards implementing the right of return could be divided into two stages. The first two years proved to be only partially successful in securing the right of

return for refugees and internally displaced persons. A great number of refugees have chosen to return not to their homes but to areas in which they will be part of majority population. In other words, they exchanged refugee status for that of internally displaced persons. This trend only solidified the consequences of ethnic cleansing. Hence, at the end of 1997, both entities were almost completely ethnically homogenized.

As already described, the international mission in Bosnia turned into a quasi protectorate in 1997, allowing IC representatives untrammelled use of administrative powers. Even though these powers were used in an openly illiberal fashion, they did provide social conditions for a much safer return of refugees and internally displaced persons to their homes. Official figures show that more than a million people returned to homes from which they were expelled during the war, including 444,317 returnees from abroad and 561,203 displaced persons within Bosnia. What is even more astonishing is that, according to the UN figures, the number of minority returns to areas now dominated by members of the other nations is close to 450,000 (267,622 minority returns in FBiH, and 156,731 in RS).³⁵ This group of almost half a million Bosnians are usually perceived as people who ‘voted with “their feet” against partition’ of the country.³⁶

At the end of 2004, successful implementation of the right to return represents a huge achievement in the IC’s fight against policies of ethnic homogenization, and a very important move towards ‘remixing’ the ethnic map of Bosnia as a ‘necessary step to ensure longer-term reconciliation between the different communities.’³⁷ However, a more sober look at data shows that despite the massive returns in the past few years, evidence does not validate the IC’s hopes of restoring the previous ethnic geography of Bosnia.

First, nine years after Dayton, out of 1,000,000 refugees, close to 500,000 had returned to Bosnia. Of the remaining 500,000 Bosnians living in almost 40 countries all over the world, less than 100,000 are not fully settled in host countries (i.e. have not been granted

citizenship or permanent residence status).³⁸ Almost 60% of this number is located in Serbia. These are Bosnian Serbs unwilling to return to their homes in FBiH or RS. It is fair to assume that most of them will eventually manage to turn their temporary status into permanent residence in Serbia. This suggests that the refugee return flow is almost over. Even if all remaining non-settled refugees returned to their homes, they would not substantially alter the demographic picture of Dayton Bosnia.

Secondly, a not dissimilar situation applies to internally displaced persons. Data for 2000 showed that there were still more than half a million internal ‘refugees’ in Bosnia – 284,269 in FBiH and 248,463 in RS. These figures closely correspond to their ethnic structure: 247,384 are Bosniacs, 265,704 Serbs, 41,915 Croats, and 2,272 other. According to the Report of the Bosnian Ministry of Human Rights and Refugees, ‘it is noticeable that there were almost one hundred percent Bosniacs and Croats among the displaced persons on the territory of the BiH Federation and the same percentage of Serbs on the territory of RS’.³⁹ Also, only half the displaced persons expressed a wish to go back to their homes. In the past two years, the number of displaced persons has declined considerably and according to the latest Ministry’s estimates, less than 250,000 Bosnians still need displaced persons status.⁴⁰

Finally, there is considerable doubt as to how many people really did return to their homes. Many international reports suggest confused figures based on mixing two types of data: one on the number of returnees and the other on the number of legally repossessed pre-war homes. The greatest success of the IC’s return policies is certainly in returning homes to their original owners (over 90% cases so far). This extremely high repossession rate, however, does not automatically translate into the owners’ permanent return home.⁴¹ A prevalent trend among many returnees seems to be vacation of their houses in order to sell or exchange them for a safer place in an area in which they form part of the majority.⁴² The reasons for this behaviour are many. The most important is seeking the benefits of majority

status. While returnees may enjoy all the constitutional rights of political representation in the Entities' political structures, Bieber is certainly right while arguing that they live the life of a 'functional minority'.⁴³ As such, despite the legal right to political equality and protection of their language and education entitlements, they face discrimination at many different levels, including access to housing assistance, employment, health care and pension transfers. In fact, the Report of the Ombudsman's Office in the BiH Federation for 2003 emphatically states that many of these measures represent 'the continuation of war in peace' and that they are designed to solidify the gains of majorities at the expense of minorities that are increasingly treated throughout Bosnia as second-rate citizens.⁴⁴

Given the ever-decreasing number of internally displaced persons in need of returning to their homes, it is a fair estimate that within the next five years the process of the return within Bosnia will be completely over. As the result of positive trends in the past five years, neither RS nor FBiH is as ethnically homogenized as it was in 1997. Nevertheless, strong ethnic preponderances of one constituent nation over the other two remain, supporting the view that, despite the IC's best efforts, local models of nation-building prevailed over the international policies of integrative citizenship. Overall, despite the shortage of reliable data, it is doubtful that the percentages for the majority nations in the two Bosnian Entities have dropped below 75%-80%. The IC's efforts to emphasize integrative citizenship have thus far failed to stop competing national homogenization projects in the country. Hence, ten years after Dayton, it is still unclear to what extent the international experimenting with democracy and nation-building in Bosnia is successful or not.

Conclusion

The Bosnian model of citizenship did not follow the internationally supported contemporary normative concepts of ethnic justice and liberal pluralism, but rather typical nineteenth and twentieth century European homogenizing policies aimed at achieving an

ethnically homogenized nation-state. These policies conflict with Kymlicka's liberal criteria for integrative citizenship: exclusive, as opposed to inclusive, definitions of national community; a 'thick', rather than 'thin', conception of national identity; loyalty to one's nation and distrust of ethnic others; lack of tolerance of dual nationality, and an almost non-existent public space shared with members of different national groups. While forced population transfer is a thing of past in Dayton Bosnia, other illiberal methods of dealing with national differences continue in use: imposition of majority customs and lifestyles, denial of basic civic and political rights to minorities, use of territorial autonomy as a pathway to partition or secession, and so on.

In other words, local, political entrepreneurs continue to perceive 'their' part of the Bosnian state as a precious prize to be won for the purposes of protecting one's nation (a dominant ethnic group) over the interest of various "others" (ethnic minorities). Consequently, constitutional legislature on the protection of minority rights in the region does not change the fact that members of minorities, or dissenting members of one's nation, are objectified as a political enemy or the inferior other by the very ideal of a perpetually homogenizing nation-state.

In the past ten years, the IC in Bosnia has been trying to counteract the local projects of homogenizing populations in various parts of Bosnia with its own model of integrative citizenship. But in its efforts to stop the parallel processes of national homogenization of the three constituent peoples in Bosnia, the Office of the High Representative has itself succumbed to illiberal temptations. Moreover, the IC's imposed constitutional amendments have failed to change the definition of Bosnia as a country based on group rather than individual rights, and its constant interference in local political affairs to counter nationalist pressures has blocked domestic political processes in favour of a more integrative Bosnia.⁴⁵

Ultimately, the problems with Dayton Bosnia do not derive directly from the three pillars on which the Dayton edifice stands: liberalization, marketization and the recognition of Bosnian national pluralism. Rather, the issue is that of the ownership of the country. As long as Bosnia remains a battleground between competing nation-building and citizenship projects, Bosnia will remain a house divided between its citizens, 'constituent peoples', local ethnic entrepreneurs and the international representatives in the region.

Table 1
Techniques of Dealing with Interethnic Conflict

Methods for eliminating difference	<ol style="list-style-type: none"> 1. Genocide 2. Forced population transfer (ethnic cleansing) 3. Partition and/or secession 4. Assimilation 	These methods are distinctly illiberal, although assimilation was considered an accepted form of liberal nation-building until recently.
Methods for managing difference	<ol style="list-style-type: none"> 1. Hegemonic control 2. Third-party intervention 3. Territorial autonomy (cantonization/federalization) 4. Non-territorial autonomy 5. Multicultural integration 	Hegemonic control and third-party intervention are considered illiberal in the long run, even though they can be used to create initial conditions for more liberal forms of integration. The methods of (non)territorial autonomy and multiculturalism are conducive to liberal approaches to difference as long as they incorporate citizenship practices that are based on both individual and minority rights.

Source: the table is based on the taxonomy of ethnic conflict regulation first presented by John McGarry and Brendan O’Leary in *The Politics of Ethnic Conflict Regulation*, London: Routledge, 1993, p. 4. It was later adopted by Will Kymlicka and Wayne Norman, ‘Citizenship in Culturally Diverse Societies’, in Will Kymlicka and Wayne Norman (eds), *Citizenship in Diverse Societies*, Oxford: Oxford University Press, 2000, p. 12.

Table 2
Citizenship Practices

Citizens as Subjects	Taxpayers Soldiers Spectators
Citizens as Political Participants/Right Holders	Civil rights: freedom of speech, assembly, movement, equality before the law, conscience... Political rights: right to vote, stand for elections, hold public office... Social rights: basic economic welfare, social security and, in Marshall's phrase, the right 'to live the life of a civilized being according to the standards that are prevailing in society'.
Citizens as (Co)nationals	Right to belong (identity question) 1. <i>Nation-state</i> (homogeneity principle: political, ethnic, or the combination of the two) - France: political identification - Germany: ethnic-cultural identification 2. <i>Multicultural nation-state</i> (in addition to political principle of homogeneity, non-territorial identification based on recognition of cultural and religious diversity) - USA, Australia, Netherlands 3. <i>Multination state</i> (parallel homogeneity – territorial concentration of two or more nations in one state based on political and/or ethnic identification) - Belgium - Bosnia and Herzegovina 4. <i>Multicultural multination state</i> (political principle of homogeneity combined with both the territorial ethnic identification and non-territorial recognition of ethno-cultural diversity) - Canada

Notes:

¹ The General Framework Agreement for Peace in Bosnia and Herzegovina was agreed upon on 21 November in Dayton, Ohio (whence ‘Dayton Accord’); however, the parties formally signed the agreement in Paris on 14 December 1995.

² Alfonso Alfonsi, ‘Citizenship and National Identity: The Emerging Stirrings in Western Europe’, in T.K. Oommen (ed), *Citizenship and National Identity: From Colonialism to Globalism*, New Delhi: Sage, 1997, p. 53.

³ This point is most powerfully expressed by Jurgen Habermas, ‘Citizenship and National Identity: Some Reflections on the Future in Europe’, in Ronald Beiner (ed), *Theorizing Citizenship*, Albany: State University of New York Press, 1995, pp. 255-282.

⁴ See T. H. Marshall, ‘Citizenship and Social Class’, in *Sociology at the Crossroads*, London: Heinemann, 1963. A good overview of Marshall’s approach to citizenship is Derek Heater, *What is Citizenship?*, Cambridge: Polity Press, 1999, pp. 12-24.

⁵ See Will Kymlicka and Wayne Norman, ‘Return of the Citizen: A Survey of Recent Work on Citizenship Theory’, in Ronald Beiner (ed), *Theorizing Citizenship*, Albany: State University of New York Press, 1995, p. 286.

⁶ Classic study on the French and German models of citizenship is Roger Brubaker’s *Citizenship and Nationhood in France and Germany*, Cambridge, MA: Harvard University Press, 1992.

⁷ See Heater (note 4), p. 99.

⁸ Rainer Baubock, ‘Cultural Citizenship, Minority Rights, and Self-Government’, in T. Aleinikoff and Douglas Klusmeyer (eds), *Citizenship Today: Global Perspectives and Practices*, Washington, DC: Carnegie Endowment for International Peace, 2001, p. 320.

⁹ George Schopflin, 'Liberal Pluralism and Post-Communism', in Will Kymlicka and Magda Opalski (eds), *Can Liberal Pluralism Be Exported?*, Oxford: Oxford University Press, 2001, p.115.

¹⁰ Will Kymlicka, 'Western Political Theory and Ethnic Relations in Eastern Europe', in Will Kymlicka and Magda Opalski (eds), *Can Liberal Pluralism Be Exported?*, Oxford: Oxford University Press, 2001, p. 48.

¹¹ Kymlicka, pp. 44-60. Also, see Will Kymlicka, 'Territorial Boundaries: Liberal Egalitarian Perspective', in David Miller and Sohail H. Hashmi (eds), *Boundaries and Justice*, Princeton: Princeton University Press, 2001, pp. 249-275.

¹² Kymlicka (note 10), p. 60.

¹³ Roland Paris, *At War's End: Building Peace after Civil Conflict*, Cambridge: Cambridge University Press, 2004, p. 5.

¹⁴ The entire Dayton Accord can be accessed on the official web-page of the Office of the High Representative in Bosnia and Herzegovina: <http://www.ohr.int/ohr-dept/legal/const/>.

¹⁵ On the Dayton Accord, see Marcus Cox, 'Building Democracy From the Outside', in Sunil Bastian and Robin Luckham (eds), *Can Democracy Be Designed?*, London & New York: Zed Books, 2003, pp. 253-276. Also, see David Chandler, *Bosnia: Faking Democracy after Dayton*, Second Ed., London: Pluto Press, 2000.

¹⁶ The article 1(1) of the Annex 7 starts with the following sentence: 'All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them'.

¹⁷ For detailed critiques of the Bosnian constitutional setup, see Robert M. Hayden, *Blueprints for a House Divided*, Ann Arbor: University of Michigan Press, 1999; and Nedžad

Duvnjak's *Ogledi o Dejtonskoj Bosni i Hercegovini* [Essays on Dayton's Bosnia and Herzegovina], Pravni fakultet: Sarajevo, 2004.

¹⁸ See Ministry of Human Rights and Refugees of Bosnia and Herzegovina, *Comparative Indicators on Refugees, Displaced Persons and Returnees, Property Law Implementation and Reconstruction in BiH from 1991 to 30 June 2003*, Sarajevo, October 2003, p. 7.

¹⁹ Data from Roberto Belloni, *The Scramble for Bosnia: International Intervention and Human Rights after Dayton*, Unpublished Paper: 2004, p. 90.

²⁰ Lenard Cohen, 'Fabrication Federalism in Dayton Bosnia', in Andrea Heinemann-Gruder (ed), *Federalism Doomed?: European Federalism between Integration and Separation*, New York: Berghahn Books, 2002, p. 137.

²¹ Richard Caplan, 'The Exercise of International Authority in State Building: The Case of Bosnia and Herzegovina', paper presented at the 45th Annual ISA Convention, Montreal, 18 March 2004, pp. 3-6. During Wolfgang Petritsch's tenure as a high representative, 81 officials were dismissed and 166 laws and amendments imposed. Paddy Ashdown, who began his tenure in May 2002, seems to be even more interventionist in his approach. In the first year of his tenure, Ashdown issued, on average, fourteen decisions a month (p. 7).

²² Constituent People's Decision of the BiH Constitutional Court, Para. 60 & 61, 1 July 2000. Available at <http://www.ohr.int/ohr-dept/legal/const/>.

²³ See Gerald Knaus and Felix Martin, 'Travails of the European Raj', *Journal of Democracy*, Vol. 14, No. 3, July 2003: pp. 60-74; Gerald Knaus and Marcus Cox, 'Bosnia and Herzegovina: Europeanization by Decree?', in Judy Batt (ed), *The Western Balkans Moving On* (Chaillot Paper No. 70), Institute of Security Studies: Paris, 2004, pp. 55-68; and Srdjan Dizdarević, 'Dejton pod lupom: dijalog za izlaz iz ćorsokaka' [Dayton under scrutiny], *Glasnik Helsinškog komiteta za ljudska prava u BiH*, Vol. 1, No.1, 2004, pp. 22-24.

²⁴ See David Chandler, 'The Limits of Peacebuilding: International Regulation and Civil Society Development in Bosnia', *International Peacekeeping*, Vol. 6, No. 1, Spring 1999, pp. 109-125; and David Chandler, 'Bosnia: The Democracy Paradox', *Current History*, 100:644, Spring 2001, pp. 114-119.

²⁵ See Paris's chapter on the limits of Wilsonianism, pp. 151-178.

²⁶ See Preamble of the Constitution of Bosnia and Herzegovina.

²⁷ See Article 1 of the Constitution of Republica Srpska, and the Preamble of the Constitution of the Federation of Bosnia and Herzegovina.

²⁸ See Ministarstvo za ljudska prava i izbjeglice BiH, *Zakon o zaštiti prava manjina* [Law on National Minority Rights], Sarajevo, 2004. The law incorporates the standard set of minority rights as listed in the European Framework Convention for the protection of the national minority rights.

²⁹ See Službeni Glasnik BiH, *Zakon o Državljanstvu* [Law on citizenship], No. 13, 1999.

³⁰ On the concept of nested nationality and its significance for multinational states, see David Miller, 'Nationality in Divided Societies', in Alan Gagnon and James Tully (eds), *Multinational Democracies*, Cambridge: Cambridge University Press, 2001, pp. 299-318.

³¹ On consociationalism in Bosnia and Herzegovina, see Florian Bieber, 'Institucionaliziranje Etničnosti' [Institutionalization of Ethnicity], *International Forum Bosnae*, No 25, Sarajevo: 2004. Bieber's articles in English can be accessed at the following website:

<http://www.policy.hu/bieber/publications.html>.

³² Bieber, p. 89.

³³ See Lidija Kolouh-Westin, 'Education and Democracy in Bosnia and Herzegovina', *International Journal of Educational Development*, 24, 2004, pp. 495-509.

³⁴ See Bieber, p.90.

³⁵ Data are from the website of the UN Refugee Agency for Bosnia and Herzegovina:

<http://www.unhcr.ba/return/index.htm>.

³⁶ International Crisis Group, 'The Continuing Challenge of Refugee Return in Bosnia and Herzegovina', *Balkans Report* No. 137, Sarajevo/Brussels, 13 December 2002.

³⁷ Richard Black, 'Return and Reconstruction in Bosnia and Herzegovina: Missing Link or Mistaken Priority?', *SAIS Review*, Vol. 21, No. 2, Summer-Fall, 2001, p. 185.

³⁸ BiH Ministry of Human Rights and Refugees, p.16.

³⁹ BiH Ministry, p. 18.

⁴⁰ BiH Ministry, p. 26.

⁴¹ For a balanced overview of the right to return policies, see Nenad Dimitrijević and Petra Kovacs (eds.), *Managing Hatred and Distrust: The Prognosis for Post-Conflict Settlements in Multiethnic Communities in the Former Yugoslavia*, Budapest: Open Society Institute, 2004, pp. 3-62.

⁴² See the Norwegian Refugee Council, 'Trapped in Displacement: Report on Internally Displaced People in the OSCE Area', Vienna, 4-5 November 2004. The report can be accessed on the following website: www.idproject.org.

⁴³ Bieber (note 30), p. 88.

⁴⁴ See Ombdusmeni Federacije Bosne i Hercegovine, *Godisnji izvjestaj o aktivnostima ombdusmena FBiH za 2003* [2003 Annual Report of the Ombudsman for the BiH Federation], Sarajevo, May 2004.

⁴⁵ In fact, Srđan Dizdarević, the head of the Bosnian Helsinki Committee for Human Rights is openly accusing the current High Representative of the IC, Paddy Ashdown, as being directly responsible for a further encroachment of ethnicity into the supposedly democratic institutions of Bosnia. Dizdarević asserts that Ashdown's policy of flirting with Bosnian nationalists of all stripes goes at the expense of supporting civic-minded politicians and

NGOs in Bosnia. See Dizdarević's interview with Slobodna Bosna [Free Bosnia], a Bosnian weekly, 20 January 2005: p. 24.